ECONOMIC LAWS PRACTICE
ADVOCATES & SOLICITORS

MARKET MATTERS – ANTITRUST BRIEF
JULY 2026

CONTENTS

I. THE CCI IMPOSES A PENALTY OF ~ INR 1.39 BILLION ON HP INDIA AND SOME OF ITS RESELLERS FOR COLLUSION IN RELATION TO TENDERS FLOATED ON THE GOVERNMENT'S E-MARKETPLACE.

On July 13, 2026, through two separate orders, the Competition Commission of India (**CCI**) imposed penalties of ~INR 1.27 billion (~USD 13 million) and ~INR 120 million (~USD 1.2 million) on HP India Sales Private Limited (**HP India**) for cartelizing with certain resellers in relation to Government e-Marketplace (**GeM**) tenders for (i) supply of HP personal systems products (laptops, desktops, workstations, accessories, etc.) and; (ii) HP supplies products (ink and toner cartridges and other consumables used with print hardware products), respectively. The CCI also penalized certain resellers who had colluded with HP India in relation to the GeM tenders, while exonerating some resellers which were found to have acted independently.

Background.

In November 2020, following an application for lesser penalty filed by HP India, the CCI directed the Office of the Director General (**DG**) to separately investigate allegations pertaining to bid-rigging in relation to GeM tenders floated for personal system products and for supplies products. During the DG's investigation, a former employee of HP India also filed a lesser penalty application with the CCI. A lesser penalty application was also subsequently filed by a reseller Delphi Infosolutions (**Delphi**). The DG considered evidence including tender documents, email communications, transcripts of physical meetings, and WhatsApp group communications, and found that HP India and certain resellers had colluded to rig bids for the GeM tenders.

The CCI's key findings.

- **HP India colluded with resellers to manipulate the tender process for GeM tenders for personal systems products.** The CCI concluded that HP India had manipulated the tender process to its benefit, with the following key observations:

  - ***Dictation of bid prices to resellers*.** HP India communicated bid prices to its resellers and being aware of these prices, HP India put itself in a position to be able to bid lower and emerge as L1 in these GeM tenders.

  - ***Restricted provision of MAFs to resellers.*** HP India controlled reseller participation in the GeM tenders by selectively issuing or withholding manufacturer's authorization forms (**MAFs**) which were a mandatory tender requirement issued by an OEM (HP India in this case) to authorize a reseller's bid. HP India restricted MAFs under the pretext of "*tagged accounts*" or stating that it was working with other partners thereby ensuring that only certain resellers could participate in the tender process.

  - ***Resellers' conduct in the tender process.*** Certain resellers quoted exact prices communicated by HP India and either did not deviate from those bid prices or refrained from bidding in certain tenders on HP India's instructions and were thus found guilty of bid-rigging. Resellers who had acted independently and quoted bid prices independently, disregarding the prices dictated by HP India, were not found to have colluded with HP India for these tenders.

- **HP India facilitated collusion amongst resellers with respect to GeM tenders for supplies products.** The CCI concluded that HP India facilitated the cartel conduct, with the following key observations:

- ***Selective issuance of MAFs to resellers.*** HP India controlled tender participation by selectively issuing MAFs only to designated/ incumbent resellers.

- ***Issuing MAFs to facilitate cover bidding.*** HP India issued MAFs to sister entities of certain resellers, even though such entities that had zero or negligible business with HP India, solely to allow them to place higher cover bids. This created a facade of genuine competition while guaranteeing the pre-selected reseller won the bid.

- ***Monitoring and restricting prices.*** HP India monitored and restricted the discounts that could be offered by resellers to maintain price hygiene and protect margins.

- ***Resellers' conduct on the tender process.*** Certain resellers were also found to have manipulated the bid process through various means, including, misusing sister entities for meeting minimum participation requirements, seeking/ providing cover bids, coordination in bid submissions, in contravention of the Act.

