



Competition Law

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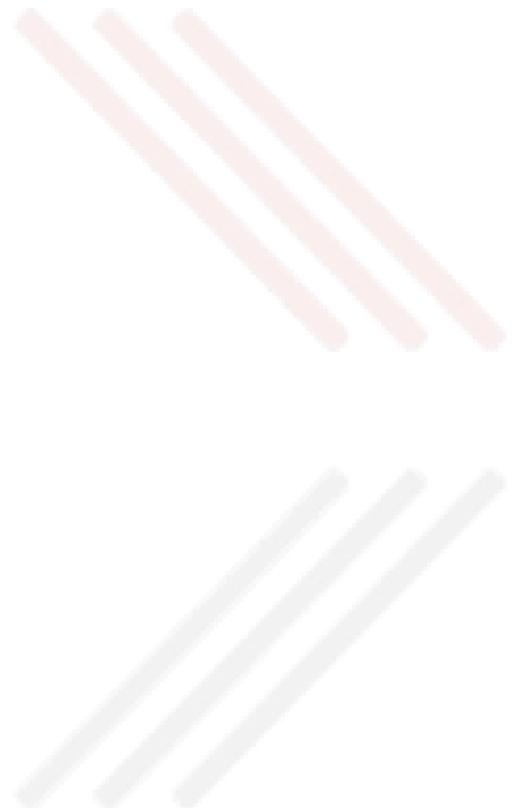
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In this edition of the Competition Law Newsletter, we bring to you a significant decision of the Supreme Court and key orders passed by the Competition Commission of India in the month of February 2026.

SUPREME COURT QUASHES NCLAT'S 2020 PROBE ORDER AGAINST FLIPKART; CASE SENT BACK FOR RECONSIDERATION

A decade old saga continues with the case originating from a 2015 complaint by the All India Online Vendors Association (**AIOVA**) against Flipkart India Private Limited, alleging abuse of dominant position under Section 4 of the Competition Act, through anti-competitive practices like deep discounting, predatory pricing, and preferential treatment of select sellers.

The CCI initially closed the case on [November 6, 2018](#), finding insufficient evidence of dominance or abuse. However, in a significant ruling on [March 4, 2020](#), the NCLAT set aside the CCI's closure order and directed the CCI's Director General to investigate. The NCLAT's reasoning was twofold – first, it held that the CCI had applied an unduly high threshold at the preliminary stage, as under Sections 19(1)(a) and 26(1) of the Act, an informant only needs to establish a prima facie case, not conclusively prove the violation; and second, it relied on factual observations emerging from income tax proceedings that suggested a linkage between Flipkart's wholesale and marketplace entities, potentially enabling below-cost sales and cross-subsidization to undercut prices.

Six years later, a three-judge bench of the Supreme Court has, vide an order dated [03.02.2026](#), set aside the NCLAT's 2020 decision on the ground that income tax proceedings on which it had relied were subsequently overturned and set aside by the Income Tax Appellate Tribunal. With this foundational evidence invalidated, the basis for the NCLAT's directive was undermined. The bench further ordered the NCLAT to decide the appeal afresh and re-evaluate whether a prima facie case exists based on sound legal criteria, independent of the now-defunct tax findings.

CCI FINDS INTEL'S WARRANTY POLICY ANTICOMPETITIVE; IMPOSES A PENALTY OF INR 27.38 CRORES

Another decade old case finally came to fruition when the CCI, vide order dated [12 February 2026](#), imposed a penalty on Intel Corporation for abusing

its dominant position in the *market for boxed microprocessors for desktop PCs in India*.

The information was filed by Matrix Info, alleging that, prior to 2016, Intel used to provide manufacturer warranty in India for microprocessors that were procured from authorised distributors in other countries. However, post 25 April 2016, Intel revised its policy and restricted the warranty requests to microprocessors purchased only from its authorised Indian distributors.

The CCI noted that Intel has the most diversified variants of microprocessors used by leading computer manufacturers like Acer, Apple, Dell and ASUS, with Advanced Micro Devices placed at a distant second. On this basis, the CCI held Intel to be dominant in the relevant market.

On the issue of abuse, the CCI noted the impugned warranty to be discriminatory qua Indian importers of micro-processors as such restrictions were not applicable in other jurisdictions.

The CCI further noted that the impugned policy compelled Indian resellers and system integrators to source boxed microprocessors only from Intel's authorised Indian distributors, instead of procuring them at lower prices from overseas distribution channels. This resulted in restriction and limitation of the market and caused Indian consumers to purchase the products at relatively higher prices.

The Commission also observed that following the change in the warranty policy, sales by Intel's authorised distributors in India increased to the detriment of parallel importers, thereby resulting in denial of market access to such parallel importers.

Basis the above and consideration of the mitigating factor that Intel had discontinued the impugned warranty policy from April 2024. The CCI imposed a penalty of INR 27.38 crore.

CCI DIRECTS INVESTIGATION AGAINST INDIGO AIRLINES

CCI vide an order dated [04 February 2026](#), directed the Director General to conduct an investigation against the alleged abuse of dominant position by InterGlobe Aviation Limited (**IndiGo**), arising from

the large-scale flight cancellations and subsequent surge in airfares during December 2025.

The Commission formed a prima facie view that IndiGo was dominant in the market for domestic air passenger transport services in India by holding almost 60-61% of the market, and imposed unfair conditions and restricted the provision of services in violation of Sections 4(2)(a)(i) and 4(2)(b)(i) of the Act.

The proceedings originated from an information filed by an individual passenger alleging that IndiGo cancelled scheduled return flights at short notice during widespread operational disruptions in early December 2025 and failed to provide alternate travel arrangements. The informant claimed that passengers were compelled to rebook flights at substantially higher fares, including on IndiGo itself, following the cancellations.

