

Competition Law Bulletin



Vol. III, No. 5, November-December, 2011

From the Editor's Desk...

Dear Reader,

We are happy to present the last issue of 2011 on the recent developments in competition law in India and abroad.

This has been the season for Seminars and Conferences on competition law in general and on Mergers and Acquisitions as essential feature of corporate restructuring, in particular. Delegates were privileged to listen to the views of Experts from foreign jurisdictions. The noticeable, being the 3rd International Conference on Competition Law held on November 25-26, which saw the largest congregation of foreign experts from neighbouring Pakistan to United States and Europe. Two Seminars on Corporate Restructuring and Mergers and Acquisitions organized by PHD Chamber of Commerce and ASSOCHAM, respectively, in the month of December, were also well received.

In this edition, as special feature, we are covering a recent Order of the Delhi High Court in the case of **Jindal Steel and Power Limited (JSPL) v. Union of India & Ors.** wherein the Hon'ble Delhi High Court has laid down the law on "forum-shopping" and the circumstances in which the plea can be considered. Similarly, the Order of the Competition Commission of India approving the intra group merger of **Tata Chemicals Ltd.** with its Mauritian subsidiary, which removes ambiguity regarding filing requirement for such intra group transaction is also covered.

We are keenly awaiting the announcement of the National Competition Policy, unveiled by **Dr. Verappa Moiley**, the Hon'ble Minister for Corporate Affairs in September, 2011, which generated a lot of debate and discussion, within and outside all the main Business Chambers, FICCI, ASSOCHAM and PHD- Chamber of Commerce. We hope that the Government will consider the comments sent by all the stakeholders before announcing the final Policy.

We hope that our bulletin continues to keep your interest in the developments in competition law. We invite your views on the same and look forward for your continued support.

Yours truly,

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INDIAN PERSPECTIVE

SPECIAL FEATURE

Delhi High Court clears legal position on CCI jurisdiction in Jindal-SAIL dispute

Delhi High Court *vide* its Order dated December 19, 2011, in *Jindal Steel & Power Ltd. v. Union of India & Ors*, while disposing of the C.M. No. 19744/2010 & W.P. (C) No. 8531/2008, dealing with a dispute related to the jurisdiction of Competition Commission of India (CCI) held that the two co-existent remedies available to Petitioner i.e. a writ petition and a complaint before CCI, cannot be said to be repugnant or inconsistent in case relief sought in the writ petition and the complaint before CCI is not identical.



Facts of the Case

Jindal Steel & Power Ltd (JSPL) i.e. the Petitioner herein, filed a writ petition, raising various issues, including challenging a Memorandum of Understanding (MoU) dated February 1, 2003 between Indian Railway & SAIL, as well as raising two larger issues, first being, the legitimate expectation of being considered for empanelment for supply of steel rail tracks to the Respondent i.e. Indian Railways and to invoke the principle of promissory estoppel in view of the huge investments made by the Petitioner. An objection regarding maintainability of this writ petition was raised by the Respondents, when Petitioner had approached the Hon'ble Court with an application to amend the writ petition to specifically challenge the MoU of February 1, 2003.

Order of the High Court

Maintainability of the writ petition

- i. Hon'ble Court held that larger issues raised in the writ petition are the legitimate expectation & the principle of promissory estoppel and these matters would strictly come within the domain of the High Court in the writ petition and cannot possibly be considered by the CCI.
- ii. The Hon'ble Court further held that the MoU is essentially a subject matter of the proceedings before High Court as well as before the CCI, therefore, even if parallel proceedings are allowed to continue, still the ends of justice demand that conflicting decisions have to be avoided. Since orders were (at the time of the High Court order) awaited in the proceedings before the CCI, therefore though the writ proceedings are allowed to continue as issue of promissory estoppel and legitimate expectation cannot be pre-judged at this stage, but the final order in this matter has to be put on hold till the validity of the MoU is finally decided in the proceedings under the Act. While declaring that the doctrine of election of remedies cannot be applied to the instant case, it was held

that the writ petition was maintainable and the parallel proceedings were permitted to continue in the manner as indicated above.

