



Nishith Desai Associates  
LEGAL AND TAX COUNSELING WORLDWIDE

MUMBAI

SILICON VALLEY

BANGALORE

SINGAPORE

MUMBAI BKC

NEW DELHI

MUNICH

NEW YORK

Research

# Competition Law in India

---

December 2020

---

# Competition Law in India

---

December 2020

[concierge@nishithdesai.com](mailto:concierge@nishithdesai.com)

DMS Code: WORKSITE!570106.1

## About NDA

We are an India Centric Global law firm ([www.nishithdesai.com](http://www.nishithdesai.com)) with four offices in India and the only law firm with license to practice Indian law from our Munich, Singapore, Palo Alto and New York offices. We are a firm of specialists and the go-to firm for companies that want to conduct business in India, navigate its complex business regulations and grow. Over 70% of our clients are foreign multinationals and over 84.5% are repeat clients.

Our reputation is well regarded for handling complex high value transactions and cross border litigation; that prestige extends to engaging and mentoring the start-up community that we passionately support and encourage. We also enjoy global recognition for our research with an ability to anticipate and address challenges from a strategic, legal and tax perspective in an integrated way. In fact, the framework and standards for the Asset Management industry within India was pioneered by us in the early 1990s, and we continue to remain respected industry experts.

We are a research based law firm and have just set up a first-of-its kind IOT-driven Blue Sky Thinking & Research Campus named Imaginarium AliGunjan (near Mumbai, India), dedicated to exploring the future of law & society. We are consistently ranked at the top as Asia's most innovative law practice by Financial Times. NDA is renowned for its advanced predictive legal practice and constantly conducts original research into emerging areas of the law such as Blockchain, Artificial Intelligence, Designer Babies, Flying Cars, Autonomous vehicles, IOT, AI & Robotics, Medical Devices, Genetic Engineering amongst others and enjoy high credibility in respect of our independent research and assist number of ministries in their policy and regulatory work.

The safety and security of our client's information and confidentiality is of paramount importance to us. To this end, we are hugely invested in the latest security systems and technology of military grade. We are a socially conscious law firm and do extensive pro-bono and public policy work. We have significant diversity with female employees in the range of about 49% and many in leadership positions.

## Accolades

A brief chronicle of our firm's global acclaim for its achievements and prowess through the years –

- **Benchmark Litigation Asia-Pacific:** Tier 1 for Government & Regulatory and Tax  
*2020, 2019, 2018*
- **Legal500:** Tier 1 for Tax, Investment Funds, Labour & Employment, TMT and Corporate M&A  
*2020, 2019, 2018, 2017, 2016, 2015, 2014, 2013, 2012*
- **Chambers and Partners Asia Pacific:** Band 1 for Employment, Lifesciences, Tax and TMT  
*2020, 2019, 2018, 2017, 2016, 2015*
- **IFLR1000:** Tier 1 for Private Equity and Project Development: Telecommunications Networks.  
*2020, 2019, 2018, 2017, 2014*
- **AsiaLaw Asia-Pacific Guide 2020:** Tier 1 (Outstanding) for TMT, Labour & Employment, Private Equity, Regulatory and Tax
- **FT Innovative Lawyers Asia Pacific 2019 Awards:** NDA ranked 2nd in the Most Innovative Law Firm category (Asia-Pacific Headquartered)
- **RSG-Financial Times:** India's Most Innovative Law Firm *2019, 2017, 2016, 2015, 2014*
- **Who's Who Legal 2019:**  
Nishith Desai, Corporate Tax and Private Funds – Thought Leader  
Vikram Shroff, HR and Employment Law- Global Thought Leader  
Vaibhav Parikh, Data Practices - Thought Leader (India)  
Dr. Milind Antani, Pharma & Healthcare – only Indian Lawyer to be recognized for 'Life sciences-Regulatory,' for 5 years consecutively
- **Merger Market 2018:** Fastest growing M&A Law Firm in India
- **Asia Mena Counsel's In-House Community Firms Survey 2018:** The only Indian Firm recognized for Life Sciences
- **IDEX Legal Awards 2015:** Nishith Desai Associates won the "M&A Deal of the year", "Best Dispute Management lawyer", "Best Use of Innovation and Technology in a law firm" and "Best Dispute Management Firm"

Please see the last page of this paper for the most recent research papers by our experts.

---

## Disclaimer

This report is a copy right of Nishith Desai Associates. No reader should act on the basis of any statement contained herein without seeking professional advice. The authors and the firm expressly disclaim all and any liability to any person who has read this report, or otherwise, in respect of anything, and of consequences of anything done, or omitted to be done by any such person in reliance upon the contents of this report.

## Contact

For any help or assistance please email us on [conciierge@nishithdesai.com](mailto:conciierge@nishithdesai.com) or visit us at [www.nishithdesai.com](http://www.nishithdesai.com)

## Acknowledgements

**Pratibha Jain**

Pratibha.Jain@nishithdesai.com

**Simone Reis**

simone.reis@nishithdesai.com

**Payel Chatterjee**

Payel.Chatterjee@nishithdesai.com

**Vinay Shukla**

vinay.shukla@nishithdesai.com

**Prashant Prakhar**

prashant.prakhar@nishithdesai.com

**Krithika Ramesh**

krithika.ramesh@nishithdesai.com

**Atikant Kaur**

atikant.kaur@nishithdesai.com

**Mohak Kapoor**

Mohak.Kapoor@nishithdesai.com

# Contents

<b>1. INTRODUCTION</b>	<b>01</b>
<b>2. ANTI-COMPETITIVE AGREEMENTS</b>	<b>02</b>
I. Examination at the stage of Section 26 (1)	04
II. Examination at the stage of passing an order under Section 26 (2) and Section 27	05
<b>3. ABUSE OF DOMINANCE</b>	<b>06</b>
I. Examination at the stage of Section 26 (1)	08
II. Examination at the stage of Section 26 (2) and 27	09
<b>4. PROCEDURAL CONSIDERATIONS IN BEHAVIORAL CASES</b>	<b>10</b>
I. Introduction	10
II. CCI Inquiry Process	10
III. Before DG Investigation	10
IV. DG Investigation	10
V. Post DG Investigation	11
VI. Special Investigative Tools	13
VII. Leniency	13
VIII. Leniency available for cartels only	13
VIII. Leniency process before the CCI	13
IX. Dawn raids	14
X. Applicable cases	14
XI. Appeal process	14
XII. Appealable orders	14
XIII. Procedure before the NCLAT	15
XIV. Supreme Court	15
XV. Writ jurisdiction	15
<b>5. MERGER CONTROL REVIEW</b>	<b>16</b>
I. Overview of the merger control regime under the Competition Act	16
II. Jurisdictional thresholds	16
III. Exemptions	17
IV. Statutory Exemptions	17
V. Target Based Exemption	18
VI. Other MCA exemptions	18
VII. Process considerations	18
VIII. Phase I and Phase II Inquiries	18
IX. Form I v. Form II	19
X. Green Channel	19
XI. Pre-filing Consultation	19
XII. Post CCI Notification	19
XIII. Assignment of case team	20
XIV. Consequences for non-compliance	20
XV. Appeals	20

<b>6. RISK MITIGATION STRATEGIES BASED ON JURISPRUDENTIAL TRENDS</b>	<b>21</b>
I. Introduction	21
II. High scrutiny sectors	21
III. General take-aways for high scrutiny sectors	21
IV. High level risk mitigation strategies for market leaders	23
V. Determining compliance requirement	23
VI. Arrangements with distributors and dealers	23
VII. Dual role of regulator and participant	24
VIII. High level risk mitigation strategies for dealing with rivals	24
IX. Direct contact with competitors	25
X. Indirect contact with competitors	25
XI. Observations and recommendations	25
<b>ANNEXURE A</b>	<b>26</b>
Summaries of Cases discussed in the Report	26
<b>ANNEXURE B-1</b>	<b>38</b>
Orders under Section 26 (1) of the Act Directing Investigation by DG	38
<b>ANNEXURE B-2</b>	<b>42</b>
Orders Passed under Section 26 (2) of the Act by the Commission Dismissing the Case	42
<b>ANNEXURE B-3</b>	<b>58</b>
Orders under Section 26 (6) of the Act directing further investigation	58
<b>ANNEXURE B-4</b>	<b>61</b>
Orders under Section 27 of the Act holding conduct of opposite party in violation of the Act	61

# 1. Introduction

A vibrant and effective competition law framework is essential for the growth of any economy. It helps in regulating a fair market, devoid of any anti-competitive practices that cause harm to the customers as well as the businesses. Competition law is an essential tool to maintain balance in the markets by ensuring that a few prominent players do not single handedly run the show, rather the market operates in a manner wherein the practices do not lead to barriers of entry for small businesses or lead to unfair burden being put on businesses compelling them to indulge in unfair practices, to rise against the competition.

In India, the competition law framework, has emerged from being governed by the erstwhile Monopolistic and Restrictive Trade Practice Act, 1969 (“MRTP”) to the current Competition Act, 2002 (the “Act”). The MRTP Act, was framed on the basis of socialistic ideas and philosophies, which is an essential element of the Directive Principles of State Policy (“DSP”). The primary object of MRTP was to curb and restrict formation of monopolies in the market. It was considered that any such concentration of power in a free market in the hands of a few, will hamper the economic growth and interests of the consumers and thus, must be restricted. However, MRTP did not envisage effective measures against the public sector companies and was unfairly more restrictive to the private sector. Further, terms such as collusion, abuse of dominance, price fixing and bid rigging, were not defined, which lead to the MRTP becoming ineffective to tackle the evolving challenges in the Indian market post reforms in 1991.

Therefore, the Competition Act, 2002 (“Act”) was introduced to cover the inadequacies of MRTP and to serve as an effective legislation to promote fair trade practices in the Indian market. The objective of the Act can be further gathered from its preamble which states as follows *‘An act to provide, keeping*

*in view of the economic development of the country, for the establishment of a Commission to prevent practices having adverse effect on competition, to promote and sustain competition in markets, to protect the interests of consumers and to ensure freedom of trade carried on by other participants in markets, in India...’*

The Act provides for prohibitions and regulates (A) anticompetitive agreements (u/s 3 of the Act) (B) abuse of dominant position (u/s 4 of the Act) (C) combinations (u/s 5 & 6 of the Act). The Act established the Competition Commission of India (“CCI” / “Commission”) and erstwhile Competition Appellate Tribunal (“COMPAT”) (which has now been merged with the National Companies Law Appellate Tribunal (“NCLAT” both referred to together as “Tribunal”), to be the primary authorities vested with the responsibility and powers to implement the provisions of the Act, to curb restrictive trade practices and ensure consumer welfare.

This report examines the development of the competition law framework in India. The report is divided into different chapters, each highlighting the issues and the legal framework under different aspects of competition law. The developments that have been pronounced and effectuated by the commission and the tribunal, in regulating the market practices have been examined for the purpose of presenting an inclusive overview of the practice in India. This report is divided into chapters (I) Anti-Competitive Agreements, under Section 3 of the Act, and examines provisions restricting such practices along with the latest developments by the Courts; (II) Abuse of Dominance, under Section 4 of the Act, and examines factors considered to establish dominance and misuse of such power to create anti-competitive environment in the market; (III) Procedure for investigation under the Act; (IV) Merger Control (V) Risk Mitigation.



## 2. Anti-Competitive Agreements

Section 3 of the Act states that any agreement which causes or is likely to cause an appreciable adverse effect on competition (“AAEC”) in India is deemed, anti-competitive. Section 3 (1) of the Competition Act prohibits any agreement with respect to “*production, supply, distribution, storage, and acquisition or control of goods or services which causes or is likely to cause an appreciable adverse effect on competition within India*”. Although the Act does not define AAEC and nor is there any thumb rule to determine when an agreement causes or is likely to cause AAEC, Section 19 (3) of the Act specifies certain factors for determining AAEC under Section 3:

- i. creation of barriers to new entrants in the market;
- ii. driving existing competitors out of the market;
- iii. foreclosure of competition by hindering entry into the market;
- iv. accrual of benefits to consumers;
- v. improvements in production or distribution of goods or provision of services;
- vi. promotion of technical, scientific and economic development by means of production or distribution of goods or provision of services.

The language in section 19(3) states that the CCI shall have ‘due regard to all or any’ of the aforementioned factors. In the adjudications that have been analyzed by us below, we note that the CCI has examined the allegations and material on record as against the elements of Section 19(3) of the Act as set out above. In *Automobiles Dealers Association v. Global Automobiles Limited & Anr.*<sup>1</sup>, CCI held that it would be prudent to examine an action in the backdrop of all the factors mentioned in Section 19(3).

The Act does not categorize agreements into horizontal or vertical however the language of Sections 3 (3) and 3 (4) makes it abundantly clear that

the former is aimed at horizontal agreement<sup>2</sup> and later at vertical agreements.<sup>3</sup> Horizontal agreements relating to activities referred to under Section 3 (3) of the Act are presumed to have an AAEC within India. The Supreme Court of India in *Sodhi Transport Co. v. State of U.P.*<sup>4</sup> has interpreted ‘*shall be presumed*’ as a *presumption and not evidence itself, but merely indicative on whom burden of proof lies.*

Section 3(3) of the Act provides that agreements or a ‘practice carried’ on by enterprises or persons (including cartels) engaged in trade of identical or similar products are presumed to have AAEC in India if they: -

- Directly or indirectly fix purchase or sale prices;
- Limit or control production, supply, markets, technical development, investments or provision of services;
- Result in sharing markets or sources of production or provision of services;
- Indulge in bid-rigging or collusive bidding.

The first three types of conducts may include all firms in a market, or a majority of them, coordinating their business, whether vis-à-vis price, geographic market, or output, to effectively act like a monopoly and share the monopoly profits accrued from their collusion. The fourth type of cartelized behavior may involve competitors collaborating in some way to restrict competition in response to a tender invitation and might be a combination of all the other practices.

In the *Suo Moto case of Alleged cartelisation in supply of LPG Cylinders procured through tenders by Hindustan Petroleum Corporation Ltd. (HPCL)*<sup>5</sup>, the CCI imposed penalty on 51 bidders in the tender who had withdrawn their bids and the withdrawal had been submitted using a common format and similar language was employed in all letters

1. Case No. 33 of 2011, decided on 3.7.2012.

2. Between actual or potential competitors operating at the same level of the supply chain.

3. Between firms operating at different levels, i.e. agreement between a manufacturer and its distributor.

4. AIR 1986 SC 1099.

5. Case No 1 of 2014 decided on 9.8.2019

submitted to HPCL by many of the bidders on the same day. The fact that there was common understanding between the parties was further supported by the fact that the bids submitted had been uploaded by common agents from the same IP address and the parties were regularly in contact through emails and meetings or common/related management. The parties were also unable to satisfy the CCI with respect to the reasons provided by them for withdrawal and the reasons provided were vague and generic such as unavoidable circumstances. The CCI established the existence of cartels by way of conduct of two meetings and telephonic conversation, wherein price revision along with minimum percentage of price increase to be quoted were discussed. The CCI also held that once an agreement of the types specified under Section 3(3) of the Act is established, the same is presumed to have an AAEC within India.<sup>6</sup>

In *Nagrik Chetna Manch v Fortified Securities Solutions & Ors*<sup>7</sup>, the CCI rejected the contention that the parties that indulged in bid rigging are not competitors as they are engaged in different trades and are, therefore, not covered by the provision of Section 3(3) of the Act and more specifically excluded by the language '*identical or similar trade of goods or provision of services*.' CCI held that if the parties were allowed to escape the grasp of the Act by considering them as not competitors on the pretext that they are actually engaged in varied businesses, it may defeat the very purpose of the provisions of Section 3(3)(d) of the Act. In the same case, the CCI found all six bidders of a tender guilty of bid rigging and in accordance with Competition Commission of India (Lesser Penalty) Regulations, 2009 ('**Leniency Regulations**') permitted leniency for four of the bidders, with highest percentage of reduction of penalty being 50%. We have also come across other cases where CCI has allowed 100% leniency in the matter of cartelization involving price co-ordination in the entire distribution chain, limiting and controlling of production and supply as well as allocation of markets.<sup>8</sup>

The only exception to this per-se rule is in the nature of joint venture arrangements which increase

efficiency in terms of production, supply, distribution, storage, acquisition or control of goods or services. Thus, there has to be a direct nexus between cost/quality efficiencies and benefits to the consumers must at least compensate consumers for any actual or likely negative impact caused by the agreement.

Section 3(4) of the Act provides that any agreement among enterprises or persons at different stages or levels of the production chain in different markets, in respect of production, supply, distribution, storage, sale or price of, or trade in goods or provision of services, including (a) tie-in arrangement; (b) exclusive supply agreement; (c) exclusive distribution agreement; (d) refusal to deal; (e) resale price maintenance, shall be an agreement in contravention of Section 3(1) if such agreement causes or is likely to cause AAEC in India. As can be seen, these agreements are not deemed anti-competitive. Only if they cause or are likely to cause an AAEC in India will these agreements be in violation of section 3(1) of the Act. Vertical agreements relating to activities referred under Section 3(4) of the Act on the other hand have to be analyzed in accordance with the rule of reason<sup>9</sup> analysis under the Act. In essence, these arrangements are anti-competitive only if they cause or are likely to cause an AAEC in India.

For instance, the agreements between manufacturers/distributors and e-commerce players can be looked into under Section 3(4) read with Section 3(1) of the Act as the online platforms may also have a role to play in influencing prices of products listed on their websites.<sup>10</sup> Interestingly, the CCI in *Meru Travel Solutions Pvt. Ltd. V Ani Technologies and Uber India and Ors*<sup>11</sup>, analyzing the scope of term 'agreement', noted that no written or oral agreement has been placed on record and incentives given by Ola and Uber to their drivers and prospective drivers cannot be covered under the definition of agreement. It further stated that such incentive models do not constitute anti-competitive agreements.

6. Case No 5 of 2017, decided on 5.6.2020

7. Case No. 5 of 2015 decided on 1.5.2018

8. Suo Moto Case In Re: Cartelisation in respect of zinc carbon dry cell batteries market in India

9. Rule of reason approach is adopted by the adjudicating authorities, to determine the pro-competitive features arising out of a restrictive business practice, against the anti-competitive features caused by such practice. By way of such comparison, the adjudicating authority determines whether to allow the practice or prohibit it.

10. Case No 61 of 2014, decided on 15.1.2019

11. Case 25-28 of 2017, decided on 20.6.2018

In *M/s Jasper Infotech Private Limited (Snapdeal) v. M/s Kaff Appliances (India) Pvt. Ltd.*,<sup>12</sup> the CCI held that display of products at prices less than that determined by the dealers/distributors, hinders their ability to compete and is thus a violation of Section 3(4)(e) read with 3(1) of the Act. Similarly, imposition of restrictions on the dealers to deal with competing brands in the market and thereby restricting the inter-brand competition too is a breach of Section 3(4) with section 3(1) of the Act.<sup>13</sup> However, as decided in *XYZ vs. M/s Penna Cements, M/s India Cements M/s Bharathi Cements M/s Dalmia (Bharat) Cements etc.*<sup>14</sup> the mere allegation of increasing the prices of a product would not make the transaction anti-competitive.

The Act does recognize that protectionist measures with respect to rights granted under intellectual property laws need to be taken by the holder thereof in the course of activities and entering into agreements and arrangements. Consequently, the Act specifically states that the contours of anti-competitive restraints will not apply with respect to those horizontal and vertical agreements which impose reasonable conditions to protect or restrain infringement of, the rights granted under intellectual property laws. For instance, in the case of *Shri Ashok Kumar Sharma v. Agni Devices Pvt. Ltd.*,<sup>15</sup> it was held that a mere restriction on the use of trademark would not be in violation of Sections 3 or 4 of the Competition Act, 2002.

The Commission examines agreements and its effects in two stages. First, when an order is passed under Section 26 (1) of the Act directing Directorate General for Competition (“DG”) to conduct further investigation and a prima facie view is taken about the agreement and its possible effects. Second, when an order is ultimately passed after DG submits its report and comments are taken from all parties. The Commission may pass an order under Section 26 (6) of the Act closing the case depending on facts and evidence or pass an order under Section 27 of the

Act when Commission comes to the conclusion that there is a contravention of Section 3 of the Act.

## I. Examination at the stage of Section 26 (1)

According to Section 26 (1) of the Act “...if the Commission is of the opinion that there exists a prima facie case....”, the DG shall be directed to investigate the matter. Although ‘prima facie’ has not been defined, it is a settled principle of law<sup>16</sup> that a prima facie analysis is restricted to an examination of material on record without conducting a detailed analysis of material, examination of evidence or detailed examination of merits of the contentions.

As a quasi-judicial body, the Commission is bound by certain constitutional principles and is bound to disclose reasons for its rulings<sup>17</sup> and consequently, the opinion expressed by the Commission under Section 26 (1) of the Act, should not take into account merits of the contentions, should be based on a preliminary review of material on record and finally, the order passed, should have reasons.

For instance, such an analysis was carried out by the Commission in *M/s. Magnus Graphics v. M/s. Nilpeter India Pvt. Ltd.*<sup>18</sup>, where, based on a preliminary review of the provisions of the agreement and a preliminary examination of the effect of such clauses in terms of Section 3 of the Act, the Commission concluded a prima facie case and directed further investigation. Similarly, in *M/s. Financial Software and System Private Limited v. M/s. ACI Worldwide Solutions Private Limited & Ors.*<sup>19</sup>, based on a preliminary review of the clauses of the relevant agreement and its impact in terms of Section 3 of the Act, the Commission directed the DG to investigate further.

12. Case No. 61 of 2014 decided on 29.12.2014

13. Case No. 81 of 2014, St. Antony's Cars Pvt. Ltd. Vs. Hyundai Motor India Ltd. decided on 20.11.2014.

14. Ref. Case No. 7 of 2014 decided on 19.11.2014

15. Case No. 12 of 2015 decided on 07.05.2015.

16. *Shin-Etsu Chemical Co. Ltd. v. Aksh Optifibre Limited & Anr.* 2005 7 SCC 234 and *Ramdev Food Products (P) Ltd. v. Arvindbhai Rambhai Patel & Ors.* (2006) 8 SCC 726.

17. *Seimens Engineering & Manufacturing Co. of India Limited v. Union of India & Anr.* (1976) 2 SCC 981.

18. Case No. 65 of 2013, Order dated 12.12.2013.

19. Case No. 52 of 2013, Order dated 4.9.2013.

## II. Examination at the stage of passing an order under Section 26 (2) and Section 27

In contrast, analysis while passing an order under Section 26 (2) or Section 27 of the Act are more detailed, where the Commission engages in a thorough review of material on record and submissions of the parties and after a detailed analysis, concludes whether an agreement has anti-competitive elements or not. An interesting observation was made by the Commission in *Automobiles Case*<sup>20</sup> where the Commission observed that:

“

*The criterion of attempting to balance the efficiency gains and the foreclosure effects of vertical agreements is to reflect the view that short term efficiency gains must not be outweighed by longer-term losses stemming from the elimination of competition.....[para 20.6.31]*

*Therefore, the Commission is of the opinion that in instances where an agreement, irrespective of the fact that it may contain certain efficiency enhancing provisions, allows an enterprise to completely eliminate competition in the market, and thereby become a dominant enterprise and indulge in abusive exclusionary behavior, the factors listed in section 19(3)(a)-(c) should be prioritized over the factors listed in section 19(3)(d)-(f). [para 20.6.34]*

”

Thus, an agreement may be designed for efficiency, however, if the effect of the agreement causes adverse effects in respect of factors stated in Section 19 (3) of the Act, and these effects are anti-competitive, the Commission would hold that the agreement violates Section 3 of the Act. However, in the case of *M/s. K Sera Sera Digital Cinema Pvt. Ltd. v. Digital Cinema Initiatives. LLC., The Walt Disney Company India, M/s*

*Fox Star Studios, M/s NBC Universal Media Distribution Services Pvt. Ltd. etc.*<sup>21</sup> (“**K Sera Sera Case**”) it was held that if no prima facie case could be established to show an adverse effect on competition, then, the CCI can close such matters under Section 26 (2). The CCI has in two cases pertaining to MakeMyTrip and Oyo ordered investigation into the conduct of the companies, pertinently with respect to price parity and MFN clauses in contracts appearing to be in prima facie contravention of the Act.<sup>22</sup>

In its detailed analysis and review of agreements for the purpose of Section 3, the CCI therefore goes beyond the text of the relevant agreement and examines the effect in terms of clearly identified parameters in Section 19 of the Act. This approach helps contracting parties identify clauses which may be challenged or struck down by the Commission. In *Mohit Manglani v. M/s Flipkart India Pvt. Ltd. & Ors*,<sup>23</sup> it was held that an exclusive arrangement between manufacturers and e-portals is not against Section 3. It is rather to help the consumer make an informed choice.

The Tribunal in *Samir Agarwal v. Competition Commission of India*<sup>24</sup> has noted that matters relating to foreign antitrust jurisdiction with different connotation cannot be imported to operate within the ambit and scope of the mechanism dealing with redressal of competition concerns under the Act. In the same case, the CCI had evolved a jurisprudence on locus standi where it held that the Informant has not suffered any legal injury at the hands of Uber and Ola as a consumer or as a member of any consumer or trade association, therefore the Informant would have no locus to maintain action for alleged contravention. However, in the recent decision in case of *Whatsapp Pay*<sup>25</sup>, the CCI observed that due inquisitorial nature of the Act and the fact that no such specific requirement has been envisaged, the informant need not necessarily be directly aggrieved.

21. Case No. 30 of 2015 decided on 22.04.2015.

22. Case No. 14 of 2019 Order on 28.10.2019 and Case No 1 of 2020 Order on 24.2.2020

23. Case No. 80 of 2014 decided on 23.04.2015.

24. Competition Appeal (AT) No.11 OF 2019 decided on 29. 5.2020

25. Harshita Chawla v. Whatsapp and Facebook inc., Case No.15 of 2020 decided on 18.08.2020

20. *Supra*.

### 3. Abuse of Dominance

Section 4 of the Act is the operative provision of the Act dealing with the abuse of dominant position. This provision is broadly fashioned on the European Union prohibition on abuse of dominance contained in Article 102 of the Treaty on the Functioning of the European Union (*TEFU*).

Section 4 prohibits any enterprise from abusing its dominant position. The term ‘dominant position’ has been defined in the Act as ‘a position of strength, enjoyed by an enterprise, in the relevant market, in India, which enables it to operate independently of competitive forces prevailing in the relevant market; or affect its competitors or consumers or the relevant market in its favour’. The definition of the ‘dominant position’ provided in the Act resonates with the meaning provided to the concept by the European Commission in *United Brand v. Commission of the European Communities case*.<sup>26</sup> In the *United Brands* case the Court observed that:

“  
 ‘...a position of strength enjoyed by an undertaking which enables it to prevent effective competition being maintained on the relevant market by affording it the power to behave to an appreciable extent independently of its competitor, customers and ultimately of its consumers.’<sup>27</sup>  
 ”

The Act defines the relevant market as ‘with the reference to the relevant product market or the relevant geographic market or with reference to both the markets’.<sup>28</sup> The relevant geographic market is defined as ‘a market comprising the area in which the conditions of competition for supply of goods or provision of services or demand of goods or services are distinctly homogenous and can be distinguished from the conditions prevailing in the neighboring areas.’<sup>29</sup> The Act further provides that the CCI shall determine the relevant geographic

market having due regard to all or any of the following factors<sup>30</sup>:

- i. regulatory trade barriers;
- ii. local specification requirements;
- iii. national procurement policies;
- iv. adequate distribution facilities;
- v. transport costs;
- vi. language;
- vii. consumer preferences;
- viii. need for secure or regular supplies or rapid after-sales services.

