



PARLIAMENT OF INDIA

RAJYA SABHA

COMMITTEE ON SUBORDINATE LEGISLATION

TWO HUNDRED AND FIFTY SEVENTH REPORT

ON

- (i) The Competition Commission of India (Commitment) Regulations, 2024;
- (ii) The Competition Commission of India (Settlement) Regulations, 2024;
- (iii) The Competition Commission of India (Determination of Turnover or Income) Regulations, 2024; and
- (iv) The Competition Commission of India (Determination of Monetary Penalty) Guidelines, 2024

(Presented to the Rajya Sabha on 21st July, 2026)

PARLIAMENT OF INDIA



RAJYA SABHA

Rajya Sabha Secretariat, New Delhi

July, 2026/Ashadha, 1948 (Saka Era)

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COMPOSITION OF THE COMMITTEE
(Constituted w.e.f. 22.10 2024)
(Revised Composition w.e.f. 10.11.2025)

- | | | |
|-----|-----------------------------------|----------|
| 1. | Shri Milind Murli Deora | Chairman |
| 2. | Shri Neeraj Shekhar | |
| 3. | Vacant* | |
| 4. | Smt. Sangeeta Yadav | |
| 5. | Shri Sadanand Mhalu Shet Tanavade | |
| 6. | Shri Kesridevsinh Jhala | |
| 7. | Smt. Ranjeet Ranjan | |
| 8. | Vacant**** | |
| 9. | Vacant* | |
| 10. | Shri Golla Baburao | |
| 11. | Shri Jose K. Mani | |
| 12. | Vacant* | |
| 13. | Vacant*** | |
| 14. | Shri Kartikeya Sharma | |
| 15. | Vacant** | |

*w.e.f. 02.04.2026

** w.e.f. 10.11.2025

***w.e.f. 07.05.2026

**** w.e.f. 10.6.2026

SECRETARIAT

1. Dr. K.S. Somashekhar, Secretary
2. Shri Mahender Singh, Joint Secretary
3. Shri Ravinder Kumar, Director
4. Shri Thang Joyful Tonsing, Deputy Secretary
5. Smt. Mamta Banga, Under Secretary
6. Shri Pardeep Kumar, Committee Officer

INTRODUCTION

I, the Chairman of the Committee on Subordinate Legislation, having been authorized by the Committee, do hereby present on its behalf, this Two Hundred and Fifty Seventh Report of the Committee.

The Committee examined the matters that came up while scrutinizing the Competition Commission of India (Commitment) Regulations, 2024; the Competition Commission of India (Settlement) Regulations, 2024; the Competition Commission of India (Determination of Turnover or Income) Regulations, 2024 and the Competition Commission of India (Determination of monetary Penalty) Guidelines, 2024 framed under the Competition Act, 2002 and issues relating to them along with the comments received from the Ministry of Corporate Affairs and the Competition Commission of India (CCI).

The observations and recommendations, which in the opinion of the Committee should be brought to the notice of the House, are contained in the succeeding paragraphs of the Report.

The Committee considered and adopted the draft Report in its meeting held on 10th July, 2026.

New Delhi
10th July, 2026

Milind Murli Deora
Chairman,
Committee on Subordinate Legislation, Rajya Sabha

ABBREVIATIONS

CCI	-	Competition Commission of India
CLRC	-	Competition Law Review Committee
DG	-	Director-General
DGCA	-	Directorate General of Civil Aviation
FAQs	-	Frequently Asked Questions
ITRs	-	Income Tax Return
MCA	-	Ministry of Corporate Affairs
MSMEs	-	Micro, Small and Medium Enterprises
NCLAT	-	National Company Law Appellate Tribunal

REPORT

Report on (i) Competition Commission of India (Commitment) Regulations, 2024 (ii) Competition Commission of India (Settlement) Regulations, 2024 (iii) Competition Commission of India (Determination of Turnover or income) Regulations, 2024; and (iv) Competition Commission of India (Determination of Monetary Penalty) Guidelines, 2024

1. BACKGROUND

The Competition Bill, 2001 was introduced with the objective of replacing the Monopolies and Restrictive Trade Practices Act, 1969, which was considered inadequate in the era of economic liberalisation and globalisation. With the opening up of the Indian economy and the emergence of modern market-oriented reforms, it was felt necessary to move away from the earlier policy of merely restricting monopolies and instead adopt a framework that actively promotes healthy competition in the market. For this purpose, the Central Government constituted a High-Level Committee on Competition Policy and Law, which examined international developments in competition law and consulted trade and industry associations, experts, and the general public. After considering their suggestions, the Government decided to enact a comprehensive competition law suited to the changing economic environment. Accordingly, the Competition Bill, 2001 was introduced in Parliament to establish the Competition Commission of India (CCI) as a regulatory body to prevent practices having an adverse effect on competition, promote and sustain competition in markets, protect consumer interests, and ensure freedom of trade for all market participants. The Bill also sought to prohibit anti-competitive agreements, prevent abuse of dominant position by enterprises, and regulate combinations such as mergers, amalgamations, and acquisitions so as to maintain fair competition, enhance economic efficiency,

encourage innovation, and ensure the smooth and equitable functioning of the market economy in India. The Competition Bill was passed by both the Houses of Parliament as the Competition Act, 2002 (12 of 2003) and received the assent of the President on 13th January, 2003.

1.2 Thereafter, the Government of India constituted the Competition Law Review Committee (CLRC) in October, 2018 to review and recommend a robust competition regime, by taking the inputs of key stakeholders, and suggest changes in both the substantive and procedural aspects of the law. The CLRC submitted its report in July 2019 wherein it *inter alia* recommended that the Act should be amended to empower the CCI to accept commitments and settlements from parties alleged to have contravened the provisions of Section 3(4) and Section 4 of the Act. *Procedural economy and efficiency of enforcement action are driving factors for recognizing settlement and commitments in the Competition Act. Such mechanisms are likely to enable the CCI to resolve antitrust cases faster and consequently, also free up its scarce resources, businesses can avoid long investigations and uncertainty. Such negotiated remedies also enable authorities to impose innovative deterrents upon respondents while achieving equitable remedies from victims. Therefore, the Committee agreed that such a mechanism should be introduced in India.*

1.3 The Competition Act, 2002 was, accordingly, amended on April 11, 2023 as the Competition (Amendment) Act, 2023 which introduced Section 48A, 48B and 48C in the Act. Section 48A of the Act enables an enterprise against whom an inquiry under Section 26(1) of the Act is initiated for an alleged contravention of Section 3(4) or Section 4 of the Act, as the case may be, to apply for settlement before the CCI. Section 48B of the Act enables an enterprise against whom an inquiry under Section 26(1) of the Act is initiated for an alleged contravention of

Section 3(4) or section 4 of the Act, as the case may be, to offer commitments before the CCI. Whereas Section 48C provides for revocation of the commitment orders issued by the Commission and the consequences of the same. The intent of creating a procedure for commitment is driven by the need to ensure quicker market correction and to free up the scarce resources of the Regulator. The intent of creating a procedure for settlement is driven by the need to reduce litigation and to ensure quicker market correction.

2. Considering the importance of the competitive laws and the regulations framed thereunder, the Committee on Subordinate Legislation decided to examine the Competition Commission of India (Commitment) Regulations, 2024; the Competition Commission of India (Settlement) Regulations, 2024; the Competition Commission of India (Determination of Turnover or Income) Regulations, 2024 and the Competition Commission of India (Determination of Monetary Penalty) Guidelines, 2024.

3. **The Competition Commission of India (Commitment) Regulations, 2024** were framed to provide a procedural framework enabling enterprises under investigation for alleged anti-competitive vertical agreements or abuse of dominant position to voluntarily offer commitments before completion of the investigation process. The objective of the Regulations is to facilitate quicker market correction, reduce prolonged litigation, improve procedural efficiency, and ensure expeditious resolution of competition law proceedings while safeguarding consumer welfare and competitive market conditions. The Regulations also prescribe timelines, eligibility conditions, scrutiny procedures, and factors to be considered by the Competition Commission of India while evaluating commitment proposals.

4. **The Competition Commission of India (Settlement) Regulations, 2024** strengthens the CCI's mandate to promote fair competition and ensure efficient

functioning of markets by enabling expeditious resolution of suitable matters after the receipt of Investigation Report of the Director General (DG). It improves procedural economy by reducing the time and resource costs associated with prolonged adjudication and subsequent litigation, while securing corrective outcomes through structured, enforceable terms. By incentivising parties to resolve proceedings through a regulated settlement process, the CCI is able to allocate its adjudicatory capacity more effectively towards matters that require full inquiry, complex assessment, or stronger enforcement action, thereby enhancing overall enforcement efficiency and timely market correction.

4.1 The settlement regulations brings India's enforcement framework closer to global practice where mature competition authorities use structured negotiated remedy regime to achieve timely outcomes after investigation. At the same time, the Indian settlement framework has been adapted to domestic requirements through detailed regulations, stakeholder consultation, and clear procedural safeguards on eligibility, timelines, disclosure, evaluation, and implementation, so that the mechanism supports efficient resolution while remaining consistent with India's market conditions and institutional design. Orders passed under the settlement framework are not appealable in order to preserve finality of voluntarily agreed outcomes and to avoid re-opening matters that have been resolved through a structured settlement process.

5. **The Competition Commission of India (Determination of Turnover or Income) Regulations, 2024** were framed in exercise of the powers conferred by Section 64 read with Section 27(b) and Section 48 of the Act. The Turnover or Income Regulations, 2023,*inter alia* provides for the following:

a) Determination of turnover or income for enterprise for the purposes of section 27 of the Act; and

b) Determination of income for individuals for the purposes of sections 27 and 48 of the Act.

5.1 Determination of turnover or income for enterprise for the purposes of Section 27 of the Act: Turnover or income, as the case may be, includes value of sales (or revenue or receipts, by whatever name called), and other operating revenue, as per the audited financial statements maintained by such enterprise. Explanation: For the purpose of this regulation, other income, indirect taxes, trade discounts and intra group sales, if any, shall not be taken into account.

5.2 Determination of income for individual for the purposes of Sections 27 and 48 of the Act: Income in case of an individual shall be the gross total income as per the Income Tax Returns (ITRs) as prescribed under the Income Tax Act, 1961 and the rules framed thereunder. Such gross total income shall exclude:

(a) income from house property, and

(b) income from capital gains

5.3 Lastly, the Determination of turnover or income regulations in the form of subordinate legislation serve as an instrument to assist the Commission as well as the stakeholders/industry players in determining penalty on the basis of turnover/income and these are foundational legal tools designed to ensure transparency, accountability and provide a clear framework for decision making.

6. **The Competition Commission of India (Determination of Monetary Penalty) Guidelines, 2024** were framed in exercise of the powers conferred by Section 64B(1) read with Section 64B(3) of the Competition Act, 2002. The guidelines have been framed to assist the Commission to determine penalty to be imposed in terms of Section 27 of the Competition Act, 2002 in relation to

contraventions under Section 3 and/or 4 of the Act. Factors considered by the Commission while imposing penalty on enterprises, the Commission, to begin with, would consider, having due regard to all or any of the following factors, an amount up to 30% of the average relevant turnover or average income, as the case may be, of the enterprise for the purpose of determination of penalty to be imposed on an enterprise under Section 27(b) of the Act: -

- i) nature and gravity of the contravention;*
- ii) nature of the industry or sector affected because of the contravention and its implications on the economy; and/or*
- iii) any other factor which the Commission may deem appropriate in the facts and circumstances of each case.*

6.1 Where the determination of relevant turnover is not feasible, the Commission may consider the global turnover, derived from all products and services, for the purpose of determination of amount of penalty. If, in view of the Commission, the amount of penalty determined is not sufficient to create deterrence, the Commission may, further increase the amount of penalty, subject to the legal maximum. The Guidelines provides a clear system for deciding penalties for enterprises or persons who violate the Act. They consider different factors, such as the seriousness of the conduct, how long it continued, and its economic impact. The Guidelines help make the decision-making process more transparent, fair, and consistent. They also reduce differences in practice and ensure that penalties are reasonable and proportionate to the violation.

7. During the course of its examination of these Rules, the Committee held a meeting on 10th March, 2026 and heard the views and submissions of the Secretary, Ministry of Corporate Affairs and Competition Commission of India

(CCI) on the Commitment Regulations, 2024. The Committee was informed that the fee structure for Commitment Application to be paid by the applicant according to its total turnover in India in preceding financial year is Rs.2.5 lakhs for upto Rs.50 crores turnover, Rs.10 lakh for turnover exceeding Rs. 50 crores upto 500 crores and Rs. 50 lakhs for turnover exceeding Rs.500 crores.

7.1 On the key features of the Commitment mechanism, the Committee was informed that enterprises facing inquiry for violations of Section 3(4) or Section 4 can offer commitments. The Commitment Application can be submitted within 45 days of receipt of the *prima facie* Order of the Commission and the same is extendable by 30 days. The Commitment Application can be withdrawn prior to acceptance by the Commission. CCI also invites objections and suggestions on the commitment proposals. Commitment Order can be revoked by CCI under Section 48C of the Act and Orders passed cannot be appealed as per Section 53B. There is also a provision for partial commitments under which CCI may accept commitments for specific concerns and investigation may continue on the remaining issues. If no agreement is reached, the Commission will reject the commitment and proceed with the inquiry. However, the applicant is given the opportunity of hearing before any rejection.

7.2 On the reasons for adopting the commitment mechanism and its advantages, the Committee was informed that the commitment mechanism saves time and offers faster, resource-efficient alternative to lengthy litigation; allows companies under investigation to voluntarily resolve issues; allows quicker market correction; restores competitive conditions faster; is important in fast-evolving/dynamic sectors (e.g. digital platforms); and provides flexibility to businesses. The commitment mechanism is also a global practice with UK, European Commission, Singapore, etc also practicing the same.

7.3 Secretary, Ministry of Corporate Affairs highlighted the two main objectives of introducing the commitment mechanism are to have procedural economy and efficiency of enforcement mechanism. She also reiterated that the whole process of framing the regulations is completely transparent in that CCI publishes the draft Regulations for public comments, examines the comments so received and then put out in the public domain a general statement outlining the suggestions which are accepted and which are not accepted, including the reasons for non-acceptance. Also, when CCI passes the commitment order, it gives an opportunity of hearing to the applicant, the other party, DG (Investigation) and the public to offer their comments. It was submitted that as of now, there has been only one case of commitment pertaining to online gaming which is not taken to its final conclusion in view of the ban on online gaming by the Hon'ble Supreme Court. CCI can take action on references/complaints received from Central Government, State Government, statutory authorities or individuals. CCI can also initiate *suo motu* cognizance of a matter.

7.4 During the meeting of the Committee held on 10.3.2026, the Chairman and Members raised some issues/queries with regard to the number of commitment cases which have been taken up through *suo motu* cognizance, through complaints received or through other means and their share in terms of both number and percentage; the protocol and procedure for dealing with companies which have repeated/persistent violations reported against them, especially certain Big Tech companies; protection provided to medium-sized businesses operating in largely unorganized sectors; and the status of the investigation into recent complaints against a certain aviation company.

8. In the meeting of the Committee held on the 19.05.2026, the representatives of the Ministry of Corporate Affairs & CCI were heard on the Competition Commission of India (Settlement) Regulations, 2024; the Competition

Commission of India (Determination of Turnover or Income) Regulations, 2024; and the Competition Commission of India (Determination of Monetary Penalty) Guidelines, 2024. In his presentation, Advisor, CCI made a detailed presentation on the above-mentioned Regulations and Guidelines.

8.1 The Committee was informed that the Competition Commission of India (Settlement) Regulations 2024 were framed in pursuance of the changes made in the competition law framework by introducing the settlement mechanism under the Competition (Amendment) Act, 2023. These Regulations provide a settlement mechanism for cases relating to vertical agreement and abuse of dominant position respectively under Section 3(4) and 4 of the Competition Act. The Committee was informed that settlement applications may be filed within 45 days after receipt of the DG Report and this period can be extended by another 30 days by the Commission for reasons to be recorded in writing. The outer timeline for completion of the settlement process is 180 days. The Regulations also include provisions relating to confidentiality, disclosure and parallel proceedings, monitoring arrangements and revocation of settlements.

8.2 The Committee was also briefed that the purpose of the Competition Commission of India (Determination of Turnover or Income) Regulations, 2024 was to bring clarity with respect to the terms ‘turnover’ or ‘income’ for enterprises and ‘turnover’ or ‘income’ has been clarified as to include the value of sales and other operating income. It excluded other income, indirect taxes, trade discounts and intra-group sales. It was also stated that the turnover and income are determined on the basis of audited and certified documents and if audited financial statements are not available, then it has to be certified by the statutory auditor or the chartered accountant.

8.3 On the Competition Commission of India (Determination of Monetary Penalty) Guidelines, 2024, the Committee was informed that the Guidelines prescribe a structured method for imposition of penalties. It provides a clear framework with regard to determination of penalty and also ensures that the penalty is proportionate to the conduct. It also provides legal certainty while determining the penalty as it is based on the audited and certified documents. It also ensures reasonableness in determination of penalty through the consideration of mitigating and aggravating factors.

8.4 During the meeting, the Chairman and Members raised several concerns/issues regarding the implementation and effectiveness of the Regulations/Guidelines. The Chairman, in particular, referred to the settlement in the Android Smart TV matter where the settlement amount was only around Rs.20.24 crores while in the European Union, the Company was fined 4 billion dollars. Clarifications were also sought regarding the basis for computation of the settlement amount, including whether domestic or global turnover had been taken into consideration, as well as the reasons for the comparatively lower settlement amount in India *vis-a-vis* the penalties imposed in the European Union. He also raised the issue of the leniency regime under section 46 of the Competition Act which allows cartel participants making true, full, and vital disclosures to receive reduction in penalties. The Chairman also enquired about status of the joint investigation by DGCA and CCI in the matter of alleged abuse of dominant position in the aviation sector.

8.5 In response to the queries raised by the Chairman, the Chairperson, CCI informed that penalty on the Smart TV issue was calculated on the basis of the relevant India turnover of the company derived from the Smart TV Operating

System market. It was further clarified that the settlement amount had been determined after taking into account mitigating and aggravating factors, along with the statutory settlement discount of 15 per cent. The Chairperson also stated that the matter dealt with by the European Union related to a different market segment involving mobile operating systems and therefore, was not directly comparable with the Indian case. Regarding the issue of markers under Section 46, the Chairperson stated that market is allowed in case of cartel. It is very difficult for CCI to get evidence and therefore, this incentive of market is only there where there is a cartel. In cartel case, settlement is not allowed and further clarified that in the case of alleged abuse of dominant position in the aviation sector, they are not conducting any joint investigation with the Directorate General of Civil Aviation (DGCA). The DGCA did their own investigation. CCI had received a complaint regarding a certain company abusing its dominance during the period of flight disruptions in December, 2025. That is currently under inquiry with the commission and the matter has been now referred to DG for investigation. Depending on the extent of cooperation from the parties, the matter would be taken forward and expedited.

8.6 The other issues highlighted and queries raised by the Members included the adequacy of timelines for filing settlement proposals, possible misuse of the framework by large corporations, absence of judicial review post-settlement, confidentiality provisions, decline in *suo motu* investigations over the years, pendency and disposal statistics, effectiveness of the Regulations after two years of implementation, delays in recovery of penalties and recovery of minimal amount, effectiveness of prescribed timelines, use of global turnover in determination of penalties and alignment of the Indian regulatory framework with global best practices. Clarifications were also sought regarding the prescribed timelines for

disposal of cases in the settlement regulations which seem inadequate and repeat violations by enterprises even after settlement.

8.7 In response to the queries raised by the Members, the CCI clarified that the settlement and commitment mechanisms were intended to ensure quicker market correction and reduced prolonged litigation. It was stated that parties opting for settlement waive their appellate remedies and that confidentiality claims are governed by the provisions of the Act and the General Regulations. The CCI assured the Committee that adequate confidentiality safeguards existed within the legal framework. Also, CCI informed the Committee that *suo motu* cases were more frequent during the initial years due to limited public awareness regarding competition law and at that time, CCI had taken up *suo motu* cases frequently. But the Commission felt that there is somewhat of a conflict in that they are establishing a case against a party and also adjudicating it. Therefore, they have now avoided taking up a matter *suo motu* unless nobody else is willing to come forward. Also, the Commission now exercises restraint in sectors where sectoral regulators exist. The CCI further informed that out of 1,375 anti-trust cases received till date, 1,237 had been disposed of.

8.8 Lastly, the Chairman specifically asked that in view of the operation of the Regulations in the last two years, whether it is a good time to assess these Regulations. The Chairperson, CCI replied that since these Regulations were framed in March, 2024, they have been in operation for around two years and that they would look into whether some amendment is required.

8.9 Based on the replies to the Questionnaires on the above Regulations, the deliberations during the meetings and comments given on the queries raised by the

Chairman and Members during the meeting, the Committee has given the following observations and recommendations.

9. Observations/ Recommendations of the Committee –

(i) Periodical review of the Competition law framework and regulations

9.1 The Committee is happy to note that the Ministry/CCI has agreed to the proposal of the Committee for review of the Competition law framework and regulations during its meeting on 19.05.2026 considering that the Regulations have been in operation for nearly two years. The Committee also notes that in their reply to the questionnaire, the Ministry stated that the Commission is monitoring the implementation of the settlement and commitment framework and is examining the operational experience emerging from its application. The Committee also further notes that the Commission has initiated a consultative process in relation to certain proposed amendments to the Commitment Regulations and has invited comments and suggestions from stakeholders and the public.

9.2 **In this regard, the Committee recommends that the Ministry and CCI should undertake a periodical review of the regulatory architecture of the whole gamut of the competitive law framework. The Committee recommends that the reviews should involve comprehensive stakeholder consultations and systematically benchmark the domestic framework against global best practices so as to ensure that the Indian market remains competitive, fair, and aligned with global standards. The Committee feels that competition laws should keep up with the pace of change, especially in the digital era and that they must be updated from time to time to deal more effectively with new**

problems and specific challenges.

(ii) Decline in *suo motu* cases and the need for advocacy and outreach

9.3 During the meeting, on the issue of decline in *suo motu* cases, CCI had informed the Committee that CCI had, in the initial years of implementation of the competition law, taken up *suo motu* cases frequently due to limited public awareness regarding competition law. However, as awareness increases, the Commission does not take up cases *suo motu* as frequently as in the past because they felt that there is somewhat of a conflict in that they are establishing a case against a party and also adjudicating it.

9.4 While noting that the public awareness regarding competition law has increased with the times, the Committee is of the view that much more needs to be done in this direction. The Committee also notes that the effective enforcement of competition law will be further enhanced by strong awareness among market participants. The Committee further observes that Micro, Small and Medium Enterprises (MSMEs), start-ups, and emerging businesses often require greater awareness of competition law principles and regulatory processes to enable them to participate effectively in competitive markets.

9.5 The Committee, therefore, recommends that the Competition Commission of India (CCI) continue to strengthen its advocacy and outreach initiatives through deeper engagement with industry chambers, trade associations, and business bodies, with particular focus on Micro, Small and

Medium Enterprises (MSMEs), start-ups and the general public as well. The Committee is of the view that such initiatives would contribute to promoting voluntary compliance and fostering a culture of competition across sectors. The Committee feels that by aggressively publicizing the commercial benefits, procedural timelines, and litigation savings of these mechanisms, the Commission will incentivize voluntary compliance in corporate entities. It will also enable the general public to report on the instances of violation of anti-competitive agreements and abuse of dominant position. CCI should also continue to use its *suo motu* powers if the need arises.

(iii) **Protection to small businesses, MSMEs, Start-ups, etc. and vigorous enforcement of competitive laws and regulations**

9.6 During the meetings held on 10.03.2026 and 19.05.2026, Members had raised concerns about the possible misuse of the competitive framework by large corporations and the need for giving protection to small businesses, MSMEs, Start-ups, etc. **The Committee is of the view that monopolies affect the least advantaged the most, in this case, the small businesses, MSMEs, Start-ups, etc. While noting that small businesses, MSMEs, Start-ups etc. should be able to depend upon a steady and vigorous enforcement of the competitive laws to safeguard their ability to compete, the Committee recommends that CCI must provide adequate protection to them and ensure that the laws must be enforced with much greater vigour to ensure that the least advantaged are not further disadvantaged by unfair or anticompetitive conduct. The Committee is of the view that vigorous antitrust enforcement is indispensable to foster free competition and innovation in the marketplace.**

(iv) Repeated contraventions

9.7 During the meetings of the Committee, Members had raised concerns about the repeated contraventions by companies of the competition laws and regulations. The Committee was informed that the settlement framework does not provide immunity for repeat violations. In the event of a subsequent violation, the enterprise may be proceeded against independently in accordance with the provisions of the Act. The Commission may, wherever relevant and permissible under the statutory framework, take into account the facts and circumstances of the case, including any prior conduct of the enterprise.

9.8 The Committee notes with concern the issue of repeated contraventions of competition laws and regulations by corporate entities. Such repeated contraventions risk being internalized as a mere "cost of doing business," thereby severely undermining the deterrent effect of the laws and regulations. In view of this, the Committee feels that CCI should vigorously enforce the Determination of Monetary Penalty Guidelines, which provide for repeated contraventions as an aggravating factor, so as to ensure deterrence for future offences.

