



ECONOMIC
LAWS
PRACTICE
ADVOCATES & SOLICITORS

Market Matters

The Antitrust Brief

JANUARY | 2026

The CCI finds KKK Mills and Sankeshwar Synthetics guilty of bid-rigging but refrains from imposing a penalty.

On January 2, 2026, the Competition Commission of India (**CCI**) found M/s KKK Mills and M/s Sankeshwar Synthetics Private Limited (**Sankeshwar Synthetics**) (together, the '**Opposite Parties**') to have contravened the Competition Act, 2002 (**Competition Act**) through rigging bids for a tender for supply "underpant woollen" issued by CP Cell, Master General of Ordnance Branch, Directorate General of Ordnance Services (**Informant**). The CCI's inquiry was initiated following a reference by the Informant, alleging that an initial tender dated July 11, 2019 (**First Tender**) was cancelled by the Informant on suspicion of collusion between the Opposite Parties, evidenced by the same price quoted by both in their bids. After cancelling the First Tender, on November 12, 2020, the Informant issued a request for proposal (**Re-Tender**) (together, '**Tenders**'), in response to which the Opposite Parties quoted identical bid prices.

The CCI's findings.

The Opposite Parties colluded to quote identical rates.

The CCI noted that the Opposite Parties were unable to explain the process for determining the rates quoted by them for the Tenders. The CCI further noted that there was no market condition or other factors that could have resulted in identical prices (identical till the last two decimal points) being quoted and the Opposite Parties had mutually decided the rates to be quoted for the Tenders. Along with this 'parallelism' in the Opposite Parties' prices, the CCI took note of certain 'plus' factors that indicated collusion:

[Short time-gap between bid submissions.](#) The bids for both Tenders were submitted by the Opposite Parties within a few minutes of one another and were made in advance of the submission deadline.

[Communications.](#) Call data records, e-mails (amongst the Opposite Parties and a related entity of Sankeshwar Synthetics), and bank transactions indicated contact and discussions regarding the Tenders between the Opposite Parties.

[Discussions on other tenders.](#) The Opposite Parties shared rates even regarding other tenders, indicated by sharing list of rates, e-mail communications etc., demonstrating that the Opposite Parties do not act independently when participating in government tenders.



Separately, the CCI rejected the Opposite Parties' contention that since the procurer is the Ministry of Defence, the market in which the Re-Tender was floated is an 'oligopsony', i.e., a market characterized by a small number of purchasers. The CCI noted that the market has several government and private buyers and even if the Opposite Parties were unable to qualify for a supply to tendering authorities, they may still supply their products to private buyers.

Individuals of the Opposite Parties liable for the anti-competitive conduct.

The CCI also found certain individuals liable for the anti-competitive conduct since these individuals were actively involved in the affairs of the Opposite Parties and discussed tenders with other bidders through e-mail communications.



No monetary penalty, only a 'cease and desist' direction.

The CCI noted that, from the financial statements submitted by the Opposite Parties, it was not possible to calculate the 'relevant turnover', i.e., the turnover from the supply of the tendered product. The CCI took note of the submissions that a penalty based on the total turnover would cripple the financial health of the parties, both of which are Micro, Small, Medium Enterprises and have supplied products to the armed forces over the past several decades. Taking a holistic view, the CCI refrained from imposing a monetary penalty and directed the Opposite Parties to 'cease and desist' from the anti-competitive conduct.



The order can be accessed [here](#).

Beyond the brief: The CCI considers violations concerning horizontal agreements (especially cartels) as the most egregious anti-competitive conduct and has imposed hefty monetary penalties for such contraventions. However, the CCI has, in its decisional practice, also exercised its discretion under Section 27 of the Competition Act and refrained from imposing a monetary penalty. Notably, in the past 5 years, the CCI has refrained from imposing a monetary penalty in 13 cases where it found contraventions under Section 3(3) of the Act. Our readers would recall that in December 2025, the CCI found¹ a contravention yet refrained from imposing a penalty, followed in quick succession by its recent order finding a bid-rigging contravention where the CCI yet again exercised its discretion under the Competition Act and refrained from imposing a monetary penalty. The CCI's exercise of discretion upholds the objective of the Competition Act, i.e., to rectify market distortions and aligns with the principle of proportionality upheld by the Supreme Court in *Excel Crop*², where it noted that the purpose of the Competition Act is not to "finish" an enterprise in infringement by imposing penalties beyond their means; and the CCI must balance harm due to the infringement with a proportionate penal consequence.

