

**Directorate for Financial and Enterprise Affairs
COMPETITION COMMITTEE****Annual Report on Competition Policy Developments in India****-- 2018 --**

This report is submitted by India to the Competition Committee FOR INFORMATION at its forthcoming meeting to be held on 5-7 June 2019.

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India

1. EXECUTIVE SUMMARY

1. A relatively young competition authority, the Competition Commission of India (CCI/Commission) was setup under the Competition Act 2002, and got its enforcement and regulatory powers relating to antitrust provisions in 2009. In these ten years of enforcement work, the CCI has received and examined 1008 cases of anti-competitive agreements and abuse of dominance. The merger review provisions came into existence in May, 2011. CCI has, since then, received 656 merger filings out of which 644 cases have been disposed and 12 cases are pending as on 31.03.2019.

2. Hidden behind these numbers is the hard work of the CCI and its officers to build a sound body of jurisprudence keeping in mind India's economic development and market realities. CCI has strived to create a culture of competition in the markets through credible antitrust enforcement and regular engagement with stakeholders. Because of the all-round efforts, a fair degree of awareness has been created amongst the stakeholders with respect to the provisions of the Act, its scope and the remedies that it can provide.

2. CHANGES TO COMPETITION LAWS AND POLICIES, PROPOSED OR ADOPTED

2.1. Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2018 dated 09.10.2018

3. CCI amended the Combination Regulations on 09.10.2018. One of the changes brought about by the said amendments is that the parties to combinations can now submit remedies voluntarily in response to the notice issued under Section 29(1) of the Act. If such remedies are considered sufficient to address the perceived competition harm, the combination can be approved. This amendment is expected to expedite disposal of such combination cases.

4. In another significant amendment, where the notice is found to exhibit significant information gaps, parties to combinations are allowed to withdraw the notice and refile the same. With this amendment, the parties could address the deficiencies without facing invalidation by CCI. Further, fee already paid in respect of such notice shall be adjusted against the fee payable in respect of new notice, if the refiling is done within a period of 3 months. Apart from these, certain consequential and other clarificatory changes have also been made in the Combination Regulations. This amendment inter-alia provides certainty & transparency and expedites faster disposal of combination cases before CCI.

2.2. The Competition Commission of India (General) Amendment Regulations, 2018 dated 06.12.2018

5. CCI inserted Section 46A to the General Regulations. The new provision allows presence of an advocate with any person summoned during proceedings before Director General, CCI. However, the presence of an advocate is subject to the condition that a request in writing accompanied by a Power of Attorney is to be duly submitted to the DG, prior to commencement of the proceedings. The advocate shall not sit in front of the person

so summoned; and that the Advocate shall not be at a hearing distance and shall not interact, consult, confer or in any manner communicate with the person, during his examination on oath. Regulation 46A (2) further prohibits any misconduct on the part of an advocate accompanying the person before DG and in case of any misconduct, DG shall forward a written complaint to the CCI. CCI in pursuance of such complaint shall pass necessary orders i.e. debarring the advocate to appear before CCI. Further, upon directions of the CCI, the Secretary, CCI shall make a written complaint to the Bar Council of the State of which the advocate is a member.

3. ENFORCEMENT OF COMPETITION LAWS AND POLICIES

3.1. Action against anticompetitive practices, including agreements and abuses of dominant positions

6. Section 3 of the Act prohibits any agreement with respect to the production, supply, distribution, storage, and acquisition or control of goods or services, which causes or is likely to cause an appreciable adverse effect on competition within India. Section 4 of the Act prohibits the abuse of a dominant position by an enterprise or a group of enterprises. The Act defines dominant position in terms of a position of strength enjoyed by an enterprise, in the relevant market in India, which enables it to: (i) operate independently of the competitive forces prevailing in the relevant market; or (ii) affect its competitors or consumers or the relevant market in its favour.

7. CCI has placed foremost priority on the effective disposal of cases. From the date of enforcement of Sections 3 and 4 of the Act, i.e., from May 20, 2009 to March 31, 2019, 1008 cases were brought before CCI relating to enforcement of Section 3 and Section 4, of which a majority of cases have been disposed. The status update on competition enforcement in India till March 31, 2019 is presented below:

Table 1. Status of cases received till March 31, 2019

Cases closed at prima facie stage	560
Cases decided or closed after DG's report	256
Cases pending before CCI	97
Cases pending before DG	91
Cases stayed by various courts	04
Status as on 31/03/19	1008

3.2. Most Active Sectors in 2018-19

8. CCI has received 68 complaints in 2018-19. In terms of allegations of anti-competitive conduct, the real estate sector has topped the complaints list every year. Other prominent sectors with alleged anti-competitive conduct are the railways and financial sector. The sectoral distribution of cases relating to anti-competitive agreements and conduct reported to/noticed by CCI is presented in Table No. 2 below:

Table 2. Sector-wise Distribution of Information received (2018-19)

Sl. No.	Sector	2018-19
1	Real Estate	9
2	Financial Sector	5
3	I & B (Film/ Entertainment/ TV/Print Media)	2
4	Health/Pharmaceuticals	4
5	Automobiles	2
6	Information Technology	3
7	Petroleum/Gas	2
8	Railways	8
9	Civil Aviation	0
10	Power	0
11	Chemicals& Fertilizers	0
12	Iron & Steel	1
13	Coal	2
14	Miscellaneous	30
Total		68

3.3. Important decisions of CCI under Sections 3 and 4 of the Act in 2018-19

3.3.1. M/s Alis Medical Store & ors vs. Federation of Gujarat State Chemists & Druggists Associations and others (Case Nos. 65, 71 & 72/2014 and 68/2015)

9. **Allegation:** In 4 separate cases, but entailing similar issues, filed by M/s Alis Medical Agency, M/s Stockwell Pharma, M/s Apna Dawa Bazar and M/s Reliance Medical Agency, it was brought to the notice of the C that the chemists and druggists associations operating in the State of Gujarat had restrained pharmaceutical companies from appointing new stockists in the said State unless a No Objection Certificate ('NOC') was obtained from them. It was also alleged that certain pharmaceutical companies refused to supply drugs to the aggrieved parties on account of not having obtained NOC from the aforesaid associations.

10. **Finding:** Based on the evidence collected by the DG during investigation, the Commission concluded that the FGSCDA and the aforesaid district level associations were indulging in the practice of mandating NOC prior to the appointment of stockists by pharmaceutical companies, which was leading to limiting and controlling of the supply of drugs in the market, and is in contravention of the provisions of Section 3(3)(b) read with 3(1) of the Act. The Commission also observed the conduct of pharmaceutical companies and the C&F Agent, namely, Glenmark Pharmaceutical Ltd. ('Glenmark'), Divine Saviour Pvt. Ltd. ('Divine Saviour') and Hetero Healthcare Ltd. ('Hetero') and Glenmark's C&F Agent M/s B.M. Thakkar & Co. ('B.M. Thakkar'), to be in contravention of the provisions of Section 3(1) of the Act, for facilitating the practice of NOC mandated by these associations. Further, the Commission held certain office bearers and officials of the erring associations and pharmaceutical companies, respectively, to be responsible under Section 48 of the Act, for their active involvement in the anti-competitive practice of the aforesaid entities and/or on account of the positions of responsibility held by them during the period of contravention.

11. **Directions:** The erring associations, pharmaceutical companies, the C&F agent and their respective office bearers/officials were directed to cease and desist from indulging in the practice of mandating NOC prior to stockist appointment. The Commission also imposed a monetary penalty at rate of 10% of their average income of three financial years, on the erring associations and its office bearers; and a penalty at rate of 1% of their average income of three financial years, contravening pharmaceutical companies and their officials.

