



# Competition Law

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In the latest edition of the Competition Law Newsletter, we cover a landmark judgment of the Supreme Court of India, an order of the Kerala High Court, enforcement and combination orders published by the Competition Commission of India (**CCI/Commission**), along with Regulatory Updates.

## **SUPREME COURT UPHOLDS VALIDITY OF VOLUME DISCOUNTS – REJECTS CCI'S FINDING OF ABUSE AGAINST SCHOTT GLASS**

The Supreme Court of India passed a significant Judgment on [May 13, 2025](#), dismissing appeals filed by the CCI and Kapoor Glass India against Schott Glass India.

The case arose from allegations that Schott India, the then dominant manufacturer of neutral borosilicate glass tubing used in pharmaceutical containers, abused its market position through exclusionary pricing, discriminatory contractual terms, and refusal to supply.

The Court, while agreeing that Schott held a dominant position during the relevant period emphasized that dominance alone is not prohibited but only its abuse is. The Court examined five key issues in detail:

- a) First, it held that Schott India's discount scheme, which offered volume-based rebates, was non-discriminatory, objectively justified by economies of scale, and did not foreclose competition.
- b) Second, it ruled that the functional discount scheme, which provided an 8% rebate for adherence to quality and traceability conditions, was fair, uniformly available, and justified by safety concerns.
- c) Third, it found that the Long-Term Tubing Supply Agreement (LTTSA) with Schott Kaisha, a joint venture, did not cause a margin squeeze or foreclosure, as independent converters expanded their output and profitability during the relevant period.
- d) Fourth, the Court stressed that an effects-based analysis is essential under Section 4 of the Act, and the CCI failed to demonstrate any appreciable adverse effect on competition, as market data showed growth, stable prices, and no foreclosure.
- e) Finally, it highlighted procedural lapses in the CCI's investigation, particularly the denial of cross-examination to Schott India, which rendered reliance on untested witness

statements and was a violation of natural justice.

In its conclusion, the Court underscored that competition law aims to protect the competitive process, not penalize legitimate business success. It cautioned against heavy-handed enforcement without proof of harm, as this could deter investment and innovation. The Court dismissed the appeals, and went as far as to impose costs of INR 5 lakh on Kapoor Glass for unsubstantiated allegations, confirming COMPAT's order quashing the CCI's penalties and directives against Schott India.

## **KERALA HIGH COURT SETTLES JURISDICTIONAL CONFLICT BETWEEN TRAI AND CCI IN STAR – ASIANET DISPUTE**

The High Court of Kerala, vide judgment dated [28 May 2025](#), affirmed the jurisdiction of the CCI to adjudicate upon anti-competitive conduct arising out of the alleged discriminatory discounting and denial of market access to Asianet Digital Network Private Limited (**ADNPL**), a digital cable TV distributor in Kerala, by Star India Private Limited (**SIPL**), a dominant broadcaster in Kerala and part of the Disney group.

In the year 2022, Asianet approached the CCI alleging discriminatory treatment by Star on account of having offered additional discounts of up to 50% as against the permissible 15% under the Interconnection Regulation, 2017 (issued by Telecom Regulatory Authority of India (**TRAI**)) to a similarly placed player, Kerala Communicators Cable Limited (**KCCL**), in the form of 'sham' agreements to advertise the Asianet channel owned by Star.

The CCI being convinced that a *prima facie* case existed directed the Director General to investigate the matter, which was challenged before the Kerala High Court.

The key issues for determination before the High Court were: (a) the interplay between the two special statutes, i.e., Competition Act and TRAI Act, in the context of regulatory overlap and the determination of statutory primacy; (b) the scope of the CCI's

jurisdiction to examine allegations of anti-competitive conduct arising out of commercial arrangements governed under the TRAI Act and its allied regulations; and (c) whether the exercise of jurisdiction by the CCI is contingent upon the prior determination of jurisdictional facts by TRAI.

While assessing the scope of regulatory overlap between the Competition Act and the TRAI Act, the Court noted that in situations involving more than one special statute, regard must be provided to: (a) the precise subject matter in question, (b) the statutory scheme and object behind each enactment, and (c) the presence or absence of any overriding clauses that might indicate legislative supremacy.

With regard to issues (a) and (b), the High Court concluded that while TRAI is entrusted with regulating interconnection and tariff-related issues in broadcasting, the CCI is entrusted to assess the market distortions owing to abusive conduct. In this regard the Hon'ble Court relied on the ruling of the Supreme Court in *Excel Corp v. CCI*, to highlight that Competition Act is designed to address broader issues of market structure, anti-competitive agreements, and abuse of dominance. Basis the above mentioned, the Hon'ble Court held that Competition Act is special legislation 'so far as it relates to the curbing of anti-competitive practices in India is concerned.'

On the issue of jurisdictional tussle, the High Court noted that "The CCI, which is the sectoral regulator for dealing with anti-competitive practices in the relevant market and misuse of the dominant position, will have the jurisdiction to deal with the said allegation and not the TRAI. If there are allegations regarding violation of the terms of the license conditions or the provisions of the Regulations framed by the TRAI, the TRAI, being the sectoral regulator of the field, would assume jurisdiction to deal with those allegations"

However, the High Court appears to have skirted around the judgment of the Supreme Court in *CCI v. Bharti*, which in a similar jurisdiction issue, held that TRAI must first determine the facts and come to a finding in relation to the regulated agreements, after which the CCI may have jurisdiction to examine anti-competitive conduct. Instead, the Court merely holds that "the order passed under Section 26 of the Competition Act does not have civil consequences, and it is an order in rem. The petitioners will have an opportunity to address their arguments before the CCI even regarding its jurisdiction. This Court, therefore, at this stage of the proceedings before the CCI, does not want to scuttle the proceedings, and

*the CCI itself is competent to deal with the jurisdictional issue as well."*

It appears quite likely that the Supreme Court would once again be called upon to decide the jurisdictional tussle between the two authorities in this case.