(v) Recovery of penalties

9.9 On the question regarding delays in recovery of penalties and recovery of minimal amount and how the Ministry will ensure that recovery of penalties are not delayed and that full amount is recovered from the parties, the Committee was

informed that orders passed by the Commission are subject to judicial review by the National Company Law Appellate Tribunal (NCLAT) and Supreme Court as per the scheme of the Act. A significant amount of the penalty imposed by the Commission has been stayed or dismissed by the appellate courts. Out of the realisable amount, more than 98% has been realised by the CCI. For example, as on 31.03.2026, the total penalty imposed by the CCI is Rs 20,378.65 Cr. out of which Rs 18,299.78 Cr has been either stayed or quashed by the appellate courts. Thus, the total realisable amount of penalty is Rs 2,078.87 Cr. out of which Rs 2,039.36 Cr. which is 98%, has been realised.

9.10 The Committee is happy to note that the CCI has achieved an impressive recovery rate of over 98% of the penalties that remain legally enforceable/realizable. However, the fact that a substantial portion of the penalties imposed by CCI has been stayed or quashed on appeal suggests a need to further strengthen the robustness of investigations, evidence gathering, and penalty assessment. The Committee recommends that steps should be taken in this regard which could help improve the sustainability of CCI orders during judicial scrutiny and enhance the overall effectiveness of the process.

(vi) Transparent methodology for calculation of penalty amount

9.11 The Committee notes that the Penalty Guidelines, 2024 provides the methodology for determination of the penalty amount for contravention of various Sections of the Competition Act, 2002. To foster transparency, the Committee recommends that the Guidelines should be enforced rigorously

and CCI should provide the detailed methodology in its orders as to how the penalty amount is calculated.

(vii) Capacity Building and Skill Development

9.12 The Committee notes that rapid technological advancements, digitalisation and the emergence of new-age markets have significantly increased the complexity of competition assessment and enforcement. The Committee further observes that continuous capacity building is essential to equip officers with the knowledge and skills required to address evolving market realities effectively.

9.13 The Committee, therefore, recommends that the Competition Commission of India (CCI) should continue to strengthen its capacity-building efforts through structured training programmes for its officers, with particular focus on emerging technologies, contemporary competition issues, and international best practices. The Committee is of the view that such efforts would enhance the institutional capabilities of the Commission and enable it to effectively address increasingly complex competition challenges.

(viii) Inter-Regulatory Coordination

9.14 The Committee notes that several competition issues in the modern economy cut across sectors that are regulated by different statutory and sectoral regulators. The Committee further notes that the Competition (Amendment) Act, 2023 provides an enabling framework for enhanced

cooperation and coordination between the Competition Commission of India (CCI) and other regulators.

9.15 The Committee, therefore, recommends that the CCI may explore institutional mechanisms for cooperation with sectoral regulators, including entering into Memoranda of Understanding, wherever appropriate. Such collaborative arrangements may facilitate information-sharing, promote policy coherence, and regulatory coordination in matters of common interest.

(ix) Market Studies

9.16 The Committee notes that market studies play an important role in enhancing the understanding of market structures, business practices, emerging trends and competition concerns. The Committee further observes that such studies provide valuable inputs for informed enforcement, advocacy and policy formulation. The Committee, while appreciating the market studies undertaken by the Competition Commission of India (CCI) from time to time, recommends that the Commission continue to undertake such studies in a structured and regular manner. The Committee is of the view that this would further strengthen evidence-based decision-making and contribute to the development of competitive and efficient markets.

RECOMMENDATIONS/OBSERVATIONS OF THE COMMITTEE – AT A GLANCE

Periodical review of the Competition law framework and regulations

1. The Committee recommends that the Ministry and CCI should undertake a periodical review of the regulatory architecture of the whole gamut of the competitive law framework. The Committee recommends that the reviews should involve comprehensive stakeholder consultations and systematically benchmark the domestic framework against global best practices so as to ensure that the Indian market remains competitive, fair, and aligned with global standards. The Committee feels that competition laws should keep up with the pace of change, especially in the digital era and that they must be updated from time to time to deal more effectively with new problems and specific challenges.

Para 9 (9.2)

Decline in *suo motu* cases and the need for advocacy and outreach

2. While noting that the public awareness regarding competition law has increased with the times, the Committee is of the view that much more needs to be done in this direction. The Committee also notes that the effective enforcement of competition law will be further enhanced by strong awareness among market participants. The Committee further observes that Micro, Small and Medium Enterprises (MSMEs), start-ups, and emerging businesses often require greater awareness of competition law principles and regulatory processes to enable them to participate effectively in competitive markets. The Committee recommends that the Competition Commission of India (CCI)

continue to strengthen its advocacy and outreach initiatives through deeper engagement with industry chambers, trade associations, and business bodies, with particular focus on Micro, Small and Medium Enterprises (MSMEs), start-ups and the general public as well. The Committee is of the view that such initiatives would contribute to promoting voluntary compliance and fostering a culture of competition across sectors. The Committee feels that by aggressively publicizing the commercial benefits, procedural timelines, and litigation savings of these mechanisms, the Commission will incentivize voluntary compliance in corporate entities. It will also enable the general public to report on the instances of violation of anti-competitive agreements and abuse of dominant position. CCI should also continue to use its *suo motu* powers if the need arises.

Para 9 (9.4 & 9.5)

Protection to small businesses, MSMEs, Start-ups, etc. and vigorous enforcement of competitive laws and regulations

3. The Committee is of the view that monopolies affect the least advantaged the most, in this case, the small businesses, MSMEs, Start-ups, etc. While noting that small businesses, MSMEs, Start-ups etc. should be able to depend upon a steady and vigorous enforcement of the competitive laws to safeguard their ability to compete, the Committee recommends that CCI must provide adequate protection to them and ensure that the laws must be enforced with much greater vigour to ensure that the least advantaged are not further disadvantaged by unfair or anticompetitive conduct. The Committee is of the view that vigorous antitrust enforcement is indispensable to foster free competition and innovation in the marketplace.

Para 9 (9.6)

Repeated contraventions

4. The Committee notes with concern the issue of repeated contraventions of competition laws and regulations by corporate entities. Such repeated contraventions risk being internalized as a mere "cost of doing business," thereby severely undermining the deterrent effect of the laws and regulations. In view of this, the Committee feels that CCI should vigorously enforce the Determination of Monetary Penalty Guidelines, which provide for repeated contraventions as an aggravating factor, so as to ensure deterrence for future offences.

Para 9 (9.8)

Recovery of penalties

5. The Committee is happy to note that the CCI has achieved an impressive recovery rate of over 98% of the penalties that remain legally enforceable/realizable. However, the fact that a substantial portion of the penalties imposed by CCI has been stayed or quashed on appeal suggests a need to further strengthen the robustness of investigations, evidence gathering, and penalty assessment. The Committee recommends that steps should be taken in this regard which could help improve the sustainability of CCI orders during judicial scrutiny and enhance the overall effectiveness of the process.

Para 9 (9.10)

Transparent methodology for calculation of penalty amount

6. The Committee notes that the Penalty Guidelines, 2024 provides the methodology for determination of the penalty amount for contravention of

various Sections of the Competition Act, 2002. To foster transparency, the Committee recommends that the Guidelines should be enforced rigorously and CCI should provide the detailed methodology in its orders as to how the penalty amount is calculated.

Para 9 (9.11)

Capacity Building and Skill Development

7. The Committee notes that rapid technological advancements, digitalisation and the emergence of new-age markets have significantly increased the complexity of competition assessment and enforcement. The Committee further observes that continuous capacity building is essential to equip officers with the knowledge and skills required to address evolving market realities effectively. The Committee, therefore, recommends that the Competition Commission of India (CCI) should continue to strengthen its capacity-building efforts through structured training programmes for its officers, with particular focus on emerging technologies, contemporary competition issues, and international best practices. The Committee is of the view that such efforts would enhance the institutional capabilities of the Commission and enable it to effectively address increasingly complex competition challenges.

Para 9 (9.12 & 9.13)

Inter-Regulatory Coordination

8. The Committee notes that several competition issues in the modern economy cut across sectors that are regulated by different statutory and

sectoral regulators. The Committee further notes that the Competition (Amendment) Act, 2023 provides an enabling framework for enhanced cooperation and coordination between the Competition Commission of India (CCI) and other regulators. The Committee, therefore, recommends that the CCI may explore institutional mechanisms for cooperation with sectoral regulators, including entering into Memoranda of Understanding, wherever appropriate. Such collaborative arrangements may facilitate information-sharing, promote policy coherence, and regulatory coordination in matters of common interest.

Para 9 (9.14 & 9.15)

Market Studies

9. The Committee notes that market studies play an important role in enhancing the understanding of market structures, business practices, emerging trends and competition concerns. The Committee further observes that such studies provide valuable inputs for informed enforcement, advocacy and policy formulation. The Committee, while appreciating the market studies undertaken by the Competition Commission of India (CCI) from time to time, recommends that the Commission continue to undertake such studies in a structured and regular manner. The Committee is of the view that this would further strengthen evidence-based decision-making and contribute to the development of competitive and efficient markets.

Para 9 (9.16)

**MINUTES OF THE MEETING OF THE COMMITTEE ON
SUBORDINATE LEGISLATION, RAJYA SABHA**

XI

ELEVENTH MEETING

The Committee met at 2.30 P.M. on Tuesday, the 10th March, 2026 in Committee Room No. 4, A-Block, Parliament House Annexe Extension Building, New Delhi. The following Members of the Committee were present in the meeting:

PRESENT:

1. Shri Milind Murli Deora - Chairman

Members

1. Shri Sadanand Mhalu Shet Tanavade
2. Shri Kesridevsinh Jhala
3. Shri G.K. Vasan
4. Shri Kartikeya Sharma

Secretariat

1. Shri Mahender Singh, Joint Secretary
2. Shri Har Prateek Arya, Director
3. Shri Thang Joyful Tonsing, Deputy Secretary
4. Smt. Mamta Banga, Under Secretary

Witnesses

Ministry of Corporate Affairs/CCI

1. Ms. Deepti Gaur Mukerjee, Secretary
2. Shri Balamurugan Devraj, Joint Secretary
3. Shri Rahul Jain, Joint Secretary
4. Shri Rajiv Shankar, Director
5. Shri Ved Prakash Mishra, Adviser, CCI

2. At the outset, the Chairman welcomed the representatives of the Ministry of Corporate Affairs and Competition Commission of India (CCI) to the meeting. He initially briefed the witnesses on the role of the Committee on Subordinate Legislation which is mandated to scrutinize the rules/regulations framed by the Ministries in pursuance of Acts passed by Parliament. Based on this role of the Committee, he stated that the Committee had taken up for detailed examination the Competition Commission of India (Commitment) Regulations, 2024 framed under the Competition Act, 2002 and as amended through the Competition (Amendment) Act, 2023.

3. Secretary, Ministry of Corporate Affairs made a brief introduction of the representatives of the Ministry and CCI and requested the concerned Joint Secretary dealing with the Regulations in the Ministry to make a detailed presentation on the Regulations. The Joint Secretary, Ministry of Corporate Affairs then made a detailed presentation on the Regulations, highlighting that the Competition Law Review Committee (CLRC), constituted in October 2018, recommended the introduction of a commitment mechanism for cases under Sections 3(4) and 4 of the Competition Act, 2002. Accordingly, the Competition Act, 2002 was amended in 2023 by inserting Sections 48B and 48C to enable enterprises to offer commitments after an investigation under Section 26(1) is initiated.

4. The Committee was informed that Section 64 read with Section 48B empowers CCI to frame regulations, pursuant to which the Draft Commitment Regulations, 2023 were issued for public comments as prescribed in the Competition Act. Comments received from the public and stakeholders were examined and the Commitment Regulations were then notified in 2024 and laid on the Table of the Houses of Parliament. Further it was informed that the fee structure for Commitment Application to be paid by the applicant according to its total turnover in India in preceding financial year is Rs.2.5 lakhs for upto Rs.50 crores turnover, Rs.10 lakh for turnover exceeding Rs. 50 crores upto 500 crores and Rs. 50 lakhs for turnover exceeding Rs.500 crores.

5. On the key features of the Commitment mechanism, the Committee was informed that enterprises facing inquiry for violations of Section 3(4) or Section 4 can offer commitments. The Commitment Application can be submitted within 45 days of receipt of the *prima facie* Order of the Commission and the same is extendable by 30 days. The Commitment Application can be withdrawn prior to acceptance by the Commission. CCI also invites objections and suggestions on the commitment proposals. Commitment Order can be revoked by CCI under Section 48C of the Act and Orders passed cannot be appealed as per Section 53B. There is also a provision for partial commitments under which CCI may accept commitments for specific concerns and investigation may continue on the

remaining issues. If no agreement is reached, the Commission will reject the commitment and proceed with the inquiry. However, the applicant is given the opportunity of hearing before any rejection.

6. On the reasons for adopting the commitment mechanism and its advantages, the Committee was informed that the commitment mechanism saves time and offers faster, resource-efficient alternative to lengthy litigation; allows companies under investigation to voluntarily resolve issues; allows quicker market correction; restores competitive conditions faster; is important in fast-evolving/dynamic sectors (e.g. digital platforms); and provides flexibility to businesses. The commitment mechanism is also a global practice with UK, European Commission, Singapore, etc also practicing the same.

7. Secretary, Ministry of Corporate Affairs supplemented by highlighting that the two main objectives of introducing the commitment mechanism are to have procedural economy and efficiency of enforcement mechanism. She also reiterated that the whole process of framing the regulations is completely transparent in that CCI publishes the draft Regulations for public comments, examines the comments so received and then put out in the public domain a general statement outlining the suggestions which are accepted and which are not accepted, including the reasons for non-acceptance. Also, when CCI passes the commitment order, it gives an opportunity of hearing to the applicant, the other party, DG (Investigation) and the public to offer their comments. It was submitted that as of now, there has been only one case of commitment pertaining to online gaming which is not taken to its final conclusion in view of the ban on online gaming by the Hon'ble Supreme Court. CCI can take action on references/complaints received from Central Government, State Government, statutory authorities or individuals. CCI can also initiate *suo motu* cognizance of a matter.

8. The Chairman and Members raised some issues/queries with regard to the number of commitment cases which have been taken up through *suo motu* cognizance, through complaints received or through other means and their share in terms of both number and percentage; the protocol and procedure for dealing with companies which have repeated/persistent violations reported against them, especially certain Big Tech companies; protection provided to medium-sized businesses operating in largely unorganized sectors; and the status of the investigation into recent complaints against a certain aviation company. The Secretary assured the Committee that she would provide the requisite information in writing.

9. The Chairman also informed the Ministry that the Committee would be taking up other regulations of CCI, namely (i) The Competition Commission of India (Settlement) Regulations, 2024; (ii) The Competition Commission of India

(Determination of Turnover or Income) Regulations, 2024; and (iii) Competition Commission of India (Determination of Monetary Penalty) Guidelines, 2024 and would call the Ministry and CCI again in the near future for a briefing on the said Regulations. The Chairman also urged the Secretary that the Chairperson of CCI should attend the next meeting of the Committee on the CCI Regulations.

10. The meeting was adjourned at 3.40 P.M.

HAR PRATEEK ARYA
DIRECTOR

New Delhi
10.03.2026

**MINUTES OF THE MEETING OF THE COMMITTEE ON
SUBORDINATE LEGISLATION, RAJYA SABHA
XII
TWELFTH MEETING**

The Committee met at 3.30 P.M. on Tuesday, the 19th May, 2026 in Committee Room No. 4, A-Block, Parliament House Annexe Extension Building, New Delhi. The following Members of the Committee were present in the meeting:

PRESENT:

1. Shri Milind Murli Deora - Chairman

Members

1. Shri Neeraj Shekhar
2. Smt. Sangeeta Yadav
3. Shri SadanandMhaluShetTanavade
4. Smt. Ranjeet Ranjan
5. Shri GollaBaburao
6. Shri Kartikeya Sharma

Secretariat

1. Shri Mahender Singh, Joint Secretary
2. Shri Ravinder Kumar, Director
3. Shri Thang Joyful Tonsing, Deputy Secretary
4. Smt. Mamta Banga, Under Secretary

Witnesses

Ministry of Corporate Affairs

1. Ms. Deepti Gaur Mukerjee, Secretary
2. Shri Rahul Jain, Joint Secretary
3. Shri Mahendra Kumar, Director

Competition Commission of India

1. Ms. Ravneet Kaur, Chairperson
2. Shri Inder Pal Singh Bindra, Secretary
3. Shri Ved Prakash Mishra, Adviser
4. Shri Nandan Kumar, Director

2. At the outset, the Chairman welcomed the representatives of the Ministry of Corporate Affairs and the Competition Commission of India (CCI) to the meeting. He stated that the Committee had taken up the Competition Commission of India (Commitment) Regulations 2024 in

the last meeting and will now be taking up the following Regulations and Guidelines framed under the Competition Act, 2002 for detailed examination: (i) Competition Commission of India (Settlement) Regulations 2024; (ii) Competition Commission of India (Determination of Turnover or income) Regulations, 2024; and (iii) Competition Commission of India (Determination of Monetary Penalty) Guidelines, 2024.

3. Secretary, Ministry of Corporate Affairs and Chairperson, CCI then made a brief introduction of the representatives of the Ministry and CCI respectively and thereafter, Advisor, CCI made a detailed presentation on above-mentioned Regulations/Guidelines.

4. The Committee was informed that the Competition Commission of India (Settlement) Regulations 2024 were framed in pursuance of the changes made in the competition law framework by introducing the settlement mechanism under the Competition (Amendment) Act, 2023. These Regulations provide a settlement mechanism for cases relating to vertical agreement and abuse of dominant position respectively under Section 3(4) and 4 of the Competition Act. The Committee was informed that settlement applications may be filed within 45 days after receipt of the DG Report and this period can be extended by another 30 days by the Commission for reasons to be recorded in writing. The outer timeline for completion of the settlement process is 180 days. The Regulations also include provisions relating to confidentiality, disclosure of parallel proceedings, monitoring arrangements and revocation of settlements.

5. The Committee was also briefed that purpose of the Competition Commission of India (Determination of Turnover or income) Regulations, 2024 was to bring clarity with respect to the terms 'turnover' or 'income' for enterprises and 'turnover' or 'income' has been clarified as to include the value of sales and other operating income. It excludes other income, indirect taxes, trade discounts and intra-group sales. It was also stated that the turnover and income are determined on the basis of audited and certified documents and if audited financial statements are not available, then it has to be certified by the statutory auditor or the chartered accountant.

6. On the Competition Commission of India (Determination of Monetary Penalty) Guidelines, 2024, the Committee was informed that the Guidelines prescribe a structured method for imposition of penalties. It provides a clear framework with regard to determination of penalty and also ensures that the penalty is proportionate to the conduct. It also provides legal certainty while determining the penalty as it is based on the audited and certified documents. It also ensures reasonableness in determination of penalty through the consideration of mitigating and aggravating factors.

7. During the meeting, the Chairman and Members raised several concerns/issues regarding the implementation and effectiveness of the

Regulations/Guidelines. The Chairman, in particular, referred to the settlement in the Android Smart TV matter where the settlement amount was only around Rs.20.24 crores while in the European Union, the company was fined 4 billion dollars. He sought clarification regarding the basis for computation of the settlement amount, including whether domestic or global turnover had been taken into consideration, as well as the reasons for the comparatively lower settlement amount in India vis-à-vis the penalties imposed in the European Union. He also raised the issue of the leniency regime under Section 46 of the Competition Act which allows cartel participants making true, full, and vital disclosures to receive reduction in penalties. The Chairman also enquired about status of the joint investigation by DGCA and CCI in the matter of alleged abuse of dominant position in the aviation sector.

8. In response to the queries raised by the Chairman, the Chairperson, Competition Commission of India, informed that penalty on the Smart TV issue was calculated on the basis of the relevant India turnover of the company derived from the Smart TV operating system market. It was further clarified that the settlement amount had been determined after taking into account mitigating and aggravating factors, along with the statutory settlement discount of 15 per cent. The Chairperson also stated that the matter dealt with by the European Union related to a different market segment involving mobile operating systems and, therefore, was not directly comparable with the Indian case. Regarding the issue of markers under Section 46, she stated that marker is allowed in case of cartel. It is very difficult for CCI to get evidence and therefore, this incentive of marker is only there where there is a cartel. In cartel case, settlement is not allowed. She further clarified that in the case of alleged abuse of dominant position in the aviation sector, they are not conducting any joint investigation with the DGCA. The DGCA did their own investigation. CCI had received a complaint regarding a certain company abusing its dominance during the period of flight disruptions in December, 2025. That is currently under inquiry with the Commission and the matter has been now referred to DG for investigation. Depending on the extent of cooperation from the parties, the matter would be taken forward and expedited.

9. The other issues highlighted and queries raised by the Members included the adequacy of timelines for filing settlement proposals, possible misuse of the framework by large corporations, absence of judicial review post-settlement, confidentiality provisions, and whether the framework disproportionately favored large enterprises. Members also expressed concern over the decline in suo motu investigations over the years, pendency and disposal statistics, effectiveness of the Regulations after two years of implementation. Further concerns were raised regarding delays in recovery of penalties and recovery of minimal amount, effectiveness of prescribed timelines, confidentiality provisions under the settlement regulations, use of global turnover in determination of penalties, and alignment of the Indian regulatory

framework with global best practices. Clarifications were also sought regarding the prescribed timelines for disposal of cases in the settlement regulations which seem inadequate and repeat violations by enterprises even after settlement.

10. In response to the queries raised by the Members, the Competition Commission of India (CCI) clarified that the settlement and commitment mechanisms were intended to ensure quicker market correction and reduce prolonged litigation. It was stated that parties opting for settlement waive their appellate remedies and that confidentiality claims are governed by the provisions of the Act and the General Regulations. She assured the Committee that adequate confidentiality safeguards existed within the legal framework. She also informed the Committee that *suo motu* cases were more frequent during the initial years due to limited public awareness regarding competition law and at that time, CCI had taken up *suo motu* cases frequently. But the Commission felt that there is somewhat of a conflict in that they are establishing a case against a party and also adjudicating it. Therefore, they have now avoided taking up a matter *suo moto* unless nobody else is willing to come forward. Also, the Commission now exercises restraint in sectors where sectoral regulators exist. The CCI further informed that out of 1,375 anti-trust cases received till date, 1,237 had been disposed of.

11. The Chairman specifically asked that in view of the operation of the Regulations in the last two years, whether it is a good time to assess these Regulations. Chairperson, CCI replied that since these Regulations were framed in March, 2024, they have been in operation for around two years and that they would look into whether some amendment is required. The Ministry and the CCI assured the Committee that detailed written replies would be furnished on all issues raised by the Hon'ble Members.

12. A verbatim record of the proceedings was maintained.

13. The meeting adjourned at 4.41 p.m.

Ravinder Kumar
Director
New Delhi
19.05.2026

**MINUTES OF THE MEETING OF THE COMMITTEE ON
SUBORDINATE LEGISLATION, RAJYA SABHA**

XIII

THIRTEENTH MEETING

The Committee met at 3:00 P.M. on Friday, the 10th July, 2026, in Committee Room No. 4, A-Block, Parliament House Annexe Extension Building, New Delhi. The following Members of the Committee were present in the meeting:

PRESENT:

1. Shri Milind Murli Deora - Chairman

Members

1. Shri Sadanand Mhalu Shet Tanavade
2. Shri Kesridevsinh Jhala
3. Shri Neeraj Shekhar
4. Shri Golla Baburao
5. Smt. Ranjeet Ranjan
6. Smt. Sangeeta Yadav

Secretariat

1. Shri Mahender Singh, Joint Secretary
2. Shri Ravinder Kumar, Director
3. Shri Thang Joyful Tonsing, Deputy Secretary
4. Smt. Mamta Banga, Under Secretary

2. At the outset, the Chairman welcomed the Members of the Committee to the meeting and stated that the Committee had taken up for detailed examination the (i) Competition Commission of India (Commitment) Regulations, 2024 (ii) Competition Commission of India (Settlement) Regulations, 2024 (iii) Competition Commission of India (Determination of Turnover or Income) Regulations, 2024; and (iv) Competition Commission of India (Determination of Monetary Penalty)

Guidelines, 2024 framed under the Competition Act, 2002, as amended through the Competition (Amendment) Act, 2023.

3. He further informed the Members that the Committee had discussed the said Regulations/Guidelines with the Ministry of Corporate Affairs and Competition Commission of India (CCI) in its meetings held on 10th March, 2026 and 19th May, 2026. Based on the deliberations and inputs received, a draft report on the Regulations/Guidelines, as draft 257th Report, has been prepared and placed before the Members to consider and adopt so that the report could be presented in the House during the upcoming Monsoon Session. Thereafter, the Committee deliberated on the draft 257th Report and after some discussion, adopted it without any amendments.

4. Furthermore the Committee also authorized its Chairman and in his absence, Shri Sadanand Mhalu Shet Tanavade, M.P to present the report to the house, tentatively, on 21st July, 2026.

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6. XX XX XX XX

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7. The meeting was adjourned at 3:25 P.M.

