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In the latest edition of the Competition Law Newsletter, we cover the orders passed by the Supreme Court of India, Bombay High Court, National Company Law Appellate Tribunal (**NCLAT**), and the Competition Commission of India (**Commission/CCI**).

A DECADE ON, SUPREME COURT RESTORES CCI'S PENALTIES ON KERALA FILM EXHIBITORS' FEDERATION AND OFFICE BEARERS

The Supreme Court vide an order dated [26 September 2025](#) held that the Kerala Film Exhibitors Federation (**KFEF**) and its office bearers had engaged in anti-competitive and restored, in full, the order of CCI.

The case arose from a complaint by Crown Theatre alleging that KFEF had threatened film distributors that their movies would not be screened at member theatres if they were exhibited at Crown, and orchestrated boycotts to enforce such threats. The Director General's investigation found that KFEF had indeed indulged in a collective refusal to deal and identified its President, P.V. Basheer Ahamed, and General Secretary, M.C. Bobby, as key decision-makers who actively enforced the boycott. Based on this report, the CCI, by order dated [08 September 2015](#), imposed monetary penalties on KFEF and its office bearers, and significantly debarred the latter from participating in the Federation's affairs for two years, given that this was second time the CCI had found them to be in contravention.

On appeal, in April 2016, the Tribunal upheld the finding of contravention but set aside penalties and directions against the individuals on the ground that no specific notice of proposed penalty had been issued to them, thereby breaching natural justice.

Reversing the Tribunal's decision, the Supreme Court clarified the statutory scheme and the principles governing penalty. It held that the notice of the CCI forwarding the DG's Report to the individuals, required them to file replies, furnish income details, and appear for hearing, constituted sufficient notice in law.

The Court rejected the argument that a "second notice" was required, explaining that the Act envisages a single composite inquiry under Section 26 Competition Act, 2002 (**Act**) culminating in orders under Section 27, and does not contemplate a bifurcated procedure for liability and penalty.

Importantly, the Court underscored the deterrent function of penalties under Section 27, stating that penalties serve not only to discipline erring parties but also to send a strong signal to deter similar anti-competitive practices in the market. The Court noted the repeated involvement of KFEF and its office bearers in earlier contraventions and found the CCI's directions – including monetary penalties, the two-year debarment, and the mandate to conduct competition compliance programmes – proportionate and necessary.

SUPREME COURT DECLINES TO DECIDE PATENT v. COMPETITION ACT JURISDICTIONAL OVERLAP

The Apex Court, vide order dated [2 September 2025](#), dismissed appeals filed by the CCI against the Delhi High Court's judgment dated [13 July 2023](#), which ousted the jurisdiction of the CCI to adjudicate upon competition concerns arising out of a Patent dispute.

As covered in our [Newsletter – August 2023](#), the division bench of the Delhi High Court had quashed the CCI's *prima facie* order holding that the Patents Act is a complete legislation and would cover alleged anti-competitive conduct arising out rights exercised by a patent holder in India. As it turned out, the parties to the dispute had already come to an out of court settlement, which was recorded in the order.

As a result, the Supreme Court chose not to address the main issue at hand – the jurisdictional overlap of the Patents Act vis a vis the Competition Act – but rather reiterated the findings of the Delhi High Court that once a settlement has been reached the basis of proceedings is lost. It left the more burning question of law open for another time.

BOMBAY HIGH COURT UPHOLDS CCI'S INVESTIGATION INTO ASIAN PAINTS

The Hon'ble Bombay High Court, on [11 September 2025](#), dismissed a Writ Petition filed by Asian Paints Limited (**Asian Paints**) challenging the CCI's *prima facie* order dated [1 July 2025](#), directing the Director General (**DG**) to investigate into the alleged abuse of dominance by Asian Paints.

As reported in our [Newsletter – August 2025](#), the CCI had *prima facie* found that APL had abused its dominant position by imposing de facto exclusivity on dealers under the threat of reduced credit limits, forcing them to return Grasim's (informant in the case before the CCI) tinting machines, etc.

Asian Paints challenged this *prima facie* order primarily on the ground that similar allegations had already been raised earlier by JSW Paints in a different case and CCI had dismissed those complaints after an investigation, finding no evidence of abuse of dominance. Therefore, according to Asian Paints, as per the newly enforced Section 26(2-A) of the Act the CCI is barred from re-inquiring into allegations already examined by it.

