



Competition Commission of India

Annual Report

2009-10

Competition Commission of India
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CHAIRPERSON'S STATEMENT



It gives me immense pleasure to present the first Annual Report of Competition Commission of India, for the year 2009-10.

The Competition Act, 2002 (No.12 of 2003) came into existence in January 2003. As mentioned in the preamble, it is meant to be:

“An Act to provide, keeping in view of the economic development of the country, for the establishment of a Commission to prevent practices having adverse effect on competition, to promote and sustain competition in markets, to protect the interests of consumers and to ensure freedom of trade carried on by other participants in markets, in India, and for matters connected therewith or incidental thereto.”

It would thus be seen that the Competition Commission, according to the scheme of the Act has a sharp focus on the economic development of the country, protection and sustenance of competition in markets in the interest of consumers.

Competition Act was comprehensively amended by the Competition (Amendment) Act, 2007, and finally, the Commission was duly constituted on March 1, 2009 with the joining of Chairperson and two Members. Subsequently, 4 more Members joined the Commission and the Commission now has a full strength of Chairperson and six Members as provided for under the Act.

Competition is regarded as the fourth corner-stone of the public policy framework, along with the monetary, fiscal and trade policies. It is widely recognized as a powerful tool to secure efficient use of scarce resources, enhance productive efficiency, add to static and dynamic efficiency of the economy, maximize economic growth and contribute to the welfare of the common man. Soon after its constitution, the Commission started its work in right earnest in March 2009. Recruitment of professionals, economists, lawyers, financial analysts, etc. was undertaken as also, their training and capacity building. New premises, keeping in view the requirement of the organization and the ease of the stakeholders in their interface with it, were located through competitive bidding process. The enforcement provisions under the Act, relating to anti-competitive agreements (Section 3 of the Act) and abuse of dominant position (Section 4 of the Act) were notified by the Government, effective from 20th May 2009 and the Competition Appellate Tribunal as provided for under the amended Act to hear the appeals was set up.

The Commission started receiving references and Informations as stipulated under the Act and dealing with them in accordance with the provisions of the Act. During the year 2009-2010, 32 Informations

were received by the Commission from various individuals, associations and business entities under Section 19 of the Act. The Informations pertained to alleged infringement of the provisions related to anti-competitive agreements and abuse of dominant position. After forming the *prima facie* opinion, the Commission directed the Director General to investigate 17 of the 32 cases as per the provisions of the Act. The Commission ordered closure of those cases, after detailed scrutiny, where in the opinion of the Commission, no prima facie infringement of the Act was found.

A major task before the Commission was to frame the Regulations as required under Section 64 of the Competition Act to facilitate the working of the Commission. Six Regulations have been framed and notified during the year. These Regulations were finalized through a consultative process, first placing the drafts on the website in order to get the views of various stakeholders followed by intensive discussions in meetings with the stakeholders.

As the competition law is relatively new and various stakeholders including the consumers are not generally fully familiar with the concept and the provisions of the law, the role of competition advocacy and creation of awareness becomes extremely important. The Commission has taken up the work of advocacy in right earnest and has tried to reach out to all the stakeholders including the consumers, State Governments, industry organizations etc. through various Seminars, Workshops and Symposiums to make them aware of the need and beneficial role of competition.

The Commission is also conducting in-house market research and sectoral studies to examine the state of the market in various sectors of the Indian economy, to identify the asymmetry and distortions which may adversely affect competition and impact the market efficiencies harming the consumer, producers and the economy. Presently, the Commission is working on a few subjects including “Public Procurement and Competition”. Apart from this, other areas like Agricultural marketing, Civil Aviation, Petroleum, Cement, Sugar etc. are also being looked into. Depending on the urgency and keeping in view the consumer interests, some of these sectors and others may be taken up on priority from time to time.

It is hoped that the Competition Commission of India will be able to play a useful role in the interest of accelerated growth of the Indian economy, helping the Indian industry and businesses become more efficient and competitive and safeguarding the interests of consumers on a wider scale.

Dhanendra Kumar
Chairperson

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A. INTRODUCTION

The Indian economy underwent a paradigm shift owing to the widespread economic reforms that were undertaken in the nineties, moving away from 'command and control' economy to an economy reliant on free market principles. Consequently, the extant competition law regime governed by the Monopolies and Restrictive Trade Practices Act (MRTP Act) called for an overhaul in order for it to address the needs and challenges of the new economic paradigm. The new competition law, Competition Act 2002 was enacted in 2003 and amended in 2007. The Competition Commission of India was established for the administration, implementation and enforcement of the Act, and was duly constituted in March 2009.

The Competition Act has essentially four components:

- It prohibits anti-competitive agreements like cartels, which restrict freedom of trade and cause consumer harm by way of limiting production and distribution of goods and services and fixing prices higher than normal
- It prohibits abusive behaviour of a dominant firm, who through its position of dominance may restrict markets and set unfair and discriminatory conditions;
- It regulates mergers and acquisitions of large corporations in order to safeguard competitive markets
- Mandates competition advocacy

All the four components are interrelated and form an integrated whole. The first three essentially relate to enforcement, while the last one is related to the mandate for promoting competition enshrined in Section 49 of the Act.

(1) Objectives

The Competition Commission of India, through effective implementation of the Competition Act, seeks to ensure effective functioning of market forces in order to maximize consumer welfare.

The Commission derives its mandate from the Competition Act and, in particular, the four objectives laid down in the preamble of the Act. While discharging its duties, the Commission has kept in mind the attainment of these objectives:

- Prevention of practices having adverse effect on competition
- Promoting and sustaining competition in markets
- Protecting the interests of consumers
- Ensuring freedom of trade

The Preamble of the Act mandates that the economic development of the country needs to be kept in view in implementing the Act's objectives. The Commission, as mentioned, has also been entrusted with the task of undertaking competition advocacy, creating awareness and imparting training about competition issues, under Section 49 which provides for competition advocacy and inculcating competition culture in the country.



Chairperson, CCI Shri Dhanendra Kumar calling on H.E. the President of India Smt. Pratibha Devisingh Patil

The overarching aim of the Commission is to make markets work well for consumers using competition as the means. The Commission, in pursuance of its objectives, endeavours to do the following:

- Ensure fair and healthy competition in economic activities in the country for faster and inclusive growth and development of economy
- Implement competition policies with an aim to effectuate the most efficient utilization of economic resources

- Develop and nurture effective relations and interactions with sectoral regulators laws in tandem with the competition law
- Effectively carry out competition advocacy and spread the information on benefits of competition among all stakeholders to establish and nurture competition culture in Indian economy.



*“If a liberalised economy has to succeed,
we must give full play to competitive
forces”*

-Shri Manmohan Singh
Prime Minister, India

(2) Important Achievements

The Commission commenced its function on March 1, 2009 and the enforcement provisions were notified in May 20, 2009. The focus of the Commission in this establishment phase has mainly been on building institutional capacity and creating a knowledge base for effective enforcement of the Act. Efforts have also been directed at spreading awareness amongst the stakeholders about the law through various advocacy measures.

During the year, the Commission examined a number of Informations received by it and formed prima facie opinion to get the information further investigated under Section 26(1) in 24 cases - 17 cases emanated from Information received u/s 19 and 7 cases from amongst those received from Monopolies & Restrictive Trade Practices Commission.

The Commission initiated the process of filling up the sanctioned posts at various levels. The posts were filled up through direct recruitment as well as taking staff on deputation basis. Subsequently, the Commission organised training programmes to equip the officers and staff with the knowledge and skill sets necessary to carry out the Commission’s work in a structured and time-bound manner. These training programmes were organised in-house as well as by deputing officers abroad to various organisations.

To create awareness amongst the stakeholders, the Commission organised a number of advocacy programmes like ‘National Conference on the State of Competition in the Indian Economy’ during June 11-12, 2009, National Conference on ‘Competition, Public Policy and Common Man’ on November 16, 2009, Business Session on ‘Competition Policy and Law’ on November 17, 2009 and Seminar on ‘Public

Procurement Reforms for Better Value for Money: Learning from International Experience' on December 15, 2009. These Seminars and Conferences saw participation from policymakers, cross section of industry representatives, business chambers and trade associations, consumer associations, legal practitioners, NGOs etc. Speakers were drawn from International Competition Authorities, Government, industry and academia. A host of issues and ideas emerged from the deliberations which will influence the Commission's initiatives in the coming years.

The Commission formulated Regulations on various subjects like Procedure for Engagement of Experts and Professionals, Meeting for Transaction of Business, Determination of Cost of Production etc.

(3) The Year in Review

(i) Landmark Decisions

Judgement Pronounced on 31st March, 2010 in Writ Petition No. 1785 of 2009 (Kingfisher Airlines Ltd. v/s Competition Commission of India and others) by the Hon'ble Bombay High Court.

An order of Investigation under Section 26(1) of the Competition Act, 2002 in case No. 4/2009, was challenged by the Kingfisher Airlines Ltd. in the Bombay High Court in Writ Petition No. 1785/ 2009. Along with the Competition Commission of India, the Union of India through the Ministry of Corporate Affairs was also the party, among other respondents. The main grounds in the case were as below:

- Sections 3 and 4 of the Competition Act, 2002 cannot have retrospective effect.
- As the Monopolies & Restrictive Trade Practices Commission (MRTPC) had already been seized of the matter, the cognizance taken by the Competition Commission of India (CCI) of the alliance between the airlines was without jurisdiction.
- Since the Competition Commission of India had not determined the relevant market first, it could not take action under Sections 3 and 4 of the Competition Act, 2002, against the petitioners.

