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INTRODUCTION

INDUSLAW presents the third edition of its quarterly competition law newsletter, *'The Sentinel'*. As the name suggests, by way of this short yet extensive compilation of updates, we keep a watch for significant decisions passed by the Competition Commission of India ("CCI"), the National Company Law Appellate Tribunal

("NCLAT"), various High Courts, as well as regulatory and institutional updates which will help you navigate the Indian competition law space with ease.

Separately, for our friends who appreciate the crisp and the sweet, a ready reckoner of the noteworthy developments is set out in the flowchart below.



SUMMARY OF KEY DEVELOPMENTS IN Q3 OF FY 2024-2025

OCT- DEC 2024

October 8

The CCI dismisses information against IREL (India) Limited in relation to imposition of discriminatory pricing.

October 25

The NCLAT dismisses an appeal filed by the Travel Agents Association for denial of market access by Department of Expenditure, Government of India.

November 5

The CCI approves Ruby Asia's and Singtel Interactive's acquisition of shares in STT GDC subject to behavioural remedies.

November 7

The CCI proposes amendments to the Monetary Policy Recovery Regulations, 2011.

November 28

The CCI directs an investigation against Google for denial of market access for real money gaming apps.

November 18

The CCI imposes a penalty of INR 213.14 crore on Meta in relation to its privacy policy.

November 12

The CCI approves Ontario Inc.'s and OMERS Infrastructure's acquisition of additional unitholding and shareholding in Interise Trust and Interise Investment, respectively.

November 11

The CCI dismisses information against Bareilly Nagar Nigam and others for bid rigging in the tender process for advertisements.

December 9

The CCI approves Baupost Group's voluntary redemption of all the preference shares in McDermott into ordinary shares.

December 12

The CCI issues a cease-and-desist order against table tennis associations for engaging in refusal to deal with players and clubs in relation to unaffiliated and unauthorized tournaments.

December 20

The CCI approves Jost Werke's acquisition of Hyva B.V. and indirect acquisition of sole control over Hyva India.

December 24

The CCI approves Avenue India Emergence's and Mavco Investments' acquisition of MHM Holding.

December 30

The CCI dismisses information against Bhagyanagar Gas Limited for imposing excessive pricing and exclusivity provisions.

OVERVIEW OF ENFORCEMENT CASES

Decisions by the CCI:

In the third quarter ("Q3") of the financial year ("FY") 2024-25, the CCI issued a total of 11 (eleven) orders in relation to enforcement matters. Of these the CCI:

- (i) passed 2 (two) separate orders finding contravention (including imposition of penalty on Meta platforms Inc.);
- (ii) directed the Director General, CCI ("DG") to investigate 2 (two) information;
- (iii) declined to investigate 6 (six) information relating to allegations of abuse of dominance and anti-competitive agreements; and
- (iv) disagreed with the DG's findings of contravention and closed an information.

A summary of the noteworthy cases is set out below:

CCI imposes a penalty of INR 213.14 crore on Meta in relation to its privacy policy:¹

On November 18, 2024, the CCI found Meta platforms Inc. (erstwhile Facebook Inc.) ("**Meta**") to be guilty of abusing their dominant position and imposed a penalty of INR 213.14 crore alongside directing certain behavioral remedies.

The information² alleged that: (i) WhatsApp's 2021 Privacy Policy ("**2021 Policy**") made it mandatory for users to accept the new terms of service before February 8, 2021, in order to retain their WhatsApp account access and information; and (ii) users had to mandatorily agree to the collection and sharing of their data with Meta. Accordingly, the CCI passed a *prima facie* order and directed the DG to investigate the conduct of Meta.

The DG delineated two relevant markets, i.e., the market for: (i) *Over the Top* ("**OTT**") messaging apps through smartphones in India ("**OTT Market**"); and (ii) online display advertising in India ("**Display Advertising Market**"). Further, he found Meta to be dominant in these markets owing to a larger active user base than any competitor, user dependence on WhatsApp, and wide access to resources. The DG found that Meta abused its dominant position by: (i) imposing unfair conditions through its 2021 policy; (ii) denying market access to its competitors; and (iii) leveraging its dominance in OTT Market to enter into the Display Advertising Market.

Meta challenged the jurisdiction of the CCI and alleged that the DG's findings are in relation to data protection and privacy laws which are outside the purview of the Competition Act, 2002 ("**Act**"). However, the CCI noted that such data-sharing arrangements without user choice is fundamentally unfair as it degrades the quality of service by diminishing privacy standards, which are an essential non-price parameter of competition.

The CCI upheld the findings of the DG and observed that Meta (through WhatsApp) has:

- (i) imposed unfair conditions on its users, as its 2021 Policy update was in the nature of "take-it-or-leave-it". As such, it compelled its users to accept the data collection terms and data sharing without any option or alternative to the users; and
- (ii) leveraged its dominant position in the OTT Market through the 2021 Policy to strengthen its position in the Display Advertising Market. The data sharing enabled by the 2021 Policy update allowed Meta to gain a wider reach and understanding of user behaviour, which further entrenched its dominant position in both the relevant markets, creating a near-monopolistic position for Meta, thereby impeding competition and denying market access for its competitors.

Therefore, the CCI imposed a penalty of INR 213.14 Crore on Meta, and ordered Meta to: (i) refrain from data sharing for advertisement purposes for a period of 5 (five) years from the date of the CCI order; (ii) allow users to opt-out of such terms of service without any denial of access; (iii) stop sharing data collected on WhatsApp for purposes unrelated to WhatsApp in order to allow access to the app in India; and (iv) provide a detailed explanation of any data sharing activities to users.

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1. Suo Moto Case No. 1 of 2021, *In Re: Updated Terms of Service and Privacy Policy for WhatsApp users*, order dated November 18, 2024, available at: <https://www.cci.gov.in/antitrust/orders/details/1158/0>; Case No. 5 of 2021, *Prachi Kohli and WhatsApp LLC*, order dated November 18, 2024, available at: <https://www.cci.gov.in/antitrust/orders/details/1157/0>; and Case No. 30 of 2021, *Internet Freedom Foundation & WhatsApp LLC, Meta Platforms Inc.*, order dated November 18, 2024, available at: <https://www.cci.gov.in/antitrust/orders/details/1156/0>.
 2. The CCI had taken suo moto cognizance of WhatsApp's 2021 privacy policy which mandated acceptance of its new terms and conditions, failing which users would lose access to their account. Subsequently, the CCI also clubbed two separate information filed by Ms. Prachi Kohli and the Internet Freedom Foundation, against WhatsApp, Meta, and Facebook India Online Services Limited, making similar allegation.

