

In a significant number of Merger & Acquisition transactions, it is noted that as a part of the agreement, parties to a combination often enter into Non-compete restriction (s). These Non-compete restriction (s) / clause (s) appear in various types of combinations, including acquisition of a business or an enterprise, formation of a joint venture etc.

Considering that Non-compete restriction (s) / clause (s) may adversely impact competition landscape, many competition agencies have issued guidance on the framework and approach for the assessment of Non-compete restriction (s) / clause (s).

In accordance with international best practices, the Competition Commission of India ("**Commission**") is issuing Guidance Note on non-compete restriction (s)/clause (s) ("**Guidance Note**"). The Guidance Note highlights general approach of the Commission while dealing with the non-compete restriction (s)/clause (s) entered into by the Parties.

While the Guidance Note is not binding on parties to a proposed combination / combination requiring approval from the Commission, nonetheless, it serves as an important tool in drafting non-compete restriction (s)/clause (s).

It may however, be noted that the standards set forth in the Guidance Note would not be applied mechanically in the assessment of Merger & Acquisition transactions; however, the Commission would take into consideration the specific circumstances of each case, while assessing the combination, including Non-compete restriction (s)/clause (s).

Guidance Note can be accessed by clicking [here](#).