3.3.2. G. Krishnamurthy vs. Karnataka Film Chamber of Commerce (KFCC) and Others (Case No. 42 of 2017)

12. **Allegation:** Information was filed by Mr. G. Krishnamurthy against Karnataka Film Chamber of Commerce and others alleging that that the Opposite Parties created a hostile environment through press meet, news reports, tweets etc. against the release of dubbed movies in general and the Informant's movie "Sathyadev IPS" in particular, in the State of Karnataka. CCI on finding a *prima facie* case under the provisions of Section 3 of the Act, directed the DG to cause an investigation into the matter and submit a report.

13. **Finding:** After perusing the information, the investigation report submitted by the DG, replies and arguments of the parties and the material available on record, CCI observed that the anti-competitive conduct of the Opposite Parties (OP) resulted in contravention of the provisions of Section 3(1) and Section 3(3)(b) of the Act, and resulted in an AAEC. This severely impacted Informant's dubbed movie and interfered with the free play of market forces and each of the OPs played their part in thwarting the screening of dubbed movies in the State of Karnataka, much to the detriment of the principles of competition. CCI also found OP-1 guilty for recidivism for continuing the anti-competitive conduct, despite strict and unambiguous order of the CCI to cease and desist from such anti-competitive conduct.

14. **Direction:** CCI directed OP-1, OP-2, OP-3, OP-4 and OP-5, and members of OP-1 and OP-2 to cease and desist from indulging in practices which were found to be anti-competitive. CCI directed OP-1 to bring in place a 'Competition Compliance Manual' to educate its members about the basic tenets of competition law principles and to file a compliance report. CCI vide its power u/s. 27 of the Act imposed penalty @ 10% of the average income of KFCC and vide its power u/s. 48 of the Act imposed penalty @ 10% each of the average of their Gross Total Income of OP-3 and OP-5. As OP-2 and OP-4 did not furnish copies of their financial statements/ Income Tax Returns, CCI decided to pass a separate order regarding penalty in respect of these OPs in due course which would be without prejudice to penalty proceedings initiated against OP-2 and OP-4 under Section 43 of the Act.

3.3.3. In Re: East India Petroleum Pvt. Ltd. and South Asia LPG Company Pvt. Ltd. (Case No. 76 of 2011)

15. **Allegation:** The information was filed by East India Petroleum Pvt. Ltd. (EIPL) alleging concerns in respect of access to terminalling infrastructure operated by South Asia LPG Company Pvt. Ltd. (SALPG) at Vishakhapatnam Port under Section 3 and 4 of the Act. CCI on finding a *prima facie* case under the provisions of Section 4 of the Act, directed the DG to cause an investigation into the matter and submit a report. Upon consideration of the investigation report as submitted by the DG, the Commission issued directions for further investigation in the matter. Based on the material on record, including submissions of the parties and third parties, the Commission did not find sufficient reason to agree with the findings of DG on some aspects. Accordingly, the Commission vide its order dated

10.01.2018 decided to further inquire into the matter and directed the parties to respond to the observations of the Commission therein regarding the certain aspects in the matter.

16. **Finding:** The CCI held that SALPG owing to its dominant position, was insisting mandatory use of its cavern, and imposing certain terms and conditions which was held to be in contravention of provisions of Section 4 of the Act.

17. **Direction:** The Commission, accordingly directed SALPG to not insist mandatory use of its cavern and shall allow bypass of cavern for both pre-mixed and blended LPG, without any restrictions; allow access to its competitors, potential and existing, without restrictions and subject to compliance of safety standards and other legal requirements. Such an access should avoid additional cost burden on SALPG, and the entity seeking access shall bear the cost, if any, towards necessary changes to the existing infrastructure. Under this option also, SALPG shall not insist on mandatory use of cavern and it shall allow bypass of cavern, without any restriction. SALPG was also directed to extend full cooperation for the study/audit undertaken by Visakhapatnam Port Trust in relation to the remedies ordered herein. The Commission also imposed monetary penalty of INR 19,20,70,000/- only (Rupees Nineteen Crore Twenty Lakhs and Seventy Thousand only) on SALPG for indulging into such anti-competitive conduct.

3.3.4. In Re: Hemant Sharma & Ors. And All India Chess Federation (AICF) (Case No. 79 of 2011)

18. **Allegation:** This case was initiated on information filed by four chess players against AICF alleging several unfair stipulations in respect of organisation of chess tournaments, and rules and regulations in respect of nomination and participation etc. amounting to contravention of provisions of Section 4 of the Act. CCI on finding a prima facie case under the provisions of Section 4 of the Act directed the DG to cause an investigation into the matter and submit a report.

19. **Finding:** After perusing the Investigation reports as submitted by DG, replies and arguments of parties and the material available on record, CCI observed that AICF enjoys a dominant position in the markets for organization of professional chess tournaments/ events in India and services of chess players in India. Further, CCI observed that AICF's restriction on chess players to participate in unauthorised events and attendant punitive consequences restricted the movement of chess players and placed them and the potential organisers of chess tournaments in a disproportional disadvantage. Hence, such stipulation was held as an unreasonable restriction on chess players and denial of market access to organisers of chess events/ tournaments, in contravention of the provisions of Section 4(1) read with 4(2)(b)(i) and Section 4(2)(c) of the Act. The restrictions on chess players were further held to be in the nature of exclusive distribution and refusal to deal, in contravention of Section 3(4)(c) and Section 3(4)(d) of the Act.

20. **Direction:** A monetary penalty of Rupees 6.92 Lakh was imposed to penalise such contravention. The Commission had also issued *inter alia* following directions to AICF that it shall cease and desist from the conducts that is found anti-competitive; it shall lay down the process and parameters governing authorisation/ sanctioning of chess tournaments and it will ensure that they are necessary to serve the interest of the sport changes and shall be applied in a fair, transparent and equitable manner.

3.3.5. *Delhi Jal Board vs. Grasim Industries Ltd. & Others (Ref. C. No. 03 of 2013)*

21. **Allegation:** CCI received reference from Delhi Jal Board (DJB) for rigging its tenders floated for procurement of Poly Aluminium Chloride (PAC), which is used for purification of water.

22. **Finding:** After perusing the information, the investigation report submitted by the DG, replies and arguments of the parties and the material available on record, the CCI held that where two or more entities of the same group decide to separately submit bids in the same tender, they have consciously decided to represent themselves to the procurer that they are independent decision making centres and independent options for procurement. Accordingly, in such cases the entities have to comply with the provisions of the Act, in letter and spirit. Therefore, CCI observed that the conduct of Grasim Industries Limited (GIL), Aditya Birla Chemicals (India) Ltd (ABCIL) and Gujarat Alkalies and Chemicals Ltd. (GACL) was in contravention of the provisions of Section 3(3)(d) read with Section 3(1) of the Competition Act, 2002 ('the Act') as they cartelised in bidding for PAC tenders.

23. **Direction:** CCI *vide* its power u/s 27 of the Act imposed a total penalty of Rs. 43.9 million on ABCIL and GIL @ of 8% of their average relevant turnover and a penalty of Rs. 18.8 million GACL at the rate of 6% of its average relevant turnover.

3.3.6. *Shri Satyendra Singh vs. Ghaziabad Development Authority (Case No. 86 of 2016)*

24. **Allegation:** The information was filed by Shri Satyendra Singh against Ghaziabad Development Authority (GDA) alleging contravention of the provisions of Section 4 of the Act as GDA increased sale price of the low cost residential flat, allotted to the Informant, from Rs. 2,00,000/- to Rs. 7,00,000/- knowing well that the Informant and other allottees under the Scheme belonged to Economically Weaker Sections (EWS) of the society. No enabling provision with respect to this was provided either in the Brochure of the Scheme or in the allotment letter issued by the Opposite Party.

25. **Finding:** After perusing the information, the investigation report submitted by the DG, replies and arguments of the parties and the material available on record, CCI observed that the conduct of GDA in raising the price of EWS flats from the initial price of Rs. 2,00,000/- in 2008 to Rs. 7,00,000/- in 2015 under the said scheme without any enabling provision either in the Brochure of the Scheme or allotment letter was arbitrary and unilateral. Further, the condition for levying penal interest @ 10.5% per annum in case of delay in the payment of the quarterly installments by the allottees without a corresponding provision for GDA in case of delay in giving possession of the flats was abusive, being one sided and unfair.

