

Competition Commission of India suspends operations till March 31, 2020 in light of COVID-19

On March 23, 2020 the Competition Commission of India (CCI) announced the [suspension](#) of the following operations till March 31, 2020 in an effort to contain the spread of COVID-19,

- All filings in relation to Sections 3 and 4 of the Competition Act, 2002 (**Act**)
- All notifications in relation to combination under Section 6 and 20 of the Act;
- All other filings, submissions and proceedings under the Act and regulations made thereunder, including those before the Director General; and
- Pre-filing consultations.

This complete suspension of procedural operations is testament to the seriousness of the situation as the CCI had earlier issued only segmental advisories to its officers *allowing partial functioning* of the regulator. For instance,

- On 20 March, it was [reported](#) that the CCI had allowed pre-filing consultations to those seeking informal guidance on determining filing-related requirements *via* video conferencing (*to be done at office of the Registrar of Companies, Ministry of Corporate Affairs*); and
- By way of a [circular](#) dated 17 March 2020, the CCI had as a precautionary measure, decided to adjourn all matters listed for hearing till 31 March 2020 and strongly advised against non-essential visits.

In view of the national lockdown of 21 days (w.e.f. 25 March 2020) announced by the Indian government late evening on 24 March 2020, the Supreme Court of India has [adjourned](#) even urgent matters listed for hearing through video conferencing. It is expected that in light of these emergency directions by [the Central Government](#), the CCI may also issue directions, suspending operations for the same duration.

In view of such measures, it is important to note that,

- Although there is currently a procedural and logistical shutdown at the CCI, the operation of the Act continues and has not been suspended. The CCI would continue to monitor the conduct and practices of entities, especially in light of the extraneous market situation created by COVID-19. For instance the practices and policies put in place by sectors which have been pushed into the spotlight such as the manufacturers involved in fast moving consumer goods/ essential goods, the pharmaceutical sector (*both generic and patent protected*), the aviation sector may continue to be under CCI observation. The CCI is empowered to take *suo cognizance* of possible contravention of the Act and while it might not be able to issue directions or hold hearings during this time, it is not fettered to undertake scrutiny once normalcy returns.
- Although there is no explicit direction on the extension of filing deadlines by the CCI following the suspension of CCI's operations, the entities may approach the relevant officials to seek extension. Helpfully, the Supreme Court of India on 23 March 2020, extended the period of limitation in all proceedings (including appeals) whether under general law or special law w.e.f March 15, 2020 till further orders. This will provide the parties approaching the appellate bodies (both NCLAT and the Supreme Court of India) against orders of the CCI with a welcome breather and allow them to retain their rights to appeal in the face of current circumstances.
- Other jurisdictions such as the United Kingdom have allowed temporary relaxation of competition law for supermarkets to allow the retailers to collaborate in response to the COVID-19 crisis enabling them to share stock data etc. (as supervised by a COVID-19 taskforce set up by the Competition and Markets Authority). The CCI has, however, not issued any guidance or notification on exempting any practices or temporary relaxation of applicability of the Act, till date. Therefore, it should be noted that any act of coordination between market participants (such as FCMG retailers/ manufacturers/ distributors), for example, in order to ensure speedy and effective provision of services (by sharing scarce distribution depots and logistical support) may still be open to scrutiny under the Act in the absence of any specific exemption by the CCI.

If you have any questions or any other concerns around the impact of COVID-19, please contact the team at insights@elp-in.com. We will continue to keep a close watch on legislative developments, with a particular eye on issues that may impact our clients and their businesses.

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