

THE COMPETITION COMMISSION (GENERAL) REGULATIONS, 2004

In exercise of the powers conferred by Section 64 of the Competition Act, 2002 (12 of 2003), the Commission hereby makes the following Regulations, namely:

1. Short title, extent and commencement –

- (1) These Regulations may be called the Competition Commission (General) Regulations, 2004;
- (2) These Regulations extend to whole of India except the State of Jammu and Kashmir; and
- (3) These Regulations shall come into force on the date of their publication in the Official Gazette.

2. Definitions –

- (1) In these Regulations, unless the context otherwise requires:
 - (a) “Act” means the Competition Act, 2002 (12 of 2003);
 - (b) “Bench” means Bench constituted under Section 22 of the Act and includes the Principal Bench, Additional Bench, Mergers Bench and Special Bench. Special Bench means larger Bench constituted under sub-section (4) of Section 23 of the Act.
 - (c) “Chairperson” means the Chairperson appointed under Section 8 and includes the senior-most Member acting as Chairperson under sub-sections (4) of Section 10 and the senior most Member discharging the functions of the Chairperson under sub-section (5) of Section 10 of the Act;
 - (d) “Commission” means the Competition Commission of India established under Section 7 of the Act
 - (e) “Complaint” means and includes complaint or reference falling under Section 19 of the Act;
 - (f) “Complainant” means a person who or the Central Government or a State Government or a Statutory Authority which makes complaint to the Commission.
 - (g) “Counsel” means and includes a legal practitioner, a chartered accountant, a company secretary, a cost accountant as defined in Explanation to Section 35 of the Act;

- (h) "Working day" means the day on which the Central Government is not closed at the location of the Commission's office;
 - (i) "Expert" means an expert called upon to assist the Commission under sub-section (4) of Section 36 of the Act;
 - (ia) "Informant" means a person who furnishes information regarding contravention of provisions of the Act of which cognizance is taken by the Commission;
 - (j) "Media" includes newspaper, magazine, publication, radio, cinema, television and internet;
 - (k) "Member Administration" means the Member so designated under Section 13 of the Act;
 - (l) "Party" shall include complainant, person defined in clause (l) of Section 2 of the Act or a consumer or consumers' association or a trade association or the Director General or the Central Government or any State Government or any statutory authority, as the case may be, and shall include a respondent or respondents against whom any inquiry or proceeding is instituted or relief is sought to be made and shall also include any person permitted to join the proceedings or an intervener but does not include an informant;
 - (m) "Registrar" means the person appointed under Section 17 of the Act and includes an officer of the Commission authorized by the Chairperson to function as Registrar;
- (2) Words and expressions used and not defined in these Regulations but defined in the Act or Rules made thereunder shall have the meanings respectively assigned to them in the Act or Rules, as the case may be.

3. Powers to determine procedure in certain circumstances - In a situation not provided for in these Regulations, the procedure shall be determined by a Committee consisting of the Chairperson and two senior most Members available at the headoffice, one of whom shall be a judicial Member.

4. Seal and emblem: The official seal and emblem of the Commission shall be such as is specified by the Commission.

5. Language of the Commission – The language of the Commission shall be English.

- 6. Filing of documents in Hindi** – Notwithstanding anything contained in these Regulations, the parties may file documents drawn up in Hindi, if they so desire, in the Benches located in such States as may be notified by the Chairperson in this behalf from time to time;

Provided that no complaint, application, reference, document or other papers contained in any language other than English shall be accepted by the Commission unless the same is accompanied by a true translation thereof in English as stipulated in Regulation 7.

- 7. Translation of documents** – Documents which are not in English shall be translated into English by a person approved by the Commission;

Provided that any translation, which is agreed to by the parties to the proceedings, may be accepted by the Commission, in appropriate cases, as a true translation.

- 8. Place of sitting** - A Bench shall hold its sittings at its office or at such other place or places as may be authorized by the Chairperson.

- 9. Working hours and holidays to be observed by the Commission –**

- (1) The office of the Commission shall observe holidays as declared by the Central Government at the location where the office of the Commission is situated;
- (2) The Commission shall, subject to any order made by the Chairperson, remain open on working days from 9.30 AM to 6.00 PM but no documents or papers shall be permitted to be filed after 4.0 P.M. except in case of urgency with the leave of the Registrar;
- (3) The sitting hours of the Bench shall ordinarily be from 10.30 AM to 1.00 PM and from 2.30 P.M. To 4.30 P.M., subject to any order made by the concerned Bench; and
- (4) Where the last day for doing any act falls on a day which is not a working day, it will be done on the next working day.

- 10. Timetable for hearing** – The duration of hearing shall be as directed by the Bench. Each party to the proceeding shall be given equal time for pleading its case. The Bench, in an appropriate case, may direct any party to file written submission, which shall be considered along with replies thereto of the other parties to the proceeding. The Bench will not be

obliged to hold oral hearing to consider any written response made by the parties.

