



Competition Act, 2002

How to File Information?



Fair Competition
for Greater Good

भारतीय प्रतिस्पर्धा आयोग
COMPETITION COMMISSION OF INDIA

The image features a large, semi-transparent globe centered in the upper half. The globe shows the continents of North and South America. Below the globe, several hands of different skin tones are reaching upwards, with fingers spread, as if they are about to touch or support the globe. The background is a bright blue sky with soft, white clouds. A large, semi-transparent blue arc curves from the top right towards the center, partially overlapping the globe and the hands. The word "VISION" is written in a white, serif, all-caps font, positioned centrally over the lower part of the globe and the hands.

VISION

To promote and sustain an enabling competition culture through engagement and enforcement that would inspire businesses to be fair, competitive and innovative; enhance consumer welfare; and support economic growth.

MISSION 2020

Competition Commission of India aims to establish a robust competitive environment through

© *proactive engagement with all stakeholders, including consumers, industry, government and international jurisdictions*

© *being a knowledge intensive organization with high competence levels*

© *professionalism, transparency, resolve and wisdom in enforcement.*

DISCLAIMER

This quick guide is published as part of the Competition Advocacy and Awareness Programme of the Competition Commission of India (the Commission). Its contents should, in no way, be treated as official views of the Commission. Readers are advised to carefully study the Competition Act, 2002, as amended by the Competition (Amendment) Act, 2007 and the Competition (Amendment) Act, 2009, and seek legal advice, wherever necessary.



WHO CAN FILE THE INFORMATION ?

- ✓ Any person, consumer or their association or trade association can file information before the Commission. Central Govt. or a State Govt. or a statutory authority can also make a reference to the Commission for making an inquiry. “Person” includes an individual, Hindu Undivided Family (HUF), firm, company, local authority, cooperative or any artificial juridical person.

WHAT ARE THE ISSUES ON WHICH INFORMATION CAN BE FILED?

- ✓ The information can be filed on the issues like anti-competitive agreements and abuse of dominant position or a combination which causes or is likely to cause an appreciable adverse effect on competition in the markets in India.

WHAT ARE THE SPECIFIC PROVISIONS IN THE COMPETITION ACT, 2002 (AS AMENDED), [THE ACT] ON ANTI-COMPETITIVE AGREEMENTS?

- ✓ As per Section 3(1) of the Act, no enterprise or associations of enterprises or person or association of persons shall enter into any agreement in respect of production, supply, distribution, storage, acquisition or control of goods or provision of services, which causes or is likely to cause an appreciable adverse effect on competition within India.
- ✓ Any agreement entered into in contravention of the above provisions shall be void [Section 3 (2)].
- ✓ As per Section 3(3) of the Act any agreement entered into between enterprises or associations of enterprises or persons or associations of persons or between any person and enterprise or practice carried on, or decision taken by, any association of enterprises or association of persons, including cartels, engaged in identical or similar trade of goods or provision of services, which-
 - ✓ directly or indirectly determines purchase or sale price;
 - ✓ limits or controls production, supply, markets, technical development, investment or provision of services;
 - ✓ shares the market or source of production or provision of services by way of allocation of geographical area of market, or type of goods or services, or number of customers in the market or any other similar way;
 - ✓ directly or indirectly results in bid rigging or collusive bidding shall be presumed to have an appreciable adverse effect on competition.
- ✓ As per Section 3(4) of the Act, any agreement amongst enterprises or persons at different stages or levels of



the production chain in different markets in respect of production, supply, distribution, storage, sale or price of or trade in goods or provision of services including-

- (a) tie-in arrangement,
- (b) exclusive supply agreement,
- (c) exclusive distribution agreement,
- (d) refusal to deal,
- (e) resale price maintenance

shall be an agreement in contravention of sub-section (1) if such agreement causes or is likely to cause an appreciable adverse effect on competition in India.

- ✓ Section 3 (5) describes certain exceptions to Section 3 of the Act.

WHAT ARE THE SPECIFIC PROVISIONS IN THE COMPETITION ACT-2002 ON ABUSE OF DOMINANT POSITION?

- ✓ No enterprise or group shall abuse its dominant position [Section 4(1)].
- ✓ As per Section 4(2) of the Act, there shall be an abuse of dominant position, if any enterprise or a group:-
 - ✓ directly or indirectly, imposes unfair or discriminatory-
 - (i) condition in purchase or sale of goods or services; or
 - (ii) price in purchase or sale (including predatory price) of goods or service,
- ✓ limits or restricts -
 - (i) production of goods or provision of services or market therefor; or

- (ii) technical or scientific development relating to goods or services to the prejudice of consumers; or
- ✓ indulges in practice or practices resulting in denial of market access in any manner, or
- ✓ makes conclusion of contracts subject to acceptance by other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts; or
- ✓ uses its dominant position in one relevant market to enter into, or protect other relevant market.

HOW TO FILE INFORMATION BEFORE THE COMPETITION COMMISSION OF INDIA?

