

# COMPETITION COMMISSION OF INDIA (GENERAL) REGULATIONS, 2009

(NO. R-40007/ 6/ REG-GENERAL/ NOTI/ 04 - CCI – DATED 21-05-2009)

*In exercise of the powers conferred by section 64 of the Competition Act, 2002 (12 of 2003) the Competition Commission of India hereby makes the following regulations, namely: –*

## 1. Short title and commencement.

- (1) These regulations may be called the Competition Commission of India (General) Regulations, 2009.
- (2) They shall come into force on the date of their publication in the Official Gazette.

## 2. Definitions.

- (1) In these regulations, unless the context otherwise requires, –

(a) “Act” means the Competition Act, 2002 (12 of 2003);

(aa) “Advocate” means an advocate as defined in the Advocates Act, 1961;

(b) “Chairperson” means the Chairperson appointed under sub-section (1) of section 8 of the Act;

(c) “Commission” means the Competition Commission of India established under sub-section (1) of section 7 of the Act;

(d) “Counsel” means a legal practitioner or a chartered accountant or a company secretary or a cost accountant as defined in the explanation to section 35 of the Act;

(e) “Director General” means the Director General appointed under sub-section (1) of section 16 of the Act and includes any Additional, Joint, Deputy or Assistant Directors General appointed under that section;

[(ea) “Electronic Form” shall have the same meaning as assigned to it under section 2(r) of the Information Technology Act, 2000;]<sup>1</sup>

(f) “Expert” means an expert engaged to assist the Commission under sub-section (3) of section 17 of the Act or an expert called upon by any party to provide opinion in connection with any matter related to a case under sub-section (2) of section 35 of the Act or an expert called upon to assist the Commission in any inquiry or proceeding under sub-section (3) of section 36 of the Act;

[(fa) “Interlocutory Application” means an application filed before the Commission in a case instituted under section 19 of the Act, except submissions made ~~those filed~~ in compliance of any order or direction of the Commission;]<sup>2</sup>

(g) “Media” includes newspapers, magazines, periodicals, journals, radio, cinema, television and internet;

(h) “Miscellaneous Application” means an application, other than an Interlocutory Application filed before the Commission;

<sup>1</sup> Inserted by the Competition Commission of India (General) Amendment Regulations, 2011 *w.e.f.* 08.11.2011.

<sup>2</sup> Inserted by the Competition Commission of India (General) Amendment Regulations, 2024 *w.e.f.* 12-01-2024.

(i) “~~O~~rdinary ~~M~~meeting”; shall have the same meaning as assigned to it in the Competition Commission of India (Meetings for Transaction of Business) Regulations, 2009;

~~(j) “Party” includes a consumer or an enterprise or a person defined in clauses (f), (h) and (l) of section 2 of the Act respectively, or an information provider, or a consumer association or a trade association or the Director General defined in clause (g) of section 2 of the Act, or the Central Government or any State Government or any statutory authority, as the case may be, and shall include an enterprise against whom any inquiry or proceeding is instituted and shall also include any person permitted to join the proceedings or an intervener [\*\*\*]~~

~~(j);~~

(k) “~~R~~eference” means a reference—

(i) received in the Commission from the Central Government or a State Government or a statutory authority under clause (b) of sub-section (1) of section 19 of the Act, or

(ii) received in the Commission from a statutory authority under section 21 of the Act for opinion, or

(iii) sent to a statutory authority for opinion by the Commission under section 21A of the Act, or

(iv) received in the Commission from the Central Government or a State Government for opinion under sub-section (1) of section 49 of the Act.

(l) “Secretary” means the Secretary appointed under sub-section (1) of section 17 of the Act and includes an officer of the Commission authorized by the Chairperson to function as Secretary;

(m) “Tribunal” means ~~Competition National Company Law~~ Appellate Tribunal ~~referred to established~~ under sub-section (1) of section 53A of the Act;

(n) “~~W~~orking ~~D~~ay” for the office of the Commission at New Delhi or any other office of the Commission means the day on which it functions but does not include Saturday or Sunday or any other day which is declared to be a public holiday by the Central Government under the Negotiable Instruments Act, 1881 (26 of 1881) for New Delhi or for such other place, as the case may be.

(2) Words and expressions used but not defined in these regulations shall have the same meanings respectively assigned to them in the Act or in the Companies Act, ~~1956~~2013 (18 of ~~1956~~2013), as the case may be.

### **3. Powers to determine procedure in certain circumstances.**

In a situation not provided for in these regulations, the Commission may, for reasons to be recorded in writing, determine the procedure in a particular case.

### **4. Seal and emblem.**

The official seal and emblem [(with tagline)]<sup>3</sup> of the Commission shall be such as indicated by a drawing given in Annexure.

#### **5. Language of the Commission.**

The language of the Commission shall be English.

#### **6. Filing of documents in Hindi.**

Notwithstanding anything contained in these regulations, the parties may file documents drawn up in Hindi, if they so desire:

Provided that no information, reference or other papers contained in any language other than English shall be accepted by the Commission unless the same is accompanied by a true translation thereof in English as stipulated in regulation 7.

#### **7. Translation of documents.**

A document translated in English shall be accepted by the Commission as true translation if:

- (a) the counsel for the party certifies the translation to be a true translation; or
- (b) the translation is done ~~Documents that are not filed in English shall be translated into English~~ by an official translator of any Court; or
- (c) the translation is done by an official translator of any authority/ body, central or state government, which is also accepted by the Courts as true translation ~~approved by the Commission, from time to time~~:

Provided that a translation, which is agreed to by all the parties to the proceedings, may also be accepted by the Commission, in appropriate cases, as a true translation.

#### **8. Holidays to be observed by the Commission.**

- (1) The head office of the Commission shall observe, besides Saturday and Sunday, holidays as declared by the Central Government at Delhi under the Negotiable Instruments Act, 1881 (26 of 1881).
- (2) Any other office of the Commission at places other than Delhi shall observe, besides Saturday and Sunday, holidays as declared by the Central Government under the Negotiable Instruments Act, 1881 (26 of 1881) for such place.

#### **9. Computation of time.**

- (1) Where a period of time dates from a given day, act or event is prescribed by or allowed under these regulations for doing an act or taking a proceeding, the time shall be reckoned exclusive of the said day, or of the day of the act or event, from which the time runs.
- (2) Where the time prescribed by or allowed under these regulations for doing an act or taking a proceeding expires on a Saturday or Sunday or on a day on which the office of the Commission is closed, the act may be done or the proceeding may be taken on the first day following the Saturday, Sunday or the day on which that office is closed.

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<sup>3</sup> Inserted by the Competition Commission of India (General) Amendment Regulations, 2013 *w.e.f.* 07.10.2013.

## 10. Contents of information or the reference.

- (1) The information or reference (except a reference under sub-section (1) of section 49 of the Act) shall, inter alia, separately and categorically state the following in seriatum-
  - (a) legal name of the person or the enterprise giving the information or the reference;
  - (b) complete postal address in India for delivery of summons or notice by the Commission, with Postal Index Number (PIN) code;
  - (c) contact details (telephone number, ~~fax-mobile~~ number including country/ city/ area code, and also electronic mail address), ~~if available~~;
  - (d) ~~mode of service of notice or documents preferred~~ [\*\*\*];
  - (e) legal name and address of the counsel or other authorized representative, if any; and
  - ~~(e)~~ legal name and address(es) of the enterprise(s) alleged to have contravened the provisions of the Act; ~~and~~.
  - (f) ~~legal name and address of the counsel or other authorized representative, if any;~~
- (2) The information or reference referred to in sub-regulation (1) shall contain –
  - (a) a statement of facts with chronology of events;
  - (b) details of the alleged contraventions of the Act together with a list enlisting all documents, affidavits and evidence, as the case may be, in support of each of the alleged contraventions;
    - (ba) the date on which the cause of action had arisen;
  - (c) a succinct narrative in support of the alleged contraventions;
    - (ca) whether same or substantially same facts and issues raised in the information or reference, as the case may be, have already been decided by the Commission in any of its previous order(s), along with details thereof;
  - (d) relief sought, if any;
    - [(da) Details of litigation or dispute pending between the informant and parties before any court, tribunal, statutory authority or arbitrator in respect of the subject matter of information]<sup>4</sup>;
  - (e) Such other particulars as may be required by the Commission.
    - (2A) If the information or reference referred to in sub-regulation (1) is filed after three years from the date on which the cause of action had arisen, it shall be accompanied with an interlocutory application seeking condonation of delay together with applicable fee in terms of sub-regulation (1A) of regulation 49 of these regulations.
- (3) The contents of the information or the reference mentioned under sub-regulations (1) and (2), along with the appendices and attachments thereto, as well as application under sub-

<sup>4</sup> Inserted by the Competition Commission of India (General) Amendment Regulations, 2019, w.e.f. 20.11.2019.

regulation (2A), shall be complete and duly supported with an affidavit verified by of the person submitting it duly verifying the contents of the same.

#### **11. Signing of information or reference.**

- (1) An information or a reference or a reply to a notice or direction issued by the Commission shall be signed by –
  - (a) the individual himself or herself, including a sole proprietor of a proprietorship firm;
  - (b) the Karta in the case of a Hindu Undivided Family (HUF);
  - (c) the Managing Director ~~and in his or her absence~~, any other Director or any employee, duly authorized by the board of directors in the case of a company,
  - (d) the President or the Secretary or any employee in the case of an association or society or similar body or the person so authorized by the legal instrument that created the association or the society or the body;
  - (e) a partner in the case of a partnership firm or any employee duly authorized by the partnership firm;
  - (f) the chief executive officer or any employee in the case of a co-operative society or local authority;
  - (g) in the case of any other person, by that person or by some person duly authorized to act on his behalf.
- (2) A reference shall be signed and authenticated by an officer not below the rank of a Joint Secretary to the Government of India or equivalent in the State Government or the Chief Executive Officer of the Statutory Authority if the same has been received from the Central Government or State Government or Statutory Authority.
- (3) Without prejudice to the provisions of this regulation, the counsel may also append his or her signature to the information or reference as the case may be.

#### **12. Procedure for filing of information or reference.**

- (1) Information or reference or responses thereto to the Commission shall be presented to the Secretary or to an officer authorized in this behalf by the Secretary, in person or sent by registered post or courier service or facsimile transmission addressed to the Secretary or to such authorized officer.
- (2) Any separate or additional document(s) that the information provider a party to the proceedings wishes to rely upon in support of its information, or reference, as the case may be, shall be filed in the form of a “Paper Book”, within 14 (fourteen) days of filing the information or reference, as the case may be at least seven days prior to the date of the ordinary meeting, after serving the copies of the said document(s) on the other parties to the proceedings, with documentary proof of such service. Such documents shall be serially numbered, prefaced by an index and shall be duly supported by a with an affidavit of the person submitting it duly verifying the contents of the same verification.

- (3) An information(s) or reference sent by post or courier service or facsimile transmission under sub-regulation (1) shall be deemed to have been presented to the Secretary or to the officer authorized by the Secretary, on the day on which it is received in the office of the Secretary or the authorized officer, as the case may be.

### **13. Procedure for filing of information or reference in electronic form.**

Subject to the provisions of regulation 12, information or a reference to the Commission may be sent by a person or an enterprise to the Secretary in an electronic form duly authenticated with digital signature and/ or electronic signature by the subscriber as and when so desired by the Commission through a public notice.

Explanation – For the purpose of this regulation, –

- (a) “digital signature” means the digital signature as defined under clause (p) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 Of 2000);
- (b) “electronic form” with reference to an information or a document means the electronic form as defined under clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 Of 2000);
- ~~(b)~~(c) “electronic signature” means electronic signature as defined under clause (ta) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 Of 2000);
- ~~(e)~~(d) “subscriber” means the subscriber as defined under clause (zg) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000).

