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The LexGaze Weekly

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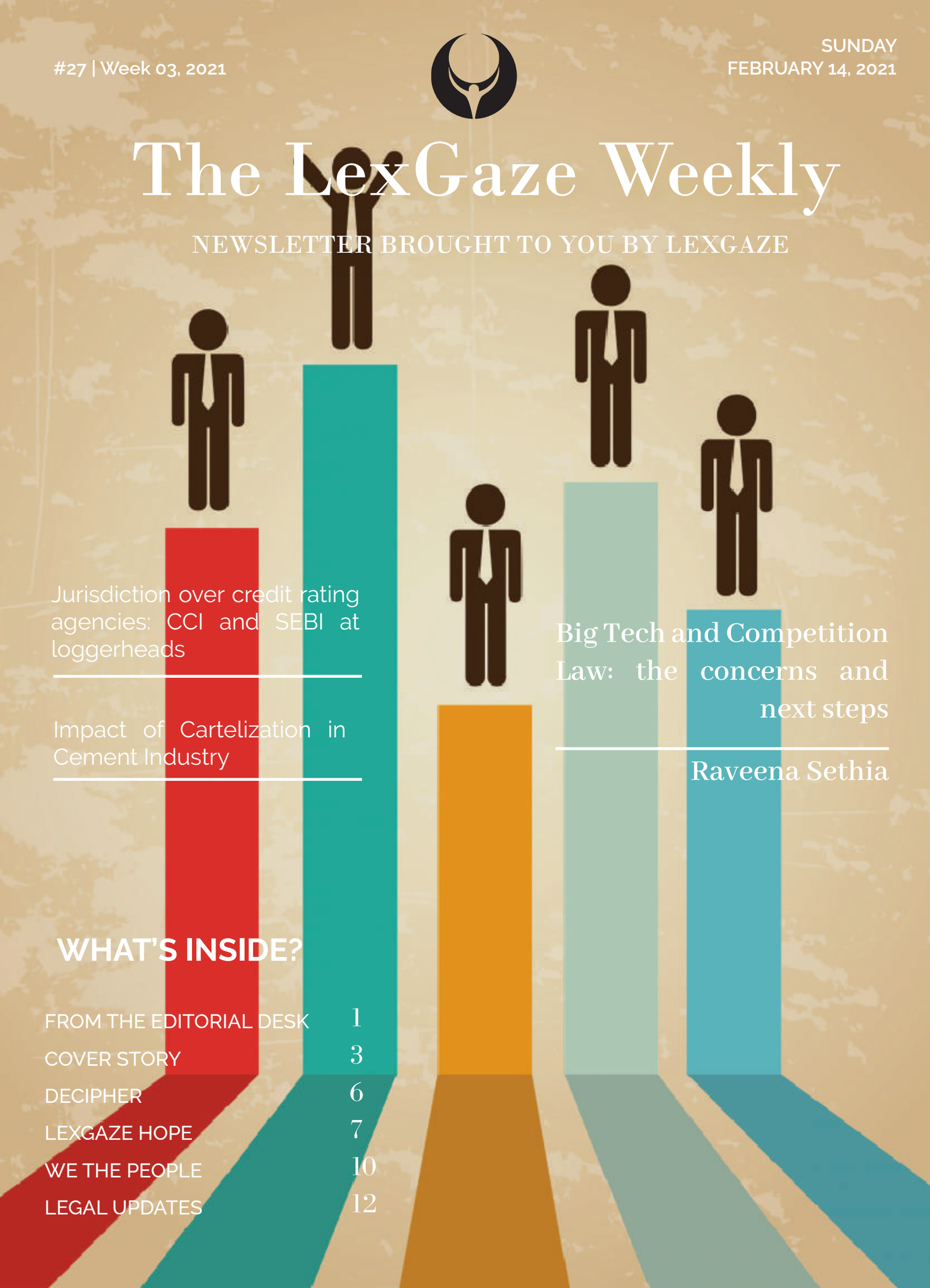

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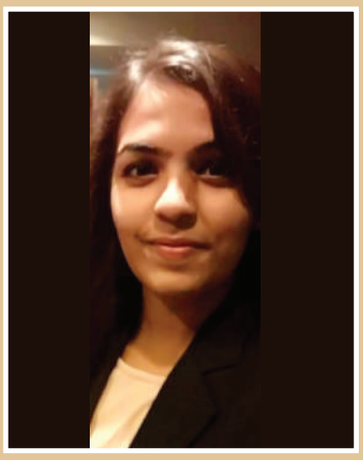