¹ XYZ v. Maharashtra Wine Merchants Association & Ors., Case No. 43 of 2019.

² Excel Crop Care Ltd. v. Competition Commission of India, 2017 SCC OnLine 609.

The CCI imposes a penalty of INR 5 million on Allcargo for gun-jumping.

On January 8, 2026, the CCI imposed a penalty of INR 5 million (~USD 0.055 million) on Allcargo Logistics Limited (**Allcargo**) for failing to notify its acquisition of a 30% stake in Gati-Kintetsu Express Private Limited (**Gati Express/ Target**) from KWE-Kintetsu World Express (S) Pte. Ltd. and KWE Kintetsu Express (India) Private Limited (collectively, '**KWE**') (the '**Transaction**'). Allcargo, through its subsidiary Allcargo Gati Limited (**AGL**), already held a 70% stake in the Target. On November 9, 2022, the board of directors of Allcargo approved the Transaction and on June 8, 2023, the Transaction was consummated, without any prior notification to or approval by the CCI.

The CCI's show cause notice.

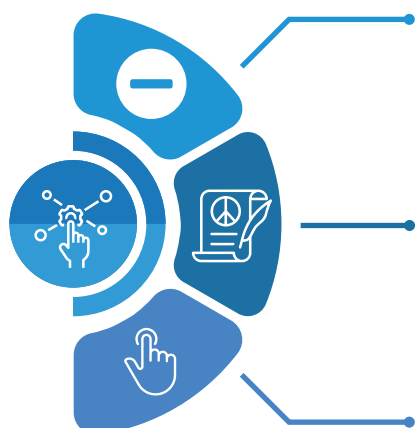
The CCI sought information from AGL to assess whether gun-jumping proceedings must be initiated. The CCI noted that under the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011 (**Combination Regulations**), an acquisition of shares, where the acquirer previously holds 50% or more shares in a target, would be exempt from notification, except if there is a change from joint to sole control over the target (**Relevant Exemption**). The CCI noted that while Allcargo had majority control over the Target (since it held a 70% stake), KWE's stake in the Target exceeded 25% and KWE had the right to veto matters requiring a special resolution of the board of directors. Therefore, the Transaction appeared to result in a change of control in the Target from joint (by Allcargo and KWE) to sole (only Allcargo). Due to such change of control, the CCI took a *prima facie* view that the Transaction would not have qualified the Relevant Exemption under the Combination Regulations and issued a show cause notice to Allcargo for its failure to notify the CCI.



The CCI's findings.

The transaction led to a change from 'joint' to 'sole' control over the Target.

The CCI observed that the Transaction could not avail of the Relevant Exemption because the control over Gati Express changed from 'joint' control of Allcargo and KWE to 'sole' control by Allcargo:



KWE had negative control over the Target. While Allcargo held a majority (70%) stake in Gati Express previously, KWE's 30% stake gave it 'negative control' through the ability to veto decisions which required passing of special resolution under the Companies Act, 2013.

KWE had veto rights in reserved matters. The Shareholders' Agreement (**SHA**) also conferred KWE with specific veto rights over 'reserved matters.'

Allcargo's decisive influence did not exclude KWE's control over the Target. The CCI noted that 'control' includes both *de facto* and *de jure* control and KWE had *de jure* negative control over Gati Express arising from its shareholding and rights under the SHA.

Obligation to notify a transaction precedes anticompetitive assessment.

The CCI noted that whether a transaction causes an appreciable adverse effect on competition is a separate exercise conducted after the CCI is notified and a lack of potential market harm is not a justification for failing to notify the CCI.



The order can be accessed [here](#).

Beyond the brief: The CCI's approach to determine 'control' has transitioned from a high threshold of 'decisive influence'³ to a much broader 'material influence' standard, which is now codified under the Competition Act through the Competition Amendment Act, 2023.⁴ In 2025, the CCI, through its FAQs, further clarified that 'control' is defined as the ability to exercise 'material influence' over the management, affairs, or strategic commercial decisions of an enterprise or group. This influence can be established through shareholding and voting rights (with a presumption of control at more than 25% shareholding), contractual rights like affirmative or veto powers, or through *de facto* operational dynamics even in the absence of a formal contract.

