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COMPETITION COMMITTEE

Annual Report on Competition Policy Developments in India

-- 2019 --

This report is submitted by India to the Competition Committee FOR INFORMATION.

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1. Executive Summary

1. Competition Commission of India (CCI/Commission) established under the Competition Act, 2002, got its enforcement and regulatory powers relating to antitrust provisions in 2009 and has completed a decade of successful enforcement of the law. CCI's main policy objective is to sustain fair competition in the economy that will provide a 'level playing field' to the producers and make the markets work for the benefit of consumers and the markets.
2. This report focusses on works of CCI carried out in 2019-20.

2. Changes to Competition Laws and Policies, Proposed or Adopted

2.1. The Competition Commission of India (General) Amendment Regulations, 2019

3. The Commission amended Regulation 49(1) of the Competition Commission of India(General) Regulations, 2009 by revising the fees payable by any person, a consumer association, trust, firm, or a company, while filing any information under Section 19(1) of the Competition Act. Further, a new clause (da) has been inserted in Regulation 10(2) which requires an Informant to provide details of the pending litigation between the Informant and other parties before any court, tribunal, statutory authority or arbitrator in respect of the subject matter of information. Also, a proviso has been added to Regulation 35(1) which empowers the Commission to disclose the identity of the Informant wherever expedient to do so for the purposes of the Act after giving an opportunity to the Informant of being heard.

2.2. The Competition Commission of India (General) Amendment Regulations, 2020

4. The Commission made an amendment in Regulation 20(4) of the Competition Commission of India (General) Regulations, 2009. After the amendment, the report of the Director General is to contain findings in the matter together with all the evidences or documents or statements or analysis collected during the investigation.

2.3. The Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2019

5. On 13th August 2019, "Green Channel" which is an automatic system of approval for combinations was introduced by CCI through an amendment to the Combination Regulations. Under this process, a Combination is deemed to have been approved upon filing of the notice in the prescribed format. This amendment is aimed to sustain and promote a speedy, transparent and accountable review of combination cases, strike a balance between facilitation and enforcement functions, create a culture of compliance and support economic growth.
6. In another significant amendment, CCI has also revised its pre-filing consultation guidance note to extend its scope to include a consultation to assist the parties to determine whether their combination is eligible for Green Channel. The parties filing combination notice can

also meet the case team between 10 am and 12 pm from Monday to Friday for this purpose. This amendment would significantly reduce the time and cost of transactions.

2.4. The Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Second Amendment Regulations, 2019

7. On 30th October 2019 the Commission amended Regulation 11 of the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011 for increasing the fees for filing combination notices in Form I and Form II.

2.5. The Review of the Competition Act, 2002

8. Competition Law Review Committee (CLRC) was set up by the Government of India during the year 2018-19 to review and suggest amendments to the Competition Act, 2002. Four working groups (WG) were constituted under the said Committee, namely (i) WG on Regulatory Structure; (ii) WG on Competition Law; (iii) WG on Competition Policy, Advocacy and Advisory Functions; and (iv) WG on New Age Markets & Big Data. CLRC was tasked with the responsibility to review and recommend a robust competition regime, by taking inputs of key stakeholders, and suggest changes in both the substantive and procedural aspects of the law. The recommendations as given in the report of CLRC, are under consideration with the Government.

3. Enforcement of Competition Laws and Policies

3.1. Action against anti-competitive practices, including agreements and abuse of dominant position

9. 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 AAEC 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.

3.2. Most Active Sectors in 2019-20

10. CCI received 60 cases alleging contravention of antitrust provisions in 2019-20. The sectoral distribution of cases relating to anti-competitive agreements and abuse of dominance and conduct reported to/noticed by CCI is presented in Table 1.

Table 1. Sector-wise Distribution of Information received (2019-2020)

Sl. No.	Sector	2019-20
1.	Public Procurement	9
2.	Financial Sector	8
3.	Health/Pharmaceuticals	5
4.	Automobiles & Auto components	4

5.	E- Commerce	4
6.	Railways	4
7.	Food and Beverages	3
8.	Chemicals & Fertilizers	3
9.	Infrastructure	3
10.	E- Commerce (Online Travel Intermediation)	2
11.	Film/Entertainment/TV	2
12.	Information Technology	2
13.	Civil Aviation	2
14.	Mines & Minerals	2
15.	Hospitality	1
16.	Printing and Publication	1
17.	Telecom	1
18.	Agriculture	1
19.	Power	1
20.	Real Estate	1
21.	Miscellaneous	1
	Total	60

3.3. Description of significant cases including those with international implications

3.3.1. In Re: Cartelisation in the supply of Electric Power Steering Systems (EPS Systems) (Suo Motu Case No. 07 (01) of 2014)

11. **Allegation:** The case was initiated on the basis of a leniency application received by CCI from Japanese Original Equipment Suppliers(OESs), namely NSK Limited, Japan ('NSK') and its Indian subsidiary, i.e. Rane NSK Steering Systems Ltd. ('RNSS') under Section 46 of the Act, read with the Competition Commission of India (Lesser Penalty) Regulations, 2009(LPR) in relation to the supply of Electric Power Steering (EPS) Systems to three automotive Original Equipment Manufacturers (OEMs). During the pendency of the investigation, other OESs, JTEKT Corporation ('JTEKT'), Japan and its Indian subsidiary, i.e. JTEKT Sona Automotive India Limited ('JSAI') also approached the Commission by filing an application under the Section 46 of the Act read with the LPR.

12. **Finding:** The evidence collected in the case included instances of meetings and telephonic exchanges between employees of NSK and JTEKT in Japan in which commercially sensitive information about prices, *etc.*, were discussed. Such conduct of the parties was found to have caused an AAEC in India. Accordingly, the Commission concluded that NSK and JTEKT, and their Indian subsidiaries RNSS and JSAI, respectively, indulged in anti-competitive conduct in contravention of the provisions of Section 3(3)(a) read with Section 3(1) of the Act.

13. **Direction:** In view of the fact that NSK/RNSS was the first to approach the Commission as a Lesser Penalty applicant and had provided complete, true and full disclosures, 100 percent reduction in penalty was granted to NSK/ RNSS and its individuals. Further, in view of the fact that JTEKT/JSAI was the second to approach CCI as a Lesser Penalty applicant and had provided significant value addition in the matter, 50 percent reduction in penalty was granted to JTEKT/ JSAI and its individuals. Therefore, the total penalty imposed upon JTEKT/ JSAI was INR 17,07,31,443/-.

14. For detailed order of the Commission, please visit: https://www.cci.gov.in/sites/default/files/Suo-Moto-07-01-2014.pdf

3.3.2. In Re: Cartelisation in the supply of Anti-Vibration Rubber Products and Automotive Hoses to Automobile Original Equipment Manufacturers (Suo Motu Case No. 01 of 2016)

15. **Allegation**: The case was initiated upon receipt of certain information under the provisions of Section 46 of the Competition Act, 2002 (the 'Act') read with the Competition Commission of India (Lesser Penalty) Regulations, 2009 which disclosed cartelisation amongst certain parties in relation to Requests for Quotations ('RFQs') issued by certain Automobile Original Equipment Manufacturers ('OEMs') for supply of (i) Anti-Vibration Rubber Products ('AVR Products'); and (ii) Automotive Hoses (Water and Fuel) ('Hoses').

16. **Finding:** The Commission, after analysing the investigation as well as supplementary investigation reports and other material available on record, held that no contravention of the provisions of Section 3(3)(a), 3(3)(b), 3(3)(c) or 3(3)(d) read with Section 3(1) of the Act was established against the parties in the supply of AVR Products and/ or Automotive Hoses to the Automobile OEMs as the DG has failed to bring out sufficient material on record wherefrom contravention of the provisions of Section 3 read with Section 32 of the Act by the parties can be established.

17. **Direction:** The matter was ordered to be closed under provisions of Section 26(6) of the Act.