- **Monetary penalties on HP India and the resellers.** To compute the penalties to be imposed on HP India and the resellers, the CCI considered the turnover from the sale of personal computer system products and from the sale of supplies products. The CCI did not limit its assessment to only the turnover derived from the GeM tenders. In determining the penalty for HP India, the CCI broadly considered HP India's role in the cartel, the disclosures made by it which enabled the CCI to form a *prima facie* opinion, and mitigating factors including admission of the contravention, cooperation during the investigation, as well as the fact that this was its first contravention. HP India obtained a reduction in penalty, however, the CCI did not grant a 100% reduction to HP despite it having first approached the CCI with an application for a lesser penalty. In the order pertaining to the GeM tenders for supplies products, the CCI noted that given HP India's role in devising the arrangement, facilitating the same over a prolonged period of time, and being the key beneficiary of the arrangement, a complete reduction in penalty would not be warranted. The CCI also imposed monetary penalties on HP India's identified employees. Separately, a former employee of HP India (Manoj Grover), who had also sought a lesser penalty in his individual capacity, was granted a 100% reduction in penalty.

  For the resellers, the CCI considered factors such as their MSME status, limited role in the contravention, and imposed monetary penalties ranging from ~INR 48 thousand (~USD 497) to ~INR 8.6 million (~USD 89 thousand) on the resellers and certain individuals of the resellers were also penalized. The only reseller which made a lesser penalty application, namely Delphi, obtained a reduced penalty of ~INR 244 thousand (~USD 2.5 thousand).

- **Behavioural directions.** The CCI directed HP India and the resellers to cease and desist from the contravening conduct and also directed them to conduct competition law compliance training and submit compliance reports to the CCI within 60 (sixty) days of receipt of the orders.

BEYOND THE BRIEF

Under the Act, an entity that has participated in an alleged cartel may apply to the CCI for a lesser penalty by making a full, true, and vital disclosure of the alleged cartel conduct. A disclosure would be full, true, vital, if it either enables the CCI to either form a *prima facie* opinion or establish a contravention and in such case, the CCI would exercise its discretion to grant penalty reductions depending on the applicant's marker status, *i.e.*, the first applicant may receive up to a 100% penalty reduction, the second up to 50%, and subsequent applicants up to 30%. For the second and subsequent applicants, their disclosures must add significant value to the existing evidence. In determining the applicable penalty reduction, the CCI accounts for factors including the timing of the disclosure, the evidentiary value provided, the applicant's specific role in the cartel, and the extent of cooperation.

To date, the CCI has adjudicated 16 lesser penalty cases. In 5 of these cases, the first lesser penalty applicant did not receive a 100% penalty reduction due to factors including applications having been made subsequent to commencement of investigation, disclosures made after substantial evidence already being in the DG's possession, or procedural lapses. In the present case however, the CCI has, for the first time, expressly declined to provide a complete penalty reduction on grounds of HP India being the cartel's 'ringleader' as well as the key beneficiary of the contravening conduct. The CCI reasoned that granting full immunity to a primary facilitator would subvert the statutory objectives of deterrence. This decision marks a shift in the CCI's approach to determining penalty reductions, suggesting that an applicant's role in facilitating or orchestrating a cartel may assume greater significance when assessing the extent of penalty relief.

IN THE NEWS

- On July 1, 2026, the National Company Law Appellate Tribunal (**NCLAT**) permitted Meru Travel Solutions (**Meru**) to withdraw its appeal against cab aggregators ANI Technologies Pvt. Ltd. (**Ola**) and Uber India Systems Pvt. Ltd. (**Uber**). The NCLAT allowed the withdrawal after Meru cited a severe decline in operational revenue, rendering the company unable to financially sustain the prolonged legal battle against the well-capitalized tech giants.