Shambhavi Shekhar,
Editor, Corporate Law,
LexGaze

While passing an order under Section 26 of the Competition Act, 2002 ("Act"), the Competition Commission of India ("CCI") and the Securities Exchange Board of India ("SEBI") locked horns over the issue of the jurisdiction concerning the credit rating agencies. Brickworks Ratings India Pvt. Ltd. is a credit rating agency registered with SEBI. It approached the competition watchdog under Section 19 of the Act, alleging inter alia collusion, cartelization, and bid-rigging by other credit rating agencies, namely, CRISIL, India Ratings and Research Pvt. Ltd., CARE Ratings Ltd., and ICRA Ltd. ("CRAs") in the tender floated by the National Highways Authority of India. On the basis of the information received by the CCI, it sought comments from relevant entities, including SEBI.

Pointers raised by SEBI:

a. As per the Code of Conduct, as prescribed under Schedule III of the Securities and Exchange Board (Credit Rating Agencies) Regulations, 1999, all credit rating agencies are obligated to carry on the business in a fair and dignified manner and strive to protect the interests of the investors.
b. In the event that any allegations are levelled against the credit rating agencies for violating the provisions as enumerated in the Regulations of 1999, only SEBI is authorized to investigate and take corrective measures.
c. Due to the aforementioned reasons, the CCI is not the appropriate authority to entertain the information provided by Brickworks Ratings India Pvt. Ltd.

Reply by the CRAs:

a. Since the regulation of credit rating agencies pan India falls within the scope and ambit of SEBI, the CCI had no jurisdiction whatsoever, in investigating the alleged contraventions.

CCI's observations concerning the issue of jurisdiction:
In the comments received by SEBI, since it was not highlighted whether the regulator had begun the process of inquiry against CRISIL, India Ratings and Research Pvt. Ltd., CARE Ratings Ltd., and ICRA Ltd. for the alleged

contravention of the 1999 Regulations, the CCI had proceeded further with the case. The Commission further observed that the credit rating agencies are regulated by SEBI, and as of date seven agencies are registered. It is not disputed that the control and regulation of the credit rating agencies fall within the realm of SEBI. However, the same cannot oust the jurisdiction of the CCI inasmuch as investigating any anti-competitive behaviour exhibited by the concerned entities is considered. Any anti-competitive conduct falls within the jurisdiction of the CCI. In order to substantiate its argument, the watchdog relied upon *Competition Commission of India v. Bharti Airtel Limited and Others, (2019) 2 SCC 521* and also reiterated that since the regulator showed no signs of proceeding with the inquiries, the CCI is well within its rights to decide the case on merits.

Jurisdiction tussle:

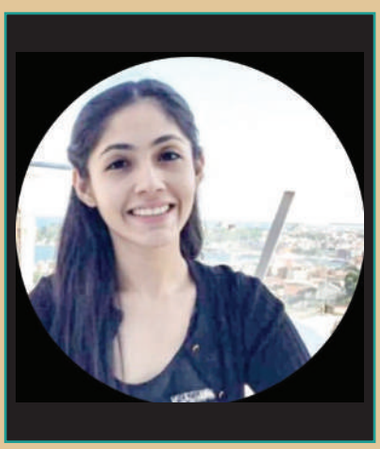
As per the Regulations of 1999 and also the FAQ on credit rating provided by SEBI, credit rating agencies fall within the domain of SEBI. The Credit Rating Agencies Regulations, 1999, contain, inter alia, the eligibility criteria mandatory for the registration of the agencies, provisions to monitor and review the ratings given. It also mandates ensuring a robust rating process, inspection by the sectoral regulator, code of conduct for the agencies, etc. However, as cited by the CCI (and as aforementioned), the Supreme Court, in 2019, had observed that the CCI, being a statutory body, has been constituted to promote healthy competition by preventing all the activities which might affect the competition adversely, thereby in a sense, acting as a regulator.The Hon'ble Court further observed, *"a unique feature of the CCI is that it is not a sector-based body but has the jurisdiction across which transcends sectoral boundaries, thereby covering all the industries, with focus on the aforesaid object and purpose behind the Competition Act, 2002."* Moreover, the Court also highlighted that the mere presence of a sectoral regulator does not completely oust the jurisdiction of the commission but only pushes it to a later stage after the sectoral regulator has undertaken necessary exercises, suitably, in respect of the relevant matter. This also becomes imperative in the wake of the fact that a sectoral regulator may not have a panoramic view of the economy as a whole, unlike the CCI. It would be interesting to see how the further course of jurisprudence is developed as regards the jurisdiction of the CCI.

Happy reading!

