



The Quarterly Newsletter of Competition Commission of India (CCI)

# Fair Play

Volume 39: October–December 2021

**IN FOCUS**  
CCI-CII Annual Conference  
on Competition Law and  
Practice, 2021



*Shri Ashok Kumar Gupta, Chairperson, CCI addressing the inaugural session of CCI-CII Annual Conference on 'Competition Law and Practice' held virtually on 10–11.12.2021*

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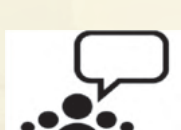
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## FROM THE DESK OF THE CHAIRPERSON

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It gives me immense pleasure to share with you the developments in the area of competition law and policy that have taken place during the fourth quarter of 2021 through this 39<sup>th</sup> volume of 'Fair Play'.

The In-Focus article of this volume covers the Annual CCI–CII Conference on 'Competition Law and Practice' held virtually from 10–11.12.2021. The industry remains an important stakeholder in the competition ecosystem, and events such as this reinforces CCI's focus on actively engaging with the industry and providing an excellent platform for a two-way communication. Important issues in competition law were discussed in this year's edition, details of which are included in the article.

In this quarter, the Commission issued a cease and desist order against eight firms which were found to have indulged in cartelisation and bid rigging in procurement of Axle Bearings used in EMU trains by the Eastern Railway. The Commission also issued a cease and desist order against firms found guilty of bid rigging and cartelisation in tender floated by FCI and GAIL.

On the combinations front, the CCI approved the acquisition by HDFC Life Insurance Company Limited of Exide Life Insurance Company Limited and acquisition of Parexel International Corporation by Phoenix. The Commission also approved the acquisition of up to 71.25% shareholding in ASK Investment Managers Limited by BCP Top Co XII Pte Ltd.

The Commission also approved the combination involving Clariant Pigments Business & Heubach Business with resulting combined business controlled by SK Capital and Heubach & Clariant.

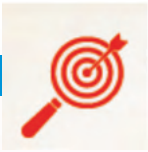
CCI has always believed in strengthening international cooperation with international competition law agencies. In this last quarter, apart from our officers attending international conferences and seminars, the fourth EU–India Competition Week was held in December. The Competition Week saw presentations by officers of both jurisdictions on important issues in antitrust enforcement. Such events always help in a healthy exchange of experiences and knowledge and in developing best practices for effective enforcement.

Continuing with our series of sector-specific articles in Fair Play, this volume features an article on “Competition Issues in Public Procurement”. The importance of efficiency in public procurement cannot be over emphasised; competition in public procurement is critical to the efficient use of public money in procurement at both the Central and State levels. Apart from interventions through enforcement, the Commission has undertaken several advocacy initiatives to address competition issues in this critical area, including the State Resource Persons Scheme, and a diagnostic toolkit for public procurement officers, among others. The article deals with this important topic in a detailed manner.

The Commission has always been committed to promote a healthy competition culture in India through effective enforcement and participative advocacy. We look forward to continue embarking on this journey with zeal and enthusiasm.



**Ashok Kumar Gupta**



### CCI-CII Annual Conference on Competition Law and Practice, 2021

The Competition Commission of India (CCI), along with the Confederation of Indian Industry (CII), virtually organised the Annual CCI-CII Conference on Competition Law and Practice on 10-11.12.2021. The conference was spread across four plenary sessions including the Inaugural Session and received an overwhelming response from members of the industry, the legal fraternity, and academia.

Addressing the inaugural session of the Conference, Chief Guest Shri Ashok Kumar Gupta, Chairperson, Competition Commission of India, highlighted how the emergence of new-age economy has highlighted the roles discharged by antitrust agencies, which were otherwise busy dealing with conventional markets and the monopolies operating therein. He also explained how this has reinforced the relevance and significance of competition authorities in regulating digital markets within the overarching regulatory ecosystem.

Shri Gupta also mentioned the unprecedented challenges that arose due to the COVID-19 pandemic. He stated that the Commission aims to adopt and apply a nuanced approach that not only addresses market distortions in a targeted and proportionate manner but also contributes to economic recovery by facilitating inorganic growth through faster clearances and approvals of M&A cases.

He further stated that, despite the lockdowns, which resulted in unprecedented disruptions to the normal course of economic activities, CCI rose to the occasion and took several measures to meet the regulatory challenges posed by the pandemic. He also spoke about the technological tools that were used to ensure that competition regulation continues uninterrupted.

Speaking of the latest initiatives of the Commission, the Chairman stated that the Commission has issued an advisory which enabled businesses to take swift commercial decisions without unduly worrying about regulatory actions. CCI also initiated a system of electronic filing and digital payment of fees. All the meetings conducted by CCI were also held in the virtual mode, and information, notices, and submissions were accepted electronically. All the proceedings with parties were seamlessly conducted by CCI virtually. Thus, the need for physical interaction with the Commission was nearly eliminated. He further stated that the Commission also amended the Combination Regulations. To make Merger and Acquisition filings approval faster during the pandemic, CCI continued to promote the automatic system of approval for combinations under Green Channel, which was introduced in August 2019. It has also received positive feedback from businesses and the industry in facilitating Ease of Doing Business.

Looking forward, in view of the impact of new technologies on competition, with more movement to online markets and the convergence of online and offline markets, Shri Gupta emphasised the need for balancing regulation with sustaining businesses to enable the industry to continue and grow business in the new normal.

**“CCI, established as the enforcer of competition law in India, devoted its formative years to shaping the regime in accordance with evolving market realities while anchoring it in the economic development goals of the nation.”**

**Shri Ashok Kumar Gupta, Chairperson, Competition Commission of India**

#### Plenary Session I

The first plenary session was titled “Competition Issues and Disinvestments.” This session was chaired by Dr. Sangeeta Verma, Member, CCI. In her opening remarks, Dr. Verma stated that governments have long been engaged in providing citizens with goods and services which would also be provided by the private sector. Over the past few decades, however, the trend has been to transfer these functions, along with the underlined state-owned assets,



“**Indian experience has shown that regulation is only one part of the reform story. Successful regulation requires complementary reforms, including the introduction of competition and encouraging wider private participation that deepens markets.**”

**Dr. Sangeeta Verma,  
Member, CCI**

into private hands. The most common methods for this have been the disinvestment of common shareholding or an outright sale or transfer of ownership of the relevant assets to one or more private parties. The session saw engaging discussion between panellists on a

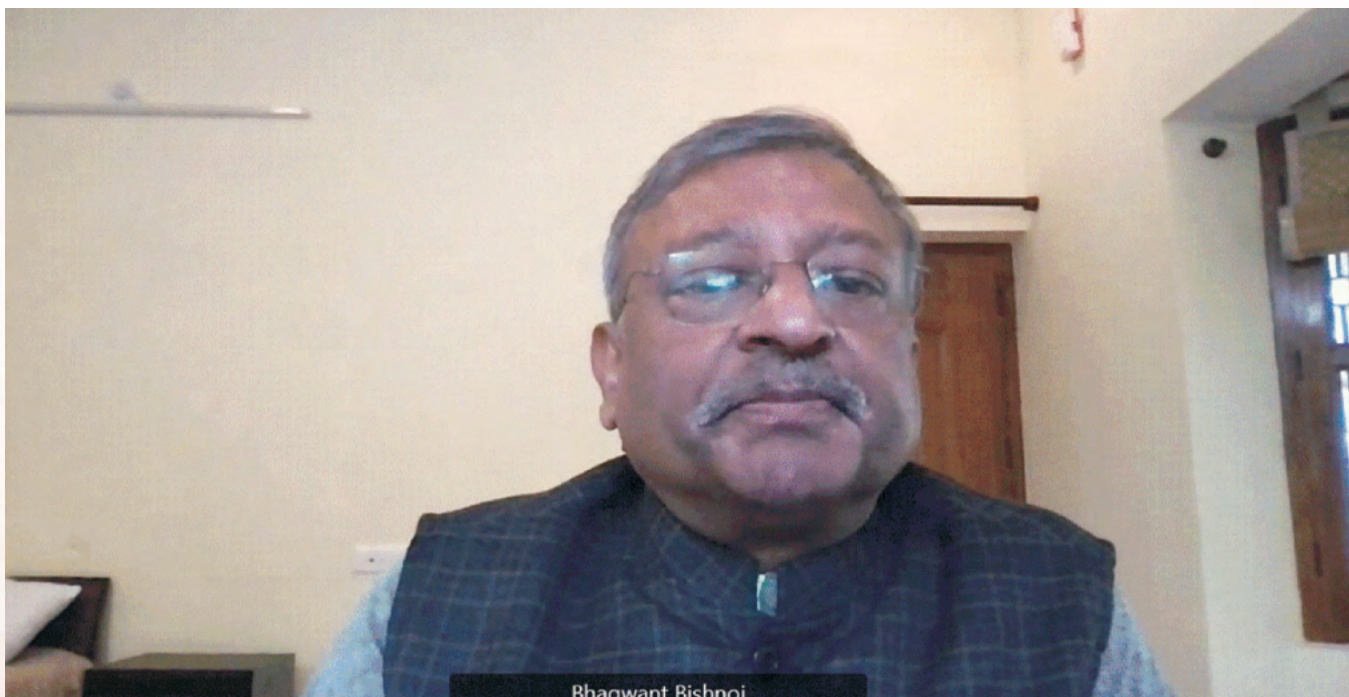
range of issues on the topic.

#### **Plenary Session II**

The second plenary session was themed “Mergers and Acquisitions” and was chaired by Mr. Bhagwant Singh Bishnoi, Member, CCI. In his opening remarks, Shri Bishnoi stated that Mergers and Acquisitions activity is intrinsically linked to the growth of industry. CCI assesses and decides merger Cases from all sectors of the economy. He further stated that “Competition issues in the digital Sectors are different in some ways from competition issues in more traditional sectors.” Additionally, he stated that potential competition distortions in digital market are to be understood so they do not inhibit competition in the market. The session saw engaging discussion between panellists on a range of issues on the topic.

“**It is also possible that digital platforms may start acting as de facto regulators of their own platforms. The fact that a platform chooses its own rules is not per se anti competitive. However potential competition distortions need to be understood so that such rules do not inhibit competition in the market.**”

**Shri Bhagwant Singh  
Bishnoi, Member, CCI**



### **Plenary Session III**

The third plenary session on “Emerging Issues in Antitrust Enforcement” was chaired by Ms. Jyoti Jindgar Bhanot, Adviser (Economics), CCI. She highlighted issues such as the need to encourage the use of leniency provisions and advocate for the same amongst the corporate. She also mentioned the need for uniformity, credibility, and accuracy of information shared with CCI. The session saw engaging discussions

between the panellists on a range of issues on the topic.

### **Plenary Session IV**

The fourth plenary session on “Online Markets and E-commerce” was chaired by Ms. Payal Malik, Adviser (Economics), CCI. She highlighted regulatory developments, international trends, and CCI’s approach to online markets and e-commerce. She also discussed the framework for assessing anti-competitive conduct

in the digital world and potential anti-competitive conduct in online markets.

CCI regularly engages with Industry as a part of competition Advocacy initiatives. Events such as the CCI–CII annual conference on competition law help in creating deeper understanding in the nuances of competition law among the stakeholders.



## What 2021 held for Indian competition law?

— By Shri Dhanendra Kumar, Former Chairperson, CCI

\*Reproduced from the article published in Financial Express on 30.12.2021



Shri Dhanendra Kumar

Competition is the life force of an open economy. Fair competition keeps the economy growing with innovation and technology. As US President Biden said while notifying his executive order of July 2021 to promote competition in US economy, '*capitalism without competition isn't capitalism; it's exploitation*'.

Competition Commission of India (CCI), completing its 12 years of enforcement, has won its place on the table of key market regulators worldwide. Though young, it has adjudicated over 1,100 antitrust cases, after in-depth market analysis, keeping in view specificities of each sector, market structure and nature of contraventions, in diverse sectors such as airlines, automobile, banking, e-commerce, entertainment, pharmaceuticals, manufacturing, etc. It has also

approved nearly 900 mergers and acquisitions, with 45 transactions approved under the novel 'green channel' route.

During the pandemic, the Commission was noted for its nuanced approach in not imposing big penalties on MSMEs and loss-making entities. On the other hand, it did not shy away from moving against companies like Amazon, Facebook, WhatsApp, Google and Apple and others.

In March, 2021, proceeding *suo motu*, CCI passed order directing investigation against WhatsApp for abuse of dominant position through exploitative and exclusionary conduct under the garb of new privacy policy. In April, the Delhi High Court upheld the jurisdiction of CCI to investigate against WhatsApp privacy policy. In a significant order in August, the Chief Justice-led bench of Supreme Court refused to interfere with Karnataka High Court's order to stop the investigation of CCI against Amazon and Flipkart for alleged anti-competitive practices. In September, Delhi High Court dismissed Google's petition against CCI for leak of confidential information as CCI undertook to recall the impugned order and accept its confidentiality claims.

In December, 2021, CCI suspended

the US retail giant Amazon's 2019 deal with Future Retail for suppressing information about the scope and purpose of the deal, levying a hefty penalty of Rs 200 crore. This is the first ever revocation of a combination done by CCI with high penalty.

CCI found Carlsberg India, United Breweries and other beer manufacturers guilty of cartelisation (Beer Cartel case) and imposed a Rs 873-crore penalty. However, the order is stayed by NCLAT upon an appeal.

CCI penalised Maruti Suzuki for indulging in resale price maintenance by restraining dealer discount control and imposed a penalty of Rs 200 crore. Not to let go a government undertaking, CCI imposed a fine of Rs 1 crore on Uttarakhand Agricultural Produce Marketing Board for abusing its dominant position in wholesale procurement and distribution of alcoholic beverages in Uttarakhand.

On merger control side, CCI readily approved several major transactions, which included, acquisition of minority stake in Delhivery by FedEx India; investments by Carlyle Group in PNB Housing Finance; Byju's acquisition of Aakash Educational Services; Big Basket's 64% stake sale to Tata Digital; Flipkart's



minority stake in Aditya Birla Fashion and Retail Limited; acquisition of Yes Mutual Fund by White Oak Group, etc. CCI also readily approved internal restructuring of TVS Group, IBM, Motherson Group, Daimler AG Group in 2021.

Sector-wise studies are important tools for analysing market, market players and market practices, and advocacy. In January, the Commission came up with its market study on telecom sector, highlighting several competition issues. In April, CCI published a paper on blockchain technology, with several issues. In November, CCI came up with its market study on pharmaceutical sector, recommending creation of a national

digital drugs database to address information asymmetry.