Ravinder Kumar
DIRECTOR

New Delhi
10.07.2026



भारत का राजपत्र The Gazette of India

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भारतीय प्रतिस्पर्धा आयोग

अधिसूचना

नई दिल्ली, 6 मार्च, 2024

भारतीय प्रतिस्पर्धा आयोग (प्रतिबद्धता) विनियम, 2024

(2024 का सं. 03)

सं. सीसीआई/विनियम-प्रति.विनि./2024.—प्रतिस्पर्धा अधिनियम, 2002 (2003 का 12) की धारा 48ख के साथ पठित, धारा 64 द्वारा उसे प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय प्रतिस्पर्धा आयोग प्रतिबद्धता आवेदन दाखिल करने की प्रक्रिया विनिर्दिष्ट करने और प्रतिबद्धता कार्यवाही, और उससे संबद्ध या उसके आनुषंगिक विषयों को संचालित करने के लिए एतद्वारा निम्नलिखित विनियम बनाता है, अर्थात्:-

1. संक्षिप्त नाम एवं आरंभ. -

- (1) इन विनियमों का संक्षिप्त नाम भारतीय प्रतिस्पर्धा आयोग (प्रतिबद्धता) विनियम, 2024 है।
- (2) ये राजपत्र में इनके प्रकाशन की तारीख से प्रवृत्त होंगे।

2. परिभाषाएं. -

- (1) इन विनियमों में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो:

- (क) “अधिनियम” से प्रतिस्पर्धा अधिनियम, 2002 (2003 का 12) अभिप्रेत है;
- (ख) “आयोग” से अधिनियम की धारा 7 की उपधारा (1) के अधीन स्थापित भारतीय प्रतिस्पर्धा आयोग अभिप्रेत है;
- (ग) “महानिदेशक” से अधिनियम की धारा 2 के खंड (छ) में यथापरिभाषित महानिदेशक अभिप्रेत है;

(घ) “प्रतिबद्धता करने वाले आवेदक” से अधिनियम की धारा 2 के खंड (ज) में यथापरिभाषित कोई उद्यम, जिसके विरुद्ध अधिनियम की धारा 3 की उपधारा (4) और धारा 4 के अभिकथित उल्लंघनों के लिए अधिनियम की धारा 26 की उपधारा (1) के अधीन कोई जांच संस्थित की गई है, और जो प्रतिबद्धता आवेदन प्रस्तुत करता है, अभिप्रेत है;

(ङ) “प्रतिबद्धता आवेदन” से अधिनियम की धारा 3 की उपधारा (4) और धारा 4 के अभिकथित उल्लंघनों के लिए संस्थित कार्यवाहियों के संबंध में प्रतिबद्धता प्रस्थापित करने वाले इन विनियमों के अधीन, आयोग के समक्ष प्रतिबद्धता करने वाले आवेदक द्वारा प्रस्तुत आवेदन अभिप्रेत है;

(2) इन विनियमों में प्रयुक्त ऐसे शब्दों और पदों का, जो परिभाषित नहीं हैं, वही अर्थ होगा, जो उनका, यथास्थिति, अधिनियम या नियम या तदधीन बनाये गये विनियम या कंपनी अधिनियम, 2013 (2013 का 18) में है।

3. प्रतिबद्धता के लिए आवेदन. -

(1) प्रतिबद्धता करने वाले आवेदक, विनियम 8 के उपविनियम (1) के अधीन यथाउपबंधित ऐसी फीस के साथ, नीचे यथाविनिर्दिष्ट सूचना अंतर्विष्ट करते हुए आयोग को लिखित में आवेदन कर सकेगा:

क) प्रतिबद्धता करने वाले आवेदक का नाम, विधिक स्थिति (कंपनी या फर्म या एलएलपी या न्यास, इत्यादि), पंजीकरण संख्या, (यदि प्रयोज्य हो), संपर्क विवरण जिसमें पूर्ण पंजीकृत पता, मूल कारबार पता (क्षेत्र को कोड, शहर और देश के साथ), मोबाइल/ दूरभाष संख्या, ईमेल एवं वेबसाइट का पता (यदि कोई हो) सम्मिलित होंगे।

ख) प्रतिबद्धता करने वाले आवेदक का प्राधिकृत प्रतिनिधि(प्रतिनिधियों) का नाम और उनके संपर्क के ब्यौरे जिसमें पूर्ण कारबार पता, दूरभाष संख्या और ईमेल सम्मिलित होंगे।

ग) विनियम 8 के अधीन, आयोग को संदाय फीस का साक्ष्य।

घ) प्रतिबद्धता करने वाले आवेदक के संबंध में अधिनियम की धारा 26 की उपधारा (1) के अधीन पारित आदेश में अभिलिखित आयोग की प्रथम दृष्टया राय का ब्यौरा।

ङ) अधिनियम के अभिकथित उल्लंघनों के संबंध में तथ्यों का पूर्ण और सही प्रकटन।

च) प्रस्थापित प्रतिबद्धताओं का ब्यौरा जिसमें अभिकथित उल्लंघनों, प्रतिस्पर्धा संबंधी चिंताओं का कैसे निवारण किया जाए और तत्संबंधी निर्वचन और अनुश्रवण की रीति सम्मिलित होंगे।

छ) क्या प्रतिबद्धता करने वाले आवेदक को पूर्व में, अधिनियम के कोई उपबंध का उल्लंघन करते हुए पाया गया है या क्या प्रतिबद्धता करने वाले आवेदक के विरुद्ध अधिनियम के उपबंधों के कोई अभिकथित अतिक्रमण के लिए कोई कार्यवाही अनिर्णीत है या क्या प्रतिबद्धता करने वाले आवेदक ने अतीत में कोई परिनिर्धारण या प्रतिबद्धता आवेदन किया है/(किये हैं)। यदि हाँ, तो तत्संबंधी ब्यौरा ?

ज) अभिकथित उल्लंघनों की प्रकृति, गंभीरता और प्रभाव का ब्यौरा, और अभिकथित उल्लंघनों में उद्यम की अंतर्वलितता की कालावधि।

झ) सारांश, जिसमें कोई गोपनीय सूचना अंतर्विष्ट न हो, जिसमें अधिनियम की धारा 26 की उपधारा (1) के अधीन जारी आदेश में अभिव्यक्त आयोग की प्रथम दृष्टया राय के साथ प्रतिस्पर्धा संबंधी चिंताओं, अभिकथित उल्लंघन, प्रतिबद्धता करने वाले आवेदक द्वारा प्रस्थापित विधिवत अभिगृहीत प्रतिबद्धताएं और वे प्रतिस्पर्धा संबंधी चिंताओं का कैसे निवारण करते हैं, का ब्यौरा समाविष्ट हो।

ञ) अन्य प्रतिस्पर्धा प्राधिकरणों, मंचों या न्यायालयों का ब्यौरा, यदि कोई हो, जिन्होंने अभिकथित उल्लंघनों की जांच की है या वर्तमान में कर रहे हैं, इसमें वे भी सम्मिलित हैं जहां प्रतिबद्धता करने वाले आवेदक ने प्रतिबद्धता और/या परिनिर्धारण आवेदन दाखिल किए हैं।

ट) अनुसूची I के अनुसार वचनबंध और अधित्यजन।

ठ) कोई अन्य सूचना जो विनियम 7 के अधीन विनिर्दिष्ट कारकों को ध्यान में रखते हुए, प्रतिबद्धता के निबंधनों का अवधारण करने में आयोग की सहायता करे।

(2) अधिनियम की धारा 26 की उपधारा (1) के अधीन आयोग द्वारा आदेश पारित होने के पश्चात किसी भी समय पर, किंतु उपविनियम के अधीन विहित किसी समय के भीतर या पक्षकार को अधिनियम की धारा 26 की उपधारा (4) के अधीन महानिदेशक की रिपोर्ट की प्राप्ति से पूर्व, जो भी पहले हो, उपविनियम (1) के अधीन प्रतिबद्धता आवेदन प्रस्तुत किया जा सकेगा।

(3) अधिनियम की धारा 26 की उपधारा (1) के अधीन आयोग द्वारा पारित आदेश की प्राप्ति से 45 (पैंतालीस) दिनों के भीतर प्रतिबद्धता आवेदन दाखिल किया जा सकेगा।

परंतु यह कि यदि 30 (तीस) दिनों की अतिरिक्त कालावधि के भीतर प्रतिबद्धता आवेदन प्राप्त हो जाता है और आयोग का समाधान हो जाता है कि विनिर्दिष्ट कालावधि के भीतर इसे दाखिल न करने के लिए पर्याप्त कारण थे तो आयोग, ऐसे

विलंब के माफ करने के कारण अभिलिखित करने के पश्चात, उपर्युक्त विनिर्दिष्ट समयावधि के पश्चात, प्रतिबद्धता आवेदन पर विचार कर सकेगा।

- (4) जहां प्रतिबद्धता आवेदन किसी भी तरह से अपूर्ण है या इन विनियमों की अपेक्षाओं के अनुरूप नहीं है, प्रतिबद्धता करने वाले आवेदक को ऐसे त्रुटि(त्रुटियों) को दूर करने या दस्तावेज(दस्तावेजों) सहित अपेक्षित सूचना प्रस्तुत करने के लिए कहा जा सकेगा। प्रतिबद्धता करने वाले आवेदक संसूचना प्राप्त होने के दस (10) दिवस या ऐसी अन्य कालावधि, जो आयोग विनिर्दिष्ट करे, के भीतर दस्तावेज सहित ऐसे त्रुटियों का परिशोधन करेगा या अपेक्षित सूचना प्रस्तुत करेगा, ऐसा न करने पर प्रतिबद्धता आवेदन अविधिमान्य समझा जाएगा।
- (5) विनियम 4 के अधीन आयोग द्वारा आदेश पारित करने से पूर्व, प्रतिबद्धता करने वाला आवेदक, किसी भी समय पर, प्रतिबद्धता आवेदन प्रत्याहृत कर सकेगा।
- (6) यदि प्रतिबद्धता करने वाले आवेदक से अधिनियम के अधीन, वसूली के लिए दायी कोई राशि शोध्य है तो प्रतिबद्धता आवेदन पर विचार नहीं किया जाएगा।

4. प्रतिबद्धता के लिए प्रस्ताव की विचारणा. —

- (1) विनियम 3 के निबंधनों के अनुसार सर्वथा पूर्ण प्रतिबद्धता आवेदन, तत्संबंधी प्राप्ति के 7 (सात) कार्य दिवसों के भीतर आयोग की साधारण बैठक में विचार के लिए रखा जाएगा।
- (2) यदि आयोग का, प्रतिबद्धता करने वाले आवेदक द्वारा प्रस्थापित प्रतिबद्धताओं से प्रथम दृष्टया समाधान नहीं हो जाता है, तो वह प्रतिबद्धता करने वाले आवेदक को इसके लिए कारण संसूचित करेगा और प्रतिबद्धता करने वाले आवेदक को कथित संसूचना प्राप्त होने के 15 (पंद्रह) कार्य दिवसों के भीतर, संशोधित प्रतिबद्धता आवेदन प्रस्तुत करने के लिए कहेगा।
- (3) जब उपर्युक्त उप-विनियम (1) के अधीन सर्वथा पूर्ण प्रतिबद्धता आवेदन, आयोग के समक्ष विचार के लिए रखा जाता है, तो आयोग प्रतिबद्धता आवेदन पर, अंतिम निर्णय होने तक या ऐसे समय तक जो आयोग विनिश्चित करे, प्रतिबद्धता करने वाले आवेदक के विरुद्ध जांच को प्रास्थगित रख सकेगा।
- (4) प्रतिबद्धता आवेदन के अधीन प्रस्थापित प्रतिबद्धताओं पर विचार करते समय, आयोग विनियमन 5 के निबंधनों के अनुसार आक्षेप और सुझाव आमंत्रित करेगा।
- (5) अभिकथित उल्लंघनों की प्रकृति, गंभीरता और प्रभाव, प्रतिबद्धता करने वाले आवेदक द्वारा की गई प्रतिबद्धताओं और विनियम 5 के अधीन प्राप्त टीका-टिप्पणियों, आक्षेपों या सुझावों पर विचार करने के पश्चात,
 - क) आयोग, यथास्थिति, विनियम 3 के उपविनियम (1) के अधीन दाखिल प्रतिबद्धता आवेदन या उपर्युक्त उपविनियम (2) के अधीन दाखिल संशोधित प्रतिबद्धता विनियम में यथा अंतर्विष्ट प्रस्थापित प्रतिबद्धताओं पर सहमत होते हुए, प्रतिबद्धताओं के निर्वचन और अनुश्रवण की रीति से संबंधित ऐसी अन्य शर्तों और प्रतिबद्धता करने वाले आवेदक के विरुद्ध तत्क्षण कार्यवाही बंद करने के अध्यक्षीन, अधिनियम की धारा 48ख की उपधारा (3) के निबंधनों के अनुसार आदेश पारित कर सकेगा।
 - ख) यदि आयोग यह राय बनाता है कि यथास्थिति, विनियम 3 के उपविनियम (1) के अधीन दाखिल प्रतिबद्धता आवेदन या उपर्युक्त उपविनियम (2) के अधीन दाखिल संशोधित प्रतिबद्धता आवेदन, परिस्थितियों में, उपयुक्त नहीं हैं तो वह अधिनियम की धारा 48ख की उपधारा (5) के निबंधनों के अनुसार पारित आदेश द्वारा प्रतिबद्धता आवेदन नामंजूर करेगा और अधिनियम की धारा 26 के अधीन, उसकी जांच के साथ अग्रसर होगा।
 - ग) यदि आयोग का, प्रतिबद्धता आवेदन से समाधान नहीं होता है, तो वह विनियम 5 में विनिर्दिष्ट कालावधि समाप्त होने के पश्चात 15 (पंद्रह) कार्य दिवसों के भीतर, प्रतिबद्धता करने वाले आवेदक को इसके कारणों के बारे में संसूचित करेगा और प्रतिबद्धता करने वाले आवेदक को उक्त संसूचना प्राप्त होने के 30 (तीस) दिनों के भीतर, संशोधित प्रतिबद्धता आवेदन प्रस्तुत करने के लिए कहेगा।
 - घ) यदि आयोग इस उप-विनियम (5) के खंड (ग) के अधीन दाखिल संशोधित प्रतिबद्धता आवेदन पर विचार करने के पश्चात इसपर सहमत हो जाता है, तो आयोग प्रतिबद्धताओं के निर्वचन और अनुश्रवण की रीति से संबंधित ऐसी अन्य शर्तों और प्रतिबद्धता करने वाले आवेदक के विरुद्ध तत्क्षण कार्यवाही बंद करने के अध्यक्षीन, अधिनियम की धारा 48ख की उपधारा (3) के निबंधनों के अनुसार आदेश पारित कर सकेगा।
 - ङ) यदि आयोग का, इस उपविनियम (5) के खंड (ग) के अधीन दाखिल संशोधित प्रतिबद्धता आवेदन पर विचार करने के पश्चात इससे समाधान नहीं होता है तो वह अधिनियम की धारा 48ख की उप धारा (5) के निबंधनों के अनुसार पारित आदेश द्वारा प्रतिबद्धता आवेदन नामंजूर करेगा और अधिनियम की धारा 26 के अधीन, उसकी जांच के साथ अग्रसर होगा।
- (6) यदि प्रतिबद्धता करने वाले आवेदक उपर्युक्त उपविनियम (2) और उपविनियम (5) के खंड (ग) में विनिर्दिष्ट समयावधि के भीतर संशोधित प्रतिबद्धता आवेदन प्रस्तुत करने में असफल रहता है या स्पष्टीकरण, सूचना या डेटा, जो कि उप-विनियम (8) के अधीन मांगा गया है, उपलब्ध कराने में असफल रहता है तो आयोग अधिनियम की धारा 48ख की उप धारा (5) के

निबंधनों के अनुसार पारित आदेश द्वारा प्रतिबद्धता आवेदन नामंजूर करेगा और अधिनियम की धारा 26 के अधीन, उसकी जांच के साथ अग्रसर होगा।

- (7) संपूर्ण प्रतिबद्धता कार्यवाही, विनियमन 3 के निबंधनों के अनुसार सर्वथा पूर्ण प्रतिबद्धता आवेदन प्राप्त होने के 130 (एक सौ तीस) कार्य दिवसों के भीतर समाप्त कर दी जाएगी ऐसा न होने पर प्रतिबद्धता करने वाले आवेदक के विरुद्ध अधिनियम की धारा 26 के अधीन पुनः जांच आरंभ कर दी जाएगी।
परंतु यह कि आयोग, यदि उचित समझे, 130 (एक सौ तीस) कार्य दिवसों की उक्त कालावधि, लिखित में कारणों को अभिलिखित करते हुए आगे ऐसी कालावधि तक बढ़ा सकेगा जो विनिर्दिष्ट हो।
- (8) आयोग, प्रतिबद्धता करने वाले आवेदक से स्पष्टीकरण, सूचना या डेटा, जो उचित समझे मांग सकेगा, जो प्रतिबद्धता करने वाला आवेदक, आयोग द्वारा विनिर्दिष्ट समय के भीतर उपलब्ध कराएगा।
- (9) उपर्युक्त उपबंधों में किसी बात के होते हुए भी, निम्नलिखित आधार पर, किसी भी समय पर प्रतिबद्धता आवेदन नामंजूर किया जा सकेगा:
 - (क) जहां प्रतिबद्धता करने वाला आवेदक आयोग द्वारा भेजी गई संसूचना लेने से या उसका प्रत्युत्तर देने से इनकार कर देता है।
 - (ख) जहां आवेदक कोई रीति में प्रतिबद्धता का उल्लंघन करता है या अनुसूची-I के अनुसार दिए गए वचनबंध और अधित्यजन का पालन नहीं करता है।
- (10) उपर्युक्त उपविनियम (5) के खंड (ख) और (ड.), उपविनियम (6) और उपविनियम (9) के अधीन प्रतिबद्धता आवेदन नामंजूर करने का आदेश पारित करने से पूर्व, आयोग प्रतिबद्धता करने वाले आवेदक को सुनवाई का अवसर प्रदान करेगा।
- (11) प्रतिबद्धता करने वाले आवेदक को इस विनियमन के अधीन नामंजूरी की संसूचना दी जाएगी:
परंतु यह कि प्रतिबद्धता करने वाला आवेदक अनुसूची I के अनुसार दिए गए वचनबंध और अधित्यजन द्वारा आवद्ध रहना जारी रहेगा।

5. प्रतिबद्धता के लिए प्रस्ताव पर आक्षेपों एवं सुझावों का आमंत्रण. -

- (1) प्रस्थापित प्रतिबद्धताओं पर विचार करते समय, आयोग संबद्ध पक्षकार, महानिदेशक, या कोई पक्षकार को 21 (इक्कीस) दिवसों के भीतर अपनी टीका-टिप्पणियाँ, आक्षेप, या सुझाव, यदि कोई हो, प्रस्तुत करने का अवसर प्रदान करेगा। कथित प्रयोजन के लिए आयोग, ऐसा सारांश, जिसमें कोई गोपनीय सूचना अंतर्विष्ट न हो, जिसमें अधिनियम की धारा 26 की उपधारा (1) के अधीन जारी आदेश में अभिव्यक्त आयोग की प्रथम दृष्टया राय के साथ प्रतिस्पर्धा संबंधी चिंताओं, अभिकथित उल्लंघन, प्रतिबद्धता करने वाले आवेदक द्वारा प्रस्थापित विधिवत अभिगृहीत प्रतिबद्धताएं और वे प्रतिस्पर्धा संबंधी चिंताओं का कैसे निवारण करते हैं, का अन्य ब्यौरा, जो उचित समझे, समाविष्ट हो, साझा करेगा।
परंतु यह कि आयोग, उपर्युक्त उल्लेखित सारांश अपने वेबसाइट पर प्रकाशित करके 21 (इक्कीस) दिवसों के भीतर, जनता को भी टीका-टिप्पणियाँ, आक्षेप और सुझाव प्रस्तुत करने के लिए आमंत्रित कर सकेगा।
- (2) संबद्ध पक्षकारों द्वारा दाखिल टीका-टिप्पणियाँ, आक्षेप और सुझाव में निम्नलिखित ब्यौरे अंतर्विष्ट होंगे:
 - क) संबद्ध पक्षकारों और उसके प्राधिकृत प्रतिनिधि (प्रतिनिधिगण) का नाम और संपर्क ब्यौरा जिसमें पता, दूरभाष, ईमेल सम्मिलित होंगे।
 - ख) प्राधिकृत प्रतिनिधि द्वारा विधिवत अधिप्रमाणित और संगत दस्तावेजों द्वारा समर्थित टीका-टिप्पणियों, आक्षेपों और सुझावों का कथन।
 - ग) टीका-टिप्पणियों, आक्षेपों और सुझावों का सारांश जो चार पृष्ठों से अधिक पृष्ठों में न रहे।
 - घ) कोई अन्य सूचना जो प्रतिबद्धता के निबंधनों का अवधारण करने में आयोग की सहायता करे।

6. प्रतिबद्धता आदेश की प्रकृति और उसके प्रभाव. -

- (1) प्रस्थापित प्रतिबद्धताओं से सहमत होने पर आयोग द्वारा पारित आदेश, प्रतिबद्धता करने वाले आवेदक के विरुद्ध आयोग द्वारा उल्लंघन के निष्कर्ष के रूप में नहीं समझा जाएगा।
- (2) प्रतिबद्धता आवेदन दाखिल करने या आयोग द्वारा प्रतिबद्धता आदेश जारी करने का, उन अन्य पक्षकार, जो प्रतिबद्धता कार्यवाहियों का हिस्सा नहीं हैं, की जांच में, कथित उल्लंघनों के संबंध में अधिनियम की धारा 26 के अधीन जांच पर असर नहीं होगा।
- (3) प्रतिबद्धता आदेश अंतिम होगा और प्रतिबद्धता करने वाले आवेदक पर आवद्धकर होगा।

7. प्रतिबद्धता की निबंधनों का निर्धारण. -

अभिकथित उल्लंघनों की प्रकृति, गंभीरता और प्रभाव और प्रस्तावित प्रतिबद्धताओं की प्रभावशीलता पर विचार करते समय, आयोग निम्नलिखित सभी या कोई कारक, जिसमें सम्मिलित है, पर उचित ध्यान देगा:

- (क) अभिकथित उल्लंघन के आचरण की प्रकृति, उसका प्रकार, कालावधि और सीमा;

- (ख) क्या प्रतिबद्धता के निबंधन अभिज्ञात प्रतिस्पर्धा चिंताओं, कथित उल्लंघनों का निवारण करते हैं, और अनुश्रवण सुलभ बनाने के अतिरिक्त, इसे प्रभावी ढंग से और शीघ्रता से निर्वचित किया जा सकता है;
- (ग) क्या प्रतिबद्धता के निबंधन बाजारों को अधिक प्रतिस्पर्धी बनाते हैं;
- (घ) प्रक्रियात्मक दक्षताएं, स्व-निष्पादित निबंधन और बाजार विकृतियों का शीघ्र सुधार;
- (ङ) क्या प्रतिबद्धता करने वाले आवेदक को पूर्व में, अधिनियम के कोई उपबंध का उल्लंघन करते हुए पाया गया है या क्या प्रतिबद्धता करने वाले आवेदक के विरुद्ध अधिनियम के उपबंधों के कोई अभिकथित अतिक्रमण के लिए कोई अन्वेषण या जांच अनिर्णीत है या क्या प्रतिबद्धता करने वाले आवेदक ने पूर्व में कोई परिनिर्धारण या प्रतिबद्धता आवेदन किया है/(किये हैं);
- (च) क्या प्रतिबद्धता करने वाले आवेदक ने अपने वे आचरण और नीतियां पहले ही उपांतरित कर ली हैं जो आयोग द्वारा अधिनियम के प्रथम दृष्टया अतिक्रमण करते हुए पाए गए हैं या प्रतिबद्धता करने वाले आवेदक ने भविष्यवर्ती अतिक्रमण या व्यपगमन कम करने के कदम उठा लिये हैं;
- (छ) कोई अन्य कारक जो आयोग, मामले के तथ्यों और परिस्थितियों में उचित समझे।

8. अधिनियम की धारा 48(ख) की उपधारा (1) के अधीन फीस. -

- (1) अधिनियम की धारा 48ख की उपधारा (1) के अधीन आयोग को प्राप्त प्रत्येक आवेदन के साथ अप्रतिदेय फीस के संदाय का निम्नानुसार साक्ष्य संलग्न होगा:
 - (क) उस मामले में, जहां प्रतिबद्धता करने वाले आवेदक का, भारत में, पूर्ववर्ती वित्त वर्ष में, कुल कारबार 50,00,00,000 (पचास करोड़ रुपये) का रहा हो, 2,50,000 (दो लाख पचास हजार रुपये) मात्र; या
 - (ख) उस मामले में, जहां प्रतिबद्धता करने वाले आवेदक का, भारत में, पूर्ववर्ती वित्त वर्ष में, कुल कारबार 50,00,00,000 (पचास करोड़ रुपये) से अधिक और 500,00,00,000 (पांच सौ करोड़ रुपये) तक का रहा हो, 10,00,000 (दस लाख रुपये) मात्र; या
 - (ग) उस मामले में, जहां प्रतिबद्धता करने वाले आवेदक का, भारत में, पूर्ववर्ती वित्त वर्ष में, कुल कारबार 500,00,00,000 (पांच सौ करोड़ रुपये) से अधिक का रहा हो, 50,00,000 (पचास लाख रुपये) मात्र।
- (2) फीस का संदाय, भारतीय प्रतिस्पर्धा आयोग (प्रतिस्पर्धा निधि), नई दिल्ली के पक्ष में संदेय मांगदेय ड्राफ्ट, संदाय आदेश या बैंक चेक प्रस्तुत करके या भारतीय प्रतिस्पर्धा आयोग (प्रतिस्पर्धा निधि), 'पंजाब नेशनल बैंक, भीकाजी कामा प्लेस, नई दिल्ली-110066' के खाता संख्याक 1988002100187687 में सीधे प्रेषण द्वारा इलैक्ट्रॉनिक समाशोधन सेवा (ईसीएस) के माध्यम से किया जा सकेगा।

