

INTRODUCTION TO COMPETITION LAW

(Part 6 - Competition Compliance Programme)



भारतीय प्रतिस्पर्धा आयोग
Competition Commission of India

Preface

The Competition Commission of India (Commission) has been established under the Competition Act, 2002¹ (the Act) to prevent practices having adverse effect on competition, to promote and sustain competition in Indian markets, to protect the interests of consumers and to ensure freedom of trade carried on by other participants in markets, in India, and for matters connected therewith or incidental thereto. It is mandated, inter alia, to take suitable measures for the promotion of competition advocacy, creating awareness and imparting training about competition issues. It, therefore, pursues its objectives through two sets of instruments, namely, advocacy and enforcement targeted at enterprises. These measures are complementary and are expected to promote and ensure thereby freedom of trade by enterprises and consumer welfare to achieve 'fair competition for greater good'.

As a measure to promote competition advocacy, that is, to disseminate the message of competition law, promote competition culture and competition compliance, the Commission has proposed to maintain a panel of "Competition Resource Persons", to organise competition advocacy programmes for groups of stakeholders to supplement its own efforts on competition advocacy. In order to provide training to the selected Resource Persons and to equip them with adequate knowledge of competition law, the present study material has been prepared. This material will be used as advocacy material by the Resource Persons for educating the different stakeholders. This study material has been prepared for the benefit of the following stakeholders:

- Consumers, and Consumer Associations
- Trade/ Industry Associations
- Government Bodies
- Regulatory Bodies
- Compliance Professionals and Associations of Compliance Professionals

The study material is divided into six parts. The first part provides an overview of the Competition Law. The sixth part (this document) addresses the competition issues with respect to industries and enterprise with a focus on Competition Compliance. The other four parts contain information and understanding of the law from the perspective of the stakeholders. The first part is a general introduction, while the others are stakeholder specific.

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Edited and prepared by Advocacy Division with inputs from other divisions.²

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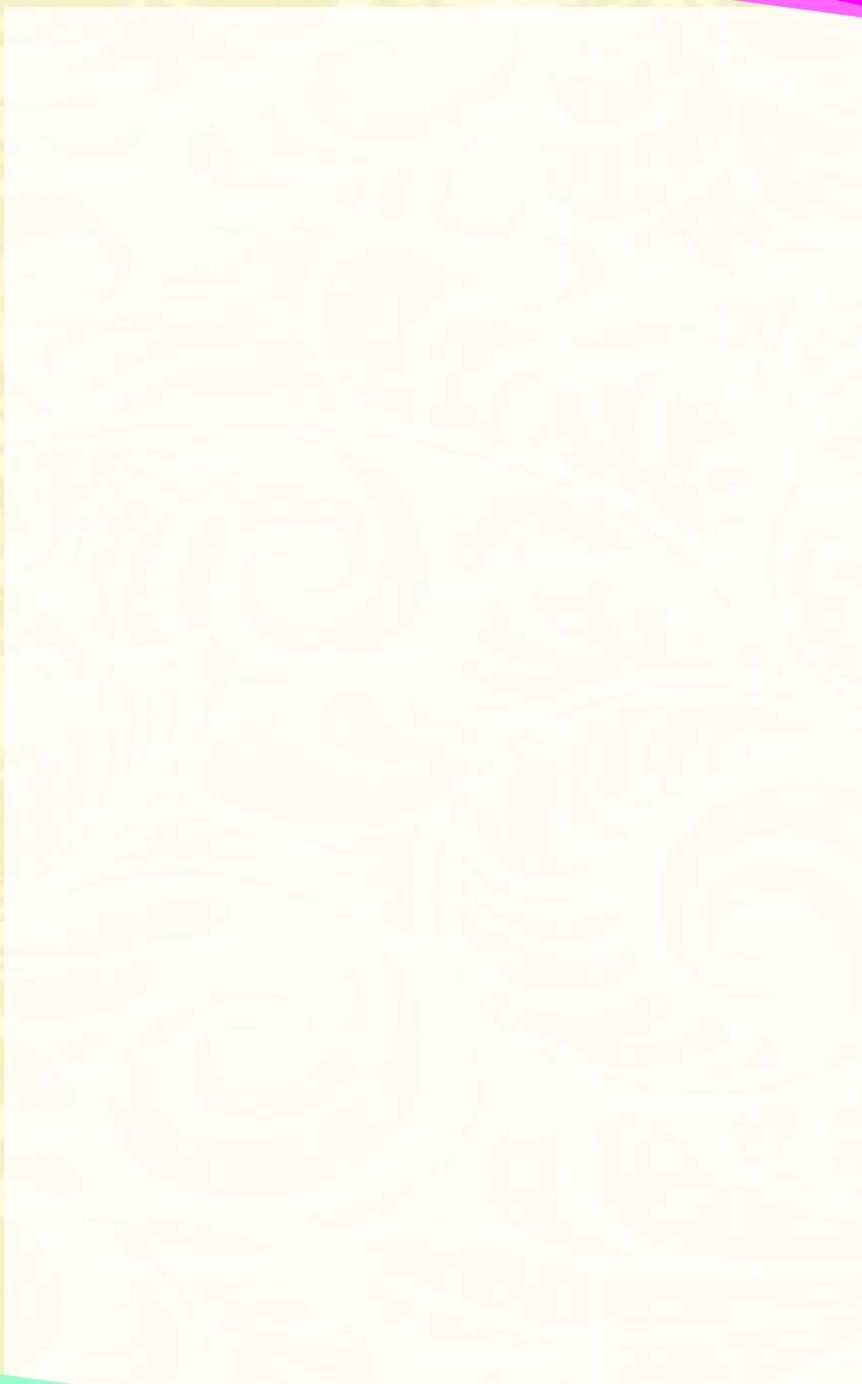
1. The Competition Act 2002 can be accessed at <http://www.cci.gov.in/competition-act>