26. **Direction:** CCI imposed a penalty of Rs.10.06 million upon GDA calculated at the rate of 5% of its average turnover/ receipts generated from the provision of services for development and sale of low cost residential flats under affordable housing schemes for the economically weaker sections for the preceding three financial years.

3.3.7. *Matrimony.com Limited & Anr. vs. Google LLC & Anr.(Case Nos. 07 & 30 of 2012)*

27. **Allegation:** In the two information, it was alleged that Google ran its core businesses of search and search advertising in an unfair and discriminatory manner, causing

harm to the publishers and advertisers, and to the consumers. Further, it was alleged that Google was not only creating an uneven playing field by unduly favouring its own services, but was also leveraging its strong position in various online search market to enter into and enhance its position in ancillary markets. The Informant averred that by doing this Google not only caused direct harm to competitors in vertical markets, but also caused direct harm to other website owners, since their websites were moved down on Search Engine Result Page (SERP) and hence, they received less clicks as a result of lower traffic. Further, this also harmed consumers as they no longer received the most relevant results at the top of SERP.

28. **Finding:** After perusing the information, the investigation report submitted by the DG, replies and arguments of the parties and the material available on record, CCI observed that Google abused its dominant position in the market of online general web search in India. It further observed that prominent display of Commercial Flight Unit by Google on SERP with link to Google's specialised search options/ services (Flight) was in contravention of the provisions of Section 4(2)(a)(i) of the Act. The CCI also noted that ranking of Universal Results prior to 2010 were pre-determined to trigger at the 1st, 4th or 10th position on the SERP instead of by their relevance. Such practice of Google was unfair to the users and was found to be in contravention of the provisions of Section 4(2)(a)(i) of the Act. Further, CCI observed that since October, 2010, Google has made display of such results on free floating basis. Accordingly, taking Google's submission on record, CCI refrained from issuing any cease order and only directed Google to desist from such a practice in future. Besides, it was also found that Google provided a further link in such commercial units which leads users to its specialised search result page (Google Flight) resulting into unfair imposition upon the users of general search services as well.

29. **Direction:** Resultantly, CCI imposed a penalty of Rs.1358.6 million upon Google after taking into account its revenue from its India operations only.

3.4. Enforcement of the Merger Regulation

30. The provisions of the Act for merger regulation of combinations were brought into effect on June 1, 2011. Sections 5 and 6 of the Act require mandatory notification to CCI of all acquisitions, mergers and amalgamations that exceed specified assets or turnover thresholds set out in the Competition Act (known as 'combinations'). A combination cannot be consummated until CCI gives its approval or if 210 days have passed from the date of the notice.

3.5. Statistics of Merger Filing to CCI

31. Till 31st March, 2019, CCI has received 656 combination notices/ cases, of which 644 cases have been disposed and 12 cases are pending. Sector-wise distribution of combination notices received during the year has been presented in following table:

Table 3. Sector wise distribution of combination Notices filed

Sl. No.	Sector	2018-19
1	Finance and Markets	14
2	Pharmaceuticals & Health Care	9
3	Information Technology and Services	11
4	PVC & Chemicals	1
5	Auto & Auto Components	6

6	Mining & Metals	7
7	Power & Power Generation	4
8	Media & Entertainment	3
9	Food & Refined Oil	6
10	Miscellaneous	27
Total		88

3.6. Important Orders of CCI under Section 5 and 6 in 2018-19

3.6.1. CCI approves acquisition of Bhushan Steel Limited by Tata Steel Limited under Section 31(1) of the Competition Act, 2002.

32. On 26th March, 2018, the Commission received a notice from Tata Steel Limited (TSL) in relation to its proposed acquisition of 75 per cent or more of the total equity share capital of Bhushan Steel Limited (BSL). The notice was filed pursuant to resolutions passed by the board of directors of TSL in meetings and subsequent submission of a resolution plan by TSL to the insolvency resolution professional. (Hereinafter, TSL and BSL are collectively referred to as the Parties).

33. TSL, a public limited company, is engaged in integrated steel manufacturing operations, ranging from mining to steel-making and further downstream processing. The annual crude steel capacity across Indian operations of TSL is stated to be nearly 13 million ton per annum (MTPA). BSL is also a public limited company and is similarly engaged in integrated steel manufacturing operations, including downstream processing. BSL's current annual crude steel production capacity is stated to be 5.6 MTPA.

34. The activities of the Parties overlapped in the manufacture and sale of various finished flat carbon steel products in India. Though, TSL is present in other products including ferro alloy minerals, TMT rebars in straight lengths, long carbon steel products, etc., BSL is not present in any of the product segments specified above. Further, BSL manufactures and sells alloy billets; however, TSL is not engaged in manufacturing or selling alloy billets.

35. The Commission noted that there are various stages in the production process of flat carbon steel products *i.e.* hot rolling, cold rolling and coating. As per the information given by the Acquirer, the finished product may be sold at each of these stages or be utilized for further processing in the next stage. Based on such segmentation, activities of the Parties overlapped in respect of following finished flat carbon steel products (FCSPs):

1. Hot rolled coils and sheets (HR-CS) and plates (HR-P) (together, HR-CSP);
2. Cold rolled coils and sheets (CR-CS);
3. Surface coated products (SCP) (including galvanized products (GP) and colour coated products (CCP); and
4. Flat steel tubes and pipes (T&P) (including precision and non-precision T&Ps).

36. The Commission was of the view that each of the abovesaid product segments may constitute separate relevant product market. However, the exact delineation of relevant market was left open as the combination did not give rise to any competition concern.

37. The Commission assessed the combination on several alternative parameters such as installed production capacity, gross production, production for sale and domestic sales. The Commission noted that there are other significant competitors such as JSW Steel Ltd., Essar Steel India Limited, Steel Authority of India Limited, Jindal Steel & Power Limited

and Bhushan Power & Steel Limited present in the said business segments, which would continue to provide competitive constraint to the parties, post-combination. As already stated, both the Parties are large integrated steel producers and are active across the value chain in the flat steel products. Further, the finished product at the end of each of the stage in the production process of flat carbon steel products *i.e.* hot rolling, cold rolling and coating may be sold either in the open market or utilized for further processing in the next stage. Accordingly, following vertically related markets, *inter alia*, were identified for competition analysis:

1. Upstream segment of HR-CSP and downstream segment of (i) CR-CS; and (ii) Tubes and Pipes (T&P);
2. Upstream segment of CR-CS and downstream segment of (i) surface coated products (SCP); and (ii) T&P; and
3. Within SCP, upstream segment of galvanized products (GP) and downstream segment of colour-coated products (CCP)

38. The Commission noted that each of the above-mentioned markets is characterized by presence of significant competitors and therefore, post-combination, TSL would not have the ability to foreclose the market for other competitors. The Commission approved the combination under sub-section (1) of Section 31 of the Act.

3.6.2. CCI approves the acquisition of Monsanto by Bayer AG under Section 31(7) of the Competition Act, 2002, subject to modifications/remedies to address the anti-competitive effects resulting from the said acquisition

39. On 7th August, 2017, the Commission received a notice from Bayer Aktiengesellschaft (Bayer) in relation to its proposed acquisition of Monsanto Company (Monsanto). Bayer, the acquirer, is a German stock corporation and is a life sciences company with competencies in the areas of health care and agriculture. The activities of Bayer are carried out in three main divisions *viz.* pharmaceuticals, consumer health, and crop sciences. Monsanto is a global supplier of agricultural products like seeds, biotechnology traits, and herbicides.

40. During assessment of the combination, the Commission sought information from certain third parties. Further, considering complexity, technical and global nature of the combination, the Commission engaged in cooperation with other jurisdictions.

