

Competition Law Bulletin

From the Editor's Desk...

Dear Reader,

Season's Greetings!

Competition Commission of India (CCI) is soon to complete 5 years.

In these 5 years CCI has established an image of a strong economic regulator with heavy penalties imposed mostly on the private sector. However, the recent order of CCI imposing a heavy penalty on Coal India Limited (₹ 1773 Crores) for its abuse of its dominant position (featured in the previous edition) will hopefully send a warning signal to all PSUs and will reinforce the principle of "competitive neutrality" in India in the times to come.

Another noticeable trend is that out of over 300 cases filed before CCI for alleged anti-competitive practice or abuse of dominance position by large enterprises, a large number of cases (216) were closed at the prima facie stage and 57 cases were closed after investigation by the Director General (DG). Thus violations of the Competition Act, 2002 (Act) were found only in 41 cases and of this, penalty was imposed only in 29 cases. This shows a conviction rate of say, 9-10%, which, apart from showing a careful scrutiny by CCI, indicates an unhealthy trend of filing frivolous complaints either by the unsatisfied individual consumers confusing CCI as another Consumer Dispute Redressal Forum for settling of scores by competitors. This needs to be curbed if CCI is to play its main role of bringing a competition culture in Indian markets.

Another news which draws attention relates to the recommendations by the Parliamentary Standing Committee on Finance to the lower House of Parliament rejecting the proposal to empower the Chairman, CCI to approve "search and seizure" by the DG during the investigation (similar to the infamous "dawn raid" in the West) in the Competition Amendment Bill, 2012 under consideration by the Parliament.

In this issue, the recent Amendment in the "Combination" (mergers and acquisitions) Regulations, 2011 on March 28, 2014 is a special feature for our readers. The recent Order by CCI in the Hirandani Hospital case that seeks to broaden the scope of agreements between Hospitals and other medical service providers, which may not be vertically integrated with the hospital, is included On the appellate side the decision by COMPAT refusing to interfere in the Jet -Etihad merger on grounds of lack of locus standi and the Order in Schott Glass case are briefly mentioned.

We have now decided to change over to more frequent, monthly updates on competition law in India and you will be happy to read our bulletins in a new format and style from June, 2014 onwards. This is my last address through this editorial.

Happy reading!

Yours truly,



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Inside...

INDIAN PERSPECTIVE

◆ Special Feature:

- Combinations: CCI further amends Combination Regulations
- Enforcement: CCI fines Google for not cooperating in DG Investigation
- Combinations: CCI fines Eithad for Gun Jumping
- ◆ CCI passes orders on closure of certain matters
- ◆ CCI approves 22 more 'Combinations' within 30 days
- ◆ Media updates

INTERNATIONAL NEWS

◆ European Union

- EC fines producers of high voltage power cables € 302 million for operating a cartel
- EC adopts revised competition rules for the assessment of Technology Transfer Agreements
- EC fines producers of car and truck bearings \$1.3 billion
- EU General Court confirmed the lawfulness of the EC's requests for information in the framework of the cement cartel
- EC fines two power exchanges € 5.9 million in cartel settlement
- EC fines Romanian Power Exchange OPCOM for discriminating against EU electricity traders
- EC fines foam cartel €114 million
- EC fines Johnson & Johnson and Novartis over € 16 million for delaying market entry of generic drug

Others

◆ Australia:

- ACCC takes action against Pfizer Australia for alleged anti-competitive conduct
- Mitsubishi Electric fined for resale price maintenance

◆ Brazil: CADE fines companies for cartelization

◆ Canada: Panasonic fined \$4.7 million for rigging bids

◆ Japan: Japanese bearings manufacturer fined \$4.5 million for cartelization

◆ Denmark

- Danish Competition Authority (DCA) grants first ever immunity in a cartel case
- Coss fined for resale price maintenance
- Driving Schools fined for cartelization

◆ Germany: The Federal Cartel Office (FCO) imposes heavy fines on cartelization

◆ Italy: Roche and Novartis fined over € 180 million for cartelization:

◆ Malaysia: Ice Manufacturers fined for cartelization

◆ Pakistan: Competition Commission of Pakistan (CCP) offers rewards for whistle-blowing

◆ Taiwan: FTC fined Apple NT\$ 20 million for restricting iPhone re-sale pricing

◆ United Kingdom: OFT accepts commitments from Hotel and Online Travel Agents

◆ United States: DOJ announces first ever antitrust extradition in Marine Hose Case

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INDIAN-PERSPECTIVE

SPECIAL FEATURE

1. CCI further amends Combination Regulations

In exercise of the powers conferred by Section 64 of the Act, CCI by way of a Notification dated March 28, 2014, has further amended the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011. The major changes are as under:



Regulation 5: Substance of proposed combinations to be considered: A new Sub-Regulation (5) to Regulation 9 has been inserted, which clarifies the position that while considering a combination; CCI would focus on the “substance” of the proposed combination rather than its “structure”. This means that, the CCI will disregard the structure and consider the intent of the transaction. This provision is similar to the General Anti Avoidance Rule (GAAR to minimize tax avoidance proposed in the Union Budget for 2012-13) to be implemented from April 2016. This provision is intended to restrict clever maneuvering by companies to avoid notice to CCI when due.

- a) **Regulation 11: Increase in Filing Fee:** CCI has increased the fee for notifying combination before CCI as mentioned:

Old Filing Fee	Amended/Revised Filing Fee
Form I – 10 Lakhs	Form I – 15 Lakhs
Form II – 40 Lakhs	Form II – 50 Lakhs

- b) **Schedule-I pruned down to remove exemption to overseas transactions** - Category 10 in the Schedule I (list of transactions not ordinarily likely to have adverse effect on competition) which almost exempted transactions taking place entirely outside India with insignificant local nexus and effect on markets in India, has been deleted.
- c) **New requirement in Form I:** A new Paragraph 6.8 in Form I has been inserted. According to this, the parties to the combinations have to furnish details related to

whether the proposed combination is subject to filing requirements in other jurisdictions. This will mainly concern overseas acquisition and mergers by Indian enterprises.

- d) **New requirement in Form II:** Paragraph 8.2 has been substituted with a new insertion that requires parties to combination to provide the details of their asset & turnover as per their audited annual accounts of (immediate) preceding two financial years instead of a financial year earlier.

(Source: CCI Notification dated March 28, 2014).

2. Enforcement: CCI fines Google for not cooperating in DG Investigation



CCI by way of its order dated March 26, 2013, has fined Google ₹ 10 million for not cooperating with the DG Investigation by not providing the complete

information as sought by DG for the purpose of investigation.

Facts of the Case

Consim Info Private Limited and Consumer Unity & Trust Society (CUTS) approached CCI alleging abuse of dominant position by Google under Section 4 of the Act. The Informants alleged that Google is abusing its dominant position by practices like search bias, search manipulation, denial of access and creation of entry barriers for competing search engines. CCI by way of order dated April 3, 2012 and June 20, 2012 referred the matter for DG Investigation.