2. Anil Kumar Bhardwaj, Adviser Economics and Ms. Maria Khan, Research Associate

Table of Contents

Preface	1
Competition Compliance Programme	4
1. Introduction	4
2. Objectives of a Compliance Programme	5
3. Advantages	6
4. Costs of non-compliance	7
5. Essential features of CCP	8
a. Explicit commitment of Senior Management	8
b. Design a Compliance Program	9
c. Training of Employees	11
d. Identify Employees and Divisions at Risk	12
e. Confidentiality	12
6. Active Risk Management (ARM) and Importance of ARM	12
a. Active Risk Management- in the case of Agreements	13
b. Evaluation and Review of CCP	14
c. The Performance Indices for Evaluation of Competition Compliance Programme	14
d. Care to be taken by Executives/Employees while Dealing with Trade Associations	15

e. Role of Compliance Officer	16
7. Compliance Manual– Importance	17
8. Anti-Trust Audit	18
Conclusion	19
Annexure 1: Competition Compliance Program Check List	21
B. Relationships with Competitors	21
C. Relationships with Customers and Dealers	22
D. Undertakings in Dominant Position with Significant Market Power	22
E. Association of Undertakings	23
Suggested Further Readings	24
Other Resource Persons’ Material	25



Competition Compliance Programme

1. Introduction

Competition is regarded as a sine-qua-non for a liberalized economy. It is a powerful instrument to help in achieving the macroeconomic policy goals of the country. It is recognised as key to “economic” efficiency. The term “economic” efficiency subsumes “allocative”, “productive” and “dynamic” efficiencies, which in the national context are important for maximising the overall welfare of society. No business organization wishes to carry out activities that may entail regulatory penal action.

Therefore it is in the interest of any business organization, small or big, in manufacturing or in trade or services, to adopt standard protocols and processes in business decision making that ensure compliance to the law including the Competition law.