41. Based on materials available on record, the Commission was of the *prima facie* opinion that the combination is likely to cause appreciable adverse effect on competition in below mentioned markets in India:

- market for non-selective herbicides;
- market for licensing of herbicide tolerant trait for seeds in India;
- upstream and downstream market for Bt. Cotton seeds in India;
- market for licensing of parental lines or hybrids (including traits) for corn seeds in India;
- market for commercialization of hybrid rice and hybrid millet seed in India; and
- market for various vegetable hybrid seeds in India *i.e.* cabbage, cucumber, bitter gourd, bottle gourd, okra, hot pepper, tomato, water melon, ridge gourd and onion.

42. Apart from above, the proposed combination was also likely to (a) result in portfolio effects due to parties presence in closely related markets; and (b) reduce the rate of innovation at which new products are launched globally and in India and therefore, adversely affect the Indian markets. Accordingly, Parties were directed to show cause as to why investigation in respect of combination should not be conducted (“SCN”).

43. The Commission also invited comments/objections/suggestions, in terms of sub-section 3 of Section 29 of the Act.

44. The Commission, after considering responses received from third parties, response to SCN, and comments received from public, observed that adverse effect on competition in the above said markets can be addressed by way of modifications to the proposed combination. Accordingly, the Commission approved the proposed combination under Section 31(7) of the Competition Act, 2002, subject to the following remedies to be implemented by the parties:

1. Divestment of the following businesses of Bayer to an independent entity, which meets the parameters prescribed in the order of the Commission:
 - Glufosinate ammonium (a non-selective herbicide);
 - Crop traits of cotton and corn; and
 - Hybrid seeds of vegetables
2. Divestment of the shareholding of Monsanto in Maharashtra Hybrid Seed Company Limited (26%), to an independent entity, which meets the parameters prescribed in the order of the Commission.
3. In addition to the above divestiture, Bayer is also bound by the following commitments for a period of 7 (seven) years from the closing of the Bayer/Monsanto transaction,
 - The resultant entity of the combination (Combined Entity) would follow a policy of broad based, non-exclusive licensing of Genetically Modified (GM) as well as non-GM traits currently commercialized in India or to be introduced in India in the future, on a fair, reasonable and non-discriminatory terms (FRAND Terms);
 - The Combined Entity would follow a policy of non-exclusive licensing of non-selective herbicides and / or their active ingredient(s) in case of launch of new GM / non-GM traits in India that restrict agricultural producers including farmers to use specific non-selective herbicide(s) being supplied only by the parties, on a fair, reasonable and non-discriminatory basis;
 - Combined entity would allow Indian users / potential licensees to access the following on FRAND Terms: (a) existing Indian agro-climatic data owned and used by the Combined Entity for its digital applications commercialized in India; (b) commercialized digital farming platform(s) of the Combined Entity for supplying/selling agricultural inputs to agricultural producers in India; and (c) digital farming applications of the Combined Entity, commercialized in India, on subscription basis. This remedy shall operate for a period of 7 years from the commencement of commercialization of digital farming product(s) or digital farming platform(s), subject to a total period of 10 years from the closing of the combination.

- Combined Entity would also grant access to Indian agro-climatic data, free of charge to Government of India and its institution(s), to be used exclusively for creating a public good in India.
- Combined Entity is barred from offering its clients, farmers, distribution channels and/or its commercial partners, two or more products as bundle which may potentially have the effect of exclusion of any competitor.
- Combined Entity is further barred from imposing, directly or indirectly, commercial dealings capable of causing exclusivity in the sales channel for supply of agricultural products.

45. The Commission further ensured in its order, that in case the Combined Entity offers better commercial terms to a new licensee for any of the above licenses, then it would be bound to offer, within 60 days, such similar terms to all existing licensees. Bayer was also directed to disclose, on its Indian websites, all contact details to facilitate the implementation of remedies ordered by the Commission. The remedies ordered by the Commission will strengthen the agricultural input suppliers in India, by enabling innovation and launch of new products for the benefit of the farmers.

3.6.3. CCI approves acquisition of consumer health business of Merck by Procter & Gamble

46. On 26th June, 2018, the Commission received a Notice from Procter and Gamble Overseas India B.V. for a proposal for acquisition of the consumer health business of Merck group globally. The Indian component of this combination comprised of (a) acquisition of assets related to consumer health business of Merck Specialities Pvt. Ltd. and (b) acquisition of up to 77.80% equity share capital of Merck India Limited.

47. P&G is a global manufacturer of consumer goods such as (a) beauty care, (b) grooming, (c) health care (oral care and personal health care), (d) fabric and home care, and (e) baby, feminine and family care. In India it provides, through its subsidiaries, a broad range of these consumer products.

48. Merck is a multinational pharmaceutical, chemical and life sciences group and it supplies both over the counter (OTC) and prescription based products. Merck is the ultimate holding company of Merck India, which is headquartered in Mumbai and is listed on Bombay Stock Exchange and National Stock Exchange. It is engaged in the business of manufacturing, marketing, distribution, imports and exports of pharmaceutical products and chemical products.

49. Both the parties viz. P&G and Merck India were dealing in ‘pain and cold segment’ of consumer health business in India. While Merck India was manufacturing and selling syrups, tablets, nasal sprays and nasal drops, P&G was selling tablets, vaporub, inhaler and oral cough drops. Both the parties sold tablets in the said segment hence exhibiting a horizontal overlap. While P&G was selling its tablets under the brand name Vicks Action 500, Merck was selling them under Nasivion and Cosome. The parties to the combination were not engaged in activities that were at different levels of the production chain i.e. no vertical overlaps in the businesses of the parties was observed.

50. The Commission noted that these came under the category of ‘cold preparations’ based on Anatomical Therapeutic Chemical (ATC) 3 classification and ‘cold preparations without anti-infectives’ based on ATC 4 classification. However, based on data of IMS Health Database for cold preparations comprising of both prescription drugs and OTC

products, the combined market share of the parties was found to be less than a percent, which was insignificant. Even if separate markets were to be defined for prescription drugs and OTC products, the market share of the parties still remained insignificant. This coupled with the presence of several other brands with similar formulation reinforced that the markets for the concerted products were fragmented and incremental change, if any, on account of the proposed combination was not likely to raise competition concerns. The Commission, therefore, approved the combination under sub-section (1) of Section 31 of the Act.

3.6.4. CCI approves acquisition of Twenty-First Century Fox by The Walt Disney Company and TWDC Holdco 613 Corp. under Section 31(1) of the Competition Act, 2002.

51. On 9th July, 2018, the Commission received a notice from The Walt Disney Company (TWDC) and TWDC Holdco 613 Corp. (Holdco), a wholly owned subsidiary of TWDC, in relation to their proposed acquisition of Twenty-First Century Fox (21CF). The notice was filed pursuant to 21CF and TWDC (Parties to the agreement).

52. TWDC, a publicly listed company, is engaged in: (a) theatrical distribution of films, (b) supply/licensing of audio-visual and interactive content, (c) operation and wholesale supply of TV channels *etc.* TWDC is present in India through its subsidiary UTV Software Communications Limited (UTV) and operates under the brand names Disney, The Walt Disney Company, UTV, Pixar, ESPN, bindass, Hungama TV *etc.*

53. 21CF, also a publicly listed company, is active in, (a) theatrical distribution of films, (b) supply/licensing of audio-visual content and (c) operation and wholesale supply of TV channels both at global level and in India. 21CF provides its services under the brand names Twenty-First Century Fox, Star, National Geographic, Hotstar, Asianet, Maa *etc.* 21CF also holds certain equity interest in Tata Sky Limited, a direct-to-home broadcast (DTH) satellite television provider.