9. प्रतिबद्धता आदेश का निर्वचन और अनुश्रवण. -

जहां आयोग की यह राय है कि प्रतिबद्धताओं के निर्वचन के अनुश्रवण की आवश्यकता है, वहां वह भारतीय प्रतिस्पर्धा आयोग (साधारण) विनियम, 2009 के निबंधनों के अनुसार और आयोग द्वारा यथाविनिर्दिष्ट ऐसे निबंधनों और शर्तों पर ऐसे निर्वचन के प्रेक्षण के लिए अभिकरणों की नियुक्ति कर सकेगा।

10. प्रतिबद्धता आदेश का प्रतिसंहरण. -

- (1) यदि प्रतिबद्धता करने वाले आवेदक अधिनियम की धारा 48ख के अधीन, आयोग द्वारा पारित आदेश का पालन करने में असफल रहता है या आयोग के संज्ञान में आता है कि प्रतिबद्धता करने वाले आवेदक ने प्रतिबद्धता कार्यवाही के दौरान, पूर्ण और सही प्रकटन नहीं किया है या तथ्यों में सारवान परिवर्तन किया है तो अधिनियम की धारा 48ख के अधीन पारित आदेश प्रतिसंहृत और प्रत्याहृत रहेगा।

परंतु यह कि इस संबंध में राय बनाने से पूर्व, आयोग, प्रतिबद्धता करने वाले आवेदक को कारण बताओ नोटिस प्राप्त होने की तारीख से 15 कार्य दिवसों की कालावधि के भीतर यह कारण बताने अवसर देगा कि आयोग ऐसी राय क्यों न बनाए कि प्रतिबद्धता करने वाला आवेदक, अधिनियम की धारा 48ख के अधीन, आयोग द्वारा पारित आदेश का पालन करने में असफल रहा है या यथास्थिति, प्रतिबद्धता करने वाला आवेदक, प्रतिबद्धता कार्यवाही के दौरान, पूर्ण और सही प्रकटन करने में असफल रहा है या तथ्यों में सारवान परिवर्तन हुआ है।
- (2) जहां उपर्युक्त उपविनियम (1) के अनुसार प्रतिबद्धता आदेश प्रतिसंहृत और प्रत्याहृत हो जाता है तो प्रतिबद्धता करने वाला आवेदक, आयोग द्वारा उपगत विधिक खर्चों का अधिकतम एक करोड़ रुपये के अधीन, आयोग द्वारा यथा अवधारित, संदाय करने के लिए दायी होगा जो विनियम 8 के उपविनियम (2) के निबंधनों के अनुसार संदत्त किया जाएगा।
- (3) प्रतिबद्धता करने वाले आवेदक पर अधिरोपित ऐसी विधिक लागत, भारतीय प्रतिस्पर्धा आयोग (धनीय शास्ति की वसूली की रीति) विनियम, 2011 के साथ पठित, अधिनियम की धारा 39 के अधीन उसी रीति से वसूली होगी जो अधिनियम के अधीन अधिरोपित शास्ति की वसूली के लिए विहित है।

- (4) आगे, जहां उपर्युक्त उपविनियम (1) के अनुसार प्रतिबद्धता आदेश प्रतिसंहत और प्रत्याहृत हो जाता है वहां आयोग, प्रतिबद्धता करने वाले आवेदक के विरुद्ध जांच या अन्वेषण, जिसके संबंध में धारा 48ख के अधीन आदेश पारित किया गया था, भी प्रत्यावर्तित या संस्थित कर सकेगा।

11. सूचना का उपयोग करने की शक्ति. -

- (1) जहां आयोग ने विनियमन 10 के साथ पठित, अधिनियम की धारा 48 ग के निबंधनों के अनुसार, अपना प्रतिबद्धता आदेश प्रतिसंहत और प्रत्याहृत कर लिया है वहां आयोग और महानिदेशक, अधिनियम के अधीन कार्यवाहियों में प्रतिबद्धता करने वाले आवेदक द्वारा प्रस्तुत सूचना और दस्तावेजों पर निर्भर हो सकेंगे।
- (2) जहां प्रतिबद्धता आवेदन नामंजूर कर दिया जाता है या प्रत्याहृत कर लिया जाता है वहां आयोग और महानिदेशक, अधिनियम के अधीन कार्यवाही में प्रतिबद्धता करने वाले आवेदक के अतिरिक्त, अन्य स्रोतों से एकत्रित सूचना का उपयोग कर सकेंगे।
- (3) आयोग, अधिनियम की धारा 57 के साथ पठित, भारतीय प्रतिस्पर्धा आयोग (साधारण) विनियम, 2009 के विनियम 35 के उपबंधों के अधीन, प्रतिबद्धता करने वाले आवेदक द्वारा प्रस्तुत सूचना का उपयोग, उन अन्य पक्षकारों के विरुद्ध जांच में कर सकेगा जो प्रतिबद्धता कार्यवाही का हिस्सा नहीं हैं।
- (4) प्रतिबद्धता करने वाले आवेदक के विरुद्ध, समान कारण की कार्यवाही के संबंध में, भारत में या भारत के बाहर, कोई विधि के अधीन, चल रही या समाप्त कार्यवाही में स्थापित या स्वीकार किए गए तथ्य, इन विनियमों के अधीन बंद किये जाने की प्रस्तावित कार्यवाही के संबंध में प्रतिबद्धता करने वाले आवेदक द्वारा स्वीकार किए गए समझे जाएंगे।

12. अन्य अभिकथित उल्लंघनों के संबंध में जांच प्रभावित न करने में प्रस्थापित आंशिक प्रतिबद्धताएं. -

यदि अधिनियम की धारा 26 की उपधारा (1) के अधीन पारित आदेश में, आयोग द्वारा नोट किए गए कुछ उल्लंघनों के संबंध में प्रतिबद्धता आवेदन किया जाता है तो उसमें उल्लिखित शेष उल्लंघनों की जांच उसी रूप में जारी रखी जाएगी।

13. गोपनीयता के लिए अनुरोध. -

- (1) यदि प्रतिबद्धता कार्यवाही के दौरान, सूचना या दस्तावेज(दस्तावेजों) की गोपनीयता के लिए कोई अनुरोध प्रस्तुत किया जाता है तो ऐसा अनुरोध, भारतीय प्रतिस्पर्धा आयोग (साधारण) विनियम, 2009 में अधिकथित, समय-समय पर यथासंशोधित प्रक्रिया के अनुसार दाखिल किया जा सकेगा।
- (2) गोपनीयता के लिए ऐसे अनुरोध पर, अधिनियम की धारा 57 के साथ पठित, भारतीय प्रतिस्पर्धा आयोग (साधारण) विनियम, 2009 में अधिकथित, समय-समय पर यथासंशोधित उपबंधों के अनुसार विधिवत विचार किया जाएगा।

14. दस्तावेजों का निरीक्षण और उनकी प्रमाणित प्रतियां. -

- (1) भारतीय प्रतिस्पर्धा आयोग (साधारण) विनियम, 2009 के विनियम 37 और विनियम 50 में अंतर्विष्ट कोई प्रतिकूल बात के होते हुए भी, केवल सूचना देने वाले और प्रतिबद्धता करने वाले आवेदक को ही प्रतिबद्धता कार्यवाही में प्रस्तुत दस्तावेजों के निरीक्षण करने और प्रमाणित प्रतियां अभिप्राप्त करने की अनुज्ञा दी जा सकेगी।
परंतु यह कि भारतीय प्रतिस्पर्धा आयोग (साधारण) विनियम, 2009 के विनियम 35 के उपबंधों के अनुसार, ऐसे दस्तावेजों के गोपनीय पाठ का निरीक्षण करने और प्रमाणित प्रतियां अभिप्राप्त करने की अनुज्ञा दी जा सकेगी।
- (2) विनियम 5 के अधीन प्राप्त टीका-टिप्पणियों के निरीक्षण करने और प्रमाणित प्रतियां अभिप्राप्त करने की अनुज्ञा, उसमें उल्लिखित 21 (इक्कीस) दिवस की कालावधि समाप्त होने के पश्चात ही दी जाएगी।

15. कतिपय परिस्थितियों में प्रक्रिया अवधारित करने की शक्तियाँ. -

उस स्थिति में, जो इन विनियमों में उपबंधित नहीं की गई है, आयोग, कारण लिखित में अभिलिखित करके, विशिष्ट मामले में प्रक्रिया अवधारित कर सकेगा।

16. कठिनाइयों को दूर करने की शक्ति. -

इन विनियमों के निर्वचन के विषय में, यदि कोई संदेह या कठिनाई सामने आती है तो आयोग के पास स्पष्टीकरण निर्गमित करने और परिपत्रों और मार्गदर्शक सिद्धांतों के माध्यम से प्रक्रिया विनिर्दिष्ट करने की शक्ति होगी और उस पर आयोग का विनिश्चय आबद्धकर होगा।

अनुसूची I

वचनबंध और अधित्यजन

मैं/हम,, इसमें प्रतिबद्धता करने वाला (प्रतिबद्धता करने वाले आवेदक), आयोग को आवेदन का परीक्षण करने और उस पर विचार करने के लिए संलग्न आवेदन करने की शर्त के रूप में, एतद्वारा घोषणा करता हूं/करते हैं कि मैं/हम सहमत हूं/हैं और वचन देता हूं/देते हैं कि:

1. प्रतिबद्धता करने वाला आवेदक प्रतिस्पर्धा अधिनियम, 2002 के अधीन अभिकथित उल्लंघनों के संबंध में कार्यवाही संस्थित करने के लिए भारतीय प्रतिस्पर्धा आयोग (आयोग) की अधिकारिता और अधिकार स्वीकार करता है।

2. आयोग, इस आवेदन के अनुसार पारित प्रतिबद्धता आदेश के कोई उल्लंघन से होने वाले या उसके संबंध में कोई दावे प्रतिबद्धता करने वाले आवेदक के विरुद्ध प्रवर्तित करा सकता है।
3. प्रतिबद्धता करने वाला आवेदक, प्रतिबद्धता आदेश, जो पारित किया जा सकेगा, में सम्मिलित होने वाले मुद्दे के संबंध में, आयोग के विरुद्ध कोई विधिक कार्यवाही करने के अपने अधिकार का अधित्यजन कर देता है।
4. प्रतिबद्धता करने वाला आवेदक, आगे निम्नलिखित का अधित्यजन कर देता है:
 - क) तथ्य के निष्कर्ष और विधि के निर्णय;
 - ख) राष्ट्रीय कंपनी विधि अपील अधिकरण या अन्य न्यायालयों के समक्ष अपील या पुनर्विलोकन;
 - ग) यदि प्रतिबद्धता करने वाला आवेदक, प्रतिबद्धता आदेश का अतिक्रमण करता है तो कार्यवाही संस्थित करने या प्रत्यावर्तन करने के लिए परिसीमा या ढिलाई का कोई अभिवचना।

(निगम निकाय की मुहर और मुद्रा के साथ प्रतिबद्धता करने वाले आवेदक के हस्ताक्षर)

मेरे समक्ष।

नोटरी।

अनुपमा आनंद, सचिव

[विज्ञापन-III/4/असा./802/2023-24]

THE COMPETITION COMMISSION OF INDIA

NOTIFICATION

New Delhi, the 6th March, 2024

The Competition Commission of India (Commitment) Regulations, 2024

(No. 03 of 2024)

No. CCI/Reg-C.R./2024.—In exercise of the powers conferred by section 64 read with section 48B of the Competition Act, 2002 (12 of 2003), the Competition Commission of India hereby makes the following regulations to specify the procedure for filing of commitment applications and for conducting the commitment proceedings, and matters connected therewith or incidental thereto, namely: -

1. Short title and commencement. -

- (1) These regulations may be called the Competition Commission of India (Commitment) Regulations, 2024.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions. -

- (1) In these regulations, unless the context otherwise requires:
 - (a) “Act” means the Competition Act, 2002 (12 of 2003);
 - (b) “Commission” means the Competition Commission of India established under sub-section (1) of section 7 of the Act;
 - (c) “Director General” means the Director General as defined in clause (g) of section 2 of the Act;
 - (d) “Commitment Applicant” means any enterprise, as defined in clause (h) of section 2 of the Act, against whom any inquiry has been initiated under sub-section (1) of section 26 of the Act for alleged contraventions of sub-section (4) of section 3 or section 4 of the Act, and submits a Commitment Application;
 - (e) “Commitment Application” means an application submitted by a Commitment Applicant to the Commission under these regulations offering commitments in respect of proceedings initiated for the alleged contraventions of sub-section (4) of section 3 or section 4 of the Act stated in the order passed by the Commission under sub-section (1) of section 26 of the Act.
- (2) Words and expressions used but not defined in these regulations shall have the same meanings as assigned to them in the Act or in the regulations framed thereunder or in the Companies Act, 2013 (18 of 2013), as the case may be.

3. Application for Commitment. -

- (1) A Commitment Applicant may make an application to the Commission in writing, accompanied by such fee as provided under sub-regulation (1) of regulation 8, containing the information as specified below:

- a) name, legal status (company or firm or LLP or trust, etc.), registration number (if applicable), contact details including complete registered address, principal business address (with area code, city and country), mobile/ telephone number, email and website address (if any) of the Commitment Applicant.
 - b) name of the authorised representative(s) of the Commitment Applicant and their contact details including complete business address, telephone number and email.
 - c) proof of payment of fees to the Commission under regulation 8.
 - d) details of the *prima facie* opinion of the Commission recorded in the order passed under sub-section (1) of section 26 of the Act in relation to the Commitment Applicant.
 - e) full and true disclosure of facts in respect of the alleged contraventions of the Act.
 - f) details of the commitments offered including how the same address the alleged contraventions, competition concerns and the manner of implementation and monitoring thereof.
 - g) whether the Commitment Applicant, has previously been found to have contravened any provision of the Act or whether any proceeding against the Commitment Applicant is pending for any alleged violation of the provisions of the Act or whether the Commitment Applicant has in the past made any settlement or commitment application(s). If so, the details thereof.
 - h) details of nature, gravity and impact of the alleged contraventions, and the duration of the enterprise's involvement in the alleged contraventions.
 - i) a summary, not containing any confidential information, comprising of *prima facie* opinion of the Commission expressed in the order issued under sub-section (1) of section 26 of the Act along with details of competition concerns, alleged contraventions, duly capturing commitments offered by the Commitment Applicant and how they address the competition concerns.
 - j) details of other competition authorities, fora or courts, if any, which have examined or are currently examining the alleged contraventions including those where the Commitment Applicant has filed commitment and / or settlement applications.
 - k) Undertakings and waivers as per Schedule I.
 - l) any other information that may assist the Commission in determining the terms of the commitment having due regard to the factors specified under regulation 7.
- (2) The Commitment Application under sub-regulation (1) may be submitted at any time after an order under sub-section (1) of section 26 of the Act has been passed by the Commission but within the time prescribed under sub-regulation (3) or prior to receipt by the party of the report of the Director General under sub-section (4) of section 26 of the Act, whichever is earlier.
 - (3) A Commitment Application shall be filed within 45 (forty five) days from the receipt of the order passed by the Commission under sub-section (1) of section 26 of the Act.
Provided that the Commission may entertain a Commitment Application after the period specified above, if the Commitment Application is received within a further period of 30 (thirty) days and the Commission is satisfied that there had been sufficient cause for not filing the same within the specified period after recording reasons for condoning such delay.
 - (4) Where the Commitment Application is incomplete in any respect or does not conform to the requirements of these regulations, the Commitment Applicant may be asked to remove such defect(s) or furnish the required information including document(s). The Commitment Applicant shall rectify such defects or furnish the required information including document(s) within ten (10) working days of the receipt of communication or such other period as may be specified by the Commission, failing which the Commitment Application may be treated as invalid.
 - (5) A Commitment Application may be withdrawn by the Commitment Applicant at any time prior to the passing of an order by the Commission under regulation 4.
 - (6) No Commitment Application shall be considered if any amount due under the Act is liable for recovery from the Commitment Applicant.

4. Consideration of proposal for Commitment. -

- (1) The Commitment Application complete in all respects in terms of regulation 3 shall be placed for consideration before the Commission in its ordinary meeting within 7 (seven) working days of receipt thereof.
- (2) If the Commission is *prima facie* not satisfied with the commitments offered by the Commitment Applicant, it shall communicate to the Commitment Applicant the reasons for the same and call upon the Commitment

Applicant to furnish, within 15 (fifteen) working days of the receipt of the said communication, revised Commitment Application.

- (3) When the Commitment Application complete in all respects is placed for consideration before the Commission under sub-regulation (1) above, the Commission may keep the inquiry against the Commitment Applicant in abeyance till final decision on the Commitment Application or till such time, as may be decided by the Commission.
- (4) While considering the commitments offered under the Commitment Application, the Commission shall invite objections and suggestions in terms of regulation 5.
- (5) After consideration of the nature, gravity and impact of the alleged contraventions, the commitments offered by the Commitment Applicant and the comments, objections, or suggestions received under regulation 5,
 - a) the Commission may pass an order in terms of sub-section (3) of section 48B of the Act agreeing to the commitments offered as contained in the Commitment Application filed under sub-regulation (1) of regulation 3 or the revised Commitment Application filed under sub-regulation (2) above, as the case may be, subject to such other terms relating to manner of implementation and monitoring of commitments and close the proceedings against the Commitment Applicant forthwith.
 - b) if the Commission is of the opinion that the Commitment Application filed under sub-regulation (1) of regulation 3 or the revised Commitment Application filed under sub-regulation (2) above, as the case may be, are not appropriate in the circumstances, it shall by order passed in terms of sub-section (5) of section 48B of the Act, reject the Commitment Application and proceed with its inquiry under section 26 of the Act.
 - c) if the Commission is not satisfied with the Commitment Application, it shall within 15 (fifteen) working days after the expiry of period specified in regulation 5, communicate to the Commitment Applicant the reasons for the same and call upon the Commitment Applicant to furnish, within 30 (thirty) days of the receipt of the said communication, revised Commitment Application.
 - d) if the Commission after considering the revised Commitment Application filed under clause (c) of this sub-regulation (5) agrees with the same, it shall pass an order in terms of sub-section (3) of section 48B of the Act agreeing to the commitments offered subject to such other terms relating to manner of implementation and monitoring of commitment and close the proceedings against the Commitment Applicant forthwith.
 - e) if the Commission after considering the revised Commitment Application filed under clause (c) of this sub-regulation (5) is not satisfied with the same, it shall by an order passed in terms of sub-section (5) of section 48B of the Act, reject the revised Commitment Application and proceed with its inquiry under section 26 of the Act.
- (6) In case the Commitment Applicant fails to submit the revised Commitment Application within the time period specified in sub-regulation (2) and clause (c) of sub-regulation (5) above or fails to provide clarification, information, or data as sought under sub-regulation (8), the Commission shall by an order passed in terms of sub-section (5) of section 48B of the Act reject the Commitment Application and proceed with its inquiry under section 26 of the Act.
- (7) The entire commitment proceedings shall be concluded within 130 (one hundred and thirty) working days of the receipt of the Commitment Application complete in all respect in terms of regulation 3, failing which the inquiry under section 26 of the Act against the Commitment Applicant shall stand resumed.
Provided that the Commission may extend the said period of 130 (one hundred and thirty) working days by such further period as may be specified, if deemed appropriate, for reasons to be recorded in writing.
- (8) The Commission may seek clarification, information, or data from the Commitment Applicant, as deemed appropriate, which shall be provided by the Commitment Applicant within the time specified by the Commission.
- (9) Notwithstanding the above provisions, a Commitment Application may also be rejected at any time on the following grounds:
 - (a) Where the Commitment Applicant refuses to receive or respond to the communications sent by the Commission.
 - (b) Where the Commitment Applicant violates in any manner or does not abide by the undertaking and waivers given as per Schedule-I.

- (10) The Commission shall before passing an order rejecting a Commitment Application under clause (b) and (e) of sub-regulation (5), sub-regulation (6) and sub-regulation (9) above, grant the Commitment Applicant an opportunity of being heard.
- (11) The rejection under this regulation shall be communicated to the Commitment Applicant:
Provided that the Commitment Applicant shall continue to be bound by undertakings and waivers given as per Schedule I.

5. Invitation of objections and suggestions on proposal for commitment. -

- (1) While considering the commitments offered, the Commission shall provide an opportunity to the party concerned, the Director General, or any other party to submit their comments, objections, or suggestions, if any, within 21 (twenty one) days. For the said purpose, the Commission would share a summary, not containing any confidential information, comprising of *prima facie* opinion of the Commission expressed in the order issued under sub-section (1) of section 26 of the Act along with details of the competition concerns, alleged contraventions, duly capturing commitments offered by the Commitment Applicant, how they address the competition concerns and any other detail as deemed fit.
Provided that the Commission may also invite public to submit comments, objections and suggestions, if any, within 21 (twenty one) days, by publishing the above-mentioned summary on its website.
- (2) The comments, objections and suggestions filed by the concerned parties shall contain the following details:
 - a) name and contact details including address, telephone number, email of the concerned party and its authorised representative(s), if any.
 - b) statement of comments, objections and suggestions duly authenticated by the authorised representative and supported by relevant documents.
 - c) a summary of the comments, objections and suggestions not running into more than four pages.
 - d) any other information that may assist the Commission in determining the terms of the commitment.

6. Nature and effect of commitment order. -

- (1) The order passed by the Commission agreeing to the commitments offered shall not be construed as a finding of contravention by the Commission against the Commitment Applicant.
- (2) Filing of the Commitment Application or issuance of commitment order by the Commission shall have no bearing on the inquiry under section 26 of the Act in relation to the alleged contraventions, in respect of the other parties to the inquiry who are not part of the commitment proceedings.
- (3) The commitment order shall be final and binding upon the Commitment Applicant.

7. Assessment of the terms of the commitment. -

The Commission shall while considering the nature, gravity and impact of the alleged contraventions and effectiveness of the commitments offered, have due regard to all or any of the following factors, including:

- (a) the nature of conduct, its type, duration and extent of the alleged contraventions;
- (b) whether the commitment terms address the identified competition concerns, alleged contraventions, and the same can be implemented effectively and expeditiously besides being easy to monitor;
- (c) whether the terms of commitment make the markets more contestable;
- (d) procedural efficiencies, self-executing terms and early correction of market distortions;
- (e) whether the Commitment Applicant, has previously been found to have contravened any provision of the Act or any investigation or inquiry is pending against the Commitment Applicant in respect of any alleged violation of the provisions of the Act or whether the Commitment Applicant has previously made any settlement or commitment application(s);
- (f) whether the Commitment Applicant has already modified its conduct and policies which have been found to be in *prima facie* violation of the Act by the Commission or steps taken by the Commitment Applicant to minimize future violations or lapses;
- (g) any other factor, as may be deemed appropriate by the Commission in the facts and circumstances of the case.

8. Fee under sub-section (1) of section 48B of the Act. -

- (1) Every application received under sub-section (1) of section 48B of the Act by the Commission shall be accompanied with proof of payment of non-refundable fees as under:

- (a) Rs. 2,50,000 (rupees two lakh fifty thousand) only in case the Commitment Applicant has a total turnover of up to Rs. 50,00,00,000 (rupees fifty crores) in India in the preceding financial year; or
 - (b) Rs. 10,00,000 (rupees ten lakh) only in case the Commitment Applicant has a total turnover exceeding Rs. 50,00,00,000 (rupees fifty crores) and up to Rs. 500,00,00,000 (rupees five hundred crores) in India in the preceding financial year; or
 - (c) Rs. 50,00,000 (rupees fifty lakh) only in case the Commitment Applicant has a total turnover exceeding Rs. 500,00,00,000 (rupees five hundred crores) in India in the preceding year.
- (2) The fee can be paid either by tendering demand draft or pay order or banker's cheque, payable in favour of Competition Commission of India (Competition Fund), New Delhi or through Electronic Clearance Service (ECS) by direct remittance to the Competition Commission of India (Competition Fund), Account No. 1988002100187687 with "Punjab National Bank, Bhikaji Cama Place, New Delhi- 110066".

9. Implementation and monitoring of commitment order. -

Where the Commission is of the opinion that the implementation of the commitments needs monitoring, it may appoint agencies to oversee such implementation in terms of the Competition Commission of India (General) Regulations, 2009 and on such terms and conditions as may be specified by the Commission.

10. Revocation of the Commitment Order. -

- (1) If a Commitment Applicant fails to comply with the order passed by the Commission under section 48B of the Act or it comes to the notice of the Commission that the Commitment Applicant has not made full and true disclosure during the commitment proceedings or there has been a material change in the facts, the order passed under section 48B of the Act shall stand revoked and withdrawn.

Provided that before making an opinion in this regard, the Commission shall give an opportunity to the Commitment Applicant to show-cause, within a period of 15 working days from the date of receipt of the show-cause notice, as to why the Commission should not form an opinion that the Commitment Applicant has failed to comply with the order passed by the Commission under section 48B of the Act or the Commitment Applicant has failed to make full and true disclosure during the commitment proceedings or there has been a material change in the facts, as the case may be.

