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FORTHCOMING PROGRAMMES

- 10th National Conference Of Company Secretaries In Practice
ATTENTION MEMBERS

10TH NATIONAL CONFERENCE OF COMPANY SECRETARIES IN PRACTICE

SUGGESTIONS ON THEME AND SUB-THEMES

The 10th National Conference of Company Secretaries in Practice is scheduled to be held in August, 2009. Suggestions are invited for the theme and sub-themes of the Conference.

Suggestions may please be sent by April 30, 2009 to:

Shri Sutanu Sinha
(Director Academics)
The Institute of Company Secretaries of India
‘ICSI HOUSE’,
22, Institutional Area,
Lodi Road,
NEW DELHI – 110 003
Fax: 011-24645045
E-mail: ssinha@icsi.edu
LIMITED LIABILITY ACT, 2008 notified on 31.03.2009
LIMITED LIABILITY ACT, 2008 notified on 31.03.2009

SO 891(E), dated 31-3-2009

In exercise of the powers conferred by sub-section(3) of section 1 of the Limited Liability Partnership Act, 2008(6 of 2009), the central Government hereby appoints the 31st day of March, 2009 as the date on which the following sections of the said Act shall come into force, namely:-

Section 1

Section 2 except clause (c) and (u) of its sub-section(1)

Sections 3 to 30

Sections 31 except to the extent of its application in context of the Tribunal

Sections 32 to 54

Sections 59 to 62

Sections 66 to 71

Sections 74 to 80

Section 81 except clause (b) to the extent of its application to sections 51, 63 and 64 and clause (c)

First Schedule
Training Programme for Internal Audit of Stock Brokers
Training Programme for Internal Audit of Stock Brokers

(New Delhi offerings)

Background

Periodical audit is one of the tools to ascertain the level of compliance among stock brokers of the exchanges. The scope of audit should cover the existence, scope and efficiency of the internal control system, compliance with the provisions of the SEBI Act, 1992, Securities Contracts (Regulation) Act, 1956, SEBI (Stock brokers and Sub- brokers) Regulations, 1992, circulars issued by SEBI, agreements, KYC requirements, Bye-Laws of the Exchanges, data security and insurance in respect of the operations of the stock brokers/clearing members.

SEBI has issued circulars asking stock exchanges to direct stockbrokers/trading members/clearing members to carry out complete internal audit on a half yearly basis by chartered accountants, company secretaries or cost and management accountants who are in practice and who do not have any conflict of interest.

The programme

This executive education programme is offered by NISM, in co-ordination with BSE & NSE, for chartered accountants, cost accountants and company secretaries. It aims at helping them carry out effective internal audit of the broker’s books in order to satisfy the requirements of SEBI and the exchanges. The sessions discuss audit procedure and areas that the auditor should examine with references to what books, documents and data are to be checked. Programme faculty has been drawn from SEBI and the two main exchanges. Duration of the programme would be two days.

Offerings

April 24-25, 2009 – India International Centre, 40 Max Mueller Marg, New Delhi - 110003.

Programme fee

The programme fees would be Rs.2,250/- (for both days; inclusive of service tax) per participant. The programme fee covers courseware, lunch and tea for both days. A participant certificate will be given to all the participants.

Registration for New Delhi offerings only

Participants may register by sending the following Registration Form along with Demand Draft for Rs. 2250/- favouring ‘National Institute of Securities Markets’ to National Institute of Securities Markets, 5th floor, Plot No. 82, Sector 17, Vashi, Navi Mumbai 400705.

For further details/clarification please contact Mr. S.K. Sharma 011-23724012 or call 022-27883001, Fax. 022-27883038.

Email – chaturvedivc@nismindia.com Please visit www.nismindia.com for details.
REGISTRATION FORM FOR NEW DELHI OFFERINGS

Mandatory fields are denoted with an astrix.

Name* __________________________________________

Whether CA/CS/ICWA _______

Address* ________________________________________________________________________

Fax No. ___________________________ Phone (O)* ___________________________

Mobile No.* ___________________________ Email ID* ___________________________

DD No* ___________________________ Date* ___________________________________

Bank* ___________________________ Amount* ___________________________

Please tick the one offering for which you wish to register:

India International Centre New Delhi, April 24-25, 2009

Registration closed due to overwhelming response. Please try to register for April 24-25, 2009

Place ________________ Date ________________ Signature
INCOME-TAX (TENTH AMENDMENT) RULES, 2009 - AMENDMENT IN FORM NO. 3CD
INCOME-TAX (TENTH AMENDMENT) RULES, 2009 - AMENDMENT IN FORM NO. 3CD

NOTIFICATION NO. 36/2009, DATED 13-4-2009

In exercise of the powers conferred by section 295 read with section 44AB of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely :

1. (1) These rules may be called the Income-tax (Tenth Amendment) Rules, 2009.
   (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Income-tax Rules, 1962, in Appendix II, in Form No. 3CD, after item 17, the following shall be inserted, namely :
   17A. Amount of interest inadmissible under section 23 of the Micro, Small and Medium Enterprises Development Act, 2006.

[F.No. 149/86/2008 TPL]

TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY PART II, SECTION 3, SUB-SECTION (i)]

MINISTRY OF FINANCE
(Department of Revenue)
(Central Board of Excise and Customs)

New Delhi, the 17th March, 2009

Notification No. 10 / 2009-ST

G.S.R.... (E). In exercise of the powers conferred by section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the Service Tax Rules, 1994 namely : -

1. (1) These rules may be called the Service Tax (Amendment) Rules, 2009.
   (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Service Tax Rules, 1994, in Form ST-3, after S. No. 7 and the entries relating thereto, the following shall be inserted, namely, -
   “8. If the return has been prepared by a Service Tax Return Preparer (STRP), furnish further details as below:
   (a) Identification No. of STRP
   (b) Name of STRP
   (Signatures of Service Tax Return Preparer)“.

[F. No. 137/318/2007-CX.4 (Pt. 2)]

(Ashima Bansal)
Under Secretary to Government of India
Note.- The principal rules were notified vide notification No. 2/94-Service Tax, dated the 28th June 1994 and published in the Gazette of India, Extraordinary vide number G.S.R.546 (E), dated the 28th June 1994 and were last amended vide notification No. 31/2008-Service Tax, dated the 2nd September, 2008 which was published vide number G.S.R.633 (E), 2nd September, 2008.

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

Notification No.35/2009-Customs

New Delhi, dated the 13th April, 2009

G.S.R-- (E). - Whereas, the designated authority vide notification No. 15/1/2008-DGAD, dated the 19th March, 2008, published in Part I, Section 1 of the Gazette of India, Extraordinary, dated the 20th March, 2008, had initiated review, in terms of sub-section (5) of section 9A of the Customs Tariff Act, 1975 (51 of 1975) and in pursuance of rule 23 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, in the matter of continuation of anti-dumping duty on Sodium hydrosulphite (hereinafter referred to as the subject goods), originating in, or exported from, Germany and Korea RP (hereinafter referred to as the subject countries), imposed vide notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 173/2003-Customs, dated the 3rd December, 2003, published in the Gazette of India vide number G.S.R.921(E), dated the 3rd December, 2003 and had requested for extension of anti-dumping duty for a period of one year from the date of its expiry, in terms of sub-section (5) of section 9A of the said Act, pending the completion of the review;

And whereas, the Central Government had extended the anti-dumping duty on the subject goods, originating in, or exported from, the subject countries upto and inclusive of the 31st March, 2009 vide notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 44/2008-Customs dated the 7th April, 2008, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.267(E), dated the 7th April, 2008;

And whereas, in the matter of review of anti-dumping on import of the subject goods, originating in, or exported from, the subject countries, the designated authority in its final findings issued vide notification No. 15/1/2008-DGAD, dated 17th March, 2009 published in the Gazette of India, Extraordinary, Part I, Section 1 dated the 17th March, 2009, had come to the conclusion that-

(a) the subject goods were entering the Indian market at dumped prices and dumping margins of the subject goods imported from Germany was substantial and above de-minimis;

(b) the subject goods were likely to enter the Indian market at dumped prices and the likely dumping margins in respect of imports from Korea RP was substantial and above de-minimis;

(c) the subject goods were likely to enter the Indian market at dumped prices, should the present measure withdrawn; and

(d) even though the domestic industry had marginally improved its performance in terms of capacity, production and sales, its profitability deteriorated during the period of investigation and the situation of domestic industry to be fragile; the dumped imports from Germany...
continued to cause substantial injury to the domestic industry and the likelihood of dumping from Korea RP was lurking above the heads of the domestic industries threatening to cause substantial injury in the event of revocation of the anti-dumping duty; should the present anti-dumping duties be revoked, injury to the domestic industry was likely to continue and intensify; and had recommended continued imposition of definitive anti-dumping duty on imports of the subject goods, originating in, or exported from, the subject countries and imported into India, in order to remove injury to the domestic industry;

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act, 1975 (51 of 1975) read with rules 18 and 23 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, after considering the aforesaid final findings of the designated authority, hereby imposes on the subject goods, the description of which is specified in column (3) of the Table below, falling under tariff item of the First Schedule to the said Customs Tariff Act as specified in the corresponding entry in column (2), the specification of which is specified in column (4) of the said Table, originating in the country as specified in the corresponding entry in column (5), and produced by the producer as specified in the corresponding entry in column (7), when exported from the country as specified in the corresponding entry in column (6), by the exporter as specified in the corresponding entry in column (8), and imported into India, an anti-dumping duty at a rate which is equivalent to difference between the amount mentioned in the corresponding entry in column (9), in the currency as specified in the corresponding entry in column (11) and as per unit of measurement as specified in the corresponding entry in column (10), of the said Table and the landed value of imported goods in like currency as per like unit of measurement.

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Tariff Item</th>
<th>Description of goods</th>
<th>Specification</th>
<th>Country of origin</th>
<th>Country of export</th>
<th>Producer</th>
<th>Exporter</th>
<th>Amount</th>
<th>Unit of Measurement</th>
<th>Currency</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2832</td>
<td>Sodium hydrosulphite</td>
<td>Any</td>
<td>Germany</td>
<td>Any country other than Korea RP</td>
<td>M/s. BASF, Germany</td>
<td>M/s. BASF, Germany</td>
<td>1034.76</td>
<td>Metric Tonne</td>
<td>US Dollar</td>
</tr>
<tr>
<td>2</td>
<td>2832</td>
<td>Sodium hydrosulphite</td>
<td>Any</td>
<td>Germany</td>
<td>Any country other than Korea RP</td>
<td>M/s. BASF, Germany</td>
<td>Any Exporter</td>
<td>1034.76</td>
<td>Metric Tonne</td>
<td>US Dollar</td>
</tr>
<tr>
<td>3</td>
<td>2832</td>
<td>Sodium hydrosulphite</td>
<td>Any</td>
<td>Germany</td>
<td>Any country other than Germany</td>
<td>Any Producer</td>
<td>M/s. BASF, Germany</td>
<td>1034.76</td>
<td>Metric Tonne</td>
<td>US Dollar</td>
</tr>
<tr>
<td>4</td>
<td>2832</td>
<td>Sodium hydrosulphite</td>
<td>Any</td>
<td>Germany</td>
<td>Any country other than M/s. BASF, Germany</td>
<td>Any Producer other than M/s. BASF, Germany</td>
<td>Any Exporter other than M/s. BASF, Germany</td>
<td>1034.76</td>
<td>Metric Tonne</td>
<td>US Dollar</td>
</tr>
<tr>
<td>5</td>
<td>2832</td>
<td>Sodium hydrosulphite</td>
<td>Any</td>
<td>Germany</td>
<td>Any country other than M/s. BASF, Germany</td>
<td>Any Producer other than M/s. BASF, Germany</td>
<td>Any Exporter other than M/s. BASF, Germany</td>
<td>1034.76</td>
<td>Metric Tonne</td>
<td>US Dollar</td>
</tr>
</tbody>
</table>
2. anti-dumping duty imposed under this notification shall be effective for a period of five years (unless revoked, superseded or amended earlier) from the date of publication of this notification in the Official Gazette. The anti-dumping duty shall be paid in Indian currency.