The relevant product market is defined as ‘a market comprising all those products or services which are regarded as interchangeable or substitutable by the consumer, by reason of characteristics of the products or services, their prices and intended use’. The Act provides that the CCI shall determine the relevant product market having due regard to all or any of the following factors<sup>31</sup>:

- i. physical characteristics or end-use of goods
- ii. price of goods or service
- iii. consumer preferences
- iv. exclusion of in-house production
- v. existence of specialized producers
- vi. classification of industrial products

The abuse of dominance analysis under the Act starts with the determination of market, once the relevant market has been determined; the CCI’s next task is to establish whether the enterprise enjoys a dominant position. It is important to note here that the Act does not prohibit the mere possession of dominance

26. *United Brands v Commission of the European Communities*; [1978] ECR 207.

27. *Ibid.*

28. Section 2 (r) of the Act.

29. Section 2 (s) of the Act.

30. Section 19 (6) of the Act.

31. Section 19(7)

that could have been achieved through superior economic performance, innovation or pure accident but only its abuse.<sup>32</sup>

Therefore, the primary concern in such cases, is not regarding the popularity or market capitalization of the enterprise, rather the concern is limited to the abuse, if any. The CCI has upheld the same position, while analyzing such issues. In the case of *Harshita Chawla v. WhatsApp and Facebook Inc*<sup>33</sup>, CCI examined complaints made against the two companies, for leveraging their dominance in the instant messaging application market. However, the CCI rejected the contentions raised for any violations under section 4(2)(d) of the Act and held that mere existence of an application does not ensure usage. The CCI noted that, the fact that Whatsapp is a major player in the relevant market cannot be taken as abuse of dominance, without any coercive actions. The fact that full discretion lied in the hands of the consumer, in terms of usage, mere provision of service by a popular entity, cannot be deemed as abuse of its dominance.

The Act sets out following factors which the CCI takes into account to establish the dominant position of an enterprise<sup>34</sup>:

- i. market share of the enterprise;
- ii. size and resources of the enterprise;
- iii. size and importance of the competitors;
- iv. economic power of the enterprise including commercial advantages over competitors;
- v. vertical integration of the enterprises or sale or service network of such enterprises;
- vi. dependence of consumers on the enterprise;
- vii. monopoly or dominant position whether acquired as a result of any statute or by virtue of being a Government company or a public sector undertaking or otherwise;
- viii. entry barriers including barriers such as regulatory barriers, financial risk, high capital

cost of entry, marketing entry barriers, technical entry barriers, economies of scale, high cost of substitutable goods or service for consumers;

- ix. countervailing buying power;
- x. market structure and size of market;
- xi. social obligations and social costs;
- xii. relative advantage, by way of the contribution to the economic development, by the enterprise<sup>6</sup> enjoying a dominant position having or likely to have an appreciable adverse effect on competition;
- xiii. any other factor which the Commission may consider relevant for the inquiry.

Dominance per se is not bad. It is only when there is an abuse of the dominant position that Section 4 of the Act is invoked.<sup>35</sup> Thus, once the dominance of an enterprise in the relevant market is determined the CCI has to establish the abuse of its dominance by an enterprise. Section 4 (2) sets out a list of activities that shall be deemed abuse of dominant position.

- i. anti-competitive practices of imposing unfair or discriminatory trading conditions or prices or predatory prices,
- ii. limiting the supply of goods or services, or a market or technical or scientific development, denying market access,
- iii. imposing supplementary obligations having no connection with the subject of the contract, or
- iv. using dominance in one market to enter into or protect another relevant market.

The list of abuses provided in the Act is meant to be exhaustive, and not merely illustrative. This broadly follows the categories of abuse identified under Article 102 of TEFU. The Act also exempts certain unfair or discriminatory conditions in purchase or sale or predatory pricing of goods or service from being considered an abuse when such trading conditions are adopted to meet competition.

32. Section 19 (7) of the Act.

33. Case 15 of 2020, *Harshita Chawla v. WhatsApp Inc. & Facebook Inc.*, decided on 18.08.2020

34. Section 19 (4) of the Act.

35. Case No. 07 of 2015, *Shri Brajesh Asthana, Proprietor M/s Arpita Engineering vs. Uflex Limited* decided on 23.04.2015.

## I. Examination at the stage of Section 26 (1)

Similar to orders passed in respect of Section 3, CCI may pass an order at each of the following stages in respect of allegations under Section 4:

- a. Orders passed under Section 26 (1) of the Act directing further investigation,
- b. Orders passed under Section 26 (2) directing that the matter be closed,
- c. Orders passed under Section 26 (6) directing that the matter be closed,
- d. Orders passed under Section 27 holding that a violation has been committed.

In the case of *M/s Fast Track Call Cab Private Limited v. M/s ANI Technologies Pvt. Ltd.*<sup>36</sup>, the CCI was of the prima facie view that the predatory pricing, providing more incentives and discounts to customers and drivers compared to the revenue earned, resulted in ousting the existing players out of the market, created entry barriers for the potential players in violation of provisions of Section 4 of the Act. Moreover, the quantity of resources and the dependence of the consumer in the relevant market with no substitute are relevant factors to be taken into consideration when looking for acts in violation of Section 4.<sup>37</sup>

Subsequently, in the case of *Uber India Systems Private Limited v. CCI*,<sup>38</sup> a similar matter was brought before the Supreme Court of India, against the order of the COMPAT. COMPAT had taken the view that prima facie, there was a case made out against operator such as Uber, as they were engaging in malpractices by offering significant discounts and incentives, to beat the competition. The Apex court, while observing explanation given under section 4(a), held that the practice of offering such incentives which although lead to the company incurring losses per trip, has the result of creating an unfair advantage to such

operators as opposed to their competitors. However, this stance has not been received well, as arguments have been made that in cases dealing with such markets, the courts must take into account the market structure rather than just the company's ability to offer deep discounts. It has been argued, that such a precedent hurts the new entrants rather than the established players like Uber.

As was examined in respect of Section 3, the Commission only forms a *prima facie* view while passing an order under Section 26 (1) and Section 26 (6) of the Act. However, while passing an order under Section 26 (2) or an order under Section 27 of the Act, the Commission carries out an 'effects' based approach on the text of the agreement and other factors. In other words, the Commission seeks to determine the impact that any practice conducted by an entity is likely to cause or is causing in the market.

For instances, in the matter of *Tata Power Delhi Distribution v. Competition Commission of India*<sup>39</sup>, the commission observed that the primary issue was of the harm caused to the consumers by an action of abuse of dominance. However, in this case, due to tariffs being fixed by the regulatory body, the harm could not have been attributed to the company.

Perhaps as a matter of strategy, complainants raise grounds of abuse of dominance in majority of the cases as well. At the preliminary stage, while passing an order under Section 26 (1) of the Act, the Commission generally examines the number of participants in the market to examine if the opposite party, on a *prima facie* review of material on record shows that the opposite party does enjoy a dominant position. For instance, in cases against Coal India<sup>40</sup>, Commission relied on its earlier rulings where Commission had observed that Coal India held a dominant position in the market. If the Commission is of the *prima facie* view that there exists reasonable justification, owing to the market conditions or standard practices, then no violation can be determined.

36. Case No. 06 of 2015 decided on 24.04.2015.

37. Case No. 88 of 2014, Sunrise Resident Welfare Association vs. Delhi Development Authority decided on 23.04.15.

38. *Uber India Systems Pvt Ltd. V. Competition Commission of India*, (2019) 8 SCC 697

39. Case No.20 of 2017, *Tata Power Delhi Distribution v. Competition Commission of India*

40. Case No. 37 of 2013, *West Bengal Power Development Corporation Limited v. Coal India Limited & Ors.*, Order dated July 5, 2013, Case No. 44 of 2013, *Sponge Iron Manufacturers Association v. Coal India Limited & Ors.*, Order dated July 23, 2013.

## II. Examination at the stage of Section 26 (2) and 27

The analysis at the stage of examining the merits of the case, entails a more detailed review of material on record, report of the DG (if applicable) and contentions of the parties. Ascertaining whether a party enjoys a dominant position in the market depends on the 'relevant market' and the position of the opposite party in the relevant market.

The relevant market is identified by ascertaining either the geographical or product market. Consequently, identification of the relevant market itself, is a contentious issue and CCI identifies relevant market as a preliminary point. Being a popular player in the relevant market alone would not be enough to prove dominance if there are more players in the market.<sup>41</sup>

Similarly, in the case of *Google Inc.*<sup>42</sup>, the Commission relied on the DG Report submitted after calling for an investigation as per section 26(1); wherein it was proved that Google abused its dominant position in the relevant market, i.e. the web/ad search market in India. The findings were based on the following factors such as its volume of business, total revenue, its market share and the severe barriers to entry created with regards to the scale of operations and technology.

It is however noteworthy that merely being in a dominant position is not a violation of Section 4 of the Act; it is only abusive behavior which can cause AAEC in respect of which the Commission will issue a cease and desist order.

---

41. Case No.14 of 2015, Ravinder Pal Singh vs. BPTP Limited & Others, decided on 24.04.2015

---

42. Case 07 & 30 of 2012, decided on 08.02.2018.



## 4. Procedural Considerations in Behavioral Cases

### I. Introduction

This section provides a brief overview of the CCI's inquiry process and appellate process. The timelines and milestones set out in the chapter are meant to be exemplary. We recommend reaching out to our experts for an opinion on procedural considerations or strategic advice on a specific case.

### II. CCI Inquiry Process

This section lays down the basic structure of the inquiry before the CCI. The section attempts to provide a pithy substance of the CCI process before the DG investigation, during and after the DG investigation.

### III. Before DG Investigation

Any person can file a complaint before CCI.<sup>43</sup> The CCI may also suo moto inquire into matters on its own.<sup>44</sup> Once a complaint is filed, the CCI considers whether to send the matter to the DG for investigation. At this stage, the complaint is typically confidential, and the Commissioners seek recommendations from the antitrust case team assigned to the matter. Inputs from the economics division are also sought in complex cases involving novel markets, such as the hi-tech sector.

The CCI may opt to call the complainant or the opposite party for a preliminary conference before

taking a stance on passing the investigation order.<sup>45</sup> A preliminary conference is not available as a matter of right to any of the parties. The CCI typically calls a conference in cases where it requires additional information from the parties. The informant or complainant's role is to set the CCI's inquiry in motion. After consideration of the matter, if the CCI either passes an order directing the DG to investigate<sup>46</sup> or passes an order dismissing the complaint.<sup>47</sup> Details on the appealability of these orders have been set out in our section dealing with appeals below. The CCI also has the power to pass a temporary injunction while the DG investigation is pending.<sup>48</sup>

### IV. DG Investigation

- a. Once an investigation order is passed, the complaint and any other filings made by the parties are sent to the DG case team assigned on the matter. The DG case team prepares an investigation report containing its recommendation on contravention by the opposite party.
- b. The DG's mandate is prescribed by the CCI's investigation order and investigation on matters falling beyond the CCI investigation order are considered *ultra vires*.<sup>49</sup> Typically, the CCI gives the DG 60 days to complete the investigation. It is ordinary practice for the DG to seek additional time. Over the past few years, we have witnessed that investigation reports in simple cases take around two years to complete.
- c. Ordinarily, the DG reaches out to the parties by sending a request for information. The first

43. Section 19 of the Act. In *Samir Agarwal v. CCI Competition Appeal (AT) No.11 OF 2019*, the NCLAT has taken a view that 'any person' means 'a person who has suffered invasion of his legal rights as a consumer or beneficiary of healthy competitive practices'. Based on this, the NCLAT held that an independent practicing lawyer would not have standing under the Act. The impact of this decision does not preclude the CCI from using an information by a party lacking standing (in the terms prescribed by the NCLAT) to set an inquiry in motion. The NCLAT order is available here: <https://nclat.nic.in/Useradmin/upload/9123996565ed0ea3ec766.pdf>

44. Section 19 of the Act.

45. Regulation 17 of the CCI General Regulations.

46. Section 26(1) of the Act.

47. Section 26(2) of the Act.

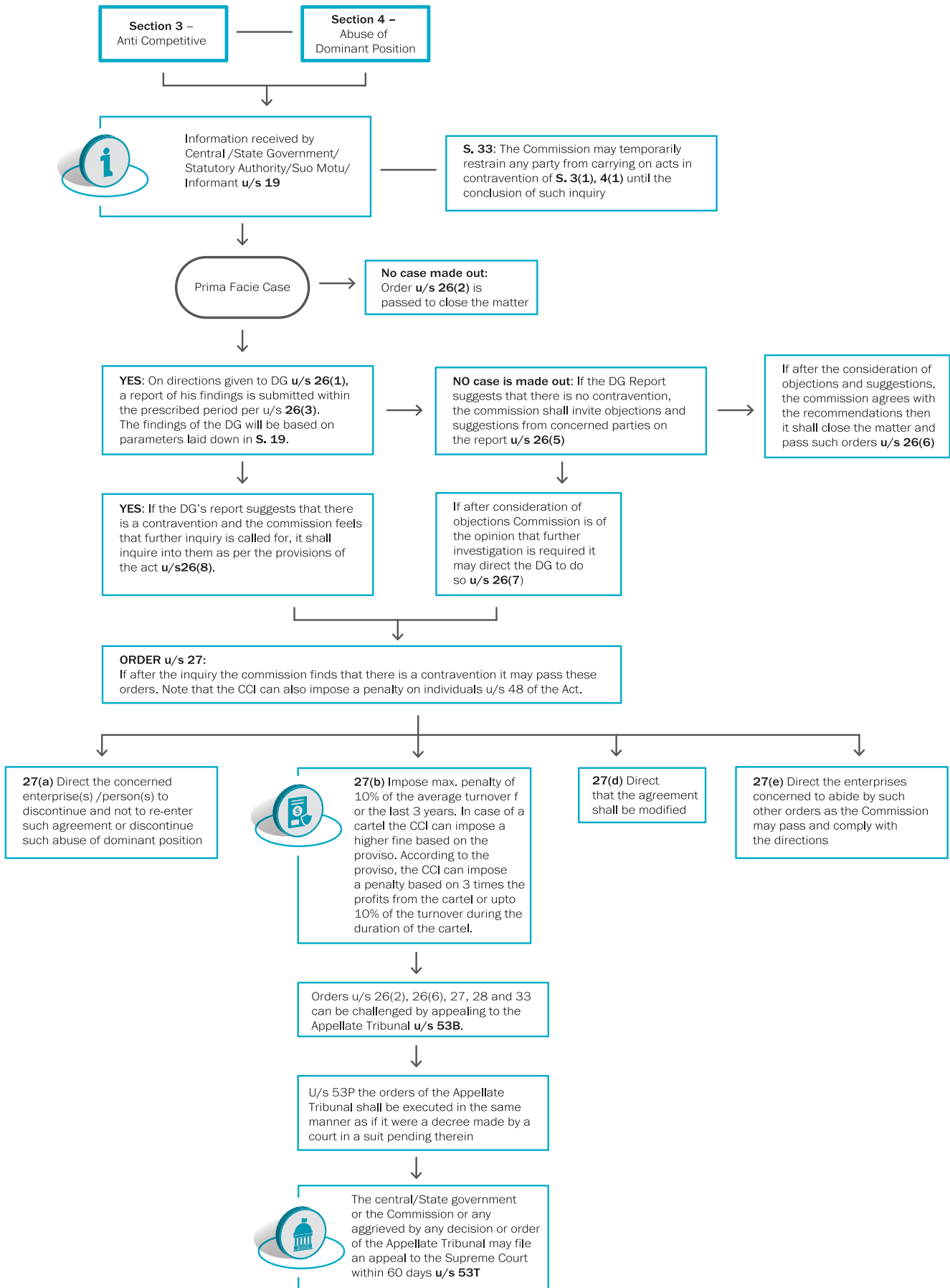
48. Section 33 of the Act.

49. *Fx Enterprises v. Hyundai* Case Nos. 36 & 82 of 2014 available here: <https://www.cci.gov.in/sites/default/files/36%20and%2082%20of%202014.pdf>

- communication seeking information also appends a copy of the investigation order passed by the CCI. The communication also sets out the time to respond to the request. Parties can ask for extension of time to respond to the communication.
- d. While it is the DG's discretion to accede to an extension request, the office typically grants a series of short extensions in case the information collection is expected to be onerous. Subject to fulfilling the filing formalities prescribed under the Act, the parties can request the DG to maintain confidentiality over portions of the information they submit.
  - e. The parties can use the communication from the DG to file a request to inspect the public files on the matter at the CCI. The inspection would typically allow parties access to the non-confidential versions of the CCI orders, complaints and filings made by any party on the matter. Based on the inspection, the parties can make a request for certified copies of the complaint, CCI orders or any other filings.
  - f. Apart from seeking information directly from the parties, the DG has other investigatory tools like depositions and dawn raids. Details on dawn raids are provided in our section dealing with special investigatory tools. Depositions are conducted under oath. Statements made by the deponent during the deposition are deemed to be non-confidential. The DG usually allows one lawyer to accompany the deponent during the deposition. Conferment with the lawyer during the deposition is discouraged by the DG.
  - g. Once the DG's information collection process is completed, a report is prepared. The report summarizes the conclusions reached by the DG and appends as annexures the filings made by the parties in support of the conclusions ('**DG Report**'). Note that the DG Report does not necessarily annex all the information collected by the DG during the investigation. In other words, the DG Report annexes information that supports the DG's finding.
  - h. The onus is on the parties to conduct an inspection of the DG records to identify any additional submissions that may be useful to highlight before the CCI. The DG Report is submitted and presented by the DG case team before the CCI at an internal meeting.
  - i. Post the presentation, the CCI considers the Report and decides whether further investigation is needed on any aspects. If the CCI deems the DG Report to be complete, it circulates a non-confidential version (i.e., with confidential information redacted) of the DG Report to the informant and opposite parties.

## V. Post DG Investigation

- a. The parties receive the DG Report along with instructions on the deadline to submit the comments to the DG Report and date of the final hearing.
- b. The parties may seek extension of time or deferral by filing an application before the CCI. The opposite parties may also file an application seeking access to the underlying confidential information in the DG Report for the limited purpose of exercising their right to fair defense.
- c. Like the process before the DG, parties can request confidentiality over the information filed. Granting such requests is entirely left to the discretion of the CCI, although the parties may have appellate recourse.
- d. Hearings before the CCI are in-camera and the CCI may put a cap on the number of representatives that are allowed in the final hearing. After considering the oral and written submissions of the parties, the CCI passes a final order. This process is reflected in the chart below.



## PROCEDURAL CHART: Section 3 and 4

## VI. Special Investigative Tools

Despite the wide investigatory and penal powers of the CCI, enforcement suffers because of the difficulty of detecting anti-competitive conduct. For instance, using circumstantial evidence alone may not be enough to establish a cartel. Keeping this in mind, the CCI has certain investigative tools like leniency and dawn raids that allow the CCI to strengthen its enforcement efforts. The following section provides a brief overview of the special investigatory tools available with the CCI.

## VII. Leniency

Under Section 46 of the Act, the CCI has the power to impose a lesser penalty on a member of a cartel who has made full and vital disclosure to the CCI in respect of the alleged violations. This is part of the CCI's leniency program that creates an incentive mechanism for individuals to come forward and disclose actual and suspected violations of the Act.<sup>50</sup>

## VIII. Leniency available for cartels only

Leniency is available to companies or individuals who disclose to the CCI their role in a cartel and cooperate with subsequent investigations, they are rewarded by a reduction of or complete amnesty from penalty.<sup>51</sup> Leniency programs are universally accepted as being the best way to combat cartels. To effectuate the leniency programme, the CCI has issued the Leniency Regulations.

Between 2018 to 2019 alone the CCI passed orders in six matters where lesser penalty applications were filed under Leniency Regulations and the applicants got either 100% or significant waiver of penalty.<sup>52</sup> These

included 3 cases of bid-rigging in tenders issued by a municipality and another 3 cases of dry cell batteries.<sup>53</sup>

The CCI can give amnesty to any number of applicants. Applicants marked as first marker can get up to 100% penalty waiver, applicants with second marker can get up to 50% penalty waiver and applicants marked third can get up to 30% penalty waiver.

## VIII. Leniency process before the CCI

- a. As a first step of securing a market position before the CCI, the counsel or applicant must contact the CCI to check if a marker position is available. Both companies and individuals are eligible for marker positions.
- b. Once the CCI confirms, an application requesting market position should be filed with the CCI. This can be done orally or through email.
- c. Following from this, the CCI within 5 business days conveys to the applicant if the applicant's priority status has been marked. If the initial information furnished by the applicant was oral or indicative, the CCI will give 15 days to the applicant to furnish complete information as per the form prescribed in the Schedule to the Leniency Regulations.
- d. The CCI expects the applicant to cease and desist from the conduct, demonstrate continuous cooperation with the investigation and comply with its disclosure requirements.<sup>54</sup> The identity of the applicant and the information provided are treated as confidential by the CCI and the DG.<sup>55</sup> However, confidentiality can be waived by the applicant through written consent or disclosure.<sup>56</sup>
- e. The CCI can also disclose the identity or information for the purposes of the Act. The DG

50. CCI booklet on leniency available here: [https://www.cci.gov.in/sites/default/files/advocacy\\_booklet\\_document/Leniency.pdf](https://www.cci.gov.in/sites/default/files/advocacy_booklet_document/Leniency.pdf)

51. CCI booklet on leniency available here: [https://www.cci.gov.in/sites/default/files/advocacy\\_booklet\\_document/Leniency.pdf](https://www.cci.gov.in/sites/default/files/advocacy_booklet_document/Leniency.pdf)

52. CCI Annual Report 2018-2019 available here: <https://www.cci.gov.in/sites/default/files/annual%20reports/ENGANNUALREPORTCCI.pdf>

53. CCI Annual Report 2018-2019 available here: <https://www.cci.gov.in/sites/default/files/annual%20reports/ENGANNUALREPORTCCI.pdf>

54. Regulation 3 of the Leniency Regulations.

55. Regulation 6 of the Leniency Regulations.

56. Regulation 6 of the Leniency Regulations.

may also disclose the evidence for the limited purpose of confronting another party after obtaining the information provider's or CCI's consent.<sup>57</sup>

- f. In addition to the DG Report, the DG also shares an internal report with the CCI recording instances of cooperation or non-cooperation by the leniency applicants. Other than the peculiarities discussed above, the investigation follows the same process set out in the CCI inquiry process above.

## IX. Dawn raids

As part of its investigatory powers, the DG can obtain a warrant from the magistrate to conduct a search and seizure on a company.<sup>58</sup> During a raid, the officials from the DG office usually conduct a surprise search and seizure exercise in the local offices of the company being investigated. The raid could last a couple of days.

Parties have the right to inspect the warrant and identity of the officials before allowing them to inspect the premises. Parties can also request the DG to stall the search till lawyers arrive. With a proper warrant, the DG officials can seize relevant documents. At the end of the raid, the parties can ask for a memorandum setting out the search and seizure inventory.

## X. Applicable cases

Thus far the DG has conducted dawn raids in both abuse of dominance and cartel cases – JCB abuse of dominance investigation, beer and dry cells battery cartel cases.<sup>59</sup> Interestingly, the DG has also conducted a dawn raid in the dry cells' battery cartel case just three days after the leniency application was filed with the CCI.<sup>60</sup>

57. Regulation 6 of the Leniency Regulations.

58. Section 41 of the Competition Act.

59. Boost to Dawn Raids in India – Supreme Court Rules Power to Search Includes Seizure as well - Kluwer Competition Law Blog, <http://competitionlawblog.kluwercompetitionlaw.com/2019/02/27/boost-to-dawn-raids-in-india-supreme-court-rules-power-to-search-includes-seizure-as-well/> (last visited Sep 16, 2020).

60. Id.

## XI. Appeal process

The following section sketches out the appeals process to interim, administrative and final orders in cases relating to inquiries under Sections 3 and 4 of the Act.

## XII. Appealable orders

Any aggrieved party can appeal an order under Sections 26(2), 26(6), 28, 27 and 33 of the Act to the appellate tribunal.<sup>61</sup> The Finance Act of 2017 merged the COMPAT with the NCLAT and now all appeals to CCI orders listed under Section 53A of the Act lie before the NCLAT.

Orders directing the DG to investigate conduct under Section 26(1) of the Act are considered administrative orders and are not appealable to the appellate tribunal.<sup>62</sup> However, a 26(1) order can be challenged before the high courts and supreme court under writ jurisdiction.

The inquiry procedure set out in Section 26 of the Act does not account for a scenario where the DG recommends a contravention and the CCI without conducting a further inquiry passes a final order exonerating the opposite parties.

As such, even though these orders would ordinarily be considered final orders, they are not appealable. These types of order have been omitted from the scheme of Section 26 and the list of appealable orders under Section 53A of the Act.

In cases where there is more than one DG Report (i.e., one recommending contravention and other exonerating the parties), the appellate tribunal has read into Section 53A of the Act to categorize the CCI order either under Section 27 or 26(6) (depending on whether the CCI agreed with the DG's contravention or non-contravention recommendation) of the Act.<sup>63</sup> The Competition Law Amendment Bill, 2020 includes these types of order under the revised Section 53A of the Act.

61. Section 53A of the Act.

62. CCI v. SAIL (2010) 10 SCC 744

63. K. M. Chakrapani VS Competition Commission of India & Anr. Competition Appeal (AT) No. 51 of 2018 available here: <https://nclat.nic.in/Useradmin/upload/10340461215cb85dbfc33fo.pdf>

### XIII. Procedure before the NCLAT

An aggrieved party has 60 days from the date of the receipt of the certified copy of the CCI order to challenge it before the NCLAT. In case the CCI order imposes a structural or behavioral remedy on the party that requires compliance before the limitation period, the parties can either file an application before the CCI requesting an extension of time or obtain a stay order from the NCLAT.

To obtain a stay order, the appeal along with the stay application must be filed with the NCLAT. Typically, a matter is listed for admission within three working days of filing the appeal. If there are defects in the appeal, the NCLAT registry usually allows the party to cure defects within seven business days of receiving the notice listing the defects in the appeal.

Stay orders are granted subject to deposit of part of the penalty amount (typically 10%). The hearings before the NCLAT are open to the public and press. Confidential submissions to the NCLAT can be made after obtaining a protective order from the bench.

Post the hearing on stay and once service is complete, the NCLAT allows the parties time to file rejoinders and replies. Once the pleadings filed by parties are

on record, the NCLAT allots a date for final hearings. Following from the final hearing, the NCLAT posts the date for announcing the judgment on the matter on its cause list. The certified copy of the order is usually available within three business days of the judgment being announced in open court.

### XIV. Supreme Court

As reflected in the procedural chart, the orders of the NCLAT can be appealed to the SC within 60 days of communication of the NCLAT order.<sup>64</sup> On demonstration of sufficient cause, the SC can toll the limitation period of 60 days. Similar to the NCLAT, the SC can grant interim relief. Once service and pleadings are completed, the matter is posted for final hearing. Proceedings before the SC are open to the press and public. Confidential filings can be made after obtaining a protective order from the court.

### XV. Writ jurisdiction

A writ to either the HC or SC can be preferred against 26(1) orders or to make constitutional challenges under the Act. These proceedings are open to the press and public. Confidential filings can be made after obtaining a protective order from the court.