After detailed arguments in the matter, the Hon'ble Bombay High Court in its Judgement pronounced that no writ as sought by the petitioners could be issued and the petition was dismissed.



"The Government has established Competition Commission of India, an autonomous regulatory body to promote and sustain competition in markets, protect interests of consumers and to prevent practices having adverse effect on competition. ... The benefits of competition should now come to more sectors and their users and consumers."

-Shri Pranab Mukherjee
Minister of Finance, Government of India

(ii) Legislative Work

Under Section 64 of the Competition Act, 2002, the Competition Commission of India is empowered to make Regulations consistent with the Act and the Rules made thereunder to carry out the purposes of the Act. The Commission has notified the following Regulations which have been published in the Extraordinary Issue of the Gazette of India, Part – III, Section 4, on the dates as mentioned against each:

Table 2: Regulations Notified by the Commission

S. No.	Regulations	Date of Issue
1	The Competition Commission of India (Procedure for Engagement of Experts and Professionals) Regulations, 2009 (No. 1 of 2009).	15 th May, 2009
2	The Competition Commission of India (General) Regulations, 2009 (No.2 of 2009)	21 st May, 2009
3	The Competition Commission of India (Meeting for Transaction of Business) Regulations, 2009 (No.3 of 2009)	21 st May, 2009
4	The Competition Commission of India (Lesser Penalty) Regulations, 2009 (No.4 of 2009)	13 th August, 2009
5	The Competition Commission of India (General) Amendment Regulations, 2009 (No.5 of 2009).	20 th August, 2009
6	The Competition Commission of India (Determination of Cost of Production) Regulations, 2009 (No.6 of 2009)	20 th August, 2009

(iii) Outreach Programme

With a view to creating awareness amongst various stakeholders about the Competition Act, 2002, a series of Workshops, Seminars and Meetings were organised by the Commission. Events were organised in collaboration with various Economic/Industrial Associations to ensure wider participation like National Conference on “State of Competition in the Indian Economy” was organised during June 11-12, 2009 at New Delhi in collaboration with Foreign Investment Advisory Service (FIAS) and Department for International Development (DFID). Similarly, National Conference on “Competition, Public Policy & Common Man” was organised during November 16, 2009 at New Delhi in collaboration with Confederation of Indian Industry (CII), New Delhi.

Seminar on “Way Forward for CCI: Drawing on International Experience” was organised in collaboration with Organisation for Economic Cooperation & Development (OECD) at New Delhi on November 23, 2009. Seminar on “Public Procurement Reforms for Better Value for Money: Learning from International Experience” was organised in collaboration with George Washington University Law School, Washington, DC on December 15, 2009. A business Session on “Competition Policy & Law” was organised on November 17, 2009.

From time to time, CCI also organised lectures on Competition Policy & Law by inviting eminent economists, lawyers from across the world.

In addition to the above, Workshops, Seminars and other interaction with public, experts, policy makers, and regulatory bodies were held in collaboration with various High Courts and State Government officers/representatives on various competition related subjects. Seminar on 'Competition Law, Challenges & Answers' was organised on 22nd June, 2009 in Cuttack (in association with Hon'ble Orissa High Court), 7th November, 2009 at Chandigarh (in association with Hon'ble Punjab and Haryana High Court), 8th and 9th August, 2009 at Kochi and Calicut respectively (in association Hon'ble Kerala High Court). During February 19-21, 2009, First Anti Trust Moot Court Competition was organised at Jodhpur in association with National Law University, Jodhpur.

The Commission has launched its website to make itself easily accessible to the stakeholders. The Commission's website: www.cci.gov.in provides an opportunity for users to get updated information about the Commission's activities; and thus lends transparency to the Commission's work. The decisions and orders passed by the Commission, research and publications, advocacy bulletins, regular updates on advocacy initiatives such as seminars, workshops etc. are placed on the website.



"We are now prepared for full fledged competition, when the economy has started growing at a robust pace to fulfill needs of the millions of people in the country"

-Shri Salman Khurshid
Minister for Corporate Affairs, India

(4) Capacity Building

Competition Commission of India supplemented institutional capacity building for the organisation by organising structured induction training for the newly recruited officers and advanced training programme at Indian Institute of Corporate Affairs (IICA). It also organised several workshops where various economic and legal issues pertaining to competition laws were discussed in-house. Some of the main activities relating to capacity building are summarised below:

- The first Induction Training Programme by Indian Institute of Corporate Affairs (IICA) was organised from 15th to 28th July, 2009 for 20 officials of the CCI.
- Advanced Professional Programme for Competition Commission of India officials was organised jointly by Competition Commission of India through Indian Institute of Corporate Affairs and office of Director General Competition, European Union. The first Brussels

- module of the programme was held from 28th September to 2nd October, 2009 which was attended by 6 officials from CCI. Subsequently, two other batches of the Competition Commission of India officials have also undergone training at Director General Competition, Brussels.
- A workshop was organized by legal experts from Europe from 7th to 11th September 2009 (5 half days) for 15 officials of CCI in the Office premises of Competition Commission of India.
 - Another Induction Training Programme was conducted by the Indian Institute of Corporate Affairs (IICA) for the officers of the Competition Commission of India from 08-12, March 2010 in three phases up to 16.04.2010. 20 officers attended Phase I (from 08-12 March, 2010) and Phase II on the job training from 15.03.2010 to 09.04.2010 and 09 officers attended Phase III from 12-16 April, 2010.
 - Two National Workshops on the 'State of Competition in the Indian Economy' were organized in collaboration with Foreign Investment Advisory Service (FIAS) & Department for International Development (DFID) to review and coordinate market studies/research projects; these were attended by a large number of academic and research bodies.

Apart from the above, the officers actively engage in internal debates and discussions on key legal and economic issues pertaining to competition law and its enforcement.



Shri Pranab Mukherjee, Minister of Finance, Government of India; along with Shri Salman Khurshid, Minister for Corporate Affairs, Government of India inaugurating the National Conference on "Competition, Public Policy & Common Man"

(5) International Engagements

As a new competition authority, it is important for the Commission to develop its linkages with other established competition agencies and learn from their experiences on the implementation of competition law in their respective jurisdictions. The Commission, in view of this, has initiated dialogues with its international counterparts for long-term cooperation in knowledge sharing and capacity building.

“Strong competition policy is not just a luxury to be enjoyed by rich countries, but a real necessity for those striving to create democratic market economies”

–Joseph Stiglitz
American Economist and Professor, Columbia University

For achieving the stated objectives, Section 18 of the Competition Act, 2002 permits Competition Commission of India to enter into any memorandum or arrangement with any agency of any foreign country. Accordingly, Competition Commission of India is contemplating to enter into Memorandum of Understanding with various competition agencies like Federal Trade Commission (FTC), USA, Director General Competition, European Union (EU), Federal Antimonopoly Service (FAS), Russia and State Administration for Industry & Commerce (SAIC) China etc. The draft Memoranda with these agencies are at various stages of the approval/finalisation.

Further, in order to ensure that the Commission keeps abreast of international developments in competition law and its enforcement, the Members and Officers of the Commission attended a number of international conferences during the financial year 2009-10.

They represented the Commission in various international conferences organised by bodies like International Competition Network (ICN), Organisation for Economic Cooperation & Development (OECD), Brazil, Russia, India and China (BRIC) Conference, American Bar Association (ABA) etc.

Chairperson, Competition Commission of India participated in the 8th Annual General Conference of International Competition Network during June 2-5, 2009 held at Zurich (Switzerland). He also attended the Brazil, Russia, India and China (BRIC) International Competition Conference during 31st August – 2nd September, 2009 held at Kazan (Russia). Chairperson delivered the Plenary Speech at the Conference where he shared the experience of development of the competition regime in India. He held extensive discussions with Heads of Federal Trade Commission, Department of Justice, U.S.A. and other authorities on potential areas of cooperation with CCI. In furtherance thereof, training of CCI officials on Competition issues was organized by FTC in India in August-September 2010. Furthermore, a batch of CCI officials will be deputed to Washington DC for advanced training in October 2010. Dr. Geeta Gouri, Member, Competition Commission of India attended the Competition Committee Meeting of

Organisation for Economic Cooperation & Development (OECD) during 19th-22nd October, 2009 held at Paris (France). Shri P.N. Parashar, Member, Competition Commission of India attended the Cartel Workshop organised by International Competition Network at Cairo/Egypt during 27th – 29th October, 2009. Shri Anurag Goel, Member attended a Meeting organised by Federal Competition Commission at Mexico during 25th – 29th January, 2010. Shri R. Prasad, Member, CCI attended the meeting of Organisation for Economic Cooperation & Development (OECD) Global Forum held at Paris (France) during 17th – 19th February, 2010.

(6) Impact on Consumers and Economy

Competition is the cornerstone of efficient and vibrant markets. It is a means to ensure efficient allocation of resources, wider choice of products and services, improved quality and last but not the least, increasing productivity of the overall economy. Competition encourages innovation and introduction of newer technologies and techniques of production and management. In economic terms, it optimizes static and dynamic efficiency and maximizes consumer surplus and producer surplus.