Explanation. - For the purposes of this notification,-

(a) “landed value” means the assessable value as determined under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties levied under sections 3, 8B, 9 and 9A of the said Customs Tariff Act, 1975;

(b) rate of exchange applicable for the purposes of calculation of anti-dumping duty shall be the rate which is specified in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), issued from time to time, in exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962) and the relevant date for determination of the rate of exchange shall be the date of presentation of the bill of entry under section 46 of the said Customs Act.

[F. No.354/16/2003-TRU]

(Limatula Yaden)
Deputy Secretary to the Government of India
Ministry of Commerce & Industry

- Guidelines For Maintaining The Denied Entities List (Del)

HOME
F.No. 18/24//HQ/99-2000/ECA II
Directorate General Of Foreign Trade

Ministry of Commerce & Industry
Udyog Bhavan , New Delhi
Enforcement Division

To
All Port Offices

Date: December 31, 2003

Sub: GUIDELINES FOR MAINTAINING THE DENIED ENTITIES LIST(DEL)

The Denied Entities List (earlier called ‘Black List’) is drawn under the provision of Rule 7 of Foreign Trade (Regulation) Rules, 1993 (hereinafter referred to as ‘the Rules’). A total of 14 conditions have been described for invocation under sub-Rule 7 (1) before a firm can be refused a license. The licensing authorities may deny license to a person if any one or more of the above referred conditions are satisfied. Besides under sub-Rule 7(2) of the Rules, the refusal of a license under sub-Rule 7(1) shall be without prejudice to any action that may be taken against an applicant by the licensing authority under the Foreign Trade( Development & Regulation) Act, 1992 (hereinafter referred to as ‘the Act’). The word ‘license’ has been defined under sub-Section 2(g) of the Act. These conditions cover a vast variety of offences/contraventions leading to refusal of license to an entity. Guidelines in this regard were last issued vide enforcement guidelines no. 5/99-2000 dated 3.7.2000 With these guidelines, the said circular as well as the standing instructions issued earlier, if any, stand repealed.

A. General instances leading to refusal of license

Even though the conditions prescribed under Rule 7 of the Rules are comprehensive and will constitute the basis of any denial of license, a brief description of most common instances has been given below:

1. Generally most common instance of action leading to refusal of license occurs when firms default in Export Obligation (e.o) fulfillment committed under various export promotion schemes. The licensing authorities in such cases will place the firm in DEL after serving a demand notice to the entity to submit evidence of e.o fulfillment within a reasonable time. This demand notice shall indicate that the firms’ inability to submit documents within prescribed duration will lead to refusal of license under Rule 7 of the Rules and the firm’s name will be placed in the DEL. Subsequent to the action of placing the firm in the DEL, file will be transferred to the enforcement division for investigations/adjudications.

2. Instances have come to notice when external agencies such as DRI, CBI, ED etc request for information in connection with some investigations
or sometimes recommend licensing authorities to withhold further licensing facilities to the firms under investigation. In such cases if routine information has been called for, the same should be provided. If recommendations to suspend/cancel licenses are also contained in the communication then the information supplied should be adequately examined from the point of view denial of benefits under the Rules/Act. If evidence is found to be insufficient, agencies may be informed that more evidence will be needed before denial of the benefits can be pronounced under the Rules/Acts and will mention the reasons why the licensing authority thinks that there is no sufficient evidence to invoke rules relating to the refusal of license. If external agencies have supplied evidence to the satisfaction of the licensing authority, he shall place the firm in the DEL after issuing a speaking order against the erring firm without disclosing the source of information in the denial order.

3. Sub-rule 7(1) (c) of the Rules deals with cases of fraud and mis-declaration. Whenever it comes to the notice of the licensing authority that a license has been obtained by fraud, forgery, mis-declaration etc, the firm shall be immediately placed in the DEL by issuing an order and licensing authority shall also suspend the IE Code of the firm. The head of the office will thereafter enquire into the case and submit the report within 15 days to the Headquarters to indicate if connivance of any officials was found in perpetrating the fraud. Simultaneously complaint under the Indian Penal Code for fraud/forgery will be lodged with the local police. In cases where head of the office was a party to the decision to grant the license, the file shall immediately be sent to Headquarters.

B. Suspension, cancellation of a license

The procedure and policy leading to suspension and cancellation of licenses shall be governed by Section 9 of the Act read with Rule 9 (suspension) and Rule 10 (cancellation) of the Rules.

C. Right to be heard before passing an order

The powers related to refusal, suspension or cancellation of licenses will also require, as is the case while exercising any executive authority under the statute, strict adherence to the principle of natural justice. Implying thereby that licensing authority will refuse, suspend or cancel any license after giving the holder of license a reasonable opportunity of being heard and thereafter by passing a reasoned order to be recorded in writing.

D. DEL management procedures:

1. The DEL order will explicitly mention that an appeal against the refusal of license will lie under Section 15 of the Act.
2. The DEL maintained by port offices will contain names of the firms, their registered office address including those of branch offices, names of their partners, proprietor, directors and their residential addresses along with IEC No. of the firm and will be maintained as a computerized database. Licensing benefits will not only be denied to the firms as legal entities but also to the individuals/persons owning/controlling these entities.

3. A centralized computerized data is being prepared at the Headquarters and port offices shall be required to manage the respective DEL components as per the authorization protocol to be announced separately.

4. The order removing any entity from the DEL will likewise be a speaking order by the listening authority mentioning the grounds of removal.

This issues with the approval of the DGFT.

( P.C.Tripathi )
Jt. Director General of Foreign Trade
Views Solicited On The Draft Regulations Issued By Competition Commission Of India
VIEWS SOLICITED ON THE DRAFT REGULATIONS
ISSUED BY COMPETITION COMMISSION OF INDIA

The Competition Commission of India has hosted on its website draft regulations seeking views of all stakeholders including professional bodies and business associates.

The Institute invites your views/suggestions on the said Draft Regulations at drs2@icsi.edu and would appreciate to receive the same by April 23, 2009 for sending its consolidated views to CCI.

Draft COMPETITION COMMISSION (DETERMINATION OF COST OF PRODUCTION) REGULATIONS, 200-

New Delhi, the ------day of ...... 200-

No ……………………………-In exercise of powers conferred on it by section 64, read with explanation (b) to section 4 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 (Determination of Cost of Production) Regulations, 2007
(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) “Commission” means the Competition Commission of India established under sub section (1) of section 7 of the Act;
(c) “Imputed cost” means the cost attributable to a product either in the absence of actual cost recorded in the books of account of the enterprise or when transactions are between associated enterprises;
Explanation: “Associated enterprises” in relation to an enterprise shall have the same meaning as assigned in section 92A of the Income Tax Act, 1961(43 of 1961);
(d) “Market value” means the consideration which the customer pays or agrees to pay for a product which is sold or provided or can be sold or provided, as the case may be;
(e) “Product” means and includes both goods and services.
(2) Words and expressions used but not defined in these regulations shall have the same meaning respectively assigned to them in the Act or the regulations framed under the Act or the Companies Act, 1956, as the case may be.

3. Powers to determine procedure in certain circumstances
In a situation not provided for in these Regulations, the procedure for determining the cost shall be determined by the Commission.

4. Cost
(1) “Total cost” means the actual cost of production including the finance, administrative, selling and distribution overheads attributable to the product during the period of alleged predation;
Explanation – The Commission shall have due regard to Cost Accounting Standard 1 issued by the Institute of Cost & Works Accountants of India in arriving at the actual cost of production.

(2) “Total variable cost” means the total cost referred to in sub regulation (1) minus the fixed cost and share of fixed overheads, if any, during the period of alleged predation;

Explanation – The Commission shall have due regard to the Cost Accounting Standards 3 and 4 issued by the Institute of Cost & Works Accountants of India in arriving at fixed overheads or fixed cost.

(3) “Average variable cost” means total variable cost divided by total output during the period of alleged predation;

(4) “Cost” in Explanation (b) to Section 4 of the Act shall mean average variable cost unless the Commission decides otherwise;

5. Cost for a Multi-Product Enterprise

In case of a multi product enterprise, the variable cost of a product shall be determined by:

(1) apportioning the variable cost of the enterprises in the ratio of value of output of that particular product to the value of total output; or

(2) by apportioning cost of the variable factors on the basis of their utilization; or

(3) by apportioning the cost by an appropriate procedure as determined by the Commission.

Explanation – ‘Multi-product enterprise’ means an enterprise, which is engaged in any activity relating to production, storage, supply, control, distribution, acquisition or control of any articles or goods or provision of services of more than one product.

6. Cost for Joint Products and By-product

(1) Where joint products are manufactured or produced or provided by any enterprise, joint cost of such product shall be allocated among the products on a rational and consistent basis.

(2) Where by-products are manufactured or produced by any enterprise, the value of such by-product shall be credited to the actual cost of production of the main product on a rational and consistent basis.

7. Transfer Pricing

Where an enterprise is provided with any input such as raw material, labour, know-how, patents, copy rights, trade-marks, licenses, franchises, loan or investment or any other business or commercial rights by any other enterprise, either free of cost or at a price lower than the price provided or available to a competitor or any other enterprise, the actual cost of such input –

(a) if it can be ascertained from the books of account; or

(b) the market value, if it is available in the market; or

(c) imputed cost; or

(d) appropriate cost attributable to such product as determined by the Commission; shall be used while calculating average variable cost of such product.

8. Captive Consumption
Where a unit or division or subsidy of an enterprise consumes a product of another unit or division or subsidiary of the same enterprise, the actual cost of such product, -
(a) if it can be ascertained from the books of account; or
(b) the market value, if it is available in the market; or
(c) imputed cost; or
(d) an appropriate cost attributable to such product as determined by the Commission; shall be used in determining the average variable cost of such product under inquiry.

9. Absence of Books of Accounts or difficulty in ascertaining cost
Where books of account of an enterprise under inquiry, -
(1) are not maintained; or
(2) having been maintained, the average variable cost and, or, any component of cost which is necessary to be determined for the purposes of this Act cannot be ascertained from the books of account; then the actual cost of the product shall be –
(a) the market value of such product or component of cost where it is capable of being ascertained; or
(b) imputed cost; or
(c) appropriate cost as determined by the Commission.

10. Abnormal Cost
Unexpected costs incurred, as a result of natural calamities or fire or accident or such other losses during the period under enquiry, shall be excluded in determining the average variable cost.

11. Engagement of Experts
(1) For enquiring into the facts relating to price, total cost and variable cost of a product, the Commission may engage Cost Accountant or Chartered Accountant or such other expert, as it deems fit, and cost of such services shall be borne by the party as may be directed by the Commission.
(2) The Cost Accountant or the Chartered Accountant or the expert shall submit his/her report to the Commission within the time specified by the Commission.

