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Delhi High Court dismisses CCI's appeal and upholds order quashing interest demand against United India Insurance Company Limited

The Delhi High Court, vide its judgment dated [01.11.2025](#), allowed the appeal filed by United India Insurance Company Limited (“**United**”) and set aside the Single Judge’s order dated 11.09.2019 that had upheld the CCI’s demand for interest under Regulation 5 of the Competition Commission of India (Manner of Recovery of Monetary Penalty) Regulations, 2011 (“**Penalty Regulations**”).

The CCI vide its order dated 10.07.2015, passed under Section 27 of the Competition Act, found United guilty of bid rigging and imposed a penalty of INR. 156.62 crores, equivalent to 2% of its average turnover for three financial years.

United challenged the order before the erstwhile Competition Appellate Tribunal (“**COMPAT**”) which upheld the finding of contravention but substantially reduced the penalty to INR. 1.56 crores, which United deposited on 04.01.2017. Despite this, the CCI issued demand noted dated 17.01/2017 demanding payment of INR 32.76 lakhs towards interest for an alleged deal of fourteen months in payment of the penalty under Regulation 5 of the Penalty Regulations.

Aggrieved by the demand notices, United challenged these demand notices, arguing that the demand notice was invalid as it was issued and served during the period when the COMPAT’s stay order was in force, rendering the penalty unenforceable. The Single Judge dismissed the writ petition on 11.09.2019, holding that the liability to pay interest survives even during an interim stay, relying on the Supreme Court’s ruling in *State of Rajasthan v. J.K. Synthetics Ltd.*

On appeal, the Division Bench disagreed with the Single Judge and held that under Regulations 3 and 5 of the Penalty Regulations, ‘interest’ accrues only after issuance of a valid demand notice in Form I for a recoverable penalty. As the notice was served during the stay period, it was inoperative and no interest could arise. Further, NCLAT also applied the doctrine of merger, holding that once the CCI’s order merged with COMPAT’s modified order and United paid the reduced penalty, no further liability subsisted. Accordingly, NCLAT allowed the appeal and quashed CCI’s order dated 06.12.2018 and related demand notices and held that no retrospective interest could be imposed in the absence of a valid and enforceable demand notice.

NCLAT upholds CCI's penalty on WhatsApp and Meta for abuse of dominance; modifies data-sharing remedy

The National Company Law Appellate Tribunal (“**NCLAT**”) vide its judgement dated [04.11.2025](#) upheld the CCI’s findings that WhatsApp LLC (“**WhatsApp**”) abused its dominant position in the OTT messaging market in India through its 2021 Privacy Policy update (“**2021 Policy**”) and that Meta Platforms Inc. (“**Meta**”) (its parent company) engaged in conduct resulting in denial of market access in the online display advertising market. However, the NCLAT set aside the finding of leveraging claim i.e.,



WhatsApp leveraged its dominance to benefit Meta by sharing WhatsApp data with Meta under Section 4(2)(e) of the Competition Act and the five-year ban on data sharing for advertising purposes.

The NCLAT ruled that WhatsApp imposed unfair conditions on users by mandating acceptance of expanded data-sharing terms with Meta without any opt-out option. It held that the 2021 Policy was coercive, lacked transparency, and degraded user privacy, a valid non-price parameter of competition for competition assessment and that competition and data protection frameworks can apply simultaneously. The NCLAT found that WhatsApp's dominance, network effects, and lack of interoperability left users with no real alternative, rendering consent illusory. The NCLAT also noted that the 2021 Policy removed the opt-out mechanism available under the 2016 Policy and discriminated against Indian users vis-à-vis European Union users.

Further, the NCLAT upheld the CCI's finding that Meta's use of WhatsApp user data created entry barriers in the online display advertising market, amounting to denial of market access under Section 4(2)(c) of the Competition Act. It noted that Meta's advertising impressions and revenue far exceeded those of its competitors, and that data integration across Meta's platforms gave it a self-reinforcing competitive advantage. However, the NCLAT did not sustain the finding of leveraging under Section 4(2)(e) of the Competition Act, citing the legal separation between WhatsApp and Meta, despite acknowledging Meta's 100% control and operational integration. The NCLAT ultimately endorsed the CCI's qualitative effects analysis noting that CCI is not required to demonstrate actual effects and can arrive at abuse of dominance position based on likely effect.

The NCLAT upheld the penalty of approximately INR 213 crores amount imposed by the CCI. It also upheld the behavioral remedies, requiring WhatsApp to provide opt-out options, detailed disclosures, and user control over data sharing. However, it set aside the five-year ban on data sharing for advertising purposes as it would become redundant after opt-outs were given, holding it disproportionate, irrational and unsupported.

NCLAT dismisses appeal against CCI's closure of investigation into Vifor International AG's conduct in FCM injectable market

The National Company Law Appellate Tribunal ("NCLAT"), vide its judgment dated [30.10.2025](#), dismissed the appeal filed by Mr. Swapan Dey ("Appellant") challenging the CCI's order dated 25.10.2022 passed under Section 26(2) of the Competition Act. The Appellant had alleged that Vifor International AG ("Vifor"), a Swiss pharmaceutical company, engaged in anti-competitive conduct and abused its dominance in the market for Ferric Carboxymaltose ("FCM") injectables used to treat Iron Deficiency Anaemia, and rendered the product inaccessible and unaffordable.