64. Section 53T of the Act.

# 5. Merger Control Review

## I. Overview of the merger control regime under the Competition Act

Mergers and acquisitions that cross the jurisdictional thresholds set out under Section 5 of the Competition Act and that do not qualify for any exemptions are considered combinations. Combinations require mandatory CCI approval prior to consummation. Combinations are subject to the standstill provisions of the Competition Act and parties have a suspensory obligation on implementing the combination prior to CCI approval. This chapter provides an overview of the substantive and procedural considerations for deals requiring CCI notification.

The financial thresholds for a combination are determined with reference to (i) the combined asset value and the turnover of the acquirer and the target, in the event of an acquisition and the combined resultant company, in the event of an amalgamation or merger, and (ii) the combined asset value and the turnover of the “group” to which the target / resultant company will belong pursuant to the proposed acquisition / merger.

Under Section 32 of the Competition Act, the CCI has been conferred with extra-territorial jurisdiction. This means that any acquisition where assets/turnover are in India and exceed specified limits) would be subject to the scrutiny of the CCI, even if the acquirer and target are located outside India.

Section 5 has set out the following alternative tests:

Person/ Enterprise	In USD (1 USD= INR 65)		In USD	
	In India		Outside India (Including in India)	
	Assets	Turnover	Assets	Turnover
Parties to the Combination	>INR 2000 crores	>INR 6000 crores	USD>1000 million including at least INR 1000 crores in India	USD>3000 million including at least 3000 crores in India
Group to which the enterprise would belong after the acquisition, merger or amalgamation.	>INR 8000 crores	>INR 24000 crores	USD> 4 billion including at least INR 10,000 crores in India	USD>12 billion including at least INR 3000 crores in India

## II. Jurisdictional thresholds

In terms of Section 5 of the Competition Act, a ‘combination’ involves (1) the acquisition of control, shares, voting rights or assets of an enterprise by a person or (2) the acquisition of control of an enterprise where the acquirer already has direct or indirect control of another engaged in identical business; or (3) a merger or amalgamation between or among enterprises that cross the financial thresholds set out in Section 5.

Note that the term ‘Group’ has been defined under the Competition Act to mean two or more enterprises which, directly or indirectly, are in a position to:

- i. exercise 50% or more of the voting rights in the other enterprise or,
- ii. appoint more than 50% of the members of the board of directors in the other enterprise, or
- iii. exercises ‘control’ the management or affairs of the other enterprise. Control means controlling ‘affairs or management’ of one or more enterprises, either jointly or singly over another enterprise or group.

### III. Exemptions

Combinations are subject to mandatory CCI notification and approval, unless they qualify for one of the exemptions provided under the Act, the Combination Regulations or notifications issued by the MCA. This section sets out the various exemptions available under each of the above-mentioned categories.

### IV. Statutory Exemptions

The prior notification obligation does not apply to any financial facility, acquisition of shares undertaken by foreign institutional investors, venture capital funds, public financial institutions and banks pursuant to an investment agreement or loan agreement. Such transactions need to be notified in the prescribed Form III within seven days of the completion of the acquisition.<sup>65</sup>

Further, schedule I of the Combination Regulations lists the following type of transactions as unlikely to cause AAEC in India and they need not be notified to the CCI.

- i. Minority acquisition exemption: Acquisition of shares of voting rights made solely as an investment or in the ordinary course of the business, that entitles the acquirer to less than 25% of the total shares or voting rights in the target, provided that there is no acquisition of control of the target by the acquirer or the acquirer group.
- ii. Acquisition of shares or voting rights of an enterprise, where:
  - a. The acquirer or the group hold more than 25% but less than 50% of the shares or voting rights in the target prior to the acquisition; and
  - b. There is no acquisition of sole or joint control in the target by the acquirer or acquirer group.
- iii. Acquisition of shares or voting rights of an enterprise, where:
  - a. The acquirer or the group holds 50% or more of the shares or voting rights in the target prior to the acquisition; and
  - b. There is no transition from joint to sole control in the target by the acquirer or acquirer group.
- iv. Acquisition of assets not directly related to the business activity of the party acquiring the asset or made solely as an investment or in the ordinary course of business, not leading to control of an enterprise, and not resulting in the acquisition of substantial business operations in a particular location or for a particular product or service, irrespective of whether such assets are organised as a separate legal entity.
- v. Amended or renewed tender offer, provided notice has been filed with the CCI prior to such amendment or renewal.
- vi. Acquisition of stock-in-trade, raw materials, stores and spares, trade receivables and other similar current assets in the ordinary course of the business.
- vii. Acquisition of shares or voting rights pursuant to a bonus issue, stock split, consolidation, buy back or rights issue, not leading to the acquisition of control.
- viii. Acquisition of shares or voting rights by a securities underwriter or stockbroker on behalf of a client in the ordinary course of its business and in the process of underwriting or stockbroking.
- ix. An acquisition of shares or voting rights or assets, by one person or enterprise, of another person or enterprise within the same group, except in cases where the acquired enterprise is jointly controlled by enterprises that are not part of the same group.
- x. A merger or amalgamation of two enterprises where one of the enterprises has more than fifty per cent (50%) shares or voting rights of the other enterprise, and/or merger or amalgamation of enterprises in which more than fifty per cent (50%) shares or voting rights in each of such enterprises are held by enterprise(s) within the same group. Provided that the transaction does not result in transfer from joint control to sole control.

65. Sections 6(4) and 6(5) of the Competition Act.



- xi. Acquisition of shares, control, voting rights or assets by a purchaser approved by the CCI pursuant to and in accordance with its order under section 31 of the Competition Act.

Note that ‘control’ could be de facto, de jure and material influence. The Act defines it to include controlling the affairs or management by (i) one or more enterprises, either jointly or singly, over another enterprise or group; or (ii) one or more groups, either jointly or singly, over another group or enterprise.<sup>66</sup> Based on past precedent, CCI has considered affirmative rights such as right to approve business plan, commencement of new business line, closing of existing business line, approval of budget and appointment of key managerial persons as being exemplary of control conferring rights.<sup>67</sup> The CCI in the past has also considered negative control (by virtue of ability to block special resolutions of a company) or operational control (by virtue of commercial cooperation agreements with or without involving equity) as control conferring.

## V. Target Based Exemption

Mergers and amalgamations where the target either hold assets less than INR 3.5 billion or generates turnover of less than INR 10 billion are in India are currently exempt from mandatory CCI notification obligation. Asset acquisitions where the value of the relevant assets being acquired is less than INR 3.5 billion in India or turnover of the business division being acquired is less than INR 10 billion in India also qualify for this exemption. This exemption is only valid until March 04, 2021, unless re-notified by the MCA.

## VI. Other MCA exemptions

Additionally, (i) regional rural banks<sup>68</sup>, (ii) nationalized banks<sup>69</sup>, and (iii) central public sector

66. Explanation to Section 5 of the Competition Act.

67. Century Tokyo/Tata Capital Financial Services Ltd C-2012/09/78 available here: <https://www.cci.gov.in/sites/default/files/faq/C-2012-09-78.pdf>; Bandhan Bank/Caladium Investment C-2015/05/278 available here: <https://www.cci.gov.in/sites/default/files/C-2015-05-278.pdf>.

68. <http://www.cci.gov.in/sites/default/files/notification/Notification%20-%2010.08.2017.pdf>

69. <http://www.cci.gov.in/sites/default/files/notification/Notification%2030.08.2017.pdf>

enterprises operating in the oil and gas sectors looking to combine with their partially or wholly owned subsidiaries<sup>70</sup>, were also exempted from the application of such regulation for a period of 5 years (from August 10, 2017), 10 years (from August 30, 2017), and 5 years (from November 27, 2017) respectively.

## VII. Process considerations

The section below provides an overview of the substantive and procedural formalities that parties need to account for prior to making a CCI notification.

## VIII. Phase I and Phase II Inquiries

The CCI must issue a *prima facie* opinion on whether the combination causes AAEC in the relevant market in India within 30 working days from the date the combination is notified (**Phase I review period**). If the CCI finds that the combination is unlikely to cause AAEC, it will approve the combination. The CCI has an outer limit of 210 days to pass an order. If the CCI does not pass an order within 210 days of notification, the combination is deemed approved. Should the CCI find that the combination causes or is likely to cause AAEC in the relevant market, it can either conditionally approve the combination (i.e., subject to divestments or behavioural remedies) or block the transaction. Till date, the CCI has not blocked a combination.

If the CCI at the end of the 30 working days clock, the CCI believes that the combination may cause AAEC in India, it issues a notice under Section 29 of the Competition Act asking the parties why a phase II inquiry shouldn't commence in relation to the combination. The parties may address CCI's concerns through structural or behavioural remedies. If the CCI is not satisfied with the parties' response or remedies, it may initiate a phase II review.

70. <https://www.cci.gov.in/sites/default/files/notification/Notification-22.11.2017.pdf>

Once phase II is initiated, the CCI may ask the DG to investigate and submit a report in respect of the combination. Parties subjected to phase II inquiries are also obligated to publish the Form IV. The CCI also publishes the Form IV on its website and may invite public objections to the combination. The CCI may seek the parties' comments on the public comments. Following from this, the CCI can (i) unconditionally approve the combination, (ii) conditionally approve the combination or (iii) disallow the combination.

## IX. Form I v. Form II

Form I is the shorter one of the two CCI statutory notice prescribed for combinations. Under Form I, parties are required to share corporate information and market facing information including overlaps and market size and shares of the parties. In addition to the corporate and market facing information, Form II requires parties to disclose additional information like estimates of concentration levels, regulatory overview of the businesses conducted by the parties, imports and exports etc. The parties to a combination may opt to file the notification in Form II if combined shares of the parties exceed 15% (horizontally) or 25% (vertical markets). In case the overlaps between the parties fall below 15% (horizontally) or 25% (vertical markets), they may file a notification in Form I.

## X. Green Channel

In furtherance of the Government of India's ease of doing business initiatives, the CCI introduced certain important amendments to its Combination Regulations on August 13, 2019 ('**2019 Amendment Regulations**') with effect from August 15, 2019. The 2019 Amendment Regulations provide for a Green Channel route whereby parties that meet the criteria described below need not wait for the approval of the Commission to consummate a notifiable transaction. Once the acknowledgment of a Form I filed under this Green Channel route has been received by the parties, the transaction will be deemed approved and parties will be able to consummate the transaction immediately.

To avail of the benefit of the Green Channel route, the qualifying criteria is that the parties to the combination, their group entities and each of their, direct or indirect investee entities (even an investment of a single share in a company shall make such company an investee entity) should: (i) not produce/provide similar or identical or substitutable product or service or; (ii) not engage in any activity relating to production, supply, distribution, storage, sale and service or trade in product or service which are at different stage or level of production chain or; (iii) not engage in any activity relating to production, supply distribution, storage, sale and service or trade in product or service which are complementary to each other.

This analysis will also have to be undertaken while considering all plausible alternative market definitions. The acquirer would also be required to make a positive declaration confirming that the combination falls under the Green Channel (meaning there are no overlaps at any level as discussed above). If it is found that either such declaration or any other statement made by it in the Form I is found to be incorrect then the Form I and deemed approval of the Commission shall both be *void ab initio*. The parties will have an opportunity to be heard though before the commission renders the approval *void ab initio*.

## XI. Pre-filing Consultation

The CCI offers informal and verbal pre-filing consultation to parties.<sup>71</sup> The consultations are designed to help parties identify the type of form and necessary information required to complete a valid notification. The process provides efficient merger review. It is also an early channel to identify competition concerns with the case team and preempting their concerns in the follow-on notice.

## XII. Post CCI Notification

The section below provides a high-level overview of the CCI merger filing time frame.

71. CCI's pre-filing consultation guidelines are available here: [https://www.cci.gov.in/sites/default/files/cci\\_pdf/PFCguidancenote.pdf](https://www.cci.gov.in/sites/default/files/cci_pdf/PFCguidancenote.pdf)

### XIII. Assignment of case team

A few business days after the parties have filed the notification with the CCI merger registry, the CCI assigns a case team to review the notification. Should the CCI after review of the information submitted in Form I determine that parties should provide additional information in terms of Form II, it may invalidate the Form I and direct the parties to refile under Form II. In such a case, the 30 working days clock is reset and restarts after the parties file the revised notification. The CCI may also invalidate the notification if its not in accordance with Combination Regulations or if there is any change in the information submitted that changes the competitive assessment. Alternatively, CCI may seek additional information. The review clock stops on receipt of the request for additional information from the CCI and restarts the business day after information is filed with the CCI. Post completion of the review, the case team puts up the matter for consideration before the Commissioners with their recommendation. The CCI can (i) send the matter for phase II inquiry, (ii) conditionally approve the transaction, (iii) unconditionally approve the transaction or (iv) block the transaction.

### XIV. Consequences for non-compliance

The CCI can penalize parties for gun-jumping and material non-disclosures. Breach of the notification or suspensory obligation is considered gun-jumping. The CCI has the power to impose penalties of up to 1% of the total turnover or value of assets of the combination, whichever is higher.

The CCI also has the power to order divestments and unscramble the egg. If the parties fail to pay the penalty, the Chief Metropolitan Magistrate in Delhi can impose fines up to INR 250 million and/or imprisonment up to a period of three years.

### XV. Appeals

Aggrieved parties from a CCI order approving or disapproving a combination can prefer an appeal to the NCLAT. A further appeal from the NCLAT lies before the SC. The NCLAT's predecessor in the past has dismissed an appeal by a third party challenging the Jet-Etihad merger as lacking in standing.<sup>72</sup>

72. <https://www.livemint.com/Companies/1DJIVG5Tr5WgBgw2fG2gWN/Compat-dismisses-Jitendra-Bhargava-plea-against-JetEtihad-d.html>

## 6. Risk mitigation strategies based on jurisprudential trends

### I. Introduction

In this chapter, we have tried to identify the 'high scrutiny sectors' i.e., sectors where CCI has been actively investigating and enforcing the provisions of the Act. Based on this, we have also set out an indicative list of high-level risk mitigation strategies that could help companies and entities involved in these sectors reduce competition law risks.

### II. High scrutiny sectors

Compared to its counterparts in Europe and US, the CCI is relatively a young regulator. That said, the CCI has been keeping very busy in the last decade. As of March 2019, the CCI has undertaken over 1000 cases pertaining to Sections 3 and 4 of the Act and has reviewed over 600 merger filings.<sup>73</sup> The Act itself does not provide for enforcement prioritization, but by its own admission in its annual report, the CCI's enforcement efforts have been active in the *digital, real estate, transportation, media and pharmaceutical* sectors.<sup>74</sup> While this is not an indication of an enforcement prioritization, it indicates the likelihood of CCI scrutinizing a complaint in these sectors is high.

A review of the CCI's annual report indicates that given CCI's past enforcement in this area, the CCI is likely to delve deeper into concerns highlighted in the digital, real estate, transportation, media and pharmaceutical sectors.<sup>75</sup> In terms of trends, CCI's scrutiny under Sections 3 and 4 in these sectors has been focused on investigating whether the price and conditions of service being offered to consumers was

a result of fair competition. On the merger control side, the CCI has typically focused on parameters like pro-competitive effects of the merger and the number of competitors in the market to understand if the merger was likely to result in a reduction on competition.

### III. General take-aways for high scrutiny sectors

Based on a review of CCI decisions and trends followed in the sectors, the following factors could help reduce the risk of the CCI finding a contravention or reducing the penalty in high scrutiny sectors.

#### A. Competition Compliance Efforts

In the past the CCI has considered whether the company has made efforts internally to reduce incidents of violation of the Act. For instance, the CCI in *In Re: Cartelisation by broadcasting service providers by rigging the bids submitted in response to the tenders floated by Sports Broadcasters* has considered the fact that the company has an effective competition law compliance manual in place as a mitigating factor.<sup>76</sup> The CCI clarified that although subsequent conduct can be considered a mitigating factor, it cannot absolve the infringing entity from liability. The CCI has insisted that the compliance program should be implemented prior to the DG investigation.<sup>77</sup>

73. CCI Annual Report 2018-2019 available here: <https://www.cci.gov.in/sites/default/files/annual%20reports/ENGANNUALREPORTC-CI.pdf>.

74. CCI Annual Report 2018-2019 available here: <https://www.cci.gov.in/sites/default/files/annual%20reports/ENGANNUALREPORTC-CI.pdf>.

75. CCI Annual Report 2018-2019 available here: <https://www.cci.gov.in/sites/default/files/annual%20reports/ENGANNUALREPORTC-CI.pdf>.

76. *In Re: Cartelisation by broadcasting service providers by rigging the bids submitted in response to the tenders floated by Sports Broadcasters Suo Motu Case No. 02 of 2013* available here: <https://www.cci.gov.in/sites/default/files/Suo%20-%20Moto%20Case%20No.%2002%20of%202013.pdf>

77. *In Re: Cartelisation by broadcasting service providers by rigging the bids submitted in response to the tenders floated by Sports Broadcasters Suo Motu Case No. 02 of 2013* available here: <https://www.cci.gov.in/sites/default/files/Suo%20-%20Moto%20Case%20No.%2002%20of%202013.pdf>

Companies are expected to be responsible to ensure that the most basic compliance programs cover the following areas<sup>78</sup>:

- a. An active risk management process for systematic review of existing agreements and market practices to ensure that the company is compliant with the provisions of the Act;
- b. Periodic compliance training for employees and senior management;
- c. Regularly review and update the competition compliance efforts;
- d. Promote a culture of competition compliance within the company;
- e. Ensure that the employees receive the message of competition compliance from senior management.

In addition to the above, it may be good to have special training sessions for employees on a regular basis that are part of the commerce team or responsible for conducting the company's business in the ordinary course.

## B. Dawn Raid

The CCI and the DG office can get a warrant to conduct a raid the company. The DG has exercised this option in abuse of dominance as well as cartel cases. For instance, the DG has conducted dawn raids in an abuse of dominance investigation involving a real estate company, beer manufacturers accused of a cartel and batteries manufacturers alleged to be in a cartel.<sup>79</sup>

Typically, the DG office comes to the local office of the company under investigation unannounced. The dawn raid may last a day or several days, during which the officials from the DG office conduct interviews and seize evidence. Conducting mock dawn raids with employees or organizing a session on how to behave

78. CCI compliance manual available at: [https://www.cci.gov.in/sites/default/files/manual\\_compliance/manual\\_booklet.pdf](https://www.cci.gov.in/sites/default/files/manual_compliance/manual_booklet.pdf)

79. Boost to Dawn Raids in India – Supreme Court Rules Power to Search Includes Seizure as well - Kluwer Competition Law Blog, <http://competitionlawblog.kluwercompetitionlaw.com/2019/02/27/boost-to-dawn-raids-in-india-supreme-court-rules-power-to-search-includes-seizure-as-well/> (last visited Sep 16, 2020).

during dawn raids, who would be the point of contact, what to speak and how much to speak could help develop an effective response strategy.

The response strategy should lay down the names of the company lawyer and external competition lawyer who should be contacted in case of a dawn raid. Employees should be categorically told to cooperate with the government officials and instructed not to destroy any documents. Employees should also be instructed to not leak the news of the dawn raid to persons other than the ones mentioned in the contact list. In this respect, an internal training could be conducted for employees to cover these areas.

## C. Litigation Hold Policy

In investigations, the CCI assigns great weight to internal documentation within the company. In our experience, an objectively determined litigation hold policy would go a long way in effectively defending any potential claims before the CCI though the practice has not evolved in India. Absence of a written record unequivocally stating the reasons for non-participation in a yearly tender by a company has been inferred adversely to presume an agreement not to participate in the tender.<sup>80</sup> During an investigation, the CCI can ask for dated documents (sometimes documents that are decades old). However, an objectively determined hold policy would be helpful to explain to the CCI that dated documents are not retained as a matter of company policy. At the same time, in high scrutiny sectors, the hold policy would allow the company to preserve documents relevant to any potential investigation. Depending on the needs of the company, the competition law counsel would be able to advice on whether to implement a silent hold or non-silent hold and duration of the same.

## D. Press strategy

Press strategy encompasses all the representations made on behalf of the company publicly. In the past the CCI has treated statements describing a

80. Biomed v. GlaxoSmithKline & Another Case No. 26 of 2013 available here: [https://www.cci.gov.in/sites/default/files/262013\\_o.pdf](https://www.cci.gov.in/sites/default/files/262013_o.pdf) Note that this decision was ultimately set aside by the COMPAT and SC.

company's market power by the company in its red herring prospective as one of the pointers towards the inference of dominance.<sup>81</sup> Companies are advised to keep their commerce teams in the loop about the effect of any potential public facing statements on litigation. The CCI has also initiated gun-jumping proceedings after reading a press release indicative of an inter-connected transaction that was not notified by the parties.<sup>82</sup> Companies in active enforcement sectors are advised to get their public statements vetted by external competition law counsels.

## IV. High level risk mitigation strategies for market leaders

Companies with substantial market power in any relevant market would be prudent to put in place processes to cover for any future complaints. Section 3(4) governing anti-competitive vertical agreements and section 4 on abuse of dominance are the two provisions under which proceedings can be initiated against companies with substantial powers. To clarify, the CCI needs to establish dominance as a pre-condition to declaring the conduct as abusive. But in case of Section 3(4), the CCI has a lower threshold of proving that the company wields substantial market power in the relevant market. However, for the purpose of compliance, even for the lower threshold of substantial market power, we recommend implementing risk mitigation strategies that account for violations under both sections. Considering both these sections are based on the premise that economic force that a company wields in certain circumstances may have anti-competitive outcomes, it becomes critical to have risk mitigation strategies in place. In such cases the companies have a responsibility to be mindful of their conduct.

## V. Determining compliance requirement

The CCI has no bright line test to determine substantial market power or dominance. Typically, parties to exercise and fulfill the lower threshold of substantial market power must account for at least 30% of the market.<sup>83</sup> Market share is one of the factors that the CCI accounts for while determining a company's economic force. The 30% market share is just an indicative threshold. After a holistic examination of the facts the CCI may decide to proceed against a company that has a lower market share.

## VI. Arrangements with distributors and dealers

Violations under Section 3(4) cover relationships between entities at different levels of the production chain. A part of Section 4 also governs relationships of the dominant entity to its downstream customers/distributors or upstream suppliers.

We find that the following risk mitigation strategies can go a long way in pre-empting CCI concerns:

- a. Ask your external competition counsel for a custom-made manual outlining the rules of relationship governing the company and its suppliers, distributors and customers.
- b. Ensure that rules governing dealing, special offers and terminations reflect fair and just conditions of dealings between the parties. Record reasons for any conditions that may be perceived to be one-sided.
- c. Unilateral changes in the contract should ideally be followed up by a notice and option to exit (*Vishal Gupta v. Google and DLF v. CCI*).<sup>84</sup>

81. DGCOM Buyers & Owners Association, Chennai v. DLF Limited Case No, 29 of 2012, available at: <https://www.cci.gov.in/sites/default/files/292012GG.pdf>

82. Proceedings against Canada Pension Plan Investment Board and ReNew Power Limited under Chapter VI of the Competition Act, 2002 available at: [https://www.cci.gov.in/sites/default/files/Notice\\_order\\_document/OrderPublicVersion.pdf](https://www.cci.gov.in/sites/default/files/Notice_order_document/OrderPublicVersion.pdf)

83. Jefferson Parish Hosp. Dist. v. Hyde, 466 U.S. 2 (1984) available at: <https://supreme.justia.com/cases/federal/us/466/2/>

84. COMPAT upholds CCI order in DLF Belaire Owners Association Case, Juris Law Corp (May, 2014) available here: <https://indiacorplaw.in/2014/05/guest-post-compat-upholds-cci-order-in.html>; Vishal Gupta v. Google Case Nos. 6 & 46 of 2014 available at: <https://www.cci.gov.in/sites/default/files/C.%20Nos.%2006%20%26%2046%20of%202014.pdf>

- d. Insert clauses obligating parties to record in writing episodes that result in termination of the arrangement. The CCI initiated an investigation against Hero Motorcycle based on *inter alia* alleged unfair termination in the complaint by one of its dealers.<sup>85</sup>
  - e. Avoid discriminating between customers, suppliers or dealers. Although the COMPAT has observed in *Schott Glass v. CCI* that different conditions of dealing can be implemented based on objective conditions such as offering volume discounts.<sup>86</sup>
  - f. In contracts and public documents, avoid using words like 'big', 'dominant' with respect to the company. In the cases investigated against the real estate company, DLF, the CCI considered the company's own positioning to the world to infer dominance<sup>87</sup>
- Be transparent and objective about the criteria for access to the platform and the basis of which access is provided. For instance, in *All India Online Traders Association v. Flipkart*, the CCI while issuing closure order in favor of Flipkart based its decision *inter alia* on the fact that the ecommerce platform devised the arrangement of its search results on an objective criterion.<sup>89</sup>
  - In *Matrimony.com v. Google*<sup>90</sup>, the CCI found that users using a search engine could be confused between verticals offered by the search engine and third parties. In this regard, the CCI implied that consumers being misled to believe that they were using a third party's vertical service could result in harm to competition. In this respect, adding conspicuous disclosures so that consumers know if they are dealing with third-party products or the products affiliated to the platform provider may help alleviate competition concerns associated with transparency of the product and its design.

## VII. Dual role of regulator and participant

The CCI has in the past examined the type of responsibility that could be ascribed to a firm in the dual role of a market participant and regulator. Given the interest in platform markets, the jurisprudence in this area is likely to evolve in the coming years. But, based on existing CCI and appellate court decisions, we summarize the key compliance pointers for firms observing the dual role of regulator and participant (platforms, search engines, infrastructure holders):

- The COMPAT in *ITPO v. CCI* held that there is no general duty to act against self-interest.<sup>88</sup> Seek competition law counsel's advice to determine the consequences of self-dealing on a case to case basis.

85. Vishal Pande v. Honda Motorcycle Case No. 17 of 2017 available here: <https://www.cci.gov.in/sites/default/files/Case%20No.17%20of%202017.pdf>

86. Schott Glass v. CCI Appeal 92 of 2012 available here: <https://www.casemine.com/judgement/in/587f36a64a9326336e216ef5>

87. DGCOT Buyers & Owners Association, Chennai v. DLF Limited Case No. 29 of 2012, available at: <https://www.cci.gov.in/sites/default/files/292012GG.pdf>

88. India Trade Promotion Organisation v. CCI Appeal No. 36 of 2014 available at: <https://vlex.in/vid/india-trade-promotion-organisation-678715577>

## VIII. High level risk mitigation strategies for dealing with rivals

Section 3(3) of the Competition Act governs anti-competitive agreements between competitors. Legitimate commercial circumstances may lead to contacts with the competitor. In high scrutiny sectors these contacts may be used as circumstantial evidence to infer a cartel. The CCI routinely relies on trade association meetings<sup>91</sup>, meetings with rivals called by the customer<sup>92</sup> or other dealings with the competitors to infer the existence of an agreement.

89. All India Online Vendors Association v. Flipkart Case No. 20 of 2018 available at: <https://www.cci.gov.in/sites/default/files/20-of-2018.pdf>

90. Matrimony.com v. Google, Case Nos. 7 & 30 of 2012 available at: <https://www.cci.gov.in/sites/default/files/07%20%26%20%2030%20of%202012.pdf>

91. Builders Association of India v. Cement Manufacturers of India Case No. 29 of 2010 available here: <https://www.cci.gov.in/sites/default/files/Final%20Order%2029%20of%202010%2031.08.2016%20.pdf>

92. Delhi Jal Board v. Grasim & Others Case Nos. 3 & 4 of 2013 available at: <https://www.cci.gov.in/sites/default/files/Ref.C.%20Nos.%2003%20%26%2004%20of%202013%20%5BMajority%20Order%20%28p.1%20to%20p.90%29%20C%20Dissent%20Note%20by%20Member%20Sudhir%20Mital%20%28p.91%20to%20p.105%29%5D.pdf>

## IX. Direct contact with competitors

Limit contacts with competitors. When this is not possible, reach out to external competition law counsel to devise a custom-made rule book for employees who are required to be in contact with rivals.