18. For detailed order of the Commission, please visit: https://www.cci.gov.in/sites/default/files/Suo-Moto-Case-No-01-of-2016_1.pdf

3.4. Important decisions of CCI under Sections 3 and 4 of the Act

3.4.1. In Re: Anticompetitive conduct in the Dry-Cell Batteries Market in India (Suo Motu Case No. 03 of 2017)

19. **Allegation**: The case was taken up by CCI *Suo Motu* under Section 19 of the Act based on disclosure made by Panasonic Corporation, Japan, along with Panasonic Energy India Co. Limited (collectively, Panasonic) under Section 46 of the Act read with the LPR.

20. **Finding**: From the evidence collected in the case, which included an anti-competitive clause in the written agreement entered into between Panasonic and Godrej and Boyce Manufacturing Co. Limited (Godrej) for the supply of batteries, and e-mail communications between the key managerial personnel of the two, the Commission found the existence of a bilateral ancillary cartel between Panasonic and Godrej in the market of institutional sales of dry cell batteries. It was found that Panasonic, which had a primary cartel with Eveready Industries India Ltd. and Indo National Limited as established in *Suo Motu* Case No. 01 of 2016 by CCI, having fore-knowledge about the time of price increase to be affected by this primary cartel, used such fore-knowledge as leverage to negotiate and increase the basic price of the batteries sold by it to Godrej. Further, Panasonic and Godrej, in accordance with the prices of the primary cartel, used to agree on the market price of the batteries being sold by them, so as to maintain price parity in the market. Based on the above, the Commission found that Panasonic and Godrej have indulged in the anti-competitive conduct of price co-ordination, in contravention of the provisions of Section 3(3)(a) read with Section 3(1) of the Act. It was observed that such conduct continued from 13th January 2012, when Panasonic and Godrej entered into a written agreement, till 30th November 2014 when Godrej terminated the said agreement.

21. **Direction:** Considering all relevant factors, penalty on Panasonic was levied at the rate of 1.5 times of its profit for each year from January 2012 to November 2014 amounting to

INR 31.76 crores, and on Godrej at the rate of 4 percent of its turnover for each year from January 2012 to November 2014 amounting to INR 85 lakhs.

22. For detailed order of the Commission, please visit: https://www.cci.gov.in/sites/default/files/Suo-Moto-03-of-2017_0.pdf

3.4.2. Naveen Kataria vs. Jaiprakash Associates Limited (Case No. 99 of 2014)

23. **Allegation:** The case was filed with CCI by an individual, namely Naveen Kataria, in her personal capacity, after experiencing what she felt was an abuse of dominance in the real estate sector against Jaiprakash Associates Limited (JAL) alleging that the latter had contravened the provisions of Section 4 of the Act by imposing onerous and one-sided terms and conditions in her builder-buyers agreement (BBA).

24. **Finding:** The Commission found JAL to be in contravention of the provisions of Section 4 of the Act for abuse of dominant position in the relevant market of independent residential units such as villas, estate homes in its integrated township in Noida and Greater Noida, by imposing unfair/ discriminatory conditions on the allottees in Wish Town, Jaypee Greens project. The Commission found that the standard terms and conditions imposed by JAL in BBA were one-sided and couched in a manner so as to unilaterally favour itself and be unfavourable to the consumers. Moreover, the terms were vague and did not confer any substantive rights on the buyers.

25. **Direction:** The Commission passed final order concluding that such conduct of JAL is in violation of Section 4(2)(a)(i) of the Act. Resultantly, the Commission imposed a penalty of INR 13.82 crore on JAL. The penalty was calculated at 5 percent of the average revenue of JAL from the sale of independent residential units in the relevant market. Besides, an order was issued to JAL to cease and desist from indulging in the conduct which has been found to be in contravention of the provisions of the Act.

26. For detailed order of the Commission, please visit: https://www.cci.gov.in/sites/default/files/99-of-2014.pdf

3.4.3. In Re: Alleged cartelisation in supply of LPG Cylinders procured through tenders by Hindustan Petroleum Corporation Ltd. (HPCL) (Suo Motu Case No. 01 of 2014)

27. **Allegation:** The Commission took *Suo Motu* cognizance based on an anonymous letter alleging bid rigging in two tenders floated by HPCL for the supply of cylinders to its bottling plants in 18 states. It was alleged that there was a cartel operating in these tenders floated by HPCL in contravention of the provisions of Section 3 of the Act. It was alleged that orders were placed on vendors at prices higher than the procurement price of the other oil companies with the same vendors during the same period. It was also alleged that cylinders continued to be procured at higher rates and HPCL may have incurred losses running into crores by placing orders at higher rates.

28. **Finding**: The Commission did not find contravention of the provisions of Section 3 of the Act in relation to the first tender. However, with respect to the second tender, the Commission found 51 LPG Cylinder manufacturers and their respective office bearers to be in violation of provisions of Section 3(3)(d) read with Section 3(1) of the Act. The Commission noted that not one or two but 51 bidders simultaneously withdrew their bids out of which, 46 withdrew their bids on the same date, i.e. on 04th March 2013. This act was observed to be quite unusual more so as the reasons for withdrawal furnished by many of the Opposite Parties were identical or many a times common, despite the fact that such

bidders were located through the length and breadth of the country and had bid for different States and could not be said to have been faced with identical circumstances.

29. **Direction**: The Commission noted that the evidence brought out by investigation strongly suggested a common intent that prevailed among the 51 Opposite Parties to act in concert in withdrawing their bids rather than acting independently. Accordingly, the Commission directed these LPG Cylinder manufacturers and their respective office bearers to cease and desist from indulging in such practices, in future and an aggregate penalty of INR 39.75 crore on 51 LPG Cylinder manufacturers and an aggregate penalty of INR 45.26 lakhs on the respective office bearers have also been imposed for indulging in anti-competitive conduct.

30. For detailed order of the Commission, please visit: https://www.cci.gov.in/sites/default/files/Suo-Moto-Case-No-01-of-2014.pdf

3.4.4. Meet Shah and Anr vs. Union of India, Ministry of Railway and IRCTC Ltd. (Case No. 30 of 2018)

31. **Allegation:** The case was filed by two individuals against Union of India, Ministry of Railways and Indian Railway Catering and Tourism Corporation Ltd. (IRCTC) alleging that the policy of the Opposite Parties (OPs) pertaining to rounding off of base fares to the next higher multiple of Rs. 5 is unfair and discriminatory and thus an abuse of the dominant position, in contravening provisions of Section 4 of the Act.

32. **Finding**: The Commission noted that the relevant market for the purpose of competition assessment in this case would be “market for the sale of tickets by railways in India”. The Commission also found that the Opposite Parties enjoyed a dominant position in this relevant market. As regards the allegations of abuse of dominant position, the Commission observed that rounding off of fares by the Ministry of Railways appeared to be a policy decision, which was even placed before the Parliament of India, by the then Railway Minister in the year 1995. The Commission found that rounding off of fares though on first blush may appear to be unfair qua passengers, but on a fair assessment and on weighing the scale evenly, does not seem to have potential to adversely affect the interest of consumers from competition standpoint, particularly when there was no evidence that any of the passengers had been discriminated against vis-à-vis the others.

33. **Direction:** With regard to allegations against IRCTC, there was no evidence of any specific contravention on its part as it merely followed the decision of the Ministry of Railways. The Commission hence found no case of contravention of the provisions of Section 4 of the Act by the Opposite Parties.

34. For detailed order of the Commission, please visit: http://www.cci.gov.in/sites/default/files/30-of-2018.pdf

3.4.5. Madhya Pradesh Chemists and Distributors Federation vs. Madhya Pradesh Chemists and Druggist Association (MPCDA) and Others (Case No. 64 of 2014)

35. **Allegation:** Information was filed by Madhya Pradesh Chemists and Distributors Federation against Madhya Pradesh Chemists and Druggist Association(‘MPCDA’) and others including certain pharmaceutical companies alleging stifling of competition in the market by limiting access of consumers to various pharmaceutical products and controlling the supply of drugs in the market by mandating ‘No Objection Certificate’ (‘NOC’)/ Letter of Consent (LOC’) prior to appointment of stockists.

