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The current edition of the DSK Legal Competition Law Newsletter covers developments across conduct, procedure and mergers, adjudicated upon by the NCLAT, Delhi High Court, and CCI.

DELHI HIGH COURT AFFIRMS THAT CCI CANNOT LEVY INTEREST ON PENALTIES WITHOUT SERVING MANDATORY DEMAND NOTICE

A division bench of the Delhi High Court vide order dated [01 November 2025](#) dismissed the CCI's appeal and upheld the [Single Judge's ruling](#) (as reported in [April 2024 Newsletter](#)) that interest on monetary penalties under the Competition Act cannot be levied unless a valid demand notice in Form-I is first issued and served under the 2011 Recovery Regulations. Since the CCI had never issued such a notice to Geep Industries, the Court held that no liability to pay interest could arise, and the CCI's attempt to impose retrospective interest from [2018](#) was contrary to the statutory scheme.

By way of a brief background, the CCI had imposed penalties on Geep Industries and its directors in 2018 for cartelisation in the dry-cell battery market. Although the NCLAT later reduced the penalty on the company, it affirmed the contravention. In May 2023, following the NCLAT's decision, the CCI issued demand notices directing payment of the reduced penalties along with interest calculated retrospectively from December 10, 2018 (i.e., the 91st day after receipt of the original 2018 order).

Geep challenged the levy of interest before the Delhi High Court. The Single Judge set aside the CCI's order to the extent it imposed interest, holding that interest under Regulation 5 can arise only after a proper demand notice is served. The CCI appealed. The Division Bench examined Regulations 3 and 5 of the Competition Commission of India (Manner of Recovery of Monetary Penalty) Regulations, 2011. These provisions make the issuance and service of a demand notice in Form-I a mandatory precondition for interest liability. Regulation 5 triggers interest only when "the amount specified in the demand notice is not paid within the period specified."

Since the CCI admitted that no demand notice had ever been issued from 2018 to 2023, the Court held that the statutory trigger for interest never arose. The Court rejected the CCI's argument that interest accrues automatically after expiry of the payment period in the penalty order. It also held that principles of restitution or deterrence cannot override express statutory requirements.

The Bench emphasized settled principles of strict construction of penal provisions, fairness in recovery proceedings, and constitutional limits under Articles 14, 19, 21, and 265. Even the 2023 amendments to the Competition Act and the 2025 Recovery Regulations retain the same procedural framework—indicating legislative intent to keep notice-based interest accrual.

Reaffirming the statutory scheme, the Division Bench held that no interest can be imposed without first issuing a valid demand notice, and certainly not retrospectively. The CCI's appeal was therefore dismissed, and the Single Judge's decision setting aside the levy of interest from 2018 was upheld.

DIVISION BENCH OF DELHI HIGH COURT SET ASIDE CCI'S INTEREST DEMANDS ON PENALTY DURING THE PENDENCY OF STAY

The Delhi High Court, vide judgment dated [1 November 2025](#), dismissed the Single Judge's judgment dated [11 September 2019](#) which affirmed the demand notices for interest on the penalty imposed on the United India Insurance Company Limited's (UIL) issued by the Competition Commission of India (CCI).

The CCI, vide order dated 10 July 2015, imposed a penalty based on 2% on average turnover, amounting to INR 156.62 crores on UIL for engaging in bid rigging, along with three other general insurance companies in Kerala's health insurance tenders.

Subsequently, an appeal was filed before the erstwhile Competition Appellate Tribunal (COMPAT), which allowed for an interim stay on the further recovery of penalty. Ultimately, the COMPAT although affirmed the findings of the CCI, reduced the penalty to 1.56 crores. During the pendency of the stay, the CCI issued demand notices in 2015, 2017, 2018, and vide its order dated 06 December 2018, directed UIL to deposit interest accrued on the penalty in terms of Regulation 5 of the Competition Commission of India (Manner of Recovery of Monetary Penalty) Regulations, 2011 (**Penalty Regulations**).

The demand notices were challenged by UIL before the Single Judge of the Delhi High Court, who held that merely a grant of stay does not absolve the

beneficiary from the interest accrued unless expressly waived.

On appeal, the Division Bench disagreed with the Single Judge's view and held that the CCI's penalty order stood merged into COMPAT's final order, and consequently, the demand notice issued in 2015 could not remain operative during the subsistence of the stay and was rendered inoperative for that period. It further observed that Regulation 5 applies only when a valid demand notice has been served in respect of a "recoverable penalty," and where enforcement of the penalty order has been stayed, the penalty ceases to be legally recoverable, thereby negating any liability to pay interest.

