



ECONOMIC
LAWS
PRACTICE
ADVOCATES & SOLICITORS

MARKET MATTERS – ANTITRUST BRIEF

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I. The CCI initiates investigation into IndiGo for alleged abuse of dominance.

On February 4, 2026, the Competition Commission of India (CCI) directed an investigation into InterGlobe Aviation Limited (IndiGo) concerning allegations of abusive conduct flowing from an unprecedented cancellation of flights by IndiGo in December 2025 followed by excessive fares charged for flights during the same period.

The CCI's *prima facie* opinion.

- **A regulatory framework for civil aviation does not oust the CCI's jurisdiction over anti-competitive conduct.** IndiGo contended that the issues before the CCI were being considered by the Directorate General of Civil Aviation (DGCA) and that the Bhartiya Vayuyan Adhiniyam, 2024 (BVA) and the Aircraft Rules, 1937 (Aircraft Rules) cover matters including excessive pricing, unfair practices, and oligopolistic conduct in this sector. However, the DGCA clarified that its role is limited to licensing, safety oversight, and operational supervision and it does not entail competition law assessment. The CCI noted that it has previously examined anti-competitive conduct in the civil aviation sector and the existence of remedies under the BVA does not oust the CCI's jurisdiction, since remedies under the Competition Act, 2002 (Competition Act) and those under sectoral laws are distinct.
- **IndiGo's dominance.** The CCI defined the relevant market as the “*market for domestic air passenger transport services in India*”, taking into account the impact of the flight disruptions and subsequent fare surges that seemed to impact passengers across domestic routes. The CCI, *prima facie*, found IndiGo as dominant in the relevant market, considering:
 - Market share. IndiGo held a 63% share of absolute passengers carried and 61% of total domestic ‘Available Seat Kilometers’, demonstrating high passenger volume and control over capacity and supply.
 - Route presence. IndiGo has a 50% share of the aggregate passenger traffic on certain routes, reflecting economic strength and network coverage.
 - Exclusive operations and fleet size. Although the market was defined on a pan-India basis, the CCI noted that between September and December 2025, IndiGo operated exclusively on 330 routes with a fleet of over 400 aircraft (significantly larger than its closest competitor, Air India).
 - Financial performance. IndiGo is the only major airline with substantial and sustained net profits.
- **Last-minute cancellations and excessive fares charged subsequently by IndiGo are abusive.** The CCI noted that IndiGo's last-minute cancellations compelled passengers to seek alternatives at significantly inflated prices, with IndiGo itself charging substantially higher fares for this period. The CCI also noted that customers were “*locked in*” due to IndiGo's dominant position and lacked viable alternatives, which appeared to violate the prohibition against unfair and discriminatory conditions under the Competition Act. The large-scale flight cancellations also created artificial scarcity during peak demand, potentially restricting services by IndiGo.

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

BEYOND THE BRIEF

The civil aviation sector has previously faced the CCI's scrutiny. In 2018, the CCI penalized IndiGo, Jet Airways, and SpiceJet for engaging in price fixing.¹ The CCI has previously examined abuse of dominance allegations against IndiGo, closing both cases at the *prima facie* stage. In 2016, the CCI closed allegations of predatory hiring of Air India's pilots by IndiGo as being an employment issue and not a competition concern.² In 2015, assessing allegations of unfair terms for delays/ cancellations by IndiGo, the CCI found³ that IndiGo was not dominant in the relevant market for air transport services for passengers in India. The CCI noted that despite IndiGo's leading 31.8% market share in 2014, it faced significant competitive constraints from Air India and Jet Airways and consumers did not appear dependent on IndiGo. In contrast, in the present case, the CCI has, *prima facie*, found IndiGo to be dominant in the same relevant market due to a substantial and sustained market share, wide network reach with exclusive operations on a significant number of city-pair routes, comparatively larger fleet and strong financial performance. This shift highlights how evolving market dynamics can transform a leading player into a dominant one, inviting greater regulatory scrutiny.

