

Roadshow on Competition Law and Practice
Saturday, 30 November 2019
Imperial Hall, Hotel St. Regis, Senapati Bapat Marg, Lower Parel,
Mumbai

Salutations

Chairperson, Insolvency and Bankruptcy Board of India, Dr. M.S.Sahoo;

My colleague from the Commission Dr. Sangeeta Verma;

Group Executive President and Chief Economist, Aditya Birla Group, Shri Ajit Ranade;

Chief Regional Counsel for India, The Walt Disney Company, Shri Deepak Jacob

Executive Director, CII, Shri Vikas Mohan

Distinguished invitees, friends from the Media, ladies and gentlemen.

A very good morning to all of you

1. I welcome you all to the fifth Roadshow on Competition Law and practice. It is very important for any regulator, more so for a market regulator, to have a healthy dialogue with the stakeholders so as to have an enhanced vision of the market realities and a better outreach. My sincere thanks to CII for organising this roadshow and facilitating our interaction with the industry.

2. With the aim to bring important stakeholders under one roof and have open discussions with them on competition

issues and in order to gather their perspectives and experiences, the concept of 'Roadshow' was introduced last year. Mumbai holds a very special relevance to our series of roadshows as the first roadshow was organized in Mumbai in October last year and since then the Commission has successfully held various roadshows in other cities interacting with thousands of stakeholders from diverse sectors in different parts of the country.

3. Mumbai has been rated among the top 10 centers for commerce in the world and is aptly known as the commercial and the entertainment capital of India. As we all know, Mumbai presents its people a throbbing and bustling commercial life as it houses the largest port of India as well as a colossal film industry. It is home to major financial institutions such as Reserve Bank of India, the National Stock Exchange of India, Bombay Stock Exchange etc. It also has the corporate headquarters of several prestigious Indian companies and various multi-national corporations. And, thus, Mumbai was the obvious choice last year when we were deliberating on the city to start this unique initiative and again this year.

4. I would like to convey my sincere thanks to Dr. Sahoo for sparing time to attend this Roadshow. Having been a former

Member at the CCI, his continuous support to the furtherance of the competition law and especially its advocacy mandate is deeply appreciated. Friends, Competition law and IBC are two sides of the same coin and are an integral part of the corporate governance.

5. The Competition Act 2002 is a state-of-the-art Act. The Act casts a duty on the Commission to eliminate practices having adverse effect on competition, promote and sustain competition, protect the interests of consumers and ensure freedom of trade carried on by other participants, in markets across sectors in India. This year the Commission completed its first decade of enforcement. In the last 10 years, we have strived to build and nurture a culture of competition in the markets through credible antitrust enforcement and regular engagement with stakeholders. We have reviewed over **1043 antitrust cases, 704 merger filings and have held around 750 advocacy events.** But more importantly, in terms of impact, our interventions have had positive and far reaching outcomes. We have sufficient reasons to believe that stakeholders are increasingly reposing their trust and confidence in the Commission and are aligning their policies and practices with the principles of competition.

6. The enforcement of the Act is continuously evolving to dovetail the efforts of the Government to liberalize the Indian economy and bring it on *par* with the best economies in the

world in this era of globalization. We, in the Commission, are guided by the Preamble of the Act which affirms that competition is not an end in itself, but a means to achieve larger economic goals.

7. The last few years have witnessed a slew of economic reforms, which have the potential to transform the crucial macro aspects of the Indian economy. Being the market regulator, the Commission is conscious of the larger policy milieu, and is carefully gauging its implications for markets as they unfold. As an enforcement agency, it has been the continuous endeavour of the Commission to reverberate with the larger development agenda and not become obstructionist. Towards this end, we follow a judicious and evidence-based approach in our antitrust scrutiny. We intervene only when the impugned conduct is likely to result in an appreciable adverse effect on competition in the markets. In the last decade of its enforcement, the Commission has intervened in various sectors ranging from entertainment, pharma, aviation, agriculture, construction, cement, sports, real estate wherein concerns of a large number of market players and consumers, both with respect to cartelisation and abuse of dominance, have been addressed.

8. Friends, the last few years have seen a number of important and positive developments in the areas of evolving jurisprudence, lesser penalty and merger regulations and

compliance. This year has been specifically eventful in our journey as a regulator as the Competition Law Review Committee (CLRC) which was set up by the Government during October 2018 to review and suggest amendments to the Competition Act, 2002, has submitted its report to the Government this year. These developments would provide tailwinds to the competition regime in India.

Enforcement against Cartels

9. 'Cartels' remain one of our top priorities. Our general approach so far has been to deter them through penalties. But increasingly, we would like to use the lesser penalty provisions to encourage enterprises to cooperate in uncovering the cartels. There has been a surge in leniency applications involving cartels and the Commission has received more than 100 leniency applications over the past few years. The kind of evidence revealed by leniency applicants has given us impetus to further refine our leniency regime to make it more attractive for prospective applicants. Very recently, the Commission has decided its first international cartel case.