### **13A. Filing of further submissions.**

The following provisions of these regulations with respect to filing and signing shall be applicable upon all further submissions including replies, letters, documents, applications, objections or suggestions etc., filed by any party:

- (a) clauses (a), (b) and (c) of sub-regulation (1) of regulation 10;
- (b) sub-regulation (3) of regulation 10;
- (c) sub-regulation (1) of regulation 11;
- (d) sub-regulation (3) of regulation 11;
- (e) sub-regulation (1) of regulation 12;
- (f) sub-regulation (3) of regulation 12; and
- (g) regulation 13.

### **14. Powers and functions of the Secretary.**

- (1) The Secretary shall have the custody of records of the Commission and shall exercise such other functions as may be assigned by the Chairperson.
- (2) Subject to the Competition Commission of India (Meetings for Transaction of Business) Regulations, 2009, the Secretary shall circulate to all concerned, the date, time and place of each meeting, as per the directions of the Chairperson.
- (3) The Secretary shall be the nodal officer on behalf of the Commission for, –

- (a) making or receiving all statutory communications~~;~~<sup>5</sup>

[Provided that the Chairperson may also authorize other Officers of the Commission for the purpose.]<sup>5</sup>

- ~~(b)~~ entering into any formal relationships, including signing of any memorandum or arrangement, with competition authority or any agency of any foreign country, with the prior approval of the Commission and the Central Government, as per section 18 of the Act.

~~(b)~~(c) entering into any formal relationships, including signing of any memorandum or arrangement, with any statutory authority or department of the Government, with the prior approval of the Commission, as per section 18 of the Act.

- (4) The Commission may sue or be sued in the name of the Secretary and the Commission shall be represented in the name of the Secretary in all legal proceedings, including appeals before the Tribunal.
- (5) Subject to the provisions of section 51 of the Act, the Secretary shall assist the Committee of Members constituted under sub-section (3) of section 51 of the Act for, –
- (a) preparation and approval of the annual budget of the Commission;
- (b) administration of the competition fund.
- (6) The Secretary shall keep in custody the official seal of the Commission. The official seal of the Commission shall not be affixed to any document including the certified copies of the orders of the Commission, save and under the authority in writing of the Secretary.
- (7) Subject to sub-regulation (1), to ensure a timely and efficient disposal of the matters brought before the Commission and for achieving the objectives of the Act, the Secretary shall have the following powers and functions, –
- (a) to receive, endorse and categorize all the information, references, applications or documents ~~including miscellaneous applications and other documents for transfer of proceedings and application for adjournment, etc.;~~
- (b) to check the amount of fee received where applicable and to ensure the timely deposit of the same in the bank account of the Commission;
- (c) to scrutinize all information, references, applications or documents so received to find out whether they are in conformity with the rules and regulations;
- (d) to point out defects in such information(s), references, applications or documents to the parties requiring them to rectify such defects;
- (e) to serve copy of the information, reference, application or document along with the enclosures to the concerned parties including the Director General, within a reasonable time;
- (f) to serve the notice of the date of the ordinary meeting of the Commission to consider the information or reference or document to decide if there exists a prima facie case

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<sup>5</sup> Inserted by the Competition Commission of India (General) Amendment Regulations, 2021, *w.e.f.* 06.09.2021.

and to convey directions of the Commission for investigation or to issue notice of inquiry after receipt and consideration of the report of the Director General;

- (g) to bring on record executors, administrators or other legal representatives, in case of death of any party or adjudication of a party as insolvent, upon an application by any party to the proceedings;
- (h) to verify the service of notice or other processes and to ensure that the parties are properly served;
- (i) to requisition records on the direction of the Commission from the custody of any authority;
- (j) to allow inspection of records of the Commission;
- (k) to return the documents filed by any party or authority on orders of the Commission;
- (l) to certify and issue copies of the orders of the Commission to the parties;
- (m) to grant certified copies of documents filed in the proceedings to the parties, in accordance with these regulations;
- (n) to grant certified copies of the orders of the Commission for publication, in accordance with these regulations;
- (o) to dispose of all matters relating to the service of notices or other related processes, applications for issue of fresh notice or for extending the time for or ordering a particular method of service on a party including a substituted service by publication of notice by way of advertisement in the newspaper or putting it on the website, as the case may be;
- (p) To compile and preserve record of any proceeding during an ordinary meeting including: -
  - (i) the chronology of events;
  - (ii) the initiating document;
  - (iii) the notice of the meeting;
  - (iv) report of the Director General, if any;
  - (v) opinion of expert, if any;
  - (vi) any interim order made;
  - (vii) all documentary evidence filed;
  - (viii) the transcript, if any, of the oral evidence given;
  - (ix) the final order or decision of the Commission;
- (q) to disclose information subject to section 57 of the Act;
- (r) to ensure confidentiality of documents or evidences or statements or any analysis as per these regulations, by keeping them in safe custody;



- (s) to undertake maintenance of records including weeding out of records in accordance with retention schedule in force and in accordance with directions of the Chairperson issued from time to time;
- (t) to file complaint before the Chief Metropolitan Magistrate, Delhi for non-compliance with the orders or directions of the Commission under sub-section (3) of section 42 of the Act, if so directed by the Commission.

#### **15. Procedure for scrutiny of information or reference.**

- (1) Each information or reference received in the Commission shall be scrutinized by the Secretary to check whether it conforms to these regulations and the defects, if any, shall be communicated to the party within a reasonable time not exceeding, –
  - (a) fifteen days in case of an information or reference received under clause (b) of sub-section (1) of section 19 of the Act; or
  - (b) seven days in case of a reference received under section 21 or sub-section (1) of section 49 of the Act.
- (2) The information provider referred to in clause (a) of sub-section (1) of section 19 of the Act or the Central Government or the State Government or the statutory authority referred under clause (b) of sub-section (1) of section 19 or in sub-section (1) of section 49 of the Act, as the case may be, shall, on receipt of the communication about the defects under sub-regulation (1), remove the defects within: -
  - (a) thirty days of receiving the intimation in case of an information or reference under clause (b) of sub-section (1) of section 19 of the Act; or
  - (b) fifteen days of receiving the intimation in case of a reference under section 21 or sub-section (1) of section 49 of the Act.
- (3) In case the defects are not removed by the Central Government or the State Government or the statutory authority or the concerned party, as the case may be, as per the provision of sub-regulation (2), the information or the reference or the application connected therewith shall be treated as invalid:

Provided that the Central Government or the State Government or the Statutory Authority or the concerned party shall be entitled to file fresh information, reference or application for consideration by the Commission together with applicable fees.
- (4) In the event of the information having been treated as invalid under sub-regulation (3), the fee paid on such information shall stand forfeited.
- (5) Nothing contained herein above shall preclude the Commission from using the contents of such information or reference in any manner as may be deemed fit, for inquiring into any possible contravention of any provision of the Act:

Provided that the time taken in removing the defects in such references shall not count towards the period of sixty days provided for giving of opinion by the Commission in sub-section (2) of section 21 or sub-section (1) of section 49 of the Act, as the case may be.

- (6) [Every Interlocutory or Miscellaneous Application filed in a case shall be registered and numbered. All such applications shall be scrutinized within 7 days and defects, if any, shall be communicated to the party. The party making application shall remove the defects and submit the same within 5 days from the receipt of communication failing which the application shall be treated as invalid.]<sup>6</sup>

#### **16. Opinion on existence of prima facie case.**

- (1) The Secretary, after scrutiny and removal of defects, if any, in an information or reference, as the case may be, shall place the same before the Commission to form its opinion on existence of a prima facie case.
- (2) In cases of alleged anti-competitive agreements and/ or abuse of dominant position, the Commission shall, as far as possible, record its opinion on existence of a prima facie case within sixty days.
- (3) The Commission shall, as far as possible, hold its first ordinary meeting to consider whether prima facie case exists, within fifteen days of the date of placement of the matter by the Secretary under sub-regulation (1).

#### **17. Preliminary conference.**

- (1) The Commission may, if it deems necessary, call for a preliminary conference to form an opinion whether a prima facie case exists.
- (2) The Commission may invite the information provider and such other person as is necessary for the preliminary conference.
- (3) A preliminary conference need not follow formal rules of procedure.

#### **18. Issue of direction to cause investigation on prima facie case.**

- (1) Where the Commission is of the opinion that a prima facie case exists, the Secretary shall convey the directions of the Commission [within seven days]<sup>7</sup> to the Director General to investigate the matter [\*\*\*]<sup>8</sup>.

(2) A direction of investigation to the Director General shall be deemed to be the commencement of an inquiry under section 26 of the Act.

(2)(3) Where the Commission has formed an opinion that a prima facie case of contravention of the provisions of sub-section (4) of section 3 of the Act or section 4 of the Act exists, the Secretary shall also convey the directions of the Commission within seven days to the parties concerned by serving upon them, a copy of the order passed by the Commission.

#### **19. Communication of order passed under Section 26(2) or 26(2A) of the Act when no prima facie case found.**

<sup>6</sup> Inserted by the Competition Commission of India (General) Amendment Regulations, 2024 w.e.f. 12.01.2024.

<sup>7</sup> Inserted by the Competition Commission of India (General) Amendment Regulations, 2010 w.e.f. 20.10.2010.

<sup>8</sup> Words “and furnish a report to the Commission on or before the date specified therein” omitted by the Competition Commission of India (General) Amendment Regulations, 2010 w.e.f. 20.10.2010.

(1) If the Commission is of the opinion that there exists no prima facie case, the Secretary shall send a certified copy of the order of the Commission regarding closure of the matter forthwith to the Central Government or the State Government or the Statutory Authority or the parties concerned, as the case may be, as provided in sub-section (2) of section 26 of the Act.

~~(1)~~(2) If the Commission is of the opinion that same or substantially the same facts and issues raised in an information or reference received in the Commission, as the case may be, have already been decided by the Commission in any of its previous order(s), the Secretary shall send a certified copy of the order of the Commission regarding closure of the matter forthwith to the Central Government or the State Government or the Statutory Authority or the parties concerned, as the case may be, as provided in sub-section (2A) of section 26 of the Act.

## 20. Investigation by Director General.

(1) The Secretary shall, while conveying the directions of the Commission under regulation 18, send a copy of the information or reference, as the case may be, with all other documents or materials or affidavits or statements which have been filed either along with the said information or reference or thereafter or at the time of preliminary conference, by any party, to the Director General.

(2) The Commission shall direct the Director General to submit a report within such time [as may be specified by the Commission which ordinarily shall not exceed sixtyninety days from the date of receipt of the directions of the Commission]<sup>9</sup>[\*\*\*]<sup>10</sup>.

(3) The Commission may, on an application made by the Director General, [giving sufficient reasons]<sup>11</sup> extend the time for submission of the report [by such period as it may consider reasonable]<sup>12</sup>.

(4) [The report of the Director General shall contain his findings together with all the evidences or documents or statements or analyses relied upon in the investigation report:

Provided that the Director General shall also, along with the report, forward to the Commission, all evidences or documents or statements or analyses collected during the investigation, which shall be called the case record:-]<sup>13</sup>

[Provided further that when considered necessary, the Director General may, for maintaining confidentiality, submit his report and case record in two parts. One of the parts shall contain the documents to which access to the parties may be accorded and

<sup>9</sup> Substituted for “*as is reasonable*” by the Competition Commission of India (General) Amendment Regulations, 2010 w.e.f. 20.10.2010.

<sup>10</sup> Words “*to collect relevant data, record statements, afford opportunity for cross-examination of witnesses and to carry out other necessary analysis in the circumstances of the particular case*” omitted by the Competition Commission of India (General) Amendment Regulations, 2010 w.e.f. 20.10.2010.

<sup>11</sup> Inserted by the Commission of India (General) Amendment Regulations, 2010 w.e.f. 20.10.2010.

<sup>12</sup> Inserted by the Commission of India (General) Amendment Regulations, 2010 w.e.f. 20.10.2010.

