

Draft Competition (Amendment) Bill, 2020

March 5, 2020

Source: PRS India and Economic Times

Background

The Ministry of Corporate Affairs in October 2018 had set up the Competition Law Review Committee (CLRC) (Chair: Mr. Injeti Srinivas) to comprehensively review the Competition Act and suggest substantive and procedural amendments for a robust competition regime. The CLRC submitted its report in July 2019, and its recommendations were closely reflected in the recent Draft Competition (Amendment) Bill, 2020. The Draft Bill proposes several amendments to the Act based on the recommendations of the Committee.

Key features of the Draft Bill:

- **Definition of a cartel:** Presently, the Competition Act defines cartels as an association of producers, sellers, or service providers who limit or control the production, distribution or price of goods and services. The Draft Bill amends the definition of cartels to include buyer cartels.
- **Establishment of Governing body:** The Draft Bill also provides for the establishment of a Governing Board. The body will consist of 13 members including
 1. A Chairperson
 2. Six whole-time members
 3. Two government representatives (from the Ministries of Finance and Corporate Affairs) as ex-officio members
 4. Four part-time members.
- **Various functions of the Governing Board:**
 1. Making regulations on matters relating to

competition and administration of the Competition Commission of India (CCI)

2. Entering into, amending, or cancelling contracts and memoranda on behalf of the CCI with any statutory authority or government department.
- **Settlements and commitments through CCI:** Parties under investigation for abuse of dominance or for entering into certain anti-competitive agreements (e.g., exclusive supply or distribution agreements) **may submit an application to the CCI to settle the case, or offer commitments.** Such an application will have to be made after the Director General (appointed for inquiries under the Act) has submitted the investigation report to the CCI and before the CCI has passed the final order. The order of the CCI accepting or rejecting the commitment or settlement application cannot be appealed.
 - **Acquisitions and mergers:** Under the Act, acquisitions, mergers or amalgamations of enterprises are considered to be a combination if they meet certain thresholds of turnover or value of assets. A notice is required to be filed for such proposed combinations. **The Draft Bill provides that the central government can specify criteria (other than those based on turnover or value of assets) to trigger a combination filing.**