
Competition & Antitrust

Practice Profile





ABOUT HSA

The legal profession is changing rapidly in light of market disruption, changing client expectations and technological developments. Established in 2003, HSA's focus on continuing evolution has enabled us to constantly adapt to emerging market dynamics and deliver consistent value to clients.

We are a full-service law firm that prides itself on combining knowledge, experience and expertise to create outcome-oriented solutions and ensure our clients stay ahead of emerging opportunities and risks. Our areas of expertise include Projects, Energy & Infrastructure; Banking & Finance; Restructuring & Insolvency; Corporate & Commercial; Regulatory & Policy; Defence & Aerospace; Dispute Resolution; Environment, Health & Safety; Real Estate; Securities & Capital Markets; Technology, Media & Telecommunications; Taxation and Investigations.

We are a law firm built around people. We embrace collaboration while advising our clients and assemble teams of experts to bring the right talent to address every client issue. Our belief in delivering legal advice that recognizes each clients' strategic goals and business requirements allows us to offer pragmatic and implementable support across our platform of practices and sectors.

We measure our success by the service we provide to clients, irrespective of the size, scope and scale of the matter at hand. We are a team of 30+ partners and over 150 professionals based out of four offices across India's major cities – Delhi, Mumbai, Bengaluru and Kolkata.

“

The key strength of the team is that there is partner involvement throughout the course of assignments which ensures quick turnaround of deliverables.

~ Chambers and Partners

“

HSA Advocates is an excellent law firm with proactive approach and exceptional team which provides prompt service and very clear opinions.

~ Legal 500

“

Praised for having 'great knowledge' of the practice area and for 'clear' communication of complicated legal matters to clients.

~ RSG India Report



INDIAN COMPETITION LAW FRAMEWORK

AN OVERVIEW

Indian Parliament enacted the Competition Act in 2002 (**Act**) with the primary goals of preventing practices that have an adverse effect on competition and protecting interests of consumers. Broadly speaking, the Act intended to curb activities that could hinder the freedom of any entity to freely and fairly compete in the domestic market and create a level playing field with effective competition.

The competition act primarily seeks to regulate three types of conduct:

- Anti-competitive agreements
- Abuse of dominant position
- Combinations (M&As, Amalgamations)

The Competition Commission of India (**CCI**) is solely responsible for the enforcement and administration of the Act. It has powers to initiate an inquiry in relation to an anti-competitive agreement or abuse of dominant position either on its own or on receipt of a reference from the government or a statutory authority. Recently, CCI completed a decade since the enforcement provisions of the Act were implemented in 2009.

The CCI and its investigative wing, the Office of the Director General (**DG**), is entrusted with extensive powers of investigation with respect to anti-competitive practices, which include powers to summon and enforce the attendance of any person, examine them on oath, receive evidence on affidavit and other similar provisions. If the CCI is of the opinion that there is a prima facie case, it shall direct DG to investigate the matter and report its findings. DG is also empowered to carry out "dawn raids" for purpose of its investigation.

CCI is not just tasked with enforcement but also obligated to implement advocacy measures to create a culture of compliance and increase awareness about competition law. With effective enforcement over the last 10 years accompanied by significant penalties imposed by CCI, assessment of compliance with the act is critical for all businesses.

HSA Advantage

- Deep integration with corporate and commercial practice group to offer holistic advice on competition issues emanating from corporate transactions
- Proven track-record of successfully managing regulatory disputes to assist clients in contentious scenarios
- Dedicated compliance team to support competition compliance audits and training programs

OUR

SERVICE OFFERINGS

Cartels

- Preventive compliance advisory and solutions
- End-to-end support on legal and regulatory issues
- Representation before the DG and CCI appellate authorities and writ courts
- Evidence analysis and defense strategy formulation
- Advise to victims of cartels on leniency
- Strategy on engagement with media at various levels and stages of a life cycle of a matter

Leniency

- Comprehensive and tailored assessment in relation to prospects of leniency with focus on detection, risk exposure, and careful examination of evidence
- End-to-end support and representation before the DG and CCI and appellate authorities
- Strategy on engagement with media at various levels and stages of a life cycle of a matter

Horizontal and vertical agreements

- Review of risks under the Act and providing bespoke legal advice, while catering to the business requirements and realities
- Preventive compliance advisory and solutions
- Representation before the DG and CCI and appellate authorities in case of an inquiry
- Evidence analysis and defense strategy formulation in case of an inquiry
- Assessment of a potential violation and available legal recourse for clients concerned with terms and conditions of agreements and impact on their businesses

Abuse of dominance

- Comprehensive assessment of prospective/proposed business models and practices to identify the risks posed under the Act and provide bespoke legal solutions
- Competition compliance health check/audits of the existing agreements and practices to identify potential risks and generating reports with bespoke recommendations
- End to end support on representation before the DG, CCI, appellate authority and writ courts –on behalf of informants and defendants