The Bench further observed that Regulation 5 of the Penalty Regulations is attracted only when a valid demand notice has been served in respect of a recoverable penalty. In a situation where the operation and enforcement of the penalty order had been stayed, the underlying penalty ceased to be recoverable in law for that duration. Accordingly, no liability to pay interest could arise for the period during which the stay remained in force.

The Hon'ble Division Bench, therefore, set aside the Single Judge's order and quashed the CCI's demand notices along with the impugned order dated 6 December 2018, holding that no interest was recoverable on the penalty for the period during which the appellate stay remained in force

NCLAT ON WHATSAPP 2021 POLICY: JURISDICTION AFFIRMED, BLANKET BAN RELAXED

A division bench of the NCLAT, vide its judgment in Competition Appeal Nos. 1 & 2 of 2025 dated [04 November 2025](#), had issued a detailed ruling on the challenges filed by WhatsApp LLC and Meta Platforms Inc. against the CCI's order dated [18 November 2024](#). In that order, the CCI had held that Meta (through WhatsApp) had abused its dominance in the OTT messaging market by imposing the 2021 Privacy Policy, thereby leveraging WhatsApp's user base to strengthen Meta's position in online display advertising, and engaging in exclusionary data-sharing practices.

In the first instance, NCLAT had kept intact most of CCI directions relating to user choice, transparency and opt-out requirements, but had stayed the five-year prohibition on data-sharing for advertising purposes and granted partial relief on penalty deposit. The Tribunal also reaffirmed that competition law and data-protection law operate as complementary regimes—and that CCI's inquiry into data-driven conduct is within jurisdiction so long as the focus remains on competitive harm.

By way of background, in January 2021, WhatsApp had rolled out its updated Terms of Service and Privacy Policy, prompting concerns over expanded data-sharing with the "Meta group" without an opt-out. Following a *suo motu* investigation (later clubbed with subsequent complaints) the CCI imposed (a) a ₹213.14 crore penalty, (b) a five-year ban on data-sharing for advertising, and (c) mandatory granular disclosures and opt-out mechanisms for all non-service-related data-sharing.

WhatsApp and Meta appealed before NCLAT, arguing lack of jurisdiction, overlapping with data-protection law, and errors in market definition, dominance, and findings on unfair terms.

The NCLAT rejected Appellants' jurisdictional challenge – that CCI overstepped into privacy regulation. It held that (a) Issues of privacy under DPDP Act/SPDI Rules and issues of competitive harm may intersect but are not mutually exclusive, (b) CCI's mandate is to assess whether data practices, when imposed by a dominant enterprise, amount to exploitative or exclusionary conduct, and (c) Both the Delhi High Court and the Supreme Court had already affirmed that the CCI cannot be restrained from examining competition issues arising from privacy policies.

While arriving at the final decision, the NCLAT did not disturb the CCI's core findings that (a) the 2021 Update imposed unfair conditions by conditioning continued use of WhatsApp on acceptance of expanded data-sharing; (b) such sharing enabled denial of market access and raised entry barriers in the online advertising market; and (c) WhatsApp's dominance in messaging was leveraged to strengthen Meta's advertising ecosystem.

However, the Tribunal disagreed with the CCI's five-year prohibition on data-sharing for advertising noting that the ban could disrupt WhatsApp's business model and that similar sharing had existed since 2016.

CCI RECOMPUTES PENALTIES IN PMC BID-RIGGING CASES AFTER NCLAT REMAND

The CCI, vide order dated [10 November 2025](#), re-determined the penalties levied in Case No. 50 of 2015 and *Suo Motu* Case No. 03 of 2016 following the [NCLAT's 23 December 2022](#) remand directing reconsideration of penalty quantum.

While the NCLAT had fully upheld the findings of bid-rigging across seven tenders issued by the Pune Municipal Corporation (PMC) for solid waste processing plants, it held that the CCI had not

provided adequate reasoning for imposing penalties at the upper statutory limit. With the Supreme Court later dismissing the CCI's further appeals on this limited issue, the Commission has now recalculated penalties by applying 10% of average global turnover (or 10% of average income for individuals) for the relevant three preceding financial years and reinstated the same lesser-penalty reductions granted in 2018.