## **CCI CLEARS MULTI-TRANCHE ACQUISITION IN AUTO COMPONENT SECTOR**

The CCI, vide order dated [17 March 2025](#), approved the proposed combination involving the acquisition of 49% shares in Dhoot Transmission Private Limited (DTPL) by Bain Capital (with a potential additional 6%), alongside DTPL's acquisition of 85% equity in its associate company, Dhoot Holdings Private Limited (DHPL).

The CCI noted that the Targets are engaged in manufacturing and trading auto-components in the electrical and electronic (E&E) category, including wiring harnesses, sensors, and connectors, primarily for 2-wheelers, 3-wheelers, EVs, and commercial vehicles, but not for 4-wheeler passenger vehicles (4W PVs). The Acquirers' affiliates (Relevant Bain Entities) operate in overlapping segments, such as automotive sensors for 4W PVs and amorphous cores (used in sensor manufacturing), but with minimal market shares (0-5% for sensors and <1% for amorphous cores).

The CCI observed that there were no significant horizontal overlaps due to distinct customer segments, non-4W PVs vs. 4W PVs and negligible vertical concerns.

There has been significant investments and consolidation in the auto components space since the beginning of 2024, with over nine of them reaching the CCI for approval, including Bharat Forge's acquisition of AAM India, Minda acquiring certain stake in Pricol, and acquisition of Sunbeam Litghtweighting Solutions by Craftman Automation, transfer of certain business of Magna Indian to SKH India, International Finance corporation acquisition of certain stake in Napino Auto.

## **REGULATORY UPDATES**

### **a. New FAQs on Combinations**

On the 16<sup>th</sup> Annual Day in May, the CCI released its much-awaited revamped FAQs on Combinations, with significant improvements over its predecessor. The major highlights:

- i. **Definition of Control:** The CCI has, for the first time, made a distinction between investment protection rights and rights amounting to 'control'. Information access rights, anti-dilution and tag-along rights, alteration of the Memorandum and Articles of the company are not control-conferring, while operational influence may indicate de facto control even without formal agreements. The group definition extends to entities under material influence regardless of shareholding thresholds.
  - ii. **Deal Value Threshold:** The FAQs throw more light on the values to be included while assessing the DVT. Call options are treated as shares and must be included in the value of the transaction unless such options vest with the acquirer more than two years from the date of signing. Future follow-on investments are to be included as is the aggregate value of share swaps.
  - iii. **Fund Management Activities:** In fund management structures, operational control by the investment manager is not negated merely because a trustee has the ability to terminate their services, especially if such termination requires prior approval from unit holders. The existence of joint control by trustees or unit holders does not by itself mean that the investment manager lacks control over the fund. For regulatory purposes under Section 5 of the Act, including the De Minimis exemption and the assessment of overlaps or linkages, the operations and financials of controlled portfolio entities are attributed to the fund manager and any person who shares their rights. The mapping of overlaps must consider all controlled and affiliated entities linked to the Ultimate Controlling Person (UCP) of both the acquirer and the target. An entity can have more than one UCP, and affiliates of affiliates are also relevant in competition assessments.
  - iv. **Acquisition through Stock Exchanges:** The FAQs clarify that the acquirer can receive economic benefits of shares acquired like dividends, bonus shares, rights issues, but exercise voting rights only in liquidation or insolvency matters. The acquirer must not influence the target enterprise or its affiliates in any other way.
  - v. **Commercially Sensitive Information:** The FAQs clarify that CSI refers to data crucial for a company to protect or enhance its competitive position. This includes details on pricing, costs, production capacity, sales, market shares, customer terms and lists, innovations, technologies, strategic plans, budgets, and board meeting minutes, among others. However, it does not cover audited or unaudited financial statements or historic data no longer relevant for commercial decisions.
- b. Determination of Cost Production, Regulations, 2025**
- The CCI notified the Determination of Cost of Production Regulations, 2025, replacing the 2009 framework. These updated regulations streamline the methodology for assessing production costs in predatory pricing investigations under Section 4 of the Competition Act, 2002.
- Key Highlights:**
- **Standard Proxy for Cost:** "Cost" under the Explanation to Section 4 will generally be considered as Average Variable Cost — serving as a proxy for marginal cost, central to predatory pricing analysis.
  - **Alternative Cost Concepts:** In specific cases, the CCI may adopt other cost benchmarks like:
    - Average Total Cost
    - Average Avoidable Cost
    - Long Run Average Incremental Cost depending on industry, market structure, or technology used.
  - **Expert Engagement:** The CCI or Director General can engage independent experts to assist in cost determination. Parties disputing the Commission's cost estimates can also request expert analysis—at their own expense.
  - **Confidentiality Requests:** Handled per the CCI (General) Regulations, 2024, ensuring sensitive business information remains protected.

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