

# **Launching of Centre for Competition Law and policy (CCLP)**

**Organized by**

**Institute of Legal Studies & Research, GLA University, Mathura, U.P.**

**28<sup>th</sup> August 2021 (4:00 to 5:30 pm)**

**Inaugural Session – Chief Guest**

**Addressed by-**

**Shri Ashok Kumar Gupta (Chairperson, CCI)**

Dr. T.S. Somashekar, Director, Centre for Competition & Regulation, NLSIU, Prof. Avinash Dadhich, Dean, ILSR and Director, CCLP, distinguished professors, faculty and students of GLA University. Good Evening. I compliment you on the occasion of the launch of the Centre for Competition Law and Policy (CCLP) at your university. It is my pleasure and honour to inaugurate this CCLP. I am very pleased to have been invited to speak at what I know is a very special day.

2. The concept of competition is at the heart of any well-functioning market. High competition in markets keeps prices in check and incentivizes higher quality of products and greater innovation. In India, evidence of benefits of competition can be seen across markets. Economic reforms that ushered in liberalization and privatization brought about higher competition as more firms entered markets to compete with each other for a share of consumers' spending. Increased competition has led to desired benefits to the consumers and brought about efficiency in market functioning. Increased market activities undoubtedly fuel high economic growth. However, there are certain ways in which competition may be reduced or even eliminated from markets. This can happen through deliberate actions of market participants themselves.

For instance, enterprises may conspire to determine the price at which a product is sold, limit output or divide product and geographic markets amongst each other, thus undermining forces of competition. These are behavioural actions that harm competition. Under the provisions of the Competition Act, 2002, such conducts are actionable and the Commission can impose appropriate penalties after inquiry. Similarly, in bidding processes, such as those of procurement of goods and services by the government, collusive actions on the part of bidders can distort competition and hamper competitive price discovery. Competition in markets may also be adversely affected due to structural changes, by way of mergers and acquisitions.

3. Competition law in India aims to prevent anti-competitive behaviour and promote and sustain competition in markets. It is in sync with the philosophy of modern competition laws and prohibits anti-competitive agreements and abuse of dominant position by enterprises, and regulates mergers and acquisitions, which cause an adverse effect on competition in markets.

4. In its existence of over a decade, the CCI has been able to build a robust competition culture in the country by vigorously pursuing the mandate enshrined in the Competition Act and ensuring competitive markets in India. In the last twelve years since the CCI got its enforcement power, we have crossed important milestones and made critical interventions in key markets. The Commission has so far reviewed more than 1,100 cases under anti-competitive agreements and abuse of dominance. We have been very active in detecting and penalizing anti-competitive activities across markets. Monetary penalties have been imposed on enterprises engaged in fixing prices, restricting supply or rigging bids, and cease and desist orders have been issued. Similarly, dominant enterprises abusing their dominant position in relevant markets have been penalized for contravention of the provisions of the Act.

5. The focus of the Commission all along has been to bring about market corrections. For us, penalties are not an end but a means to achieve the larger goal of having fair and competitive markets for all market players, which provide an environment for the market forces to flourish uninhibited.

6. Under the merger control regime which came into effect in 2011, the Commission has examined more than 800 mergers and acquisitions notices. Initial concerns that the regime would hamper M&A activities and result in unreasonable delays have been largely settled, and the Commission has played the role of a facilitator of India's vibrant M&A activity. The Commission has looked carefully at proposed acquisitions, mergers and amalgamations, employing increasingly sophisticated analytical tools in scrutinizing complex deals. The CCI has successfully balanced the requirements of a robust merger control regime with the need to facilitate ease of doing business.

7. In keeping pace with the evolving business environment, CCI has promoted ease of doing business by making filings simpler, reducing procedural burdens and ensuring speedy clearance to non-problematic transactions. The Green Channel notification system introduced in 2019 for automatic approval of combinations having no overlaps between the parties was also an endeavour in this direction. This mechanism is a first of its kind in any competition jurisdiction in the world. The Green Channel has gained traction and has been very well received by the industry.

8. Going forward, digital markets pose a peculiar challenge to competition agencies around the world. We have seen that antitrust issues no longer emanate solely from traditional industries of oil, gas, coal, etc. Instead, such issues are also emerging in the digital platform arena.

