

Mr K Ullas Kamath Chairman, FICCI Karnataka State Council, Mr Arun Chawla, Deputy Secretary General, FICCI, Office Bearers, Members of FICCI Karnataka State Council,

Distinguished participants,

Ladies and Gentlemen,

Good afternoon!

It gives me immense pleasure to be with you on the occasion of inaugural edition of Webinar Series organised by FICCI Karnataka State Council on "Competition Act: Revolutionizing Corporate & Legal Strategies".

2. At the outset, let me compliment FICCI Karnataka State Council for organising this Webinar and each one of you to be a part of this.

3. Industry Associations and Chambers of Commerce play an important role in promoting trade and investment and providing strong interface with the Government and Policy makers. We, at the CCI consider them as important stakeholders in discharging our mandate of preventing practices having adverse effect on competition, promoting & sustaining competition in markets, protecting the interests of consumers, and ensuring freedom of trade carried on by other market participants.

4. Karnataka, being the 4th largest Global Technology Cluster and India's veritable Silicon Valley, has emerged as a leading destination for investment, and has presence of major digital platforms besides being a hub for start-ups. FICCI Karnataka State Council thus has a critical role to play as the economy strives to recover from the economic onslaught caused by the pandemic.

5. As we emerge out of a devastating second wave, an immediate concern is how to boost the economy and investment sentiment. Competition, as we all know, promotes overall welfare by enhancing efficiency, promoting innovation leading to wider product choice and better quality. Strengthening competitive pressures in the economy acts to lower entry barriers, which enables the creation and expansion of small businesses and in turn facilitates the introduction of new technologies. Liberalisation post 1991 crisis which altered the economic architecture of our country, was designed to introduce

competition as an instrument of growth. Marking a radical departure from the regime of 'command and control', 'markets' became central to the new economic order. Various state controls were gradually withdrawn to liberate economic agents to enable them to compete in the market place. The benefits are there for all of us to see. Once again as we are witnessing unprecedented changes and challenges caused by the pandemic, it is imperative that we have markets that are well-functioning, characterised by healthy competition to pave way for newer possibilities and opportunities.

6. Disruptive events not only test the resilience and adaptive capacity but can also unleash forces of innovation and creativity towards shaping a more sustainable and inclusive future. Therefore, as we move ahead, it is critical that principles of good corporate governance and fair competition are adhered to and complied with. These are the key aspects of recovery process that need to be observed diligently.

7. Let me now advert to progress made by CCI in over a decade of its enforcement and regulatory journey and steps taken to deal with the challenges posed by the pandemic.

8. The Competition Act follows the philosophy of modern competition laws and prohibits anti-competitive agreements, abuse of dominant position by enterprises and regulates mergers and acquisitions, which cause or are likely to cause an appreciable adverse effect on competition in markets. The law is applicable to all enterprises including state owned enterprises and covers commercial activities of Governments. Over the last twelve years CCI has made consistent endeavours to inculcate a culture of competition in markets through a judicious mix of enforcement and advocacy route.

9. On anti-trust side, in spite of being one of India's youngest economic regulators, the Commission has been enforcing the law vigorously, though pragmatically. Within this short span of time, CCI has reviewed more than 1100 cases of anti-competitive practices in diverse sectors of the economy such as airlines, banking, capital markets, e-commerce & digital markets, infrastructure, travel, automobile, real estate, pharmaceuticals, financial sector, publishing, manufacturing, mining, entertainment etc. The instrument of enforcement has been applied judiciously, keeping in mind the specificities of sector involved, market structure and nature of contraventions. For instance, the Commission has had an assertive

enforcement agenda against cartels to free Indian markets from this pernicious economic offence and to optimise deterrence.

10. In recent years, digital markets have been the major focus area of the competition agencies. The increased shifting of physical markets towards digital markets has multiplied the need to have a closer look at the digital markets. On the one hand, digital markets are bringing in innovation but on the other, they are giving rise to various competition concerns. In recent years, there has been a steady rise in cases emanating from new age markets which ranged from across the verticals such as search engines, online marketplace platforms, online travel, food aggregators, cab aggregators and social networking. Such cases pertaining to issues like search bias, predatory pricing, deep discounting, leveraging, have direct interface with Competition Law regime. Given the very fast evolution of the digital markets, the focus has been, to act swiftly and craft remedies suitably to address challenges arising out of new forms of business models.