- (2) Where the commitment order stands revoked and withdrawn as per sub-regulation (1) above, the Commitment Applicant shall be liable to pay legal costs incurred by the Commission, as may be determined by the Commission, subject to a maximum of rupees one crore which shall be paid in terms of sub-regulation (2) of regulation 8.
- (3) Such legal costs imposed upon a Commitment Applicant shall be recoverable in the same manner under section 39 of the Act read with the Competition Commission of India (Manner of Recovery of Monetary Penalty) Regulations, 2011, as has been prescribed for recovery of penalty imposed under the Act.
- (4) Further, where the commitment order stands revoked and withdrawn as per sub-regulation (1) above, the Commission may also restore or initiate against the Commitment Applicant, inquiry or investigation in respect of which the order under section 48B was passed.

11. Power to use information. -

- (1) Where the Commission has revoked and withdrawn its commitment order in terms of section 48C of the Act read with regulation 10, the Commission and the Director General may rely upon the information and document(s) submitted by the Commitment Applicant in the proceedings under the Act.
- (2) Where a Commitment Application is rejected or withdrawn, the Commission and the Director General may use the information gathered from sources other than Commitment Applicant in the proceedings under the Act.
- (3) The Commission may, subject to the provisions of regulation 35 of the Competition Commission of India (General) Regulations, 2009 read with section 57 of the Act, use the information submitted by the Commitment Applicant against other parties to the inquiry who are not part of the commitment proceedings.
- (4) The facts established against the Commitment Applicant or admitted in any ongoing or concluded proceedings in India or outside India, with respect to the same cause of action, under any law, shall be deemed to be admitted by the Commitment Applicant in respect of the proceedings proposed to be closed under these regulations.

12. Partial commitments offered not to affect inquiry in respect of other alleged contraventions. -

If the Commitment Application is made in respect of some of the contraventions noted by the Commission in its order passed under sub-section (1) of section 26 of the Act, the inquiry *qua* remaining contraventions mentioned therein shall continue.

13. Request for Confidentiality. –

- (1) If any request for confidentiality of information or document(s) is submitted during commitment proceedings, such request may be filed as per the procedure laid down in the Competition Commission of India (General) Regulations, 2009, as amended from time to time.
- (2) Such request for confidentiality shall be duly considered in accordance with the provisions laid down in the Competition Commission of India (General) Regulations, 2009, as amended from time to time read with section 57 of the Act.

14. Inspection and certified copies of documents. –

- (1) Notwithstanding anything contained to the contrary in regulation 37 and regulation 50 of the Competition Commission of India (General) Regulations, 2009, inspection and certified copies of documents submitted during commitment proceedings may be granted only to the Informant and the Commitment Applicant.

Provided that the inspection and certified copies of the confidential version of such documents shall be granted as per provisions of regulation 35 of the Competition Commission of India (General) Regulations, 2009.

- (2) Inspection and certified copies of comments received under regulation 5 shall be allowed only after expiry of the period of 21 (twenty-one) days mentioned therein.

15. Powers to determine procedure in certain circumstances. –

In a situation not provided for in these regulations, the Commission may, for reasons to be recorded in writing, determine the procedure in a particular case.

16. Power to remove difficulties. -

In the matter of implementation of these regulations, if any doubt or difficulty arises, the Commission shall have the powers to issue clarifications and specify procedures through circulars or guidelines and the decision of the Commission thereon shall be binding.

Schedule I**Undertakings and Waivers**

I/We,, the Commitment Applicant(s) herein, as a condition for making the enclosed application to the Commission for examining and consideration of the application, hereby declare that I/we agree and undertake that:

1. The Commitment Applicant admits the jurisdiction and right of the Competition Commission of India (the Commission) to initiate proceedings in respect of the alleged contraventions under the Competition Act, 2002.
2. The Commission may enforce any claims against the Commitment Applicant arising from or in relation to any violation of the commitment order passed pursuant to this application.
3. The Commitment Applicant waives its right of taking any legal proceedings against the Commission concerning any of the issues covered in the commitment order that may be passed.
4. The Commitment Applicant further waives the following:
 - (a) the findings of fact and conclusions of law;
 - (b) appeal or review before the National Company Law Appellate Tribunal or other courts;
 - (c) any plea of limitation or laches for initiating or restoring of the proceedings, if the Commitment Applicant violates the commitment order.

(Signature of the Commitment Applicant with stamp and seal of the body corporate)

Before me.

Notary.

ANUPAMA ANAND, Secy.

[ADVT.-III/4/Exty./802/2023-24]



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भारतीय प्रतिस्पर्धा आयोग

अधिसूचना

नई दिल्ली, 6 मार्च, 2024

भारतीय प्रतिस्पर्धा आयोग (परिनिर्धारण) विनियम, 2024

(2024 का सं. 04)

सं. सीसीआई/विनियम-परि.विनि./2024.—प्रतिस्पर्धा अधिनियम, 2002 (2003 का 12) की धारा 48क के साथ पठित, धारा 64 की द्वारा उसे प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय प्रतिस्पर्धा आयोग, परिनिर्धारण आवेदन दाखिल करने की प्रक्रिया विनिर्दिष्ट करने और परिनिर्धारण कार्यवाही, और उससे संबद्ध या उसके आनुषंगिक विषयों को संचालित करने के लिए एतद्वारा निम्नलिखित विनियम बनाता है, अर्थात्:-

1. संक्षिप्त नाम एवं आरंभ. -

(1) इन विनियमों का संक्षिप्त नाम भारतीय प्रतिस्पर्धा आयोग (परिनिर्धारण) विनियम, 2024 है।

(2) ये राजपत्र में इनके प्रकाशन की तारीख से प्रवृत्त होंगे।

2. परिभाषाएं. -

(1) इन विनियमों में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो:

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- (क) “अधिनियम” से प्रतिस्पर्धा अधिनियम, 2002 (2003 का 12) अभिप्रेत है;
 - (ख) “आयोग” से अधिनियम की धारा 7 की उपधारा (1) के अधीन स्थापित भारतीय प्रतिस्पर्धा आयोग अभिप्रेत है;
 - (ग) “महानिदेशक” से अधिनियम की धारा 2 के खंड (छ) में यथापरिभाषित महानिदेशक अभिप्रेत है;
 - (घ) “शास्ति पर मार्गदर्शक सिद्धांत” से अधिनियम की धारा 64ख की उपधारा (3) के अधीन आयोग द्वारा प्रकाशित मार्गदर्शक सिद्धांत अभिप्रेत है;
 - (ङ) “परिनिर्धारण रकम” से इन विनियमों के विनियम 6 के अधीन आयोग द्वारा अवधारित रकम अभिप्रेत है;
 - (च) “परिनिर्धारण करवाने वाला आवेदक” से अधिनियम की धारा 2 के खंड (ज) में यथापरिभाषित कोई उद्यम, जिसके विरुद्ध अधिनियम की धारा 3 की उपधारा (4) और धारा 4 के अभिकथित उल्लंघनों के लिए अधिनियम की धारा 26 की उपधारा (1) के अधीन कोई जांच संस्थित की गई है, और जो इन विनियमों के अधीन, अभिकथित उल्लंघनों के लिए संस्थित कार्यवाहियों के परिनिर्धारण के लिए आयोग के समक्ष आवेदन प्रस्तुत करता है, अभिप्रेत है;
 - (छ) “परिनिर्धारण आवेदन” से अधिनियम की धारा 3 की उपधारा (4) और धारा 4 के अभिकथित उल्लंघनों के लिए संस्थित कार्यवाहियों के परिनिर्धारण के लिए इन विनियमों के अधीन, आयोग के समक्ष परिनिर्धारण करने वाला आवेदक द्वारा प्रस्तुत आवेदन अभिप्रेत है;
- (2) इन विनियमों में प्रयुक्त ऐसे शब्दों और पदों का, जो परिभाषित नहीं हैं, वही अर्थ होगा, जो उनका, यथास्थिति, अधिनियम या नियम या तदधीन बनाये गये विनियम या कंपनी अधिनियम, 2013 (2013 का 18) में है।

3. परिनिर्धारण के लिए आवेदन. -

- (1) परिनिर्धारण करवाने वाला आवेदक, विनियम 9 के उपविनियम (1) के अधीन, यथाउपबंधित ऐसी फीस के साथ, नीचे यथाविनिर्दिष्ट सूचना अंतर्विष्ट करते हुए आयोग को लिखित में आवेदन कर सकेगा:
 - क) परिनिर्धारण करवाने वाले आवेदक का नाम, विधिक स्थिति (कंपनी या फर्म या एलएलपी या न्यास, इत्यादि), पंजीकरण संख्या, (यदि प्रयोज्य हो), संपर्क विवरण जिसमें पूर्ण पंजीकृत पता, मूल कारबार पता (क्षेत्र को कोड, शहर और देश के साथ), मोबाइल/ दूरभाष संख्या, ईमेल एवं वेबसाइट का पता (यदि कोई हो) सम्मिलित होंगे।
 - ख) परिनिर्धारण करवाने वाले आवेदक का प्राधिकृत प्रतिनिधि(प्रतिनिधियों) का नाम और उनके संपर्क के ब्यौरे जिसमें पूर्ण कारबार पता, दूरभाष संख्या और ईमेल सम्मिलित होंगे।
 - ग) विनियम 9 के अधीन, आयोग को संदाय फीस का साक्ष्य।
 - घ) परिनिर्धारण करवाने वाले आवेदक के संबंध में, अधिनियम की धारा 26 की उपधारा (4) के अधीन प्राप्त अन्वेषण रिपोर्ट में महानिदेशक के निष्कर्षों का ब्यौरा।
 - ङ) अभिकथित उल्लंघनों एवं महानिदेशक के निष्कर्षों के संबंध में तथ्यों का पूर्ण और सही प्रकटन।
 - च) परिनिर्धारण के प्रस्ताव का ब्यौरा जिसमें अभिकथित उल्लंघनों, प्रतिस्पर्धा संबंधी चिंताओं का कैसे निवारण किया जाए और तत्संबंधी निर्वचन और अनुश्रवण की रीति सम्मिलित होंगे।
 - छ) क्या परिनिर्धारण करवाने वाले आवेदक को पूर्व में, अधिनियम के कोई उपबंध का उल्लंघन करते हुए पाया गया है या क्या परिनिर्धारण करवाने वाले आवेदक के विरुद्ध अधिनियम के उपबंधों के कोई अभिकथित अतिक्रमण के लिए कोई कार्यवाही अनिर्णीत है या क्या परिनिर्धारण करवाने वाले आवेदक (आवेदकों) ने अतीत में कोई परिनिर्धारण या प्रतिबद्धता आवेदन किया है/(किये हैं)। यदि हाँ, तो तत्संबंधी ब्यौरा?
 - ज) अभिकथित उल्लंघनों की प्रकृति, गंभीरता और प्रभाव का ब्यौरा और अभिकथित उल्लंघनों में उद्यम की अंतर्वलितता की कालावधि।

- झ) सारांश, जिसमें कोई गोपनीय सूचना अंतर्विष्ट न हो, जिसमें अधिनियम की धारा 26 की उपधारा (1) के अधीन जारी आदेश में अभिव्यक्त आयोग की प्रथम दृष्टया राय के साथ प्रतिस्पर्धा संबंधी चिंताओं, अभिकथित उल्लंघन, परिनिर्धारण करवाने वाले आवेदक द्वारा प्रस्थापित विधिवत अभिगृहीत परिनिर्धारण प्रस्ताव और वे प्रतिस्पर्धा संबंधी चिंताओं का कैसे निवारण करते हैं, का ब्यौरा समाविष्ट हो।
- ज) अन्य प्रतिस्पर्धा प्राधिकरणों, मंचों या न्यायालयों का ब्यौरा, यदि कोई हो, जिन्होंने अभिकथित उल्लंघनों की जांच की है या वर्तमान में कर रहे हैं, इसमें वे भी सम्मिलित हैं जहां परिनिर्धारण करवाने वाले आवेदक ने प्रतिबद्धता और/या परिनिर्धारण आवेदन दाखिल किए हैं।
- ट) अनुसूची I के अनुसार वचनबंध और अधित्यजन।
- ठ) कोई अन्य सूचना जो विनियम 7 के अधीन विनिर्दिष्ट कारकों को ध्यान में रखते हुए, प्रतिबद्धता के निबंधनों का अवधारण करने में आयोग की सहायता करे।
- (2) परिनिर्धारण करवाने वाला आवेदक, अधिनियम की धारा 26 की उपधारा (4) के अधीन, महानिदेशक की रिपोर्ट या तत्संबंधी गोपनीय पाठ की प्राप्ति के पश्चात, यदि प्रयोज्य हो, उपविनियम (1) के अधीन परिनिर्धारण आवेदन प्रस्तुत कर सकेगा।
- परंतु यह कि यदि परिनिर्धारण करवाने वाला आवेदक, महानिदेशक की रिपोर्ट या तत्संबंधी गोपनीय पाठ, यदि प्रयोज्य हो, की प्राप्ति से 45 (पैंतालीस) समाप्त होने के पश्चात, परिनिर्धारण आवेदन करता है तो आयोग उस पर विचार नहीं करेगा।
- परंतु यह और कि यदि 30 (तीस) दिनों की आगे कालावधि के भीतर परिनिर्धारण आवेदन प्राप्त हो जाता है और आयोग का समाधान हो जाता है कि विनिर्दिष्ट कालावधि के भीतर इसे दाखिल न करने के लिए पर्याप्त कारण थे तो आयोग, ऐसे विलंब के माफ करने के कारण अभिलिखित करने के पश्चात, उपर्युक्त विनिर्दिष्ट समयावधि के पश्चात, परिनिर्धारण आवेदन पर विचार कर सकेगा।
- (3) जहां परिनिर्धारण आवेदन किसी भी तरह से अपूर्ण है या इन विनियमों की अपेक्षाओं के अनुरूप नहीं है, परिनिर्धारण करवाने वाले आवेदक को ऐसे त्रुटि(त्रुटियों) को दूर करने या दस्तावेज(दस्तावेजों) सहित अपेक्षित सूचना प्रस्तुत करने के लिए कहा जा सकेगा। परिनिर्धारण करवाने वाला आवेदक संसूचना प्राप्त होने के दस (10) दिवस या ऐसी अन्य कालावधि, जो आयोग विनिर्दिष्ट करे, के भीतर दस्तावेज सहित ऐसे त्रुटियों का परिशोधन करेगा या अपेक्षित सूचना प्रस्तुत करेगा, ऐसा न करने पर परिनिर्धारण आवेदन अविधिमान्य समझा जाएगा।
- (4) विनियम 4 के अधीन आयोग द्वारा आदेश पारित करने से पूर्व, परिनिर्धारण करवाने वाला आवेदक, किसी भी समय पर, परिनिर्धारण आवेदन प्रत्याहृत कर सकेगा।
- (5) कोई परिनिर्धारण कार्यवाही के आवेदन पर विचार नहीं किया जाएगा,
- क) यदि परिनिर्धारण आवेदन में, महानिदेशक द्वारा अधिनियम की धारा 26 की उपधारा (4) के अधीन अपने अन्वेषण रिपोर्ट में पाये गये सभी उल्लंघन सम्मिलित न हों।
- ख) यदि परिनिर्धारण करवाने वाला आवेदक से अधिनियम के अधीन, वसूली के लिए दायी कोई राशि शोध्य हो।

4. परिनिर्धारण के लिए प्रस्ताव की विचारणा. -

- (1) विनियम 3 के निबंधनों के अनुसार सर्वथा पूर्ण परिनिर्धारण आवेदन, तत्संबंधी प्राप्ति के 7 (सात) कार्य दिवसों के भीतर आयोग की साधारण बैठक में विचार के लिए रखा जाएगा।
- (2) यदि आयोग का, परिनिर्धारण करवाने वाले आवेदक द्वारा प्रस्थापित परिनिर्धारण से प्रथम दृष्टया समाधान नहीं हो जाता है, तो वह परिनिर्धारण करवाने वाले आवेदक को इसके लिए कारण संसूचित करेगा और परिनिर्धारण करवाने वाले आवेदक को कथित संसूचना प्राप्त होने के 15 (पंद्रह) कार्य दिवसों के भीतर, संशोधित परिनिर्धारण आवेदन प्रस्तुत करने के लिए कहेगा।

- (3) जब उपर्युक्त उप-विनियम (1) के अधीन, सर्वथा पूर्ण परिनिर्धारण आवेदन, आयोग के समक्ष विचार के लिए रखा जाता है, तो आयोग परिनिर्धारण आवेदन पर, अंतिम निर्णय होने तक या ऐसे समय तक जो आयोग विनिश्चित करे, परिनिर्धारण करवाने वाले आवेदक के विरुद्ध जांच को प्रास्थगित रख सकेगा।
 - (4) परिनिर्धारण के प्रस्ताव पर विचार करते समय, आयोग विनियमन 5 के निबंधनों के अनुसार आक्षेप और सुझाव आमंत्रित करेगा।
 - (5) अभिकथित उल्लंघनों की प्रकृति, गंभीरता और प्रभाव, परिनिर्धारण करवाने वाले आवेदक द्वारा प्रस्तुत परिनिर्धारण और विनियम 5 के अधीन प्राप्त टीका-टिप्पणियों, आक्षेपों या सुझावों पर विचार करने के पश्चात,
- क.) आयोग, यथास्थिति, विनियम 3 के उपविनियम (1) के अधीन दाखिल परिनिर्धारण आवेदन या उपर्युक्त उपविनियम (2) के अधीन दाखिल संशोधित प्रतिबद्धता विनियम में यथा अंतर्विष्ट परिनिर्धारण पर सहमत होते हुए, परिनिर्धारण के निर्वचन और अनुश्रवण की रीति से संबंधित ऐसी अन्य शर्तों और प्रतिबद्धता आवेदक के विरुद्ध तत्क्षण कार्यवाही बंद करने के अध्यक्षीन, अधिनियम की धारा 48क की उपधारा (3) के निबंधनों के अनुसार आदेश पारित कर सकेगा।
- ख.) यदि आयोग यह राय बनाता है कि यथास्थिति, विनियम 3 के उपविनियम (1) के अधीन दाखिल परिनिर्धारण आवेदन या उपर्युक्त उपविनियम (2) के अधीन दाखिल संशोधित परिनिर्धारण आवेदन, परिस्थितियों में, उपयुक्त नहीं हैं तो वह अधिनियम की धारा 48क की उप धारा (5) के निबंधनों के अनुसार पारित आदेश द्वारा परिनिर्धारण आवेदन नामंजूर करेगा और अधिनियम की धारा 26 के अधीन, उसकी जांच के साथ अग्रसर होगा।
- ग.) यदि आयोग का, परिनिर्धारण आवेदन से समाधान नहीं होता है, तो वह विनियम 5 में विनिर्दिष्ट कालावधि समाप्त होने के पश्चात 15 (पंद्रह) कार्य दिवसों के भीतर, परिनिर्धारण करवाने वाले आवेदक को इसके कारणों के बारे में संसूचित करेगा और परिनिर्धारण करवाने वाले आवेदक को उक्त संसूचना प्राप्त होने के 30 (तीस) दिनों के भीतर, संशोधित परिनिर्धारण आवेदन प्रस्तुत करने के लिए कहेगा।
- घ.) यदि आयोग इस उप-विनियम (5) के खंड (ग) के अधीन दाखिल संशोधित परिनिर्धारण आवेदन पर विचार करने के पश्चात, इस पर सहमत हो जाता है, तो आयोग परिनिर्धारण के निर्वचन और अनुश्रवण की रीति से संबंधित ऐसी अन्य शर्तों और परिनिर्धारण करवाने वाले आवेदक के विरुद्ध तत्क्षण कार्यवाही बंद करने के अध्यक्षीन, अधिनियम की धारा 48क की उपधारा (3) के निबंधनों के अनुसार आदेश पारित कर सकेगा।
- ङ.) यदि आयोग का, इस उपविनियम (5) के खंड (ग) के अधीन दाखिल संशोधित परिनिर्धारण आवेदन पर विचार करने के पश्चात इससे समाधान नहीं होता है तो वह अधिनियम की धारा 48क की उपधारा (5) के निबंधनों के अनुसार पारित आदेश द्वारा परिनिर्धारण आवेदन नामंजूर करेगा और अधिनियम की धारा 26 के अधीन, उसकी जांच के साथ अग्रसर होगा।
- (6) यदि परिनिर्धारण करने वाला आवेदक उपर्युक्त उपविनियम (2) और उपविनियम (5) के खंड (ग) में विनिर्दिष्ट समयवधि के भीतर, संशोधित परिनिर्धारण आवेदन प्रस्तुत करने में असफल रहता है या स्पष्टीकरण, सूचना या डेटा, जो कि उप-विनियम (11) के अधीन मांगा गया है, उपलब्ध कराने में असफल रहता है तो आयोग अधिनियम की धारा 48क की उपधारा (5) के निबंधनों के अनुसार पारित आदेश द्वारा परिनिर्धारण आवेदन नामंजूर करेगा और अधिनियम की धारा 26 के अधीन, उसकी जांच के साथ अग्रसर होगा।
 - (7) आयोग, अधिनियम की धारा 48क की उपधारा (3) के निबंधनों के अनुसार आदेश पारित करने से पूर्व, परिनिर्धारण करवाने वाले आवेदक को विनियम 6 के निबंधनों के अनुसार संगणित परिनिर्धारण रकम की संसूचना देगा, परिनिर्धारण करवाने वाला आवेदक ऐसी संसूचना प्राप्त होने के 15 (पंद्रह) दिवसों के भीतर, उसकी अपने प्रतिग्रहण की संसूचना देगा। संगणित और परिनिर्धारण करवाने वाले आवेदक को संसूचित परिनिर्धारण रकम अंतिम होगी और उसके पुनरीक्षण की मांग वाले कोई आवेदन पर आयोग विचार नहीं करेगा।
 - (8) परिनिर्धारण करवाने वाला आवेदक, तत्संबंधी प्रतिग्रहण की तारीख से 30 (तीस) दिवसों की कालावधि के भीतर, परिनिर्धारण रकम संदत्त करेगा, जिसके पश्चात आयोग, अधिनियम की धारा 48क की उपधारा (3) के निबंधनों के अनुसार आदेश पारित करेगा।

- (9) यदि परिनिर्धारण करने वाला आवेदक, उपविनियम (7) में विहित कालावधि के भीतर परिनिर्धारण रकम पर अपने प्रतिग्रहण की संसूचना देने में असफल रहता है या और उपविनियम (8) में विहित कालावधि के भीतर, परिनिर्धारण रकम संदत्त करने में असफल रहता है, तो आयोग, अधिनियम की धारा 48क की उपधारा (5) के निबंधनों के अनुसार पारित आदेश द्वारा परिनिर्धारण आवेदन नामंजूर करेगा और अधिनियम की धारा 26 के अधीन, उसकी जांच के साथ अग्रसर होगा।
- (10) संपूर्ण परिनिर्धारण कार्यवाही, विनियमन 3 के निबंधनों के अनुसार, सर्वथा पूर्ण परिनिर्धारण आवेदन प्राप्त होने के 180 (एक सौ अस्सी) कार्य दिवसों के भीतर समाप्त कर दी जाएगी। ऐसा न होने पर परिनिर्धारण करवाने वाले आवेदक के विरुद्ध अधिनियम की धारा 26 के अधीन पुनः जांच आरंभ कर दी जाएगी।
- परंतु यह कि आयोग, यदि उचित समझे, 180 (एक सौ अस्सी) कार्य दिवसों की उक्त कालावधि, लिखित में कारणों को अभिलिखित करते हुए आगे ऐसी कालावधि, जो विनिर्दिष्ट हो, तक बढ़ा सकेगा।
- (11) आयोग, परिनिर्धारण करवाने वाले आवेदक से स्पष्टीकरण, सूचना या डेटा, जो उचित समझे, मांग सकेगा, जो परिनिर्धारण करवाने वाला आवेदक, आयोग द्वारा विनिर्दिष्ट समय के भीतर उपलब्ध कराएगा।
- (12) उपर्युक्त उपबंधों में किसी बात के होते हुए भी, निम्नलिखित आधार पर, किसी भी समय पर, परिनिर्धारण आवेदन नामंजूर किया जा सकेगा:
- (क) जहां परिनिर्धारण करवाने वाला आवेदक आयोग द्वारा भेजी गई संसूचना लेने से या उसका प्रत्युत्तर देने से इनकार कर देता है।
- (ख) जहां परिनिर्धारण करवाने वाला आवेदक कोई रीति में उल्लंघन करता है या अनुसूची-1 के अनुसार दिए गए वचनबंध और अधित्यजन का पालन नहीं करता है।
- (13) उपर्युक्त उपविनियम (5) के खंड (ख) और (ड.), उपविनियम (6) और उपविनियम (12) के अधीन, परिनिर्धारण आवेदन नामंजूर करने का आदेश पारित करने से पूर्व, आयोग परिनिर्धारण करवाने वाले आवेदक को सुनवाई का अवसर प्रदान करेगा।
- (14) परिनिर्धारण आवेदन के लंबित रहने के दौरान, आयोग उपभोक्ताओं के हितों के संरक्षण और/या बाजार में प्रतिस्पर्धा बनाए रखने और उसका संरक्षण करने के लिए अंतरिम और/या अन्य निदेश जारी कर सकेगा और परिनिर्धारण आवेदन के विचारण के लिए विनिर्दिष्ट कालावधि के भीतर, परिनिर्धारण करवाने वाले आवेदक को उसका अनुपालन अपेक्षित होगा।
- (15) परिनिर्धारण करवाने वाले आवेदक को इस विनियमन के अधीन नामंजूरी की संसूचना दी जाएगी:
- परंतु यह कि परिनिर्धारण करवाने वाला आवेदक अनुसूची 1 के अनुसार दिए गए वचनबंध और अधित्यजन द्वारा आवद्ध रहना जारी रहेगा।