54. The Commission noted that activities of the Parties overlapped in the following business segments in India: (i) production and supply of films to third-party distributors and exhibitors for theatrical release; (ii) licensing of audio-visual contents; (iii) operation and wholesale supply of TV channels; (iv) retail supply of audio visual content; (v) supply of advertising airtime on TV channels; (vi) supply of consumer products; (vii) licensing of music rights; (viii) licensing of publication rights; and (viii) interactive media.

55. With respect to overlap between the activities of the Parties in production and supply of films to third-party distributors and exhibitors for theatrical release in India, the Commission observed that the films can be sub-segmented based on language. Accordingly, the Commission assessed overlap in this business segment separately for English films, Bollywood films and Regional films.

56. On the aspect of overlap in the business of licensing of audio-visual contents in India, the Commission noted that it can be sub-segmented on the basis of genre, namely, business for the licensing of film-content rights, business for the licensing of sports-content rights and business for the licensing of 'non-film and non-sports' content.

57. Another business segment that the Commission assessed in detail was operation and wholesale supply of TV channels. The Commission noted that while TWDC is active in the business of operation and wholesale supply of TV channels in India through UTV. The other party 21CF is active through Star channels. Thus, the activities of the Parties overlap in the business of operation and wholesale supply of TV channels. However, given

that the wholesale supply of TV channels can be sub-segmented such as, film, kids, Hindi general entertainment channels (GEC), English GEC, and infotainment and lifestyle channels, competition assessment was carried out for the abovesaid sub-segments based on the market share figures provided by TWDC based on viewership data.

58. With respect to the abovesaid overlapping business activities of the Parties, the Commission noted that either there are competitors of the Parties, which would continue to provide competitive constraint to the Parties. Further, for some business segment and its sub-segments, incremental market share of the Parties, post-combination is not likely to raise any AAEC concern in India. As already stated, both the Parties are large mass media corporation and are active across the value chain in the media and entertainment business. Accordingly, following vertically related markets, *inter alia*, were identified for competition analysis:

- Upstream segment of licensing of audio-visual content rights and downstream segment of wholesale supply of TV channels, and (b) retail supply of audio-visual content;
- Upstream segment of advertising on TV channels and downstream segment of sale of advertising airtime on TV channels by over-the-top (OTT);
- Upstream segment of licensing of music and downstream segment of sub-licensing of music; and
- Upstream segment of operation and wholesale supply of TV channels and downstream segment of retail supply of audio-visual content through DTH.

59. The Commission noted that each of the above-mentioned markets is characterized by presence of other competitors and therefore, post-combination, TWDC would not have the ability to foreclose the market for other competitors. The Commission approved the combination under sub-section (1) of Section 31 of the Act.

3.6.5. Commission approves the combination between Linde Aktiengesellschaft and Praxair, Inc. subject to modifications

60. Linde Aktiengesellschaft (Linde) and Praxair, Inc. (Praxair) (collectively Parties) filed a notice for their proposed combination under a newly incorporated holding company Linde Plc, which will be owned by the Parties' current shareholders.

61. Linde, headquartered in Munich, Germany, and Praxair, headquartered in Connecticut, USA, are international gases companies primarily active in industrial gases, medical gases and specialty gases.

62. The Commission observed that Linde and Praxair are involved in sale of various: (i) industrial gases; (ii) medical gases; (iii) specialty gases; and (iv) helium in India. It was observed that from the demand side, each of industrial gases, medical gases and specialty gases are not substitutable with any other gases as each gas has different chemical and physical properties and that they constitute separate relevant product markets. Further, depending on the needs of the customers, gases can be supplied by gas companies in liquid and gaseous form and through different supply modes *viz.*, tonnage, bulk or cylinder. Since, the category of customers served by various modes of supply are different from each other, each gas market is further classified by the mode of supply. Thus, considering the specificities of helium value chain, the Commission observed that it is important to assess the overall helium market encompassing various levels of operations *viz.*, access, wholesale and retail.

63. The Commission observed that the industrial and medical gases markets in India primarily comprises of three major players viz. Linde, Praxair and Inox AP. Linde and Praxair are market leaders in the market for tonnage gases viz., oxygen, nitrogen and argon in India and market for various bulk industrial and medical gases in South and East Regions in India. It was further observed that all competitors of the Parties in relevant markets are significantly weaker and that the Proposed Combination has the impact of further widening the gap between the market leader and other competitors and the merger would lead to elimination of most significant competitive constraints. The Commission observed that the Proposed Combination is likely to cause AAEC in market for tonnage supplies of oxygen, nitrogen and argon in India and markets for bulk and cylinder supplies of various gases in South and East Regions in India and market for bulk supply of argon in India.

64. As regards Helium, the Commission examined the Helium market primarily in terms of access to sources of helium (worldwide and specifically in Qatar considering almost entire helium sold in India in retail is sourced from Qatar) and in terms of helium retail market in India. The Commission observed that helium capacity access is concentrated primarily in the hands of 4 industrial gas companies viz., Linde (15-20%), Praxair (15-20%), Air Products (20- 25%) and Air Liquide (20-25%) which account for around (80-85%) of the worldwide capacity of helium and that post the Proposed Combination, the same capacity would be shared amongst three companies with the combined entity emerging as a clear market leader with significant market share of around 35-40%. In this regard, the Parties submitted details of divestitures of helium sources that would be required by other jurisdictions and considering the same, the Commission formed an opinion that the Proposed Combination is not likely to cause AAEC in helium market. The Commission did not find any concerns in the markets for various specialty gases.

65. The Commission was of the opinion that the competition concerns emanating from the Proposed Combination in various industrial and medical gases markets in India can be eliminated by proposing a suitable modification. The Commission decided that modifications should be such that they allow for establishment of independent competitor(s) in the relevant market(s) or strengthen the existing competitor(s) for each of the aforementioned relevant markets and such competitors must have an integrated presence in each of the relevant markets encompassing tonnage, bulk and cylinder businesses.

66. Accordingly, the Commission decided that the Parties be required to divest the following businesses in the East Region and South Region respectively:

- Praxair's Tata 1 and Tata 2 and 3 on-site plants located in Jamshedpur and Praxair's cylinder filling stations located in Kolkata and Asansol; and
- Linde's stake in Belloxy (a joint venture of Linde and Inox AP), Linde's JSW -2 on-site plant located in Bellary and cylinder filling stations located in Chennai and Hyderabad.

67. The modification aimed to eliminate overlaps in various gases markets to a considerable extent. Besides, the acquirer of the aforesaid businesses is likely to have the required presence in terms of revenues which allows it to present requisite competitive constraints to the combined entity.

68. The Parties submitted unconditional acceptance of the proposal for modification. Pursuant to the same, the Commission approved the Proposed Combination under Section 31(7) of the Act, subject to the Parties carrying out the modification to the Proposed Combination

3.6.6. Combination of Alstom and the mobility business of Siemens

69. On 20.07.2018, the Commission received a notice jointly given by Siemens Aktiengesellschaft (“**Siemens**”) and Alstom S. A. (“**Alstom**”) (Collectively referred to as the “**Parties**”) in relation to the proposed combination of the mobility businesses of Alstom and Siemens. As a result of the proposed combination, Siemens was to acquire sole control over Alstom.

70. Siemens is a publicly held German stock corporation with its shares quoted on the Frankfurt am Main, Germany and Xetra stock exchanges. The mobility business of Siemens provides products, solutions, and services regarding the transportation of people and goods by rail and road.

71. Alstom, a company organised under the laws of France, is listed on the Euronext Paris Stock Exchange. It is *inter alia* engaged in the business of products, services and solutions relating to rail transport industry, personalised services and digital mobility and signalling solutions

72. The mobility businesses of the Parties include products, services and solutions relating to mainline (intercity *e.g.* Indian Railways network) as well as urban (intracity *e.g.* Metro Rail network) railway transportation. In the mobility business, Parties have a wide product portfolio and competed in tenders for the manufacture and supply of signalling solutions, rail electrification solutions and supply of rolling stock.