<sup>13</sup> Substituted for “*The report of the Director General shall contain his findings on each of the allegations made in the information or reference, as the case may be, together with all evidences or documents or statements or analyses collected during the investigation.*” by the Competition Commission of India (General) Amendment Regulations, 2020 w.e.f. 06.02.2020.

another part shall contain confidential ~~and commercially sensitive~~ information and documents to which access may be partially or totally restricted.]<sup>14</sup>

~~(4)~~<sup>(5)</sup> [~~Ten~~ Five copies]<sup>15</sup> of the report of the Director General, along with a soft copy in ~~document pdf~~ format, shall be forwarded to the Secretary within the time specified by the Commission:

Provided that the Secretary may ask for more copies of the report as and when required.

~~(5)~~<sup>(6)</sup> If the Commission, on consideration of the report, is of the opinion that further investigation is called for, it may direct the Director General to make further investigation and submit a supplementary report on specific issues within [such time as may be specified by the Commission but ordinarily not later than ~~forty five~~ sixty days]<sup>16</sup>.

## 21. Procedure for inquiry under section 26 of the Act.

~~(1) On receipt of the report of the Director General, the Secretary shall place the said report before the Commission [within seven days,]<sup>17</sup> for further orders and, in accordance with the direction of the Commission, forward [either a hard or a soft copy (in electronic form)]<sup>18</sup> [of non-confidential version]<sup>19</sup> thereof to the Central Government or the State Government or statutory authority or the parties concerned, as the case may be. Upon receipt of the investigation report from the Director General in terms of sub-section (3) of section 26 of the Act, the Secretary shall place the same for consideration of the Commission within a period of 04 (four) weeks.~~

~~(2) If the report of the Director General finds no contravention of the provisions of the Act, the Secretary shall [, within seven days,]<sup>20</sup> convey the directions of the Commission for inviting objections or suggestions [, to be filed within fifteen days,]<sup>21</sup> from the Central Government or the State Government or the statutory authority, or from the parties concerned, as the case may be on such report of the Director General.~~

(2) The Commission, upon consideration of the investigation report of the Director General, may either:

- (i) direct the Secretary to forward a hard or electronic copy of the non-confidential version of the report to the Central Government or the State Government or the Statutory Authority or the parties concerned, as the case may be, for filing objections or suggestions, if any, thereto, in terms of sub-sections (4) and (5) of

<sup>14</sup> Inserted by the Commission of India (General) Amendment Regulations, 2011 w.e.f. 31.03.2011.

<sup>15</sup> Substituted for "Eight copies" by the Commission of India (General) Amendment Regulations, 2011 w.e.f. 31.03.2011.

<sup>16</sup> Substituted for "a reasonable time to be specified in its direction" by the Competition Commission of India (General) Amendment Regulations, 2010 w.e.f. 20.10.2010.

<sup>17</sup> ~~Inserted by the Commission of India (General) Amendment Regulations, 2010 w.e.f. 20.10.2010.~~

<sup>18</sup> ~~Substituted for the word "copies" by the Competition Commission of India (General) Amendment Regulations, 2013 w.e.f. 08.11.2011.~~

<sup>19</sup> ~~Inserted by the Commission of India (General) Amendment Regulations, 2011 w.e.f. 31.03.2011.~~

<sup>20</sup> ~~Inserted by the Commission of India (General) Amendment Regulations, 2010 w.e.f. 20.10.2010.~~

<sup>21</sup> ~~Inserted by the Commission of India (General) Amendment Regulations, 2010 w.e.f. 20.10.2010.~~

- section 26 of the Act, within a period of 08 (eight) weeks from the receipt of the report; or
- ~~(i)~~(ii) order further investigation to be made by the Director General in the matter in terms of sub-section (3A) of section 26 of the Act; or
- ~~(ii)~~(iii) cause further inquiry to be made in the matter or itself proceed with further inquiry in the matter.
- (3) ~~If the Commission orders closure of the matter on consideration of the objections or suggestions, if any, referred to in sub-regulation (2), and agrees with the findings of the Director General, the Secretary shall convey the orders of the Commission to the Central Government or the State Government or the statutory authority or the parties concerned, as the case may be. The Commission may, while directing to forward the investigation report of the Director General to the Central Government or the State Government or the Statutory Authority or the parties concerned, as the case may be, for filing objections or suggestions, if any, thereto, also direct the parties concerned to file their financial information including financial statements, in accordance with the Competition Commission of India (Determination of Turnover or Income) Regulations, 2024 and the Competition Commission of India (Determination of Monetary Penalty) Guidelines, 2024.~~
- ~~(4) If the Commission, on consideration of the objections or suggestions, referred to in sub-regulation (2), directs further investigations in the matter by the Director General or further inquiries in the matter to be made by an officer of the Commission so authorized by it, the Secretary shall convey [ , within seven days,]<sup>22</sup> the directions of the Commission to the Director General or the officer so authorized, as the case may be.~~
- (4) Upon receipt of objections or suggestions from the Central Government or the State Government or the Statutory Authority or the parties concerned, as the case may be, the Commission may either:
- (i) pass a final order closing the matter under sub-section (6) of section 26 of the Act or pass an order under section 27 of the Act; or
- (ii) order further investigation to be made by the Director General in the matter in terms of sub-section (7) of section 26 of the Act; or
- ~~(i)~~(iii) cause further inquiry to be made in the matter or itself proceed with further inquiry in the matter in terms of sub-sections (7) or (8) of section 26 of the Act.
- (5) Upon receipt of the supplementary investigation report from the Director General, the Secretary shall place the same for consideration of the Commission within 04 (four) weeks.
- (6) The Commission, upon consideration of the supplementary investigation report of the Director General, may either:

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<sup>22</sup> Inserted by the Commission of India (General) Amendment Regulations, 2010 w.e.f. 20.10.2010.

- (i) direct the Secretary to forward a hard or electronic copy of the non-confidential version of the report to the Central Government or the State Government or the Statutory Authority or the parties concerned, as the case may be, for filing objections or suggestions, if any, thereto, within a period of 08 (eight) weeks from the receipt of the report; or
- (ii) cause further inquiry to be made in the matter or itself proceed with further inquiry in the matter in terms of sub-sections (7) or (8) of section 26 of the Act.
- (7) Upon receipt of objections or suggestions from the Central Government or the State Government or the Statutory Authority or the parties concerned, as the case may be, on the supplementary investigation report, the Commission may either:
- (i) pass a final order closing the matter under sub-section (9) of section 26 of the Act or pass an order under section 27 of the Act; or
- (ii) cause further inquiry to be made in the matter or itself proceed with further inquiry in the matter in terms of sub-sections (7) or (8) of section 26 of the Act.
- (8) Wherever the Commission causes further inquiry to be made in the matter or itself proceeds with further inquiry in the matter in terms of sub-sections (7) or (8) of section 26 of the Act, it shall issue a show-cause notice to the parties concerned, in terms of the proviso to sub-section (9) of section 26 of the Act, indicating the contraventions alleged to have been committed and giving a reasonable opportunity of being heard to the parties concerned.
- (9) Upon receipt of reply to the show-cause notice referred to in sub-regulation (8) from the parties concerned, the Commission may pass a final order closing the matter or pass an order under section 27 of the Act.
- (10) The Secretary shall convey the final orders passed by the Commission to the Central Government or the State Government or the statutory authority or the parties concerned, as the case may be, by providing them a certified copy thereof.
- ~~(5)~~(11) On an application made given by an officer authorized by the Commission justifying the production of specified books or other documents, as may be required to make further inquiries under this sub-regulation-(4), the Commission may direct any person to produce such specified books or other documents relating to any trade carried out by such person or enterprise, as per the provisions of sub-section (4) of section 36 of the Act.

Explanation. – For the purpose of this sub-regulation, the word “officer” shall include the experts and professionals mentioned under sub-section (3) of section 17 or sub-section (3) of section 36 of the Act.

- ~~(6) On receipt of the report of the Director General on further investigation or report of the authorized officer on further inquiries, as the case may be, the Secretary shall [, with the~~

~~approval of the Chairperson, fix the meeting of the Commission within seven days for consideration thereof<sup>23</sup>.~~

~~(7) If the report of the Director General mentioned under sub-regulation (1) finds contravention of any of the provisions of the Act, the Secretary shall obtain the orders of the Commission for inviting objections or suggestions from the Central Government or the State Government or the statutory authority or the parties concerned, as the case may be.~~

~~(8) On consideration of the objections or suggestions from the Central Government or the State Government or the statutory authority or the parties concerned, or the report of further investigation or further inquiries, as the case may be, if the Commission is of the opinion that further inquiry is called for, the Secretary shall fix the meeting of the Commission for consideration thereof, after issue of notice as per regulation 22, to the Central Government or the State Government or the statutory authority or the parties concerned, as the case may be.~~

~~(9)~~(12) The Secretary shall keep the Director General informed of the dates of the meetings of the Commission for inquiry ~~under sub-section (7) or sub-section (8) of section 26 of the Act for appearing to appear~~ in person or through any of his officers in accordance with the provisions of section 35 of the Act.

## **22. Mode of service of notice, etc.**

(1) Every notice or other document required to be served on or delivered to any person; under these regulations, may be served personally or sent by electronic mail address, or by registered post; or by speed post or by courier service at the address furnished by him or her or it for service, or at the place where the person ordinarily resides or carries on business or occupation or works for gain, or to his or her or its authorised representative at the address furnished by such person of its authorised representative:-

Provided that it shall be duty of the person who has furnished the address or the electronic mail address or details of authorised representative, to update the same in the records of the Commission from time to time, as and when necessary, else the service made at the address or the electronic mail address available on record shall be sufficient.

~~(2) Additionally, this may also be sent through facsimile transmission or by electronic mail. The facsimile transmission shall contain a cover page giving details of the sender, the subject, date of transmission, and the recipient's name and telephone number. [\*\*\*]~~

(3) An endorsement made by a postal or courier employee that the addressee or his agent has refused to take delivery of the notice shall be deemed to be proof of service by way of refusal.

(3A) An electronic mail shall be deemed to be delivered if properly addressed or directed to the recipient, in a form capable of being read by the other parties' system, when it is out

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<sup>23</sup> Substituted for "~~fix the meeting of the Commission for the consideration thereof~~" by the Competition Commission of India (General) Amendment Regulations, 2010 w.e.f. 20.10.2010.



of the control of the sender and enters the information processing system of the recipient for receiving such messages, whether or not opened or seen by the recipient.

- (4) In case, the postal or courier employee reports that the addressee has since left or is not available at the given address, the Commission relying on the information so furnished, may take a view as it may deem appropriate and may proceed to take steps for substituted service.
- (5) Where summons or notice was properly addressed, prepaid and duly sent by registered post acknowledgement due, and the acknowledgement having been lost or mislaid or for any other reason, has not been received by the Commission within thirty days from the date of issue of summons, the Commission may deem the service to be sufficient and may make a declaration accordingly.
- (6) Where the service of notice is not possible under the above referred modes and where the addressee cannot be found or is not traceable, the service may be effected by way of affixing a copy of summons or notice on the conspicuous part of the house in which the recipient ordinarily resides, the service may be deemed to be sufficient in view of Rule 20 of Order V of the Code of Civil Procedure, 1908 (5 of 1908).
- (7) Where the Commission is satisfied that the recipient of the notice is avoiding service or that for any other reason notice cannot be served in the ordinary way, it shall order service by an advertisement in the daily newspaper circulated in the locality where the recipient is last known to have resided.

### **23. Filings before Commission.**

- (1) All information(s) or references or responses thereto, or other documents which are required to be filed before the Commission shall be typed in Arial 12 fonts on ~~one~~both side of A4 size (210 x 297mm or 8.27"x11.69") white bond paper in double space with 2" margin on the left and 1" margin on all other sides:-

Provided that no filings shall be allowed to be made upon letter-heads of any person.

