

COMPETITION COMMISSION OF INDIA

PROPOSED DRAFT

OF

**“COMPETITION COMMISSION OF INDIA (MEETINGS FOR
TRANSACTION OF BUSINESS) REGULATIONS, 200_”**

In exercise of the powers conferred by section 64 read with sub section (1) of section 22 of the Competition Act, 2002 (12 of 2003), the Competition Commission of India hereby makes the following regulations, namely:

1. Short title, extent and commencement-

- (1) These regulations may be called the Competition Commission of India (Meetings for Transaction of Business) Regulations, 200_; and
- (2) 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) “Chairperson” means the chairperson of the Commission appointed under sub-section (1) of section 8 of the Act ;
 - (c) “Commission” means the Competition Commission of India established under sub-section(1) of section 7 of the Act;
 - (d) “Director General” means the Director General appointed under sub-section (1) of section 16 of the Act and includes any Additional. Joint, Deputy or Assistant Directors General appointed under that section;
 - (e) “ Information” means an information related to any anti-competitive agreement or abuse of dominant position as referred to in clause (a) of sub section (1) of section 19 or to a combination as referred to in subsection (1) of section 20 of the Act ;
 - (f) “Member” means a Member of the Commission appointed under sub-section (1) of section 8 and includes the Chairperson;
 - (g) “Non –compliance” of orders of the Commission under 42 of the Act shall include less than full payment of monetary penalty or partial compliance of orders, as the case may be;
 - (h) “Reference” means a reference—
 - (i) received in the Commission from the Central Government or a State Government or a statutory authority under clause (b) of sub section (1) of section 19 of the Act or,

(ii) received in the Commission from a statutory authority under section 21 of the Act or, for opinion or,

(iii) sent to a statutory authority for opinion by the Commission under section 21A of the Act or,

(iv) received in the Commission from the Central Government or a State Government for opinion under sub section (1) of section 49 of the Act;

(i) "Secretary" means an officer appointed as Secretary under sub section (1) of section 17 of the Act and includes an officer of the Commission authorized by the chairperson to function as Secretary;

(j) "Video conference" means the method by which people at different locations can attend and participate in meetings either by use of internet or through electronic media or television or satellite or any other means facilitating audio-visual communications;

(k) "Working day" for the head office of the Commission means the normal working day on which its head office at New Delhi functions but does not include Saturday or Sunday or any other day which is declared to be a public holiday by the Central Government under the Negotiable Instruments Act, 1881 (26 of 1881) for New Delhi; and

"Working day" for any other office of the Commission at places other than New Delhi means the normal working day on which the said office functions but does not include Saturday and Sunday or any other day which is declared to be a public holiday by the Central Government under the Negotiable Instruments Act, 1881 (26 of 1881) for such place;

(2) Words and expressions used but not defined in these regulations shall have the same meanings respectively assigned to them in the Act or the rules or regulations made thereunder or the Companies Act, 1956 (1 of 1956).

3. Meetings for transaction of business and their procedure-

(1) The Commission may hold as many meetings and at such places as may be required for the purpose of discharging its functions under the Act;

(2) The meetings of the Commission shall ordinarily be held at its head office situated in New Delhi,

Provided that the Commission may also hold meetings at its other offices or at any other place in India, whenever, in the opinion of the Commission, it is expedient to do so;

(3) Types of meetings- The Commission may conduct the following types of meetings: -

(a) Ordinary Meetings relating to a statutory inquiry or investigation, or other legal proceeding, to be conducted by the Commission, as per provisions of the Act, or the rules or regulations made thereunder;

(b) Special Meetings relating to all other functions not covered by the ordinary meeting;

(4) The Chairperson shall, as far as practicable, decide, in advance, the date, duration of time and the agenda for each meeting of the Commission;

Provided that an item not included in the agenda of an ordinary meeting may be taken up for consideration, on grounds of urgency shown by an applicant in writing, with the approval of the Chairperson.

