
The Competition Commission of India (Settlement) & (Commitment) Regulations, 2024

The Competition Commission of India (“CCI”) has notified the following two important Regulations on 06.03.2024:

- [The CCI \(Commitment\) Regulations, 2024](#) (“Commitment Regulations”)
- [The CCI \(Settlement\) Regulations, 2024](#) (“Settlement Regulations”)

These regulations have been issued under Sections 48A, 48B and 53N of the Competition Act, 2002 (“the Act”), as amended vide Section 35 and 40 of the Competition (Amendment) Act, 2023, respectively, notified by the Government of India, Ministry of Corporate Affairs vide Gazette Notification dated 05.03.2024.

Both Regulations are intended to ensure quicker market corrections and prescribe detailed process to enable the delinquent parties to “settle” the case with CCI at the earliest stage of inquiry and avoid heavy penalties besides litigation costs.

About the Regulations:

The **Commitment Regulations** are meant for those enterprises against whom a prima facie case for an alleged contravention of Section 3(4)¹ or Section 4² of the Act is found and an order for detailed investigation by the Director General (DG) has been passed by CCI.

Under these Regulations such parties have been provided an option to submit Commitments for ceasing with the violations of the said provisions of the Act and thereby avoid detailed investigations by the DG.

The **Settlement Regulations** are meant for those enterprises against whom, the DG, after a detailed investigation, has found violations of the abovesaid provisions of the Act.

Under these Regulations such parties have been provided a mechanism to “settle” the case with CCI to avoid further detailed inquiry and hearings etc before CCI and to avoid imposition of heavy penalties and to save further costs of litigation.

The two mechanisms differ in terms of the stage of the inquiry process at which the application for Settlement or Commitment is to be filed.

¹ Section 3(4) of the Act prohibits vertical anti-competitive agreements between enterprises at different stages of the production chain or levels of services which causes appreciable adverse effect on competition in India.

² Section 4 prohibits abuse of dominant position by an enterprise in the relevant market.

Timelines for filing a Commitment or Settlement Application

Commitment Application

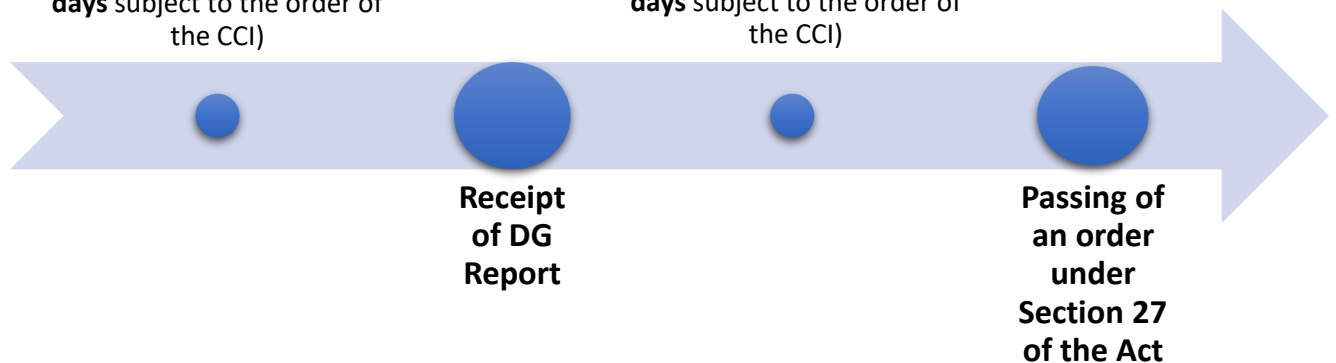
Offer to be made within **45 days** of the receipt of prima facie order under section 26(1) of the Act.

(Further **grace period of 30 days** subject to the order of the CCI)

Settlement Application

Offer to be made within **45 days** from receiving of the investigation report by the DG

