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Commission of India:
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Ananya Gaur

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I. INTRODUCTION

Penalties/fines are an important element of a competition jurisdiction's toolkit, even when criminal sanctions are present. The purpose of imposing penalties is generally either deterrence or retribution.² They may play a critical role in deterring anticompetitive conduct particularly in countries with limited personal liability for participating in a cartel, lack of prison terms for cartel organizers, and/or limited ability of affected third parties to collect damages.³ They may also act as an instrument for society to publicly express denunciation of an action as being wrong, besides educating the public at large that it is not an acceptable behavior under the law. Globally, over the last 25 years, the size of penalties/fines for competition law violations has increased substantially.⁴

Penalties are a deterrent because the possibility of a penalty enters into the calculus of enterprises considering violating the law. Competition authorities commonly face the challenge of how to ensure that penalties have a true deterrent effect. On the one hand, they should be large enough to ensure that the expected penalty for a violation is greater than the gain. The expected cost of punishment depends critically on the value of the penalty reduced for the probability of paying the fine, based on both detection and ultimate determination of a legal violation meriting that penalty. On the other hand, over-deterrence cannot be overlooked because many enterprises subject to penalty could face financial difficulties, which would be an economic policy concern if they reduced the number of competitors, the vigor of competition, or had substantial negative social and economic consequences.⁵

It is imperative that there be a certain basis for determination of penalties with the link between penalties and conduct being visible. The need for this is twofold—first, it will force the businesses to do a cost benefit analysis before violating the law; and second, it will reduce scope for arbitrariness as there will be less discretion in terms of determining the quantum of penalties, thus providing a much-required certainty to the law. This article discusses penalties imposed by the Competition Commission of India, the lack of objective criterion underlying them, and argues for the need for penalty guidelines towards the goals of deterring and punishing competition law violations.

¹ Ananya Gaur has recently graduated from National Law School University of India ("NLSUI"), Bangalore.

² H.L.A. HART, PUNISHMENT AND RESPONSIBILITY, 236 (1968).

³ OECD, *Criteria for Setting Fines for Competition Law Infringements*, Background paper, Latin American Competition Forum, 28-Aug-2013, at 7 (2013), available at DAF/COMP/LACF (2013)4/REV1.

⁴ *Id.*, at 5.

⁵ *Id.*, at 6.

II. IMPOSITION OF PENALTIES BY CCI

There are no criminal provisions in the Competition Act 2002⁶ (“Act”), but the Act empowers the Competition Commission of India (“CCI”) to impose substantial penalties for infringement of sections 3 (prohibiting anticompetitive agreements) & 4 (prohibiting abuse of dominant position) of the Competition Act. As per section 27 (b) of the Act, the CCI may impose such penalty upon the contravening parties, as it may deem fit, subject to a cap of 10 percent of turnover and, in case of cartels, three times of the profit of the erring enterprises.

Like most modern competition agencies, the CCI has a leniency program⁷ called the “Lesser Penalty” program, whereby an enterprise meeting certain conditions can provide evidence of an infringement, cooperate, and have a reduced/nil penalty. The CCI has wide discretion in imposing penalties as there are no guidelines other than the need to observe upper limits on penalty imposition as provided in the Act. However, discretion cannot be absolute or arbitrary and has to be exercised in a fair and reasonable manner.

The CCI has completed six years of active enforcement in May 2015 and established a reputation as a fair and impartial competition regulator. It has imposed penalties in several cases across a wide range of sectors such as real estate, pharmaceutical, stock exchange, coal, sports, entertainment, software, finance, etc. Initially, the CCI appeared a bit hesitant to impose stringent penalties but, gradually, it has started levying relatively higher penalties ranging up to 10 percent of the turnover of the erring enterprises. However, often the CCI’s orders say nothing about how it decides to levy different levels of penalty in various cases. To illustrate, penalties imposed by the CCI in key cases are briefly discussed below:

A. Cartel Cases

World over, cartels are considered the most serious violations of competition law and, therefore, the harshest penalties are generally imposed upon cartel members, and the Indian Competition law presents no exception. However, in the case of *Multiplex Association of India v. United Producers*⁸ as well as *Uniglobe Mod Travels Pvt. Limited v. Travel Agents’ Association of India*,⁹ a fine of only about INR¹⁰ 0.10 million each was imposed on the cartel members. The imposition of what can only be called “symbolic” penalties by the CCI in these cases goes against the commonly accepted view that cartelization, being one of the most serious offenses, should be punished heavily.