- (2) Only neat and legible photocopies or scanned documents duly certified as true copies may be filed as exhibits or annexes.
- (3) ~~Eight~~Two copies of each document referred to in sub-regulation (1), in addition to a soft copy in ~~document~~pdf format, wherever possible, shall be filed (one original and one copy):

Provided that the Secretary may, through public announcement, increase or decrease the number of copies depending on the number of Members of the Commission and the number of parties to the proceedings:

Provided further that the Secretary may, through public announcement, vary the format in which the soft copy is to be filed.

### **24. Power of Commission to join or substitute parties in proceedings.**

- (1) The Commission, on an application made in writing, by any party to the proceedings, may combine any number of persons or enterprises, whether jointly, jointly and



severally, separately, or in the alternative, as parties in the same proceedings, in an ordinary meeting if, –

- (a) any right to relief in respect of, or arising out of, the same act or transaction or series of acts or transactions is alleged to exist in such applicants, whether jointly, severally or in the alternative;
  - (b) the applicants can show, to the satisfaction of the Commission, that common question of law or fact would arise; and
  - (c) the Commission is satisfied that participation of such person or enterprise, as the case may be, is necessary for the determination of the issues before it.
- (2) If in any proceedings it becomes necessary to substitute a person or enterprise for an existing party, the Commission, may make an order of such substitution.
- (3) On an application made by a party, admitted to the proceedings under sub-regulation (1) or sub-regulation (2) in terms of regulation 37 of these regulations, the Secretary shall furnish to it, the person or enterprise, as the case may be, joined or substituted as parties, certified copies of such the documents sought, previously filed in the matter by other parties as may be decided by the Commission within ten days of the order.
- (4) No order under sub-regulation (1) or sub-regulation (2) shall affect any prior steps taken in the proceedings.

## **25. Power of Commission to permit a person or enterprise to take part in proceedings.**

- (1) While considering a matter in an ordinary meeting, the Commission, on an application made to it in writing, if satisfied, that a person or enterprise has substantial interest in the outcome of proceedings and that it is necessary in the public interest to allow such person or enterprise to present his or its opinion on that matter, may permit that person or enterprise to present such opinion and to take part in further proceedings of the matter, as the Commission may specify.
- (2) The application referred to in sub-regulation (1) shall be accompanied by proof of payment of fees, in accordance with sub-regulation (1) of regulation 49.
- (3) The application referred to in sub-regulation (1) shall contain, –
  - (a) legal name of the person or the enterprise making the request;
  - (b) address in India for service of notice or documents;
  - (c) contact details (telephone number, facsimile-mobile number including country/ city/ area code, and electronic mail address), if available;
  - (d) the mode of service of notice or documents to be used\*\*\*];
  - (e) a concise statement of the matters in issue in the proceedings which affect the person or the enterprise making the request;
  - (f) documents or affidavits or evidence in support of the statement, with a list thereof.

~~(4)~~ On an order made under sub-regulation (1), -if

~~(5)(4)~~ ~~on~~ an application is made by a the person or enterprise permitted to participate in the proceedings party in terms of regulation 37 of these regulations, the Secretary shall furnish to it, the person or enterprise permitted to participate in the proceedings, certified copies of the such documents sought previously filed in the matter by other parties as may be decided by the Commission, within ten days ~~of the order,~~

~~(a) the person or enterprise permitted to participate in the proceedings shall furnish copies of all documents filed under sub regulation (3) to all other parties to the proceedings within ten days of the order.~~

## **26. Power to strike out unnecessary party.**

The Commission may, on its own motion or on an application by a party to the proceedings before it, during an ordinary meeting, stating that no relief has been claimed by or against him or that no relief has to be granted to or against him, permit the striking out of such party from the proceedings.

## **27. Power of Commission to join multiple information.**

- (1) At any time after receipt of an information or a reference or an application, the Commission, if satisfied that the matter raised in any information or reference or application received subsequently is directly and substantially similar, may consolidate two or more similar information or references or applications, as the case may be, for consideration.
- (2) At any time after receipt of an information or a reference for investigation from the Commission under sub-section (1) of section 26 of the Act, the Director General, if satisfied, that the matter raised in any information or reference received subsequently for investigation from the Commission is directly and substantially similar, may request the Commission to consolidate such similar information or references, as the case may be, for common investigation.
- (3) Where the Commission consolidates two or more information or references or applications, in accordance with sub-regulation (1) and sub-regulation (2), –
  - (a) each such information or references, as the case may be, shall continue to be separately identified by its own docket number;
  - (b) pending consolidation of information or references by the Commission, the Director General may continue to investigate the matters.

## **28. Amendment of information.**

The Commission may permit amendment of any information, upon an application made in this regard but such amendment shall not be allowed if it substantially changes the nature and scope of the information.

## **29. Manner of making submissions or arguments by parties before Commission.**

- (1) Without prejudice to sub-section (1) of section 36 of the Act, the parties to the proceedings or their authorized representatives, as the case may be, shall declare to the

Commission at the earliest opportunity whether they would make oral submissions or file written arguments during the course of an inquiry under section 26 of the Act:

[\*\*\*]<sup>24</sup>

- (2) Subject to sub-regulation (1), the Commission may fix or limit the time during which the oral submissions or written arguments shall be addressed or filed by the parties or their authorized representatives, as the case may be, before it and may proceed to decide a matter in the absence of the party which does not abide by such timings as per regulation 30.

### **30. Power of the Commission to continue proceedings in absence of party.**

- (1) Where on the day fixed for any particular matter during an ordinary meeting, including the day of the meeting re-fixed on adjournment, if any party or parties to the proceeding do not appear even after service of notice or having noted the date, the Commission may decide to continue proceedings in the absence of party or parties, as the case may be, and pass appropriate orders as it deems fit.
- (2) If any party refuses access to or otherwise does not provide necessary information within the stipulated time or significantly impedes investigation, the Commission may pass such order as it may deem fit on the basis of available facts.
- (3) Where an order has been passed by the Commission under sub-regulation (1) or sub-regulation (2) and the party shows that it was prevented from participating in the proceeding before the Commission and/or furnishing the information required, for reasons beyond its control, the Commission, on being satisfied, may recall the order.

### **31. Interim order.**

- (1) Where the Commission, during an inquiry, has, by an order, temporarily restrained any party from carrying on any act in contravention of sub-section (1) of section 3 or sub-section (1) of section 4 of the Act, until the conclusion of such inquiry or until further orders, under section 33 of the Act, such order, if any, shall be signed and dated by the Members, including a dissenting note by the dissenting Member, if that be the case, and shall be made at the earliest.
- (2) Where during an inquiry, the Commission has passed interim order, referred to in sub-regulation (1), it shall hear the party against whom such an order has been made thereafter, as soon as possible.
- (3) [Where in a case an interim order under Section 33 of the Act has been passed, ~~the matter shall be dealt with expeditiously a final order, as far as possible, shall be passed by the Commission, within ninety days from the date of interim order.~~<sup>25</sup>

### **32. Final order.**

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<sup>24</sup> Words “*Provided that where the parties to the proceedings or their authorised representatives, as the case may be, have chosen to file written arguments they shall arrange to forward copies thereof to all parties to the proceedings sufficiently in advance and shall submit proof of the receipt by all parties to the Secretary before the fixed date of consideration of the matter by the Commission*” omitted by the Competition Commission of India (General) Amendment Regulations, 2011 w.e.f. 31.03.2011.

<sup>25</sup> Inserted by the Commission of India (General) Amendment Regulations, 2010 w.e.f. 20.10.2010.

- (1) Every order of the Commission shall be signed and dated by the Members including a dissenting note by the dissenting Member, if that be the case.
- (2) Every order or decision of the Commission shall, as far as practicable, be made within twenty-one working days from the date of conclusion of final arguments.
- (3) A copy of the order duly certified by the Secretary or such other officer authorized by the Secretary shall be served on the parties to the proceeding as provided in regulation 22 within four weeks of the date of the order.

### **33. Reference from statutory authority or the Central Government or a State Government.**

- (1) A reference from statutory authority under section 21 of the Act or the Central Government or State Government under section 49 of the Act for opinion made to the Commission shall contain such particulars as may be specified by the Commission.
- (2) Without prejudice to sub-regulation (1), a reference from statutory authority under section 21 of the Act, shall contain: -
  - (a) the specific proposition of law or fact or specific issue or policy or any other matter relating to competition on which the opinion is solicited;
  - (b) background and historical data relevant for the determination of the proposition or the issue or the policy or any other matter;
  - (c) duly authenticated copies of the relevant statutes including the rules, the regulations, the notifications, the orders as considered necessary, if applicable;
  - (d) duly authenticated and updated list of the parties with their complete addresses, telephone numbers, fax numbers, e-mail addresses;
  - (e) proof of having informed the parties concerned about the matter having been referred to the Commission for opinion under section 21 of the Act, if applicable.
- (3) The time to be reckoned for giving opinion on such reference under section 21 of the Act shall be subject to the proviso to sub-regulation (5) of regulation 15.
- (4) On being satisfied that the reference is complete, the Secretary shall place it during an ordinary meeting of the Commission and seek necessary instructions regarding the parties to whom notice of meeting is to be issued.
- (5) The Secretary shall give notice of the ordinary meeting to the said parties giving not less than seven days, in the manner specified, to take part in the proceedings.
- (6) The parties to whom the notices are issued under sub-regulation (5), may file comments or reply to the notice after having served a copy thereof to each party within 4 (four) days of receipt of the notice~~at least seven days prior to the date of the ordinary meeting, if applicable.~~
- (7) The Commission may call upon a representative of the statutory authority or the Central Government or the State Government or an expert in the field for discussion or evidence as it may consider necessary in the matter.

(8) The Commission may collect particulars and information from any person or enterprise or Central or State Government or statutory authority, which in its opinion is relevant to the reference received by the Commission.

(9) The Commission may form an opinion and send the same to the concerned parties and seek their objections and/or suggestions thereon within the time decided by it and after considering such objections or suggestions it shall give its final opinion to the statutory authority or the Central Government or the State Government, as the case may be.

~~(9)~~(10) In case the reference has been made by a statutory authority *suo motu*, the same may be exempt from application of the provisions contained in clauses (d) and (e) of sub-regulation (2) and sub-regulations (5), (6) and (9).

### **34. Reference by the Commission to statutory authority for opinion.**

(1) A reference from the Commission to any statutory authority for opinion under section 21A of the Act shall contain, –

- (a) the specific proposition of law or fact or specific issue relating to competition on which the opinion is solicited;
- (b) background and historical data relevant for the determination of the proposition or the issue;
- (c) duly authenticated copies of the Act, the relevant rules and regulations framed thereunder, the notifications and the orders, if any, passed by the Commission in the pending matter as considered necessary;
- (d) duly authenticated and updated list of the parties with their complete addresses, telephone numbers, fax numbers, e-mail addresses etc.;
- (e) proof of the Secretary having informed the parties concerned about the matter having been referred to the statutory authority for opinion under section 21A of the Act;
- (f) the Secretary shall certify that the reference being forwarded is in conformity with clauses (a) to (e);

Provided that in case the reference is being made by the Commission *suo motu*, the same may be exempt from application of the provisions contained in clauses (d) and (e) above.

(2) Where the statutory authority seeks additional information in the reference made, the Secretary shall, as far as practicable, provide such additional information to the concerned statutory authority within fifteen days of receipt of the same from the statutory authority.

(3) In case the opinion is not received from the statutory authority within sixty days of forwarding a reference under sub-regulation (1) or sub-regulation (2), the Secretary shall place the matter during an ordinary meeting of the Commission for further orders.

- (4) On receipt of the opinion from the statutory authority by sub-section (2) of section 21A of the Act, the Secretary shall place the same during an ordinary meeting of the Commission for orders.

### **35. Confidentiality.**

- (1) [The Commission shall maintain confidentiality of the identity of an Informant on a request made to it in writing:

Provided that where it is necessary or expedient to disclose the identity of the Informant for the purposes of the Act, the Commission may do so after providing a reasonable opportunity to the Informant, to represent its case before the Commission.

