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High Court

Delhi High Court: CCI cannot investigate anti-competitive practices by a patent holder in exercise of its rights

The Division Bench (two-judge bench) of the Delhi High Court (“**DHC**”) allowed the writ petitions filed by Telefonaktiebolaget LM Ericsson (“**Ericsson**”) and Monsanto Holdings Private Limited (“**Monsanto**”) and held that the Patents Act, 1970 (“**Patents Act**”) shall prevail over the Competition Act, 2002 (“**Competition Act**”) on the issue of exercise of rights by a patent holder and that the Competition Commission of India (“**CCI**”) does not have the power to investigate issues pertaining to the licensing of patents by a patent holder.

Brief Background

Pursuant to separate complaints filed by the licensees of Ericsson and Monsanto for abusing their dominant positions in licencing of their patents, the CCI passed 2 (two) separate investigation orders against Ericsson and Monsanto on January 16, 2014 and February 10, 2016, respectively (“**Investigation Orders**”). Aggrieved, both Ericsson and Monsanto challenged the Investigation Orders in separate writ petitions before the single judge of the DHC (“**Single Judge**”), arguing that the CCI does not have the jurisdiction in matters related to the exercise of rights by a patent holder as it falls within the exclusive domain of the Controller of Patents (“**Controller**”) under the Patents Act.

In March 2016, the Single Judge dismissed writ petition filed by Ericsson and upheld the CCI’s jurisdiction on the ground that there is no irreconcilable repugnancy and conflict between the Competition Act and the Patents Act. Therefore, the CCI’s jurisdiction to entertain complaints regarding abuse of dominance by Ericsson does not arise (“**Ericsson Judgment**”). In June 2020, relying on the Ericsson Judgment, the Single Judge dismissed the writ petition filed by Monsanto. The Single Judge also noted that the Supreme Court judgment in the case of *CCI v. Bharti Airtel & Ors.*¹ did not invalidate the Ericsson Judgment since the Telecom Authority of India’s (“**TRAI**”) role could be distinguished from that of the Controller (i.e., unlike TRAI, the Controller isn’t a sectoral regulator since patents do not constitute a sector).

Aggrieved, both Ericsson and Monsanto challenged the judgements by the Single Judge (collectively referred to as the ‘**Judgments**’) before the Division Bench of the DHC.

Division Bench Judgment

Ericsson and Monsanto primarily contended that the CCI does not have the jurisdiction to investigate their conduct as the Patents Act, being a special law and comprehensive self-contained code, will override the Competition Act. Accordingly, the Controller has the exclusive jurisdiction to decide on issues relating to licensing of patents. The Division Bench set aside the Judgments and *inter-alia* held as follows:

- a) Chapter XVI of the Patents Act was introduced in the Patents Act in 2003, which deals with unreasonable conditions imposed in agreements of licensing, abuse of status as a patentee, inquiry in respect thereof and relief that is to be granted, was enacted after the Competition Act. Further, the Controller has the power to grant compulsory licence under Section 84 of the Patents Act, which has to be examined based on similar factors as to be examined for a potential violation under the Competition Act by the CCI. Accordingly, the inquiry that the CCI proposes to conduct in respect of licensing of patents is nearly identical to that of the Controller.
- b) After analysing the provisions, and remedies available under the Patents Act and the Competition Act, as well as the powers and duties of the Controller and the CCI, the Division Bench noted that the issue relating to licensing of patents is within the exclusive jurisdiction of the Controller which ousts the jurisdiction of the CCI.

¹ (2019) 2 SCC 521.

- c) Section 3(5)(i)(b) of the Competition Act allows a patent holder to impose reasonable conditions in exercise of its patent rights and the same is exempted from the purview of the Competition Act, whereas the Controller has the power to consider the reasonability of the conditions imposed by a patent holder. This clearly brings out the legislative intent to oust CCI's jurisdiction.
- d) With respect to examining the anti-competitive practices by a patent holder in exercise of its rights under the Patents Act, the Patents Act is a special law and not the Competition Act.

Accordingly, Chapter XVI of the Patents Act is a self-contained code, designed to address any anti-competitive actions carried out by a patent holder, effectively ousting the applicability of the Competition Act.

