

**THE COMPETITION COMMISSION OF INDIA  
NOTIFICATION**

New Delhi, the \_\_\_\_\_, 2018

**The Competition Commission of India (Procedure in regard to the transaction of  
business relating to combinations) Amendment Regulations, 2018**

**F.No. CCI/\_\_\_\_\_** – In exercise of the powers conferred by section 64 of the Competition Act, 2002 (12 of 2003), the Competition Commission of India hereby makes the following regulations further to amend the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011, namely:—

**1. Short title and commencement.—**

- (1) These regulations may be called the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2018.
- (2) They shall come into force on the date of their publication in the Official Gazette.

**2. In the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011,—**

- (1) in Regulation 2, in sub regulation (3), for the figures and brackets “1956 (1 of 1956)”, the following shall be substituted, namely:-

“2013 (18 of 2013)”;

- (2) In Regulation 5,-

- (a) in proviso to sub-regulation (4), after the words “period provided in”, the following words and punctuation shall be inserted, namely:-

“sub-section (2A) of Section 6 of the Act.”;

- (b) in proviso to sub-regulation (6), after the words “period provided in”, the following words and punctuation shall be inserted, namely:-

“sub-section (2A) of Section 6 of the Act.”;

- (c) in sub-regulation (7),

- (i) in clause (c), the words “registered under the Companies Act, 1956” shall be omitted;

- (ii) in clause (d), the words “or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956)” shall be omitted;
- (3) in Regulation 9, in proviso to sub-regulation (2), after the words “period provided in”, the following words and punctuation shall be inserted, namely:-

“sub-section (2A) of Section 6 of the Act,”;

- (4) in Regulation 14,-

(a) in sub-regulation (2A),-

- (i) after the word “seven”, the following word shall be inserted, namely:-  
“working”;

- (ii) in the second proviso, after the words “period specified in”, the following words and punctuation shall be inserted, namely:-

“sub-section (2A) of Section 6 of the Act,”;

- (b) in proviso to sub-regulation (5), after the words “period provided in”, the following words and punctuation shall be inserted, namely:-

“sub-section (2A) of Section 6 of the Act,”;

- (5) in Regulation 16, sub-regulation (5), after the word “seven”, the following word shall be inserted, namely:-

“working”;

- (6) after Regulation 16, the following regulation shall be inserted, namely:-

**“16A. Withdrawal and refiling of notice.-**

- (1) At any time prior to the issuance of notice under sub-section (1) of Section 29 of the Act, the Commission may on the request of the parties to the combination allow withdrawal and refiling of the notice given under regulation 5 or regulation 8 of these regulations.
- (2) In case of withdrawal of notice under sub-regulation (1), the fee already paid in respect of such notice shall be reduced from the fee payable in

respect of new notice given by the parties to the combination provided the new notice is given within three months from the date of withdrawal.”;

- (7) in regulation 19, for sub-regulation (2), the following sub-regulation shall be substituted, namely:-

“(2) Before the Commission forming an opinion under sub-section (1) of Section 29 of the Act, the parties to the combination may offer modification to the combination and on that basis, the Commission may approve the proposed combination under sub-section (1) of Section 31 of the Act.

Provided that where modification is offered by the parties to the combination, the additional time, not exceeding fifteen days, needed for evaluation of the offered modification, shall be excluded from the period provided in sub-regulation (1) of this regulation, sub-section (2A) of Section 6 of the Act and sub-section (11) of section 31 of the Act.”;

- (8) in Regulation 25, after sub-regulation (1), the following regulation shall be inserted, namely:-

“(1A) Along with their response to the notice issued under sub-section (1) of Section 29 of the Act, the parties to the combination may offer modification to address the *prima facie* concerns in the said notice and on that basis, the Commission may approve the proposed combination under sub-section (1) of Section 31 of the Act.

Provided that in such a case, the additional time, not exceeding fifteen days, needed for evaluation of the offered modification, shall be excluded from the period provided in sub-section (2A) of section 6 of the Act, sub-section (2) of section 29 of the Act and sub-section (11) of section 31 of the Act.”;

- (9) in Regulation 27, for sub-regulation (1), the following sub-regulation shall be substituted, namely:-

“(1) Where the Commission is of the opinion that the modifications to the proposed combination needs supervision, it may appoint agencies to oversee the modification, on such terms and conditions as may be decided by the Commission.”;

- (10) in Schedule I, in category (1), the explanation shall be substituted with the following proviso, namely:-

“Provided that,-

- (a) the Acquirer has ability to exercise only such rights that are exercisable by the ordinary shareholders of the enterprise whose shares or voting rights are being acquired to the extent of their respective shareholding;
- (b) the Acquirer is not a member of the board of directors of the enterprise whose shares or voting rights are being acquired and does not have a right or intention to nominate a director on the board of directors of the enterprise whose shares or voting rights are being acquired and does not intend to participate in the affairs or management of the enterprise whose shares or voting rights are being acquired;
- (c) the Acquirer and the enterprise whose shares or voting rights are being acquired are not, directly or indirectly, engaged in: identical or similar trade of goods or provision of services; or activities at different stages or levels of the production chain; and
- (d) where the Acquirer is a pooled investment vehicle which collects funds from investors, whether Indian or foreign, for investing it in accordance with a defined investment policy for the benefit of its investors; and the enterprise whose shares or voting rights are being acquired and any of the enterprise in which the Acquirer already holds shares or voting rights, are engaged in identical or similar trade of goods or provision of services, or activities at different stages or levels of the production chain, the acquisition is less than five per cent (5%) of the total shares or voting rights of the enterprise whose shares or voting rights are being acquired.”

SMITA JHINGRAN, Secy.

[ ]

**Note:** Principal Regulations were published vide Notification No. F. No. 1-1/ Combination Regulations/2011- 12/CD/CCI in the Gazette of India, Extraordinary, Part III, Section 4, dated the 11th May, 2011 and were subsequently amended by,—

- (a) The Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2012 published vide F. No. 3-1/Amend/Comb.Reg./2012/CD/CCI in the Gazette of India, Extraordinary, Part III, Section 4, dated the 23<sup>rd</sup> February, 2012;
- (b) The Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2013 published vide F. No. 3-1/Amend/Comb. Regl./2012/CD/CCI in the Gazette of India, Extraordinary, Part III, Section 4, dated the 4<sup>th</sup> April, 2013;

- (c) The Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2014 published vide F. No. CCI/CD/Amend/Comb.Reg./2014 in the Gazette of India, Extraordinary, Part III, Section 4, dated the 28<sup>th</sup> March, 2014;
- (d) The Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2015 published vide F. No. CCI/CD/Amend/Comb.Reg./2015 in the Gazette of India, Extraordinary, Part III, Section 4, dated the 01<sup>st</sup> July, 2015; and
- (e) The Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2016 published vide F. No. CCI/CD/Amend/Comb.Reg./2016 in the Gazette of India, Extraordinary, Part III, Section 4, dated the 07<sup>th</sup> January, 2016.

DRAFT (For Public Comments)