12. Request for Confidential Treatment
Any request for confidential treatment to the documents submitted to the Commission or to the Director General, as the case may be, shall be duly considered in accordance with the procedure laid down in the Competition Commission of India (General) Regulations, 200_.
In exercise of powers conferred on it by section 64, read with section 46 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 (Lesser Penalty) Regulations, 200_
   (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) “applicant” means the producer, seller, distributor, trader or service provider included in any cartel as a member of the cartel who submits an application for lesser penalty to the Commission in its individual capacity;
   (c) “cartel” includes an association of producers, sellers, distributors, traders or service providers who, by agreement among themselves, limit, control or attempt to control the production, distribution, sale or price of, or, trade in goods or provision of services as defined in clause (c) of section 2 of the Act;
   (d) “Chairperson” means the Chairperson of the Commission appointed under sub (1) of section 8 of the Act;
   (e) “Commission” means the Competition Commission of India established under sub-section (1) of section 7 of the Act;
   (f) “company” means a body corporate and includes a firm or other association of individuals as defined in explanation to section 48 of the Act;
   (g) “Director General” means the Director General appointed under sub-section (1) of section 16 of the Act;
   (h) “full leniency” means lesser penalty by way of waiver of full penalty which would otherwise have been leviable under the Act for such contravention;
   (i) “marker position” means the position of the application for lesser penalty in the queue of such applications as communicated by the Secretary to the applicant or its authorized representative;
   (j) “partial leniency” means lesser penalty but not to the extent of waiver of full penalty which would otherwise have been leviable under the Act for such contravention;
   (k) “Secretary” means the person appointed 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 for the purpose of these regulations;
   (l) “vital disclosure” means the disclosure of information or evidence by the applicant to the Commission in accordance with these regulations, which leads to establishing the existence of a cartel.

(2) Words and expressions used and not defined in these regulations but defined in the Act or Rules or Regulations made there under shall have the meanings respectively assigned to them in the Act or Regulations framed under the Act or the Companies Act, 1956, as the case may be.

**Full leniency**

3. The Commission may grant full leniency to an applicant, subject to the conditions laid down in regulation 5, if-
(1) (a) The applicant is the first to make a disclosure by submitting evidence which in the opinion of the Commission may enable it to form an opinion that there exists a prima facie case under section 26 for contravention of sub-section (3) of section 3 of the Act for causing investigation; and (b) the Commission did not have, at the time of the submission of evidence by the applicant making disclosure, sufficient evidence to form an opinion regarding existence of a prima facie case for causing investigation; 
Or
(2) (a) The applicant is the first to make a disclosure by submitting evidence which in the opinion of the Commission may enable it to establish contravention of sub-section (3) of section 3 of the Act that is under investigation by the Director General; and 
(b) the Director General investigating into the contravention did not have, at the time of submission of evidence by the applicant making disclosure, sufficient evidence to establish contravention of subsection (3) of section 3 of the Act; and 
(c) the report of investigation directed under section 26 of the Act has not been received by the Commission before making of such disclosure by the applicant; and 
(d) no applicant has been granted full leniency by the Commission under sub-regulation (1) of regulation 3.

Partial Leniency

4. (1)(a) The Commission may grant partial leniency to an applicant, subject to conditions laid down in regulation 5, who has not been granted full leniency and makes a disclosure by submitting evidence which in the opinion of the Commission may provide significant added value with respect to the evidence already in possession of the Commission or the Director General, as the case may be, to enable the Commission to establish contravention of sub-section (3) of section 3 of the Act that is under investigation; and 
(b) the report of investigation directed under section 26 of the Act has not been received by the Commission before making of such disclosure by the applicant.

Explanation - For the purposes of these regulations, “added value” means the extent to which the evidence provided strengthens by its very nature or its level of detail or both, the ability of the Commission to establish the existence of a cartel and the disclosure of such evidence shall be treated as vital disclosure.

(2) The Commission may grant partial leniency to an applicant as per the following scheme:
- the first applicant to be granted reduction in penalty by 50% of the full penalty leviable,
- the second applicant to be granted reduction in penalty by 30% of the full penalty leviable,
- the subsequent applicant to be granted reduction in penalty by 10% of the full penalty leviable.

Conditions for Lesser Penalty
5. (1) Where the Commission decides to grant leniency in pursuance of regulation 3 or 4, as the case may be, to an applicant, it shall cause the applicant to enter into an agreement with the Commission.

(2) The agreement referred to in sub-regulation (1) shall contain the following conditions—

(a) The applicant shall cease all involvement in the cartel unless the Commission directs the applicant to act in a manner that helps the Commission to collect evidence against other cartel members;

(b) The applicant shall provide full details of all facts known relating to the cartel conduct, including the details of the meetings conducted by the cartel, informally or formally;

(c) The applicant shall provide, promptly and at its own expense, all evidence, including documents and materials, and information in its possession, custody or control, wherever located, regarding the cartel conduct during the investigation and in the course of the proceedings before the Commission, without the Commission or the Director General invoking their powers under section 36 of the Act;

(d) The applicant shall not disclose to other cartel members or persons, any dealing with the Commission or with the Director General, including its application for lesser penalty to the Commission, without the consent of the Commission, except where required to do so by law and if such a disclosure is required, the Commission shall be notified at the earliest possible prior to the release of such information;

(e) The applicant shall use its best endeavours to comply with the timetables set down by the Commission or the Director General, as the case may be, for providing information and evidence;

(f) The applicant shall respond fully and truthfully to all inquiries of the Commission or the Director General, as the case may be, without falsely implicating any person or intentionally withholding any information;

(g) The applicant shall provide full and genuine cooperation to the Commission or the Director General or both on a continuing basis and expeditiously throughout the course of the proceedings till the completion of the proceedings before the Commission;

(h) The applicant shall not withhold or destroy evidence or otherwise behave in a manner which is inconsistent with full and genuine cooperation;

(i) The applicant shall not give false evidence or evidence which is deliberately misleading;

(j) The applicant shall not fail to reveal any information which comes to its possession to the Commission or the Director General, as the case may be, during the proceedings or investigation, which is a vital disclosure under these regulations;

(k) The applicant shall make best efforts to secure and promote full and genuine cooperation of current and former directors, officers and employees for the duration of the investigation and during the course of the proceedings and this shall include—

(i) encouraging such persons to provide the Commission or the Director General with any information that may be useful in proving the cartel conduct;
(ii) facilitating the ability of such persons to appear for such interviews or testimony in connection with the cartel conduct, at the times and places designated by the Commission or the Director General, as the case may be;
(iii) encouraging such persons to respond completely and truthfully to all questions asked in interviews and proceedings without attempting to protect or falsely implicate any person or enterprise;
(iv) taking all legal and reasonable steps to secure cooperation of such persons including taking all possible disciplinary actions against such persons, who refuse to cooperate.

(l) The grant of leniency or lesser penalty shall not be considered as immunity from any civil action by the third parties for defamation or for damages claimed by the injured parties in India;
(m) In case the applicant fails to comply with the conditions of the agreement, the Commission shall be free to use the information and evidence submitted by the applicant to the Commission or the Director General, as the case may be, for trying the applicant for the contravention under section 3 of the Act;
(n) Without prejudice to clause (m), the applicant who fails to comply with the conditions of the agreement shall be liable to the imposition of penalty to which the applicant would have been liable had lesser penalty not been imposed.

Procedure for Grant of Leniency

6. (1) The application for lesser penalty shall include the following-
(a) Name of the applicant or its authorized representative;
(b) Address in India for communication including the e-mail address;
(c) Nature of cartel conduct;
(d) The affected goods or services in India;
(e) The affected geographic market in India;
(f) Duration of the cartel;
(g) A summary of the alleged contravention of the Act;
(h) A descriptive list of evidence regarding the nature and content of evidence in possession of the applicant or its authorized representative. Such list may be accompanied by expurgated copies of documents to illustrate the nature and content of the evidence to safeguard the identity of the applicant, if need be.

(2) The applicant or its authorized representative shall submit application for lesser penalty to the Commission either by e-mail addressed to the Secretary to the Commission on a designated e-mail address notified by the Commission on its official website for this purpose or through registered post or courier service.

(3) Where the application is made by e-mail, the applicant or its authorized representative shall send a copy of the application and the documents, if any, through registered post or courier service in double envelopes clearly marked “confidential” to the designated addressee in the Commission as notified by the Commission on its official website for this purpose.

(4) The date and time of receipt of the application by the Commission shall be the date and time as recorded by the server on the designated email address of the Commission provided that the application along with documents, if any, sent through the registered post or courier service are received within seven days of the receipt of the e-mail.
(5) In case the copy of the application along with documents, if any, sent through the registered post or courier service is received after seven days of the receipt of the e-mail or the application sent through registered post or courier service is received by the designated addressee, the date and time of receipt of such registered post or courier service as entered in the Commission’s records shall be treated as the date and time of receipt of the application by the Commission.

(6) The Secretary shall provide a written acknowledgement immediately on receipt of the application confirming the date and time on which such application along with documents, if any, was received by the Commission informing the marker position of the application and such application shall be treated as marker application for the purposes of these regulations but shall not be construed as acceptance of the application by the Commission.

(7) The Commission shall dispose of the marker application as per the procedure laid down in these regulations on first-come first-served basis and shall not consider any other application for the same suspected contravention before the existing marker application has been disposed of.

(8) In case the marker application refers to contravention, which is being investigated by the Director General under section 26 of the Act, the Secretary shall seek comments of the Director General immediately after the receipt of the marker application and the Director General shall provide his comments within seven working days as regards the evidence given in the descriptive list by the applicant or its authorized representative.

(9) The Secretary shall place the marker application before the Commission for consideration along with the comments of the Director General, if any, within three working days of the receipt of the marker application or the receipt of the comments of the Director General, whichever is later.

(10) The Secretary shall communicate to the applicant or its authorized representative in writing, within a period of three working days of the decision, if in the opinion of the Commission, the marker application has not been found to contain vital disclosure and such marker application shall be treated as not accepted by the Commission.

(11) Where the Commission is of the opinion that the marker application may result in vital disclosure, the Secretary shall communicate to the applicant or its authorized representative, within three working days of the decision of the Commission, as regards the eligibility of the applicant for full or partial leniency and the extent of leniency admissible, as the case may be, and shall give not less than fifteen days time to the applicant or its authorized representative to submit the evidence as per the descriptive list given in the marker application.

(12) Where the Commission is of the opinion that the applicant or its authorized representative has not provided full and true disclosure of the evidence in its possession as per the descriptive list within the time period provided by the Commission, the Secretary shall communicate to the applicant or its authorized representative in writing the decision of the Commission not to accept such marker application within three working days of the decision.

(13) Where the Commission decides not to accept the marker application, it shall take up the next application for its consideration.
(14) Where the Commission is of the opinion that the applicant or its authorized representative has made full and true disclosure of the evidence in its possession as per the descriptive list which may result in vital disclosure, the Secretary shall inform the applicant or its authorized representative, within three working days of such decision, the proposal of the Commission to grant full or partial leniency, as the case may be, and shall invite the applicant to enter into an agreement within a period of seven days of receipt of such communication.

(15) The applicant, who in pursuance to the foregoing regulation, agrees to disclose its identity to the Commission, shall provide the following information:
(a) Name of the applicant;
(b) Address of the applicant;
(c) Names and addresses of the other cartel members, known to the applicant;
(d) Names and addresses of its current and former directors, managers, secretary and other officers liable under section 48 of the Act, in case of a company;
(e) Information on any past or possible future leniency application to any other agency of a foreign country in relation to the alleged cartel.

(16) The Secretary shall enter into an agreement with the applicant on behalf of the Commission whereby the applicant shall be granted full or partial leniency as per these regulations subject to fulfilling the conditions as provided in such agreement.

(17) The Commission, if at the end of the proceedings, comes to the conclusion that the applicant, who entered into an agreement with the Commission, has fulfilled all the conditions of the agreement, may impose lesser penalty upon the applicant and the lesser penalty contained in the final order passed by the Commission shall be in accordance with the said agreement.

(18) The Commission, if it is satisfied that the applicant, who entered into an agreement with the Commission, has failed to comply with the conditions of the agreement during or at the end of the course of proceedings, may treat the agreement of lesser penalty as null and void and the applicant may be tried for the contravention and shall also be liable to the imposition of penalty to which such applicant would have been liable, had lesser penalty not been imposed.

Provided that the Commission shall not take such a decision without giving a show cause to the applicant that entered into the agreement with the Commission to respond in not less than fifteen days of the receipt of the notice.