- a. Identify teams/employees who regularly interact with competitors and consumers. Make sure that they receive competition compliance training sessions are assigned a contact person to report any concerns.
- b. High level rule book for information exchange with competitors should as a matter of policy recommend recording even innocuous contacts.
- c. Send senior level employees to trade association meetings. In case a rival solicits other participants to form a cartel, the senior level employee should conspicuously withdraw any participation and leave the meeting.
- d. Do not exchange any business sensitive information with competitors. Business sensitive information include future pricing plans, inventory allocation, future business plans.

## X. Indirect contact with competitors

Depending on the nature of the industry, there may be cases where competitors may exchange business sensitive information and act on it through a hub. Ironically, in some cases the customer may

itself act as a hub. For instance, in case of a bid for pharmaceutical goods, the consumer calling the bids shares information on the bid prices being contemplated by rivals with a competing bidder. In such cases, it is important to preserve documentation that demonstrates that regardless of the information inadvertently accessed, the company made independent business decisions.

In the digital economy, many companies use softwares for automating their pricing and inventory allocation process. The CCI in its investigations against airlines and radio cab service providers has examined the possibility of algorithmic collusion through use of a common software.<sup>93</sup> CCI concerns may be preempted in such cases by:

- a. Reducing manual intervention and devising clearly recorded criteria for cases fit for manual intervention.
- b. In case a third-party software is being used, ensure that company's proprietary and non-public data is not being used for making predictions for third parties.

## XI. Observations and recommendations

The above high-level strategies are based on our reading of a collection of CCI decisions and experience of handling prosecution matters. The CCI's inference may differ on a case to case basis. For a detailed recommendation suitable to your company, please contact our experts in the area listed at the end of this report.

93. Airlines under CCI scanner for alleged fixing of airfares, Mint (Nov, 2018) available at: <https://www.livemint.com/Industry/grAMdTMl8pvq7XVvWQcepN/Airlines-under-CCI-scanner-for-alleged-fixing-of-airfares.html>; Meru Travel Solutions v. ANI Technologies Case No. 25-28 of 2017 available at: <https://www.cci.gov.in/sites/default/files/25%20-%2028%20of%202017.pdf>



# Annexure A

## Summaries of Cases discussed in the Report

### I. Jasper Infotech Private Limited (Snapdeal) v. KAFF Appliances (India) Pvt. Ltd. (Kaff) [Case No. 61 of 2014]

The Informant Snapdeal is an ecommerce platform. The opposite party KAFF was a brand dealing in kitchen appliances and sold its goods, both online and offline. The Informant sold KAFF's goods at a discounted price, aggrieved by which KAFF issued a caution notice to Snapdeal, to not sell their goods below the minimum operating price. In turn, Snapdeal filed an information alleging violation of Section 3(4)(e) of the Act and the CCI directed the DG to investigate the matter.

The DG defined the two relevant markets as the 'market for chimneys' and 'market for hobs' in India, noting that the competitive nature of the markets implied that KAFF did not possess sufficient market power to cause an AAEC. With respect to allegations concerning resale price maintenance, DG's investigation determined that the variable nature of incentives earned by dealers led to a different net landing price, enabling each dealer to offer different prices for the same product. Competition amongst distributors was even stiffer since they were exclusive to KAFF. Thus, the DG concluded that it was not ideal for either the company or its dealers to consistently sell products at a particular price. With regard to the caution notice, the DG noted that it was served because KAFF had legitimate apprehensions that counterfeit products were being sold by unverified dealers listed on the Snapdeal website. It was further noted that this amounted to protection of goodwill, which was a valid business concern. Importantly, the DG also noted that since Jasper Infotech is only a market platform that does not perform any material

functions, it does not form part of the vertical chain and therefore cannot be subjected to a vertical restraint under Section 3(4)(e) of the Act.

CCI began its analysis by examining the applicability of Section 3(4)(e) on online market platforms. It stated that within the technology driven market, the market platform provides important value addition services like warehousing, which assists consumers in sorting and buying products. Thus, within a modern online market, these platforms form a part of the vertical chain. In addition, the CCI noted that the mere fact that Jasper Infotech was not the purchaser of goods was not enough to dismiss resale price maintenance allegations. Having due regard to changing structures in digital markets, the CCI stated that online market platforms provide sourcing and grievance redressal opportunities to consumers, which would indicate that they form part of the value chain even though they did not have literal 'ownership' of the goods. Furthermore, online platforms also have the ability to impose price restrictions on products listed on their websites. Thus, the CCI, having due regard to its own past jurisprudence and international judgments held that online market platforms, and as a corollary, agreements between manufacturers/distributors and e-commerce players can be examined under Section 3(4) read with Section 3(1) of the Act. Thus, the DG's observations in this regard were not agreed with.

The CCI then went on to examine the tenability of the resale price maintenance allegations. Within the relevant markets identified by the DG, the CCI examined the evidence presented to them and found that the dealers were not required to adhere to a minimum price. Discounts offered online were also funded by the retailers themselves. Thus, as against the dealers, the CCI concluded that there was no imposition of a resale price maintenance agreement. Specifically, with respect to KAFF's conduct with Jasper Infotech, the CCI accepted its business justifications for issuance of the caution notice and

Legal Notice. It was held that each manufacturer has a right to choose the most efficient distribution channel, and interference in this regard is warranted only if it leads to anti-competitive effects. In addition, there was no evidence to indicate AAEC through the KAFF's conduct, as available reports indicated that the sale of chimneys and hobs via Snapdeal had only increased in the past two years, despite issuance of the caution notice. Thus, the CCI dismissed allegations of resale price maintenance as against the dealers and Jasper Infotech and held in favour of KAFF.

## II. Meru Travel Solution Pvt. Ltd. v. ANI Technologies and Ors. [Case No. 25 of 2017]

The Informant, Meru Cabs, is engaged in the business of radio taxi service since 2007 and caters to many cities all over India. ANI and Uber, the opposite parties, were also in the business of radio taxis and provided their services under the name of "Ola" and "Uber" respectively. Meru approached the CCI alleging violations of Section 3 and 4 of the Act, as Opposite Parties were abusing their dominant position and provided lucrative models to their drivers, due to collective dominance enjoyed in the relevant market and alleged advantages arising from common ownership. It was argued that Uber and Ola had created an extremely attractive incentive scheme with an intention to lock-in drivers into their network, which would ultimately create visible entry barriers and lead to foreclosure of competition in the market. This was alleged to be violative of Section 3(4) read with Section 3(1) of the Act.

The Informants stated that these anti-competitive terms were found in the 'Minimum Business Guarantee' scheme agreements that were entered into with the drivers. With respect to allegations concerning collective dominance and common ownership, Meru argued that the presence of cross-shareholding common institutional investors was strengthening the combined market position of Uber and Ola in the market. Lastly, it was argued that the presence of SoftBank's influence and control

on the Boards of both the companies orchestrates consolidation and is an anti-competitive agreement under Section 3. The CCI dismissed the petitions filed by the Meru on the following grounds: (i) there weren't any written/oral agreements with the drivers, and the driver voluntarily chose the model which he thought was fit, thereby not coming within the purview of anti-competitive agreements. (ii) There is no concept of collective dominance under the scheme of the Act as Section 4 only envisages unilateral dominance, and (iii) Informant failed to prove any dominant position of the Opposite Parties in the relevant market. With respect to the Informant's submission alleging an abuse of dominance due to common institutional ownership, the CCI found that while an overlapping ownership interest may hamper competition in the market, the underlying economic theories had not been tested to reveal any such anti-competitive effects. Thus, it was incorrect to assume that mere existence of common ownership would amount to an abuse of dominance. The CCI thus held that no prima facie case was made out against the opposite parties.

## III. In Re: Alleged cartelisation in supply of LPG Cylinders procured through tenders by Hindustan Petroleum Corporation Ltd. (HPCL)

The case was taken up by the CCI on the basis of an anonymous complaint. The case involved an investigation by the DG into two tenders floated by Hindustan Petroleum (HPCL) for the procurement of cylinders and whether the actions of the bidders were in contravention with Section 3(1) and 3(3) (d) of the Act. In the first tender, it was alleged that the orders placed were at prices substantially higher than the procurement price of other oil companies with the same vendors during the same period. With respect to the second tender, it was alleged that during evaluation of the bids submitted by vendors, many of them withdrew their applications citing similar

or incomplete reasons for withdrawals. Interestingly, these withdrawals were submitted at a similar time.

The DG, in his report, observed that the tender prices submitted by the vendors were identical and the withdrawal by the vendors in case of the second tender was either without a reason or had identical reasons. The vendors admitted that they shared information with each other and even used the same IP address for withdrawal of their bids. Thus, the DG concluded that there was a contravention of Section 3(3)(d) read with Section 3(1) of the Act.

With respect to allegations concerning identical tender prices, in both cases, the CCI held that the mere existence of price parallelism was not enough to demonstrate an intention to undertake bid rigging. There was also no evidence to suggest that such conduct was influenced by the bidders' intention to share the market amongst one another, as the bidders had not exchanged any price-sensitive or strategic information amongst each other. Additionally, the CCI also observed that it was a normal occurrence for bidders to quote identical prices and hence it becomes necessary to have proof of intention to collude for penalisation. However, for the second count dealing with unexplained withdrawal from the bid by multiple bidders, the CCI found evidence to indicate that inadequate withdrawal forms were intentionally filed by numerous vendors on the same day, and within different parts of the country. Furthermore, many bidders provided identical reasons for withdrawal, indicating the presence of collusion. Thus, this act was held to be illegal and the bidders and their office bearers were fined 1% of the total average relevant turnover and average income of three preceding financial years, respectively.

## IV. In Re: Cartelisation in Industrial and Automotive Bearings [Case No. 5 of 2017]

This case was taken up suo moto by the CCI pursuant to a leniency application filed by Schaeffler under Section 46 of the Act, disclosing the existence of a cartel. The allegations made were with respect to alleged

cartelization amongst industrial and automotive bearings supplier companies to claim an increase in price from their original equipment manufacturers ("OEMs"). The CCI directed the DG to investigate. The DG discovered that the representatives of four of the companies in question, i.e. NEI, Schaeffler, Tata and SKF met and shared confidential information that enabled them to decide upon the percentage increase in steel price that each of them would represent to their OEMs to claim a price increase from them. Thus, DG concluded that there was a contravention of Section 3(3)(a) read with 3(1) of the Act.

The CCI held that the telephonic and physical meetings were good enough to establish a cartel, which in turn presumes to cause an appreciable adverse effect on competition within the relevant market. Furthermore, the parties were not able to provide any contrary evidence that the cartel had pro-competitive benefits for consumers as was claimed. Therefore, the CCI held that NEI, Schaeffler, Tata and SKF as well as a few of their office bearers liable under Section 48 of the Act and ordered them to cease and desist from such activities in the future. Interestingly, however, they did not impose any financial penalties on them.

## V. Nagrik Chetna Manch v. Fortified Securities Solutions & Ors.

The Informant, Nagrik Chetna Manch (a charitable trust) filed an information against Fortified Security Solutions, Ecoman Enviro Solutions Pvt. Ltd. and Pune Municipal Corporation for entering into anti-competitive agreements by rigging bids and colluding during bids, a violation of Section 3(3)(d) read with Section 3(1) of the Act. The CCI asked the DG to investigate and based on their advice; six bidders were also impleaded as opposite parties. During this investigation, all the opposite parties except Pune Municipal Corporation filed a leniency application under Section 46 of the Act read with Regulation 5 of the Lesser Penalty Regulations. The DG further concluded in its report that the opposite parties were involved in collusive bid rigging and that evidence available was sufficient to indicate a meeting of the minds in this regard.

CCI first had to examine whether Section 3(3) of the Act was applicable when certain opposite parties were not engaged in similar or identical trade or provision of goods and services. It was held that it is the business activity of the parties that they are actually bidding and based on which the allegation is made, that is relevant for the purpose of the applicability of Section 3(3) (d) of the Act. Thus, other business activities that the parties 'were' or 'are' engaged in will not be relevant. Examining procedural issues, the CCI then rejected the argument that the DG had violated confidentiality by disclosing the contents of statements before they were labelled as 'non-confidential'. The CCI created a distinction between evidence given under the Lesser Penalty Regulations and statements made before the DG for an investigation. It was held that confidential treatment granted under Lesser Penalty Regulations does not extend to evidence obtained or collected by the DG, even if such an evidence is obtained from a Lesser Penalty Applicant.

With respect to the merits, the CCI held that the conduct shall be considered in violation of Section 3(3)(d) read with Section 3(1) of the Act because there was evidence indicating collusive bid rigging by the parties. The criteria for complete engagement in producing identical goods and services did not apply. Allegations against Pune Municipal Corporation were rejected since mere failure to exercise due diligence to detect collusion on the portal did not amount to contravention of substantive provisions of the Act. Whilst examining the Lesser Penalty Application, the CCI granted reductions ranging from 25-50% to the applicants and their office bearers, while 2 applicants and 1 office bearer were not granted any reductions.

## VI. Federation of Hotel & Restaurant Associations of India v. MakeMyTrip India Pvt. Ltd. & Ors. [Case No. 14 of 2019]

The Informant, Federation of Hotel and Restaurant Associations of India (FHRAI), which represents most of the hospitality industry in India. It filed an

information against MakeMyTrip India Pvt. Ltd. (MMT), Ibibio Group Private Limited (GoIbibo) and Oravel Stays Private Limited (OYO) alleging individual and collective abuse of dominance. It was also alleged that the opposite parties had entered into anti-competitive agreements with practices such as predatory pricing, charging of exorbitant commissions from hotels and providing illegal and unlicensed bed and breakfast misrepresentation on their platforms since December 2012. In addition, FHRAI argued that the CCI's act of allowing the merger of MMT and GoIbibo in 2017 had strengthened their dominant position in the market. For MMT, the relevant market was delineated as the "market for intermediation services for booking of hotels in India" and for OYO, it was the "market for franchising services for budget hotels in India." Thus, under Section 26(1), the CCI was asked to determine whether a prima facie case exists to direct the DG to investigate the aforesaid allegations.

The CCI first rejected the arguments concerning collective dominance as being outside the framework of Section 4 of the Act. Within the respective delineated relevant markets, MMT was found to be dominant because the presence of other players like PayTM, HappyEasyGo, Thomas Cook was insignificant. However, OYO was not found to be dominant in the delineated relevant market due to presence of other large competitors.

The CCI held that Across Platform Parity Agreements (APPAs), similar to most-favoured-nation clauses, have the effect of imposing narrow and wide restrictions on sellers, for they may be barred from providing better prices or conditions on their own website or other websites. In case the entity imposing restrictions is dominant, it may amount to the imposition of an unfair pricing condition which can remove any incentive for platforms to compete on the commission they charge to hoteliers. Thus, CCI ordered an investigation into such parity restriction to gauge its impact under Section 3(4) as well as Section 4 of the Act. It was further stated that the commercial agreement between MMT and OYO must be investigated to understand whether it entails preferential treatment to OYO that consequently led to the exclusion of

its competitors Treebo and FabHotels from the MMT platform. It was also held that the DG should additionally investigate allegations concerning the charge of unfair commissions and fake bookings on the MMT platform are necessary. Importantly, since this is a Section 26(1) order, the outcome of the DG's investigation and final order are still pending.

## VII. Rubtub Solutions Pvt. Ltd v. MakeMyTrip India Pvt. Ltd. (MMT)

Rubtub Solutions Pvt. Ltd., operating under the brand name of Treebo Hotels, (“**Treebo**”) filed a complaint against MakeMyTrip India Pvt. Ltd. (“**MMT**”) and Oravel Stays Private Limited (“**OYO**”), alleging that MMT abused its dominant position in the relevant market for online intermediation services for booking hotels in India. Treebo was previously listing its budget hotels on MMT's platform, amongst other platforms, in addition to availing intermediation services provided by MMT. However, upon acquisition of Go-Ibibo, MMT proposed to make a significant investment in Treebo, in exchange for Treebo listing its hotels exclusively on MMT's platform. Treebo refused this offer, as a result of which all Treebo properties were allegedly removed from MMT's platform for 6 months. Thereafter, MMT decided to relist Treebo on its platform subject to Treebo entering into an allegedly unfair ‘*Exclusivity Agreement*’ and ‘*Chain Agreement*’ with MMT. Subsequently, these agreements were unilaterally terminated by MMT, and it was alleged that this was as a result of OYO's agreement with MMT. Thus, under Section 26(1), the CCI was asked to determine whether a *prima facie* case exists to direct the DG to investigate the aforesaid allegations.

Two separate relevant markets were delineated for MMT and OYO respectively, relying on *prima facie* observations of the CCI in a previous case with similar allegations [*Federation of Hotel and Restaurant Association of India v. MakeMyTrip India Pvt. Ltd.*]. MMT was found to be *prima facie* dominant in the relevant ‘market for online intermediation services for booking of hotels in India’, while OYO was found to

be a significant (not dominant) player in the ‘market for franchising services for budget hotels in India’. Thus, the CCI held that it would rely on investigations that were already being undertaken in the said case. When examining the allegations concerning price parity, the CCI observed that MMT imposed an arbitrary exclusivity condition on Treebo through the ‘*Exclusivity Agreement*’ entered into between MMT and Treebo, which was in contravention of provisions of Section 4(2)(a)(i) and 4(2)(c) of the Act. It was noted that although such agreements may result in removal of the incentive for platforms to compete on the commission they charge to hoteliers, these allegations were similar to the previous case and hence there was no need for a further investigation or presence of allegations were made out. It was also observed that OYO abused its dominant position by entering into an anti-competitive vertical arrangement with MMT. CCI held that imposing restrictive conditions on Treebo, along with OYO and MMT's deal would tantamount to ‘refusal to deal’ and *prima facie* violates Section 3(4) read with Section 3(1) of the Act. Thus, CCI directed the DG to investigate the allegations in this case. However, since this is a Section 26(1) order, the outcome of the DG's investigation and final order is still pending.

## VIII. Samir Agarwal vs Competition Commission of India

The appeal was filed in the Tribunal by Samir Agarwal (the informant) against CCI decision in *Samir Agrawal v. ANI Technologies Pvt. Ltd.* The appeal was filed on the ground that CCI had erroneously concluded on the genuineness and legality of the pricing model of cab aggregators. In the proceedings before the CCI, the appellant had argued that the cab aggregators and drivers of app-based setups like Ola and Uber were acting as a hub-and-spoke cartel, where the prices were being determined by the cab aggregators (hub) and accepted by the drivers (spokes) through algorithms. The CCI held that the use of such algorithms do not amount to collusion, because there is an absence of an agreement amongst all drivers to coordinate prices.

The Tribunal observed that cab aggregators provided radio taxi services on demand. The consumers are required to download the app to avail the services of the cab aggregators. There is also no exchange of information amongst the drivers and Ola under its business model. The taxi drivers connected with Ola platform have no *inter se* connectivity and lack the possibility of sharing information with regard to the commuters and the earnings they make out of the rides provided. This excludes the probability of collusion *inter se* the drivers through the platform. The Tribunal thus held that Uber provided a technology service to its driver partners and riders through the Uber App and assisted them in finding a potential ride and recommended a fare for the same. Even with regard to fare, though the app recommended a fare, the driver partners were at a liberty to negotiate a lower fare. The NCLAT also observed that the case for abuse of dominance was not made out in this case, as no cab aggregator held a dominant position in the relevant market. The Tribunal dismissed the appeal, as it did not find any legal infirmity in the impugned order.

## IX. Harshita Chawla v. WhatsApp & Facebook

The Informant, Advocate Harshita Chawla filed an information, against WhatsApp and Facebook, the owner of WhatsApp. This was done owing to conduct concerning the launch of a Beta version of WhatsApp Pay – a UPI payment service. The petition alleged violation of Section 4 of the Act, as the Informant argued that WhatsApp and Facebook abused their dominant position in the relevant market by pre-installing the same with all WhatsApp users, equivalent to bundling under Section 4(2)(a) (i) of the Act. In addition to this, it was argued this pre-installation amounted to leverage of dominance under Section 4(2)(e) of the Act, as it was using its dominance in the market for instant messaging apps to promote its payment system. Concerns related to data security of the personal information were also raised before the CCI. It was argued that usage of personal data through WhatsApp, Facebook can customise advertisements and suit user situations

and attract attention. Through this model, Facebook thus monetise their user data, generates revenue, and drives out healthy competition from the market.

CCI delineated the relevant market to be the ‘market for Over-The-Top (OTT) messaging apps through smartphones in India.’ Whilst doing so, the CCI noted that WhatsApp and Facebook provided different services and hence could not be consolidated into the ‘market for user attention.’ With respect to dominance, it was observed that WhatsApp’s ‘dominant position’ in the market needs to be ascertained taking into consideration the idea that Facebook and WhatsApp are group entities having the network effect advantage. The CCI was noted that merely being dominant in the market was not a violation of the Act unless an abuse was proved. Thus, although WhatsApp was a dominant player in the OTT messaging apps sector market, it had not contravened Section 4 of the Act. Finally, when examining allegations of “bundling”, the CCI observed that tying and bundling could not occur as users were provided a choice to use the WhatsApp pay feature, and the decision to use the UPI payment app is purely voluntary and choice based for the user. Infact, since WhatsApp pay is still being tested to be launched across India, it is still early to conclude that dominance has been leveraged by either of the group entities. The CCI nevertheless adopted a pragmatic approach to hold that it would open the case subsequently in case new evidence in this regard was found.

## X. Uber India Systems Pvt. Ltd. v. Competition Commission of India

The complaint was filed before CCI against Uber India alleging predatory pricing. However, CCI questioned the very credibility of the reports relying upon which the Informant had approached the CCI. The said case was then referred to the erstwhile Tribunal, which directed the DG to investigate in the matter as the information in the above reports differed from each other. The said order was challenged before the Supreme Court by Uber India leading to the present decision.

The Supreme Court observed that Uber India was providing their services at such discounted rates that they were incurring a loss of Rs. 204 per trip without any valid economic rationale. The Supreme Court was of the opinion that such pricing strategy pointed towards Uber's intent of eliminating competition in the relevant market by abusing its current dominant position in contravention with the provisions of the Act. The SC further refused to intervene with the Tribunal's order and directed the DG to complete the investigation within 6 months.

## XI. In Re: Cartelisation in respect of zinc carbon dry cell batteries market in India

The case was taken up suo moto by the CCI based on a leniency application by Panasonic alleging that Eveready Industries India Limited (Eveready), Indo National Limited (Nippo) and Panasonic had formed a cartel in violation of Section 3 of the Act. Panasonic revealed that the office bearers regularly met and indulged in sharing vital information to accrue higher profits by increasing the MRP of the dry cell batteries. The DG conducted raids at the premises of Eveready and Nippo, and in turn even they filed leniency applications.

The CCI held the actions were in violation of section 3 of the Act. The CCI further examined the leniency applications by the manufacturers to determine the penalty to be imposed on manufacturer and their office bearers. Since Panasonic's revelations resulted in "significant value addition", they were granted a 100% waiver in penalty, and subsequently, Eveready and Nippo were granted 30% and 20% reduction, respectively. Further, CCI also penalized *Association of Indian Dry Cell Manufacturers (AIDCM)* for facilitating the anti-competitive agreement/understanding.

## XII. Tata Power Delhi Distribution Limited v. Competition Commission of India

The informant, Tata Power Delhi Distribution Limited, filed an information against 'NTPC Ltd.' alleging contravention of the provisions of Section 3 and 4 of the Act. The matter having closed without any investigation by the DG in terms of Section 26(2) of the Act, an appeal was filed by Tata Power. The CCI observed that the seminal issue in an abuse of dominance case is harm to consumers; however, given that the electricity tariffs were fixed by a regulator (Central Electricity Regulatory Commission), the issue of harm to consumer did not arise. However, in the appeal before the NCLAT, the parties negotiated a settlement during the pendency of the appeal which was recorded and approved.

## XIII. Matrimony.com & Another v. Google LLC & Ors.

This arose from two clubbed cases discussing similar allegations against Google, the opposite party. The informant in the first petition, Matrimony.com is an internet website providing prospective marriage alliances, had signed an intermediation agreement with Google to make use of Google's search bar on their website. The informant in the second case, Consumer Unity and Trust Society ("CUTS") is a non-profit civil society organisation working in public interest. In the first petition, the Informant stated that Google was manipulating its search results to the advantage of its vertical partners, by mixing these into the organic search results. Thus, this was furthering a monopolistic position in the market and was thus violative of Section 4 of the Act. The second informant argued that Google is indulging in abuse of its dominant position by engaging in practices such as search bias, search manipulation, denial of access to competing search engines, refusal to license content to competing search engines and creation of entry

barriers for competitors. Thus, it was argued even here that there was a clear contravention of Section 4.

The DG investigated the issue and delineated the two relevant markets as market for 'online general web search services' and 'online search advertising' in India. It was found that Google was dominant in both these markets. The DG confirmed allegations with respect to search bias through the display of Google's own services at prominent ranks in the search pages. Cumulatively, the DG concluded that Google was in violation of Sections 4(2)(a)(i), 4(2)(b)(ii), 4(2)(c) and Section 4(2)(e) of the Act. The CCI affirmed the findings of the DG and held that Google guilty of abuse of dominance in the online general search and online advertising search market, by undertaking a search bias that promoted its own products. CCI held that there were instances where Google was the default search engine for browsers like Safari & Mozilla Firefox, whereon other websites were prevented from implementing search technologies that were similar to Google. The CCI penalised Google to the tune of Rs. 135.86 crores and ordered them to cease and desist from any such activities in the future.

## XIV. Caladium Investment Pte. Ltd.: Combination Registration No. C-2015/05/278

Caladium Investment Pte. Ltd., a special purpose vehicle incorporated in Singapore, sought to invest in Bandhan Bank by subscribing to 4.99% of its equity shares on a fully diluted basis. This led to an acquisition of joint control over Bandhan Bank, due to their ability to vote in respect of Reserved Matters dealing with important decisions related to the bank. Thus, Caladium filed an application under Section 6(2) of the Act.

The CCI noted that the acquisition was of a nature that accorded direct and indirect joint control to Caladium. However, Bandhan Bank did not have any operations in the banking sector back then. Furthermore, Caladium did not have a significant presence in the financial services market, which

meant that there was no significant horizontal overlap/vertical relationship between parties to the combination. Therefore, the CCI approved the said combination under Section 31(1) of the Act.

## XV. Century Tokyo Leasing Corporation: Combination Registration No. C-2012/09/78

Century Tokyo Leasing Corporation filed an application under Section 6(2) of the Act, for acquisition of joint control in the leasing division of Tata Capital Financial Services Limited, pursuant to the execution of a Business Partnership Agreement between the parties.

The CCI noted that the proposed combination is covered under Section 5(a) of the Act, as Century Tokyo would have the ability to make decisions about strategic affairs of the Leasing Division, which effectively leads to a situation of joint control over assets and operations of Tata's leasing business. Furthermore, since Century Tokyo had no business operations in India, the business operations of both the companies are not competing with or related with each other at different stages of the production chain. Therefore, the CCI approved the said combination under Section 31(1) of the Act.