The cases originated in 2015 when Nagrik Chetna Manch reported alleged collusive bidding by Fortified Security Solutions and Ecoman Enviro Solutions. During investigation, the DG uncovered a broader cartel involving five additional entities—many of which were not even participants in the solid-waste market—and tender manipulation in multiple years, prompting a parallel suo motu case for PMC Tenders 21 and 28 of 2013. Several parties filed leniency applications under Section 46 of the Act, admitting their roles and providing detailed disclosures that mapped out the structure and modus operandi of the cartel.

In 2018, the Commission found six enterprises and multiple individuals guilty under Sections 3(3)(d) and 48 of the Act for rigging bids and submitting cover quotes to artificially inflate competition.

In the fresh penalty determination, the CCI relied on its 2024 Monetary Penalty Guidelines, noting that calculating "relevant turnover" would produce distorted and inequitable outcomes in the case of cover bidders whose turnover from the solid-waste sector was zero. To avoid situations where actual conspirators escape liability, the Commission applied total turnover as the base across all entities. The Commission emphasized that the cartel was orchestrated principally by Bipin Vijay Salunke of Fortified / Ecoman, aided by family-linked entities, and that the conspiracy spanned seven PMC tenders over two years.

ANTITRUST CLEARANCE FOR RIETER'S TAKEOVER OF OERLIKON TEXTILE UNITS

The CCI, vide order dated [23rd September 2025](#), approved the acquisition of 100% of OC Oerlikon Textile Holding AG and Oerlikon Textile Inc. (**Targets**) by Rieter Holding AG and Rieter North America Inc. (**Acquirers**).

The CCI noted that the parties are both engaged in the textile machinery sector and exhibit a horizontal overlap at the broad level of the textile machinery market, with a combined market share in the range of 5-10%. At a narrow segment level, the parties focus on distinct types of texturing machines (ATY

vs. DTY) and spinning machines (secondary vs. primary), resulting in no actual overlap, and the CCI concluded this was not likely to raise any competition concerns.

In terms of vertical overlap, the CCI noted that the Acquirers supply components (bearings and DTY texturing discs) used as inputs in the textile machinery (primary spinning and DTY texturing machines) manufactured and sold by the Targets. This created vertical relationships in the supply chain.

The CCI, having considered the vertical overlaps, observed that the existing commercial transactions between the parties in these specific components were insignificant and did not raise any foreclosure concerns. The CCI concluded that the combination was not likely to have an appreciable adverse effect on competition and approved it.

CCI DIRECTS PROBE AGAINST THE BASKETBALL FEDERATION FOR ABUSE OF DOMINANCE

The CCI, vide order dated [25 November 2025](#), directed an investigation under Section 26(1) of the Competition Act, into the conduct of the Basketball Federation of India (**BFI**) based on information filed by Elite Pro Basketball Private Limited (**Informant**).

The Informant was aggrieved by the BFI not granting approval for the proposed professional basketball league (**EPBL**) and promotional events titled 'Elite Pro 3x3 League' (**EP3L**), and imposing restrictive conditions on players.

The CCI defined the relevant market as the '*market for organization of basketball leagues / events / tournaments in India*', wherein BFI was found to hold a dominant position as the sole National Sports Federation.

The CCI formed a *prima facie* opinion that BFI's conduct, including its circular warning against unauthorized tournaments and its refusal to grant market access to the Informant, potentially amounted to limiting/restricting the services of players and denying market access to rival leagues. Accordingly, the Commission directed the Director General to investigate the matter.

This marks yet another instance where a national sports authority has been hauled up before the CCI for abuse, with the governing bodies for [Cricket](#), [Baseball](#), [Table Tennis](#), [Horse Racing](#), [Athletics](#), [Hockey](#), [Chess](#), and [Volleyball](#), all being investigated in the past, with four out of the eight being held in contravention.

Key Contacts



Abdullah Hussain

Partner

abdullah.hussain@dsklegal.com



Kanika Chaudhary Nayar

Partner

kanika.nayar@dsklegal.com



Abhishek Singh Baghel

Partner

abhisheksingh.baghel@dsklegal.com



DSK Legal Knowledge Center

Contact Details for any queries: 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

New Delhi

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

Dubai

Bay Square,
Building 12, P 03, Dubai,
United Arab Emirates
T: +971 50 450 4026

Bengaluru

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

Pune

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

Abu Dhabi

3112, 31, Tamouh Tower,
ADGM, Abu Dhabi,
Al Reem Island, UAE
T: +971 50 450 4026

✉ contactus@dsklegal.com

in DSK Legal

🌐 www.dsklegal.com

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