



“COMPETITION COMPLIANCE”

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Why Competition Compliance?

- Do your agreements with your competitors contain fixing of prices, limiting production or sharing markets? (whether in writing or otherwise)
- Do your agreements contain joint selling and purchasing provisions with your competitors?
- Do your employees share information about prices or business plans with your competitors at industry events or otherwise?
- Are you a business with a largest share of any of the markets in which you operate?

If your answer to any of these questions is 'YES', then you might risk breaking the Competition Law.



Plan of Presentation

- What is Competition Compliance?
- Costs of non-compliance.
- Benefits of Compliance.
- How to introduce Competition Compliance Programme in an organization ?



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COMPETITION COMPLIANCE (CC)

What is Competition Compliance?

Active efforts on the part of an enterprise to comply with the Provisions of the Competition Act.

--and to take necessary steps so that your enterprises does not infringe the provisions of Act knowingly or unknowingly)

Objectives of Competition Compliance

- Prevent violation of the Act
- Promote a culture of compliance
- Encourage good corporate citizenship

WHY CC FOR PSEs ?



- ❖ Competition Act covers all economic agents – producers, service providers, traders, sellers, buyers, etc.
- ❖ All public sector enterprises, Central or State, are within the purview of the Competition Act.
- ❖ Even government departments engaged in commercial activities are within its purview.

Costs of non-compliance



- ❖ Damage to the reputation.
- ❖ Heavy Fines:
 - The **penalty** on cartel is up to **3 times of the profit of each member** OR up to **10% of the turnover of each member for each year** of continuance of such agreement, whichever is higher. (cartel)
 - After the inquiry, the commission may direct the members of the cartel **to discontinue and not to re-enter** in anti-competitive agreement
 - The Penalty can be **up to 10% of the average turnover for the last 3 preceding financial years** upon each of such persons or enterprises which are parties to anti competitive agreements or abuse of dominance. (Agreements & AoD)
 - The Commission may **direct division of enterprise in case it is found to abuse its dominant position** in the market to ensure that such enterprise does NOT abuse its dominant position. (AoD)
- ❖ Drain of resources in handling competition law infringement cases.



Benefits of Competition Compliance

- Provide enterprises a competitive advantage to detect any violation at early stage to take corrective measures to their advantage.
- Enable enterprises to maintain reputation in the market.
- Reduces the negative effects of litigation and regulatory intervention.
- Helps to avoid fines or mitigate the level of the fine.
- Reduces costs of litigation.



***“What Enterprises Should do to
be on the Right side of Law?”***



- Inform CCI whenever they observe any instance of violation of Competition Act, in the form of cartelization or bid-rigging.
- Inform CCI about any abuse of dominant position by any seller from whom they procure.
- Comply with pre-merger notification if the M&A transaction exceeds the threshold limits.
- Establish an in-house Competition Compliance Committee, that would monitor procuring / selling activities of the enterprise from competition angle and keep on constantly sensitizing their officials about abiding by the competition law.
- Prepare a Competition Compliance Manual and get it distributed across the officials which can be referred to whenever procurement is to be done, or marketing policies are framed.
- Develop a competition compliance culture in your organization.



“How to Introduce Competition Compliance Programme”

CONSTITUTE A
COMPLIANCE
COMMITTEE

CREATE &
DISTRIBUTE A
VOLUNTARY
COMPLIANCE
MANUAL

CONDUCT
TRAININGS/
WORKSHOPS

COMPETITION
COMPLIANCE
PROGRAMME

ESTABLISH A
DOCUMENT
MANAGEMENT
SYSTEM

ESTABLISH A
MONITORING
SYSTEM

Role of a Compliance Committee

All enterprises should constitute a Compliance Committee (headed by a Compliance Officer) comprising senior management, with ultimate responsibility of overseeing the compliance programme.

ROLE:

- ❖ To train and motivate the employees .
- ❖ To prepare Compliance Manual.
- ❖ To conduct periodic review of the Compliance Programme.

Importance and Role of Compliance Officer

- ❖ In order to ensure effectiveness of compliance Programme , it is desirable that a Compliance Officer with appropriate delegation of authority be appointed to enforce the compliance Programme.
- ❖ The Compliance Officer should preferably be an independent professional with expertise and core competency in compliance management.
- ❖ Compliance Officer should be a focal point to design and enforce the Competition Compliance Programme .

Compliance Manual

- a brief overview of the relevant competition rules;
- a statement endorsed by the Board/Management of the business, that the company aims to comply with the relevant competition rules;
- a bullet point list of ‘dos’ and ‘don’ts’;
- a clear statement that it will be a disciplinary matter if any employee breaches the compliance requirements;
- details of the compliance officer or person to whom all queries on competition issues can be referred;



Some DO-NOTS for the Enterprises

- DO NOT discuss exchange or agree about any type of price information with competitors.
- DO NOT enter into agreements with competitors on allocation of territories or customers.
- DO NOT enter into agreements with competitors which result in fixing production, sales quotas or reducing output.
- DO NOT resort to bid-rigging (e.g. agreeing with a competitor to not bid against each other or not bid at all).
- DO NOT resort to predatory pricing, i.e. charge an amount that is below the cost of production with a view to reduce or eliminate competition or competitors

CCP for Enterprises-CHECKLIST

- CCP should be developed according to the business needs of the enterprise.
- A senior management personal as compliance officer.
- Prepare and make available a comprehensive compliance manual for reference.
- Examples of likely violations should be incorporated in the compliance manual.
- Integrate a competition compliant information management system into the overall document management system of the company.
- Make provisions for a possible surprise investigation/checks by the CCI.
- Ensure a proper recording system for all documents, minutes of meetings and other events which may provide useful evidence of non-participation in anti-competitive practices.

CONCLUSION

- Compliance of the Competition Law is the best policy for enterprises.
- CCI has sufficient powers to crack on cartels and other anti-competitive offences.
- Competition Law is beneficial for enterprises and consumers.

Therefore, a well thought out compliance Programme has to be in place at each enterprise.



For further details you
can visit

www.cci.gov.in



THANK YOU