Confidentiality
7. (1) Notwithstanding anything contained in the General Regulations, 200_, the Commission shall treat as confidential the identity of the applicant or the information obtained from it and shall not disclose the identity or the information obtained unless-
(a) the disclosure is required by law;
(b) the applicant has agreed to such disclosure in writing;
(c) there has been a public disclosure by the applicant;
(d) the disclosure is in compliance with or for the purposes of the Act.
(2) The Commission shall not disclose the identity of the applicant or the information obtained from it to any agency of a foreign country without written consent of the applicant.

Removal of doubt or difficulty
8. In the matter of implementation of these regulations, if any doubt or difficulty arises, the same shall be placed before the Commission and the decision of the Commission thereon shall be final and binding.

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COMPETITION COMMISSION OF INDIA
PROPOSED DRAFT
OF
“COMPETITION COMMISSION OF INDIA (GENERAL) REGULATIONS, 200_”

In exercise of the powers conferred on it by section 64 of the Competition Act, 2002 (12 of 2003) the Competition Commission of India hereby makes the following Regulations, namely –

1. Short title and commencement –(1) These regulations may be called the Competition Commission of India (General) 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 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 ;
(d) “Counsel” means a legal practitioner or a chartered accountant or a company secretary or a cost accountant as defined in the explanation to section 35 of the Act;
(e) “Expert” means an expert engaged to assist the Commission under sub section (3) of section 17 or an expert called upon to assist the Commission in any inquiry or proceeding under sub section (3) of section 36 ;
(f) “Information” means Information received under clause (a) of sub section (1) of section 19 of the Act;
(g) “Media” includes newspapers, magazines, periodicals, journals, radio, cinema, television and internet;
(h) “Ordinary meeting”, shall have the same meaning as assigned to it in the Competition Commission of India (Meetings for Transaction of Business) Regulations, 200-.

(i) “Party” includes an Information provider or a consumer or an enterprise or a person defined in clauses (f), (h) and (l) of section 2 of the Act respectively, or a consumer 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 an enterprise against whom any inquiry or proceeding is instituted and shall also include any person permitted to join the proceedings or an intervener;

(j) “Reference” means a reference-

(i) received in the Commission from –

(A) 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
(B) a statutory authority for opinion under section 21 of the Act ;or
(C) the Central Government or a State Government for opinion under sub section (1) of section 49 of the Act; or

(ii) sent to a statutory authority for opinion by the Commission under section 21A of the Act ;

(k) “Secretary” means the Secretary appointed 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;

(l) ”Working day” means the working day on which the office(s) of the Commission function but does not include any day which is declared to be a public holiday by the Central Government under the Negotiable Instruments Act, 1881 (26 of 1881);

(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 framed thereunder or in the Companies Act, 1956 (1 of 1956) , as the case may be.

3. **Powers to determine procedure in certain circumstances** - The Commission may, if so required,
determine the procedure, in a specific matter, if a situation therein is not covered by these regulations.

4. **Seal and emblem**: The official seal and emblem of the Commission shall be as annexed herewith as **Annexure - I**.

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; Provided that no information, reference or application connected therewith 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 that are not filed in English shall be translated into English by a translator approved by the Commission, from time to time; Provided that a translation, which is agreed to by all the parties to the proceedings, may be accepted by the Commission, in appropriate cases, as a true translation.

8. **Holidays to be observed by the Commission**- (1) The head office of the Commission shall observe, besides Saturday and Sunday, holidays as declared by the Central Government at Delhi under the Negotiable Instruments Act, 1881 (26 of 1881);

   (2) Any other office of the Commission at places other than Delhi shall observe, besides Saturday and Sunday, holidays as declared by the Central Government under the Negotiable Instruments Act, 1881 (26 of 1881) for such place.

9. **Computation of time** – Subject to regulation 8 above-,

   (1) Where a period of time dating from a given day, act or event is prescribed by or allowed under these regulations for doing an act or taking a proceeding, the time shall be reckoned exclusive of the day, or of the day of the act or event, from which the time dates;

   (2) Where the time prescribed by or allowed under these regulations for doing an act or taking a proceeding expires on a Saturday or Sunday or on a day on which the office of the Commission is closed, the act may be done or the
proceeding may be taken on the first day following the Saturday, Sunday or the day on which that office is closed.

10. Contents of information or the reference or application connected therewith - (1) The information or reference (except a reference under sub section (1) of section 49 of the Act) or an application connected therewith shall, *inter alia*, separately and categorically state the following *ad seriatum* -

(a) legal name of the person or the enterprise giving the information or the reference or the application connected therewith;
(b) complete postal address in India for delivery of summons or notice by the Commission, with Postal Index Number (PIN) code;
(c) telephone number, fax number and also electronic mail address, if available;
(d) mode of service of notice or documents preferred;
(e) legal name and address (es) of the enterprise(s) alleged to have contravened the provisions of the Act; and
(f) legal name and address of the counsel or other authorized representative, if any;

(2) The information or reference (except a reference under sub section (1) of section 49 of the Act) or application connected therewith 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;
(f) relief sought, if any, in brief; and

(3) The contents of the information or the reference or the application connected therewith mentioned under sub regulations (1) and (2) ,alongwith the appendices and attachments thereto, shall be complete and duly verified by the person submitting it.

11. Signing of information or reference or application connected therewith

(1) An information or a reference or an application connected therewith or a reply to a notice or direction issued by the Commission shall be signed by -
(a) the individual himself or herself, including a sole proprietor of a proprietorship firm;
(b) the Karta in the case of a Hindu Undivided Family (HUF);
(c) the Managing Director and in his or 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 legal 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;
(g) in the case of any other person, by that person or by some person competent to act on his behalf;

(2) A reference shall be signed and authenticated 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 may also append his or her signature to the information or reference or application connected therewith as the case may be.

12. Procedure for filing of information or reference or application connected therewith – (1) An information or reference or an application connected therewith or responses thereto to the Commission shall be presented to the Secretary or to an officer authorized in this behalf by the Secretary, in person or sent by registered post or courier service addressed to the Secretary or to such authorized officer;

(2) Any separate or additional document(s) that a party to the proceedings wishes to rely upon in support of it’s information, or reference or application connected therewith shall be filed in the form of a “Paper Book”, at least seven days prior to the date of the ordinary meeting, after serving the copies of the said document(s) on the other parties to the proceedings, with documentary proof of such service. Such documents shall be serially numbered, prefaced by an index and shall be supported by a verification;
(3) An information(s) or reference or application connected therewith sent by post or courier service under sub-regulation (1) shall be deemed to have been presented to the Secretary or to the officer authorized by the Secretary, on the day on which it is received in the office of the Secretary or the authorized officer, as the case may be.

**13. Procedure for filing of information or reference in electronic form**-Subject to the provisions of regulation 12 above, an information or a reference or an application connected therewith to the Commission may be sent by a person or an enterprise to the Secretary in an electronic form duly authenticated with digital signature by the subscriber as and when so permitted by the Commission through a public notice;

*Explanation* – For the purpose of this regulation, --
(a) “Digital Signature” means the digital signature as defined under clause (p) of section 2 of the Information Technology Act, 2000 (21 of 2000);
(b) "Electronic form" with reference to an information or a document means the electronic form as defined under clause (r) of section 2 of the Information Technology Act, 2000 (21 of 2000);
(c) “Subscriber” means the subscriber as defined under clause (zg) of section 2 of the Information Technology Act, 2000 (21 of 2000).

**14. Powers and functions of the Secretary** –(1) The Secretary shall have the custody of records of the Commission and shall exercise such other functions as may be assigned by the Chairperson;
(2) Subject to the Competition Commission of India (Meetings for Transaction of Business) Regulations, 200-, the Secretary shall circulate to all concerned, the date, time and place of each meeting, as per the directions of the Chairperson;
(3) The Secretary shall be the nodal officer on behalf of the Commission for:
   (a) making or receiving all statutory communications,
   (b) entering into any formal relationships, including signing of any memorandum or arrangement, with competition authority or any agency of any foreign
country, with the prior approval of the Central Government, as per section 18 of the Act;

(4) The Commission may sue or be sued in the name of the Secretary and the Commission shall be represented in the name of the Secretary in all legal proceedings, including appeals before the Tribunal;

(5) Subject to the provisions of section 51 of the Act, the Secretary shall assist the Committee of Members constituted under sub section (3) of section 51 of the Act for:

(a) preparation and approval of the annual budget of the Commission;

(b) administration of the competition fund;

(6) The Secretary shall 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 Secretary;

(7) Subject to sub regulation (1), to ensure a timely and efficient disposal of the matters brought before the Commission and for achieving the objectives of the Act, the Secretary shall have the following powers and functions:

(a) to receive, endorse and categorise all the informations, references, applications or documents including miscellaneous applications and other documents for transfer of proceedings and application for adjournment, etc;

(b) to check the amount of fees received where applicable and to ensure the timely deposit of the same in the bank account of the Commission;

(d) to scrutinize all information(s), references, applications or documents so received to find out whether they are in conformity with the rules and regulations;

(e) to point out defects in such information(s), references, applications or documents to the parties requiring them to rectify such defects;

(f) to serve copy of the information, reference, application or document along with the enclosures to the concerned parties including the Director General, as the case may be, within a reasonable time;
(g) to serve the notice of the date of the ordinary meeting of the Commission to consider the information or reference or an application connected therewith or document to decide if there exists a prima facie case and to convey directions of the Commission for investigation and/or to issue notice of inquiry after receipt and consideration of the report of the Director General;
(h) to bring on record executors, administrators or other legal representatives, in case of death of any party or adjudication of a party as insolvent, upon an application by any party to the proceedings;
(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 Commission;
(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 these regulations;
(o) to grant certified copies of the orders of the Commission for publication, in accordance with these regulations;
(p) 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;
(q) To compile and preserve record of any proceeding during an ordinary meeting including:-
   (i) the chronology of events;
   (ii) the initiating document;
   (iii) the notice of the meeting;
   (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;
(r) to disclose information subject to section 57 of the Act;
(s) to ensure confidentiality of documents or evidences or statements or any analysis as per these regulations, by keeping them in safe custody;
(t) 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;
(u) to file complaint before the Chief Metropolitan Magistrate, Delhi for non-compliance with the orders or directions of the Commission under sub-section (3) of section 42 of the Act, if so directed by the Commission.

15. Procedure for scrutiny of information or reference or application connected therewith for removal of defects –

(1) Each information or reference received in the Commission shall be scrutinised by the Secretary to check whether it conforms to these regulations and the defects, if any, shall be communicated to the party within a reasonable time not exceeding:
(a) thirty days in case of an information or reference received under clause (b) of sub section (1) of section 19 of the Act; or
(b) seven days in case of a reference received under section 21 or sub section (1) of section 49;

(2) The information provider referred under clause (a) of sub section (1) of section 19 or the Central Government or the State Government or the statutory authority referred under clause (b) of sub section (1) of section 19 or in sub section (1) of section 49, as the case may be, shall, on receipt of the communication about the defects under sub regulation (1) above, as far as possible, remove the defects within :-
(a) thirty days of receiving the intimation in case of an information or reference under clause (b) of sub section (1) of section 19 of the Act; or
(b) fifteen days of receiving the intimation in case of a reference under section 21 or sub section (1) of section 49;
(3) In case the defects are not removed by the Central Government or the State Government or the statutory authority or the concerned party, as the case may be, as per the provision of sub regulation (2) above, the information or the reference or the application connected therewith shall be declared as invalid;

(4) In the event of the information having been declared invalid under sub regulation (3) above, the fee paid on such information shall stand forfeited;

(5) Nothing contained herein above shall preclude the Commission from using the contents of such information or reference in any manner as may be deemed fit, for inquiring into any possible contravention of any provisions of the Act.