II. The NCLAT upholds the CCI's dismissal of abuse of dominance allegations against NSE.

On February 6, 2026, the National Company Law Appellate Tribunal (**NCLAT**) dismissed an appeal against a 2021 order of the CCI, through which the CCI had dismissed allegations by Manoj K. Sheth (**Informant**) against the National Stock Exchange (**NSE**) concerning its co-location facilities.

Co-location facilities allow trading members of a stock exchange to situate their trading systems within the stock exchange's premises, allowing access to price and market movement information more quickly and thus quicker execution of trades due to proximity to stock exchange servers. Stock exchanges may adopt either Transmission Control/ Internet Protocol (**TCP/IP**) or Multi-case Tick by Tick (**MBT**) technologies and NSE initially adopted the TCP/ IP technology for its co-location facilities.

Background.

Before the CCI, the Informant alleged that:

- NSE's co-location facilities gave certain trading members earlier access to granular "tick-by-tick" data.
- Despite charging uniform fees, NSE granted preferential data access to select members.
- NSE failed to ensure equal access, leading to certain members exploiting the TCP/IP system.
- The high fee for co-location services (initially INR 2.2 million) limited wider participation.

¹ The CCI imposed monetary penalties ranging between INR 51 million (~USD 560 thousand) and INR 398.1 million (~ USD 4.3 million) (*Express Industry Council of India*, Case No. 30 of 2013).

² *Air India v. Interglobe Aviation*, Case No. 108 of 2015.

³ *Udit Gupta v. Interglobe Aviation*, Case No. 28 of 2015.

The CCI dismissed the allegations observing that although NSE was dominant in the “market for providing co-location services for algo-trading in securities to trading members”, the Securities and Exchange Board of India (SEBI) had concluded that while NSE had not exercised sufficient due diligence leading to asymmetric information dissemination, there was no fraud by NSE. The CCI also noted that NSE’s choice of TCP/ IP was *bona fide* and the co-location facilities improved market liquidity.

The NCLAT’s findings.

The NCLAT upheld the CCI’s dismissal of the allegations against NSE, observing:

- **The CCI was not bound to initiate an investigation merely on receipt of information.** The CCI had considered the Informant’s allegations, and orders of the SEBI and the Securities Appellate Tribunal (SAT), along with independent reports before closing the matter. The CCI is not required to direct an investigation unless there is enough material to form a *prima facie* view.
- **The CCI may provide an opportunity of hearing at the *prima facie* stage.** The CCI must form its *prima facie* opinion considering all relevant material and hearing NSE at the *prima facie* stage, did not prejudice the Informant merely because it was not heard at this stage.
- **Co-location facilities were on a ‘first-come-first-serve’ basis and the technical architecture was not amenable to abuse.** The CCI, relying on SEBI’s findings and the material on record, noted that NSE’s co-location facilities were offered on a voluntary, first-come, first-serve basis, with a uniform annual fee applicable to all trading members that constituted only a small portion of overall trading costs. The absence of a load balancer or randomizer did not result in unequal access for brokers.
- **Lack of a sectoral regulatory violation.** The NCLAT rejected the contention that the CCI should not have relied on the SEBI and SAT findings while forming its *prima facie* opinion and observed that the CCI may consider other regulatory findings, such as the SEBI, to the extent needed, to form a *prima facie* opinion.

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

III. The NCLAT sets aside the CCI’s dismissal of allegations against Chettinad Coal Terminal; remands the matter to the CCI for fresh consideration.

On January 21, 2026, the NCLAT allowed an appeal against a 2021 CCI order (CCI Order) that had dismissed abuse of dominance allegations against Chettinad International Coal Terminal Private Limited (Chettinad Coal Terminal) pertaining to coal handling practices at the Kamarajar Port. The NCLAT set aside the CCI Order and directed the CCI to reconsider the matter, including, if necessary, ordering a further investigation by the Director General (DG).