11. Contents of complaint/reference/application

- (1) A complaint/reference/application shall state -
 - (a) legal name of the person making the complaint/reference/application;
 - (b) address in India for delivery of notice/document;
 - (c) telephone number, fax number and electronic mail address, if available;
 - (d) mode of service of notice/documents to be used;
 - (e) legal name and address(es) of respondent(s); and
 - (f) legal name and address of authorized representative, if any;
- (2) The complaint/reference/application shall contain -
 - (a) a brief statement of facts;
 - (b) a summary of the alleged contravention of the Act;
 - (c) a succinct presentation in support of each contravention;
 - (d) such other particulars as may be specified by the Commission;
 - (e) a schedule listing all documents/affidavits/evidence in support of each of the presentations; and
 - (f) relief(s) sought.

12. Signing of complaint/application/reference –

- (1) A complaint/application shall be signed by:-
 - (a) the individual himself/herself;
 - (b) the Karta in the case of a Hindu undivided family;
 - (c) the Managing Director and in his/her absence, any Director, in the case of a company;
 - (d) the President or the Secretary in the case of an association or society or similar body or the person so authorized by the instrument that created the association or the society or the body;
 - (e) a partner in the case of a partnership firm; and
 - (f) the chief executive officer in the case of a co-operative society or local authority.

- (2) A reference shall be signed by an officer not below the rank of a Joint Secretary to the Government of India or the Chief Executive Officer of the Statutory Authority;
- (3) Without prejudice to the provisions of this Regulation, the counsel or the authorised representative, if any, may also append his/her signature to the complaint or reference or application, as the case may be.

13. Filing of documents – A paper book may be filed by any party to the proceeding not less than ten days in advance of the date of hearing. Each page of the paper book shall be serially numbered, prefaced by an index, contain brief reasons for filing each document and be verified by the party or his/her/its authorized representative.

14. Any document that a party to the proceedings wishes to rely upon shall be filed at least seven days prior to the date of hearing, after serving the documents on the other parties to the proceedings. Such documents shall be serially numbered, prefaced by an index and shall be supported by an affidavit.

15. Powers and functions of the Registrar -

- (1) The Registrar shall have the custody of records of the Commission and shall exercise such other functions as may be assigned to him/her by the Chairperson;
- (2) Subject to any general or special order of the Chairperson, the Registrar shall have the following powers and duties:—
 - (a) to receive all complaints, references, applications and miscellaneous applications as well as the other documents including applications for transfer of proceedings and applications for adjournment;
 - (b) to endorse on such complaints or references or applications the date of receipt, allot numbers in chronological sequence and maintain record thereof;
 - (c) to check the amount of fee received where applicable;
 - (d) to scrutinize all complaints, references and applications so received to find out whether they are in conformity with Rules and Regulations;
 - (e) to point out defects in such complaints, references or applications to the parties requiring them to rectify such

defects ordinarily within 30 days and, if within the time so granted defects are not rectified, to obtain the orders of the Bench for the return of the complaints, references or applications;

- (f) to serve a copy of the complaint, reference, application along with enclosures to the concerned parties including the Director General, as the case may be, within a reasonable time;
- (g) to serve the notice of date of hearing of the complaint, reference or application and to convey direction for investigation and/or to issue notice of enquiry after receipt and consideration of report of the Director General;
- (h) to bring on record legal representatives, in case of death of any party upon an application by any party to the proceedings or appointment of a Receiver or Liquidator, as the case may be, by the Court;
- (i) to verify the service of notice or other processes and to ensure that the parties are properly served;
- (j) to requisition records on the direction of the Commission from the custody of any authority;
- (k) to allow inspection of records of the Commission;
- (l) to return the documents filed by any party or authority on orders of the Bench;
- (m) to certify and issue copies of the orders of the Commission to the parties;
- (n) to grant certified copies of documents filed in the proceedings to the parties, in accordance with the regulations;
- (o) to grant certified copies of the orders of Commission for publication, in accordance with these Regulations;
- (p) to segregate cases to be heard by Mergers Bench and serve notice of hearing;
- (q) to dispose of all matters relating to the service of notices or other related processes, applications for issue of fresh notice or for extending the time for or ordering a particular method of service on a party including a substituted service by publication of notice by way of advertisement in the newspaper or putting it on the website, as the case may be;
- (r) to obtain orders of the Bench on applications for withdrawal of complaints, references or applications;
- (s) to compile and preserve record of any proceeding including:
 - (i) the chronology of events;

- (ii) the initiating document;
 - (iii) the notice of hearing;
 - (iv) report of the Director General, if any;
 - (v) opinion of expert, if any;
 - (vi) any interim order made;
 - (vii) all documentary evidence filed;
 - (viii) the transcript, if any, of the oral evidence given;
 - (ix) the final order/decision of the Commission;
- (t) to disclose information subject to Section 57 of the Act;
 - (u) to ensure confidentiality of documents or evidence or statement by keeping them in safe custody;
 - (v) to undertake weeding out of record including maintenance of records in accordance with retention schedule in force and in accordance with directions of the Chairperson issued from time to time;
 - (w) to keep in custody the official seal of the Commission. The official seal of the Commission shall not be affixed to any document including the certified copies of the orders of the Commission, save and under the authority in writing of the Registrar.

