

# Bill Summary

## The Competition (Amendment) Bill, 2012

- The Competition (Amendment) Bill, 2012 was introduced in the Lok Sabha on December 10, 2012 by the Minister of Corporate Affairs, Sachin Pilot. The Bill seeks to amend the Competition Act, 2002.
- The Competition Act, 2002 established the Competition Commission of India (CCI) – an expert body regulating anti-competitive practices in the country. The Act also establishes the Competition Appellate Tribunal to hear and dispose of appeals against decisions made by the CCI.
- In 2011, the government constituted an expert Committee to examine the Competition Act and recommend modifications. Based on these recommendations, the government introduced the Competition (Amendment) Bill, 2012.

### Applicability of Act

- The Competition Act prohibits any agreement that adversely affects competition in India. However, the Act cannot restrict rights conferred by certain laws like the Copyright Act, Patent Act and the Designs Act. The Bill extends the protection of rights to include any other intellectual property rights.
- Currently, the Act prevents any enterprise or group to abuse its dominant position. The Bill extends this by preventing any enterprise or group, jointly or singly, to abuse its dominant position.

### Regulation of Combinations

- Combinations - the acquisition, merger or amalgamation of enterprises - are defined and regulated by the Act. A 'group' is defined as two or more enterprises where either enterprise can exercise 26% or more voting rights in the other enterprise. The Bill raises the voting rights level to 50% or more.
- The Bill empowers the central government to specify different value of assets and turnover for any class of enterprises to further examine and regulate combinations.
- Any enterprise proposing to enter a combination has to notify the CCI. If the CCI does not pass an order or issue a direction, within 210 days of the notification, then the combination is considered to be approved. The Bill reduces this time period to 180 days.

### Selection Committee

- Members of the CCI are appointed by the central government on the recommendation of a Selection Committee. Currently, the Selection Committee is a five member body and includes two experts. The Bill replaces one of the experts on the Selection Committee with the Chairperson of the CCI.

### Reference to Statutory Authority

- Any decision made by a statutory authority (i.e. another regulator) that could violate the provisions of the Competition Act may be referred to the CCI. The Bill makes this reference mandatory.
- Conversely, the Bill requires that CCI decisions contravening the provisions of any other act should be referred to the relevant statutory authority.

### Inquiry and Penalties

- The CCI has the power to inquire into agreements and abuse of dominant position. The Director General, appointed by the central government, conducts the inquiry and submits a report to the CCI. Currently, if the CCI does not agree with the report's findings it can launch a further inquiry. The Bill empowers the CCI to make appropriate orders based on the report.
- Following an inquiry, the CCI can also impose penalties for anti-competitive agreements and dominant position abuse. The Bill amends the Act to ensure that no penalty can be imposed without the concerned party having an opportunity to be heard.

### Other Amendments

- In the Act, 'turnover' is defined as the value of sale of goods and services. The Bill amends this definition to exclude any taxes levied on sales.
- Powers of the Director General are derived from the provisions under the Companies Act, 1956 which apply to an inspector. The Bill removes this provision, replacing it with its own definition of the Director General's powers. These powers are similar to the inspector's powers in the Companies Act.

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