## XVI. Jitender Bhargava v. Competition Commission of India [Appeal No. 44 of 2013]

Jitender Bhargava, an ex-employee of Air India, filed an appeal against the CCI's approval of the Jet-Etihad merger alleging that it would eliminate competition in the market for international air passengers, impacting Air India and other domestic airlines. It



was argued that the end result of this would be an absence of choice for consumers in the market.

After examining these contentions, the Tribunal dismissed the appeal saying the appellant does not have “*locus standi*” to file the plea as the Appellant was not “*any person aggrieved*” for the purposes of Section 53B. Merely being an ex-Executive Director of Air India did not, in any way indicate that there is any personal grievance to the Appellant.

## XVII. Fx Enterprise Solutions Private Limited and Another v. Hyundai Motor India Private Limited 2017 SCC OnLine CCI 26

Fx Enterprise Solutions India Private Limited and St. Anthony’s Cars Private Limited filed an information against Hyundai Motors India Limited (“**HMIL**”) alleging contravention of Section 3(4) (e) read with section 3(1) of the Act. It was alleged that Hyundai had restricted the Informants from dealing in products of competing brands. In addition, it fixed the maximum retail price and the maximum discount which could be offered by the dealers through its Discount Control Mechanism within the distributorship agreement. Furthermore, Hyundai tied the purchase of popular cars to the sale of high-end unwanted cars, which was a restrictive trade practice denying market access to distributors with other brand car products.

CCI held that HMIL had acted in violation of Section 3(4)(e) read with Section 3(1) of the Act through arrangements which resulted into resale price maintenance through its discount control mechanism. CCI examined evidence on record and found that Hyundai had imposed an arrangement that resulted in minimum selling price restrictions in the form of maximum discount that can be offered by the dealers who are in interlocking relationship with multiple manufacturers. Furthermore, there was monitoring of the maximum permissible discount

level through a “Discount Control Mechanism” and a penalty punishment mechanism upon non-compliance of the discount scheme.

## XVIII. KM Chakrapani v. Competition Commission of India, Competition Appeal (AT) No. 51 of 2018

The appeal before NCLAT arose out of a common order of the CCI holding that there was no proof that the Kerala Cement Dealers Association (KCDA) had violated Section 3(3) read with Section 3(1) of the Act. In the proceedings before the CCI, it was argued that KCDA had unilaterally terminated the dealership agreement with the Informant without due reason. The DG’s initial investigation revealed that KCDA had undertaken such conduct. However, the CCI found some irregularities in the investigation and re-directed the DG to undertake an investigation. The new report reached a different conclusion and held that the Informant’s allegations were untrue and KCDA’s conduct was in line with prevalent market conditions. This was appealed before NCLAT, on grounds that CCI was not justified to redirect the DG to conduct another investigation, and maintainability of the appeal. The argument with respect to maintainability was rejected by NCLAT as it found that the CCI was only in partial agreement with the recommendations of DG. Orders of such nature, where the CCI was in partial agreement of the findings of the DG, are appealable under Sections 53A and 53B of the Act.

With respect to allegations concerning the overturning of the findings of the DG, NCLAT observed that the CCI’s considerations were based on a proper assessment of evidence, and two isolated incidences were not enough to demonstrate that an offence under the Act was committed. CCI considered various documents to arrive at a finding that there was no meeting of minds between KCDA and the cement manufacturers regarding grant or termination of dealership. Therefore, CCI’s decision was upheld.

## XIX. In Re: Cartelisation by broadcasting service providers by rigging the bids submitted in response to the tenders floated by Sports Broadcasters, Suo Motu Case No. 02 of 2013

The case emanated from a Lesser Penalty Application filed by Globecast India Private Limited disclosing information related to its bid rigging arrangement with Essel Shyam Communication Limited, the opposite party in this case. In early 2018, pursuant to investigation and the DG report affirming these allegations, the CCI held that Essel Shyam Communication Limited and Globecast Limited had exchanged confidential price sensitive information which resulted in bid rigging in tenders that were floated by sports broadcasters for the 2012 Indian Premier League. This led the CCI to conclude that the parties were operating a cartel with respect to various sporting events. An amount of INR 31.94 Crores and INR 1.33 Crores was computed as penalty on Essel Shyam and Globecast respectively, based on the proviso to Section 27 (b) of the Act. The CCI observed that both parties extended co-operation by making vital disclosures of evidence throughout the investigation and provided all related documents. Taking this into consideration, it granted Globecast 100 percent reduction in the penalty and 30 percent reduction in penalty to Essel Shyam.

## XX. Proceedings against Canada Pension Plan Investment Board and ReNew Power Limited under Chapter VI of the Competition Act, 2002

CCI initiated proceedings against Canada Pension Plan Investment Board and ReNew under Section 20(1) of the Act based on their press releases indicating that ReNew had acquired Ostro, with support of an investment in Canada Pension. While the acquisition of Canada Pension was disclosed to the CCI in a combination application, that of Ostro was not. Thus, the CCI issued a show cause notice to the parties under Regulation 48 of the Competition Commission of India (General) Regulations 2009, to show cause as to why penalties must not be levied for intentional non-disclosure.

The parties submitted that, the transactions were unconnected and assuming that such connection can be established, they were unaware of the linkages of the two transactions or that it would be a material fact necessitating disclosure. The CCI first examined the tenability of the show cause notice and held that such documents are not sent out with a biased mind and hence not in violation of natural justice.

With respect to the other contentions of the parties on merits, the CCI extensively examined internal e-mail correspondences between the parties. It held that inter-connectedness was to be established on a case by case basis, and therefore the absence of a binding document for the second transaction would not escape the CCI's scrutiny merely on this technical pretext. Furthermore, technical interpretations of notifications that have the effect of isolating two different steps of transactions of a composite combination are against the spirit of the Act and cannot be allowed. The correspondences between the parties, discussing the distribution of IPR inter alia, revealed their intention to treat the two acquisitions as being entirely interconnected. Thus,

these disclosures were material and the Commission imposed a penalty of Rs. 50 lakhs on Canada Pension.

## XXI. Vishal Gupta v. Google, Case Nos. 6 & 46 of 2014

The Informant owned a garment group of companies and approached Google India to create an AdWords account to qualify for the display of services under Google's 'remote technology support' plan. However, his account was removed by Google under its 'User Safety Policy', citing security concerns. The Informant alleged that the bidding process for Google AdWords account lacks transparency, and the ambiguity of its 'User Safety Policy' is indicative of abuse of dominance by Google. Furthermore, Google had launched its own competing remote tech support operation, which was unfair, and denied market access to the Informant and other such service providers.

The CCI held that Google had not indulged in any anti-competitive practices or abused its dominant position in the market. With respect to closure of the AdWords account, CCI found that Google had followed a fair and legitimate procedure which was accessible to all, and the Informant had acted in clear violation of its policies. Furthermore, the bidding procedure was transparent insofar as Google provided sufficient data to advertisers on the performance of their advertisements. Lastly, with respect to unfair terms, it was found that since the Informant had voluntarily agreed to the lucid terms and conditions imposed by Google, it was incorrect to argue that these terms were unfair simply because he was prejudiced by them later. The Informant appealed the CCI decision and the matter is currently pending before NCLAT.

## XXII. India Trade Promotion Organisation v. CCI Appeal No. 36 of 2014

The appellant, Indian Trade Promotion Organisation was a 100% government owned non-profit making company, functioning under the control of the

Department of Commerce. The question before NCLAT was whether the Appellant had engaged in discriminatory practices during the allotment of spaces to private organisers. It was alleged that ITPO had been maintaining a time-gap of 15 days between two "third party events"; whereas in case of ITPO's own organized events, the time gap restriction was 90 days before and 45 days after the event in case of ITPO events.

The CCI found that imposition of different time periods was an unfair and discriminatory practice in violation of Section 4(2)(a)(i) of the Act and imposed a penalty of Rs. 6.75 crores at the rate of 2% average turnover for the preceding three years. In Appeal, NCLAT reversed the decision of the CCI. It stated that an enterprise cannot be compelled to part with its own assets for the benefit of others, when it is detrimental to its own interest, provided it can produce an objective justification for such refusal. In the instant case, NCLAT accepted the Appellant's objective justification that the time-gap policy was to ensure that no confusing signals are provided for similar exhibitions and events.

## XXIII. All India Online Vendors Association v. Flipkart, Case No. 20 of 2018

The All India Online Vendors Association, the Informant, was a group of more than 2000 sellers selling on ecommerce marketplaces such as Flipkart, Amazon, Snapdeal etc. It alleged that Flipkart was engaging in providing preferential treatment to certain sellers, amounting to an abuse of dominant position by denying market access under Section 4 (2) (a) of the Act. It was also stated that Flipkart had devised a strategy to acquire goods from smaller sellers, sell the same immediately to WS Retail Services Private Limited at a discount which would, in turn, sell such goods as sellers on the Flipkart website. The relevant market was defined to be 'services provided by online marketplace platforms for selling goods in India.' CCI observed that in this market, Flipkart did not have a dominant position and many players had a significant market share. Thus, an

abuse of dominance could not arise. It also noted that neither was Flipkart imposing any restraints on resellers to sell products on its platform, nor was it imposing any conditions that were different from standard practice in the market. Furthermore, the structural link with WS Retail existed only until 2012 and was later discontinued.

## XXIV. Delhi Jal Board v. Grasim & Others Case Nos. 3 & 4 of 2013

The Informant and Tenderer, the Delhi Jal Board alleged that the Opposite parties had rigged two bids for procurement of poly aluminium chloride and liquid chlorine respectively. The four opposite parties named were Aditya Birla Chemicals (India) Limited [“**ABCIL**”], Gujarat Alkalies and Chemicals Limited [“**GACL**”],

Grasim Industries Limited [“**GIL**”] and Kanoria Chemicals and Industries Limited [“**KCIL**”]. The DG’s consolidated report revealed that for both tenders, ABCIL, GIL and GACL acted in a collusive manner to artificially jack up the bid prices, forcing Delhi Jal Board to divide the tender quantity. No contravention was found to be established against KCIL.

The CCI rejected the argument of the companies that there could not be collusion amongst them because they were part of the same group. The CCI’s reasoning was based on the fact that though GIL and ABCIL had common shareholders, employees etc, they participated in the tender as separate entities. Evidence indicating that the parties had acted in concert, with an intention for bid rigging, was also found. Thus, the CCI imposed a penalty of INR 6.27 crores for this violation of Section 3(3)(d) read with Section 3(1) of the Act on GACL, GIL and ABCIL. The CCI agreed with the DG’s conclusion that the fourth party, KCIL, was not in contravention of provisions of the Act and was thus exonerated.

# Annexure B-1

## Orders under Section 26 (1) of the Act Directing Investigation by DG

Case No./ Date of Decision	Case name	Industry Sector in which the Informant/ complainant was engaged	Industry Sector in which OP1 was engaged
<b>82/2014 20/11/2014</b>	St. Antony's Cars Pvt. Ltd. vs Hyundai Motor India Ltd.	Automobiles	Automobiles
<b>61/2014 29/12/2014</b>	M/s Jasper Infotech Private Limited (Snapdeal) vs M/s Kaff Appliances (India) Pvt. Ltd.	Online Portals	Kitchen appliances
<b>63/2014 29/12/2014</b>	Shri Saurabh Tripathy vs M/s Great Eastern Energy Corporation Ltd.	Private Individual	Production and Distribution of Gas
<b>33/2014 13/01/2015</b>	XYZ vs REC Power Distribution Company Limited	Private Individual	Public Sector Enterprise
<b>73/2014 04/02/2015</b>	Amit Mittal vs M/s DLF Limited & Ors.	Private Individual	Real Estate
<b>84/2014 05/02/2015</b>	Mr. Vijay Kapoor vs DLF Universal Limited	Private Individual	Real Estate
<b>88/2014 23/04/2015</b>	Sunrise Resident Welfare Association vs Delhi Development Authority (DDA)	Registered Society- Real Estate	Public Sector Enterprise (statutory body for development of real estate in Delhi)
<b>06/2015 24/04/2015</b>	M/s Fast Track Call Cab Private Limited vs M/s ANI Technologies Pvt. Ltd.	Radio Taxi Services	Radio Taxi services
<b>04/2015 12/05/2015</b>	M/s Best IT World (India) Private Limited (iBall) vs M/s Telefonaktiebolaget L M Ericsson (Publ) & Others.	IT & Electronics	IT & Telecommunications (Sweden Company)
<b>99/2014 21/05/2015</b>	Mrs. Naveen Kataria vs M/s Jaypee Greens.	Private Individual	Real Estate Development
<b>77/2015 17/11/2015</b>	Mr. Vivek Sharma Vs. M/s Becton Dickinson India (P) Ltd. & Others	Private Individual	Healthcare
<b>73/2015 04/01/2016</b>	Tamil Nadu Power Producers Association (TNPPA) Vs. Chettinad International Coal Terminal Pvt. Ltd. (CICTPL)	Power Producers	Coal Terminal
<b>Ref. Case No. 02/2015 and 107/2015 10/02/2016</b>	Department of Agriculture, Cooperation & Farmers Vs. M/s Mahyco Monsanto Biotech (India) Limited. AND M/s Nuziveedu Seeds Limited (NSL) Vs. Mahyco Monsanto Biotech (India) Limited (MMBL) & Others.	Agriculture	Biotech

<b>03/2016, Ref. Case no. 01/2016 and 10/2016 18/02/2016</b>	All India Kissan Sabha (AIKS) Vs Monsanto Inc, USA, Department of Agriculture & Cooperation Vs Mahyco Monsanto Biotech (India) Limited (MMBL), National Seed Association of India (NSAI) Vs Mahyco Monsanto Biotech (India) Limited (MMBL)	Agriculture	Biotech
<b>Ref. Case no. 01/2015 16/03/2016</b>	Department of Sports Vs Athletics Federation of India	Sports	Athletics Federation of India
<b>37/2016, 38/2016 and 39/2016 09/06/2016</b>	Kaveri Seed Company Limited, Ajeet Seeds Private Limited & Ankur Seeds Private Limited Vs. Mahyco Monsanto Biotech (India) Limited & Others	Multiple Industries	Multiple Industries
<b>12/2016 09/06/2016</b>	InPhase Power Technologies Private Limited Vs ABB India Limited	Power Technologies	Power and Automation Technologies
<b>02/2016 19/07/2016</b>	International Spirits and Wines Association of India Vs. Uttarakhand Agricultural Produce Marketing Board & Others	Liquor	Agriculture
<b>09/2016 23/08/2016</b>	M/s Esaote S.p.A Vs Esaote Asia Pacific Diagnostic Private Limited	Medical	Medical
<b>08/2015 14/09/2016</b>	Shri Dharam Vir and Shri Aditya Umang Vir Vs Jaiprakash Associates Limited	Private Individual	Real Estate
<b>62/2015 14/09/2016</b>	Shri Vivek Chandra Vs Jaiprakash Associates Limited	Private Individual	Real Estate
<b>36/2016 21/09/2016</b>	M/s Amar Biotech Limited Vs M/s Mahyco Monsanto Biotech(India) limited. & Others	Biotech	Biotech
<b>16/2016, 17/2016, 18/2016, 19/2016 and 20/2016 03/10/2016</b>	Rico Auto Industries Limited, In Re: Omax Autos Limited, In Re: Omax Autos Limited, In Re: Rico Auto Industries Limited, In Re: Rico Castings Limited Vs. GAIL (India) Limited	Multiple Industries	Multiple Industries
<b>62/2016 10/11/2016</b>	XYZ Vs Association of Man-made Fibre Industry of India & Others.	Non Profit Organisation	Man-made Fibre
<b>78/2016 12/01/2017</b>	Sudarshan Kumar Kapur Vs Delhi Development Authority	Private Individual	Real Estate
<b>86/2016 02/02/2017</b>	Shri Satyendra Singh Vs Ghaziabad Development Authority	Private Individual	Real Estate
<b>70/2014 27/02/2017</b>	Shri Rajat Verma Vs Public Works (B&R) Department & Others	Private Individual	Public Works
<b>88/2016 14/03/2017</b>	Sri Rama Agri Genetics (India) Private Limited Vs. Mahyco Monsanto Biotech India Limited & Others.	Agri Genetics	Seed Manufacturing
<b>68/2016 21/04/2017</b>	Biocon Limited & others Vs. F. Hoffmann-La Roche AG & Others	Pharmaceutical	Pharmaceutical
<b>29/2016 04/07/2017</b>	Next Radio Limited Vs. Prasar Bharti & Ministry of Information and Broadcasting	Radio	Radio
<b>02/2017 14/07/2017</b>	Shri Rathi Steel (Dakshin) Ltd. Vs. GAIL (India) Ltd.	Steel	Natural Gas

<b>45/2016</b> <b>17/07/2017</b>	Mohan Meakin Limited Vs. GAIL (India) Limited	Glass	Natural Gas
<b>19/2017</b> <b>06/09/2017</b>	Clear Media (India) Private Limited Vs. Prasar Bharti & Other	Radio	Radio
<b>94/2016</b> <b>31/10/2017</b>	Gurgaon Institutional Welfare Association Vs. Haryana Urban Development Authority (HUDA	Real Estate	Real Estate
<b>13/2017</b> <b>29/12/2017</b>	Thiruvananthapuram Entertainment Network (P) Ltd. Vs. Star India Pvt. Ltd	Entertainment	Entertainment
<b>39/2017</b> <b>31/01/2018</b>	HPCL-Mittal Pipelines Limited ('HMPL') Vs. Gujarat Energy Transmission Corporation Limited & Others	Petroleum and Energy	Electrical Power
<b>17/2017</b> <b>14/03/2018</b>	Vishal Pande Vs. Honda Motorcycle and Scooter India Private Ltd.	Private Individual	Automobiles
<b>40/2017</b> <b>06/04/2018</b>	Confederation of Real Estate Developers Association of India-NCR (CREDAI-NCR) Vs. Department of Town and Country Planning, Government of Haryana & Other	Real Estate	Urban Development
<b>51/2017, 54/2017</b> <b>&amp; 56/2017</b> <b>16/05/2018</b>	Informant (Confidential) Vs. Grasim Industries Limited. (GIL)	Confidential	Textile
<b>91/2013</b> <b>01/06/2018</b>	Pan India Infraprojects Private Limited Vs. Board of Control for Cricket in India (BCCI)	Sports	Sports ( Board of Control for Cricket in India )
<b>01/2018</b> <b>12/06/2018</b>	Indian National Shipowners' Association. ('INSA') Vs. Oil and Natural Gas Corporation Limited. ('ONGC')	Merchant Navy	Natural Gas
<b>53/2017</b> <b>09/07/2018</b>	Starlight Bruchem Ltd. Vs. Flora and Fauna Housing & Land Developments Private Limited & Others.	Liquor	Liquor
<b>30/2017</b> <b>27/07/2018</b>	Noida Software Technology Park Ltd. Vs. Star India Pvt. Ltd. & Others	Satellite	Entertainment
<b>16/2018</b> <b>09/11/2018</b>	Velankani Electronics Private Limited Vs. Intel Corporation	Electronics	Electronics
<b>30/2018</b> <b>09/11/2018</b>	Mr. Meet Shah & Other Vs. Union of India, Ministry of Railways & Other	Private Individual	Railways
<b>39/2018</b> <b>16/04/2019</b>	Mr. Umar Javeed & Others Vs. Google LLC & Other.	Private Individual	Internet
<b>01/2019</b> <b>07/08/2019</b>	Mr. Shravan Yadav & Others Vs. Volleyball Federation of India (VFI) & Other	Private Individual	Sports
<b>05/2019</b> <b>09/08/2019</b>	Matrix Info Systems Private Limited Vs. Intel Corporation & Other	Production of IT products	Technology
<b>30/2019</b> <b>03/10/2019</b>	Air Works India (Engineering) Private Limited Vs. GMR Hyderabad International Airport Limited & Others	Aviation	Aviation
<b>14/2019</b> <b>28/10/2019</b>	Federation of Hotel & Restaurant Associations of India (FHRAI) vs. MakeMyTrip India Pvt. Ltd. (MMT) & Others	Hospitality	Travel and Tourism

<b>16/2019</b> <b>01/11/2019</b>	M/s Maa Metakani Rice Industries vs State of Odisha represented through Commissioner-cum-Secretary, Food Supplies & Consumer Welfare Department, Government of Odisha	Production of Rice	Food
<b>40/2019</b> <b>13/01/2020</b>	In Re: Delhi Vyapar Mahasangh and Flipkart Internet Private Limited and ors.	E-commerce	E-commerce
<b>36/2019</b> <b>14/01/2020</b>	JSW Paints Private Limited Vs. Asian Paints Limited	Paint	Paint
<b>01/2020</b> <b>24/02/2020</b>	Rubtub Solutions Pvt. Ltd. Vs. MakeMyTrip India Pvt. Ltd. (MMT) & Other	Hospitality	Travel and Tourism



## Annexure B-2

### Orders Passed under Section 26 (2) of the Act by the Commission Dismissing the Case

Case No./ Date of Decision	Case name	Industry Sector in which the Informant/Complainant was engaged	Industry Sector in which OP1 was engaged
<b>45/2014</b> <b>27/10/2014</b>	Ohm Value Services Limited vs Janta Land Promoters Limited	Setting up Industries	Real Estate
<b>Ref. Case No.</b> <b>03/2014</b> <b>29/10/2014</b>	Reference under section 19(1)(b) of the Competition Act, 2002 filed on behalf of Ministry of Tourism, Government of India, Transport Bhawan, Parliament Street, New Delhi-110001 vs M/s Span Communications	Ministry of Tourism	Media and Entertainment
<b>50/2014</b> <b>29/10/2014</b>	XYZ vs Principal Secretary, PWD, Govt of Madhya Pradesh & Ors.	Private Individual	Govt dept for architectural surveys
<b>54/2014</b> <b>29/10/2014</b>	M/s Red Giant Movies vs The Secretary to Government Commercial Taxes & Registration Department, Government of Tamil Nadu & Ors.	Movie Production	Govt. of Tamil Nadu
<b>55/2014</b> <b>29/10/2014</b>	Shri Nandan Kumar vs Association of Healthcare Providers (India) & Ors.	Private Individual	Healthcare
<b>31/2014</b> <b>18/11/2014</b>	The Malwa Industrial & Marketing Ferti-chem, vs The Registrar & Ors.	Marketing and sale of the finished goods of the society to Cooperative Agricultural Service Society	Cooperative Society
<b>Ref. Case No.</b> <b>7/2014</b> <b>19/11/2014</b>	XYZ Vs M/s Penna Cements & Others.	Private Individual	Cement
<b>57/2014</b> <b>20/11/2014</b>	Shri Om Prakash & Ors. vs Media Video Limited (MVL) & Ors.	Private Individual	Housing
<b>62/2014</b> <b>21/11/2014</b>	Ohm Forex Services Ltd.(OFSL) vs ICICI Bank Limited & Ors.	Money Changer	Bank
<b>58/2014</b> <b>21/11/2014</b>	XYZ vs M/s Super Smelters Limited	Private Individual	Steel
<b>59/2014</b> <b>05/12/2014</b>	Dr. Rajender Kumar Gupta vs Shri B.D. Park, Managing Director & Ors.	Private Individual	Mobile Services
<b>67/2014</b> <b>05/12/2014</b>	Shri Uday Sakharam Yadav vs Excise, Entertainment & Luxury Tax Department	Private Individual	Information Management System
<b>68/2014</b> <b>22/12/2014</b>	Shri Umesh Chaudhary vs CSC e-governance Services India Ltd. & Ors.	Private Individual	E governance services
<b>75/2014</b> <b>22/12/2014</b>	Mr. Mohan Dharamshi Madhvi vs Chairman and Managing Director, Royal Sundaram Alliance Insurance Company Ltd. & Ors.	Private Individual	Insurance

<b>78/2014</b> <b>23/12/2014</b>	Shri Siddhartha Upadhyaya & Ors. vs Shri Sushil Ansal and Shri Pranav Ansal, M/s Ansal Proprieties & Industries Ltd. Order Under Section 38 (dated: 13.01.2015)	Private Individual	Construction
<b>60/2014</b> <b>29/12/2014</b>	XYZ vs Bengal Ambuja Housing Development Limited	Private Individual	Real Estate
<b>77/2014</b> <b>30/12/2014</b>	Sh. Ankit Jain vs M/s BPTP Limited & Ors.	Private Individual	Real Estate
<b>81/2014</b> <b>30/12/2014</b>	Muthoot Mercantile Limited vs State Bank of India (Through the Chairman) & Ors.	Non-Banking Financial Company (NBFC)	Commercial Bank
<b>70/2014</b> <b>12/01/2015</b>	Shri Rajat Verma vs Public Works (B&R) Department, Government of Haryana & Ors. Main Order, Dissent Note	Private Individual	Construction
<b>76/2014</b> <b>29/01/2015</b>	Brihan Mumbai Electric Supply and Transport Undertaking of Municipal Corporation of Greater Mumbai (BEST) vs Tata Power Company Limited	Electricity	Electricity
<b>79/2014</b> <b>29/01/2015</b>	Balbit Singh Jamwal vs Paras Buildtech India Pvt. Ltd.	Private Individual	Maintenance Services
<b>85/2014</b> <b>29/01/2015</b>	Ravinder Kaur Sethi vs DLF Universal Limited & Ors.	Private Individual	Real Estate
<b>92/2014</b> <b>29/01/2015</b>	XYZ vs Shri Hiralal Sharma	Private Individual	Education
<b>66/2014</b> <b>29/01/2015</b>	Mr. Ramesh Mehta vs M/s North Star Apartments Pvt. Ltd.	Private Individual	Real Estate
<b>69/2014</b> <b>29/01/2015</b>	Mr. Gautam Dhawan vs M/s. Parsvanath Hessa Developers Pvt. Ltd. & Ors.	Private Individual	Real Estate
<b>74/2014</b> <b>30/01/2015</b>	Shri Abhinandan Kumar vs MVL Limited.	Private Individual	Real Estate
<b>96/2014</b> <b>04/02/2015</b>	Shri Sanjay Goel vs The Chief Executive Officer, Greater Noida Industrial Development Authority	Private Individual	Real estate
<b>86/2014</b> <b>11/02/2015</b>	M/s Bhasin Motors (India) Private Limited vs M/s Volkswagen Group Sales India Private Limited	Automobile	Automobile
<b>83/2014</b> <b>17/02/2015</b>	M/s VidaySagar Realtors Pvt. Ltd. vs M/s Bestech India Pvt. Ltd. & Ors.	Real Estate	Real Estate
<b>87/2014</b> <b>24/02/2015</b>	Bharat Garage vs Indian Oil Corporation Ltd. & Ors.	Distribution of Compressed Natural Gas (CNG)	Distribution of Compressed Natural Gas (CNG).
<b>100/2014</b> <b>26/02/2015</b>	Shri Amitabh vs M/s KENT RO Systems	Private Individual	Water Purifiers
<b>95/2014</b> <b>18/03/2015</b>	Brickwork Ratings India Private Limited vs CRISIL Limited, A Standard & Poor's Company & Ors.	credit rating agency	credit rating agency
<b>01/2015</b> <b>19/03/2015</b>	Shri Shrikant Shivram Kale vs M/s Suzuki Motorcycle India Private Limited	Private Individual	Automobile