In keeping with the reforms under 'Ease of Doing Business', CCI has been continuously streamlining and reforming its interface with stakeholders, like inclusion of the 'green channel' route in M&A cases based on self-assessment. Several changes are on anvil to keep pace with the challenges of 'new age economy', and emerging trends like data privacy, blockchain, AI, digital markets, non-price factors. Among the changes proposed in the Competition Amendment Bill 2020 pending with the Parliament, there are features like mechanisms for 'settlement and commitments', measured focus on deal size and data in M&A, etc. designed to equip

it with emerging challenges.

The regular updating of its analytical tools to keep pace with emerging global and technological trends, bilateral agreements with major competition jurisdictions (the latest being with Japan during 2021), continuous reforms in regulations and interface with stakeholders, opening new offices in Chennai and another proposed in Mumbai, have been some of the hallmark of the enforcement of Competition Law during 2021. It can be expected that the new challenges in the new year will further sharpen and chisel its tools further, accelerating economic growth on a new trajectory to achieve our 5 trillion economy.



## Ecommerce companies to face action for any unfair practice:

— **Shri Ashok Kumar Gupta, Chairperson, CCI**

\*Reproduced from the article published in the Economic Times on 27.12.2021

Any violation of competition law by ecommerce companies will be dealt with firmly, Competition Commission of India chairman Ashok Kumar Gupta told ET. The companies should ensure that their conduct and policies are in accordance with the law, he said.

The CCI had on December 17 suspended its nod for Amazon's deal with Future Group and also imposed a Rs 200 crore fine on the US firm for hiding its intent about the investment. Gupta said he won't comment on specific cases, but added that rulings are intended to provide regulatory guidance to stakeholders.

### 'Non-enforcement Tools Crucial Too'

"The message is clear that legitimate business practices will not be interfered with, but violation of competition law will be dealt with firmly," he told ET. "It is expected that enterprises bring their conduct and policies in alignment with competition law and the regulatory guidance provided through orders."

The concerns and implications of anti-competitive conduct get amplified because of the nature of the digital markets.

"Owing to their innate features, such as network effects and data-driven complementarities, digital markets typically yield high concentration and are often winner-take-all

markets," he said. "The task for CCI, like any other competition authority, is to ensure that these concentrated digital markets remain open to new entrants and that competition on and between the digital platforms is on merits."

This has become more critical during the pandemic because an increasing proportion of economic activity is being channeled through the digital avenue and a small number of firms have taken key intermediation positions.

### New Challenges

"This shift in markets is posing challenges for lawmakers and enforcers as to how to address the consequent bargaining power imbalance and information asymmetry between platforms and their business users," he said.

Outlining the approach to this issue, he said enforcement has to be complemented with non-enforcement tools such as market studies.

"Non-enforcement tools help in engaging with stakeholders without any regulatory pressure and highlight to them the potential areas of concerns," he said, giving the example of a market study on e-commerce that helped the CCI gather useful insights into emerging trends and concerns in the sector.

"Under its advocacy mandate, the commission asked e-commerce platforms to put in place a set of self-regulatory measures over certain areas, such as search ranking, collection, use, sharing of data, user-review mechanism, revision in contract terms, and discount policy," he said.

On the issue of preferential treatment by some e-commerce players, without reference to specific cases, Gupta said, "The law provides a very robust framework to assess anti-competitive conduct, which enables CCI to examine, *inter alia*, instances of preferential treatment by platforms possessing market power and issue suitable remedies to address competition concerns in case the infringement is found to be established."

With regard to new-age markets such as app stores, payments gateways and food aggregators etc., he said: "There has been a steady rise in cases reviewed by CCI emanating from new-age markets, which range from across the verticals, such as search engines, online marketplace platforms, app stores, payment gateways, online travel, food aggregators, cab aggregators, and social networking."



## CARTELS

### CCI closes the bid rigging allegations against contractors engaged in road construction in various tenders floated by UP PWD.

The case was initiated by the Commission suo motu after taking cognizance of possible instances of bid rigging by contractors engaged in road construction in response to various tenders floated by the State of Uttar Pradesh on the basis of a report of the Comptroller and Auditor General (CAG) titled “Performance Audit of Construction Management in Road Works.”

Considering the CAG report and the observations made therein, the Commission, vide its order dated 26.06.2018 passed under Section 26(1) of the Competition Act, 2002 (‘the Act’), *prima facie* opined that the contractors have engaged in practices to determine the prices in

respect of various tenders of road works and construction of bridges floated by PWD in the State of UP, and there appeared to be a contravention of the provisions of Section 3(1) read with Sections 3(3)(a) and 3(3)(d) of the Act thereof. Accordingly, the Commission, after forming a *prima facie* opinion, directed the Director General (DG) to cause an investigation into the matter.

Upon considering the investigation report and other material available on record, the Commission observed that the material brought forth by the DG are not sufficient to record any finding of contravention of the provisions of Section 3(1)

read with Section 3(3) of the Act. The Commission also stated that mere commonality of ownership of participating firms, in itself, is not sufficient to record any conclusion about bid rigging in the absence of any material indicating collusion amongst such bidders. Further, the Commission noted that, in the absence of any rule regarding a single bid, it would have been difficult for the concerned department to cancel a tender merely because there is only one responsive bid, much less draw an inference of anti-competitive conduct in the absence of any material on record in this regard.

### Commission finds no cartelisation in a case related to supply of bearings (automotive and industrial)

The case was initiated on the basis of lesser penalty application received by CCI under the provisions of Section 46 of the Competition Act, 2002 (‘Act’) read with the Competition Commission of India (Lesser Penalty) Regulations, 2009 (LPR) from NSK Group, which disclosed cartelisation amongst certain parties in relation to Requests for Information (RFIs) /Requests for Quotations (RFQs) issued by certain Automotive and Industrial Original Equipment Manufacturers (OEMs) for the supply of bearings.

The Commission, after forming a *prima facie* view that certain

companies have indulged in conduct in contravention of the provisions of Section 3(1) read with Section 3(3)(a) and Section 3(3)(d) of the Act, referred the matter to the Director General (DG) for investigation. During pendency of investigation, JTEKT Group also approached the Commission by filing an application under the provisions of Section 46 of the Act read with the LPR. Thereafter, supplementary investigation was also ordered. The DG analysed multiple RFQs floated by various automobile and industrial OEMs for the supply of bearings.

After perusing the DG Reports, LP

applications and evidences on record, as well as after hearing the parties, the Commission observed that the evidence on record was not sufficient to make out a case of contravention of the provisions of the Act by three group of entities, i.e., NSK, JTEKT and NTN in regard to the RFI and RFQs. The Commission also noted that the lesser penalty applicants have not provided sufficient details and material particulars in support of the averments made by them. The broad-based applications filed by such applicants contained only bald and abstract admissions of certain concerted acts which, in the factual matrix of the case, were not

sufficient to return any definitive finding of contravention of the

provisions of the Act. Thus, the matter was ordered to be closed

under the provisions of the Act.

### **CCI imposes penalties upon firms for bid rigging in tender floated by GAIL**

The Information in this matter was filed by GAIL (India) Limited against PMP Infratech Pvt. Ltd. (PMP) and Rati Engineering (Rati), alleging bid rigging in tenders floated by GAIL for the restoration of well site located in the Ahmedabad and Anand regions of Gujarat.

The Commission, after forming a *prima facie* opinion that a thorough and detailed investigation is required to ascertain the alleged bid rigging, directed the Director General (DG) to cause an investigation into the matter. The DG found that PMP and Rati had joined

hands and colluded in submitting the bid against the impugned tender, thereby violating the provisions of Section 3(1) of the Competition Act, 2002 (Act) read with Section 3(3)(d) thereof.

The Commission perused the Information, the investigation report, and other material available on record and found that the two firms were in regular touch with each other regarding the tender floated by GAIL as well as after the submission of their bids. Further, the bids of the two firms were submitted from the same IP

address from the premises of PMP's office in Ahmedabad, with a one-day gap.

The Commission, *vide* order dated 11.10.2021 passed under Section 27 of the Act, found such conduct to be in violation of the provisions of Section 3(1) read with Section 3(3)(d) of the Act. Besides passing a cease-and-desist order, the Commission also imposed a monetary penalty of Rs. 25 lakh on PMP, Rs. 2.5 lakh on Rati, and Rs. 1 lakh and Rs. 50,000 on their respective individuals who managed and controlled the firms.

### **CCI issues cease and desist order against firms found guilty of bid rigging and cartelisation in tender floated by FCI**

The Information in this matter was filed by the Food Corporation of India (FCI) against Shivalik Agro Poly Products Ltd., Climax Synthetics Pvt. Ltd., Arun Manufacturing Services Pvt. Ltd., and Bag Poly International Pvt. Ltd., alleging bid rigging in the tenders floated by it for the procurement of Low Density Poly Ethylene covers (LDPE).

The Commission, after forming a *prima facie* opinion, directed the Director General (DG) to cause an investigation into the matter. During the course of the investigation, the involvement of two more parties was noted by the DG, viz., Shalimar Plastic Industries and Dhanshree Agro Poly Product. The DG also found that the above-mentioned firms entered into an agreement to share the quantities of LDPE in

different tenders floated by various government agencies on an all-India basis, including FCI, thereby violating the provisions of Section 3(1) of the Competition Act, 2002 (Act) read with Section 3(3)(d) thereof.

Upon considering the investigation report and other material available on record, the Commission held that the six firms had indulged in cartelisation in the supply of LDPE by means of directly or indirectly determining prices, allocating tenders, coordinating bid prices, and manipulating the bidding process.

The Commission, *vide* its order dated 29.10.2021 passed under Section 27 of the Act, found such conduct to be in violation of the provisions of Section 3(1) read with

Section 3(3)(d) of the Act. In this backdrop, CCI issued a cease and desist order against the six firms found guilty of bid rigging and cartelisation in the said tenders floated by FCI. However, CCI refrained from imposing any monetary penalty considering that four out of the six firms had filed lesser penalty applications and admitted their conduct and confessed their *modus operandi* during the investigation, and the firms were MSMEs with limited staff and turnover as well as the economic stress wrought upon MSMEs in the wake of COVID-19.

## CCI issued a cease and desist order against firms found guilty of bid rigging and cartelisation in a tender floated by Eastern Railway

In a case initiated on the basis of a reference filed on behalf of Eastern Railway, the Competition Commission India (CCI), *vide* order dated 12.10.2021, issued a cease and desist order against eight firms which were found to have indulged in cartelisation and bid rigging in the procurement of axle bearings used in EMU trains by the Eastern Railway.

The Commission considered the Information and, *vide* order under Section 26(1) of the Competition Act, 2002 (Act), directed the Director General (DG) to cause an investigation into the matter. On the basis of the evidence on record and the statements of the key persons/partner/proprietor of the concerned firms recorded on oath, the DG concluded that eight firms were directly involved in determining

the sale prices/bid prices quoted in the tenders floated by the Informant, i.e., Eastern Railway, for the supply of axle bearings, and such conduct is in violation of Section 3(1) read with Section 3(3)(a) of the Act.

The Commission perused the Information, the investigation report, and other material available on record and found the eight firms to have indulged in cartelisation in the supply of axle bearings to Eastern Railway by means of directly or indirectly determining prices, allocating tenders, coordinating bid prices, and manipulating the bidding process. The evidence in the matter included e-mails, call detail records, and the statements of the representatives of the firms. The e-mails exchanged showed that the firms discussed quantity allocation

amongst themselves with respect to the tenders of Indian Railways for the procurement of axle bearings. The vendors were also found to have discussed the compensation mechanism in the event that some of them did not win the agreed quantities.

Accordingly, CCI issued a cease and desist order under Section 27 of the Act against eight firms. However, CCI refrained from imposing any monetary penalty considering that the firms were MSMEs with limited staff and turnover, the cooperative and non-adversarial approach adopted by firms in acknowledging their involvement, as well as the economic stress wrought upon the MSME sector in the wake of COVID-19.



### ABUSE OF DOMINANT POSITION

## Reference Case No. 04 of 2019 CP Cell Vs M/s UP State Handloom Corporation Limited and Ors

### **Allegation:**

This reference was filed by CP Cell, Directorate General Ordnance Service (Informant) under Section 19(1)(b) of the Competition Act, 2002 (Act) alleging contravention of provisions of Sections 3(3) and 3(1) of the Act by M/s UP State Handloom Corporation Limited (OP-1), M/s J&K State Handloom Development Corporation (OP-2) and M/s Women Development Organisation (OP-3). Later, the Commission arrayed Manmohan

Commercial Limited (OP-4) as an Opposite Party after receipt of the Investigation Report of the Director General (DG).

The Informant had issued a Tender for procuring durries, in which nine firms participated but only six firms were technically qualified for opening their respective financial bids. After opening of the financial bids, it was observed that not only the bid prices of OPs were quoted in a very close range, but also the

quantity offered by the OPs was such that the total quantity offered by them exactly added up to the total quantity in the Tender. After considering the information and documents submitted by the Informant, the Commission, *vide* order dated 21.02.2020 passed under Section 26(1) of the Act, directed the DG to investigate the matter and submit its report.

### **Finding of the DG:**

The DG, *inter alia*, on the basis of

the exact trifurcation of quantity, submission of bids by the three OPs (OP-1, OP-2, and OP-3) within a period of 6 hours, similarity in bid prices, exchange of information between OP-3 and Mr. Vinay (employee of Informant), exchange of information between OP-4 and Mr. Vinay and statements of officials of OPs before the DG regarding possibility of a cartel/collusive arrangement concluded that the OPs have acted in contravention of provisions of Section 3 of the Act. The DG also identified nine individuals of the OPs who were found responsible and liable for contravention of Section 48 of the Act.

**Findings of the Commission:**  
After perusing the information,

Investigation Report of the DG, objections/ suggestions of the parties to the Investigation Report, and oral submissions made by the OPs, the Commission observed that the Investigation Report has placed reliance on the statements of the officers of OPs and requisitioned emails accounts, call records as well as WhatsApp communication of the officers of OPs; however, no contact or coordination, or communication, or meeting was found to exist between OP-1, OP-2, OP-3 and OP-4 immediately before or after the submission of bids in the Tender which could have established existence of an agreement or understanding or action in concert amongst OPs. It was noted that the basis of conclusion by the DG of

contravention of Section 3 of the Act was separate communications between directors of OP-4 and Mr. Vinay and between representative of OP-3 and Mr. Vinay, much after period of submission of bids in the Tender.

Thus, in the absence of any persuasive evidence, the Commission held that OP-1, OP-2, OP-3 and Op-4 have not contravened the provisions of Sections 3(3)(a) and 3(3)(d) read with Section 3(1) of the Act. Accordingly, the matter was closed *vide* its order dated 03.11.2021.

