

## GENERAL STATEMENT

### **The Competition Commission of India (General) Regulations, 2024**

1. The Competition Act, 2002 (the 'Act') was amended on April 11, 2023, *vide* the Competition (Amendment) Act, 2023 ('Amendment Act'). This necessitated amendments in the various regulations framed by the Commission or notification of new regulations.
2. In this regard, a comprehensive review of the General Regulations, 2009 was made and amendments thereto were proposed which not only included changes pursuant to the Amendment Act, but also incorporated various other modifications based on the experience gained from working with these regulations since 2009. These amendments along with Background Note, were put up for public consultation on the website of the Commission and comments/ suggestions from the stakeholders were invited thereupon from 06.06.2024 to 08.07.2024. In response, comments from 10 stakeholders were received. The Commission carefully examined the comments received and in view of the same, made certain changes in the draft amended regulations.
3. Accordingly, today, the Commission has notified the Competition Commission of India (General) Regulations, 2024 ('General Regulations, 2024') repealing the General Regulations, 2009 *vide* repeal and saving clause introduced in the General Regulations, 2024. Further, in terms of Section 64A(b) of the Act, the present General Statement is being published along with, to provide the Commission's response to the public comments received.
4. In the draft amendments, the definition and fee for filing 'Miscellaneous Application' were introduced which provided that all applications other than Interlocutory Applications shall be categorised as Miscellaneous Applications. However, the stakeholders sought clarity in respect of the difference between Interlocutory and Miscellaneous Applications. Accordingly, the definitions of both types of applications have been appropriately amended to make a clear distinction between the two. The amended definitions now specify that applications filed during pendency of a case instituted under section 19 of the Act or proceedings initiated pursuant to a Miscellaneous Application are 'Interlocutory Applications' and applications filed post passing of final order in a case instituted under section 19 of the Act are 'Miscellaneous Application'.

5. Further, the draft amendments introduced the requirement of the concerned party to sign all submissions, including subsequent submissions and also file an affidavit in support thereof. In this regard, the stakeholders suggested that the Commission should restrict the requirements of a supporting affidavit and signatures of the company representative for filing of only substantive submissions. Accepting such suggestion of the stakeholders, a *proviso* has been inserted in regulation 14 of General Regulations, 2024 which exempts applications seeking extension of time and seeking adjournment(s) from the above-mentioned requirements of being signed by the party and being accompanied with an affidavit.
6. The draft amendments also proposed to remove the self-imposed requirement of passing the final order within a period of 90 days in cases where an interim order has been passed, as far as possible. The proposed amendment stipulated that where an interim order has been passed by the Commission, the matter shall be dealt with expeditiously. The stakeholders expressed concerns with removal of time limit for passing a final order. Based on the stakeholders' suggestions, the time period for passing final order in such cases has now been retained and the regulation 32 of General Regulations, 2024 requires the Commission to pass a final order in such cases within 180 days, as far as possible.
7. In the draft amendments, regulation 21, which outlines the procedure for inquiry under section 26 of the Act, was revised. This overhaul was done to align with the changes made to section 26 by the Amendment Act, such as introduction of a show-cause notice, and also to incorporate the Commission's experience in conducting inquiries over the years. To address stakeholder concerns and in line with the Commission's existing practices, some minor adjustments have been made to the regulation 22 of General Regulations, 2024.
8. Regulation 36 of General Regulations, 2024 has also been updated to require that the confidential content be marked in red ink. This is to clearly separate the confidential parts from the rest of the document, enhancing the protection of confidential information.
9. Stakeholders also raised concerns about the proposed amendment that allowed only one authorization letter or *vakalatnama* to be valid for a party at any given time. The primary concern expressed was that a party should be allowed to engage multiple law

firms or lawyers for representation. In response to these concerns, it has now been clarified that a party can engage more than one legal counsel or law firm. However, at any given time, only one authorization letter or *vakalatnama* in respect of all such counsel(s) shall be considered valid, as per regulation 46 of General Regulations, 2024.

10. Apart from the above, other suggestions given by the stakeholders were examined and not found to be requiring any changes. Some of these suggestions are as follows:

- (i) In the draft amendments, specific methods for translating documents to be filed in English before the Commission were outlined. Stakeholders suggested that the Commission should also accept translations done by the parties themselves, as long as these are accompanied by an affidavit from their authorized representative. In this regard, it is noted that the *proviso* to regulation 7 already allows acceptance of such translations made by a party as correct, provided that no other parties in the matter object to the said translation. Accordingly, no change has been incorporated in the General Regulations, 2024 on this aspect.
- (ii) In the draft amendments, regulation 21, which outlines the procedure for inquiry under section 26 of the Act, was revised. The new regulation generally provided a time period of 8 weeks for the parties to submit their objections/ suggestions to the non-confidential version of the investigation or supplementary investigation report they receive. Stakeholders suggested that the time taken by the parties to access confidential version of the report should be excluded from this 8-week period. In this regard, it is noted that since regulation 21 only applies to the non-confidential version of the reports, no change has been incorporated in regulation 22 of the General Regulations, 2024 on this aspect.
- (iii) The draft amendments prohibited use of letterheads in all filings and accompanying documents, aligning with court procedures. A stakeholder requested clarification on the extent of this restriction. However, since the prohibition on using letterheads is complete and clearly stated in the provision, no clarification in this regard is necessary.
- (iv) A suggestion was also made to include the opportunity for cross-examination under the relevant regulation when documentary evidence is given based on personal knowledge. However, such opportunity is already included in the *extant* regulation 41(5), depending on the discretion of the investigation based

on “necessity” and “expediency”. Hence, no change has been incorporated in the General Regulations, 2024 on this aspect.

- (v) The draft amendments introduced a new regulation that allowed for the appointment of monitoring and implementation agencies to oversee the execution of the Commission’s orders. Stakeholders provided several suggestions upon this regulation, such as including provisions for maintaining confidentiality, allowing law firms to serve as agencies, setting experience and expertise criteria for appointments, and consulting the relevant party before determining the fees payable to the monitoring agency *etc.* In this regard, it is noted that all these requirements are already included in the proposed regulation and/ or is the subject matter of the Agreement to be signed between the Commission and the Agency appointed. Accordingly, no change has been incorporated in regulation 54 of the General Regulations, 2024 on this aspect.
- (vi) The draft amendments required the DG’s Investigation Report to contain its findings, along with all the evidence, documents and statements relied upon to reach such findings, with the remaining materials collected during the course of investigation to be forwarded to the Commission as ‘case record’. A suggestion was made in this regard to not make such amendment providing a distinction between the investigation report and the case record and rather contain all such material collected as part of the investigation report itself. However, as per the current practice of the Commission, the parties are given a copy of the investigation report containing the DG’s findings and relied upon material, and the parties are given access to remaining evidence collected during the course of investigation by the DG through inspections and grant of certified copies. As the parties already have full access to the entire case record in line with the principles of natural justice, no change has been incorporated in regulation 21 of the General Regulations, 2024 on this aspect.

\*\*\*\*