

BACKGROUND NOTE: DRAFT CCI (LESSER PENALTY) REGULATIONS, 2023

The Competition Act, 2002 (**Act**) aims to prevent practices having adverse effect on competition, to promote and sustain competition in markets, to protect the interests of consumers and to ensure the freedom of trade carried on by other participants in markets, in India. Section 64 of the Act empowers the Competition Commission of India (**CCI**) to make regulations consistent with the Act and the rules made thereunder for carrying out the purposes of the Act.

The Competition (Amendment) Act, 2023 (**Amendment Act**) introduced ‘lesser penalty plus’ and withdrawal of ‘lesser penalty’/‘lesser penalty plus’ applications in the existing framework of Section 46 of the Act

The ‘lesser penalty plus’ mechanism is introduced to incentivize an existing LP applicant in respect of the first cartel to give full, true and vital disclosures about a second cartel unknown to the CCI. The benefit for the applicant is that it will be eligible to receive additional reduction in penalty for the first cartel besides reduction in penalty as per priority status in respect of first cartel, subject to fulfillment of prescribed terms and conditions. This is in addition to a reduction in penalty given in respect of the second cartel in the manner specified in the regulations.

In view of the significant changes introduced by the Amendment Act, the CCI proposes the Competition Commission of India (Lesser Penalty) Regulations, 2023 (**Draft CCI (Lesser Penalty) Regulations 2023**), which will repeal and replace the Competition Commission of India (Lesser Penalty) Regulations, 2009. The Draft CCI (Lesser Penalty) Regulations 2023, *inter alia*, provide for the following:

- (a) Form and contents of the application for lesser penalty and lesser penalty plus;
- (b) Procedure for grant of lesser penalty and lesser penalty plus; and
- (c) Withdrawal of application for lesser penalty and lesser penalty plus.

The CCI invites stakeholders to submit written comments on the Draft CCI (Lesser Penalty) Regulations 2023 within 21 (twenty-one) days from 16.10.2023 to 06.11.2023. The comments must be only sent by duly filling the form hosted on the CCI’s website at: <https://cci.gov.in/stakeholders-topics-consultations>