Background.

The Tamil Nadu Power Producers Association (Power Producers Association/ Appellant) consists of independent power producers whose thermal power generation facilities are located around the Chennai region and depend on coal for their operations. These power generation facilities were set up close to the Chennai Port to reduce the costs of transporting coal. Pursuant to the Madras High Court (HC) staying coal handling and dumping at the Chennai Port, the

Appellant’s members started importing coal through the Chettinad Coal Terminal at the Kamarajar Port. The Appellant stated that the Krishnapatnam and Karaikal Ports were not commercially viable due to their distance.

The Power Producers Association stated that after the ban on coal handling at the Chennai Port, the Chettinad Coal Terminal significantly increased the coal handling charges (by approximately 66.67%) and imposed certain coordination and liaisoning charges through third-party entities that were linked to Chettinad Coal Terminal, to avoid sharing revenue with the Kamarajar Port.

The CCI, through an order dated January 4, 2016, directed an investigation into the alleged conduct in the *prima facie* defined relevant market for “*the provision of coal terminal services in and around Kamarajar Port*”.

Investigation findings.

- **Findings under the first DG report.** The DG delineated the relevant market as “*market for provision of common user coal terminal services at sea ports in and around Kamarajar Port including Kamarajar Port and Krishnapatnam Port.*” Comparing the Chettinad Coal Terminal and Krishnapatnam Port on factors such as imports, financial strength, infrastructure, and capacity, the DG concluded that Chettinad Coal Terminal was not dominant and had not abused its position. The DG noted that the coordination and liaisoning services were availed voluntarily with third parties with no excessive/ unregulated pricing.
- **Findings under the supplementary investigation report.** Following objections raised by the Power Producers Association, the CCI directed the DG to conduct a supplementary investigation, specifically to reassess the geographic market and to investigate whether the coordination and liaisoning charges were mandatory and the possible linkages of the third parties with the Chettinad Group. In the supplementary investigation report (**Supplementary Report**), the DG delineated the relevant market as “*the market for provision of common user coal terminal services in and around Kamarajar Port.*” Krishnapatnam Port was excluded from this market due to prohibitive transport costs for local power plants. The DG noted Chettinad Coal Terminal to be dominant within this relevant market. The DG found that the coordination and liaisoning services lacked transparency and were mandatory. Further, these services were provided by third parties that were directly/ indirectly managed by the Chettinad Group, which owned/ controlled Chettinad Coal Terminal, and there was an abuse of dominance by Chettinad Coal Terminal.

The CCI Order.

In its final order, the CCI, deviated from the Supplementary Report, and included the Krishnapatnam Port in the relevant market. It found that Chettinad Coal Terminal was not dominant, observing that the imports through the Chettinad Port were less than 50% as compared to the Krishnapatnam Port. The CCI agreed with the Supplementary Report to the extent that the third-party service charges were mandatory; however, since Chettinad Coal Terminal was not dominant, it could not have abused its dominant position.

The NCLAT’s observations.

The NCLAT set aside the CCI Order and remanded the matter back for a re-consideration by the CCI, observing:

- **The CCI erred in including the Krishnapatnam Port in the relevant market.** The ‘hinterland’ of a port depends on the port’s location, road and rail network, connection of port to this network etc. Agreeing with the Supplementary

Report, the NCLAT noted that the hinterland of the Krishnapatnam Port was distinct and not shared with other ports. The sample responses considered by the DG also clearly indicated that importers in the vicinity of the Chettinad Port preferred it over the Krishnapatnam Port.

- **Chettinad Coal Terminal is dominant and the mandatory third-party charges are abusive.** In the market consisting of the Kamarajar Port, the NCLAT noted that Kamarajar Port Limited had three captive berths, leaving only one terminal, operated by Chettinad Coal Terminal, for coal importers. This placed Chettinad Coal Terminal in a dominant position. The NCLAT, agreeing with the Supplementary Report, noted that the third-party charges were mandatory impositions by third-party entities controlled by Chettinad Coal Terminal, amounting to an abuse of dominance.

