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In the June Edition of the Luthra and Luthra Law Offices India – ‘Competition Law Newsletter’, we cover some of the most pertinent developments in the competition law space over the last month.

MHC quashes CCI’s investigation against MRF Ltd

The Madras High Court (**MHC**) vide order dated 30.04.2024 has quashed the ongoing investigation by the Competition Commission of India (**CCI**) against MRF Ltd. (**MRF**) on the ground that a prior notice was not issued to MRF before conversion of its status from ‘third party’ to an ‘opposite party’.

The case arose from a reference filed against JK Tyres & Industries Limited (**JK Tyres**) for violating Section 3(3) read with Section 3(1) of the Competition Act, 2002 (**Act**). On receipt of the reference, the CCI passed an order under Section 26(1) of the Act directing the Director General (**DG**) to cause an investigation into the matter. During the investigation several notices were issued to MRF for participation in the proceedings, however as a ‘third party’.

During the proceedings, the status of MRF was changed from a ‘third party’ to an ‘opposite party’. MRF challenged this change in status on the ground that the same was done without any notice.

The MHC observed that there had been considerable opaqueness in the conduct of proceedings and has made far reaching observations which include that the CCI must issue notice to the parties before their status is changed from a third party to an opposite party given the strict penalties enshrined under Section 27 of the Act.

CCI seeks stakeholders’ comments on its proposed additional amendments to General Regulations

The CCI has published proposed amendments to its (General) Regulations, 2009 on [06.06.2024](#) and comments have been sought from stakeholders till 08.07.2024. Some of the proposed amendments include: (i) parties filing information or reference must disclose entire chronology of events (including details of similar facts which have been dealt by the CCI in past) and information filed beyond limitation period must be accompanied with application for condonation of delay; (ii) any person authorised by the Managing Director/ Director of the company, President/ Secretary of association or society, partner of a partnership firm or CEO of a co-operative society can make submissions or filings before the CCI; (iii) Suo Motu power with CCI to erase unnecessary party from the proceedings, if it deems fit; (iv) introduction of miscellaneous applications (comprising of all applications other than interlocutory applications); (v) issuance of SCN to delinquent individuals before imposing penalty under Section 48 of the Act; (vi) increase in fee for filing an information and revision of timelines for filing additional documents, comments /objections to the DG Report by the parties; and (vii) appointment of third party agencies by the CCI in monitoring the implementation of its orders by the parties.



CCI notifies (General) Amendment Regulations, 2024

The CCI has notified the Competition Commission of India (General) Amendment Regulations, 2024, on [10.05.2024](#). The Amendments primarily relate to procedural aspects concerning confidentiality during the course of the proceedings before the CCI. The Amendments have also revised the quantum of fee for inspections from INR 1000/- to INR 2500/- and consequently the time allotted for inspection has also been increased from 1 hour to 2 hours. The increased inspection time is expected to minimize the concerns due to practical difficulties arising on account of inspection time limited to 1 hour.

CCI dismisses complaint against Maruti Suzuki

The CCI vide order dated [06.05.2024](#) dismissed an information against Maruti Suzuki India Limited (**MSIL**) for violating the provisions of Section 4 of the Act.

The grievance of the informant was the alleged introduction of limited edition 'Thunder' Model of Maruti Jimny by MSIL in India in June 2023, costing INR. 10.74 lacs, laced with several freebie accessories and extended warranty free of cost, which not only led to the initial customers of Jimny, who had bought the car from MSIL at higher prices, feeling cheated, but also led to a downfall in the resale prices of the cars purchased by them as this new model was available at a discount of around INR. 2.30 lacs.

The CCI observed that the market share of MSIL in the SUV Segment in 2022 and 2023 was approx. 22% and 21.5% respectively and MSIL does not appear to be dominant in the SUV segment of passenger vehicles. The CCI further held that no competition issue arises as once a buyer purchases a product from a seller at a given price, it cannot insist to avail of benefit of any future discount which may be offered on such product by the seller. Thus, the CCI directed the matter to be closed under Section 26(2) of the Act.

NCLAT Upholds CCI order in Kerala State Road Transport Matter

The National Company Law Appellate Tribunal (**NCLAT**) vide its order dated 06.05.2024 dismissed the appeal filed by Shine P Sasidhar (**Appellant**), challenging the order dated 22.01.2024 passed by the CCI under Section 26(2) of the Act against the Kerala State Road Transport Corporation (**KSRTC**).

The allegations against KSRTC involved imposition of certain transport restrictions and fare changes, which the appellant claimed to be in violation of Section 4 of the Act. The appellant argued that KSRTC had unjustly set exorbitant and discriminatory charges for transportation services on the Nilakkal to Pampa route. In response to these allegations, KSRTC argued that the route exclusivity and fare structuring were based on a government notification aimed at ensuring adequate, economical, and coordinated road transport.

