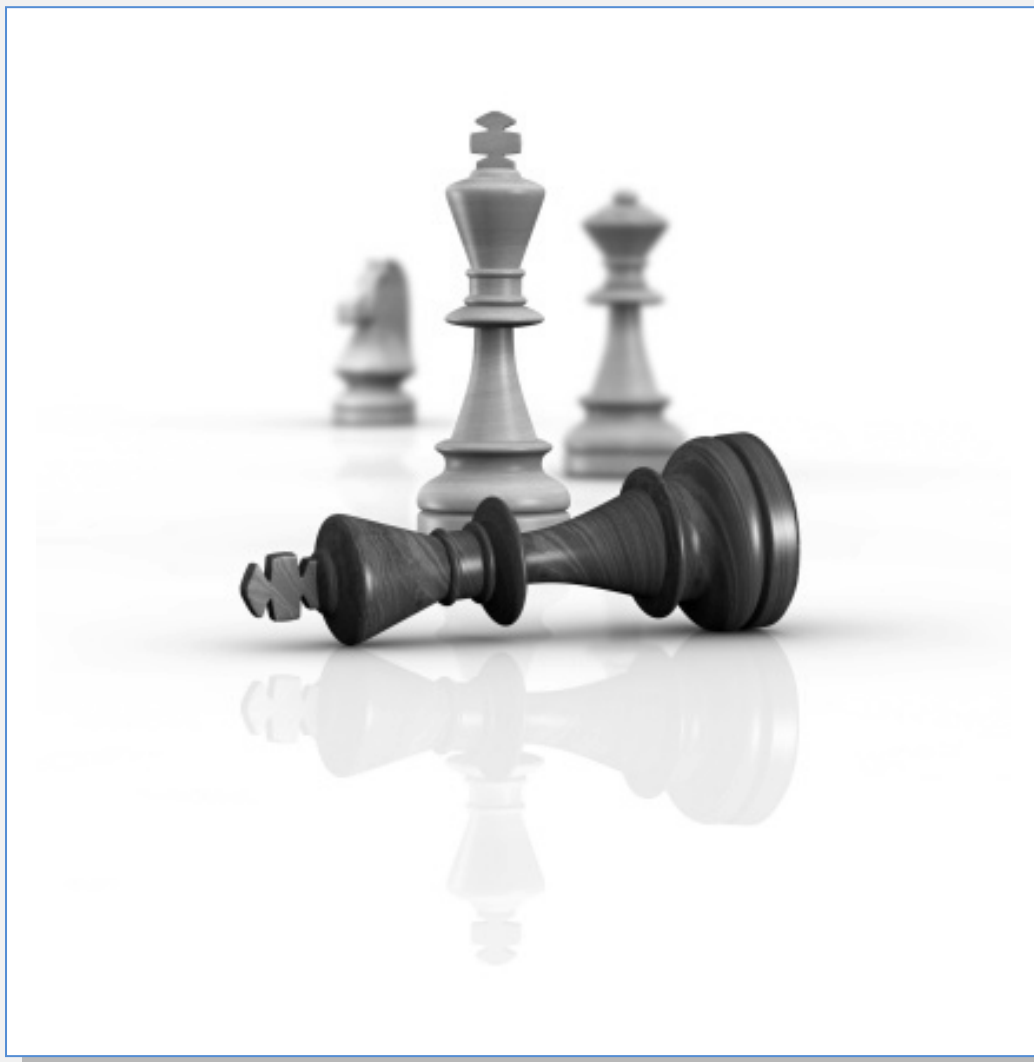


**CCI ISSUES GUIDELINES ON COMPETITION IMPACT ASSESSMENT  
FOR UPCOMING LEGISLATIONS / BILLS**



**BANGALORE • CHENNAI • GURGAON • HYDERABAD • MUMBAI • NEW DELHI •  
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## **Introduction**

The Competition Commission of India ('**CCI**'), has recently issued the Competition Commission of India (Competition Assessment of Legislations and Bills) Guidelines, 2015 ('**Guidelines**')<sup>1</sup>. The Guidelines will come into effect on 1 January 2016. This article intends to provide a brief overview of the Guidelines, as proposed by the CCI.

## **Overview**

Government agencies are typically encouraged to take into account potential impact on competition in the policy-formulation process, as government policies can have a significant impact on competition. However, historically, the CCI has had numerous instances where competition issues have inadvertently formed part of economic legislations, thereby creating a dichotomy of authority between separate statutes. The proposed Guidelines are intended to assist government agencies in identifying and assessing the likely competitive impact of their proposed policies.

The objective of the Guidelines will be to facilitate objective and transparent assessment of select economic legislations enacted by the Parliament and/or State Legislatures, as well as the economic bills pending or coming up before them in the near future, from a competition perspective. Based on the assessment, the CCI may suggest appropriate modifications in the concerned legislation and/or bill.

It is important that the CCI is able to provide inputs to government agencies on competition matters early on in the policy-formulation

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<sup>1</sup> Available online at: <http://www.cci.gov.in/May2011/Advocacy/CA%20Guidelines08092015.pdf>

process. The CCI's inputs will generally be limited to the competition assessment of the proposed policy and where possible, helping to identify ways to alleviate these competition concerns. The government agencies seeking inputs will then be able to weigh the CCI's advice on competition issues against any other relevant policy considerations in their policy-formulation process.

Specifically, any assessment by the CCI into any legislation / bill would encompass identifying the aspects that could cause appreciable adverse effect on competition in a relevant market in India. It would also be assessed whether any provision in the proposed legislation could restrict the freedom of players in the market and choices of consumers or is in disharmony with the objectives of the Competition Act of India ('**Act**').

The CCI has clarified that the legislations / bills identified by only three (3) sources would be considered for assessment from a competition perspective – being:

- (a) The economic legislations enacted in the preceding one year and the economic bills pending or coming up before the Parliament or any State Legislature, including identifying legislations / bills, which may potentially have adverse effect on competition;
- (b) Reference made by any Government Agency, including regulators; and
- (c) Identifying any legislation / bill for assessment by the CCI *suo motu*.

To assist in this task, the CCI intends to set up a panel of five to seven institutions to carry out an initial competition assessment of economic legislations. The Guidelines require the institutions to have an expertise in law, economics, finance or management and the fact that such institutions shall be a part of the panel for an initial period of three (3) years.

### **Concluding Words**

Many jurisdictions, including Australia and Singapore, have programmes to evaluate existing and upcoming economic legislations from the perspective of competition as it enables the people responsible for making legislations, to identify and circumvent, possible anti-competitive elements from appearing within the text or intent of any law, either inadvertently or without adequate justification, and thus, the Guidelines as proposed by the CCI, are in line with international best practices.

**DISCLAIMER**

The information contained in this article is correct to the best of our knowledge and belief at the time of writing. The contents of the above article are intended to provide a general guide to the subject-matter and should not be treated as a substitute for specific professional advice for any particular course of action as the information above may not necessarily suit your specific business and operational requirements. It is to your advantage to seek legal advice for your specific situation.

## **ABOUT THE AUTHOR**

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