36. **Finding**: Based on evidence collected by the DG during investigation, the Commission found the conduct of MPCDA, Indore Chemists Association (ICA) and some pharmaceutical companies to be in contravention of provisions of Section 3(3)(a) and 3(3)(b) read with Section 3(1) of the Act, as the same was held to be resulting in limiting and controlling the supply of drugs in the market.

37. **Direction:** The Commission directed MPCDA, ICA and other Opposite Parties to cease and desist from indulging in practices which were found to be anti-competitive and to organise at least five competition awareness and compliance programmes over a period of six months in the State of Madhya Pradesh for its members and ICA to organise one competition awareness programme in the district of Indore. Further, the Commission, under Section 27 of the Act, imposed a penalty @10 percent of the average income of MPCDA and ICA amounting to Rs. 4,18,404/- and Rs. 39,812/- respectively; and @ 1 percent of the average revenue/turnover of Himalaya and Intas, amounting to Rs. 18,59,58,000/- and Rs. 55,59,68,000/- respectively.

38. For detailed order of the Commission, please visit: https://www.cci.gov.in/sites/default/files/64-of-2014.pdf

3.4.6. Nagrik Chetna Manch vs. SAAR IT Resources Private Limited and Others (Case No 12 of 2017)

39. **Allegation:** Nagrik Chetna Manch, a public charitable trust, through its President viz. Maj. Gen. S. C. N. Jatar (Retd.), filed information under Section 19(1)(a) of the Act against SAAR IT Resources Private Limited, CADD Systems and Services Private Limited, Pentacle Consultants (I) Private Limited and Pune Municipal Corporation alleging bid rigging in a tender floated by Pune Municipal Corporation in the year 2015 for 'Selection of agency for carrying out geo-enabled tree census using GIS & GPS Technology'.

40. **Finding**: The Commission found that there was cogent evidence of bid rigging/collusive bidding by the aforementioned companies, in the tender process for selection of an agency to undertake geo-enabled tree census using GIS & GPS technology, in contravention of Section 3(3)(d) read with Section 3(1) of the Act. Further, the Commission also found meeting of minds and co-ordination between various individuals which included the directors of the above-mentioned companies to rig the tender, by way of submitting proxy/ cover bids.

41. **Direction**: The Commission, passed an order, under Section 27 of the Act, directing the said companies to cease and desist from indulging in such anti-competitive conducts which have been found to be in contravention of the provisions of the Act. Further, the Commission imposed penalties of INR 1.26 crore, INR 0.11 crore, and INR 1.33 crore on SAAR IT Resources Private Limited, CADD Systems and Services Private Limited, and Pentacle Consultants (I) Private Limited, respectively under Section 27(b) of the Act, calculated at the rate of 10 percent of their average turnover for last three financial years.

42. For detailed order of the Commission, please visit: https://www.cci.gov.in/sites/default/files/12-of-2017.pdf

3.4.7. Indian National Ship-owners Association vs. Oil and Natural Gas Corporation Limited (Case No. 01 of 2018)

43. **Allegation:** Indian National Ship-owners Association (INSA) filed an information against Oil and Natural Gas Corporation Limited (ONGC) alleging imposition of unfair terms and conditions and unfair invoking of the termination clause by ONGC, in contravention of the provisions of Section 4 of the Act. For carrying out the drilling of oil rigs, ONGC used to

procure the services of the offshore support vessels (OSVs) from the members of INSA. INSA claimed that ONGC held a dominant position in the hiring of OSVs and owing to such dominant position, it had been able to put one-sided clauses in the Charter Hire Agreements (CHAs) in the nature of boiler plate agreements, allegedly not open for negotiations.

44. **Finding:** The Commission analysed the abuse of dominant position by ONGC in the relevant market of charter hire of OSVs (specifically PSVs and AHTSVs) in the Indian SEZ, in which ONGC was found to be dominant.

45. **Direction:** The Commission noted that the CHA gave ONGC a unilateral right of termination without assigning any reasons, which in itself is not abusive given the disproportionate risk that ONGC has to bear in case of such termination by the OSVs. Applying the reasonability test, the Commission found that though ONGC had a unilateral right of termination in its agreements with the ship vessel owners for last 30 years, the said clause was invoked for the first time in an unprecedented market situation. Further, such clause was invoked in good faith and only in response to an exceptional change of circumstances. On an assessment based on these guiding principles, the Commission found the conduct of ONGC to be objectively justified. The case was thus, closed under the provisions of Section 26(6) of the Act.

46. For detailed order of the Commission, please visit: https://www.cci.gov.in/sites/default/files/Case%20No.%2001%20of%202018.pdf

3.4.8. XYZ vs. Association of Man Made Fibre Industry of India and Others (Case No. 62 of 2016)

47. **Allegation**: Information was filed by XYZ against Association of Man Made Fibre Industry of India & Ors. alleging contravention of the provisions of Section 4 of the Competition Act, 2002 (Act). The Informant alleged that Grasim Industries Limited(GIL) is the sole producer of VSF in India and is misusing its position in the domestic market to squeeze the textile industry consumers. It was averred that GIL is charging dissimilar prices from different customers in the domestic market and is following the same practice between domestic and foreign customers. It was also stated that GIL follows a non-transparent practice while invoicing and refuses to disclose its discount policy to its customers.

48. **Finding:** The Commission found GIL to be dominant in the relevant market and after examining the data submitted by GIL was of the opinion that it has been practising price discrimination amongst its domestic customers thereby creating distortions in the downstream value chain and harming the conditions of competition for the domestic spinners. With respect to the pricing and discount policy adopted by GIL, Commission observe that the plethora of discount parameters, frequent changes effected to the pricing and discount policy coupled with non-transparency of the same to its buyers indicate unilateral and abusive behaviour by GIL in the relevant market. Based on the aforesaid finding, Commission concluded that GIL has violated Section 4(2)(a)(ii) read with Section 4(1) of the Act. With respect to the allegation of seeking the details of production and exports from Indian spinners for sale of VSF by GIL, Commission observed that by requiring the spinners to submit production details, GIL has asserted its market power upon the small players and has acted with paramountcy. Further, seeking such details was to prevent the resale and trading of its products and thereby hinder the emergence of an alternate source of competition in the market. Based on the aforesaid finding, Commission concluded that GIL has violated Section 4(2)(d) read with Section 4(1) of the Act.

49. **Direction:** Commission directed GIL to cease and desist from indulging in such practices which have been found to be in contravention of the provisions of the Act, to refrain from

adopting unfair and discriminatory pricing practices and also refrain from seeking the consumption details of VSF from its buyers. GIL was directed to put in place a discount policy which is transparent and non-discriminatory to all the market participants, and to make it easily and publically accessible/ available and not place any end-use restriction on the buyers of VSF. Commission also imposed a penalty at the rate of 5 percent of the average relevant turnover for the period 2014-15 to 2016-17 amounting to INR 301.61 crore on GIL.

50. For detailed order of the Commission, please visit: https://www.cci.gov.in/sites/default/files/62-of-2016.pdf

3.4.9. Suprabhat Roy and Others vs. Saiful Islam Biwas and Others (Cases No. 36 of 2015, 31 of 2016 and 58 of 2016)

51. **Allegation**: Three separate information(s) were filed by Shri Suprabhat Roy, Proprietor, M/s Suman Distributors, Murshidabad, Shri Sankar Saha, Branch Secretary, Pharmaceuticals Traders Welfare Association of Bengal– Burdwan Branch and Shri Joy Deb Das, Proprietor, M/s Maa Tara Medical Agency, Murshidabad before the Commission alleging anti-competitive practices being followed by Bengal Chemists and Druggists Association ('BCDA'), its two District Committees i.e. Murshidabad District Committee and Burdwan District Committee and their office-bearers, in agreement with pharmaceutical companies Alkem Laboratories Ltd. ('Alkem') and Macleods Pharmaceuticals Ltd. ('Macleods').