In the present case, the CCI established that KWE's 30% stake and veto rights over reserved matters created a *de jure* negative control and in such a scenario, the change from joint to sole control necessitated prior approval of the transaction from the CCI. To date, the CCI has passed 5 orders penalizing parties for failing to notify the CCI before consummating a transaction, which involved acquisitions with 'negative' control rights, i.e., shareholder veto rights. Prior to this, the most recent gun-jumping penalty was imposed on Goldman Sachs⁵, where the CCI imposed a penalty for failing to notify an acquisition of strategic reserved matter rights even when the underlying equity acquisition was minimal.

³ Independent Media Trust, Combination Regn. No. [C-2012/03/47](#).

⁴ Section 5, explanation a of the Competition Act states that control means the ability to exercise material influence, in any manner whatsoever, over the management or affairs or strategic commercial decisions by (i) one or more enterprises, either jointly or singly, over another enterprise or group; or (ii) one or more groups, either jointly or singly, over another group or enterprise.

⁵ Goldman Sachs (India) Alternative Investment Management Private Limited, Ref. No.: [M&A/10/2020/01/CD](#).

The NCLAT upholds the CCI's dismissal of an information filed by Apaar Infratech.

On January 20, 2026, the National Company Law Appellate Tribunal (**NCLAT**) dismissed an appeal against the CCI's 2022 order dismissing the allegations made by M/s Apaar Infratech Private Limited (**Apaar Infratech**), a supplier of Crystalline Durability Admixture (**CDA**), a material required for waterproofing in infrastructure projects.

Background.

Apaar Infratech had alleged that Maharashtra State Road Development Corporation Limited (**Maharashtra Road Development**) abused its dominant position by imposing Indian Road Congress accreditation (**IRC Accreditation**) as a mandatory eligibility criterion, among other criteria, on vendors seeking to participate in the supply of CDA for the Nagpur Mumbai Super Communication Expressway which was being constructed by Nagpur Mumbai Super Communication Expressway Limited. Maharashtra Road Development then allegedly excluded Apaar Infratech from the eligible 'Identified Vendors List' in an unfair and discriminatory manner for lack of an IRC Accreditation while including CD Seal Waterproofing and Slurry Inc., despite similar absence of the IRC Accreditation.

Apaar Infratech also alleged that Penetron India Private Limited (**Penetron India**), an importer of CDA, Penetron International Limited Inc. (**Penetron International**), a manufacturer of CDA, and Crystal Deep Seal Corporation Limited (**CD Seal**) entered into an agreement to determine prices for supply of CDA and also created two dummy entities, namely, CD Seal Waterproofing and Slurry Inc. to populate the vendor list and eventually facilitate Penetron India as the supplier.

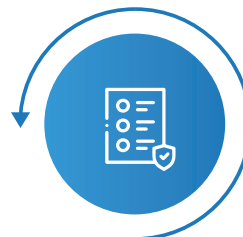
The CCI's Order

Dismissing the allegations, the CCI noted that Maharashtra Road Development was operating only in Maharashtra and could not be stated as being dominant in the relevant market as many public and private sector companies such as the National Highway Authority of India, Larsen & Toubro Infrastructure Development Projects Limited, etc. are also developing various such projects in the market for '*procurement of CDA in heavy infrastructure projects in India*'. Therefore, absent a dominant position, the CCI did not analyze subsequent abuse. On the allegations of an anti-competitive agreement between Penetron International and Penetron India, the CCI noted that Penetron India imported products from Penetron International, therefore, they were vertically associated and further, Penetron International and CD Seal only had a common registered address and CEO. Considering this, the CCI noted that the arrangement amongst Penetron International, Penetron India, and CD Seal could not be examined as a horizontal arrangement.

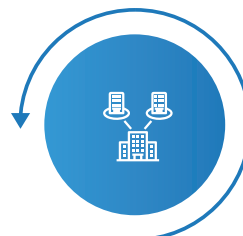


The NCLAT's observation

The IRC Accreditation criteria was not unfair or discriminatory. The NCLAT agreed with the CCI's delineation of the relevant market and further noted that Apaar Infratech did not provide any substantial data to prove Maharashtra Road Development's dominance in this market. The NCLAT, referring to the eligibility criterion of IRC Accreditation, noted that mere prescription of an eligibility criteria is not unfair or discriminatory. The NCLAT emphasized that absent any dominance, the CCI cannot analyze an allegation of abuse.