  The case originated from an information filed by Meru before the CCI in 2017 alleging that Ola and Uber engaged in anti-competitive practices by utilizing their deep pockets to offer unsustainable driver incentives and heavy customer discounts. In 2018, these allegations were dismissed by the CCI at the *prima facie* stage, where it held that driver incentives did not constitute anti-competitive agreements, as both riders and drivers retained the freedom to switch between multiple aggregator platforms. In 2019, Meru filed an appeal before the NCLAT, against the CCI's dismissal of these allegations.

- According to news reports, the CCI is likely to undertake a comprehensive market study of the digital economy to assess evolving market dynamics and competition related issues concerning digital platforms. Building upon the CCI's previous market study on artificial intelligence (**AI**), which evaluated the impact of AI on competition, innovation, and efficiency, this proposed study aims to provide a broader assessment of how businesses are operating within India's digital ecosystem.

  Our alert on CCI's market study on AI can be accessed *here*.

- The Forum for Internet Retailers, Sellers, and Traders (**FIRST**) has reportedly filed a complaint before the CCI against Flipkart and its related entities, including Myntra and Ekart Logistics. The complaint alleges that Flipkart operates an inventory-based model in substance under the guise of an open marketplace by supplying goods below cost to 33 preferred sellers, including OmniTech Retail, SuperCom Net, and TrueCom Retail. It has been alleged that Flipkart finances these discounts by saving an estimated INR 30 billion (~USD 3.59 billion) a year through tax avoidance on its delivery and warehouse operations, making it impossible for regular sellers to compete. Flipkart maintained that its operations remain fully compliant with applicable laws, highlighting that it enables over 1.4 million sellers to reach consumers across India and has signalled that it will cooperate with any regulatory processes.

- On July 21, 2026, the Parliamentary Committee on Subordinate Legislation (**Committee**) presented its 257th report to the Rajya Sabha (**Report**), reviewing four key subordinate legislations under the Act: (i) The CCI (Commitment) Regulations, 2024 (**Commitment Regulations**); (ii) The CCI (Settlement) Regulations, 2024; (iii) The CCI (Determination of Turnover or Income) Regulations, 2024; and (iv) The CCI (Determination of Monetary Penalty) Guidelines, 2024 (**Penalty Guidelines**). The Report includes certain key observations and recommendations by the Committee, including (i) periodic reviews of the competition law framework by the MCA and the CCI; (ii) strengthening of the CCI's competition advocacy, exercise of *suo moto* powers as warranted, and enforcement to safeguard small businesses and MSMEs; (iii) undertaking of more market studies by the CCI; (iv) vigorous enforcement of Penalty Guidelines against repeat offenders; (v) increased transparency in penalty computations by the CCI.

  Our alert on the Report, with key takeaways, is available *here*.

IN THE NEWS

- According to news reports, Apple Inc. (**Apple**) has requested the CCI to have the ongoing investigation into its app store billing practices quashed. Apple has accused the DG of "*copy-pasting*" its rivals' claims, including Match Group, PhonePe, and Paytm. Apple has also alleged that the DG spent nearly 3 (three) years reproducing complaints filed by Apple's rivals without conducting an independent probe, and submitted comparisons highlighting alleged plagiarism, including verbatim graphics from a 2024 European Union ruling.

  In 2021, a complaint filed before the CCI accused Apple of forcing app developers to use its proprietary in-app billing and payment system. In December 2021, the CCI directed an investigation against Apple for abusing its dominant position. Following an initial investigation, the regulator directed further examination, leading the DG to submit a supplementary investigation report in June 2024. While not officially confirmed, some new reports indicate that the DG's investigation report concluded that Apple had abused its dominant position in the iOS app store market. Consequently, in August 2024, the CCI sent the non-confidential investigation findings to Apple, seeking its reply before commencing the final hearings. In parallel, Apple moved the Delhi High Court (**HC**) in 2025 challenging the CCI's Penalty Guidelines. The Delhi HC intervened in May 2026, directing the CCI to withhold any final order against Apple pending further judicial hearings, while mandating Apple to continue to fully cooperate with the ongoing inquiry.

