

## WORKSHOP ON COMPETITION ISSUES IN AUTOMOTIVE INDUSTRY

**Friday 8<sup>th</sup> March, 2019, Diwan- I - Am Hall, Hotel Taj Mahal, Mansingh Road, New Delhi**

This workshop is part of the Commission's efforts to proactively engage with different stakeholders in the automobile sector to discuss competition issues and possible solutions. It is felt that the automobile sector could be one of the sectors where different anti-competitive practices like cartels, abuse of dominance or restrictive vertical agreements could potentially exist. Through this engagement, the Commission hopes to create awareness amongst the stakeholders of automotive sector about competition laws and its compliance.

0900– 1000 hrs	<b>Registration</b>	
1000 – 1100 hrs	<b>Inaugural Session</b>	
	<b>Welcome Address</b>	<b>Mr Kenichi Ayukawa</b> Vice-President, SIAM & MD, Maruti Suzuki India
	<b>Industry View</b>	<b>Mr Vinod Aggarwal</b> Treasurer, SIAM and MD & CEO, Volvo Eicher Commercial Vehicles
	<b>Address</b>	<b>Mr Pravin L. Agrawal</b> Joint Secretary, Department of Heavy Industry, Ministry of Heavy Industries & Public Enterprises
	<b>Theme Address</b>	<b>Mr Ashok Kumar Gupta</b> Chairperson Competition Commission of India (CCI)
	<b>Vote of Thanks</b>	<b>Mr Vinnie Mehta</b> Director General, ACMA
1100 – 1130 hrs	<b>Tea/Coffee Break</b>	

<p>1130 – 1230 hrs</p>	<p style="text-align: center;"><b><u>SESSION 1 - Abuse of Dominance</u></b></p> <p>While there is immense competition in the automobile market, the market is characterized by innovative firms/OEMs engaged in creating product differentiation and creation of affordable mobility solutions for a broad spectrum of consumers. However, these different designs are specific to each brand and product differentiation in conjunction with high switching cost of the primary product may lead to customers being ‘locked-in’ in the after-market consisting of unique replacement parts, post warranty service or other “consumables” specific to the primary product. There are allegations that OEMs do not allow their authorized dealers to sell their spare parts, tools, repair manual <u>over the counter</u> inhibiting the ability of independent repairers mainly in the unorganized sector to attend to the servicing requirements in the open unregulated aftermarket. Concerns have been raised that OEMs may be restricting independent unorganized repairers and other non-authorized repairers from accessing the secondary market and marking up the prices of spare-parts.</p> <p>In view of the above, the issues to deliberate upon in this session would be -</p> <ul style="list-style-type: none"> <li>✓ What could be the possible rationale for regulating/restricting supply of auto component to independent distributors/repairers?</li> <li>✓ What may be the implications of such practices on the aftermarket?</li> <li>✓ Are there any issues of standards, quality or regulatory gaps that need to be addressed for making the aftermarket more competitive?</li> <li>✓ Do you feel that anti-trust bodies should go beyond the traditional tools of assessment of abuse of dominance, especially in the cases of aftermarkets?</li> <li>✓ What could be the best way of defining relevant market in such cases?</li> </ul>
	<p><b>Session Chairman</b> <b>Ms Payal Malik</b> Adviser, Competition Commission of India</p>
	<p><b>Session Moderator</b> <b>Mr Nandkumar Nair</b> Ex Automotive Editor, Zee Business</p>
	<p><b>Panel Speakers</b> <b>Mr Avik Chattopadhyay</b> Co-Founder, Expereal</p> <hr/> <p><b>Mr Ramashankar Pandey</b> Managing Director, Hella India Lighting Ltd.</p>

1230-1240 Hrs	<p><b>Mr C S Vigneshwar</b> Honorary Treasurer, FADA</p> <p><b>Ms Nisha Kaur Uberoi</b> Partner, Trilegal</p> <p><b>Mr Naval Satarawala Chopra</b> Partner, Shardul Amarchand Mangaldas &amp; Co.</p> <p><b>Mr Vishal Narula</b> Executive Director (Forensic Services and Anti-Trust Matters), PwC India</p> <p><b>Open House Discussion/ Q&amp;A</b></p>
1240 – 1340 hrs	<b>Lunch Break</b>
1340 – 1440hrs	<p style="text-align: center;"><b><u>SESSION 2 – Cartel &amp; Leniency</u></b></p> <p>Automotive industry, especially some of the supplier segments is characterized by oligopolistic market structure with the presence of very few manufacturers and this could be a conducive environment for horizontal agreements on prices etc. Cartelisation is also possible in the procurement of automotive components by OEMs. There could be entry barriers in the supply of components to OEMs which could lead to the operation of a few OESs only. Thus, there is a possibility of high concentration for each bidding “submarket”. Further, the contracts are for long periods and there is little opportunity to contest between multi-year events. Further, there could be collaborative development between the OEMs and OESs which can lead to information sharing that may prompt each other to impose restrictions. Price fixing, bid rigging and exchange of information are some of the violations that have been alleged in the automotive industry for various goods, including alternators &amp; starters, car glass, wiring harnesses, bearings, fuel-operated parking heaters, flexible foam used in car seats, etc.</p> <p>In view of the above, the issues to deliberate upon in this session would be -</p> <ul style="list-style-type: none"> <li>✓ Can OEMs impose conditions on OESs? If yes, then what conditions can be justified and under what circumstances?</li> <li>✓ Is product differentiation in the automotive sector sufficient to hinder</li> </ul>