And in a ruling on cement cartels,¹¹ using the profitability benchmark for the first time, the CCI imposed a collective penalty of more than INR 60 billion on several cement manufacturers at the rate of 0.5 times of their profits—way below the benchmark of three times

⁶ Available at <http://www.cci.gov.in>.

⁷ The Competition Commission (Lesser Penalties) Regulations, 2009 available at <http://www.cci.gov.in>.

⁸ *Multiplex Association of India v. United Producers*, 01/2009, Order dated 25.05.2011.

⁹ *Uniglobe Mod Travels Pvt. Limited v. Travel Agents’ Association of India*, 03/2009, Order dated 04.10.2011.

¹⁰ INR refers to Indian Rupees.

¹¹ *Builders Association of India v Cement Manufacturers Association of India & Ors*, 29/2010, Order dated 20.06.2012.

of profit provided under the Act. It is noteworthy that cement cartels have been heavily penalized by many competition authorities world over.¹²

In other instances, in *suo moto case against aluminium phosphide tablets manufacturers*,¹³ the CCI imposed a penalty at nine percent of turnover on the grounds of price-fixing. The CCI imposed penalties ranging from eight-to-ten percent of their receipts (proxy for turnover) in several cases against chemist and drug associations in various parts of country for price-fixing and controlling the market.¹⁴ These penalties have been criticized for being grossly inadequate (as the receipts largely comprised their membership fees only), and not being levied on the turnover of the members constituting the association.¹⁵

In all these cases, the basis for penalty imposition was not discussed.

B. Abuse of Dominance Cases

The CCI has imposed penalties for abuse of dominance in many cases. Some of the landmark cases are *MCX Stock Exchange v. NSE and Others*,¹⁶ *Kapoor Glass Private Limited vs. Schott Glass Private Limited*,¹⁷ *Belaire Owner's Association v. DLF Limited*,¹⁸ *Surinder Singh Barmi v Board of Control of for Cricket in India*,¹⁹ and *Maharashtra State Power Generation Company Ltd. V. Coal India Ltd.*,²⁰ in which the CCI imposed penalties of five percent, four percent, seven percent, six percent, and three percent of turnover respectively. However, there was practically no discussion about the basis of imposition of different levels of penalty for the same violation, i.e. abuse of dominance.²¹

In the case of *Ramakant Kini v. Hiranandani Hospital Mumbai*,²² the CCI held that maternity services, being a part of the overall services provided by the hospital, provided a “mitigating factor” and imposed only four percent of the turnover as penalty. In the case of *Shamsher Kataria v. Honda Siel & Others*,²³ the Commission penalized 14 Car Companies for abuse of dominant position²⁴ at two percent of their turnover after briefly touching upon some aggravating and mitigating factors.

¹² Mehta Pradeep, *Need for a realistic penalty regime*, FIN. EXPRESS (March 29, 2013).

¹³ Case 02/2011. Order dated 23/04/2012.

¹⁴ For example, *Santuka Associates Pvt. Ltd v. All India Organisation of Chemists and Druggists, (AIOCD)*, 20/2011, Order dated 19.02.2013 and *Rohit Medical Store v Macleods Pharmaceuticals Limited*, 78/2012, Order dated 29/01/2015.

¹⁵ Mehta Pradeep, *Need for a realistic penalty regime*, FIN. EXPRESS (March 29, 2013).

¹⁶ *MCX Stock Exchange v. NSE and Others*, 13/2009, Order dated 23.06.2011.

¹⁷ *Kapoor Glass Private Limited v. Schott Glass India Private Limited*, 22/2010, Order dated 29/03/2012.

¹⁸ *Belaire Owner's Association v. DLF Limited*, 19/2010. Order dated 03.01.2013. Penalty of INR 6.3 billion was imposed.

¹⁹ *Surinder Singh Barmi vs Board for Control of Cricket in India (BCCI)*, 61/2010, Order dated 08.02.2013.

²⁰ *Maharashtra State Power Generation Company Ltd. V. Coal India Ltd.*, 03/2012. Order dated 09.12.2013.

²¹ Only in the BCCI order; the CCI stated that order was commensurate in view of BCCI's contribution to cricket in the country.