P.S-It is to be noted that, CCI vide its order dated December 20, 2011, closed the matter giving SAIL a clean chit, and held that the MoU between Indian Railway and SAIL was not anti-competitive.

Merger Control: Intra-group mergers require notification to the CCI



CCI on December 28, 2011, granted approval to the proposed merger of an offshore subsidiary into its Indian parent under section 31(1) of the Act. CCI in this

important ruling also held that merger of group companies would require CCI approval and that intra group merger would not be eligible for the exemption available to "acquisitions" within the group under the Combination Regulations. The full text of the Order is available on the CCI website www.cci.gov.in.

Details of Combination

Tata Chemicals Limited ("TCL"), an Indian company, engaged in the business of manufacture of chemicals, fertilisers, etc. TCL had a wholly owned subsidiary in Mauritius, Wyoming 1 (Mauritius) Private Limited ("Wyoming 1"). The board of directors of TCL and Wyoming 1 on November 11, 2011 approved the proposed amalgamation of Wyoming 1 into TCL pursuant to a scheme of amalgamation under the provisions of section 391 to 394 of the Companies Act, 1956. The proposed amalgamation qualified as a combination under section 5(c) of the Act.

The Parties in their preliminary-submissions before the CCI, however, contended that the proposed amalgamation should not require filing to the CCI on account of the following:

1. The definition of 'enterprise' under section 2(h) of the Act does not appear to require notification of transactions between a parent and its subsidiaries because the parent and its subsidiaries are effectively a single economic enterprise for the purposes of the Act.
2. The proposed amalgamation, being an entirely outbound stream of acquisition by TCL, should be exempt from the requirement to file before the CCI as per Clause 10 of Schedule I to the Combination Regulations.
3. Further, if the proposed combination was undertaken by way of an acquisition of assets, it would have been exempt from the requirement to file before the CCI as per Clause 8 of Schedule I to the Combination Regulations.

Order of CCI

The CCI rejected the above contentions and held that:

1. CCI by referring to the definition of the term 'enterprise' under section 2(h) of the Act observed that the term 'subsidiaries' has been used with respect to one of the modes in which enterprise is carrying on the specified activities and does not emphasize consideration of subsidiaries as being a part of the holding company. A subsidiary is a separate and distinct legal entity and shall constitute a separate enterprise if it meets the requirements of section 2(h) of the Act.
2. Clause 10 of Schedule 1 to the Combination Regulations which exempts combinations taking place entirely outside India with insignificant local nexus would not apply in the given case since one of the parties to the combination, TCL, is an Indian company.
3. Exemption under Clause 8 of Schedule 1 specifically relates to 'acquisition' of control or shares or voting rights or assets by one person or enterprise of another person or enterprise within the same group. In the present case, since the combination is pursuant to a scheme of amalgamation (and not acquisition), exemption under clause 8 shall not be applicable.

Accordingly, the CCI held that the Parties to the Combination were required to give a notice of the proposed combination under section 6(2) of the Act. CCI after analyzing the notice received from the parties held that such merger was not likely to have an appreciable adverse effect on competition ("AAEC") in India.

Comment: The decision clears the ambiguity whether intra-group mergers and amalgamations within subsidiaries of the main company requires filing of notice to CCI for approval or not.

CCI passes orders for closure of certain matters

CCI has passed orders in certain matter and the said orders are duly displayed on its website www.cci.gov.in giving the full text of its orders on closure of 75 cases of Information's filed under the Act and 22 cases of investigations transferred from the Director General of Investigation & Registration (DGIR) and the COMPAT.



MEDIA UPDATES

Ministry of Corporate Affairs (MCA) considering introducing sector specific thresholds

MCA is considering the introduction of sector-specific assets and turnover thresholds for merger and acquisition (M&A) scrutiny as well as proposing some major amendment in the Act. The proposed amendment to the Act has come as a result of the recent recommendations by Mairra Committee on Pharma M&A. According to MCA, the Pharma deals may not



escape the scrutiny of the CCI on the ground of higher threshold that is provided in the Act to trigger such a vetting.