View: In a first, the CCI has recognised data privacy as a form of non-price competition. Meta has faced penalties owing to similar regulatory concerns for its 2021 Policy in various other countries around the globe. Thus, this order demonstrates the CCI's growing prowess in tackling nuanced issues arising from data policies of global big-tech companies.

CCI issued a cease-and-desist order against table tennis associations for engaging in refusal to deal and denying access to players and clubs:³

On December 12, 2024, the CCI found Table Tennis Federation of India ("TTFI") and other Table Tennis Associations ("TTAs"),⁴ to be guilty of abusing their dominant position and refusing to deal and directed them to cease and desist from such conduct.

The information alleged that the TTAs restricted various table tennis ("TT") players from associating and participating in unaffiliated tournaments (such as the one organised by TT Friendly Super League Association by certain acts such as: (i) Suburban Table Tennis Association's ("STTA") issuance of notice; and (ii) TTFI's inclusion of certain clauses in Memorandum of Association ("MoA"). The CCI observed that STTA and TTFI's conduct *prima facie* appeared to result in a denial of access to utilise the services of TT players and passed an order directing the DG to investigate the conduct of the TTAs. The CCI also passed an interim order restraining STTA from issuing any communication to players/parents/ coaches/ clubs, restricting or dissuading them from joining or participating in tournaments organized by associations/ federations not recognized by it.

The DG observed that: (i) the TTAs were dominant in the market for *organisation of TT leagues/events/ tournaments in India* and the market for *provision of services by players for table tennis leagues/events/ tournaments in India*, owing to their regulatory powers and thereby exclusive control over their respective regions; (ii) STTA abused this dominant position by creating entry barriers, foreclosing competition and restricting opportunities for organisation of TT tournaments unless authorized and TT players ability to participate in them; and (iii) the restrictive provisions of the TTAs⁵ MoA/constitutions/bye-laws were anti-competitive as they limited the players professional growth and exposure.

The CCI rejected the preliminary objection of the TTAs and

reiterated its decisional practice that sports federations are considered as 'enterprise' when they are engaged in economic activities. On merits, the CCI upheld the findings of the DG in relation to market delineation, dominance of TTAs and abuse of such dominance and denial of market access. However, the CCI disagreed with the DG regarding its finding that certain constitutional rules of the TSTTA and the Maharashtra State Table Tennis Association ("MSTTA") also amount to abuse of dominant position. It was observed that such rules were merely regulatory measures to ensure professional standards. Notably, the CCI did not impose any penalties, having taken note of the corrective measures undertaken by the TTAs including the withdrawal of the notice and the amendment/removal of the restrictive clauses therein and mandated the TTAs to cease and desist.

View: The CCI has ruled any practices unduly restricting player participation in events organised by unrecognised associations or federations to be anti-competitive. While CCI acknowledges the role of these federations as regulators of various sports, it has held that such restrictions would be considered as a denial of market access when they are imposed for reasons other than the protection of interest of the sport.

CCI closes information against IREL (India) Limited in relation to imposition of discriminatory pricing:⁶

On October 8, 2024, the CCI, after a detailed investigation by the DG, differed from the DG's findings and closed an information filed against IREL (India) Limited ("IREL") alleging IREL's abuse of dominant position in the market for *mining and supply of Beach Sand Sillimanite ("BSS")⁷ in India* by: (i) indulging in a prohibitive increase in the prices of BSS;⁸ (ii) imposing discriminatory pricing in favour of foreign companies/multi-nationals against

3. Case No. 19 of 2021, *TT Friendly Super League Association And The Suburban Table Tennis Association & Ors.*, order dated December 13, 2024, available at: <https://www.cci.gov.in/antitrust/orders/details/1163/0>.

4. The other TTAs were: (i) Suburban Table Tennis Association; (ii) Maharashtra State Table Tennis Association; (iii) TTFI; and (iv) the Gujarat State Table Tennis Association ("GSTTA"). The information was filed by TT Friendly Super League Association that promotes Table Tennis in India and organises and conducts friendly TT matches for its members around Mumbai City, Mumbai Suburban and Thane District in Maharashtra.

5. Namely, GSTTA and TTFI.

6. Case No. 22 of 2021, *Kalpiti Sultania Vs. IREL (India) Limited*, order dated October 8, 2024, available at: <https://www.cci.gov.in/antitrust/orders/details/1131/0>.

7. The information was filed by Mr. Kalpiti Sultania against IREL (India) Limited., a Government of India undertaking engaged in the production and sale of minerals and various value-added products.

8. Sillimanite is a natural sand-based product, which is generated during the extraction of rare-earth compounds from beach sand. Sillimanite is of two types, i.e., BSS and Underground Mined Sillimanite, which are qualitatively different from each other. BSS is used primarily by refractory manufacturers for lining furnaces, and it is also used in the ceramic industry.

the interest of Micro, Small and Medium Enterprises (“MSME’s”); and (iii) fixing BSS’ supply as per its whims and fancies, and forcing the customers to accept arbitrary quantities.

The CCI found IREL to be an enterprise under the provision of the Act⁹ as it has its own Board of Directors for management of its overall affairs, and it sells BSS in the open market for monetary consideration. Further, the CCI *prima facie* held that IREL holds a dominant position in the market for mining and supply of BSS in India as it is a government owned company which holds the exclusive right to undertake mining and supply of BSS in India. Accordingly, the CCI was *prima facie* satisfied that there existed a case of abuse of dominant position by IREL, and it directed the DG to investigate the conduct of IREL.

The DG found that IREL is dominant¹⁰ in the “market for mining and supply of BSS in India” and observed that IREL had abused its dominant position by engaging in: (i) charging excessive prices from certain customers; and (ii) imposing discriminatory pricing and supply of BSS against domestic customers *vis-à-vis* foreign customers.

The CCI while agreeing with IREL’s dominance in the relevant market, rejected the allegations of abuse of dominance and observed that: (i) the pricing decision is a complex mechanism which considers various market dynamics and the CCI’s intervention, considering the supply constraints is not required; (ii) while price difference existed, they were justifiable on grounds of established customer relationships, commitments and volume offtake; and (iii) the difference in quantities supplied was justifiable owing to the effect of operational constraints on levels of production.

Thus, the CCI held that there seemed to be no contravention of the Act and closed the information.

CCI directs an investigation against Google for denial of market access:¹¹

On November 28, 2024, the CCI directed the DG to conduct an investigation in relation to information filed by Winzo Games Private Limited (“Winzo”) against: (i) Google LLC; (ii) Alphabet Inc.; (iii) Google India Private Limited; and (iv) Google India Digital Services Private Limited (collectively, “Google”).