²² *Ramakant Kini v. Hiranandani Hospital*, 39/2012, Order dated 05/02/2014.

²³ *Shamsher Kataria v. Honda Siel & Others*, 3/2011, Order dated 25/08/2014.

²⁴ Also for violation of Section 3 (4) relating to vertical anticompetitive agreements.

Even though the CCI should be commended for discussing these factors (even though briefly) in these cases in the context of imposing penalties,²⁵ the question arises why such factors are not considered across the board, discussed, and applied appropriately.

III. PENALTY IMPOSITION IN KEY JURISDICTIONS (UNITED STATES AND EUROPEAN UNION): ROLE OF GUIDELINES

The question of how to set penalties/fines is one that many jurisdictions have addressed; the answers chosen affect incentives of both companies and their personnel to comply with competition law. Many jurisdictions across the world have developed transparent guidelines for fines after being questioned by the courts or facing widespread criticism. For instance, fine calculation in the European Union had been criticized as being vague and nebulous and compared to a lottery system; the European Union responded by introducing Guidelines on fines in 1998.²⁶

With more than 120 competition law jurisdictions, there are many ways in which penalty regimes can vary around the world. However, fining regimes in most jurisdictions are relatively transparent and predictable, yielding fines that are in some sense proportionate to the gravity of the infringement. Two jurisdictions dominant in terms of their effects on global commerce—the United States²⁷ and the European Union²⁸—calculate penalties according to a set of objective parameters with a view to providing strong deterrence. They follow a two-stage procedure comprising of: a) determination of a basic penalty reflecting the overall gravity of the offense, and b) adjusting it upwards or downwards after evaluating aggravating and mitigating factors. Many other jurisdictions have such guidelines with variations.²⁹ They prescribe a set of objective parameters to calculate penalties for the infringement of competition law.

Penalty guidelines form rules of practice from which the competition authorities/courts may generally not depart in an individual case without giving reasons that are compatible with the principles of equal treatment. These authorities exercise their discretion within the framework specified in the penalty guidelines and by taking account of mitigating and aggravating factors. Commonly applied aggravating factors include repeated infringement, ring leading/instigating/coercing, infringement continuing after the investigation, non-cooperation during investigation, and so on. Mitigating factors include effective cooperation, immediate termination of the infringement, acceptance of responsibility, limited participation, cooperation in the investigation, and so on. The guidelines provide transparency and some degree of predictability to the penalties, which may contribute both to the deterrence and desired behavior by the undertakings.

²⁵ The order doesn't explain how the arbitrary figure of two percent was arrived at.

²⁶ Mody Zia, *The Competition Commission of India's Approach to Penalties: The Need for Guidelines* (October 3, 2012), available at <http://xbma.org/forum/indian-update-the-competition-commission-ofindias-approach-to-penalties-the-need-for-guidelines/>.

²⁷ Penalty amount for violations under Section 1, Sherman Act is arrived at by referring to the United States Sentencing Guidelines Manual and the Antitrust Criminal Penalty Enhancement & Reform Act, 2004 ("ACPERA").

²⁸ Sentencing guidelines of 1998 were revised in 2006.

²⁹ *Setting of fines for Cartel in ICN Jurisdictions* by International Competition Network Cartel Working group, (April, 2008).

IV. NEED FOR PENALTY GUIDELINES FOR CCI

The discussion in section II indicates that there does not appear to be any logical pattern in the levy of penalties by the CCI, plus these do not seem to follow the global trend of penalizing cartels heavily, and they seem arbitrary. Generally, there is a lack of any discussion on how the penalties have been arrived at, thereby leaving no grounds for challenging the order except for arbitrariness. Only recently, in some of their orders, has the CCI briefly discussed factors influencing the imposition of penalty, but without indicating how the specific figure of penalty has been calculated.

In the absence of any guidelines, businesses have to fall back on orders previously passed by the CCI. However, even in similar cases, penalty decisions may be different, underlining the lack of objective criterion in their calculation. A broad assertion by the CCI that the penalties have been fixed taking into account the facts and circumstances of the case cannot be said to meet the requirement of a fair and reasonable exercise of discretionary powers.³⁰ With predictable penalties, an enterprise knows in advance the likely penalty and hence the gravity of any illegal conduct. Uncertainty in the imposition of penalty by the CCI has left enterprises and legal experts confused. As discussed in section III, this is in contrast to the global trend of having well -defined transparent guidelines for imposing penalties and has been criticized by stakeholders and commentators.