73. Signalling systems provide safety controls on rail networks. These systems prevent trains colliding with one another by preventing two trains from meeting on the same section of track. Although there appears to be some degree of supply-side substitutability between mainline and urban signalling, however, there are differences in technology and specifications, customers, standards of systems, and size of the project. In view of the above, the segments of mainline signalling and urban signalling were assessed separately.

74. Rail electrification encompasses power supply and contact line systems for urban and mainline railways. In simple words, rail electrification provides traction energy to trains. The transmission of power is provided along the track by way of overhead wire or at ground level, using an extra third rail laid close to the tracks. Further, similar to signalling, there could exist separate product markets for urban and mainline rail electrification considering the difference in conditions of competition for these two segments on account of different customer base and distinction between OEMs and non-OEMs.

75. Rolling stock refers to the various vehicles that travel on railway networks, whether powered or not (*i.e.* self-propelled). Such “rolling stock” includes high speed trains, mainline trains, trams / light rail vehicles, metros, locomotives and passenger coaches. The rolling stock segment may be further divided into the following categories: (a) mainline rolling stock; (b) urban rolling stock; and (c) locomotives.

76. With regards to the geographic segmentation, the Commission was of the opinion that the scope of the relevant market for each of the above segment extends to the whole of India. However, since, the Proposed Combination does not raise any competition concerns under any potential market segmentation, the definition of the relevant product and geographic market was left open.

77. In relation to signalling and rail electrification solutions, the Commission observed that combined market share of the Parties, in terms of order intake value during 2013-17, was not significant enough to raise any competition concerns. Further, given that both the

aforementioned segments were bidding markets, the Commission also considered and analysed the past bidding data and observed that other significant and large players were competing in terms of bidding as well winning the contracts/tenders.

78. With regards to the further segmentation at the product level in signalling solutions, the Commission noted that there is no overlap between the Parties for supply of signalling products as Alstom does not have any such sales in the last five years. The Commission also considered a possible segmentation of signalling market based on size of the project. However, in this regard, it was observed that the majority of customers were not aware about signalling suppliers that are not capable of bidding for projects with a size above a certain threshold. Therefore, the Commission did not further segment the urban and mainline signalling based on size of projects.

79. In respect of mainline rolling stock, it was noted that there are no bidding and/or order intake overlaps between the Parties. In respect of urban rolling stock, it was noted that there has been no order intake or bidding overlap (except one tender in 2013, which was won by a competitor) between the Parties during the last five years. The market share of Alstom in this segment was [10-15]% and Siemens do not have any order intake during 2013-17. In respect of locomotives, it was noted that whilst Alstom is active in locomotives in India, Siemens has not supplied complete locomotives in India till date. Therefore, there was no market share overlap between the Parties in respect of locomotives during the last five years. Further, as per the data given by the Parties there was a limited bidding overlap relating to a single locomotives project in 2015. Market investigation also revealed that there were sufficient number of competitors for supply of rolling stock in India. In view of the foregoing, the Commission, approved the combination under sub-section (1) of Section 31 of the Act.

3.6.7. IHH Healthcare's acquisition of Fortis Healthcare

80. On 13th September, 2018, the Commission received a notice from Northern TK Venture Pte. Ltd. (**Northern**) to subscribe to 31.10% expanded equity capital of Fortis Healthcare Limited (**FHL**) by way of preferential allotment. Northern is an indirect subsidiary of IHH Healthcare Berhad (**IHH**), a company incorporated in Malaysia.

81. IHH is an international provider of integrated healthcare services operating in Malaysia, Singapore, Turkey and India. It provides full spectrum of healthcare services from primary to quaternary healthcare services. IHH operates 7 multi-specialty tertiary hospitals and 2 feeder centres in 5 cities in India.

82. FHL is a public listed company incorporated in India, which directly and through its subsidiaries owns, manages and operates a network of multi-specialty hospitals and diagnostic centres in India and in some other countries. In India, it operates 35 healthcare facilities across 18 cities.

83. The hospitals are commonly classified as primary, secondary, tertiary and quaternary based on the facilities offered and level of complexity of treatment. The parties to the combination exhibited a horizontal overlap in each of these four broad segments of care in 4 cities in India, namely, Bengaluru, Chennai, Kolkata and Mumbai. The Commission carried out the assessment in terms of total number of hospitals, total number of relevant operational beds and number of procedures (volumes) for secondary, tertiary and quaternary procedures separately.

84. Based on the information provided by the Parties, it was observed that the segments of primary care service providers and to a large extent secondary care service providers were highly fragmented with very low individual market share for each service provider.

85. For tertiary care service providers, at a broader level, the parties considered relevant private operational beds as a metric reflecting the current state of available supply of healthcare infrastructure and based on this metric, the combined market shares of the Parties in the four overlapping cities was not at a level so as to raise any competitive concerns. However, for the tertiary level of care, at a narrower level, it was the procedures or specialities offered by the hospital which attracted the patients and hence, the volume of procedures carried out was considered. The Parties exhibited overlaps in various specialities such as urology, neurology admissions, onco surgeries, cardiology, joint replacement etc. Market shares for each of these overlapping specialities in each city was assessed based on the total number of procedures carried out by all relevant hospitals (i.e. tertiary corporate hospitals, standalone hospitals and trusts/autonomous hospitals as well as secondary – small hospitals and nursing homes). The combined market shares of the parties post the Combination across specialities was not significant in any of the overlapping cities.

86. Further, the parties identified organ and tissue transplants as procedures at the quaternary level of care and each of these procedures were assessed separately as segments. The market for most of these complex procedures such as transplants of heart, liver, lungs etc. is at a very nascent stage in India and it was observed that, considering their nature, such procedure(s) at this stage may not give rise to competition concerns.

87. While FHL operate private retail diagnostic centres through its subsidiary SRL Limited. IHH group operate in-house diagnostic centres which were entirely captive in nature. Further, there were large organized players offering diagnostic services as well as large number of unorganized and fragmented players in the retail diagnostic market.

88. Parties also stated that Apollo Gleneagles Hospital in Kolkata is a 50:50 joint venture (JV) between IHH's subsidiary Gleneagles Development Pte. Ltd. (GDPL) and Apollo Group. At present, the IHH (along with its group entities), JV partner i.e. Apollo and FHL were competitors in the overall field of healthcare and were present throughout India and in many of the overlapping cities. In order to alleviate any potential concern that the said JV may provide a common platform for coordinated behaviour, IHH had submitted certain voluntary commitments such as commitment to operate as separate, independent and competitive businesses. Considering the facts on record and the voluntary commitments offered IHH/Northern, the Commission approved the transaction under sub-section (1) of Section 31 of the Act.

4. HUMAN RESOURCES

89. CCI comprises of a Chairperson and three Members. Administrative functions of CCI are coordinated by the Secretariat, which is headed by the Secretary. The office of Director General (DG) investigates contravention of the provisions of the Act and is headed by Director General.

90. In addition, there are eight divisions namely Advocacy, Anti-trust, Capacity Building, Combination, Economics, International Cooperation, Legal and Secretariat. Each division is steered by a senior officer of the level of Adviser and has a team of professionals from the field of economics, law and finance. The divisions assist CCI in fulfilment of its

legal mandate. At present, about 167 (Professionals + Research Associates) staff members are in position. There are 108 non-administrative staff working on competition enforcement (51 Lawyers; 30 Economists; 27 others). Non-administrative staff work in each of the following areas:-

- Mergers: 12
- Anti-cartel & Dominance-related issues: 26
- Other: 70

91. CCI has competition-related budget of Rs 160.81 Crore (Rs 1608.1 Million) for 2018-19

5. REFERENCES TO NEW STUDIES ON COMPETITION POLICY ISSUES

92. The Commission has initiated a Market Study on E-commerce in India. The market study will be a fact-finding exercise to develop a clear understanding of the functioning of e-commerce in India, and its implications for competition. The objectives of the Study include the following:

1. to study the evolution of e-commerce and market trends with a particular focus on emerging distribution methods and strategies linked to e-commerce
2. to understand business practices (contractual provisions, vertical agreements, pricing etc.) in e-commerce, their underlying rationale and implications for competition
3. to identify impediments to competition, if any, relating to e-commerce
4. to ascertain enforcement and advocacy priorities for the Commission in e-commerce

5.1. 4th National Conference on Economics of Competition Law

93. CCI organized its 4th National Conference on Economics of Competition Law on 1st March 1, 2019 in New Delhi. **Dr. Krishnamurthy Subramanian, Chief Economic Advisor, Government of India** delivered the Keynote Address of the Conference. The national conference, in addition to inaugural session, had two technical sessions where researchers presented 6 papers on economics of competition law, a special session on contemporary anti-trust issues and a plenary on digital markets: anti-trust and beyond. The national conference was attended by policy makers and advocates besides global participants from Europe and US.

