

Consultation prior to filing of notice of the proposed combination under sub section (2) of section 6 of the Competition Act, 2002

1. In accordance with international best practices, the Competition Commission of India allows for an informal and verbal consultation with the staff of the Commission prior to filing of the notice to a proposed combination in terms of regulation 5 of Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011 (“**Combination Regulations**”), under sub section (2) of section 6 of the Competition Act, 2002.
2. Such pre-filing consultations will help the parties intending to file a notice with the Commission in identifying the information required for filing a complete and correct Form I/II/III as well in identifying additional information that the Commission may require to assess the likely impact of the proposed combination on competition in the relevant markets.
3. The parties intending to file a notice with the Commission are encouraged to approach the Commission for pre-filing consultations. A request for pre-filing consultation should be made by the parties intending to file a notice at the earliest and at least 10 days before the intended date of filing, to allow time for allocating a case team for the pre-filing consultation. A copy of draft application comprising of Form I/II/III, as the case may be and supporting documents should be forwarded along with the request for scheduling a pre-filing consultation. A summary of the proposed combination along with the following details should also be submitted:
 - a. Basic details of the proposed combination including various steps involved in the same;
 - b. A brief description of the relevant market(s) and sector(s) involved;
 - c. The likely impact of the proposed combination on competition in those markets and sectors in general terms;
 - d. Key issues regarding which the parties wish to seek consultation from the Commission;
 - e. Any other details which according to the parties may be pertinent for a meaningful consultation.
4. It may be noted that the Commission may not respond to requests which are general in nature or which do not sufficiently describe the factual situation, or which involve hypothetical situations.
5. For seeking an appointment for a pre-filing consultation, the **parties to the proposed combination** should contact the Combination Division on email id: cci-consult@nic.in with the subject “Request for pre-filing consultation for proposed filing on [*Insert proposed date of filing*]”. It may be noted that such consultations are generally scheduled within 5-7 days of receipt of the request for consultation. The presence of legal advisors as well as business representatives who have strong understanding of the relevant market is strongly recommended in the pre-filing consultations.

6. With regard to the clarification of issues pertaining to Sections 5 and 6 of the Competition Act, 2002 and the Combination Regulations, a request for pre-filing consultations must be sent at least 5-7 days before the meeting is requested to be scheduled. Complete and sufficient details regarding facts of the case including the sector/relevant market, legal provisions, decisional practices of the Commission and of other jurisdictions (if available and material to the facts of the case) should be provided in the request for pre-filing consultations on interpretational issues. The email seeking pre-filing consultation may be sent to the email id: cci-consult@nic.in with the subject "Request for pre-filing consultation on interpretational issues".
7. Prior to the consultation, the staff of the Commission may also ask the parties to provide additional information. It may be noted that guidance would be given as an additional assistance facility, and would not be deemed to be the opinion of the Commission in any manner, whatsoever, and such guidance will not be binding on the Commission. Such consultation is held in strict confidence and is without prejudice to the assessment of the case on receipt of the formal notice.

By Order

Secretary