Interestingly, despite having already ruled conclusively on the substantive questions of law and fact (*i.e.*, relevant market, dominance and abuse), the NCLAT has remanded the matter back to the CCI for fresh consideration.

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

IV. The CCI penalizes Intel’s India-specific warranty policy for being discriminatory.

On February 12, 2026, the CCI found Intel Corporation (**Intel**) to have abused its dominant position in “the market for Boxed Microprocessors (**BMPs**) for Desktop PCs in India” (**Relevant Market**) through an unfair and discriminatory warranty policy for BMPs which denied Indian consumers an after sales warranty on authentic Intel BMPs purchased outside India.

In 2016, Intel revised its warranty policy for India (**India Warranty Policy**) to restrict warranty services in India only to BMPs purchased from its authorized Indian distributors. As a result, warranty requests for BMPs that were purchased from authorized distributors outside India would not be eligible for warranty service in India.

The CCI’s inquiry was initiated pursuant to information filed by Matrix Info Systems Private Limited (**Matrix**), a parallel importer of Intel’s microprocessors. Matrix alleged that:

- Intel imposed unfair and discriminatory conditions through its India Warranty Policy.
- The India Warranty Policy discouraged buyers from purchasing cheaper imported BMPs, restricting parallel imports.
- By denying warranty services on imported BMPs, Intel denied market access to parallel importers.
- The India Warranty Policy limited consumer choice.

The CCI’s findings.

- **Intel’s dominant position.** The CCI distinguished between BMPs sold directly to end-users and system integrators and tray processors sold in bulk directly to equipment manufacturers. The CCI also noted that Intel and its competitors do not sell BMPs for laptops in India and the relevant product market would only include BMPs for desktops. The CCI concluded that the relevant geographic market is India, given that the allegations pertain to the India Warranty Policy. The CCI found Intel to be dominant in this relevant market considering its high market share, presence of only two competitors in the market, and the research-intensive nature of the industry.

- **Intel discriminated against Indian consumers.** On account of the India Warranty Policy, BMPs purchased from anywhere in the world apart from India would not receive warranty services in India, unlike other countries where Intel offered a global warranty. The CCI rejected Intel’s argument that the India Warranty Policy was implemented to protect consumers from counterfeit/ grey market products, noting that even BMPs that had been purchased from Intel’s authorized distributors outside India would be denied warranty in India. The CCI also noted that counterfeit/ grey market concerns were a global issue and not only limited to India. The CCI noted that the India Warranty Policy unfairly discriminated against Indian consumers and deprived them of warranty service in India for genuine Intel BMPs.
- **The India Warranty Policy impacted parallel imports and limited consumer choice.** The CCI noted that there is a significant price difference between prices of imported BMPs and those sold by Indian authorized distributors, the latter being priced higher. The CCI noted that the warranty restriction compelled parallel importers and resellers to procure BMPs through the Indian authorized distributors at higher prices, limiting consumer choice, and increased sales of the Indian authorized distributors to the detriment of parallel imports, denying the latter market access.
- **Penalty.** The CCI imposed a monetary penalty of INR 273.8 million (USD 3.3 million) and further directed Intel to widely publicize the withdrawal of the India Warranty Policy and submit a compliance report within 60 days.

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

IN THE NEWS

- On February 2, 2026, the Supreme Court of India (**SC**) stayed the NCLAT order in the *CCI v. Swapan Dey & Anr.*, which had affirmed the CCI's dismissal of allegations of anti-competitive pricing and licensing of a patented drug by Vifor International AG (**Vifor**). The NCLAT had held that the Patents Act, 1970 (**Patents Act**) prevails over the Competition Act in patent-related matters, ruling that the CCI lacks jurisdiction to examine the reasonable exercise of patent rights.⁴ The SC agreed to examine jurisdictional conflict specifically whether the CCI can examine anti-competitive conduct arising from the exercise of patent rights, or if such disputes fall exclusively under the Patents Act. The SC's *interim* stay is limited to the question of jurisdiction and the SC will not revisit the merits of the underlying competition dispute.