5. परिनिर्धारण के प्रस्ताव पर आक्षेपों एवं सुझावों का आमंत्रण. -

- (1) परिनिर्धारण के प्रस्ताव पर विचार करते समय, आयोग संबद्ध पक्षकार, महानिदेशक, या कोई पक्षकार को 21 (इक्कीस) दिवसों के भीतर अपनी टीका-टिप्पणियाँ, आक्षेप, या सुझाव, यदि कोई हो, प्रस्तुत करने का अवसर प्रदान करेगा। कथित प्रयोजन के लिए, आयोग, ऐसा सारांश, जिसमें कोई गोपनीय सूचना अंतर्विष्ट न हो, जिसमें अधिनियम की धारा 26 की उपधारा (1) के अधीन जारी आदेश में अभिव्यक्त आयोग की प्रथम दृष्टया राय, अधिनियम की धारा 26 की उपधारा (4) के अधीन प्राप्त अन्वेषण रिपोर्ट में महानिदेशक के निष्कर्षों के साथ प्रतिस्पर्धा संबंधी चिंताओं, अभिकथित उल्लंघन, परिनिर्धारण करवाने वाले आवेदक द्वारा प्रस्थापित विधिवत अभिगृहीत परिनिर्धारण और वे प्रतिस्पर्धा संबंधी चिंताओं का कैसे निवारण करते हैं, का अन्य ब्यौरा, जो उचित समझे, समाविष्ट हो, साझा करेगा।
- (2) संबद्ध पक्षकारों द्वारा दाखिल टीका-टिप्पणियाँ, आक्षेप और सुझाव में निम्नलिखित ब्यौरे अंतर्विष्ट होंगे:
- क) संबद्ध पक्षकारों और उसके प्राधिकृत प्रतिनिधि (प्रतिनिधिगण), यदि कोई हो, का नाम और संपर्क ब्यौरा जिसमें पता, दूरभाष, ईमेल सम्मिलित होंगे।

- ख) प्राधिकृत प्रतिनिधि द्वारा विधिवत अधिप्रमाणित और संगत दस्तावेजों द्वारा समर्थित टीका-टिप्पणियों, आक्षेपों और सुझावों का कथन।
- ग) टीका-टिप्पणियों, आक्षेपों और सुझावों का सारांश जो चार पृष्ठों से अधिक पृष्ठों में न रहे।
- घ) कोई अन्य सूचना जो परिनिर्धारण के निबंधनों का अवधारण करने में आयोग की सहायता करे।

6. परिनिर्धारण रकम अवधारित करने की रीति. -

- (1) परिनिर्धारण रकम अवधारित करने के प्रयोजन के लिए, आयोग, आधार रकम की संगणना करेगा जो शास्ति, जो अन्यथा अधिनियम की धारा 27 (ख) के अधीन उद्घटनीय हो गई हो, की अधिकतम रकम तक बढ़ाई जा सकती है।
- (2) विनियम (1) में यथाउल्लिखित आधार रकम अवधारित करने के प्रयोजन के लिए, आयोग, शास्ति संबंधी मार्गदर्शक सिद्धांतों द्वारा मार्गदर्शित होगा।
- (3) परिनिर्धारण रकम, उपविनियम (1) और (2) के अधीन संगणित आधार रकम पर 15% के परिनिर्धारण बढ़ा उपयोजित करते हुए अवधारित की जाएगी।

7. परिनिर्धारण आदेश की प्रकृति और उसके प्रभाव. -

- (1) अधिनियम की धारा 6 के उपबंधों पर प्रतिकूल प्रभाव डाले बिना, परिनिर्धारण के प्रस्ताव पर सहमत होते हुए, आयोग द्वारा पारित आदेश, परिनिर्धारण करवाने वाले आवेदक के विरुद्ध आयोग द्वारा उल्लंघन के निष्कर्ष के रूप में नहीं समझा जाएगा।
- (2) परिनिर्धारण आवेदन दाखिल करने या आयोग द्वारा परिनिर्धारण आदेश जारी करने का, उन अन्य पक्षकार, जो परिनिर्धारण कार्यवाही का हिस्सा नहीं हैं, की जांच में, कथित उल्लंघनों के संबंध में अधिनियम की धारा 26 के अधीन जांच पर असर नहीं होगा।
- (3) परिनिर्धारण आदेश अंतिम होगा और परिनिर्धारण करवाने वाले आवेदक पर आबद्धकर होगा।

8. परिनिर्धारण के निबंधनों का निर्धारण.

अभिकथित उल्लंघनों की प्रकृति, गंभीरता और प्रभाव पर और परिनिर्धारण आवेदन का निर्धारण करने के प्रयोजन के लिए विचार करते समय, आयोग निम्नलिखित सभी या कोई कारक, जिसमें सम्मिलित है, पर उचित ध्यान देगा:

- (क) अभिकथित उल्लंघन के आचरण की प्रकृति, उसका प्रकार, कालावधि और सीमा;
- (ख) क्या परिनिर्धारण के निबंधन, अभिकथित उल्लंघनों का निवारण करते हैं, और अनुश्रवण सुलभ बनाने के अतिरिक्त, इसे प्रभावी ढंग से और शीघ्रता से निर्वचित किया जा सकता है;
- (ग) क्या परिनिर्धारण के निबंधन, बाजारों को अधिक प्रतिस्पर्धी बनाते हैं;
- (घ) प्रक्रियात्मक दक्षताएं, स्व-निष्पादित निबंधन और बाजार विकृतियों का शीघ्र सुधार;
- (ङ) क्या परिनिर्धारण करवाने वाले आवेदक को पूर्व में, अधिनियम के कोई उपबंध का उल्लंघन करते हुए पाया गया है या क्या परिनिर्धारण करवाने वाले आवेदक के विरुद्ध अधिनियम के उपबंधों के कोई अभिकथित अतिक्रमण के लिए कोई अन्वेषण या जांच अनिर्णीत है या क्या परिनिर्धारण करवाने वाले आवेदक ने पूर्व में कोई परिनिर्धारण या प्रतिबद्धता आवेदन किया है/(किये हैं);
- (च) क्या परिनिर्धारण करवाने वाले आवेदक ने अपने वे आचरण और नीतियां पहले ही उपांतरित कर ली हैं जो आयोग द्वारा अधिनियम के प्रथम दृष्टया अतिक्रमण करते हुए पाए गए हैं या परिनिर्धारण करवाने वाले आवेदक ने भविष्यवर्ती अतिक्रमण या व्यपगमन कम करने के कदम उठा लिये हैं;
- (छ) कोई अन्य कारक जो आयोग, मामले के तथ्यों और परिस्थितियों में उचित समझे।

9. अधिनियम की धारा 48(क) की उपधारा (1) के अधीन फीस. -

- 1. अधिनियम की धारा 48(क) की उपधारा (1) के अधीन, आयोग को प्राप्त प्रत्येक आवेदन के साथ अप्रतिदेय फीस के संदाय का निम्नानुसार साक्ष्य संलग्न होगा:

- (क) उस मामले में, जहां परिनिर्धारण करवाने वाले आवेदक का, भारत में, पूर्ववर्ती वित्त वर्ष में, कुल व्यापारावर्त 50,00,00,000 (पचास करोड़ रुपये) का रहा हो, 2,50,000 (दो लाख पचास हजार रुपये) मात्र; या
- (ख) उस मामले में, जहां परिनिर्धारण करवाने वाले आवेदक का, भारत में, पूर्ववर्ती वित्त वर्ष में, कुल व्यापारावर्त 50,00,00,000 (पचास करोड़ रुपये) से अधिक और 500,00,00,000 (पांच सौ करोड़ रुपये) तक का रहा हो, 10,00,000 (दस लाख रुपये) मात्र; या
- (ग) उस मामले में, जहां परिनिर्धारण करवाने वाले आवेदक का, भारत में, पूर्ववर्ती वित्त वर्ष में, कुल व्यापारावर्त 500,00,00,000 (पांच सौ करोड़ रुपये) से अधिक का रहा हो, 50,00,000 (पचास लाख रुपये) मात्र।

2. फीस का संदाय, भारतीय प्रतिस्पर्धा आयोग (प्रतिस्पर्धा निधि), नई दिल्ली के पक्ष में संदेय मांगदेय ड्राफ्ट, संदाय आदेश या बैंक चेक प्रस्तुत करके या भारतीय प्रतिस्पर्धा आयोग (प्रतिस्पर्धा निधि), 'पंजाब नेशनल बैंक, भीकाजी कामा प्लेस, नई दिल्ली-110066' के खाता संख्याक 1988002100187687 में सीधे प्रेषण द्वारा इलैक्ट्रानिक समाशोधन सेवा (ईसीएस) के माध्यम से किया जा सकेगा।

10. परिनिर्धारण आदेश का निर्वचन और अनुश्रवण. -

जहां आयोग की यह राय है कि परिनिर्धारण के निर्वचन के अनुश्रवण की आवश्यकता है, वहां वह भारतीय प्रतिस्पर्धा आयोग (साधारण) विनियम, 2009 के निबंधनों के अनुसार और आयोग द्वारा यथाविनिर्दिष्ट ऐसे निबंधनों और शर्तों पर ऐसे निर्वचन के प्रेक्षण के लिए अभिकरणों की नियुक्ति कर सकेगा।

11. परिनिर्धारण आदेश का प्रतिसंहरण. -

- (1) यदि परिनिर्धारण करवाने वाला आवेदक, अधिनियम की धारा 48क के अधीन, आयोग द्वारा पारित आदेश का पालन करने में असफल रहता है या आयोग के संज्ञान में आता है कि परिनिर्धारण करवाने वाले आवेदक ने परिनिर्धारण कार्यवाही के दौरान, पूर्ण और सही प्रकटन नहीं किया है या तथ्यों में सारवान परिवर्तन किया है तो अधिनियम की धारा 48क के अधीन पारित आदेश प्रतिसंहृत और प्रत्याहृत रहेगा।

परंतु यह कि इस संबंध में राय बनाने से पूर्व, आयोग, परिनिर्धारण करवाने वाले आवेदक को कारण बताओ नोटिस प्राप्त होने की तारीख से 15 कार्य दिवसों की कालावधि के भीतर, यह कारण बताने अवसर देगा कि आयोग ऐसी राय क्यों न बनाए कि परिनिर्धारण करवाने वाला आवेदक, अधिनियम की धारा 48क के अधीन, आयोग द्वारा पारित आदेश का पालन करने में असफल रहा है या यथास्थिति, परिनिर्धारण करवाने वाला आवेदक, परिनिर्धारण कार्यवाही के दौरान, पूर्ण और सही प्रकटन करने में असफल रहा है या तथ्यों में सारवान परिवर्तन हुआ है।

- (2) जहां उपर्युक्त उपविनियम (1) के अनुसार परिनिर्धारण आदेश प्रतिसंहृत और प्रत्याहृत हो जाता है तो परिनिर्धारण करवाने वाला आवेदक, आयोग द्वारा उपगत विधिक खर्चों का अधिकतम एक करोड़ रुपये के अधीन, आयोग द्वारा यथावधारित, संदाय करने के लिए दायी होगा जो विनियम 9 के उपविनियम (2) के निबंधनों के अनुसार संदत्त किया जाएगा।
- (3) प्रतिबद्धता करने वाले आवेदक पर अधिरोपित ऐसी विधिक लागत, भारतीय प्रतिस्पर्धा आयोग (धनीय शास्ति की वसूली की रीति) विनियम, 2011 के साथ पठित, अधिनियम की धारा 39 के अधीन उसी रीति से वसूली होगी जो अधिनियम के अधीन अधिरोपित शास्ति की वसूली के लिए विहित है।
- (4) आगे, जहां उपर्युक्त उपविनियम (1) के अनुसार परिनिर्धारण आदेश प्रतिसंहृत और प्रत्याहृत हो जाता है वहां आयोग, परिनिर्धारण करवाने वाले आवेदक के विरुद्ध जांच या अन्वेषण, जिसके संबंध में धारा 48क के अधीन आदेश पारित किया गया था, भी प्रत्यावर्तित या संस्थित कर सकेगा।

12. सूचना का उपयोग करने की शक्ति. -

- (1) जहां आयोग ने विनियमन 11 के साथ पठित, अधिनियम की धारा 48 ग के निबंधनों के अनुसार, अपना परिनिर्धारण आदेश प्रतिसंहृत और प्रत्याहृत कर लिया है, वहां आयोग और महानिदेशक, अधिनियम के अधीन कार्यवाहियों में परिनिर्धारण करवाने वाले आवेदक द्वारा प्रस्तुत सूचना और दस्तावेजों पर निर्भर हो सकेंगे।

- (2) जहां परिनिर्धारण आवेदन नामंजूर कर दिया जाता है या प्रत्याहृत कर लिया जाता है, वहां आयोग और महानिदेशक, अधिनियम के अधीन कार्यवाही में परिनिर्धारण करवाने वाले आवेदक के अतिरिक्त, अन्य स्रोतों से एकत्रित सूचना का उपयोग कर सकेंगे।
- (3) आयोग, अधिनियम की धारा 57 के साथ पठित, भारतीय प्रतिस्पर्धा आयोग (साधारण) विनियम, 2009 के विनियम 35 के उपबंधों के अधीन, परिनिर्धारण करवाने वाले आवेदक द्वारा प्रस्तुत सूचना का उपयोग, उन अन्य पक्षकारों के विरुद्ध जांच में कर सकेगा जो परिनिर्धारण कार्यवाही का हिस्सा नहीं हैं।
- (4) परिनिर्धारण करवाने वाले आवेदक के विरुद्ध, समान कारण की कार्रवाई के संबंध में, भारत में या भारत के बाहर, कोई विधि के अधीन, चल रही या समाप्त कार्यवाही में स्थापित या स्वीकार किए गए तथ्य, इन विनियमों के अधीन बंद किये जाने की प्रस्तावित कार्यवाही के संबंध में परिनिर्धारण करवाने वाले आवेदक द्वारा स्वीकार किए गए समझे जाएंगे।

13. गोपनीयता के लिए अनुरोध. -

1. यदि परिनिर्धारण कार्यवाही के दौरान, सूचना या दस्तावेज(दस्तावेजों) की गोपनीयता के लिए कोई अनुरोध प्रस्तुत किया जाता है तो ऐसा अनुरोध, भारतीय प्रतिस्पर्धा आयोग (साधारण) विनियम, 2009 में अधिकथित, समय-समय पर यथासंशोधित प्रक्रिया के अनुसार दाखिल किया जा सकेगा।
2. गोपनीयता के लिए ऐसे अनुरोध पर, अधिनियम की धारा 57 के साथ पठित, भारतीय प्रतिस्पर्धा आयोग (साधारण) विनियम, 2009 में अधिकथित, समय-समय पर यथासंशोधित उपबंधों के अनुसार विधिवत विचार किया जाएगा।

14. दस्तावेजों का निरीक्षण और उनकी प्रमाणित प्रतियां. -

1. भारतीय प्रतिस्पर्धा आयोग (साधारण) विनियम, 2009 के विनियम 37 और विनियम 50 में अंतर्विष्ट कोई प्रतिकूल बात के होते हुए भी, केवल सूचना देने वाले और परिनिर्धारण करवाने वाले आवेदक को ही परिनिर्धारण कार्यवाही में प्रस्तुत दस्तावेजों के निरीक्षण करने और प्रमाणित प्रतियां अभिप्राप्त करने की अनुज्ञा दी जा सकेगी।
परंतु यह कि भारतीय प्रतिस्पर्धा आयोग (साधारण) विनियम, 2009 के विनियम 35 के उपबंधों के अनुसार, ऐसे दस्तावेजों के गोपनीय पाठ का निरीक्षण करने और प्रमाणित प्रतियां अभिप्राप्त करने की अनुज्ञा दी जा सकेगी।
2. विनियम 5 के अधीन प्राप्त टीका-टिप्पणियों के निरीक्षण करने और प्रमाणित प्रतियां अभिप्राप्त करने की अनुज्ञा, उसमें उल्लिखित 21 (इक्कीस) दिवस की कालावधि समाप्त होने के पश्चात ही दी जाएगी।

15. कतिपय परिस्थितियों में प्रक्रिया अवधारित करने की शक्तियाँ. -

उस स्थिति में, जो इन विनियमों में उपबंधित नहीं की गई है, आयोग, कारण लिखित में अभिलिखित करके, विशिष्ट मामले में प्रक्रिया अवधारित कर सकेगा।

16. कठिनाइयों को दूर करने की शक्ति. -

इन विनियमों के निर्वचन के विषय में, यदि कोई संदेह या कठिनाई सामने आती है तो आयोग के पास स्पष्टीकरण निर्गमित करने और परिपत्रों और मार्गदर्शक सिद्धांतों के माध्यम से प्रक्रिया विनिर्दिष्ट करने की शक्ति होगी और उस पर आयोग का विनिश्चय आवद्धकर होगा।

अनुसूची I

वचनबंध और अधित्यजन

मैं/हम,, इसमें परिनिर्धारण करवाने वाला (परिनिर्धारण करने वाले आवेदक), आयोग को आवेदन का परीक्षण करने और उस पर विचार करने के लिए संलग्न आवेदन करने की शर्त के रूप में, एतद्वारा घोषणा करता हूं/करते हैं कि मैं/हम सहमत हूं/हैं और वचन देता हूं/देते हैं कि:

1. परिनिर्धारण करवाने वाला आवेदक, प्रतिस्पर्धा अधिनियम, 2002 के अधीन अभिकथित उल्लंघनों के संबंध में कार्यवाही संस्थित करने के लिए भारतीय प्रतिस्पर्धा आयोग (आयोग) की अधिकारिता और अधिकार स्वीकार करता है।

2. आयोग, इस आवेदन के अनुसार पारित परिनिर्धारण आदेश के कोई उल्लंघन से होने वाले या उसके संबंध में कोई दावा(दावे) परिनिर्धारण करवाने वाले आवेदक के विरुद्ध प्रवर्तित करा सकता है।
3. परिनिर्धारण करवाने वाला आवेदक, परिनिर्धारण आदेश, जो पारित किया जा सकेगा, में सम्मिलित होने वाले मुद्दे के संबंध में, आयोग के विरुद्ध कोई विधिक कार्यवाही करने के अपने अधिकार का अधित्यजन कर देता है।
4. परिनिर्धारण करवाने वाला आवेदक, आगे निम्नलिखित का अधित्यजन कर देता है:
 - क) तथ्य के निष्कर्ष और विधि के निर्णय;
 - ख) राष्ट्रीय कंपनी विधि अपील अधिकरण या अन्य न्यायालयों के समक्ष अपील या पुनर्विलोकन;
 - ग) यदि परिनिर्धारण करवाने वाला आवेदक, परिनिर्धारण आदेश का अतिक्रमण करता है तो कार्यवाही संस्थित करने या प्रत्यावर्तन करने के लिए परिसीमा या डील देने का कोई अभिवचन।

(निगम निकाय की मुहर और मुद्रा के साथ परिनिर्धारण करवाने वाले आवेदक के हस्ताक्षर)

मेरे समक्ष।

नोटरी।

अनुपमा आनंद, सचिव

[विज्ञापन-III/4/असा./803/2023-24]

THE COMPETITION COMMISSION OF INDIA

NOTIFICATION

New Delhi, the 6th March, 2024

THE COMPETITION COMMISSION OF INDIA (SETTLEMENT) REGULATIONS, 2024

(No. 04 OF 2024)

No. CCI/Reg-S.R./2024.—In exercise of the powers conferred by section 64 read with section 48A of the Competition Act, 2002 (12 of 2003), the Competition Commission of India hereby makes the following regulations to specify the procedure for filing of settlement applications and for conducting the settlement proceedings and matters connected therewith or incidental thereto, namely:-

1. Short title and commencement. -

- (1) These regulations may be called the Competition Commission of India (Settlement) Regulations, 2024.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions. -

- (1) In these regulations, unless the context otherwise requires:

- (a) “Act” means the Competition Act, 2002 (12 of 2003);
- (b) “Commission” means the Competition Commission of India established under sub-section (1) of section 7 of the Act;
- (c) “Director General” means the Director General as defined in clause (g) of section 2 of the Act;
- (d) “Penalty Guidelines” means guidelines published by the Commission under sub-section (3) of section 64B of the Act;
- (e) “Settlement Amount” means the amount determined by the Commission under regulation 6 of these regulations;
- (f) “Settlement Applicant” means any enterprise, as defined in clause (h) of section 2 of the Act, against whom any inquiry has been initiated under sub-section (1) of section 26 of the Act for alleged contraventions of sub-section (4) of section 3 or section 4 of the Act, and submits an application for

settlement of proceedings initiated for the alleged contraventions to the Commission under these regulations;

(g) “Settlement Application” means an application submitted by a Settlement Applicant to the Commission under these regulations for settlement of proceedings initiated for the alleged contraventions of sub-section (4) of section 3 or section 4 of the Act.

(2) Words and expressions used but not defined in these regulations shall have the same meanings as assigned to them in the Act or in the regulations framed thereunder or in the Companies Act, 2013 (18 of 2013), as the case may be.

3. Application for settlement. -

(1) A Settlement Applicant may make a Settlement Application to the Commission in writing, accompanied by such fee as provided under sub-regulation (1) of regulation 9, containing the information as specified below:

- a) name, legal status (company or firm or LLP or trust, etc.), registration number (if applicable), contact details including complete registered address, principal business address (with area code, city and country), mobile/ telephone number, email and website address (if any) of the Settlement Applicant.
- b) name of the authorised representative(s) of the Settlement Applicant and their contact details including complete business address, telephone number and email.
- c) proof of payment of fees to the Commission under regulation 9.
- d) details of the findings of the Director General in relation to the Settlement Applicant in the investigation report received under sub-section (4) of section 26 of the Act.
- e) full and true disclosure of facts in respect of the alleged contraventions and the findings of the Director General.
- f) details of the proposal for settlement including as to how the same addresses the alleged contraventions, competition concerns and the manner of implementation and monitoring thereof.
- g) whether the Settlement Applicant, has previously been found to have contravened any provision of the Act or whether any proceeding against the Settlement Applicant is pending for any alleged violation of the provisions of the Act or whether the Settlement Applicant has in the past made any settlement or commitment application(s). If so, the details thereof.
- h) details of nature, gravity and impact of the alleged contraventions and the duration of the enterprise's involvement in the alleged contraventions.
- i) a summary, not containing any confidential information, comprising of *prima facie* opinion of the Commission expressed in the order issued under sub-section (1) of section 26 of the Act, findings of the Director General in the investigation report received under sub-section (4) of section 26 of the Act along with details of the competition concerns, alleged contraventions, duly capturing settlement proposal offered by the Settlement Applicant and how they address the competition concerns.
- j) details of other competition authorities, fora or courts, if any, which have examined or are currently examining the alleged contraventions including those where the Settlement Applicant has filed commitment and / or settlement applications.
- k) undertakings and waivers as per Schedule I.
- l) any other information that may assist the Commission in determining the terms of the settlement and the Settlement Amount having due regard to the factors specified under regulation 8.

(2) The Settlement Application under sub-regulation (1) may be submitted after the receipt of the report of the Director General or confidential version thereof, if applicable, by the Settlement Applicant under sub-section (4) of section 26 of the Act.

Provided that a Settlement Application shall not be entertained by the Commission if it is made after expiry of 45 (forty five) days from the receipt of report of the Director General or confidential version thereof, if applicable, by the Settlement Applicant.

Provided further that the Commission may entertain a Settlement Application after the period specified above, if the Settlement Application is received within a further period of 30 (thirty) days and the Commission is satisfied that there had been sufficient cause for not filing the same within the specified period after recording reasons for condoning such delay.

- (3) Where Settlement Application is incomplete in any respect or does not conform to the requirements of these regulations, the Settlement Applicant may be asked to remove such defect(s) or furnish the required information including document(s). The Settlement Applicant shall rectify such defects or furnish the required information including document(s) within 10 (ten) working days of the receipt of communication or such other period as may be specified by the Commission, failing which the Settlement Application may be treated as invalid.
- (4) A Settlement Application may be withdrawn by the Settlement Applicant at any time prior to the passing of an order by the Commission under regulation 4.
- (5) No application for settlement of any proceedings shall be considered,
 - a) if the Settlement Application does not cover all the contraventions found by the Director General in its investigation report under sub-section (4) of section 26 of the Act.
 - b) if any amount due under the Act is liable for recovery from the Settlement Applicant.