(Source: The Business Standard, December 29, 2011)

CCI gives SAIL clean chit over exclusive agreement with Indian Railways



Two years after the CCI initiated an investigation into the exclusive agreement between the Indian Railways and Steel Authority of India (SAIL) for alleged breach of the competition law, CCI vide its order dated December 20, 2011, closed the matter giving SAIL a clean chit. The decision was taken with SAIL getting a near unanimous order in its favour with three members absolving SAIL of any wrongdoing while only one dissented. It is to be noted that the complaint was filed by JSPL in 2009.

(Source: The Financial Express, December 28, 2011)

CCI to investigate Oil PSU and Petroleum Ministry over Bio-diesel policy

CCI is considering launching a *suo moto* investigation into whether the petroleum ministry and state-run oil marketing companies have suppressed the market for bio-diesel, overriding a report to the contrary by the Director-General of Investigation and Registration.

(Source: The Economic Times, December 28, 2011)

Coal India once again comes under CCI scanner

CCI is considering a *suo moto* investigation into whether the state-owned Coal India Ltd. is responsible for this slowdown in the coal sector by abusing its dominant position. CCI will investigate whether Coal India Ltd. has thwarted competition in the sector, robbing it of growth despite the country holding record reserves of the fuel.

(Source: The Economic Times, December 22, 2011)

Jaypee Group comes under CCI scanner



On a complaint by some flat owners of Jaypee Greens Noida, CCI has found a prima facie case of abuse of dominance under Section 4 of the Act against Jaypee Greens, Noida and has ordered an investigation against the company. The Complaint was made on the ground that the conditions in the builder-buyer agreement were unfair. It is to be noted that on the same grounds, CCI fined DLF ₹ 630 Cr for abusing its dominant position by imposing highly arbitrary, unfair and unreasonable conditions on the apartment allottees of the Housing Complex 'The Belaire'.

(Source: The Economic Times, December 22, 2011)

CCI investigating Jute industry for possible cartelization

On information filed by Indian Sugar Mills Association and National Federation of Cooperative Sugar Factories against Indian Jute Mills Association and Gunny Traders Association, CCI has after forming a prima facie view referred the matter to the Director General (DG) for investigation. Informant alleged that the Indian Jute Mills Association and Gunny Traders Association have cartelised the market for packaging material for sugar by jointly deciding sale prices and limiting technical development of the industry.

(Source: *The Hindu*, December 4, 2011)

CCI cleared sugar cartel

In a *suo moto* investigation taken up by CCI in 2010, for alleged price fixing by Sugar Mill Associations and Private Sugar Companies, while determining the price of sugar, CCI vide its Order dated November 30, 2011 (Majority Order), held that the Sugar Mill Associations and Private Sugar Mills have not contravened any provision of the Act related to Cartelization. However by a dissenting order (Minority), one of the members has imposed a fine of ₹ 15.6 Cr on various Sugar Mill Associations and Private Sugar Companies.

(Source: *Competition Commission of India website*, November 30, 2011)

CCI to investigate Indian Hockey & Chess federation

On separate complaints by players, CCI is considering to investigate the abusive conduct of All India Chess Federation (AICF) and Indian Hockey Federation (IHF). In the first complaint by chess players, Delhi High Court has asked CCI to investigate whether the AICF is abusing its dominant position by banning players associating themselves with other chess



federations. In an identical case, on a complaint filed by Dhanraj Pillay, former captain of Indian Hockey team, against Hockey India (HI) i.e. India's officially-sanctioned hockey body, alleging that HI is threatening sanctions against players who take part in World Series Hockey (WSH) organised by a rival group i.e Indian Hockey Federation (IHF). Interestingly, IHF is not affiliated to the International Hockey Federation (FIH) and the FIH recognises HI as the national federation for hockey in India. FIH has similarly threatened to suspend players from its future tournaments if they take part in the World Series Hockey (WSH). The European players interested in participating in WSH have moved the European Competition Commission, Competition Authorities of Spain, Belgium and the United Kingdom against the FIH direction.

