



The Competition (Amendment) Bill, 2022

For Prelims: Competition Commission of India (CCI), Competition Act, 2002, Gun Jumping, Hub-and-Spoke, Vertical agreements, Abuse of dominance, National Company Law Tribunal (NCLT).

For Mains: Significance of Competition Commission due to the changing dynamics of the market.

Why in News?

Recently, the Bill to amend the [Competition Act, 2002](#), was finally tabled in the [Lok Sabha](#).

What was the Need to Bring these Amendments?

- **New Age Market:**
 - As the **dynamics of the market change rapidly due to technological advancements, artificial intelligence**, and the increasing importance of factors other than price, amendments became necessary to sustain and promote market competition.
- **Issue of Acquisition:**
 - According to **section 5 of the act**, parties indulging in **mergers, acquisitions, or amalgamation need to notify the Competition Commission of India** of the combination only on the basis of asset or turnover.
- **Gun Jumping:**
 - It happens when the **two or more combining parties close a notified transaction before the approval** or have consummated a reportable transaction without bringing it to the Commission's knowledge.
- **Hub-and-Spoke Cartels:**
 - A **Hub-and-Spoke** arrangement is a **kind of cartelization in which vertically related players act as a hub and place horizontal restrictions on suppliers or retailers**.
 - At present, the prohibition on anti-competitive agreements **only covers entities with similar trades that engage in anti-competitive practices**.
 - This **ignores hub-and-spoke cartels operated at different levels** of the vertical chain by distributors and suppliers.

What are the Proposed Amendments?

- **Deal value Threshold:**
 - The new Bill **proposes to add a deal value threshold**.
 - Further, it will be **mandatory to notify the Commission of any transaction with a deal value in excess of ₹2,000 crores** and if either of the parties has substantial business operations in India.
- **Substantial Business Operations:**
 - The Commission shall **frame regulations to prescribe the requirements for assessing whether an enterprise has substantial business operations in India**.
 - It will **strengthen the Commission's review mechanism**, particularly in the digital and infrastructure space, **a majority of which were not reported earlier**,

as the asset or turnover values did not meet the jurisdictional thresholds.

▪ **Speed Up Clearance of Combination:**

- For any business entities wanting to execute a combination, they must inform the Commission.
- Earlier it had 210 days to approve the combination, after which it is automatically approved.
 - The **new amendment accelerated the timeline from 210 working days to only 150 working days** with a conservatory period of 30 days for extensions.
 - It will **speed up the clearance of combinations** and increase the importance of pre-filing consultations with the Commission.

▪ **Gun Jumping:**

- Earlier the **penalty for gun-jumping was a total of 1% of the asset or turnover which is now proposed to be 1% of the deal value.**

▪ **Exemption of Open Market Purchases:**

- It proposes to **exempt open market purchases and stock market transactions from the requirement to notify the Commission in advance.**

▪ **Hub-and-Spoke Cartels:**

- The amendment **broadens the scope of 'anti-competitive agreements' to catch entities that facilitate cartelisation even if they are not engaged in identical trade practices.**

▪ **Settlements and Commitments:**

- The new amendment **proposes a framework for settlements and commitments for cases relating to vertical agreements and abuse of dominance.**
 - As in the case of **vertical agreements and abuse of dominance**, the parties may **apply for a commitment before the Director General (DG) submits the report.**
 - As per the amendment, the Commission's decision regarding commitment or settlement will not be appealable after hearing all stakeholders in the case.

▪ **Other Major Amendments:**

◦ **Provision of Leniency Plus:**

- It allows the commission to **give an additional waiver of penalties to an applicant who discloses the existence of another cartel in an unrelated market**, provided the information enables the Commission to form a prima facie opinion about the existence of the cartel.

◦ **Appointment of Director General:**

- The appointment of a **Director General by the Commission rather than the Central government gives the Commission greater control.**
 - It gives the Commission greater control.

◦ **Guidelines Regarding Penalties:**

- The Commission will **develop guidelines regarding the number of penalties for various competition violations.**
 - For an appeal to be heard by the [National Company Law Tribunal \(NCLT\)](#) against the Commission's order, the party will have to deposit 25% of the penalty amount.

Way Forward

- With the new changes, the Commission should be **better able to manage certain aspects of the New Age market and make its operation more robust.**
 - The proposed changes are **undoubtedly necessary; however, these are highly dependent on regulations** subsequently notified by the Commission.
 - In addition, the government must recognize that market dynamics are constantly changing, so laws need to be updated regularly.

What is the Competition Commission of India?

▪ **About:**

- The **Competition Commission of India (CCI)** was established in March 2009 by the

Government of India under the Competition Act, 2002 for the administration, implementation, and enforcement of the Act.

- It primarily pursues three issues of **anti-competitive practices** in the market:
 - **Anti-competitive agreements.**
 - **Abuse of dominance.**
 - **Combinations.**

▪ **Objectives:**

- Eliminate practices having adverse effects on competition.
- Promote and sustain competition.
- Protect the interests of consumers.
- Ensure freedom of trade in the markets of India.
- Establish a robust competitive environment through:
 - Proactive engagement with all stakeholders, including consumers, industry, government, and international jurisdictions.

▪ **Composition:**

- The Commission consists of **one Chairperson and six Members** who shall be appointed by the Central Government.
 - The commission is a **quasi-judicial body** which gives opinions to statutory authorities and also deals with other cases.
 - The Chairperson and other Members shall be whole-time Members.

UPSC Civil Services Examination Previous Year Question:

Mains

Q. What is the quasi-judicial body? Explain with the help of concrete examples. **(2016)**

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