



January 08, 2018

Info Capsule

PRESIDENT ASSENT RECEIVED FOR THE COMPANIES (AMENDMENT) ACT, 2017¹

The Ministry of Law and Justice (Legislative Department) through the Gazette of India has notified the Companies (Amendment) Act, 2017 on January 3, 2018. The Companies (Amendment) Act, 2017 is intended at making certain amendments to the Companies Act, 2013.

The Act which *received the assent of the President on 3rd January, 2018 shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint* and different dates may be appointed for different provisions of this Act and any reference in any provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

The Act is aimed at addressing the various difficulties faced and gaps witnessed in the existing Act and shall play a significant role in not only harmonization of the various legislations applicable to India Inc. but shall also facilitate ease of doing business across the nation.

The said Amendment Act is available at <http://egazette.nic.in/WriteReadData/2018/181439.pdf>

COMPETITION COMMISSION OF INDIA IMPOSES PENALTY ON CHEMISTS AND DRUGGISTS ASSOCIATION OF BARODA AND FEDERATION OF GUJARAT CHEMISTS AND DRUGGISTS ASSOCIATION²

The Competition Commission of India ('Commission') has found the Chemists and Druggists Association of Baroda ('CDAB') and Federation of Gujarat State Chemists and Druggists Association ('Gujarat Federation') to be in contravention of the provisions of the Competition Act, 2002 ('Act'). One of the stockists based in Vadodara filed an information alleging that despite an earlier order of the Commission in the year 2012, CDAB, through its practices, has continued to limit and control the supply of drugs and medicines in the market by mandating 'No Objection Certificate' ('NOC'/'LOC') prior to appointment of stockists and payment of 'Product Information Service' ('PIS') charges prior to introduction of new products in the market by pharmaceutical companies.

Investigation carried-out by the Director General ('DG') revealed involvement of the State Level Association, *i.e.* the Gujarat Federation, besides CDAB, in the alleged conduct. After detailed enquiry, the Commission has found that CDAB and the Gujarat Federation were indulging in the anti-competitive practice of insisting NOC prior to the appointment of new stockists by pharmaceutical companies. Further, the Gujarat Federation was found to be carrying on the practice of making introduction of new products in the market subject to payment of PIS charge and its approval. These

¹ Available at: <http://www.egazette.nic.in/WriteReadData/2018/181439.pdf>

² Available at: <http://www.pib.gov.in/PressReleaseDetail.aspx?PRID=1515612>

practices were held to be limiting and controlling supplies of drugs/medicines in the market, in contravention of Section 3 (3) (b) read with Section 3 (1) of the Act. Further, the Commission has held office bearers of CDAB and Gujarat Federation, namely Shri V.T. Shah (President, CDAB), Shri Jashvant Patel (President, Gujarat Federation), to be responsible under Section 48 of the Act, for their involvement in the anti-competitive practices.

Accordingly, CDAB, Gujarat Federation and their office bearers, have been directed to cease and desist from indulging in the aforesaid anti-competitive practice. Further, the Commission imposed a monetary penalty of Rs. 1,08,588/- and Rs. 11,11,549/-, calculated at the rate of 10% of the average income of CDAB and the Gujarat Federation, respectively, under the provisions of Section 27 of the Act. Penalties of Rs. 34,048/- and Rs. 62,144/-, calculated at the rate of 10% of their respective average incomes, are also imposed upon Shri V.T. Shah (President, CDAB) and Shri Jashvant Patel (President, Gujarat Federation).

This case is yet another example of how competitive markets and fair-play in the distribution of drugs/medicines are being compromised by the persisting anti-competitive behaviour of the chemist and druggist associations at the Regional as well as State level. It is indeed a serious matter that despite various orders by the Commission in similar cases and specific directions through a press notice, chemist and druggist associations have not mended their ways and have continued to indulge in such anti-competitive conduct. Considering the larger public interest involved in the distribution of drugs/medicines, the Commission deprecates such a conduct and its perpetration in any form by those responsible, be it the Associations, Stockists/Distributor/Wholesaler/Retailer and the Pharmaceutical Companies. Given the widespread and continuing indulgence in the Anti-competitive practices, the Competition Commission of India will be keeping a close watch on the conduct by all such entities in various parts of the country and would not hesitate to take action, wherever deemed necessary.

The detailed order is also available at the Commission's website www.cci.gov.in.

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