It was alleged that: (i) Google does not allow real money gaming (“RMG”) apps, (apart from two types of apps, i.e. Daily Fantasy Sports (“DFS”) and Rummy), to be hosted on its Play Store, compelling such apps to rely on sideloading,¹² which restricts their user base and visibility; (ii) Google’s advertisement platform permits advertisements only for DFS and Rummy apps, to the exclusion of other RMG apps, thereby limiting marketing opportunities for these apps; and (iii) Google displays misleading warnings about potential malware risks to users attempting to sideload Winzo’s apps or make payments on the apps which discourages downloads and tarnishes the apps’ reputation. It was further stated that RMGs have been declared to be legal by the SC and various High Courts in India and hosting these games on app stores is a general market practice which is not followed by Google without any justification. Accordingly, this conduct of Google was alleged to constitute an act of denial of market access, as well as imposition of unfair/discriminatory conditions in the sale of RMG service.

Based on its decisional practice,¹³ the CCI observed that Google holds a dominant position in all three relevant markets, i.e., the: (i) market for licensable Operating Systems (“OS”) for smart mobile devices in India; (ii) market for app stores for Android smart mobile OS in India; and (iii) market for online search advertising services in India.

9. Section 2(h) of the Act defines “enterprise” to mean a person or a department of the Government, who or which is, or has been, engaged in any activity, relating to the production, storage, supply, distribution, acquisition or control of articles or goods, or the provision of services, of any kind, or in investment, or in the business of acquiring, holding, underwriting or dealing with shares, debentures or other securities of any other body corporate, either directly or through one or more of its units or divisions or subsidiaries, whether such unit or division or subsidiary is located at the same place where the enterprise is located or at a different place or at different places, but does not include any activity of the Government relating to the sovereign functions of the Government including all activities carried on by the departments of the Central Government dealing with atomic energy, currency, defence and space.

10. Owing to IREL’s commercial advantage over its competitors, its significant control over supply, dependence of the consumers on IREL, dominant position acquired by IREL as a result of government policy, high entry barriers (regulatory barriers) in the relevant market and no countervailing buying power of the consumers.

11. Case No. 42 of 2022, *Winzo Games Private Limited and Google LLC & Others*, order dated November 28, 2024, available at: <https://www.cci.gov.in/antitrust/orders/details/1160/0>.

12. Sideloading refers to the downloading of apps through their own websites, i.e., those external to Google and its apps.

13. Such as: Case No. 07 of 2020, *XYZ and Google LLC & Others*, order dated October 25, 2022, available at: <https://www.cci.gov.in/images/antitrustorder/en/order1666696935.pdf>; Case No. 41 of 2021, *Digital News Publishers Association and Google LLC & Others*, order dated January 7, 2022.

In addition to seeking Google's response to the allegations, the CCI also consulted the Ministry of Electronics and Information Technology in relation to the permissible RMG applications for listing on app stores in India. In response to the allegations, Google stated that the legal and regulatory uncertainty in offering RMGs in India influenced Google's decision not to include India in the list of countries where RMGs are allowed. Further, RMG apps carry several risks to users, including "lack of safeguards to secure users' money and money laundering-related concerns in the absence of any strict Know Your Customer ("KYC") mechanism" which have also been acknowledged by the Government of India.

Based on its review of the information, the CCI held that Google Play Store is a two-sided market in which Google has been able to attract a large number of Android users on one side due to the presence of a large number of apps and on the other hand a large number of app developers due to the potential to reach a large audience. Further, for app developers, being listed on the Google Play Store is practically a necessity to reach a large audience. Hence, the selective exclusion of certain RMG apps from a platform as dominant and wide-reaching as the Google Play Store as well as from Google's advertisement platforms would *prima facie* amount to a denial of market access. The CCI also noted that direct access to end-users via the dominant Google Play Store provides a significant competitive edge to DFS and Rummy apps, potentially disadvantaging other RMG applications. This selective onboarding of certain apps in its pilot program *prima facie* distorted the competitive landscape to the disadvantage of apps not covered in the pilot. Further, Google's justification for selecting these app categories appeared ambiguous and non-transparent.

With respect to allegations on advertising, the CCI observed that the restrictions imposed by Google on advertising through its platform, limit or restrict the provision of RMG apps other than DFS and Rummy as well as their technical and scientific development, which *prima facie* appeared to be in violation of the Act. Furthermore, by blocking access to an important advertising channel, Google appeared to deny market visibility of such RMG apps, thereby *prima facie* resulting in denial of market access for such RMG apps.

Finally, regarding the allegations of display of payment warnings, the CCI noted Google's explanation that such warnings were a part of its compliance with regulatory guidelines issued by authorities such as the Reserve

Bank of India and the National Payments Corporation of India. However, given the allegations that these payment warnings are not displayed in Rummy and DFS applications listed on the Google Play Store, the CCI also directed an investigation to ascertain whether these payment warnings: (i) have any connection to the selection of these categories of RMG apps for Google's pilot; and (ii) adversely affect the competitive landscape.

In light of the above, the CCI concluded that Google's conduct is *prima facie* violative of the Act and directed the DG to conduct an investigation.

CCI dismisses information filed against M/s Bhagyanagar Gas Limited for imposing excessive pricing and exclusivity provisions:¹⁴

On December 30, 2024, the CCI dismissed an information filed against M/s Bhagyanagar Gas Limited ("**BGL**")¹⁵, alleging abuse of dominant position in the market for "supply of natural gas to consumers having requirement upto 50,000 (fifty thousand) Standard Cubic Meters Per Day" ("**SCMD**") of gas in Hyderabad" ("**Relevant Market**").¹⁶

It was alleged that: (i) BGL was charging significantly higher prices compared to average market prices, despite purchasing gas from GAIL at a lower price; (ii) BGL failed to provide any detailed price breakdown as provided for in the Gas Sale Agreement ("**GSA**"); (iii) BGL refused to permit AGI Greenpac Limited ("**AGI**") to use BGL's transportation pipelines for the transport of gas purchased from third-party suppliers, citing the Petroleum and Natural Gas Regulatory Board (Exclusivity for CGD Networks) Regulations, 2008. Owing to this, AGI was left with no viable alternatives except to pay the high prices or cease operations, considering BGL's position of exclusive supply in the Relevant Market.¹⁷

14. Case No. 8 of 2024, M/s AGI Greenpac Limited and M/s Bhagyanagar Gas Limited, order dated December 30, 2024, available at: <https://www.cci.gov.in/antitrust/orders/details/1165/0>.