16. Power of Commission to return invalid information or reference or application – (1) Any information or reference under clause (b) of sub section (1) of section 19 of the Act or application connected therewith, which does not conform to these regulations shall not be processed by the Commission for an inquiry under section 19 read with section 26 of the Act and shall be returned to the information provider or the referring Central Government or the State Government or the statutory authority, as the case may be, for removal of defects, as per these regulations;

(2) Any reference received under section 21 or sub section (1) of section 49 of the Act which does not conform to these regulations shall be returned by the Secretary to the referring Central Government or the State Government or the statutory authority, as the case may be, for removal of defects, as per these regulations;

Provided that the time taken in removing the defects in such reference(s) shall not count towards the period of sixty days provided for giving of opinion by the Commission in sub section (2) of section 21 or sub section (1) of section 49 of the Act, as the case may be.

17. Opinion on existence of prima facie case – (1) The Secretary, after scrutiny and removal of defects, if any, in an information or reference, as the case may be, shall place the same before the Commission to form its opinion on existence of a prima facie case;

(2) In cases of alleged anti competitive agreements and/or abuse of dominant position, the Commission shall, as far as
possible, record its opinion on existence of a *prima facie* case within ninety days;
(3) The Commission shall, as far as possible, hold its first ordinary meeting to consider whether *prima facie* case exists, within thirty days of the date of placement of the matter by the Secretary under sub regulation (1) above.

18. **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 information provider and such other person as is necessary for the preliminary conference;
(3) A preliminary conference need not follow formal rules of procedure;
(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.

19. **Issue of direction to cause investigation on prima facie case** - (1) Where the Commission is of the opinion that a *prima facie* case exists, the Secretary shall convey the directions of the Commission to the Director General to investigate into the matter and to furnish a report to the Commission on or before the date specified therein;
(2) A direction of investigation to the Director General shall be deemed to be the commencement of an inquiry under section 26 of the Act.

20. **Communication of order when no prima facie case found**-- If the Commission is of the opinion that there exists no *prima facie* case, the Secretary shall send a copy of the order of the Commission regarding closure of the matter forthwith to the Central Government or the State Government or the Statutory Authority or the parties concerned, as the case may be, as per provisions of sub section (2) of section 26 of the Act.

21. **Investigation by the Director General**-(1) The Secretary shall, while conveying the directions of the Commission under regulation 19, send a copy of the information or reference, as the case may be, with all other documents or materials or affidavits or statements which have been filed either along with the said information or
reference or at the time of preliminary conference, to the Director General;
(2) The Commission shall direct the Director General to submit a report within such time as is reasonable to collect relevant data, record statements, afford opportunity for cross-examination of witnesses and to carry out other necessary analysis in the circumstances of the particular case;
(3) The Commission may, on an application made by the Director General, extend the time for submission of the report;
(4) The report of the Director General shall contain his findings on each of the allegations made in the information or reference, as the case may be, together with all evidences or documents or statements or analyses collected during the investigation;
(5) Eight copies of the report of the Director General, along with a soft copy in document format, shall be forwarded to the Secretary within the time specified by the Commission; Provided that the Secretary may ask for more copies of the report as and when required;
(6) Without prejudice to the provisions of sub section (7) of section 26 of the Act, the Commission, may direct the Director General to make further investigation, as it deems fit, and submit a supplementary report on specific issues within a reasonable time to be specified in its direction.
(7) If the Commission, on consideration of the objections or suggestions, referred to in sub regulation (2) of regulation 23, directs further investigation in the matter on specific issues by the Director General, the Secretary shall convey the direction of the Commission to the Director General to submit the report on such further investigations within the time specified in the directions.

22. Procedure for inquiry under section 26 — (1) On receipt of the report of the Director General, the Secretary shall place the report before the Commission for further orders and, in accordance with the direction of the Commission, forward copies thereof to the Central Government or the State Government or statutory authority or the parties concerned, as the case may be;
(2) If the report of the Director General finds no contravention of the provisions of the Act, the Secretary
shall convey the directions of the Commission inviting objections or suggestions from the Central Government or the State Government or the statutory authority, or from the parties concerned, as the case may be;

(3) If the Commission orders closure of the matter on consideration of the objections or suggestions, if any, referred to in sub regulation (2) above, and agrees with the findings of the Director General, the Secretary shall convey the orders of the Commission to the Central Government or the State Government or the statutory authority or the parties concerned, as the case may be;

(4) If the Commission, on consideration of the objections or suggestions, referred to in sub regulation (2) above, directs further investigations in the matter by the Director General or further inquiries in the matter to be made by an officer of the Commission so authorised by it, the Secretary shall convey the directions of the Commission to the Director General or the officer so authorised, as the case may be;

(5) On an application made by the officer authorised by the Commission justifying the production of specified books or other documents, as may be required to make further inquiries under sub regulation (4) above, the Commission may direct any person to produce such specified books or other documents relating to any trade carried out by such person or enterprise, as per the provisions of sub section (4) of section 36 of the Act;

Explanation.- For the purpose of this sub regulation, the word “officer” shall include the experts and professionals mentioned under sub section (3) of section 17 or sub section (3) of section 36 of the Act;

(6) On receipt of the report of the Director General on further investigation or report of the authorised officer on further inquiries, as the case may be, the Secretary shall fix the meeting of the Commission for consideration thereof;

(7) If the report of the Director General mentioned under sub regulation (1) finds contravention of any of the provisions of the Act, the Secretary shall obtain the orders of the Commission whether to invite objections or suggestions from the Central Government or the State Government or the statutory authority or the parties concerned, as the case may be;
(8) On consideration of the objections or suggestions from the Central Government or the State Government or the statutory authority or the parties concerned, or the report of further investigation or further inquiries, as the case may be, if the Commission is of the opinion that further inquiry is called for, the Secretary shall fix the meeting of the Commission for consideration thereof, after issue of notice as per regulation 24, to the Central Government or the State Government or the statutory authority or the parties concerned, as the case may be;

(9) The Secretary shall keep the Director General informed of the dates of the meetings of the Commission for inquiry under sub section (7) or (8) of section 26 of the Act for appearing in person or through any of his officers in accordance with the provisions of section 35 of the Act.

23. **Mode of service** – (1) Every notice or other document required to be served on or delivered to any person, under these regulations, 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 or her or it for service, or at the place where the person ordinarily resides or carries on business or works for gain;

(2) The 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 shall 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.

24. **Filings before the Commission** – (1) All information(s) or references or applications connected therewith or responses thereto, 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) Only neat and legible photocopies or scanned documents duly certified as true copies may be filed as exhibits or annexes;
(3) Eight copies of each document referred to in sub regulation (1) above, in addition to a soft copy in document format, wherever possible, shall be filed,
Provided that the Secretary may, through public announcement, increase or decrease the number of copies depending on the number of Members of the Commission and the number of parties to the proceedings.

25. Power of the Commission to join or substitute parties in the proceedings – (1) The Commission, on an application made in writing, by any party to the proceedings, may combine any number of persons or enterprises, whether jointly, jointly and severally, separately, or in the alternative, as parties in the same proceedings, in an ordinary meeting, provided-
(a) any right to relief in respect of, or arising out of, the same act or transaction or series of acts or transactions is alleged to exist in such applicants, whether jointly, severally or in the alternative; and
(b) if the applicants can show, to the satisfaction of the Commission, that common question of law or fact would arise; and
(c) if the Commission is satisfied that participation of such person or enterprise, as the case may be, is necessary for the determination of the issues before it;
(2) If in any proceedings it becomes necessary to substitute a person or enterprise for an existing party, the Commission, may make an order of such substitution;
(3) On an order being passed by the Commission under sub regulation (1) or (2) above, the Secretary shall furnish to the person or enterprise, as the case may be, joined or substituted as parties, copies of all documents previously filed in the matter by other parties before the Commission within ten days of the order;
(4) No order under sub regulation (1) or (2) will affect any prior steps taken in the proceedings.
26. **Power of Commission to permit a person or enterprise to take part in the proceedings** – (1) While considering a matter in an ordinary meeting, the Commission, on an application made to it in writing, if satisfied, that a person or enterprise has substantial interest in the outcome of proceedings and that it is necessary in the public interest to allow such person or enterprise to present his or its opinion on that matter, may permit that person or enterprise to present such opinion and to take part in further proceedings of the matter, as the Commission may specify;

(2) The application referred to in sub-regulation (1) above shall be accompanied by proof of payment of fees, in accordance with regulation 52;

(3) The application referred to in sub-regulation (1) above shall contain:-

(a) legal name of the person or the enterprise making the request;
(b) address in India for service of notice or documents;
(c) telephone number, facsimile number and electronic mail address, if available;
(d) the mode of service of notice or documents to be used;
(e) a concise statement of the matters in issue in the proceedings which affect the person or the enterprise making the request; and
(f) documents or affidavits or evidence in support of the statement, with a list thereof.

(4) On an order made under sub regulation (1) above:-

(a) the Secretary shall furnish to the person or enterprise permitted to participate in the proceedings, copies of all documents previously filed in the matter by other parties before the Commission within ten days of the order;

(b) the person or enterprise permitted to participate in the proceedings shall furnish copies of all documents filed under sub regulation (3) to all other parties to the proceedings within ten days of the order.

27. **Power to strike out unnecessary party** – The Commission may, on an application by a party to the
proceedings before it, during an ordinary meeting, stating that no relief has been claimed by or against him or her or it or that no relief has to be granted to or against him or her or it, may permit the striking out of such person or enterprise from the proceedings.

28. **Power of the Commission to join multiple informations** – (1) At any time after receipt of an information or a reference or an application, the Commission, if satisfied that the matter raised in any information or reference or application received subsequently is directly and substantially similar, may consolidate two or more similar informations or references or applications, as the case may be, for consideration;

(2) At any time after receipt of an information or a reference for investigation from the Commission under sub-section (1) of section 26 of the Act, the Director General, if satisfied, that the matter raised in any information or reference received subsequently for investigation from the Commission is directly and substantially similar, may request the Commission to consolidate such similar informations or references, as the case may be, for common investigation;

(3) Where the Commission consolidates two or more informations or references or applications, in accordance with sub-regulation (1) and (2) above –

(a) each such informations or references, as the case may be, shall continue to be separately identified by its own docket number;

(b) pending consolidation of informations or references by the Commission, the Director General may continue to investigate the matters.

29. **Amendment of information** - The Commission may, during an ordinary meeting, permit amendment of any information 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 information;

Provided that any amendment which, in the opinion of the Commission, substantially changes the nature and scope of
the information shall be treated as new information within the meaning of regulation 52.

30. **Manner of making submissions or arguments by the parties before the Commission** -(1) Without prejudice to sub section (1) of section 36 of the Act, the parties to the proceedings or their authorized representatives, as the case may be, shall declare to the Commission at the earliest opportunity whether they would make oral submissions and/or file written arguments during the course of an inquiry under section 26 of the Act;

Provided where the parties to the proceedings or their authorized representatives, as the case may be, have chosen to file written arguments they shall arrange to forward copies thereof to all parties to the proceedings sufficiently in advance and shall submit proof of the receipt by all parties to the Secretary before the fixed date of consideration of the matter by the Commission;

(2) Subject to sub regulation (1), the Commission may fix or limit the time during which the oral submissions or written arguments shall be addressed or filed by the parties or their authorized representatives, as the case may be, before it and may proceed to decide a matter in the absence of the party which does not abide by such timings as per regulation 32,

Provided that the timings for making oral submissions or filing written arguments in a particular matter may be decided by the Commission.

31. **Power of the Commission to continue proceedings in the absence of the party** – Where on the day fixed for any particular matter during an ordinary meeting, including the day of the meeting 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 Commission may decide to continue proceedings in the absence of party or parties, as the case may be.