Big Tech and Competition Law: the concerns and next steps

Ms Raveena Sethia, Associate (Competition Law), Shardul Amarchand Mangaldas & Co

ABOUT



Ms Raveena Sethia
Associate(Competition Law)

Raveena K. Sethia is an LLM graduate from the University of Cambridge and presently works with the Competition Law practice at Shardul Amarchand Mangaldas, New Delhi.

She is the recipient of the Justice Pratibha M Singh Scholarship and Wolfson College Scholarship (in association with the Cambridge Trust).

Whilst at Cambridge, Raveena was an editor for the Cambridge Law Review, wrote for the Varsity, and was also involved with the Cambridge Union.

Raveena completed her BA LLB from Jindal Global Law School and was a Silver Medalist (academics).

An abundance of literature indicates that big tech companies (largely, Apple, Amazon, Facebook, and Google) pose a significant antitrust threat that the current tools employed, under various antitrust legislation, fall short of addressing.

This short piece aims to understand, from a layperson's perspective, the size, power, and tools employed by big tech companies, the potential 'threats' they pose to antitrust laws and notes that there must be a greater insight into their functioning, before traditional tools of antitrust law may be employed.

The market cap of Apple, Amazon, Facebook, Google, and Microsoft combined reached USD 6.8 trillion in 2020. Big tech companies have a wide array of entities within their umbrella that intersect across various segments. For instance, Facebook includes Instagram, WhatsApp, Oculus VR, LiveRail, and Threadsy, to name a few. Google includes its search engine, browser, map services, YouTube, Fitbit and has made another (approximately) 240 acquisitions to date. As such, a regular smartphone user may have at least 2 or more applications from the same provider installed, which enables that provider to collect and assimilate data across these various platforms, which may then be sold for revenue.

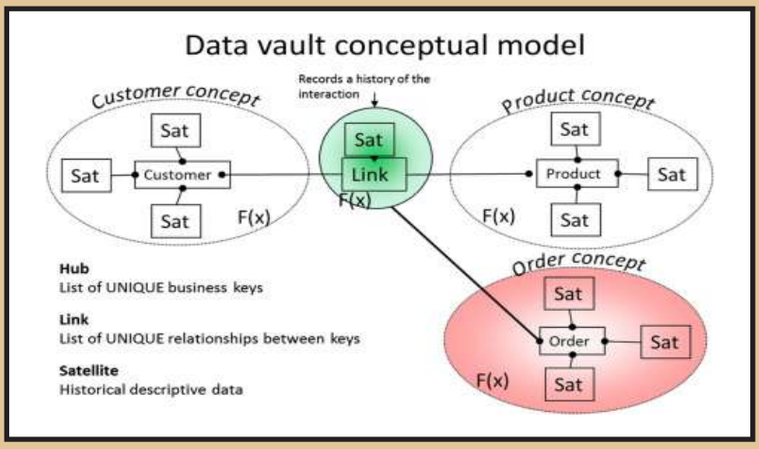
The broad threats posed by these companies include:

1. Threats to privacy: Big tech companies track, store, and sell individualized data. This enables advertising

platforms to conduct 'targeted advertising'. The question is: to what extent is this permissible? This has become a greater concern, especially in light of WhatsApp's recent policy changes. The ongoing debate regarding data collection and earning revenue from that data is based on whether or not it may be ethical to consider a human being your 'product';

2. Killer acquisitions: These companies acquire smaller platforms/apps/start-ups with the intent of nipping potential competition in the bud. There were significant concerns when Facebook acquired Instagram for USD 1 billion, whose net worth today is USD 100 billion. Similar concerns arise with respect to startups such as Turi Inc., which was helping almost 100 customers in creating and managing software that uses machine learning, a powerful type of artificial intelligence. Its technology was so promising that Apple snapped it up for USD 200 million. These deals usually escape the scanner of antitrust agencies, given that the current merger review procedure only investigates deals that exceed a certain financial threshold. Most of these startups/smaller entities are valued at a figure lesser than the thresholds. Therefore, the debate surrounding these acquisitions revolves around modifying the merger review threshold to include such acquisitions as well. In India, the Competition Law Review Committee has proposed a modification to the current legislation in relation to this aspect as well.

3. Data vault creating a barrier to entry: Big tech companies gain their power through the enormous vault of data at their disposal. Given that their platforms run on the basis of network effects, their growth is contingent on providing services such that individuals attract other individuals to join the platform. For example, if five friends join Facebook, this may attract another five friends from the same group to join, and so on. Given this effect, Facebook has access to the locations, preferences, data, and activity logs of billions of individuals. It uses this data to better its own products and services and also has the ability to sell this data as a commodity and earn revenue through it. This data vault makes companies such as Facebook extremely powerful and also creates an indirect barrier to entry for any new player who may not be able to gain the same status without that data and network effects. As such, there may be a greater dependency on these platforms, going forward.