An effective compliance programme includes creating awareness and imparting training to the employees who may engage themselves or are exposed to anti-competitive conducts. The programme should provide for identifying possible violations so as to take pro-active, corrective and remedial steps. The effective compliance not only reduces the risk of contraventions, but also facilitates timely detections and can be useful in mitigating any adverse regulatory action by establishing a framework for disclosure of information at the first opportunity. A regular review is essential to make the programme really effective. It also requires continuous commitment and support from senior management, which should not only be visible but also requires to be reinforced from time to time.

Compliance involves the active efforts on the part of an enterprise³ to comply with the provisions of the Act. When the enterprise establishes certain necessary protocols and ensure requisite frame-work to ensure that knowingly or unknowingly it does not infringe the provisions of the Act, it can be said to maintain a ‘Competition Compliance Programme’.

2. Objectives of a Compliance Programme

The Competition Compliance Programme should have the following four main objectives:

- (i) Prevent violation of law, i.e., the Competition Act 2002 and all Rules, Regulations, Orders& notifications made there under.

3. Enterprise (see section 2(h) of the Act): “enterprise” means a person or a department of the Government, who or which is, or has been, engaged in any activity, relating to the production, storage, supply, distribution, acquisition or control of articles or goods, or the provision of services, of any kind, or in investment, or in the business of acquiring, holding, underwriting or dealing with shares, debentures or other securities of any other body corporate, either directly or through one or more of its units or divisions or subsidiaries, whether such unit or division or subsidiary is located at the same place where the enterprise is located or at a different place or at different places, but does not include any activity of the Government relating to the sovereign functions of the Government including all activities carried on by the departments of the Central Government dealing with atomic energy, currency, defence and space

- (ii) Promote a culture of compliance, and
- (iii) Encourage good corporate citizenship
- (iv) Building up a positive corporate image and board

Figure 1: Objectives of Compliance Programme



3. Advantages

In general, Competition Compliance Programme offers the following advantages:

- Inculcates a culture of compliance throughout the organization which in turn can be a business enhancer offering positive benefits to business.
- Provides enterprises with a competitive advantage by enabling them to detect violation (s) at an early stage and take corrective measures
- Assists enterprises to enhance reputation and build goodwill.
- Obviates or reduces the costs and negative effects of litigation and regulatory intervention.
- Establishes image of the enterprises as having social conscience, economic ethics and national interest at heart.
- The existence of a strong Compliance Programme reflecting the commitment of the management to comply may help in reduced penalties/punishment in case of any violation

4. Costs of non-compliance

Non-compliance can be very costly for enterprises. The law vests the Competition Commission of India with adequate powers of investigation and imposing sanctions. The chances of conviction are, therefore, high for non-compliant enterprises. The consequent cost to the enterprise may be one or more of the following:

- Damage to reputation that is built usually with a tremendous effort⁴
- **Heavy fines:** Ten per cent of the average of the turnover for the preceding three years of violation, for anti-competitive agreements and abuse of dominance. In the case of a cartel there are provisions for imposing on each member of the cartel a monetary penalty of up to three times of its profit for each year of the continuance of such cartel or ten per cent of its turnover for each year of the continuance of such cartel, whichever is higher.⁵
- Abuse of dominance can also result in division of the dominant enterprise being ordered by the Commission.⁶
- In case a violation is determined by the Commission, affected parties can approach the Competition Appellate Tribunal (COMPAT) for compensation, which can be very large depending on the type of violation involved.⁷
- Drain of resources in handling competition law infringement cases.
- Loss of business opportunities as potential customers/investors/ Financial Institutions/ Venture Funds may be repelled.

5. Essential features of CCP

The enterprises may consider the following as essential elements for devising an effective Compliance Policy:

a. Explicit commitment of Senior Management

The support of Senior Management must be visible, active and regularly reinforced. Commitment of senior management must be driven from the topmost level to take responsibility for its implementation. The element of commitment can best be achieved in a number of ways, including

- A personal message to staff from the senior-most officials in the enterprise stating their commitment to the compliance programme.
- Referring to the compliance policy in the company's 'Mission Statement' or Code of Conduct and Ethics.
- Making adherence to the programme one of the overall objectives of the

4. "It takes 20 years to build a reputation and five minutes to ruin it. If you think about that, you'll do things differently." —Warren Buffett

5. As per section 27 of the Act

6. As per section 28 of the Act

7. As per section 53N of the Act

enterprise.