- (2) [A party seeking confidentiality over the information or the document(s) furnished by it shall set out cogent reasons for such treatment and shall self-certify that making the information or document(s) or part(s) thereof public]<sup>26</sup> will result in disclosure of trade secrets or destruction or appreciable diminution of the commercial value of any information or can be reasonably expected to cause serious injury. Further, the party shall confirm the following, along with the date on which such confidential treatment shall expire, on self-certification basis:

- (a) that the information is not available in the public domain;
- (b) that the information is known only to limited employees, suppliers, distributors and others involved in the party's business;
- (c) that adequate measures have been taken by the party to guard the secrecy of the information;
- (d) that the information cannot be acquired or duplicated by others.

The party claiming confidentiality shall provide an undertaking [in the form of an affidavit]<sup>27</sup> certifying the claims in terms of the requirements as above and such undertaking shall be filed by either the party itself or any of its employee, who has been [duly]<sup>28</sup> authorised by the [party]<sup>29</sup> to issue such authorisation on behalf of the party concerned:

Provided that the parties furnishing false undertaking shall be liable to be proceeded against, as per the provisions of the Act.

- (3) The party claiming confidentiality shall file a complete version of such [information or]<sup>30</sup> document(s) with the words 'restriction of publication claimed' in red ink on top of the first page and the word 'confidential' clearly and legibly marked in red ink near the top on each page together with a non-confidential version thereof, which shall redact/ not

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<sup>26</sup> Substituted for the words "A party seeking confidentiality over the information or the documents furnished by it shall set out cogent reasons for such treatment and shall self-certify that making the document or documents or information or a part or parts thereof public" by the Competition Commission of India (General) Amendment Regulations, 2024 w.e.f. 10.05.2024.

<sup>27</sup> Inserted by the Competition Commission of India (General) Amendment Regulations, 2024 w.e.f. 10.05.2024.

<sup>28</sup> Inserted by the Competition Commission of India (General) Amendment Regulations, 2024 w.e.f. 10.05.2024.

<sup>29</sup> Substituted for the words "Board or any other equivalent body" by the Competition Commission of India (General) Amendment Regulations, 2024 w.e.f. 10.05.2024.

<sup>30</sup> Inserted by the Competition Commission of India (General) Amendment Regulations, 2024 w.e.f. 10.05.2024.

contain such [information]<sup>31</sup> or document(s) or part(s) thereof upon which confidentiality has been claimed.

- (4) The non-confidential version of such [information or]<sup>32</sup> document(s) shall be an exact copy of the confidential version with the omissions of the confidential information being indicated in a conspicuous manner, as stipulated in sub-regulation (3).
- (5) The [information or]<sup>33</sup> document(s) or part(s) thereof that have been claimed to be confidential under this regulation shall be segregated from the non-confidential record and kept securely, bearing the title, the docket number of the proceeding, the notation 'confidential' and the date on which confidential treatment expires:

Provided that the following shall be marked 'confidential (search and seizure/ e-mail dumps/ call detail records etc.)', as the case may be, and shall be kept separately:

- (a) documents/ material obtained through search and seizure operations;
  - (b) e-mail dumps;
  - (c) call detail records; or
  - (d) any other document/ material in the nature of personal information.
- (6) The Commission may, if considered necessary or expedient, set up Confidentiality Ring(s) comprising of such authorised representatives of the parties, including, but not limited to, the authorised representatives specified under Section 35 of the Act, who would be able to access the information as mentioned in sub-regulation (5), as required, in unredacted form in terms of Regulation 37 of these regulations:

Provided that the Commission, while setting up a Confidentiality Ring, may decide the extent of information to be made accessible, as well as the parties and their members to be included, in the Confidentiality Ring, as deemed appropriate, for the purpose:

Provided further that the [document(s)]<sup>34</sup>/ material mentioned in proviso to sub-regulation (5) which have been relied upon in the confidential version of the report of the Director General, shall be made accessible to the members of the Confidentiality Ring.

- [(6A) (a) The party seeking access to confidential information shall make a request for setting up a Confidentiality Ring, by way of an application, at the earliest.
- (b) In case such request is made by a party post receipt of the non-confidential version of the investigation report, the same shall be made within a period of 10 (ten) days from the receipt thereof:

Provided that if the Commission is satisfied that the party was prevented by sufficient cause from making the request within the said period of 10 (ten) days, it may entertain the request made within a further period of 7 (seven) days.]<sup>35</sup>

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<sup>31</sup> Substituted for the word "*information(s)*" by the Competition Commission of India (General) Amendment Regulations, 2024 *w.e.f.* 10.05.2024.

<sup>32</sup> Inserted by the Competition Commission of India (General) Amendment Regulations, 2024 *w.e.f.* 10.05.2024.

<sup>33</sup> Inserted by the Competition Commission of India (General) Amendment Regulations, 2024 *w.e.f.* 10.05.2024.

<sup>34</sup> Substituted for the word "*documents*" by the Competition Commission of India (General) Amendment Regulations, 2024 *w.e.f.* 10.05.2024.

(7) Access to unredacted information in terms of sub-regulation (6) shall be provided on filing of undertakings [in the form of an affidavit]<sup>36</sup> by the parties to be included in the Confidentiality Ring stating that the information accessed by their members pursuant to such ring, shall not be shared and/ or disclosed by them, to any other person including to any official and/ or other employee of enterprise concerned or to any official and/ or employee of any joint-venture, subsidiary, group entity of the concerned enterprise, or to any other person, whatsoever, and that they shall use such information and [document(s)]<sup>37</sup> only for the purposes of the proceedings under the Act, and shall keep such information and documents within their sole custody, and shall destroy the same at the culmination of the present proceedings:

Provided that separate undertaking(s) on aforesaid terms [in the form of an affidavit]<sup>38</sup> shall also be provided by each party included in the Confidentiality Ring, to the other parties in the matter, whose confidential information is being accessed by its members, and the parties shall have the liberty to avail suitable remedies as per law, in case of any breach of such undertaking(s):

[Provided further that the parties concerned and their members forming part of Confidentiality Ring]<sup>39</sup> shall be liable to be proceeded against as per the provisions of the Act for breach of undertakings.

[(7A) The parties shall file undertakings in terms of sub-regulation (7) above within a period of 10 (ten) days from the date of receipt of the order setting up Confidentiality Ring:

Provided that if the Commission is satisfied that the party was prevented by sufficient cause from filing the undertaking within the said period of 10 (ten) days, it may accept the same filed within a further period of 5 (five) days.]<sup>40</sup>

(8) The Informant shall not be part of Confidentiality Ring and shall have access to non-confidential records only:

Provided that the Commission may include the Informant in the Confidentiality Ring in appropriate cases, if the inclusion of the Informant in the ring is considered necessary or expedient for effective inquiry.

(9) [(1) The parties included in the Confidentiality Ring may make application(s) seeking inspection under regulation 37 read with regulation 50 of these regulations, within a period of 7 (seven) days from the date of submission of undertaking(s).

(2) Such inspection shall be completed by the parties within a period of 21 (twenty-one) days of being allowed.

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<sup>35</sup> Inserted by the Competition Commission of India (General) Amendment Regulations, 2024 *w.e.f.* 10.05.2024.

<sup>36</sup> Inserted by the Competition Commission of India (General) Amendment Regulations, 2024 *w.e.f.* 10.05.2024.

<sup>37</sup> Substituted for the word “documents” by the Competition Commission of India (General) Amendment Regulations, 2024 *w.e.f.* 10.05.2024.

<sup>38</sup> Inserted by the Competition Commission of India (General) Amendment Regulations, 2024 *w.e.f.* 10.05.2024.

<sup>39</sup> Substituted for the words “Provided further that the representatives of the parties concerned forming part of Confidentiality Ring” by the Competition Commission of India (General) Amendment Regulations, 2024 *w.e.f.* 10.05.2024.

<sup>40</sup> Inserted by the Competition Commission of India (General) Amendment Regulations, 2024 *w.e.f.* 10.05.2024.



(3) The parties may make application(s) seeking grant of certified copies under regulation 37 read with regulation 50 of these regulations within a period of 7 (seven) days thereafter.

(4) On receipt of an application seeking certified copies, the same shall be supplied within a period of 14 (fourteen) days:

Provided that the Secretary may extend the time period(s) prescribed under sub-clause (2) above for a further period of 7 (seven) days but not thereafter.

(10)(1) The Commission may, considering the facts and circumstances of a particular matter, in exceptional cases, extend the timelines prescribed under this regulation for reasons to be recorded in writing.

(2) In case the party(s) fail to adhere to the given timelines, the Commission shall continue with the proceedings in accordance with law.]<sup>41</sup>

(11) If the Commission includes in any order or decision or opinion, information that has been claimed confidential under this regulation, the Commission shall make two versions of the order or decision or opinion, as the case may be. The non-confidential version which omits the confidential information that appears in the complete version, shall be served upon the parties, and shall be included in the non- confidential records. The complete version shall be placed in the confidential records as provided in sub-regulation (4) and the same shall be shared with the members of the Confidentiality Ring.

(12) Any person or party, including any officer or employee appointed by the Commission under sub-section (1) of Section 17 of the Act or any officer appointed by the Central Government under sub-section (1) of Section 16 of the Act or any expert or professional engaged by the Commission under sub-section (3) of Section 17 of the Act or any expert called upon to assist the Commission under sub-section (3) of Section 36 of the Act privy to the contents of the [information or]<sup>42</sup> document(s) or part(s) thereof that have been claimed confidential under this regulation, shall maintain confidentiality of the same and shall not use or disclose or deal with such confidential information for any purpose other than the purposes of the Act or any other law for the time being in force:

Provided that breach of confidentiality by any officer or employee of the Commission/ [Office of the Director General]<sup>43</sup> shall constitute a ground for initiation of disciplinary proceedings under the relevant rules or regulations, as the case may be:

Provided further that breach of confidentiality by any expert or professional engaged by the Commission under sub-section (3) of Section 17 of the Act or any expert called upon to assist the Commission under sub-section (3) of Section 36 of the Act shall be sufficient ground for termination of the engagement or contract, as the case may be.]<sup>44</sup>

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<sup>41</sup> Inserted by the Competition Commission of India (General) Amendment Regulations, 2024 w.e.f. 10.05.2024.

<sup>42</sup> Inserted by the Competition Commission of India (General) Amendment Regulations, 2024 w.e.f. 10.05.2024.

<sup>43</sup> Substituted for the words “Office of the DG” by the Competition Commission of India (General) Amendment Regulations, 2024 w.e.f. 10.05.2024.