An increasing body of research suggests that penalties may be inadequate to deter cartel conduct.³¹ However, the existence of substantial penalties may contribute to an instability of the cartel conduct by increasing the likelihood of leniency applications. In India, despite CCI's leniency regulations being in place for more than five years, there have been hardly any publicized instances of the use of the leniency provisions. One possible reason as to why leniency pleas have yet to gather momentum could be the significant discretion vested with the CCI in deciding whether to grant leniency to an applicant.

However, the lack of leniency pleas may also be grounded in cartel members simply considering the risk of detection being low, as well as the matrix of expected profits vis-a-vis penalties to be imposed being attractive due to low penalties imposed by the CCI in cartel cases. This may be indicative of the relative ineffectiveness of penalties imposed in cartel cases in India. Effective amnesty /leniency programs have played a big role in increased cartel enforcement in EU, U.S., and other jurisdictions.

Enterprises and individuals are not deterred from participating in cartel activities unless the potential penalties for engaging in cartels outweigh the potential awards. Thus, in term of a "carrot and stick" approach, the likely heavy penalties work as the "stick" while the opportunity to avoid the sanction by coming forward and co-operating means the "carrot" If the CCI is not able to impose heavy penalties on cartels as provided in the Act in an objective manner, it would be difficult to fulfill the objective of curbing the menace of cartels in India.

³⁰ Zia, *supra* note 26.

³¹ OECD, *supra* note 3 at 6.

The current approach of penalty imposition by the CCI may perhaps end up defeating the purpose of why the Competition Act provides for levying penalties.³² First, a lack of guiding principles for quantifying the penalty amount may lead to arbitrary penalties. Second, orders that impose high penalties and do not contain a description of how the penalty amount has been determined are bound to be litigated before the COMPAT or the Supreme Court of India. Third, if the penalty is not commensurate with the magnitude of the offense, it would not have the desired deterrent effect. However, it should be noted that an excessive and disproportionate levy of penalty may end up providing undue and unfair advantage to the infringing parties' competitors. In the long-run, such penalizing practices may prove ineffective or chill competition rather than protect and promote competition.

The CCI's orders have also been criticized by the Competition Appellate Tribunal ("COMPAT") before which CCI's decisions are challenged. In the *Aluminium Phosphides Tablets*³³ case, while upholding the CCI's decision regarding contravention, the COMPAT came down heavily on the CCI and stated that "Time and again we have been reiterating the necessity of the [CCI providing] reasons while ordering the penalty," COMPAT further stated, "There can be no dispute that where harsh financial penalties are inflicted, the reasons become all the more necessary." The COMPAT advised CCI³⁴ to look at the factors such as financial health of the company, the necessity of the product, the likelihood of the company being closed down due to a harsh penalty, and the general reputation of the company.

In the *LPG cylinder* case,³⁵ the COMPAT upheld the CCI's order³⁶ about violation but noted, "We also do not find any reason why the CCI has chosen to inflict the penalty at 7%." COMPAT further noted, "In the absence of reason, the discretion tends to become arbitrary" and returned the matter back to CCI to re-determine the penalties.

Further, while COMPAT has been accepting appeals and applications for interim stays, it is doing so on the precondition of payment of a significant portion of the penalty amount.³⁷ Going a step further, last year the Supreme Court directed DLF, a real estate player, to deposit the full amount of the INR 6.3 billion penalty imposed by CCI for the duration of the appeal proceedings. Given COMPAT's reluctance to grant an unconditional stay on the payment of penalty, the Supreme Court's order to deposit the entire penalty during the process of appeal has brought to the fore the issue of penalty imposition using objective parameters.

When questioned in a TV interview on February 18, 2013, Ashok Chawla, Chairman, CCI, stated,³⁸ "We have taken a conscious decision to build on some more cases before

³² Zia, *supra* note 26.

³³ Order of COMPAT in Appeal no. 79 of 2012 against the order dated 23.4.2012 passed by the CCI in Case No. 2/2011, p47.

³⁴ *Id.*, at 50.

³⁵ Suo-moto case against LPG Cylinder Manufacturers, 03/2011.

³⁶ COMPAT order dated 20.12.2013, *available at* http://compat.nic.in/upload/PDFs/decordersApp2013/20_12_13.pdf.