- Designating a member of senior management team to take overall responsibility (Compliance Officer) for ensuring that the compliance programme is :-
 - Regularly monitored
 - Effectively implemented
 - Reported upon at regular intervals to the Board

Effectiveness of a Compliance Policy will be enhanced if it is linked to an enterprise's human resource (HR) and disciplinary policy. It should be part of the induction training to new recruits so that they are aware that there is zero tolerance policy with respect to the Competition Act. This would prompt employees to attach seriousness to the compliance issues. Besides, this would reflect the seriousness of the management to compliance, as far as the competition authority is concerned. Different levels of infringements can be dealt with by increasing levels of sanction, resulting ultimately in imposition of the most serious penalties.

Compliance in general and Competition compliance in particular can also be built into the existing staff appraisal procedures, so that employees are regularly asked to sign a form to confirm that they are neither indulging into nor are aware of any existing compliance breaches. This will help in detecting any anti-competitive practice that may exist at early stage. Most of the enterprises have a policy in place for retaining financial information for accounting and tax purposes. Documents relevant to prove the compliance of the enterprise and its employees with competition law provisions should also be retained for adequate period..

b. Design a Compliance Program⁸

An effective program requires preparation of a 'Compliance Program Manual'. The manual should relate to specific business and commercial functions that the business performs and anticipated areas where competition law concerns may emanate. The program should impress upon each division to undertaken a risk assessment and benchmark processes to avoid any possible violation. All the business strategies that may inter-alia involve entering into or revisiting agreements, new sales plan, pricing and discount strategy and bidding decisions should be put to competition assessment. Every such decision should avoid violation of any of the provisions related to anti-competitive agreements, abuse of dominance or acquisition strategy.

The 'Compliance Program' should specify the relevant markets and assess if in any relevant product or relevant geographic market, the organization is or may be considered to be dominant.

Key Elements of CCP

- A well formulated and adequate compliance programme should address the business realities faced by the enterprise concerned. The basic purpose of the

8. See AIR FRANCE and KLM Competition Law Compliance Manual and Tata's " Management of Business Ethics"

document is to identify and codify its own position in market vis-s-vis the competition and the consumers. For example: if it is a dominant player as per the Act, it needs to be particularly cautious about its behaviour in the market as the law explicitly prohibits certain types of behaviour by dominant enterprises. The law also recognizes abuse of dominant position by group enterprises. Every dominant enterprise should take necessary measures educate its employees, especially senior executives, about the type of behaviour that should be avoided.

- Enterprises that have entered into agreements or are in the process of negotiating agreements, especially agreements with competitors should take precautions to ensure that they remain on the right side of law.
- Enterprises that are members of industry/business associations need to have a clear policy regarding participation in association meetings and the need to keep the legal counsel in the picture whenever there is a doubt. Any discussion regarding controlling the supply, production, price or discounts is a violation.
- A Compliance Programme should be implemented to ensure that it is of practical use on a day-to-day basis. A sophisticated legal treatise may not be an appropriate document for the employees who look after the work on a day to day basis and may not be legally trained.
- Every enterprise will require to prepare a Compliance Programmes that suits its requirements. As such an “off the shelf” programme is quite unlikely to serve the purpose.

Guidelines

A CCP should focus on practical guidelines that reflect the market position of the company and present an easy to understand explicit manual.

Some of the areas that may be covered in Guidelines are:

- Types of external discussion that will always be prohibited (e.g. about pricing).
- The information that can be legitimately exchanged. A clear and distinct code defining confidential or commercially sensitive information that should not be discussed or shared with.
- Procedure for proper conduct of meetings with competitors (or suppliers /customers)
- Pricing and discount policy including direct and indirect price fixing (including re-sale price maintenance, where applicable).
- Procedure to deal with complaints from customers and/or suppliers.
- Procedure specifying precautions while dealing with customers/suppliers
- ‘Dos & Don'ts’, along with real-life examples from the company's business would turn out to be very effective.

c. Training of Employees

An enterprise should consider having an active training programme that includes instruction by knowledgeable professionals having expertise and experience in corporate compliances. The training should be as practical as possible, including case studies drawn from the enterprise's actual experiences. It should also highlight the consequences of violations.