(Source: DHC Judgment dated July 13, 2023)

National Company Law Appellate Tribunal

NCLAT upholds CCI order approving HNG's acquisition by AGI Grenpac

The National Company Law Appellate Tribunal ("NCLAT") dismissed appeals² against the order dated March 15, 2023, passed by the CCI whereby it conditionally approved the acquisition and sole control of Hindustan National Glass & Industries Limited ("HNG") by AGI Greenpac Limited ("AGI") (referred to as the "Proposed Transaction").

Brief Background

In October 2021, the corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016 was initiated against HNG. Subsequently, AGI filed a resolution plan for acquisition and sole control of HNG ("Resolution Plan"), which was subsequently approved by the committee of creditors.

During the pendency of the Resolution Plan, in November 2022, AGI filed Form II (long form) with the CCI, thereby notifying the Proposed Transaction for its approval. In February 2023, the CCI issued a show-cause notice to AGI asking as to why the investigation with respect to the Proposed Transaction should not be conducted ("SCN"). In March 2023, AGI filed its response to the SCN and also offered certain voluntary modifications to mitigate the concerns relating to appreciable adverse effect on competition ("AAEC") in India, which was subsequently approved and accepted by the CCI *vide* order dated March 15, 2023 ("CCI Order"). For a detailed summary of the CCI Order, refer to the [JSA Newsletter of April 2023](#)

Proceedings before the NCLAT

Aggrieved, the appellants approached the NCLAT and primarily contended that:

1. as per the scheme of Section 29 of the Competition Act, the SCN ought to have been issued to both parties and not just the acquirer i.e., AGI in the present case.
2. as per the scheme of the Competition Act, once the SCN was issued, the CCI is required to direct parties to publish details of the transaction under Section 29(2) of the Competition Act³. At that stage, the CCI is not required to form another prima facie opinion. In the present case, the CCI has failed to comply with aforesaid statutory procedure.
3. the CCI failed to take into consideration the objections filed by the appellants, while passing the CCI Order.

² The appeals were filed by: (a) The UP Glass Manufacturers Syndicate, which represents the interest micro, small and medium glass manufacturers in Uttar Pradesh; (b) Independent Sugar Corporation Limited, which had also submitted resolution plan in the insolvency proceedings against HNG; (c) Geeta and Company, which represents the interest of workers in the Rishikesh plant of HNG; and (d) HNG Industries Thozilalar Nala Sangam, which is a workers union representing interest of workers working in HNGIL.

³ The CCI, if it is *prima facie* of the opinion that combination is likely to have an AAEC, it shall, within 7 (seven) working days from the date of receipt of the response of the parties to the combination, or the receipt of the report from DG report called under sub-section (1A), whichever is later, direct the parties to the said combination to publish details of the combination.

NCLAT Order

The NCLAT dismissed the appeals and held as follows:

1. under Section 29(1) of the Competition Act, the CCI was required to issue the SCN to both parties to the transaction i.e., AGI and HNG and not just to AGI.
2. the CCI can only direct parties to publish details of the proposed transaction either on receiving response from the parties to the SCN or report of the Director General (“**DG**”) (as the case maybe). However, in the present case, after the issuance of the SCN by the CCI, AGI submitted voluntary modifications, which was accepted by the CCI. Thus, the occasion on part of the CCI to direct parties to publish details of the Proposed Transaction never arose in the present case.
3. the right of third parties to participate in the proceedings only arise after the CCI directs parties to publish details of the transaction under Section 29(2) of the Competition Act, which never arose in the present case.

Accordingly, the NCLAT dismissed the appeals and held that the CCI Order has been passed in compliance with the Competition Act along with regulations framed thereunder.

(Source: NCLAT Judgment dated July 28, 2023.)

Competition Commission of India

Enforcement

CCI dismisses case against M3M India for indulging in alleged abuse of dominant position

The CCI received a complaint against M3M India Private Limited (“**M3M India**”)⁴ for indulging in alleged abuse of dominant position, in violation of Section 4 of the Competition Act.

The complainant *inter alia* alleged that M3M India abused its dominant position by revising the layout of the project and constructing an additional 11th floor in its 10 (ten) floor residential project without prior consent of its residents. This was in violation of the initial sanctioned plan on the basis of which the projects were initially sold to the residents.