## Suo Motu Case No. 05 of 2016 In Re: Anti-competitive conduct in the paper manufacturing industry

The case was initiated *suo motu* by the Commission on the basis of certain material found during the ongoing investigations of two other cases. Taking cognizance of the same, the Commission noted that the twenty (20) paper manufacturers used the platform of the association (Indian Agro & Recycled Paper Mills Association/ OP-4 Association/ IARPMA, the apex representative body of non-wood based paper segment) to discuss and agree upon an increase in the prices of non-wood based paper. The platform of the association was further used to monitor the implementation of price increase by attendees/participants. Thus, the Commission decided to register a separate case in this regard.

The Commission passed an order dated 06.12.2016 under Section

26(1) of the Competition Act, 2002 (the 'Act'), forming *prima facie* view of contravention of the provisions of Section 3 of the Act by the non-wood based paper manufacturers, and hence, referred the matter to the Director General (DG) for investigation. During the pendency of investigation before the DG, OP-21 approached the Commission - filing an application for leniency under the provisions of Section 46 of the Act read with the Competition Commission of India (Lesser Penalty) Regulations, 2009.

After conducting the investigation, the DG submitted the investigation report, finding contravention against ten (10) such paper manufacturers and the Association. The period of cartel was noted by the DG from September 2012 till March 2013. Based on the DG investigation

report, objections/suggestions to the DG report, and material available on record, the Commission passed a final order dated 17.11.2021, holding that ten (10) OPs indulged in cartelisation in fixing prices of writing and printing paper by participating in the meetings convened under the aegis of the Association and discussed prices and the roadmap for coordinated increase, besides monitoring the decisions taken in such meetings. Such conduct of the said Ops was found to be in contravention of the provisions of Section 3(1) of the Act read with Section 3(3)(a) of the Act.

Against this backdrop, and further, considering that, during the pandemic, most businesses moved to the virtual mode thereby reducing the need for paper and affecting the

paper business, the Commission imposed a penalty of Rs. 5 lakh each on the ten (10) paper manufacturers found guilty of cartelisation. However, considering the cooperation extended by OP-21, the Commission granted 100% reduction in the penalty

amount imposed upon it. Further, a penalty of Rs. 2.5 lakh was imposed on the Association for providing its platform for anti-competitive activities. Apart from the above, the Commission also directed the above paper manufacturer and the Association, as well as their

respective officials who have been held liable in terms of the provisions of Section 48 of the Act, to cease and desist in the future from indulging in anti-competitive conduct.

### **CCI orders investigation against Table Tennis Federation of India and its affiliate bodies Case No.19 of 2021**

The Information was filed by TT Friendly Super League Association under Section 19(1)(a) of the Competition Act, 2002 ('the Act') against The Suburban Table Tennis Association (TSTTA), Maharashtra State Table Tennis Association (MSTTA), and Table Tennis Federation of India (TTFI), alleging contravention of the provisions of Sections 3 and 4 of the Act.

The Commission considered the Information and other material available on record and, based on the averments and allegations made in the Information, observed that the Informant is primarily aggrieved by the fact that it has been denied access to utilise the services of TT players because of the WhatsApp

notice posted by the General Secretary of TSTTA as well as certain clauses of the TTFI Memorandum of Association being anti-competitive.

The Commission noted that the WhatsApp message addressed to players/coaches/clubs/academies *prima facie* appeared to contravene the provisions of Section 4(2)(c) of the Act, as it may result in denial of market access to the Informant and other similarly placed organisations.

The Commission also observed that impugned clauses of the TTFI Memorandum of Association are unfair, being restrictive in nature, and also seem to limit or otherwise restrict provisions, services, or

markets, thereby *prima facie* appearing to violate the provisions of Sections 4(2)(a)(i) and 4(2)(b)(i) of the Act.

Accordingly, the Commission ordered an investigation by the Director General (DG) under Section 26(1) of the Act *vide* order dated 17.11.2021. The Commission also opined that the impugned conduct may be examined by the DG within the framework of Section 3 of the Act as TSTTA, in communicating its decision *vide* WhatsApp messages, *prima facie* seemed to limit or control provision of services, and thereby stood captured within the framework of Section 3(1) read with Section 3(3) of the Act as well.

### **CCI issues cease and desist order against firms found guilty of bid rigging and cartelisation in tender floated by Railways**

The reference in this matter under Section 19(1)(b) was filed by Southern Railway against Mersen (India) Pvt. Ltd. and Assam Carbon Products Ltd. ('OPs') alleging bid rigging in the tenders floated for the procurement of Hitachi Carbon Brushes, alleging, *inter alia*, contravention of the provisions of Sections 3 and 4 of the Competition Act, 2002 (Act).

The Commission, after examining

the reference and the material filed therewith, was of the *prima facie* view that there seemed to be a case of bid rigging in the tenders which was noted as being in contravention of the provisions of Section 3(3)(d) of the Act. After forming a *prima facie* opinion, the Commission directed the Director General (DG) to cause an investigation into the matter. During the course of the investigation, the DG found that the above-mentioned

firms entered into an agreement to share the quantities of Hitachi Carbon Brushes in different tenders floated by Indian Railways, thereby violating the provisions of Section 3(1) of the Act read with Section 3(3)(d) thereof.

Upon considering the Investigation Report and other material available on record, the Commission observed that there is a clear exchange of thoughts and 'meeting

of minds' to the extent of entering into an understanding and agreement between the two regarding the prices to be quoted and discussion regarding an increase in price before the filing of bids across different tenders floated by the various divisions of the Indian Railways. Further, in addition to the above, the DG also found e-mails exchanged between the OPs, which indicated that there were discussions regarding prospective bid prices to enable either the sharing of tenders or rotation of bids.

In view of the above, the

Commission concluded that the OPs had indulged in cartelisation in the Hitachi Carbon Brushes market in India, from at least November 2014 till 2019, by means of coordinating bid response and manipulating the bidding process, which had an appreciable adverse effect on competition (AAEC) within India.

The Commission, *vide* its order dated 01.11.2021 passed under Section 27 of the Act, found such conduct to be in violation of the provisions of Section 3(1) read with section 3(3)(d) of the Act. Against this backdrop, CCI issued a cease

and desist order against the firms found guilty of bid rigging and cartelisation in the said tenders floated by the Indian Railways. However, CCI refrained from imposing any monetary penalty considering that two firms had filed lesser penalty applications, the firms were MSMEs with limited staff/turnover, the economic stress wrought upon the MSME sector in the wake of COVID-19, as well as the losses incurred from the sale of carbon brushes during some financial years.

### **CCI closes case against Intel of abuse of dominant position (Case No.16 of 2018)**

An Information in the present case was filed under Section 19(1)(a) of the Competition Act ('Act') by Velankani Electronics Private Limited ('Informant') against Intel Corporation ('OP'), alleging abuse of dominant position by the OP. The OP, which was stated to be a dominant player in the processors for server market, allegedly refused to provide to the Informant complete reference design files and simulation files, which were necessary for it to design and develop its own server boards, which would interface with the micro-processors of the OP. The said conduct of the OP was alleged to amount to abuse of dominant position as it (i) led to denial of market access to the Informant in contravention of the provisions of Section 4(2)(c) of the Act; (ii) limited and restricted the production of servers and market, and therefore, also limited technical/scientific development relating to servers in contravention of the provisions of

Section 4(2)(b) of the Act; and (iii) amounted to using dominant position in the market for processors for servers to protect the market of servers in contravention of the provisions of Section 4(2)(e) of the Act.

Based on the facts and material available on record, the Commission passed an order dated 20.11.2019 under Section 26(1) of the Act, forming a *prima facie* view of contravention of the provisions of Section 4 of the Act by the OP. The Commission directed the Director General (DG) to cause an investigation into the matter and submit a report. In its investigation report, the DG found no contravention of the provisions of Section 4 of the Act, by the OP.

Based on the material available on record, the Commission passed a final order dated 03.12.2021, noting that there was no deliberate denial of any requisite file (reference

design file or simulation file) by the OP to the Informant. Reference design files which existed only for two products, *i.e.*, Buchanan Pass and Wolf Pass, and not for other products, *i.e.*, Sawtooth Pass and Silver Pass, had been provided by the OP to the Informant. Further, as the HSPIICE simulation model and IBIS simulation format were found by the DG to be substitutable with each other, and evidently, the complete set of SPICE simulation model and IBIS files (as existed on Purley Platform) had been made available by the OP to the Informant, there was also no denial of simulation files by the OP to the Informant. The SPICE files provided seemed to be sufficient for the Informant to develop its own server boards. Thus, the Commission found no case of violation of the provisions of Section 4 of the Act to be made out against the OP and, as such, the matter was directed to be closed forthwith in terms of Section 26(6) of the Act.



## CCI orders an investigation against Apple (Case no. 24 of 2021)

The Information in the matter was filed by an NGO namely Together We Fight Society under Section 19(1)(a) of the Competition Act, 2002 ('Act') against Apple Inc. and Apple Distribution International Limited (ADI) (collectively referred to as 'Apple') alleging contravention of the provisions of various Section 4 of the Act. The gravamen of the allegations of the Informant relates to the policies/practices of Apple with respect to its App Store.

The Commission, for the purpose of examination of the alleged conduct, delineated 'market for app stores for iOS in India' as the relevant market and found Apple to be dominant in the same. The Commission *inter alia* noted that there are two distinct smart device ecosystems i.e., iOS and Android, wherein consumers generally do not multi-home due to the switching costs associated with porting to another ecosystem. Further, app stores have become a crucial component of each of these ecosystems, as the consumer downloads apps on their smart devices from app stores, to access content and services on the internet. Moreover, recognising the cross-side network effects, app developers have to develop and innovate for each of the ecosystems to be able to maximise their revenue and provide a wider consumer choice. The Commission

also noted that Apple's App Store is the only means for app developers to distribute their apps to consumers using Apple's smart mobile devices and thus, Apple acts as a gateway between users and app developers.

Based on the information available on record, the Commission ordered an investigation against Apple *inter alia* in relation to following allegations:

- Mandatory use of Apple's proprietary in-app purchase system (IAP) for the distribution of paid digital content *prima facie* restricts the choice available to app developers to select a payment processing system of their choice especially when it charges a commission of 30% for app and in-app purchases.
- Apple may have access to data collected from its users of its downstream competitors which would enable it to improve its own services. However, such competitors may not have access to this data for improvisation/innovation of their own app which might result in a competitive advantage to Apple over its competitors.
- Such conduct also amounts to tying of its in-app purchase

payment processing service with the App Store i.e., the app developers have to agree to the usage of Apple's IAP payment processing service, if they want to distribute their apps to the iOS users through Apple's App Store.

- Apple allegedly applies its guidelines in an unpredictable, capricious and discriminatory manner. The resulting uncertainty, coupled with the difficulty of getting in touch with Apple, may severely affect app developers' ability to run their business properly.

- App Store is the only channel for app developers to distribute their apps to iOS consumers which is pre-installed on every iOS device and third party app stores are not allowed to be listed on the App Store. Such restrictions imposed by Apple *prima facie* forecloses the market for app stores for iOS for potential app distributors.

The Commission is of the *prima facie* view that the above mentioned conduct on the part of Apple amounts to a violation of the provisions of Section 4 of the Act. Accordingly, *vide* its order dated 31.12.2021, the Commission directed the Director General ('DG') to cause an investigation into the matter and submit the investigation report.



## MERGERS AND ACQUISITIONS

### Details of Green Channel Combination Notices filed during the period 01.10.2021 to 17.12.2021

During the period 01.10.2021 to 17.12.2021, the Commission received seventeen (17) combination notices, out of which three (03) were received under the Green Channel (17%). The details of these Green Channel notices are summarised below:

S. No.	Case No.	Name of the Parties	Sector
1.	C-2021/10/874	CA Magnum Holdings and Hexaware Technologies Limited	IT & ITES (Broadband Services, TV Cables Operator)
2.	C-2021/10/876	Exor Special Opportunities Master Fund ICAV and TVS Supply Chain Solutions Limited	Miscellaneous- (Logistics)
3.	C-2021/11/881	Genera Group Holding S.p.A. and Tendril Ventures Pte Ltd.	Miscellaneous (Other professional, scientific, and technical activities)

### Commission approves the proposed acquisition by HDFC Life Insurance Company Limited ('HDFC Life'/'Acquirer') of Exide Life Insurance Company Limited ('Exide Life'/'Target') from Exide Industries Limited ('Exide Industries')

On 02.11.2021, the Commission approved the proposed acquisition of 100% share capital of the Target by HDFC Life, followed by a merger of the two entities, such that HDFC Life will be the only surviving entity.

The Acquirer is a life insurance company registered with the Insurance Regulatory Development Authority of India (IRDAI). It is a joint venture between HDFC Limited and Standard Life Aberdeen, a global investment company. The Acquirer provides a range of individual and group life insurance solutions, including participating, non-participating, and unit linked insurance policies (ULIPs). Its product portfolio comprises various life insurance and investment products, such as protection, pension, savings, investment, annuity, and health.

Exide Life is a life insurance company registered with the IRDAI.

It offers various individual and group life insurance products, including protection plans (term insurance, child insurance plans), savings and investment plans (including ULIPs), and retirement and pension plans.

The Commission noted that the Parties exhibited horizontal overlap in the market for life insurance products and services in India. It was observed that the combined market share of the parties was [0–5] and [5–10] in terms of volume and value respectively and the incremental market share was insignificant.

It was also observed that the parties exhibited minor horizontal overlap in the provision of certain health-related products constituting of riders and defined fixed benefits. However, it was noted that the revenue derived from this product segment by the parties was

#### IN A NUTSHELL

- Acquisition of 100% shares of Exide Life by HDFC Life.
- Both entities show horizontal overlap in the market for life insurance products and services in India.
- Incremental market share is insignificant.
- Presence of various other players, such as LIC, SBI Life, ICICI Prudential, Max Life, and Bajaj Allianz.

insignificant and not likely to change competition dynamics.

Thus, the Commission was of the opinion that the proposed combination was not likely to cause an appreciable adverse effect on competition in any of the plausible relevant markets that could be delineated, and accordingly, the delineation of the relevant market was left open.

## Commission approves the proposed acquisition of Parexel International Corporation by Phoenix

On 25.10.2021, the Commission approved the proposed acquisition of 100% of the equity shareholding of Parexel International Corporation ('Parexel'/'Target') by Phoenix. The Commission received the Notice under Section 6(2) of the Act, given by Phoenix Parentco, Inc. ('Phoenix') on 16.08.2021. Phoenix is a special purpose vehicle jointly controlled by EQT Fund Management S.à r.l. (EFMS) and Goldman Sachs. EFMS and Goldman Sachs Group, Inc. ('Goldman Sachs'), being the parent entities of the Phoenix, would acquire joint control over Parexel.

