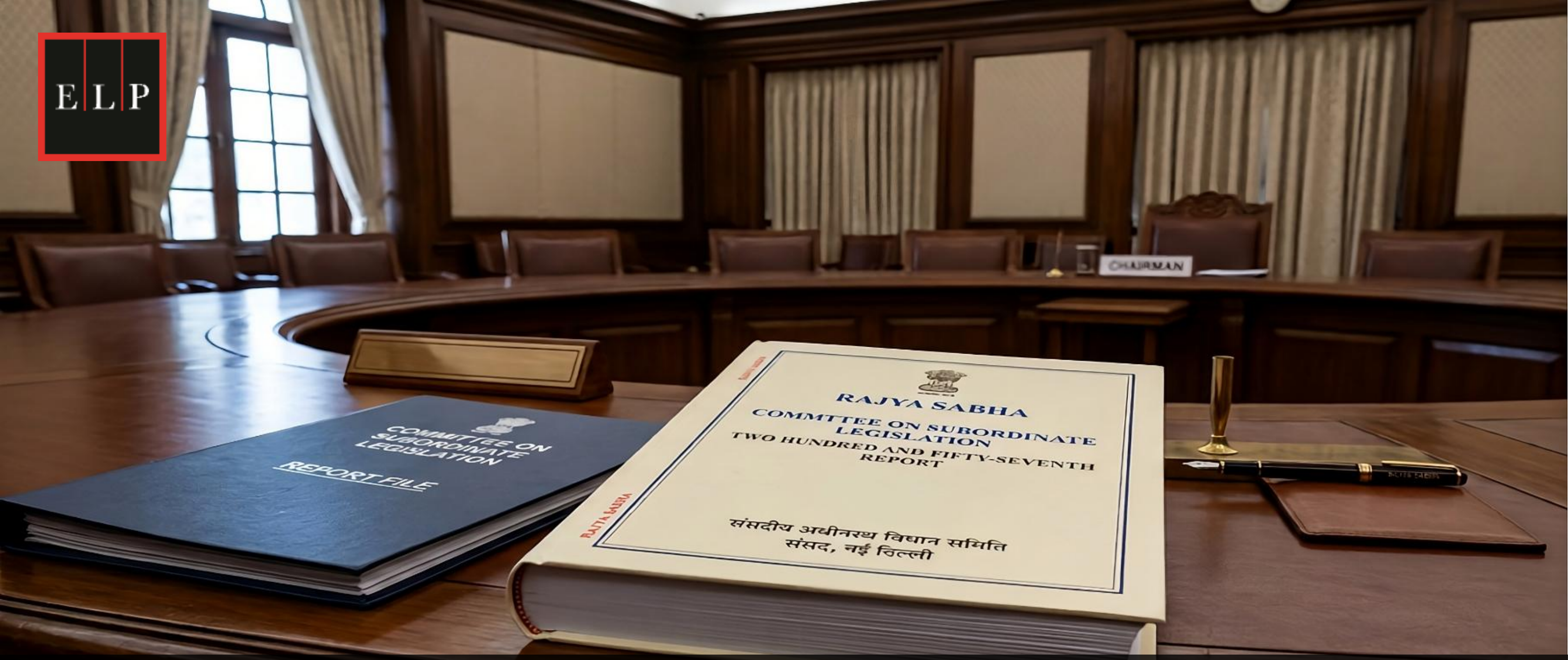

257th Report of the Rajya Sabha Committee on Subordinate Legislation

BACKGROUND

On 21 July 2026, the Rajya Sabha's Committee on Subordinate Legislation (**Committee**) presented its 257th Report (**Report**) to the Rajya Sabha, examining the (a) the Competition Commission of India (**CCI**) (Commitment) Regulations, 2024 (**Commitment Regulations**); (b) the CCI (Settlement) Regulations, 2024 (**Settlement Regulations**); (c) the CCI (Determination of Turnover or Income) Regulations, 2024 (**Turnover Regulations**); and (d) the CCI (Determination of Monetary Penalty) Guidelines, 2024 (**Penalty Guidelines**) (together, the '**Regulations and Guidelines**'). As part of its review, the Committee also received comments from the CCI and the Ministry of Corporate Affairs (**MCA**) on the issues related to these subordinate legislations and the functioning of the CCI.

KEY OBSERVATIONS AND RECOMMENDATIONS

A brief overview of the Report's key observations and recommendations is set out below.

- **Periodical review of regulatory architecture**. The Committee noted the CCI's agreement to review the Regulations and Guidelines, which have been in force for nearly 2 (two) years. The CCI informed the Committee that it is reviewing implementation of the settlements and commitments framework and has initiated public consultations on proposed amendments to the Commitment Regulations.

  ***Recommendation*.** The Committee recommended that the MCA and the CCI periodically review the competition law framework through stakeholder consultations and global benchmarking, to ensure that the Indian market remains fair, competitive, and aligned with global standards.

- **Enforcement**.