5.2. Policy Recommendation by Competition Commission of India in relation to Healthcare Sector

94. Over the nine years of enforcement of the Competition Act, 2002 (the Act), the Commission received 52 cases pertaining to the pharmaceutical and healthcare sector. The Commission, while deciding on the cases, observed that information asymmetry in the pharmaceutical/healthcare sector significantly restricts consumer choice. In the absence of consumer sovereignty, various industry practices flourish which have the effect of choking competition and are detrimental to consumer interest. As the competition authority of the

country, the Commission felt the need for close examination and focused deliberations on these issues, which have implications for markets and competition in this sector of critical importance. In pursuance of the same, a series of initiatives has been taken up by the Commission over the years in the pharmaceutical and healthcare sector, which culminated in a Technical Workshop on ‘Competition Issues in the Healthcare and Pharmaceutical Sector in India’ organised on August 28-29, 2018 in New Delhi with representatives of all stakeholder groups, including pharmaceutical industry, healthcare service providers, civil society organisations, regulators, healthcare think tanks. The issues identified and recommendations suggested by the stakeholders have been documented in a Policy Note by the Commission titled ‘Making Markets Work for Affordable Healthcare’ which is uploaded on the CCI’s website and same was also shared with Ministry of Corporate Affairs, Ministry of Health and Family Welfare, Department of Pharmaceuticals and NITI Aayog.

6. INTERNATIONAL COOPERATION

95. The importance of international cooperation is well recognised by Commission in developing strong linkages and networks with relevant multilateral agencies and competition jurisdictions for capacity building, enforcement cooperation, networking and exposure to the global best practices. CCI is invited for meetings and conferences organised by multilateral organisation such as Organization for Economic Co-operation and Development (OECD), International Competition Network (ICN), United Nations Conference on Trade and Development (UNCTAD) etc. During the financial year 2018-19, 41 officers of the Commission participated in 27 programmes outside India.

96. Section 18 of the Competition Act provides that the Commission may, for the purpose of discharging its duties or performing its functions under this Act, enter into any memorandum or arrangement with the prior approval of the Central Government, with any agency of any foreign country.

6.1. Memorandums or arrangements signed with agencies of foreign countries:

97. As mandated under Section 18 of the Competition Act, 2002, CCI has entered into Memorandum of Understanding (MOU), after obtaining approval from the Government of India, with the following competition authorities till March 2019:

1. Federal Trade Commission (FTC) and Department of Justice (DOJ), USA;
2. Director General Competition, European Union (EU);
3. Federal Antimonopoly Service (FAS), Russia;
4. Australian Competition and Consumer Commission (ACCC);
5. Competition Bureau (CB) Canada; and
6. Competition authorities of the Federative Republic of Brazil, the Russian Federation, the Republic of India, the People’s Republic of China and the Republic of South Africa (BRICS Countries).

6.2. Overseas projects undertaken:

98. As a project lead for ICN Unilateral Conduct Working Group (UCWG), CCI has undertaken project on Self -Assessment Tool for the Recommended Practices on the Assessment of Dominance/Substantial Market Power. The project is designed to –

- increase familiarity of the ICN Recommended Practices; and
- to promote greater conformity of unilateral conduct law and practice to the ICN standards

99. In this regard, questionnaires were sent to the UCWG member agencies and responses received were compiled. The findings of the project is under preparation in consultation with UCWG Co-Chairs.

100. CCI is the lead agency of the BRICS Working Group on Automotive Sector. In this regard, a scope paper has also been prepared on the topic “Competition Issues in the Automotive Sector”. For the purpose of this study, CCI is also in the process of gathering information on practices and market conditions via questionnaire prepared by CCI. Competition Commission of South Africa (CCSA) is the partner in this working group.

6.3. Memberships of international organizations:

6.3.1. *International Competition Network*

101. The International Competition Network (ICN) is a virtual international organization working to improve and advocate for sound competition policy and its enforcement across the global antitrust community. It represents competition authorities across the globe. ICN provides a platform, which allows for a dynamic dialogue that serves to build consensus and convergence towards sound competition policy principles across the global antitrust community. ICN work takes place in project-oriented working groups where members work together largely by teleconferences, teleseminars, webinars etc. ICN holds workshops and an Annual Conference, which is hosted by one of its member agencies. CCI is a member and has been an official invitee to all the meetings, seminars, conferences and workshops organized by the ICN. During 2018-19, CCI submitted replies to questionnaires on Lessons to Be Learnt from the Experiences of Young Competition Agencies by Younger Agencies and Regional Diversity of ICN and Merger Working Group survey on the Merger Cooperation Framework. CCI as Unilateral Working Group Project lead for the year 2018-19 has undertaken project on Self-Assessment Tool for the Recommended Practices on the Assessment of Dominance/Substantial Market Power.

6.3.2. *BRICS Competition Authorities*

102. India is a member of the BRICS, a group of emerging economies, viz., Brazil, Russia, India, China and South Africa. The heads of the Competition Authorities of Brazil, Russia, India, China and South Africa signed an MoU on 19 May 2016, during the International Legal Forum held in Saint Petersburg, Russia. In 2018-19, the BRICS Authorities met during the sidelines of St. Petersburg International Legal Forum in May 2018 and during the Russian Competition Week in September 2018 at Russia.

103. The first meeting of the BRICS Working Group on Digital Economy was held in October 2018 in Sao Paulo, Brazil. It comprised of two panel discussions. First panel was a general public discussion on topic “Antitrust and Digital economy”. The other panel was for BRICS agencies delegations to discuss further steps of the Working Group. In order to

explore the challenges and approaches of the BRICS countries regarding the Digital Economy, CADE Brazil had prepared a questionnaire to assess how each of the BRICS countries is approaching this matter. CCI submitted replies to the questionnaire. CCI as the lead agency of the BRICS Working Group on Automotive Sector is preparing for the topic on Competition Issues in the Automotive Sector, which will be presented during the VI BRICS International Competition Conference during September 2019 in Russia. BRICS Competition Newsletter is a publication of the work of the BRICS Competition Authorities. The first online BRICS Competition Newsletter was published by the CCI in 2015. Second volume of BRICS Newsletter was prepared by FAS Russia and CCSA prepared the third volume.

6.3.3. Organization for Economic Co-operation and Development

104. The Commission has an observer status with the Competition Committee of Organization for Economic Co-operation and Development (OECD). Chairperson and Members of the Commission regularly participate in the meetings of OECD Competition Committee and the OECD Global Competition Forum to get the exposure to the global best practices in the field of competition law and policy.

105. CCI has been making regular written contributions at various roundtables during the conferences/meetings of OECD. In the year 2018-19 the Commission submitted papers on “Implications of E-Commerce for Competition Policy”, “Taxis, Ride Sourcing and Ride sharing services”, “Excessive Pricing in Pharmaceuticals” and “Suspensory Effects of Merger Notifications and Gun Jumping” . In addition, CCI submitted replies to the questionnaire on OECD Competition Division: Survey on general statistics.