<sup>44</sup> Substituted for the words “(1) The Commission shall maintain confidentiality of the identity of an informant on a request made to it in writing. [Provided that where it is expedient to disclose the identity of the informant for the purposes of the Act, the Commission shall do so after giving an opportunity to the informant of being

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heard].<sup>a</sup> (2) Any party may submit a request in writing to the Commission or the Director General, as the case may be, that a document or documents, or a part or parts thereof, be treated confidential. (3) A request under sub-regulation (2) may be made only if making the document or documents or a part or parts thereof public will result in disclosure of trade secrets or destruction or appreciable diminution of the commercial value of any information or can be reasonably expected to cause serious injury. (4) A request under sub-regulation (2) shall be accompanied with a statement setting out cogent reasons for such treatment and to the extent possible the date on which such confidential treatment shall expire. (5) Where such document or documents, or a part or parts thereof, form part of the party's written submissions, the party shall file a complete version with the words "restriction of publication claimed" in red ink on top of the first page and the word 'confidential' clearly and legibly marked in red ink near the top on each page together with a public version, which shall not contain such document or documents or part or parts thereof. (6) The public version of such written submissions shall be an exact copy of the confidential version with the omissions of the confidential information being indicated in a conspicuous manner, as stipulated in sub-regulation (5). (7) [\*\*\*]<sup>b</sup> (8) On receipt of a request under sub-regulation (2), the Commission or the Director General, as the case may be, if satisfied, shall direct that the document or documents or a part or parts thereof shall be kept confidential for the time period to be specified. [Provided that the Commission or the Director General, as the case may be, if satisfied, may give such confidential treatment to any other information or document or part thereof also in respect of which no request has been made by the party which has furnished such information or the document.]<sup>c</sup> (9) The Commission or the Director General, as the case may be, may also consider the following while arriving at a decision regarding confidentiality: – (a) the extent to which the information is known to outside public; (b) the extent to which the information is known to the employees, suppliers, distributors and others involved in the party's business; (c) the measures taken by the party to guard the secrecy of the information; (d) the ease or difficulty with which the information could be acquired or duplicated by others. (10) In case the Director General has rejected the request of the party made under sub-regulation (2), the party may approach the Commission for a decision regarding confidential treatment [within a period not exceeding 30 days from the receipt of the order passed by the Director General]<sup>d</sup>. (11) Where the Director General or the Commission has rejected the request for confidential treatment of a document or documents or a part or parts thereof and has informed the party of its intention, such document or documents or part or parts thereof shall, subject to sub-regulation (13), not be treated as confidential. (12) [\*\*\*]<sup>e</sup> (13) The document or documents or a part or parts thereof that have been granted confidential treatment under this regulation shall be segregated from the public record and secured in a sealed envelope or any other appropriate container, bearing the title, the docket number of the proceeding, the notation "confidential record under regulation 35" and the date on which confidential treatment expires. (14) If the Commission includes in any order or decision or opinion, information that has been granted confidential treatment under this regulation, the Commission shall file two versions of the order or decision or opinion. The public version shall omit the confidential information that appears in the complete version, be marked "subject to confidentiality requirements under regulation 35" on the first page, shall be served upon the parties, and shall be included in the public record of the proceeding. The complete version shall be placed in the confidential record of the proceeding as provided in sub-regulation (13). (15) Any person or party, including any officer or employee appointed by the Commission under sub-section (1) of section 17 of the Act and any expert or professional engaged by the Commission under sub-section (3) of section 17 of the Act or any expert called upon to assist the Commission under sub-section (3) of section 36 of the Act privy to the contents of the document or documents or a part or parts thereof that have been granted confidential treatment under this regulation shall maintain confidentiality of the same and shall not use or disclose or deal with such confidential information for any other purpose other than the purposes of the Act or any other law for the time being in force: Provided that breach of confidentiality by any officer or employee of the Commission appointed under sub-section (1) of section 17 of the Act shall constitute a ground for initiation of disciplinary proceedings under the relevant rules or regulations, as the case may be: Provided further that breach of confidentiality by any expert or professional engaged by the Commission under sub-section (3) of section 17 of the Act or any expert called upon to assist the Commission under sub-section (3) of section 36 of the Act shall be sufficient ground for termination of the engagement or contract, as the case may be." by the Competition Commission of India (General) Amendment Regulations, 2022 w.e.f. 08.04.2022. <sup>a</sup>Inserted by the Competition Commission of India (General) Amendment Regulations, 2019 w.e.f. 20.11.2019. <sup>b</sup>Words "The public version of such written submissions alone shall be served on the other parties" omitted by the Competition Commission of India (General) Amendment Regulations, 2011 w.e.f. 31.03.2011. <sup>c</sup>Inserted by the Competition Commission of India (General) Amendment Regulations, 2011 w.e.f. 31.03.2011. <sup>d</sup>Inserted by the Competition Commission of India (General) Amendment Regulations, 2019 w.e.f. 20.11.2019. <sup>e</sup>Words "If the party is unwilling to make the document or documents or a part or parts thereof public despite the Commission or the Director General having reached a decision that confidential treatment is not warranted, subject to any orders to the contrary that the Commission may pass under section 57 of the Act, such document or documents or part or parts thereof

### 36. Compliance of orders of Commission.

The Commission shall have power to direct the parties concerned to file an affidavit of compliance of its order or such other documents in the manner specified in its order.

### 37. Inspection and certified copies of documents.

- (1) Subject to the provisions of [Section 57 [of the Act]<sup>45</sup> and]<sup>46</sup> regulation 35 [of these regulations]<sup>47</sup>, a party to any proceeding of an ordinary meeting of the Commission may on an application in writing in that behalf, addressed to the Secretary, be allowed to inspect or obtain copies of the documents or records submitted during proceedings on payment of fee as specified in regulation [50]<sup>48</sup>[:]<sup>49</sup>

[Provided further that no request for inspection or certified copies of internal documents shall be allowed.]<sup>50</sup>

- (2) The Commission may, on an application of a person, who is not a party to the proceedings, on sufficient cause demonstrated, allow such person inspection [and/ or grant of certified copies]<sup>51</sup> of documents or records mentioned in sub-regulation (1) on payment of fee as specified in regulation [50]<sup>52</sup>.

- (3) An inspection shall be allowed only in the presence of an officer so authorized by the Secretary:

Provided that the [inspection of documents or grant of certified copying thereof]<sup>53</sup> as per sub-regulation (1) or sub-regulation (2) shall be allowed under the supervision of and subject to the time limits to be specified by the Secretary or an officer authorized by him in this behalf[:]<sup>54</sup>

[Provided further that for the purposes of inspection and grant of certified copies of confidential documents, the time limits as stipulated under regulation 35 of these regulations, shall apply.]<sup>55</sup>

- (4) An officer of the Central or State Government or the Director General or a statutory authority shall be allowed inspection and obtain copies of documents or records

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*shall be returned to the party and the information contained therein shall be disregarded*" omitted by the Competition Commission of India (General) Amendment Regulations, 2011 *w.e.f.* 31.03.2011.

<sup>45</sup> Inserted by the Competition Commission of India (General) Amendment Regulations, 2024 *w.e.f.* 10.05.2024.

<sup>46</sup> Inserted by the Commission of India (General) Amendment Regulations, 2011 *w.e.f.* 31.03.2011.

<sup>47</sup> Inserted by the Competition Commission of India (General) Amendment Regulations, 2024 *w.e.f.* 10.05.2024.

<sup>48</sup> Substituted for the figures "51" by the Commission of India (General) Amendment Regulations, 2011 *w.e.f.* 31.03.2011.

<sup>49</sup> Substituted for "." by the Competition Commission of India (General) Amendment Regulations, 2024 *w.e.f.* 10.05.2024.

<sup>50</sup> Inserted by the Commission of India (General) Amendment Regulations, 2011 *w.e.f.* 31.03.2011.

<sup>51</sup> Inserted by the Competition Commission of India (General) Amendment Regulations, 2024 *w.e.f.* 10.05.2024.

<sup>52</sup> Substituted for the figures "51" by the Commission of India (General) Amendment Regulations, 2011 *w.e.f.* 31.03.2011.

<sup>53</sup> Substituted for the words "*inspection of documents or copying thereof*" by the Competition Commission of India (General) Amendment Regulations, 2024 *w.e.f.* 10.05.2024.

<sup>54</sup> Substituted for "." by the Competition Commission of India (General) Amendment Regulations, 2024 *w.e.f.* 10.05.2024.

<sup>55</sup> Inserted by the Competition Commission of India (General) Amendment Regulations, 2024 *w.e.f.* 10.05.2024.

mentioned in sub-regulation (1) on making written request to the Secretary for the purpose.

38. [\*\*\*]<sup>56</sup>

**39. Continuation of proceedings after death of a party or adjudication of a party as insolvent.**

Where a party to a proceeding in an ordinary meeting of the Commission dies or is adjudged insolvent or, in the case of a company, being wound up, the proceeding shall not abate and may be continued by or against the executor, administrator or other legal representative of the parties or by or against the assignee, receiver or liquidator, as the case may be.

**40. Effect of non-compliance.**

Failure to comply with any requirement of these regulations shall not invalidate any proceeding, merely by reason of such failure, unless the Commission is of the view that such failure has resulted in miscarriage of justice.

**41. Taking of evidence.**

- (1) Subject to the provisions of the Act, the Commission or the Director General, as the case may be, may determine the manner in which evidence may be adduced in the proceedings before them.
- (2) Without prejudice to sub-regulation (1), the Commission or the Director General, for the purpose of inquiry or investigation, as the case may be, may –
  - (a) admit evidence taken in the form of verifiable transcripts of tape recordings, unedited versions of video recording, electronic mail, telephone records including authenticated mobile telephone records, written signed unsworn statements of individuals or signed responses to written questionnaires or interviews or comments or opinions or analyses of experts based upon market surveys or economic studies or other authoritative texts or otherwise, as material evidence;
  - (b) admit on record every document purporting to be a certificate, certified copy or other document, which is by law declared to be admissible as evidence of any particular fact provided it is duly certified by a gazetted officer of the Central Government or by a State Government or a statutory authority, as the case may be or a Magistrate or a Notary appointed under the Notaries Act, 1952 (53 of 1952) or the Secretary of the Commission;
  - (c) admit the entries in the books of account, including those maintained in an electronic form, regularly kept in the course of business, including entries in any public or other official book, register or record or an electronic record, made by a public

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<sup>56</sup> Words “**Dress code for participating in ordinary meetings of Commission.** (1) The Members, officers and employees of the Commission, the Director General, parties to any proceeding and their counsels shall attend the ordinary meetings of the Commission in the national dress or in the lounge suit or jacket with tie. Ladies may wear jacket over sari or salwar kameez. (2) Where a counsel belongs to a profession which has prescribed a dress for appearing in their professional capacity before any Court, Tribunal or such authority, he or she may appear in that dress and attend the ordinary meetings of the Commission.” omitted by the Commission of India (General) Amendment Regulations, 2011 w.e.f. 31.03.2011.

servant in the discharge of his official duty, or by any other person in performance of a duty specially enjoined by the law of the country in which such book, register or record or an electronic record is kept, as documentary evidence;

- (d) admit the opinion of any person acquainted with the handwriting of the person by whom a document is supposed to have been written or signed, as relevant fact to prove the handwriting of the person by whom the document was written or signed;
  - (e) admit the opinion of the handwriting experts or the experts in identifying finger impressions or the persons specially skilled in interpretation of foreign law or of science or art;
  - (f) take notice of the facts of which notice can be taken by a court of law under section ~~5257~~ of the Bharatiya Sakshya Adhiniyam, 2023~~Indian Evidence Act, 1872~~ (~~471~~ of ~~1872~~2023);
  - (g) accept the facts, which parties to the proceedings admit or agree in writing as proved;
  - (h) presume that any document purporting to be a certified copy of any record of any authority, court or government of any country not forming part of India as genuine and accurate, if the document purports to be certified in any manner which ~~is~~ certified by any representative of the National Government of such country to be the manner commonly in use in that country for the certification of copies of such records, including certification by the Embassy or the High Commission of that country in India~~;~~:-
  - (i) admit such documents including electronic records in evidence as may be considered relevant and material for the proceedings.
- (3) Subject to the provisions of sub-regulation (2), the following sections of the Bharatiya Sakshya Adhiniyam, 2023~~Indian Evidence Act, 1872~~ (~~147~~ of ~~1872~~2023), in so far as they are applicable to the matters relating to, –
- (a) section ~~22-A~~20 - when oral admissions as to contents of ~~electronic records documents~~ are relevant;
  - (b) section ~~47-A~~41(2) - opinion as to ~~the digital-electronic~~ signature when relevant;
  - (c) section ~~65-B~~63 - admissibility of electronic records;
  - (d) section ~~67-A~~66 - proof as to ~~digital-electronic~~ signature;
  - (e) section ~~73-A~~ - proof as to verification of digital signature;
  - (f) section ~~81-A~~ - presumption as to Gazettes in electronic ~~forms~~ digital record;
  - (g) section ~~85-A~~ - presumption as to electronic agreements;
  - (h) section ~~86~~5-B - presumption as to electronic records and electronic signatures;
  - (i) section ~~87~~5-C - presumption as to ~~digitalelectronic~~ signature certificates;
  - (j) section ~~88-A~~90 - presumption as to electronic messages;

(k) section ~~8991~~ - presumption as to due execution etc., of documents not produced;

(l) section ~~930-A~~ - presumption as to electronic records five years old;

may be applicable for the purpose of inquiry or investigation, by the Commission or the Director General, as the case may be.