(Source: *The Outlook and the Economic Times*, November 19, 2011)

Milk industry under CCI scanner

CCI is considering launching an investigation against cartelization in the milk industry. CCI is studying data to ascertain whether a "prima facie" case can be made against milk producers, who have increased prices by over 35 per cent in the past one year by forming a cartel.

(Source: *The Financial Express*, November 15, 2011)

Competition Appellate Tribunal stayed ₹ 630 Cr. fine imposed on DLF

COMPAT vide an order dated November 9, 2011, stayed fine imposed by CCI on DLF Ltd. for abusing its dominant position. The tribunal clarified that in the event DLF loses the case, it will have to deposit the entire amount along with 9% interest. The tribunal has asked the company to give an undertaking to this effect.

(Source: *The Economic Times*, November 9, 2011).

CCI clears seven 'Combinations' within 30 days

S. No	Parties to Combinations	Concerned Industry	Date of filing Notice	Date of the Order	Decision	Time taken by the CCI for granting approval ¹	Type of Transaction
1.	NHK Automotive / BBTC	Springs for automobiles	05.10.11	04.11.2011	Approved	31 days	Acquisition [u/s 5 (a)]
2.	Magma Fin Corp Ltd. / KKR Mauritius	Foreign Institutional Investor , NBFC	25.11.11	13.12.2011	Approved	19 days	Acquisition [u/s 5 (a)]
3.	Siemens /Morgan Construction Company	Manufacture of Medical Equipments, Electro Technical Equipments, Infrastructure Projects etc.	21.11.11	13.12.2011	Approved	23 days	Intra Group Amalgamation [u/s 5 (c)]

4.	Nippon Steel Corporation / Sumitomo Metal.	Steel	14.10.11	27.12.2011	Approved	74 days	Merger [u/s 5 (c)]
5.	Akzo Nobel	Pharmaceutical	01.12.11	28.12.2011	Approved	28 days	Intra Group Amalgamation [u/s 5 (c)]
6.	Standard Chartered Bank/ Barclays Bank PLC	Banking	12.12.11	28.12.2011	Approved	17 days	Acquisition [u/s 5 (a)]
7.	Tata Chemicals Limited /Wyoming	Chemical	09.12.11	28.12.2011	Approved	20 days	Intra Group Amalgamation [u/s 5 (c)]

¹ Please note that the approval time includes the time taken by parties (excluded time) to the 'Combination' in furnishing the additional information under Regulation 19(2) of the Combination Regulations.

COMPAT decides pending MRTTP matters

COMPAT continues to decide the pending cases under the repealed MRTTP Act. As per information received from the COMPAT, it had disposed of 1443 cases till December 31, 2011 as per details below:

RTP cases	179
UTP cases	532
Compensation cases	731
MTP cases	1

INTERNATIONAL NEWS

European Union

EC raids the premises of TAP Portugal -Brussels Airlines:

EC undertook unannounced inspections at the premises of Brussels Airlines and TAP Portugal in Belgium and Portugal. The Commission has concerns that the agreements may go further than the sale of seats on routes where the two companies are expected to compete, which itself already is a departure from the more common form of code-sharing in the industry whereby an airline sells seats on a partner's flights on routes it does not operate itself. The Commission fears TAP and Brussels Airlines may have violated EU antitrust rules that prohibit cartels and restrictive business practices.

(Source: European Commission Website, December 19, 2011)

EC starts probe against DuPont and Honeywell

EC has opened antitrust proceedings concerning agreements between Honeywell and DuPont for the development of a new refrigerant for air conditioning systems in cars. It is also

investigating whether Honeywell may hold and abuse a dominant position over the refrigerant that has been announced as a suitable replacement for the existing global refrigerant, which no longer meets environmental-protection standards.