32. **Best Judgment order** – 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.
33. **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) Where the Commission, during an inquiry, has, by an order, temporarily restrained any party from carrying on any act in contravention of sub section (1) of section 3 or sub section (1) of section 4 or section 6 of the Act, until the conclusion of such inquiry or until further orders, as per section 33 of the Act, such 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 ordinary meeting in which the application for such restraint was considered;
(3) Every order or decision of the Commission shall, as far as practicable, be made within twenty one working days from the date of conclusion of final arguments;
(4) A copy of the order duly certified by the Secretary or such other officer authorized by the Secretary shall be served on the parties to the proceeding as per regulation 23 within four weeks of the date of the order.

34. **Procedure after interim order** - Where during an inquiry, the Commission has passed interim orders temporarily restraining any party under section 33 of the Act, it shall hear the party against whom such an order has been made thereafter, as soon as possible, but not later than thirty days from the date of such order and where it is unable so to do, it shall record its reasons for such inability.

35. **Consent order** – (1) If all parties agree the terms on which to settle all or any part of the proceedings, they may request the Commission to make a consent order;
(2) A request for a consent order shall be made by sending to the Secretary:-
   (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 Secretary 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 Secretary 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 Secretary 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 11 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;
(9) The Commission, after meeting 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 or modifying the consent order shall be borne by the parties or such party and in such manner as directed by the Commission.

36. Reference 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) Without prejudice to sub-regulation (1) above, a reference from statutory authority under section 21 shall contain:-

(a) the specific proposition of law or fact or specific issue relating to competition on which the opinion is solicited;
(b) historical data relevant for the determination of the proposition or the issue;
(c) duly authenticated copies of the relevant statutes including the rules, the regulations, the notifications, the orders as considered necessary;
(d) duly authenticated and updated list of the parties with their complete addresses, telephone numbers, fax numbers, e-mail addresses;
(e) proof of having informed the parties concerned about the matter having been referred to the Commission for opinion under section 21 of the Act;
(3) The time to be reckoned for giving opinion on such reference under section 21 shall be subject to the proviso to sub regulation (2) of regulation 16 above;
(4) On being satisfied that the reference is free from any defect, the Secretary shall place it during an ordinary meeting of the Commission and seek necessary instructions regarding the parties to whom notice of meeting is to be issued;
(5) The Secretary shall give notice of the ordinary meeting to the said parties giving not less than seven days, in the manner specified, to take part in the proceedings;
(6) The parties to whom the notices are issued under sub-regulation (5) above, may file comments or reply to the notice after having served a copy thereof to each other party at least seven days prior to the date of the ordinary meeting;
(7) 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;
(8) The Commission may collect particulars and information from any person or enterprise or Central or State Government or statutory authority, which in its opinion is relevant to the reference received by the Commission;
(9) The Commission may form an opinion and send the same to the concerned parties and seek their objections and/or suggestions thereon within the time decided by it and after considering such objections or suggestions it shall give its final opinion to the statutory authority.

37. **Reference by the Commission to statutory authority for opinion** - (1) A reference from the Commission to any statutory authority for opinion under section 21A shall contain:

(a) the specific proposition of law or fact or specific issue relating to competition on which the opinion is solicited;
(b) historical data relevant for the determination of the proposition or the issue;
(c) duly authenticated copies of the Act, the relevant rules and regulations framed thereunder, the notifications and the orders, if any, passed by the Commission in the pending matter as considered necessary;
(d) duly authenticated and updated list of the parties with their complete addresses, telephone numbers, fax numbers, e-mail addresses etc.;
(e) proof of the Secretary having informed the parties concerned about the matter having been referred to the statutory authority for opinion under section 21A of the Act;
(f) The Secretary shall certify that the reference being forwarded is in conformity with sub-regulation (a) to (e) above;
(2) Where the statutory authority points out defects or deficiencies in the reference made the Secretary shall, as far as practicable, remove the defects or deficiencies in the reference, and arrange to have the amended reference delivered to the concerned statutory authority within fifteen days of receipt of the same from the statutory authority;
(3) In case the opinion is not received from the statutory authority within sixty days of forwarding a reference under sub-regulation (1) or (2) above, the Secretary shall place the matter during an ordinary meeting of the Commission for further orders;
(4) On receipt of the opinion from the statutory authority as per sub-section (2) of section 21A of the Act, the Secretary shall place the same during an ordinary meeting of the Commission for orders.

38. Confidentiality
   -(1) The Commission shall maintain confidentiality of the identity of an informant on a request made to it in writing;
   (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 written submissions, the party shall file a complete version with the words “restriction of publication claimed” in red ink on top of the first page and the word ‘confidential’ clearly and legibly marked in red ink near the top 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 written submissions shall be an exact copy of the confidential version with the omissions of the confidential information being indicated in a conspicuous manner, as stipulated in sub regulation (5) above;
(7) The public version of such written submissions 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), not be treated as confidential;
(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, subject to any orders to the contrary that the Commission may pass under section 57 of the Act, 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 39” 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 39” 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 or party, including any officer or employee appointed by the Commission under sub section (1) of section 17 of the Act and any expert or professional engaged by the Commission under sub section (3) of section 17 of the Act or any expert called upon to assist the Commission under sub section (3) of section 36 of the Act 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 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;
Provided that breach of this sub regulation by any officer or employee of the Commission appointed under sub section (1) of section 17 of the Act shall constitute a ground for initiation of disciplinary proceedings under the relevant rules or regulations, as the case may be;
Provided further that breach of this sub regulation by any expert or professional engaged by the Commission under sub section (3) of section 17 of the Act or any expert called
upon to assist the Commission under sub section (3) of section 36 of the Act shall be sufficient ground for termination of the engagement or contract, as the case may be.

39. 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.

40. Inspection and certified copies of documents – (1) Subject to the provisions of regulation 39, a party to any proceeding of an ordinary meeting of the Commission may on an application in writing in that behalf, addressed to the Secretary, be allowed to inspect or obtain copies of the documents or records submitted during proceedings on payment of fee as specified in regulation 54;
   (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 54;
   (3) An inspection shall be allowed only in the presence of an officer so authorized by the Secretary;
   Provided that the inspection of documents or copying thereof as per sub regulation (1) or sub regulation (2) shall be allowed under the supervision of and subject to the time limits to be prescribed by the Secretary or an officer authorized by him in this behalf.
   (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 Secretary for the purpose.

41. Dress code for participating in ordinary meetings of the Commission –
   (1) The Members, Officers and employees of the Commission and of the Office of the Director General, parties to any proceeding and their counsels shall attend the ordinary meetings of the Commission in the national dress or in lounge suit or jacket with tie. Ladies may wear jacket over sari or salwar kameez;
(2) Where a counsel belongs to a profession which has prescribed a dress for appearing in their professional capacity before any Court, Tribunal or other such authority, he or she may appear in that dress and attend the ordinary meetings of the Commission.

42. Continuation of proceedings after the death of a party or adjudication of a party as insolvent – Where a party to a proceeding in an ordinary meeting of the Commission 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.

43. 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.

44. Taking of Evidence – (1) Subject to the provisions of the Act, the Commission or the Director General, as the case may be, may determine the manner, the nature, and the issues on which evidence may be adduced in the proceedings before it, as considered appropriate;

(2) Without prejudice to sub regulation (1), the Commission or the Director General, for the purpose of inquiry or investigation, as the case may be, may:-

(a) admit evidence taken in the form of verifiable transcripts of tape recordings, unedited versions of video recording, electronic mail, telephone records including authenticated mobile telephone records, written signed unsworn statements of individuals or signed responses to written questionnaires or interviews or comments or opinions or analyses of experts based upon market surveys or economic studies or other authoritative texts or otherwise, as documentary evidence;

(b) admit as genuine every document purporting to be a certificate, certified copy or other document, which is by law declared to be admissible as evidence of any particular fact provided it is duly certified by a gazetted
officer of the Central Government or by a State Government or a statutory authority, as the case may be or a Magistrate or a Notary appointed under the Notaries Act, 1952 or the Secretary of the Commission;
(c) admit the entries in the books of account, including those maintained in an electronic form, regularly kept in the course of business, including entries in any public or other official book, register or record or an electronic record, made by a public servant in the discharge of his official duty, or by any other person in performance of a duty specially enjoined by the law of the country in which such book, register or record or an electronic record is kept, as documentary evidence;
(d) admit the opinion of any person acquainted with the handwriting of the person by whom a document is supposed to have been written or signed, as relevant fact to prove the handwriting of the person by whom the document was written or signed;
(e) admit the opinion of the handwriting experts or the experts in identifying finger impressions or the persons specially skilled in interpretation of foreign law or of science or art;
(f) take notice of the facts of which notice can be taken by a court of law under section 57 of the Indian Evidence Act, 1872 (1 of 1872);
(g) accept the facts, which parties to the proceedings admit or agree in writing as proved;
(h) presume that any document purporting to be a certified copy of any record of any authority, court or government of any country not forming part of India as genuine and accurate, if the document purports to be certified in any manner which is certified by any representative of the National government of such country to be the manner commonly in use in that country for the certification of copies of such records, including certification by the Embassy or the High Commission of that country in India;
(3) Subject to the provision of sub regulation (2) above, the following sections of the Indian Evidence Act, 1872(1 of 1872), in so far as they are applicable to the matters relating to:-
(a) section 22-A – when oral admission as to contents of electronic records are relevant;
(b) section 47-A – opinion as to digital signature when relevant;
(c) section 65-B – admissibility of electronic records as documentary evidence;
(d) section 67-A – proof as to digital signature;
(e) section 73-A – proof as to verification of digital signature;
(f) section 81-A – presumption as to Gazettes in electronic forms;
(g) section 85-A – presumption as to electronic agreements;
(h) section 85-B – presumption as to electronic records and digital signatures;
(i) section 85-C – presumption as to digital signature certificates;
(j) section 88-A – presumption as to electronic messages;
(k) section 89 – presumption as to due execution, etc., of documents not produced;
(l) section 90-A – presumption as to electronic records five years old,

shall be applicable for the purpose of inquiry or investigation, by the Commission or the Director General, as the case may be;

(4) The Commission or the Director General, as the case may be, may call for the parties to lead evidence by way of affidavit or lead oral evidence in the matter;

(5) If the Commission or the Director General, as the case may be, directs evidence by a party to be led by way of oral submission, the Commission or the Director General, as the case may be, if considered necessary or expedient, grant an opportunity to the other party or parties, as the case may be, to cross examine the person giving the evidence;

(6) The Commission or the Director General, as the case may be, may, if considered necessary or expedient, direct that the evidence of any of the parties to be recorded by an officer or person designated for the said purpose;

(7) The Commission may direct the parties to file written note of arguments/submissions in the matter.
45. **Supporting of facts by filing of affidavit**

(1) The Commission or the Director General, as the case may be, may at any time, for sufficient reason, order that any particular fact or facts may be supported by affidavit;

(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 clearly state 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 residence of the deponent;

(5) Affidavits for the purposes of any cause or matter before the Commission may be sworn before 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;

(6) 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;

(7) No affidavit having any interlineations, alteration or erasure shall be filed in Commission or the Director General, as the case may be, 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;

(8) The Commission or the Director General, as the case may be, 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;

(9) Where a special time is limited for filing affidavits, no affidavit filed after that time shall be used except by leave of
the Commission or the Director General, as the case may be;

(10) In these regulations, ‘affidavit’ includes a document required to be sworn, affirmed or verified; In the verification of petitions and other proceedings, statements based on personal knowledge shall be distinguished from statement based on information and belief.

46. 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 sections 26 or sub section (1 A) of section 29 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.

47. 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 documents 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.

