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Central Government notifies amended penalty provision (section 27) of the Competition Act, 2002 (“Act”) effective from March 6, 2024 and Competition Commission of India (“CCI”) has issued the new Penalty Guidelines.

Central Government has notified the amendment to penalty provision i.e. section 27 of the Act. Vide the amendment, CCI can now impose penalties on companies based on their global turnover for violations. Till now, the CCI has been deciding penalties on the basis of a company’s turnover from a particular business segment where violations have been found.

The CCI vide notification no. 01 of 2024 dated 6th March 2024 has also notified the procedures for levying monetary penalties on the enterprises under the Act, called “The Competition Commission of India (Determination of Monetary Penalty) Guidelines, 2024” and “Competition Commission of India (Determination of Turnover or Income) Regulations, 2024”. The guidelines has seven chapters which details the methodology for determining penalty for enterprises and persons under different provisions of the competition act. The CCI has laid out a comprehensive



methodology for determining penalties imposed, adjustment of the penalty on enterprises, determining the turnover under Section 27(b) of

the Act. This methodology takes into account various factors aimed at ensuring fairness and proportionality in penalty imposition.



CCI notifies Competition Commission of India (Settlement) Regulations, 2024 and Competition Commission of India (Commitment) Regulations, 2024

The Competition Commission of India (Settlement) Regulations, 2024 and Competition Commission of India (Commitment) Regulations, 2024 are in effect from March 6, 2024. Commitments or settlement can be offered for case involving anti competition vertical agreement and abuse of dominant position except cartelization at different stages of investigations.

Commitments can be offered at any time after an investigation has been initiated but before the investigation report is issued. Settlements can

be offered after the investigation report is issued but before the CCI issues its final decision. While considering the applications for settlement / commitment, the CCI will have to provide an opportunity to the concerned parties, the DG and to other third parties to submit their objections or suggestions. The CCI's decision on settlements / commitments will not be appealable.

Further, the order accepting settlement / commitments can be revoked if the applicant did not make full and true disclosure, or there has been a material change in the facts.



Start-ups challenge Madras HC ruling before Supreme Court over Google's user choice billing policy

Digital start-ups and app developers are currently engaged in a legal dispute with Google over its new User Choice Billing policy, which imposes a significant service fee of up to 26% for downloads of paid apps and in-app purchases on the Google Play Store. The Madras High Court had directed their plea to the CCI and granted interim protection against delisting from the Play Store for three

weeks. The startups approached the Supreme Court for interim protection against Google's potential delisting of their apps. They claim that despite filing complaints against Google over 15 months ago, there has been no adjudication by the CCI.



New lesser penalty regime under Section 46 of the Competition Act

The CCI has notified the new lesser penalty plus regulations. Under the new regulations, an enterprise which has already disclosed a cartel, makes a full, true and vital disclosure with regards to another cartel, which enables the CCI to form a prima facie opinion under Section 26(1) that there

exists another cartel, then CCI may impose upon such enterprise lesser penalty, in respect of the cartel already being investigated. This expands the scope of the leniency regime in India and may encourage enterprises to inform CCI about other cartels operating in the market.



CCI Dismisses Allegations Against The New Okhla Industrial Development Authority in the Plot Allotment Dispute.

In a recent case, Mr. Vivek Gupta had filed a complaint against the New Okhla Industrial Development Authority Noida, alleging issues with the allotment of a plot he had successfully bid for in an auction. Despite paying the necessary fees Mr. Gupta claimed he faced challenges in taking possession of the plot which was allegedly encroached upon and being used for agricultural purposes by others.

The CCI reviewed Mr. Gupta's complaint to determine if Noida's actions violated Section 4 of the Act which deals with abuse of dominant position. The CCI noted that Mr. Gupta had also

raised his concerns with the Allahabad High Court, where Noida offered to refund his deposit. The Court suggested Mr. Gupta collect the refund and pursue further claims separately.

After careful consideration, the CCI concluded that the dispute between Mr. Gupta and NOIDA seemed to be a contractual matter rather than a case of abuse of dominant position. Therefore, the CCI closed the case under Section 26(2) of the Act, finding no violation of Section 4. Therefore, the matter does not warrant the granting of relief as sought under Section 33 of the Act.



CCI Closes Case Against Talk Charge Technologies Pvt. Ltd for Alleged Abuse of Dominance.

In a recent case, Ayudha Foundation represented by President Gopal Aggarwal filed an Information

against Talk Charge Technologies Pvt. Ltd alleging abuse of dominant position under the

Act. Talk Charge operates an internet-based platform providing various services including online recharges, bill payments, and cashback offers.

The Informant claimed to have used Talk Charge's digital wallet service for 2-3 years benefiting from cashback services. However, since September 2023 Talk Charge allegedly imposed a 20% additional charge on using the deposited amount in its digital wallet without providing complete details in the GST bill upon request. The Informant also highlighted limitations on using the wallet amount which according to Talk Charge, can only be utilized for app-related services preventing the Informant from spending the additional amount. The Informant sought relief from the CCI alleging violation of the Act and requesting interim relief under section

33. Subsequent submissions emphasized Talk Charge's modifications to its cashback policy and other charges, indicating persistent misuse of its dominant market position.

The CCI noted the Informant's grievances regarding extra fees without disclosure and limited usage of the wallet amount. However, it observed that the Informant did not specify the alleged violation of the Act. The CCI delineated the relevant market as 'the market for digital payment platforms in India' and found no evidence of Talk Charge's dominance in this market. Consequently, the CCI concluded that no case of contravention of section 4 of the Act was made out against Talk Charge. The matter was closed under section 26(2) of the Act and the prayer for relief under Section 33 was rejected.



Combination Orders

- CCI granted approval to Ring Plus Aqua Ltd's proposed acquisition of a 59.25 per cent stake in Maini Precision Products Ltd.
- CCI approved a proposal to acquire 100% stake in Coastal Energen Private Limited by Adani Power Limited and Dickey Alternative Investment Trust.
- CCI approved a proposal to acquire 100% shareholding of Tianish laboratories private limited by Matrix Pharma private limited
- CCI approved Minda Corporation's proposed 8.79 percent stake purchase in Pricol



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