- On July 24, 2026, the CCI invited public comments on a commitment application filed by InterGlobe Aviation Limited (**Indigo**). Indigo's application follows an order passed by the CCI in February 2026[1], directing an investigation into Indigo's alleged abuse of its dominant position flowing from the widespread operational disruptions in December 2025. The CCI had primarily observed that IndiGo's last-minute cancellations compelled passengers to book alternative flights at significantly higher 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, while the large-scale flight cancellations also created an artificial scarcity by restricting services during peak demand.

  To address the CCI's concerns, IndiGo has proposed commitments outlining measures to avoid any future "Large-scale Disruptions" (defined as the cancellation of more than 30% of total planned daily capacity, excluding cancellations that result from factors like weather, technical failures, or force majeure). Indigo's key proposed commitments include:

  - ***Effective crisis management:*** Institutionalizing a structured Crisis Management Group (CMG) designed for the timely resolution of potential operational disruptions.
  - ***Network adjustment and capacity preservation:*** Releasing associated domestic landing and departure slots to relevant airport operators/ authorities for a limited period during large-scale disruptions to ensure overall market capacity does not unintentionally reduce.
  - ***Enhanced passenger welfare:*** Implementing strengthened passenger handling policies that include automatic refunds, alternative travel arrangements at no additional cost, and provisions for meals and accommodation.
  - ***Grievance redressal:*** Establishing a dedicated grievance redressal mechanism specifically intended to mitigate passenger inconvenience.

  The CCI has requested interested stakeholders to submit their comments or objections on this proposed commitment by August 13, 2026. The detailed summary of CCI's investigation order can be accessed *here*.

IN THE NEWS

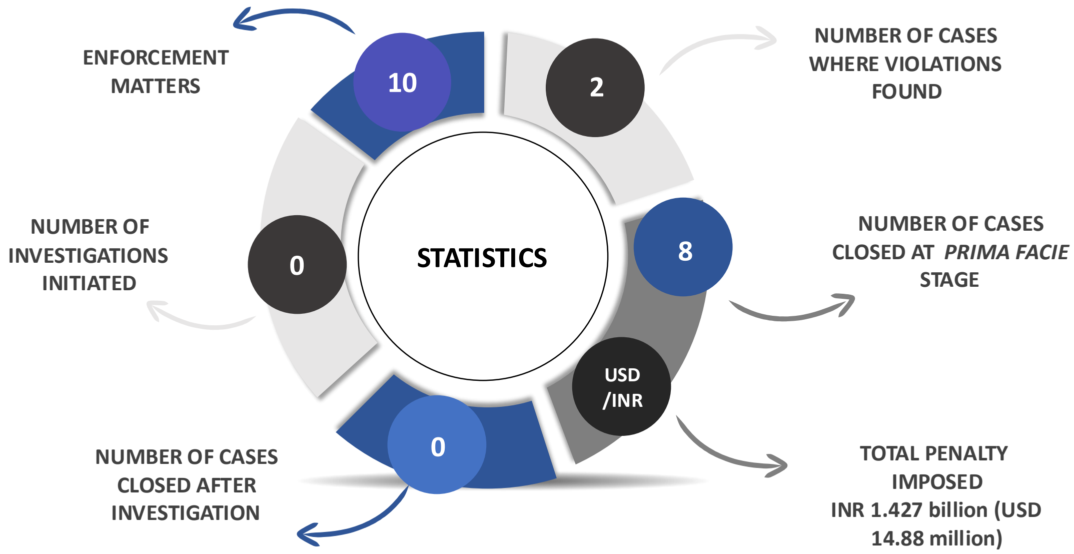
- On July 29, 2026, the Consumer Unity and Trust Society (**CUTS**) International released a report which cautioned against broad *ex-ante* regulations that could unintentionally stifle innovation in India's rapidly evolving digital ecosystem. The report revealed that over 60% of the stakeholders oppose the inclusion of cloud service providers under the *ex-ante* framework of the proposed Digital Competition Bill (**DCB**). Stakeholders cited concerns over regulatory uncertainty, high compliance costs, arbitrary designation of systematically significant digital enterprises (**SSDE**), and potential chilling effects on startup investments. The report emphasized that the existing framework under the Act is sufficiently robust for the CCI to address competition issues in the cloud services market, including vendor lock-in, interoperability barriers, software licensing restrictions, tying and bundling, self-preferencing, and data leveraging.