52. **Finding:** The Commission found BCDA and its two District Committees i.e. Murshidabad District Committee and Burdwan District Committee and their office-bearers, to be indulging into anti-competitive practices like requiring pharmaceutical companies in at least some Districts of the State of West Bengal have their new stockists obtain a prior Stock Availability Information ('SAI')/ No Objection Certificate ('NOC') from BCDA before supply of drugs can be commended to them; Further, the Commission found that pharmaceutical companies Alkem and Macleods had an anticompetitive agreement with BCDA whereby these companies, after issuing the offer letter of stockistship to prospective stockists, demanded from them SAI/ NOC/ Approval Letter/ Circulation Letter from BCDA, before supplies of drugs can be commenced to them. For their such conduct, the Commission found Alkem and Macleods liable for contravention of the provisions of Section 3(1) of the Act and their various officials have also been found liable by the Commission for such conduct in terms of Section 48 of the Act.

53. **Direction:** The Commission, in terms of Section 27(a) of the Act, directed BCDA, its District Committees of Murshidabad and Burdwan, their office bearers, pharmaceutical companies viz. Alkem and Macleods, and their respective officials who were held liable in terms of the provisions of Section 48 of the Act, to cease and desist in future from indulging in practices which have been found in the present order to be in contravention of the provisions of Section 3 of the Act. However, no penalty was imposed on any party.

54. For detailed order of the Commission, please visit: https://www.cci.gov.in/sites/default/files/36of2015-31of2016-58of2016.pdf

3.5. Merger and Acquisitions

55. The provisions of the Act relating to regulation of combinations were brought into effect on 1st June 2011. Sections 5 and 6 of the Act require mandatory notification to CCI of all acquisitions, mergers and amalgamations that exceed specified asset to turnover thresholds set out in the Act (known as "combinations"). A combination must be notified to CCI

within prescribed timelines of execution of trigger documents/events. A combination cannot be consummated until CCI gives its approval or unless 210 days have passed from the date of the notice, whichever is earlier.

3.6. Statistics of merger filings to CCI

56. Sector-wise distribution of combination notices received during the year, 2019-2020, has been presented in Table 2.

Table 2. Sector-wise distribution of combination notices received during the year, 2019-2020

Sl. No.	Sector	2019-2020
1.	Finance and Markets	19
2.	Power & Power Generation	10
3.	Auto & Auto Components	6
4.	Airports/Airlines/Infrastructure	5
5.	Information Technology & Services	5
6.	Mining & Metals	5
7.	Logistics	4
8.	Pharmaceuticals & Healthcare	3
9.	Real Estate	3
10.	Food & Refined Oil	2
11.	Retail	2
12.	Oil & Gas	2
13.	Packaging Material	1
14.	Textile/Apparels	1
15.	Radio Taxi Marketplace	1
16.	Travel / E- Commerce	1
17.	Concrete Equipment	1
18.	Paper Industry	1
19.	Natural Gas	1
20.	Hotel Services	1
21.	Education	1
22.	Heavy Industries	1
23.	Telecom	1
24.	Ports	1
25.	Cement	1
	Total	79

3.7. Some of the important orders of CCI under Sections 5 and 6 in 2019-20.

3.7.1. Commission approves acquisition of up to 75 percent of the total issued and paid-up equity share capital of Alok Industries Limited by Reliance Industries Limited and JM Financial Asset Reconstruction Company's Trust

57. The Commission received a notice jointly filed by Reliance Industries Limited and JM Financial Asset Reconstruction Company - March 2018 - Trust for the acquisition of up to 75 percent of the total issued and paid-up equity share capital of Alok Industries Limited, which was undergoing insolvency resolution proceedings initiated under the Insolvency and Bankruptcy Code, 2016.

58. The Parties had submitted that Alok Industries was a failing firm and that the acquisition will allow for a failing firm to remain operational.

59. It was noted that the Parties exhibited horizontal overlaps in the manufacture and sale of following products: (a) polyesters, (b) fabrics, (c) ready-made garments (RMG), and (d) home textiles in India.

60. In the overall market for Polyester in India, the combined market share of the Parties was less than 30 percent in terms of installed capacity and in terms of sale, with an increment of less than 5 percent. In the sub-segments, either the combined market shares of the Parties was less than 40 percent or the increment was less than 10 percent.

61. On an overall basis and in all the narrow overlapping segments for other overlapping products (fabric for men's shirting, suiting and trouser and RMG for men's shirts, trousers and t-shirts and home textiles for towels and bed linens), the individual, as well as the combined share of Parties, was insignificant and there were a number of other players present.

62. In view of the above, the Commission observed that the Proposed Combination was not likely to cause an AAEC in any of the possible alternative relevant markets. Accordingly, the Commission approved the proposed combination.

63. For detailed order of the Commission, please visit: https://www.cci.gov.in/sites/default/files/Notice_order_document/Order-648.pdf

3.7.2. CCI finds no appreciable adverse effect on competition (AAEC) in relation to acquisition of Asian Colour Coated Ispat Limited by JSW Steel Coated Products Limited

64. The Commission received a notice from JSW Steel Coated Products Limited ('JSWSCPL') relating to the acquisition of the entire business operations of Asian Colour Coated Ispat Limited ('ACCIL'), which is facing an insolvency proceeding under the Insolvency and Bankruptcy Code, 2016 ('IBC').

65. JSWSCPL, a public company incorporated in India, is a wholly-owned subsidiary of JSW Steel Limited (JSWSL) and is a part of the JSW group (JSW Group). JSW group through JSWSL (including JSWSCPL) is engaged in the manufacture, distribution and sale of inputs, iron and semi-finished products, flat steel products and long steel products. JSWSCPL also manufactures flat steel products with a focus on Surface Coated Flat Steel Products (SCPs) like Galvanised and Galvalume Products (GPs) and Colour Coated Products (CCPs).

66. ACCIL, a public company incorporated in India, is *inter alia*, engaged in the manufacture of flat steel products to Hot rolled Flat Steel Products, Cold rolled Flat Steel Products, SCPs (including GI/GL and CCPs).

67. In accordance with the decisional practice of the Commission in cases relating to the steel sector, the activities of the parties overlap in respect of the sale of certain steel products in India, viz., (i) Hot rolled coils and sheets and plates (HR-CSPs); (ii) cold rolled coils and sheets (CRCSs); and (iii) SCPs (further segregated into GPs and CCPs).

68. During the course of competition assessment, based on market share analysis of combined market shares, incremental market shares, presence of other competitors, it is observed that the combination is not likely to result in a substantial change in the competition dynamics or to cause any AAEC in any of the aforesaid product segments.

69. For detailed order of the CCI, please visit: https://www.cci.gov.in/sites/default/files/Notice_order_document/WebUploadOrder-650.pdf

3.7.3. CCI approves amalgamation of GRUH Finance Ltd. into Bandhan Bank Ltd. and acquisition of equity by HDFC Ltd. in Bandhan Bank

70. The Commission had received a notice jointly filed by Bandhan Bank Ltd. (Bandhan Bank), GRUH Finance Ltd. (GRUH) and Housing Development Finance Corporation Ltd. (HDFC Ltd) in relation to the amalgamation of GRUH into Bandhan Bank and acquisition of 14.96percentstake by HDFC Ltd. in Bandhan Bank. In this context, HDFC Ltd. had received in-principle regulatory approval from RBI to acquire only up to 9.9 percent equity stake in Bandhan Bank. The Commission in its meeting held on 15th April 2019 approved the proposed combination under sub-section (1) of Section 31 of the Act.

71. The Commission assessed the presence of Bandhan Bank and GRUH, as well as the presence of Bandhan Bank, GRUH and HDFC Ltd. in various overlapping business segments, *inter alia*, provision of bank accounts, provision of loans, etc. The Commission also assessed the presence of the parties in narrower business sub-segments.