9. Technology markets flourish on innovation. They are characterized by a rapid pace of change when compared to traditional markets, and often exhibit the potential for disruption and abuse of market power. Further, these markets have brought forth newer business models neither addressed by textbook economics nor captured in contemporary economic research. While technology-driven markets hold promise of efficient delivery and enhanced consumer choices, they also open up new issues and concerns in competition policy discourse. There is a concern that a few online platforms, powered by network effects and big data, may gain excessive market power. The traditional understanding of competition regulation is perhaps not yet geared to address these challenges, which calls for a fresh approach to antitrust analysis in terms of determination of relevant markets, evaluation of competition harm and design of remedies.

10. The Commission also conducts market studies into matters affecting competition in markets, which facilitates a deeper understanding of markets and assists in informed enforcement. Usually, such market studies have been followed through engaging seminars and workshops which focus on sector-specific competition issues, where active engagement with industry players, academia and sectoral regulators helps put these issues in perspective.

11. In the recent past, the Commission released the Market Study Report on E-commerce. The study has helped gather useful insights and information on the key features of e-commerce in India, different business models of e-commerce players and various aspects of commercial arrangements between market participants involved in e-commerce. Based on the insights gained from the study, e-commerce platforms were urged to put in place certain transparency measures. The study also laid down certain areas for self-regulation by e-commerce marketplace platforms.

12. The Commission appreciates that competition is not an end in itself but a means to achieve larger socio-economic goals. It is a fact that values of competition need to be embedded in government policy and the business conduct of enterprises. Sustained and effective competition advocacy is integral to our regulatory approach and complements our enforcement activity. The Advocacy function of the Commission includes promoting public understanding of the value of competition, encouraging the adoption by business undertakings of appropriate internal controls and risk management systems and ensuring their compliance with the law, as well as aiding and advising the government at both Central and State level on competition matters.

13. As a part of our advocacy mandate, we reach out to our stakeholders in varied ways. We organize lectures, workshops and seminars, and publish rich advocacy material on competition law, which includes our bilingual quarterly newsletter '*Fair Play*' as well as other competition advocacy booklets, which have been translated into many regional languages.

14. Given our federal structure, States are vital stakeholders in the Competition Law ecosystem. In recognition of this, the Commission recently launched an important advocacy initiative, the 'State Resource Person Scheme'. Through this scheme, CCI aims to make the States active partners in our endeavour to promote competition advocacy in every part of the country.

15. As you are aware, we are in the midst of a challenging crisis. The coronavirus crisis has tested the resolve of the nation. The Commission, on its part, has taken appropriate steps to minimize the damage to the economy and aid robust recovery. When business was severely disrupted during the national lockdown due to the onset of the COVID-19 pandemic, CCI issued a business advisory that recognized

that businesses may need to coordinate certain activities to ensure continued supply and fair distribution of products.

Such coordination was permitted as long as it ensured continued supply and distribution of goods and services, resulted in efficiencies and didn't inhibit competition. This enabled businesses to take swift commercial decisions without unduly worrying about the regulatory ire. The Commission also took a balanced approach in its enforcement decisions focusing on faster market corrections and a nuanced view in levying penalties, particularly for MSMEs, considering their financial distress.

16. The pandemic also posed an unforeseen and stiff challenge in keeping our enforcement and advocacy activities unhindered. We leveraged technology and made sure that competition regulation continues unabated. Considering restrictions placed on physical movement, CCI allowed flexibility within its procedures—including electronic filing of antitrust cases as well as combination notices, including Green Channel notifications. CCI also made the Pre-Filing Consultation facility for combinations available through video conference. A dedicated helpline was also set up to attend to the queries of stakeholders during the pandemic.

17. I have been told that the Centre for Competition Law and Policy is a specialized research centre at GLA University set up to promote research and awareness on competition law in India. Its stated objective of promoting discourse and dialogue within the sphere of competition law with a view to engage students and academia will definitely bring in new ideas and research in this growing field. The setting up of this centre is a laudable step towards acquainting the student fraternity with the cardinal principles of competition law, which is also a distinct career option for students in the legal field.

18. Setting up such centres of learning in the field of competition law will enable discussion on contemporary issues of competition law and policy, provide a platform for greater engagement amongst competition law enthusiasts and engage young legal minds and familiarize them with various facets of developments in competition law.

19. The Commission always welcomes and encourages such initiatives, and I wish the newly formed centre the very best in all its endeavours.

Thank you !