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CCI ENTERS MEMORANDUM ON CO-OPERATION WITH JAPANESE ANTITRUST REGULATOR

12 July 2021

Background

On 8 July 2021, the Union Cabinet of India approved the Memorandum on Co-operation (MoC) between the Competition Commission of India (CCI) and Japan's competition agency, the Japan Fair Trade Commission (JFTC). The MoC aims to promote and strengthen co-operation in matters of competition law and policy.¹

The official statement issued by the Ministry of Corporate Affairs, Government of India (MCA) highlights that the MoC will enable the CCI to emulate and learn from the experiences and lessons of JFTC.

The MCA stated that the MoC will improve the CCI's enforcement of the Competition Act, 2002 (Act) and benefit consumers by promoting equity and inclusiveness. The MoC envisages enhancing co-operation through different avenues, including the exchange of information and capacity-building exercises in various fields such as technical co-operation, experience sharing, and enforcement co-operation.

Objectives of International Antitrust Co-operation

Competition authorities across the world are increasingly facing cross-border transactions, shared policy challenges, and international cartels². Pertinently, in the past, the CCI has dealt with several Japanese companies in both enforcement and merger-related matters. For instance, the CCI imposed a reduced penalty on two Japanese companies in 2019, pursuant to a leniency application disclosing price coordination, market allocation, and bid rigging in the electrical power steering systems market.³ Given this, co-operation between regulatory agencies of different countries is the need of the hour. MoCs have emerged as an important tool for co-operation and to enhance the enforcement of competition laws.

International co-operation agreements benefit both competition authorities and the entities subject to antitrust scrutiny. They reduce multiplicity of work and save human

¹ PIB Press Release dated 8 July 2021. See: [Link](#)

² OECD document on "Challenges of International Co-operation in Competition Law Enforcement". See: [Link](#)

³ *In Re: Cartelisation in the supply of Electric Power Steering Systems*, Order dated 9 August 2019 in *Suo Motu* Case No. 07 (01) of 2014.

and financial resources for regulatory agencies. Such arrangements also significantly reduce the risk of substantive or procedural conflicts in parallel investigations for companies. However, legislative differences and geopolitical barriers may limit the extent of such co-operation.

The International Competition Network (ICN), a specialised yet informal platform for competition authorities to maintain regular contact and address practical competition concerns, is a notable example of international antitrust co-operation.

[International Antitrust Co-operation and the CCI](#)

To give logical effect to the “*effects doctrine*” enshrined in Section 32 of the Act, Section 18 of the Act empowers the CCI to enter such arrangements with foreign antitrust agencies.⁴

The CCI has entered MoCs with competition authorities of several jurisdictions, including Europe, the U.S.A., China, Canada⁵, Australia, Russia, Brazil, and South Africa.⁶ In fact, the CCI has interacted with foreign antitrust regulators while dealing with global transactions including the Dow Chemical-Dupont, Holcim-Lafarge, Bayer-Monsanto, and Linde-Praxair mergers.⁷

The CCI also has, on many occasions, acknowledged the importance and advantages of international co-operation.⁸ In a 2020 ICN conference, the CCI’s Chairperson recognised the need for international co-operation and information sharing with other jurisdictions to deal with both enforcement and merger cases, especially in cases involving digital markets.⁹ The Chairperson indicated that the CCI would seek to work with its international counterparts through forums like ICN and share best practices.

[Conclusion](#)

With this MoC, the CCI has further enhanced its ability to accurately assess global mergers and detect and prohibit global cartels. Interestingly, the MoC follows the recent escalation in the CCI’s scrutiny of digital market issues, which typically involves cross-border issues. The arrangement is expected to strengthen the relationship between India and Japan and help the countries’ antitrust regulators collaborate more effectively to develop sound competition law jurisprudence.

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⁴ Section 18, Competition Act, 2002.

⁵ Memorandum of Understanding between the Commissioner of Competition, Competition Bureau Canada and the CCI on cooperation in application of competition laws. See: [Link](#)

⁶ The CCI’s website lists out MoCs entered with antitrust authorities of different jurisdictions. See: [Link](#)

⁷ Quarterly Newsletter of the CCI, Volume 34, July-September 2020. See: [Link](#)

⁸ 5th BRICS International Competition Conference, Plenary Session (9 November 2017), International Cooperation and Competition Policy. See: [Link](#)

⁹ *Supra* at 7.