72. The Commission noted that the combined market share of the parties in different business segments at both broader level and narrower level were insignificant. The incremental market share was also negligible in different business segments and their respective sub-segments. However, in one of the business sub-segments, namely, micro loans, the Commission noted that the combined market share of the parties was in the range of 25-30 percent, but the same was not likely to raise any competition concerns due to the presence of other competitors. Accordingly, the Commission noted that the proposed combination was not likely to cause any AAEC in any of the possible alternative business segments or their respective sub-segments in India.

73. For detailed order of the CCI, please visit: https://www.cci.gov.in/sites/default/files/Notice_order_document/C-2019-03-651O.pdf

3.7.4. Commission approves acquisition of up to 66.15 percent of the total equity shareholding of Mindtree Limited by Larsen & Toubro Limited

74. The Commission received a notice filed by Larsen & Toubro Limited (L&T) for the acquisition of controlling stake of up to 66.15 percent of the total equity shareholding of Mindtree Limited, pursuant to a Share Purchase Agreement dated 18th March 2019 between L&T and Coffee Day Enterprises Limited, Coffee Day Trading Limited and Mr. V. G. Siddhartha.

75. Broadly, both L&T (through its subsidiaries) and Mindtree were present in the market for "IT and ITES". Within the IT and ITES, the Parties exhibited overlaps in (i) IT Consulting; (ii) Hardware Support Services; (iii) IT Implementation Services; (iv) Customer Software Support Services; (v) IT Outsourcing Services and (vi) IT Engineering Services.

76. The combined market share of the Parties at the broader level, i.e. IT and ITES in India was insignificant and within each of the above stated overlapping sub-segments of IT and ITES was between [0-5 percent]. There were other large players operating in the market such as Tata Consultancy Services, Wipro, Infosys, HCL and Tech Mahindra etc.

77. In view of the above, the Commission observed that the proposed combination was not likely to cause any AAEC in any of the possible alternative relevant markets. Accordingly, the Commission approved the proposed combination.

78. For detailed order of the CCI, please visit: https://www.cci.gov.in/sites/default/files/Notice_order_document/Order652Final-webhost.pdf

3.7.5. Commission received a notice, under Section 6(2) of the Competition Act, 2002, filed by Canada Pension Plan Investment Board regarding its proposed acquisition of 7.97 percent shareholding in Delivery Private Limited

79. Canada Pension Plan Investment Board (CPPIB) is a professional investment management organisation. It invests the funds of the Canada Pension Plan (CPP). In order to build a diversified portfolio of CPP assets, CPPIB invests in public equities, private equities, real estate, infrastructure and fixed income instruments. CPPIB, *inter alia*, has a majority equity stake in Indospace Core, which is engaged in the business of leasing of space in modern commercial warehouses. Delivery Private Limited (DPL) is engaged in the provision of third party logistics services in India. The logistics activities of DPL and the warehousing space leasing business of Indospace Core are placed at different levels of the supply chain.

80. The warehousing spaces may be classified, based on specifications, as Grade A and Grade B. Grade A warehousing spaces are those that have increased clear height, higher floor load strength, fire safety, energy conservation and park amenities such as all-time security, restrooms for drivers, better proximity to highways and well-maintained internal roads while other warehousing spaces are classified as Grade B. The warehousing spaces leased by Indospace Core are in the nature of Grade A.

81. It is observed that Indospace Core has a considerable presence in the cities of Chennai and Pune. However, the total number of warehousing spaces leased in by DPL in these cities is insignificant vis-à-vis the warehousing space of Indospace Core. Further, the major customers of Indospace Core are largely non-logistics players. Thus, Commission observed that the proposed combination is not likely to incentivise the parties to engage in any activity that would raise competition concern.

82. For detailed order of the CCI, please visit: https://www.cci.gov.in/sites/default/files/Notice_order_document/Order663.pdf

3.7.6. Commission approves combination notice, jointly filed by Housing Development Finance Corporation Limited (HDFC), HDFC ERGO General Insurance Company Limited (HDFC ERGO) and Apollo Munich Health Insurance Company Limited (Apollo Munich)

83. The proposed combination comprises the following inter-connected steps: (i) proposed acquisition by the HDFC of an aggregate of 51.20 percent shareholding of the Apollo Munich; and (ii) subsequent merger of the Apollo Munich into the HDFC ERGO.

84. HDFC ERGO, a joint venture between the HDFC and ERGO International AG, is engaged in the general insurance business in India. Apollo Munich, a joint venture *inter alia* between Apollo Energy Company Limited and Munich Health Holding AG, is engaged only in the health insurance business.

85. Both Apollo Munich and HDFC Group are engaged in the health insurance business in India, which includes personal accident insurance and travel insurance. It is observed that these business segments are characterised by the presence of several public and/or private sector general insurance companies. Further, the incremental market share as a result of the proposed combination is not significant in the broader business segment for health insurance business as well as in each of the narrower business segments, viz. personal accident insurances, travel insurance and other health insurance.

86. HDFC through its affiliates is engaged in the distribution of insurance products. The distribution activities of affiliates of HDFC and the insurance business of Apollo Munich are at different levels of the supply chain. It is observed that distribution through individual agents and direct sales are the major modes of distribution of health insurance (excluding personal accident and travel insurances) and in terms of value, only 8 percentof the products in this segment were distributed by banks. As regards the distribution of personal accident and travel insurances products, it is observed that the presence of Apollo Munich is not significant and accordingly the proposed combination is not likely to incentivise the parties to engage in any conduct that is likely to raise any competition concern.

87. For detailed order of the CCI, please visit: https://www.cci.gov.in/sites/default/files/Notice_order_document/Order-671.pdf

3.7.7. Commission approves acquisition of controlling stake in International Paper APPM Limited by West Coast Paper Mills Limited

88. The Commission received a notice from West Coast Paper Mills Limited for the acquisition of (i) 51-60 percent shareholding in International Paper APPM Limited ('Target') from International Paper Investments (Luxembourg) S.A.R.L ('IP Investments') and IP International Holdings, Inc. ('IP Holdings') and (ii) up to 25 percent of the shareholding of the Target from public shareholders of the Target, pursuant to the open offer triggered on account of the acquisition of shares from the Sellers.

89. The Parties to the Proposed Combination are integrated paper and pulp manufacturer in India. The Parties are engaged in business activities in the markets for maplitho paper, copier in uncoated writing and printing paper, machine glazed /poster paper, cup stock paper, ledger paper, and stiffener paper in India. The combined market share of the Parties is less than 15 percent in maplitho paper, Machine Glazed/poster paper and Cup stock paper and 15-20 percent in Copier. Further, it is noted that the presence of Parties in sub-segments of Ledger paper and Stiffener paper, is not significant to raise any concern. It is also noted that there are other players such as JK, TNPL, ITC, Century, Star, BILT present in each of these segments. Accordingly, the Commission approved the transaction.

90. For detailed order of the CCI, please visit: https://www.cci.gov.in/sites/default/files/Notice_order_document/Order668.pdf

3.7.8. Commission approves acquisition of up to 55.2 percent of the total equity shareholding of GMR Airports Limited (GAL) jointly by TRIL Urban Transport Private Limited (TUTPL), Valkyrie Investment Pte Limited (Valkyrie) and Solis Capital (Singapore) Pte. Limited (Solis)

91. GAL, a public limited company of the GMR Group, is engaged in developing, managing and operating airports in India and around the world. GAL, through its subsidiaries, currently operates and manages two airports in India, i.e. Delhi airport and Hyderabad airport and is developing Greenfield airports in Goa and Bhogapuram in Andhra Pradesh, and will develop and operate Nagpur airport on Public-Private Partnership basis.

92. As a result of this combination, GAL will sell upto 55.2 percent of its stake to three Acquirers, namely TUTPL, Valkyrie, and Solis, who will acquire stakes upto 24.5 percent, 18.4 percent and 12.3 percent, respectively.

93. It was noted that Valkyrie and Solis, either directly or indirectly, exhibited no horizontal or vertical overlaps with the activities in which GAL was engaged. TUTPL, directly or indirectly, did not horizontally overlap with GAL but exhibited vertical overlaps.