16. Powers of Bench –

- (1) Subject to the provisions of the Act, a Bench shall hear and determine such matters or complaints made under the Act as the Chairperson may by general or special order direct;
- (2) An application for review under section 37 of the Act shall be made within thirty days of the date of the order, and, as far as possible, shall be heard by the same Bench whose order gave rise to such application;

Provided that while admitting such application, the Bench shall hear the other parties and may have regard to the material fact which was pleaded before it but not considered and its consideration would have made the order/decision materially different or some new evidence has come to light, the non-consideration of which will lead to miscarriage of justice;

- (3) An application for rectification under section 38 of the Act shall be made as soon as possible, preferably within thirty days of receipt of

the order, and, as far as possible, shall be heard by the same Bench whose order gave rise to such application;

- (4) The Bench may dismiss a complaint for default and decide ex-parte. The Bench may recall an ex-parte order or any complaint dismissed for default in appearance if the party can demonstrate reasons beyond his control for non- appearance;

Provided that such application for recall is made within thirty days from the date of such order unless prevented by reasons beyond the control of the applicant.

17. Procedure for filing complaints or reference or application -

- (1) A complaint or reference or application to the Commission shall be presented to the Registrar or to an officer authorized in this behalf by the Registrar, in person, or sent by registered post or courier service addressed to the Registrar or to such officer, or also by facsimile transmission or electronic mail as and when so ordered by the Registrar;
- (2) A complaint or reference or application sent by post or courier service under sub-regulation (1) shall be deemed to have been presented to the Registrar or to the officer authorized by the Registrar, on the day on which it is received in the office of the Registrar or the authorized officer, as the case may be.

18. Issue of direction to cause investigation–

- (1) After scrutiny and removal of defects of a complaint or reference or information, as the case may be, the Registrar shall place the same before the Commission to decide whether a *prima facie* case exists;
- (2) If the Commission is of the opinion that a *prima facie* case exists, the Registrar shall convey the directions of the Commission to the Director General to carry out investigation for and on behalf of the Commission and to furnish a report to the Commission on or before the date specified therein;
- (3) *A direction of investigation to the Director General shall be deemed to be the commencement of an enquiry under the Act.*

19. Preliminary Conference

- (1) The Commission may, if it deems necessary, call for a preliminary conference to form an opinion whether a *prima facie* case exists;
- (2) The Commission may invite the complainant and such other person as is necessary for the preliminary conference;
- (3) A preliminary conference will not follow formal rules of procedure and is not open to public;
- (4) The Commission may give directions, as it thinks fit, to secure just, expeditious and cost efficient conduct of preliminary conference and may decide evidence that can be admitted at that stage;
- (5) After scrutiny and removal of defects of a complaint or reference or information, as the case may be, the Registrar shall place the same before the Commission to decide whether a *prima facie* case exists;
- (6) If the Commission is of the opinion that a *prima facie* case exists, the Registrar shall convey the directions of the Commission to the Director General to carry out investigation for and on behalf of the Commission and to furnish a report to the Commission on or before the date specified therein;

20. Institution of enquiry and notice thereof

- (1) The Registrar shall place the report of the Director General before the Commission for further orders;
- (2) The Report of the Director General shall be forwarded to the parties concerned as provided in sub-section (4) of Section 26 of the Act;
- (3) If the report of the Director General recommends that there is no contravention of any of the provisions of the Act, the Registrar shall serve a notice of hearing on the complainant giving not less than ten days to appear before the Commission;
- (4) When the Commission forms an opinion that an enquiry into the matter is necessary, it shall direct the Registrar to serve a notice of enquiry, giving not less than twenty one days, to each parties concerned, in the manner specified, to take part in the proceedings and file its written replies indicating the preferred mode of service of notice in the manner specified;
- (5) The party or parties, as the case may be, being called upon to file reply pursuant to sub-regulation (4) above shall do so after having served a copy thereof to the complainant or the referring Government or the referring Statutory Authority or the Director General, as the case may be, ten days prior to the date of hearing;
- (6) The notice of enquiry shall indicate the date, time and place of hearing and it shall bear the official seal and emblem of the Commission.

21. Mode of service –

- (1) Every notice or other document required to be served on or delivered to any person, may be sent by registered post, or by speed post or by courier service or by facsimile transmission or by electronic mail addressed to the person or his agent, empowered to accept service, at the address furnished by him/her/it for service, or at the place where the person ordinarily resides or carries on business or works for gain;
- (2) A facsimile transmission shall contain a cover page giving details of the sender, the subject, date of transmission, and the recipient's name and telephone number;
- (3) An acknowledgement signed by the addressee or his agent or an endorsement by a postal or courier employee that the addressee or his agent has refused to take delivery of the notice would be deemed to be proof of service. In case, the postal or courier employee reports that the addressee has since left or is not available at the given address, the Commission relying on the information so furnished will take a view as it may deem appropriate;
- (4) A successful facsimile transmission report or a print out of an electronic mail transmission may be deemed to be proof of service;
- (5) A cause list of cases fixed for hearing giving brief details of the case, place, time of hearing and particulars of authorized representatives, if any, may be put on the official website of the Commission for the benefit of all concerned parties.