15. The information was filed by M/s AGI Greenpac Limited, a unit of AGI Glaspac, which operates the second largest container glass manufacturing facility in the country with factories located at Hyderabad and Bhongir in Telangana against BGL, a company engaged in the business of distribution and marketing of natural gas and implementation of City Gas Distribution project in the states of Telangana and Andhra Pradesh.

16. AGI had entered into a Gas Sale Agreement with BGL in February 2019 to purchase 30,000 SCMD of natural gas for its Hyderabad plant. Notably, BGL had been authorized by the Petroleum and Natural Gas Regulatory Board for the implementation of city or local natural gas distribution ("**CGD**") project in Hyderabad/Secunderabad, Vijayawada & Kakinada ("**Authorized Entity**"). In accordance with Regulation 5(1)(a) of the Petroleum and Natural Gas Regulatory Board (Exclusivity for CGD Networks) Regulations, 2008, the Authorized Entity shall have exclusivity for laying, building and operation of the CGD Network for a period of 25 years from the date of authorization under the Petroleum and Natural Gas Regulatory Board Act.

17. M/s Bhagyanagar Gas Limited has been declared as the Authorized Entity, having exclusivity for laying, building and operation of the city or local natural gas distribution project in Hyderabad/Secunderabad, Vijayawada & Kakinada for a period of 25 years.

The CCI held that considering BGL's position as an exclusive supplier, it held a dominant position in the Relevant Market. With respect to its abuse of its dominant position, the CCI observed that: (i) the price variations, including the alleged excessive prices stem from government regulations, different tax structures, and different market conditions; (ii) BGL's refusal in allowing AGI to use its pipelines was in adherence with statutory provisions under the Petroleum and Natural Gas Regulatory Board Act which legally barred BGL from allowing third-party usage of its pipeline; and (iii) the pricing mechanism was a contractual issue governed by the GSA, which did not raise competition concerns. Thus, the CCI found no evidence of abuse of dominance and dismissed the matter.

View: The order reinforces CCI's consistent view that it will not exercise jurisdiction over contractual disputes arising out of inter se agreements between parties.

CCI dismissed information filed against Bareilly Nagar Nigam and others for bid rigging in the tender for advertisements:¹⁸

On November 11, 2024, the CCI dismissed an information filed against Bareilly Nagar Nigam ("**BNN**") and three other companies who participated in BNN's tender process ("**Tender Participants**"),¹⁹ for bid rigging the tender for advertisement.

On March 28, 2022, BNN published an advertisement in local newspapers for registration/renewal, of advertisement agencies who wished to work with itself. The tender conditions laid down that, only those agencies which were registered with BNN and with turnover exceeding INR 20 crores, could participate in the tender process. It was alleged that: (i) the Tender Participants worked in collusion with BNN, who framed the tender terms in a manner which ensured that they secured the award; (ii) the turnover criteria, as uploaded on the tender portal, was subsequently reduced from INR 20 crores to INR 9.5 crores, without this change being widely advertised or a new tender being issued; (iii) the Tender Participants were permitted to participate in the process and were awarded the tender despite having registered and deposited the required amounts after the tender deadlines; and (iv) unlike BNN's previous practice of displaying tender details on its website, the details regarding the tender issued on May 5, 2022, were not available on its website, indicating an intent to limit competition.

The CCI observed that: (i) the tender process had been conducted in accordance with all rules and bye-laws and that the turnover reduction was merely done to encourage competition; (ii) any changes or extensions in deadlines for the tenders were duly notified on the official website and in newspapers; and (iii) there was no evidence of any collusion, backdating or manipulation of the tender process, and the Tender Participants had followed all tender conditions in participating and submitting bids. Thus, the CCI held that there seemed to be no *prima facie* contravention of the Act and dismissed the matter.

Decision by the NCLAT:

NCLAT dismisses an appeal filed by the Travel Agents Association for denial of market access:²⁰

On October 25, 2024, the NCLAT dismissed an appeal filed by the Travel Agents Association of India ("**TAAI**"),²¹ challenging CCI's dismissal order declining to investigate the allegations of denial of market access to private travel agents.²² The appeal was dismissed since the same issue had previously already been adjudicated upon,²³ and the CCI's decision had been upheld by the appellate authorities.²⁴

In the appeal, it was alleged that the Department of Expenditure, Government of India ("**DoE**"), by way of an Office Memorandum ("**OM**") had directed all government officials to make exclusive use of the services of Balmer Lawrie Co., and Ashok Travels and

18. Case No. 38 of 2023, *Harish Kumar and M/s S B Telecommunication & Others*, order dated November 11, 2024, available at: <https://www.cci.gov.in/antitrust/orders/details/1155/0>.

19. The information was filed by Mr. Harish Kumar, who was engaged in the business of advertisement and publicity and is a registered vendor of BNN, against (i) M/s S B Telecommunication; (ii) M/s Indulge Sign and Graphics; (iii) M/S Adtek Print and Media Private Limited; and (iv) Bareilly Nagar Nigam.

20. Competition Appeal (AT) No. 26 of 2020, *Travel Agents Association of India vs. Competition Commission of India and Ors.*, order dated October 25, 2024, available at: https://nclat.nic.in/display-board/view_order.

21. The NCLAT order was based on an appeal filed by TAAI against the: (i) Competition Commission of India, (ii) the Department of Expenditure, Government of India; (iii) Balmer Lawrie and Co. Limited; and (iv) Ashok Travels and Tours.

22. Case No. 4 of 2020, *Travel Agents Association of India Vs. Department of Expenditure, Ministry of Finance, Government of India & Others*, order dated May 8, 2020, available at: <https://www.cci.gov.in/antitrust/orders/details/136/0>.

23. An information had been previously filed on the same facts before the CCI in Case No. 39 of 2010, *Travel Agents Association of India vs Balmer Lawrie & Co.*, order dated September 15, 2010, available at: <https://www.cci.gov.in/antitrust/orders/details/808/0>.

24. The above order at footnote 29 was subsequently upheld by the Competition Appellate Tribunal in Appeal No. 21 of 2010, and in another case on the same facts filed by Saint Travel Services, Case No. W.P.(C) No. 3380 of 2012, *Saint Travel Services vs. Union of India and Ors.*, judgement dated October 29, 2014, available at: <https://dhccaseinfo.nic.in/search/qrcode.php?nc=2014%3ADHC%3A5540&ctype=CW&cno=3380&cyr=2012>.