The notifying party submitted that, in India, the Target is mostly engaged in intra-group activities, where almost all of its turnover is generated through the sale of its services and products to its overseas group entities. Each of (i) the revenue on account of rendering services to third-party customers, and (ii) the revenue on account of supply of services /product to overseas group entities is less than Rs.1000 crores. Only if both these revenue numbers are considered is the De-Minimis exemption threshold breached. When assessing the applicability of the De-Minimis exemption, intra-group turnover should not be included. If intra-group turnover were to be included, including the revenue derived by the overseas parent entities from third parties in India would result in double counting.

From the above submission of the notifying party, the issue that arose for consideration is whether either (i)

turnover originating from outside India and terminating in India ('Import Turnover in India'); or (ii) intra-group turnover originating from India and terminating outside India ('Intra-Group Export Turnover') should be excluded for the purpose of testing of De-Minimis exemption threshold.

The Commission observed that the methodology suggested by the notifying party with regard to the Import Turnover is not appropriate, as this turnover relates to the rendering of services to customers in India. These transactions essentially represent the value of business relatable to India. Accordingly, the computation of turnover for the purpose of De-Minimis exemption would warrant the inclusion of such revenue.

With regard to Intra-Group Export Turnover, the Commission observed that the purpose of exclusion of intra-group turnover is to avoid double counting. The approach suggested by the notifying party goes to the extent of avoiding even single counting of the turnover of the Target relatable to India. When an overseas group entity makes further supply of these services (supplied to it under intra-group export) outside India, the turnover relating to the subsequent sale is not counted as turnover in India. If one were to also exclude Intra Group Export Turnover, the economic value addition generated from India goes unaccounted. Intra-group turnover cannot be excluded mechanically. The location of the

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The Commission provided a detailed explanation of which turnover is to be included or excluded with respect to Intra-group turnover, for the purpose of availing De-Minimis exemption

parties to the intra-group sales and the scope of acquisition needs to be appropriately factored into the determination of turnover for the purpose of Section 5 as well as De-Minimis exemption. For instance:

#### **Parties Test:**

a) In a transaction where X is acquiring the ultimate parent entity of group A, the same would lead to indirect acquisition of all group entities of A. In this case, the value of all intra-group sales can be excluded for the purpose of Section 5 as well as De-Minimis exemption to avoid double counting. For instance, A holds 100% stake in B. If A is acquired by X (leading to indirect acquisition of B), the value of intra-group sales between A and B shall be excluded to avoid double counting.

b) No intra-group sales should be excluded if only one of the group entities of A, e.g., M, is acquired by X (without any direct or indirect acquisition of other group entities of A). This is because the issue of double counting does not arise and the standalone financials of the Target (i.e., M) alone is to be considered.

c) If two or more companies within a group is acquired, only then can the value of sales between them alone be excluded for the purpose of Section 5 and De-Minimis exemption. For instance, if P and Q of group A are acquired, only then shall the value of sales between Q and P be excluded, and the turnover of P and/or Q with A or any of its other group entities are not to be excluded.

**Location Test:**

d) For computation of worldwide turnover, a location test may not be relevant. However, for the determination of turnover in India, the relationship between the revenue and India is a relevant factor in the exclusion of intra-group sales. The exclusions mentioned in (a) and (c) above may be warranted when the intra-group sales are of: (i) domestic nature (i.e., sales originating and terminating in India); and/or (ii) the supply is from or to

India and further sales (by the buyer in the intra-group sale) are within India. In simple terms, if the revenue of further sales outside the group is relatable to India, thereby being already accounted for, then exclusion of all earlier intra-group sales is warranted to avoid double counting.

Parexel is headquartered in Durham, USA. It provides biopharmaceutical outsourcing services to biopharmaceutical companies. Biopharmaceutical outsourcing services provided by the Target in India can broadly be classified into the following categories: (i) Clinical research organisation (CRO) services, (ii) Real world evidence (RWE) services, and (iii) Healthcare consulting services. CRO Services comprise services for the design, initiation, and management of clinical trial programs, including

study design, site selection, patient selection and recruitment, clinical monitoring, and medical monitoring.

One of the portfolio entities of Goldman Sachs is engaged in providing CRO services in India. Thus, activities of Goldman Sachs and the Target and its affiliate(s) exhibit horizontal overlap. Combined market shares of the said portfolio entity of Goldman Sachs, Target, and its affiliate(s), and the incremental market share are not significant. Further, this activity is also characterised by the presence of other players. The Commission opined that the proposed combination is not likely to have any appreciable adverse effect on competition in India in any of the relevant market(s), and therefore, approved the same under Section 31(1) of the Act.

## The Competition Commission of India approved proposed combination involving an acquisition of 71.25% shareholding of ASK Investment Managers by BCP TopCo ('Blackstone Group')

On 15.11.2021, the Commission approved a proposed combination involving the acquisition of up to 71.25% shareholding (on a fully diluted basis) in ASK Investment Managers Limited ('Target') from various selling shareholders by BCP TopCo XII Pte Ltd ('Acquirer').

The Acquirer is a newly created entity incorporated in Singapore. It is controlled by funds advised and/or managed by affiliates of the Blackstone Inc. (collectively, 'the Blackstone Group'). Blackstone Inc. is a global alternative asset manager headquartered in the United States. The Blackstone

Group is active in the financial services sector in India through portfolio companies.

The Target is an asset and wealth management company incorporated in India. It submitted in the notice that the Target is the ultimate holding entity which is engaged in the business of providing financial services directly and through its associate and subsidiary companies.

The proposed combination relates to the acquisition of up to 71.25% shareholding (on a fully diluted basis) in the Target from various

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Acquisition of up to 71.25% shareholding in ASK Investment Managers Limited ('Target') from various selling shareholders by BCP TopCo XII Pte Ltd ('Acquirer').

The Acquirer is engaged in investment holding and related activities, whereas the Target is an asset and wealth management company.

There are overlaps in activities in the financial services sector, particularly in the market for the provision of loans and its distribution of insurance products. No AAEC found by the Commission.

selling shareholders by the Acquirer along with certain rights.

With reference to horizontal overlaps, the activities of the relevant portfolio companies of Blackstone Group and the Target (through ASK FH and ASK Wealth) overlapped in the financial services sector in India, particularly in (i) the market for the provision of loans and lending services in India and (ii) the market for the distribution of insurance products in India.

In the present case, the relevant portfolio companies of Blackstone Group are only present in the narrow segment for the provision of retail loans. The Target is present to

a limited extent in the segment for the provision of retail loans and that too in the connection of loans against securities. Therefore, the overlap is generally limited to the activity of provisions of loans and lending services and, at a narrower level, to the activity of provisions of retail loans.

It was observed that the combined market shares of the Parties in the Relevant Markets are negligible. Further, the market for the provision of loans (including retail loans) and lending services is marked by the presence of competitors such as State Bank of India, Bank of India Ltd., IDBI Bank Ltd., and Punjab National Bank Ltd., as well as

private sector players such as HDFC Bank Ltd., ICICI Bank Ltd., and Axis Bank Ltd. Further, the complementary relationship between the Parties is insignificant.

The Commission decided to leave the delineation of the relevant market open as in the instant case. The Commission opined that the Proposed Combination is not likely to have any appreciable adverse effect on competition in India. Therefore, the Commission approved the Proposed Combination under Section 31(1) of the Act.

## **The Competition Commission of India (CCI) approved a proposed combination involving Clariant Pigments Business & Heubach Business with resulting combined business controlled by SK Capital and Heubach & Clariant**

On 04.10.2021, the Commission approved a proposed combination involving Clariant Pigments Business & Heubach Business with resulting combined business controlled by SK Capital and Heubach & Clariant.

Clariant AG ('Clariant') is a corporation existing under the Laws of Switzerland. Clariant globally operates in six main businesses: (i) additives, (ii) catalysts, (iii) functional minerals, (iv) industrial and consumer specialties, (v) oil and mining services, and (vi) pigments. The Clariant Pigments Business mainly supplies (i) organic pigments, (ii) pigment preparations, and (iii) dyes to provide colour in a variety of products.

Colorants International AG ('Colorants International') is a

corporation existing under the laws of Switzerland. Colorants International is directly wholly owned by Clariant. Colorants Solutions USA LLC ('Colorants Solutions') is a limited liability company existing under the laws of USA. Colorants Solutions is wholly owned by Clariant Corporation, another USA entity, which is, in turn, wholly owned by Clariant.

Heubach Holding GmbH ('Heubach') is a limited liability company under the laws of the Republic of Austria and is a manufacturer of corrosion protection pigments as well as organic and inorganic colour pigments and pigment preparations. SKCP is a private investment firm focused on the specialty materials, chemicals, and pharmaceuticals sectors. [SKCP

### **IN A NUTSHELL**

On 04.10.2021, CCI approved the proposed combination involving Clariant Pigments Business & Heubach Business with the resulting combined business controlled by SK Capital and Heubach & Clariant.

The Parties are active within the business of production and/or commercialisation of organic pigments, pigment preparations, and dyes.

The Commission approved the proposed combination as it was not likely to have an appreciable adverse effect on competition in India.

means SK Capital Partners, LP, while SKCI V means SK Capital Investment V, Limited, an affiliate of SKCP]. Luxembourg Investment

Company 428 S.à r.l ('Lux Bidco') is ultimately controlled by funds controlled by SKCI V, an affiliate of SKCP.

The proposed combination related to the business of production and/or commercialisation of organic pigments, pigment preparations, and dyes conducted by Colorants International, Colorants Solutions, and their subsidiaries in various countries, including India ('Clariant Pigments Business'), and the business of the production, manufacturing, and trading of corrosion protection pigments as well as organic and inorganic colour pigments, hybrid pigments, and pigment preparations as carried out by Heubach and its subsidiaries in various countries, including India ('Heubach Business').

On 04.10.2021, the CCI approved the proposed combination involving Clariant Pigments Business & Heubach Business with resulting combined business controlled by SK Capital and Heubach & Clariant.

It was noted by the Commission in the market of (i) organic and (ii)

inorganic pigments, including narrower markets/segments, that either the combined market shares of the Parties was not significant and/or the increment in market share as a result of the proposed combination was low. Further, in each of the relevant markets/segments, there was a presence of several other competitors who will continue to pose competitive constraints. Only in the case of the market for manufacture/sale of benzimidazolone pigments in India was the combined market share stated to be more than 25%, with the incremental market share between 5–10%. However, in this market as well, there were other significant players.

In the market for the sale of pigment preparations in India, it was observed that the combined business will continue to compete in a fragmented market. Further, in the market for sale of dyes in India and the sub-segment of dyes, there were no significant competitive constraints post the proposed combination.

It was noted that there existed

potential vertical relationships in India between Clariant Pigments Business, Heubach Business, and SKCP Portfolio Companies. However, the value of existing vertical relationships between the Parties was not significant to raise any competition foreclosure concerns. With regard to potential vertical relationships, there was the presence of other players in the respective segments, and it was not likely to raise any concerns.

The Commission decided to leave the delineation of the relevant market open as it was observed that the proposed combination is not likely to cause an appreciable adverse effect on competition in any of the possible alternative relevant markets that could be delineated.

The Commission opined that the proposed combination is not likely to have any appreciable adverse effect on competition in India. Therefore, the Commission approved the proposed combination under Section 31(1) of the Act.



## JUDICIAL PRONOUNCEMENT

### **Order of investigation under Section 26 (1) of the Competition Act, 2002, passed by Competition Commission of India against Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO) upheld by Madras High Court**

Competition Commission of India (CCI) ordered an investigation under Section 26 (1) of the Competition Act, 2002 (the Act), *vide* order dated 08.10.2013, against TANGEDCO upon

allegations that TANGEDCO was indulged in inequitable distribution of load shedding power and other restriction and control measures, thereby violating the provisions of the Act by way of limiting and

restricting provision of services to select markets, denying market access *etc.* Pursuant to the said direction of investigation, a notice seeking certain informations & documents from TANGEDCO was

issued by the Director General (DG, CCI).

Aggrieved by the said order of investigation and the aforesaid notice issued by the DG, a writ petition (W.P.No.35047 of 2013) was filed by the TANGEDCO upon the grounds of jurisdiction and denial of sufficient opportunity to it.

Madras High Court, *vide* judgement dated 22.12.2021, in *Tamil Nadu Generation and Distribution Corporation Limited vs CCI & Ors.* while denying to adjudicate upon the merits of the case held that no writ needs to be entertained against a notice in a routine manner except on limited grounds. It was held that once the anti-competitive practices are brought to the notice of the CCI by way of complaint/information and

such allegations are falling u/s 4 of the Act, then the CCI is empowered to conduct investigation and form a final opinion for the purpose of initiation of actions. With regard to the jurisdiction, the court held that the Electricity Act does not provide any power to the Tamil Nadu Electricity Regulatory Commission (TNERC) to conduct investigation, more specifically, with reference to the allegations of abuse of dominant position, which is a specific provision under Section 4 of the Competition Act.

Hon'ble Madras High Court further held that the challenge to the Notice issued to TANGEDCO in order to conduct investigation is premature as the final decision with regard to the allegations made is yet to be taken. It was held that when the Act

provides jurisdiction to CCI to entertain complaint, more specifically, when there is no such investigating power contemplated under the Special Act (Electricity Act), then there is no impediment for CCI to entertain such complaint and thus, there is no infirmity or perversity in the order passed by CCI. With regard to the maintainability of the petition it was held that the petition is not only premature, but not entertainable as the challenge is made to a notice issued, which provides an opportunity to the petitioner to defend its case under the provisions of the Act. TANGEDCO was further directed to comply with the notice issued by the DG.



## COMPETITION ISSUES IN PUBLIC PROCUREMENT

### INTRODUCTION

Public authorities acquire goods and services on a regular basis for the implementation of public programmes and projects. Public procurement refers to the process by which governments and state-owned enterprises purchase goods and services by issuing tenders. Since public procurement involves spending a substantial amount of public money (estimated at 20% to 22% of the GDP), procurers are expected to ensure that the process of procurement is fair, efficient, transparent, and competitive. Procurement through tendering boosts competition by increasing the number of participants bidding for the tender and minimising costs. However,

when the competitive tendering process is manipulated by bidders, the government pays more than the fair price. CCI is engaged in efforts to combat the anti-competitive activity of rigging bids, which substantially affects procurement by governments and their agencies, ministries, departments, and state-owned enterprises.