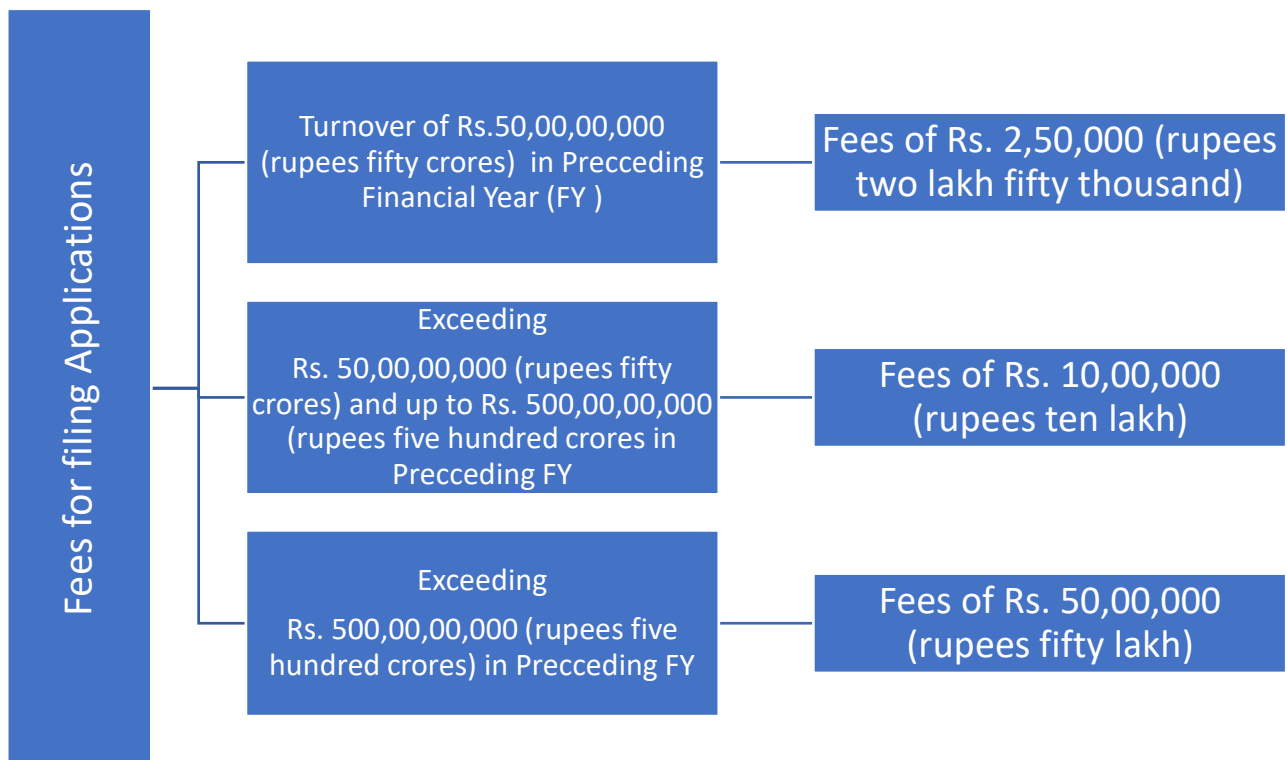
(Further **grace period of 30 days** subject to the order of the CCI)



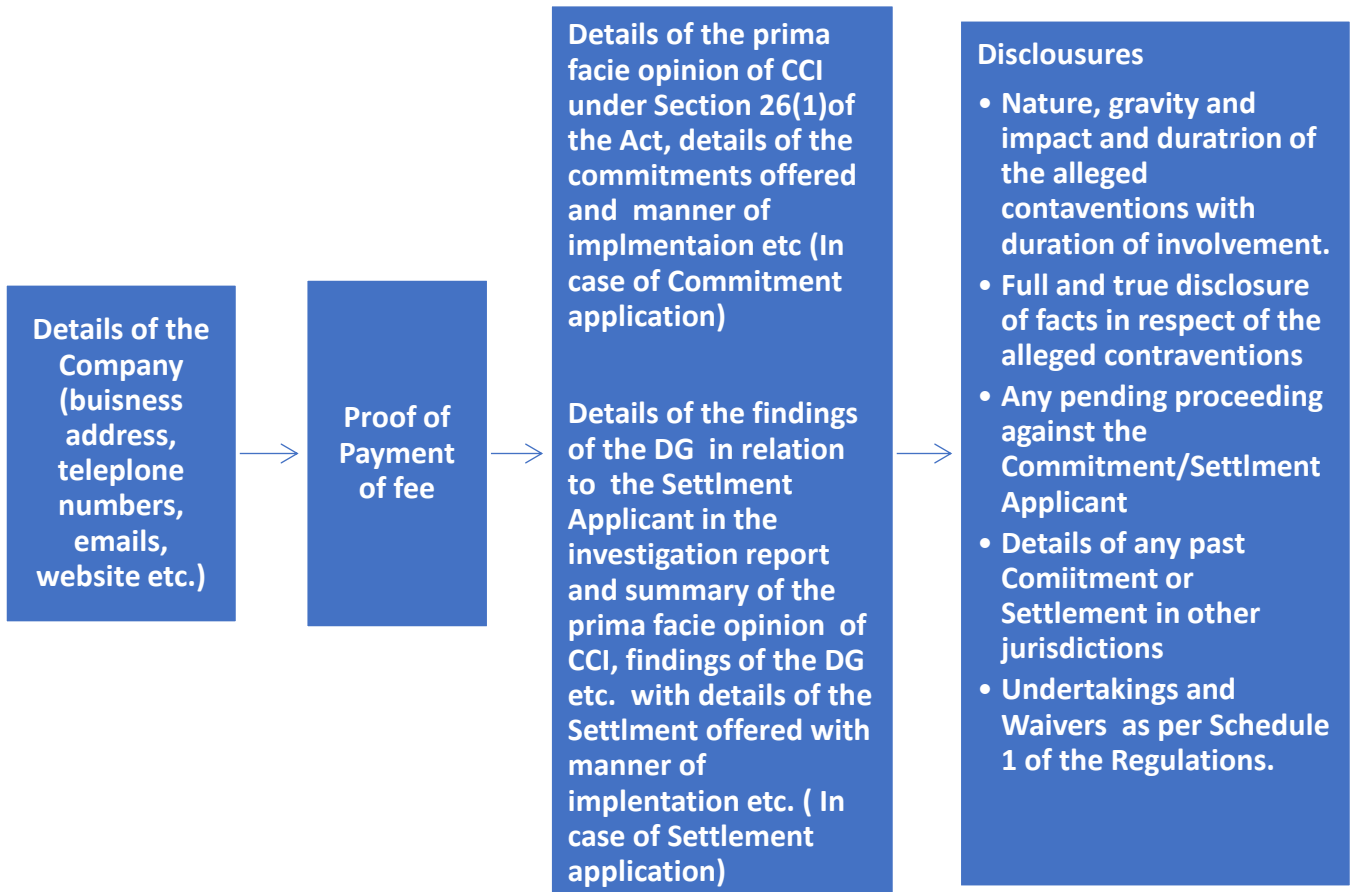
The **Commitment proceedings** shall be concluded within **130 working days** of the receipt of the Commitment Application, complete in all respects, which period may be extended, if deemed appropriate by the CCI.