  The report also recommended adopting a regulatory approach similar to the United Kingdom's Competition and Markets Authority, urging voluntary industry commitments to improve interoperability and waive egress fees rather than imposing strict price controls. While the Government withdrew the draft DCB in 2025 following significant pushback from major tech firms and domestic startups, the Ministry of Corporate Affairs is currently reviewing the financial and user-based thresholds for SSDE designations, among other things, indicating that the proposed *ex-ante* regulatory framework has not been entirely discarded.

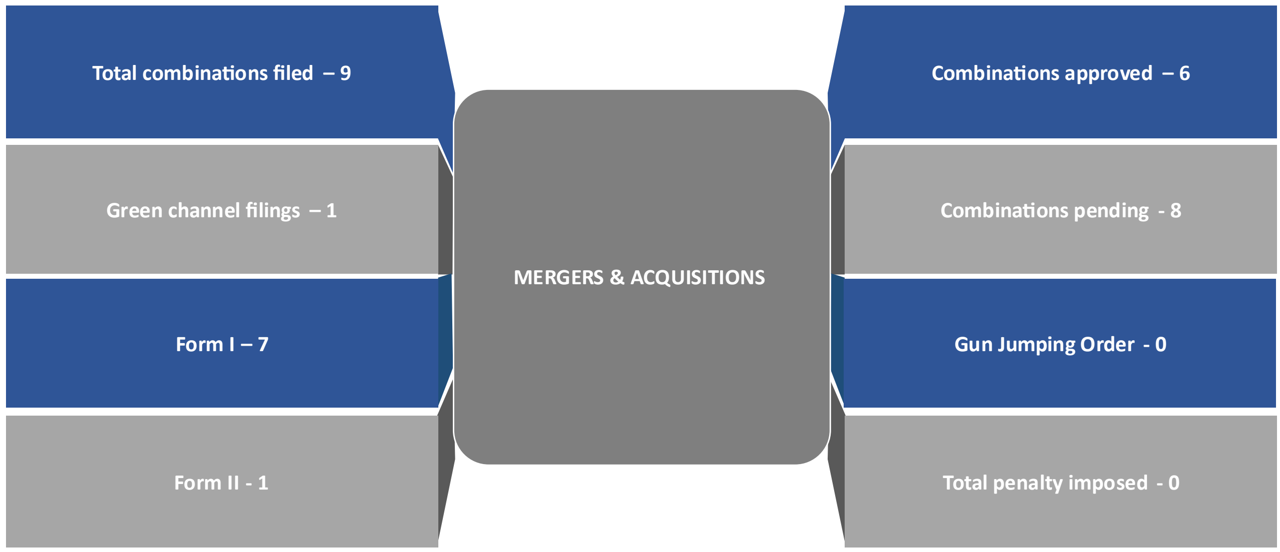
- On July 31, 2026, the Supreme Court of India (**SC**) upheld the NCLAT's order setting aside a penalty of INR 3.01 billion imposed by the CCI on Grasim Industries (**Grasim**). Dismissing the CCI's appeal against the NCLAT's May 2026 order, the SC directed the CCI to comply with the NCLAT order and hear Grasim afresh on issues where it failed to provide Grasim a hearing on issues where it differed from the DG's findings.

  The SC's order can be accessed *here*, and a summary of the NCLAT order can be accessed *here*.

III. 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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