### COMPETITION ISSUES IN PUBLIC PROCUREMENT

Competitive bidding is conducted with the objective to set in motion a competitive process that maximises the efficiency of public spending. A major assumption for the effectiveness of this process is the fairness on the part of bidders

who should ideally submit their bids independently and without coming to any sort of understanding amongst each other. However, it is not uncommon for bidders to subvert this process through collusion to predetermine the outcome of tendering. Such collusive conduct undermines the efforts of the procuring authority to secure the most favourable price and conditions for the underlying work, and is inherently anti-competitive.

Bid rigging takes many forms, but bid rigging conspiracies usually fall into one or more of the following categories:

#### **BID SUPPRESSION:**

Under bid suppression, one or more competitors, who would otherwise be expected to bid, agree to refrain from bidding or withdraw a previously submitted bid so that the designated winning competitor's bid is accepted.

#### **MARKET ALLOCATION:**

Here, competitors divide products and/or geographic markets among themselves. In such schemes, competing firms allocate specific customers or types of customers, products, or territories among themselves.

#### **COMPLEMENTARY BIDDING:**

This occurs when some competitors agree to submit bids that are either too high to be accepted or contain special terms that will not be acceptable to the buyer.

#### **BID ROTATION:**

In this form of bid rigging, bidders submit bids but take turns to be the lowest bidder. Competitors may take turns on contracts according to the size of the contract, allocating equal amounts to each conspirator or allocating volumes that correspond to the size of each conspirator.

#### **SUBCONTRACTING:**

Under this arrangement, competitors who agree not to bid or to submit a losing bid receive subcontracts or supply contracts in exchange from the successful bidder. In some schemes, a low bidder will agree to withdraw its bid in favour of the next low bidder in exchange for a lucrative subcontract that divides the illegally obtained higher price between them.

#### **RED FLAGS**

1. The same supplier is often the lowest bidder.
2. There is a geographic allocation of winning tenders.
3. Regular suppliers fail to bid on a tender they would normally be expected to bid for.
4. Some suppliers unexpectedly withdraw from bidding.
5. Certain companies always submit bids but never win.
6. Each company seems to take a turn being the winning bidder.
7. The winning bidder repeatedly subcontracts work to unsuccessful bidders.
8. Competitors regularly socialise or hold meetings shortly before the tender deadline

#### **THE ROLE OF CCI**

CCI was established under the Act to prevent practices having adverse effect on competition, promote and sustain competition in Indian markets, protect the interests of consumers, and ensure freedom of trade carried on by other participants in markets in India. It is mandated under Section 49 of the Act to take suitable measures for the promotion of competition advocacy, creating awareness and imparting training about competition issues.

In order to combat bid rigging in public procurement at the Central and State level, CCI has adopted a two-pronged approach. On the one hand, CCI enforces the law by investigating instances of bid rigging in public procurement and imposing appropriate penalties. On the other hand, CCI undertakes advocacy initiatives, whereby public procurement agencies at

the Central and State levels are sensitised to design their public procurement systems in a manner that minimises chances of bid rigging.

#### **ENFORCEMENT**

The Act specifically prohibits bid rigging or collusive bidding (direct or indirect) under Section 3(1) read with Section 3(3)(d). Commission is empowered to inquire into such anti-competitive agreements and impose on each person and enterprise that are party to such agreements a penalty of up to 10% of the average turnover for the preceding three financial years. Further, in case such an agreement has been entered into by a cartel, the Commission may impose upon each producer, seller, distributor, trader, or service provider in that cartel a penalty of up to three times that of its profit for each year of the continuance of such agreement or 10% of its turnover for each year of the continuance of such agreement, whichever is higher.

The Commission has looked into a number of cases in diverse sectors such as railways, healthcare, sports, insurance, public utilities, etc. and passed several cease-and-desist orders and penalised violators who have cartelised in public procurement of goods and services. For instance, in *In Re: Aluminium Phosphate Tablet Manufacturers*, CCI found that the Parties indulged in identical pricing of tablets, which was strange given the differences in the entities' production costs and geographic locations. The sheer volume of identically priced bids was also strange, and the probability of



some type of anti-competitive agreement was enhanced, since there were only four suppliers in India. In *Delhi Jal Board v. Grasim Industries Limited and Others*, Commission held that the bid rates simultaneously increased every year and converged on a narrow band. Further, it was noted that, despite the plants being located in different geographical areas, the rates quoted by all the bidders remained substantially similar. It was also observed that, in normal market conditions, the freight rate/km should decrease with increase in the distance covered; however, the freight rate of the party farthest from the Delhi Jal Board had the highest freight rate. CCI also observed that the examination of the rates offered by the Parties to other customers also revealed that the Parties have been charging the Delhi Jal Board higher rates than the rest of their customers, which could not be sufficiently explained by the Parties violators who have cartelised in

public procurement of goods and services. For instance,

#### ADVOCACY

Section 49 of the Act mandates CCI to undertake advocacy for promoting competition. Over the years, CCI has taken various initiatives for promoting and creating awareness of competition law in general and competition issues in public procurement in particular. Regular trainings and workshops have been held in various government departments, public sector undertakings, and other stakeholders at the Central and State level regarding competition-efficient design of public procurement systems. Through such regular engagements, CCI endeavours to work with public authorities to clear the public procurement system of bid rigging. CCI has also designed a *Diagnostic Toolkit: Towards Competitive Tenders* for public procurement officers, aimed at equipping officers with the

information to appreciate various dimensions of the procurement process. It provides a standardised diagnostic method and an implementation guide to assess and improve the quality of tenders to minimise instances of bid rigging.

#### CONCLUSION

Given the scope and size of public procurement in India, efficient public spending on such procurement is vital to economic growth. While bid rigging poses a significant challenge in this regard, careful tender design and regular monitoring of public procurement processes for the detection of warning signals/red flags can go a long way in overcoming this challenge. CCI is committed to fostering a culture of competition in public procurement in India through effective enforcement and sustained advocacy.



## ECO-WATCH

### Green Day Ahead Market: An economic approach for a green planet

Recently, the Union Minister of Power & New and Renewable Energy (RE) launched a new market segment, the Green Day Ahead Market (GDAM) for Renewable Energy, which is a marketplace for trading renewable power on a day-ahead basis. It will enable any renewable energy generating company to sell renewable energy on the exchange to buyers through bilateral trading. Power distribution companies (discoms) and open-access

consumers typically procure electricity by signing long-term power purchase agreements (PPAs) with generators. However, GDAM's launch has provided a new platform through which buyers can procure RE on a day-ahead basis. Thus, it has created opportunities for power generators to develop merchant RE capacity without being tied down by long-term PPAs. The intent is to promote merchant green power plants and provide additional sale avenues to existing renewable

power plants that are either facing payment risk with distribution companies (DISCOM) under the existing PPA or have surplus energy. The platform will also encourage RE-rich states to expand their renewable capacities beyond their Renewable Purchase Obligation (RPO) requirements and sell the surplus to RE-deficient states or corporate open-access consumers.

It is pertinent to note that the

Government of India has set a target for achieving 175 GW of Renewable Energy capacity by the year 2022. A total of 150 GW renewable energy capacity (including large hydro) has been installed in the country till date. Further, projects of 63.64 GW capacity are under various stages of implementation and 32.06 GW capacity are under various stages of

bidding. Therefore, a total of 245.70 GW capacity has either been installed or under various stages of implementation/bidding. The launch of GDAM is expected to deepen the green market and provide competitive price signals, besides offering an opportunity to market participants to trade in green energy in a transparent, flexible, competitive, and efficient manner.

The competition in the RE is expected to be enhanced when buyers and sellers of green electricity interact on an open platform. GDAM is a step towards making electricity markets more dynamic, which will lead to enhanced generation of green electricity.

### **Reserve Bank of India (RBI): Establishment of New Umbrella Entities license**

The Reserve Bank of India (RBI), to boost its retail payments system, recently decided to establish New Umbrella Entities (NUEs). NUEs will establish their own payment infrastructure and compete with the National Payments Corporation of India (NPCI). Currently, the NPCI is a single umbrella body to facilitate retail payments in India. It owns and operates the UPI Interface, the RuPay network and other payment and settlement functions. RBI through NUEs aims to build a settlement system similar to the Unified Payments Interface (UPI) which will focus on small, medium enterprises, merchants, and consumers.

RBI is of the view that NPCI alone might not be able to carry out the big shift to digital economy considering the volume of transactions and the number of new entrants. The formation of NUEs will offer competition to NPCI and also work towards the efficiency of these systems and tap vast business opportunities. NUEs will address the problem of risk concentration of only one platform, i.e., NPCI, and offer more options to consumers. NUEs will ensure that principles of fairness, equity, and competitive

neutrality are applied while determining participation in the retail payment system. NUEs will also operate clearing and settlement systems; identify and manage relevant risks such as settlement, credit, liquidity, and operational; preserve the integrity of the system; and monitor retail payment system developments and related issues in the country and internationally to avoid shocks, frauds, and contagions that may adversely affect the system and the economy in general.

RBI invited private companies to bid for a license to set up a new platform. The NUE license shall be granted by RBI under Section 4 of the Payment & Settlement Systems Act (PSSA), 2007. NUE will primarily focus on developing new payment systems, standards, and technologies; clearing and settlement mechanisms; and monitoring, addressing, and preventing relevant risks and frauds. It would also diversify easy payment options besides boosting transaction volumes with tremendous expansion of e-commerce.

The umbrella entity shall have a

minimum paid-up capital of INR 500 crore, and no single promoter/promoter group will have more than 40% investment in the capital of the umbrella entity. Unlike NPCI, the NUEs can be a for-profit entity. The promoters/promoter groups shall demonstrate up front a capital contribution of not less than 10% at the time of making an application for setting up the umbrella entity. The balance capital shall be secured at the time of commencement of business/operations. A total six (06) consortiums have applied for the RBI license, of which two (02) will be granted a license. While the NUE aims to expand the competitive landscape of the retail payment system, the issue of data transfer and security remain a major concern.



### 'Director General': An investigative arm of the Competition Commission of India



Section 16 of the Competition Act, 2002 (the Act) provides that the Central Government may appoint a Director General (DG) for the purposes of assisting the Competition Commission of India (the Commission) in conducting inquiry into contravention of any of the provisions of the Act, and for performing such other functions as are or may be provided by or under the Act. Section 41 (1) of the Act provides that the DG shall assist the Commission in investigating into any contravention of the provisions of the Act or the rules or regulations made thereunder when so directed by the Commission. By reading Section 16 alongwith Section 41 of the Act, it is clear that the DG is appointed by the Central Government and when so directed by the Commission, DG should assist the Commission in investigation into any contravention of the provisions of the Act or the

rules or regulations made thereunder.

Chapter V of the Act deals with the duties of the DG. Sub-section 2 of Section 41 provides that the DG shall have all the powers as are conferred upon the Commission under subsection (2) of Section 36. Thus the DG, for the purpose of discharging his functions under the Act, has been vested with certain powers of the Civil Courts under the Code of Civil Procedure, 1908 *such as* of summoning & enforcing attendance of any person and examining him on oath; requiring discovery and production of documents; receiving evidence on Affidavit; issuing Commission for the examination of witnesses or documents; and requisitioning of Public Records under Indian Evidence Act, 1872. The DG has also been vested with the powers of Inspector relating to production of

documents and evidence and seizure of documents by inspector of the Companies Act, 1956.

Regulation 18 of the Competition Commission of India (General) Regulations, 2009 (General Regulations), provides that once the Commission is of the opinion that a *prima facie* case exists, the Secretary shall convey the directions of the Commission to the DG to investigate the matter and such direction of investigation to the DG shall be deemed to be the commencement of inquiry under Section 26 of the Act. The DG conducts the investigation based on the *prima facie* opinion formed by the Commission.

Further, Regulation 20 of the General Regulations deals with the investigation by the DG. All the documents filed along with the information or reference or at the time of preliminary conference are sent by the Secretary, CCI to the DG. Subject to extension of time granted by the Commission, the DG is required to submit his report within the time specified by the Commission which ordinarily shall not exceed 60 days. However, on an application made by the DG, giving sufficient reasons, the Commission may extend the time for submission of the report. The report of the DG should contain his findings on each of the allegations made in the information or reference

together with all the evidences or documents or statements or analyses collected during the investigation. If the Commission, on consideration of the report, is of the opinion that further investigation is called for, it may give a direction to the DG to make further investigation and submit a supplementary report on specific issues, within the time specified but ordinarily not later than 45 days.

Also, Section 29(1A) of the Act provides that the Commission, after receipt of the response of the parties to the Combination under sub-section (1), the Commission may call for a report from the DG, if the Commission is of the opinion that a combination is likely to cause or has caused an appreciable adverse effect on competition within the relevant market in India and such report shall be submitted by the DG within such time as the Commission may direct.

Regulation 35 of the General Regulations provides that the DG has the power to grant confidentiality on the document(s) or part(s) thereof which are submitted by a party and such a request in

writing is made. If the DG has rejected the request for confidentiality made by a party, such party may approach the Commission for a decision regarding confidential treatment.

Hon'ble Supreme Court in CCI v. SAIL (2010) 10 SCC 744 observed that the DG appointed under Section 16(1) of the Act is a specialized investigating wing of the Commission. DG, being appointed by the Central Government to assist the Commission, is one of the wings of the Commission itself to whom the investigation is directed with dual purpose; (a) to collect material and verify the information, as may be, directed by the Commission, (b) to enable the Commission to examine the report upon its submission by the DG and to pass appropriate orders after hearing the parties concerned.

Hon'ble Supreme Court in SAIL judgment clearly observed that the 'inquiry' shall be deemed to have commenced when direction to the DG is issued to conduct investigation in terms of Regulation 18(2) of the General Regulations. In other words, the law shall presume

that an 'inquiry' is commenced when the Commission, in exercise of its powers under Section 26(1) of the Act, issues a direction to the DG. Further it was observed that the DG is expected to conduct an investigation only in terms of the directive of the Commission and thereafter, inquiry shall be deemed to have commenced, which continues with the submission of the report by the DG.

As per the scheme of the Competition Act, 2002 the DG is a fact finding body, whose duty is to collect evidence, analyse such information and present its opinion on the basis of such evidence to the Commission. However, the conclusion/findings of the DG are mere recommendatory and are not final. The Investigation Report as prepared by the DG is never binding upon the Commission and it is always for the Commission to decide whether the alleged conduct is in contravention of the provisions of the Act or not.