Upon review, the NCLAT found that the fares and policies set by KSRTC were indeed in accordance with the government's regulatory framework and were applied uniformly to both public and private operators and thus, held that the CCI had rightly closed the matter as there was no



discernible competition concern warranting intervention under the Act. The NCLAT further affirmed that the measures were part of a broader public policy initiative rather than anticompetitive actions by KSRTC.

CCI approves demerger of Hotels Business of ITC Limited to ITC Hotels Limited

The CCI has approved the demerger of the Hotels Business of ITC Limited into a newly formed entity, ITC Hotels Limited (**Proposed Transaction**). This corporate restructuring involves the transfer of all businesses, undertakings, activities, operations, and properties related to ITC's Hotels Business into its wholly-owned subsidiary, ITC Hotels Limited, as stipulated in the Scheme of Arrangement approved by the respective boards of ITC and ITC Hotels on 14.08.2023.

The Hotels Business encompasses the comprehensive hotel and hospitality operations previously under ITC, which includes the management, operation, and marketing of hotel facilities. This also covers services such as accommodation, dining, and banqueting, in addition to overseeing investments in various hospitality entities like subsidiaries and associate companies that operate within the hotel and hospitality sector.

CCI approves acquisition of additional shareholdings in Thyssenkrupp Industries India Private Limited

The CCI has approved the acquisition of additional shareholding in Thyssenkrupp Industries India Private Limited (**Target**) by Protos Engineering Company Private Limited (**Protos**) and Paharpur Cooling Towers Limited (**Paharpur**).

Protos operates primarily as an agent for manufacturers of various industrial equipment and materials, notably in sectors such as steel, cement, and sugar. It also acts as the sole selling agent for the Target, facilitating the sale of sugar industry equipment and plants, and earning commissions from these transactions. Additionally, the Protos group provides industrial inspection and certification services. Paharpur's business activities include the manufacture and sale of industrial cooling systems and the generation of power through wind energy, alongside non-banking financial services.

The Target is primarily involved in providing Engineering, Procurement, and Construction (**EPC**) services for turnkey projects across various industries. It also manufactures and sells a range of industrial products and undertakes operation and maintenance services for plants.

Reliance and Disney seek CCI approval vis-à-vis cricket rights

Reliance Industries and Walt Disney have sought approval from the CCI for their \$8.5 billion merger. This merger, announced in February, 2024 is expected to form India's largest entertainment entity, encompassing 120 TV channels and two streaming services. The companies have reportedly assured the CCI that their acquisition of cricket rights through a competitive bidding process ensures that their merger will not adversely affect advertisers. They argue that



the rights, which are set to expire in 2027 and 2028, will be open for competitive bidding, allowing other market players a fair chance to acquire them subsequently.

Swiggy Challenges CCI's order in Karnataka High Court

Swiggy has approached the Karnataka High Court (**KHC**), challenging an order passed by the CCI mandating to share confidential information with National Restaurant Association of India (**NRAI**). This legal action stems from an information filed by NRAI in 2021 against Swiggy and Zomato indulging in certain anti-competitive practices. Swiggy has contended that the CCI's decision to grant NRAI access to the sensitive information could detrimentally affect its operations.

EC Recognizes Booking.com as a Gatekeeper

The European Commission (**EC**) vide press release dated [13.05.2024](#), formally recognized Booking.com as a gatekeeper under the Digital Markets Act (**DMA**) due to its significant role as an online intermediary service. In compliance with DMA obligations, Booking.com is required to submit a comprehensive compliance report within 6 months and inform the EC regarding any planned mergers or acquisitions in the digital sector.

In parallel, EC has initiated a market investigation into the online social networking service 'X'. This investigation, set to conclude within five months, aims to assess claims that despite meeting threshold criteria, X does not constitute a significant gateway for businesses and consumers.

EC fines Mondelēz International, Inc €337.5 million for cross-border trade restrictions

The EC vide press release dated [23.05.2024](#) has imposed a fine of €337.5 million on Mondelēz International, Inc. (**Mondelēz**) for violating EU competition rules by restricting cross-border trade of its products. The EC observed that Mondelēz restricted the territories and customers to which its wholesale customers could resell its products, and in some cases, mandated higher prices for exports compared to domestic sales. These practices were conducted from 2012 to 2019 across all EU markets. Additionally, between 2015 and 2019, Mondelēz had abused its dominant market position by refusing to supply a broker in Germany to prevent resale in higher-priced markets of Austria, Belgium, Bulgaria, and Romania.



This newsletter is only for general informational purposes, and nothing in this edition of the 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 contact G.R. Bhatia/ Arjun Nihal Singh, at the below mentioned coordinates. © Luthra and Luthra Law Offices India 2024. All rights reserved.

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