(Source: European Commission Website, December 16, 2011)

IBM settles EC antitrust dispute over mainframes



EC has made legally binding commitments offered by IBM in the mainframe maintenance market. IBM commits to make spare parts and technical information swiftly available, under commercially reasonable and non-discriminatory terms, to independent mainframe maintainers.

The Commission had concerns that IBM may have imposed unreasonable conditions for supplying its competitors in the market of mainframe maintenance services in breach of EU antitrust rules prohibiting the abuse of a dominant market position. In July 2010, the Commission opened an investigation over concerns that IBM might be abusing a dominant position on the mainframe maintenance market by hindering the access of independent maintenance service providers to critical spare parts.

(Source: European Commission Website, December 14, 2011)

EC fines producers of refrigeration compressors € 161 million in fifth cartel Settlement

EC has settled a cartel with producers of household and commercial refrigeration compressors, used in fridges, freezers, vending machines and ice-cream coolers. ACC, Whirlpool S.A , Danfoss, Embraco and Panasonic were fined a total of € 161,198,000 for operating together with Tecumseh a

cartel that covered the whole European Economic Area from April 2004 until October 2007. The fine includes a reduction of 10% for the companies' acknowledgement of their participation in the cartel and their liability in respect of such participation. Tecumseh was not fined as it benefited from immunity under the 2006 Leniency Notice for revealing the existence of the cartel to the Commission.

(Source: European Commission Website, December 07, 2011)

EC starts probe against e-book publishers

The European Commission has opened formal antitrust proceedings to investigate whether international publishers Hachette Livre, Harper Collins, Simon & Schuster, Penguin and Verlagsgruppe Georg von Holtzbrinck have, possibly with the help of Apple Inc, engaged in anti-competitive practices affecting the sale of e-books in the European Economic Area, in breach of EU antitrust rules. In March 2011, the Commission carried out unannounced inspections at the premises of several companies active in the e-book publishing sector in several Member States.

(Source: European Commission Website, December 06, 2011)

United States

LCD makers in \$553 million price-fixing accord

Samsung Electronics, Sharp Corp, Hitachi Displays Ltd and five other makers of liquid crystal displays agreed to pay more than \$553 million of fine to settle consumer and state regulatory claims that they conspired to fix prices for LCD panels in televisions, notebook computers and monitors. In December 2006, Competition Authorities in Japan, Korea, the European Union and the United States revealed a probe into alleged anti-competitive activity among LCD panel manufacturers. Many companies and executives have since pleaded guilty to criminal antitrust violations and paid more than \$890 million in fines. It is to be noted that, on December 8, 2010, European Commission has fined six LCD panel producers with a fine of €648 million for price fixing cartel. Many other defendants have yet to settle the dispute, including Taiwan-based AU Optronics Corp, one of the largest LCD panel manufacturers; South Korea's LG Display Co and Toshiba Corp.

(Source: The Reuters, December 27, 2011).

GE funding capital agrees to pay \$70 million to settle antitrust lawsuits

GE Funding Capital Market Services Inc. entered into an agreement with the Department of Justice to resolve the company's role in anticompetitive activity in the municipal bond investments market and agreed to pay a total of \$70 million in restitution, penalties and disgorgement to federal and state agencies. As part of its agreement with the department, GE Funding admits, acknowledges and accepts

responsibility for illegal, anticompetitive conduct by its former traders. According to the non-prosecution agreement, from 1999 through 2004, certain former GE Funding traders entered into unlawful agreements to manipulate the bidding process on municipal investment and related contracts, and caused GE Funding to make payments and engage in other related activities in connection with those agreements through at least 2006. These contracts were used to invest the proceeds of, or manage the risks associated with, bond issuances by municipalities and other public entities.