Economic theory recognizes the advantages of competitive markets for economic growth and consumer welfare. These benefits are further underscored by credible research carried out across various countries, including developed and developing economies. Several studies have documented the specific gains from competition in countries like Australia, U.S.A., U.K., New Zealand and several others.

“It is difficult to visualize a business emerging as a global champion if it has not had to face competition at home.”

– Michael Porter,
Professor, Harvard University

The Commission, since its inception, has been taking various advocacy initiatives such as workshops, seminars, lectures, etc. with the objective to sensitize all stakeholders about the new law and discourage them from indulging in any activity which is anti-competitive in nature. Market studies have also been carried out to identify the existing and potential areas of competition concern in the Indian economy.

As a consequence of the advocacy efforts there has been a perceptible increase in awareness among the business community and consumers, which was reflected in the numbers of cases that have been filed with the Commission alleging violation of Section 3 & 4. With these developments, it is felt that enterprises may now act with greater caution and will avoid activities which are in contravention of the provisions of the Act. It is also noticed that some enterprises came out with self compliance guidelines for their employees to make them aware about the main provisions of the Competition Law and to avoid violation of these provisions.

Competition Commission of India is completely focused on a professional approach in its enforcement of the Act and advocacy activities which as in other jurisdictions will translate into higher economic efficiency, greater innovation, increased consumer choice at affordable prices and enhanced competitiveness in the country in the coming years.



Shri Pranab Mukherjee, Minister of Finance, Government of India addressing the audience at the National Conference on "Competition, Public Policy & Common Man"



Shri Salman Khurshid, Minister of Corporate Affairs, Government of India, addressing the audience at National Conference on "Competition, Public Policy & Common Man"

B. INVESTIGATION AND INQUIRIES ORDERED BY THE COMMISSION

(1) Investigations and Inquiries Relating to Sections 3, 4 and 42 of the Act

Soon after The Competition Act, 2002 came into force with effect from 20.05.2009, Informations started coming to the Commission. During the year 2009-10, total 32 cases were received under Section 19 of Competition Act, 2002 from various informants. Maximum cases were received from the Entertainment, Banking & Finance and Electricity sector. The allegations made in the Informations received related to violation of Section 3(anti-competitive agreements) and Section 4 (abuse of dominance).

The Commission also received 50 cases from Monopolies & Restrictive Trade Practices Commission (MRTPC) on transfer under Section 66 of the Competition Act, 2002, till 31st March, 2010.

The Commission considered all the cases within the prescribed time frame in the ordinary meetings held.

Out of 32 cases received under Section 19 of Competition Act, 2002, the Commission referred 17 cases to Director General for investigation. Similarly out of 50 cases received from Monopolies & Restrictive Trade Practices Commission (MRTPC) the Competition Commission of India found violation of provisions of Competition Act, 2002 in 07 cases and referred to DG for investigation.

The Commission also decided to close 7 cases under Section 26 (2) of Competition Act, 2002; after considering all facts and materials available on record and the oral/written submissions made by the informants and concluding that there is no violation of provisions of Competition Act, 2002. The Director General forwarded investigation reports in 06 cases during the year 2009-10. The reports are under consideration by the Commission and final orders in these cases will be passed by the Commission after due consideration.

The Commission has not initiated any suo moto case during the year 2009-10, nor has received any reference from Central/State Government or Local Authority as provided in the Section 21 of Competition Act, 2002.

The following table gives an analysis of the cases before the Commission during 2009-10:

Table 3: Cases Before the Commission During the Year 2009-10

Description	Information Received u/s 19	Cases Received from MRTPC On transfer	Suo moto cognizance	References received from central Govt.	References received from State Govt.	References received from Local Authorities	Total
Number of matters pending at the beginning of the year	Nil		Nil	Nil	Nil	Nil	Nil
Number of matters received during the year	32	50	Nil	Nil	Nil	Nil	82
Total number of matters	32	50	Nil	Nil	Nil	Nil	82
Number of matters in which prima facie violations noticed	17	07	Nil	Nil	Nil	Nil	24
Number of matters in which no prima facie violations noticed	05	02	Nil	Nil	Nil	Nil	07
Investigation reports received on prima facie matters ordered for investigation	06	Nil	Nil	Nil	Nil	Nil	06
Inquiries conducted	Nil		Nil	Nil	Nil	Nil	Nil

(2) Investigations and Enquires Undertaken by Director General

In terms of Section 41 of the Competition Act, 2002, as and when directed by the Commission, Director General shall investigate into any matter of contravention of the provisions of the Competition Act, 2002 or any Rules or Regulations made thereunder.

During the year 2009-10, Director General received 17 cases for investigation out of which reports in six cases were submitted to the Commission during the year. The table given below summarizes the total number of cases received from the Commission for investigation vis-à-vis the number of cases in which reports have been submitted to the Commission:

Table 4: Status of Investigations with Director General

S. No.	Status of Investigations with Director General	Nos.
i	Number of matters pending at the beginning of the year	NIL
ii	Number of matters/cases received during the year from the Commission	17
iii	Cases where investigation reports submitted to the Commission	06
iv	Number of matters/cases pending at the end of the year with Director General	11

During the year 2009-10, Director General submitted reports in 6 cases to the Commission under Section 26 (3) of the Act. The cases investigated by the Director General pertained to different sectors such as Film industry, Electricity supply & distribution, Airlines, Direct-to-Home (DTH) Services and Banks/Non Banking Financial Companies (NBFC) etc.

It is pertinent to mention here that all the Director General's reports were primarily focused on protecting the interest of the consumers at large by preventing practices having adverse effect on competition. The reports have also recommended advocacy of competition issues with the concerned Government Departments to design policies that safeguard & promote competition in India.

C. ORDERS PASSED BY THE COMMISSION

In 07 cases, as per Table given below, (5 cases filed in the Competition Commission and 2 cases transferred from Monopolies & Restrictive Trade Practices Commission) , the Commission found that there is no violation of the Competition Act and as such these cases were closed under Section 26(2) of the Competition Act.

Table 5: Orders Passed by the Commission

Category		Total	Section under which the order was passed
Cases where no offence is made out	Cases where offence is proved		
07	Nil	07	26 (2)

The Commission has already finalised its Orders in the cases brought before it by the following informants:

- The Tata Metaliks Ltd., Kolkata
- Maharashtra Textile Processor's Association
- Cinergy Picture (P) Ltd., Mumbai
- Shri Sanwar Mal Agarwal, Proprietor Jupiter Industries
- Ackruti City Limited

In all the above mentioned information, the Commission came to the conclusion that there was no prima facie case against the opposite parties and accordingly the Commission ordered closure of all the cases.

In respect of the cases transferred to Competition Commission of India from Monopolies & Restrictive Trade Practices Commission (MRTPC), the Commission passed final Orders in respect of two cases. In both the cases, the Commission came to the conclusion that there was no violation of any of the provisions of the Competition Act, 2002. As such, the Commission ordered closure of both the cases.

D. EXECUTION OF ORDERS OF COMMISSION AND PENALTIES

Table 6: Monetary Penalties

	Description	Nos.
i	Details on recovery of penalty levied under Sections 27,42,43,43A,44, and 45 (Separately and combined)	Nil
ii	Total number of matters and total amount of monetary penalties levied	Nil
iii	Total number of matters and amount therein referred to income –tax authorities for collection as arrears of Income tax under Section 39(2)	Nil
iv	Total number of matters and amount therein collected by Income-tax authorities as arrears of income tax	Nil

Table 7: Matters Referred to Chief Metropolitan Magistrate, New Delhi

	Description	Nos.
i	Details of matters referred on Chief, Metropolitan Magistrate , Delhi under Section 42	Nil
ii	Number of matters pending at the beginning of the year	Nil
iii	Number of references made during the year	Nil
iv	Total number of matters	Nil
v	Number of references disposed of out of (i) above	Nil
vi	Number of reference4s disposed of out of (ii) above	Nil
vii	Total number of references disposed of during the year	Nil
viii	Number of references pending at the end of the year	Nil

Table 8: Imposition of Lesser Penalties under Section 46

	Description	Nos.
i	Matters in which lesser penalty has been imposed under Section 46	Nil
ii	Number of matters in which lesser penalty imposed	Nil
iii	Number of persons or enterprises on whom lessor penalty imposed	Nil
iv	Number of persons granted full leniency and partial leniency in each matter.	Nil

* Orders passed by the Commission are available on CCI website www.cci.gov.in.

E. APPEALS

In 01 case appeal was allowed by the Competition Appellate Tribunal (CAT). A brief write-up on the same is presented below.

Table 9: Appeals to the Competition Appellate Tribunal (CAT)

	Description	Nos.
i	Number of appeals filed against Commission's order in the year	01
ii	Number of appeals pending at the beginning of the year	Nil
iii	Appeals filed during the year	01
iv	Total	01

Table 10: Number of Appeals Allowed by the Appellate Tribunal

	Description	Nos.
i	From appeals pending at the beginning of the year	Nil
ii	From appeals filed during the year	01
iii	Total	01

Table 11: Number of Appeals Disallowed by Appellate Tribunal

	Description	Nos.
i	From appeals at the beginning of the year	Nil
ii	From appeals filed during the year	Nil
iii	Total	Nil

Number of appeal(s) partially allowed by the Appellate Tribunal:

NIL

Brief write-up on the appeal allowed by the Appellate Tribunal:

Filed by: Jindal Steel & Power Limited (JSPL), New Delhi

Against: Steel Authority of India Limited (SAIL), New Delhi

The case was filed by the Jindal Steel & Power Limited (JSPL) on 16.10.2009. The Informant alleged that Steel Authority of India Limited (SAIL) is in breach of the Section 4(1) - Abuse of a dominant position and Section 3(4)-Anti-competitive agreement, of the Act.