106. One or two officers of CCI are regularly invited with financial support for participation in various competition related workshops/seminars organised by OECD-Korea Policy Centre (KPC). The discussions and deliberations at these conferences/workshops help in capacity building of the officers and resultantly of the Commission. During 2018-19, officers of CCI have participated in following programs:

- One officer attended workshop for Senior and Chief Economists organised by OECD-KPC and ICN during 2-4 May 2018 in Seoul, Korea. .
- Member and Adviser attended OECD Competition Committee Meeting during 4-8 June 2018 in Paris, France.
- One officer attended Competition Law Workshop on Market Definition during 5-9 September 2018 in Kuala Lumpur, Malaysia.
- One officer attended first OECD Competition Open Day, workshop on Recent Challenges in Competition and IP in Pharmaceutical Markets & Competition in Publicly Funded Markets during 26-28 February 2019 in Paris, France.
- Two officers attended Competition Law Workshop on Competition Rules in the Transport Sector during 26-28 March 2019 in Busan, Korea.

6.3.4. United Nations Conference on Trade and Development

107. The Commission has been proactively engaging with United Nations Conference on Trade and Development (UNCTAD). UNCTAD is a UN body which is responsible to deal with development issues, particularly international trade- the main driver of

development. CCI regularly participates in Intergovernmental Group of Expert (IGE) meeting every year. CCI's engagement with UNCTAD in year 2018-19 is as follows:

- One officer participated in UNCTAD meeting of Intergovernmental Group of Experts on Competition Law and Policy during 11- 13 July 2018 in Geneva, Switzerland.

6.4. International delegations received by the Commission from foreign governments and others / overseas delegation received at CCI:

108. In order to get exposure to best practices, CCI invites foreign delegates from mature jurisdictions to share their experiences in the field of competition law and economics. In the year 2018-19, CCI has organized workshops/seminars. A brief of these capacity building programs are mentioned below:

1. In pursuance of the MOU, with United States Federal Trade Commission (FTC) & Department of Justice (DoJ) the following visits were organised:
 - Ms. Julie Carlson, Economist from USFTC was on secondment with the Commission during 13-30 August 2018 in New Delhi, India. The purpose of the visit was to provide technical assistance under MoU between CCI and US FTC.
 - One officer from CCI was sent on secondment to USFTC during 17 September to 26 October 2018 in Washington D.C, USA. Officer was given exposure to the casework and best practices.
 - Training on Cartel was organized in collaboration with US DoJ during 6-7 September 2018 at CCI, New Delhi, India.
2. Technical cooperation program with the EU-Competition Cooperation Project in Asia was started this year. The Competition Cooperation Project aims to enhance cooperation between the European Commission Directorate-General for Competition (DG COMP) and its counterparts in Asia. In the year 2018-19, the following two programs were organised :-
 - Competition Summer School, a two week course for CCI officials together with officials from other partner countries was organised during 2-13 July 2018 at Bruges, Belgium.
 - Competition Week was organised during 10-13 December 2018 at CCI, New Delhi, India.
3. In pursuance of MoU with Competition Bureau (CB), Canada, one officer from the Commission was sent on secondment to CB, Canada during 1-30 October 2018 at Gatineau, Quebec, Canada.
4. Bilateral meeting was held with the delegation from State Administration for Industry and Commerce (SAIC), China led by Ms Gan Lin, Vice Minister and delegation from CCI on 12 April 2018 at CCI, New Delhi, India.
5. Meeting was held with the delegation from Federal Antimonopoly Service (FAS), Russia led by Mr. Andrey Tsyganov, Deputy Head and delegation from CCI on 18 February 2019 at CCI, New Delhi, India.

7. ADVOCACY EFFORTS

7.1. Advocacy initiatives taken by Commission so far:

109. CCI aims to promote a culture of competition compliance amongst all its stakeholders, which include, Central and State governments, business enterprises, trade associations, professional bodies, consumers, academia among others. CCI as per its advocacy mandate (enunciated in 49(3) of Competition Act, 2002 (“Act”) has been conducting various focused advocacy measures such as:

- Organizing interactive workshops and seminars with stakeholders;
- Moot court competition with Universities;
- Providing internships;
- Publications such as Fairplay, Compendium of orders;
- Printing of Advocacy material and their translation;
- Organizing Annual Day;
- Advocacy with stakeholders including government officials (both Central and State governments), representatives of the industry (including trade associations), professional bodies like ICSI, CMA etc. and the Academia etc. with an intention to sensitize the stakeholders on the benefits of competition law.

7.2. New actions taken by the Commission

110. Commission has adopted a strategy to reach out to various members of stakeholders by covering different spectrum of advocacy by undertaking following initiatives:

7.2.1. Roadshows

111. With an intention to effectively increase CCI’s outreach to the stakeholders, to improve visibility of Competition Law, to raise awareness about impact of law on the stakeholders and the role a stakeholder plays in the competition ecosystem, a series of ‘Roadshow’ events have been undertaken by the CCI.

112. Objectives of the Roadshows are to:

- Bring all the stakeholders across the competition eco-system on a common platform to engage with them simultaneously
- Provide wide visibility to the Commission and Competition Law
- Take Competition Law to a wide geographical spectrum of major cities in India across regions
- Help stakeholders appreciate the Competition Law better
- Establish a rapport with the stakeholders and a platform for future engagement
- Bring the Competition Law and stakeholders closer

113. Keeping in tune with the international best practices, CCI has already organized four Roadshows. The first was organized at Mumbai on 15th of October, 2018, the second at Delhi on 5th of November, 2018, third in Ahmedabad on 18th of December, 2018 and the

fourth on 25th of February, 2019 in Hyderabad. The main theme of these Roadshows has been ‘Public procurement, cartelization and bid-rigging’. To organize them, CCI engaged with other stakeholders such as law firms, trade associations and other government bodies. The Roadshows have been an outstanding success. CCI has received an enthusiastic response of the stakeholders in each event. During the Roadshows, an unprecedented mix and quantum of audiences was in attendance.

7.2.2. Social Media

114. CCI decided to enhance its presence on social media forums to do interactive sessions with the public. Forums such as Twitter, YouTube, Facebook, LinkedIn etc. were targeted. In less than 3 months of launch, over 2000 followers on LinkedIn and over 500 on Facebook with a constant rise in followers.

7.2.3. FM Radio Campaign

115. To effectively reach out to general public and CCI’s stakeholders in smaller cities, CCI launched its FM Radio Advertisement Campaign. An advertisement of 40 seconds was run daily for 12 spots per day for 15 days in two prime FM radio channels (Radio City and Radio Mirchi).

7.2.4. Development of Training Module for Judicial and Administrative Academies and Diagnostic Toolkit

116. CCI is also working on developing Training Module for Judicial and Administrative Academies-to sensitize members of judiciary and civil servants and a Diagnostic Toolkit for procurement officers- for a competition compliant tendering process.

7.2.5. State Resource Persons Scheme

117. CCI is also developing a State resource persons scheme through which, in each province of country there would be resource persons to conduct advocacy events and to ensure that the tendering processes in the cases of public procurement are competition compliant.

7.2.6. Advocacy with Universities/ Institutions

118. CCI has adopted a scheme for effective advocacy outreach with Universities/ Institutions through which, Universities/ Institutions would be granted funds to conduct advocacy events.

7.2.7. Moot Court Competitions by law colleges

119. CCI came out with a scheme to encourage organization of Moot Court Competitions on Competition law with law colleges.

7.2.8. Translation of advocacy material in regional languages

120. India is a vast country and to reach out to the maximum number of stakeholders, CCI has undertaken an initiative to translate advocacy material in regional languages. Advocacy Booklets in Telegu have already been released and the CCI is in process for bringing out the Booklets in other languages such as Marathi, Bengali *etc.*

7.2.9. Fliers / pamphlets

121. CCI came out with various Fliers / pamphlets on competition law, besides the already existing Advocacy Booklets.