

**Importance of Competition Law for Industry**  
**Merchants' Chamber of Commerce & Industry**

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**Members of the Media,**

**Distinguished Guests,**

**Ladies and Gentlemen,**

1. It is a pleasure to be here today to speak on the importance of competition law for industry. My sincere thanks to MCCI for organising this session. For the Competition Commission of India, since its inception, chambers have been valued partners in spreading the message of competition amongst businesses across the country.

2. To this audience, I need not belabour how **competition** drives entrepreneurial efforts, efficiency and innovation. It is competition in marketplaces that drives your efforts and strategies to maintain your share of the market and to further enhance it. The Competition Commission's mandate, in a nutshell, is to ensure that competition takes place on merits, that competition is fair and that entrepreneurial energy and investments are not wasted in fighting anti-competitive barriers or in levelling tilted playing fields.
3. The law that the Commission enforces – **the Competition Act, 2002**, has been a fundamental part of the government's reform process to open up markets. Liberalised markets can unleash efficiency and growth only when they are fair and competitive. But when dominant firms misuse their market power to fence out competition or cartels drive up price of essential inputs or anti-competitive mergers weaken competitive structure of markets, businesses get affected. By protecting the process of competition and fair play in markets, the Competition Act ensures **freedom of businesses to compete on merits**. As businesses, you are both competitors in the markets as well as consumers of inputs. The competition law provides an opportunity for you to come forward and bring to the notice of the Commission any anticompetitive practices that may have been damaging the competitive fabric of markets.
4. This year, the competition law enforcement regime in India will complete fourteen years. And it gives us utmost satisfaction that in this relatively short span, businesses - irrespective of their size or market position from across sectors and geographies have approached the Commission. They have brought forth an array of anti-competitive conduct that have been affecting markets adversely. Industry has reposed its trust and confidence in the Commission and has availed of the remedies that the Act offers.

5. As you may know, the Competition Act prohibits **anti-competitive agreements and abuse of dominant position** by enterprises. So far, we have received **more than 1200 cases**. These relate to anti-competitive agreements and abuse of dominant position from diverse **sectors**. To name a few, airlines, infrastructure, automobiles, real estate, pharmaceuticals, entertainment, e-commerce, online search and mobile operating systems. I am happy to say our interventions have had positive outcomes in terms of correcting market imperfections to benefit both consumers and businesses.
  
6. No one knows better than you how dynamic is the operating environment that industry is facing today. It is constantly evolving. Technological advances have brought about remarkable changes in the past decade. Today, we see a large number of sectors in the economy having a growing interface with technology – **digital technology** and internet in particular. We are witnessing adoption of digital technologies at an astonishing pace. For instance, at 87%, India has the highest fintech adoption rate in the world against the global average of 64%.<sup>1</sup> In 2020, India constituted 14 per cent of the total 218 billion app installations in the world.<sup>2</sup> Within a year, India became the second largest market in the world for app downloads.<sup>3</sup> Today, as we strive to become a digitally empowered society and a knowledge economy, we need to embrace these changes. But do so in a way that creates opportunities for all and helps us build an inclusive development paradigm.
  
7. CCI's priority is to ensure that market outcomes in the digital sectors are driven by market forces and not by self-perpetuating, anti-competitive strategies of a small cohort of players. This is critical for reaping the full dividend of the digital revolution in terms of efficiency

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<sup>1</sup> <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1759602>

<sup>2</sup> [Harnessing India's Digital Economy: Private Sector Championing the Cause of Digitalisation \(investindia.gov.in\)](#)

<sup>3</sup> [India second largest market globally for app downloads in 2021: Report - The Hindu Business Line](#)

gains and economic opportunities. To reach their markets and their consumers today, most enterprises, including retailers, restaurants, app developers have to depend on digital intermediary platforms. This critical gateway position of **platforms** and their control over data, online real estate, and market access points are giving rise to a range of issues emanating from information asymmetry and imbalance in bargaining power. When the platform operator is also present as a competing supplier on its own platform, that gives rise to conflict of interest and concerns of self-preferencing. Not only that, the large tech firms often are themselves the ecosystem operators. They have a presence across verticals, which allows them to leverage their market power in one vertical to another and extend their dominance into adjacent markets. This too is posing challenges for effective entry and competition on merits.

8. The Commission is watching the digital space so as to make sure that our enterprises can grow, innovate and build their businesses harnessing the power of technology, without having to face strategic entry barriers. For instance, as you may be aware, the Commission, in recent orders the Commission has found some of the practices of digital intermediaries to be anti-competitive.
9. As newer dimensions of digital markets unfold and new digital products emerge, the competition law will continue to provide the necessary safeguards so that our industry gets to operate in a digital environment that is open, fair and contestable. However, at the same time, there is a growing recognition across jurisdictions that enforcement of competition law, may be supplemented with suitable legislative measures that set well-defined enforceable ground rules for digital platforms who act as key intermediaries in different markets. For a set of known anti-competitive practices, a case-by-case assessment may not be necessary. Repeating the adjudication process with respect to these identified practices for each product/service may not be desirable from regulatory efficacy and

resource optimisation standpoint. Government of India has recently constituted a **Committee on Digital Competition Law**. The Committee is examining the need for such an **ex-ante** regulatory mechanism for digital markets for Systemically Important Digital Intermediaries, that have the potential to cause harm in digital markets.