(Source: Department of Justice website, December 23, 2011)

DOJ clears Exelon-Constellation energy merger, with conditions

The Department of Justice announced that it will require Exelon Corporation and Constellation Energy Group Inc. to divest three electricity generating plants in Maryland in order to proceed with their \$7.9 billion merger. The department said that the transaction, as originally proposed, would substantially lessen competition for wholesale electricity, ultimately increasing electricity prices for millions of consumers in the mid-Atlantic region. The department's Antitrust Division filed a civil lawsuit in U.S. District Court in Washington, D.C., to block the proposed transaction. At the same time, the department filed a proposed settlement that, if approved by the court, would resolve the department's competitive concerns and the lawsuit.

(Source: Department of Justice website, December 21, 2011)

AT&T drops \$39 billion bid for T-Mobile following DoJ objections



AT&T dropped its \$39 billion bid to buy T-Mobile, nearly four months after the government raised concerns that the deal would hike prices, reduce innovation and give customers fewer choices. AT&T will pay \$3 billion in cash and turn over some of its wireless spectrum to T-Mobile's owner, Deutsche Telekom AG, as a breakup fee, for failing to complete the deal.

(Source: Department of Justice website & The Bloomberg, December 19, 2011).

FTC obtains \$500,000 penalty for pre-merger reporting act violations

Brian L. Roberts, the Chief Executive Officer of Comcast Corporation, has agreed to pay a \$500,000 penalty to settle Federal Trade Commission charges that he violated the Hart-Scott-Rodino Antitrust Improvement Act (HSR Act) in connection with his acquisitions of Comcast stock between 2007 and 2009. The FTC alleged that Roberts failed to file required notices before acquiring Comcast shares. The amount of the fine was limited by a number of factors, including that the violation was inadvertent and technical; that it was apparently due to faulty advice from outside counsel; that Roberts did not gain financially from the violation; and that he reported the violation promptly once it was discovered.

(Source: Department of Justice website, December 16, 2011).



Wells Fargo Pays \$148 Million to settle Wachovia Muni bid-rigging charges

Wachovia Bank N.A., has entered into an agreement with the Department of Justice to resolve the company's role in anticompetitive activity in the municipal bond investments market and has agreed to pay a total of \$148 million in restitution, penalties and disgorgement to federal and state agencies. According to the non-prosecution agreement, from 1998 through 2004, certain former Wachovia employees at its municipal derivatives desk entered into unlawful agreements to manipulate the bidding process and rig bids on municipal investment and related contracts.

(Source: Department of Justice website, December 08, 2011)

Pharmacies accuse Pfizer of antitrust over Lipitor

A group of California pharmacies are accusing Pfizer Inc. and a generic drug maker of conspiring to keep the price of cholesterol-fighting Lipitor artificially high. The lawsuit alleges that Pfizer and India-based Ranbaxy Laboratories illegally delayed the U.S. marketing of generic alternatives to Lipitor, the world's best-selling pharmaceutical.

(Source: The Bloomberg, November 09, 2011).



Others

United Kingdom: Competition Appeal Tribunal overturns OFT's tobacco retail pricing

On December 12, 2011 the Competition Appeal Tribunal (CAT) handed down its judgment in the appeals against the OFT's tobacco retail pricing decision in which record fines of £225 million were imposed. The CAT annulled the OFT's decision on the basis that the theory of harm set out in its decision was not supported by sufficient evidence and that any subsequent attempts by the OFT to redefine its case were not part of the original decision and could therefore not be reviewed by the tribunal.

(Source: The Office of Fair Trading website, December 12, 2011)

Brazil: New Brazilian Antitrust Law enacted

On December 1, 2011, the Law no. 12,529/2011 ("New Antitrust Law") was published in the Brazilian Official Gazette. The New Antitrust Law introduces several changes to the antitrust practice in Brazil. The most relevant modifications are related to: (i) the Administrative Council for Economic Defense ("CADE")'s structural organization; (ii) the procedures in connection with investigation of anticompetitive acts; (iii) the procedures in connection with antitrust review; (iv) the new thresholds for obligatory notification and administrative fines

for anticompetitive acts; and (v) the agreements between the parties and CADE.