<b>02/2015</b> <b>24/03/2015</b>	Matha Timbers Private Ltd. vs Tamil Nad Mercantile Bank Ltd.	Import, Distribution and Sale of Timber	Banking
<b>93/2014</b> <b>24/03/2015</b>	CSC Forum vs CSC e-governance Services India Ltd.	Communication & Information Technology	Ministry of Communication & Information Technology
<b>97/2014</b> <b>24/03/2015</b>	Dr. (Col.) Subhash Chandra Talwar vs Chief Secretary, Govt. of Haryana & Ors.	Private Individual	Govt. Of Haryana
<b>101/2014</b> <b>01/04/2015</b>	Shri Dominic Da'Silva vs M/s Vatika Group.	Private Individual	Real Estate
<b>30/2015</b> <b>22/04/2015</b>	M/s. K Sera Sera Digital Cinema Pvt. Ltd. vs Digital Cinema Initiatives. LLC. & Ors.	Digital Cinema Services	Digital Cinema
<b>80/2014</b> <b>23/04/2015</b>	Mr. Mohit Manglani vs M/s Flipkart India Private Limited & Ors.	Private Individual	E commerce website
<b>03/2015</b> <b>23/04/2015</b>	Shri Jitendra M. Malkan vs M/s Godrej Properties Ltd & Ors.	Real Estate	Real Estate
<b>07/2015</b> <b>23/04/2015</b>	Shri Brajesh Asthana, Proprietor M/s Arpita Engineering vs Uflex Limited	Private Individual	Pouch packing machine business
<b>15/2015</b> <b>23/04/2015</b>	M/s Mahadev Buildtech Pvt. Ltd. vs M/s Hema Surgicals Pvt. Ltd. & Ors.	Liquor	Liquor- Retail and Wholesale business
<b>14/2015</b> <b>24/04/2015</b>	Mr. Ravinder Pal Singh vs BPTP Limited & Ors.	Private Individual	Real Estate Developer
<b>12/2015</b> <b>07/05/2015</b>	Shri Ashok Kumar Sharma vs Agni Devices Pvt. Ltd.	Private Individual	Security Systems
<b>90/2014</b> <b>13/05/2015</b>	Shri Ramamurthy Rajagopal vs Doctor's Associates Inc. & Ors.	Private Individual	Restaurants
<b>10, 17, 18, 25, 26 &amp; 27/2015</b> <b>19/05/2015</b>	Nitin Radheyshyam Agarwal & Other (10/2015), Shri Dharmendra M. Gada (17/2015), Shri Deepak Panchamia & Other (18/2015), Shri Dinesh Chand R Modi (25/2015), Shri Rajesh Mayani & Other (26/2015), M/s Malhar Traders Private Limited (27/2015) vs Bombay Dyeing & Manufacturing Company Limited & Ors.	Private Individual	Textile & Real Estate
<b>13/2015</b> <b>22/05/2015</b>	Shri Sanjay Goel vs Greater Noida Industrial Development Authority & Others.	Private Individual	Govt organisation for development
<b>22/2015</b> <b>28/05/2015</b>	Rooster Info. Pvt. Ltd. vs Maruti Suzuki India Ltd.	Automobile	Automobile
<b>81/2012</b> <b>31/05/2015</b>	M/s. Official Beverages vs M/s. SAB Miller India SKOL Breweries Limited & Ors	Beverages	Beverages
<b>21/2015</b> <b>02/06/2015</b>	M/s Dhanvir Food Product vs Bank of Baroda & Others	Food	Banking
<b>31/2015</b> <b>04/06/2015</b>	Shri Aayush Garg vs K.D.P. Infrastructure Private Ltd. & Others	Private Individual	Real Estate
<b>24/2015</b> <b>04/06/2015</b>	M/s K Sera Sera Digital Cinema Pvt. Ltd. vs M/s NBC Universal Media Distribution Services Pvt. Ltd. & Others	Digital Cinema	Media Distribution
<b>29/2015</b> <b>10/06/2015</b>	M/s Surana and Surana vs M/s Dell India Private Limited.	Law	Computer

<b>42/2015</b> <b>23/06/2015</b>	Mr. Rahul Sharma vs Terra Group alias Adinath Properties Pvt. Ltd.	Private Individual	Real Estate
<b>41/2015</b> <b>23/06/2015</b>	Mr. Vikar Kumar Goel vs Standard Chartered Bank & Others	Private Individual	Banking
<b>23/2015</b> <b>24/06/2015</b>	Shri Rambir Singh vs M/s Puri Constructions Pvt. Ltd.	Private Individual	Construction
<b>28/2015</b> <b>25/06/2015</b>	Shri Udit Gupta vs Interglobe Aviation Limited & others	Private Individual	Aviation
<b>37/2015</b> <b>25/06/2015</b>	Mr. Preetam Chhabra vs Ansal Properties & Infrastructure Ltd.	Private Individual	Real Estate
<b>35/2015</b> <b>30/06/2015</b>	Dreams Aakruti vs Dreams Group & othr.	Co-operative Housing Society	Real Estate
<b>20/2015</b> <b>30/06/2015</b>	Shri K. Rajarajan vs Mahindra & Mahindra Ltd. & Others	Private Individual	Automobile
<b>39/2015 and</b> <b>40/2015</b> <b>02/07/2015</b>	Case No. 39 of 2015 Shri Vijay Malhotra vs Milestone Capital Advisors Limited. and Case No. 40 of 2015 Shri Vijay Tejpal vs Milestone Capital Advisors Limited.	Private Individual	Investment
<b>47/2015</b> <b>02/07/2015</b>	Ms. Babita Roy vs M/s Swadesh Developers and Colonisers & othrs	Private Individual	Real Estate
<b>19/2015</b> <b>05/08/2015</b>	Shri Ranbir Singh vs Department of Information and Public Relations & others	Private Individual	Public Relations
<b>58/2015</b> <b>11/08/2015</b>	M/s Sri Rama Agency vs M/s Mondelez India Foods Private Limited & others	Private Individual	Food
<b>44/2015</b> <b>20/08/2015</b>	M/s Mukesh Brothers vs Jaguar & Co. Pvt. Ltd. & others	Bathroom Fittings	Bathroom Fittings
<b>48/2015</b> <b>25/08/2015</b>	Ms. Bharti Verma vs Global Information Systems Technology Pvt. Ltd	Private Individual	Information Technology
<b>52/2015</b> <b>25/08/2015</b>	Shri Deepak Khandelwal vs Ireo Grace Realtech Pvt. Ltd.	Private Individual	Real Estate
<b>45/2015</b> <b>26/08/2015</b>	M/s Ess Cee Securities Pvt. Ltd. & others vs M/s DLF Universal Limited & others	Private Individual	Real Estate
<b>55 and 56/2015</b> <b>08/09/2015</b>	M/s Gujarat Industries Power Company Limited (GIPCL) vs M/s Gail (India) Limited	Power	Natural Gas
<b>09/2015</b> <b>09/09/2015</b>	M/s Shubham Sanitarywares vs M/s HSIL Limited	Sanitaryware	Bathroom Fittings
<b>65/2015</b> <b>09/09/2015</b>	Graduates Association of Civil Engineers vs The Principal Secretary, Local Self-government & others	Real Estate	Local Self Government
<b>33/2015</b> <b>09/09/2015</b>	Shri Hardev Singh vs S.M.V. Agencies Pvt. Ltd. & Others	Private Individual	Real Estate
<b>78/2015</b> <b>28/09/2015</b>	Ms. Baby Nandini Garg vs The Management of Shikshantar School & others	Private Individual	Education
<b>67/2015</b> <b>29/09/2015</b>	Shri Navin K Trivedy. vs M. R. Proview Realtech Pvt. Ltd	Private Individual	Education
<b>46/2015</b> <b>29/09/2015</b>	Cloudwalker Streaming Technologies Private Limited. Vs. Bennett, Coleman and Co. Ltd	Film	Advertisement

<b>43/2015</b> <b>29/09/2015</b>	Makkal Tholai Thodarpu Kuzhumam Ltd.Vs.Tamil Nadu Arasu Cable TV Corporation Ltd.	TV Satellite	Cable TV
<b>64/2015</b> <b>29/09/2015</b>	Sh. Arvind Sood Vs. Hyundai Motor India Ltd.	Private Individual	Automobile
<b>91/2014</b> <b>29/09/2015</b>	Open Access Users Association Vs.Tata Power Delhi Distribution Limited & others.	Association	Power
<b>69/2015</b> <b>29/09/2015</b>	M/s Taj Pharmaceuticals Ltd. & others vs The Department of Sale Tax/ Professional tax & others	Pharmaceutical	Tax
<b>83/2015</b> <b>07/10/2015</b>	Taj Pharmaceuticals Ltd. & Ors vs Facebook & Ors	Pharmaceutical	Online Search Engine
<b>57/2015</b> <b>15/10/2015</b>	Sai Galvanizers & Fabricators Pvt. Ltd. vs. KEC International Ltd. & Others	Transmission Line Towers	Multiple Industries
<b>71/2015</b> <b>21/10/2015</b>	M/s Applesoft. vs. The Chief Secretary to the Government of Karnataka & Others.	Computer	Non Profit Organisation
<b>70/2015</b> <b>21/10/2015</b>	Shri. Vijaya Pal Singh vs. M/s Universal Buildwell (P) Ltd.	Private Individual	Real Estate
<b>51/2015</b> <b>27/10/2015</b>	Mohan Meakin Limited vs GAIL (India) Ltd	Glass	Natural Gas
<b>63/2015</b> <b>17/11/2015</b>	Shri Shrishail Rana Vs. M/s Symantec Corporation	Private Individual	Computer
<b>79/2015</b> <b>17/11/2015</b>	M/s Kyal Agencies Pvt. Ltd. & Others Vs. Utkal Chemists and Druggists Association (UCDA) & Others	Pharmaceutical	Pharmaceutical
<b>84/2015</b> <b>17/11/2015</b>	Ms. Eena Sethi vs M/s Sony India & Others	Private Individual	Electronic
<b>87/2015</b> <b>17/11/2015</b>	Mr. C. Nandeesh & Mrs. H. S. Gayathri Vs. Chairman & Managing Director, GE Countrywide Consumer Financial Services Limited.	Private Individual	Financial Services
<b>72/2015 and</b> <b>76/2015</b> <b>17/11/2015</b>	M/s DB Power Limited. Vs. M/s Coal India Ltd. & its Subsidiaries and Shri Bijay Poddar Vs. M/s Coal India Ltd. & its Subsidiaries	Electricity	Coal
<b>88/2015</b> <b>17/11/2015</b>	Dr. Sudheesh Goel Vs. Metropolis Health Care Limited.	Private Individual	Healthcare
<b>90/2015</b> <b>17/11/2015</b>	M/s Manas Enterprises vs Child Safety India	Private Individual	Child Safety
<b>16/2015</b> <b>17/11/2015</b>	Ms. Geeta Kapoor vs DLF Qutab Enclave Complex Educational Charitable Trust & Other.	Private Individual	Education
<b>91/2015</b> <b>17/11/2015</b>	Shri Raghavendra Singh Vs. RelianceIndustries Ltd.	Private Individual	Petroleum
<b>66/2015</b> <b>17/11/2015</b>	Shri Arpit Batra Vs. Haryana State Co-operative Supply and Marketing Federation Limited. & Others	Private Individual	Sugar
<b>75/2015</b> <b>17/11/2015</b>	Airline Operators Committee (AOC), Delhi Vs. Delhi International Airport Pvt. Ltd. (DIAL)	Aviation	Aviation
<b>32/2015</b> <b>17/11/2015</b>	Polimer Media Private Limited vs TAM Media Research Private Limited	Satellite Television	Television

<b>49/2015</b> <b>18/11/2015</b>	Shri Tarun Patel Vs. Haria Lakhmshi Govindji Rotary Hospital & Others	Private Individual	Pharmaceutical
<b>38/2015</b> <b>19/11/201</b>	Astha Power Corporation Pvt. Ltd. Vs. Reliance Gas Transportation Infrastructure Ltd.	Natural Gas	Natural Gas
<b>92/2015</b> <b>19/11/2015</b>	Trend Electronics vs Hewlett Packard India Sales Pvt. Ltd.	Electronics	Electronics
<b>101/2015</b> <b>10/12/2015</b>	Shri Jatin Kumar vs Estate Officer & Ors.	Private Individual	Construction
<b>89/2015</b> <b>15/12/2015</b>	श्री लक्ष्मी कान्त ध्यानी बनाम ओमेक्स लि० तथा अन्य	Private Individual	Real Estate
<b>100/2015</b> <b>15/12/2015</b>	Mr. Vineet Aryan and Mrs. Pratibha Arya & Ors. Vs. Prestige Estates Project Ltd. & Others	Private Individual	Real Estate
<b>95/2015</b> <b>17/12/2015</b>	M/s Nutan Barter Pvt. Ltd. vs M/s Imperial Housing Ventures Pvt. Ltd.	Private Individual	Real Estate
<b>81/2015</b> <b>22/12/2015</b>	Meru Travel Solutions Private Limited (MTSPL) vs Uber India Systems Pvt. Ltd	Cab	Cab
<b>105/2015</b> <b>06/01/2016</b>	Ms. Sanyogita Goyal vs M/s Ansal Properties & Infrastructure Ltd.	Private Individual	Real Estate
<b>98/2015</b> <b>06/01/2016</b>	Mr. Yeshwanth Shenoy vs Air India, Alliance Air and Air India Express & Others	Private Individual	Aviation
<b>80/2015</b> <b>07/01/2016</b>	M/s V. E. Commercial Vehicles Limited vs Uttar Pradesh State Road Transport Corporation (UPSRTC)	Automobile	Transport
<b>59/2015</b> <b>07/01/2016</b>	Turbo Aviation Pvt. Ltd. vs Bangalore International Airport Ltd. & Ors.	Aviation	Aviation
<b>86/2015</b> <b>07/01/2016</b>	Mr. Vimal Singh Rajput vs Maruti Suzuki India Ltd.	Private Individual	Automobile
<b>103/2015</b> <b>07/01/2016</b>	Mr. Raghubir Mertia vs M/s Aura Real Estate Pvt. Ltd. & Anr.	Private Individual	Real Estate
<b>102/2015</b> <b>27/01/2016</b>	Mrs. Belarani Bhattacharyya Vs M/s Asian Paints Ltd.	Private Individual	Paint
<b>82/2015</b> <b>09/02/2016</b>	M/s Mega Cabs Pvt. Ltd. Vs. M/s ANI Technologies Pvt. Ltd.	Cab	Technology
<b>01/2016</b> <b>10/02/2016</b>	Shri Anand Parkash Agarwal Vs. Dakshin Haryana Bijli Vitran Nigam	Private Individual	Power
<b>108/2015</b> <b>10/02/2016</b>	Air India Limited Vs. InterGlobe Aviation Limited	Aviation	Aviation
<b>110/2015</b> <b>10/02/2016</b>	Smt. Sarita Punia w/o Shri P. D. Punia vs Tulip Housing Private Limited	Private Individual	Housing
<b>96/2015</b> <b>10/02/2016</b>	Meru Travel Solutions Private Limited (MTSPL) vs Uber India Systems Pvt. Ltd. & Others	Cab	Cab
<b>112/2015</b> <b>25/02/2016</b>	Shri M. M. Mittal Vs. M/s Paliwal Developers Ltd.	Private Individual	Real Estate
<b>11/2016</b> <b>16/03/2016</b>	Sh. R. S. Malik & Sh. Hemant Rana Vs Sh. Inder Singh & Ors.	Private Individual	Private Individual
<b>14/2016</b> <b>29/03/2016</b>	Yashpal Raghubir Mertia Vs. M/s Aura Real Estate Pvt. Ltd. & Anr.	Private Individual	Real Estate

<b>106/2015</b> <b>29/03/2016</b>	Tamilnadu Consumer Products Distributors Association Vs. Britannia Industries Ltd. and Britannia Dairy Pvt. Ltd.	Food	Food
<b>104/2015</b> <b>29/03/2016</b>	Registrars Association of India (RAIN) Vs. National Securities Depository Ltd. (NSDL) & Others	Information Technology	Information Technology
<b>05/2016 and</b> <b>06/2016</b> <b>29/03/2016</b>	Mr. Mukul Kumar Govil & others. Mrs. Kiran Govil & others. Vs. ET Infra Developers Pvt. Ltd. & Others	Private Individuals	Real Estate
<b>99/2015</b> <b>01/04/2016</b>	Paharpur-3P, Paharpur Cooling Towers Ltd. Vs. Gail (India) Ltd.	Packaging	Gas
<b>94/2015</b> <b>01/04/2016</b>	Gujarat State Fertilisers & Chemicals Ltd. Vs. Gail (India) Ltd.	Fertilisers and Chemicals	Gas
<b>22/2016</b> <b>03/05/2016</b>	Actuate Business Consulting Pvt. Ltd. & Abha Kathuria Kohli Vs Ambika Trading & Construction Co. Pvt. Ltd.	Private Individual	Trading and Construction
<b>97/2015</b> <b>03/05/2016</b>	Southwest India Machine Trading Pvt. Ltd. Vs. Case New Holland Construction Equipment (India) Pvt. Ltd	Trading	Construction
<b>23/2016</b> <b>03/05/2016</b>	Confederation of Real Estate Brokers' Association of India Vs Magicbricks.com & Ors.	Real Estate	Online Search Engine
<b>27/2016</b> <b>03/05/2016</b>	Mr. Bosco Joseph Vs Union of India, Department of Legal Affairs, Ministry of Law & Justice & Ors	Private Individual	Legal
<b>04/2016</b> <b>05/05/2016</b>	Mr. Vishwambhar M. Doiphode Vs. Vodafone India Limited	Private Individual	Telecommunication
<b>28/2016</b> <b>01/06/2016</b>	Mr. A. S. Sharma Vs M/s Prateek Realtors India Pvt. Ltd & Ors.	Private Individual	Real Estate
<b>35/2016</b> <b>02/06/2016</b>	Shri Kamble Sayabanna Kallappa Vs. M/s Bennett Coleman and Company Limited	Private Individual	Newspaper
<b>46/2016</b> <b>07/06/2016</b>	Smt. Jolly Diclause Vs. The General Manager Sterling Vehicle Sales Pvt. Ltd. & Nissan Motor India Pvt. Ltd.	Private Individual	Automobile
<b>42/2016</b> <b>08/06/2016</b>	Indian Paint & Coating Association Vs. Kanoria Chemicals & Industries Ltd.	Paint	Chemicals
<b>26/2016</b> <b>08/06/2016</b>	Mr. Sumit Kumar Vs. KAMP Developers Pvt. Ltd.	Private Individual	Real Estate
<b>113/2015</b> <b>28/06/2016</b>	P.E.C. Usha Furniture Vs. Military Engineer Services, Officials working under CE (Navy)	Furniture	Military Engineering
<b>07/2016</b> <b>28/06/2016</b>	Prime Mag. Subscription Services Pvt. Ltd. Vs. Wiley India Pvt. Ltd., John Wiley & Sons Ltd.	Publishing	Publishing
<b>13/2016</b> <b>05/07/2016</b>	Shri Vinay Kala and Smt. Mina Kala Vs. DLF Ltd.	Private Individual	Real Estate
<b>40/2016</b> <b>14/07/2016</b>	Shri Kailash Chander Sharma Vs. Coal India Limited & Others	Private Individual	Coal
<b>15/2016</b> <b>26/07/2016</b>	Mr. Gajinder Singh Kohli Vs Genius Propbuild Private Limited	Private Individual	Real Estate
<b>33/2016</b> <b>26/07/2016</b>	M/s Rex Propbuild Pvt. Ltd. Vs. M/s Parsvnath Developers Ltd	Real Estate	Real Estate

<b>34/2016</b> <b>26/07/2016</b>	Mr. Deepak Verma Vs. Clues Network Pvt. Ltd.	Private Individual	Retail Market
<b>44/2016</b> <b>09/08/2016</b>	XYZ Vs Hospital Services Consultancy Corporation India Ltd. (HSCC) (India) Ltd. & Anr	Confidential	Healthcare
<b>48/2016</b> <b>31/08/2016</b>	Smt. Usha Roy Vs M/s ANS Developers Pvt. Ltd.	Private Individual	Real Estate
<b>21/2016</b> <b>31/08/2016</b>	Mr. Vilakshan Kumar Yadav & Others Vs M/s ANI Technologies Private Limited	Private Individual	Radio Taxi
<b>60/2016</b> <b>31/08/2016</b>	M/s Oberoi Cars Pvt. Ltd. Vs M/s Imperial Housing Ventures Pvt. Ltd.	Automobile	Real Estate
<b>59/2016</b> <b>06/09/2016</b>	Shri Sameer Agarwal Vs M/s Bestech India Pvt. Ltd.	Private Individual	Real Estate
<b>41/2016</b> <b>21/09/2016</b>	Shri Prem Prakash Vs Power Grid Corporation of India Ltd.	Private Individual	Electricity
<b>70/2016</b> <b>25/10/2016</b>	Dr. AR Subramanian Vs Mr. Mohit Arora, Managing Director, M/s Supertech Limited	Private Individual	Real Estate
<b>75/2016</b> <b>25/10/2016</b>	M/s Picasso Animation Private Limited (PAPL) Vs. M/s. Picasso Digital Media Pvt. Limited (PDMPL)	Animation	Digital Media
<b>63/2016</b> <b>25/10/2016</b>	Mr. Anant @ Shyam Damodar Patkar Vs M/s Pam Infrastructure & Anr	Private Individual	Real Estate
<b>73/2016</b> <b>09/11/2016</b>	Mathew K. P. Vs Joy Alukas India Pvt. Limited & Ors.	Real Estate	Real Estate
<b>71/2016</b> <b>10/11/2016</b>	M/s Indiacan Education Pvt. Ltd. Vs M/s Aldine Ventures Pvt. Ltd. & Others	Education	Education
<b>49/2016</b> <b>10/11/2016</b>	Mahendra Kumar Rathore Vs M/s Super Cassettes Industries Pvt. Ltd.	Private Individual	Television Operators
<b>76/2016</b> <b>10/11/2016</b>	Dr. S. K. Mittal, Advocate Vs HP Inc.	Private Individual	Computers
<b>30/2016</b> <b>10/11/2016</b>	Shri Prem Pal and Shri Amrish Vs Indian Oil Corporation Ltd. and Ors.	Private Individual	Oil
<b>74/2016</b> <b>10/11/2016</b>	Shri Shiv Ram Sharma and Ors Vs Kalptaru Buildtech Corporation Limited and Ors.	Private Individual	Real Estate
<b>69/2016</b> <b>10/11/2016</b>	Suntec Energy Systems Vs National Dairy Development Board	Energy	Dairy
<b>64/2016</b> <b>05/12/2016</b>	Mr. N. K. Prakash Babu Vs The President, South Indian Film Chamber of Commerce & Others.	Private Individual	Film
<b>50,51,52,53,54 and 55/2016</b> <b>05/12/2016</b>	Shri Abdul Waseem, Shri Abdul Basit, Shri Abdul Azim Vs. DLF Universal Ltd.	Private Individuals	Real Estate
<b>89/2016</b> <b>05/12/2016</b>	Shri Rakesh Sanghi Vs. Bennett, Coleman and Company Ltd. & Others	Private Individuals	Newspaper
<b>67/2016</b> <b>05/12/2016</b>	Shri Veer Pratap Naik Vs AVEVA Information Technology India Pvt. Ltd.	Private Individuals	Information Technology
<b>57/2016</b> <b>06/12/2016</b>	Eskay Video Pvt. Ltd. Vs Real Image Media Technologies Pvt. Ltd. & Ors.	Film	Film
<b>92/2016</b> <b>06/12/2016</b>	Dr Ravi Bhushan Sharma Vs Toyota kiosk Motor Pvt. Ltd	Private Individuals	Automobile



<b>65/2016</b> <b>06/12/2016</b>	M/s Rishabraj Logistics Limited Vs. Orix Auto Infrastructure Services Limited. & Others	Transport	Car Rental
<b>93/2016</b> <b>13/12/2016</b>	M/s Shree Hari Inn Pvt. Ltd. Vs M/s Mercedes Benz India Pvt. Ltd.	Private Individuals	Automobile
<b>79/2016</b> <b>17/01/2017</b>	Sh. Ravi Beriwalla Vs. Lexus Motors Ltd. & Ors.	Private Individual	Automobile
<b>87/2016</b> <b>17/01/2017</b>	Major Siya Ram (Retd.) & Other Vs M/s Wave Megacity Centre Private Ltd.	Private Individual	Real Estate
<b>84/2016</b> <b>24/01/2017</b>	Mr. Rajendra Kumar Nigam Vs Franco-Indian Pharmaceuticals Private Limited. & other	Private Individual	Pharmaceutical
<b>72/2016</b> <b>31/01/2017</b>	M/s Shah Associates Vs. Timken India Limited.	Private Individual	Oil and Natural Gas
<b>82/2016</b> <b>02/02/2017</b>	Mr. Debabrat Mishra Vs. Daimler Financial Services India Private Limited & Others.	Private Individual	Financial Services
<b>43/2016</b> <b>03/02/2017</b>	Onicra Credit Rating Agency of India Limited Vs. Indiabulls Housing Finance Limited.	Credit Rating	HousingFinance
<b>47/2016 and</b> <b>56/2016</b> <b>08/02/2017</b>	Indian Competition Review Vs. Gateway Terminals India Private Limited (GTIPL) & Others	Indian Competition Review	Container Terminal
<b>100/2016</b> <b>08/02/2017</b>	Mr. Rachakonda Satya Sravan Kumar Vs ACE Educational Services Private Limited & Others	Private Individual	Education
<b>66/2016</b> <b>21/02/2017</b>	Mr. Ashish Dandona Vs Dhanlaxmi Bank limited.	Private Individual	Banking
<b>85/2016</b> <b>27/02/2017</b>	Shree Gajanana Motor Transport Company Limited Vs. Karnataka State Road Transport Corporation (KSRTC) & others.	Automobile	Transport
<b>109/2015</b> <b>08/03/2017</b>	Rajeev Nohwar Vs. Lodha Group	Private Individual	Real Estate
<b>91/2016</b> <b>08/03/2017</b>	M/s Kiran Enterprise Vs. M/s Abbott Healthcare Pvt. Ltd.	Private Individual	Healthcare
<b>24/2016</b> <b>09/03/2017</b>	South Gujarat Warp Knitters Association Vs. Prafful Overseas Private Limited & Others.	Knitting	Yarn
<b>08/2016</b> <b>10/03/2017</b>	Justickets Pvt. Ltd. Vs. Big Tree Entertainment Pvt. Ltd. & Other	Movie Ticketing	Entertainment
<b>102/2016</b> <b>14/03/2017</b>	Shri Tirath Ram Vs Baba Associate, Rep. by Sh. Rajender Gupta (Partner)	Private Individual	Real Estate
<b>20/2014</b> <b>14/03/2017</b>	Dr. Biswanath Prasad Singh Vs Director General of Health Services (DGHS) & others.	Private Individual	Healthcare
<b>103/2016</b> <b>15/03/2017</b>	Aditya Automobile Spares Private Limited & Others Vs. Kotak Mahindra Bank Ltd	Automobile	Banking
<b>50/2014</b> <b>17/03/2017</b>	Prem Prakash Vs The Principal Secretary Madhya Pradesh Public Works Department & Others.	Private Individual	Public Works
<b>06/2017</b> <b>03/05/2017</b>	Mr. Budheshwaran Shukla Vs. Executive Engineer & others.	Private Individual	Electricity