(5) Procedure for ordinary meetings-

(a) Timings of ordinary meeting - The meeting hours of an ordinary meeting shall generally be from 10.30 AM to 1.00 PM and from 2.30PM to 4.30 PM, unless the Commission decides to extend the same in a particular matter;

(b) Attendance in ordinary meetings – Subject to section 35 of the Act, the Secretary and such other officers and persons as permitted by the Chairperson shall attend an ordinary meeting ;

(c) Duration of ordinary meeting- Subject to sub-regulation (4) above, the duration of each ordinary meeting shall be as directed by the Chairperson. Each party to the proceeding may be granted such opportunity to present its case as deemed appropriate by the Commission..The Commission may direct any party to file written submissions, which shall be considered along with replies thereto of the other parties to the proceeding. The Commission shall not be obliged to give any separate oral hearing to any party to consider any written response made by the parties;

(d) Adjournments of ordinary meeting- The Commission may, for reasons to be recorded in writing, adjourn the meeting ;

(e) Video-conference- Any Member unable to attend an ordinary meeting due to incapacity or otherwise, can attend the said meeting, through video conference and this shall be considered as attendance by the Member for the purpose of casting vote during the meeting;

Provided that the Member desirous of attending the meeting through video conference shall inform the Secretary sufficiently in advance for making the necessary arrangements;

(f) Review of compliance of orders of the Commission - Subject to sub-regulation (4) above, the Commission shall hold, as far as practicable, ordinary meeting twice every month to review compliance of its orders and the Secretary shall report all matters of non compliance for information or for further orders of the Commission, as the case may be;

(g) Recording of daily proceedings of ordinary meeting- The proceedings of each matter considered during an ordinary meeting of the Commission shall be recorded under the superintendence and guidance of the Secretary or by any other officer authorised by the Chairperson. The minutes of each matter taken up during an ordinary meeting shall be given continuous serial number for a particular financial year;

(6) Procedure for special meetings-

(a) Attendance in meetings- All special meetings of the Commission shall be attended by the Secretary and/or such other officers as directed by the Chairperson ;

(b) Notice for special meetings- Subject to the provisions of the Act and these regulations, the Secretary shall notify the date, time and the agenda for each meeting of the Commission, other than an ordinary meeting, to the Members and other concerned officers, as far as practicable, at least three days in advance;

(c)The Secretary, for all special meetings, shall: -

(i) Arrange to prepare and record the minutes of every meeting of the Commission and after obtaining the approval of the Chairperson circulate them amongst the Members, the Director General and the senior officers. The minutes of such meetings shall be given a continuous serial number for a particular financial year;

(ii) Communicate the decisions taken on each item of the agenda during a meeting to all concerned officers for necessary follow up and shall report action taken on each on the next meeting as well as at the end of each month to the Commission separately ;

Provided that the concerned officers shall forward the reports ,on the necessary action taken ,to the Secretary at least two days in advance.

(d)The Chairperson may, without prior notice, convene a special meeting at any time at the head office of the Commission to consider any item, which in his opinion requires urgent consideration.

(e) Any matter to be considered in a special meeting, other than those requiring statutory approval of the Commission, may, with prior approval of the Chairperson, be decided on file by circulation.

(7) Competition advocacy - Without prejudice to sub regulation (1) above, the Commission shall have at least one special meeting every month to fulfil its mandate for the promotion of competition advocacy, public awareness and training and the Secretary shall place matters connected thereto before it as per these regulations;

4. Power to determine procedure in certain circumstances-- In a situation not provided for in these regulations, the Commission shall be free to determine the procedure for its meetings;

5. Effect of any irregularity of procedure- No act or proceedings of the Commission shall be invalid merely by reason of any irregularity in the procedure of the Commission ,which having regard to the principles of natural justice, does not affect merits of the case;

6. Interpretation and removal of doubts- In the event of any doubt or dispute regarding interpretation of any provisions of these regulations, the decision of the Commission shall be final and binding.