The CCI defined the relevant market as the market for the provision of services of development and sale of residential flats in Gurgaon. The CCI *inter alia* noted that: (a) M3M India is not dominant in the relevant market due to the presence of several significant players. Further, the complainant failed to disclose any material to demonstrate the dominance of M3M India; and (b) bereft dominance of M3M India, the question of M3M India abusing its dominant position in the relevant market does not arise.

Accordingly, the CCI dismissed the case.

(Source: CCI Order dated July 19, 2023)

⁴ It is a real estate developer and the project under issue is M3M Merlin located in Sector 67, Gurugram, Haryana.

CCI dismisses case against DLF Gayatri Developers for indulging in alleged abuse of dominant position

The CCI received a complaint against DLF Gayatri Developers (“**DLF Gayatri**”)⁵ for indulging in alleged abuse of dominant position, in violation of Section 4 of the Competition Act.

In 2012, the complainant booked a residential plot developed by DLF Gayatri in Mahabubnagar district of Telangana, which was delayed and handed over only in 2019. In 2019, the complainant received the relevant documents including a copy of the club agreement (“**Agreement**”) from DLF Gayatri.

The complainant inter alia alleged that DLF Gayatri has abused its dominant position by imposing certain one-sided, conditions in the Agreement such as: (a) club management will have absolute discretion to grant, curtail or terminate membership to the club; (b) imposing exorbitant club charges (including membership fees, annual subscription charges, security deposit); (e) conducting arbitration proceedings at DLF Gayatri’s premises, by its employees in English language only.

The CCI defined the relevant market as the market for the provision of services for development and sale of residential plots in Mahabubnagar district in the State of Telangana. The CCI *inter alia* noted that: (a) DLF Gayatri is not dominant in the relevant market due to the presence of several significant players. Further, the complainant failed to disclose any material to demonstrate the dominance of DLF Gayatri; and (b) bereft dominance of DLF Gayatri, the question of DLF Gayatri abusing its dominant position in the relevant market does not arise. Accordingly, the CCI dismissed the case.

(Source: CCI Order dated July 13, 2023)

Merger Control

CCI penalises Bank of Baroda for failing to notify the transaction

The CCI imposed a penalty of INR 5,00,000 (Indian Rupees five lakhs) on Bank of Baroda (“**BOB**”)⁶ for closing its acquisition of additional shareholding of 21% in India First Life Insurance Company Limited (“**IFLIC**”)⁷ without obtaining the approval of the CCI (“**Transaction**”). The Transaction was closed on March 31, 2022.

Brief Background

On May 2, 2022, BOB notified the Transaction to the CCI by filing a notice in Form III (“**Form-III Notice**”). Section 6(4) of the Competition Act specifies that if a transaction inter-alia involves any acquisition by a bank pursuant to a loan agreement or an investment agreement, then the bank can notify the proposed transaction, within seven days from its consummation, in a Form III. On July 11, 2022, the CCI informed BOB that Section 6(4) of the Competition Act is not applicable to the Transaction and accordingly, the same ought to have been notified to the CCI seeking its approval prior to its closing.

On August 18, 2022, BOB notified the Transaction to the CCI in a Form I (“**Subsequent Notice**”) and the same was subsequently approved by the CCI. Subsequently, the CCI issued a show-cause notice to BOB asking it to explain why the Transaction was consummated prior to its approval. BOB inter-alia contended that it was under the genuine belief that the Transaction falls within the ambit of Section 6(4) of the Competition Act and required to be notified in Form III post- closing.

⁵ It is a joint venture between DLF India Limited and Gayatri Infra Private Limited. DLF India Ltd. is engaged in the real estate sector. Gayatri Infra Private limited is also an infrastructure company, with projects stated to be all over India.

⁶ It is a public sector bank engaged in providing banking and financial services in several sectors.

⁷ It is engaged in providing life insurance, health insurance and pension services.