The Commission decided to obtain views/comments of the Steel Authority of India Limited (SAIL) within 2 weeks time. However, Steel Authority of India Limited (SAIL) did not file its reply within the stipulated time and requested to allow extension of time for a further period of six weeks. The Commission considered the above request of Steel Authority of India Limited (SAIL) but did not allow any further extension. After considering the details filed by the informant and the entire relevant material/record available in this context as well as detailed submission made by the advocates of the informant the Commission on 8.12.2009 formed an opinion that there exists a prima-facie case and decided to refer the case to the Director General (DG) for investigation and submission of the report within 45 days. Steel Authority of India Limited (SAIL) was informed that they may furnish their views/comments in the matter to the Director General.

Interim reply of Steel Authority of India Limited (SAIL) along with another application inter- alia praying that they may be heard and allowed to represent its case before any interim orders is passed by the Commission, was also considered by the Commission. The Commission noted that the matter stood referred to Director General for investigation and Steel Authority of India Limited had also been informed that they may furnish their views/comments in the matter, directly to Director General. A copy of the interim reply of Steel Authority of India Limited was also sent to Director General for necessary action. The other prayer of the Steel Authority of India Limited (SAIL) to be heard and be represented while passing any interim orders will be considered by the Commission as and when required.

Steel Authority of India Limited (SAIL) filed an appeal with Competition Appellate Tribunal (CAT) and the Competition Appellate Tribunal (CAT) passed order on 11.1.2010 allowing the appeal and Steel Authority of India Limited was granted time till 22nd February, 2010 to file its detailed reply in addition to interim reply filed by it on 16.12.2009. The Commission was directed to consider the reply of Steel Authority of India Limited along with the other material on record and to take a fresh decision. It was made clear that no opinion on the merits of the case has been expressed. The moot points of Competition Appellate Tribunal (CAT)'s order dated 15.2.2010 include:

- There is no requirement of the Commission to invite parties to present their point of view before forming a prima facie opinion but the Commission may for the purpose of satisfying itself on any aspect permit the parties to present their views. Once having decided to afford

- an opportunity to the defendant to present its views before forming prima facie opinion, it is not open to the Commission to abandon the opportunity granted midway.
- The Commission has to indicate reasons while forming opinion that a prima facie case exists. The reasons need not be elaborate but should be sufficient to show application of mind though the sufficiency of foundational material for the recording of reasons cannot be questioned. Even when prayer for extension is rejected, the Commission has to indicate reasons.

Subsequently the Commission filed an Appeal before the Supreme Court against the Order of the Competition Appellate Tribunal (CAT). *(The Supreme Court has decided the appeal vide its Order dated, the 9th September, 2010 wherein stand of CCI on most of the issues has been upheld).*



Shri M. Veerappa Moily, Minister of Law and Justice, Government of India addressing the audience at the National Conference on “Competition, Public Policy & Common Man” [Left]; on his right is Shri B.K. Chaturvedi (Member, Planning Commission)

F. MATTERS RECEIVED REGARDING COMBINATIONS

The Competition Act has provisions for mandatory notification of combinations in terms of the requirements given in Section 6 of the Act. However, the provisions relating to the enforcement of regulation of combinations have not yet been brought into force.

In order to ensure that the Commission is able to handle the regulation of combinations in an effective and timely manner, a Combination Division has been brought into existence. The aim is to ensure that the Commission is ready and prepared to handle regulation of combinations as and when the enforcement provisions relating to the regulation of combinations are brought into force. As a part of the preparatory work, a draft of combination regulations have been prepared and sent to the Ministry of Corporate Affairs.

G. REFERENCES BY THE CENTRAL GOVERNMENT OR STATE GOVERNMENTS

References received from Central Government under section 49(1)

No matter has been referred by Central Government to the Commission under Section 49 of the Act.

References from state Governments (State-wise details to be given in annex) under Section 49 (1) of the Act

None of the State Government referred any matter to the Competition Commission of India under Section 49(1) of the Act.

Orders of Central Government received under Section 54 of the Act.

No Order has been received from Central Government under Section 54 of the Act.

Directions of Central Government under Section 55 of the Act, and the action taken thereon.

No direction has been received from Central Government under Section 55 of the Act.

H. REFERENCES FROM AND TO THE STATUTORY AUTHORITIES

No reference was either received from the statutory authorities under Section 21 of the Competition Act or made to statutory authorities under Section 21 A of the Act. As such, nil information as per the statement given below:

Table 12: References from and to Statutory Authorities

	Description	Nos.
i	Number of references pending at the beginning of the year	Nil
ii	Number of references received during the year	Nil
iii	Total	Nil
iv	Number of references disposed of out of (i)	Nil
v	Number of references disposed of out of (ii)	Nil
vi	Total number of references disposed of during the year	Nil
Vii	Number of references pending at the end of the year	Nil



Cabinet Secretary, Shri K.M. Chandrashekhar addressing the audience at "National Conference on Competition, Public Policy and Common Man"

I. COMPETITION ADVOCACY

Section 49 (3) of the Competition Act lays responsibility on the Competition Commission of India to take appropriate measures for the promotion of competition advocacy, creating awareness and imparting training about competition issues. In pursuance of these objectives, the Commission has been organizing Interactive Meetings, Workshops and Seminars etc. with different regulatory bodies, policy makers, trade organizations, consumer associations and the public at large to create awareness of competition issues. The Commission is also focusing on developing research capability in the area of Competition Economics, Law and Policy among the various stakeholders, Ministries/Departments, research community, regulators, lawyers, industries, etc.

The Members of the Commission also addressed various Seminars/ Workshops held on various Competition issues for different stakeholders like Indian Merchant Chamber, Mumbai, The Bihar Chamber of Commerce, CII, Gujarat Chamber of Commerce and Industry, The Institute of Chartered Accountants of India, Maharashtra Chamber of Commerce, Industries and Agriculture, Bengal Chamber of Commerce and Industry, The Institution of Engineers (India) and Chamber of Industrial & Commercial Undertakings, Ludhiana. In order to explain the provisions of the Competition Act 2002, an article in “Malayalya Manorama” was published, another article in “Nayee duniya” in Hindi was also published.

During the year 2009-10, the Commission held a series of lectures, workshops, seminars and conferences dedicated to the various issues related to competition in the economy. The details are given as under:

i) Workshops, Seminars and Other Interactions with Public/Experts/Policy-makers/Regulatory Bodies on Competition Advocacy for Creating Awareness of Competition Issues

Table 13: Workshops, Seminars and Other Interactions with Public/Experts/Policy-makers/Regulatory Bodies on Competition Advocacy for Creating Awareness of Competition Issues

Subject matter of the Workshop/Seminar/Lectures	Number of participants	Dates	Beneficiaries/Participants
National Conference on the 'State of Competition in the Indian Economy'	350	11-12 June, 2009	Govt. officials from Central and State Governments, foreign experts, researchers, academicians, professionals, Industry, Regulators, Law firms.
National Conference on "Competition, Public Policy and Common Man"	230	16th November 2009	Govt. officials from Central and State Governments, PSUs, foreign experts, researchers, academicians, professionals, Industry, Regulators, Law firms, students
Business Session on "Competition Policy and Law"	70	17 th November, 2009	CCI officials, Regulators, Law firms, academicians.
Seminar on "Public Procurement Reforms for Better Value for Money: Learning from International Experience"	60	15 th December, 2009	Ministries, departments, Planning Commission, Public sector undertakings, Law firms, Academic institutions.

As can be seen from the above table, the advocacy programmes organized by CCI received encouraging participation from the stakeholders. Speakers were drawn from Government, various Foreign Competition Authorities, Industry and Academia. The discussions held at these events have contributed towards identifying the areas where there could be competition concerns, identifying new areas for undertaking market research, as also to analyse the role and challenges of the Commission from multiple perspectives.

On the other hand, the participants benefitted from in-depth discussions and debates on the various facets of competition, competition law and its enforcement. Given below are some of the key issues/ideas/suggestions ranging across a wide gamut of areas that emerged from the deliberations at the various forums organised by CCI in the year 2009-10:

- It is important to explain benefits of competition so as to remove fear from minds of common persons. Communication is very important to convey the objective and role of competition to the common man. There should be stronger focus on consumer, which requires greater economic analysis.
- Tasks before the CCI are enormous; challenges are ahead in the form of cartels, bid-rigging etc. The litmus test is to reach out to the common man.
- Prioritisation of objectives on the basis of cost-benefit analysis for the national economy and well being of the country as a whole is important. Some of the priority areas would be bidding in public procurement, agriculture, education, public transport systems etc. CCI should prioritise the cases on the basis of expected impact assessment.
- There is a need to build competition culture, while guarding against market failure and keeping the focus on important social goals like price support for agriculture, Right to food, Right to Education, support to medium and small enterprises and greater economic welfare.
- There is a need for ensuring free competition in public procurement systems due to economic significance attached to it. Public procurement in India accounts for 30% of the GDP. Prime objective of public procurement should be to obtain best value for money, i.e., procuring the right product at the right price at the right time.
- Procurement process should be designed in a manner that there is adequate competition, transparency and clear documentation of requirements. The Competition Commission of India can act as a catalyst in coordination with other Government Ministries and Departments to achieve the objectives of an efficient public procurement.
- To maximise the benefits out of the government procurements, the government should ensure maximum participation so as to provide equal and fair opportunity to all. Governments as a buyer should have minimum cost and get the best quality and as a seller should fulfil the goals it intends to achieve.

