

Welcome Address
Chairperson, Competition Commission of India
10 Years of Competition Law Enforcement
August 23, 2019

Hon'ble Minister for Finance & Corporate Affairs Madam Nirmala Sitharaman,

Hon'ble Minister of State for Finance & Corporate Affairs Shri Anurag Singh Thakur Ji,

Secretary to Govt., Ministry of Corporate Affairs, Shri Injeti Srinivas

Shri Dhanendra Kumar, Former Chairperson, CCI

Shri Ashok Chawla, Former Chairperson, CCI

Shri B.N. Sharma, Chairman, National Anti-Profiteering Authority

Shri D.K. Sarraf, Chairman, Petroleum & Natural Gas Regulatory Board

My Colleagues in the Commission, Dr. Sangeeta Verma and Shri B.S. Bishnoi

Distinguished participants, friends from the media, my fellow employees of the Commission.

A very good morning to all of you.

1. On May 20, this year the Competition Commission of India completed 10 years of its establishment since the notification of the substantive provisions of Competition Act relating to anti-competitive conduct. It is my proud privilege to welcome you all to the celebration of this important milestone in CCI's journey. Ten years is a rather short period to measure the accomplishments of a regulator, especially when compared with other antitrust regulators that have been in place for almost 100 years.

2. In these ten years, we have strived to build a culture of competition in the markets through credible antitrust enforcement and regular engagement with stakeholders. We have reviewed over 1000 antitrust cases, 670 merger filings and have held 720 advocacy events.
3. However, hidden behind these numbers, is the hard work put in to evolve a sound body of jurisprudence in service to our nation's economic development. Thus, at the outset, I take this opportunity to thank all my predecessors who with their vision and intellect created an edifice for this institution on which we hope to build upon.
4. Friends, before I speak on the specific challenges that the Commission has faced in the last decade and the successes achieved, I wish to communicate the regulatory philosophy that has evolved over the years.
5. We, in the Commission, are guided by the Preamble of the Act which states '*An Act to provide keeping in view of economic development of the country*'. This is a rather unique and unambiguous endorsement of the link between the micro functioning of individual markets and the larger development imperatives of the country. This is also to affirm that competition is not an end in itself, but a means to achieve larger economic goals.

6. At the outset, let me acknowledge that I have personally been inspired by the words of the Hon'ble Minister for Finance & Corporate Affairs in developing a regulatory philosophy, who had in her inaugural address at the Second National Conference on Economics of Competition law in 2017 stated that "*the CCI needs to continue as a dynamic regulatory institution, nuancing its position keeping in view the stage of economic development of the country and the diversity of the economy*". Hon'ble Minister urged that the Commission must develop sectoral understanding and stressed the importance of balancing the needs of opening up the economy to international competition with the other socio-economic requirements of the nation.
7. Following this, 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.

Enforcement against Cartels

8. In cartel cases, findings of the CCI reveal certain striking characteristics e.g. existence of a strong trade association forming the fulcrum of the cartel.
9. Commission's interventions in such sectors have led to course corrections. Trade associations have revised their policies and

practices to bring them in alignment with the principles of competition. For instance, pursuant to the order of the Commission, All India Organisation of Chemists & Druggists (AIOCD) and its regional constituents, issued a circular to the pharmaceutical companies and State Chemists & Druggists Associations sounding them to restrain from indulging in anti-competitive practices.

Enforcement against abuse of dominant position

10. 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.
11. 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 without having any plausible justification, the Commission issued modifications to such restrictive clauses and also directed sports federations for laying down of parameters in respect of organisation of event.
12. Besides the 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.

Regulation of combinations

13. Friends, when the provisions related to Combinations, *i.e.* Sections 5 & 6, were notified in June 2011, there were apprehensions that the *ex-ante* review process may become an unnecessary time-consuming check on routine market consolidations. However, the journey so far shows that the Commission is conscious of the need and significance of inorganic growth in order for enterprises to attain size, scale and efficiency required for surviving and succeeding in domestic and global markets and against global giants. The Commission has focussed on quick approval of M&As that do not cause appreciable adverse effect on competition. The average number of days to approve the notices under combinations has come down to 18 only.

Way Forward

14. Friends, we are cognisant of the fact that the working of the Commission has to be in harmony with the evolving business environment. A number of steps are being taken in this direction.
 - i. As part of its ongoing efforts to make approval of M&A filings faster, CCI has introduced an automatic system of approval under Green Channel. Under this process, the Combination is deemed to have been approved

upon filing the notice. However, it is still a work in process.

- ii. For proactive detection and correction, CCI has entered into an MoU with Govt. e-Market Place i.e. GeM for developing a software for detecting bid-rigging.
- iii. With passage of time, it became increasingly difficult to discover smoking gun evidence owing to over-sophistication with which cartels operated. Therefore, the Commission focused on an effective leniency regime, which has become a significant source of information and evidence. In 10 years of its enforcement, CCI has so far successfully handled nine leniency cases and awarded reduced penalties on applicant members of the cartel. We have further refined our leniency regime to make it more attractive for prospective applicants.
- iv. Besides enforcement, the Commission lays a lot of emphasis on its advocacy and advisory mandate. The journey of the Commission to enhance competition advocacy has not been easy. Reaching out to all stakeholders from all sectors and geographies is easier said than done. It becomes all the more challenging to work with markets having legacy issues and policy-induced distortions. The Industry is being sensitized by

holding frequent roadshows and sectoral workshops. We have brought out a comprehensive compliance manual. Several enterprises increasingly have now put in place internal competition compliance program.

- v. The requirement to follow principles of natural justice permeates the whole legislation and the procedures evolved by the Commission. However, at the same time, we are equally expected to expeditiously dispose off cases as delays in market corrections can lead to irreversible harm in the form of exit of an efficient competitor or failure of a potential entrant to enter the market. We are reviewing our procedures and processes so as to expedite disposal of cases without compromising on the principles of natural justice.

- vi. Despite corporate dynamism owing to post liberalization, competition is not deeply entrenched in all the sectors of the economy. This requires planning – sector by sector. For this, we are planning market studies to figure out the competition bottlenecks and the policy response to the same. Beginning has been made by scheduling a workshop on E-Commerce next week i.e. 30th August in which findings of the Market Study will be presented for stakeholders' feedback.

15. Like any young agency, we do have our share of teething problems. Besides the challenges of building the organization, creating capacity both within and outside the Commission, we do face challenges in implementation of the Act as well - with respect **to procedural, jurisdictional and interpretational issues.** But a significant number of these challenges have been decided in favour of the Commission, signalling the trust reposed by the Hon'ble Supreme Court in the mandate of the law. However, there are still issues which are currently *sub judice* before the Apex Court and in which jurisprudence is yet to be settled.
16. Before I conclude let me also inform our guests that we ushered the 10th year of existence in our own new office setup at Kidwai Nagar. For this, I extend my gratitude to my predecessors.
17. I can say with some sense of pride that CCI is now visible and has an acceptance as a forum for redressal of competition related concerns amongst all stakeholders including industry, government, sectoral regulators, trade associations and general public. Further, I see this institution going from strength to strength building upon the strong foundation that has been laid in the past 10 years.
18. I once again welcome Hon'ble Minister for Finance & Corporate Affairs, Hon'ble Minister of State for Finance & Corporate Affairs, Secretary to Govt., Ministry of Corporate Affairs, all dignitaries present here.

Thank you Very Much.