CCI Order

The CCI inter-alia noted that: (a) BOB closed the Transaction on March 31, 2022, i.e., much before filing the Form-III Notice as well as filing the Subsequent Notice; and (b) the submissions of BOB can only be considered as mitigating factors while determining penalty. Accordingly, the CCI imposed a nominal penalty of INR 5,00,000 (Indian Rupees five lakhs) on BOB for gun jumping.

(Source: CCI Order dated June 20, 2023)

CCI approves acquisition of additional shareholding of HDFC ERGO by HDFC Limited

The CCI approved the acquisition of an additional 0.5% shareholding of HDFC ERGO General Insurance Company Limited (“**HDFC ERGO**”)⁸ by Housing Development Finance Corporation Limited (“**HDFC Limited**”)⁹ (referred to as the ‘**Proposed Transaction**’). Pursuant to the consummation of the Proposed Transaction and also the consummation of internal restructuring of the HDFC group¹⁰, HDFC Bank Limited (“**HDFC Bank**”)¹¹ will hold 50.50% shareholding in HDFC ERGO.

The CCI examined the horizontal overlaps between the activities of the parties¹² in the market for distribution of general insurance products and services in India.

On the competition assessment, the CCI noted that: (a) the combined market shares of the parties are low; and (b) several significant players are present in each of the relevant markets which will pose competitive constraints on the parties. In view of the same, the Proposed Transaction is not likely to raise competition concerns.

Further, the CCI examined the vertical link between the parties in the upstream market for provision of general insurance products and services in India¹³ and the downstream market for distribution of general insurance products and services in India¹⁴. However, given the low combined market shares of the parties with the presence of several significant players, the Proposed Transaction is not likely to raise foreclosure concerns.

The CCI approved the Proposed Transaction in 22 (twenty two) calendar days.

(Source: CCI order dated June 20, 2023)

CCI approves acquisition of additional minority shareholding of Acko Technology by Multiples and CPPIB

The CCI approved the acquisition of additional 0.84% shareholding of Acko Technology & Services Private Limited (“**Acko Technology**”)¹⁵ each by Multiples Private Equity Fund III (“**Multiples Fund III**”)¹⁶ belonging to the Multiples group and CPP Investment Board Private Holdings (4) Inc. (“**CPHI-4**”)¹⁷ belonging to the Canada Pension Plan Investment Board (“**CPPIB**”)¹⁸ group (“**Proposed Transaction**”).

⁸ It is registered with Insurance Regulatory Development and Authority of India and is engaged in providing general insurance products in India.

⁹ It is primarily engaged in providing financing services in India.

¹⁰ Which involves amalgamation of: (a) several group companies of HDFC Bank Limited, with and into HDFC Limited; and (b) HDFC Limited, with and into HDFC Bank Limited. The said transaction was approved by the CCI *vide* order dated August 12, 2022.

¹¹ It is engaged in providing banking and financial services including retail banking, wholesale banking and treasury operations through various branches in India.

¹² Through HDFC Limited (including its affiliates) and HDFC ERGO (including its affiliates).

¹³ Through HDFC ERGO (including its affiliates).

¹⁴ Through HDFC Bank (including its affiliates).

¹⁵ It is engaged in the business of providing technology and outsourced services, provision of general insurance, manufacture and sale of EV charging stations and infrastructure, automobile repair and service etc.

¹⁶ It is Category II Alternative Investment Fund registered with the Securities and Exchange Board of India and is managed by Multiples Alternate Asset Management Private Limited.

¹⁷ It is a Canadian corporation and a wholly owned subsidiary of CPPIB.

¹⁸ It is an investment holding company and invests in a diversified portfolio of assets.

The CCI noted that there are no horizontal overlaps and vertical links between the activities of the parties in India.¹⁹ In relation to the complementary links, the CCI noted that one of the portfolio company of Multiples group, TI Clean Mobility Private Limited (“**TCML**”) manufacture the commercial electric vehicles (**EVs**). The business activity of TCML can be complementary to the activities of Acko Technology’s affiliates which are present in the market for the: (a) provision of general insurance (including motor insurance)²⁰; (b) manufacture and sale of EV charging stations²¹; and (c) car servicing and repair platform²², in India. Given that the business of TCML is in the early stage of commercialization, the CCI noted that the Proposed Transaction is not likely to raise foreclosure concerns.