10. As we address the novel issues in the new age markets, it remains critically important to deal with the concerns that have traditionally impaired fair competition in different sectors, such as **cartels**. Fair competition means putting forth the best individual response to the evolving market dynamics; not to subvert the market mechanism by acting in unison with one's competitors. Such collusive tactics, commonly known as 'cartels' – to fix price, limit supply, allocate markets, or to rig public tenders are the most egregious violation of the competition law. While cartels indisputably harm consumers, they are equally bad for business. If your suppliers agree to keep their prices artificially high, you may have no choice but to pay them at an inflated rate. You might appear to have a choice, on the surface. However, if the suppliers have colluded, that choice is just an illusion – and certainly harmful for your business. Also, such cartelised markets do not allow honest businesses to operate on a level playing field. And it causes a reputational damage to the entire industry or sector, which becomes known for being prone to cartel formation.
11. Here, I would also like to mention that cartels in **public procurement** markets, account for a substantial proportion of cases dealt with by competition authorities across countries. As much as a quarter of documented competition law enforcement actions in developing economies involve **bid rigging** in public procurement activities. These are situations where bidders for a particular contract or tender collude to pre-determine the winning bidder. So, competition is severely circumscribed or even entirely eliminated. This inflates the

procurement cost and deprives the public exchequer of value for money.

12. **Public procurement** makes up significant parts of national economies, particularly in developing countries where government provision of essential services plays an important role. Moreover, the range of sectors covered by public procurement is very wide. As wide as the needs of a government to properly function and deliver services to its citizens. This could include construction of schools, purchase of hospital supplies, construction of public infrastructure, transportation and so on. As a corollary, for firms, public procurement is often a crucial component of their businesses. It is therefore, imperative to ensure that public procurement is effective and efficient. This means that amongst other things, public procurement markets must have healthy and effective competition.
  
13. Cartels or horizontal agreements between competitors including bid rigging raise a presumption of anti-competitive harm under Section 3(3) of the Act. The legislature has carved out stricter penalty provisions in case of cartelization. I think it is worth mentioning that the Commission has had an assertive enforcement agenda against cartels. At the same time, it has incentivised self-reporting and offered businesses an opportunity to approach the Commission for **lesser penalty** by making vital disclosures on cartels. If colluding enterprises come forward and make full, true and vital disclosure of a cartel activity to the Commission, they can get up to 100% waiver of penalty. The idea is not only to detect cartels using the tool of lesser penalty, but also to offer such business enterprises (a chance to come out of a cartel arrangement) who may have been a part of it not of their own volition but due to some compulsion. The Competition Amendment Act has further incentivised disclosure of cartels through a leniency plus regime.

14. Indian industry is now competing globally. **Mergers and acquisitions** (combinations) are an essential tool for growth and building scale in today's global marketplace. The big-ticket transactions that meet the asset-turnover threshold stipulated in the Competition Act require mandatory notification with the Commission for competition scrutiny and clearance. Competition screening of M&As over the years has shown that a vast majority of transactions do not raise any concern. Thus, a slew of industry-friendly measures has been adopted by the Commission to ensure speedy clearance to non-problematic transactions, to reduce procedural burden, and to make filings simpler.
15. CCI brought a regulation to introduce **green channel** for automatic approval of combinations. This was a first of its kind trust-based system in the world, where notifiable transactions having no overlaps between the parties, be it horizontal, vertical or complementary, are deemed approved upon filing. This was very well received by industry and now about 25% of our M&A filings are through the Green Channel. The Green Channel has now been made a part of the Act through the Competition Amendment Act, 2023 which was recently notified. It is expected to promote a speedy, transparent and accountable merger review, striking a balance between facilitation and enforcement.
16. The Commission's focus, across enforcement areas, is on market correction with careful interventions only where necessary. Over the years, the Commission has also accorded utmost priority to put in place **transparent and fair procedures** to ensure **stakeholder trust** in the system. The procedures have been constantly streamlined and simplified in line with the global best practices and to further the larger goal of ease of doing business in India.
17. To ensure that the law remains fit for purpose in the face of exceptional dynamism in markets, to further facilitate compliance,

provide greater certainty, reduce litigation and bring about faster market correction, the Government of India introduced the **Competition (Amendment) Bill, 2023** which received the assent of Hon'ble President of India earlier this month and is now the competition law of the land. Let me highlight a few key amendments here –