48 Power of the Commission or the Director General to issue commissions for examination of witnesses or documents - (1) Subject to the provisions of clause (d) of sub section (2) of section 36 and sub section (2) of section 41 of the Act, the Commission or the Director General, for reasons to be recorded in writing, as the case may be, either on its/his own motion or on an application made by a party to any proceeding before the Commission or the Director General, may issue a commission for the examination on questionnaires or otherwise of the specified witness(es):

(a) residing within India;
(b) who is about to leave India before the date on which he or she is required to be examined as a witness;
(c) who, being in the service of the Central Government, a State Government or a statutory authority, can not, in the opinion of the Commission or the Director General, as the case may be, attend without detriment to the public service;
(d) who is unable to attend due to sickness or infirmity;
(e) who resides at a place which is more than five hundred kilometres distance from the office of the Commission or the Director General, as the case may be, and whose attendance, in the opinion of the Commission or the Director General, as the case may be, cannot be procured without incurring unnecessary expense within the stipulated time;
(f) not being covered under any of the situations mentioned in clause (a) to clause (e) above, if his or her evidence is considered necessary in the interest of justice;

(2) Subject to the provisions of sub regulation (1) above, the Commission or the Director General, as the case may be, either on its/his own motion or on an application made by a party to any proceeding before the Commission or the Director General, may also issue a commission for the examination on questionnaires or otherwise of any witness residing at any place not within India if satisfied that the evidence of such witness is necessary and may issue a letter of request for the Indian High Commission or the Indian Embassy to facilitate the execution of the commission, as per this regulation;

(3) Subject to the provisions of sub regulation (1) and (2) above, the Commission or the Director General, as the case may be, either on its/his own motion or on an application made by a party to any proceeding before the Commission or the Director General, may also issue a commission for the examination of specific document(s) whether available in any place situated within or without India and whether or not held in the custody of any witness being examined on questionnaires as per sub regulation (1) and (2) above;

(4) A commission for the examination of a witness on questionnaires or otherwise or for examination of a document issued under sub regulation (1), (2) or (3) above, may be issued to any public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860) or a counsel and such public servant or the counsel, as the case may be, shall be appointed as “the commissioner” only for the purposes of executing the commission;

(5) Every public servant or the counsel, referred to in sub regulation (4) above, upon receiving a commission under sub regulation (4) shall examine the witness or the document, as the case may be, or cause the witness or the document to be examined pursuant thereto and on due execution, shall return the commission together with the evidence taken under it to the Commission or the Director General, as the case may be;
(6) The Commission or the Director General, as the case may be, shall furnish the commissioner appointed under sub regulation (4) above with such part of record of the proceedings and such instructions as appear necessary and the instructions shall distinctly specify that the commission is restricted to finding the facts through the examination as directed and the commissioner is merely required to transmit the record of the proceedings to the Commission on completion of the examination;

(7) Powers of commissioners – Any commissioner appointed under this regulation may, unless otherwise directed by the order of appointment –
(a) examine the witness himself;
(b) call for and examine the documents and other things relevant to the subject of inquiry;

(8) The Commission or the Director General, as the case may be, issuing a commission under this regulation shall fix a date on or before which the commission shall be returned after execution, and the date so fixed shall not be extended except, for reasons to be recorded, the Commission or the Director General, as the case may be, is satisfied that there is sufficient cause for extending the date.

49. Authorizing a representative to appear – (1) Subject to the provisions of section 35 of the Act, in any proceeding, where the pleading is also signed by an authorized representative, the party shall append power of attorney or Vakalatnama in the manner specified authorizing the representative to appear for him or her or it, as the case may be;
(2) The authorized representative shall not be allowed to represent the party unless such power of attorney or Vakalatnama is filed before the Secretary before commencement of the ordinary meeting;
(3) No misconduct on the part of any authorized representative, appearing for and on behalf of any party during continuance of a proceeding before the Commission shall be permitted and the Commission in appropriate circumstances, for reasons to be recorded in writing, may pass necessary order(s) debarring the representative, guilty of misconduct, from appearing in the proceedings before the Commission in future or till such time as it orders;
(4) In the event of the misconduct being committed by any counsel, the Secretary, if so directed by the Commission shall forward a complaint to this effect in writing to the Bar Council of the State of which the legal practitioner is member or the Institute of Chartered Accountants of India or the Institute of Company Secretaries of India or the Institute of Cost and Works Accountants of India, as the case may be.

Explanation.—For the purpose of this regulation,--- The word “misconduct” shall include causing prejudice to or interfering with or attempting to interfere with, the due process of any proceeding or obstructing or attempting to obstruct, the compliance or execution of any order or direction of the Commission, in any manner, or using defamatory language or behaving defiantly or attempting to undermine or undermining the prestige of any Member or Officer of the Commission in any manner whatsoever.

50. Proceedings before the Commission not to be open to public—Except where the Commission may so direct, for reasons to be recorded, the proceedings before the Commission, during an ordinary meeting, shall not be open to public. In taking the decision to open the proceedings to public, the Commission may take into account all or any of the following:

(a) whether disclosure to public does not cause significant harm to a party;

(b) degree of inhibition or encouragement in providing information in public;

(c) efficient and proper conduct of proceeding; and

(d) resources of the Commission.

51. Procedure for imposition of penalty under Chapter VI of the Act—(1) Notwithstanding anything to the contrary contained in any rules or regulations framed under the Act, no order or direction imposing a penalty under Chapter VI of the Act shall be made unless the person or the enterprise or a party to the proceeding, during an ordinary meeting of the Commission, has been given a show cause notice and reasonable opportunity to represent his or her or its case before the Commission;

(2) In case the Commission decides to issue show cause notice to any person or enterprise or a party to the
proceedings, as the case may be, under sub regulation (1) above, the Secretary shall issue a show cause notice giving not less than twenty one days asking for submission of the explanation in writing within the period stipulated in the notice,
Provided that the Commission may permit oral representation if deemed fit in the facts and circumstances of a matter.

52. Fee under clause (a) of sub-section (1) of section 19 of the Act—(1) Each information received under clause (a) of sub-section (1) of section 19 of the Act or otherwise shall be accompanied by proof of having paid the fee of rupees fifty thousand;
(2) The fee may be increased or 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 Secretary;
(3) The 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”.

53. 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 direct payment of cost, 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 Secretary.

54. Inspection charges – (1)The parties to the proceedings, except authorized officers of the Director General, shall pay Rupees Five Hundred per day for inspection of records;
(2)Persons other than parties to any proceeding concluded or otherwise, shall pay Rupees One Thousand per day;
(3)These charges may be increased or 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 Secretary;
(4) Inspection shall be permitted only during working hours by the Secretary.
55. **Copying charges** – (1) Copying charges for parties to the proceedings shall be Rupees Twenty per page;  
(2) Charges for copying, wherever permitted by the Commission, for others shall be rupees fifty per page;  
(3) These charges may be increased or 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 Secretary.

56. **Disclosure of Interest** – The Chairperson and Members, before considering any matter, shall disclose any circumstance likely to give rise to justifiable doubts regarding their independence or impartiality in any proceeding.

57. **Empanelment of Special Counsel by the Commission**  
(1) The Commission may draw up a panel of legal practitioners or chartered accountants or company secretaries or cost accountants to assist it in carriage of proceedings before the Competition Appellate Tribunal or any other quasi-judicial body or Court;  
(2) The Director General may call upon the legal practitioners or chartered accountants or company secretaries or cost accountants from the panel for assistance in the proceedings before the Commission, if so required;  
(3) The remuneration payable and other allowances and compensation admissible shall be specified in consultation with the Commission.

58. **Inviting experts of eminence to assist the Commission**–

Without prejudice to subsection (3) of section 36 of the Act, or guidelines issued thereunder, the Commission may invite experts of eminence to assist the Commission in discharging of its functions under the Act on such terms and conditions and at such times as may be decided by the Commission; Provided that the Commission shall have absolute discretion as regards the evaluation of expertise or eminence of those invited to assist the Commission.

59. **Publication** – (1) The Commission may cause publication of a brief summary or the full text of its orders
or 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 or decisions as it deems fit;

(2) A summary of all orders or decisions made by the Commission under sub section (2) or (6) of section 26 of the Act directing the closure of the matter or under sub section (1) of section 31 approving the combination, as the case may be, shall be published on the web site of the Commission; and

(3) It shall be the duty of the Secretary to publish the orders or decisions referred to in this regulation.

60. Removal of doubt or difficulty - In the matter of implementation of these regulations, if any, doubt or difficulty arises, the same shall be placed before the Commission and the decision of the Commission thereon shall be final and binding.

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 2.30 PM 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.

The Competition Commission of India (Procedure for Engagement of Experts and other Professionals) Regulations, 200-

New Delhi, the -----day of …… 200-

No ……………………………- In exercise of powers conferred on it by section 64, read with the powers under sub section (3) of section 17 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 (Engagement of Experts and Other Professionals) Regulations, 200-;
   (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 (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 section 16 of the Act;
      (e) Expert or Professional means a person of integrity and outstanding ability having special knowledge of, and experience in, economics, business, commerce, international trade or such other discipline related to competition or a person qualified to practice and practicing in the field of law or as chartered accountant or as cost and works accountant or as company secretary or such other discipline related to competition, engaged by the Commission under sub section (3) of section 17 of the Act;
      (f) “Secretary” means the person appointed 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 for the purpose of these regulations;
   
   (2) Words and expressions used but not defined in these regulations shall have the same meanings respectively assigned to them in the Act or regulations framed there under or the Companies Act, 1956 (1 of 1956).

3. Engagement of experts and other professionals –
The Commission may engage experts and other professionals in the fields of economics, law, business including experts from various sectors of industry or such other disciplines related to competition, as it may deem fit, as per the procedure specified in these regulations.
4. Functions of the experts and other professionals –
(1) The Commission may engage experts and other professionals:-
(a) to draft and/or revise guidelines on specific topics under sections 3, 4, 5 and 6 of the Act;
(b) to draft and/or revise memorandum or arrangement with any overseas competition authority and/or foreign agency in terms of proviso to section 18 of the Act;
(c) to draft and/or revise regulations under section 64 of the Act;
(d) to draft and/or revise competition advocacy literature from time to time in terms of section 49 of the Act;
(e) to undertake work for a specialized purpose as the Commission may require from time to time for the proper implementation of the Act;
(f) to assist the Commission or the Director General in any inquiry or investigation, as the case may be;
(g) to assist the Commission in giving opinion on a reference under section 21 or 49 of the Act or in formulating a reference for opinion to be sent under section 21A of the Act.
Explanation. -- For the purpose of this sub-regulation,-
A. Competition advocacy literature may include-
(i) Booklets on public guidelines, guidance notes etc. meant for distribution in the competition advocacy seminars, workshops etc. among stakeholders as may be specified by the Commission from time to time;
(ii) Reference study material for in house training on competition related subjects, as may be specified by the Commission from time to time;
B. Specialized purpose may include –
(i) economic research on any particular industry of India or generic assessment of Indian industry as a whole;
(ii) legal research on any competition issue;
(iii) market analysis and market research of any particular or general matter of trade related competition issue;
(iv) assessment of impact on Indian market relating to any combination, anti-competitive agreement or abuse of dominant position by any enterprise whether arisen during any inquiry or an investigation or otherwise;
(v) examining commercial agreement with reference to commercial laws;
(vi) conducting analytical research and submission of report(s) thereof with supporting empirical data, wherever possible, subsequent upon receipt of any reference or information by the Commission;
(vii) assisting the Commission in compiling technical data and reports that the Commission may like to include in its returns and / or annual report under section 53 of the Act; and
(viii) any other matter as the Commission, from time to time, may decide in order to implement the provisions of the Act;

5. Classification of experts and other professionals --
(1) The experts and other professionals to be engaged shall be classified on the basis of their qualifications and experience in their respective fields of specialization and/or their eminence in their professions. The classes of each experts and other professionals with the qualifications required for each shall be as given in schedule – I;
Provided that the Commission may engage experts and other professionals from any other disciplines as deemed necessary to assist the Commission in the discharge of its functions under the Act.

(2) Subject to sub regulation (1) and depending upon the number of years of post qualification experience held in their respective disciplines, the experts shall be categorized into four levels as given in Schedule –II.