³⁷ May be in the 10 to 25 percent range.

³⁸ Competition Commission of India Chairperson Ashok Chawla on CNBC-TV18, *available at* http://www.moneycontrol.com/news/business/will-formulate-transparent-penalty-system-soon-cci_827151.html.

establishing an architecture that will ensure transparency in the broad principles or guidelines for imposition of penalty.” However, the analysis above brings out the dire need for penalty guidelines in the Indian competition law regime, which should spell out why and how the CCI arrives at the quantum of penalty and the premise for the exercise of its discretion.

With somewhat predictable penalties, an enterprise will know in advance the likely penalties and hence the gravity of its action before committing any anticompetitive conduct. Further, some degree of predictability of penalties may be essential to provide appropriate incentives for enterprises to cooperate with the authorities³⁹ as the estimated penalty is a key factor in their cooperation decision. Therefore, it is high time that the CCI bring its penalizing practices in line with its mandate of deterring anticompetitive practices.

V. PROPOSED PENALTY GUIDELINES FOR CCI

The above section has demonstrated a dire need for CCI to adopt penalty guidelines for efficient competition enforcement. Speaking at an international conference organized by the American Bar Association at Delhi on November 30, 2012, Ashok Chawla, Chairman, CCI, stated⁴⁰ that the CCI has the “last mover advantage.” This implies that one can learn and adapt from experiences and practices followed in other jurisdictions, rather than create them from one’s own experience.⁴¹ It is high time that CCI looks at penalty guidelines of other jurisdictions such as European Union and adopts what is suitable in view of the provisions of Indian competition law and other relevant factors. These guidelines should, *inter-alia*, address the following issues:

A. Relationship Between Penalties and Conduct

This relationship should be clearly visible and penalties should be proportionate to the severity of infringement. COMPAT has also emphasized⁴², “...there should be proportionality in the award of penalty ... Supreme Court has time and again relied on the doctrine of proportionality while at the same time emphasizing on the aspect of deterrence.” The guidelines should also allow for predictability (knowing in advance the gravity of unlawful conduct and the likely penalty) in order to enhance deterrence effect as well as promote leniency applications before CCI.

B. Basis of Calculation of Base Penalties

The term “turnover” is of great significance for the imposition of a penalty under section 27(b) and its interpretation is essential as to whether it means turnover of relevant product in the relevant market or the whole turnover of the company. The term “turnover” under section 2(y) of the Act includes “value of sale of goods or services” and it has not been correlated anywhere in the Act with “relevant market” or “relevant geographic market.” Therefore, the legislative intention of the term “turnover” defined in u/s 2(y) requires the literal meaning, i.e. the turnover

³⁹ International Competition Network Cartel Working group (2008), *Setting of fines for Cartel in ICN Jurisdictions*, available at <http://www.internationalcompetitionnetwork.org/uploads/library/doc351.pdf>.

⁴⁰ Pradeep, *supra* note 12.

⁴¹ *Id.*

⁴² P. 50 of the COMPAT order in Aluminium Phosphide Tablets case.

recorded in the financial books of a person or enterprise or a member of cartel is the turnover on which the penalty u/s 27(b) is to be calculated.

Accordingly, the CCI has based its penalty calculation on total turnover of the infringing parties in its various orders, which has evoked criticism. For example, the order against the Cricket Control Board has been criticized on the ground that the penalty should have been imposed on the revenues earned from the IPL tournament rather than the BCCI's total turnover.

In its landmark judgment in the *Aluminium Phosphides Tablets*⁴³ case, the COMPAT stated that while deciding penalties, the CCI should consider the relevant turnover, i.e., turnover of only the product involved in the infringement; not the turnover of the entire multi-product enterprise. The Commission has challenged the COMPAT decision in the Supreme Court of India as the relevant product is not defined in the Act.

The Indian Act provision of imposing a penalty up to 10 percent of total turnover is similar to the 10 percent of total turnover provided in the European Union and the United Kingdom. These jurisdictions use turnover of the commerce affected by the infringement for determining base penalties and then use mitigating and aggravating factors to adjust the penalty; the final figure is then subject to a cap of 10 percent of total turnover. The CCI may also consider addressing the issue of using the appropriate form of turnover for penalty determination by adopting a similar approach and developing penalty guidelines based on relevant turnover as well as other factors subject to penalty being limited to 10 percent of total turnover.