22. Pleadings before the Commission –

- (1) All complaints, pleadings, replies, rejoinders, supplemental pleadings or other documents which are required to be filed before the Commission shall be typed in Arial 12 fonts on one side of A4 size (210 x 297mm or 8.27"x11.69") white bond paper in double space with 2" margin on the left and 1" margin on all other sides ;
- (2) Neat and legible photocopies or scanned documents may be filed as exhibits or annexes with the leave of the Registrar;
- (3) Five copies of each document, in addition to a soft copy in document format, wherever possible, shall be filed. The Registrar may call for additional copies depending on the number of Members of the Bench and the number of parties to the proceedings.

23. Joinder of parties –

- (1) Any party to the proceedings may, at any time before the last day of hearing or filing of written evidence, apply to the Commission, with as many copies of the application as are required for the parties already on record and the Bench, for an order that any person or persons, not already a party, be added as party or parties to the proceedings and shall give notice of application to all other parties and the enterprise or enterprises sought to be added;
- (2) The Commission may, on receipt of such application, on just and equitable terms, order that the name(s) of the party(ies) who ought to have been joined or whose presence before the Commission is necessary in order to enable the Commission to effectively, appropriately and completely adjudicate upon and pass an order, be added.

24. Intervener-

- (1) Any person or enterprise may be permitted to intervene and participate, subject to such conditions as the Commission may deem appropriate, in any proceeding if he/she/it satisfies the Commission that he/she/it has sufficient interest in the outcome of the proceedings;
- (2) A request for intervention shall be accompanied by proof of payment of fees;
- (3) The amount of fee payable by the intervener s hall be the same as payable by a complainant in accordance with Regulation 47;
- (4) A request for intervention shall contain:-
 - (a) legal name of the person making the request;
 - (b) address in India for service of notice/documents;
 - (c) telephone number, facsimile number and electronic mail address, if available;
 - (d) the mode of service of notice/documents to be used;
 - (e) a concise statement of the matters in issue in the proceedings which affect the person making the request; and
 - (f) a schedule listing all documents/affidavit/evidences in support of the statement.

25. Power to strike out –

1. Any vexatious or frivolous complaint, application or request for joinder or intervention, as the case may be, by any person/persons may be dismissed by the Commission.

The Commission's decision of the aforesaid applications being frivolous/vexatious shall be decided on the basis of facts and circumstances of each case.

2. The Commission may, on an application by a co-respondent or a co-complainant or a co-applicant stating that no relief has been claimed by or against him/her/it or that no relief has to be granted to or against him/her/it, permit the striking out of such person from the proceedings.

26. Amendment of complaint -The Commission may permit amendment of any complaint before the issue of notice of enquiry but not unless a new fact or a new matter of law has come to light or under circumstances that are exceptional. Such amendments shall not, however, substantially change the nature and scope of the complaint.

27. Withdrawal of Complaint -The Commission may permit the withdrawal of a complaint at any stage of the proceeding but an enquiry or proceeding does not necessarily abate on such withdrawal and may proceed if so decided by the Commission.

28. Investigation by the Director General-

- (1) When the Commission forms an opinion that there exists a *prima facie* case, it shall direct the Director General to investigate the matter;
- (2) The Registrar shall send a copy of the complaint and all other documents/materials/affidavits/statements which have been filed either along with the complaint or at the time of preliminary conference, to the Director General in specified format, if any. The direction of investigation shall be conveyed in such format as may be specified;
- (3) The Commission shall direct the Director General to submit a report within such time as is reasonable to collect information, record statements, afford opportunity for cross-examination of witnesses in the circumstances of the particular case;
- (4) On an application by the Director General, the Commission may, at its discretion, extend the time for submission of report;

- (5) The report of the Director General shall contain his finding, including finding of each of the allegations made in the complaint or reference together with all evidences/documents/statements collected during the investigation;
- (6) Five copies of the report of the Director General, along with a soft copy in document format, shall be forwarded to the Commission within the time specified by the Commission;
- (7) The Commission, on perusal of the report of the Director General, may direct him to make further investigation, as it may think necessary, and submit a supplementary report on such issues within a reasonable time to be specified in its direction.

29. Adjournment of hearing –

- (1) The Commission, if sufficient cause is shown, may from time to time adjourn the hearing for reasons to be recorded in writing;

Provided that not more than three adjournments shall be given in any case except in exceptional circumstances;

- (2) All parties or their authorized representatives shall append their signature on a register maintained for this purpose by the Registrar or an Officer authorized by him noting the date of hearing, if re-fixed or on grant of adjournment, as the case may be, and no separate notice shall be issued to such parties .