4. Consideration of proposal for settlement.-

- (1) The Settlement Application complete in all respects in terms of regulation 3 shall be placed for consideration before the Commission in its ordinary meeting within 7 (seven) working days of receipt thereof.
- (2) If the Commission is *prima facie* not satisfied with the settlement proposal offered by the Settlement Applicant, it shall communicate to the Settlement Applicant the reasons for the same and call upon the Settlement Applicant to furnish, within 15 (fifteen) working days of the receipt of the said communication, a revised Settlement Application.
- (3) When the Settlement Application complete in all respects is placed for consideration before the Commission under sub-regulation (1) above, the inquiry against the Settlement Applicant shall remain in abeyance till final decision on the Settlement Application or till such time, as may be decided by the Commission.
- (4) While considering the proposal for settlement, the Commission shall invite objections and suggestions in terms of regulation 5.
- (5) After consideration of the nature, gravity and impact of the alleged contraventions, the proposal for settlement submitted by the Settlement Applicant and the comments, objections, or suggestions received under regulation 5,
 - a.) the Commission may pass an order in terms of sub-section (3) of section 48A of the Act agreeing to the proposal for settlement as contained in the Settlement Application filed under sub-regulation (1) of regulation 3 or the revised Settlement Application filed under sub-regulation (2) above, as the case may be, subject to such other terms relating to manner of implementation of settlement and monitoring and close the proceedings against the Settlement Applicant forthwith.
 - b.) if the Commission is of the opinion that the Settlement Application filed under sub-regulation (1) of regulation 3 or the revised Settlement Application filed under sub-regulation (2) above, as the case may be, are not appropriate in the circumstances, it shall by order passed in terms of sub-section (5) of section 48A of the Act, reject the Settlement Application and proceed with its inquiry under section 26 of the Act.
 - c.) if the Commission is not satisfied with the Settlement Application, it shall within 15 (fifteen) working days after the expiry of period specified in regulation 5, communicate to the Settlement Applicant the reasons for the same and call upon the Settlement Applicant to furnish, within 30 (thirty) days of the receipt of the said communication, a revised Settlement Application.
 - d.) if the Commission after considering the revised Settlement Application, filed under clause (c) of this sub-regulation (5), agrees with the same, it shall pass an order in terms of sub-section (3) of section 48A of the Act agreeing to the proposal for settlement, subject to such other terms relating to manner of implementation of settlement and monitoring and close the proceedings against the Settlement Applicant forthwith.
 - e.) if the Commission after considering the revised Settlement Application, filed under clause (c) of this sub-regulation (5), is not satisfied with the same, it shall by an order passed in terms of sub-section (5) of section 48A of the Act, reject the revised Settlement Application and proceed with its inquiry under section 26 of the Act.
- (6) In case the Settlement Applicant fails to submit the revised Settlement Application within the time period specified in sub-regulation (2) and clause (c) of sub-regulation (5) above, or fails to provide clarification, information, or data as sought under sub-regulation (11), the Commission shall by an order passed in

terms of sub-section (5) of section 48A of the Act reject the Settlement Application and proceed with its inquiry under section 26 of the Act.

- (7) The Commission before passing an order in terms of sub-section (3) of section 48A of the Act shall communicate to the Settlement Applicant, the Settlement Amount computed in terms of regulation 6 and the Settlement Applicant shall communicate its acceptance of the same within 15 (fifteen) days of receipt of such communication. The Settlement Amount computed and communicated to the Settlement Applicant shall be final and any application seeking revision of the same shall not be entertained by the Commission.
- (8) The Settlement Applicant shall pay the Settlement Amount within a period of 30 (thirty) days from the date of acceptance thereof, whereupon the Commission shall pass an order in terms of sub-section (3) of section 48A of the Act.
- (9) If the Settlement Applicant fails to communicate its acceptance of the Settlement Amount within the time period prescribed in sub-regulation (7) or fails to pay the Settlement Amount within the time period prescribed in sub-regulation (8), the Commission shall by an order passed in terms of sub-section (5) of section 48A of the Act, reject the Settlement Application and proceed with its inquiry under section 26 of the Act.
- (10) The entire settlement proceedings shall be concluded within 180 (one hundred and eighty) working days of the receipt of the Settlement Application complete in all respect in terms of regulation 3, failing which the inquiry under section 26 of the Act against the Settlement Applicant shall stand resumed.
Provided that the Commission may extend the said period of 180 (one hundred and eighty) working days by such further period as may be specified, if deemed appropriate, for reasons to be recorded in writing.
- (11) The Commission may seek clarification, information, or data from the Settlement Applicant, as deemed appropriate, which shall be provided by the Settlement Applicant within the time specified by the Commission.
- (12) Notwithstanding the above provisions, a Settlement Application may also be rejected at any time on the following grounds:
 - a. where the Settlement Applicant refuses to receive or respond to the communications sent by the Commission.
 - b. where the Settlement Applicant violates in any manner or does not abide by the undertaking and waivers given as per Schedule-I.
- (13) The Commission shall before passing an order rejecting a Settlement Application under clause (b) and (e) of sub-regulation (5), sub-regulation (6) and sub-regulation (12) above, grant the Settlement Applicant an opportunity of being heard.
- (14) During the pendency of a Settlement Application, the Commission may issue interim and/or other directions to protect the interest of consumers and/or to maintain & protect competition in the market and require the Settlement Applicant to comply with the same within a specified time period for consideration of the Settlement Application.
- (15) The rejection under this regulation shall be communicated to the Settlement Applicant:
Provided that the Settlement Applicant shall continue to be bound by undertakings and waivers given as per Schedule I.

5. Invitation of objections and suggestions on proposal for settlement. –

- (1) While considering the proposal for settlement, the Commission shall provide an opportunity to the party concerned, the Director General, or any other party to submit their comments, objections, or suggestions, if any, within 21 (twenty one) days. For the said purpose, the Commission would share a summary, not containing any confidential information, comprising of *prima facie* opinion of the Commission expressed in the order issued under sub-section (1) of section 26 of the Act, findings of the Director General in the investigation report received under sub-section (4) of section 26 of the Act along with details of the competition concerns, alleged contraventions, duly capturing settlement proposal offered by the Settlement Applicant, how they address the competition concerns and any other detail as deemed fit.
- (2) The comments, objections and suggestions filed by the concerned parties shall contain the following details:
 - a) name and contact details including address, telephone number, email of the concerned party and its authorised representative(s), if any

- b) statement of comments, objections and suggestions duly authenticated by the authorised representative and supported by relevant documents.
- c) a summary of the comments, objections and suggestions not running into more than four pages.
- d) any other information that may assist the Commission in determining the terms of the settlement.

6. Manner of determining the Settlement Amount. -

- (1) For the purpose of determining Settlement Amount, the Commission would compute base amount which could extend up to maximum amount of penalty that would otherwise have been leviable under section 27(b) of the Act.
- (2) For the purpose of determining base amount as referred to in sub-regulation (1), the Commission shall be guided by the Penalty Guidelines.
- (3) The Settlement Amount would be determined by applying a settlement discount of 15% to the base amount computed under sub-regulation (1) and (2).

7. Nature and effect of settlement order. -

- (1) Without prejudice to provisions of section 53N of the Act, the order passed by the Commission agreeing to the proposal for settlement shall not be construed as a finding of contravention by the Commission against the Settlement Applicant.
- (2) Filing of Settlement Application or issuance of settlement order by the Commission shall have no bearing on the inquiry under section 26 of the Act in relation to the alleged contraventions, in respect of the other parties to the inquiry who are not part of the settlement proceedings.
- (3) The settlement order shall be final and binding upon the Settlement Applicant.

8. Assessment of the terms of the settlement. -

The Commission shall while considering the nature, gravity, impact of the alleged contraventions and for the purpose of assessing the Settlement Application, have due regard to all or any of the following factors, including:

- (a) the nature of conduct, its type, duration and extent of the alleged contraventions;
- (b) whether the settlement terms address the alleged contraventions and the same can be implemented effectively and expeditiously besides being easy to monitor;
- (c) whether the terms of settlement make the markets more contestable;
- (d) procedural efficiencies, self-executing terms and early correction of market distortions;
- (e) whether the Settlement Applicant, has previously been found to have contravened any provision of the Act or any investigation or inquiry is pending against the Settlement Applicant in respect of any alleged violation of the provisions of the Act or whether the Settlement Applicant has previously made any settlement or commitment application(s);
- (f) whether the Settlement Applicant has already modified its conduct and policies which have been found to be in prima facie violation of the Act by the Commission or steps taken by the Settlement Applicant to minimize future violations or lapses;
- (g) any other factor as may be deemed appropriate by the Commission in the facts and circumstances of the case.

9. Fee under sub-section (1) of section 48A of the Act. -

- 1. Every application received under sub-section (1) of section 48A of the Act by the Commission shall be accompanied with proof of payment of non-refundable fees as under:
 - (a) Rs. 2,50,000 (rupees two lakh fifty thousand) only in case the Settlement Applicant has a total turnover of up to Rs. 50,00,00,000 (rupees fifty crores) in India in the preceding financial year, or
 - (b) Rs. 10,00,000 (rupees ten lakh) only in case the Settlement Applicant has total turnover exceeding Rs. 50,00,00,000 (rupees fifty crores) and up to Rs. 500,00,00,000 (rupees five hundred crores) in India in the preceding financial year.
 - (c) Rs. 50,00,000 (rupees fifty lakh) only in case the Settlement Applicant has total turnover exceeding Rs. 500,00,00,000 (rupees five hundred crores) in India in the preceding year.

2. The fee can be paid either by tendering demand draft or pay order or banker's cheque, payable in favour of Competition Commission of India (Competition Fund), New Delhi or through Electronic Clearance Service (ECS) by direct remittance to the Competition Commission of India (Competition Fund), Account No. 1988002100187687 with "Punjab National Bank, Bhikaji Cama Place, New Delhi- 110066".

10. Implementation and monitoring of settlement order. -

Where the Commission is of the opinion that the implementation of the Settlement Order needs monitoring, it may appoint agencies to oversee such implementation in terms of the Competition Commission of India (General) Regulations, 2009 and on such terms and conditions as may be specified by the Commission.

11. Revocation of the Settlement Order. -

- (1) If a Settlement Applicant fails to comply with the order passed by the Commission under section 48A of the Act or it comes to the notice of the Commission that the Settlement Applicant has not made full and true disclosure during the settlement proceedings or there has been a material change in the facts, the order passed under section 48A of the Act shall stand revoked and withdrawn.

Provided that before making an opinion in this regard, the Commission shall give an opportunity to the Settlement Applicant to show-cause, within a period of 15 working days from the date of receipt of the show-cause notice, as to why the Commission should not form an opinion that the Settlement Applicant has failed to comply with the order passed by the Commission under section 48A of the Act or the Settlement Applicant has failed to make full and true disclosure during the settlement proceedings or there has been a material change in the facts, as the case may be.

- (2) Where the settlement order stands revoked and withdrawn as per sub-regulation (1) above, the Settlement Applicant shall be liable to pay legal costs incurred by the Commission, as may be determined by the Commission, subject to a maximum of rupees one crore which shall be paid in terms of sub-regulation (2) of regulation 9.
- (3) Such legal costs imposed upon a Settlement Applicant shall be recoverable in the same manner under section 39 of the Act read with the Competition Commission of India (Manner of Recovery of Monetary Penalty) Regulations, 2011, as has been prescribed for recovery of penalty imposed under the Act.
- (4) Further, where the settlement order stands revoked and withdrawn as per sub-regulation (1) above, the Commission may also restore or initiate against the Settlement Applicant, inquiry or investigation in respect of which the order under section 48A was passed.

12. Power to use information. -

- (1) Where the Commission has revoked and withdrawn its settlement order in terms of section 48C of the Act read with regulation 11, the Commission and the Director General may rely upon the information and document submitted by the Settlement Applicant in the proceedings under the Act.
- (2) Where a Settlement Application is rejected or withdrawn, the Commission and the Director General may use the information gathered from sources other than Settlement Applicant in the proceedings under the Act.
- (3) The Commission may, subject to the provisions of regulation 35 of the Competition Commission of India (General) Regulations, 2009 read with section 57 of the Act, use the information submitted by the Settlement Applicant against other parties to the inquiry who are not part of the settlement proceedings.
- (4) The facts established against the Settlement Applicant or admitted in any ongoing or concluded proceedings in India or outside India, with respect to the same cause of action, under any law, shall be deemed to be admitted by the Settlement Applicant in respect of the proceedings proposed to be closed under these regulations.

13. Request for Confidentiality. -

1. If any party request confidentiality of information or document(s) submitted during settlement proceedings, such request may be filed as per the procedure laid down in the Competition Commission of India (General) Regulations, 2009, as amended from time to time.
2. Such request for confidentiality shall be duly considered in accordance with the provisions laid down in the Competition Commission of India (General) Regulations, 2009, as amended from time to time read with section 57 of the Act.

14. Inspection and certified copies of documents. -

1. Notwithstanding anything contained to the contrary in regulation 37 and regulation 50 of the Competition Commission of India (General) Regulations, 2009, inspection and certified copies of documents submitted during settlement proceedings may be granted only to the Informant and the Settlement Applicant.

Provided that the inspection and certified copies of the confidential version of such documents shall be granted as per provisions of regulation 35 of the Competition Commission of India (General) Regulations, 2009.

2. Inspection and certified copies of comments received under regulation 5 shall be allowed only after expiry of the period of 21 (twenty-one) days mentioned therein.

15. Powers to determine procedure in certain circumstances. –

In a situation not provided for in these regulations, the Commission may, for reasons to be recorded in writing, determine the procedure in a particular case.

16. Power to remove difficulties. -

In the matter of implementation of these regulations, if any doubt or difficulty arises, the Commission shall have the powers to issue clarifications and specify procedures through circulars or guidelines and the decision of the Commission thereon shall be binding.

SCHEDULE-I

Undertakings and Waivers

I/We,, the Settlement Applicant(s) herein, as a condition for making the enclosed application to the Commission for examining and consideration of the application, hereby declare that I/we agree and undertake that:

1. The Settlement Applicant admits the jurisdiction and right of the Competition Commission of India (the Commission) to initiate proceedings in respect of the alleged contraventions under the Competition Act, 2002.
2. The Commission may enforce any claim(s) against the Settlement Applicant arising from or in relation to any violation of the settlement order passed pursuant to this application.
3. The Settlement Applicant waives its right of taking any legal proceedings against the Commission concerning any of the issues covered in the settlement order that may be passed.
4. The Settlement Applicant further waives the following:
 - a) the findings of fact and conclusions of law;
 - b) appeal or review before the National Company Law Appellate Tribunal or other courts;
 - c) any plea of limitation or laches for initiating or restoring of the proceedings, if the Settlement Applicant violates the settlement order.

(Signature of the Settlement Applicant with stamp and seal of the body corporate)

Before me.

Notary.

ANUPAMA ANAND, Secy.
[ADVT.-III/4/Exty./803/2023-24]



भारत का राजपत्र The Gazette of India

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असाधारण
EXTRAORDINARY

भाग III—खण्ड 4
PART III—Section 4

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भारतीय प्रतिस्पर्धा आयोग

अधिसूचना

नई दिल्ली, 6 मार्च, 2024

भारतीय प्रतिस्पर्धा आयोग (व्यापारावर्त या आय का अवधारण) विनियम, 2024

(2024 की सं. 05)

सं. बी-14011/2/2024-एटीडी-II—भारतीय प्रतिस्पर्धा आयोग, प्रतिस्पर्धा अधिनियम, 2002 (2003 का 12) की धारा 27 के स्पष्टीकरण के खंड (ख) और धारा 48 के स्पष्टीकरण के खंड (ग) के साथ पठित, धारा 64 की उपधारा (1) और उपधारा (2) के खंड (चख) और (छघ) द्वारा उसे प्रदत्त शक्तियों का प्रयोग करते हुए, एतद्वारा निम्नलिखित विनियम बनाता है अर्थात्:

1. संक्षिप्त नाम एवं आरंभ

- (1) इन विनियमों का संक्षिप्त नाम भारतीय प्रतिस्पर्धा आयोग (व्यापारावर्त या आय का अवधारण) विनियम, 2024 है।
- (2) ये विनियम राजपत्र में इनके प्रकाशन की तारीख से प्रवृत्त होंगे।

2. परिभाषाएं

- (1) इन विनियमों में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो –

- (क) “अधिनियम” से प्रतिस्पर्धा अधिनियम, 2002 (2003 का 12) अभिप्रेत है;
- (ख) “आयोग” से अधिनियम की धारा 7 की उपधारा (1) के अधीन स्थापित भारतीय प्रतिस्पर्धा आयोग अभिप्रेत है;
- (ग) “सनदी लेखापाल” से अधिनियम की धारा 35 के स्पष्टीकरण (क) में यथापरिभाषित सनदी लेखापाल अभिप्रेत है;
- (घ) “व्यापारावर्त” से अधिनियम की धारा 2(म) के अधीन, यथापरिभाषित और अधिनियम की धारा 27(ख) के अधीन स्पष्टीकरण में जैसा स्पष्ट किया गया है, व्यापारावर्त अभिप्रेत है;
- (2) इन विनियमों में प्रयुक्त ऐसे शब्दों और पदों का, जो परिभाषित नहीं हैं, वही अर्थ होगा जो उनका, अधिनियम या नियम या तदधीन बनाये गये विनियम या कम्पनी अधिनियम, 2013 (2013 का 18) में है।

3. अधिनियम की धारा 27 के प्रयोजनार्थ उद्यम के लिए व्यापारावर्त या आय का अवधारण

- (1) यथास्थिति, व्यापारावर्त या आय में, ऐसे उद्यम द्वारा अनुरक्षित संपरीक्षित वित्तीय विवरणिकाओं के अनुसार, बिक्री का मूल्य (राजस्व या प्राप्तियां जो भी नाम से पुकारा जाए), और अन्य प्रचालन राजस्व सम्मिलित है।

स्पष्टीकरण: इस विनियमन के प्रयोजन के लिए, अन्य आय, अप्रत्यक्ष कर, व्यापार बट्टे और अंतर-समूह बिक्री, यदि कोई हो, को हिसाब में नहीं लिया जाएगा।

- (2) ऐसी दशा में, जहां किसी उद्यम को कंपनी अधिनियम, 2013 की धारा 129 या कोई कानून के अधीन, समेकित वित्तीय विवरणिका तैयार करना अपेक्षित है, वहां व्यापारावर्त या आय ऐसे संपरीक्षित समेकित वित्तीय विवरणिकाओं पर आधारित होगी।
- (3) ऐसी दशा में, जहां संपरीक्षित वित्तीय विवरणिकाएं उपलब्ध नहीं हैं वहां व्यापारावर्त या आय, उद्यम के कानूनी संपरीक्षक, या सनदी लेखापाल द्वारा प्रमाणित, और इस संबंध में, उद्यम द्वारा प्राधिकृत व्यक्ति के शपथपत्र द्वारा समर्थित धनराशि होगी।
- (4) यदि व्यापारावर्त या आय भारतीय रुपये में नहीं है तो उसे प्रत्येक संगत वित्तीय वर्ष के लिए, सनदी लेखापाल द्वारा प्रमाणित, और इस संबंध में, उद्यम द्वारा प्राधिकृत व्यक्ति के शपथपत्र द्वारा समर्थित, भारतीय रिजर्व बैंक द्वारा यथाप्रकाशित विदेशी मुद्रा निर्देश दर के औसत के आधार पर भारतीय रुपये में संपरिवर्तित किया जाएगा।

4. अधिनियम की धारा 27 और 48 के प्रयोजनार्थ व्यष्टि के लिए आय का अवधारण

- (1) कोई व्यष्टि के मामले में आय, आयकर अधिनियम, 1961 और तदधीन बनाए गए नियमों के अधीन, यथाविहित आयकर विवरणी के अनुसार, सकल कुल आय होगी। ऐसी सकल कुल आय में विवर्जित होंगे: (क) गृह संपत्ति से आय, और (ख) पूंजीगत लाभ से आय।
- (2) ऐसी दशा में, जहां आयकर विवरणियां उपलब्ध नहीं हैं या कर विवरणियां कई अधिकारिताओं में फाइल की जाती हैं या कोई अधिकारिता में फाइल नहीं की जाती हैं, वहां आय, सनदी लेखापाल द्वारा प्रमाणित और ऐसे व्यष्टि द्वारा शपथपत्र द्वारा समर्थित कुल आय होगी।
- (3) किसी ऐसे व्यक्ति की दशा में, जिसे आयकर विवरणी दाखिल करना अपेक्षित नहीं है, वहां आय सनदी लेखापाल द्वारा प्रमाणित और ऐसे व्यष्टि द्वारा शपथपत्र द्वारा समर्थित कुल आय होगी।

5. कठिनाइयों को दूर करना

इन विनियमों में, या इनकी व्याख्या के विषय में, उपबंधित न होने की स्थिति में, उस पर आयोग का विनिश्चय आवद्धकर होगा।

अनुपमा आनंद, सचिव

[विज्ञापन-III/4/असा./804/2023-24]

THE COMPETITION COMMISSION OF INDIA**NOTIFICATION**

New Delhi, the 6th March, 2024

The Competition Commission of India (Determination of Turnover or Income) Regulations, 2024**(No. 05 of 2024)**

No. B-14011/2/2024-ATD-II —In exercise of the powers conferred by sub-section (1) and clause (fb) and (gd) of sub-section (2) of section 64 read with Explanation to clause (b) of section 27 and clause (c) of Explanation to section 48 of the Competition Act, 2002 (12 of 2003), the Competition Commission of India hereby makes the following regulations, namely: -

1. Short Title and Commencement

- (1) These regulations may be called the Competition Commission of India (Determination of Turnover or Income) Regulations, 2024.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions

- (1) In these regulations, unless the context otherwise requires-
 - (a) “Act” means the Competition Act, 2002 (12 of 2003);
 - (b) “Commission” means the Competition Commission of India established under sub-section (1) of section 7 of the Act;
 - (c) “Chartered Accountant” means a chartered accountant as defined in Explanation (a) to section 35 of the Act;
 - (d) “Turnover” means turnover as defined under section 2(y) of the Act and as explained in Explanation 2 under section 27(b) of the Act.
- (2) Words and expressions used but not defined in these regulations shall have the same meanings respectively as assigned to them in the Act or the rules or regulations framed thereunder or in the Companies Act, 2013 (18 of 2013).

3. Determination of turnover or income for enterprise for the purposes of Section 27 of the Act

- (1) Turnover or income, as the case may be, includes value of sales (or revenue or receipts, by whatever name called), and other operating revenue, as per the audited financial statements maintained by such enterprise.
Explanation: For the purpose of this regulation, other income, indirect taxes, trade discounts and intra-group sales, if any, shall not be taken into account.
- (2) In case an enterprise is required to prepare a consolidated financial statement under Section 129 of the Companies Act, 2013 or under any law, turnover or income shall be based on such audited consolidated financial statements.
- (3) In case audited financial statements are not available, turnover or income, shall be the amount certified by the statutory auditor of the enterprise, or a Chartered Accountant, and supported by an affidavit by any person duly authorised by the enterprise in this regard.
- (4) Turnover or income, if not maintained in Indian Rupees, shall be converted into Indian Rupees based on, the average of the foreign currency reference rates as published by the Reserve Bank of India, for each of the relevant financial year as certified by a Chartered Accountant and supported by an affidavit by any person duly authorised by the enterprise in this regard.

4. Determination of income for individual for the purposes of Sections 27 and 48 of the Act

- (1) Income in case of an individual shall be the gross total income as per the Income Tax Returns (ITRs) as prescribed under the Income Tax Act, 1961 and the rules framed thereunder. Such gross total income shall

exclude: (a) income from house property, and (b) income from capital gains.

- (2) In case Income Tax Returns are not available or tax returns are filed in multiple jurisdictions or not filed in any jurisdiction, income shall be the total income as certified by a Chartered Accountant and supported by an affidavit by such individual.
- (3) In case of an individual who is not required to file an Income Tax Returns, income shall be the total income as certified by a Chartered Accountant and supported by an affidavit by such individual.

5. Removal of Difficulties

In a situation not provided for in these regulations, or in the matter of their interpretation, the decision of the Commission thereon shall be binding.

ANUPAMA ANAND, Secy.

[ADVT.-III/4/Exty./804/2023-24]



भारत का राजपत्र The Gazette of India

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भारतीय प्रतिस्पर्धा आयोग

अधिसूचना

नई दिल्ली, 6 मार्च, 2024

भारतीय प्रतिस्पर्धा आयोग (धनीय शास्ति का अवधारण) मार्गदर्शक सिद्धांत, 2024

(2024 की सं. 01)

सं. बी-14011/1/2024-एटीडी-II.—भारतीय प्रतिस्पर्धा आयोग, प्रतिस्पर्धा अधिनियम, 2002 की धारा 64(ख) के साथ पठित, धारा 64(ख)(1) द्वारा उसे प्रदत्त शक्तियों का प्रयोग करते हुए, उद्यम(उद्यमों) और/या व्यक्तियों पर, अधिनियम के कोई उपबंधों के उल्लंघन के लिए उद्बुहणीय धनीय शास्ति का अवधारण करने के संबंध में, एतद्वारा निम्नलिखित मार्गदर्शक सिद्धांत बनाता है, अर्थात्:-

अध्याय I

प्रारंभिक

संक्षिप्त नाम और प्रारम्भ.

1. (1) इन मार्गदर्शक सिद्धांतों का नाम भारतीय प्रतिस्पर्धा आयोग (धनीय शास्ति का अवधारण) मार्गदर्शक सिद्धांत, 2024 है।

(2) ये राजपत्र में इनके प्रकाशन की तारीख 2024 से प्रवृत्त होंगे।

परिभाषाएं.