- E-procurement can help in bringing transparency and thus more competition into public procurement. CCI can suggest to the Government for inclusion of mandatory e-procurement for all public procurements
- In agriculture, APMC laws and the pricing policy to be reviewed to remove competitive bottlenecks for the benefit of the farmers.
- There is absence of good insurance products in the market for crop insurance because of lack of competition. Lack of competition in the credit market is also the reason for farmers' dismay. CCI may examine the absence of competition in agricultural insurance sector. Value chain between farmers and consumer needs also to be examined for competition issues.
- There should be differentiation between MSP and procurement price by the government. Fair price to the farmers can be achieved by improving the scale of commodities for the market and reducing the number of intermediaries as there are too many players and some needs to go out from the loop.
- Among the areas that were identified for CCI to examine the state of competition and related issues were Insurance, Electricity, Roads, Transport, Petroleum, Civil Aviation etc.
- While dealing with issues pertaining to other sectoral regulators, the competition authorities can focus more on advocacy to enforce the provisions of the Competition Act 2002.



Seminar on “Public Procurement Reforms for Better Value for Money: Learning from International Experience” in progress : [L to R] Shri V. Ramachandran (Chief Technical Examiner, CVC), Mr. Christopher Yukins (Professor, George Washington University), Shri Dhanendra Kumar (Chairperson, CCI), Shri Vinod Rai (Comptroller and Auditor General of India), Smt. Vilasini Ramachandran (Addl. Secy. , D/o Expenditure, M/o Finance, Government of India)

Apart from above, the Commission had also organised following public awareness programmes, seminars and moot courts etc. in collaboration with various High Courts:

Table 14: Public Awareness Programmes organized by the Commission, in collaboration with various High Courts

Subject matter and Place of the Seminar	Name of the respective High Courts/Agencies	Date/Period of Seminar
Seminar on 'Competition Law, Challenges & Answers' at Cuttack	Hon'ble Orissa High Court	22nd June, 2009
Public Awareness Programme on 'Competition Law: Challenges and Answers' at Kochi	Hon'ble Kerala High Court	8 th August, 2009
Public Awareness Programme on 'Competition Law: Challenges and Answers' at Calicut	Hon'ble Kerala High Court	9 th August, 2009
Seminar on 'Competition Law, Development of Trade and Industry' at Hyderabad.	Babul Reddy Foundation, Hyderabad	3 rd October, 2009
Seminar on 'Competition Law and its Enforcement' at Chandigarh	Hon'ble Punjab and Haryana High Court	7th November, 2009
1st Anti-Trust Moot Court Competition at Jodhpur.	National law University, Jodhpur	19th–21st February, 2009



[L to R] Shri Dhanendra Kumar (Chairperson, CCI), Justice Arijit Pasayat (Chairperson, Competition Appellate Tribunal), Ms. Neelie Kroes (European Commissioner for Competition), Shri Pranab Mukherjee (Minister of Finance, Government of India), Shri Salman Khurshid (Minister of Corporate Affairs, Government of India), Shri Hari S Bhartia (Vice President, CII) and Shri Chandrajit Banerjee (Director General, CII) at the National Conference on Competition, Public Policy and Common Man

ii) Competition related Papers/ Research Projects/Market Studies and Sectoral/Regulatory impact assessment studies carried out by the Commission

In view of the need to develop in depth understanding of the economy and the state of competition in various sectors as also to identify the existing and potential areas of competition concern, has undertaken the following in-house market studies/ research projects during the last year.

Table 15: Competition related Papers/ Research Projects/Market Studies and Sectoral/Regulatory impact assessment studies carried out by the Commission

Title of the market study/research project	Purpose	Date of completion
Competition Concerns in Concession Agreements in Infrastructure Sectors	To conduct research in accordance with the proposal viz. Concession Agreements in certain key sectors like transportation and energy including analysis of key issues in relation to granting of Concession Agreements, Competition Concerns, experience of competition concerns that have arisen in other jurisdictions and role of the Competition Commission of India	June 2009
Tyres industry	To understand competition concerns in Tyre Industry	July 2009
Role of Trade Associations	To understand the difference between legitimate actions of trade associations and cartel like activities	September 2009
Public procurement	To understand the importance of competitive and efficient public procurement policy for the economy	October 2009
Agriculture marketing and forward markets	To identify competitive bottlenecks in this area.	January 2010
Cartel detection in Cement industry	To detect the cartel on the basis of structural indicators	February, 2010
Study on second hand Car market in India	To study and understand the basic structure of the second hand car market	February, 2010
A study on Banking industry	To analyse the competition and health of Indian Banks.	February, 2010

In addition to the above, the Commission has initiated a market study on the 'Cartelization in the Pharmaceuticals Industry', in August 2009, the study is under progress.

iii) Capacity building of stakeholders to participate in competition regulatory process:

With an objective of increasing capacity of various stakeholders to participate in the competition regulatory process, following lectures have been delivered by the members and officials of the Commission; at:

- Bombay Chamber of Commerce & Industry to discuss issues relating to Competition Act, 2002, on 18th January, 2010.
- Hyderabad Management Association and Federation of Andhra Pradesh Chamber of Commerce & Industry (FAPCCI) Hyderabad on 'Competition Act, 2002' and regulations of 'Cost of Production' and 'Combinations' framed under Competition Act, 2002, on 22nd January, 2010.
- Indian Chamber of Commerce, Calcutta on "Competition Law", on 15th February, 2010.
- Lady Shri Ram College, University of Delhi on "Regulating Markets", on 17th February, 2010.
- Indian Maritime University, Chennai on 4th January, 2010 on "Introduction to Competition Law", "Exemptions under Competition law" and "Relations between Competition Authorities and Sectoral Regulators".
- National Law School of India University, Bangalore, on 5th January, 2010 on "Introduction to Competition Law".

iv) Competition related Sectoral/Regulatory impact assessment, market studies and research projects

In pursuance of the mandate under Section 49, sub-section 3 of the Competition Act, 2002, the Competition Commission of India continued to undertake projects and programmes for the promotion of competition advocacy, creating awareness and imparting training on the competition related issues. Since the inception of the research study programme in 2003-04, 18 studies were commissioned, of which 17 have been completed and remaining one is being finalized.

The completed studies have been circulated to the relevant ministries/departments and also to the State Governments, wherever relevant. These were also presented at an annual conference on 'State of Competition in the Indian Economy' held on 11-12 June, 2009 where experts from all over the country and abroad were invited. Representatives from all the relevant Government departments and research institutions were also present. The five completed research reports have been printed and circulated to the stake holders. All the completed reports have been made available on the website of the Commission (www.cci.gov.in). Given below is a summary of the key findings of the some of the Studies and Consultation Papers:

Table 16: Key findings of Studies undertaken by the Commission

Study	Key Finding
State Policies Affecting Competition: Passenger Road Transportation Sector	Study proposed a model for development of the sector. It recommends a major departure from the prevailing system by the introduction of competitive tendering for services on commercial routes. For non-commercial routes, it suggests a competitive subsidy bid process. Monitoring of the franchises will rest with the regulatory authority.
Competition Issues in the Road Goods Transport Industry in India with special reference to the Mumbai Metropolitan Region	The study recommends that state governments may carry out competition audit of existing regulations especially those providing for the present system of checkpoints administered by the States and with a number of agencies to determine the need for their continuation.
The State of Competition in the Indian Manufacturing Sector	Empirical analysis of the study suggests that policy reforms that have been undertaken in the Nineties did succeed in triggering dynamic forces of competition reflected in the industry restructuring toward larger scales of operation and consolidation through capacity building and mergers and acquisitions. Market structure, however, did not seem to change much.
Competition in India's Energy Sector	Private participation is very limited in all forms of energy (electricity, oil & gas and coal). Private participation and investment in energy (electricity, oil & gas and coal) continue to be below expectations. Reasons for limited competition can broadly be attributed to structural issues, policy and regulatory issues, barriers to entry, lack of level playing field, abuse of dominant position, and institutional issues.
Clauses in Bilateral Trade Treaties: Analysing the Issues in the Context of India's Future Negotiating Strategy	Study suggests Guidelines for inclusion of Competition Clauses in RTAs

Study	Key Finding
Competition Policy in Telecommunications in India	The study shows that there is increasing competition in telecommunications in India. The degree of competition varies across segments, typically being low in fixed services as compared to mobile telephony.
Study of Cartel Case Laws in Select Jurisdictions— Learnings for the Competition Commission of India	Study suggests that CCI should create awareness among business houses/associations on cartels as there have been instances where business houses or associations form a cartel without having an understanding of the fact that their actions would come in the ambit of being a cartel. The practices become norms without proper knowledge of cartelisation.
Competition issues in Air Transport Sector	Study pointed out that there is some evidence of price parallelism. This may not be termed as price collusion. However, CCI may monitor the pricing of the dominant airlines in particular. In general, inter airport competition is limited all over the world, partly because relatively few cities are served by two or more airports and also because there are economies of scale in the provision of airports. Airports around the world are subject to significant regulation and also to State ownership. Creation of new airports, expansion of airports and ensuring inter airport competition are important in preserving and promoting a competitive environment in the air transport sector.
Competition Issues in Regulated Industries: Case of India's Transport Sector- Ports and Railways	The study highlighted limited level of competition in the container movement. From the study, it is seen that the policy of reservation towards PSUs reduces the competition which is against the best interest of Indian railways. In case of Indian Ports, several factors like insufficient hinterland connectivity, associated transport cost, inadequate availability of infrastructure at the competing port and quality of service offered by the alternative port restrict inter-port and intra-port competition. Study suggests that government needs to revisit some of the clauses of the model concession agreements in the light of their impact on competition in the sector.