Tours while booking tickets for official air travel, to the exclusion of all other private travel agents. TAAI alleged that this conduct by the DoE amounted to a restriction of market access for the other travel agents and deprived consumers of improved services and lower prices offered by other players.

The NCLAT upheld the observation of the CCI that the DoE is not an “enterprise” under the Act and is rather the consumer of ticketing services and thereby as a buyer, the DoE had the discretion to avail any agency’s service. Further, it was held that TAAI had raised the same issues earlier which were dismissed by the CCI, and the order of dismissal was further challenged by TAAI before the erstwhile Competition Appellate Tribunal (COMPAT) which was also dismissed. Based on the principle of *res judicata* (i.e., that no person should be vexed twice for the same cause), the NCLAT criticized TAAI for approaching the CCI on the same set of facts again. Resultantly, it dismissed the appeal and imposed costs of INR 5 lakhs on TAAI for wastage of judicial resources.

Decisions by the High Courts:

Telangana High Court dismisses writ petition filed by Dr. Reddy’s Laboratories Limited, holds that writ petitions cannot be allowed until statutory remedies are exhausted, barring exceptional circumstances:²⁵

On September 19, 2024, a Single Judge of the Telangana High Court (“THC”) dismissed a writ petition filed by Dr Reddy’s Laboratories Limited (“Dr. Reddy’s”) challenging a cease-and-desist order of the CCI.

Background of proceedings before the CCI

The proceedings were initiated after an information was filed before the CCI in 2012, by the All-India Chemists and Distributors Federation alleging anti-competitive

practices including mandating a no-objection certificate for the appointment of stockists by the All-India Organization of Chemists & Druggists (“AIOCD”) and several pharmaceutical manufacturers, including Dr. Reddy’s.

After detailed investigation, the DG submitted its investigation report to the CCI in April 2024, and subsequently, in May 2024, CCI passed an order (“CCI Order”), *inter alia*, forwarding the copy of non-confidential version of the investigation report (“DG Report”) to Dr. Reddy’s and directed it to furnish: (i) the response/objection to the DG Report; and (ii) its financial statements. Upon receipt of the CCI Order and the DG Report, Dr. Reddy’s discovered that there were no adverse findings in the DG Report against itself.

Findings by THC

Aggrieved by the directions set out in the CCI Order, Dr. Reddy’s filed a writ petition before the THC arguing that the CCI Order was arbitrary, illegal and unconstitutional since the DG Report did not provide any specific adverse findings against Dr. Reddy’s. However, the THC observed that Dr. Reddy had not exhausted the statutory remedy of approaching the appellate tribunal i.e., the NCLAT. Accordingly, the THC held that writ petitions should not be entertained when statutory remedies are available, unless exceptional circumstances such as jurisdictional issues or violations of natural justice are demonstrated and dismissed the writ petition. The THC also left it open for Dr. Reddy’s to pursue the statutory remedies provided under the Act.

25. WP/25689/2024, *Dr. Reddys Laboratories Limited vs. Competition Commission of India.*, order dated September 19, 2024, available at: https://csis.tshc.gov.in/hcorders/2024/wp/wp_25689_2024.pdf.



OVERVIEW OF MERGER CONTROL CASES

The CCI approved more than 30 (thirty) combinations in Q3 of FY 2024-25. These included 1 (one) conditional approval and 6 (six) deemed approvals for combinations that were filed under the green channel route ("**GCR**"). A summary of the noteworthy combinations approved during this period (including combinations approved in the preceding quarter but the detailed orders of which were published during Q3 of FY 2024-25) is set out below:

Orders approved under the regular route

CCI approves Platinum Poppy's acquisition of stake in Berhyanda Midco and Berhyanda Limited:²⁶

On July 18, 2024, the CCI approved the acquisition of: (i) 21.76% of ordinary shares of Berhyanda Midco Limited ("**Berhyanda Midco**"); and (ii) 25% ordinary shares of Berhyanda Limited ("**Berhyanda**"), by Platinum Poppy C 2024 RSC Limited ("**Platinum Poppy**"). As such, pursuant to these acquisitions, Platinum Poppy will have an indirect non-voting economic interest in Suven Pharmaceuticals Limited ("**Suven**"), as Berhyanda currently holds 50.1% of the shareholding in Suven.²⁷ Further, Platinum Poppy will also provide shareholder loans to both Berhyanda MidCo and Berhyanda ("**Proposed Transaction**").

The parties submitted that: (i) prior to the Proposed Transaction, the target group, i.e., Advent group, merged three of its portfolio companies, namely ZCL Chemicals Limited ("**ZCL**"), Cohance Lifesciences Limited ("**Cohance**"), and Avra Laboratories Private Limited ("**Avra**") earlier in the year and post this merger, Cohance became the resultant entity; and (ii) Advent group is also considering the merger of Cohance and Suven ("**Cohance-Suven Merger**"). However, the parties clarified that these transactions were not interconnected to the Proposed Transaction. Further, the Cohance-Suven Merger will not precede the Proposed Transaction. Nonetheless, the acquirer, i.e., Platinum Poppy considered Cohance (including ZCL and Avra) for the identification of overlaps and for undertaking competition assessment. While the CCI noted that the parties are required to assess the notifiability of the Cohance-Suven Merger at the time of giving effect to this transaction, it nevertheless assessed the overlaps based on the submission of the parties.

The CCI noted that the activities of parties exhibited horizontal overlaps in the manufacture and sale of the 8 (eight) finished dosage formulations ("**FDFs**").²⁸ The

CCI also noted certain vertical links between the parties in terms of certain active pharmaceutical ingredients ("**API**") manufactured by Cohance being used as an input in the FDFs manufactured by Intas Pharmaceuticals Limited ("**Intas**").²⁹ Further, the CCI also noted potential vertical linkage between the parties in terms of: (i) certain APIs manufactured by Suven potentially being used as inputs to manufacture FDFs by Intas; (ii) certain APIs manufactured by Cohance potentially being used as input in the FDFs manufactured by Intas; and (iii) provision of contract development and manufacturing services for FDFs by Cohance in the upstream market and manufacture/ sale of FDFs by Intas in the downstream market.

In its competition assessment, with respect to the horizontal overlaps, the CCI observed that the incremental market share of the parties is in the range of 0-5% for all overlapping FDF segments/sub-segments. Further, in relation to the vertical linkages and potential vertical linkages between the parties, the CCI observed that these linkages are not likely to raise any foreclosure concerns. Accordingly, the CCI observed that the proposed combination is not likely to have appreciable adverse effect on competition ("**AAEC**") in India.