The **Settlement proceedings** shall be concluded within **180 working days** of the receipt of the Settlement Application, complete in all respects, which period may be extended, if deemed appropriate by the CCI.

Statutory fee to be paid along with Commitment / Settlement Application



Details to be filed with the Commitment / Settlement Application



Process of dealing with the Commitment / Settlement Application

If CCI is Prima Facie not satisfied and the Application is incomplete

- CCI will Communicate and call the applicant to furnish revised application, within 15 working days of receipt of the said communication



If the application is complete, Inquiry will remain in abeyance till final decision or such time as may be decided by the CCI.



Invitation of Objections and Suggestions on the proposed Commitments/Settlements

Opportunity to the party concerned, the DG or any other party (including public in cases of Commitment) to submit objections, comments and suggestions on the proposed Commitments/Settlements



Settlement Amount (for Settlement applications) only

CCI shall communicate the Settlement amount to the Applicant who must accept the same within 15 days and pay the amount within 30 days. No revision of the Settlement amount is possible.



CCI to Pass Order

- If the CCI agrees with the Commitment/Settlement offered then it shall pass an order accepting the same subject to such other terms relating to manner of implementation and monitoring and close the proceedings.
- If the CCI disagrees with the Commitment/Settlement then it shall call for a revised settlement/Commitment application.
- If the CCI agrees to the revised application then it shall pass an order accepting the same subject to such other terms relating to the manner of implementation and monitoring and close the proceedings.
- If the CCI still does not agree with the revised application, it shall reject the same and proceed with further inquiry under section 26 of the Act.

KEY TAKEAWAYS

- 1. Inquiry in abeyance:** During the pendency of the consideration of the Commitment/Settlement application, further investigation by the DG or further inquiry by CCI, as the case may be, will remain suspended until the passing of final orders of the CCI on the application(s) of the party.
- 2. Implementation and monitoring of Commitment /Settlement order:** The CCI may appoint monitoring agencies to oversee the implementation of the Commitment/Settlement order.
- 3. Revocation of Commitment/Settlement order:** If the Applicant fails to comply with the order passed by the CCI under Section 48A or 48B of the Act or it comes to notice that the applicant has not made full and true disclosure or there have been material changes in the facts then the Commitment/Settlement order passed by the CCI will stand revoked and withdrawn.
- 4. Liability to pay legal costs:** In case the order stands revoked and withdrawn then the Applicant shall be liable to pay legal cost as incurred by the CCI .
- 5. Power to use information:** If the CCI has revoked and withdrawn the Commitment/Settlement order then the CCI and the DG may rely upon the information or documents as submitted by the Applicant.
- 6. Partial Commitment:** The Commitment applicant may offer partial Commitments, however, the inquiry on the remaining contraventions will continue. Whereas a Settlement applicant shall provide full Settlement to the contraventions as found by the DG in its investigation report.
- 7. Right to claim compensation:** The Settlement order by the CCI will not absolve an enterprise from claims of compensation by victims of the anti-competitive conduct under Section 53N of the Act.

VA COMMENT:

The notification of the relevant Sections of the Competition (Amendment) Act, 2023 relating to Settlements and Commitments was keenly awaited since May 2023, when the Government first enforced a few selected Sections of the Act.

The notification of the implementing Regulations by the CCI on 6th March 2024, in a record time, that too, after following a due consultative process with all stakeholders on the draft Regulations, during August -September 2023, deserves to be commended.

The CCI has duly considered and incorporated most of the suggestions made. In particular, the inclusion of provisions to give the opportunity of hearing to the parties before rejecting the Commitments/Settlements has ensured following of the due process of law.

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With the present notifications of the Settlements and Commitments mechanisms, the competition law regime in India has matured and become in sync with the best practices prevailing internationally in advanced jurisdictions like USA, EU, UK, Australia, and Japan etc. Both Regulations are towards achieving the overall objective of “ease of doing business” by providing options of early confession to the delinquent parties thereby avoiding unnecessary litigation and stress etc.

For any further information / clarification, please feel free to contact/write to:

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