<b>04/2017</b> <b>05/05/2017</b>	Sh. Ujjwal Narayan & Others Vs. M/s Goel Enclave & Others.	Private Individual	Private Individual
<b>08/2017</b> <b>05/05/2017</b>	M/s Applesoft Vs. The Chief Secretary to the Government of Karnataka & others.	Computer	The Chief Secretary to the Government of Karnataka
<b>99/2016</b> <b>01/06/2017</b>	Shri Vinod Kumar Gupta, Chartered Accountant Vs. WhatsApp Inc.	Private Individual	Social Networking
<b>18/2017</b> <b>02/06/2017</b>	Bijay Poddar Vs. Coal India Limited & Others	Private Individual	Coal
<b>15/2017</b> <b>09/06/2017</b>	Bablu & Company Vs. Fatehchand & Company & Others	Food	Food
<b>03/2017</b> <b>09/06/2017</b>	Bharti Airtel Limited Vs. Reliance Industries Limited & Other	Telecommunication	Telecommunication
<b>10/2017</b> <b>12/06/2017</b>	Karnataka Power Corporation Limited Vs. The Singareni Collieries Company Limited	Power	Coal
<b>98/2016</b> <b>15/06/2017</b>	C. Shanmugam & Other Vs. Reliance Jio Infocomm Limited & Ors.	Private Individual	Telecommunication
<b>97/2016</b> <b>21/06/2017</b>	K Sera Sera Digital Cinema Ltd. Vs. Pen India Ltd. & Others	Digital Cinema	Digital Cinema
<b>14/2017</b> <b>29/06/2017</b>	Prem Prakash Vs Director General, Bureau of Indian Standards	Private Individual	Bureau of India Standards
<b>80/2016</b> <b>19/07/2017</b>	XYZ Vs. Sanofi India Limited	Confidential	Medicine and Drugs
<b>16/2017</b> <b>08/08/2017</b>	Mr. Sreedhar Reddy V. Vs. SJR Enterprises Pvt. Ltd. & Other	Private Individual	Real Estate
<b>37/2017</b>	Capt. Deepak Shrikrishnarao Satam Vs. Tata Housing Development Co. Ltd.	Private Individual	Real Estate
<b>22/2017</b>	Flyash Based Bricks Manufacturers & Promoters Association Vs. Chief Secretary, Government of Uttar Pradesh Sachivaliya & Others	Construction	Construction
<b>34/2017</b> <b>17/08/2017</b>	XYZ Vs. Hyundai Motor India Limited & Other	Confidential	Automobile
<b>23/2017</b> <b>23/08/2017</b>	In Re: Kush Kalra Vs. Reserve Bank of India & Others	Private Individual	Banking
<b>31/2017 and</b> <b>33/2017</b> <b>24/08/2017</b>	31/2017) Mrs. Nikunj Sisonadia Vs. Chairman and Managing Director, M/s Earth Infrastructure Ltd. & Other, (33/2017) Mrs. Rashmi Raj Vs. Chairman and Managing Director, M/s Earth Infrastructure Ltd. & Others	Private Individual	Infrastructure
<b>Ref: Case No</b> <b>01/2017</b> <b>06/09/2017</b>	Public Works Department Vs. Harman International (India) Pvt. Ltd.	Public Works	Engineering
<b>32/2017</b> <b>06/09/2017</b>	Wing Commander Jai Kishan & Other Vs. The Chairman and Managing Director, M/s Concept Horizon Infra Pvt. Ltd. & Other	Private Individual	Infrastructure
<b>21/2017</b> <b>07/09/2017</b>	VE Commercial Vehicles Limited Vs. Uttar Pradesh State Road Transport Corporation	Automobile	Transport
<b>29/2017</b> <b>12/09/2017</b>	International Air Transport Association (IATA) Vs. Air Cargo Agents Association of India (ACAAI) & other.	Aviation	Aviation

<b>41/2017</b> <b>28/09/2017</b>	In re: Shri Rishi Keshwani Vs. M/s Kanti Traders	Private Individual	Real Estate
<b>44/2017</b> <b>03/10/2017</b>	Akhil R. Bhansali Vs. Skoda Auto India Pvt. Ltd. & Other	Private Individual	Automobile
<b>07/2017</b> <b>03/10/2017</b>	P. V. Basheer Ahamed Vs. Film Distributors Association (Kerala) & Other	Private Individual	Film
<b>96/2016</b> <b>04/10/2017</b>	In Re: Ms. Usha Roy Vs. ANS Developers Pvt. Ltd. & Other	Private Individual	Real Estate
<b>52/2017</b> <b>09/10/2017</b>	In Re: Maharashtra Electrical Engineers Association Vs. Maharashtra Industrial Development Corporation & Other.	Electricity	Real Estate
<b>20/2017</b> <b>12/10/2017</b>	In Re: Tata Power Delhi Distribution Limited Vs. NTPC Limited	Power	Power
<b>58/2017</b> <b>14/11/2017</b>	Association of Registration Plates Manufacturers of India Vs. Shimnit UTSCH India Private Limited & Others	Registration plates	Registration plates
<b>38/2017</b> <b>14/11/2017</b>	R. Ramkumar Vs. Akshaya Private Ltd.	Private Individual	Real Estate
<b>47/2017, 48/2017</b> <b>and 49/2017</b> <b>28/11/2017</b>	(47/2017) Maj. Pankaj Rai Vs. NIIT Limited, (48/2017) Ms. Pankaj Gupta Vs. NIIT Limited, (49/2017) Shri Lakshmi Reddy Eddula Vs. NIIT Limited	Computer Education	Computer Education
<b>61/2017</b> <b>30/11/2017</b>	Shri Vijay Menon Vs. Maharashtra State Power Generation Company Ltd.	Private Individual	Power
<b>74/2017</b> <b>29/12/2017</b>	Shri C.P. Paul Vs. Kerala State Electricity Board Limited. & Other	Private Individual	Electricity
<b>57/2017</b> <b>29/12/2017</b>	Mr. Arjun Vs. Vaicom 18 & Others	Private Individual	Entertainment
<b>64/2017</b> <b>04/01/2018</b>	Mr. Indudhar M. Patil Vs. DS-Max Properties Private Limited	Private Individual	Real Estate
<b>43/2017</b> <b>24/01/2018</b>	Shri Arun Mishra Vs. State of U.P. through Chief Secretary & Others	Private Individual	Power
<b>66/2017</b> <b>24/01/2018</b>	Asmi Metal Products Pvt Ltd. Vs. SKF India Ltd	Metal	Mechanical
<b>60/2017</b> <b>06/02/2018</b>	Industries and Commerce Association Vs. Coal India Limited & Others	Hard coke	Coal
<b>75/2017</b> <b>27/02/2018</b>	Prem Prakash Vs. Airport Authority of India & Other	Private Individual	Aviation
<b>Case No 67/2017,</b> <b>68/2017, 69/2017,</b> <b>70/2017, 71/2017,</b> <b>72/2017 &amp;</b> <b>73/2017</b> <b>27/02/2018</b>	(67/2017) Bharat Burman and others Vs. Sri Ram Housing Finance & Investment of India Ltd.(SRHFII), (68/2017) Harsh Vardhan Vs. (SRHFII)., (69/2017) Anuradha and others Vs. (SRHFII), (70/2017) Man Mohan Vs. (SRHFII). , (71/2017) Harsh Vardhan and others Vs. (SRHFII), (72/2017) Krishan Arora Vs. (SRHFII) & (73/2017) Sangeeta Arora and others Vs. (SRHFII)	Private Individual	Real Estate
<b>76/2017</b> <b>28/02/2018</b>	Ramachandran V. Vs. JSW Cements Limited	Private Individual	Cement

<b>65/2017 08/03/2018</b>	Sarv Prakash Developers Vs. Phantom Films & Others	Real Estate	Film
<b>09/2018 11/05/2018</b>	Shri Masood Raza Vs. Uttar Pradesh Avas Avam Vikas Parishad (UPAVP)	Private Individual	Real Estate
<b>11/2018 30/05/2018</b>	In Re: Parsoli Motor Works Pvt. Ltd. Vs. BMW India Private Limited & Other	Automobile	Automobile
<b>03/2018 01/06/2018</b>	Shri Kshitiz Arya & other Vs. Viacom18 Media Pvt. Ltd. & Others	Private Individual	Entertainment
<b>08/2018 01/06/2018</b>	Mr. Jaideep Ugrankar Vs. Client Associates	Private Individual	Client Association
<b>14/2018 11/06/2018</b>	Shri Ashish Gupta Vs. Panchsheel Buildtech Private Limit & Other	Private Individual	Real Estate
<b>13/2018 19/06/2018</b>	Singhal Industries Pvt. Ltd. Vs. Sparco Multiplast Pvt. Ltd.	Polymer Products	Polymer Products
<b>25/2017, 26/2017, 27/2017, 28/2017 20/06/2018</b>	Meru Travel Solutions Pvt. Ltd. Vs. M/s ANI Technologies Pvt. Ltd. & Others	Taxi Service	Taxi Service
<b>05/2018 04/07/2018</b>	XYZ Vs. Indian Oil Corporation Ltd. & Others	Confidential	Oil
<b>02/2018 04/07/2018</b>	Maheswari Agro Products Vs. Tamil Nadu Civil Supplies Corporation	Agriculture	Agriculture
<b>50/2017 09/07/2018</b>	Cambridge Residents Welfare Association & Others Vs. Merlin Developers & Others	Welfare Association	Real Estate
<b>21/2018 30/07/2018</b>	Shri Rajendra Agarwal, Advocate Vs. Shoppers Stop Limited	Private Individual	Retail Market
<b>18/2018 06/08/2018</b>	M. Kaja Peer Mohamed Vs. The Principal Secretary, Social Welfare and Nutritious Meal Program Department, Government of Tamil Nadu and other.	Private Individual	Healthcare
<b>24/2018 07/08/2018</b>	Swarna Properties Vs. Vestas Wind Technology India Private Limited.	Real Estate	Technology
<b>55/2017 14/08/2018</b>	M/s Counfreedise Vs. Timex Group India Limited	Retail	Manufacturing of Clocks
<b>26/2018 14/08/2018</b>	Shri D.K. Srivastava Vs. UP Housing & Development Board	Private Individual	Real Estate
<b>17/2018 27/08/2018</b>	Khemsons Agencies Vs. Mondelez India Foods Private Limited	Food	Food
<b>05/2018 27/08/2018</b>	Central Organisation for Railway Electrification Vs. M/s PPS International	Railway	Equipment Manufacturer
<b>28/2018 28/08/2018</b>	Mr. Prabhakar Pandey Vs. Nutricia International Private Limited	Private Individual	Food and Beverage
<b>22/2018 30/08/2018</b>	Mr. G. P. Konar Vs. Department of Agriculture and Farmers Welfare, Government of Haryana	Agriculture	Agriculture
<b>12/2018 30/08/2018</b>	Dr. Sanjay Agarwal Vs. Public Works Department, Government of Uttar Pradesh	Private Individual	Public Works
<b>27/2018 11/09/2018</b>	Shiju R Vs. Sunil Kumar V	Private Individual	Private Individual
<b>31/2018 18/09/2018</b>	Mr. Milind Madhavrao Bhadane Vs. Mr. Viraj Lomate, Director Shree Yashashree Construction Pvt. Ltd.	Private Individual	Real Estate

<b>15/2018</b> <b>04/10/2018</b>	Tamil Nadu Consumer Products Distributors Association Vs. Fangs Technology Private Limited & Other	FMCG	Technology
<b>38/2018</b> <b>10/10/2018</b>	P. Sesharatnam W/o late Rama Rao & others Vs. Sudershan Reddy S/o Deva Reddy & others	Private Individual	Private Individual
<b>23/2018</b> <b>16/10/2018</b>	Mr. Ranjit Singh Gujral Vs. Vatika Limited & others	Private Individual	Real Estate
<b>20/2018</b> <b>06/11/2018</b>	All India Online Vendors Association Vs. Flipkart India Private Limited & ot	All India Online Vendors Association	E commerce website
<b>37/2018</b> <b>06/11/2018</b>	Samir Agrawal Vs. ANI Technologies Pvt. Ltd. & others	Private Individual	Taxi service
<b>34/2018</b> <b>08/11/2018</b>	In Re: M/s K.C. Marketing Vs. OPPO Mobiles MU Private Limited	Private Individual	Mobile
<b>36/2018</b> <b>08/11/2018</b>	M. Venugopal Reddy Vs. Trans Union CIBIL Limited. & Other	Infrastructure	Credit Information
<b>10/2018</b> <b>09/11/2018</b>	Bharat Sanchar Nigam Limited Vs. M/s Indus Towers Limited	Telecommunication	Telecommunication
<b>42/2018</b> <b>09/11/2018</b>	In Re: NLC India Limited Vs. M/s. Phoenix Conveyor Belt India ( P ) Limited	Electricity	Electricity
<b>41/2018</b>	Reprographics India Vs. Hitachi Systems Micro Clinic Pvt. Ltd. & Anr.	IT infrastructure	IT infrastructure
<b>33/2018</b> <b>09/11/2018</b>	Kelvion India Private Limited Vs. Apollo Industrial Corporation & others	Manufacturing of heat exchangers	Electricity
<b>45/2018</b> <b>26/12/2018</b>	Cupid Limited Vs. Ministry of Health & Family Welfare Government of India & Other Opposite Parties	Pharmaceutical	Healthcare
<b>06/2018</b> <b>02/01/2019</b>	Mr. Chirag S. Shastri & Others Vs. Indiabulls Housing Finance Limited & other	Private Individual	Housing Finance
<b>Ref: Case No</b> <b>06/2018</b> <b>02/01/2019</b>	Chief Materials Manager/Sales, Eastern Railway Vs. M/s Laxven Systems & other	Railway	Railway
<b>47/2018</b> <b>07/01/2019</b>	Advocate Jitesh Maheshwari Vs. National Stock Exchange of India Ltd.	Railway	Security
<b>40/2018</b> <b>15/01/2019</b>	Mr. Habib Rajmohamad Patel Vs. Chairman/Secretary, Royal Western Turf Club India Ltd.	Private Individual	Club
<b>29/2018</b> <b>28/02/2019</b>	Mr. Vijay Gopal Vs. Inox Leisure Ltd. & Other	Private Individual	Beverages
<b>25/2018</b> <b>22/03/2019</b>	Ravi Pal Vs. All India Sugar Trade Association (AISTA) & Anr.	Private Individual	Sugar
<b>02/2019</b> <b>22/04/2019</b>	Sun Electronics Private Limited Vs. ElecTek Solutions Private Limited. & others.	Electronics	Electronics
<b>06/2019</b> <b>23/04/2019</b>	Ms. Dejee Singh & Others. Vs. M/s SANA REALTORS PRIVATE LIMITED	Private Individual	Real estate
<b>13/2019</b> <b>10/05/2019</b>	Shri Anil Rathi Vs. Oriental Insurance Company Limited	Private Individual	Insurance
<b>07/2019</b> <b>10/05/2019</b>	Bablu & Company Vs. Fatehchand & Company & Others.	Agriculture	Agriculture
<b>43/2018</b> <b>10/05/2019</b>	Mr. Kalyan Chowdhary Vs. Cipla Limited. & Other	Private Individual	Pharmaceutical

<b>48/2018</b> <b>23/05/2019</b>	Oil Country Tubular Ltd. Vs. Maharashtra Seamless Limited	Oil	Oil
<b>44/2018</b> <b>23/05/2019</b>	Mr. Kuntal Chowdhary Vs. Macleods Pharmaceuticals Limited. & Other	Private Individual	Pharmaceutical
<b>11/2019</b> <b>24/05/2019</b>	Mr. Kanhaiya Singhal Vs. Indiabulls Housing Finance Limited & others	Private Individual	Housing Finance
<b>35/2018</b> <b>19/06/2019</b>	M/s Karni Communication Private Ltd. & Other Vs. Haicheng Vivo Mobile (India) Private Ltd. & Others	Distributor of mobile handsets	Communication Technology
<b>20/2019</b> <b>28/06/2019</b>	Consumer Educational and Research Society & Other Vs. Union of India, Ministry of Railways & Other	Consumer Educational and Research Society	Railways
<b>08/2019</b> <b>02/07/2019</b>	M/s SOWIL Limited Vs. Bentley Systems India Private Limited	Software Solutions	Software Solutions
<b>10/2019</b> <b>24/07/2019</b>	Unilazer Ventures Private Limited. Vs. PVR Ltd & Others	Film	Theatre
<b>19/2019</b> <b>25/07/2019</b>	Beach Mineral Producers Association and another vs. Directorate General of Foreign Trade (DGFT) and others	Beach mineral	DGFT
<b>12/2019</b> <b>26/07/2019</b>	Indian Chemical Council Vs. General Insurance Corporation of India	Chemical	Insurance
<b>03/2019</b> <b>31/07/2019</b>	RKG Hospitalities Pvt. Ltd. Vs. Oravel Stays Pvt. Ltd.	Hospitality	Hospitality
<b>17/2019</b> <b>01/08/2019</b>	Mr. Ashok Kumar Vallabhaneni Vs. Geetha SP Entertainment LLP & Others	Private Individual	Entertainment
<b>22/2019</b> <b>02/08/2019</b>	United Breweries Limited Vs. The Commissioner, Department of Excise, Entertainment and Luxury Tax, Government of National Capital Territory of Delhi	Beverages	Department of Excise, Entertainment and Luxury Tax, Government of National Capital Territory of Delhi
<b>18/2019</b> <b>05/08/2019</b>	National Consumers Co-operative Federation of India Limited Vs. New Town Electric Supply Company Limited & Other	National Consumers Co-operative Federation of India Limited	Electricity
<b>04/2019</b> <b>07/08/2019</b>	Ashokbhai M. Mehta Vs. Gujarat State Board of School Textbook	Private Individual	Education
<b>26/2019</b> <b>03/10/2019</b>	Suresh Chander Gupta Vs. Vatika Limited	Private Individual	Private Individual
<b>15/2019</b> <b>11/10/2019</b>	Sainath Autolinks Pvt. Ltd. Vs. State Bank of India & other	Autolinks	Banking
<b>25/2019</b> <b>16/10/2019</b>	Ashok Suchde Vs. Pernod Ricard India Private Limited	Liquor	Liquor
<b>29/2019</b> <b>29/10/2019</b>	Ms. Vijayachitra Kamalesh vs RCI India Private Limited	Private Individual	Security
<b>27/2019</b> <b>01/11/2019</b>	M/s Manjeet Plastic Industries vs Charanpaaduka Industries Private Limited and Others	Plastic	Shoe
<b>23/2019</b> <b>29/01/2020</b>	Satyen Narendra Bajaj Vs. PayU Payments Private Limited & Others.	E-payment	E-payment
<b>45/2019</b> <b>05/02/2020</b>	Plasser India Pvt. Ltd.Vs. Harbour Sales Pvt. Ltd. & Others	Railway	Railway
<b>34/2019</b> <b>06/02/2020</b>	Assam Plywood Manufacturers Association Vs. Assam Petrochemicals Ltd.	Plywood	Petrochemical

<b>42/2019</b> <b>07/02/2020</b>	Mr. Makarand Anant Mhaskar Vs. USV Private Limited & Other	Private Individual	Pharmaceutical
<b>02/2020</b> <b>10/02/2020</b>	Mr. Ambalal V. Patel Vs. Central Medical Service Society & Others	Private Individual	Medical
<b>32/2019</b> <b>10/02/2020</b>	Mr. Ajinder Singh Vs. Vodafone Idea Limited (formerly known as IDEA Cellular Limited) & Others	Private Individual	Telecommunication
<b>03/2019</b> <b>21/02/2020</b>	CP Cell, Directorate General Ordnance Service Vs. M/s HP State Handicraft & Handloom Corporation & Others	Directorate General Ordnance Service	Handicraft and handloom
<b>02/2019</b> <b>21/02/2020</b>	CP Cell, Directorate General Ordnance Service Vs. M/s NCFD & Others	Directorate General Ordnance Service	Multiple industries
<b>05/2019</b> <b>21/02/2020</b>	CP Cell, Directorate General Ordnance Service Vs. M/s AVR Enterprises & Other	Directorate General Ordnance Service	Multiple Industries
<b>37/2019</b> <b>28/02/2020</b>	Abhiraj Associates Private Limited Vs. Eastern Railways, Kolkata	Railway	Railway
<b>38/2019</b> <b>05/05/2020</b>	M/s Venkateswara Agencies Vs. Kerala Agro Machinery Corporation Ltd.	Agriculture	Agriculture
<b>10/2020</b> <b>06/05/2020</b>	Ved Prakash Tripathi Vs. Director General Armed Forces Medical Services & Others.	Private Individual	Armed Forces and Medicine
<b>04/2020</b> <b>08/05/2020</b>	Travel Agents Association of India Vs. Department of Expenditure, Ministry of Finance, Government of India & Others	Travel	Department of Expenditure, Ministry of Finance, Government of India
<b>28/2019</b> <b>11/05/2020</b>	In Re: XYZ Vs. Directorate of State Lotteries, West Bengal & Others.	Confidential	Directorate of State Lotteries, West Bengal
<b>03/2020</b> <b>11/05/2020</b>	In Re: Accessories World Car Audio Private Limited Vs. Sony India Private Limited & Other	Audio	Audio
<b>05/2020</b> <b>11/05/2020</b>	Multix Owners and Users Welfare Society Vs. Eicher Polaris Pvt. Ltd. & Others	Automobile	Automobile
<b>44/2019</b> <b>14/05/2020</b>	M/s RH Agro Private Limited Vs. State Bank of India and others.	Agriculture	Banking
<b>48/2019</b> <b>22/05/2020</b>	In Re: Ms Lakshmi Sharma Vs. Punjab National Bank	Private Individual	Banking
<b>39/2019</b> <b>19/06/2020</b>	In Re: Ms Prachi Agarwal & Or. Vs. M/s Swiggy	Private Individual	Food Delivery
<b>13/2020</b> <b>08/07/2020</b>	Sandeep Mishra Vs. National highways authority of India	Private Individual	Highway authority
<b>17/2020</b> <b>08/07/2020</b>	Prashant Properties Pvt. Limited Vs. SPS Steels Rolling Mills Ltd. and others	Private Individual	Steel
<b>23/2020</b> <b>06/08/2020</b>	Mr. Mainejer Prasad Gupta Vs. Bajaj Auto Ltd. & Others	Private Individual	Automobile
<b>15/2020</b> <b>18/08/2020</b>	Harshita Chawla Vs. WhatsApp Inc. and others	Private Individual	Social Networking
<b>14/2020</b> <b>26/08/2020</b>	SOWIL Limited Vs. Hexagon Geosystems India Pvt. Ltd	Construction	Construction
<b>22/2020</b> <b>26/08/2020</b>	Devinder Sharma Vs. Ashiana Housing Ltd. & other.	Private Individual	Real estate

<b>24/2020</b> <b>26/08/2020</b>	Dhiraj Gupta Vs. Delhi Metro Rail Corporation Limited	Private Individual	Railway
<b>27/2020</b> <b>07/09/2020</b>	Mr. Vijay Chaudhry Vs. M/s India Yamaha Motor Private Limited	Private Individual	Automobile
<b>09/2020</b> <b>11/09/2020</b>	Lifestyle Equities C.V. and another Vs. Amazon Seller Services Private Limited and others	Retail	Online website
<b>18/2020</b> <b>08/10/2020</b>	XYZ Vs. Hindalco Industries Limited And Another	Confidential	Copper



## Annexure B-3

### Orders under Section 26 (6) of the Act directing further investigation

Case No./ Date of Decision	Case name	Industry Sector in which the Informant/ complain-ant was engaged	Industry Sector in which OP1 was engaged	Outcome
<b>65/2013 02/12/2014</b>	M/s Magnus Graphics vs M/s Nilpeter India Pvt. Ltd. & Ors.	Label printing	Printing machines	Matter dismissed.
<b>52/2013 13/01/2015</b>	Financial Software and Systems Private Limited vs M/s ACI Worldwide Solutions Private Limited & Ors.	Financial transaction processing	Software developer	Contravention of 4(2)(a)(ii), 4(2)(b)(i), 4(2)(b)(ii), 4(2)(c), 4(2)(d) and 4(2)(e) penalty on ACI at the rate of 5% of its average turnover.
<b>20/2013 23/04/2015</b>	M/s Saint Gobain Glass India Limited vs M/s Gujarat Gas Company Limited.	Manufacture glass	Distribution of Natural Gas	No case of contravention of section 4 made out. Matter is ordered to be closed.
<b>42/2013 12/05/2015</b>	Builders Association of India (Kerala Chapter) vs The State of Kerala & Ors.	Construction machinery	Govt. of Kerala	No case of contravention of section 3 & 4 made out. Matter is ordered to be closed.
<b>79/2012 04/06/2015</b>	The Air Cargo Agents Association of India vs International Air Transport Association (IATA) & other	Aviation	Aviation	Matter disposed of.
<b>Ref: 02/2014</b>	Chief Materials Manager - I vs M/s Milton Industries Ltd. & Othrs	Railway	Railway	Matter dismissed.
<b>100/2013, 49/2014 and 89/2014 10/08/2015</b>	100/2013 Shri Sharad Kumar Jhunjunwala vs Union of India & Others, 49/2014 Shri Ismail Zabiulla vs Union of India, Ministry of Railways & Others, 89/2014 Shri Yaseen Basha vs Union of India & Others	Private Individuals	Railways	Contravention of Sec 4(2)(a)(ii) and Sec 4(2)(b)(ii)
<b>06/2013 08/09/2015</b>	In Re: Deputy Chief Materials Manager, Rail Coach Factory Vs. M/s Faiveley Transport India Limited & Others	Railways	Transport	Matter dismissed.

<b>72/2011 16/2012, 34/2012, 53/2012 and 45/2013 26/10/2015</b>	72/2011 - Sunil Bansal & Others vs M/s Jaiprakash Associates Ltd. & Others, 16/2012 - Shri Deepak Kapoor vs M/s Jaiprakash Associates Ltd. & Others, 34/2012 - Shri Tarsem Chand & Other vs M/s Jaiprakash Associates Ltd. & Others, 53/2012 - Shri Sanjay Bhargava & Others vs M/s Jaiprakash Associates Ltd. & Others, 45/2013 - Shri Raghuvinder Singh vs M/s Jaiprakash Associates Ltd. & Others.	Private Individuals	Multiple Industries	Contravention of the provisions of the Act. The OP group is directed to pay a penalty of Rs 665.94 crores.
<b>63/2013 27/10/2015</b>	M/s Royal Agency vs. Chemists & Druggists Association, Goa & Others	Distributor of drugs and medicines	Pharmaceutical	Directed to pay penalty
<b>107/2013 04/01/2016</b>	Association of Third Party Administrators vs General Insurers' (Public Sector) Association of India	Association of Third Party Administrators	Insurance	No case of contravention.
<b>70/2012 25/02/2016</b>	Prasar Bharati (Broadcasting Corporation of India) Vs TAM Media Research Private Limited	Broadcasting	Environment	Matter disposed of.
<b>33/2014</b>	XYZ Vs. REC Power Distribution Company Ltd.	Confidential	Power Distribution	No case of contravention.
<b>Ref: Case No 08/2014 21/09/2016</b>	Shri Vijay Bishnoi Vs M/s Responsive Industries Ltd. & Others	Railway	Supplier of Railway Products	No case of contravention. Matter closed.
<b>12/2014 21/04/2017</b>	Vidharbha Industries Association Vs. MSEB Holding Company Ltd. & others	Trade Association	Electric Power	No case of contravention. Matter closed.
<b>6 and 74 of 2015 19/07/2017</b>	(6 of 2015) Fast Track Call Cab Pvt. Ltd. Vs. ANI Technologies Pvt. Ltd. (74 of 2015) Meru Travel Solutions Pvt. Ltd. Vs. ANI Technologies Pvt. Ltd.	Radio Taxi	Radio Taxi	No case of contravention. Matter closed.
<b>47/2014 29/12/2017</b>	Dwarikesh Sugar Industries Limited Vs. Wave Distilleries & Breweries Ltd. & Others	Sugar	Liquor	No case of contravention.
<b>94/2014 11/05/2018</b>	India Glycols Ltd. Vs. Indian Sugar Mills Association & others	Chemical	Sugar	No case of contravention.