  - **The CCI's *suo motu* powers and a need for stronger advocacy**. The CCI informed the Committee that it has reduced the use of its *suo motu* powers to avoid the perceived conflict of acting as both the 'investigator' and 'adjudicator'.

    ***Recommendation*.** The Committee recommended that the CCI strengthen its competition advocacy through greater engagement with industry chambers and trade associations and exercise its *suo motu* powers where warranted.

  - **Protection of smaller players**. The Committee observed that monopolistic conduct disproportionately affects small businesses and MSMEs.

Recommendation. The Committee recommended that the CCI must ensure robust enforcement to safeguard small businesses and MSMEs from anti-competitive conduct.

- **Undertaking market studies.**

  Recommendation**.** The Committee recommended that the CCI should continue conducting more market studies in a structured and regular manner to strengthen evidence-based decision-making and policy formulation.

- **Penalties.**

  - **Transparency in penalty calculations and robustness in investigations**. The Committee noted that a substantial portion of penalties are stayed or quashed on appeal. It was noted by the Committee that penalties of ~INR 18,299 crore have been either stayed or quashed out of the total penalties of ~INR 20,378 crore, imposed so far.

    Recommendation**.** The Committee recommended that steps must be taken to improve the sustainability of orders under judicial scrutiny. The Committee also recommended that the CCI should rigorously enforce the Penalty Guidelines by providing detailed calculation methodologies in its orders to foster transparency.

  - **Aggravated penalties for repeated contraventions**. The Committee noted that there is a risk of repeated contraventions being internalized by corporate entities as a mere cost of doing business, severely undermining the law's deterrent effect.

    Recommendation**.** To ensure deterrence for future offences, the Committee recommended that the CCI vigorously enforce the Penalty Guidelines, which provides for treating repeated contraventions as an aggravating factor.

- **Capacity building and inter-regulatory coordination**. The Committee has noted that digitalization and new-age markets have increased the complexity of competition assessment and enforcement.

  Recommendation**.** The Committee has recommended that the CCI strengthen capacity building through structured training programmes for its officers on emerging technologies and international best practices. Additionally, the Committee recommended establishing institutional mechanisms, including Memoranda of Understanding (MoU) with sectoral regulators, to facilitate information-sharing and promote regulatory coordination.

KEY TAKEAWAYS

- **Potential increase in enforcement activity and *suo motu* inquiries.** If implemented, the Committee's recommendations may result in increased enforcement activity by the CCI including greater use of its *suo motu* powers and the initiation of inquiries even in the absence of formal complaints.
- **Increased scrutiny in abuse of dominance inquiries.** Complaints by smaller businesses and MSMEs against potentially dominant enterprises may also receive increased enforcement attention given the Committee's emphasis on safeguarding smaller market participants. In certain cases, this approach could raise questions on the goals of competition law. The Supreme Court has recognized that the objective of competition law is to enhance economic efficiency by utilizing allocative, productive and dynamic efficiency.[1] Similarly, the CCI has also acknowledged that the objective of competition law is to protect the process of competition rather than individual competitors.[2] If

[1] *CCI v. SAIL*, (2010) 10 SCC 744.

[2] *Federation of Hotel & Restaurant Associations of India & Ors. v. MakeMyTrip India Pvt. Ltd. & Ors*., Case No. 14 of 2019 and Case No. 1 of 2020; *Biocon Limited & Ors. Vs. F. Hoffmann-La Roche AG & Ors.*, Case No. 68 of 2016.

implemented, the Committee's recommendations may lead to closer scrutiny by the CCI of the competitive effects of bigger player's conduct on smaller market participants when assessing potential abuse of dominance.

- **Potential for more transparent penalty computations and stricter penal consequences for repeat offenders.** The implementation of this recommendation may prompt the CCI to provide a more detailed explanation of its penalty computation methodology, including the adjustments made to reflect aggravating and mitigating factors. The CCI may also increasingly align its orders with the step-by-step methodology prescribed under the Penalty Guidelines, enhancing transparency and predictability in penalty determination. Further, while the CCI already considers repeat contraventions as an aggravating factor under the Penalty Guidelines, the Committee's recommendation may encourage a stricter approach towards repeat offenders. Businesses that have previously been found to be in contravention of the Competition Act should consider revisiting their compliance approach by reviewing and strengthening their competition compliance programmes, including periodic training for relevant personnel, to mitigate the risk of future contraventions attracting enhanced penalties.
- **Closer regulatory coordination may strengthen investigations.** The CCI frequently examines conduct in sectors that are subject to parallel regulation, where the assessment of technical issues often falls within the expertise of sectoral regulators. While the CCI is already empowered to seek the opinion of statutory authorities on issues falling within their domain, the Committee's recommendation envisages a more institutionalized framework for regulatory coordination. If implemented, greater information-sharing and increased collaboration between the CCI and sectoral regulators may lead to increasingly evidence-backed investigations, particularly in technology-driven and heavily regulated sectors.

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

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