Study	Key Finding
Competition Concerns in Concession Agreements in Infrastructure Sectors	The study suggests that CCI should commence a dialogue with the Planning Commission and each of the sector regulators as well as the various ministries of the Government of India and the State Governments that are actively granting concession agreements. The dialogue should focus on highlighting the competition concerns during the life cycle of the concession agreement and how to ensure that they are taken into account while structuring, granting and implementing the concession agreement, so as to mitigate any potential challenges against them.

v) Consultation Papers published/placed on website of the Commission:

The following Market Studies/Research Projects were undertaken. These Studies are uploaded on the website of the Commission for benefits of all stakeholders:

- “Competition Concerns in Concession Agreements in Infrastructure Sectors” conducted by Clarus Law Associates, New Delhi;
- “Public Enterprises Government Policy and Impact on Competition : Indian Petroleum Industry” conducted by Indicus Analytics Private Limited;
- “Public Enterprises, Government Policy and Impact on Competition : Indian Steel Industry” conducted by Indicus Analytics Private Limited;
- “Antidumping and Competition Law” conducted by Economic Law Practics (ELP), New Delhi;
- “Competition Issues in the Air Transport Sector in India” conducted by Administrative Staff College of India, Hyderabad.

vi) Analytical papers prepared and examined:

As mentioned in section iii, the role of Competition Law vis-à-vis different industrial sectors was critically analysed / examined through in-house Professionals. Some of the sectors, where analytical papers were brought out by the Competition Commission of India are given hereafter:

Table 17: Analytical Papers Brought Out by the Commission for Various Sectors

Industry	Purpose
Tyres industry	To understand competition concerns in Tyre Industry
Role of Trade Associations	To understand the difference between legitimate actions of trade associations and cartel like activities
Public procurement	To understand the importance of competitive and efficient public procurement policy for the economy
Agriculture marketing and forward markets	To identify competitive bottlenecks in this area.
Cartel detection in Cement industry	To detect the cartel on the basis of structural indicators
Study on second hand Car market in India	To study and understand the basic structure of the second hand car market
A study on Banking industry	To analyse the competition and health of Indian Banks.

vii) Others Including International Contributions

Internship programme:

The Commission provides internship facility to students. During the year 2009-10, a total of 20 students have undergone internship with the Commission on various competition related issues. These interns were from very reputed institutions like University College of London (UCL), University of London; National Academy of Legal Studies and Research (NALSAR) University of Law, Hyderabad; Delhi School of Economics; National Law University, Jodhpur; National Law School of India University, Bangalore; Gujarat National Law University, Gandhi Nagar; Guru Gobind Singh Indraprastha University (G.G.S.I.P.), etc. The interns, at the end of their internship, submitted Research Reports on competition related issues.

International Contributions:

Following two consultation papers were presented by a member of the Commission at Organisation for Economic Cooperation & Development (OECD) Workshop in the meeting of OECD Competition Committee during Paris Conference from 19 to 22 October 2009:

- Application of anti-trust law to State Owned Enterprises.
- Generic Pharmaceutical.

Shri Dhanendra Kumar, Chairperson, CCI attended and presented Papers during

- ICN 8th Annual Conference at Zurich (Switzerland),
- BRIC International Competition Conference held at Kazan(Russia)
- ICN 9th Annual Conference at Istanbul (Turkey)

Shri P.N. Parashar, Member attended ICN Cartel Workshop at Cairo (Egypt), Shri Anurag Goel, Member had interactions with Federal Competition Commission at Mexico, during January, 2010.



Audience at a CCI Seminar

J. ADMINISTRATION AND ESTABLISHMENT MATTERS

(1) Report of the Secretary

One hundred and eighty seven posts were sanctioned by Govt. vide MCA order date 20th January, 2009, in lieu of the posts sanctioned earlier. The 187 posts included one Secretary, one Director General and 122 posts of Professionals (90 for CCI and 32 for DG's office) and 63 posts of Support Staff (55 for CCI+8 for DG's office). With appointment of Chairperson and 2 members, the Commission became functional on 1st March, 2009.

At that time, the Commission had a core group of 24 officers and staff drawn on ad hoc deputation basis from various departments who were engaged in preparatory activities. Though the new posts have been sanctioned and the old ones abolished, regular recruitment to the new posts were not possible, for want of the recruitment rules which were to be promulgated by Ministry of Corporate Affairs under Section 16(1A) and 17 (2) of the Completion Act. As this process would take considerable time, to meet the urgent needs of establishing/operationalising the Commission, sanction of the Government was obtained and process initiated in April, 2009 for appointment on ad hoc deputation basis to 38 posts (18 Professionals and 20 Support Staff) for a period of one year. Accordingly, 29 officers were appointed on adhoc deputation (13 professionals + 16 Support Staff) basis, by July 2009 to commence the work of the Commission.

The recruitment rules for the 145 posts (90 professionals + 55 Support Staffs) in the Commission was promulgated by MCA vide notification date 14th September, 2009, which stipulated certain percentage of posts to be filled in by direct recruitment and deputation. 46 out of the 90 posts of Professionals and 23 out of 55 posts of support staff are to be filled in by direct recruitment. The balance posts (44 professional and 32 support staff) are to be filled in by deputation.

Filling of Posts by Deputation

Applications were invited from eligible officers of various departments of Government of India, State Governments, judiciary, other regulatory bodies, autonomous bodies etc. to fill up 44 posts of professionals of the levels of adviser to deputy director.

Filling of posts by Direct Recruitment

Applications were called for from eligible candidates for direct recruitment against the 46 posts of professionals and 22 posts of support staff in November 2009. 998 eligible applications were received. They were screened through a process of written examination followed by interview for selection.

Selection Process

The selection process consisted of a written examination (80% weightage) followed by interview (20% weightage) for which only those candidates who qualified in the written examination were invited. To ensure total objectivity and impartiality, the process of designing and conducting the written examination was entrusted to National Law School of India University, Bangalore. Similarly, in the interview boards' eminent experts from the field of Law, Economics and Financial Analysis, as also regulatory experts were included.

On conclusion of the selection process, 27 (19 professionals and 8 support staff) were selected for appointment by the Commission. 26 officers have since joined the Commission.

Director General's Office

The recruitment rules for 40 posts (32 professional and 8 support staff) sanctioned for the DG's Office was promulgated by the Government vide notification dated 31st December, 2009. As per the rules, all the posts have to be filled by deputation only by the Central Government. Accordingly, applications were invited by the Commission on behalf of the Ministry of Corporate Affairs (MCA), from eligible officers for deputation against these posts. The process to fill these posts is in progress.

(2) Composition of the Commission

The Commission consists of one Chairperson and six Members as per the Competition Act and has become functional with effect from 1st March, 2009 on joining of the Chairperson and two members. The details of Chairperson and members are as under:

Table 18: Composition of the Commission

S. No.	Name	Designation	Date of joining
1.	Shri Dhanendra Kumar	Chairperson	28.02.2009
2.	Shri H. C. Gupta	Member	28.02.2009
3.	Shri R. Prasad	Member	01.03.2009
4.	Shri P.N. Parashar	Member	14.04.2009
5.	Smt. Geeta Gouri	Member	16.04.2009
6.	Shri Anurag Goel	Member	02.09.2009
7.	Shri M. L. Tayal	Member	03.11.2009

(3) Meetings of the Commission

During the year, the Commission held 50 ordinary meetings to discuss information received by it. The Commission also held 63 special meetings during the year to discuss important issues before it with regard to functioning and operationalisation of the Commission.

(4) Organizational Structure

Since this was the first year of functioning, the requisite infrastructure including personnel and operating procedure are being set up. With joining of the Chairperson and 6 Members, the Commission has become fully functional and the process of recruitment of necessary officers and staff has also been initiated. The work of the Commission is being undertaken by the core group of officers, who have been grouped into 8 functional wings as given below:

Table 19: Divisions of Competition Commission of India

S.No.	Name of the Division
1	Administration & Coordination Division
2	Investigation Division
3	Legal Division
4	Economic Division
5	Advocacy
6	Capacity Building Division
7	Combination Division
8	Anti Trust Division

As more and more Officers join, the structure would be refined for achieving optimum functional efficiency.