30. *Ex parte* hearing - Where on the day fixed for hearing, including day of hearing re-fixed on adjournment, if any party or parties to the proceeding do not appear even after service of notice or having noted the date, the proceedings shall continue in the absence of such party or parties, as the case may be, not appearing.

31. Best Judgement –

If any party refuses access to or otherwise does not provide necessary information within the stipulated time or significantly impedes investigation, the Commission may pass such order as it may deem fit on the basis of available facts.

32. Orders of the Commission –

- (1) Every order of the Commission shall be signed and dated by the Members including a dissenting note by the dissenting Member, if that be the case;
- (2) Interim order, if any, shall be signed and dated by the Members, including a dissenting note by the dissenting Member, if that be the case and shall be made at the earliest but not later than seven days of the hearing of the application for such relief;
- (3) Every order/decision of the Commission shall, as far as practicable, be made within twenty one days from the date of conclusion of final arguments but in exceptional circumstances of the case, the Commission may fix a future date for making the final order and such date shall not ordinarily be a day beyond forty five days from the date on which the hearing was concluded; and
- (4) A copy of the order duly certified by the Registrar or such other officer authorized by the Registrar shall be served on the parties to the proceeding within four weeks.

33. Where an interim order has been passed, the Commission shall hear the party against whom such an order has been made as soon as possible but not later than thirty days from the date of such order.

34. Consent order –

- (1) If all parties agree the terms on which to settle all or any part of the proceedings, they may request the Bench to make a consent order;
- (2) A request for a consent order shall be made by sending to the Registrar :-
 - (a) a brief summary of the case;
 - (b) a draft consent order;
 - (c) a consent order impact statement;
 - (d) an affidavit from each party requesting that an order be made in the form of the draft;
- (3) A consent order impact statement shall provide :-
 - (a) an explanation of the draft consent order, including an explanation of the circumstances giving rise to the draft order;
 - (b) the relief to be obtained if the order is made; and
 - (c) the anticipated effects on competition of that relief;

- (4) The Commission shall direct the Registrar to publish a notice in the media and in such other manner as it deems necessary inviting comments from the public;
- (5) The notice referred to in sub-regulation (4) above shall state:-
 - (a) that a request for a consent order has been received;
 - (b) the name and address of each of the parties to the proceedings;
 - (c) a brief summary of the case and the particulars of the relief sought by those parties; and
 - (d) that the draft consent order and consent order impact statement may be inspected at the office of the Registrar or on the web site of the Commission, but shall exclude any information of a confidential nature;
- (6) Any person may send his written comments upon the draft consent order, together with an affidavit verifying the correctness of the contents of the comments, to the Registrar within twenty one days of the publication of the notice;
- (7) Comments referred to in sub-regulation 6 above shall be signed by the commentator in accordance with sub-regulation (1) of Regulation 13 and shall state the title, serial number of the proceedings and the legal name, address, telephone number, and also facsimile number and electronic mail address, if any, of the commentator;
- (8) The commentator shall send adequate number of copies taking into account the number of parties to the proceedings and shall also send a soft copy in document format, if possible;
- (9) The Commission, after hearing the parties to the proceedings and considering the comments and the responses thereto, may :-
 - (a) make an order on the terms requested;
 - (b) invite the parties to modify the terms; or
 - (c) refuse to make an order on the terms requested.
- (10) Nothing contained in this Regulation shall prevent the Commission from reviewing or modifying or amending the consent order if fresh information is brought to its notice warranting such action;

- (11) All costs relating to publication and other expenses involved in making/modifying the consent order shall be borne by the parties, or such party and in such manner as directed by the Commission.

35. Reference under Section 21 from Statutory Authority

- (1) A reference from statutory authority under Section 21 for opinion made to the Commission shall contain such particulars as may be specified by the Commission;
- (2) The reference received from the statutory Authority shall be scrutinized by the Registrar and in the event of any defect or deficiency therein, the Registrar will refer it back to the referrer for removal of defects therein;
- (3) On being satisfied that the reference is free from any defect the Registrar shall place it before the Commission and seek necessary instructions regarding parties to whom notice of hearing is to be issued;
- (4) The Registrar shall give notice of hearing to the said parties giving not less than twenty one days, in the manner specified, to take part in the proceedings;
- (5) The noticees being called upon to take part in the proceedings may file comments/information after having served a copy thereof to each other party at least ten days prior to the date of hearing;
- (6) The Commission may call upon a representative of the Statutory Authority or an expert in the field for discussion or evidence as it may consider necessary in the matter;
- (7) The Commission or the Director General may collect particulars and information from any person, enterprise, Central or State Governments' Department or statutory authority which in the opinion of Commission or Director General is relevant to the reference received by the Commission;
- (8) The Commission may form an opinion and send the same to the concerned parties and seek their objections and/or suggestions, if any, thereon within the time decided by it and after considering such objections or suggestions it shall give its opinion to the Statutory Authority;

