

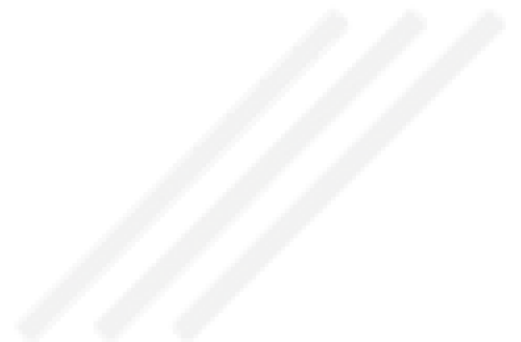


# Competition Law

*Newsletter - March 2024*

# Table of Contents

<b>LENIENCY PLUS COMES INTO FORCE</b>	<b>Page 3</b>
<b>CCI DISMISSES ABUSE OF DOMINANCE ALLEGATIONS AGAINST NEW OKHLA INDUSTRIAL DEVELOPMENT AUTHORITY</b>	<b>Page 3</b>
<b>CCI APPROVES RESTRUCTURING PERTAINING TO SHRIRAM GROUP OF COMPANIES</b>	<b>Page 4</b>
<b>CCI APPROVES OF A COMPOSITE TRANSACTION INVOLVING DHANI SERVICES, INDIABULLS ENTERPRISES, AND YAARI DIGITAL</b>	<b>Page 4</b>
<b>CCI APPROVES THE ACQUISITION OF DELANORD INVESTMENTS BY THE ABU DHABI PORTS COMPANY</b>	<b>Page 4</b>
<b>REGULATORY UPDATE</b>	<b>Page 5</b>



In the March edition of the DSK Legal Competition Law Newsletter, we cover three of the most relevant combination orders published by the Competition Commission of India (**CCI / Commission**), and one enforcement order, along with important regulatory updates regarding the new “*The CCI (Lesser Penalty) Regulations*” notified by the Ministry of Corporate Affairs, and stakeholder comments sought for draft amendments released by the CCI to “*The CCI (General) Regulations, 2009*” regarding confidentiality ring.

## **LENIENCY PLUS COMES INTO FORCE**

As reported in our [November edition of the Newsletter](#), the CCI had released the draft Regulations for Lesser Penalty with the intent of replacing and repealing the existing CCI (Lesser Penalty) Regulations, 2009.

The Ministry of Corporate Affairs on 20.02.2024 brought it to fruition by notifying the amended Section 46 of the Competition Act, 2002 (**Act**), and the [Competition Commission of India \(Lesser Penalty\) Regulations, 2024 \(Regulations\)](#).

Some of the most relevant amendments introduced are as follows –

- i. Leniency Plus:** Provides for an applicant involved in one cartel to expose another separate cartel (which it is also a member of) in exchange for an additional reduction in penalty of up to 30% for the cartel already being investigated. Leniency plus can be granted only to one applicant.
- ii. Expansion of definition of ‘applicant’:** Under the new regime, not only cartel members but the cartel facilitators can also turn approvers. Cartel facilitators (such as trade associations and data consultancies) are entities which aren’t members of the cartels but help and assist in the operation of the cartel. The Act treats cartel facilitators in a similar footing as cartel members and prescribes similar penalties.
- iii. Withdrawal of Leniency Applications:** An applicant may now withdraw their applications any time before the CCI receives the Investigation Report of the DG. However, the CCI is free to use the

information submitted, except for the express admission of contravention made by the applicant.

- iv. Confidentiality:** The Regulations confirm that the CCI shall consider only the initial application as confidential under the Leniency Regulations and all other information and documents provided to the DG during the course of investigation will be governed by the confidentiality provisions contained in the General Regulations.