Shri Salman Khurshid (Hon'ble Minister of Corporate Affairs) along with Justice Arijit Pasayat (Chairperson, CAT), Shri Dhanendra Kumar (Chairperson, CCI) and other members of CCI at the inauguration of new office complex of CCI at Hindustan Times House

(5) Information on Personnel in the Commission, category-wise

Table 20: Position of Staff in CCI as on 31.03.2010

Name of the post	No. of Posts sanctioned	Name of the Officer	Date of Joining	No. of post vacant
Secretary	1	Shri S.L. Bunker	05.12.2006	-
Advisor (Law)	3	Shri K. K. Sharma	21.04.2006	2
		Shri Amit Pradhan	11.06.2009	
Advisor (Eco)	3	Shri R.N. Sahay	10.06.2009	1
		Dr. Seema Gaur	29.05.2009	
Advisor (FA)	2	Nil		2
Director (Law)	5	Shri Pramod Kumar Singh	23.11.2009	4
Director(Eco)	5	Shri Sanjay Bahadur	17.07.2009	3
		Ms. Renuka Jain Gupta	03.06.2009	
Director (FA)	2	Nil		2
Joint Director (Law)	10	Shri Ajay Goel	22.06.2009	8
		Shri Shiv Ram Bairwa	02.02.2010	
Joint Director (Eco)	10	Shri Sunil Kumar Sharma	05.06.2009	9
Joint Director (FA)	4	Nil		4
Joint Director (F&A)	1	Shri A.K. Sharma	07.08.2009	-
Joint Director (IT)	1	Nil		1
Deputy Director (Law)	18	Shri Mahesh Chandra Tiwari	22.01.2010	17
Deputy Director (Eco)	18	Shri Nirmal Mehrotra	23.11.2009	17
Deputy Director (FA)	10	Shri H.K. Ahuja	03.09.2009	8
		Smt. Neeru Shad	01.02.2010	
Deputy Director (F&A)	1	Nil		1
Deputy Director (CS)	5	Shri Dinesh Kumar Dixit	03.03.2010	4
Deputy Director (IT)	1	Shri Narendra Kureel	01.02.2010	-
Assistant Director (CS)	14	Shri Ashish Desh Raj	28.05.2009	7
		Shri Ramesh Chand	22.06.2009	
		Shri Neeraj Sachdeva	02.03.2010	
		Shri C.V. Anand	04.03.2010	
		Shri C.S. Thakur	10.07.2009	
		Shri U.S.Vidyarthi	01.10.2009	
		Shri Anil Kumar	10.05.2006	
Assistant Director (LS)	02	Ms. Sangeeta Gupta	15.06.2009	-
		Shri Dwarika Prasad	31.01.2010	
Assistant Director	3	Nil		3

(IT)				
Assistant Director (F & A)	2	Smt. Deepa Ramesh	25.08.2009	-
		Shri M. K. Nair	26.05.2009	
Office Manager (CS)	20	Shri R.S. Rawat	10.06.2009	16
		Shri. S.P. Gahlaut	24.07.2009	
		Shri Anil Kr. Vashist	29.05.2009	
		Shri Dinesh Prasad Chamoli	22.10.2009	
Office Manager (FA)	4	Nil		4
Office Manager (LS)	1	Nil		1
Officers against old posts				
Director (HR)		Shri K.M. Damodaran	29.05.2008	
Director (Services)		Shri R.K. Verma	01.06.2007	
Under Secretary		Shri Virendra Singh	23.05.2007	

Table 21: Position of Staff in DG's Office as on 31.03.2010

S. No	Name of the post	No. of Posts	Name of the Officer	Date of Joining	No. of post vacant
1	Director General	1	Shri Ajay. Kumar Chauhan	23.03.2010	-
2	ADG (Law)	2	Shri Manoj Pandey, Dir. (Law)*	25.06.2009	1
3	ADG (FA)	1	Shri Sharad Krishan Sharma, Dir. (FA)*	02.09.2009	-
4	ADG (Eco)	1	Nil		1
5	JDG (Law)	3	Nil		3
6	JDG (FA)	2	Nil		2
7	JDG (Eco)	3	Nil		3
8	DDG (FA)	4	Shri Sachin Yadav, DD (FA)*	10.08.2009	3
9	DDG (Eco)	8	Nil		8
10	DDG (Law)	8	Nil		8
11	DDG (CS)	1	Nil		1
12	ADG (CS)	3	Nil		3
13	Office Manager (CS)	4	Shri V. K. Mann, OM *	09.07.2009	3

* Working in DG's Office on loan basis from CCI

Reservation Status:

Reservation of posts for various categories under the reservation policy of the Govt. is applicable for direct recruitment. Accordingly, out of 68 vacancies in different posts for direct recruitment, 19 vacancies were earmarked for reserve categories. The details of reserved vacancies and posts filled up on direct recruitment basis are given as under:

Table 22: Reserved Vacancies and Posts Filled up on Direct Recruitment Basis

Sl. No.	Name & No. of Posts	Total No. of Posts	Reserved posts	Number of candidates selected	Carried forward
1	1.ADVISER (F A) - 1 2.ADVISER (ECONOMICS) - 1 3.ADVISER (LAW) -1	3	NIL	Nil	General- 3
2	1. DIRECTOR (ECONOMICS) -1 2.DIRECTOR (LAW) - 1 3. DIRECTOR (F A) - 1	3	NIL	General-1	General – 2
3	1. JOINT DIRECTOR (LAW) - 3 2. JOINT DIRECTOR (ECO) - 3 3. JOINT DIRECTOR (F A) – 1	7	1 for OBC 1 for SC	General -5 SC-1	OBC - 1
4.1	DEPUTY DIRECTOR (LAW)	13	3 for OBC 1 for SC	General-5	General – 4 SC - 1 OBC - 3
4.2	DEPUTY DIRECTOR (F A)	7	1 for OBC 1 for SC	General-3 OBC-1 SC-1	General – 2
4.3	DEPUTY DIRECTOR (ECONOMICS)	13	3 for OBC 1 for SC	General-2	General – 7 SC - 1 OBC - 3
5.	ASSISTANT DIRECTOR (IT)	3	Nil	General-3 (including -1 PH)	Nil
6.1	1. OFFICE MANAGER (FINANCE & ACCOUNTS) -3	19	5 for OBC 3 for SC 1 for ST	General-3 SC-2	General – 7 SC - 1 ST - 1 OBC - 5
6.2	2. OFFICE MANAGER (Corporate Service)-15				
6.3	3. OFFICE MANAGER (Library Services) -1				

(6) Experts and professionals engaged under Section 17(3) and experts called upon under Section 36 (3)

To facilitate engagement of adequate number of experts and professional, the Competition Commission of India promulgated regulation No.R-40007/6/REG-Expert/Noti/04-CCI called the Competition Commission of India (procedure for engagement of experts and professional) regulation 2009. In terms of this regulation, three experts were engaged – one in Law Division and two in Economic Division as on 31.3.2010.

No experts called upon under Section 36 (3), to assist the commission in conduct of any enquiry during the period under report.

(7) Details of delegation of power made in the year by Chairperson to any other Member of the officer of the Commission under Section 13 of the Act

For administering the Competition Fund, which has been constituted under Section 51 (1) of the competition Act 2002 and to oversee expenditure from the fund, a Fund Administration Committee consisting of two Members has been constituted by the Chairperson under Section 51 (3). Further, financial powers to sanction expenditure under various heads have been delegated to different level of officers of the Commission for smooth functioning.

(8) Employee welfare measure, if any, beyond the regular terms and conditions of employment, undertaken by the Commission

The terms and conditions of officers and employees of CCI and DG's Office were notified by Ministry of Corporate Affairs vide GSR No. 670(E) dated 14.09.2009, GSR No.338 (E) dated 15.05.2009 and GSR No.934 (E) dated 31.12.2009. To provide medical advice/consultation during office hours, a part time Medical Officer was engaged initially for a period of one year w.e.f. 01.04.2010.

K. BUDGET AND ACCOUNTS

(1) Budget Estimate and Revised Estimates under Broad Categories

Budgetary support to Competition Commission of India (CCI) is given in the form of Grants in Aid from the budget of Ministry of Corporate Affairs. The BE 2009-10 was Rs 2000 lakh, which included an estimated provision of Rs 1200 lakh for Salaries, Rs 125 lakh crore on Travel Expenses, Rs 50 lakh on Training/ Seminars, Rs 70 lakh on Professional Charges, Rs 100 lakh for Rent and Rs 455 lakh for Establishment related expenses. After taking into account the mandatory 10%/ 5% cut on Non-Plan Expenses, the RE 2009-10 was reduced to Rs 1900 lakh. The Budget Estimate, Revised Estimate and the Actual Expenditure for the year 2009-10 are detailed below:

Table 23: Budget Estimate, Revised Estimate and Actual Expenditure

Budget Estimate	Revised Estimate	Actual Expenditure
20.00	19.00	13.42

(Rs. In Crores)

(2) Receipts, under broad categories, in the Competition Fund established under sub-section (1) of Section 51 of the Act

In terms of Gazette Notification GSR No.204(E) dated 27 March 2009 {the Competition Commission of India (Form of Annual Statement of Accounts) Rules, 2009}, the Competition Fund was created w.e.f 1st May 2009 and a separate current account in this regard was opened by CCI in Punjab National Bank, Bhikaji Cama Place, New Delhi. As per Section 51 (1) of the Competition Act, the Competition Fund consists of the following:

- All Government Grants received by the Commission
- The Fees received under the Act
- The Interest accrued on the amounts referred to in the above two clauses

The Competition Fund is administered by Fund Administering Committee (FAC) constituted under Section 51 (3) of the Competition Act, 2002. The position of actual expenditure and requirement of funds for CCI was reviewed every month by FAC. Taking into consideration, the actual position of recruitment of officers and staff, the total requirement of funds estimated for 2009-10 worked out to Rs 16.95 crore. The actual amount released by the Ministry of Corporate Affairs during 2009-10 was Rs 16.00 crore.