CCI approves Citrine Inclusion's acquisition of stake in Utkarsh CoreInvest:³⁰

On September 3, 2024, the CCI approved the acquisition of 13.58% of the issued and paid-up equity share capital of Utkarsh CoreInvest Limited ("**UCL**") by Citrine Inclusion Limited³¹ ("**Citrine**").

26. Combination Registration No. C-2024/05/1147, *Platinum Poppy/ Berhyanda*, order dated July 18, 2024, available at: <https://www.cci.gov.in/combination/order/details/order/1424/0/orders-section31>.

27. Berhyanda and Berhyanda MidCo are owned by funds managed by Advent International. Berhyanda is the only investment held by Berhyanda MidCo and Suven is the only investment held by Berhyanda.

28. (i) lipid-regulating cardiovascular multitherapy combination products (ATC3 code –C11A) and a narrower segment of lipid-regulating multitherapy fixed combination products (ATC4 code – C11A1); (ii) non-steroidal anti-rheumatics (ATC3 code – M1A) and narrower segment of anti-rheumatics (non-steroidal combination) (ATC4 code – M1A2); (iii) anti-depressants and mood stabilisers (ATC3 code – N6A) and narrower segment of SNRI antidepressants (ATC4 code – N6A5); (iv) lipid regulators in combination with other lipid regulators (ATC3 code – C10C); (v) systemic agents for fungal infections (ATC3 code – J2A); (vi) plain antispasmodics and anticholinergics (ATC3 code – A3A); (vii) antiobesity preparations (excluding dietetics) (ATC3 code – A8A); and (viii) drugs used in the treatment of BPH (ATC3 code – G4C) and narrower segment of BPH alpha antagonists and 5 ARIs, combinations (ATC4 code – G4C4).

29. Intas is a portfolio company of Abu Dhabi Investment Authority which is the ultimate beneficiary of Platinum Poppy.

30. Combination Registration No. C-2024/05/1154, *Citrine Inclusion/Utkarsh CoreInvest*, order dated September 03, 2024, available at: <https://www.cci.gov.in/combination/order/details/order/1435/0/orders-section31>.

31. Citrine is owned and controlled by a fund ultimately managed by LeapFrog Group GP, Limited.

The parties submitted one of the limited partners (“LP”) of the Leapfrog group of funds, had a right to nominate and appoint a person to serve as a member of the management board³² (“**Management Board**”) of LeapFrog Investments Platform (“**LIP**”),³³ including its group entities and affiliates. The parties stated that mapping overlaps between the business activities of the LP with UCL is not warranted for the purposes of competition assessment of the proposed transaction given that the LP: (i) does not have any right or influence over the investment recommendations of the investment manager to the general partner entity, i.e., Leapfrog Group GP, Limited (“**GP**”), of LeapFrog funds; (ii) does not have any rights or influence over the investment decisions of the GP entities of LeapFrog group of funds; (iii) has not received and does not have any right to receive any confidential information from the GP in relation to a transaction or any commercially sensitive information (“**CSI**”) of the investee entity; and (iv) does not have any form of say or influence or control over LeapFrog’s entry and exit decisions in relation to its investment in UCL or any other entity. However, without prejudice to its submissions, Citrine furnished details of affiliates of the LP exhibiting overlaps with UCL.

Given the scope of the mandate of the Management Board, the CCI observed that it includes matters of considerable significance qua the operations of the LIP. As such, the participation of the LP in the Management Board provides it the ability to influence the decision operations of the LIP and the role of the LP in LIP goes beyond the role of an ordinary LP. Accordingly, the CCI assessed and noted that activities of certain affiliates of LeapFrog and/or the LP on one hand and UCL on the other hand exhibited horizontal overlaps namely: (i) provision of loans and lending services and its segments such as provision of retail loans and wholesale loans, and their sub-segments;³⁴ and (ii) deposit-taking activity, activity of customer operating unit (“**COU**”) under Bharat Bill Payment System (“**BBPS**”), distribution of insurance products, and distribution of mutual funds.

In its competition assessment, the CCI observed that the combined market shares of the parties in the aforementioned markets were insignificant except for the provision of BBPS services as a COU where the combined market share was 10-15% with incremental market share being less than 1%. However, this business segment is characterised by the presence of other players and accordingly, the proposed combination is not likely to have AAEC in India.

View: In cases where an LP has the ability to influence the decisions of the management of a company, the notifying parties, will also have to consider the activities of such LP (including their group entities and affiliates) for identification of overlaps.

CCI approves Patanjali group’s intra-group transfer of home and personal care business:³⁵

On October 8, 2024, the CCI approved the acquisition of Home and Personal Care (“**HPC**”) business division (“**HPC Business**”) of Patanjali Ayurved Limited (“**PAL**”) by Patanjali Foods Limited (“**PFL**”).

The CCI observed that there is no horizontal overlap between the activities of the parties. However, there was a vertical linkage between the parties in terms of upstream market for the production and sale of oleochemicals and its segments, namely soap noodles and glycerine by PFL and the downstream market for the production and sale of beauty and personal care products and its segment, viz. soap by the HPC Business. Given that the proposed combination was in the nature of an internal transfer of the HPC Business, and the parties were all part of the Patanjali group, there would be no change in the market dynamics as a result of the proposed combination. Further, the market share of PFL, in terms of volume, in the oleochemicals market is in the range of 5-10%, the soap noodles segment is in the range of 10-15%, and glycerine segment is in the range of 0-5%. Additionally, the market share of HPC Business, in terms of value, in the beauty and personal care products market and the soap segment is in the range of 0-5%. In this regard, there are various competitors present in both upstream and downstream markets in India. Based on the foregoing, the proposed combination is not likely to have appreciable AAEC in India.

32. The scope of the mandate of the Management Board includes: (i) governance of the firm, LeapFrog Investments Platform; (ii) leadership role selection and appointment in line with the Management Board terms of reference; (iii) deciding changes to the members of the investment committee; (iv) review and approving overall allocation of KPIs and resources/budgets; and (v) remuneration committee consisting of independent non-executive member, the CEO and the chairman to review partner level remuneration.

33. While the CCI order does not specify the exact relation between LIP and Citrine, from a reading of the order, it appears that LIP is a parent entity of Citrine and a part of the Leapfrog group.

34. Such as: (i) personal loans; (ii) gold loans; (iii) home loan; (iv) home improvement loans; (v) MSME loans; (vi) loan against property; (vii) micro loans; (viii) commercial vehicle loans; (ix) loans to financial institutions; and (x) corporate loans.