The High Court disagreed. It held that Section 26(2-A) of the Act serves as a clarificatory and enabling provision designed to prevent redundant investigations and expedite the disposal of cases at the CCI's discretion. It does not, however, impose a jurisdictional bar on the CCI from entertaining a fresh complaint, especially when the sections invoked or facts alleged differ from the earlier complaint.

The Court also reiterated the now long-established dictum that preliminary hearing was required to be given to the respondents before a *prima facie* order is passed by the CCI. Consequently, the writ petition was dismissed, affirming the validity of the *prima facie* order.

NCLAT UPHOLDS CCI'S DISMISSAL OF BEACH MINERAL EXPORT MONOPOLY COMPLAINT

NCLAT vide an order dated [23 September 2025](#) sided with the CCI in its [order](#) closing a case filed by Beach Mineral Producers Association and Mr. V. Velmurugan under Section 26(2) of Act, as the allegations raised did not fall within the purview of the Act.

The appellants had challenged a notification dated 21 August 2018 issued by the Directorate General of Foreign Trade (DGFT), which designated Indian Rare Earths Ltd. (IREL), a public sector undertaking under the Department of Atomic Energy, as the sole canalising agency for export of beach sand minerals (BSMs). The appellants contended that this move conferred a dominant position upon IREL and violated Section 4 of the Competition Act.

However, NCLAT upheld CCI's reasoning that the notification was a policy decision taken in furtherance

of sovereign functions, particularly given the strategic importance of BSMs in atomic energy, defence, and space applications. The Tribunal emphasized that Section 4 applies only to enterprises and groups engaged in commercial activities and explicitly excludes government functions related to atomic energy. Since the DGFT and IREL were acting under statutory mandates and policy directions concerning prescribed substances under the Atomic Energy Act, 1962 and the Mines and Minerals (Development and Regulation) Act, 1957, their actions could not be scrutinized under competition law. Lastly, NCLAT concluded that any challenge to the notification must be pursued through appropriate constitutional or administrative law remedies, not through the Competition Act appeal.

NCLAT CRACKS DOWN ON COLLUSIVE BIDDING IN UP SOIL TESTING TENDERS, UPHOLDS CCI'S CARTEL FINDINGS

Vide orders dated [16 September 2025](#) and [23 September 2025](#) the NCLAT held that coordinated bidding practices in public procurement tenders for soil testing services floated by the Department of Agriculture, Government of Uttar Pradesh, constituted a clear case of bid-rigging and cartelisation under the provisions of the Competition Act. These orders, passed in the appeals filed by Austere Systems Pvt. Ltd. and Satish Kumar Agarwal respectively, reaffirm the [CCI's findings](#) that a group of entities colluded to manipulate the tendering process during 2017–18, thereby undermining competition and public interest.

The Tribunal pointed to the shared IP addresses, common documentation, and interlinked personnel constituting sufficient evidence to for its conclusion. The Tribunal found that the appellants, along with other entities like Toyfort, Delicacy Continental, Fimo Infosolutions, and Yash Solutions, engaged in bid rotation, cover bidding, and market allocation. These firms, despite lacking genuine technical capacity, submitted bids using forged documents and shared infrastructure, including addresses, bank instruments, and even employees, to create an illusion of competition.

In the Austere Systems matter, the Tribunal observed that the appellant played a central role in orchestrating the cartel and upheld the Commission's penalty of 5% of average turnover, noting that the appellant's conduct was central to the cartel's functioning, while in the Satish Kumar Agarwal case the Tribunal acknowledged a relatively passive role of acting as cover bidders in the cartel's

execution, and reduced the penalty to 3% of average turnover, aligning with its earlier decision in Toyfort, which involved similar cover bidding conduct.

CCI INITIATES INVESTIGATION AGAINST PVR-INOX FOR CHARGING VPF FROM PRODUCERS

The CCI, vide its order dated [30 September 2025](#), acting on the complaint filed by Film and Television Producer's Guild of India, passed a *prima facie* order directing an investigation against PVR INOX Limited (**PVR-INOX**) for abusing its dominant position in the market for exhibition of films in multiplex theatres in India by charging Virtual Print Fees (**VPF**) from producers for exhibiting movies across theatres in India.

