

**Roundtable on
“Competition Compliance for Good Corporate Governance”**

**Welcome Address
The Banquet, Hotel Ashoka, New Delhi
January 24, 2013**

On behalf of the Competition Commission, it is my pleasure to welcome industry leaders and representatives of apex business chambers to this interactive session on Competition Compliance. I am specially thankful to and warmly welcome the Minister of Corporate Affairs and the Secretary of the Ministry who have found the time to be here. You will all have the opportunity not only to hear them but also interact with them.

2. Why have we scheduled this meeting and called upon you to give your valuable time and attention? The reason is basic and simple. May 19, 2009 changed the paradigm of doing business in India. That is the day the enforcement of the Competition Act was started by the Competition Commission of India established to implement the Act. During its brief existence of about 3 years, our young organization has achieved a modicum of success. Yet many challenges and difficulties lie ahead. Two areas of concern are relevant for today's discussion: (i) weak culture of competition; and (ii) inadequate business awareness and public perception.

3. But what is competition and why a legal instrument for its enforcement? Competition – the process of rivalry between business enterprises for customers – is a fundamental characteristic of a flexible and dynamic market economy. By responding to the demand for goods and services at lower prices and improved quality, competing businesses are spurred to innovate and reduce costs. As a result, both economic efficiency and consumer welfare are enhanced. The process of competition is,

however, not automatic. The Chicago School of Economists, which is wedded to the "laissez faire" philosophy would have us believe that markets will regulate themselves. But perfect competition is as much a mirage as the perfect spouse! Large monopolistic firm and other stakeholders may distort the working of the market. Hence, the need for a robust competition policy and law. This is particularly important in a liberalizing economy where the government gradually withdraws in favour of private economic agents.

4. Ladies & Gentlemen, The Indian Competition Act stands on the twin pillars of enforcement and advocacy; it is unique in the sense that both are entrusted to the same body.

5. Apropos enforcement, since the notification of provisions of Sections 3 and 4 relating to anti-competitive agreements and abuse of dominance in May 2009, the CCI has handled more than 320 matters. Final orders have been passed in more than 230 cases. The forms of enforcement include a wide range of anti-competitive issues like cartels, bid rigging, abuse of dominance, etc. Apropos coverage of sectors, they are as diverse as infrastructure, finance, entertainment, IT, telecom, civil aviation, energy, insurance, travel, automobile manufacturing, real estate and pharmaceuticals.

6. In recent months, the Commission has decided a number of matters, including cartelization in government contracts. Penalties have been imposed on firms to discourage the anti-competitive practices and abuse of dominance. Wherever after inquiry, it has been found that competition could be enhanced if certain policies of government were modified, the Commission has suggested changes in such policies.

7. I am pleased to mention that the Commission is applying the law in a competitively neutral manner and has investigated a number of SOEs; also,

on their information, action has been taken against the private sector. Orders have been passed in more than 21 cases wherein SOEs and Government departments were a party.

8. Enforcement, as I said, is one side of the coin. Advocacy is equally, if not more important, particularly since this is a new set of rules and all its implications may not be known to Corporates and Trade Associations. While we have done many general advocacy events, we are now adopting a more focused strategy in this regard. The idea is to concentrate on trade associations, large corporates on the one hand and key economic ministries and State Governments on the other.

9. We recently had a fruitful engagement with trade bodies. Today we have called upon you as the senior representative of the top 100 companies by market capitalisation to join us in this meeting. The objective is to ensure that the message goes to the seniormost level and you can then pass it down to all ranks to ensure that they do not knowingly or unwittingly cross the boundaries imposed by the Competition Act.

10. We would commend a Competition Compliance programme which will be outlined in the presentation shortly. We would also suggest a high-level Competition Compliance Committee to drive the agenda in your organizations. Last, but by no means least, the compliance programme should receive not only your attention but should also be put up for periodic review by the Board of Directors. On our part, we are thinking of requesting SEBI to include effective competition compliance in their listing guidelines under Clause 49.

11. The Commission and its officers would always be available should you require their broad guidance or clarification. This is already working well – though it is perhaps not so well known – in pre-M&A filing consultations. However, I need hardly mention to you that the advice that we give cannot

be specific and would have to be given flesh and shape by your legal and compliance teams.

12. Good corporate governance is, I know, close to your hearts and valued by the markets. This is a new but critical component of governance and will not only help you ward off the unfriendly eye of the CCI but actually pay dividends in the long run.

13. I would not like any longer to stand between you and the Hon'ble Minister. Once again, a warm welcome, ladies and gentlemen.

Thank you.