35. Combination Registration No. C-2024/08/1176, Patanjali Foods/Patanjali Ayurved, order dated October 08, 2024, available at: <https://www.cci.gov.in/combination/order/details/order/1457/0/orders-section31>.

CCI approves Central Bank of India's acquisition of stake in 2 (two) Future Generali entities:³⁶

On October 15, 2024, the CCI approved Central Bank of India's ("CBI") acquisition of: (i) 24.91% equity stake of Future Generali General Insurance Company Limited (Future Generali General Insurance); and (ii) 25.18% equity stake of Future Generali Life Insurance Company Limited ("**Future Generali Life Insurance**"), from Future Enterprises Limited which is currently undergoing the corporate insolvency resolution process.

The CCI observed that there existed a vertical linkage between the parties in terms of upstream market of provision of life insurance products by Future Generali Life Insurance, and general insurance products by Future Generali General Insurance on one hand, and the downstream market of distribution of insurance products by CBI on the other. However, the market share of each of the parties for the overlapping activities was in the range of 0-5% and each market was characterized by the presence of several players that would continue to exert competitive constraints on the parties. Accordingly, the proposed combination was not likely to have appreciable AAEC in India.

CCI approves Ruby Asia's and Singtel Interactive's acquisition of shares in STT GDC subject to behavioural remedies:³⁷

On November 5, 2024, the CCI approved the acquisition of up to 26% of the issued ordinary shares in STT GDC Pte. Limited ("**STT GDC**") by a consortium of Ruby Asia Holdings II Pte. Limited ("**Ruby**") and Singtel Interactive Pte. Limited ("**Singtel**"), which will be undertaken through an: (i) initial investment, i.e., Ruby and Singtel will subscribe to 18.3% interest in STT GDC, collectively³⁸; and (ii) upside investment of 7.7%.

While the CCI did not observe any overlaps with respect to Ruby/its group/its affiliates, the CCI observed that the activities of one of the affiliate companies of Singtel, i.e., Nxtra Data Limited ("**Nxtra**"),³⁹ and STT GDC exhibit: (i) horizontal overlaps in the market for data centre colocation services ("**Data Centre Colocation Services**") in India (further segmented geographically into Data Centre Colocation Services in Mumbai, Delhi NCR, Chennai, Bengaluru, and Pune)⁴⁰; and (ii) potential vertical linkages in terms of STT GDC India's Data Centre Colocation Services being potentially availed by Bharti Airtel Limited (one of Singtel's affiliate companies) towards its provision of: (a) mobile network services and solutions in India, (b) retail fixed broadband internet

services in India, and (c) business connectivity services/business to business fixed broadband internet services in India.

The CCI noted that the activity of provision of a data centre is characterized by limited switching and assessed the impact of the proposed combination on the level of concentration on a varied basis viz., existing installed capacity, installed capacity likely to be available in medium term viz., till FY 2027, and spare capacity. Accordingly, the CCI observed that the proposed combination would have a significant impact on the level of concentration as reflected in the market shares in the markets of provision of Data Centre Colocation Services in Delhi NCR⁴¹, Bengaluru⁴², Chennai⁴³, and Pune⁴⁴. However, the parties submitted that given the extent of shareholding and rights proposed to be acquired by Singtel in STT GDC and the safeguards⁴⁵ being introduced in the transaction documents to deal with existing/potential: (a) competing investments; and (b) conflict of interest arising from activities of Nxtra and activities of STT GDC in India, the proposed combination is unlikely to have a significant impact on the level of concentration.

36. Combination Registration No. C-2024/08/1180, *Central Bank of India/Future Generali*, order dated October 15, 2024, available at: <https://www.cci.gov.in/combination/order/details/order/1461/0/orders-section31>.

37. Combination Registration No. C-2024/07/1168, *Ruby Asia/STT GDC*, order dated November 05, 2024, available at: <https://www.cci.gov.in/combination/order/details/order/1448/0/cases-approved-with-modification>.

38. Ruby and Singtel will subscribe to 14.1% and 4.2% interest in STT GDC, respectively.

39. Nxtra is the subsidiary of Bharti Airtel Limited. The parent company of Singtel has shareholding in Bharti Telecom Limited which is engaged in the business of making investments in its group company, Bharti Airtel Limited.

40. The acquirers, i.e., Ruby and Singtel, proposed that the overlapping metros viz., Mumbai, Delhi NCR, Chennai, Bangalore, and Pune be considered as the distinct narrow relevant geographic markets since customers typically seek Data Centre Colocation Services within a particular metro which is generally not substitutable with another metro given the: (i) the difference in the extent of demand depending on population and presence of business customers (i.e., proximity to customers and end users); (ii) suitability of a location for setting up data centres in terms of availability of dense optical fiber cable network, utilities such as water supply, absence of earthquake/flooding zones nearby, etc.; and (iii) latency on account of the increased distance between the server and users.

41. For Delhi NCR, the CCI observed that the parties' combined share stands in the range of 25-30% in terms of the existing installed capacity with an increment of 5-10%. The spare capacity market share aggregates to 35-40% with an increment of 15-20% and projected aggregate share by FY 27 is likely to be 20-25% with an increment of 0-5%.

42. For Bengaluru, the CCI observed that the parties' combined share stands in the range of 15-20% in terms of the existing installed capacity with an increment of 0-5%. The spare capacity market share aggregates to 40-45% with an increment of 0-5% and in terms of likely presence by FY 2027, Nxtra and STT will have a combined share in the range of 25-30% with an increment of 0-5%.

43. For Chennai, the CCI observed that the parties' combined share stands in the range of 35-40% in terms of the existing installed capacity with an increment of 10-15%. In terms of spare capacity, the combined share is in the range of 45-50% with an increment of 20-25%. However, projected combined shares by FY 2027 are expected to be in the range of 30-35% with an increment of 5-10%.

44. For Pune, the CCI observed that the parties' combined share stands in the range 90-95% in terms of the existing installed capacity with an increment of 35-40%. The spare capacity combined shares are in the range of 95-100% with an increment of 35-40% and the projected shares are estimated to be in the range of 80-85% with an increment of 25-30%.

45. The Parties had agreed on certain safeguards aimed to prevent exchange of CSI between STT GDC and Nxtra.

Considering the significant presence of Nextra and STT GDC in India, the CCI directed the acquirers to explain how the safeguards are proportionate to the significant changes in concentration in certain markets resulting from the proposed combination. Accordingly, to assuage and address CCI's concerns, the parties offered voluntary commitments such as: (i) non-dilution of the existing firewall provisions under the transaction documents which prevent exchange of CSI by the acquirers with their other competing portfolio companies; (ii) no employee/officer of Singtel to have access to market specific information about STT GDC; (iii) Singtel nominee observer to recuse themselves on discussions pertaining to of the board committee of STT GDC which relate to the business of STT GDC in the Indian market; and (iv) Singtel nominee observer to not be an employee of Singtel.⁴⁶ Considering the voluntary commitments offered by the parties, the CCI concluded that the proposed combination is not likely to have appreciable AAEC in India, subject to the implementation of these commitments.