Arrangement amongst 'group' entities cannot be an anti-competitive agreement. The NCLAT observed that Penetron International holds a 75% equity stake in Penetron India and both are part of the same 'group'. Since a parent entity exercises decisive influence over its subsidiary, they cannot be considered competitors capable of collusion or cartelization under the Competition Act. Further, these players do not operate in the same market in India as competitors, since Penetron India is an importer making supplies in India while Penetron International is a US-based entity not making direct sales in India. Hence, any alleged conduct cannot be examined as a horizontal agreement since Penetron International and Penetron India are (i) part of the same 'group'; and (ii) do not operate as competitors in the relevant market.



The CCI's request for information does not necessarily reflect a *prima facie* opinion. The NCLAT noted that the fact that the CCI has sought a reply on the information filed from the opposite parties does not necessarily mean the CCI has already formed a *prima facie* opinion on the information. The NCLAT further observed that it was inconsequential that Maharashtra Road Development did not reply to the CCI's request for information since the CCI closed the matter on the basis of the material available, which showed no *prima facie* case.



The order can be accessed [here](#).

IN THE NEWS

➔ On January 19, 2026, the Delhi High Court (**HC**) adjourned a second writ petition, which was filed by Madison Communications Private Limited (**Madison**) in December 2025. The Delhi HC decided to await the outcome of Madison's first writ petition, which is scheduled for a hearing before the division bench of the Delhi HC on February 26, 2026 and is expected to have a direct bearing on the second writ petition.

The readers will recall that Madison filed a second writ petition before the Delhi HC in December 2025, challenging the constitutional validity of several provisions of the Competition Act and The CCI (General) Regulations, 2024 (**General Regulations**). This flows from an initial writ petition filed by Madison on October 8, 2025, which challenged an ongoing CCI probe into alleged collusion among leading advertising players in India, including Madison.

For more details refer to our reporting in the [December](#) and [October](#) newsletter.

➔ In January 2026, reportedly, the CCI summoned officials from several leading steel pipe manufacturers including Jindal Saw, Welspun, and Maharashtra Seamless for depositions. These depositions are a part of an ongoing investigation into alleged bid-rigging and cartelization within the steel pipe sector.

The probe originates from a 2023 complaint filed by the Oil and Natural Gas Corporation, which alleged anti-competitive practices regarding procurement tenders for seamless pipes. Following this complaint, the CCI conducted raids at the manufacturers' offices in September 2025. Currently, some of these companies have approached the Delhi HC to challenge the legality of those raids, and the constitutional validity of certain provisions within the General Regulations.

➔ Appeals in the Supreme Court (**SC**)

