

## **CVC ANALYSES 100 TOP BANK FRAUDS – IDENTIFIES LOOP HOLES- SUGGESTS SYSTEMIC IMPROVEMENTS<sup>1</sup>**

Central Vigilance Commission (CVC) has reviewed and analysed Top 100 Bank Frauds, as on 2017.

Sharing the details Dr. T.M. Bhasin, Vigilance Commissioner, CVC informed that the Commission has sub divided the study into 13 sectors comprising of Gems and Jewellery, Manufacturing, Agro sector, Media, Aviation, Service Sector, Discounting of cheques and bills, Trading sector, IT Sector, Exports sector, Fixed deposits and Demand Loan etc.

Dr. Bhasin said that as a conscious decision and with a view to maintaining discreteness, the names of borrower accounts/entities and the names of the Banks have not been disclosed in the report. However, steps are being taken for all encompassing actions such as investigation by the Premier investigative agencies, fixing staff accountability and recovery measures, etc. for effective action.

Dr. Bhasin said that the modus operandi of these loans has been thoroughly analysed and various loopholes/lapses have been identified. Based on the findings, various industry specific suggestions for systemic improvement have been given in the final report, which have also been sent to Department Of Financial Services (DFS) and RBI, in order to plug the loopholes observed by the Commission. The measures suggested include strengthening of SOPs, monitoring system and also highlighting the role of controlling offices, so as examine the aspect of quality of business.

Dr. T.M. Bhasin said that this analytical study was initiated by the Commission as a Preventive Vigilance measure so as to minimize the occurrence of such type frauds in future. RBI has also confirmed to the Commission that inputs given by CVC are very useful and shall be used for systemic improvements to mitigate the risks. Dr. Bhasin said that the intention of the Commission is to bring about awareness among the field functionaries by enhancing their knowledge towards the existing lapses, so that the frauds of similar nature do not recur. These studies have been done by the Commission as a preventive Vigilance tool by utilizing its vast experience of handling various cases of frauds and Staff accountability related matters.

A copy of the Analysis of Top 100 Bank Frauds by CVC has been uploaded on CVC website for ready reference:

<http://www.cvc.gov.in/sites/default/files/new1111.pdf>

## **ROADSHOW ON COMPETITION LAW ORGANIZED BY COMPETITION COMMISSION OF INDIA<sup>2</sup>**

*The system needs to be made better accessible to those who suffer anti-competitive practices:  
Secretary, Corporate Affairs*

*Need to hardwire competition into our business philosophy and policy framework: Secretary,  
Corporate Affairs*

A 'Roadshow on Competition Law' was organized, jointly by Competition Commission of India (CCI) and Confederation of Indian Industry (CII), in Mumbai on Monday, October 15, 2018. The Indian Institute of Corporate Affairs (IICA) was the implementation partner for the Roadshow.

<sup>1</sup> Available at: <http://www.pib.nic.in/PressReleaseDetail.aspx?PRID=1549872>

<sup>2</sup> Available at: <http://www.pib.nic.in/PressReleaseDetail.aspx?PRID=1549872>

The Roadshow comes as a part of the joint initiative of the CCI and CII to advocate compliance with competition law as one of the business and legal enablers in the country. The Commission has a stated mandate to create awareness and impart training about competition issues and has been undertaking measures to encourage voluntary compliance of competition law and create a culture of competition among stakeholders.

Secretary, Ministry of Corporate Affairs and Chairman, Board of Governors, IICA Shri Injeti Srinivas shared his views on competition law on the occasion. Complementing the Commission for organizing the Roadshow as a measure of creating awareness on the subject, the Secretary informed that a National Workshop also will soon be held in Delhi. He said that it is vital that the subject of competition law needs to be totally demystified. Speaking about the benefits of competition, Shri Srinivas said that competition is the cornerstone of the market economy. Competition is something which offers benefits to all stakeholders, including the government, the consumer and the industry. At the macro level, competition plays an important role to enhancing economic growth and productivity, while at the micro level, it provides increased choices to the consumer, he added.

The Secretary said that competition has been an agent of the transformation, as compared to the pre-liberalization era. He noted that one-third of billionaires in the entire world are from India. He said that we need to understand this dimension of competition and realize the necessity to hardwire competition into our business philosophy and our policy framework.

He recalled that concentration of power in the hands of a few was the factor which led to the enactment of the MRTPC Act and the formation of the Competition Commission. He said that India is today among the fastest growing economies in the entire world, thanks to the infusion of competition. Shri Injeti said that it is in the interest of the industry to hardwire competition into its philosophy. He said that we are dependent on the economic philosophy in determining the destiny of our country and that of our own. He stated that we need to have competitiveness in our country to be able to withstand onslaught of unfair international trade practices.