11. At the same time, in a young jurisdiction like India where legacy issues have not yet faded completely, stakeholders are not fully aware of the benefits of competition and pro-market reforms are still an ongoing agenda, enforcement cannot be the only route to market correction. A large part of the Commission's work has thus comprised and will continue to consist of proactive outreach and advocacy.

12. The Commission has taken a number of steps to enhance the culture of competition compliance in businesses to help reduce incidence of infringements of statute. The Commission has come out with a Competition Compliance Manual for the benefit of the enterprises, corporate professionals explaining basic principles of competition law that impact an enterprise's relationship with competitors, agents, suppliers, distributors, customers and other third parties. It also contains guidelines that are designed to help executives and employees of an enterprise to distinguish between permissible business conduct and illegal anti-competitive behaviour. It is heartening that over the years the Manual has served as a critical guidance for enterprises in devising compliance programmes of the commercial entities and in improving corporate governance standards.

13. On the merger review front, in our decade-long journey, we have remained conscious of the fact that in a developing economy like India where industry is gearing up to make the nation self-reliant as well as to enhance its global competitiveness, mergers and acquisitions would

be a potent instrument to optimise scale and improve efficiency. During this period Commission had occasions to review over more than 800 M&As across diverse sectors of the economy. Alongside its unfailing commitment to objective and robust assessment of mergers, it has been a constant endeavour to streamline the procedures and to promote ease of doing business by ensuring speedy clearance, to reduce procedural burden, and to make filings simpler. Specifically, to ease compliance, CCI has amended the Merger Control Regulations to dispense with the requirement of providing information on non-compete arrangements. This has provided the required flexibility, to the parties to the combination in negotiating non-compete clauses and reduced the information requirements at the time of notifying the combination. Virtual pre-filing consultations are being conducted to facilitate interactions even during lock down. A green channel has been recently introduced for automatic approval of combinations. This is a first of its kind trust-based system in the world, where notifiable transaction having no overlaps between the parties, is deemed approved upon its filing. It is expected to promote a speedy, transparent and accountable merger review, striking a balance between facilitation and enforcement. The green channel route has gained traction with one out of every five transactions being filed under this route, demonstrating stakeholders' confidence. All these steps made the approval process business friendly and reduced compliance costs.

14. Lesser Penalty regulations have been amended to make leniency regime robust, unambiguous for leniency applicants and to encourage enterprises to cooperate in uncovering the cartels.

15. CCI has also been continuously streamlining the processes and procedures in keeping with the demand of the time. Presently, CCI is in the process of introducing a confidentiality regime in line with the best global practices in consultation with stakeholders.

16. The idea behind these initiatives has been to engage industry not only for prompt detection and rectification of competition problems but also to make them realise that all stand to gain from fair and competitive markets.

17. For better understanding the market dynamics in sectors prone to competition issues as well as new economy sectors, CCI has now been regularly commissioning market studies. World over, market studies are considered as a versatile tool for competition authorities to analyse whether there are competition issues in any given sector, outside the

context of enforcement and merger review. The market study in the e-commerce sector was completed last year and a self-regulation charter was issued for the e-commerce marketplaces. Market studies on telecom sector, pharmaceutical sector, competition and Regulatory issues in Cab Aggregator market and an issue-based study on common ownership have also been commissioned by the CCI.

18. Coming to the steps taken by the Commission, in the wake of the pandemic, in the initial days itself, CCI leveraged technology and ensured that competition regime in India continues to operate unhindered and unimpeded. We replaced physical filings with e-filings, conducted virtual instead of physical hearings and proactively issued a business advisory that recognized that businesses may need to coordinate certain activities to ensure continued supply and fair distribution of products. Such coordination was permitted as long as it resulted in efficiencies and didn't inhibit competition. This enabled businesses in taking swift commercial decisions without unduly worrying about the regulatory ire. The Commission also took a balanced approach in its enforcement decisions focussing on faster market corrections and a nuanced view in levying penalties, particularly for MSMEs considering their financial distress.

19. To conclude, our experience suggests that dialogue with stakeholders can be effective in preventing violation of the law and can help mitigate a range of competition concerns without burdening the industry with compliance and litigation costs. We at CCI are committed to support the industry in being competition law compliant.

20. I firmly believe that a vibrant industry, founded on level playing field and characterised by healthy competition, would pave the way for Indian economy to come out of the setback caused by the pandemic and move onto a higher, long-term growth trajectory.

21. With these words, let me once again congratulate FICCI Karnataka State Council for taking this initiative. I am confident that the Web Series will provide a very effective platform for a robust exchange of insights on various important facets of markets and topical antitrust issues and benefit all, particularly its members.

Thank you.