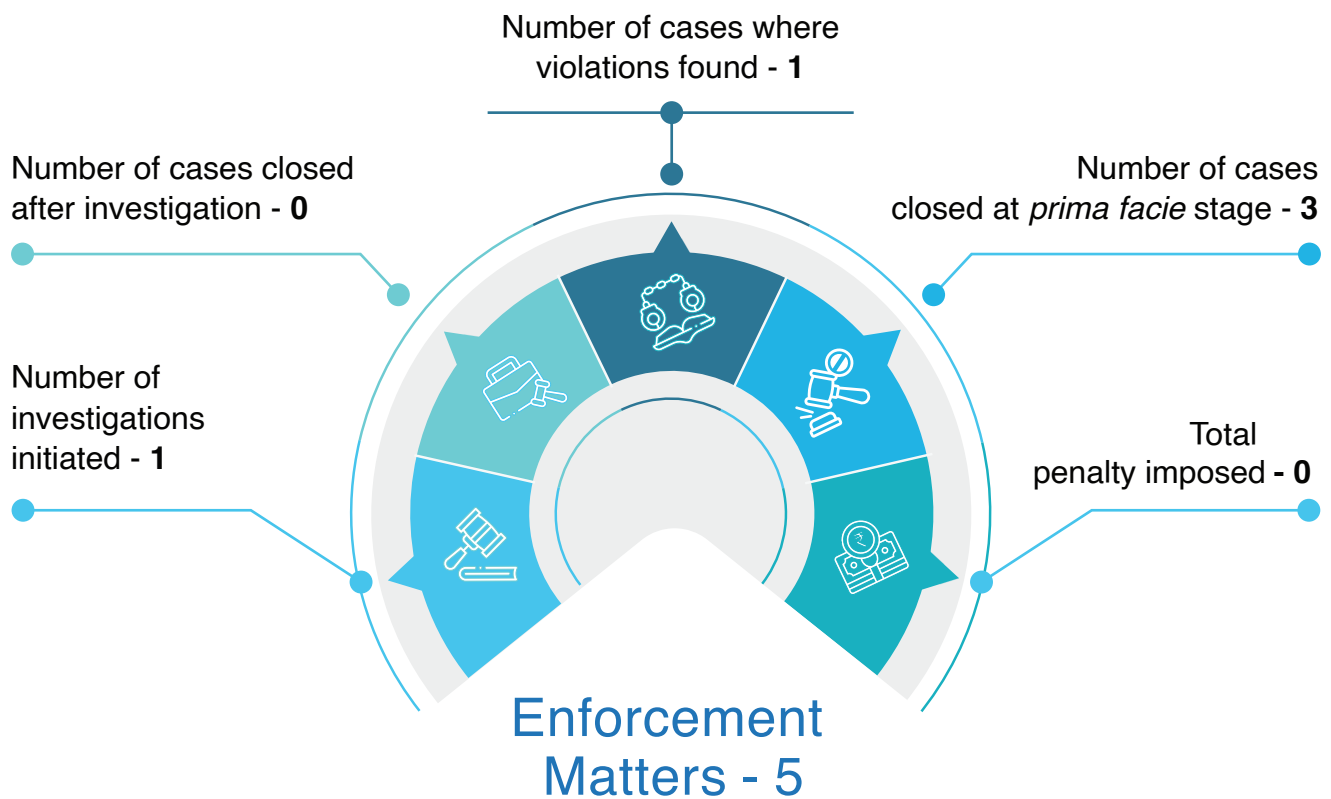
◊ Meta Platforms Inc. (**Meta**) and WhatsApp LLC (**WhatsApp**) moved to the SC to challenge a NCLAT ruling that upheld a INR 2.13 billion (USD 23.45 million) CCI penalty regarding abuse of dominance arising out of WhatsApp's 2021 privacy policy. The challenge is regarding the penalty being upheld by the NCLAT despite overturning one of the CCI's central findings that Meta had unlawfully leveraged WhatsApp's dominance to benefit its advertising business. The appeals are yet to be listed for hearing before the SC.

The summary of the NCLAT order can be accessed [here](#) and the CCI order [here](#).

◊ JioStar India Private Limited approached the SC challenging the Kerala HC order that dismissed its appeal and reaffirmed the CCI's jurisdiction to examine allegations of abuse of dominant position, irrespective of the claimed applicability of the Telecom Regulatory Authority of India (**TRAI**) Act, 1997.

On January 27, 2026, the SC dismissed this appeal citing that the matter is at a preliminary stage and the CCI is entitled to proceed further and that Asianet Digital Network Private Limited cannot be asked to reach the TRAI before reaching the CCI considering the issue concerns allegations of anti-competitive conduct. The CCI has been directed to complete the investigation within 8 weeks from the SC's order.

The summary of the Kerala HC order can be accessed [here](#).



Mergers and Acquisitions



Total penalty imposed- INR 5 million (~USD 0.055 million)



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MUMBAI

9th Floor, Mafatlal Centre
Vidhan Bhavan Marg
Nariman Point, Mumbai 400 021
T: +91 22 6636 7000

DELHI NCR

NOIDA

9th Floor, Berger Tower, Sector 16 B, Noida,
Uttar Pradesh - 201301.
T: +91 120 6984 300

NEW DELHI

DR Gopal Das Bhawan, 16th Floor, 28,
Barakhamba Road,
New Delhi – 110 001.
T: +91 11 41528400

AHMEDABAD

C-507/508, 5th Floor, Titanium Square Thaltej
Cross Roads, SG Highway, Ahmedabad - 380054
T: +91 79460 04854

PUNE

1307, Nandan Probiz, 1501,
Sai Chowk Road, Laxman Nagar, Off Balewadi
High Street, Balewadi, Pune - 411045
T: +91 20 4912 7400

BENGALURU

6th Floor, Rockline Centre
54, Richmond Road
Bengaluru 560 025
T: +91 80 4168 5530/1

CHENNAI

No 18, BBC Homes, Flat-7 Block A South Boag
Road
Chennai 600 017
T: +91 44 4210 4863

GIFT CITY


GIFT CITY Unit No. 605,
Signature, 6th Floor Block 13B,
Zone – I GIFT SEZ, Gandhinagar 382355

 elplaw.in

 insights@elp-in.com

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