Investigation by DG

While conducting the investigation, the DG sought certain information and documents from Google by way of seven separate notices. DG alleged that Google did not furnish the information as requisitioned. Accordingly, the DG reported the matter to CCI seeking initiation of proceedings under Sections 43 and 45 of the Act. On recommendation by DG, CCI observed that the Google shown an attitude of either withholding the information or

furnishing only a part of the information. The DG proposal for initiation of penalty proceedings was considered by the CCI in its ordinary meeting held on February 13, 2014 wherein it was observed that Google have not supplied complete information/ documents as sought for by the DG. On the basis of that, CCI issued a show cause notice to Google under Section 43 of the Act.

Reply filed by Google

Google filed a written response to the show cause notice and argued that it has provided the information/ replies to all the notices issued by DG. Further, Google put every effort to engage frequently with the DG, including facilitating direct interactions with its employees (often located overseas) who were best placed to explain the highly technical issues that form part of the investigations. It was further argued that, Google is a global organization with offices all over the world. There is no single central database from which to source all the information sought by the DG and the information sought is seldom "off the shelf". As such, responding to information requests has often required extensive work to be undertaken by Google employees located in different countries, departments, divisions and roles, across multiple time-zones.

Order of the CCI

- On the issue of widening the scope of investigation by DG, CCI held that the scope of the investigations is very broad and encompasses various aspects relating to Google's policies with respect to online search advertising.
- Google failed to comply with the directions given by the DG. Despite liberal indulgence shown by the DG, Google engaged in dilatory tactics in order to procrastinate and prolong the investigations without any justifiable reason.

Law casts an obligation upon the party to comply with a direction, the same needs to be complied with in the manner and the time stipulated therein. Every failure to comply with the directions and requisitions constitutes a separate ground for imposition of penalties. The period of failure to comply commenced

w.e.f. February 26, 2013 in terms of the first notice of the DG dated February 12, 2013

- Google failed to comply fully with the various notices issued by the DG on different occasions. Despite reminders and opportunities extended by the DG, Google advanced frivolous and vexatious pleas to delay and avoid compliance.
- Taking into consideration the totality of the facts and circumstances of the case, CCI imposed fine upon Google by taking only one instance of non-compliance. CCI further observed that, if Google failed to comply with the directions of the DG in future, each instance of non-compliance shall be taken separately besides considering the same as aggravating factor for the purposes of imposition of fine.

In view of the above observations, CCI decided to impose a fine of ₹ 10 million on Google for not providing the complete information as sought by DG for the purpose of investigation.

(Source: CCI Order dated March 26, 2014).

3. Combinations: CCI fines Eithad for Gun Jumping



"Gun jumping" is a colloquial term used by competition authorities worldwide which refers to unlawful pre-merger coordination between the

parties to an M&A transaction. It can occur in two distinct contexts. First, procedural gun jumping occurs when the merging parties fail to observe mandatory pre-merger notification and waiting period/clearance requirements under the Competition Act, 2002. Second, when the merging parties are competitors, gun jumping can occur as a form of substantive antitrust offence where the parties coordinate their competitive conduct prior to the actual consummation of the transaction. It is the act of prematurely completing, or taking certain steps towards integrating the businesses. If they proceed with integration, without the CCI clearance, the parties may be

liable to a penalty which may extend to one per cent. of the total turnover or the assets, whichever is higher, of such a combination. *Jet- Etihad is the first precedent in India where a penalty has been imposed on the acquirer for gun jumping.*

Facts of the Case

On May 1, 2013, CCI received a notice Section 6(2) of the Act given by Etihad Airways PJSC (Etihad) and Jet Airways (India) Limited. The notice was given to the CCI pursuant to an Investment Agreement, a Shareholder's Agreement and a Commercial Co-operation Agreement (CCA), all executed on April 24, 2013. The Parties sought CCI approval for the acquisition of 24 percent equity interest in Jet by Etihad. As per the information provided by the Parties, they had also entered into agreements on February 26, 2013 regarding sale of three landing/ take-off slots of Jet at London Heathrow Airport to Etihad; and lease of the same slots back to Jet (LHR Transaction). CCI by way of its order dated November 12, 2013 approved the Combination.

Initiation of proceeding under Section 43(A) of the Act

Based on the information provided by the Parties and that available in the public domain, the CCI on October 18, 2013, issued a show cause notice to Etihad under Regulation 48 of the Competition Commission of India (General) Regulations, 2009 read with Section 43A of the Act. CCI notice stated that the Parties consummated and implemented certain parts of the composite combination viz. LHR Transaction and CCA; without seeking approval from CCI under Section 6(2) of the Act. The Parties filed their response to the notice on October 28, 2013

Observations by CCI

Upon hearing the parties, CCI observed that:

- Even assuming LHR Transaction as an independent transaction, the Parties ought to have given a separate notice to CCI under Section 6(2) of the Act as the LHR transaction as an independent transaction, is not covered within the scope of Item 3 and Item 10 of Schedule I to the Combination Regulations.
- Parties implemented CCA before giving notice to CCI

and continued with certain actions that were in conjunction with some of the obligations envisaged under the CCA without awaiting the approval of CCI.

Section 6(2) of the Act requires any person or enterprise, who or which proposes to enter into a combination, to give notice to the Commission disclosing the details of the proposed combination, within the time prescribed therein.

Order by CCI

Under Section 43A of the Act, if a company fails to give notice to the CCI of the proposed Combination, the CCI shall impose a penalty which may extend to one percent of the total turnover or the assets, whichever is higher, of such a combination. CCI observed that in the instant case, one percent of the combined value of turnover of the Parties is more than ₹ 400 crore and one percent of the combined value of asset of the Parties is more than ₹ 700 crore. While imposing the penalty, CCI observed that the conduct of the parties and the circumstance under which the parties failed to give notice should be taken into consideration. CCI limited the penalty due to certain mitigating factors including:

- Parties had made full disclosure of all the other transaction agreements entered into between them, from which CCI had observed the non-compliance;
- The parties were under the impression that the LHR Transaction constituted an independent transaction; and
- While CCA was notified to CCI within the statutory time frame, parts of it were implemented while approval from CCI was pending.

Based on these mitigating factors, CCI imposed a token penalty of ₹ 1 crore on Etihad.

(Source: CCI Order dated December 19, 2013).

CCI passes orders for closure of certain matters

CCI has passed final orders in 308 cases filed under Section 3 and 4 of the Competition Act and 22 cases of investigations transferred from the erstwhile Director General of Investigation & Registration (DGIR). The full texts of the said orders are duly displayed on CCI website www.cci.gov.in.

