

**SPEECH OF HON'BLE CHAIRPERSON
COMPETITION COMMISSION OF INDIA
AS CHIEF GUEST IN INAUGURAL ADDRESS**

1st NALSAR CCI Antitrust Moot Court Competition 2022

17th March, 2022 (Thursday) 4:30 PM

Salutations:

1. Prof. Faizan Mustafa ji—Vice-Chancellor-NALSAR, Prof. Balakista Reddy—Registrar-NALSAR, Shri Sagardeep Rathi—Senior Associate-Khaitan & Co., Prof. Sourabh Bharti—Faculty Convenor-Moot Court Committee-NALSAR, esteemed faculty of NALSAR, and my dear students.

Very Good Evening.

2. At the outset, I compliment NALSAR for organizing this Moot Court Competition on Antitrust Law. It gives me immense pleasure to participate, albeit virtually, in the inaugural event of the 1st NALSAR-CCI Antitrust Moot Court Competition 2022.
3. I am happy to know that a total of 24 teams from various law schools are participating in this Moot Court Competition. I am confident that this competition will be a manifestation of the power of the youth's intellect, oratory skills, critical thinking, articulation, and knowledge in law.

4. I am always eager to interact with the youth, for they have the potential to transform the nation. I believe that I am not just amongst students at the moment, but also future academicians, lawyers, judges, and civil servants.
5. At the outset, I would say that students are key stakeholders of competition law. Students play a pivotal role in the future of the country, and therefore, the Commission, while formulating its advocacy policies, has designed various programmes to cater to them.
6. Capacity building of academia is always our priority, and to encourage and motivate them, CCI constantly undertakes numerous activities such as supporting organizations in holding seminars, webinars, and moot courts on competition law. We also depute domain experts/officers to various educational and research institutions to deliver lectures and impart training on various aspects of competition law.
7. To familiarize students with the nuances of competition law, CCI also offers internships to students from law, economics, management, and professional courses. The very fact that the CCI internship programme runs through the year, on a calendar-month basis, stands testimony to the fact that students have benefitted immensely from this program at a seminal stage of their careers. In the nearly 12 years of its journey, the Commission has offered internships to around 1500 students from across the length and breadth of the country. During the pandemic, CCI immediately switched over to an online internship,

which immensely helped students when other avenues remain suspended. In fact, despite the pandemic, CCI's active engagement with academic institutions remained unabated.

8. Broadly speaking, competition law promotes fair competition in markets and prohibits agreements that seek to reduce or avoid competition. In India, the Competition Act provides a formal and legal framework to prevent practices having adverse effects on competition, promote and sustain competition in markets, protect the interest of consumers, and ensure freedom of trade. It conforms to the philosophy of modern competition laws and prohibits anti-competitive agreements and abuse of dominant position by enterprises, and regulates mergers and acquisitions that cause or are likely to cause an adverse effect on competition in markets. The competition law is sector-agnostic in its application and approach, and thus, covers both public and private enterprises.
9. Let me share some snapshots from the decade-long journey of CCI as a market regulator, the difficulties and challenges we have faced, and the way forward. The Competition Act, 2002 came into being after the repeal of the MRTP Act of 1969. This was imperative in view of changing global economic dynamics and the opening up of the country's economy to global competition and foreign investment. The establishment of CCI, the country's only antitrust regulator, 12 years ago was a clear message to the world that India is ready for healthy and fair competition in all sectors of the economy. The substantive provisions of the Competition Act, 2002 dealing with anti-competitive agreements and abuse of

dominant position became operational in 2009, and the provisions related to mergers and acquisitions were notified in June 2011. Notification of these substantive provisions of the Competition Act, 2002 was a watershed step in the regulatory canvas of the country and imparted a fresh impetus to a transitioning economy, where markets were essential instruments for resource allocation.

10. In its existence of over a decade, CCI has been able to build a robust competition culture in the country by actively pursuing the mandate enshrined in the Competition Act. In the 12 years since CCI gained its enforcement power, we have crossed important milestones and made critical interventions in key markets.
11. As competition is a means to achieve larger economic goals, CCI has examined over 1100 cases pertaining to allegations of anti-competitive agreements and abuse of dominant position in diverse sectors, e.g., entertainment, pharmacy, aviation, agriculture, construction, cement, sports, real estate, etc., wherein concerns of a large number of market players and consumers, both with respect to cartelization and abuse of dominance, have been addressed. The instrument of enforcement has been applied judiciously keeping in mind the specificities and peculiarities of the sector dealt with, the market structure, and the nature of contraventions. Appropriate behavioural and structural remedies have been issued by CCI, including the imposition of monetary penalties, to act as deterrent and bring out faster market corrections.

12. In the recent past, CCI has had occasion to deal with various cases arising out of new age economy such as digital markets. CCI's interventions in such markets have been very balanced and pragmatic, thereby maintaining the incentives of innovation while seeking to correct anti-competitive behaviour. The regulatory response to such fast-paced developments in markets needs to be nimble and dynamic. It is here that an inter-sectional approach in finding solutions to such challenges, including through technology-based solutions, becomes the need of the hour and would go a long way in robust and sustainable enforcement of the law. A nuanced assessment, based on the facts of the case and the market and technology in question, is critical for balanced enforcement. The Indian antitrust law allows for much-needed flexibility within a broad framework, as the statutory framework is holistic as well as futuristic, and regulators need to avail such flexibilities through harmonization with other disciplines.