- The **overall time-limit for approval of M&As** has been reduced from 210 days at present to 150 days, for timely facilitation of such transactions. Here I may mention that the average time taken by the Commission to process M&As has been around 20 working days, significantly lower than the statutory time limit.
- A **deal value threshold** of Rs. 2000 crore has been introduced as an additional criterion for notification of M&As. This would be applicable if the target has “significant business operations in India”. Thus far, the law specified only the asset and turnover thresholds above which a Combination has to be notified to CCI. But we have seen that in new-age markets, number of users, data, growth, and network effects have become the means of gaining significant market position. Entities that operate a successful business model in new-age businesses command a significant valuation. These may, however, have insignificant assets or turnover recorded in their financial statements. This necessitated the introduction of an additional notification criteria such as deal value to capture competitively significant digital transactions within the competition scrutiny net.
- On the conduct side, the amended Act introduces a **'settlement and commitment'** framework to reduce litigation and for faster correction of anti-competitive behaviour. The settlement and commitment mechanism would apply to alleged contraventions related to vertical agreements and abuse of dominance.



- As I already mentioned, the amended Act brings in a **leniency plus regime** for anti-cartel enforcement. This is a proactive enforcement strategy, that aims at attracting leniency applications by encouraging companies already under investigation for one cartel to report other cartels.
  - Under the new Act, there will be a **limitation period** of three years for filing cases before CCI. This will provide much needed certainty to businesses and markets against belated claims.
18. The Commission believes that application of the law needs to be nuanced, appropriately accounting for market conditions and the larger economic and policy milieu. In a young jurisdiction like India, a large part of the Commission's work thus comprises **proactive outreach and advocacy**, which can be effective in preventing violation of the law and can help mitigate a range of competition concerns in Indian markets without burdening the industry with compliance and litigation costs.
19. We have a role in reaching out to you and explaining the provisions of the law. But you are our partners in this endeavour to build a competitive culture. You have an even larger role in spreading the message amongst your constituents and encouraging your businesses to comply.
20. Nonetheless, reaching out to all stakeholders from all sectors and geographies is easier said than done. The Commission realises the enormity of the task and hence the need to have our offices across regions. Our Southern Regional office in Chennai, Eastern Region Office in Kolkata and Western Regional Office in Mumbai have been inaugurated by the Hon'ble Finance Union Minister. Besides deepening our advocacy efforts, the **regional offices** will make the Commission more accessible to stakeholders even for enforcement purposes.

21. These branch offices will give all facilitation and hand holding support to industry. Please come forward and **understand the law better**, bring competition issues to the notice of the Commission. Being aware of the presence of the Commission is not sufficient. It is important that the stakeholders appreciate the ambit of the law and the remedies that the CCI can offer so that we receive more information pertaining to competition related matters and not pure consumer or contractual issues.
22. I would urge firms and associations to put in place a robust **competition compliance programme**. A comprehensive compliance manual has been brought out by the Commission to help enterprises comply. Be it a contract with a supplier or a distributor, a unilateral business decision or a contemplated acquisition, carrying out an antitrust risk assessment is essential. An infringement of the law could expose the company and even individual employees to fines, reputational damage and litigation. Playing by the ground rules of competition is therefore imperative.
23. I am happy to see the industry leaders and senior management people here, who are the key decision makers in their organisations. It is when you will show a strong commitment towards promoting a competition culture within the organisation through proactive compliance as well as prompt corrective steps when a potential violation is perceived, that the message of fair competition will be most effectively communicated throughout the organisation.
24. To further facilitate stakeholders in their compliance journey, the Commission has also come out with **advocacy booklets** to help the industry better appreciate the various aspects of the law and build an informed compliance agenda. These are available in many languages including **Assamese, Bengali and Odia**.

25. Competition Act is a complex economic law. It is important that the industry familiarises itself with its various provisions and their implications. Several industries are still carrying baggage – many practices and agreements which were acceptable and legal are now prohibited under the Competition Act. Trade associations/ members must also be aware of the types of conduct the law proscribes when carrying out an association’s programs and activities. Chambers and associations, as I mentioned earlier, play an immensely important role in competition advocacy. The legal help desk that MCCI launched today is a step in the right direction. By providing necessary handholding, we hope the help desk will facilitate better understanding of the law and promote compliance.
26. Before I conclude, I would say that well-functioning markets provide a healthy competitive environment that unlocks opportunities for new firms, start-ups, young entrepreneurs to enter markets as well as for the established businesses to constantly upgrade and find newer growth avenues. This competitive process is fundamental to the economic dynamism we need to catapult Indian industry and economy on a sustained high growth trajectory. I invite businesses to come forward and forge proactive partnership with the CCI in building competitive markets and a robust competition culture in the country.

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