10. Bid rigging cartels in public procurement deprive the public entities and ultimately the society of the benefit of the best deals in terms of price, quality and innovation of the goods and services purchased. The range of sectors touched by public procurement is as wide as the needs of a government to properly function and deliver services to its

citizens including construction of schools, purchase of hospital supplies, construction of public infrastructure, transportation etc. Thus, efficacious and efficient management of public procurement is a non-negotiable priority for any government in order to act in the best interest of its citizens in terms of price, quality and service delivery. The Commission has unearthed a large number of bid rigging cases and has found that there is lack of the much-needed awareness amongst procurement officials about anti-competitive practices. I am sure, the diagnostic toolkit, which was released recently by the Hon'ble Minister of Finance Smt. Nirmala Sitharaman will prove to be a useful guide for procurement teams to detect red flags as also to structure tenders in a more pro-competitive manner.

11. Another important branch of competition law enforcement is proscribing unilateral anti-competitive conduct. Designed for the new economic environment, the Act does not target dominance of a firm as such, rather its abuse is prohibited.

12. Some of the interesting abuse of dominance cases have been in the sports sector, where conflict between the regulatory functions and economic activities has led to situations of "inevitable abuse". In cases where the Commission found such sports federations transgressing their roles as the custodian of sports to impose restrictions which impeded competition, the Commission issued modifications to

such restrictive clauses and also directed sports federations for laying down parameters in respect of organisation of event.

13. Besides traditional economy sectors, Commission has dealt with various cases in the new economy industries where abuse by digital players was alleged. The Commission's interventions in such markets, however, have been nuanced so as to preserve the innovation incentives while correcting the anti-competitive conduct. Guided by a cautious approach, the Commission has intervened only in cases where harm was evident.

Regulating Combinations

14. We have also taken several steps to ensure that the regulatory burden on the firms is minimised by continuously liberalizing our regulations related to combinations. The Commission has been reviewing the Combination Regulations almost on an annual basis with a view to relax filing requirements in respect of transactions not likely to raise competition concerns, provide certainty, reduce compliance requirements, make filings simpler and align the merger process in line with the international best practices. For instance, based on the deliberations that took place during Competition Law Review Committee Meetings, CCI introduced the green channel mechanism in August this year to facilitate easier and faster merger approvals and promote ease of doing business. I will talk more about the initiatives taken in the field

of regulations relating to combination in the session dedicated for mergers.

Advocacy

15. Besides enforcement, the Commission lays a lot of emphasis on its advocacy and advisory mandate. Though underestimated in its impact at times, I personally believe that a single successful competition advocacy effort resulting in a policy and regulatory reform or compliance by firms can bring manifold economic benefits, far in excess of a single successful enforcement action.

16. The journey of the Commission to enhance competition advocacy, however, has not been easy. Reaching out to all stakeholders from all sectors and geographies, especially in a country as big as India, is easier said than done. It becomes all the more challenging to work with markets having legacy issues and policy-induced distortions. To boost a regular dialogue with important stakeholders, we have devised varied ways. We have organized lectures, workshops, seminars, moot courts, published rich material on the subject which includes our quarterly newsletter 'Fair Play' along with advocacy booklets among others. Every year about 100 events are organised as part of our advocacy initiatives. To keep pace with the technological developments, we increasingly rely on social media – Facebook, Twitter and LinkedIn—as a channel

of communication, to disseminate important information and developments.

17. Further, considering the crucial role of Administrative and Judicial Officers in implementation of competition law, the Commission has prepared a Competition Law Module for the Administrative and Judicial Training Academies, for imparting training. Further, as a measure to promote competition advocacy and to disseminate the message of competition in a consistent manner across the length and breadth of India, the Commission came up with the "Competition Resource Persons" scheme to organise competition advocacy programmes for group of stakeholders in the States to supplement its own efforts on competition advocacy.

18. Let me now turn to another important aspect of the Commission's work – **market studies**. Market studies are an integral component of any competition authorities' toolkit. They are a way to proactively reach out to the market participants and better understand a sector and market developments. The Commission, in May this year, initiated a Market Study in the e-commerce sector. It has helped us gather insights from market participants on multiple aspects relating to e-commerce and its interface with different sectors. The final outcome which will be in the public domain shortly, will help the Commission ascertain its enforcement and

advocacy priorities in this sector. We will soon be conducting a market study on telecom and some other sectors also.

19. Having had the first road show in Mumbai last year, it feels like a cycle getting complete with this roadshow. I invite businesses to come forward and forge proactive partnership with us in building competitive markets and a robust compliance culture in the country.

20. I request all of you to please visit the kiosks placed outside displaying glimpses of our advocacy initiatives. We have also kept advocacy literature outside that you can take and refer to. With these words, I conclude and hope that the deliberations today will bring CCI closer to other stakeholders and help us in honing both our enforcement as well as advocacy instruments, so that we can leverage the benefits of liberalised markets in terms of higher efficiency and greater consumer welfare.

Thanks You!