

Competition News Alert

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Competition Commission of India amends General Regulations

The Competition Commission of India (“**CCI**”), vide notification dated 20 November 2019, has amended the Competition Commission of India (General) Regulations 2009 (“**General Regulations**”).

By way of the amendment, CCI has substantially increased the statutory fee for filing complaints (Information), made the disclosure of pending litigations mandatory and has diluted the regulation regarding confidentiality.

Details of the important changes made in the General Regulations are as under.

Increase in statutory fee for filing information

Reg. 49 Sub Reg.(1)–Fee under Clause (a) of sub section (1) of section 19 of the Act-

The revised filing fees are as below:

- A. Individual or Hindu Undivided Family: INR 5,000/- (No change)
- B. Non-Government Organization, Consumer Association, Co-operative Society, Trust: INR 10,000/- (Doubled)
- C. Firm (including proprietorship, partnership or Limited Liability Partnership) or Company (including one-person company) having turnover in the preceding year upto rupees two crore : INR 40,000/- (Doubled for turnover up to rupees one crores but reduced for turnover between rupees one crore to two crores)
- D. Firm (including proprietorship, partnership or Limited Liability Partnership) or Company (including one-person company) having turnover in the preceding year exceeding rupees two crore and upto rupees 50 crore: INR 1,00,000/- (Doubled for turnover exceeding rupees two crores)
- E. Cases not covered above: INR 5,00,000/- (new fees for turnover exceeding rupees fifty crores)

Mandatory disclosure of pending litigations/disputes

Reg. 10 Sub Reg(2)–Contents of information or the reference

A new clause (da) has been inserted after clause (d) which mandates that “details of litigation or dispute pending between the informant and parties before any court, tribunal, statutory authority or arbitrator in respect of the subject matter of information” shall be included in the contents of the information to be filed as per sub reg.(1)

VA Comment: *The increase in filing fees and mandatory disclosure of pending litigations/disputes is aimed at reducing frivolous/mischievous complaints and avoid forum shopping by Informants.*

Confidentiality

Reg. 35 Sub Reg. (I)-

A new proviso has been inserted below sub regulation (I) which states that -“Provided that where it is expedient to disclose the identity of the informant for the purposes of the Act, the Commission shall do so after giving an opportunity to the informant of being heard.”

Reg.35 Sub Reg.(10)-

In cases where the Director General rejects the request for confidential treatment of document(s) or a part thereof, the party applying for such confidential treatment may approach the CCI for a decision regarding confidential treatment “within a period not exceeding 30 days from the receipt of the order passed by the Director General”.

VA Comment: *The amendment in Sub Reg. (I) dilutes the right of an informant to keep his or her identity secret. This, in our view, will discourage whistle blowers and good Samaritans from approaching the CCI in good faith to report instances of anti -competitive behavior or abuse of market power. Although the amendment grants a right of hearing before the disclosure is made, the circumstances where such disclosure becomes expedient is ambiguous. Since the determination of expediency has been left to the discretion of the CCI, the question as to whether the amendment will stand the test of fairness in a judicial review remains uncertain. The second amendment in Sub Reg.(10) was perhaps felt necessary to streamline the process of appeal within 30 days.*

For further details or any query, please feel free to contact :

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