- ✓ Your addresses:
- ✓ Indicate your complete postal address with PIN code and telephone number, fax number and also electronic mail address.
- ✓ Indicate your preferred mode of service through which you would like to get reply from the Commission.
- ✓ Mention legal name and address(es) of the enterprise(s) alleged to have contravened the provisions of the Act and also the legal name and address of the counsel or other authorized representative, if any.
- ✓ Text of Information:
- ✓ The information should be in the form of statement of facts, containing details of the alleged contraventions of the Act. A complete list enlisting all documents, affidavits and evidence, as the case may be, in support of each of the



alleged contraventions may also be furnished. A succinct narrative in support of the alleged contraventions would help the commission to examine your case expeditiously and in its right perspective.

- ✓ Mention relief or interim relief which you may seek from the Commission.
- ✓ Ensure that the information along-with the appendices and attachments is complete and duly verified by you before submitting to the Commission.
- ✓ The information filed should be signed by the individual himself/ herself, including a sole proprietor of a proprietorship firm, the Karta in the case of an HUF, the Managing Director and in his or her absence, any Director, duly authorized by the board of directors in the case of a company, etc.
- ✓ Your counsel may also append his or her signature to the information or reference as the case may be.

WHOM TO ADDRESS AND WHERE TO FILE?

- ✓ Information or reference or responses to the Commission should be sent to the Secretary, in person or by registered post or courier service or facsimile transmission addressed to the Secretary or to the authorized officer.
- ✓ However, any separate or additional document(s) you want to rely upon in support of the information, or reference should be filed in the form of a “Paper Book”, at least seven days prior to the date of the ordinary meeting, after serving the copies of the said document(s) on the other parties to the proceedings, with documentary proof of such service. Such documents need to be serially numbered, prefaced by an index and should be supported by a verification.

- ✓ All information(s) or references or responses or other documents which are required to be filed before the Commission should be typed in Arial 12 fonts on one side of A4 size (210 x 297mm or 8.27"x11.69") white bond paper in double space with 2" margin on the left and 1" margin on all other sides
- ✓ Only neat and legible photocopies or scanned documents duly certified as true copies may be filed as exhibits or annexures.

WHAT ARE THE FEES TO BE PAID?

- ✓ The information you file with the Commission should be accompanied by proof of having paid the fee as under:-
 - a) Rs. 5000/- (Five thousand only) in case of individual, or Hindu undivided family (HUF), or Non Government Organisation (NGO), or Consumer Association, or Co-operative Society, or Trust, duly registered under the respective Acts,
 - b) Rs. 20,000/- (twenty thousand only) in case of firms, companies having turnover in the preceding year upto Rupees one crore, and
 - c) Rs. 50,000/- (fifty thousand only) in case not covered under clause (a) or (b) above:

HOW TO PAY THE FEE?



The fee can be paid either by tendering demand draft or pay order or banker's cheque, payable in favour of Competition Commission of India (Competition Fund), New Delhi or through Electronic Clearance Service (ECS) by direct remittance to the **Competition Commission of India (Competition Fund)** Account in:-

EITHER

Account No. 1988002100187687 with Punjab National Bank, Bhikaji Cama Place, New Delhi-110066.

OR

Account No. CLCA01100002 with Corporation Bank, Bhikaji Cama Place, New Delhi-110066.

For Assistance: In case of any doubt or you need any help you can always approach Secretariat of the Commission

Secretary to the Commission 23704651
(International code +91 11; National STD 011)

For Reference:

- ✓ For the details of the procedures related to inquiry and investigations please refer to Regulation No. 2 of 2009 dated May 21, 2009 and No. 5 of 2009 dated August 20, 2009 (also available on the CCI website www.cci.gov.in)
- ✓ The Commission has also published Advocacy Series booklets on provisions relating to different anti-competitive practices. These can be downloaded from the Commission's web portal or hard copies can be obtained from the Facilitation Cell of Competition Commission of India.



ORGANOGRAM

Chairperson

Member

Member

Member

Member

Member

Member

Maximum 7 Members (including Chairperson)

Economic Division

Combination Division

Anti-Trust Division

Legal Division

Investigation Division

Advocacy Division

Capacity Building Division

Secretariat

DG Office

Regulations

notified by the Competition Commission of India

- ▶ The Competition Commission of India (Procedure for Engagement of Experts and Professionals) Regulations, 2009; (No. 1 of 2009)
- ▶ The Competition Commission of India (General) Regulations, 2009; (No. 2 of 2009)
- ▶ The Competition Commission of India (Meeting for Transaction of Business) Regulations, 2009; (No. 3 of 2009)
- ▶ The Competition Commission of India (Lesser Penalty) Regulations, 2009; (No. 4 of 2009)
- ▶ The Competition Commission of India (Determination of Cost of Production) Regulations, 2009; (No. 5 of 2009)
- ▶ The Competition Commission of India (General) Amendment Regulations, 2009; (No. 6 of 2009)
- ▶ The Competition Commission of India (Manner of Recovery of Monetary Penalty) Regulations, 2011; (No. 1 of 2011)
- ▶ The Competition Commission of India (Procedure in regard to the Transaction of Business relating to Combinations) Regulations, 2011

Above regulations
are available at
www.cci.gov.in

Advocacy Booklets

by

Competition Commission of India



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COMPETITION COMMISSION OF INDIA

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