The Secretary highlighted that the Competition commission has contributed immensely in the last ten years. The Commission has made a demonstrative effect against the abuse of dominance; they have taken care of anti-competitive practices by punishing cartels and they have also brought a preventive system in the form of regulatory combinations. But all of these have limitations, and what is really required is promotion of competitive behaviour, he said.

With the change in business and markets, the tools for dealing with practices which threaten competition are also changing. He said that it is heartening to note that the Commission has been innovative in finding solutions to emerging challenges. He noted that the order of the Commission in the matter involving Google shows its capability in handling challenges of the new digital economy.

Government and industry are two of the biggest players in creating the ecosystem for competition. He observed that while MRTPC believed scale and size were evil, today we believe that it is abuse of scale and size that is evil. He said that many Indian companies have global footprint today, which would not have been possible without a policy which permitted this.

Shri Srinivas said that various other issues need to be addressed while dealing with competition law, highlighting the need for advocacy, sensitization and education.

Speaking of the Competition Law Review Committee, the Secretary said that the Committee will look at various challenges and how to address them.

The Secretary said that it is necessary to challenge a few aspects of the current system. He said that the system needs to be better accessible to those who suffer anti-competitive practices. He said that it should become more non-adversarial. There should be quick disposal of cases, the issue of examination of informants needs to be looked into, he said. He also discussed the case for a relook at the legal framework. He said there is a need to develop a vision, shared by the governments, industry and other stakeholders, so as to take the nation forward on that basis.

During the day-long Roadshow, there were open-house sessions, display of various kiosks and screening of films. The discussions were aimed to help the industry understand the perspectives and

challenges of the competition regime on balancing competition concerns, especially in insolvency proceedings. The Roadshow also aims to highlight various initiatives undertaken by the CCI to create and sustain fair competition in the economy, that will provide a 'level playing field' to producers and make markets work for the welfare of consumers.

The day-long Roadshow was attended by participants from the industry, legal professionals, corporate lawyers, academics, law students and relevant stakeholders who deliberated and interacted during various open house sessions in the Roadshow and also took part in the exhibition, display of kiosks highlighting CCI educational material.

The open house sessions in the Roadshow deliberated on the following:

### **Cartels and Leniency**

- a. Cartels: Detection and Enforcement
- b. Leniency:
  - i. Effective Implementation of Lesser Penalty Regulations
  - ii. Confidentiality
- c. Dawn raids – Perspectives
- d. Effective Compliance and Competition Culture

### **Merger Control**

- a. Navigating the merger review process
- b. Common minority ownership – Challenges
- c. Effective Remedies
- d. Gun jumping: Evolution in motion
- e. Mergers and Insolvency

Highlighting CCI initiatives, the Roadshow shall provide a platform for vital dialogue between the 'regulator' and the 'regulated' so as to enable the Commission to present its perspectives and views on latest developments in the competition enforcement while providing an opportunity to make industry aware of the issues that corporates face, with an ultimate motive of engagement with stakeholders to enhance ease of doing business in India.

### **About CCI**

The Commission was established in 2003 under the Competition Act, 2002 to prevent practices having adverse effect on competition, promote and sustain competition in markets, protect interests of consumers and ensure freedom of trade carried on by other participants in markets in India. During the past years, CCI has successfully established itself as a credible institution for redressal of competition related concerns and conducted around 500 advocacy events.

On the global front, CCI has effectively engaged itself with international community including ICN, OECD, UNCTAD, EU etc. The regulatory regime of competition law has evolved brilliantly under the Commission's leadership with constant upgradation of laws; evolving jurisprudence, merger regulations and leniency regulations. To help enterprises in developing a competition culture, a Compliance Manual for Enterprises has been launched. In addition, Do It Yourself (DIY) Online Guidance System for determining notifiability of merger & acquisitions has been launched, envisaging a staged process to guide stakeholders in determining notifiability to CCI.

CII works on policy initiatives with CCI and based on industry inputs and recommendations, the 'Combinations Regulations' as they stand today are a much enhanced version of the ones earlier envisaged. CII and industry members have contributed extensively on advocating with the Regulator on the need for clarity on a number of issues including merger notification thresholds; exemptions from notification; streamlined disclosure requirements, issuance of guidance notes to assist parties in

preparation of notifications and have further streamlined the process of pre-merger informal consultation – now formalized into the DIY toolkit.

***Team ICSI***

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