## **CCI DISMISSES ABUSE OF DOMINANCE ALLEGATIONS AGAINST NEW OKHLA INDUSTRIAL DEVELOPMENT AUTHORITY**

CCI *vide* order dated [08.02.2024](#) dismissed the allegations of contravention of Section 4 of the Act against New Okhla Industrial Development Authority (**OP**) filed by one Vivek Gupta (**Informant**). It was alleged that the OP is the sole authority entrusted with the responsibility of allotment and maintenance of land in Noida, and has a monopoly in Noida to acquire, develop, auction, allot, lease, and sell land. The aggrieved party was allotted residential plots in Noida by the OP which subsequently were discovered to be encroached by third parties. It was alleged that the OP had deliberately and intentionally allotted the Informant the disputed property and had used its monopoly/ dominant position thereby contravening the provisions of the Act.

The CCI noted that Informant had already approached the Allahabad High Court and the OP had offered to return the amount deposited by the Informant.

Consequently, the CCI dismissed the complaint against OP as the matter appeared to be a commercial dispute and no case of contravention of Section 4 of the Act was made out.

### **CCI APPROVES RESTRUCTURING PERTAINING TO SHRIRAM GROUP OF COMPANIES**

Vide two separate orders dated 16.01.2024 ([here](#) and [here](#)), CCI approved amalgamations of (i) Shriram LI Holdings Private Limited (**SLIH**) with Shriram Life Insurance Company Limited (**SLIC**); and (ii) Shriram GI Holdings Private Limited (**SGIH**) with Shriram General Insurance Company Limited (**SGIC**).

As the names suggest, SLIC is a life insurance company, and SGIC is a general insurance company. SLIH, SLIC, SGIH, and SGIC are all part of the 'Shriram Group' of companies, which is engaged in four verticals, namely: (a) Financial Lending (b) General Insurance (c) Life Insurance and (d) Financial Services.

The Commission noted *“that the Proposed Combination is primarily an intra-group restructuring involving the entities forming part of the Shriram Group.... [and] does not envisage a change in the rights of any of the shareholders at least at this stage. Accordingly, in the absence of any significant change in the control over the Parties/businesses, the Proposed Combination is not likely to cause any significant change in competition dynamics.”* Despite this, CCI assessed the transaction against the business of its other major shareholder Piramal Enterprises, and the portfolio companies of TPG.

Thus, the CCI assessed the transaction in terms of the impact on competition in (i) life insurance products and distribution of insurance products, and (ii) general insurance products and distribution of general insurance products and concluded that both would not lead to any significant change in competition dynamics and thus approved them unconditionally.

### **CCI APPROVES OF A COMPOSITE TRANSACTION INVOLVING DHANI SERVICES, INDIABULLS ENTERPRISES, AND YAARI DIGITAL**

The CCI *vide* order dated [19.12.2023](#), approved of a composite transaction involving several companies forming part of the group founded by Sameer Gehlaut, the founder of the Indiabulls group, a housing and consumer finance conglomerate. The transaction included the demerger of real estate business of India Land Hotels Mumbai Private Limited and vesting it with Indiabulls Pharmacare Limited on a going concern basis, in consideration for which the shares of Yaari would be issued to the shareholders of the demerged company. The CCI noted that shareholders of India Land Hotel would get ~3.72% shares in Yaari without any special rights. Thus, it approved the proposed combination as the same is not likely to cause any appreciable adverse effect on competition.

### **CCI APPROVES THE ACQUISITION OF DELANORD INVESTMENTS BY THE ABU DHABI PORTS COMPANY**

The CCI *vide* order dated [29.11.2023](#), approved the acquisition of up to 71% of the share capital of Delanord Investments Limited by Abu Dhabi Ports Company PJSC.

The CCI noted that based on the business activities of the parties, there were horizontal overlaps in the: (i) provision of short-sea vessel operation services for containerized cargo, and (ii) provision of non-vessel operating common carrier (**NVOCC**) services for containerized cargo. Several vertical overlaps also resulted including the provision of short sea vessel operation services for containerized cargo and provision of sea freight forwarding services for containerized cargo in India resulting from the Acquirer's other existing minority shareholdings.