The CCI approved the Proposed Transaction in 38 (thirty eight) calendar days.

JSA represented Multiples Fund III and led the approval process before the CCI.

(Source: CCI Order dated July 12, 2023)

CCI approves combination between Ambit and Daiwa group

The CCI approved the acquisition of: (a) 16% shareholding of Ambit Private Limited (“**Ambit**”)²³ by Daiwa International Holdings Limited²⁴ belonging to the Daiwa group; and (b) sole control of Daiwa Capital Markets (**Daiwa Capital**) by Ambit (“**Proposed Transaction**”)²⁵.

The CCI examined the horizontal overlaps between the activities of the parties²⁶ in the market for the provision of: (a) investment banking services; and (b) institutional equity services, in India. On the competition assessment, the CCI noted that: (a) the combined market shares of the parties are low; and (b) several significant players are present in each of the relevant markets which will pose competitive constraints on the parties. In view of the same, the Proposed Transaction is not likely to raise competition concerns.

The CCI approved the Proposed Transaction in 32 (thirty two) calendar days.

(Source: CCI Order dated June 13, 2023)

CCI conditionally approves acquisition of additional minority shareholding of Acko Technology by General Atlantic

The CCI conditionally approved the acquisition of additional 4.04% shareholding of Acko Technology & Services Private Limited (“**Acko Technology**”) by General Atlantic Singapore ACK Pte. Ltd. (“**General Atlantic**”)²⁷ (referred to as the “**Proposed Transaction**”).

Prior to the Proposed Transaction, General Atlantic held 15.54% shareholding of Acko Technology along with certain affirmative voting rights, information rights, and a board seat (“**Board**”). Pursuant to the Proposed Transaction, General Atlantic will get the right to appoint: (a) an additional director on the Board of Acko Technology; and (b) an observer on the board of Acko Technology’s subsidiaries.

¹⁹ Through: (a) Multiples group (including its affiliates) and Acko Technology (including its affiliates); and (b) CPPIB group (including its affiliates) and Acko Technology (including its affiliates).

²⁰ Through Acko General Insurance Limited.

²¹ Through Amplify Cleantech Solutions Private Limited.

²² Through Chatpay Commerce Private Limited.

²³ It is a private company incorporated in India and provides a range of financial services.

²⁴ It is an intermediary management holding company incorporated in Japan. The Daiwa group is present in India through its subsidiaries which provide institutional equities services.

²⁵ Ambit has agreed to buyback all its securities held by one of its shareholders, Inner Mauritius Investments Limited. The buyback may lead to an increase of Daiwa International’s shareholding in Ambit from 16% to 18%.

²⁶ Through Daiwa group (including its affiliates) and Ambit (including its affiliates).

²⁷ It is an investment holding company and is a wholly owned step-down subsidiary of General Atlantic Singapore Fund Pte. Ltd. It is managed and advised by entities controlled by General Atlantic.

The CCI examined the horizontal overlaps between the activities of the parties²⁸ in the market for: (a) the operation of a platform for buying, selling and renting of immovable property ("**Property Platform Market**"); and (b) society/gated community management solutions ("**Society Management Market**"), in India.

On the competition assessment, the CCI noted that the presence of Acko Technology in the Property Platform Market is insignificant to raise competition concerns.

In relational to the Society Management Market, the CCI noted that Acko Technology (through its affiliate i.e., Vivish Technologies Private Limited ("**Vivish**")²⁹) and General Atlantic (through its affiliate i.e., NoBroker Technologies Solutions Private Limited ("**NoBroker**")³⁰) have significant presence in the said market. Pursuant to the Proposed Transaction, General Atlantic will gain further influence in Acko Technology and in 2 (two) prominent competitors i.e., Vivish and NoBroker, which may raise the risk of softening of competition between them.

To alleviate the competition concerns, General Atlantic offered not to directly or indirectly: (a) participate or exert influence on any matter related to Vivish or investment of Acko Technology therein; (b) access any non-public information in relation to Vivish which is available with Acko Technology; and (c) influence any person appointed by Acko Technology on the board of Vivish.

Subject to these conditions, the CCI approved the Proposed Transaction in 57 (fifty seven) calendar days.

