

**CII Annual Conference  
on  
Competition Law and Practice**

**Inaugural Address by:  
Chairperson, CCI**

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Session Moderators,

Distinguished panelists, participants, my colleagues and Officers.

A very good morning to all of you!

1. It gives me immense pleasure to be with you, albeit virtually, in the inaugural session of CII's Annual Conference on "Competition Law and Practice", which has now been institutionalized as a flagship event and is an outcome of the joint efforts of CII and CCI. This is an opportune time to reflect on the enforcement journey of CCI and to take stock of the experience gained and challenges overcome during the last 12 years in enforcing and evolving the competition law framework. This journey could not have been smooth without the constant and valuable feedback of stakeholders, including industry associations, and the cooperation of competition law practitioners. It is extremely important for any regulator, more so for a market regulator, to have a healthy dialogue with stakeholders so as to have an enhanced vision of market realities and better outreach.

2. Conferences like the present one play a pivotal role in providing an opportunity for robust and frank exchange of insights on various issues between stakeholders, and I must convey my compliments to CII for structuring this conference such that it covers virtually all aspects and facets of competition law enforcement. This would help steer discussions in the right direction.

3. Emergence of new age economy has brought the roles discharged by antitrust agencies to centre stage, which were otherwise busy dealing with conventional markets and monopolies operating therein. This has reinforced the relevance and significance of competition authorities in regulating digital markets within the overarching regulatory ecosystem. It is a matter of satisfaction that CCI has been able to rise to the occasion by dynamically responding to new age challenges even as it built its capacities along the way and while on the job. The expert panel, i.e., the Competition Law Review Committee, that examined and reviewed the legal framework, found the statutory architecture to be robust. The interventions made by CCI testify to the adequacy and flexibility of the law in applying the existing law to the new age economy.

4. In the last two years, CCI also had to brace itself while dealing with and addressing the challenges posed by the global pandemic. Apart from taking steps to keep it functioning unhindered and accessible to stakeholders, CCI also contributed to economic recovery by facilitating inorganic growth through faster clearances and approvals of M&A cases.

5. As we emerge out of the global pandemic, CCI has to adopt and apply a nuanced approach that not only addresses market distortions in a targeted and proportionate manner but also contributes to economic recovery.

6. With these overarching challenges and goals, let me share some snapshots from the decade-long journey of CCI as a market regulator, the

difficulties and challenges we faced and the way forward.

7. Twelve years ago, the substantive provisions of the Competition Act, 2002, relating to anti-competitive conduct were notified, marking a watershed in the regulatory governance of the Indian economy, which was transitioning to an economy where markets were essential instruments for resource allocation.

8. Competition is the life force of markets and creates the best incentives for businesses to increase efficiency, drives their productivity and fuels innovation. Despite its all-encompassing benefits, healthy competition may not emerge on its own. Even the most ardent votaries of a market economy recognize that liberalized markets cannot be presumed to be competitive and efficient. Without oversight and necessary intervention, we could witness a chaotic environment, where cartels drive up prices, dominant firms misuse their market power to fence out competition or anti-competitive mergers weaken the competitive structure of markets, resulting in businesses being affected and consumers being deprived of value for money. Such distortions break the link between liberalized markets and the productivity and innovation gains they are believed to yield. Therefore, the need for regulatory oversight cannot be overemphasized.

9. CCI, established as the enforcer of competition law in India, devoted its formative years to shaping the regime in accordance with evolving market realities while anchoring it in the economic development goals of the nation.

10. The focal points of its actions and interventions have been to bring about swift market correction so that businesses can compete on merits irrespective of their size and, most importantly, ensure that consumers benefit from improved market outcomes.

11. Since its inception, the Commission has examined more than 1100 cases of anti-competitive agreements and abuse of dominant position in diverse sectors

of the economy, such as airlines, banking, capital markets, e-commerce and digital markets, infrastructure, travel, automobile, real estate, pharmaceuticals, financial sector, publishing, manufacturing, mining and entertainment. The instrument of enforcement has been applied judiciously, keeping in mind the specificities of the sector involved, market structure and nature of contraventions.

12. In correcting market-distorting practices, the Commission has used an effective mix of the twin instruments of enforcement and advocacy. The instrument of enforcement has been applied in a calibrated manner, with interventions made only in such cases where business conduct was found to seriously undermine market processes and mute competition. While dealing with cartels firmly, CCI has been cognizant of business realities and moulded its remedies appropriately. The Commission has incentivized self-reporting and offered businesses the opportunity to approach the Commission for lesser penalty by making vital disclosures on cartels. The idea has been to engage the industry not only for prompt detection and rectification of competition problems but also to make them realize that everyone stands to gain from fair and competitive markets.