All the employees must be provided with the basic understanding of the Act and its objectives. The objective is to enable all officers and employees to develop capabilities to recognize and identify law-violating activity related to their business. Compliance education must contain sufficient practical explanation/examples on difficult legal concepts and issues. It is, therefore, advisable that enterprises integrate compliance education as part of overall training and education programme of the enterprise.

It is advisable for an enterprise introducing the Compliance Programme for the first time to make the compliance education mandatory for all officers and employees, in respect of the enterprise's compliance policy, purpose of the programme, and compliance measures.

Those enterprises which are effectively operating and implementing the Compliance Programme should regularly update the programme, keeping in view the:

- Changes in business environment / market share
- Changes in competition regime
- Competition in relevant market
- Amendments in law/ regulations
- thorough understanding of enforcement provisions and penal powers

b. Identify Employees and Divisions at Risk

It is necessary to identify the employees and divisions that are likely to be exposed to competition law risks. These can normally be:

- Those doing sales and marketing
- Anyone having direct contact with competitors
- Those engaged in setting up and operation of distribution arrangements
- Strategists dealing with combinations
- Those involved in bid preparation and bid submissions
- Those who represent the organisation in Industry/Trade Association.

The commitment to compliance flows from the top management and should encompass all the decision makers.

e. Confidentiality

Unless confidentiality is assured employees may not turn up to inform about alleged infringement, especially if known people are involved. Contacting the Compliance Officer to inform verbally in the first instance may work towards confidentiality. Documentation has to follow and action taken report also will have to be documented so as to ensure that the issue has not been ignored or tacitly approved.

6. Active Risk Management (ARM) and Importance of ARM

Compliance Programme is aimed at avoiding or minimizing the risk of infringement /non-compliance, with all its consequences for the enterprise. However, as the law evolves, procedures and regulations are regularly streamlined and views and outlook on issues change. A static policy towards risk management through Compliance Programme may not serve the purpose; it may even turn out to be counterproductive.

A dynamic environment necessitates active risk management. What is consistent with the competition law yesterday may be declared inconsistent today; or the conditions under which behaviour is considered consistent today may become consistent only under different conditions tomorrow. Therefore, an active risk management is called for. This is all the more important in the case of agreements.

a. Active Risk Management- in the case of Agreements

- It is important to keep a record of all the agreements signed by the company and assessed for competition compatibility. The risk from an agreement being found null and void by the Commission may be very costly for the enterprise.
- There should be a time table for review of the status of the agreement from competition angle. There should be a system for reminding the official concerned about this. The responsibility could be entrusted to a senior executive of the commercial division since the risk is most felt by the commercial wing.
- Marketing/sales/procurement department should liaise with the legal department. Every agreement on record should be subjected to competition review every three to five years. For very large enterprises such review could be on yearly basis.
- When such active risk management is not found feasible in-house, assistance of specialized external agencies should be sought.

An effective Compliance Programme may also include a system of audit. At the time of the start of the compliance programme an internal audit of procedures and documents, including email, may be introduced. This may be repeated at intervals to ascertain if the policy is working. The nature of such audit will have to be tailored to the nature of the enterprise concerned.

While auditing the procedures, documents and emails of each and every employee may be a herculean task, it would be always possible to identify those individuals who are most at risk and to conduct an audit of a “snapshot” of their e-mails on a given day. External legal advisers could be employed to do such auditing to avoid

embarrassment to the employees concerned while auditing their correspondence/e-mail.

b. Evaluation and Review of CCP

Enterprises are advised to ensure that the Compliance Programme represents current best practices, remains relevant, comprehensive and effective. Periodic evaluation of Compliance Programme is suggested to keep it relevant. The process may include evaluation of individual employees' knowledge of law, policy and procedures. Adherence to compliance policy could also be used as one of the criteria for individual's and department's/division's performance appraisal. It is important to ensure that the evaluation process remains as transparent and open as possible.