94. TUTPL is a wholly-owned indirect subsidiary of Tata Sons Private Limited (Tata Sons). Tata Sons is engaged in the business of providing airline services through Vistara and AirAsia, and other associated businesses. GAL, through its entities, is present in the provision of upstream business segment of development, operation and maintenance of the airport, which is in a vertical relationship with services provided by the entities of Tata Sons group, namely, provision of scheduled air transport service, non-scheduled air transport service, food and beverage services, retail services, in-flight catering services, ground handling services, cargo services and MRO services.

95. It was observed that this vertical relationship between Tata Sons group and the GMR group, may lead to a scenario of conflict of interest, as with vertically integration, there may be an incentive to foreclose downstream players, i.e., the competing airlines, among other service providers.

96. Accordingly, TUTPL gave voluntary modification to alleviate any potential conflict of interest arising out of Tata Sons group acquiring the stake in the Target. The Commission noted that the Voluntary Modification would address apprehension that vertical integration between Tata Sons group and the GMR group may foreclose downstream competitors, *inter alia*, airline companies. Such restrictions are to ensure a level playing field for all the airlines. It was also to ensure that no airline gets a preferential treatment in the allotment of slot(s). Accordingly, the Commission approved the proposed combination.

97. For detailed order of the CCI, please visit: https://www.cci.gov.in/sites/default/files/Notice_order_document/C-2019-07-676O.pdf

3.7.9. Commission approves Kora Master Fund LP investment in Edelweiss Securities Limited

98. The Commission received a notice filed by Kora Master Fund LP (Kora) in relation to the investment of up to USD 75 million in Edelweiss Securities Limited (ESL) and the Edelweiss Global Investment Advisory business (EGIA Business).

99. Kora is a foreign portfolio investor (FPI) registered with the Securities Exchange Board of India (SEBI). Its principal activity is that of investment holding and related activities.

100. Edelweiss Securities Limited and other entities are collectively engaged in the EGIA Business which means the business of asset management, wealth management, capital markets and advisory and asset reconstruction.

101. The Commission observed that the apart from having a minority investment in some companies in India engaged in the provision of loans/credit, Kora and Edelweiss Securities Limited are not engaged in any business activities relating to similar or identical or substitutable products or services. The Commission noted that in the overlapping segment the entities have limited presence in India.

102. Considering the facts on record, details provided in the notice and assessment of the proposed combination, the Commission opined that the proposed combination is not likely to have any AAEC in India and accordingly approved the proposed combination under Section 31(1) of the Act.

103. For detailed order of the CCI, please visit: https://www.cci.gov.in/sites/default/files/notice_order_summary_doc/C-2019-08-681.pdf

3.7.10. Commission received Green Channel filing for acquisition of Essel Mutual Fund by Sachin Bansal Group

104. The Competition Commission of India received first Green Channel filing for the acquisition of Essel Mutual Fund (Essel MF) by Sachin Bansal Group. The Green Channel route by the Commission is for automatic approval of combinations. The transaction was pertaining to the acquisition of Essel MF, a mutual fund registered under the SEBI (Mutual Funds) Regulations, 1996 (Mutual Fund Regulations) by an entity forming part of the Sachin Bansal Group.

105. Pursuant to the Proposed Combination, Sachin Bansal Group would acquire ownership and sole control over Essel Finance AMC Limited (investment manager) and Essel MF Trustee Limited (trustee) and, therefore, over Essel MF.

106. The proposed combination was filed under the Green Channel route as the Parties did not have any horizontal overlaps, vertical overlaps or complementary relationships.

107. For a summary of the case, please visit: https://www.cci.gov.in/sites/default/files/notice_order_summary_doc/C-2019-10-691.pdf

3.7.11. Commission finds no appreciable adverse effect on competition (AAEC) in relation to acquisition of Kwality Limited by Haldiram Snacks Private Limited

108. The Commission received a notice jointly filed by Haldiram Snacks Private Limited (Haldiram) and Pioneer Securities Private Limited (Pioneer) in relation to acquisition of 100percentof the total issued and paid-up equity share capital of Kwality Limited (Kwality), which is undergoing an Insolvency resolution proceedings initiated under the Insolvency and Bankruptcy Code, 2016.

109. Haldiram is a private limited company and the flagship company of the Haldiram group. It is engaged in the business of manufacturing and marketing of a variety of snacks products. It also exports its products to various countries. Pioneer, a private limited company incorporated in India, renders services pertaining to stock and non-banking financial services. Kwality, a listed company incorporated in India, processes and sells milk and related dairy products.

110. During the course of competition assessment, it was observed that Parties to the Combination are not engaged in any business activities relating to similar or identical or substitutable products or services. As far as vertical relationship is concerned Haldiram procures Ghee (a dairy product) from Kwality. The said vertical relationship is not likely to cause any change in the competition dynamics. Accordingly, the Commission concluded that the Proposed Combination is not likely to have an AAEC in India.

111. For detailed order of the CCI, please visit: https://www.cci.gov.in/sites/default/files/Notice_order_document/C-2019-10-693O.pdf

3.7.12. Commission received a combination notice, jointly filed by BNP Paribas Asset Management India Private Limited (BNP AMC); BNP Paribas Trustee India Private Limited (BNP TC); Baroda Asset Management India Limited (BOB AMC); and Baroda Trustee India Limited (BOB TC)

112. The notice was given in relation to the proposed merger of: (a) BOB AMC into BNP AMC such that BNP AMC will be the surviving entity; and (b) BNP TC into BOB TC such that BOB TC will be the surviving entity. BOB AMC and BOB TC are wholly-

owned by Bank of Baroda (BOB). Similarly, BNP AMC and BNP TC are wholly-owned by BNP Paribas Asset Management Asia Ltd. (BNP AM Asia).

113. The above said BOB entities and BNP entities offer Mutual Fund products in India. BOB has shareholding in UTI Asset Management Company Limited (UTI AMC) and UTI Trustee Company Private Limited (UTI TC). UTI AMC and UTI TC are also engaged in Mutual Fund business in India. Besides mutual funds, both BNP AMC and UTI AMC are further engaged in the business of portfolio management service (PMS).

114. Activities of the Parties and their affiliates were found similar/identical in the domain of provision of mutual funds and PMS. The mutual fund business of the parties and distribution activities of affiliates of BNP Group and BOB exhibited vertical overlap. However, the incremental market shares, as results of the Proposed Combination, in the mutual funds and PMS businesses were not significant. Similarly, the market shares of affiliates of BNP Group and BOB in distribution of mutual funds in India were not significant. The Commission approved the proposed combination, as the same is not likely to raise competition concern.

115. For detailed order of CCI please visit: https://www.cci.gov.in/sites/default/files/Notice_order_document/Order-IT698.pdf

3.7.13. Commission received Green Channel notice for acquisition of certain equity share capital of Star Health and Allied Insurance Company Limited (Star Health) by ROC Star Investment Trust (ROC)

116. The Commission received this case under the Green Channel, i.e. the scheme for automatic approval of combinations. The transaction was pertaining to the acquisition by ROC of 2.39 percent of equity share capital of Star Health from Snowdrop Capital PTE Limited.

117. As a result of the Proposed Combination, ROC will have certain rights including non-control conferring veto rights in Star Health.

118. ROC is an investment vehicle managed by ROC Capital Pty Limited (‘ROC Capital’), an Australian investment management company. Target is licensed as a general insurer by the Insurance Regulatory Development Authority of India (“IRDA”) to carry on the business of general insurance. It is currently engaged in the business of health insurance and deals in personal accident, medi-claim as well as in overseas travel insurance.

119. In absence of any horizontal, vertical, or complementary overlap between parties to the Combination, the notice was filed under Regulation 5A of the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011, i.e. Green Channel.