### **CCI participated in various international meetings/seminars/conferences, as follows:**

1. Eleven (11) officers participated in a three-day webinar on Competitive Neutrality held on 4,5,7.10.2021 organised by OECD/ Korea Policy Centre.
2. One (01) officer participated in the online OECD workshop on Legal Models for International Enforcement Cooperation on 28.10.2021.
3. Shri Ashok Kumar Gupta, Chairperson, CCI, virtually addressed both the opening and closing ceremonies of VII BRICS International Competition Conference (ICC) hosted by SAMR, China from 16-17.11.2021 and also released a Research Report by the BRICS Competition Authorities Working Group on Automotive Sector, of which CCI was the Co-Chair with South Africa. CCI also showcased a video invitation for the VIII BRICS ICC, scheduled to be held in 2023 in New Delhi, India.

Chairperson, CCI, also signed the Chengdu Joint Statement with the heads of the BRICS Competition Authorities on 16.11.2021. Chairperson, CCI and Ms. Gan Lin, Vice Minister, SAMR China, held bilateral talks virtually on 16.11.2021 on the sidelines of BRICS–ICC.

Ms. Jyoti Jindgar Bhanot, Adviser, (Economics) addressed a parallel session on “Fair Competition and Post-epidemic Economic Growth,” and Dr. Sanjay Kumar Pandey, Adviser, (Law) addressed a parallel session on “International Cooperation in Combating Cross-border Cartels” on 16.11.2021.



*Shri Ashok Kumar Gupta, Chairperson, CCI, along with Ms. Jyoti Jindgar Bhanot, Adviser (Economics), Dr. Sanjay Kumar Pandey, Adviser (Law), and Ms. Payal Malik, Adviser (Economics), during the VII BRICS International Competition Conference (ICC) hosted by SAMR, China on 16–17.11.2021.*

Ms. Payal Malik, Adviser, (Economics) addressed a parallel session on “Development of Competition Policy in the Digital Era” on 17.11.2021.

4. Two (02) officers participated virtually in the 2021 International Competition Network (ICN) Cartel Workshop during 17–19.11.2021.
5. Six (06) officers participated in the OECD online workshop on “Regulatory Barriers to Competition in Professional Services” during 18–19.11.2021.
6. Dr. Sanjay Kumar Pandey, Adviser, (Law) participated virtually in the UNCTAD Ad-Hoc Expert Group Meeting on Competition Law and Policy on Cross–border Cartels, held on 23.11.2021.

7. A virtual experience-sharing programme with the United States Department of Justice (USDOJ) to discuss its investigation on the Visa–Plaid case and Amazon Art Poster case was organised on 29.11.2021.



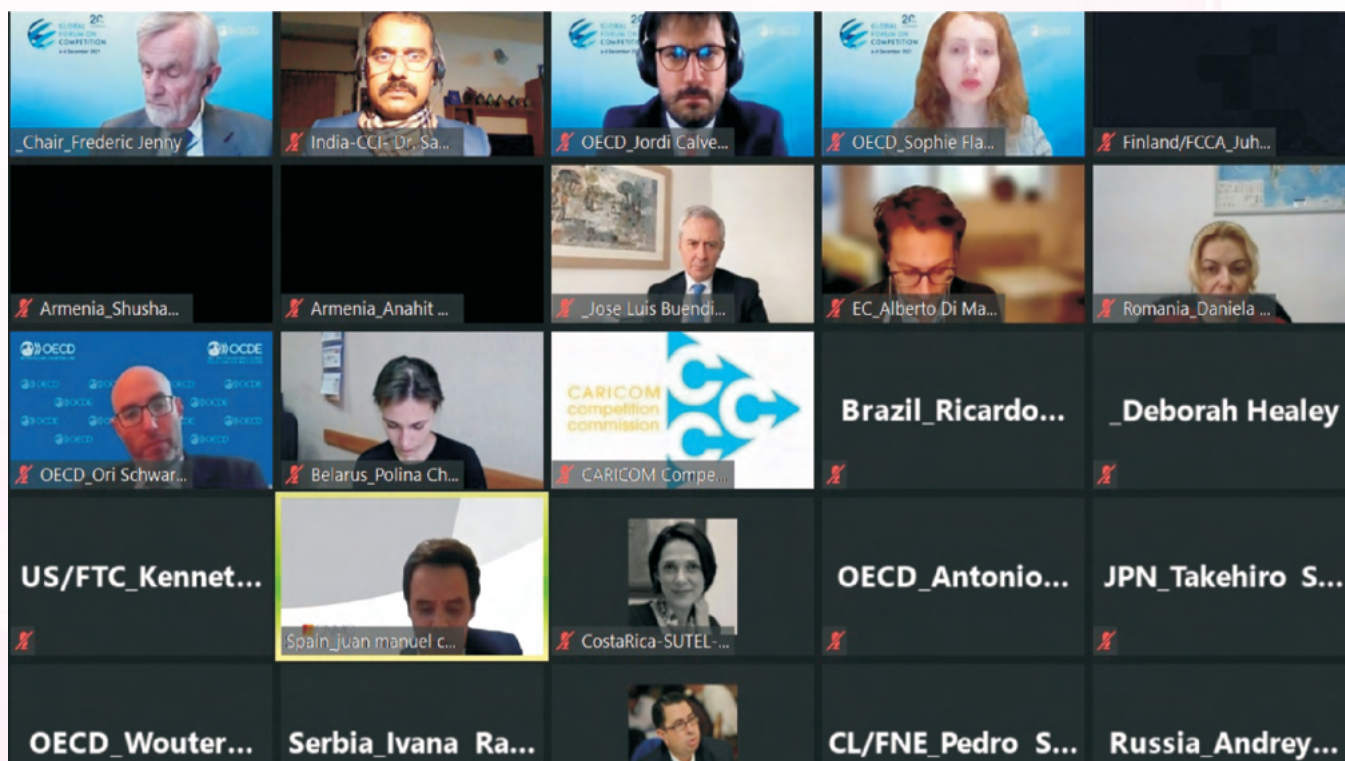
*A virtual experience–sharing programme with the United States Department of Justice (USDOJ) was conducted on 29.11.2021 to discuss its investigation of the Visa–Plaid Case and Amazon Art Poster Case.*

8. As part of the UK's G7 Presidency, the Competition and Market Authority (CMA), UK, organised an Enforcers Summit during 29–30.11.2021. Shri Ashok Kumar Gupta, Chairperson, CCI, and Ms. Sayanti Chakrabarti, Director (Economics), participated virtually in the G7 Enforcers Summit.



*Shri Ashok Kumar Gupta, Chairperson, CCI, during the G7 Enforcers Summit, held virtually on 29–30.11.2021*

9. The CCI delegation, led by Dr. Sanjay Kumar Pandey, Adviser, (Law) participated virtually in the OECD Competition Week meetings of Working Party 2 and Working Party 3 Competition Committee, during 29.11.2021– 03.12.2021 and the Global Forum on Competition during 06–08.12.2021.

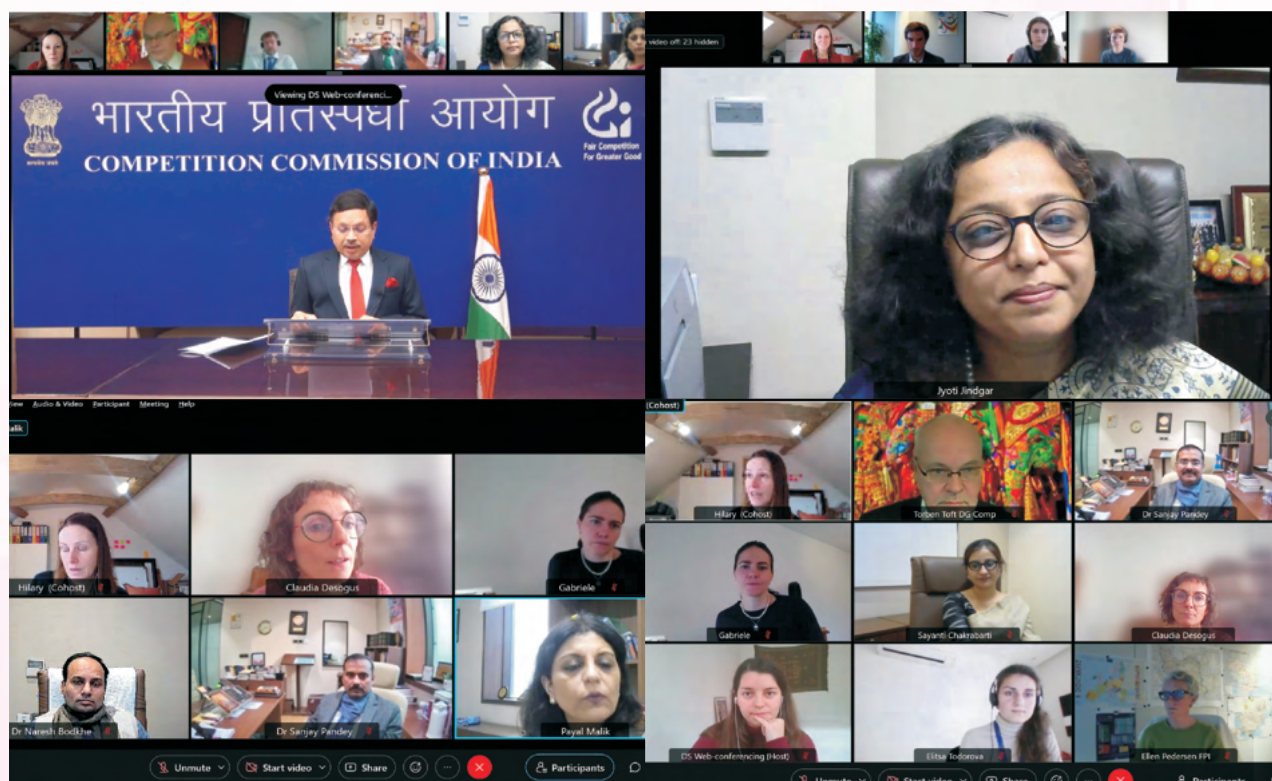


*Dr. Sanjay Pandey, Adviser (Law), along with other panellists in the OECD Competition Week meetings and the Global Forum on Competition on 06–08.12.2021.*

10. Dr. Sanjay Kumar Pandey, Adviser, (Law) participated virtually in the session on Promotion of Competitive Neutrality by Competition Authorities on 08.12.2021 and gave an account of the advocacy measures undertaken by CCI to promote competition in public procurement.
11. The CCI delegation, led by Dr. Sanjay Kumar Pandey, Adviser, (Law) participated virtually in the 6<sup>th</sup> Meeting of High Level Representatives of Asia-Pacific Competition Authorities organised by OECD on 13.12.2021.



12. The 4<sup>th</sup> EU-India Competition Week was organised virtually during 13–14.12.2021. Shri Ashok Kumar Gupta, Chairperson, CCI, virtually addressed and gave the opening remarks along with Mr. Seppo Nurmi, Deputy Head of Delegation, Delegation of the EU to India and Bhutan on 13.12.2021.



*Shri Ashok Kumar Gupta, Chairperson, CCI delivered the opening remarks, Ms. Jyoti Jindgar Bhanot, Adviser (Economics), Dr. Sanjay Kumar Pandey, Adviser (Law), Ms. Payal Malik, Adviser (Economics) and Mr. Seppo Nurmi, Deputy Head of Delegation, along with other panelists during the 4<sup>th</sup> EU-India Competition Week, organised virtually on 13–14.12.2021.*



## DEVELOPMENTS IN OTHER JURISDICTIONS

### AUSTRIA

#### Austrian Federal Competition Authority (AFCA) fined STRABAG for EUR 45.37 million

On 14.07.2021, AFCA imposed a EUR 45.37 million fine as part of its investigations into the Austrian construction industry. The application concerned two companies from the STRABAG Group, namely, STRABAG AG and F. Lang u. K. Menhofer Baugesellschaft m.b.H. & Co. KG ("STRABAG").

The Austrian Federal Cartel Act prohibits any behaviour that prevents or distorts competition.

This covers price fixing agreements or the division of markets or territories. At the AFCA's request, the Cartel Court may impose fines of up to 10% of an entity's total turnover generated in the preceding business year if that entity is found to have breached the rules banning cartels. Fines are assessed based on the gravity and duration of the breach, the degree of fault, and the economic strength and cooperation of the company concerned.

### UNITED KINGDOM

#### Competition and Markets Authority (CMA), UK, hosts first two-day digital summit of G7 competition heads on 29 and 30.11.2021

The CMA hosted a two-day hybrid summit with the heads of G7 competition authorities to discuss cooperation across digital markets. The competition authorities of the

G7 member states (Germany, France, UK, Italy, Japan, Canada, USA), the European Commission, and the authorities of the G7 guest countries Australia, India, South Africa, and South Korea met for the Digital Competition Enforcers Summit in London on 29–30.11.2021.

The G7 Digital Competition Enforcers Summit aims to strengthen relationships between international competition authorities and increase collaboration on issues related to competition in digital markets.

The Summit offered a unique opportunity for international agencies to discuss various questions, including emerging issues such as in relation to large digital platforms, app stores, online marketplaces, digital advertising, mobile ecosystems, cloud computing, and algorithms. It also provided an opportunity for attendees to consider areas for potential Collaboration and reflect on how best to use their skills, knowledge, and resources to deal with challenges in digital markets.

During the hybrid event, a compendium of the key aspects of each authority's work on digital markets was published as a resource for policymakers, as well as to aid future cooperation between competition authorities.

### RUSSIA

#### Federal Antimonopoly Service (FAS), Russia, presented Model

#### Recommendations on "The Application of Confidentiality Waiver Mechanism"

The FAS presented Model Recommendations on "The Application of Confidentiality Waiver Mechanism". The presentation of the document by the Deputy Head of FAS Russia Andrey Tsyganov took place during the closing ceremony of the VII BRICS Conference on Competition. The speaker noted that globalisation leads to an increase in the number of transnational transactions, and the close cooperation of competition authorities of the BRICS member countries makes it possible to optimise the procedures for reviewing global transactions at the national level.

One of the practical results of the large-scale work of the competition authorities of the BRICS countries was the adoption of the Model Recommendations on application of the confidentiality waiver mechanism in reviewing transactions of economic concentration of BRICS member states.

In recent years, BRICS competition authorities have achieved significant success in considering large global transactions of economic concentration. Among them are mergers of agro-industrial giants Bayer/Monsanto and IFF/DuPont; deals of manufacturers of locomotives and wagons Siemens/Alstom and Alstom/

Bombardier; mergers in the pharmaceutical sector with Glaxo Smith Klein/ Pfizer and Takeda/ Shire; in the industrial sector with Metso/ Outotec; and the Aon/ Willis Tower merger in the sector of banking and brokerage services.

