

**International Conference of Jurists for Judicial Reforms
June 13, 2009
Hotel Crowne Plaza, London, United Kingdom**

Working Session No. 4

“Mergers & Acquisitions in a Multi-Jurisdictional Regulatory Framework”

**Speaker:
Anurag Bana
Project Lawyer
International Bar Association, London, United Kingdom**

Brief Synopsis

1. Main issue in context

“Are protected confidential corporate communications privileged from the purview of the Competition Commission of India?”

2. New Competition Law in India – Competition Act, 2002 – establishing a new regulatory framework.

3. The Akzo Nobel case - *Akzo Nobel Chemicals Ltd and Akros Chemicals Ltd v Commission of the European Communities, Joined Cases T-125/03 and T-253/03, CFI, 17 September 2007*

4. Hypothetical situation – cross-border illustration of a large multinational corporation that plans to do business – trade and transact, and is involved in M&A.

5. Existing legal framework

- Advocates Act, 1961 – S 2, 24
- Indian Evidence Act, 1872 – S 126, 129
- Bar Council Rules

6. Indian case laws

- *Municipal Corporation of Greater Bombay v. Vijay Metal Works; AIR 1982 Bombay 6*
- *Satish Kumar Sharma v. Bar Council of Himachal Pradesh; AIR 2001 SC 509*

7. Multijurisdictional / cross-continental repercussions – e.g. US, UK, Europe, Asia – a growing concern that corporate communications with in-house counsel could be exposed in court actions due to international inconsistencies in the law of privilege.

6. Conclusion – recognition of status, amendments to the existing framework laws, specifying an elaborate procedure, providing adequate safeguards to corporations is the need of the hour.