(4) The Commission or the Director General, as the case may be, may call for the parties to lead evidence by way of affidavit or lead oral evidence in the matter.

(5) If the Commission or the Director General, as the case may be, directs evidence by a party to be led by way of oral submission, the Commission or the Director General, as the case may be, if considered necessary or expedient, may grant an opportunity to the other party or parties, as the case may be, to cross examine the person giving the evidence-;

Provided that if evidence led by a party by way of oral submission is sought to be relied upon by the Director General in its investigation report against any other person or party, the Director General shall offer to the concerned person or party against whom such evidence is sought to be relied upon, an opportunity to cross examine the person giving the evidence.

~~(5)(6)~~ The Commission or the Director General, as the case may be, may, if considered necessary or expedient, direct that the evidence of any of the parties to be recorded by an officer or person designated for the said purpose.

~~(6)(7)~~ The Commission may direct the parties to file written note of arguments or submissions in the matter.

#### **42. Supporting of facts by filing of affidavit.**

(1) The Commission or the Director General, as the case may be, may at any time, for sufficient reason, order that any particular fact or facts may be supported by affidavit.

(2) Every affidavit shall be typed in Arial 12 fonts on one side of A4 size (210 x 297 mm or 8.27” x 11.69”) white bond paper in double space with 2” margin on the left and 1” margin on all other sides.

(3) Every affidavit shall clearly state the cause or matter in which it is sworn.

(4) Every affidavit shall be drawn up in the first person, and shall be divided into paragraphs to be numbered consecutively, and shall state the description, occupation and the true place of residence of the deponent.

(5) Affidavits for the purposes of any cause or matter before the Commission may be sworn before any Court or Magistrate or a Notary appointed under the Notaries Act, 1952 (53 Of 1952) or any officer or other person a High Court may appoint in this behalf or any officer appointed by any other Court which the State Government has generally or specially empowered in this behalf vide authority mentioned in section 139 of the Code of Civil Procedure, 1908 (15 of 1908).

(6) Every exhibit annexed to an affidavit shall be marked with the title and number of the cause or matter and shall be initialed and dated by the authority before whom it is sworn.

- (7) No affidavit having any interlineations, alteration or erasure shall be filed before the ~~in~~ Commission or the Director General, as the case may be, unless the interlineations or alteration is initialed or unless in the case of an erasure the words or figures written on the erasure are re-written in the margin and initialed, by the authority before whom, the affidavit is sworn.
- (8) The Commission or the Director General, as the case may be, may refuse to receive an affidavit where in its opinion the interlineations, alterations or erasures are numerous as to make it expedient that the affidavit should be re-written.
- (9) Where a specific time is given for filing affidavits, no affidavit filed after that time shall be used except by leave of the Commission or the Director General, as the case may be.
- (10) In these regulations, 'affidavit' includes a document required to be sworn, affirmed or verified. In the verification of petitions and other proceedings, statements based on personal knowledge shall be distinguished from statement based on information and belief.
- (11) The Commission or Director General may, during the course of the proceedings, where considered necessary and expedient, in the interest of justice, relax any or all of the above provisions in this regulation.

#### **43. Production of additional evidence before Commission.**

- (1) The parties to the proceedings shall not be entitled to produce before the Commission additional evidence, either oral or documentary, which was in their possession or knowledge but was not produced before the Director General during investigation under section 26 or sub-section (1A) of section 29 of the Act, but if the Commission requires any document to be produced or any witness to be examined or any affidavit to be filed to enable it to pass orders or for any other substantial cause, or if the Director General has not given sufficient opportunity to the party to adduce evidence, the Commission, for reasons to be recorded, may allow such document to be produced or witness to be examined or affidavit to be filed or may allow such evidence to be adduced.
- (2) Such document may be produced or such witness examined or such evidence adduced either before the Commission or before such authority as the Commission may direct.
- (3) If the document is directed to be produced or witness examined or evidence adduced before any authority, he or she shall comply with the direction of the Commission and after compliance send the document, the record of the deposition of the witness or the record of the evidence adduced, to the Commission.
- (4) Additional evidence/document shall be made available by the Commission to the parties to the proceedings other than the party adducing the evidence and they may be afforded an opportunity to rebut the contents of the said additional evidence.

#### **44. Power of Commission to call for information etc.**

- (1) The Commission may, at any time before passing orders in a proceeding, require any of the parties or any other person whom the Commission considers appropriate, to produce

such documents or other material objects as evidence as the Commission may consider necessary for the purpose of enabling it to pass orders.

- (2) The Commission or the Director General, as the case may be, may direct the summoning of the witnesses, discovery and production of any document or other material objects producible in evidence, requisition of any public record from any office, examination by an officer of the Commission the books, accounts or other documents or information in the custody or control of any person which the Commission considers relevant for the purpose.
- (3) The Commission or the Director General, as the case may be, may at any time, summon and enforce the attendance of any person and examine him, or cause him to be examined on oath.

**45. Power of Commission or Director General to issue commissions for examination of witnesses or documents.**

- (1) Subject to the provisions of clause (d) of sub-section (2) of section 36 and sub-section (2) of section 41 of the Act, the Commission or the Director General, as the case may be, either on its or his own motion or on an application made by a party to any proceeding before the Commission or the Director General, may issue a commission for the examination on questionnaires or otherwise of the specified witness(es), –
  - (a) residing within India;
  - (b) who is about to leave India before the date on which he or she is required to be examined as a witness;
  - (c) ~~Who~~ who, being in the service of the Central Government, a State Government or a statutory authority, cannot, in the opinion of the Commission or the Director General, as the case may be, attend without detriment to the public service;
  - (d) who is unable to attend due to sickness or infirmity;
  - (e) who resides at a place which is more than five hundred kilometres distance from the office of the Commission or the Director General, as the case may be, and whose attendance, in the opinion of the Commission or the Director General, as the case may be, cannot be procured without incurring unnecessary expense within the stipulated time;
  - (f) not being covered under any of the situations mentioned in clauses (a) to (e), if his or her evidence is considered necessary in the interest of justice.
- (2) Subject to the provisions of sub-regulation (1), the Commission or the Director General, as the case may be, either on its or his own motion or on an application made by a party to any proceeding before the Commission or the Director General, may also issue a commission for the examination on questionnaires or otherwise of any witness residing at any place not within India if satisfied that the evidence of such witness is necessary and may issue a letter of request to the Indian High Commission or the Indian Embassy to facilitate the execution of the commission, under this regulation.



- (3) Subject to the provisions of sub-regulations (1) and (2), the Commission or the Director General, as the case may be, either on its or his own motion or on an application made by a party to any proceeding before the Commission or the Director General, may also issue a commission for the examination of specific document–(s) whether available in any place situated within or without India and whether or not held in the custody of any witness being examined on questionnaires as per sub-regulations (1) and (2).
- (4) A commission for the examination of a witness on questionnaires or otherwise or for examination of a document issued under sub-regulation (1) or (2) or (3) may be issued to any public servant within the meaning of sub-section (28) to section 24 of the Bharatiya Nyaya Sanhita, 2023 Indian Penal Code-(45 of 20231860) or a counsel and such public servant or the counsel, as the case may be, shall be appointed as “the commissioner” only for the purposes of executing the commission.
- (5) Every public servant or the counsel, referred to in sub-regulation (4), upon receiving a commission under sub-regulation (4) shall examine the witness or the document, as the case may be, or cause the witness or the document to be examined pursuant thereto and on due execution, shall return the commission together with the evidence taken under it to the Commission or the Director General, as the case may be.
- (6) The Commission or the Director General, as the case may be, shall furnish the commissioner appointed under sub-regulation (4) with such part of record of the proceedings and such instructions as appear necessary and the instructions shall distinctly specify that the commission is restricted to finding the facts through the examination as directed and the Commissioner is merely required to transmit the record of the proceedings to the Commission on completion of the examination.
- (7) Any Commissioner appointed under this regulation may, unless otherwise directed by the order of appointment –
  - (a) examine the witness himself;
  - (b) call for and examine the documents and other things relevant to the subject of inquiry.
- (8) The Commission or the Director General, as the case may be, issuing a commission under this regulation shall fix a date on or before which the commission shall be returned after execution, and the date so fixed shall not be extended except, for reasons to be recorded, the Commission or the Director General, as the case may be, is satisfied that there is sufficient cause for extending the date.

#### **46. Authorizing a representative to appear.**

- (1) Subject to the provisions of section 35 of the Act, in any proceeding, where the pleading is also signed by an authorized representative, the party shall append [a letter or vakalatnama]<sup>57</sup> in the manner specified authorizing the representative to appear for him or her or it, as the case may be.

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<sup>57</sup> Substituted for the words “*power of attorney or Vakalatnama in the manner specified*” by the Commission of India (General) Amendment Regulations, 2011 w.e.f. 31.03.2011.

(2) The authorized representative shall not be allowed to represent the party unless such [authorization letter or vakalatnama]<sup>58</sup> is filed before the Secretary before commencement of the ordinary meeting-:

Provided that at any point of time, only one authorization letter or vakalatnama on behalf of each party shall be deemed to be valid and filing of a new authorization letter or vakalatnama by any party shall be considered deemed revocation of the earlier one.

(2)(3) No misconduct on the part of any authorized representative, appearing for and on behalf of any party during continuance of a proceeding before the Commission as well as the Director General shall be permitted and the Commission in appropriate circumstances, for reasons to be recorded in writing, may pass necessary orders debaring the representative, guilty of misconduct, from appearing in the proceedings before the Commission and/ or the Director General in future or till such time as the Commission deems necessary.

(3)(4) In the event of the misconduct being committed by any counsel, the Secretary, if so directed by the Commission shall forward a complaint to this effect in writing to the Bar Council of the State of which the legal practitioner is member or the Institute of Chartered Accountants of India or the Institute of Company Secretaries of India or the Institute of Cost and Works Accountants of India, as the case may be.

Explanation. — For the purpose of this regulation, word “misconduct” shall include causing prejudice to or interfering with or attempting to interfere with, the due process of any proceeding or obstructing or attempting to obstruct, the compliance or execution of any order or direction of the Commission, in any manner, or using defamatory language or behaving defiantly or attempting to undermine or undermining the prestige of any Member or Officer of the Commission in any manner whatsoever.

#### **[46A. Authorizing an Advocate to accompany any person summoned by the Director General.**

(1) An Advocate may accompany any person summoned by the Director General to appear before him, subject to the following conditions, namely –

(a) The Advocate shall not be allowed to accompany such person, unless a request in writing accompanied by an authorisation letter or Vakalatnama ~~or Power of Attorney~~ is duly submitted to the Director General, prior to commencement of the proceedings.

(b) The Advocate shall not sit in front of the person so summoned.

(c) The Advocate shall not be at a hearing distance and shall not interact, consult, confer or in any manner communicate with the person, during his examination on oath.

~~(2) No misconduct on the part of the Advocate, accompanying the person summoned during continuance of his presence before the DG shall be permitted. In case of any misconduct, the DG for reasons to be recorded in writing shall forward a complaint to the Commission. The~~

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<sup>58</sup> Substituted for the words “power of attorney or Vakalatnama” by the Commission of India (General) Amendment Regulations, 2011 w.e.f. 31.03.2011.