## CANADA

### Competition Bureau (CB), Canada, preserves competition in supply of retail gasoline in Kemptville, Ontario

CB has approved Centex Petroleum as the purchaser of the Quickie gas station in Kemptville,

Ontario. The Bureau, MacEwen Petroleum Inc. and Grant Castle Corp had entered into an agreement that required MacEwen to sell the retail gas station that was owned and operated by Quickie Convenience Stores Corp. in Kemptville, Ontario, as part of their acquisition of 51 Quickie convenience stores. Centex Petroleum is an independent retail gas Site operator headquartered in Calgary, Alberta, with over 100 sites in Canada. Centex is a new entrant to the Kemptville market.

In October 2021, the Bureau

concluded that the proposed transaction would likely substantially lessen competition in the supply of gasoline to retail customers in Kemptville. Selling the gas station in Kemptville eliminates any increase in concentration resulting from the proposed transaction.

The Bureau has issued a position statement describing its analysis of the proposed transaction as well as a summary of its findings.

## Collusion in technical development: Lessons from a recent judgement of the European Commission

Collusion amongst firms engaged in similar trade of goods or provision of services with a view to limit or control technical of scientific development, i.e., non-price collusion, has been recognised as a serious anti-competitive practice in competition regulation the world over. Most prominent competition law jurisdictions, including India, have the provision that the aforesaid practice is against the norms of free and fair competition. Limiting or controlling technical development through collusion impacts the supply of goods or services which, in turn, has adverse effects on prices and causes harm to competition as well as consumers. Since its inception, CCI has scrutinised over 1100 anti-trust cases, but a case involving collusion to limit technical development is *non-est*. This is the case in other jurisdictions as well. However, recently, the European Commission (EC) examined a case on collusion in technical development. This write-up

discusses the said EC case and its impact on global anti-trust enforcement.

In July 2021, the European Commission decided a case involving non-price cartelisation in emission cleaning for new diesel passenger cars by five car manufacturers, viz., Daimler, BMW (Bayerische Motoren Werke AG) and Volkswagen group (Volkswagen, Audi, and Porsche). The said car manufacturers colluded from June 2009 to October 2014 with a view to restrict technical development in the area of nitrogen oxide cleaning. Nitrogen oxide is one of the gases emitted by cars and is harmful for the environment as well as for people's health. If liquid urea, called 'AdBlue', is added to the exhaust stream, nitrogen oxide turns into water and nitrogen. But this happens only if enough of this 'blue liquid' is added. This system of adding blue liquid is called selective catalytic reduction

(SCR) systems in diesel cars.

For compliance with regulation for minimum standards for nitrogen oxide emissions, Daimler, BMW, Volkswagen, Porsche, and Audi held regular technical meetings and developed SCR systems for diesel passenger cars together. This legitimate cooperation of building a beneficial technology together went wrong when the carmakers decided not to compete to exploit it to its full potential. By reaching a common understanding to avoid competition on the effectiveness of the SCR system, the carmakers agreed on the size of the AdBlue tanks placed in diesel cars and on ranges until the next refill. They also exchanged sensitive information about the envisaged AdBlue tank sizes, ranges, and average AdBlue consumption of future car models. The carmakers knew that injecting more AdBlue could lead to more effective nitrogen oxide cleaning for many car models under certain

driving conditions. The car manufacturers had the technical know-how to clean better than the minimum standards for nitrogen oxide emissions as per the Euro 6 emission norms. Therefore, they could have innovated to make greener cars, allowing car manufacturers to compete on this important parameter relevant for consumers. Instead, they decided to collude with each other, limiting the innovation process to manufacturing cleaner and greener cars.

The aforesaid conduct (the first EC case of collusion on technical development that amounts to a cartel) was held to be an infringement by object in the form of a limitation of technical development, a type of infringement explicitly referred to in Article 101(1)(b) of the Treaty and Article 53(1)(b) of the European Economic Area (EEA) Agreement. Accordingly, EC imposed fines of €875 million (\$1 billion) on Daimler, BMW, and Volkswagen Group. The VW Group

benefited from a reduction of the fine by 45 percent under the 2006 Leniency Notice and was directed to pay approximately €500 million, whereas BMW was directed to pay close to €375 million. Under the 2006 Leniency Notice, Daimler received full immunity, avoiding an aggregate fine of €727 million. In addition, the Commission applied a reduction of 10% of the fines for all parties under the 2008 Settlement Notice in view of the acknowledgment of their participation in the cartel and of their liability in this infringement.

Cooperation in technical development can be pro-competitive and permitted under competition law. However, in this case, the carmakers have overstepped the permissible boundaries. The rationale as may be deduced from this case is that the entities engaged in identical or similar trade of goods/provision of services must always compete to the optimum best, even if they

satisfy the standardised criteria as required by law (in relation to offering the concerned goods/services), so as to maximise consumer benefit. Any agreement between those entities requiring them to deviate from the best possible conduct would contravene the antitrust law made in that behalf. Even though this particular case relates to collusion in technical advancement in the automobile industry, the possibility of the presence of such conduct in other sectors may not be ruled out. This case has given food for thought for antitrust enforcement authorities around the world, as cartel on technical development and collusion in other non-price dimensions such as quality, advertisement, product differentiation, etc., may be present in any industry and not been considered yet because they are harder to identify than price-based cartels. The present case will motivate competition agencies and industry stakeholders to start thinking in this direction.



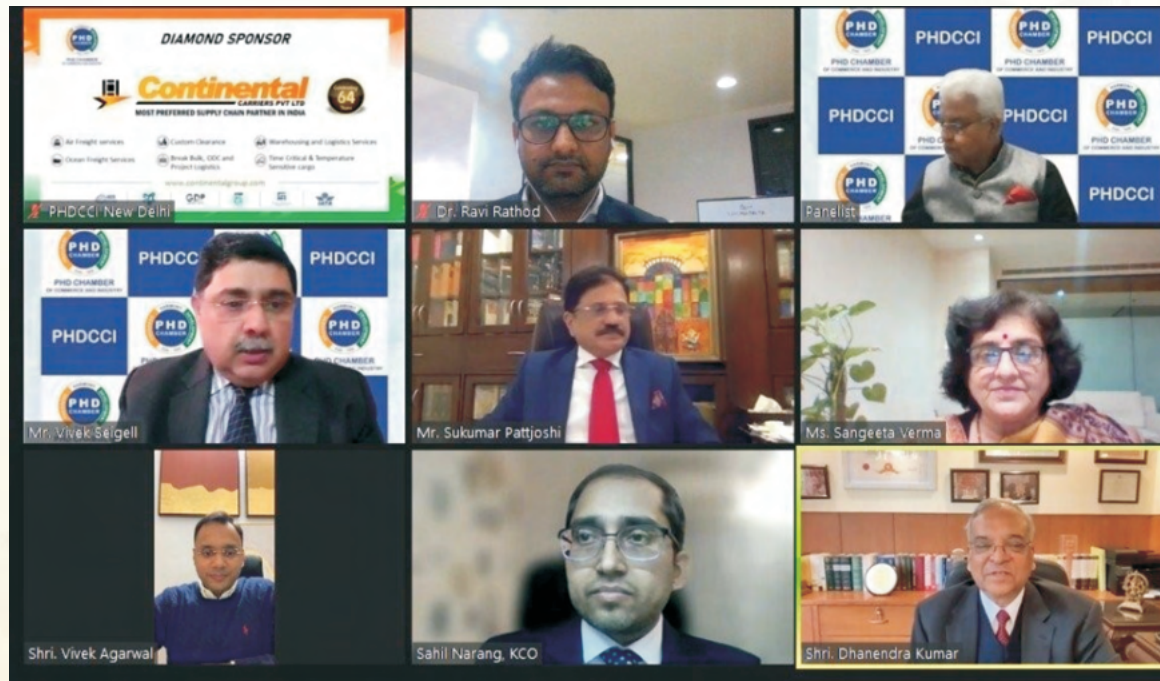
## ADVOCACY INITIATIVES

1. Ms. Neha Raj, Joint Director (Law), delivered a lecture on “Anti-Competitive Agreements and Control of Cartels” organised by Christ University, Bengaluru, through the virtual mode on 22.10.2021.
2. Dr. K. D. Singh, Director (Law), delivered a lecture on “Abuse of Dominant Position: Enforcement Issues” organised by Christ University, Bengaluru, through the virtual mode on 25.10.2021.
3. Shri Arpit Gupta, Deputy Director (Economics), delivered a lecture on “Regulation of Combinations: Issues and Challenges” organised by Christ University, Bengaluru, through the virtual mode on 26.10.2021.
4. Regional workshop on Competition Compliance under Azadi ka Amrit Mahotsav was organised for SRP Southern Regions in Chennai at the School of Excellence in Law through the hybrid mode on 26.10.2021.
5. Shri Arpit Gupta, Deputy Director (Economics), delivered a lecture on ‘Regulation of Combinations: Issues and Challenges’ organised by Christ University, Bengaluru, through the virtual mode on 26.10.2021.
6. Ms. Jyotsna Yadav, Joint Director General (FA), O/o DG, delivered a lecture on “Interface between IPR and Competition Law” organised by Christ University, Bengaluru, through the virtual mode on 27.10.2021.
7. Ms. Sanskriti Jain, Deputy Director (Law), delivered a lecture on “Integrity & Anti Trust” for officers of BHEL SBD as part of the Vigilance Awareness Week 2021 (26.10.2021–01.11.2021) celebrations, themed “Independent India at 75: Self Reliance Competition Integrity”, through the virtual mode on 27.10.2021.
8. Shri Ashok Kumar Gupta, Chairperson, CCI, was the Chief Guest in and inaugurated the webinar on competition law organised by the Northern India Regional Council (NIRC), Institute of Chartered Accountants of India (ICAI), through the virtual mode on 28.10.2021.
9. Shri Sachin Goyal, Joint Director (FA), addressed participants on “Investigation & Procedure” at a webinar on competition law organised by (NIRC), (ICAI), through the virtual mode on 28.10.2021.
10. Shri Anshul Jain, Deputy Director (FA), addressed the participants on the issue “Combination Issues and Compliances” at a webinar on competition law organised by the NIRC, ICAI, through the virtual mode on 28.10.2021.
11. Shri Anand Vikas Mishra, Joint Director (Law), delivered a lecture through the virtual mode on “Introduction to Competition Law and Role of CCI” during a lecture series-cum-symposium jointly organised by the Campus Law Centre, University of Delhi and CCI on 08.11.2021.
12. Shri Sachin Goyal, Joint Director (FA), delivered a lecture through the virtual mode on “Delineating Relevant Market: Issues and Challenges” organised by the School of Law, Christ University, Bengaluru, on 09.11.2021.
13. Shri V. Sriraj, Joint Director (Law) delivered a lecture through the virtual mode on “Provisions Related to Anti-Competitive Agreements & Abuse of Dominant Position” during a lecture series-cum-symposium jointly organised by the Campus Law Centre, University of Delhi and CCI on 09.11.2021.

14. Shri Vipul Puri, Joint Director (FA), delivered a lecture through the virtual mode on “Provisions Relating to Combination Mechanism for Merger & Acquisitions” during a lecture series-cum-symposium jointly organised by the Campus Law Centre, University of Delhi and CCI on 10.11.2021.
15. Shri Ashutosh Kumar, Joint Director (Economics), delivered a lecture on “Interface Between IPR and Competition Law” organised by the School of Law, Christ University, Bengaluru through the virtual mode on 10.11.2021.
16. Ms. Sanskriti Jain, Deputy Director (Law), delivered a lecture on “Leniency Programmes and Competition Advocacy” during a lecture series-cum-symposium jointly organised by the Campus Law Centre, University of Delhi and CCI through the virtual mode on 11.11.2021.
17. Shri Anand Vikas Mishra, Joint Director (Law), delivered a lecture on “Public Procurement and Competition Law” organised by SCOPE Academy [Academy of Public Sector Enterprises (APSE)], New Delhi, through the virtual mode on 12.11.2021.
18. As part of the celebrations of *Azadi Ka Amrit Mahotsav*, CCI organised an online quiz on competition law. The quiz commenced on 15.11.2021 and was hosted on the MyGov portal.
19. Dr. Sangeeta Verma, CCI, delivered the inaugural address through the virtual mode at the 7<sup>th</sup> CUTS-CIRC Biennial Conference on Competition Regulation and Development, themed “Building Blocks for an Inclusive and Resilient Economy” on 16.11.2021.
20. Ms. Bhawana Gulati, Joint Director (Law), delivered a lecture on “Competitive Tenders for Public Procurement Officers” organised by the Centre for Training & Development (CENTRAD), O/o Controller General of Defence Accounts (CGDA), Ministry of Defence, New Delhi, through the virtual mode on 17.11.2021.
21. Ms. Jyoti Jindgar Bhanot, Adviser (Economics), participated in Pink Day at Bharat ka Share Bazar, organised by Securities and Exchange Board of India (SEBI) at Indian Institute of Foreign Trade (IIFT), Pragati Maidan, on 22.11.2021.
22. Dr. Bidyadhar Majhi, Adviser (Economics), adjudged the final round of the 2<sup>nd</sup> Anand Swaroop Gupta Memorial National Virtual Moot Court Competition on Competition Law, organised by Sharda University, Greater Noida, on 26.11.2021.
23. Shri Sukesh Mishra, Director (Law), delivered the keynote address as the Chief Guest at the inaugural session of the 2<sup>nd</sup> Anand Swaroop Gupta Memorial National Virtual Moot Court Competition on Competition Law, organised by Sharda University, Greater Noida, on 24.11.2021.
24. Ms. Sunaina Dutta, Joint Director (Law), adjudged the semi-final round of the 2<sup>nd</sup> Anand Swaroop Gupta Memorial National Virtual Moot Court Competition on Competition Law, organised by Sharda University, Greater Noida, on 25.11.2021.
25. Shri Arvind Kumar Anand, Joint Director (Economics), adjudged the semi-final round of the 2<sup>nd</sup> Anand Swaroop Gupta Memorial National Virtual Moot Court Competition on Competition Law, organised by Sharda University, Greater Noida, on 25.11.2021.