Merger approvals

- Preliminary merger control assessment regarding the requirement of notification including guidance on availability of any exemptions based on structure of transaction
- Review of transaction documents and advisory in relation to gun jumping
- End to end support in relation to merger notification with the CCI, including assistance with preparing divestitures and other structural proposals
- Preparing comprehensive competition analysis/reports on behalf of prospective acquirers of assets under divestiture plans ordered by the CCI
- Representation before the CCI in any proceedings arising out of imposition of penalty for failure to notify or consummation prior to approval

Risk management and competition compliance

- Comprehensive risk assessment exercise and preparation of reports identifying & categorizing risks, and proposing suitable mitigation strategies
- Comprehensive and bespoke competition compliance programs and policies
- Training and educating the management and employees on competition law basics, highlight the risks involved and the mechanisms to mitigate potential risk exposure

OUR PRACTICE

HIGHLIGHTS

ALTRAN

In the merger filing before the Competition Commission of India (CCI) in relation to the global acquisition of Arcient, Pricol Technologies and Global Edge Software

AMBUJA CEMENTS

On compliance review of supply and service contracts in relation to its cement production units from a competition perspective

AVANTOR PERFORMANCE MATERIALS

In respect of advice on matters pertaining to abuse of dominance, market manipulation and exclusionary conduct

BSCPL INFRASTRUCTURE

On merger control matters in relation to divestment of its road asset to IDFC Alternatives

CAN-PACK S.A.

In respect of advice on matters pertaining to abuse of dominance, market manipulation and most-favoured-nation/customer contract clauses

CARGILL INDIA

In relation to its acquisition of fish feed plant from Mulpuri Foods and Feeds

E.G.O. BLANC & FISCHER-GROUP

On preparation of manual for anti-trust guidelines and related compliances under Indian laws

ESSAR POWER GUJARAT

In relation to onerous and unfair terms of service imposed in contracts for electricity transmission

GAMMA PIZZAKRAFT OVERSEAS (CK JAIPURIA GROUP)

On merger control matters in relation to acquisition of a majority equity stake by Sapphire Foods (Samara Capital) in Indian subsidiaries and Sri Lankan subsidiaries (holding franchise rights for Yum/Pizzahut (North India, Sri Lanka, Maldives) and Deli France (North India, Sri Lanka, Maldives))

H ENERGY

In relation to possible action against IOCL for abuse of dominance and preventing effective competition in developing pipelines

LAMPRELL ENERGY

On advising an offshore oil & gas industry client for filing of a representation letter with the CCI to oppose a combination/merger in the jack up rigs market

PROMOTERS OF DONEAR INDUSTRIES AND PROMOTER GROUP ENTITIES

On applicability of merger control matters in relation to acquisitions of Grasim Bhiwani Industries and OCM

ROYAL GROUP, UAE

On applicability of merger control matters in relation to an investment in Coldrush Logistics, which is into business of cold chain logistics and warehouses

STATE GENERAL RESERVE FUND, SULTANATE OF OMAN & THE SOVEREIGN WEALTH FUND OF THE SULTANATE OF OMAN

In analyzing filing requirement for seeking approval from CCI pertaining to the issue of Competition Act related compliances

TATA POWER

In an investigation by CCI relating to abuse of a dominant position and anti-competitive agreements undertaken by Tata Power for its electricity distribution business in Mumbai

WEST BENGAL STATE ELECTRICITY DISTRIBUTION

On certain issues of abusive conduct of a dominant competing entity involved in distribution of electricity in various common areas of supply in the state of West Bengal

YASH RAJ FILMS

Representing before the CCI and the Competition Appellate Tribunal for a Complaint filed against YRF by Ajay Devgan Films alleging abuse of dominant position

HSA

AT A GLANCE

Full-service capabilities

-  **BANKING & FINANCE**
-  **COMPETITION & ANTITRUST**
-  **CORPORATE & COMMERCIAL**
-  **DEFENCE & AEROSPACE**
-  **DISPUTE RESOLUTION**
-  **ENVIRONMENT, HEALTH & SAFETY**
-  **INVESTIGATIONS**
-  **PROJECTS, ENERGY & INFRASTRUCTURE**
-  **PROJECT FINANCE**
-  **REAL ESTATE**
-  **REGULATORY & POLICY**
-  **RESTRUCTURING & INSOLVENCY**
-  **TAXATION**
-  **TECHNOLOGY, MEDIA & TELECOMMUNICATIONS**

GLOBAL RECOGNITION



STAY CONNECTED



www.hsalegal.com



mail@hsalegal.com



HSA Advocates

PAN INDIA PRESENCE

New Delhi

Email: newdelhi@hsalegal.com

Mumbai

Email: mumbai@hsalegal.com

Bengaluru

Email: bengaluru@hsalegal.com

Kolkata

Email: kolkata@hsalegal.com