(Source: CCI Order dated June 6, 2023)

CCI approves acquisition of majority shareholding of Manipal Hospitals by Temasek

The CCI approved the acquisition of majority shareholding of Manipal Health Enterprises Private Limited ("**Manipal Hospitals**") by Kangto Investments Pte. Ltd. ("**Kangto**"), and Kabru Investments Pte. Ltd. ("**Kabru**") belonging to Temasek Holdings (**Private**) Limited (**Temasek**). Further, TPG Inc., through its affiliate will acquire approximately 11% shareholding of Manipal Hospitals (referred to as the "**Proposed Transaction**")³¹.

The CCI examined the horizontal overlaps between the activities of the parties³² in the markets for provision of:

- a) healthcare services through hospitals in certain overlapping cities and narrow markets for: (i) primary care in overlapping cities; (ii) secondary/tertiary care in overlapping cities; and (iii) quaternary care in India;
- b) home healthcare services in India and narrow market for skilled home healthcare services in Bengaluru;
- c) retail diagnostic services in India and narrow market for provision of: (i) pathology diagnostic services; and (ii) imaging/radiology services, in the overlapping cities; and
- d) tele-medical consultation services in India.

On competition assessment, the CCI noted that: (a) the combined market shares of the parties are low; and (b) several significant players are present in each of the relevant markets which will pose competitive constraints on the parties.

Further, the CCI examined: (a) vertical links between the activities of the parties in the: (i) upstream market for the manufacture and sale of medical devices³³ and downstream market for retail diagnostic services, in India ³⁴; and (ii) upstream market for the provision of wholesale sale and distribution of pharmaceutical products and medical

²⁸ Through General Atlantic (including its affiliates) and Acko (including its affiliates).

²⁹ Acko held 2.95% shareholding in Vivish along with the right to appoint an observer on the board of Vivish.

³⁰ General Atlantic held 32.4% shareholding in NoBroker.

³¹ Manipal Education and Medical Group India Private Limited, an entity belonging to the Pai Family group will issue optionally convertible debentures to MEMG International India Private Limited, an entity belonging to the Pai Family group.

³² Through: (a) Temasek group (including its affiliates) and Manipal Hospitals (including its affiliates); and (b) TPG group (including its affiliates) and Manipal Hospitals (including its affiliates).

³³ Through Temasek and TPG (including their respective affiliates).

³⁴ Through Manipal Hospitals (including its affiliates).

devices³⁵ and the downstream market for the retail sale of medical devices, in India; and (b) complementary links between the activities of parties in the market for provision of pharmaceutical logistics services and retail sale of medical devices, in India; and provision of software services for inventory management and accounting for pharmacies and retail sale of medical devices, in India. However, given the low combined market shares of the parties with the presence of several significant players, the CCI noted that the Transaction will not raise foreclosure concerns.

The CCI approved the Transaction in 56 (fifty six) calendar days.

JSA represented Temasek and led the approval process before the CCI.

(Source: CCI Order dated June 6, 2023)

Miscellaneous

Cement companies approaches high courts against the impleadment of Builders' Association of India

UltraTech Cement, India Cement and Shree Cement have filed writ petitions before the DHC, Madras High Court, and Rajasthan High Court, respectively, challenging the CCI's order through which it has impleaded Builders' Association of India ("BAI") as a party to the ongoing investigation against several cement manufacturers for alleged cartelisation ("CCI Impleadment Order").

Brief Background

On July 1, 2019, the CCI initiated *suo motu* investigation against several cement manufacturers for alleged cartelisation. On December 7, 2021, BAI filed an application before the CCI seeking to be impleaded as a complainant in the investigation, which was rejected by the CCI ("**Rejection Order**"). Aggrieved, BAI filed a writ petition challenging the Rejection Order before the DHC. The DHC granted liberty to BAI to submit an application to the CCI to seek a copy of the investigation report and provide its views/inputs, if desired. Subsequently, the CCI *vide* the CCI Impleadment Order impleaded BAI as a party to the ongoing proceedings and accepted BAI's request to conduct the inspection of the case records and also to file its response to the investigation report, if desired.