13. In recent years, digital markets have been the focus area of competition agencies across the world. Technology and disruptive innovations in the digital economy are continually altering the contours of markets, transforming the ways of doing business, ways of communication and ways of transactions. While, on one hand, digital incursions foster competition by creating more opportunities, bringing transparency to online intermediation and reducing search cost for consumers, on the other hand, the increasingly technology-laden economy is bringing new issues and concerns to competition policy discourse.

14. There has been a steady rise in cases reviewed by CCI emanating from new-age markets, which range from across the verticals, such as search engines, online marketplace platforms, app stores, payment gateways, online travel, food aggregators, cab aggregators and social networking. Such cases involving search

bias, predatory pricing, deep discounting, self-preferencing and leveraging have a direct interface with competition law regime. The Commission's role in such cases is to ensure that platforms, which act as a central point of interaction between different sides in digital markets, remain neutral, offer a level playing field and allow enterprises, big or small, to compete on merit.

15. Merger control in digital markets also presents some unique challenges. With increasing numbers of acquisitions and investments, large platforms are rapidly expanding the scope of their business interests with the possible motivation of collecting complementary data that help reinforce their market position. Data is a crucial factor for economic power and for judging market power on the internet. An important issue is how to account for data in a merger assessment. Since not all digital markets are alike, nor is all data, interventions in merger reviews in technology markets need to be guided by case-specific economic evidence of competition concerns.

16. In these fast-evolving and dynamic markets, the regulatory stance needs to be nuanced, and the enforcement toolbox needs to be adapted to these changes so that the instrumentality remains fit for purpose. The challenge is to keep abreast of the developments in these markets and continue to evolve and refine the tools. This will help make timely interventions and strike a fine balance so that efficiency and innovation are not stifled and markets remain free from anti-competitive practices.

17. CCI has also been continuously streamlining processes and procedures to meet the demands of the times. Presently, CCI is in the process of introducing a confidentiality regime in line with the best global practices in consultation with stakeholders.

18. As I mentioned previously, the last two years have been very challenging for almost all sectors and economies across the world.

19. While the pandemic has obvious health implications, it has also given rise to serious economic consequences. The lockdowns of various degrees that have been in place from time to time to flatten the curve of rising COVID-19 infections resulted in unprecedented disruptions to the normal course of economic activities. CCI, however, rose to the occasion and took several measures to meet the regulatory challenges posed by the pandemic. To this end, CCI leveraged technological tools to ensure that competition regulation continues uninterrupted.

20. Let me briefly touch upon some such initiatives. To cope with significant changes in supply and demand patterns arising out of this extraordinary situation, CCI issued an advisory as early as April 2020 for the guidance of stakeholders. This enabled businesses to take swift commercial decisions without unduly worrying about regulatory actions.

21. During the nationwide lockdown, CCI proactively initiated a system of electronic filing and digital payment of fees. For the benefit of all stakeholders, dedicated helplines were set up and various guidelines issued from time to time. Furthermore, statutory and other meetings were conducted in the virtual mode, and information, notices and submissions were accepted electronically. Thus, the need for physical interaction with the Commission was nearly eliminated. Further, all proceedings with parties were seamlessly conducted by CCI through the virtual mode. On the merger control side, pre-filing consultations were facilitated through the video conferencing mode. The investigation arm i.e., Office of the Director General adopted new, legally acceptable methodology to take digital depositions during investigations, duly maintaining the sanctity and integrity of the process. Simultaneously, CCI, being cognizant of the need and significance of inorganic growth for enterprises to attain size, scale and efficiency, strived for faster approvals of mergers and acquisitions to promote economic recovery. From the onset of the pandemic till date, CCI has decided 140 merger filings in diverse sectors such as financial markets, pharmaceuticals & healthcare, power and

digital markets.

22. Further, as part of its ongoing and regular efforts to make M&A filings approval faster during COVID, CCI continued to promote the automatic system of approval for combinations under Green Channel, which was introduced in August 2019. This first-of-its-kind, trust-based system in the world aims to sustain speedy, transparent and accountable merger review, striking a balance between facilitation and enforcement and creating a culture of voluntary compliance that supports economic growth. More than 40 Green Channel notices have been received since introduction, with over a quarter of the transactions being filed under this route, demonstrating stakeholders' confidence.