While similar allegations were raised against digital cinema equipment providers namely, UFO Moviez and Qube, the CCI declined to proceed against them, noting that in its earlier order dated [16 April 2025 in Case No. 11 of 2020](#), both UFO and Qube had already been penalised and directed to amend their agreements to allow theatre owners to deal directly with producers, which, according to the CCI, would mitigate any competition concerns arising out of VPF qua these parties.

As against PVR-INOX, CCI noted that it enjoys irrefutable dominance owing to large number of multiplex screens across India and absence of any close competitors. With regards to the abusive conduct of levying VPF, the CCI noted that:

- (a) PVR INOX *prima facie* discriminated against different producers and/or production houses by charging VPF from only 30% of Hollywood producers and negotiating sunset clauses with only few big production houses like Yash Raj and Viacom, thereby violating Section 4(2)(a) of the Act;
- (b) Charging VPF has *prima facie* resulted in limiting the ability of producers, particularly small and medium size ones, to secure a wider release of movies, thereby violating Section 4(2)(b) and 4(2)(c) of the Act; and
- (c) The imposition of VPF without any specific relatable service being provided leads to imposing unfair supplementary obligation on the producers in violation of Section 4(2)(d) of the Act as well.

Basis the aforesaid, the Director General has been directed to investigate these *prima facie* findings and roles of people involved in such conduct.

CCI OVERTURNS DG AND CLOSES ABUSE OF DOMINANCE CASE AGAINST GMR HYDERABAD AIRPORT

The CCI, vide an order dated [15 September 2025](#), disposed of allegations of abuse of dominance filed by Air Works India (**Informant**) against GMR Hyderabad International Airport Limited (**GHAL**) and its wholly owned subsidiary, GMR Aero Technic Limited (**GAT**).

The Informant (Air Works), engaged in providing Line Maintenance Services to airlines at Rajiv Gandhi International Airport (**RGIA**), had alleged that GHAL, the airport operator, had denied renewal of its space licence in 2019 to favour its subsidiary GAT, in violation of Sections 4 of the Act, 2002.

The Director General found that GHAL was dominant in the upstream market of *access to airport facilities* and its refusal to renew Air Works' licence, coupled with communications to airlines, amounted to a contravention of the Act.

The Commission however held otherwise. While agreeing on the market definition and dominance, the Commission that Air Works was never completely denied access to RGIA as it continued to provide LMS using mobile facilities, and that space on the airside at the airport was not indispensable for such services.

The Commission also noted that GHAL had taken space back from its own subsidiary to allocate to airlines as well negating any claim of preferential treatment.

Consequently, the Commission held that GHAL's refusal to renew the licence did not amount to a contravention of Section 4 of the Act.

CCI CLEARS DELHIVERY-ECOM EXPRESS MERGER

The CCI, vide order dated [17 June 2025](#), approved the acquisition of Ecom Express Limited (Ecom) by Delhivery Limited (Delhivery).

The CCI noted that the parties are primarily engaged in the logistics sector, particularly in express parcel delivery services and warehousing and supply chain

services. Basis the business of the parties, the CCI observed that the parties exhibit horizontal overlaps in the segments of Third-Party (3P) E-commerce express parcel delivery services and traditional courier services.

The combined market share of the parties in the 3P E-commerce segment was noted to be in the range of 35-40% at the pan-India level. However, the CCI concluded that this figure did not reflect the true competitive dynamics, as Ecom was facing significant financial distress and a sustained decline in its market share and operational capacity. Furthermore, the CCI noted the presence of strong countervailing buyer power in the market, characterized by customer multi-sourcing and easy switching between logistics providers, which would

constrain the merged entity's ability to harm competition.

In terms of vertical overlaps, the CCI noted that Delhivery's affiliate, Falcon Autotech Private Limited, is active in the upstream market for intralogistics automation services, while Ecom is active in the downstream market for logistics services. The CCI observed that Falcon's market share in the upstream market was modest and that the vertical link was unlikely to enable any foreclosure strategies post-combination.

The CCI therefore concluded that the transaction is not likely to have an appreciable adverse effect on competition in India and unconditionally approved the combination.

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