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

- On February 17, 2026, the Delhi HC dismissed a writ petition filed by TLG India Private Limited (**TLG India**),⁵ an Indian entity of the Publicis Groupe, challenging the CCI's inquiry into alleged anti-competitive conduct involving Publicis Groupe. TLG India had challenged the fact that while summons had been issued in the name of Publicis Groupe, they were addressed to the office and employees of TLG India. The Delhi HC refused to interfere and noted that since no notice had been issued specifically to TLG India, there was no cause to seek relief.

Readers will recall that in February 2024, the CCI had initiated an investigation into alleged cartelization among major global advertising groups operating in India, including WPP's GroupM, Publicis, Omnicom, Havas, IPG, and Dentsu, after Dentsu approached the CCI under its leniency program.

- In November 2025, the NCLAT had partially upheld the CCI's 2024 order imposing a penalty of INR 2.13 billion (USD 25.66 million) on Meta Platforms Inc. (**Meta**) and WhatsApp LLC (**WhatsApp**) for abusing their market dominance through the 2021 privacy policy. On February 3, 2026, a three-judge bench of the SC, led by Chief Justice Surya Kant and comprising Justices Joymalya Bagchi and Vipul M. Pancholi, heard the appeal and observed that the platform's "take-it-or-leave-it" policy exploited its market monopoly and undermined the constitutional right to privacy. The SC directed the Meta and WhatsApp to submit a formal undertaking and an affidavit clarifying that they would not share user data until the final decision.

On February 24, 2026, Meta and WhatsApp informed the SC that the required affidavit has been submitted and that they will comply with the CCI's direction (also upheld by the NCLAT) of obtaining user's express and revocable consent for sharing data from WhatsApp to Meta by March 16, 2026.

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

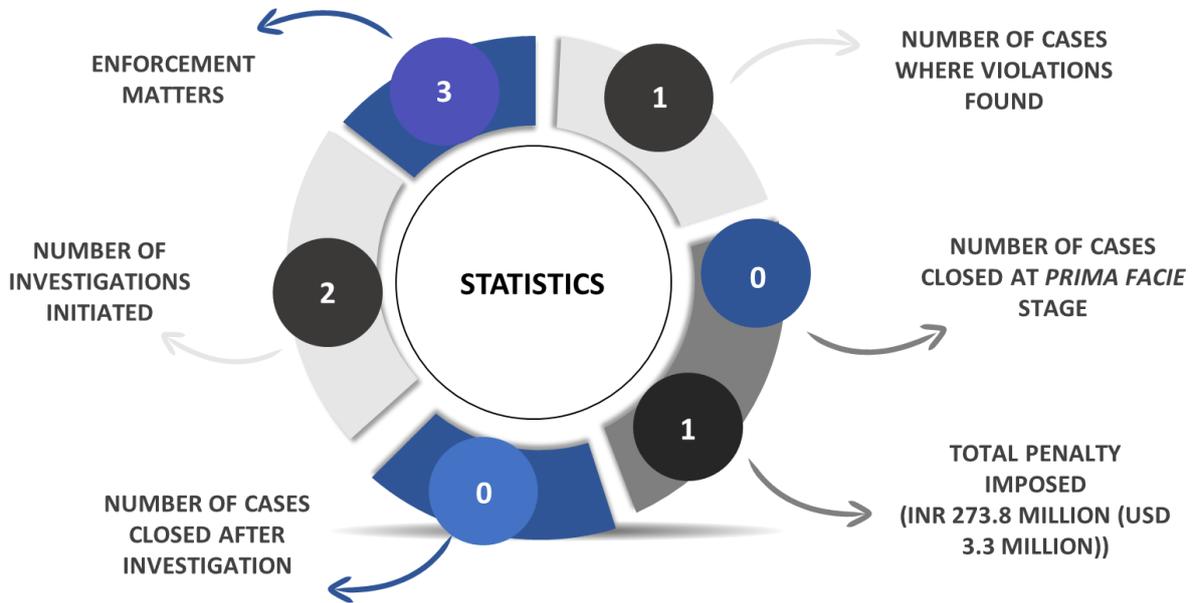
- On February 25, 2026, during the 'Business Standard Manthan' event, the CCI's Chairperson Ms. Ravneet Kaur remarked that while Artificial Intelligence (**AI**) has multiple benefits like efficiency gains and sectoral improvements, it may enable algorithmic collusion or targeted price discrimination. She highlighted the CCI's 2025 Market Study on AI and Competition, noting that the CCI is equipping itself to deal with competition issues arising from AI, including a potential collaboration with a think tank.

