

Standing Committee Report Summary

The Competition (Amendment) Bill, 2012

- The Standing Committee on Finance (Chairman: Mr. Yashwant Sinha) presented its report on the Competition (Amendment) Bill, 2012. The Bill, introduced in Lok Sabha on December 10, 2012, seeks to amend the Competition Act, 2002. The Act established the Competition Commission of India (CCI) to promote competition, prevent anti-competitive practices and protect consumer interests.
- The Committee noted that regulations regarding some of the provisions of the Act have still not been framed. It urged the Ministry of Corporate Affairs to frame these regulations at the earliest.
- The Committee noted the shortage of manpower at CCI due to non-availability of qualified and experienced candidates. It urged the government to undertake a comprehensive review of CCI's recruitment rules and engage experts and professionals on a contractual basis.
- The Bill proposes to amend the definition of turnover of an entity/company to exclude the taxes levied on sale of goods and provision of services. The Committee requested the Ministry to consider further exclusions like sales rebates from the definition of turnover in line with the international norms.
- The Bill seeks to amend the provisions regarding anti-competitive agreements. The Committee suggested that CCI be provided flexibility to determine whether such an agreement actually has anti-competitive effect on a case-by-case basis.
- The Bill seeks to classify two companies as a group if one of them exercises 50% or more voting rights (against 26% or more voting rights as per the Act) in the other. The Committee recommended that the term 'group' be defined at the onset of the Act itself.
- The Act mandates CCI's approval for mergers or acquisitions above specified thresholds of turnover or assets. The Bill proposes to empower the government to specify thresholds specific to an industry. The Committee suggested that the clause include necessary safeguards like quantifiable criteria for identification and consultation with stakeholders.
- The Bill proposes to make it mandatory (instead of voluntary) for CCI and any other sectoral regulator to consult each other if any of their decisions contravenes any law related to the other regulator. The Committee recommended that CCI and sectoral regulators be required to explain the reasons behind any disagreement during such a consultation.
- The Bill seeks to explicitly empower CCI to pass orders if it disagrees with its Director General's conclusion that there is no evidence of contravention of the Act's provisions. The Committee desired that all past decisions of CCI, where it overruled the Director General's findings that there was evidence of contravention, be allowed to be appealed within 60 days of notification of this amended section.
- The Bill proposes to make it mandatory for CCI to provide the accused an opportunity of being heard before imposing a penalty for cartelisation. The Committee suggested that the Bill provide the accused party with similar right before being penalised for any of the anti-competitive practices.
- The Committee further recommended that the government and CCI frame guidelines detailing the criteria for determination of penalty. It also suggested that suitable regulations be made for effective realisation of penalties imposed by CCI.
- Presently, CCI needs permission from the Chief Metropolitan Magistrate, Delhi to conduct search and seizure operations on a suspected violator's premises. The Bill seeks to remove the need for the Magistrate's permission, and instead empower the CCI Chairman to authorise such an operation. Noting the fact that CCI has never conducted search and seizure operations, the Committee recommended that current safeguards governing these operations be maintained.

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