

Pre-Filing Consultation

Consultation prior to filing of notice of the proposed combination under sub section (2) of section 6 of the Competition Act, 2002.

1. In accordance with international best practices, the Competition Commission of India allows for informal and verbal consultation with its staff/ case team prior to filing of notice for a proposed combination in terms of sub section (2) of section 6 of the Competition Act, 2002 (“Act”) read with regulations 5 and 5A of Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011 (“Combination Regulations”).
2. While it will be the sole discretion of the parties to determine whether and when to engage in informal discussions with the staff of the Commission regarding a proposed transaction, they are encouraged to consult as early as possible. Such pre-filing consultations will help the parties to identify the information required to file a correct and complete Form I/II/III. Early consultations, even in seemingly non-problematic cases, will be useful. Ultimately, such consultations help in:
 - i. Providing an opportunity for open and frank discussion and to make each other’s point of views known, thus enhancing transparency;
 - ii. Facilitating a more efficient and effective review process;
 - iii. Providing an opportunity to the case team and parties to identify key issues and possible competition concerns;
 - iv. Enabling the case team to more readily focus on its assessment, minimizing requests for additional information and completing its review in a timely manner; and
 - v. Ensuring that notification forms are complete at the outset so that possible invalidations, at a later date, are avoided to the extent possible.
3. Realization of these benefits is largely dependent upon the parties' willingness to engage in full and frank communications with the case team / staff of the Commission, and to proactively participate in the process by furnishing the desired information.
4. A party seeking consultation regarding interpretation of Sections 5 and 6 of the Competition Act, 2002 or the provisions of Combination Regulations, can file a request for consultation along with the details regarding the proposed transaction including: (a) scope and structure of the proposed transaction; (b) the sector/relevant market in which the parties operate; (c) key issues regarding which the parties seek consultation; and (d)

any other details which according to the parties may be pertinent for meaningful consultation.

5. A party seeking consultation regarding substantive issues i.e. information to be filed in terms of Form I/II/III, is advised to prepare and submit draft notice in the respective Form along with: (a) the key issues regarding which the parties seek consultation; and (b) any other details which according to the parties may be pertinent for a meaningful consultation.
6. The parties can avail the assistance of the case team to fill-up the relevant form for filing. The presence of business representatives who have good understanding of the relevant market is strongly recommended in the pre-filing consultations.
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7. The email seeking pre-filing consultation may be sent to: cci-consult@nic.in with the subject "Request for pre-filing consultation". Whenever clarification is sought regarding Green Channel, the subject shall be mentioned as "Green Channel - Request for pre-filing consultation". Parties may also meet the case team / staff of the Commission between 10 a.m. and 12 p.m. from Monday to Friday, at the office of the Commission.
8. The case team / staff of the Commission may not respond to requests which are general in nature or which do not sufficiently describe the factual situation, or which involve hypothetical scenarios.
9. The guidance would be given as an additional assistance facility, and would not be deemed to be the opinion of the Commission in any manner, whatsoever, and such guidance will not be binding on the Commission. The consultation will be held in strict confidence and without prejudice to the assessment of the case on receipt of the formal notice.