Aggrieved, the cement companies filed writ petitions challenging the CCI Impleadment Order and *inter alia* contended that: (a) the CCI Impleadment Order does not provide any reasons as to why BAI is a necessary party to the proceedings and why it should be impleaded; and (b) if BAI is made a party to the proceedings and allowed inspection of the case record, it will have access to the confidential documents of cement companies. Accordingly, BAI should not be impleaded as a party in the present case.

On July 25, 2023, the Madras High Court passed an interim order in favour of India Cement wherein it has refrained CCI from granting inspection of case records to be conducted by BAI till the disposal of the writ petition. Subsequently, on July 27, 2023, the DHC reserved its order (to be pronounced in 3rd week of August) on the writ petition filed by UltraTech Cement.

(Source: MHC Order dated July 25, 2023, and DHC Order dated July 27, 2023)

³⁵ Through Temasek and TPG (including their respective affiliates).

Central Government exempts regional rural banks from merger control requirements under the Competition Act

The Government of India (“GoI”), by way of a notification published on July 19, 2023 has exempted regional rural banks³⁶, defined under Section 23A(1) of the Regional Rural Banks Act, 1976 from the applicability of merger control provisions under the Competition Act for a period of 5 (five) years i.e., until July 19, 2028.

(Source: Notification dated July 19, 2023)

Competition (Amendment) Act, 2023: The DG will now be appointed by the CCI

On July 18, 2023, the GoI, by way of a notification has brought into force the amended Section 16 of the Competition (Amendment) Act, 2023 (“**2023 Amendment Act**”) which empowers the CCI to appoint the DG, with the prior approval of the GoI. Earlier, the DG could only be appointed by the GoI.

On April 11, 2023, the Competition (Amendment) Bill 2023 received the assent of the President of India to become the 2023 Amendment Act. On May 19, 2023, the GoI notified certain provisions of the 2023 Amendment Act with effect from May 18, 2023. For a detailed summary of the provisions of the 2023 Amendment Act enforced by the GoI, refer to the [JSA Newsletter \(Competition Law\)](#).

(Source: Notification dated July 18, 2023)

Competition Practice

Since the inception of the Indian competition regime, JSA has been a one-stop shop for all types of competition and anti-trust-related matters. As such, the team’s in-depth understanding of the competition law, coupled with its commercially focused litigation skills has been the cornerstone on which it deals with matters relating to cartelisation (including leniency), abuse of dominance, vertical agreements, and dawn raid before the Competition Commission of India and appellate courts. The team regularly advises clients on general competition law issues arising from day-to-day business strategies and conducts competition compliance training for clients.’ Given the team’s continued involvement with the regulator, coupled with its balanced and practical approach to competition law, it has been instrumental in shaping the competition law jurisprudence in India.

Over the years, the team has developed a reputation of not only being well regarded by its peers but also for having developed a good working relationship with the regulatory authorities. As such our lawyers have been involved in drafting statutory regulations and have represented the Indian competition law fraternity at various competition law seminars, workshops, and advocacy & public awareness programs across the world. The team’s expertise (including team members) has been widely recognised by various leading international rankings and publications including Chambers and Partners, Who’s Who Legal, Global Competition Review, Benchmark Litigation, Asialaw, and the Legal 500.

³⁶ They are Government Banks operating at regional level in different states of India. They have been established to provide basic banking and financial services primarily in the rural areas.

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Global Competition Review (GCR)
has recognized JSA's Competition
Law Practice in its latest 2023
edition of 'GCR 100'



17 Practices and
24 Ranked Lawyers



16 Practices and
11 Ranked Lawyers



7 Practices and
2 Ranked Lawyers



11 Practices and
39 Ranked Partners
IFLR1000 APAC Rankings 2022

Banking & Finance Team
of the Year

Fintech Team of the Year

Restructuring & Insolvency
Team of the Year



Among Top 7 Best Overall
Law Firms in India and
10 Ranked Practices

13 winning Deals in
IBLJ Deals of the Year

10 A List Lawyers in
IBLJ Top 100 Lawyer List



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Banking & Financial Services
Law Firm of the Year 2022

Dispute Resolution Law
Firm of the Year 2022

Equity Market Deal of the
Year (Premium) 2022

Energy Law Firm of the Year 2021

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