The evaluation should also include as to whether the Compliance Programme achieves expected results, and whether the system is appropriate and effective. The evaluation findings should be appropriately reflected in the overall operational system, including compliance monitoring, education programs, and the compliance manual.

It is worth emphasizing that evaluating implementation of Compliance Programme depends on motivation for compliance, impetus of leadership, distribution of authority and responsibility, support of human and physical resources, and communication within the enterprise. The enterprises are, therefore, advised to set evaluation criteria conforming to their compliance policy.

c. The Performance Indices for Evaluation of Competition Compliance Programme

The enterprises may also consider devising performance indices to evaluate the Compliance Programme. An illustrative list of performance indices may include:

- How well are all the officers and employees aware of the chief executive's determination and commitment as regards compliance?
- Do officers and employees have a clear understanding of what kind of conduct violates competition law?
- Do officers and employees properly recognize the 'dos and don'ts' of preventing violations of law?
- Is compliance accountability accurately perceived at all levels of management?
- To what extent do the enterprise's business practices conform to the provisions of competition law and other related regulations?
- How high is the enterprise's level of conformity compared to other enterprises engaging in the same business activities?
- How many violations took place and how serious were they?
- What kind of corrective action was taken against those violations, and how effective have they been?
- How often internal monitoring is carried out and has the monitoring proved

effective in preventing and detecting violations of law?

- To whom and to what extent is compliance education provided, and how effective are education programs?

d. Care to be taken by Executives/Employees while Dealing with Trade Associations

Executives/employees of enterprises should avoid discussing the following topics while dealing with trade associations and/or with competitors:

- Past, current or future prices
- What constitutes a 'fair profit level
- Pricing policy and actual costs of individual enterprises
- Possible increase or decrease in prices
- Standardization or stabilization of prices
- Bidding prices for projects
- Collusive tendering (bid rigging)
- Standardization of credit and trade terms
- Control of production
- Division or allocation of markets
- Select customers to deal or not to deal because of the above reasons
- Control of supply in the market

e. Role of Compliance Officer

- In order to ensure effectiveness of compliance programme, it is desirable that a Compliance Officer with appropriate delegation of authority be appointed to enforce the Compliance Programme.
- The Compliance Officer should preferably be an independent professional with expertise and core competency in compliance and compliance management.
- He should be a focal point and in charge of designing a program, motivating officers and employees, managing any accompanying administrative /organizational issue, preparing compliance manual, and auditing compliance.
- The role of compliance officers becomes more critical and expansive in view of the powers of the Commission in fixing the individual culpability of the officers or the persons in-charge of the companies at the time of the contravention. This also highlights the need to move beyond just having a token compliance programme to actually imbibing a competition culture which would not only avoid regulatory scrutiny but would also help the cause of growth and economy.

- Some businesses have already initiated the process of engaging through the medium of trade associations/ federations to spread awareness on competition law particularly amongst the micro, small and medium enterprises. Furthermore, few corporates have also conducted a comprehensive competition compliance audit of their business operations and membership of trade associations through expert professionals. Such voluntary initiatives would go a long way in making successful the compliance levels of the enterprises.
- The new regulatory architecture governing the corporates under the newly enacted Companies Act, 2013 provides added incentive for compliance with the anti-trust law as a person shall be ineligible for appointment as a managing or whole-time director or a manager if he had been sentenced to imprisonment for any period, or to a fine exceeding one thousand rupees, for the conviction of an offence under the Competition Act, 2002.
- The present Clause 49 in the Listing Agreement on corporate governance including regulatory compliances has also been brought in alignment with the new statutory framework under the Companies Act, 2013. This clause mandates that there should be a separate section on Corporate Governance in the Annual Reports of listed companies, with detailed compliance report on Corporate Governance. The companies should also submit a quarterly compliance report to the stock exchanges within 15 days from the close of quarter as per the prescribed format. The report is to be signed either by the Compliance Officer or the Chief Executive Officer of the company. This would, of course, cover compliance reports about competition law.