The Commission reiterated its earlier observations that *“gross aggregation of all the ports in a particular region...in a single market*

may not reflect true market dynamics. Cluster of ports having a common hinterland may form part of the same relevant geographic market and port-pairs with distinct competition dynamics may warrant a narrower market delineation.” However, looking at the combined market shares, incremental increases, and volumes handled, the CCI opined that the same is not likely to raise any competition concerns and unconditionally approved the transaction.

## REGULATORY UPDATE

### Commission publishes draft amendments to the General Regulations

The CCI released the draft amendments to the regulations 35, 37, and 50 of The [Competition Commission of India \(General\) Regulations 2009](#) for stakeholder comments, to tighten the timelines for access to confidential documents, inspections, and copies.

Some of the prominent proposed changes include:

- i. **Setting up of Confidentiality Ring:** The request for setting up a confidentiality ring is required to be made within 7 days from the receipt of the non-confidential version of the Investigation Report;
- ii. **Inspection of confidential documents:** Parties seeking inspection of the documents are required to complete the inspection within 3 weeks of being allowed to do so and the request for certified copies of any documents is required to be made within 7 days thereafter.
- iii. **Undertakings** not to share or disclose confidential information to now take the form of an **affidavit** and is required to be filed within 7 days from the order setting up the Confidentiality Ring.

While the Commission retains the discretion to extend the timelines for just cause, the proposed timelines may prove to be a challenge, particularly for companies situated outside India if merely in terms of organizing an affidavit (which needs notarization) and shipping.

# Key Contacts



**Abdullah Hussain**

Partner

[abdullah.hussain@dsklegal.com](mailto:abdullah.hussain@dsklegal.com)



**Kunal Mehra**

Partner

[kunal.mehra@dsklegal.com](mailto:kunal.mehra@dsklegal.com)



**Kanika Chaudhary Nayar**

Partner

[kanika.nayar@dsklegal.com](mailto:kanika.nayar@dsklegal.com)



**Abhishek Singh Baghel**

Partner

[abhisheksingh.baghel@dsklegal.com](mailto:abhisheksingh.baghel@dsklegal.com)

## DSK Legal

True Value, True Values

### DSK Legal Knowledge Center

Contact Details for any queries: [knowledge.management@dsklegal.com](mailto:knowledge.management@dsklegal.com)

#### Mumbai

1701, One World Centre,  
Floor 17, Tower 2B,  
841, Senapati Bapat Marg,  
Mumbai - 400013.  
Tel +91 22 6658 8000

#### Mumbai

C-16, Dhanraj Mahal,  
3rd Floor,  
Apollo Bunder, Colaba,  
Mumbai - 400001.  
Tel +91 22 6152 6000

#### Bengaluru

201, 2nd floor, Prestige Loka,  
7/1 & 7/7, Brunton Road,  
Craig Park Layout, Ashok Nagar,  
Bengaluru - 560025.  
Tel +91 80 6954 8770

#### New Delhi

Max House, Level 5,  
Okhla Industrial Area, Phase 3,  
New Delhi - 110020.  
Tel +91 11 4661 6666

#### Pune

Ground Floor, 1 Modibaug,  
Ganesh Khind Road, Shivajinagar,  
Pune - 411016.  
Tel +91 20 6684 7600

✉ [contactus@dsklegal.com](mailto:contactus@dsklegal.com)

**in** DSK Legal

🌐 [www.dsklegal.com](http://www.dsklegal.com)

#### Disclaimer

This newsletter is only for general informational purposes, and nothing in this edition of newsletter could possibly constitute legal advice (which can only be given after being formally engaged and familiarizing ourselves with all the relevant facts). However, should you have any queries, require any assistance, or clarifications with regard to anything contained in this newsletter (or competition law in general), please feel free to reach out to any of the unique individuals above.

© DSK Legal. All rights reserved.