13. Under the merger control regime, which came into effect in 2011, CCI has screened more than 800 mergers and acquisitions notices. Conscious of the need and significance of inorganic growth for enterprises to attain size, scale, and efficiency, we have focused on the quick approval of mergers and acquisitions that do not cause appreciable adverse effects on competition in markets. In this, CCI has successfully balanced the requirements of a robust merger control regime with the need to facilitate ease of doing business.

14. Alongside its unfailing commitment to objective and robust substantive assessment of mergers, the Commission has adopted a slew of measures to ensure speedy clearance of non-problematic transactions to reduce procedural burden and make filings simpler. 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 parties to the combination in negotiating non-compete clauses and reduced information requirements at the time of notifying the combination.
15. A pathbreaking feature in the realm of merger control is the introduction of the Green Channel route by CCI for filing a combination notice, wherein a proposed combination is deemed to be approved subject to fulfilling certain criteria. This mechanism is a first-of-its-kind in any antitrust jurisdiction in the world. The Green Channel has gained momentum and, so far, 50 cases have been approved. This shows that it has been very well received by the industry.
16. Further, it has been the constant endeavour of the Commission to build capacities and update its knowledge and skillsets. For this, the Commission regularly engages with domain experts besides commissioning market studies for robust understanding of the construct of the markets in question. Usually, such market studies have been followed through engaging seminars and workshops which focus on sector-specific competition issues, where active engagement with industry players, academia, and sectoral regulators help place these issues in perspective. In the

recent past, CCI has released market study reports in the e-commerce and telecom sectors. A few other market studies are in the pipeline, namely, cab aggregators, common ownership, film sector, etc.

17. To achieve its mandate, the Commission has adopted the twin strategies of advocacy and enforcement. In this pursuit, therefore, the Commission has vigorously undertaken numerous advocacy measures to inform, train, and sensitize its wide spectrum of stakeholders so that they do not fall on the wrong side of the law. Our experience suggests that dialogue with stakeholders can be effective in preventing violations of the law and can help mitigate the range of competition concerns and reduce litigation costs besides causing damage to the reputation of an enterprise.
18. As I mentioned earlier, the instrument of enforcement has been applied judiciously only in such cases where business conduct was found to seriously undermine market process and thwart competition. In this direction, the Commission has had an assertive enforcement agenda against cartels, which is considered pernicious. At the same time, the Commission affords participants of a cartel the opportunity to self-report, making vital disclosures to become entitled for benefits under the lesser penalty regime introduced by the Commission.
19. As part of our advocacy mandate, we reach out to our stakeholders in various ways. To promote the culture of competition compliance, the Commission has published a Competition Compliance Manual for the benefit of enterprises and

corporate professionals, which also delineates permissible business conduct and behaviour and relationship with third parties for corporate executives.

20. CCI has published a number of other advocacy booklets, quick guides, and resources, which are available on its website, to help stakeholders better understand competition rules and frame in-house compliance manuals. Besides, we organize lectures, workshops, and seminars, and publish our bilingual quarterly newsletter, *Fair Play*.
21. To work in the spirit of cooperative federalism and enhance its regional footprint, CCI opened its first regional office in Chennai in February 2021. Additionally, to create awareness at a grassroots level, CCI has translated its advocacy booklet to many regional languages.
22. As states constitute an important part of stakeholders, to implement competition law in a holistic manner, the Commission introduced a State Resource Persons Scheme to ensure the framing of competition-coherent policies at the state level, particularly in the area of public procurement. Under the scheme, retired/serving officers of a senior level are appointed as nodal officers and state resource persons. So far, more than 200 programmes have been conducted with 10 states/UTs, actively involving state functionaries of various departments of the states.
23. Notably, during the stressful times of the pandemic, the Commission rose to the occasion and took a slew of measures

which included the issue of various advisories to the industry to ensure avoidance of market failure and sustainable economic recovery. The Commission also replaced physical filings with e-filings, resorted to virtual hearings, and issued a business advisory to ensure continued supply and fair distribution of products.

24. For young law professionals, competition law has opened up a very promising career avenue. Thus, as future law specialists, law students have an important role in promoting competition culture in the country. CCI also offers opportunities to young law graduates to work as Research Associates to help them sharpen their skills in competition law and further their career advancement.

25. With these words, I would like to compliment NALSAR, Hyderabad, for organizing this Moot Court Competition. I would also like to give my best wishes to the participating teams. I hope that this event becomes a memorable experience for all of you and inculcates an interest in competition law. Some of you may like to practice competition law as a career, while some of you may like to research it. I am confident that you would contribute immensely to competition law jurisprudence through your knowledge and ability to argue and counter-argue. Let me also inform you that CCI offers employment opportunities to the bright minds of the country, and I urge you to grab the opportunity when there is a notification. CCI's door is always open for students and faculty, and we enjoy engaging with you for knowledge and capacity building.

Thank you very much.