Given the above, the current issue surrounding these companies and the present antitrust regime is that the existing tools of competition law are insufficient and inadequate to regulate the conduct of these entities.

Here is a broad overview of the arguments posed:

a. Traditional tools are inadequate: Traditional antitrust laws were contemplated with a view to protecting the free-market economy and were tailored to suit traditional industries. They dealt with traditional commodities, which could be quantified and easily analysed through traditional economic tools. Big tech companies work in a very different manner. They have, at their base, the consumer as the product. They provide goods free of cost to the consumers and sell their data to earn revenue. This data may not be quantifiable in the same way that a company's plants or factories are. As such, traditional economic tools fall short in being able to assess market power through data, understanding that the goal is to grab eyeballs rather than market 'shares' and assessing the risk posed.

b. Remedies may not be applicable: The remedies contemplated under traditional antitrust laws include divestitures (i.e., giving up your plant/tower/factory) and behavioural commitments (i.e., promising to license IPR on fair, reasonable, and transparent terms; providing a certain commitment in dealing with competitors, etc.). The traditional tools of antitrust

laws, through divestitures or commitments, may not be able to effectively curb the threat posed by big tech companies. It is very tough to assimilate and assess which entity within the larger enterprise houses consumer data and in what manner is it processed, to order a divestiture of an entity within the company's umbrella. It is also very difficult to assess which type of commitment could lead to better antitrust outcomes. Would it be fair to ask a business entity to share its data with every competitor? If that is the case, the entity will not be able to earn revenue through this data anymore (since it will become publicly available) and will have to charge consumers to survive, which would place an undue burden on them. The entities may also be discouraged from investing in R&D and bettering their products. if they had to offer commitments, it would curb their incentive to innovate. As such, the traditional remedies contemplated may not be sufficient.

c. Concern at a global level: The concerns posed by these companies exist on a global level. Traditional antitrust laws consider antitrust concerns on a jurisdiction-specific basis. Given the number of entities falling within the corporate umbrella across the world from where data is stored, transmitted, and used, it is very tough for a singular antitrust agency to identify jurisdiction-specific concerns and remedies to effectively tackle the issue.

In light of these concerns, the road ahead possibly comprises reflecting on the following:

a. Further research on these companies: The first step would be to undertake a thorough market study on these entities to better understand their size, scope, and operations, to effectively address antitrust concerns.

b. Data expert: At this point, traditional antitrust regulators do have economic experts but do not have permanent tech or data experts. It would be helpful to have a permanent advisor on board who could provide a better insight into big tech companies and provide effective solutions to tackle the threat posed.

c. Jurisdictional cooperation: Given that the issues posed by these companies are at a global scale, any effective remedy or assessment of the concerns posed would require cooperation at a global level by all antitrust agencies, to ensure divestment in the jurisdiction where necessary and commitments spanning multiple countries, for seamless enforcement. This could even include cooperation between antitrust and data privacy agencies.

d. Exploring innovative commitments: It is essential that innovative commitments, which are able to effectively resolve concerns posed by these companies, are thought of and looked into. These commitments should differ from traditional divestment / behavioural outcomes and focus more on data-related commitments, transfer of data, market access, etc.

Mandating mergers and acquisitions for a select set of companies: It would be useful to have a select set of big tech companies mandatorily notifying mergers or acquisitions to antitrust agencies so that any potential transaction undertaken by them comes under the scanner. This would be useful in better understanding the threat posed, loss of potential competition, and may lead to exploring effective remedies.

Deciphering the need for competition in India's Telecom

Mr Prakhar Srivastava, Managing Editor, LexGaze

India's telecom sector which was once replete with about a dozen players is today left with hardly three major companies- Vi, Airtel and Jio. Whereas Vi and Airtel continue to struggle for survival, Jio has been thriving ever since it entered the market and disrupted its course, once and for all. Of all things that the entry of Jio affected was also the competition in the sector.

At least a decade ago, scholars in competition law favoured consolidation of market players, arguing that the competition that a dozen companies offered could be offered by less than half the number. It was argued, back in time, that fragmentation of subscribers and spectrums led to increased costs for operators because, the benefits of scale were denied without any added advantage by way of competitive outcomes for the subscriber **[Rajat Kathuria and Isha Suri, Strengthening competition in India is the key to realising India's digital ambitions, The Indian Express, 16.09.2020].** Several years hence, the consolidations have happened, with Vodafone and Idea coming together; the exits have happened with companies like Uninor, Docomo, etc leaving, but the competition is nowhere the same. The discussion today is about how to preserve competition, especially in the long run.