The Appellant alleged that Vifor, through *de facto* exclusive licensing agreements with Emcure and Lupin, foreclosed competition in the Indian market for FCM. It was alleged that Vifor's refusal to deal with other Indian manufacturers such as West Bengal Chemical Industries Ltd., which sought a voluntary license was claimed to restrict both price and non-price competition across the pharmaceutical supply chain.



Further, it was contended that Vifor abused its dominant position in the FCM market by selectively licensing to only two manufacturers. It was alleged that such conduct restricted production and supply, sustained high demand, and enabled excessive pricing, thereby violating Section 4(2)(b)(i) of the Competition Act through market foreclosure and limitation of access to affordable treatment.

After considering the above and examining licensing agreements between Vifor and Indian companies (Emcure and Lupin), CCI found no *prima facie* evidence of contravention under Sections 3(4) and 4 of the Competition Act. The CCI noted that the agreements were not one-sided, did not restrict competition, and were of limited duration. The CCI also observed that Vifor had no control over pricing and that its patent on FCM expired in October 2023, making the product freely exploitable.

The NCLAT upheld the CCI's findings and emphasized that the Patent Act prevails over the Competition Act in cases involving exercise of patent rights. It relied on jurisdictional practice, which affirmed that CCI lacks jurisdiction over matters governed by the Patent Act. The NCLAT further noted that the Appellant failed to demonstrate any exclusionary conduct or market foreclosure resulting from Vifor's licensing arrangements. It held that the mere existence of limited licensees or price differentiation does not amount to abuse of dominance, especially in the absence of barriers to entry or evidence of denial of market access.

Additionally, the NCLAT clarified that the Competition Act does not override the rights conferred under the Patents Act, and that reasonable conditions imposed by a patentee for protecting its intellectual property are exempt under Section 3(5) of the Competition Act.

Consequently, the NCLAT held that there was no merit in the appeal and dismissed it.

CCI dismisses allegation of abuse of dominance against Nestle India Ltd.

The CCI, vide its order dated [07.10.2025](#), dismissed allegations filed by Mr. Sarvesh M. Kolumbar (“**Informant**”) of abusive conduct against M/s Nestle India Ltd (“**Nestle**”). The Informant alleged that Nestle's Bicholim, Goa factory used dirty water from an under-construction site in the production of Maggi Sauce and misled consumers through false labeling, thereby violating Section 4 of the Competition Act, 2002 (“**Competition Act**”).

The Informant also sought interim relief under Section 33 of the Competition Act. However, after examining the evidence, the CCI noted that the allegations related to violations of food safety and health standards and not competition law issues. The CCI further clarifies that issues pertaining to food safety, hygiene, and product labelling fall under the jurisdiction of the Food Safety and Standards Authority of India (“**FSSAI**”) and not the CCI.

Consequently, the CCI closed the case under Section 26(2) of the Competition Act.



CCI dismisses allegation of abuse of dominance against Bharat Sanchar Nigam Ltd.

The CCI, vide its order dated [07.10.2025](#), dismissed allegations filed by M/s C.C.L. Optoelectronics Pvt. Ltd. (“**Informant**”) against Bharat Sanchar Nigam Ltd. (“**BSNL**”). The Informant alleged that BSNL had abused its dominant position by imposing contradictory and discriminatory tender conditions, disqualifying the Informant unfairly, and favoring selected bidders in a tender for the supply of Splice Closure for Optical Fiber Cables, in violation of Section 4 of the Competition Act.

After examining the matter, the CCI delineated the relevant market as the ‘*Market for Telecommunication Services in India*’ and found that BSNL held only a 2.09% market share, while other players like Reliance Jio, Bharti Airtel, and Vodafone-Idea had significantly higher shares. Therefore, CCI found that BSNL was not dominant in the relevant market.

The CCI further noted that the Informant was disqualified from the tender due to non-fulfilment of past performance criteria, not due to any unfair or discriminatory practice, and that the issues raised primarily related to tender terms and procurement policies, not competition law violations.

Consequently, the CCI closed the case under Section 26(2) of the Competition Act.

Intra-Group acquisitions exempt despite change in control

The CCI on [08.09.2025](#) exempted the proposed intra-group acquisition of 1.64% equity in Lenskart Solutions Limited (“**Lenskart**”) and certain shareholding in Care Health Insurance Limited (“**Care**”) by Kedaara II Continuation Fund (“**Acquirer**”) from other Kedaara Group entities, under Rule 3 of the Competition (Criteria of Exemption of Combination) Rules, 2024.

The transactions involved transfer of existing shareholding within the Kedaara Group. The Acquirer clarified that no new rights or change in control would arise from the transactions, and the Kedaara Group would continue to exercise control over both Lenskart and Care.

Although the Acquirer initially filed the notice as a matter of technical compliance, the CCI held that “literal interpretation in terms of acquisition of “additional shares” being eligible for exemption and absence of “incremental shareholding” (which is definitely at a lower pedestal) not being eligible for exemption is inconsistent with the scheme and spirit of the Act and Exemption Rules and would, therefore, lead to an apparent fallacy in situations where all the conditions contained in Rule 3 are otherwise fulfilled. Considering the aforesaid, the CCI observed that the Lenskart Transaction and Care Transaction are eligible for exemption under Rule 3 of the Exemption Rules and accordingly do not require notice to the Commission under Section 6(2) of the Act”.



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 2025. All rights reserved.

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