

Bill Summary

The Competition (Amendment) Bill, 2022

- The Competition (Amendment) Bill, 2022 was introduced in Lok Sabha on August 5, 2022. It seeks to amend the Competition Act, 2002. The Act establishes the Competition Commission of India (CCI) for regulating market competition. Key features of the Bill include:
 - **Regulation of combinations based on transaction value:** The Act prohibits any person or enterprise from entering into a combination which may cause an appreciable adverse effect on competition. Combinations imply mergers, acquisitions, or amalgamation of enterprises. The prohibition applies to transactions where parties involved have: (i) cumulative assets of more than Rs 1,000 crore, or (ii) cumulative turnover of more than Rs 3,000 crore, subject to certain other conditions. The Bill expands the definition of combinations to include transactions with a value above Rs 2,000 crore.
 - **Definition of control for classification of combination:** For classification of combinations, the Act defines control as control over the affairs or management by one or more enterprises over another enterprise or group. The Bill modifies the definition of control as the ability to exercise material influence over the management, affairs, or strategic commercial decisions.
 - **Time limit for approval of combinations:** The Act specifies that any combination shall not come into effect until the CCI has passed an order or 210 days have passed from the day when an application for approval was filed, whichever is earlier. The Bill reduces the time limit in the latter case to 150 days.
 - **Anti-competitive agreements:** Under the Act, anti-competitive agreements include any agreement related to production, supply, storage, or control of goods or services, which can cause an appreciable adverse effect on competition in India. Any agreement between enterprises or persons, engaged in identical or similar businesses, will have such adverse effect on competition if it meets certain criteria. These include: (i) directly or indirectly determining purchase or sale prices, (ii) controlling production, supply, markets, or provision of services, or (iii) directly or indirectly leading to collusive bidding. The Bill adds that enterprises or persons not engaged in identical or similar businesses shall be presumed to be part of such agreements, if they actively participate in the furtherance of such agreements.
- **Settlement and Commitment in anti-competitive proceedings:** Under the Act, CCI may initiate proceedings against enterprises on grounds of: (i) entering into anti-competitive agreements, or (ii) abuse of dominant position. Abuse of dominant position includes: (i) discriminatory conditions in the purchase or sale of goods or services, (ii) restricting production of goods or services, or (iii) indulging in practices leading to the denial of market access. The Bill permits CCI to close inquiry proceedings if the enterprise offers: (i) settlement (may involve payment), or (ii) commitments (may be structural or behavioural in nature). The manner and implementation of settlement and commitment may be specified by CCI through regulations.
- **Relevant product market:** The Act defines relevant product market as products and services which are considered substitutable by the consumer. The Bill widens this to include the production or supply of products and services considered substitutable by the suppliers.
- **Appointment of Director General:** The Act empowers the central government to appoint a Director General to CCI. The Director General assists in conducting inquiries into contraventions of any provisions of the Act. The Bill amends this to empower the CCI to appoint the Director General, with prior approval of the government.
- **Qualification of members of CCI:** As per the Act, the chairperson and members of CCI should have professional experience of at least 15 years in fields such as: (i) economics, (ii) competition matters, (iii) law, (iv) management, or (v) business. The Bill expands this to include experience in the field of technology.
- **Decriminalisation of certain offences:** The Bill changes the nature of punishment for certain offences from imposition of fine to penalty. These offences include failure to comply with orders of CCI and directions of Director General with regard to anti-competitive agreements and abuse of dominant position.

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