In a recent decision of the Supreme Court of India, popularly known as the AGR (Adjusted Gross Revenue) decision, it has been held that the AGR dues of telecom companies must be paid in a period of 10 years, even as the parties had jointly requested a 20 years' duration in the interest of the companies as well as the banks. Per the judgment, Vi has to pay a total of Rs 54,000 crores to make good its AGR dues in 10 years. To one's surprise, the total losses suffered by Vi in 2020 alone amount to nearly Rs 73,878 crores. The colossal losses suffered by Vi do not augur well for the company. If the company has to survive, research suggests, it will have to increase it Average Revenue Per User ("ARPU") by at least 27 per cent. Airtel comes second, with the total payable amount being Rs 26,000 crores. For Airtel to survive, the ARPU will have to be increased by at least 10 per cent.

In an event that Vi is not able to pay its dues, its exit from the market may well be impending, leaving the market in a virtual duopoly, since the state-run BSNL has little share in the market. This will further deteriorate the already bad state of competition in the telecom sector.

The aforesaid analysis suggests that at least one operator is in dire need of cash, while another is scraping the bottom **[Kathuria and Suri]**. With a recurring decline in network quality, more so in remote areas, the primary consideration should revolve around expanding the coverage area, before the authorities roll-out 5G across India. However, given the current climate concerning the sector, investments required to undertake an expansion looks unlikely, with the only plausible option being a bigger and direct stimulus, which could be the much-needed shot in the arm. However, as the government looks firm in its stance vis-à-vis spectrum auctions, little to none credence exists for additional charges, which should be reconsidered by the government and abolished if need be in order to attract the kind of investment the government envisions. Having done all that, it's time that the government should expedite the formation of fresh regulations for smooth functioning of the sector, which could give the ailing CCI a much needed helping hand.

Competition (Amendment) Bill, 2020 - A crucial breakthrough!

Mr Aishwary Jaiswal, Incoming Contributing Editor, The LexGaze Weekly

I am going to come right out and say it- the present law (the Competition Act, 2002) is straight-up outmoded and inefficient in dealing with new unscrupulous business models. And when India tries all of the tricks up its sleeve to bring in foreign capital, to get multinational businesses on board, and whatnot, what comes across as equally, if not more, important is to keep a check on the functioning and operations of the big sharks in the market.
However, the silver lining is, owing to a significant decision by the Supreme Court in Brahm Dutt V. Union of India, the Competition Law Review Committee (CLRC) realized that the CCI has been a one-man band, and it was time to grant it some relief and delegate the work, to cope with changing times.

Appreciating the law review committee's insight and effort, the Ministry of Corporate Affairs (MCA) has prepared the draft Competition (Amendment) Bill, 2020. And mentioned below are some of the significant changes proposed in the Bill:

- Structural changes proposed by the Committee-

The Bill proposes to integrate the office of the Director-General (DG) into the body of the Competition Commission of India and to make the DG answerable to the CCI, which has not been the case. It has further been proposed that the DG staff appointments now be undertaken by the CCI and not the Central Government, to speed up the process and fill in the vacancies.

- Changes to promote the inclusion of technology & new-age markets-

The Bill further proposes to broaden the applicability of the 2002 Act and include within its ambit the new-age digital markets. And to facilitate the CCI in taking such a big leap, the Bill seeks to make numerous changes in the present system.

- Empowering holders of intellectual property rights-

The Bill has sought to widen the protection towards IPR holders. Currently, their immunity is restricted to anti-competitive agreements. The proposal is to insert Section 4A in the 2002 Act to extend the immunity provided under the already existing Section 3(5). The idea behind this step is to cease the abuse of the dominant position, which the current provisions overlook.

The ones mentioned above are just some of the forever-desired changes, the Bill seeks to bring a ton of them.

However, just as what we have all been hearing quite frequently- nothing is perfect, and everything has its flaws; the Bill drafted has a few shortcomings, too.

To name a few:

- The Bill is completely silent on whether a settlement or commitment order has any precedential value.
- The CCI's initial review power (taken away from it by the 2007 amendment), although restored by the Supreme Court in Google Inc. V. CCI (wherein, it was held that the review power is uncompromisable and inherent), has not been recommended by the Bill.