Section 26(1)	19
Section 26(2)	219
Section 26(6)	57
Section 27	42

CCI approves 22 more 'Combinations' within 30 days

Keeping its promise of fast track disposal of merger regulations, CCI has approved 22 more Combinations between December 2013 - April 2014, within 30 days from the date of filing of Notice under the Combination Regulations, 2011 holding in each case that the proposed 'Combination' was not likely to cause an appreciable adverse effect on competition in the relevant markets in India. Since June 2011 till date, CCI has approved 157 combinations. Full text of the orders can be viewed on the CCI website www.cci.gov.in.

Media Updates

CCI investigating cable manufacturer cartel

CCI is investigating allegations that 37 signaling cable manufacturers colluded to rig bids for tenders issued by North Western Railway. The



Information was filed by Chief Material Manager of North Western Railway, alleging that companies participating in tenders for procurement of signaling cables had acted in concert and quoted higher prices. CCI after forming the prima facie opinion referred the case for DG investigation.

(Source: The Economic Times dated April 18, 2014)

CCI fines ITPO for market abuse

CCI has fined the state-owned Indian Trade Promotion Organisation (ITPO) 67.5 million rupees for abusing its dominant position in the market for event and exhibition



services. ITPO is a Government agency to promote external trade and it accords approvals for holding of international trade fairs in India and abroad. CCI held that ITPO imposed time gap restrictions for trade shows and gave preferential treatment to its own fairs over competing fairs at Pragati Maidan. Further, ITPO by stipulating favourable time gap restrictions for its own events as compared to third-party organised events has abused its dominant position. The CCI also found that ITPO imposed discriminatory conditions on other organisers by taking a long time to confirm allotment dates and did not consider applications on a first-come-first-serve basis. It incorporated unfair conditions in agreements entered with other organizers in case of cancellation or re-scheduling of events.

(Source: CCI Order dated April 03, 2014)

CCI fines DLF ₹ 2.41 crore for non compliance



The Informant in the Case No. 67/2010, filed an application with CCI under Section 42 of the Act

alleging DLF for not complying with the final order dated January 31, 2012 passed by CCI in Case No. 67/2010, wherein the CCI had passed a "cease and desist" order. DLF sent a demand letter to the members of the applicant association wherein DLF has demanded exorbitant sums even amounting to ₹ 1.27 crore from the members/allottees under the garb of "super area, a concept declared illegal and abusive by the Commission and imposition of the same by DLF has been restrained by the "cease and desist" order of the CCI. CCI held that DLF had contravened the order of CCI by issuing the impugned demand letters dated November 28, 2012 and DLF failed to show any reasonable cause, for non-compliance of the aforesaid order. CCI decided to impose a penalty of ₹ 2.41 crore on DLF for not complying with the order passed by CCI.

(Source: CCI Order dated March 26, 2014)

CCI closes case against State Bank of India (SBI)

The Information was filed by a Non-Profit Voluntary Organization, Concern for Citizens, alleging abuse of dominance against SBI in the market of car loan.



Informant alleged that SBI is abusing its dominant position by not informing the car loan borrowers in advance what papers and forms are to be signed for availing a loan and compelling them to sign various standard forms containing one sided terms and conditions in the presence of its officials within its premises. CCI observed & held that though SBI appears to be one of the leading players in vehicle loan segment, it cannot be considered as a dominant enterprise in the relevant market as vehicle loan market in India is very competitive. CCI held that no prima facie case is made out against SBI under the provisions of Section 4 of the Act.

(Source: CCI Order dated April 2, 2014)

Airlines again under CCI scanner for price fixing

CCI has started an investigation into airfare pricing after finding that airlines were selling seats at nearly identical prices that offered little



choice to travelers. CCI has sent a letter to all domestic airlines seeking details on the way they priced their fares. CCI also indicated that the fares were steep and asked airlines to provide details of the average cost on four routes—New Delhi-Mumbai-New Delhi, New Delhi-Bangalore-New Delhi, New Delhi-Hyderabad-New Delhi and New Delhi-Pune-New Delhi—for 2012-13 and 2013-14.

(Source: The Mint dated April 2, 2014)

COMPAT set aside CCI order in Schott Glass case

COMPAT by way of its order dated April 2, 2014 has set aside the findings of CCI as against Schott Glass in CCI Case No. 22/2010. In



March 2012, CCI imposed a fine of ₹ 5.66 Crores on Schott Glass for abusing its dominant position by imposing unfair and dissimilar discounts which has resulted in an adverse impact on the converters in the downstream market. Aggrieved by the CCI order, Schott Glass filed an appeal before COMPAT. Kapoor Glass also filed the cross appeal against CCI order for enhancement of penalty. After relying heavily on the Minority Order passed by Geeta Gouri, Member in Case No. 22/2010, COMPAT observed that the functional discount policy adopted by Schott Glass has been applied uniformly to all the Converters at the same flat rate since its inception and was non-discriminatory. On the issue of cross examination, COMPAT observed that CCI should accept the parties application for cross examination even at the stage of final inquiry and should not insist parties for making a separate application before DG at earlier stage. Interestingly, COMPAT inflicted the cost of ₹ 1,00,000 against M/s. Kapoor Glass for lack of bona fides.

(Source: COMPAT Order dated April 02, 2014).

COMPAT dismisses Jitendra Bhargava's plea against Jet-Etihad deal:



The Competition Appellate Tribunal (COMPAT) by way of its order dated March 27, 2014, dismissed the appeal filed by Former Air India executive director, Jitendra Bhargava,

challenging CCI approval for the ₹ 2,060 crore Jet-Etihad deal. COMPAT held that the Appellant does not have "locus standi" as the Appellant cannot be termed as a 'person aggrieved' within the meaning of section 53B (1) of the Competition Act, 2002 by the approval of deal by CCI.

(Source: The Economic Times, March 27, 2014)

Delhi High Court stayed CCI investigating against JCB over sham litigation



CCI has initiated an investigation against JCB India Ltd and J.C. Bamford Exavators Ltd (JCB) for alleged abuse of dominance pursuant to information filed by Bull

Machines Pvt Ltd. (Informant). In November 2011, JCB alleged before the Delhi High Court that Informant had infringed the design registrations/ copyright of JCB in developing the backhoe loader 'Bull Smart' and thereby obtained an ex-parte ad interim injunction against the Informant. Informant filed Information before CCI alleging that the said ex-parte ad interim injunction was obtained by JCB based on misrepresentation of images/ design registration number/ documents and reliance upon fraudulent design registrations which were pre-existing in the public domain. CCI prima facie observed that JCB is a dominant player in the relevant market with more than 75% of market share. CCI further observed that predation through abuse of judicial processes presents an increasingly threat to competition, particularly due to its relatively low anti-trust visibility. CCI has directed Director General (DG) to conduct an investigation into the matter. Aggrieved by the prima facie order, JCB approached Delhi High Court challenging the jurisdiction of CCI. Delhi High Court by way of its order dated April 04, 2014 in WP (C) No.2244 of 2014 restrained the CCI & DG from passing any final order or preparing an investigation report in the CCI Case No. 105/2013 till the question of the CCI jurisdiction is decided by the court.