(Source: The Mondaq, December 01, 2011).

China: NDRC fines two pharmaceutical companies for abusive conduct

On November 14, 2011, China's National Development and Reform Commission ("NDRC") imposed a fine of approximately RMB 7 million (~USD 1.1 million) on two private pharmaceutical companies for colluding to raise the price of promethazine hydrochloride, the base ingredient for compound reserpine tablets, a hypertension medicine that treats high blood pressure. This is the highest fine NDRC has imposed for antitrust infringements since the AML entered into force in 2008.

(Source: The Russian Legal Information Agency, November 14, 2011)

Russia: Federal Anti-Monopoly body fines top oil companies

Russia's Federal Anti-Monopoly body (FAS) on Monday fined the country's top crude producer Rosneft and mid-sized oil company Bashneft a combined \$80 million for breaching anti-monopoly regulations. FAS fined Rosneft 1.76 billion roubles (\$56.42 million) and Bashneft 778.2 million.

(Source: The Reuters, December 26, 2011)

Singapore: CCS Fines 10 Modelling Agencies for price fixing



The Competition Commission of Singapore ("CCS") fined 11 modelling agencies in Singapore for breaching the Competition Act with a fine amounting to \$ 0.36 Million. In this case, CCS found that the agencies had

fixed prices on a wide variety of modelling services, including editorials, advertorials, fashion shows and media loading usage. Customers who were impacted included publishers, photographers, show choreographers, show organizers and fashion labels.

(Source: The Competition Commission of Singapore website, December 26, 2011)

Italy: Apple fined for misleading customers



Italian antitrust authority has fined units of U.S. technology group Apple Inc a total of \$1.2 million for selling consumers protection plans for its products without adequately informing them of a statutory two-year warranty. It is to be noted that Italy's consumer code gave buyers the right to two years of free care for their products,

but three Apple divisions in Europe had been less than clear about this in information given in Apple stores in Italy and on its website.

(Source: The Reuters, December 27, 2011)

Italy: Antitrust fines Italian postal service over 39 million

The Antitrust authority has fined state-owned Italian postal service 'Poste Italiane' 39,377,489 euro for "having abused its excessively dominant position with the objective of opposing the development of a free service with "a specific delivery date and time" and using notifying services." The Postal Service has been warned it must immediately refrain from such behaviour and send a report within 3 months stating what measures have been adopted in this sense."

(Source: The AGI website, December 26, 2011)

Australia: Korean Air hit with \$5.5 million for price-fixing

The Federal Court has penalised Korean Air Lines Co Ltd \$5.5 million for price fixing as part of a cartel. The Australian Competition and Consumer Commission have pursued a number of international airlines for cartel conduct in relation to the carriage of air freight. Korean Air Lines is the eighth international airline to settle proceedings against it. This penalty, combined with those already ordered against other airlines, brings the total ordered in Australia against these cartel participants to \$52 million. These penalties in total are the highest to be ordered in respect of a single investigation.

(Source: The Australian Competition and Consumer Commission website, November 18, 2011)

VAISH ACCOLADES

MM Sharma participated in the following Conferences/ Seminars, as a speaker:

- ✧ Addressed the session on "Competition Compliance In "Corporate Restructuring" Under The Competition Act, 2002" in a Conference on Corporate Restructuring: A Panacea to Corporate Turbulence organized by the PHD Chamber of Commerce on December 10, 2011 at Hotel Le Meridian, New Delhi.
- ✧ Addressed the session on "Merger Control Provisions under the Competition Act- Some Key Concepts & Issues" in the National Conference on Mergers & Acquisitions - Changing Dimension of Corporate Restructuring organized by ASSOCHAM on December 19, 2011 at Hotel Shangri-La, New Delhi.
- ✧ Delivered a lecture on "Mergers & Acquisitions under Competition Law" in a Full Day Seminar on Corporate Restructuring organized by the Vikas Marg CA Study Circle on December 24, 2011 at District Centre, Laxmi Nagar, New Delhi.



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