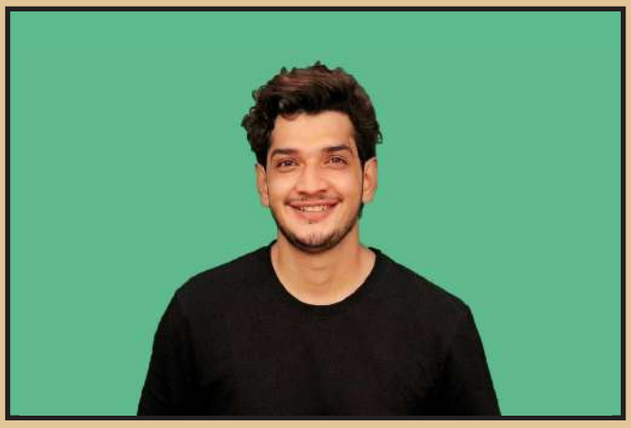
In the end, I'd like to say, the Bill is a huge step forward and that it has the much-needed potential of nudging the Indian economy, as a whole, in the right direction.

The CLRC has done what was expected of them, and so has the MCA, by acknowledging the loopholes and drafting the befitting Bill.

Tandav controversy: The Madhya Pradesh High Court refuses to entertain the plea seeking a stay on the streaming of the web series.

Following the killing of tigress 'Avni', the Supreme Court issued a contempt notice to Maharashtra officials for rewarding the shooters.

On stating that when a forest is harmed, the primary objective is to restore the same, the Himachal Pradesh High Court directs a man to restore the affected forest cover by planting 200 tree saplings.



The Supreme Court, after putting a stay on the Madhya Pradesh High Court's order, orders the release of comedian Munawar Faruqui.

Impact of Cartelization in Cement Industry

Mr Arijit Sanyal, Contributing Editor, LexGaze

"People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or some contrivance to raise prices"

– Adam Smith, Wealth of Nations (1776)

Competition regimes play a pivotal role in sustaining healthy competition and driving the economic growth of a nation. The competition regime in India has had transitions from the erstwhile Monopolies and Restrictive Trade Practices Act, 1969, to the current Competition Act, 2002 (hereinafter the Act). Though the financial year 2020-21, marred with dips, recessionary trends, and a countrywide lockdown, is coming to an end and the IMF projecting favourable growth rates for India's economy in 2021, the hurdles engulfing the Indian leadership's dream of a $5 Trillion economy are far from over. The menacing threat of cartelization by cement companies, though not a sole determinant, can inflict considerable damage at the micro and macro levels alike. The Act under Sec. 2(c) defines Cartels as ***"an association of producers, sellers, distributors, traders, or service providers who by agreement amongst themselves, limit, control or attempt to control the production, distribution, sale or, price of or trade in goods or profession of services"***. Competitive pricing being a key to a company's fortune, companies in a particular sector may form cartels to inflate the existing prices by limiting supply, price-fixing, etc. Cartels, one of the focal points of Competition laws, not only have the potential to harm enterprises in an allied market but also cause great harm to consumers and the overall economic development.

The Director-General of Investigation, CCI, in their latest order, slapped fines worth INR 6,200 crores against leading cement companies, who were found to have underutilized their production capabilities, so as to collectively reduce the supply of cement, consequentially leading to recurring phases of price rise. While those directly affected by the same might be restricted to a particular sector, a study by UNCTAD indicates adverse effects on the national economy in the long-run. As far as consumers are concerned, the participating enterprises in a cartel either keep their price levels the same or increase them in collusion so as to reduce the elasticity of demand. A similar situation is believed to have surfaced with respect to the cement and steel industries in India, which has forced builders to subscribe to the existing rates in spite of recurring price rises. Higher input prices have adversely affected the housing sector which has failed to attract buyers owing to the "artificially high" prices, leaving behind a large inventory of unsold flats, houses, and multiplexes across the country. Though the effects of cartelization have, so far, been limited to the housing sector, if unchecked for a prolonged period, this can dampen the potential of the cement industry of India, which was, until the pandemic broke, considered a catalyst in India's export trade.

With the price of cement bags going up by INR. 100/bag, the government spending in the infrastructure sector is expected to go up by 10-15%, which has deprived other sectors, like healthcare, education, public transport, which have been calling for reforms, now more so, with normalcy returning in a phased manner. Though the government is considering expanding its free-market ideology to other sectors, their first approach should be

to put a check on existing cartels across various markets such as the Cement and the Telecom sectors, to bring down the prices to competitive levels. Furthermore, the government needs to consider bringing in reforms within the existing framework, to revive the sanctioning under the act, which has had a despicable track-record while recovery of fines from the respective defaulters. The pandemic's massive blow to non-essential businesses across India, coupled with a price rise as a result of cartels, has already impacted purchasing power and consumer behaviours severely, while paving the way for over-investment, in exchange for relatively reduced output. However, instances from the past couple of months have indicated that the Competition Commission of India has adopted an extremely lenient approach due to the pandemic's aftermath on Micro, Small, and Medium Enterprises (MSMEs). Setting aside the cement saga, the CCI let go of an automobile-bearings cartel, by warning them and issuing notices against such practices in the future, which has indicated the difference in CCI's approach while taking cognizance of anti-competitive practices in different markets, which might compromise the interests of the National economic growth.