36. Confidentiality -

- (1) The Commission shall maintain confidentiality of the identity of an informant for a request is made to it;
- (2) Any party may submit a request in writing to the Commission or the Director General, as the case may be, that a document or documents, or a part or parts thereof, be treated confidential;
- (3) A request under sub-regulation (2) may be made only if making the document or documents or a part or parts thereof public will result in disclosure of trade secrets or destruction or appreciable diminution of the commercial value of any information or can be reasonably expected to cause serious injury;
- (4) A request under sub-regulation (2) shall be accompanied with a statement setting out cogent reasons for such treatment and the date on which such confidential treatment shall expire;
- (5) Where such document or documents, or a part or parts thereof, form part of the party's pleadings or submissions, the party shall file a complete version with the word 'confidential' clearly and legibly marked on each page together with a public version, which shall not contain such document or documents or part or parts thereof;
- (6) The public version of such pleading or submission shall be an exact copy of the confidential version with the omissions of the confidential information being indicated in a conspicuous manner;
- (7) The public version of such pleading or submission alone shall be served on the other parties;
- (8) On receipt of a request under sub-regulation (2), the Commission or the Director General, as the case may be, if satisfied, shall direct that the document or documents or a part or parts thereof shall be kept confidential for the time period to be specified;
- (9) The Commission or the Director General, as the case may be, may consider the following while arriving at a decision regarding confidentiality: -
 - (a) the extent to which the information is known outside of the party's business;
 - (b) the extent to which the information is known to the employees, suppliers, distributors and others involved in the party's business;
 - (c) the measures taken by the party to guard the secrecy of the information;

- (d) the ease or difficulty with which the information could be acquired or duplicated by others.

- (10) In case the Director General has rejected the request of the party made under sub-regulation (2), the Commission may be approached for a decision regarding confidential treatment;
- (11) Where the Commission or the Director General has rejected the request for confidential treatment of a document or documents or a part or parts thereof and has informed the party of its intention, such document or documents or part or parts thereof shall, subject to sub-regulation (13), be made public;
- (12) If the party is unwilling to make the document or documents or a part or parts thereof public despite the Commission or the Director General having reached a decision that confidential treatment is not warranted, such document or documents or part or parts thereof shall be returned to the party and the information contained therein shall be disregarded;
- (13) The document or documents or a part or parts thereof that have been granted confidential treatment under this Regulation shall be segregated from the public record and secured in a sealed envelope or any other appropriate container, bearing the title, the docket number of the proceeding, the notation "confidential record under Regulation 35" and the date on which confidential treatment expires;
- (14) If the Commission includes in any order or decision or opinion, information that has been granted confidential treatment under this Regulation, the Commission shall file two versions of the order or decision or opinion. The public version shall omit the confidential information that appears in the complete version, be marked "subject to confidentiality requirements under Regulation 35" on the first page, shall be served upon the parties, and shall be included in the public record of the proceeding. The complete version shall be placed in the confidential record of the proceeding as provided in sub-regulation (13);
- (15) Any person, party or expert privy to the contents of the document or documents or a part or parts thereof that have been granted confidential treatment under this Regulation shall maintain the confidentiality of the same and shall not use or disclose or deal with such confidential information for any other purpose other than the purposes of the Act or any other law for the time being in force.

37. Compliance of orders of the Commission – The Commission shall have power to direct the parties concerned to file an affidavit of compliance of its order or such other documents in the manner specified in its order.

38. Inspection and certified copies of documents –

- (1) A party to any proceeding before the Commission may on an application in writing in that behalf, addressed to the Registrar, be allowed to inspect or obtain copies of the documents or records submitted during proceedings on payment of fee as specified in Regulation 49;
- (2) The Commission may, on an application of a person, who is not a party to the proceedings, on sufficient cause demonstrated, allow such person inspection of documents or records mentioned in sub-regulation (1) on payment of fee as specified in Regulation 49;
- (3) An inspection shall be allowed only in the presence of an officer so authorized by the Registrar;
- (4) An officer of the Central or State Government or the Director General or a statutory authority shall be allowed inspection and to obtain copies of documents or records mentioned in sub-regulation (1) on making written request to the Registrar for the purpose.

39. Dress regulations -

- (1) Summer dress for the Members shall be white shirt, white trousers with black coat, a black tie or a buttoned-up black coat. In winter, striped or black trousers may be worn in place of white trousers. In the case of female Members, however, the dress shall be black coat over white saree or any other sober saree.
- (2) Dress for the authorized representatives of the parties including Director General, Registrar and Court Masters (including those deployed to take verbatim record of the proceedings) appearing before the Commission shall be the following:
 - (a) In the case of male, a suit with a tie or buttoned-up coat over trousers or black coat with a tie over trousers or national dress, *i.e.*, a long buttoned-up coat on dhoti or churidar pyjama. The colour of the coat shall, preferably, be black;
 - (b) In the case of female, black coat over white or any other sober coloured saree;
 - (c) Where, however, the authorized representatives belong to a profession like that of lawyers or Chartered Accountants and they have been prescribed a dress for appearing in their professional capacity before any Court, Tribunal or other

such authority, they may, at their option, appear in that dress, in lieu of the dress mentioned above;