Ms. Kaur also emphasized that the CCI considers data as a non-price parameter for competition, citing its intervention in the WhatsApp privacy policy case as a reflection of the CCI's enforcement focus in the digital sector. She also stated that while India needs an *ex-ante* digital competition law, it must not over-regulate and must also account for domestic realities to ensure a proportionate framework.

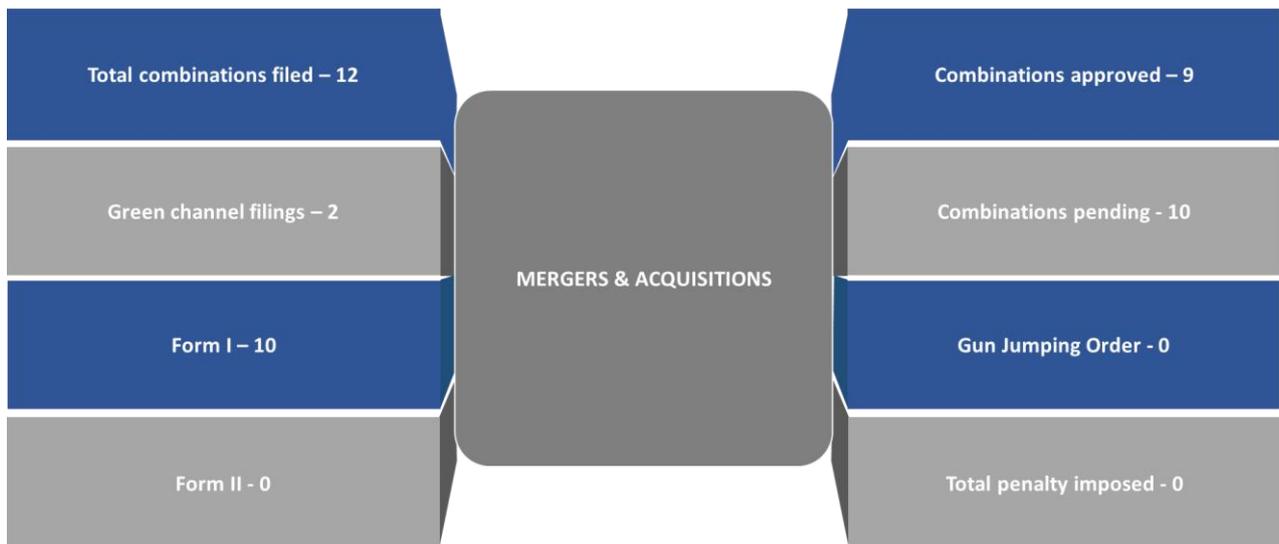
⁴ *CCI v. Swapan Dey & Anr.*, Civil Appeal No. 519 of 2026.

⁵ *TLG India Pvt. Ltd. v. CCI*, W.P.(C) 12399/2025.

VI. STATISTICS



MERGERS & ACQUISITIONS



We hope you have found this information useful. For any queries/clarifications please write to us at insights@elp-in.com

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