6. Remunerations to be paid to the experts and other professionals –
(1) The remunerations to be paid by the Commission to the different categories of experts/professionals per month shall be as agreed to between the Commission and the expert/the professional at the time of engagement. The amount admissible to be paid to each category of experts and professionals shall be as per Schedule – III,
Provided the Commission may, for reasons to be recorded in writing, agree to pay higher remuneration than those mentioned in schedule-III in specially deserving cases;

7. Evaluation of performance by the Chairperson –
The performance of each expert and other professional engaged under these regulations, with reference to the tasks assigned and output delivered, shall be reviewed periodically, as may be decided by the Chairperson in each case.

8. Procedure of selection of the experts and other professionals -
(1) The experts and other professionals shall ordinarily be engaged by the Commission on contractual basis and normally their tenure of engagement shall not be less than three months and not more than three years;
(2) The Commission shall decide, on half yearly basis, in advance, the number of the experts and other professionals to be engaged;
(3) After the number of the experts and other professionals to be engaged is decided, as mentioned in sub-regulation (2) above, the Secretary shall publish the number of the experts and other professionals to be engaged with details of their qualifications, experience and the ranges of remunerations payable on the official website of the Commission and invite applications for each class and level of expert and other professional giving a stipulated last date for the receipt of the applications for each;
Provided that the Secretary may also invite the applications by giving advertisements in media, as considered appropriate, for wide dissemination giving a stipulated last date for the receipt of the applications for each class and level of expert and other professional;
(4) The Secretary shall have a selection board for each category of expert and other professional constituted with the approval of the Chairperson. The Commission may include eminent outside experts having special knowledge and experience in the relevant field to join the selection boards;
(5) The Secretary shall scrutinize the applications as per these regulations and prepare lists of eligible candidates in each category to be called for interview and submit a report to this effect to the Commission;
(6) The selection boards mentioned in sub-regulation (4) above shall be convened with the approval of the Chairperson for each category and the Secretary shall notify the date and the venue of the interview to the short listed eligible candidates sufficiently in advance;
(7) The recommendations of each selection board regarding engagement for each post shall be placed by the Secretary before the Commission for decision;

(8) On approval of the engagements by the Commission as mentioned in sub-regulation (7) above, the Secretary shall inform each candidate in writing by an offer letter of engagement giving not less than 21 days time to accept the offer of engagement;

(9) After receipt of acceptance from the selected candidates as per sub regulation (8) above, the Secretary shall issue letter of engagement to each candidate giving not less than thirty days time to join;

Provided that the joining time may be extended by the Secretary on being satisfied that extension is sought on circumstances beyond the control of the individual candidate;

(10) The Secretary shall inform the number of selected candidates who have joined in the next meeting of the Commission and obtain orders of the Commission to restart the process of selection to fill up the shortfalls, if any, in the total number of experts and other professionals decided to be engaged as per sub regulation (2) above.

9. Terms and conditions of engagement of the experts and professionals

(1) Depending upon the functions to be assigned to the experts and the professionals, the Commission shall determine the terms and conditions of engagement, other than the remuneration payable, as deemed fit for each category and the Secretary shall convey the same to the expert and the professional at the time of engagement;

(2) The Secretary shall obtain the acceptance in writing of each expert and professional engaged to the terms and conditions as mentioned in subregulation (1) above and the monthly remuneration agreed to be paid as mentioned in regulation 7 above before assigning any work to the expert and to the professional.

(3) Subject to the procedure for selection of the experts and professionals mentioned in regulation 8 and the manner of obtaining assistance mentioned therein, the expert and professional engaged to assist the Commission under these regulations shall enter into a contract with the Secretary, on behalf of the Commission, detailing the terms and conditions and the honorarium agreed to be paid as mentioned in regulation 6 above.

10. Confidentiality

– Subject to section 57 of the Act and Regulation 38 of the Competition Commission of India (General) Regulations, 200-,

(1) The experts and professionals engaged under these regulations shall enter into agreement of confidentiality with the Secretary on behalf of the Commission, whereby they shall maintain absolute confidentiality on matters brought to their notice, individually and collectively, in discharge of their functions;

Provided that such agreement may be part of the contract referred to in sub-regulation (3) of regulation 9, signed by the expert and /or professional, as the case may be, with the Secretary (2) Without prejudice to the legal remedies available to the Commission, the breach of agreement executed under sub
regulation (1) by or on behalf of any expert or professional shall be considered a sufficient ground for termination of the engagement made under contract referred to in subregulation (3) of regulation 9, and may further debar such expert or professional from future engagement by the Commission.

11. Power to relax –
The Commission may relax such restrictions imposed in these regulations as may be deemed necessary in the discharge of its functions under the Act.

12. Removal of difficulties –
In the matter of interpretation of these regulations, if any doubt or difficulty arises, the Commission shall be competent to decide and its decision thereon shall be final and binding.
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<th>Class of Expert and other professional</th>
<th>Qualifications</th>
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<tr>
<td>Economist.</td>
<td>Essential - Post Graduate degree in Economics from either a recognized University in India or from a foreign University, recognized in India by the Association of Indian Universities (AIU), or by a competent authority in India with specialization in Industrial Economics/Industrial Organization/International Trade/Econometrics/Mathematical Economics/Quantitative Economic methods. Desirable – (i) Consistent high academic performance shall be preferred. (ii) A doctoral degree, from a reputed University/Institution in India or from a University or Institution duly recognized in India, in Economics in the area of competition policy or closely related areas will be highly desirable.</td>
<td>Experience in analysis of microeconomic problems, including International trade, investment, project evaluation and appraisal, industrial organization, Industrial economics or economic regulation including competition assessment, using quantitative economic techniques in government, public sector, private sector, Non Governmental Organizations or regulatory authorities or regional/international/multilateral organization(s) Or, - in universities/reputed research institutions, as Professor/Reader/Lecturer in of Microeconomics/Industrial Economics/Industrial Organization/International trade/Econometrics/Mathematical economics/Quantitative Economic methods or closely related subjects.</td>
</tr>
<tr>
<td>Legal practitioner.</td>
<td>Essential – (i) Degree of LL.B or equivalent from a recognized University and/or Institute in India or abroad, recognized by the Bar Council of India. (ii) Qualified to be registered as an advocate in any State Bar Council of India in terms of Advocate’s Act, 1961. Desirable – Higher qualification with specialization in competition law or regulatory laws or laws relating to Intellectual Property Rights or International Trade Laws.</td>
<td>Experience as legal practitioner in Supreme Court, or High Court or a Regulatory Authority or a Tribunal. Experience in handling regulatory laws before the Competition Commission of India (CCI) or other sector regulators. Or, Reader or an Assistant Professor of Law of any recognized University/Professional Institute of India or abroad with specialization in teaching competition law, Or, Legal Manager or above in the Corporate sector having experience of handling acquisitions, mergers &amp; amalgamations etc. under competition laws.</td>
</tr>
<tr>
<td>Chartered Accountant</td>
<td>Essential – Qualified Chartered Accountant in terms of Chartered Accountants Act in India.</td>
<td>Post-qualification, must have worked as a Chartered Accountant in reputed organization handling</td>
</tr>
<tr>
<td>Position</td>
<td>Essential</td>
<td>Desirable</td>
</tr>
<tr>
<td>--------------------------------</td>
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<td>---------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Cost Accountant</td>
<td>Qualified Cost Works Accountants in terms of Cost Works Accountants Act of India.</td>
<td>Post-qualification, must have worked as a Cost Works Accountant in reputed organization handling business ventures of large enterprises or undertakings. Experience of handling acquisitions, mergers &amp; amalgamations etc. under competition laws.</td>
</tr>
<tr>
<td>Company Secretary</td>
<td>Qualified Company Secretary in terms of Company Secretaries Act.</td>
<td>Post-qualification, must have worked as a Cost Works Accountant in reputed organization handling financial ventures of large enterprises or undertakings. Experience of handling acquisitions, mergers &amp; amalgamations etc. under competition laws.</td>
</tr>
<tr>
<td>Expert in Business Management</td>
<td>Post graduate degree and/or Post graduate diploma in Master of Business Management from a recognized University in India or from a foreign University, duly recognized by a competent authority in the country, with specialization in financial management and having experience in applying principles of financial management to the conduct of business</td>
<td>Post qualification, must have worked as a Business Manager or Financial Manager in reputed organization handling financial ventures of large enterprises or undertakings. Experience of handling acquisitions, mergers &amp; amalgamations etc. under competition laws.</td>
</tr>
<tr>
<td>Expert in International Trade</td>
<td>Degree of LL.B or equivalent from a recognized University and/or Institute in India or abroad, recognized by the Bar Council of India with International trade as a subject, or Post graduate degree in Economics with microeconomics and specialization in International Trade from recognized University in India or abroad.</td>
<td>Post qualification, must have worked as an International Trade Manager in reputed organization handling International Trade ventures involving imports or exports in large enterprises or undertakings. Experience of handling acquisitions, mergers &amp; amalgamations etc. under competition laws.</td>
</tr>
<tr>
<td></td>
<td>from a foreign University, duly recognized in India. Desirable – Higher qualifications with consistent excellent academic record shall be preferred.</td>
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<tr>
<td>Engineering expert</td>
<td>Post graduate degree in Engineering from any University or Institute of India or abroad, duly recognized in India. Desirable – Higher qualifications with consistent excellent academic record shall be preferred. Worked at senior level positions in large Organizations or Corporations dealing with technical and engineering matters.</td>
<td></td>
</tr>
<tr>
<td>Medical Expert</td>
<td>MD or MS from a University in India or abroad duly recognized by the Medical Council of India. Desirable – Higher qualifications with consistent excellent academic record shall be preferred. Associate professors or professors in medical sciences or a person of eminence the medical profession</td>
<td></td>
</tr>
<tr>
<td>Expert in Sciences</td>
<td>Essential – Post graduate degree in pure or applied sciences from a recognized University of India or abroad recognized in India by the Association of Indian Universities (AIU). Desirable – Higher qualifications with consistent excellent academic record shall be preferred. Worked at senior level positions in large Government Organizations or organizations in private sector dealing with technical and scientific matters.</td>
<td></td>
</tr>
<tr>
<td>Sectoral Expert</td>
<td>Graduate degree from a duly recognized University in India or abroad in the relevant field. Desirable – Higher qualifications with consistent excellent academic record shall be preferred. (1) Worked at senior level position in a leading industry in private or public sector, in the specific sector of economy, in which expertise is claimed and/or (2) Recognition as an expert in the relevant sector of the market by majority of the market players either through publication of articles or awards or public acclaim to the satisfaction of the Commission and/or (3) Experience of dealing with regulators shall be desirable.</td>
<td></td>
</tr>
</tbody>
</table>
### Schedule – II

<table>
<thead>
<tr>
<th>Level of Expert / professional</th>
<th>Post qualification experience in years</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>Three to five years</td>
</tr>
<tr>
<td>II</td>
<td>Five to ten years</td>
</tr>
<tr>
<td>III</td>
<td>Ten to fifteen years</td>
</tr>
<tr>
<td>IV</td>
<td>Beyond fifteen years</td>
</tr>
</tbody>
</table>

### Schedule – III

The experts and professionals shall be paid as under:

<table>
<thead>
<tr>
<th>Level of Expert/ Professional</th>
<th>Lump sum monthly remuneration</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>Rs. 50,000 with 10 per cent increase on completion of each year of engagement, on a cumulative basis</td>
</tr>
<tr>
<td>II</td>
<td>Rs. 75,000 with 10 per cent increase on completion of each year of engagement, on a cumulative basis</td>
</tr>
<tr>
<td>III</td>
<td>Rs. 100,000 with 10 per cent increase on completion of each year of engagement, on a cumulative basis</td>
</tr>
<tr>
<td>IV</td>
<td>Rs. 125,000 with 10 per cent increase on completion of each year of engagement, on a cumulative basis</td>
</tr>
</tbody>
</table>