7. Compliance Manual– Importance

To facilitate compliance, the enterprises should develop a Compliance Manual and distribute it to their officers and employees as detailed guidelines for compliance with the provisions of the Act.

- The manual should incorporate the features set out above and contain up-to-date information regarding its business (es), its operational environment, and relevant competition regimes.
- It is necessary that the manual incorporates full, relevant and correct information and is properly distributed.
- The Compliance Manual should be developed, distributed and implemented under the overall supervision of Compliance Officer.
- In-charge(s) of Departments/Divisions should be put under obligation to inform the Compliance Officer of any changes in the business environment and market scenario that may have bearing on compliance, including the opinion of subordinates concerning the Compliance Manual.

The Enterprises are advised to constitute a Compliance Committee comprising senior management, with ultimate responsibility of overseeing the Compliance Programme, including conducting periodic review of its effectiveness.

8. Anti-Trust Audit

A good “Anti -Trust Audit” can further assist in revealing the major breaches and thereby strengthens the compliance programme. In case an Enterprise initiates an in house programme, it is advisable that the document need to be audited by an outside agency and in case the Audit or compliance is outsourced, a peer review/audit of compliance programme by yet another agency would be more appropriate.

Check List

- Compliance Programme will have to be tailor-made for each enterprise, though number of elements will be similar
- Compliance Officer: Identify a senior management personnel to oversee the implementation and monitoring of compliance programme
- Regular and adequate training on points of law as well as in identifying potential violations
- Have a comprehensive compliance manual, intelligible to employees in general. It should contain useful illustrations
- Every enterprise should have a guidance or clearance procedure for situations where there may be doubt about possible course of action by employees for fear of violation of competition provisions
- Agreements will invariably have to be processed in consultation with the legal department to ensure that the provisions therein are consistent with the provisions of Competition Act, 2002. These should be reviewed periodically from the competition angle
- Familiarize the employees with a likely 'dawn raid'. In relatively large enterprises it would be useful to arrange mock 'dawn raid' to keep employees vigilant against possible violations
- Employees should be educated about the use of language while communicating, whether it be verbal or written. Special care should be taken to ensure that the language used in email communication is appropriate
- Ensure a proper system of recording the minutes of the meetings and other events that may serve as evidence of non-participation in anti-trust practices by the enterprise or its employees
- Compliance Programme should be suited to the situation in all countries where the enterprise is operating
- Active/dynamic risk management programme should be an essential element of the Compliance Programme
- It would be advisable to integrate the competition Compliance Programme into the overall compliance programmes of the enterprise

Conclusion

A well planned exhaustive competition compliance programme can be of great benefit to all enterprises irrespective of their size, area of operation, jurisdiction involved, nature of products supplied or services rendered and the same is essential for companies, its directors and the delegate key corporate executives to avoid insurmountable hardships of monetary fines, civil imprisonment, beside loss of hard-earned reputation when the Competition Authorities, the media and others reveal the misdeeds in public.

Such programme can also facilitate the enterprises to make best use of Commission in taking remedial action if it is hurt or likely to be hurt by an anti-competitive behaviour by its suppliers, stockists, competitors, trade association. Enterprises need to undertake review of its sales, distribution, pricing and procurement policies so as to ensure that they conform to the competition regime.

Annexure 1: Competition Compliance Program Check List⁹

A. Competition Legislation and Information Regarding Competition Authority

Having sufficient information regarding competition law and Competition Authority is of vital importance in terms of foreseeing many problems that will not be overcome later. Sensitivity and information level of undertaking managers and authorized people who could adopt decisions which may lead competition infringements, about whether an action or a decision is lawful or not, constitutes the essence of the success or failure of the management in this field.