(Source: CCI Order dated March 11, 2014 and Delhi High Court Order dated April 4, 2014).

CCI investigating ICAI over unfair and discriminatory Education Scheme

CCI has initiated an investigation against Institute of Chartered Accountants of India (ICAI) for alleged abuse of dominance pursuant by imposing unfair and discriminatory conditions with respect to its Continuing Professional Education (CPE) Scheme. The Informant alleged that CPE policy of the ICAI does not allow any other organization to provide the service of organizing CPE seminars other than the ICAI's recognized Program Organizing Unit (POU). CCI prima facie observed that ICAI being a dominant player, by not allowing any other organization to conduct the CPE seminars for CPE credits, created an entry barrier



for the other players in the relevant market. The restriction does not meet the objectives sought to be achieved by the policy. CCI further observed that ICAI, as a regulator of the accounting profession, has all the powers to prescribe a policy for continuous up-gradation of its members through the CPE Policy and recognition of POU, however, on its non-regulatory function of organizing CPE Seminars, restricting the same only to itself and its organs, prima facie appears to be an arbitrary exercise of its powers. CCI has directed Director General (DG) to conduct an investigation into the matter.

(Source: CCI Order dated February 28, 2014).

CCI investigating Indian Railways & IRCTC for abusive practices



CCI has initiated an investigation against Indian Railways & IRCTC (IR) for abusing its dominant position. Informant alleged that IR is abusing its dominant position by charging premium on the e-ticket price, non-refundable service charge imposed on e-ticket, no concession on online

booking, Unfair and discriminatory cancelation and clerkage charges, Compulsory food in Rajdhani and Shatabdi Express, charging unreasonable fees for appointment as IRCTC agents, long-term contracts for food vendors at railway stations and inadequate public information system. CCI prima facie observed that due to the statutory and regulatory framework, the dominance of Indian Railways in this market is indisputable. Further, CCI observed that the above allegation against IR appears to be abusive in contravention of the provisions of Section 4 of the Act. CCI has directed Director General (DG) to conduct an investigation into the matter.

(Source: CCI Order dated February 28, 2014).

Supreme Court upheld the findings of COMPAT & CCI against Motion Pictures Association



Supreme Court of India (SC) by way of its order dated February 19, 2014 in Civil Appeal No. 6632-6639 of 2013, dismissed the batch of

appeals filed by Motion Pictures Associations against the order passed by CCI & COMPAT. SC while endorsing the findings of COMPAT held that, the instructions and dictates issued by the Associations directing their members not to deal with the non-members are clearly illegal, unethical arbitrary and unconstitutional practice, which manifestly interferes with the non-members to carry on their profession and trade which is their fundamental right under Article 19(1)(g) of the Constitution of India. SC further held that, Associations have been enjoying the position of strength and by virtue of the same they are able to influence the cinema exhibitors in their area and thus the Associations enjoy extra-judicial authority by compelling to boycott the particular distributor who refuse to become their member or not register his film with such Associations. The CCI & COMPAT have extensively recorded how the Associations have been indulging in arbitrary and unlawful activities which clearly are illegal and hence, it is a fit case not to interfere.

(Source: Supreme Court of India order dated February 19, 2014).

CCI imposes penalty on two chemists and druggist association and its office bearers for anti-competitive practices

- **Chemists and Druggists Association, Ferozepur (CDAF):** CCI has imposed a penalty of ₹ 55.42 lakhs on CDAF and its office bearers.



Penalty has been imposed on the basis of information filed by M/s Arora Medical Hall, Ferozepur alleging that the CDAF had imposed conditions to take an NOC and Letter of Credit from the CDAF. Further, CDAF directed its members to stop purchasing goods from the Informant by way of its resolution dated May 26, 2012. CCI held that the acts of the CDAF were anti-competitive and the conduct needs to be penalized to act as a deterrent in future for any other association/office bearer who engaged in such type of actions. CCI has imposed the penalty on the basis of 10% of the average income/receipts on the Association and its office bearers amounting to a total of ₹ 55.42 lakhs. The

CDAF case marks the first instance in which CCI, apart from the association, also penalized seven senior officers of the association who are directly responsible for running its affairs and play lead role in decision making.

(Source: CCI Order dated February 2, 2014).

- **Bengal Chemist and Druggist Association (BCDA):** CCI has imposed a penalty of ₹ 18.38 Crores on Bengal Chemist and Druggist Association (BCDA) and its office bearers for anti-competitive practices. The Informant, Dr. Chintamani Ghosh, Director, Directorate of Drugs, West Bengal alleged that BCDA is engaged in issuing anti-competitive circulars directing the retailers not to give any discount to the consumers. CCI held that, the activities of BCDA inter alia to direct its members to sell drugs only at their MRP is a palpable anti-competitive conduct which cannot be justified on the ground that most of the members of the BCDA would be ruined if competitive forces are allowed to operate in the market. CCI decided to impose a penalty on the BCDA and its those office bearers who were directly responsible for running its affairs and play lead role in decision making on the basis of 10% and on the executive committee members on the basis of 7%, of their respective turnover/income/receipts.

(Source: CCI Order dated March 11, 2014).

Parliamentary Standing Committee rules out giving search and seizure powers to CCI Chairman

On December 10, 2012, the Competition (Amendment) Bill, 2012 was introduced in the Lok Sabha and was subsequently referred to the Parliamentary Standing Committee (PSC) on Finance on December 21, 2012. PSC laid down its recommendations before the Lok Sabha on February 17, 2014. The Committee obtained views/comments from CCI, Ministry of Corporate Affairs and various other stakeholders such as FICCI, CII and ASSOCHAM. On the issue of granting the Chairman, the power to approve 'search & seizure', the PSC recommended that the Bill seeks to remove the need for the Magistrate's permission, and instead empower the CCI Chairman to authorise such an operation. Noting the fact

that CCI has never conducted search and seizure operations, the Committee recommended that current safeguards governing these operations be maintained.

(Source: 83rd Report of Standing Committee on Finance on Competition (Amendment) Bill, 2012 dated February 17, 2014)

CCI imposes penalty on three railway part manufacturers for bid rigging

CCI has imposed a penalty of ₹ 62.31 crore (at the rate of 2% of the average turnover) on Stone India Ltd, Faiveley Transport Rail Technologies India Ltd and M/s Escorts Ltd for forming a Cartel by way of rigging bids with respect to a tender floated by Indian Railways to procure feed valves used in diesel locomotives. CCI held that the identical price quoted the companies was a very strong indicator of formation of cartel in the absence of any economic justification. The same was supplemented by the fact that the manufacturing units of the three companies were located in different geographical locations and should have resulted in a difference in the cost of production. CCI also rejected the argument raised by companies that it is their first offence and hence, lenient view should be taken. CCI held that a distinction needs to be maintained between the "first time contraventions" and the "first time established contraventions". Based on the companies past conduct, the argument of leniency for being the first offender is not available to the companies. Accordingly, CCI held that companies by quoting identical rates had, indirectly determined prices/ rates in the tenders and indulged in bid rigging/ collusive bidding in contravention of Section 3(1) read with section 3(3) (a) and 3(3) (d) of the Act.

