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DSK Legal Knowledge Center

Updates on

- Competition Law

COMPETITION LAW

A. Coming into effect of certain provisions of the Competition Act, 2002

The Central Government has issued two notifications¹, both dated May 15, 2009, which made the majority of the provisions of the Competition Act, 2002 (“Act”) effective from May 20, 2009. The provisions, which came into force from May 20, inter-alia, include section 3 (relating to anti-competitive agreements) and section 4 (abuse of dominant position) of the Act.

¹ Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), No. 771 and 772

Section 5 of the Act and other related sections which deal with combinations of companies, including certain mergers and acquisitions (as defined in the Act) are yet to come into force.

The Central Government has mentioned in its Press Release dated May 20, 2009 that it has notified the establishment of Competition Appellate Tribunal (“CAT”) which will be headed by Dr. Justice Arijit Pasayat, Judge (Retd.), Supreme Court of India. The CAT will deal with the appeals against the decisions of the Competition Commission of India and also adjudicate on compensation claims.

For more information please refer to

<http://pib.nic.in/release/release.asp?relid=48797>

B. CCI Regulations

The Competition Commission of India (“CCI”) have recently issued the following three regulations (i) The Competition Commission of India (Procedure for Engagement of Experts and Professionals) Regulations, 2009² (“Engagement Regulations”); (ii) The Competition Commission of India (General) Regulations, 2009³ (“General Regulations”); and (iii) The Competition Commission of India (Meeting for Transaction of Business) Regulations, 2009⁴ (“Meeting Regulations”). The Engagement Regulations have come into effect from May 15, 2009 and the General Regulations and the Meeting Regulations from May 22, 2009.

The Engagement Regulations authorize the CCI to engage personnel who are experts in the fields of economics, law, business or such other disciplines related to competition, as it may deem fit, for the discharge of its function under the Act.⁵

² No.1 of 2009

³ No. 2 of 2009

⁴ No. 3 of 2009

⁵ Regulations 3 and 4, The Competition Commission of India (Procedure for Engagement of Experts and Professionals) Regulations, 2009

The General Regulations lay down the general provisions for the functioning of the CCI including, among other things, the language to be used by the CCI, CCI’s power to lay down procedures in certain circumstances, scrutiny of information received from different sources, issuance of direction to cause investigation on prima facie cases, service of notices, permitting a person or enterprise to take part in proceedings and to strike out unnecessary parties from any proceeding.

The Meeting Regulations provide the procedures to conduct the meetings of CCI, either ordinary or special, and to determine the procedure for situations not provided for in the Meeting Regulations⁶.

For more information please refer to

http://www.cci.gov.in/index.php?option=com_content&task=view&id=62

⁶ Regulation 4, The Competition Commission of India (Meeting for Transaction of Business) Regulations, 2009

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