120. For summary of the case, please visit: https://www.cci.gov.in/sites/default/files/notice_order_summary_doc/C-2020-1-716.pdf

3.7.14. Commission approves acquisition of certain equity share capital of Teesta Urja Limited (TUL/Target) by Greenko Mauritius (Greenko/Acquirer)

121. TUL, an enterprise in which Government of Sikkim holds 60 percent of the share capital through its company Sikkim Power Investment Corporation Limited, is a special purpose vehicle incorporated for the purpose of the implementation of 1200 Mega Watt (MW) hydropower project in Sikkim. The principal activity of TUL is the generation and sale of bulk power. TUL has only one subsidiary company, i.e. Teesta Valley Power

Transmission Limited ('TPTL'), a joint venture with Power Grid Corporation of India Ltd. ('PGCIL'), which is involved in the transmission of power.

122. As a result of the Proposed Combination, Greenko (directly or indirectly) will acquire approximately 35 percent of the issued and paid-up equity share capital of TUL by way of secondary purchase of shares held by existing shareholders of TUL.

123. Greenko, incorporated in Mauritius, is a wholly-owned subsidiary of Greenko Energy Holdings ('GEH'). Greenko has investments in a portfolio of companies engaged in power generation that operate solar, hydropower, wind, biomass, and gas plants in India. It operates various projects under the names, i.e. Greenko, Orange, Skeiron and SunEdison in India.

124. It was observed that the parties exhibited horizontal overlaps at the broader level of total power generation in India and at a narrow level based on certain sources for power generation. The Commission noted that the incremental market share in each of the segment/sub-segment was 0-5 percent, in terms of both installed capacity and actual generation, and the combined market shares were not such to cause any competition concerns.

125. Further, the existing vertical overlap between an entity belonging to GEH (engaged in generation of power) and a subsidiary of Target (engaged in the transmission of power) was only an interim connectivity and the arrangement was temporary in nature.

126. In view of the above, the Commission approved the Proposed Combination.

127. For detailed order of CCI please visit: http://www.cci.gov.in/sites/default/files/Notice_order_document/FinalOrder714.pdf

3.7.15. Commission clears the proposed acquisition of 100 percent shareholding of WABCO Holdings Inc. (WABCO) by ZF Friedrichshafen AG (ZF/ Acquirer) subject to carrying out of certain modifications proposed by the Parties (both collectively referred to as Parties)

128. ZF is a Germany based global technology company, active in developing, manufacturing and distributing automotive components such as gearboxes, steering, axles, clutches, dampers, chassis components & systems, active & passive safety technology systems for passenger vehicles (PVs), commercial vehicles (CVs), off-highway vehicles (OHVs).

129. WABCO, having its registered office in Delaware, USA and headquarters in Berne, Switzerland, is a global supplier of products and service including integrated braking systems and stability control, air suspension systems, transmission automation controls as well as aerodynamics and telematics. Both ZF and WABCO are present in India through subsidiaries and joint ventures (JV). The business activities of ZF is through various subsidiaries and joint ventures including Brakes India, which is a JV between ZF (49 percent) and TVS (51 percent). WABCO and its subsidiaries are also engaged in the sphere of auto components/systems relating to brake, clutch, steering and certain embedded software products used in PVs, CVs and OHVs.

130. The proposed combination was notified to the Commission on 7th November 2019 pursuant to a Business Transfer Agreement (BTA).

131. The preliminary assessment *prima facie* suggested that post combination the combined entity would constitute the substantial supply of brake and clutch components/system for CVs in India. Accordingly, the Proposed Combination, *prima facie*, appeared to reduce/eliminate the incentives of WABCO and Brakes India (JV of ZF) to compete in terms of price, products, innovation in the market of foundation brakes and clutch systems for commercial vehicles in India.

132. The Commission observed that in the product segments mentioned above, there are a limited number of players, and as a result of the proposed combination, incentives for Brakes India to innovate, offer a complete portfolio of products in the brake system for CVs and turn as a full systems player, are likely to be reduced.

133. ZF had offered behavioural remedies of the nature of firewall at the board of Brakes India and boards of WAPCO, for a period of five years, so that they work independently. However, the Commission felt that the nature and extent of such behavioural remedies offered by ZF were not sufficient to address the competition concerns and a show cause notice (SCN) was issued in this matter.

134. In response to the SCN, the Acquirer submitted voluntary modifications vide submission dated 13th February 2020 under Regulation 25 (1A) of the Combination Regulations, wherein it proposed to divest its 49 percent shareholding, and all rights and arrangements thereof, in Brakes India. This would ensure the presence of two separate and competing entities in the brake/clutch systems in the Indian market. Further, ZF clarified that the scope of remedy offered to the Department of Justice in the US, in relation to the Proposed Combination, includes the divestment of steering business of WABCO in India.

135. The Commission accepted the voluntary modifications proposed by Parties and approved the Proposed Combination on 14th February 2020.

136. For detailed order of CCI, please visit: https://www.cci.gov.in/sites/default/files/Notice_order_document/703PubVersion.pdf

4. Human Resource

137. At present, the Commission comprises of a Chairperson and two Members. Administrative functions of CCI are coordinated by the Secretariat, which is headed by the Secretary. The office of DG investigates contraventions of the provisions of the Act and is headed by the DG.

138. In addition, there are eight main divisions of CCI, namely Advocacy, Anti-trust, Capacity Building, Combination, Economics, International Cooperation, Investigation and Legal. Each division is steered by a senior officer of the level of Adviser. The divisions assist the Commission in fulfilment of its legal mandate. At present, 168 staff members (57 Lawyers; 25 Economists; 27 other professionals and 59 Support staff) are working in CCI.

139. In addition, there are 197 outsource staff engaged by CCI.

140. CCI has a competition-related budget of INR 44.50 crore (5,907,772.37 USD as on 31st March 2020) for the year 2019-20.

5. Summaries of or References to New Reports and Studies on Competition Policy Issues

5.1. Workshop on 'E-commerce: Changing Competition Landscape in India'

141. CCI organised a Workshop on '*E-commerce: Changing Competition Landscape in India'* on 30th August 2019 at New Delhi. The day-long workshop was conducted by the Commission as a part of its market study launched in April 2019 for better understanding of the e-commerce ecosystem in India, business practices of online platforms and other market participants that avail the platforms' intermediation services and their implications on the competition. Dr. Rajiv Kumar, Vice Chairman, NITI Aayog, Government of India delivered the keynote address at the Conference.

142. For details, please visit: http://www.cci.gov.in/sites/default/files/whats_newdocument/Market-study-on-e-Commerce-in-India.pdf

6. International Cooperation

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

143. As mandated under Section 18 of the Act, CCI has entered into Memorandum of Understanding (MOU), after obtaining approval from the Government of India, with the following competition authorities until 31st March 2020:

Federal Trade Commission (FTC) and Department of Justice (DOJ), USA;

Director General Competition, European Union (EU);

Federal Antimonopoly Service (FAS), Russia;

Australian Competition and Consumer Commission (ACCC);

Competition Bureau (CB) Canada; and

Competition authorities of the Federative Republic of Brazil, the Russian Federation, the People's Republic of China and the Republic of South Africa (BRICS Countries).

6.2. Overseas projects undertaken:

144. To develop wider cooperation on issues of mutual interest BRICS Competition Authorities have formed Sector Study Groups to understand the competition concerns in various sectors. CCI is a project lead for Competition Issues in Automotive Markets and Competition Commission of South Africa (CCSA) is co-lead for the project. The objective of the study is to identify existing and potential competition issues arising out of automotive industry with respect to BRICS countries and develop an understanding between the BRICS competition agencies of possible ways to deal with them.

6.3. Memberships of international organisations

6.3.1. The International Competition Network

145. During 2019-20, CCI joined the ICN Framework on Competition Agency Procedures (CAP). CAP's primary mission is to promote implementation of the principles which establish minimum standards of procedural fairness and transparency within

competition agencies. The co-chairs of the CAP Working Group are Australian Competition and Consumer Commission (ACCC), Bundeskartellamt (German Competition Authority) and United States Department of Justice (USDOJ).