View: It is heartening to see the CCI demonstrate a fine balance between the efficacy of remedial measures and preserving the sanctity of deal structures by embracing voluntary modifications proposed by parties. This approach not only accelerates approval timelines and ensures efficient resource utilization but also effectively addresses competition concerns. In doing so, the CCI fosters market compatibility for transactions while promoting a conducive environment for investments and economic growth.

Orders approved under GCR:

A list of the combinations approved under the GCR route, i.e., combinations that did not exhibit horizontal, vertical, or complementary overlaps, in Q3 of 2024 is set out below:

On November 12, 2024, the CCI approved 2726247 Ontario Inc.'s and OMERS Infrastructure Asia Holdings Pte. Limited's acquisition of additional unitholding and shareholding in Interise Trust and Interise Investment Managers Limited, respectively.⁴⁷

On December 9, 2024, the CCI approved McDermott International Limited's ("**McDermott**") conversion of its entire class of preference shares into ordinary shares, and Baupost Group Securities, L.L.C.'s ("**Baupost**") voluntary redemption or exchange of all the preference shares held by it into ordinary shares of McDermott.⁴⁸ Baupost, as the nominee entity of The Baupost Group, L.L.C.

("Baupost Group"), currently holds certain preference shares of McDermott on behalf of certain investment funds advised by the Baupost Group ("**Baupost Funds**") who are also the beneficial owners of certain ordinary shares of McDermott. As such, pursuant to the proposed conversion, the aggregate shareholding of Baupost and Baupost Funds in McDermott's ordinary share capital will exceed 25%.

On December 16, 2024, the CCI approved Royce Asia Holdings II Pte. Limited's secondary acquisition of certain equity shares and compulsorily convertible preference shares of Rebel Foods Private Limited.⁴⁹

On December 17, 2024, the CCI approved Zashvin Pty. Limited's ("**Zashvin**") acquisition of approximately 33.33% shareholding in Jellinbah Group Pty. Limited ("**Jellinbah**"), on a fully diluted basis.⁵⁰ Zashvin presently holds a 33.33% shareholding in Jellinbah.

On December 20, 2024, the CCI approved Jost Werke International Beteiligungsverwaltung GmbH's acquisition of 100% shareholding of Hyva III B.V. ("**Hyva**"), and consequent indirect acquisition of sole control over Hyva (India) Private Limited – an indirect subsidiary of Hyva in India.⁵¹

On December 24, 2024, the CCI approved Avenue India Emergence Pte. Limited ("**Avenue**") and Mavco Investments Private Limited's ("**Mavco**") acquisition of 100% shareholding in MHM Holding GmbH ("**MHM**").⁵² As a part of the proposed combination, Avenue and Mavco would incorporate a joint venture company in India and assign their rights over MHM to the joint venture company.

46. The acquirers clarified that the voluntary commitments are being offered by Singtel on account of its investment and existing rights in Nextra and as a financial investor of (and with a minority investment in) STT GDC ("Singtel Minority Investment") and would not apply to: (a) Ruby / its group/ its affiliates or any third party to whom Ruby or Singtel may in the future transfer their shareholding in STT GDC; or (b) any transaction other than the Singtel Minority Investment.

47. Combination Registration No. C-2024/11/1207, Ontario Inc./Interise Trust, order dated November 12, 2024, available at: <https://www.cci.gov.in/combination/order/details/summary/1492/0/green-channel>.

48. Combination Registration No. C-2024/12/1217, Baupost./McDermott, order dated December 09, 2024, available at: <https://www.cci.gov.in/combination/order/details/summary/1504/0/green-channel>.

49. Combination Registration No. C-2024/12/1220, Royce Asia Holdings/Rebel Foods, order dated December 16, 2024, available at: <https://www.cci.gov.in/combination/order/details/summary/1507/0/green-channel>.

50. Combination Registration No. C-2024/12/1221, Zashvin/Jellinbah, order dated December 17, 2024, available at: <https://www.cci.gov.in/combination/order/details/summary/1508/0/green-channel>.

51. Combination Registration No. C-2024/12/1223, Jost Werke/Hyva, order dated December 20, 2024, available at: <https://www.cci.gov.in/combination/order/details/summary/1509/0/green-channel>.

52. Combination Registration No. C-2024/12/1224, Mavco Investments/Avenue India Emergence, order dated December 24, 2024, available at: <https://www.cci.gov.in/combination/order/details/summary/1511/0/green-channel>.

REGULATORY DEVELOPMENTS

The major regulatory developments in competition law in India in Q3 of 2024 are set out below:

CCI proposes amendments to the Monetary Policy Recovery Regulations, 2011:

On November 7, 2024, the CCI published the draft amendments to the CCI (Manner of Recovery of Monetary Penalty) Regulations, 2011, inviting comments from stakeholders until December 6, 2024 ("**Draft Regulations**").⁵³ These Draft Regulations lay down the procedural framework for the recovery of monetary penalties imposed by the CCI.

The Draft Regulations, *inter alia*, propose: (i) making legal heirs equally liable for penalties imposed to the extent of the inherited estate, unless proven otherwise; (ii) the issuance of recovery certificates by the CCI Secretary, outlining the penalty amount, accrued interest, and the

modes of recovery; (iii) making it mandatory for demand notices to specify the payment timeline as contained in the CCI order; (iv) imposing a simple interest of 1% if the amount specified in the demand notice is not paid within the period specified by the CCI, and include provisions to address legal heirs in cases involving deceased defaulters; (v) provision of a 15 (fifteen) day grace period for penalty deposits; and (vi) the extension of recovery actions to the legal heirs of deceased defaulters, at least until the liability is reduced/eliminated by appellate authorities,⁵⁴ in which case the demand notice or recovery certificate is to be amended, and refunds issued on any excess penalties paid.

53. Draft Amendments to the Competition Commission of India (Manner of Recovery of Monetary Penalty) Regulations, 2011, along with the public consultation form, dated November 7, 2024, available at: <https://www.cci.gov.in/stakeholders-topics-consultations>.

54. Appellate authorities herein include the NCLAT, the High Courts and the Supreme Court.



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