The reforms brought by the then government, in 1991, were meant to open the economy, not just for foreign investment but healthy competition as well. However, like every other economy, the move which was envisaged to cultivate healthy competition has, in a way, paved the way for anti-competitive practices by sidelining consumer welfare and economic growth across sectors. With the Competition Commission of India not living up to its expectations in sectors involving cement and steel, telecom, aviation, etc., one mustn't turn a blind eye to monopolistic tendencies existing in government-controlled sectors, such as Coal Mining, Railways, etc. Thus, the government must turn to a competition Policy within the existing framework of Competition Law which caters to sector-specific needs and aids the CCI in adopting a holistic approach by directly impacting enterprise behaviour and, ultimately, restricting anti-competitive practices across various sectors, to a greater extent. Though the recent government initiatives concerning railways, aviation, and coal mining might bring some respite, the lack of long-term institutional reforms is bound to push such incentives towards the future possibility of cartelization among the existing private enterprises in a sector which has showcased monopolistic tendencies for decades.

Mr Saksham Grover
Associate Editor, LexGaze

CIVIL LAW

[1] Illegal occupants of government/panchayat land cannot claim regularization as a matter of right.

Supreme Court, *Joginder v. State of Haryana*, S.L.P. (Civil) No. 1829 of 2021

[2] Litigant cannot seek recusal of a judge on the ground that he/she may not get a favourable order.

Supreme Court, *Neelam Manmohan Attavar v. Manmohan Attavar*, Misc. App. No. 42 of 2021

[3] Approach of Article 136 cannot be adopted while deciding petitions by the High Court under Article 227.

Supreme Court, *Sunita Agrawal v. Bhanwarlal & Anr.*, Civil Appeal No. 301/2021

[4] Tenant cannot dictate adequacy of space required by landlord for proposed business venture – summary eviction upheld.

Supreme Court, *Balwant Singh v. Sudarshan Kumar*,S.L.P. (C) Nos. 10793-10794/2020

[5] 'Panchayati divorce' has no legal sanctity – such customs ceased to exist after formulation of Hindu Marriage Act.

P&H HC, *Nishan Singh & Anr. v. State of Punjab & Ors.*,CRWP No. 763 of 2021 (O&M)

[6] Single judge bench can take cognizance and decide civil contempt petitions.

Ker. HC, *M.P. Varghese v. V.P. Devassia,* Contempt Case (C) No. 1073/2014

COMMERCIAL LAW

[7] Notification – MCA –Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2021 notified – fast track mergers extended to Starts ups and other small companies.

Notification *G.S.R. 93(E).*, **Click Here**

[8] Notification – MCA –Companies (Incorporation) Second Amendment Rules, 2021 notified –amends definition of small companies – allows NRIs to incorporate One Person Companies.

Notification *G.S.R. 91(E).*, **Click Here**

[9] Notification – SEBI –SEBI (Mutual Funds) (Amendment) Regulations, 2021 issued - easier profitability criteria issued for becoming a mutual fund sponsor to facilitate innovation and expansion in the sector.

Notification No.*SEBI/LAD-NRO/GN/2021/08,* **Click Here**

[10] Creditor will not become financial creditor under IBC if a corporate debtor has only given security by pledging shares, without undertaking to discharge borrower's liability.

Supreme Court, *Phoenix Arc. Pvt. Ltd. v. Ketulbhai Ramubhai Patel*, Civil Appeal No. 5146 of 2019

[11] Collusive commercial transactions with corporate debtor will not constitute 'financial debt' under IBC.

Supreme Court, *Phoenix Arc Private Limited v. Spade Financial Services Limited*, Civil Appeal No. 2842 of 2020

[12] Financial creditor can be excluded from CoC if it got rid of related party label only with intention to circumvent bar under Section 21(2) IBC.

Supreme Court, *Supreme Court, Phoenix Arc Private Limited v. Spade Financial Services Limited*, Civil Appeal No. 2842 of 2020

[13] Writ jurisdiction can be invoked despite availability of alternative remedy if allegation pertains to lack of jurisdiction of NCLT.