(Source: CCI Order dated February 5, 2014).

CCI imposes penalty on Hiranandani Hospital, Mumbai for anti-competitive practices

CCI has imposed a penalty of ₹ 3.8 crore (4% of the average turnover) on Dr. L.H. Hiranandani Hospital (Hospital) for entering into an anti-competitive exclusive agreement



with Cryobank International India. The Information was filed by Mr. Ramakant Kini alleging anti-competitive practices by the Hospital in not allowing any other stem cell bank to enter its premises to collect stem cell of the child except M/s Cryobank with whom it had an exclusive agreement. CCI observed that:

- The scope of Section 3(1) is independent of provision of Section 3(3) & 3(4). CCI is not supposed to enter into a discussion of market dominance under Section 3 of the Act but has to see if the agreement has anti-competitive effect in any market;
- CCI has to keep in mind the purpose for which the Competition Act was enacted, i.e. inter alia freedom of trade and consumers' interest must be protected.
- Long term exclusive agreements foreclose the competition and create entry barriers for competitors depriving the final consumers of not only the quality or price of services offered but also the choice of which service provider they would like to contract with.

CCI held that the exclusive arrangement between the Hospital and M/s Cryobank was anti-competitive being in contravention of the provisions of Section 3(1) of the Act as it had caused an appreciable adverse effect on competition in the stem cell banking market.

(Source: CCI Order dated February 5, 2014).

CCI finds no cartelization in steel industry



On January 9, 2014, CCI dismissed allegations of cartelization in the steel industry. The erstwhile M T R P C initiated the investigation against steel producers on the basis of news articles and the same was subsequently transferred to CCI. In 2010, CCI, based on the material available, formed a prima facie opinion and ordered an investigation by DG. DG did not find any cartelization for the period between 2007-08 to 2009-10 by steel makers. CCI after relying on the DG report and on basis of replies filed by the steel companies, as well as the customers of HR coils, concluded that there was no cartelization in the steel industry and closed the matter.

(Source: CCI Order dated January 9, 2014).

Delhi High Court sets aside the DG Investigation Report against Grasim

Delhi High Court in WP (C) No. 4159 of 2013 has set aside the DG Investigation Report



(Report) as against Grasim Industries Ltd in relation to the contravention of Section 4 of the Act. In 2011, CCI by way of its order dated June 22, 2011, formed a prima facie opinion and directed DG to investigate into the matter relating to the alleged cartelization by Man Made Fiber (MMF) Manufacturers. The DG finds no contravention relation to cartelization by MMF Manufacturers. However, DG in the Report held that Grasim has abused its dominant position in the Viscose Staple Fibre (VSF) market in contravention of Section 4(2)(a) & 4(2)(b) of the Act. Aggrieved by the finding of DG, Grasim filed an application before CCI seeking inter alia quashing and setting aside of the Report to the extent it pertains to the alleged violation of Section 4 of the Act on the ground that DG acted beyond the scope of its powers. The Court held that if the DG investigates an information which the CCI did not consider while forming the prima facie opinion, such an act on his part shall be ultra vires his power under the Act and, therefore, clearly illegal. Grasim didn't get any opportunity to defend himself before DG as far as the information alleging contravention of the provisions of Section 4 of the Act. However, nothing prevents CCI from treating the evidence collected by the DG as information under Section 19 of the Act.

(Source: Delhi High Court Order dated December 17, 2014).

Delhi High Court stayed the DG Investigation ordered by CCI against Ericsson

Delhi High Court in WP (C) No.1006 of 2014 filed by Ericsson restrained the CCI & DG from passing any final order or preparing an investigation report in the CCI Case No. 50/2013. On November 12, 2013, on a complaint



filed by Micromax, CCI ordered an investigation into the anti-competitive licensing of Ericsson's Standard Essential Patents (SEPs) for mobile communication. Aggrieved by the order of CCI, Ericsson approached the Delhi High

Court challenging the jurisdiction of CCI. Ericsson alleged that CCI has no jurisdiction to investigate the action of the Ericsson inasmuch as the Indian Patent Act itself provides adequate mechanism to balance the rights of patentee and other stakeholders. The Court held that prima facie the CCI has entered into an adjudicatory and determinative process by recording detailed and substantial reasoning at the Section 26(1) stage itself. Further, by virtue of the prima facie order by CCI, an investigation has been ordered into consent terms which had been approved by this Court. The Court restrained the CCI & DG from passing any final order or preparing an investigation report in the CCI Case No. 50/2013. Ericsson is ordered to cooperate with DG relating to furnishing of information. Further, the Court directed DG not to call any officer of Ericsson stationed abroad without taking specific leave of this Court. On appeal, the Division Bench of Delhi High Court in LPA 182/2014 upheld the order passed by Single Judge.

(Source: Delhi High Court Order dated January 21 and February 24, 2014).

CCI ordered investigation against the cartel by rail brake manufacturer

Railway Coach Factory (RCF), Kapurthala filed a complaint against two railway brake manufacturers, Knorr Bremse and Faiveley Transport for quoting identical prices for rail brakes' tenders floated for by the RCF, Kapurthala, Punjab. The Informant alleged that the two bids were totally identical on three occasions in 2011 when RCF floated emergency tenders. After noticing the identical rates and set pattern, the tender committee asked both the companies for a detailed breakup of items used. However, companies didn't share those details. After hearing the railway board, CCI directed the DG to investigate into the matter.

(Source: The Economic Times, January 13, 2014)

Government exempts Shipping Liners from the application of Competition Act



On December 11, 2013, in exercise of powers conferred by of Section 54(a) of the Act, the Central Government through the Ministry of

Corporate Affairs (MCA) issued a notification exempting Vessel Sharing Agreements (VSA) from the purview of Section 3 of the Act (anti-competitive agreements) for a period of one year from the date of the notification. The Notification allows shipping liners operating in India, both foreign and domestic, to enter into VSAs with each other, and is a limited extension of MCA's earlier notification dated September 19, 2012. The Central Government under Section 54 of the Act is empowered to exempt any class of enterprise from the application of the Act or any provision therein.