C. Aggravating and Mitigating Factors

The guidelines should also incorporate aggravating factors to increase the penalties as well as mitigating factors to reduce penalties. The COMPAT has also emphasized this aspect in its orders⁴⁴ and suggested that, in this regard, EU and OFT⁴⁵ Guidelines would be relevant. These factors have been briefly discussed in the section IV above.

The CCI could consider adopting additional aggravating and mitigating factors. For example, competition compliance may be used as a mitigating factor.⁴⁶ Many jurisdictions such as France⁴⁷ reduce penalties keeping in view the quality of a competition compliance program, a major instrument at the disposal of companies to prevent competition law infringements. As compliance programs are costly, to incentivize companies to invest in them the guidelines in India could include the existence of a "robust" compliance program as a mitigating factor.

⁴³ Case No. 2 of 2011.

⁴⁴ P. 50, COMPAT order in Aluminium Phosphide Tablets case as well as p. 62, COMPAT order in LPG Cylinders Case dated 20.12.2013.

⁴⁵ Office of Fair Trading, United Kingdom.

⁴⁶ Due to lack of clarity on their role as a mitigating factor in penalty imposition, and in view of high costs involved in developing the compliance programs, Indian corporates have been less than enthusiastic for compliance programs.

⁴⁷ The United States does not use it as a mitigating factor although it is provided in its guidelines. The European Union does not provide for competition compliance as a mitigating factor, but various commentators recommend its use as a mitigating factor.

The logic here is that Commission should be a watchdog, not a bloodhound; and should nudge companies towards compliance. This would link the advocacy and enforcement aspects of CCI's functions. This would also help companies minimize the possibility of committing infringements, reduce costs/negative effects of regulatory intervention and litigation, and avoid/mitigate the potential penalties. This was also recommended by the Confederation of Indian Industries ("CII") as part of its suggestions to the parliamentary standing committee on finance.

As it may not be clear to everyone what a "robust" compliance program⁴⁸ is, the Commission may adopt guidelines or at least some form of guidance on the measures that undertakings need to put in place for their compliance to be taken into account as a mitigating circumstance.⁴⁹

Keeping in view the above, like many jurisdictions the CCI may consider using a four-step process for setting the penalties for competition law infringement: 1) set the base penalty; 2) adjust the base penalty in light of aggravating or mitigating circumstance; 3) apply the cap as provided in the competition law to the resulting overall penalty; and 4) reduce or eliminate the penalty to account for a leniency application if any.

VI. CONCLUSION

Global experience indicates that imposition of penalties using a set of objective parameters is important for efficient competition law enforcement. The level of a penalty needs to be sufficiently high both to punish the enterprises involved and to deter others from practices that infringe the competition law. Although Indian competition law has been heavily inspired by the jurisprudence developed in the European Union and the United States, there is a surprising and inexplicable lack of such inspiration when it comes to determining penalties. This article has demonstrated how penalties imposed by the CCI are perceived as arbitrary and lacking a cogent framework for quantifying them; and argued for adoption of guidelines possibly on similar lines as in many other jurisdictions.

The COMPAT has also, time and again, emphasized the need to develop the guidelines for penalty imposition. Now that cases have started going to Supreme Court, the highest court in India, it is likely that very soon the Supreme Court may also start pointing this problem out in its orders. Therefore, it is vital that the CCI adopts clear and objective guidelines for penalty imposition at the earliest.

Predictable and transparent penalty regime may increase deterrence and promote leniency applications before the CCI. Further, having clear guidelines will help reduce the uncertainty and arbitrariness of penalties imposed, as well as lead to development of jurisprudence by providing scope for discussion on the factors relevant for determining the quantum of penalty. This will not only provide comfort to businesses by making the penalty regime relatively objective and predictable but also help CCI to emerge as an effective and

⁴⁸ J. Murphy & W. Kolasky, *The Role of Anti-Cartel Compliance Programs in Preventing Cartel Behavior*, 26(2) ANTITRUST, (Spring 2012). They suggest 20 features that an effective compliance program should have.

⁴⁹ Damien Geraldin, *Discussion Paper on the EU Competition Law Fining System: A Reassessment*, p. 25 (2011), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1937582.

credible regulator. In the long run, this will promote effective enforcement and competition compliance and help in the development of competitive markets in India with positive impacts on consumer welfare and economic growth.