<b>70/2014</b>	Shri Rajat Verma Vs. Public Works (B&R) Department Government of Haryana & others	Private Individual	Public Works	No case of contravention.
<b>84 of 2014 31/08/2018</b>	Vijay Kapoor Vs. DLF Limited & Other	Private Individual	Real Estate	No case of contravention.
<b>73 of 2014 31/08/2018</b>	Amit Mittal Vs. DLF Limited & Other	Private Individual	Real Estate	No case of contravention.
<b>61/2014 15/01/2019</b>	Jasper Infotech Private Limited (Snapdeal) Vs. KAFF Appliances (India) Pvt. Ltd. (Kaff)	E-commerce	Home Appliances	No case of contravention.
<b>01/2018 02/08/2019</b>	Indian National Shipowners' Association (INSA) Vs. Oil and Natural Gas Corporation Limited (ONGC)	Marine	Natural Gas	Matter closed.
<b>12/2016 31/01/2020</b>	InPhase Power Technologies Private Limited Vs. ABB India Limited	Manufacturer under various industries	Power and Automation	No case of contravention. Matter closed.
<b>30/2018 03/02/2020</b>	Mr. Meet Shah & Other Vs. Union of India, Ministry of Railways & Other	Private Individuals	Railways	No case of contravention. Matter closed.
<b>61/2016 08/10/2020</b>	Indian Laminate Manufacturers Association Vs. Sachin Chemicals & Others	Manufacturer of laminate sheets	Multiple Industries	No case of contravention. Matter closed.

## Annexure B-4

### Orders under Section 27 of the Act holding conduct of opposite party in violation of the Act

Case No./ Date of Decision	Case name	Industry Sector in which the Informant/ complain-ant was engaged	Industry Sector in which OP1 was engaged	Outcome
<b>38/2011</b> <b>31/10/2014</b>	Indian Sugar Mills Association & Ors. vs Indian Jute Mills Association & Ors.	Sugar	Textile	Violation of section 4 & 3 and penalty was imposed
<b>62/2012</b> <b>23/12/2014</b>	M/s Cinemax India Limited (now known as M/s PVR Ltd.) vs M/s Film Distributors Association (Kerala)	Exhibition of films	Media and Entertainment	Violation of section 3 and penalty was imposed
<b>32/2013</b> <b>23/12/2014</b>	Shri P.V. Basheer Ahamed vs M/s Film Distributors Association, Kerala	Private Individual	Media and Entertainment	Violation of section 3 and penalty was imposed
<b>42/2012</b> <b>21/01/2015</b>	M/s Swastik Stevedores Private Limited vs M/s Dumper Owner's Association & Ors.	Cargo Transportation	Manufacturing	Violation of section 3 and penalty was imposed
<b>78/2012</b> <b>29/01/2015</b>	M/s Rohit Medical Store vs Macleods Pharmaceutical Limited & Ors.	Pharmaceutical	Pharmaceutical	Violation of section 3 and penalty was imposed
<b>59/2011</b> <b>03/02/2015</b> <b>26/02/2015</b>	Shri Jyoti Swaroop Arora vs M/s Tulip Infratech Ltd. & Ors. Order under section 38	Private Individual	Town & Country Planning	Request of the applicant is misconceived in as much as the Opposite Party has got sufficient opportunity to meet the allegations and findings of the DG. The request is accordingly decline
<b>43/2013</b> <b>04/02/2015</b>	M/s Shivam Enterprises vs Kiratpur Sahib Truck Operators Co-operative Transport Society Limited & Ors.	Transport	Transport	Violation of section 3 & 4 and penalty was imposed
<b>08/2014</b> <b>16/02/2015</b>	M/s GHCL Limited vs M/s Coal India Limited & Ors.	Soda Ash	Coal	Violation of section 4 and no penalty was imposed

<b>61/2012 16/02/2015</b>	Indian Foundation of Transport Research & Training vs Sh. Bal Malkait Singh, President and Ors.	Transport/ Automotive	All India Motor Transport Congress	Violation of section 3, cease activities and penalty was imposed
<b>56/2012 10/04/2015</b>	M/s Atos Worldline India Pvt. Ltd. vs M/s Verifone India Sales Pvt. Ltd. and Ors.	Information Technology Services	Electronic Payment Technologies	Violation of section 4, Order to cease and desist from such activities and penalty was imposed
<b>13/2013 10/04/2015</b>	M/s Three D Integrated Solutions Ltd. vs M/s VeriFone India Sales Pvt. Ltd.	Video Broadcasting	Electronic Ticketing Machines Manufacturer	Violation of section 4, cease activities and penalty was imposed
<b>13 &amp; 21/2010 &amp; 55/2012 12/05/2015</b>	Mr. Pankaj Aggarwal (13/2010), Mr. Sachin Aggarwal (21/2010) & Mr. Anil Kumar (55/2012) vs DLF Gurgaon Home Developers Private Limited	Private Individual	Real Estate	Violation of section 4 and no financial penalty was imposed but cease and desist orders were passed.
<b>26/2013 04/06/2015</b>	M/s Bio-Med Private Limited vs Union of India & others	Medical	Pharmaceutical	Violation of Section 3(3)(d) read with Section 3(1) and penalty was imposed.
<b>45/2012 23/06/2015</b>	Kerala Cine Exhibitors Association vs Kerala Film Exhibitors Federation and Others	Cinema Owner	Cinema	Violation of Section 3 and penalty was imposed.
<b>03/2011 27/07/2015</b>	In Re: Shri Shamsher Kataria vs Honda SIEL Cars India Ltd. & Others.	Private Individual	Automobile	Violation of sections 3(4)(b), 3(4)(c), 3(4)(d), 4(2)(a)(i), 4(2)(c) and 4(2)(e). Penalty was imposed.
<b>58/2012 27/07/2015</b>	Kannada Grahakara Koota Shri Ganesh Chetan vs Karnataka Film Chamber of Commerce (KFCC) & Others.	Private Individuals	Trade Associations for films and TV	Violation of section 3(1) read with section 3(3)(b) and penalty was imposed.
<b>16/2014 08/09/2015</b>	In Re: M/s. Crown Theatre vs Kerala Film Exhibitors Federation (KFEF)	Theatre	Film	Violation of section 3(1) read with section 3(3)(b) and penalty was imposed.
<b>68/2013 12/10/2015</b>	Shri Ghanshyam Das Vij Vs. M/s Bajaj Corp. Ltd. & Others	Private Individual	Sale of ayurvedic products and medicines	Violation of section 3(1) read with section 3(3)(b) & (c)
<b>30/2013 17/11/2015</b>	Express Industry Council of India Vs. Jet Airways (India) Ltd. & Others.	Express Industry Council of India	Aviation	Violation of Section 3(1) read with Section 3(3)

<b>28/2014 01/12/2015</b>	Mr. P. K. Krishnan Proprietor, Vinayaka Pharma vs Mr. Paul Madavana, Divisional Sales Manager, M/s Alkem Laboratories Limited. & Others	Pharmaceutical	Pharmaceutical	Violation of Section 3 and 4. Penalty was imposed
<b>71/2013 28/07/2016</b>	M/s Maruti & Company Vs Karnataka Chemists & Druggists Association & Others	Private Individual	Medicine and Drugs	Violation of Section 3 and 4. Penalty was imposed
<b>29 of 2010 31/08/2016</b>	Builders Association of India vs Cement Manufacturers' Association & Ors.	Builders Association	Cement	Penalty was imposed
<b>01/2014 and 93/2015 04/01/2017</b>	Shri Ashutosh Bhardwaj Vs M/s. DLF Limited & Others, M/s. Shri Lalit Babu & Ors. Vs DLF Limited & Others	Private Individual	Real Estate	Violation of Section 4. Penalty was imposed
<b>Ref. Case No. 05 of 2013 19/01/2017</b>	Director, Supplies & Disposals, Haryana vs Shree Cement Limited & Ors.	Central Agency	Cement	Violation of Section 3(3)(d) read with Section 3(1). Penalty was imposed
<b>C-175/09/ DGIR/27/28-MRTP 02/03/2017</b>	The Belgaum District Chemists and Druggists Association Vs. Abbott India Ltd. & Others	Chemists and Drugs	Pharmaceutical	Violation of Section 3(1) read with Section 3(3)
<b>03, 11 and 59/2012 24/03/2017</b>	(03/2012) Maharashtra State Power Generation Company Ltd. Vs. Mahanadi Coalfields Ltd. & other, (11/2012) Maharashtra State Power Generation Company Ltd. Vs. Western Coalfields Ltd. & other, (59/2012) Gujarat State Electricity Corporation Limited Vs. South Eastern Coalfields Ltd. & other	Power Generation	Coal	Violation of Section 4(2)(a)(i). Penalty imposed.
<b>98/2014 24/03/2017</b>	Shri T. G. Vinayakumar (also known as Vinayan) Vs. Association of Malayalam Movie Artists & others.	Private Individual	Film	Violation of Section 3. Penalty was imposed.

<b>08/2014 21/04/2017</b>	GHCL Limited Vs. Coal India Limited & others.	Manufacture of soda ash	Coal	Violation of Section 4(2)(a)(i). Penalty was imposed
<b>05, 07, 37, and 44/2013 21/04/2017</b>	(05/2013) Madhya Pradesh Power Generating Company Limited. Vs. South Eastern Coalfields Ltd. & others, (07/2013) Madhya Pradesh Power Generating Company Limited Vs. South Eastern Coalfields Ltd. & others, (37/2013) West Bengal Power Development Corporation Ltd. Vs. Coal India Ltd. & others, (44/2013) Sponge Iron Manufactures Association Vs. Coal India Limited & others	Power Generation	Coal	Violation of Section 4(2)(a)(i). Penalty was imposed
<b>36 and 82/2014 14/06/2017</b>	Fx Enterprise Solutions India Pvt. Ltd. Vs. Hyundai Motor India Limited (36/2014) St. Antony's Cars Pvt. Ltd. Vs. Hyundai Motor India Limited (82/2014)	Automobile	Automobile	Violation of Section 3(4)(e) read with Section 3(1) and 3(4) (a) read with Section 3(1). Penalty was imposed.
<b>Ref. Case No 06/2014</b>	Cochin Port Trust Vs. Container Trailer Owners Coordination Committee & Others	Port Trust	Cargo Terminal	Violation of Section 48 (1)
<b>34/2015 14/09/2017</b>	Western Coalfields Limited Vs. SSV Coal Carriers Private Limited & others	Coal	Coal	Violation of Section 3 (3) (d) read with Section 3 (1)
<b>Ref. Case Nos. 03 and 04/2013 05/10/2017</b>	(Ref. Case No. 03/2013) Delhi Jal Board Vs. Grasim Industries Ltd. & others (Ref. Case No. 04/2013) Delhi Jal Board Vs. Grasim Industries Ltd. & others	Chemical	Water Supply	No case of contravention.
<b>54 of 2015 31/10/2017</b>	Sudeep P.M.& others Vs. All Kerala Chemists and Druggists Association	Private Individual	Chemical and Drug	Violation of Section 3. Penalty was imposed.

<b>19 of 2014 31/10/2017</b>	Shri Vipul A. Shah Vs. All India Film Employee Confederation & Others	Private Individual	Film	Violation of Section 3 (3) (a) read with Section 3 (1)
<b>61/2010 29/11/2017</b>	Surinder Singh Barmi Vs. The Board of Control for Cricket in India	Private Individual	Board of Control for Cricket in India	Violation of Section 4(2)(c) read with Section 4(1)
<b>97/2013 04/01/2018</b>	Reliance Agency Vs. Chemists and Druggists Association of Baroda & Others	Pharmaceutical	Pharmaceutical	Violation of Section 3 (3) (b) read with Section 3 (1). Penalty was imposed
<b>61/2013 10/01/2018</b>	Surendra Prasad Vs. Maharashtra State Power Generation Co. Ltd. & Others	Private Individual	Power Generation	Case disposed of as not pressed
<b>07 and 30/2012 31/01/2018</b>	(07/2012) Matrimony. com Limited Vs. Google LLC & Others (30/2012) Consumer Unity & Trust Society (CUTS) Vs. Google LLC & Others	Marriage	Internet Services	No case of contravention.
<b>86/2016 28/02/2018</b>	Shri Satyendra Singh Vs. Ghaziabad Development Authority (GDA)	Private Individual	Real Estate	Violation of Section 4(2)(a)(i) read with Section 4(1). Penalty was imposed.
<b>30/2013 07/03/2018</b>	Express Industry Council of India Vs. Jet Airways (India) Ltd. & Others	Express Industry Council of India	Aviation	Violation of Section 3 (3) (a) read with Section 3 (1). Penalty was imposed
<b>50/2015 01/05/2018</b>	Nagrik Chetna Manch Vs. Fortified Security Solutions & Others	Private Individual	Security Solutions	Violation of Section 3. Penalty was imposed.
<b>76/2011 11/07/2018</b>	East India Petroleum Pvt. Ltd. (EIPL) Vs. South Asia LPG Company Pvt. Ltd. (SALPG)	Petroleum	Petroleum	Violation of Section 4. Penalty was imposed.
<b>79/2011 12/07/2018</b>	Hemant Sharma & Others Vs. All India Chess Federation (AICF)	Private Individuals	Sports	Violation of Section 3 and 4. Penalty was imposed









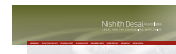


<p><b>65/2014, 71/2014, 72/2014 &amp; 68/2015 12/07/2018</b></p>	<p>(65/2014) M/s. Alis Medical Agency Vs Federation of Gujarat State Chemists &amp; Druggists Associations &amp; Others, (71/2014) M/s. Stockwell Pharma Vs. Federation of Gujarat State Chemists &amp; Druggists Associations &amp; Others, (72/2014) M/s. Apna Dawa Bazar Vs. Federation of Gujarat State Chemists &amp; Druggists Associations &amp; Others, (68/2015) M/s. Reliance Medical Agency Vs. The Chemists &amp; Druggists Association of Baroda &amp; Others.</p>	<p>Pharmaceutical</p>	<p>Pharmaceutical</p>	<p>No case of contravention.</p>
<p><b>42/2017 30/08/2018</b></p>	<p>Mr. G. Krishnamurthy Vs. Karnataka Film Chamber of Commerce (KFCC) &amp; Others</p>	<p>Private Individual</p>	<p>Film</p>	<p>Violation of Section 3. Penalty was imposed.</p>
<p><b>21, 29, 36, 47, 48 &amp; 49/2013 18/09/2018</b></p>	<p>21/2013) India Glycols Limited Vs. Indian Sugar Mills Association &amp; Ors. (29/2013) Ester India Chemicals Limited Vs. Bajaj Hindusthan Limited &amp; Ors. (36/2013) Jubilant Life Sciences Limited Vs. Bharat Petroleum Corporation Limited &amp; Ors. (47/2013) A B Sugars Limited Vs. Indian Sugar Mills Association &amp; Ors. (48/2013) Wave Distilleries and Breweries Limited Vs. Indian Sugar Mills Association &amp; Ors. (49/2013) Lords Distillery Limited Vs. Indian Sugar Mills Association &amp; Ors.</p>	<p>Oil Manufacturing</p>	<p>Multiple Industries</p>	<p>Violated the provisions of Section 3(3)(a), 3(3)(b) read with Section 3(1). Penalty was imposed</p>
<p><b>09/2016 27/09/2018</b></p>	<p>House of Diagnostics LLP Vs. Esaote S.p.A &amp; other</p>	<p>Medical Diagnostics</p>	<p>Medical Diagnostics</p>	<p>No case of contravention.</p>

<b>c-87/2009/DGIR 15/01/2019</b>	Vedanta Bio Sciences, Vadodara Vs. Chemists and Druggists Association of Baroda	Bio Sciences	Pharmaceutical	Violation of section 3 and 4. No penalty was imposed.
<b>64/2014 03/06/2019</b>	Madhya Pradesh Chemists and Distributors Federation (MPCDF) Vs. Madhya Pradesh Chemists and Druggist Association (MPCDA) & Others	Pharmaceutical	Pharmaceutical	Violation of Section 3. Penalty was imposed
<b>61/2015 20/06/2019</b>	Mr. Nadie Jauhri Vs. Jalgaon District Medicine Dealers Association (JDMDA)	Private Individual	Pharmaceutical	Violation of Section 3(3)(b) read with Section 3(1). Penalty was imposed.
<b>12/2017 02/08/2019</b>	Nagrik Chetna Manch Vs. SAAR IT Resources Private Limited & Others.	Private Individual	Multiple Industries	Violation of Section 3(3)(d) read with Section 3(1). Penalty was imposed.
<b>99/2014 09/08/2019</b>	Naveen Kataria Vs. Jaiprakash Associates Limited	Private Individual	Real Estate	Violation of Section 4(2)(a)(i). Penalty was imposed.
<b>36/2015, 31/2016 &amp; 58/2016 12/03/2020</b>	Shri Suprabhat Roy, Proprietor, M/s Suman Distributors Vs. Shri Saiful Islam Biswas, District Secretary of Murshidabad District Committee of Bengal Chemists and Druggists Association & Others, Shri Sankar Saha, Branch Secretary, Pharmaceuticals Traders Welfare Association of Bengal Vs. Shri Hitesh Mehta, Depot Manager of Alkem Laboratories Limited & Others, Shri Joy Deb Das, Proprietor, M/s Maa Tara Medical Agency Vs. Shri Rajeev Mishra, authorised signatory of Macleods Pharmaceuticals Ltd & Ors	Private Individual	Medicine	Violation of Section 3.
<b>62/2016 16/03/2020</b>	XYZ Vs. Association of Man Made Fibre Industry of India & Others	Fibre	Fibre	Violation of Sections 4(2)(a)(ii), 4(2)(d) read with 4(1). Penalty was imposed.

<p><b>Ref. Case No. 03/2016, 05/2016, 01/2018, 04/2018 &amp; 08/2018 10/07/2020</b></p>	<p>Ref.Case No.03/2016 (Chief Materials Manager, South Eastern Railway v/s Hindustan Composites Ltd. &amp; ors.), Ref. Case No. 05/2016 (Controller of Stores, Central Railways v/s BIC Auto Pvt. Ltd. &amp; ors.), Ref. Case No. 01/2018 (Chief Materials Manager, Eastern Railways v/s BIC Auto Pvt. Ltd. &amp; ors.),Ref Case No.04/2018 (Chief Materials Manager – I, North Western Railways v/s BIC Auto Pvt. Ltd. &amp; ors.) and Ref. Case No.08/2018 (Chief Materials Manager – Sales v/s Rane Brake Lining Ltd. &amp; anr.)</p>	<p>Railway</p>	<p>Multiple Industries</p>	<p>Violation of Section 3 (3) (a), 3 (3) (c) and 3 (3) (d) read with Section 3 (1).</p>
---	--	----------------	----------------------------	---

The following research papers and much more are available on our Knowledge Site: [www.nishithdesai.com](http://www.nishithdesai.com)

 <p>Technology and Tax Series Platform Aggregators   Business Model Case Study</p>	<p><b>Technology and Tax Series: Platform Aggregators   Business Model Case Study</b></p> <p>June 2020</p>	 <p>5G 5G Technology in India Strategic, Legal and Regulatory Considerations</p>	<p><b>5G Technology in India</b></p> <p>May 2020</p>	 <p>Investment in Healthcare Legal, Regulatory and Tax Overview</p>	<p><b>Investment in Healthcare</b></p> <p>May 2020</p>
 <p>Privacy &amp; Data: India's Turn to Bat on the World Stage Legal, Ethical and Tax Considerations</p>	<p><b>Privacy &amp; Data: India's Turn to Bat on the World Stage</b></p> <p>May 2020</p>	 <p>3D Printing: Ctrl+P the Future A Multidisciplinary Strategic, Legal, Tax &amp; Ethical Analysis</p>	<p><b>3D Printing: Ctrl+P the Future</b></p> <p>April 2020</p>	 <p>Dispute Resolution in India An Introduction</p>	<p><b>Dispute Resolution in India</b></p> <p>April 2020</p>
 <p>Construction Disputes in India</p>	<p><b>Construction Disputes in India</b></p> <p>April 2020</p>	 <p>Digital Health in India Legal, Regulatory and Tax Overview</p>	<p><b>Digital Health in India</b></p> <p>April 2020</p>	 <p>Introduction to Cross-Border Insolvency</p>	<p><b>Introduction to Cross-Border Insolvency</b></p> <p>April 2020</p>

## NDA Insights

TITLE	TYPE	DATE
Delhi Tribunal: Hitachi Singapore's Liaison Office in India is a Permanent Establishment, Scope of Exclusion Under Singapore Treaty Restrictive CBDT issues clarification around availment of additional depreciation and MAT credit for companies availing lower rate of tax	Tax	November 2019
Bombay High Court quashes 197 order rejecting Mauritius tax treaty benefits	Tax	May 2019
Investment Arbitration & India – 2019 Year in review	Dispute	January 2020
Changing landscape of confidentiality in international arbitration	Dispute	January 2020
The Arbitration and Conciliation Amendment Act, 2019 – A new dawn or sinking into a morass?	Dispute	January 2020
Why, how, and to what extent AI could enter the decision-making boardroom?	TMT	January 2020
Privacy in India - Wheels in motion for an epic 2020	TMT	December 2019
Court orders Global Take Down of Content Uploaded from India	TMT	November 2019
Graveyard Shift in India: Employers in Bangalore / Karnataka Permitted to Engage Women Employees at Night in Factories	HR	December 2019
India's Provident Fund law: proposed amendments and new circular helps employers see light at the tunnel's end	HR	August 2019
Crèche Facility By Employers in India: Rules Notified for Bangalore	HR	August 2019
Pharma Year-End Wrap: Signs of exciting times ahead?	Pharma	December 2019
Medical Device Revamp: Regulatory Pathway or Regulatory Maze?	Pharma	November 2019
Prohibition of E-Cigarettes: End of ENDS?	Pharma	September 2019

## Research @ NDA

**Research is the DNA of NDA.** In early 1980s, our firm emerged from an extensive, and then pioneering, research by Nishith M. Desai on the taxation of cross-border transactions. The research book written by him provided the foundation for our international tax practice. Since then, we have relied upon research to be the cornerstone of our practice development. Today, research is fully ingrained in the firm's culture.

Our dedication to research has been instrumental in creating thought leadership in various areas of law and public policy. Through research, we develop intellectual capital and leverage it actively for both our clients and the development of our associates. We use research to discover new thinking, approaches, skills and reflections on jurisprudence, and ultimately deliver superior value to our clients. Over time, we have embedded a culture and built processes of learning through research that give us a robust edge in providing best quality advices and services to our clients, to our fraternity and to the community at large.

Every member of the firm is required to participate in research activities. The seeds of research are typically sown in hour-long continuing education sessions conducted every day as the first thing in the morning. Free interactions in these sessions help associates identify new legal, regulatory, technological and business trends that require intellectual investigation from the legal and tax perspectives. Then, one or few associates take up an emerging trend or issue under the guidance of seniors and put it through our "Anticipate-Prepare-Deliver" research model.

As the first step, they would conduct a capsule research, which involves a quick analysis of readily available secondary data. Often such basic research provides valuable insights and creates broader understanding of the issue for the involved associates, who in turn would disseminate it to other associates through tacit and explicit knowledge exchange processes. For us, knowledge sharing is as important an attribute as knowledge acquisition.

When the issue requires further investigation, we develop an extensive research paper. Often we collect our own primary data when we feel the issue demands going deep to the root or when we find gaps in secondary data. In some cases, we have even taken up multi-year research projects to investigate every aspect of the topic and build unparallel mastery. Our TMT practice, IP practice, Pharma & Healthcare/Med-Tech and Medical Device, practice and energy sector practice have emerged from such projects. Research in essence graduates to Knowledge, and finally to *Intellectual Property*.

Over the years, we have produced some outstanding research papers, articles, webinars and talks. Almost on daily basis, we analyze and offer our perspective on latest legal developments through our regular "Hotlines", which go out to our clients and fraternity. These Hotlines provide immediate awareness and quick reference, and have been eagerly received. We also provide expanded commentary on issues through detailed articles for publication in newspapers and periodicals for dissemination to wider audience. Our Lab Reports dissect and analyze a published, distinctive legal transaction using multiple lenses and offer various perspectives, including some even overlooked by the executors of the transaction. We regularly write extensive research articles and disseminate them through our website. Our research has also contributed to public policy discourse, helped state and central governments in drafting statutes, and provided regulators with much needed comparative research for rule making. Our discourses on Taxation of eCommerce, Arbitration, and Direct Tax Code have been widely acknowledged. Although we invest heavily in terms of time and expenses in our research activities, we are happy to provide unlimited access to our research to our clients and the community for greater good.

As we continue to grow through our research-based approach, we now have established an exclusive four-acre, state-of-the-art research center, just a 45-minute ferry ride from Mumbai but in the middle of verdant hills of reclusive Alibaug-Raigadh district. **Imaginarium AliGunjan** is a platform for creative thinking; an apolitical eco-system that connects multi-disciplinary threads of ideas, innovation and imagination. Designed to inspire 'blue sky' thinking, research, exploration and synthesis, reflections and communication, it aims to bring in wholeness – that leads to answers to the biggest challenges of our time and beyond. It seeks to be a bridge that connects the futuristic advancements of diverse disciplines. It offers a space, both virtually and literally, for integration and synthesis of knowhow and innovation from various streams and serves as a dais to internationally renowned professionals to share their expertise and experience with our associates and select clients.

We would love to hear your suggestions on our research reports. Please feel free to contact us at [research@nishithdesai.com](mailto:research@nishithdesai.com)



**Nishith Desai** Associates  
LEGAL AND TAX COUNSELING WORLDWIDE

**MUMBAI**

93 B, Mittal Court, Nariman Point  
Mumbai 400 021, India

Tel +91 22 6669 5000  
Fax +91 22 6669 5001

**SILICON VALLEY**

220 S California Ave., Suite 201  
Palo Alto, California 94306, USA

Tel +1 650 325 7100  
Fax +1 650 325 7300

**BANGALORE**

Prestige Loka, G01, 7/1 Brunton Rd  
Bangalore 560 025, India

Tel +91 80 6693 5000  
Fax +91 80 6693 5001

**SINGAPORE**

Level 30, Six Battery Road  
Singapore 049 909

Tel +65 6550 9856

**MUMBAI BKC**

3, North Avenue, Maker Maxity  
Bandra–Kurla Complex  
Mumbai 400 051, India

Tel +91 22 6159 5000  
Fax +91 22 6159 5001

**NEW DELHI**

C–5, Defence Colony  
New Delhi 110 024, India

Tel +91 11 4906 5000  
Fax +91 11 4906 5001

**MUNICH**

Maximilianstraße 13  
80539 Munich, Germany

Tel +49 89 203 006 268  
Fax +49 89 203 006 450

**NEW YORK**

375 Park Ave Suite 2607  
New York, NY 10152

Tel +1 212 763 0080

**Competition Law in India**