(Source: MCA Notification dated December 11, 2013)

INTERNATIONAL NEWS

European Union

European Commission fines producers of high voltage power cables € 302 million for operating a cartel

The European Commission (EC) has found that 11 producers of underground and submarine high voltage power cables operated a cartel, and has imposed fines totaling €301 639 000. Such cables are typically used to connect generation capacity to the electricity grid or to interconnect power grids in different countries. From 1999 onwards and for almost ten years, the companies shared markets and allocated customers between themselves on an almost worldwide scale. Most of the world's largest high voltage power cable producers, namely ABB, Nexans, Prysmian (previously Pirelli), J-Power Systems (previously Sumitomo Electric and Hitachi Metals), VISCAS (previously Furukawa Electric and Fujikura), EXSYM (previously SWCC Showa and Mitsubishi Cable), Brugg, NKT, Silec (previously Safran), LS Cable and Taihan, participated in the illegal agreements. ABB received full immunity from fines under the Commission's 2006 Leniency Notice.

(Source: European Commission: Press Release dated April 02, 2014)

EC adopts revised competition rules for the assessment of Technology Transfer Agreements

On March 21, 2014, the EC adopted a revised set of rules for the assessment of technology transfer agreements. The



revised rules facilitate such sharing of intellectual property, including through patent pools, and provide clearer guidance on licensing agreements that stimulate competition. The main features of the new rules are the following:

- The revised regime continues to reflect that licensing is in most cases pro-competitive.
- New guidance on "patent pools": Recognizing the often pro-competitive nature of patent pools, the creation of and licensing from patent pools now benefits from a safe harbour in the Guidelines.
- A more prudent approach on clauses that could harm competition and innovation: Certain types of clauses are no longer automatically exempted from antitrust rules but have to be assessed case-by-case. These are clauses which allow the licensor to terminate a non-exclusive agreement if the licensee challenges the validity of the intellectual property rights, and clauses that force a licensee to license any improvements it makes to the licensed technology to the licensor on an exclusive basis.
- The Guidelines also give guidance on settlement agreements in light of the Commission's recent experience.

(Source: European Commission: Press Release dated March 21, 2014)

European Commission fines producers of car and truck bearings \$1.3 billion



EC has found that two European companies (SKF and Schaeffler) and four Japanese companies (JTEKT, NSK, NFC and NTN with its French subsidiary NTN-SNR) operated a cartel in the market for automotive bearings. EC has imposed fines totaling \$1.3 billion. The companies colluded to secretly coordinate their pricing strategy vis-à-vis automotive customers for more than seven years, from April 2004 until July 2011, in the whole European Economic Area (EEA). JTEKT was not fined as it benefited from immunity under the Commission's 2006 Leniency Notice

for revealing the existence of the cartel to EC. NSK, NFC, SKF and Schaeffler received reductions of their fines for their cooperation in the investigation under the Commission's leniency programme. Since all companies agreed to settle the case with the Commission, their fines were further reduced by 10%.

(Source: European Commission: Press Release dated March 19, 2014)

General Court confirmed the lawfulness of the EC's requests for information in the Framework of the cement cartel

General Court (GC) confirmed that it is for the EC to decide what information it considers necessary to request from companies when investigating potential anticompetitive practices, as long as the EC can reasonably expect that the information would help it to determine whether the alleged infringement took place. In addition, the GC held that the EC is entitled to request undertakings to submit the requested information in a specific format. GC also acknowledged that EC is not obliged to have information establishing the existence of an infringement before sending a request for information. GC nevertheless takes the view that the time-limit of two weeks granted to Schwenk Zement to respond to the 11th series of questions is insufficient, so much so that the action brought by that company is partially accepted. The time-limit granted must, therefore, allow the addressee to give a substantive response, but also to ensure the complete, accurate and non-distorted nature of the information provided.

(Source: European Commission: Press Release dated March 14, 2014)

EC fines two power exchanges € 5.9 million in cartel settlement

EC has imposed fines totalling € 5 979 000 on the two leading European spot power exchanges, EPEX Spot ("EPEX") and Nord Pool Spot (NPS) for having agreed not to compete with one another for their spot electricity trading services in the European Economic Area (EEA). The infringement took place in the context of discussions to establish the Internal Energy Market (IEM), a Commission initiative aimed at fully integrating national electricity markets. When exploring a joint approach on the



technical systems to be used for cross-border trade, EPEX and NPS also agreed not to compete with each other and to allocate European territories between them. These agreements extended well beyond the legitimate purpose of the cooperation related to creating the IEM.

(Source: European Commission: Press Release dated March 05, 2014)

EC fines Romanian Power Exchange OPCOM for discriminating against EU electricity traders



EC has imposed a fine of just over € 1 million on S.C. OPCOM S.A. for abusing its dominant position in the Romanian market for facilitating electricity spot trading.

Between 2008 and 2013, OPCOM required members of the spot electricity markets to have a Romanian VAT registration, refusing to accept traders that were already registered for VAT in other EU Member States. As a result, EU traders could only enter the Romanian wholesale electricity market by setting up a fixed establishment in Romania, which entailed additional costs and organizational disadvantages for EU traders compared to Romanian traders. EC observed that discrimination on grounds of nationality or place of establishment is against the basic principles of the Single Market.

(Source: European Commission: Press Release dated March 05, 2014)

EC fines foam cartel €114 million

EC has found that the four major producers of flexible polyurethane foam - Vita, Carpenter, Recticel and Eurofoam - participated in a cartel and has imposed fines totalling € 114 077 000. Flexible polyurethane foam is mainly used in household furniture such as mattresses or sofas. The companies colluded to coordinate the sales prices of various types of foam for nearly five years, from October 2005 until July 2010, in 10 EU Member States. Vita was not fined as it benefited from immunity under the Commission's 2006 Leniency Notice for revealing the existence of the cartel to EC. Eurofoam (a joint venture between Recticel and Greiner Holding AG), Recticel and Greiner received reductions of their fines for their cooperation in the investigation under the Commission's leniency programme. Since all companies agreed to settle

the case with the EC, their fines were further reduced by 10%.

(Source: European Commission: Press Release dated January 29, 2014)

EC fines Johnson & Johnson and Novartis over € 16 million for delaying market entry of generic drug

EC has imposed fines of € 10 798 000 on the US pharmaceutical company Johnson & Johnson (J&J) and € 5 493 000 on Novartis of Switzerland. In July 2005, their respective Dutch subsidiaries concluded an anti-competitive agreement to delay the market entry of a cheaper generic version of the pain-killer fentanyl in the Netherlands, in breach of EU antitrust rules. The agreement provided strong incentives for Sandoz not to enter the market. Indeed, the agreed monthly payments exceeded the profits that Sandoz expected to obtain from selling its generic product, for as long as there was no generic entry. Consequently, Sandoz did not offer its product on the market. Fentanyl is a pain-killer 100 times more potent than morphine. It is used notably for patients suffering from cancer.