- (d) All other persons including the Officers and the staff of the Commission and the Director General appearing before the Commission shall be properly dressed as per aforesaid sub-regulations; and
 - (e) The Commission may allow such allowance/reimbursements towards purchase, maintenance and up-keep of dress to Chairperson, Member and such other employees as are required to be present in the Court in connection with any proceeding as is specified by the Commission from time to time.
- 40.** (1) Members, employees of the Commission and Office of the Director General, parties to any proceeding and their counsels shall appear in the Court in lounge suit with tie or jacket and tie over light coloured shirt or national dress. Ladies may wear jacket over saree or salwar kameez;
- (2) Where counsel belongs to a provision which has prescribed a dress for appearing in their professional capacity before any Court, Tribunal or other such authority, he/she may appear in that dress in the Court.
- 41. Continuation of proceedings after the death of a party or adjudication of a party as insolvent -**
- Where a party, whether he be the complainant or the respondent to a proceeding, dies or is adjudged insolvent or, in the case of a company, is being wound up, the proceeding shall not abate and may be continued by or against the executor, administrator or other legal representative of the parties or by or against the assignee, receiver or liquidator, as the case may be.
- 42. Effect of non-compliance -** Failure to comply with any requirement of these Regulations shall not invalidate any proceeding, merely by reason of such failure, unless the Commission is of the view that such failure has resulted in miscarriage of justice.
- 43. Taking of Evidence –** The Bench may control taking of evidence by giving directions as to -
- (1) issues on which it requires evidence;
 - (2) nature of evidence;
 - (3) the manner in which it should be presented; and

- (4) if required, may nominate an officer of the Commission or any other officer as may be decided by it, to take evidence on oath on behalf of Commission.

44. Proving of facts by filing of affidavit

- (1) The Commission may at any time, for sufficient reason, order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing, on such conditions as the Commission thinks reasonable;
- (2) Every affidavit shall be typed in Arial 12 fonts on one side of A4 size (210 x 297 mm or 8.27" x 11.69") white bond paper in double space with 2" margin on the left and 1" margin on all other sides;
- (3) Every affidavit shall be instituted in the cause or matter in which it is sworn;
- (4) Every affidavit shall be drawn up in the first person, and shall be divided into paragraphs to be numbered consecutively, and shall state the description, occupation and the true place of abode of the deponent;
- (5) Affidavits shall be confined to such facts as the deponent is able to confirm the same by his own knowledge to prove, except on interlocutory applications, in which statements of his/her belief may be admitted, provided that the grounds thereof are stated;
- (6) An affidavit requiring interpretation to the deponent shall be interpreted by an interpreter nominated or approved by the Commission, who shall certify that he/she has correctly interpreted the affidavit to the deponent;
- (7) Affidavits for the purposes of any cause or matter before the Commission may be sworn before the Registrar or any Court or Magistrate or a Notary appointed under the Notaries Act, 1952 or any officer or other person whom a High Court may appoint in this behalf or any officer appointed by any other Court which the State Government has generally or specially empowered in this behalf vide authority mentioned in Section 139 of the Code of Civil Procedure, 1908;
- (8) Every exhibit annexed to an affidavit shall be marked with the title and number of the cause or matter and shall be initialled and dated by the authority before whom it is sworn;

- (9) No affidavit having any interlineations, alteration or erasure shall be filed in Commission unless the interlineations or alteration is initialled or unless in the case of an erasure the words or figures written on the erasure are re-written in the margin and initialled, by the authority before whom, the affidavit is sworn;
- (10) The Commission may refuse to receive an affidavit where in its opinion the interlineations, alterations or erasures are so numerous as to make it expedient that the affidavit should be re-written;
- (11) Where a special time is limited for filing affidavits, no affidavit filed after that time shall be used except by leave of the Commission;
- (12) In these Regulations, 'affidavit' includes a document required to be sworn or verified; and 'sworn' includes affirmed. In the verification of petitions, pleadings or other proceedings, statements based on personal knowledge shall be distinguished from statement based on information and belief. In the case of statements based on information, the deponent shall disclose the source of his/her information.

45. Production of additional evidence before the Commission

- (1) The parties to the proceedings shall not be entitled to produce before the Commission additional evidence, either oral or documentary, which was in the possession or knowledge but was not produced before the Director General during investigation under Section 26 of the Act, but if the Commission requires any document to be produced or any witness to be examined or any affidavit to be filed to enable it to pass orders or for any other substantial cause, or if the Director General has not given sufficient opportunity to the party to adduce evidence, the Commission, for reasons to be recorded, may allow such document to be produced or witness to be examined or affidavit to be filed or may allow such evidence to be adduced;
- (2) Such document may be produced or such witness examined or such evidence adduced either before the Commission or before such authority as the Commission may direct;
- (3) If the document is directed to be produced or witness examined or evidence adduced before any authority, he/she shall comply with the direction of the Commission and after compliance send the document, the record of the deposition of the witness or the record of the evidence adduced, to the Commission;

- (4) Additional evidence/document shall be made available by the Commission to the parties to the proceedings other than the party adducing the evidence;

46. Power of the Commission to call for information etc.

- (1) The Commission may, at any time before passing orders in a proceeding, require any of the parties or any other person whom the Commission considers appropriate, to produce such documentary or other material objects as evidence as the Commission may consider necessary for the purpose of enabling it to pass orders .
- (2) The Commission or the Director General, as the case may be, may direct the summoning of the witnesses, discovery and production of any document or other material objects producible in evidence, requisition of any public record from any office, examination by an officer of the Commission the books, accounts or other documents or information in the custody or control of any person which the Commission considers relevant for the purpose.
- (3) The Commission or the Director General, as the case may be, at any time, summon and enforce the attendance of any person and examine him, or cause him to be examined on oath.