146. During the period, CCI has also contributed to the ICN agency's new market study projects at the ICN Info Store by providing details of CCI's market study on E-commerce in India.

6.3.2. BRICS Competition Authorities

147. MoU between the competition authorities of Brazil, Russia, India, China and South Africa was signed on 19th May 2016 during the International Legal Forum held in Saint Petersburg, Russia.

148. BRICS Competition Authorities organise International Competition Conference (ICC), biennially by one of the competition authorities. In 2019, 6th BRICS ICC was organised during 16th-19th September in Moscow, Russia. The theme of the conference was "10 years of cooperation between the BRICS competition authorities: results and prospects". Heads of the BRICS Competition Authorities also signed a joint statement during the 6th BRICS ICC.

6.3.3. Organization for Economic Co-operation and Development

149. CCI has an observer status with the Competition Committee of Organisation 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.

150. CCI has been making regular written contributions at various roundtables during the conferences/meetings of the OECD as well. In the year 2019-20, CCI submitted papers on "Licensing of IP Rights and Competition Law", "Vertical Mergers in the Technology, Media and Telecom Sector", "Questionnaire to Participate in the Digital Lab", and "Merger Control in Dynamic Markets". In addition, CCI submitted replies to the questionnaire on OECD Competition Division: Survey on general statistics for year 2018 and also provided response for the OECD/ ICN monitoring the OECD International Cooperation Recommendation survey.

151. 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.

152. During 2019-20, CCI officials participated in the following programmes:

1. Two officers participated in Competition Law Workshop on Vertical Restraints organised by OECD-KPC during 4th-6th September 2019 in Ulaanbaatar, Mongolia.
2. One officer participated in Workshop on Abuse of Dominance organised by OECD and the Italian competition authority (AGCM) during 10th-11th October 2019 in Rome, Italy.
3. Two officers participated in Competition Law Workshop on Competition Issues in light of Digitalization organised by OECD-KPC and Japan Fair Trade Commission during 16th-18th October 2019 in Tokyo, Japan.

4. Chairperson and Adviser participated in OECD Competition Committee Meeting, Working Party Meeting & Global Forum on Competition during 2nd-6th December 2019 in Paris, France.

6.3.4. United Nations Conference on Trade and Development

153. CCI 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 2019-20, is as follows:

- Two officers participated in UNCTAD e-Commerce Week during 1st-5th April 2019 in Geneva, Switzerland.
- Two officers participated in the 18th Session of Intergovernmental Group of Experts (IGE) on Competition Law and Policy during 10th-12th July 2019 in Geneva, Switzerland.

6.4. International delegations received by the Commission

154. In order to get exposure to best practices, CCI invites experts from foreign competition agencies/mature jurisdictions to share their experiences in the field of competition law and economics. In the year 2019-2020, CCI has organised the following:

a In pursuance of the MoU, with the United States Federal Trade Commission (USFTC) and the Department of Justice (DoJ), the following visits were organised:

- Mr. Paul O' Brien and Mr. Jon J Nathan, counsels USFTC were on secondment with CCI during 23rd-27th September 2019 under the US-India MoU on Antitrust Cooperation. USFTC officials also conducted a session on the topic "FTC in Digital Age" for CCI officials on 27th September 2019.
- Ms. Christine Wilson, Commissioner, USFTC called on Mr. Ashok Kumar Gupta, Chairperson, CCI at CCI Office, New Delhi on 13th November 2019. Ms. Wilson also interacted with Commission Members and its Officers and shared her views on antitrust enforcement in high tech industries.
- Mr. Jon J Nathan, Counsel, Office of International Affairs, USFTC visited CCI under the US-India MoU on Antitrust Cooperation on 14th November 2019.
- One officer from CCI was sent on secondment to USFTC from 12th November to 27th December 2019 in Washington DC, USA. Officer was given exposure to the casework and best practices.
- Mr. Nathan Wilson, Economist, USFTC conducted sessions on "Working of Economics Bureau and Challenges faced by it" and "An Economist take on Digital Economy Enforcement" on 5th March 2020 at CCI Office.

b Technical cooperation programme under the EU-Competition Cooperation Project in Asia commenced in 2018. 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 2019-20, the following programmes were organised:

- Competition Summer School (CSS): A two-week course for five CCI officials together with officials from other partner countries was organised during 1st - 12th July 2019 at Bruges, Belgium.

- Second EU-India Competition Week (CW): The CW was organised during 9th-11th December 2019 at CCI, New Delhi, India. The Competition Week commenced with opening remarks from Mr. Ashok Kumar Gupta, Chairperson, CCI and Mr. Ugo Astuto, Ambassador of the European Union to India, Delegation of the European Union to India and Bhutan, New Delhi. The CW provided exposure to CCI officers with respect to international best practices and proved to be an important programme under CCI's capacity building initiatives.
- EU Visitors Programme: An officer of CCI participated in the programme at Director General Competition, European Commission during 1st October 2019 to 31st December 2019 at Brussels, Belgium.

7. Advocacy Efforts

155. To achieve the objectives as enunciated in the Act, and the mandate enshrined under Section 49 of the Act, CCI undertakes advocacy programmes to reach out to a wide spectrum of stakeholders. This becomes imperative as competition law cuts across all sectors of the economy and is equally vital for all sectors. Moreover, the Indian competition law is founded on the principle of competitive neutrality and does not differentiate between government and non-government entities. Thus, even the Central and State Governments also fall within the ambit of the competition law of India.

156. In this pursuit, the Commission undertakes various advocacy measures at different levels to cater to the need of wide array of stakeholders, which *inter alia* includes the following:

- Proactively engaging with Trade Associations/Trade Chambers to understand nature and functioning of various product markets on one hand and to educate them about the architecture of the competition law and importance of compliance of the same.
- Offering internships to students of Law, Economics, Management, Regulatory Governance and professional courses in Accountancy & Company Law on calendar month basis throughout the year and encouraging them with handsome stipend.
- Sponsoring Moot Court Competitions on various aspects of Competition Law and Policy.
- Regularly conducting competition advocacy programmes with universities, research institutes, administrative, judicial academies, state governments and public sector undertakings.
- Publishing quarterly newsletter "Fair Play" and other advocacy material and regular updating thereof.
- Organising Roadshows to enhance the Commission's outreach and visibility among the wide array of stakeholders (2 Roadshows were organised in 2 major cities, viz. Hyderabad and Mumbai during the year 2019-20).
- Conducting advocacy programmes to build capacity of various stakeholders.

157. Notably, during 2019-20, 105 such advocacy programmes/initiatives were undertaken by the Commission.

7.1. New initiatives undertaken during the period are as under:

a To mark its Decadal Journey (2009-2019) the Commission organised a function ‘Ten Years of Competition Law Enforcement’ on 23rd August 2019 at DRDO Auditorium, New Delhi. The occasion was graced by Ms. Nirmala Sitharaman, Hon’ble Minister of Finance and Corporate Affairs as Chief Guest and Mr. Anurag Singh Thakur, Hon’ble Minister of State for Finance and Corporate Affairs as Guest of Honour.

b A video on “Ten Year Journey of Competition Commission of India” was launched in English and Hindi languages and launched on the occasion of Decadal journey celebration.

c To promote implementation of Competition Law among the States, the Commission launched State Resource Person Scheme (SRPS). Under this scheme, Resource Persons are appointed by Nodal Officers (State Government Official) to coordinate and facilitate Resource Person’s efforts for propagation and dissemination of competition law by organising awareness programmes, undertaking competition assessment of policies/legislations and studying of tender documents.

d Commission organised a “National Conference on Economics of Competition Law” in March 2020.

e Commission has undertaken competition study of Telecom Sector which is under progress.

f Competition assessment exercise of various legislations is underway with the help 17 empanelled institutions.

g Draft Consultation Paper on “Competition and Block Chain” has been prepared and is under review.

h To enhance awareness in various regions/States of Country, Advocacy Booklets were published in two other regional languages -Marathi and Bengali.