- Do you have sufficient information regarding competition legislation?
- Do you have any information regarding regulations, activities and decisions of the Competition Authority?
- Do you follow up the Competition Authority's web site regularly?
- Do you have any in-house special unit or authorized person dealing with competition legislation and applications?
- Do you have any compliance rules, hand books or procedure documents which show necessary applications and help informing employees and relevant persons?
- Do you outsource consultancy service concerning competition legislation and applications?
- Did top managers or employees of the company have any education concerning competition legislation and applications?

9. Adopted from Turkish Competition Authority, See <http://www.rekabet.gov.tr/File/?path=ROOT%2F1%2FDocuments%2FGeneral+Content%2FCompetition+Compliance+Program.pdf>

B. Relationships with Competitors

The most leading bottleneck while building fair competition environment is agreements among businesses which limit competition. These agreements which can be defined as “cartel” are per se illegal and hence prohibited.

- Do you determine price or cost elements and sale conditions which constitute the price, along with your competitors?
- Do you exchange opinions regarding price and cost elements which constitutes price with your competitors?
- Do you share the market geographically or based on customers?
- Are you in cooperation with your competitors regarding restriction of supply and other sources of input?
- Do you have any written or oral agreement with your competitors in order to avoid competition?
- Do you cooperate with your competitors in order to ensure the elimination of a specific competitor and/or customers?
- Do you negotiate elements that might affect competition such as, price or cost elements before or while entering tenders with competitors? Do you cooperate in such issues?

C. Relationships with Customers and Dealers

Undertakings that generally distribute or sale goods and services by making vertical agreements, should stay away from behaviours that might be described as infringement of competition. Such undertakings should be sensitive and strive about the conformity of their marketing systems with competition law.

- Do you determine your dealer's or customer's resale price?
- Do you intervene to your dealer's or customer's sales conditions, such as discount rates and payment terms?
- Do you put constraints on the sales of your dealers' to their customers in agreements signed with your dealer?
- Do you prohibit sales realized by your authorized dealers to each other's regions?

D. Undertakings in Dominant Position with Significant Market Power

It is possible for one or more undertakings in a particular market to determine economic parameters such as price, supply, the amount of production and distribution, by acting independently of their competitors and customers. In principal, such undertakings should act so as to not infringe competition.

- Do you apply different terms of prices and sales to customers who are in the same conditions?
- Do you oblige your customers to buy another good or service with the one they already buy?

- Do you have a pricing policy which is below or way above your costs?
- Do you reduce the supply of goods without any justification?
- Do you have a pricing policy that might complicate your competitors' business?
- Are you using your financial and technologic superiority in one of the markets in order to complicate your competitors' business in other markets?

E. Association of Undertakings

The undertakings operating in an industry generally gather for various reasons under the organizations established under the names of chambers, associations, unions or etc. The fact that members of these organizations, whether they have a legal personality or not, strive to be successful is very natural.

However at the same time, in certain cases, these associations of undertakings deliberately or not deliberately, may lead to a decision that infringe competition rules, and cause the implementation of such behavior.

- Does the act regarding articles of association include any articles which restrict competition?
- Does the authority of the association of undertaking practiced over its members affect competition among thereof?
- Does the association of undertaking have decisions on their members' sales prices and other terms of sale?
- Does the association of undertaking reach decisions that restrict their members' area of activity?
- During the meetings, are the members encouraged to debate on sales prices, terms of sales and market/customer sharing?
- Do the determined technical standards regarding the members' activities restrict the members' area of commercial activities?

Suggested Further Readings

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Other Resource Persons' Material

Part 1: Basic Introduction

Part 2: Consumer Associations

Part 3: Trade/Industry Associations

Part 4: Public Procurement – Government and Public Sector Enterprise

Part 5: Regulatory Bodies

Competition Commission of India
The Hindustan Times House
18-20, Kasturba Gandhi Marg
New Delhi-110001

Please visit www.cci.gov.in for more information about the Commission.
For any query/comment/suggestion, please write to advocacy@cci.gov.in

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