26. Dr. K. D. Singh, Director (Law), was the Guest of Honour at the inauguration ceremony of the 2<sup>nd</sup> National Moot Court Competition, 2021, organised by Maharaja Agrasen Institute of Management Studies (MAIMS), New Delhi, on 26.11.2021.
27. Dr. Sanjay Kumar Pandey, Adviser (Law), was the Chief Guest at the valedictory ceremony of the National E-Conference organised by Symbiosis Law School, Hyderabad, on “Changing Contours of Market Regulation What Lies Ahead of the Big Antitrust Investigation” on 28.11.2021.
28. Dr. Sanjay Kumar Pandey, Adviser (Law), was the speaker at the valedictory session of the one-day seminar on “Monitoring Monopoly & Cartelisation” organised by Indian Valuers Congress, held in Bengaluru conducted virtually on 04.12.2021.
30. Shri Ashok Kumar Gupta, Chairperson, CCI, presided over the inaugural session as the Chief Guest and delivered the keynote address at the CCI–CII Annual Conference on Competition Law and Practice organised virtually on 10–11.12.2021.
31. Dr. Sangeeta Verma, Member, CCI, chaired the plenary session I of CCI–CII Annual Conference on Competition Law and Practice themed “Evolving paradigms of Competition Law” conducted virtually on 10.12.2021.
32. Shri Bhagwant Singh Bishnoi, Member, CCI, chaired the plenary session II of CCI–CII Annual Conference on Competition Law and Practice themed “Mergers and Acquisitions” conducted virtually on 10.12.2021.
33. Ms. Jyoti Jindgar Bhanot, Adviser (Economics), chaired plenary session III of CCI–CII Annual Conference on Competition Law and Practice conducted virtually on 10-11.12.2021.
34. Ms. Payal Malik, Adviser (Economics), chaired plenary session IV of CCI–CII Annual Conference on Competition Law and Practice conducted virtually on 10-11.12.2021.
35. Ms. Bhawna Gulati, Joint Director (Law), delivered a lecture on “Digital Economy and Competition Laws” organised by the Asia Pacific School on Internet Governance, conducted virtually on 14.12.2021.
36. Dr. Sanjay Kumar Pandey, Adviser (Law), was the session chair for “Changing Dimensions of Competition/ Antitrust law” during the International Symposium on Law and Peace organised by the Faculty of Liberal Arts, Performing Arts, MIT WPU, Pune, conducted virtually on 15.12.2021.
37. Shri K. P. Anand, Joint Director (Law), delivered a special lecture on “Competition Law” for the students and faculty members of Andaman Law College, Port Blair, conducted virtually on 17.12.2021.
38. Dr. K.D. Singh was a panellist at the panel discussion on “Abuse of Dominance Position” organised by Amity Law School in collaboration with the Amity Institution of Training and Development, conducted virtually on 21.12.2021.
39. Shri Vipul Puri, Joint Director (FA), delivered a lecture on “Threshold and Turnover in Competition law analysis” in two days regional conference of NIRC of ICAI held in The Park, Connaught Place, conducted in physical mode on 22.12.2021.
40. Shri Sachin Goyal, Joint Director (FA), delivered a lecture on “Journey of Competition Law So Far” in the two-day regional conference of NIRC of ICAI held in the in-person mode at The Park, Connaught Place, on 22.12.2021.

41. Dr. Sangeeta Verma, Member, CCI, addressed the PHD Chamber of Commerce And Industry at their Webinar on “Contemporary issues in Competition and Consumer Law” on 22.12.2021.



42. One- day national webinar was organised on Competition Law for students under *Azadi ka Amrit Mohotsav* on 27.12.2021.





## ADVOCACY WITH STATES

**State: Kerala**

**Resource Person: Shri Krishna Kumar K. N.**

**Topic: Competition Law and Public Procurement**

S. No.	Date	Organisation for which programme was conducted
1.	21.10.2021	The Officers and Staff of Trade and Industry Associations in Palakkad District
2.	15.12.2021	The Officers of the various PSUs and govt. departments and trade and industry associations in the district, state warehousing corporation, Kerala State Electricity Board (KSEB), HMT, Department of Labour, Department of Town Planning, Panchayath, and Hindustan Chemicals.

**State: Assam**

**Resource Persons: Shri Umesh Kumar and Shri Tanuj Goswami**

**Topic: Competition Law and Public Procurement**

S. No.	Date	Organisation for which programme was conducted
1.	07.10.2021	The Officers of different development departments of Jorhat
2.	25.10.2021	The Officers and Staff of Assam Electricity Grid Corporation
3.	28.10.2021	The Officers of Deputy Commissioner, Dibrugarh
4.	07.12.2021	The Officers of District Deputy Commissioner, District Sibsagar

**State: Haryana**

**Resource Person: Shri S. P. Arora**

**Topic: Competition Law and Public Procurement**

S. No.	Date	Organisation for which programme was conducted
1.	08.10.2021	Industry members of PHD Chamber of Commerce and Industry

**State: Himachal Pradesh**

**Resource Person: Shri Rangilu Ram Patyal**

**Topic: Competition Law and Public Procurement**

S. No.	Date	Organisation for which programme was conducted
1.	05.10.2021	The Officers and Staff of Horticulture Department
2.	11.10.2021	The Officers and Staff of Horticulture Department
3.	12.11.2021	The Officers of subject matter specialist (Horticulture, Sundar Nagar) The Executive officer, MC Sundar Nagar & The Farmers Training Centre, Sundar Nagar.
4.	17.11.2021	The Officers/Staff of HP State Agricultural Marketing Board, Khalini.
5.	03.12.2021	The Officers/Staff of O/o Economic Advisor, Economic and Statics Department, Shimla
6.	11.12.2021	The Officers/Staff of Principal, RNT Govt. College Sarkaghat, District Mandi

**State: Uttarakhand**

**Resource Person: Shri Rajiv Rautela**

**Topic: Competition Law and Public Procurement**

S. No.	Date	Organisation for which programme was conducted
1.	07.10.2021	The Officers of Bridge Ropeway Tunnel And Other Infrastructure Development Corporation of Uttarakhand Limited
2.	22.10.2021	The Officers and Staff of State Infrastructure and Industrial Development Corporation
3.	12.11.2021	The Officers of Uttarakhand Transport Corporation (UTC)
4.	18.11.2021	The Officers and Staff of Uttarakhand Forest Development Corporation (UKFDC)
5.	10.12.2021	The faculty/students of Graphic Era Hill University, Dehradun
6.	21.12.2021	The Officers of Kumaon Mandal Vikas Nigam Limited (KMVNL)

**State: Telangana**

**Resource Persons: Shri R. C. Kumar and Shri Prasanna Kumar**

**Topic: Competition Law and Public Procurement**

S. No.	Date	Organisation for which programme was conducted
1.	01.12.2021	The Officers of Food Corporation of India (FCI)
2.	02.12.2021	The Officers of District Industries Centre and related departments, Ranga Reddy
3.	22.12.2021	The Officers/faculty members of Osmania University, Hyderabad

**State: Uttar Pradesh**

**Resource Person: Shri Laxmi Shanker Singh**

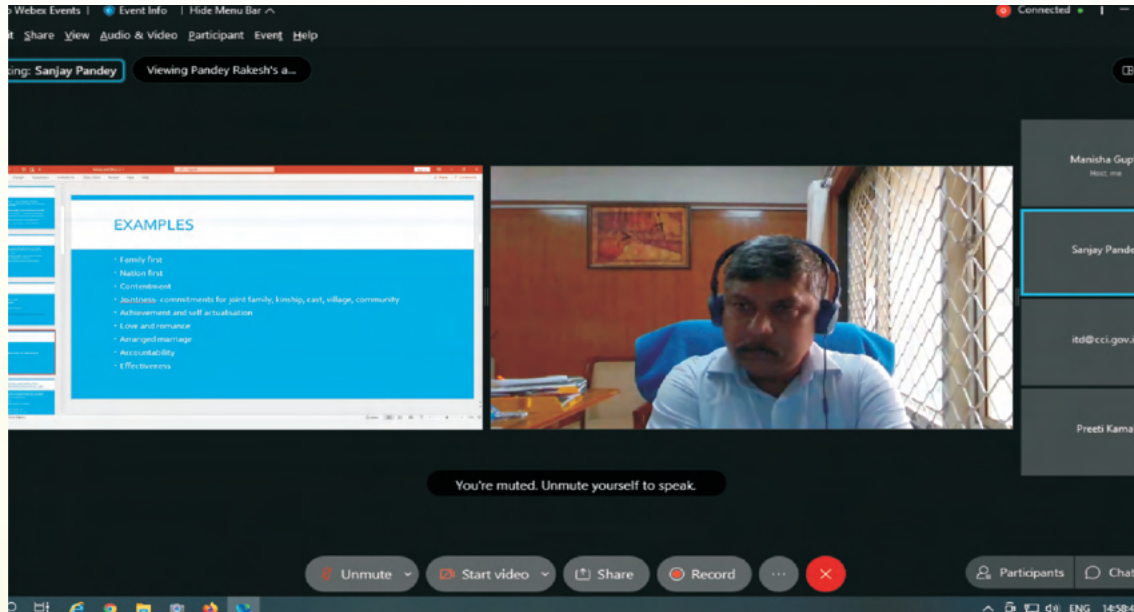
**Topic: Competition Law and Public Procurement**

S. No.	Date	Organisation for which programme was conducted
1.	01.12.2021	The Officers of Education and Medical Department, Bareilly
2.	14.12.2021	The Officers/Staff of UP Govt./Bahraich Administration



## CAPACITY BUILDING

1. A virtual workshop on *Ethics and Values in Government* was organised for the Officers/RAs of CCI & O/o DG, CCI on 04.10.2021. Shri Pandey Rakesh, Assistant Director, Institute of Secretariat Training and Management (ISTM), was the resource person of the workshop. A total of fifty-two (52) Officers and Research Associates attended the workshop.



2. To commemorate World Mental Health Day, the 24<sup>th</sup> lecture under CCI's Special Lecture Series (SLS) was delivered by Dr. Rajesh Sagar (MBBS & MD Psychiatry), Professor, Department of Psychiatry, All India Institute of Medical Sciences (AIIMS), Delhi, on the topic "*Mental Health & Its Importance in COVID Pandemic*" on 08.10.2021 for the Officers of CCI & O/o DG, CCI.



3. A virtual workshop on *Key FRAND and SEP Licensing Issues* was organised by the Confederation of Indian Industries (CII) in collaboration with ACT| The App Association on 22.10.2021. A total of seven (7) Senior Officers from CCI attended the workshop.

- CBD organised a virtual workshop during the Vigilance Awareness Week on the topic "*Independent India @ 75: Self Reliance with Integrity*" on 01.11.2021 for all Officers and employees of CCI and O/o DG, CCI. Shri Uday Sankar Chattopadhyay, Faculty Consultant, Institute of Secretariat Training and Management (ISTM), was the resource person for the workshop.



- The 25<sup>th</sup> lecture under CCI's Special Lecture Series (SLS) was delivered virtually by Prof. Dr. Tanuja Manoj Nesari, Director, All India Institute of Ayurveda, on the topic "*Ayurveda for Holistic Wellbeing*" on 26.11.2021 for the Officers of CCI & O/o DG, CCI.



6. The Confederation of Indian Industry (CII), in association with CCI, organised a virtual workshop on “Key *FRAND* and *SEP* Licensing Issues” for the Officers and Research Associates of CCI on 03.12.2021. Dr. Sanjay Pandey, Adviser (Law), CCI, gave the special address. He was joined by Mr. R. Saha, Senior Advisor, CII; Mr. Brian Scarpelli; Mr. Gil Ohana; and Mr. Subodh Prasad Deo, among others.
  
7. The 26<sup>th</sup> lecture under CCI's Special Lecture Series (SLS) was delivered virtually by Shri Moloy Sanyal, Deputy Secretary, Institute of Secretariat Training and Management (ISTM), creating awareness on the topic “*The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013*” on 09.12.2021 for the Officers of CCI & O/o DG, CCI.





### **A. New Joining in CCI/DG's office on deputation basis:**

- i) Ms. Shalini Shah and Shri Dumpala Ramakrishna Rao joined as Deputy Director General and Office Manager (CS), respectively, in the O/o. DG, CCI, on deputation basis.
- ii) Shri Dinesh Mohan joined as OM (CS) in CCI on deputation basis w.e.f. 11.11.2021, and Shri Mohd. Zakir Ali joined as ADG (CS) in the O/o. DG, CCI, on deputation basis w.e.f. 14.12.2021.

### **B. Relieving:**

Ms. Preeti Kamal, OM (CS), CCI, was relieved w.e.f. 01.11.2021 on own request.

### **C. Selection and offer of appointment issued:**

Offer of appointment to the post of DDG in the O/o. DG, CCI, on deputation basis issued in respect of three candidates selected for appointment to the post.

### **D. Engagement of Research Associates/Experts:**

Seven (07) RAs were engaged on a contractual basis in CCI during the month of November 2021 & one (01) Expert (IT) was engaged during December 2021.

### **E. Holding of DPCs for considering promotions in CCI:**

DPCs for consideration for promotions to the grades of Director, Joint Director of Professional Staff category, and for promotions to the grades of Dupty Director (CS) & Dupty Director (IT) and Assistant Director (CS) in CCI were conducted during December 2021.

### **F. Advertisement for recruitment/engagement:**

- i) An advertisement was issued on 12.11.2021 for the engagement of one (01) Expert in Level-IV/V in the field of Law on a contractual basis.
- ii) A vacancy circular was issued on 16.12.2021 to invite applications to fill up four (04) posts of Jt. DG and eight (08) posts of DDG in the office of DG, CCI, on deputation basis.

### **G. Other HR matters:**

i) As per GOI directions, a Special Campaign Drive for the disposal of pending matters involving cleanliness and record management, *inter alia*, review, recording, weeding out of files, and removal of obsolete items was undertaken by the HR Division from 02–31.10.2021.

As a result of the above-mentioned drive, 933 hard files were reviewed, out of which 339 were weeded out. In addition, a large number of applications/tender documents were reviewed and weeded out.

ii) Vigilance Awareness Week was observed from 26.10.2021–1.11.2021, with the theme “Independent India @ 75: Self Reliance with Integrity”. In this regard, an integrity pledge was undertaken by all Officers/Staff of CCI and DG's office on 26.10.2021.

iii) Pledge on Rashtriya Ekta Diwas was undertaken on 31.10.2021.

**Constitution Day was celebrated by the Officers/Staff of CCI and DG's office on 26.11.2021.**



*Shri Ashok Kumar Gupta, Chairperson, CCI along with the heads of BRICS Competition Authorities during the VII BRICS ICC 2021 hosted by SAMR China from 16–17.11.2021.*

### **Competition Commission of India**

9<sup>th</sup> Floor, Office Block - 1, Kidwai Nagar (East),  
New Delhi- 110023, India

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