~~Commission, if satisfied with the complaint of the DG, may pass necessary order debaring the Advocate, guilty of misconduct, from appearing in the proceedings before the DG as well as before the Commission in future or till such time as the Commission deems necessary. [\*\*\*]~~

~~(3) In the event of the misconduct being committed by any Advocate, the Secretary, if so directed by the Commission, shall forward a complaint to this effect in writing to the Bar Council of the State of which the Advocate is member. [\*\*\*]~~

~~Explanation—For the purposes of this Regulation, the term ‘Misconduct’ shall have the same meaning as assigned to it in explanation to sub-regulation 4 of Regulation 46.]<sup>59</sup>~~

#### **47. Proceedings before Commission not to be open to public.**

Except where the Commission may so direct, for reasons to be recorded, the proceedings before the Commission, during an ordinary meeting, shall not be open to public. In taking the decision to open the proceedings to public, the Commission may take into account all or any of the following matters namely: –

- (a) whether disclosure to public does not cause significant harm to a party;
- (b) degree of inhibition or encouragement in providing information in public;
- (c) efficient and proper conduct of proceeding;
- (d) resources of the Commission.

#### **48. Procedure for imposition of penalty under the Act.**

(1) [Notwithstanding anything to the contrary contained in any regulations framed under the Act, no order or direction imposing a penalty under Chapter VI of the Act shall be made unless the person or the enterprise or a party to the proceeding, during an ordinary meeting of the Commission, has been given a show cause notice and reasonable opportunity to represent his case before the Commission.]<sup>60</sup>

(2) In case of persons proceeded against in terms of section 48 of the Act, forwarding of the investigation report and/ or the supplementary investigation report or issue of show-cause notice under sub-regulation (8) of regulation 21 of these regulations, as the case may be, to such persons, shall be deemed to be the show cause notice in terms of sub-regulation (1) above.

(2)(3) In case the Commission decides to issue show cause notice to any person or enterprise or a party to the proceedings, as the case may be, under sub- regulation (1), the Secretary shall issue a show cause notice giving not less than fifteen days asking for submission of the explanation in writing within the period stipulated in the notice.

<sup>59</sup> ~~Inserted by the Commission of India (General) Amendment Regulations, 2018 w.e.f. 06.12.2018.~~

<sup>60</sup> Substituted for the words “Notwithstanding anything to the contrary contained in any rules or regulations framed under the Act, no order or direction imposing a penalty under the Act shall be made unless the person or the enterprise or a party to the proceeding, during an ordinary meeting of the Commission, has been given a show cause notice and reasonable opportunity to represent his or her or its case before the Commission” by the Commission of India (General) Amendment Regulations, 2011 w.e.f. 31.03.2011.

~~(3)~~(4) The Commission shall, on receipt of the explanation, and after oral hearing if granted, proceed to decide the matter of imposition of penalty on the facts and circumstances of the case.

**49. Fee under clause (a) of sub-section (1) of section 19 of the Act.**

(1)[Each information received under clause (a) of sub-section (1) of section 19 of the Act from any person shall be accompanied by proof of having paid the fee as under, -

- (a) rupees ~~10~~5,000 (~~five~~six thousand) in case of individual or Hindu Undivided Family (HUF), or
- (b) rupees ~~10~~2,000 (~~ten~~twelve thousand) in case of Non-Government Organisation (NGO), or Consumer Association, or a Co-operative Society, or Trust, or
- (c) rupees ~~4~~50,000 (~~forty~~fifty thousand) in case of firm (including proprietorship, partnership or Limited Liability Partnership) or company (including one-person company) having turnover in the preceding year upto rupees two crore, or
- (d) rupees ~~1,00~~25,000 (one lac ~~twenty~~-five thousand) in case of firm (including proprietorship, partnership or Limited Liability Partnership) or company (including one-person company) having turnover in the preceding year exceeding rupees two crore and upto rupees 50 crore, or
- (e) rupees ~~5~~6,00,000 (~~five~~six lacs) in the cases not covered under clause (a) or (b) or (c) or (d).]<sup>61</sup>

[(1A) Each Interlocutory Application received under sub-regulation (6) of regulation 15 shall be accompanied by proof of having paid the fee as under, -

- (a) Rupees 500 (five hundred) in case of individual or Hindu Undivided Family (HUF), or
- (b) Rupees 1,000 (one thousand) in case of Non-Government Organisation (NGO), or Consumer Association, or Co-operative Society, or Trust or
- (c) Rupees 1,000 (one thousand) in case of firm (including proprietorship, partnership or Limited Liability Partnership) or company (including one-person company) having turnover in the preceding year upto rupees two crore, or
- (d) Rupees 5,000 (five thousand) in all other cases.]<sup>62</sup>

<sup>61</sup> Substituted for the words “Each information received under clause (a) of sub-section (1) of section 19 of the Act or otherwise shall be accompanied by proof of having paid the fee of rupees fifty thousand.” by the Competition Commission of India (General) Amendment Regulations, 2009 w.e.f. 20.08.2009 and thereafter for the words “(1) Each information received under clause (a) of sub-section (1) of section 19 of the Act from any person shall be accompanied by proof of having paid the fee as under, – (a) rupees 5000 (five thousand) in case of individual or Hindu Undivided Family (HUF), or Non Government Organisation (NGO), or Consumer Association, or a Co-operative Society, or Trust, or (b) rupees 20,000 (twenty thousand) in case of firm or company having turnover in the preceding year upto rupees one crore, or (c) rupees 50,000 (fifty thousand) in the cases not covered under clause (a) or (b).” by the Competition Commission of India (General) Amendment Regulations, 2019, w.e.f. 20.11.2019.

<sup>62</sup> Inserted by the Competition Commission of India (General) Amendment Regulations, 2024 w.e.f. 12.01.2024.

[(1B) Each Miscellaneous Application received under sub-regulation (6) of regulation 15 shall be accompanied by proof of having paid the fee as under, -

(a) rupees 3,000 (three thousand) in case of individual or Hindu Undivided Family (HUF), or

(b) rupees 6,000 (six thousand) in case of Non-Government Organisation (NGO), or Consumer Association, or a Co-operative Society, or Trust, or

(c) rupees 25,000 (twenty-five thousand) in case of firm (including proprietorship, partnership or Limited Liability Partnership) or company (including one-person company) having turnover in the preceding year upto rupees two crore, or

(d) rupees 60,000 (sixty thousand) in case of firm (including proprietorship, partnership or Limited Liability Partnership) or company (including one-person company) having turnover in the preceding year exceeding rupees two crore and upto rupees 50 crore, or

(e) rupees 3,00,000 (three lacs) in the cases not covered under clause (a) or (b) or (c) or (d).]

(2)The fee may be increased or decreased on the basis of annual notification of Cost Inflation Index by the Central Board of Direct Taxes, Department of Revenue, Ministry of Finance by an order of the Commission.

(3)The fee can be paid either by tendering demand draft or pay order or banker's cheque, payable in favour of Competition Commission of India (Competition Fund), New Delhi or through Electronic Clearance Service (ECS) by direct remittance to the Competition Commission of India (Competition Fund), Account No. 1988002100187687 with "Punjab National Bank, Bhikaji Cama Place, New Delhi- 110066".

#### **50. [Inspection and copying fees]<sup>63</sup>.**

(1)A party to the proceedings, on application, may be allowed inspection of records relating to its case by the Secretary, on such conditions as may be specified, on payment of [rupees two thousand five hundred per day]<sup>64</sup> per case.

(2)[Fees for supplying certified copies]<sup>65</sup> shall be rupees [twenty]<sup>66</sup> per page.

#### **51. Empanelment of special counsel by Commission.**

(1)The Commission may draw up a panel of legal practitioners or chartered accountants or company secretaries or cost accountants to assist in proceedings before the National Company Law Competition Appellate Tribunal referred to in section 53A of the Act or any other quasi-judicial body or Court.

<sup>63</sup> Substituted for the words "*Inspection and copying charges*" by the Competition Commission of India (General) Amendment Regulations, 2024 w.e.f. 10.05.2024.

<sup>64</sup> Substituted for the words "*rupees one thousand per day*" by the Competition Commission of India (General) Amendment Regulations, 2024 w.e.f. 10.05.2024.

<sup>65</sup> Substituted for the words "*Copying charges for the parties to the proceedings*" by the Competition Commission of India (General) Amendment Regulations, 2024 w.e.f. 10.05.2024.

<sup>66</sup> Substituted for the words "*fifty*" by the Commission of India (General) Amendment Regulations, 2011 w.e.f. 31.03.2011.

- (2)The Director General may call upon the legal practitioners or chartered accountants or company secretaries or cost accountants from the panel for assistance in the proceedings before the Commission, if so required.
- (3)The remuneration payable and other allowances and compensation admissible to counsel shall be specified in consultation with the Commission.

## **52. Inviting experts of eminence to assist Commission.**

Without prejudice to sub-section (3) of section 36 of the Act, or guidelines issued thereunder, the Commission may invite experts of eminence to assist the Commission in discharging of its functions under the Act on such terms and conditions and at such times as may be decided by the Commission:

Provided that the Commission shall have absolute discretion as regards the evaluation of expertise or eminence of those invited to assist the Commission.

### **52A. Implementation and monitoring of orders passed by the Commission.**

- (1) Where the Commission is of the opinion that the implementation of its orders passed under Section 31 or Section 48A or Section 48B or any other provisions of the Act and regulations made thereunder, needs monitoring, it may appoint agencies to oversee such implementation, on such terms and conditions as deemed fit by the Commission.
- (2) The agencies appointed under sub-regulation (1) shall be independent of the parties to the proceedings in the matter, and shall confirm that they do not have any conflict of interest with the said parties.
- (3) Such agencies referred to in this regulation may include an accounting firm, management consultancy, any other professional organisation or chartered accountants/ company secretaries/ cost accountants.
- (4) The agencies appointed under sub-regulation (1) shall carry out the responsibilities as specified by the Commission from time to time *inter alia* including:
- a) monitoring the implementation of the orders of the Commission in accordance with its terms of engagement;
  - b) informing the Commission of any non-implementation or non-compliance of such orders;
  - c) adequately disclosing any direct or indirect pecuniary or non-pecuniary interest that is likely to prejudice performance of its duties under the terms of its engagement;
  - d) submit reports related to monitoring of the implementation of the orders of the Commission, at such periodic intervals as directed by the Commission;
  - e) maintaining highest standards of confidentiality in respect of information received or collected during the discharge of its obligations; and
  - f) performing such other duties as stipulated under the terms of its engagement or directed by the Commission.



(5) The Commission may, suspend or terminate the engagement of agencies appointed under sub-regulation (1) in such manner as may be determined by terms of its engagement:

Provided that notwithstanding anything contained in the terms of engagement, the Commission may, if it deems necessary, revoke the engagement, for reasons to be recorded in writing and such revocation shall not be questioned in any court of law or otherwise.

(6) The payment to the agencies appointed under sub-regulation (1) shall be made by the person who has filed an application under regulation 3 of the Competition Commission of India (Settlement) Regulations, 2024 or regulation 3 of the Competition Commission of India (Commitment) Regulations, 2024 or who has filed a notice under regulation 9 of the Competition Commission of India (Combination) Regulations, 2024 or in any other case, by any other person as directed by the Commission, as the case may be, by depositing it with the Commission or as may be directed by the Commission, subject to satisfactory discharge of responsibilities by the agencies.

### **53. Publication.**

- (1) The Commission may cause publication of a brief summary or the full text of its orders or decisions in the media, if it so desires in the interest of public, but shall have regard to the business secrets of the persons concerned and may direct deletion of such portions of the orders or decisions as it deems fit.
- (2) ~~A summary of a~~All orders or decisions made by the Commission under sub-section (2) or sub-section (2A) or sub-section (6) or sub-section (9) of section 26 of the Act directing the closure of the matter, or under section 27 or section 28 or section 31 or section 33 or section 42 of the Act, as the case may be, shall be published on the website of the Commission.
- (3) It shall be the duty of the Secretary to publish the orders or decisions referred to in this regulation.

### **54. Removal of difficulty.**

In the matter of implementation of these regulations, if any<sup>7</sup> doubt or difficulty arises, ~~the same shall be placed before the Commission and~~ the decision of the Commission thereon shall be binding.

## **ANNEXURE** **(See regulation 4)**


1. Seal



2. Emblem



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<sup>67</sup> Substituted for “” by the Competition Commission of India (General) Amendment Regulations, 2013 w.e.f. 07.10.2013.