47. Authorising a representative to appear - In any proceeding, where the pleading is also signed by an authorized representative, the party shall append power of attorney/vakalatnama in the manner specified authorizing the representative to appear for him/her/it. The authorized representative shall not be heard unless such power of attorney/vakalatnama is filed before the Registrar before commencement of hearing.

Provided that no misconduct on the part of any authorized representative, appearing for and on behalf of any party during continuance of a proceeding before any Bench of the Commission shall be permitted and the Bench in appropriate circumstances, for reasons to be recorded in writing, may pass necessary order(s) debarring representatives guilty of misconduct from appearing in proceedings before Benches of the Commission in future or till such time as it orders.

48. Proceedings before the Commission to be in public - The proceedings before the Commission, except preliminary conference, shall be open to the public. However, the Commission may, on its own or on a request by any party, for reasons to be recorded, direct that the proceedings before it in a particular case or a particular hearing will not be

open to the public. In taking that decision, the Commission may take into account all or any of the following:-

- (1) whether disclosure might cause significant harm to a party ;
- (2) degree of inhibition or encouragement in providing information in public;
- (3) efficient and proper conduct of proceeding; and
- (4) resources of the Commission.

49. Fee under clause (a) of sub-section (1) of Section 19 –

- (1) Each complaint received under clause (a) of sub-section (1) of Section 19 of the Act shall be accompanied by proof of having paid the fee of Rupees fifty thousand;
- (2) Fee can be paid either by tendering demand draft or pay order or banker's cheque, payable in favour of Competition Commission of India, New Delhi or through Electronic Clearance Service (ECS) by direct remittance to the Commission's Account No _____ with Bank "X".

50. Costs –

- (1) The Commission, in its discretion, may, subject to such conditions as may be specified in its order, determine costs of the proceedings and award cost. [Costs may be awarded in favour of the Commission];
- (2) The costs shall be paid within thirty days from the date of the order and proof thereof be submitted to the Registrar;
- (3) The order of the Commission, awarding costs, shall be executed in the same manner as the order of a civil court and provisions of Order XXI of the Code of Civil Procedure, 1908 (5 of 1908), shall apply to the execution of such order.

51. Inspection charges – The parties to the proceedings, except authorized officers of the Director General, shall pay Rupees Five Hundred per day for inspection of records. Persons other than parties to any proceeding concluded or otherwise, shall pay Rupees One Thousand per day. Inspection shall be permitted only during working hours by the Registrar.

52. Copying charges – Copying charges for parties to the proceedings shall be Rupees Twenty per page while others shall pay Rupees Fifty per page. These charges will be increased/decreased on the basis of annual

notification of Cost Inflation Index by the Central Board of Direct Taxes, Department of Revenue, Ministry of Finance by an order of the Registrar.

53. Disclosure of Interest – The Chairperson and Members shall disclose any circumstance likely to give rise to justifiable doubts regarding their independence or impartiality in any proceeding.

54. Empanelment of experts by the Commission

The Commission may draw up a panel of experts from the fields of economics, commerce, accountancy, international trade or from any other discipline as it deems necessary, to assist the Commission in the conduct of any enquiry or proceeding before it. The remuneration payable and other allowances and compensation admissible shall be specified by the Commission.

55. Empanelment of Special Counsel by the Director General

The Director General may, in consultation with the Commission, draw up a panel of legal practitioners/chartered accountants/company secretaries/cost accountants to assist him in carriage of proceedings before the Commission or any other quasi judicial body or Court. The remuneration payable and other allowances and compensation admissible shall be specified in consultation with the Commission.

56. Publication –

- (1) The Commission may cause publication of a brief summary or the full text of its orders/decisions in the media, if it so desires in the interest of public, but shall have regard to the business secrets of the persons concerned and may direct deletion of such portions of the orders/decisions as it deems fit;
- (2) A summary of all orders/decisions made by the Commission directing that a complaint need not be proceeded with shall be published on the web site of the Commission; and
- (3) It shall be the duty of the Registrar to publish the orders/decisions referred to in this Regulation.

57. Removal of doubt/difficulty

In the matter of implementation of these Regulations, if any, doubt or difficulty arises, the same shall be placed before the Chairperson and two senior most Members, one of whom shall be a Judicial Member, and their decision thereon shall be final and binding.