23. CCI also took several initiatives to ease compliance burden by constantly and dynamically reviewing its processes to make them market-friendly. For instance, CCI amended the Merger Control Regulations to dispense with the requirement of providing information on non-compete arrangements in merger filings. Further, revised guidance notes were issued which gives parties to the combination clarification notes on the information to be filed with CCI.

24. Further, during the pandemic, CCI continued with its practice of complementing enforcement efforts by conducting market studies. At the beginning of last year, CCI completed a market study on e-commerce that was undertaken to develop a better understanding of the novel competition issues emerging with the growing importance of digital platform-centric commerce. Market studies in the telecom and pharmaceutical sector were concluded this year. The telecom study brought out new issues and challenges from the competition law perspective with the market moving towards data-based applications and services, and technology-led convergence across the value chain. Competition concerns arising out of data were flagged, and it was highlighted that the antitrust law framework is broad enough to address the exploitative and exclusionary behaviour arising out of privacy standards and

entities commanding market power. The study accentuated the need for a harmonious regulatory environment, focusing on strengthening cooperation among sectoral regulators and the competition authority. The pharma sector study aimed at identifying the regulatory and policy levers that can improve market outcomes, especially on price and quality, and harness industry–government partnership for the provision of affordable medicines. With the overarching objective of understanding the competition landscape in the pharmaceutical sector in India, the study focused on the specific realms of the distribution architecture for drugs (including the emergence of e-pharmacies), trade margins, prevalence of branded generic drugs in India and its implications for competition.

25. Another important milestone during 2020–21 was the setting up of the first regional office of CCI to enable easy accessibility to stakeholders. On 26 February 2021, CCI operationalized its first regional office at Chennai, which will cater to Andhra Pradesh, Karnataka, Kerala, Tamil Nadu, Telangana, Puducherry and Lakshadweep. Along with strengthening advocacy outreach activities, the regional office is expected to facilitate enforcement by acting as a centre for filing and receiving cases as well as facilitating investigation, follow-up court cases and online depositions in coordination with the Delhi office. CCI is also in the process of setting up regional offices in the eastern and western regions.

26. Before I conclude, let me also mention the advocacy initiatives undertaken by CCI in all these years, which have evolved as a non-intrusive measure, highlighting a trust-based, acceptable and inclusive competition compliance regime among stakeholders. CCI, through competition advocacy with stakeholders such as central and state governments, PSUs, industry, trade associations, professional bodies and academia, promotes the importance of a culture of competition across sectors. The outbreak of COVID-19 posed formidable challenges in terms of the effective continuance of the Commission's advocacy initiatives. However, all advocacy initiatives of the Commission not only continued unabated but were also implemented efficiently through online modes



despite the constraints posed by the pandemic.

27. Through sustained and focused advocacy initiatives, CCI continued its efforts to ensure that procurement markets remain competitive so that public money is well-spent and fiscal space is created for funding other socio-economic priorities. For greater outreach, state-level advocacy literature was translated to different regional languages.

28. As we prepare ourselves to celebrate the 75<sup>th</sup> anniversary of Indian Independence, it is only appropriate that we gear ourselves to build our capacities to address the challenges looming on the horizon. To commemorate the landmark milestone, and for a resurgent Aatmanirbhar Bharat, I am confident that events such as this would help in developing a regulatory framework which will merge the best of tradition with the most modern, global outlook. On this momentous occasion, as we sit on the cusp of paradigm changes in the economy, CCI would have a key responsibility to discharge in helping markets evolve, keeping a firm watch on any anti-competitive conduct in the process.

29. Ms. Zia Mody and Mr. Sidharth Sharma have asked CCI to come out with Guidance Notes for the benefit of industry. Jurisprudence is still evolving and our orders provide some indication of our thought process, however, wherever there are gaps, we will come out with FAQs. Also, I have noted other suggestions from the eminent panelists.

30. With this, let me conclude by again congratulating CII for conceiving and designing this event on a theme of great topical and contemporary relevance. I am sure this would go a long way in spreading awareness about the nuances of competition law regime amongst its members. We will look forward to the deliberations and suggestions that emerge from this two-day conference, which will guide the future journey of CCI in implementing this dynamic legislation.

Thank you very much.

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