Cal. HC, *Kolkata Municipal Corporation & Anr. v. Union of India*, WPA No.977 of 2020

[14] SARFAESI Act applicable to coffee plantations in State of Karnataka.

Kar. HC, *Sri UM Ramesh Rao v. Union Bank of India*, W.A. No. 538/2020

CRIMINAL LAW

[15] Violation of fundamental right to speedy trial is a ground for constitutional court to grant bail in UAPA cases.

Supreme Court, *Union of India v. K.A. Najeeb*, Criminal Appeal No. 98 of 2021

[16] Belief of commission of act of

money laundering to be recorded before directing freezing of bank accounts under PMLA.

Supreme Court, *OPTO Circuit India Ltd. v. Axis Bank*, Criminal Appeal No. 102 of 2021

[17] Mere recovery of currency notes from public servant does not constitute offence u/s 7 of Prevention of Corruption Act.

Supreme Court, *N. Vijayakumar v. State of Tamil Nadu,* Criminal Appeal Nos. 100-¬101 of 2021

[18] Extra-ordinary power of trial court under Section 319 CrPC should be exercised sparingly.

Supreme Court, *Ajay Kumar v. State of Uttarakhand*, Criminal Appeal No. 88 of 2021

[19] Consent of Central Government a pre-requisite for premature release of a prisoner under Section 435 of CrPC – cannot deny without application of mind.

Del. HC, *Kartik Subramaniam v. Union of India*, W.P. (Crl.) No. 1642/2020

[20] Custody cannot be extended merely because forensic science laboratories have not furnished report.

Kar. HC, *Sri Naveen Kumar v. State of Karnataka & Anr.*, Criminal Petition No. 7019 of 2020

[21] Gold smuggling with intent to threaten economic security of country a 'terrorist act' under UAPA.

Raj. HC, *Mohammed Aslam v. Union of India*, S.B. Criminal Miscellaneous (Petition) No. 5139/2020

[22] CBI's authority to investigate within railway areas in a State remains unfettered by State Govt's withdrawal of consent.

Cal. HC, *Anup Majee v. Union of India*, WPA No. 10457 of 2020

[23] Prima facie bias or mala fide exercise of power by state authorities necessary for transferring a case to CBI.

Cal. HC, *Malati Roy v. State of West Bengal*, W.P.A. 33 of 2021

[24] Offences under Section 377 IPC and POCSO Act against small children cannot be settled by compromise.

Del. HC, *Sunil Raikwar v. The State & Anr.*, Crl. M.C. 186/2021

[25] Court cannot break open the seal of "sealed cover CBI reports" in front of parties without returning final or prima facie contentious issues.

Meg. HC, *Meghalaya Public Service Commission & Ors v.Millon Ch. Momin*, WA No.1/2021

PUBLIC POLICY

[26] Public authority to give cogent reasons for claiming exemption from disclosure of information sought under the RTI Act.

Del. HC, *Amit Kumar Shrivastava v. Central Information Commission*, W.P.(C) 3701/2018

[27] Representing case sitting in stationed car in a 'casual manner' amounts to disrespecting court proceedings.

Mad. HC, *TR.CMP. No.559 of 2020*

[28] Cannot sit as an appellate authority over a decision taken at highest level in the Government – Court refuses to interfere with the Delhi government's decision.

Del. HC, *Dr. Rohit Kumar v. Lt. Governor of Delhi*, W.P.(C) 499/2021

[29] Data privacy safeguards are sine qua non for protecting privacy of citizens particularly when an app. is required to be installed at the instance of state.

Meg. HC, *Jade Jeremiah Lyngdoh v. Union of India & Ors.*, PIL No. 6/2020

[30] Publication of intended acquisition in little known newspapers amounts to fraud on right to property of citizens.

Mad. HC, *W.P.No.2330 of 2021*

TIME TRAVELLER'S MEMOIR

1763 Treaty of Paris is signed, ending the French-Indian war with Canada being surrendered to Britain

1778 Treaty of Alliance signed between France and the US, aimed at recognising the sovereignty of the latter.

1945 Yalta agreement is signed by Winston Churchill, Franklin D Roosevelt and Joseph Stalin

1992 The Maastricht Treaty was signed by twelve European States to create the European Union

1994 Israel's Prime Minister Shimon Perez and PLO's chairman, Yaseer Arafat signed the Oslo Accords, to restore peace in the Middle East

2019 The Supreme Court of Bangladesh sentenced former Prime Minister, Khaleda Zia to prison for charges of corruption

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