The allegations were not confined to an individual grievance but related to a broader disruption reportedly affecting thousands of flights and lakhs of passengers across multiple routes in India. The Commission sought detailed information from IndiGo as well as the Directorate General of Civil Aviation (DGCA), including data relating to market shares, route coverage, pricing trends, and the extent of disruptions.

IndiGo raised a preliminary objection challenging the jurisdiction of the CCI, contending that matters relating to airfare regulation and pricing practices fall exclusively within the regulatory framework of the Bharatiya Vayuan Adhinyam, 2024 and the Aircraft Rules, 1937, under the supervision of the DGCA.

However, the CCI rejected the jurisdictional challenge and held that sectoral regulation does not exclude the application of competition law. Relying on the Supreme Court's ruling in *Bharti Airtel Limited v. Competition Commission of India*, the Commission reiterated that sectoral regulators and competition authorities operate in complementary spheres, and the existence of aviation-specific regulation does not bar examination of anti-competitive conduct under the Competition Act. The Commission also noted the DGCA's clarification that it does not exercise economic regulatory powers involving competition assessment, market definition, or dominance analysis.

Regarding the alleged abusive conduct, the Commission observed that large-scale cancellations reportedly affected over three lakh passengers and significantly reduced available capacity in the

market. According to the Commission, sudden withdrawal of scheduled services coupled with sharply increased fares could have left consumers with limited alternatives, effectively locking them into higher-priced options. Such conduct, at the prima facie stage, appeared capable of constituting (i) imposition of unfair conditions on consumers, and (ii) restriction of provision of services by creating artificial scarcity in the market.

CCI APPROVES THE ACQUISITION OF J.B. CHEMICALS BY TORRENT PHARMACEUTICALS

The CCI, vide order dated [21 October 2025](#), *conditionally* approved the composite transaction involving acquisition of JB Chemicals by Torrent Pharmaceuticals, subject to fulfilment of the proposed modifications.

The CCI noted that the parties are engaged in the pharmaceutical sector in India and are primarily active in the manufacture and sale of Finished Dosage Forms (FDFs). Thus, while analysing the transaction, CCI analysed the horizontal overlaps in FDFs, and in the narrower molecule and therapeutic levels.

Of the *eight* overlapping markets identified, the CCI noted that in five of such markets i.e., Lactobacillus Rhamnosus, Azilsartan, Azelnidipine + Telmisartan, Rosuvastatin + Ezetimibe, and Diaper Rash Creams, the combined market shares of the parties ranged between 15–35%, with strong competitors such as Glenmark, Lupin, Abbott, and others present. Thus, the transaction will not likely cause any appreciable adverse effect on competition (AAEC) in these markets.

However, in the remaining three markets namely Lactobacillus Acidophilus, Nifedipine, and Azelnidipine, the CCI noted that the parties' combined market shares were significantly high, and in certain cases ranging between 95% and 100%, and that the transaction would result in a substantial increase in concentration and elimination of significant competitive constraints. Based on its assessment, the CCI *prima facie* held the transaction to likely to cause AAEC in these markets.

Consequently, Torrent, to address these *prima facie* concerns, proposed several modifications, *inter alia*, (i) licensing of Vizylac brand to an independent entity for five years; (ii) divestment of all Nifedipine products marketed under the Calcigard brand to a suitable third party to be approved by the

Commission; and (iii) a commitment to continue marketing JB's Azovas (Azelnidipine) brand with a price cap of 5% per annum for three years, aimed at protecting consumers and preventing potential price increases post-combination.

On the basis of the foregoing, the CCI held that the proposed transaction, read together with the proposed modifications, was likely to address the AAEC and accordingly conditionally approved the combination.

CCI APPROVES SUMITOMO MITSUI BANKING CORPORATION'S ACQUISITION OF STAKE IN YES BANK

CCI vide an order dated [02 September 2025](#), approved the proposed acquisition of up to 20% shareholding in YES Bank Limited by Sumitomo Mitsui Banking Corporation (**SMBC**). The Commission concluded that the proposed transaction was not likely to cause an appreciable adverse effect on competition in India despite certain horizontal overlaps and vertical linkages between the parties' activities in banking and financial services markets.

The acquirer also indicated a potential future acquisition of additional shares that could increase its shareholding up to 24.99% on a fully diluted basis through primary subscription or secondary market purchases. However, as binding documents for such additional acquisition had not yet been executed, the Commission confined its assessment to the initial proposed acquisition.

SMBC is a Japan-based commercial bank and a core operating entity of the Sumitomo Mitsui Financial Group (**SMFG**), which operates in India through banking branches and its subsidiary engaged in lending and financial services. YES Bank is a listed Indian private sector bank providing a wide range of retail, corporate, MSME, and digital banking services.

For competition assessment, the Commission examined the activities of SMFG and its affiliates alongside those of YES Bank and identified several areas of horizontal overlaps, including provision of loans and lending services, loans against securities, digital payment services, deposit-taking services, foreign exchange services, investment banking, cash management services, and insurance distribution.

In addition, certain vertical linkages were identified, including arranger services in debt private placements, relationships between vehicle financing and leasing services, and activities relating to alternate investment funds and referral services.

The Commission observed that the combined market presence of the parties across all plausible relevant markets remained limited. The incremental market share resulting from the transaction was assessed to be within the range of 0–5% in most markets, and 5–10% in narrower segments such as NEFT services and unsecured lending to individuals. The Commission further noted that these markets are characterised by the presence of several significant competitors, thereby constraining any potential exercise of market power.

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