	<p>formation of cartels?</p> <ul style="list-style-type: none"> <li>✓ How do Lesser Penalty Regulations work?</li> <li>✓ How is confidentiality maintained in Lesser Penalty cases? What is the experience of CCI and Industry in such cases?</li> <li>✓ What is the role of trade associations – whether they can also become a platform for cartelization – what are the dos and don'ts for trade associations to be competition complaint?</li> </ul>
	<p><b>Session Chairman</b> <b>Mr P.K. Singh</b> Secretary, Competition Commission of India</p>
	<p><b>Session Moderator</b> <b>Mr Adil Jal Darukhanawala</b> Fast Bikes India (EVO Group) Chief Editor</p>
	<p><b>Panel Speakers</b> <b>Ms Radha Chauhan</b> CEO, Government E- Marketplace</p> <p><b>Mr Jnaneswar Sen</b> Partner, Maven Partners LLP</p> <p><b>Mr S Muralidharan</b> President, Lucas Indian Service</p> <p><b>Mr Manish Raj Singhania</b> Honorary Secretary, FADA</p> <p><b>Mr Manas Kumar Chaudhuri</b> Partner, Khaitan &amp; Co.</p> <p><b>Mr M M Sharma</b> Partner, Vaish Associates</p>
1440-1450 hrs	<b>Open House Discussion / Q&amp;A</b>

**SESSION 3 - Vertical Restraints**1450-1550  
hrs

Vehicle Manufacturers may have an exclusivity clause that restrains a car dealership from taking up the dealership of competing OEMs. While this is not anti-competitive in itself, a lot would depend on the market power of both the OEMs and the dealership to assess whether there could be any appreciable adverse effect on competition (AAEC). OEMs may also place limited geographic restrictions on dealers' sales in territories that have been exclusively allocated to another dealer. Theoretically, Resale Price Maintenance (RPM) between auto OEMs and their downstream dealers, when enforced at the instance of the distributors/dealers, may be particularly problematic since it helps to maintain collective interest of the downstream distributors/dealers causing potential consumer harm. Automobile OEMs may have a tie-in arrangement that would induce the customers to purchase other items besides the vehicle itself, such as auto sound systems, CNG kits, car insurance, lubricants, oils, remote systems etc. giving rise to concerns about foreclosure of alternative providers of such products or services.

- ✓ What would be the positive/negative impact of exclusive dealership on competition in India?
- ✓ What would be the implications of geographical restrictions on competition in India?
- ✓ What are the justifications, if any, for imposing exclusive dealership condition?
- ✓ Why has multi brand car dealership not flourished in India?
- ✓ What are the possible justifications for imposing RPM by the manufacturer?
- ✓ When can it be inferred that the RPM imposed has led to negative effect on inter-brand competition to the extent of resulting in AAEC?
- ✓ How are the existing tie-up arrangements interfering with market dynamics?
- ✓ Are there efficiencies in these arrangements?
- ✓ What is the possible rationale for imposing tying up arrangements and when can it be justified?

	<b>Session Chairman</b>	<b>Ms Jyoti Jindgar</b> Adviser, Competition Commission of India
	<b>Session Moderator</b>	<b>Mr Rakesh Batra</b> Partner and Sector Lead Automotive, Ernst & Young
	<b>Panel Speakers</b>	<b>Mr Pravin L. Agrawal</b> Joint Secretary, Department of Heavy Industry, Ministry of Heavy Industries & Public Enterprises
		<b>Mr Pankaj Narula</b> Executive Adviser, Maruti Suzuki India & Senior Adviser, Suzuki Motor Corporation, Japan
		<b>Mr Arvind Melagani</b> General Council, Bosch India
		<b>Mr Vinkesh Gulati</b> Vice President, FADA
		<b>Mr Vaibhav Gaggar</b> Partner, Gaggar & Associates
		<b>Mr Neil Hildreth</b> Associate Partner, PDS Legal
1550-1600 hrs		<b>Open House Discussion/ Q&amp;A</b>
1600 hrs		<b>Vote of Thanks by SIAM followed by TEA</b>