Receipts:

The receipts under broad categories in the Competition Fund under Section 51 (1) of the Act are as follows:

Grants in Aid	-	Rs 1600.00 lakh
Fees	-	Rs 10.45 lakh
Bank Interest	-	Rs 12.42 lakh
Application Fee	-	Rs 5.96 lakh
Sale of Scrap	-	Rs 0.11 lakh
Total	-	<u>Rs 1628.94 lakh</u>

(3) Actual Expenditures under Broad Categories

As against the total amount of Rs 1628.94 lakh available with the Commission, the actual expenditure incurred during 2009-10 was Rs 1300.39 lakh as per following broad break up:

Salaries	-	Rs 441.09 lakh
Travel Expenses	-	Rs 45.31 lakh
Training/ Seminar	-	Rs 23.90 lakh
Professional charges	-	Rs 57.94 lakh
Rent	-	Rs 322.99 lakh
Establishment expenses-		Rs 409.16 lakh
Provision for Electricity	-	Rs 41.15 lakh
Charges & payment to CA		
Total		<u>Rs 1341.54 lakh</u>

(4) Balance Available in the Competition Fund Established under Sub Section (1) of Section 51 of the Act

The balance available in the Competition Fund as on 31st March 2010 was Rs 287.40 lakh.

While incurring the expenditure, the CCI has been following the standard of financial propriety and the other provisions prescribed in General Financial Rules. The economy instructions and other orders issued by Ministry of Finance from time to time are also kept in view.

The CCI is maintaining its accounts in the format prescribed in the Notification dated 27 March 2009. The approved accounts of the Commission for the financial year 2009-10 shall be forwarded to Comptroller & Auditor General of India (C&AG) or any other person appointed by him on his behalf by 30th June 2010 for the purposes of audit. The annual accounts of the Commission for 2009-10, as

certified by the C&AG or any other person appointed by him on his behalf, together with the audit report thereon, after adoption by the Commission, shall be forwarded to the Central Government for laying before both the Houses of Parliament.

L. INTERNATIONAL CO-OPERATION

(1) Brief notes on Memorandums or arrangements signed by the commission with agencies of foreign countries

The main objective of CCI is to eliminate practices having adverse effect on competition, promote and sustain competition, protect the interests of consumers and ensure freedom of trade in markets of India.

For achieving stated objectives, Section 18 of the Competition Act, 2002 permits CCI to enter into any memorandum or arrangement with any agency of any foreign country.

Accordingly, CCI is contemplating to enter into Memorandum of Understanding with various competition agencies like Federal Trade Commission, Director General Competition, European Union, Federal Antimonopoly Service (FAS), Russia and State Administration for Industry & Commerce (SAIC) China etc. The draft Memoranda with these agencies are at various stages of the approval/finalisation.

(2) Brief Notes on Overseas Projects Undertaken by the Commission

NIL

(3) Details of Memberships of International Organizations

International Competition Network (ICN) Membership

The International Competition Network (ICN) is a virtual organization. This essentially is a community of competition authorities across the globe. The International Competition Network organizes various workshops and conferences for mutual exchange of information, knowledge and experience. In about a decade of its existence, it has produced a rich wealth of documents available on International Competition Network document library on different topics such as cartels, mergers, notifications and Procedures on Mergers, Leniency Programmes, Merger Review, Investigations etc. It has working groups devoted to different subjects on competition law.

Soon after the establishment of Competition Commission of India in October 2003, India became a member of the International Competition Network. There was participation in the conferences and workshops of International Competition Network from India. However, the requirement of the Act needed appointment of Chairperson and at least two Members of the Commission for the Commission to be duly constituted. Accordingly, after the Commission was duly constituted on March 1, 2009, a formal application for the membership of International Competition Network was sent and accepted. Now India is an official invitee in all the activities. India is also a member of Merger Working Group of the International Competition Network and has been attending the tele-conferences of Merger Working Group from time to time. The Chairperson attended the 8th Annual Conference of International Competition Network in Zurich from June 3 to 5, 2009.

(4) Details of international delegations received by the Commission from Foreign Governments, Foreign Competition Authorities Multilateral Institutions, others including the purpose of the delegation and the outcome

The Commission did not receive any formal delegation. However, officers/representatives from various foreign agencies/countries participated in the training programmes organised by Competition Commission of India from time to time.

(5) Foreign Visits Undertaken by Commission's Chairperson or Members or Officials Indicating the Purpose and Outcome

Chairperson, CCI attended the 8th and 9th Annual General Conference of International Competition Network during March, 2009 and February, 2010 respectively held at Zurich/Instanbul. Chairperson, CCI also attended the Brazil, Russia, India and China (BRIC) International Competition Conference during 31st August – 2nd September, 2009 held at Kazan (Russia).

Dr. Geeta Gouri, Member, CCI attended the Competition Committee Meeting of Organisation for Economic Cooperation & Development (OECD) in October, 2009 held at Paris.

Shri P.N. Parashar, Member, CCI attended the Cartel Workshop organised by International Competition Network at Cairo/Egypt in September, 2009.

Shri Anurag Goel, Member attended a Meetings with Federal Competition Commission at Mexico during January, 2010.

Shri R. Prasad, Member, CCI attended the meeting of OECD Global Forum held at Paris in the month of February, 2010.

M. CAPACITY BUILDING

Recognizing capacity building as a learning process to build up experience and expertise in enforcement and to establish Competition Commission of India as a credible institution, initiatives were undertaken to build a healthy system/networks across institutions and individuals both within the country and across borders. A total of 5 programmes were organized during the financial year 2009-10 in which 59 Officers were trained.

(1) Number of employees (Category-wise and Grade-wise) trained in-house with details of such programmes like content, duration and faculty

Trainings within India:

- A. Two Induction Trainings Programmes were organized with the help of Indian Institute of Corporate Affairs, New Delhi, in which 31 Officers were provided training. Their category wise particulars are as follows:

Table 24: Designation-wise Particulars of Officers who Participated in Induction Training Programmes

S.No.	Designation	Number
1.	Secretary	1
2.	Advisor	5
3.	Director	6
4.	Joint Director	5
5.	Deputy Director	7
6.	Assistant Director	5
7.	Office Manager	2
Total		31

Table 25: Stream-wise Particulars of Officers who Participated in Induction Training Programmes

Designation	Number
Law	7
Economics	7
Financial Analysis	8

Secretariat	1
Corporate Services	6
Library Services	1
IT	1

B. A Workshop on competition issues was organized at the CCI Office which was attended by 17 Officers. Their category wise particulars are as follows:

Table 26: Designation-wise Particulars of Officers who attended the Workshop on Competition Issues

S.No.	Designation	Number
1.	Advisor	3
2.	Director	3
3.	Joint Director	3
4.	Deputy Director	1
5.	Assistant Director	7
Total		17

Table 27: Stream-wise Particulars of Officers who attended the Workshop on Competition Issues

Designation	Number
Law	3
Economics	5
Financial Analysis	3
Corporate Services	5
Library Services	1

(2) Number of employees (category-wise and grade-wise) trained by outside institutions (Separately with in India and outside India) with details of names of institutions and duration also to specify whether training was under internship exchange programmes, fellowships study leave, special arrangements with foreign universities / institutions.

Trainings outside India:

Two Advanced Professional Training Programmes on Competition Law were organized at DGCOMP, European Commission, Brussels. A total of 11 Officers were provided one week training, which was entirely funded by European Commission. Their category wise particulars are as follows:

Table 28: Designation-wise Particulars of Officers who attended the Advanced Professional Training Programme at DGCOMP, European Commission, Brussels

S.No.	Designation	Number
1.	Secretary	1
2.	Advisor	3
3.	Director	3
4.	Joint Director	1
5.	Deputy Director	1
6.	Assistant Director	2
7.	Office Manager	1
Total		11

Table 29: Stream-wise Particulars of Officers who attended the Advanced Professional Training Programme at DGCOMP, European Commission, Brussels

Designation	Number
Law	2
Economics	3
Financial Analysis	2
Secretariat	1
Corporate Services	3

(3) Expenditure on capacity building initiatives:

CCI has paid the following amount to Indian Institute of Corporate Affairs for organising various programmes during 2009-10, as per details given against each:

Table 30: Amount Paid by CCI to Indian Institute of Corporate Affairs for Organising Various Programmes during 2009-10

	Name of the Programme	Period	Amount (Rs. In lakhs)
1	Advance Professional Training Programme	22-26 Sept., 2009	9.38
2	Induction Training Programme	15-28 July, 2009	8.27
3	Induction Training Programme	8-12 March, 2010	13.24

N. Ongoing Programmes

E-Governance:

During the year 2009-10, the Commission felt the need to launch a comprehensive E-Governance Programme, which would include works of management, document management, internal and external correspondence system, web-enabled services, web portal etc. Accordingly, a comprehensive road map for E-Governance was prepared in-house and Request for Proposal (RFP) was approved by the Commission for appointment of an Information Technology partner to implement the E-governance.