(Source: European Commission: Press Release dated December 10, 2014)

Others

Australia

- **ACCC takes action against Pfizer Australia for alleged anti-competitive conduct**

The Australian Competition and Consumer Commission (ACCC) has instituted proceedings in the Federal Court of Australia against Pfizer Australia Pty Ltd (Pfizer) for alleged misuse of market power and exclusive dealing in relation to its supply of atorvastatin to pharmacies in contravention of the Competition and Consumer Act 2010. The ACCC alleges that Pfizer offered significant discounts and the payment of rebates previously accrued on sales of Pfizer's Lipitor, conditional on pharmacies acquiring a minimum volume of up to 12 months' supply of Pfizer's generic atorvastatin



product for the purpose of deterring or preventing competitors in the market for atorvastatin from engaging in competitive conduct, as well as for the purpose of substantially lessening competition.

- **Mitsubishi Electric fined for resale price maintenance**

The Federal Court of Australia has ordered by consent that Mitsubishi Electric Australia Pty Ltd (Mitsubishi Electric) pay \$2.2 million in penalties for engaging in resale price maintenance. The Court found that on three occasions between 2009 and 2011, Mitsubishi Electric through the conduct of its senior managers:

- induced and attempted to induce one of its dealers, Mannix Electrical Pty Ltd (Mannix) not to sell Mitsubishi Electric branded air conditioning products at prices below a minimum specified price; and
- reduced the discounts Mannix had received from Mitsubishi Electric by terminating its 'dealer' status, for reasons including Mannix's failure to increase its prices of Mitsubishi Electric branded air conditioning products to the minimum specified price.

(Source: ACCC: Press Release)

Brazil

Brazil's Council for Economic Defence (CADE) fines companies for cartelization

- CADE condemned a big-rigging cartel in the air freight market. Skymaster Airlines Ltda., Transportes Aéreos Ltda, and two individuals were condemned by cartel formation in the public procurement held by the state-owned postal service ECT. CADE fines Skymaster in BRL 35 million and Beta Cargo in BRL 47 million, a total of around BRL 83 million in imposed fines. The two companies fixed prices and set advantages to hamper free competition in the public procurement promoted by the ECT in 2000 and 2001.
- CADE condemned the Union of Fuel and Oil Derivatives Transportation Companies of the State of Minas Gerais (Sinditanque-MG), and the institution's

former president, Juarez Alvarenga Lage, for influencing the uniform price adoption between competitors and for creating difficulties to fuel distribution companies' performance in the state. For the infractions, Sinditanque-MG will pay a fine of approximately BRL 319,000. The Union's former president, Juarez Alvarenga Lage, was condemned to pay a BRL 31,000 fine.

- CADE condemned 19 companies from the Federal District (DF) for cartel formation in the fire extinguisher commercialization and maintenance market. CADE also condemned the Federal District's Fire Protection Equipment Association (AEECI-DF) and two of its' directors for taking part on the anti-competitive conduct. The fines amount totalizes BRL 1.4 million.
- CADE condemned three companies and six employees connected to them for big-rigging cartel intended to hire garbage collection services in the cities of Santa Rosa, Bozano, São Paulo das Missões, and Estância Velha, in the state of Rio Grande do Sul (RS). The fines amount totalizes BRL 1.2 million.

(Source: CADE: Press Release)

Canada: Panasonic fined \$4.7 million for rigging bids



Following an investigation by the Competition Bureau, Panasonic Corporation was fined \$4.7 million by the Ontario Superior Court of Justice for its participation in a bid-rigging conspiracy. Panasonic pleaded guilty to two counts of bid-rigging under the Competition Act. Panasonic conspired with another Japanese motor vehicle components manufacturer to coordinate their respective responses and to agree on which party would win bids submitted in response to requests for quotations to supply Toyota Motor Manufacturing Canada Inc. with certain types of switches and sensors used in motor vehicles.

(Source: Canadian Competition Bureau: Press Release dated February 20, 2014)

Japan: Japanese bearings manufacturer fined \$4.5 million

NSK Ltd. (NSK), a Japanese bearings manufacturer,

pleaded guilty to two counts of bid-rigging under the Competition Act and was fined \$4.5 million by the Superior Court of Quebec in Gatineau for its participation in an international bid-rigging cartel. NSK's plea relates to automotive wheel hub unit bearings supplied to Toyota Motor Manufacturing Canada Inc. (Toyota) between 2007 and 2013. The evidence shows that NSK secretly conspired with JTEKT Corporation (JTEKT), another Japanese bearings manufacturer, to submit bids or tenders in response to requests for quotations to supply Toyota.

(Source: JFTC: Press Release dated January 30, 2014)

Denmark

- **Danish Competition Authority (DCA) grants first ever immunity in a cartel case**

DCA granted immunity to an undertaking and a natural person in the cleaning industry from sanctions in a cartel case for the disclosure of information regarding the cartel. It is the first time that the State Prosecutor for Serious Economic and International crime has granted immunity under the Danish leniency program. The cartel in the cleaning industry involved two undertakings and concerned a tender offered by the Capital Region of Denmark.

- **Coss fined for resale price maintenance**

On November 29, 2013, the company Coss (a Danish distributor of hair products) entered into a settlement with the Danish Competition and Consumer Authority and accepted to pay a fine of DKK 100.000 (€ 13,400). The infringement concerned the imposing of resale price maintenance to some of the company's dealers for a period of two months in 2013.

- **Driving Schools fined for cartelization**

In February 2014, the owners of five driving schools entered into a settlement with the State Prosecutor for Serious Economic and International Crime for infringing Section 6 of the Danish Competition Act by forming a cartel in which they fixed prices on driving lessons. The owners of all five driving schools were each fined DKK 25.000 (€ 3.333). The price fixing agreement has been announced on a joint website

under the name boulevard35.dk since 2010.

(Source: Danish Competition Authority: Press Release)

Germany: The Federal Cartel Office (FCO) imposes heavy fines on cartelization

- **Breweries:** FCO has imposed further fines amounting to 231.2 million Euros in its proceedings concerning illegal price fixing agreements for beer. The fines were imposed on the companies Carlsberg Deutschland GmbH, Radeberger Gruppe KG, Privat-Brauerei Bolten GmbH & Co. KG, Erzquell Brauerei Bielstein Haas & Co. KG, Kölner Hofbräu P. Josef Früh KG, Privat-Brauerei Gaffel Becker & Co. OHG, the regional trade association Verband Rheinisch-Westfälischer Brauereien e. V. as well as seven individuals personally involved. FCO had already imposed fines in early 2014 on five breweries and seven individuals personally involved which amounted to 106.5 million Euros.
- **Wallpaper Manufacturers:** FCO has imposed fines totalling around 17 million euros on four wallpaper manufacturers, their representatives and trade association on account of price fixing agreements. The proceedings were initiated with a sector-wide dawn raid in November 2010 following an application for leniency by Tapetenfabrik Gebr. Rasch GmbH & Co. KG, Bramsche, upon which no fine was imposed in accordance with the Bundeskartellamt's leniency programme.
- **Sugar Manufacturers:** FCO has imposed total fines of € 280m against the three major German sugar manufacturers Nordzucker, of Braunschweig, Pfeifer & Langen, of Cologne, and Südzucker, of Mannheim, and seven individuals. Nordzucker benefitted from a substantial reduction in its fine following a leniency application. The infringements involved the sale of sugar for the processing industry (so-called industrial sugar) and sugar for the end consumer (so-called retail sugar). They took place over several years up to the Bundeskartellamt's search in 2009 and in some cases date back to the mid '90s.

