

New bill to expand scope of anti-competitive accords

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- **Amendments are expected to revamp administrative framework of CCI for greater efficiency.**

NEW DELHI : The Competition Amendment Bill, 2022 is set to give more teeth to the watchdog Competition Commission of India (CCI) by correcting some of the new age market practices that could stifle competition and have been subject of the regulator's investigations in the past.

As part of the revamp of the competition law and the regulatory framework, the proposed Bill is set to expand the scope of prohibited anti-competitive agreements to cover new age marketing arrangements which do not squarely fit into conventional supply chain arrangements for which explicit regulatory provisions are given in the law, said a person familiar with the discussions in the government.

The idea is to make competition regulation more inclusive taking into account the development of the economy over the last two decades which has also seen strong growth in internet-led businesses. The Bill is scheduled to be tabled in the current session of Parliament.

One of the proposals is to specify certain kinds of agreements among businesses which are described by competition watchdogs as a 'hub-and-spokes' model, where price-sensitive information may be shared through a platform among competing parties.

This type of alleged anti-competitive agreement among parties has been the subject of disputes in India in sectors like online cab aggregation. The Bill is expected to bring more clarity to section 3 of the Competition Act that deals with prohibited agreements among businesses, the person quoted above said on condition of anonymity.

At present, prohibited anti-competitive agreements fall in the class of those among parties in the same line of business or those at different stages of production or supply. Further clarifications are expected make competition regulation foolproof.

The digital economy and growth of the services industry have led to a more inter-connected market with a heavy dose of technology in many sectors, warranting a revamp of the competition law.

In addition, the definition of consumers is likely to be amended to specifically include government agencies making procurement. The Bill is also expected to bring more global best practices into Indian law.

The amendments are also expected to revamp the administrative framework of CCI for greater efficiency and subsume the office of the Director General who investigates cases within CCI.

Making Corporate India Comply

The competition regulator has so far taken strong action in the case of cartels in sectors like shipping, cement, tyre manufacturing and beer production, and against anti-competitive pricing policies of some car manufacturers and several cases of bid rigging.

In the case of cartels, it offers a policy of leniency where a member of the cartel makes full disclosures and cooperates in the investigation.

An email sent to the corporate affairs ministry spokesperson and to CCI on Sunday seeking comments for the story remained unanswered.

In a 2020 study, CCI had flagged key issues that influence competition in e-commerce including the practice of platforms' own private labels threatening the neutrality of an online platform by competing with other market players. This is believed to compromise the role of the online platform as a neutral market intermediary. The other key competition concerns flagged by CCI relate to the terms of contracts between online platforms and listed individual sellers, deep discounts by platforms, exclusive sales arrangements between some brands and platforms, and platforms not sharing customer insights with the listed businesses.