2. (1) इन विनियमों में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो:

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- क. “अधिनियम” से प्रतिस्पर्धा अधिनियम, 2002 (2003 का 12) अभिप्रेत है;
- ख. “सनदी लेखापाल” से अधिनियम की धारा 35 के स्पष्टीकरण (क) में यथापरिभाषित सनदी लेखापाल अभिप्रेत है;
- ग. “आयोग” से अधिनियम की धारा 7 की उपधारा (1) के अधीन स्थापित भारतीय प्रतिस्पर्धा आयोग अभिप्रेत है;
- घ. “कम्पनी” से अधिनियम की धारा 48 के स्पष्टीकरण (क) में यथापरिभाषित कंपनी अभिप्रेत है;
- ङ. “आय” से भारतीय प्रतिस्पर्धा आयोग (व्यापारावर्त या आय का अवधारण) विनियम, 2024 के अधीन यथावधारित आय अभिप्रेत है;
- च. “अधिकतम वैध” से अधिनियम के संगत उपबंधों के अधीन उद्बहणीय धनीय शास्ति की अधिकतम धनराशि अभिप्रेत है;
- छ. “शास्ति” से अधिनियम के उपबंधों के कोई उल्लंघन के लिए उद्बहणीय धनीय शास्ति अभिप्रेत है;
- ज. “संगत व्यापारावर्त” से किसी उद्यम द्वारा उन उत्पादों के विक्रय और/या सेवाओं के उपबंध से प्रत्यक्ष या अप्रत्यक्ष रूप से व्युत्पित व्यापारावर्त अभिप्रेत है जिनसे उल्लंघन संबंधित है और शास्ति के अधिरोपण के प्रयोजन के लिए अवधारित है;
- झ. “उल्लंघन की पुनरावृत्ति” से किसी उद्यम या व्यक्ति द्वारा या तो अधिनियम के उसी उपबंध या कोई अन्य उपबंध का एक से अधिक बार किया गया उल्लंघन अभिप्रेत है।
- ञ. “व्यापारावर्त” से भारतीय प्रतिस्पर्धा आयोग (व्यापारावर्त या आय का अवधारण) विनियम, 2024 के अधीन यथापरिभाषित व्यापारावर्त अभिप्रेत है;
- ट. “वर्ष” से वित्तीय वर्ष अभिप्रेत है।
- (2) इन विनियमों में प्रयुक्त ऐसे शब्दों और पदों का, जो परिभाषित नहीं हैं, वही अर्थ होगा जो उनका, अधिनियम या नियम या तदधीन बनाये गये विनियम या कम्पनी अधिनियम, 2013 (2013 का 18) में है।

अध्याय II

अधिनियम की धारा 27(ख) के अधीन उद्यमों के लिए शास्ति के अवधारण की कार्यपद्धति

3. (1) आयोग, किसी उद्यम पर, अधिनियम की धारा 27(ख) के अधीन, अधिरोपित की जाने वाली शास्ति का अवधारण करने के प्रयोजन के लिए, आरंभ में, निम्नलिखित सभी या कोई कारक को ध्यान में रखते हुए उद्यम के यथास्थिति, औसत संगत व्यापारावर्त या औसत आय के तीस प्रतिशत तक की राशि विचार करेगा: -
- क. उल्लंघन की प्रकृति और गंभीरता;
- ख. उल्लंघन के कारण प्रभावित होने वाले उद्योग या सेक्टर की प्रकृति और अर्थव्यवस्था पर इसकी विवक्षा; और
- ग. कोई अन्य कारक जो आयोग प्रत्येक मामले में तथ्यों और परिस्थितियों में उचित समझे।
- (2) आयोग, यथास्थिति, व्यापारावर्त या आय के संदर्भ में, प्रत्येक उद्यम पर, उपर्युक्त पैरा 3(1) में ऐसे अवधारित और अधिकतम वैध के अधीन, निम्नलिखित सभी या कोई कारक को ध्यान में रखते हुए राशि समायोजित करके शास्ति अधिरोपित कर सकेगा, अर्थात्: -
- क. ऐसे उल्लंघन में उद्यम के उल्लंघन करने की कालावधि और/या अंतर्वलिता की कालावधि;
- ख. उल्लंघनकारी आचरण की योजना बनाने में उद्यम की भूमिका;
- ग. उल्लंघन समझे जाने वाले आचरण या व्यवहार का प्रवर्तन करने के दृष्टिगत, उल्लंघन में भाग लेने में अन्य उद्यमों पर प्रपीडक या प्रतिशोधोद्वात्मक अध्यापायों और/या अन्य उद्यम(उद्यमों) के विरुद्ध उठाए गए कोई प्रतिशोधोद्वात्मक अध्यापायों का अवलंब;
- घ. उल्लंघन की पुनरावृत्ति;
- ङ. उद्यम द्वारा उल्लंघन स्वीकार करना, यदि कोई हो, और वह प्रक्रम जिस पर ऐसी स्वीकृति की गई है;
- च. उद्यम द्वारा यह स्थापित करने के लिए अकाट्य साक्ष्य देना कि उल्लंघन में उसकी अंतर्वलितता सारतः सीमित थी;
- छ. महानिदेशक के अन्वेषण और/या आयोग के समक्ष कार्यवाही के दौरान उद्यम द्वारा सहयोग की सीमा;

- ज. आयोग को सूचना देकर अभिकथित प्रतिस्पर्धा-रोधी आचरण का स्वैच्छिक पर्यवसान;
- झ. उद्यम के भीतर प्रतिस्पर्धा अनुपालन कार्यक्रम का निर्वहन; और/या
- ञ. कोई अन्य कारक, जिसे आयोग, प्रत्येक मामले के तथ्यों और परिस्थितियों में उचित समझे।
- (3) औसत संगत व्यापारावर्त या औसत आय के परिकलन के लिए, आयोग, प्रत्येक मामले के तथ्यों और परिस्थितियों के अधीन, उद्यम की उस वर्ष से पूर्ववर्ती वर्ष, जिसमें महानिदेशक की अन्वेषण रिपोर्ट आयोग प्राप्त करता है, से तीन वर्षों के संगत व्यापारावर्त या औसत आय पर विचार कर सकेगा।
- यद्यपि, उपयुक्त मामलों में, आयोग, कारणों को लिखित में लेखबद्ध करके, उल्लंघन से पूर्ववर्ती तीन वर्षों के संगत व्यापारावर्त पर विचार कर सकेगा।
- (4) व्यापारावर्त या आय या संगत व्यापारावर्त या कोई अन्य वित्तीय सूचना, जो आयोग द्वारा मांगी गई है, उद्यम के कानूनी संपरीक्षक, या उसकी अनुपस्थिति में, सनदी लेखापाल द्वारा प्रमाण पत्र की रीति से प्रस्तुत और उद्यम की वित्तीय विवरणिकाओं पर हस्ताक्षर करने वाले कोई अधिकृत व्यक्ति द्वारा शपथपत्र द्वारा समर्थित, उद्यम के संपरीक्षित वित्तीय विवरणिकाओं पर आधारित होगी।
- (5) ऐसे मामले में, जहां संपरीक्षित वित्तीय विवरणिकाएं उपलब्ध नहीं हैं, वहां व्यापारावर्त या आय या संगत व्यापारावर्त या कोई अन्य वित्तीय सूचना, जो आयोग द्वारा मांगी गई है, उद्यम के कानूनी संपरीक्षक, या उसकी अनुपस्थिति में, सनदी लेखापाल द्वारा प्रमाणित, और इस संबंध में, उद्यम द्वारा प्राधिकृत व्यक्ति के शपथपत्र द्वारा समर्थित धनराशि होगी।
- (6) जहां उपर्युक्त पैरा 3(3) के अधीन, संगत व्यापारावर्त का अवधारण संभव नहीं है, वहां आयोग, उपर्युक्त पैरा 3(1) के अधीन शास्ति की धनराशि का अवधारण करने के प्रयोजन के लिए सभी उत्पादों और सेवाओं से व्युत्पित, वैश्विक व्यापारावर्त पर विचार कर सकेगा।
- (7) यदि, आयोग के विचार में, ऐसे अवधारित शास्ति की धनराशि अपमार्जकता सृष्ट करने में पर्याप्त नहीं है, तो आयोग, अधिकतम वैध के अधीन, शास्ति की धनराशि और बढ़ा सकेगा।

अध्याय III

अधिनियम की धारा 27(ख) के परंतुक के अधीन शास्ति के अवधारण की कार्यपद्धति

4. (1) ऐसे मामलों में, जहां उद्यम द्वारा उल्लंघन, उत्पाद संघ द्वारा किये गये प्रतिस्पर्धा-रोधी करार से संबद्ध है, वहां आयोग, अधिनियम की धारा 27 (ख) के उपबंधों के अनुसार शास्ति अधिरोपित कर सकेगा।
- (2) अधिनियम की धारा 27(ख) के उपबंधों के अधीन, शास्ति अवधारित करने के लिए, करोपरांत लाभ पर विचार किया जाएगा।
- (3) इस संबंध में विनिश्चय लेते समय, आयोग इन मार्गदर्शक सिद्धांतों के पैरा 3(2) में उल्लिखित सभी या कोई कारक पर उचित ध्यान देगा।

अध्याय IV

अधिनियम की धारा 48(ख) के अधीन दायी व्यक्तियों के लिए शास्ति के अवधारण की कार्यपद्धति

5. (1) आयोग, यथास्थिति, अधिनियम की धारा 48(1) या 48(3) के अधीन, व्यक्तियों पर ऐसी शास्ति अधिरोपित कर सकेगा जो व्यक्ति के विगत तीन पूर्ववर्ती वित्तीय वर्ष के लिए औसत आय के 10 प्रतिशत से अनधिक होगी।
- (2) दिये गये मामले में विचार किये जाने वाली औसत आय के प्रतिशत का अवधारण करने में, आयोग, निम्नलिखित सभी या कोई कारक पर उचित ध्यान देते हुए करेगा:-
- क. कंपनी द्वारा उल्लंघन करने की प्रकृति और गंभीरता, जिसके आचरण के लिए ऐसा व्यक्ति, अधिनियम की धारा 48 के अधीन दायी ठहराया गया है;
- ख. उल्लंघनकारी आचरण में ऐसे व्यक्ति की अंतर्वलिता की भूमिका, सीमा और कालावधि;
- ग. महानिदेशक के अन्वेषण या आयोग की कार्यवाही के दौरान व्यक्ति द्वारा सहयोग की सीमा;
- घ. उल्लंघन की पुनरावृत्ति;

ड. यह दर्शाने वाले अकाउंट साक्ष्य प्रस्तुत करना कि उल्लंघन में उसकी अंतर्वलिता सारतः सीमित थी; और/या

च. कोई अन्य कारक, जिसे आयोग, प्रत्येक मामले के तथ्यों और परिस्थितियों में उचित समझे।

- (3) व्यक्ति की औसत आय का अवधारण करने के लिए, आयकर अधिनियम, 1961 और तदधीन बनाए गए नियमों के अधीन दाखिल आयकर विवरणी के अनुसार, सकल कुल आय पर विचार किया जाएगा। ऐसी सकल कुल आय में अपवर्जित होगी: (क) गृह संपत्ति से आय; और (ख) पूंजीगत लाभ से आय। आगे, आयोग, उस व्यक्ति के उसी वर्ष की आयकर विवरणी पर विचार करेगा, जिस वर्ष, कंपनी के आचरण के लिए ऐसा व्यक्ति दायी ठहराया गया है।
- (4) जहां व्यक्ति का, ऐसी अवधि या वर्षों की आयकर विवरणी उपलब्ध नहीं है, वहां ऐसे व्यक्ति द्वारा चार्टर्ड अकाउंटेंट द्वारा प्रमाणित, शपथ पत्र द्वारा समर्थित कुल आय पर विचार किया जाएगा।
- (5) ऐसे मामलों में, जहां उल्लंघन, उत्पाद संघ द्वारा किए गए प्रतिस्पर्धा-रोधी करार से संबंधित है वहां आयोग, व्यक्ति पर, यथास्थिति, अधिनियम की धारा 48(1) या धारा 48(3) के उपबंधों के अनुसार, इन दिशानिर्देशों के पैरा 5(2) में उल्लिखित कारकों को ध्यान में रखते हुए शास्ति उद्घूहण कर सकेगा।

अध्याय V

अधिनियम की धारा 43क के अधीन धनीय शास्ति के अवधारण की कार्यपद्धति

6. (1) आयोग, ऐसे व्यक्ति या उद्यम पर, जो अधिनियम की धारा 6 की उपधारा (2) या उपधारा (4) के अधीन, संयोजन की सूचना देने में असफल रहता है या अधिनियम की धारा 6 की उपधारा (2क) का उल्लंघन करता है या अधिनियम की धारा 20 की उपधारा (1) के अधीन, जांच के अनुसरण में सूचना प्रस्तुत करता है, शास्ति उद्घूहण कर सकेगा जो ऐसे संयोजन के कुल कारबार या आस्ति या अधिनियम की धारा 5 के खंड (घ) में उल्लिखित संव्यवहार के मूल्य, जो भी अधिक हो, का एक प्रतिशत तक बढ़ाई जा सकेगी।
- (2) आयोग, अधिनियम की धारा 43क के अधीन, उद्घूहीत की जाने वाली शास्ति की धनराशि का अवधारण करते समय, निम्नलिखित सभी या कोई कारक को ध्यान में रखेगा, अर्थात्: -
 - क. सूचना दिये बिना संयोजन का उपभोग या आंशिक उपभोग;
 - ख. अधिनियम की धारा 6(2क) के अधीन, आयोग के समक्ष, सूचना दाखिल करने से पूर्व या पश्चात ठहराव दायित्वों (सारभूत या प्रक्रियात्मक) का अतिक्रमण;
 - ग. अधिनियम की धारा 20(1) के अधीन पूछताछ के दौरान जानकारी न देना;
 - घ. आयोग के समक्ष स्वैच्छिक रूप से सूचना दाखिल करना;
 - ड. पक्षकारों का आचरण, इसमें स्वैच्छिक प्रकटन करना, जांच के दौरान सहयोग, आयोग द्वारा मांगी गई सूचना के प्रत्युत्तर में सभी अपेक्षित सामग्री या दस्तावेज प्रस्तुत करना भी सम्मिलित है; और/या
 - च. कोई अन्य कारक, जिसे आयोग, प्रत्येक मामले के तथ्यों और परिस्थितियों में उचित समझे।

अध्याय VI

अधिनियम की धारा 42, 43, 44 और 45 के अधीन, धनीय शास्ति के अवधारण की कार्यपद्धति

7. (1) अधिनियम की धारा 42, 43, 44 और 45 के अधीन, किसी व्यक्ति पर अधिरोपित की जाने वाली शास्ति का अवधारण करने में, आयोग, उदग्रहणीय न्यूनतम और अधिकतम शास्ति पर, अधिनियम के संबंधित उपबंध के अनुसार विचार करेगा।
- (2) शास्ति की धनराशि अवधारित करते समय, आयोग, निम्नलिखित सभी या कोई कारक को ध्यान में रखेगा, अर्थात्: -
 - क. अननुपालन या असहयोग की सीमा और कारण;
 - ख. भ्रामक सूचना की प्रकृति;
 - ग. इसके बारे में सूचना देने वाले व्यक्ति के अनुपयोगी या अपूर्ण होने का ज्ञान;
 - घ. उल्लंघन की पुनरावृत्ति;
 - ड. कोई अन्य कारक, जिसे आयोग, प्रत्येक मामले के तथ्यों और परिस्थितियों में उचित समझे।

अध्याय VII**आयोग की अवशिष्ट शक्तियां**

8. (1) शास्ति की धनराशि का अवधारण करने की साधारण पद्धति में किसी बात के होते हुए भी, आयोग, दिए गए मामले की विशिष्टियों पर विचार करके और असाधारण परिस्थितियों में, इन मार्गदर्शक सिद्धांतों का अपयोजन कर सकेगा।
- (2) धारा 27(ख), धारा 43क और धारा 48 के अधीन शास्ति अधिरोपित करने की साधारण पद्धति से कोई विचलनता के मामले में, ऐसे विचलन का कारण(कारणों को) लिखित में, लेखबद्ध किया जा सकेगा।
- (3) अधिनियम की धारा 46 के संबंध में शास्ति की धनराशि में कोई अपचयन भारतीय प्रतिस्पर्धा आयोग (निम्नतर शास्ति) विनियम, 2024 द्वारा निर्देशित होगी।

अनुपमा आनंद, सचिव

[विज्ञापन-III/4/असा./805/2023-24]

THE COMPETITION COMMISSION OF INDIA**NOTIFICATION**

New Delhi, the 6th March, 2024

The Competition Commission of India (Determination of Monetary Penalty) Guidelines, 2024**(No. 01 of 2024)**

No. B-14011/1/2024-ATD-II.—In exercise of the powers conferred by Section 64B(1) read with Section 64B(3) of the Competition Act, 2002, the Competition Commission of India hereby makes the following guidelines with respect to the determination of monetary penalty to be levied on the enterprise(s) and/or persons, for any contravention of the provisions of the Act, namely:-

CHAPTER I**PRELIMINARY****1. Short Title and Commencement**

- (1) These guidelines may be called The Competition Commission of India (Determination of Monetary Penalty) Guidelines, 2024.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions

- (1) In these guidelines, unless the context otherwise requires:
- “Act” means the Competition Act, 2002 (12 of 2003);
 - “Chartered Accountant” means a chartered accountant as defined in Explanation (a) to Section 35 of the Act;
 - “Commission” means the Competition Commission of India established under sub-section (1) of Section 7 of the Act;
 - “Company” means a company as defined in Explanation (a) to Section 48 of the Act;
 - “Income” means the income as determined under the Competition Commission of India (Determination of Turnover or Income) Regulations, 2024;
 - “legal maximum” is the maximum amount of monetary penalty leviable under the relevant provisions of the Act;
 - “penalty” means the monetary penalty leviable for any contravention of the provisions of the Act;
 - “relevant turnover” means the turnover derived by an enterprise directly or indirectly from the sale of products and/or provision of services, to which the contravention relates and determined for the purposes of imposition of penalty;

- i. “repeated contravention” means contravention by an enterprise or a person more than once, either of the same provision or any other provision of the Act;
 - j. “turnover” means turnover as defined under the Competition Commission of India (Determination of Turnover or Income) Regulations, 2024;
 - k. “year” means financial year.
- (2) Words and expressions used but not defined in these guidelines shall have the same meanings as assigned to them in the Act or the rules or regulations framed thereunder or in the Companies Act, 2013 (18 of 2013).

CHAPTER II

METHODOLOGY FOR DETERMINATION OF PENALTY FOR ENTERPRISES UNDER SECTION 27(b) OF THE ACT

3. (1) The Commission, to begin with, would consider, having due regard to all or any of the following factors, an amount up to thirty percent of the average relevant turnover or average income, as the case may be, of the enterprise for the purpose of determination of penalty to be imposed on an enterprise under Section 27(b) of the Act: -
- a. nature and gravity of the contravention;
 - b. nature of the industry or sector affected because of the contravention and its implications on the economy; and/or
 - c. any other factor which the Commission may deem appropriate in the facts and circumstances of each case.
- (2) The Commission may impose penalty by adjusting the amount so determined in paragraph 3(1) subject to the legal maximum, on each enterprise in terms of turnover or income, as the case may be, having due regard to all or any of the following factors, namely: -
- a. duration of the contravention and/ or duration of involvement of the enterprise in such contravention;
 - b. role of the enterprise in orchestrating the contravening conduct;
 - c. recourse to coercive or retaliatory measures on other enterprises to participate in the contravention and/ or any retaliatory measures taken against other enterprise(s) with a view to enforcing the conduct or practices constituting the contravention;
 - d. repeated contravention;
 - e. admission of contravention, if any, by the enterprise and the stage at which such admission is made;
 - f. furnishing of cogent evidence by the enterprise establishing that its involvement in the contravention was substantially limited;
 - g. extent of cooperation by the enterprise during the Director General’s investigation and/ or proceedings before the Commission;
 - h. voluntary termination of alleged anti-competitive conduct, under intimation to the Commission;
 - i. implementation of a competition compliance programme within the enterprise; and/ or
 - j. any other factor which the Commission may deem appropriate in the facts and circumstances of each case.
- (3) For calculating average relevant turnover or average income, the Commission, subject to the facts and circumstances of each case, may consider the relevant turnover or income of three years of the enterprise preceding the year in which the Director General’s investigation report is received by the Commission.
- Provided that, in appropriate cases, for the reasons to be recorded in writing, the Commission may consider the relevant turnover of three years preceding the contravention.
- (4) Turnover or income or relevant turnover or any other financial information, as sought by the Commission, shall be based on the audited financial statements of the enterprise furnished by way of a certificate from a statutory auditor of the enterprise, or in his absence by a Chartered Accountant, and supported by an affidavit by a person duly authorised by the enterprise in this regard.
- (5) In case audited financial statements are not available, turnover or income or relevant turnover or any other financial information, as sought by the Commission, shall be the amount certified by the statutory auditor of the enterprise, or in his absence by a Chartered Accountant, and supported by an affidavit by a person duly authorised by the enterprise in this regard.

- (6) Where the determination of relevant turnover is not feasible under paragraph 3(3) above, the Commission may consider the global turnover, derived from all products and services, for the purpose of determination of amount of penalty under paragraph 3(1) above.
- (7) If, in view of the Commission, the amount of penalty so determined is not sufficient to create deterrence, the Commission may, further increase the amount of penalty, subject to the legal maximum.

CHAPTER III

METHODOLOGY FOR DETERMINATION OF PENALTY UNDER PROVISIO TO SECTION 27(b) OF THE ACT

4. (1) In cases where the contravention by an enterprise pertains to an anti-competitive agreement entered into by a cartel, the Commission may impose penalty in terms of proviso to Section 27(b) of the Act.
- (2) For determining penalty under proviso to Section 27(b) of the Act, profit after tax shall be considered.
- (3) While taking a decision in this regard, the Commission may have due regard to all or any of the factors mentioned in paragraph 3(2) of these guidelines.

CHAPTER IV

METHODOLOGY FOR DETERMINATION OF PENALTY FOR PERSONS LIABLE UNDER SECTION 48 OF THE ACT

5. (1) The Commission may impose penalty on persons, under Section 48(1) or 48(3) of the Act, as the case may be, which shall not be more than ten percent of the average income of the person for the last three preceding financial years.
- (2) In determining the percentage of the average income to be considered in a given case, the Commission may have due regard to all or any of the following factors: -
 - a. nature and gravity of contravention by the company, for whose conduct such person has been held liable under Section 48 of the Act;
 - b. role, extent and duration of involvement of such person in the contravening conduct;
 - c. extent of cooperation by the person during the Director General's investigation or the Commission's proceedings;
 - d. repeated contravention;
 - e. furnishing of cogent evidence showing that his or her involvement in the contravention was substantially limited; and/ or
 - f. any other factor which the Commission may deem appropriate in the facts and circumstances of each case.
- (3) For determining the average income of the person, the gross total income as per the income tax returns filed under the Income Tax Act, 1961 and rules framed thereunder shall be considered. Such gross total income would exclude: (a) income from house property; and (b) income from capital gains. Further, the Commission shall consider income tax returns of the person for the same years as that of the company for whose conduct such person has been held liable.
- (4) Where income tax returns of the person for such period or years are not available, the total income as certified by a Chartered Accountant, supported by way of an affidavit by such person, shall be considered.
- (5) In cases where the contravention pertains to an anti-competitive agreement entered into by a cartel, the Commission may levy penalty on a person in terms of proviso to Section 48(1) or Section 48(3) of the Act, as the case may be, with due regard to factors mentioned at paragraph 5(2) of these guidelines.

CHAPTER V

METHODOLOGY FOR DETERMINATION OF MONETARY PENALTY UNDER SECTION 43A OF THE ACT

6. (1) The Commission may levy penalty on a person or enterprise who fails to give notice of combination under sub-section (2) or sub-section (4) of Section 6 of the Act or contravenes sub-section (2A) of Section 6 of the Act or submits information pursuant to an inquiry under sub-section (1) of Section 20 of the Act, which may extend to one percent of the total turnover or assets or the value of transaction referred to in clause (d) of Section 5 of the Act, whichever is higher, of such a combination.
- (2) The Commission, while determining the amount of penalty to be imposed under Section 43A of the Act, may have due regard to all or any of the following factors, namely: -
 - a. consummation or part consummation of combination without giving notice;

- b. violation of standstill obligations (substantive or procedural) prior to or after filing notice with the Commission under Section 6(2A) of the Act;
- c. non-furnishing of information during an inquiry under Section 20(1) of the Act;
- d. voluntary filing of notice with the Commission;
- e. conduct of the parties including making voluntary disclosures, cooperation during the inquiry, furnishing all requisite material or documents in response to the information sought by the Commission; and/ or
- f. any other factor which the Commission may deem appropriate in the facts and circumstances of each case.

CHAPTER VI

METHODOLOGY FOR DETERMINATION OF MONETARY PENALTY UNDER SECTIONS 42, 43, 44 AND 45 OF THE ACT

7. (1) In determination of penalty to be imposed on a person under Sections 42, 43, 44 and 45 of the Act, the Commission shall consider the minimum and maximum penalty leviable as per the respective provision of the Act.
- (2) While determining the amount of penalty, the Commission may have due regard to all or any of the following factors, namely: -
 - a. extent and reasons of non-compliance or non-cooperation;
 - b. nature of misleading information;
 - c. knowledge of the person furnishing the information about the same being untrue or incomplete;
 - d. repeated contravention; and/or
 - e. any other factor which the Commission may deem appropriate in the facts and circumstances of each case.

CHAPTER VII

RESIDUARY POWERS OF THE COMMISSION

8. (1) Notwithstanding the general methodology for determining the amount of penalty, considering the particularities of a given case and in exceptional circumstances, the Commission may divert from these guidelines.
- (2) In case of any divergence from general methodology for imposition of penalty under Section 27(b), Section 43A and Section 48, the reason(s) for such divergence shall be recorded in writing.
- (3) Any reduction in the penalty amount with respect to Section 46 of the Act would be guided by the Competition Commission of India (Lesser Penalty) Regulations, 2024.

ANUPAMA ANAND, Secy.

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