- **Breweries:** FCO has imposed fines totaling 106.5 million euros on the company's Bitburger Braugruppe GmbH (Bitburger), Krombacher Brauerei Bernhard Schadeberg GmbH & Co. KG (Krombacher), C. & A. Veltins GmbH & Co. KG (Veltins), Warsteiner Brauerei Haus Cramer KG (Warsteiner) and Privat-Brauerei Ernst Barre GmbH (Barre) as well as seven individuals personally involved on account of illegal price fixing agreements for beer. The proceedings were triggered by an application for leniency filed by Anheuser-Busch InBev Germany Holding GmbH (AB InBev), on which no fine will be imposed. Investigations are still ongoing against two further brewery groups. In joint meetings and bilateral contacts, the national breweries were the first to agree price increases and their order of magnitude for their draught and/or bottled beers.

(Source: Federal Cartel Office: Press Release)

Italy: Roche and Novartis fined over € 180 million for cartelization



On February 27, 2014, the Italian Competition Authority issued a decision finding that Roche and Novartis infringed Article 101 TFEU by participating in an anti-competitive agreement in the market for ophthalmic drugs used to treat some serious vascular eyesight conditions, including age-related macular degeneration (AMD). The companies were imposed fines exceeding EUR 180 million. Roche and Novartis set up a complex collusive strategy, with a view to avoiding that the commercial success of Lucentis be hindered by the ophthalmic applications of Avastin. Such efforts of the companies intensified since a growing number of independent comparative studies supported the equivalence of the two drugs in ophthalmic uses.

(Source: Italian Competition Authority: Press Release dated March 5, 2014)

Malaysia: Ice Manufacturers fined for cartelization

The Malaysia Competition Commission issued a decision to 26 ice manufacturers. The ice manufacturers were found to have infringed Section 4(2)(a) of the Competition Act, 2010 by entering into an agreement that has as its object to fix, directly or indirectly, the selling price of edible tube ice and the price of block ice in Kuala Lumpur, Selangor and Putrajaya.



(Source: Malaysian Competition Authority: Press Release dated February 20, 2014)

Pakistan: Competition Commission of Pakistan (CCP) offers rewards for whistle-blowing

CCP has issued Competition (Reward Payment to Informant) Regulations, 2014, in which CCP has bound itself to keep the confidentiality of the whistleblowers, to the extent that is consistent with its obligations under the Competition Act, 2010. CCP may grant reward ranging from Rs. 200,000/- (Rupees Two Hundred Thousand Only) to Rs. 2,000,000/- (Rupees Two Million Only), to informants furnishing the information of the prohibited activity and fulfilling all other requirements under these regulations.

(Source: Competition Commission of Pakistan: Press Release dated March 06, 2014)

Switzerland: WEKO opens investigation into Forex manipulation

The Swiss Competition Commission, WEKO, has opened an investigation into several Swiss, British and American banks including UBS, Credit Suisse, Zuercher Kantonal Bank, Julius Baer, JP Morgan, Citigroup, Barclays and Royal Bank of Scotland over possible collusion to manipulate foreign exchange rates. Competition Authorities around the world are looking closely at traders' behaviour on a number of key



benchmarks, spanning interest rates, foreign exchange and commodities markets. Eight financial firms have already been fined billions of dollars by US and European Competition Authorities in the past two years for manipulating benchmark interest rates and several more are being investigated.

(Source: The Reuters dated March 31, 2014)

Taiwan: FTC fined Apple NT\$ 20 million for restricting iPhone re-sale pricing



In December 2013, Taiwan Competition Authority fined Apple Asia LLC., Taiwan Branch, NT\$20 million (€486,000) for resale price maintenance. Apple entered into distribution contracts with major iPhone suppliers, i.e., Chunghwa Telecom, Far EasTone and Taiwan Mobile, pursuant to

which the telecom companies must submit their pricing plans (including cellphone prices with fixed-term subscription) to Apple Asia LLC., Taiwan Branch for its approval before new iPhone model was introduced into the market. FTC observed that Apple Asia LLC violated Article 18 of the Fair Trade Act for putting restrictions on the prices of Apple cell phones sold as part of cell phone plans.

(Source: Taiwan FTC Press Release dated December 2013)

United Kingdom: OFT accepts commitments from Hotel and Online Travel Agents to eliminate discount restrictions



On January 31, 2014, the Office of Fair Trading ("OFT") closed its hotel online booking investigation with no finding of infringement.

The investigation concerned restrictions on discounting by online travel agents ("OTAs"). Following a two-year investigation, in July 2012 the OFT issued a statement of objections alleging that Intercontinental and the online

travel agents had entered into anticompetitive agreements that restricted the online travel agents from discounting the rate at which "room only" (not part of a package with another travel product such as flights or car rental) hotel accommodation bookings are offered to consumers. On January 31, 2014, the OFT accepted commitments offered by the parties under investigation that will change their agreements to enable hotels and online travel agents to offer discounts on hotel room rates.

(Source: OFT: Press Release dated January 31, 2014)

United States: DOJ announces first ever antitrust extradition in Marine Hose Case

The Antitrust Division of the U.S. Department of Justice has for the first time successfully extradited a foreign national to stand trial for antitrust crimes in the United States. Romano Piscioti, an Italian national, was extradited from Germany on a charge of participating in a conspiracy to suppress and eliminate competition by



rigging bids, fixing prices and allocating market shares for sales of marine hose sold in the United States and elsewhere. This marks the first successfully litigated extradition on an antitrust charge. United States and Germany have had a mutual extradition treaty in place since 1980. This development demonstrates the DOJ willingness to pursue extraterritorial enforcement of U.S. antitrust law through litigation. (Source: US DOJ Press Release dated April 04, 2014)

Vaish Accolades

- Vaish associates has been awarded the **Law Firm of the Year** award for "*Competition /Antitrust Law*" and "*Taxation*" for 2013 by the Indian Business Law Journal.
- MM Sharma addressed a session on "*Competition Act-How it affects the Rubber Industry*" at the National Rubber Conference – 2014 organized by the All India Rubber Industries Association (AIRIA) at New Delhi on April 25, 2014.



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