

3RD ROADSHOW ON COMPETITION LAW

Location: Ahmedabad

Date of event: 18th December 2018

INTRODUCTION

The Third Roadshow on Competition Law was organised in Ahmedabad on 18th December, 2018 by the Competition Commission of India. The Indian Institute of Corporate Affairs (IICA), a think tank under the aegis of Ministry of Corporate Affairs, Government of India, was the Implementation Partner for the Roadshow. Other partners for the event were Dept of Industry, Govt of Gujarat, Gujarat CSR Authority, Gujarat Chamber of Commerce and Industries, Confederation of Indian Industry, Associated Chambers of Commerce and Industry of India (ASSOCHAM), The Federation of Indian Chambers of Commerce and Industry (FICCI), The Institute of Chartered Accountants of India (ICAI), Institute of Cost Accountants of India (ICMAI), The Institute of Company Secretaries of India (ICSI), Shardul Amarchand Mangaldas and Co and Cyril Amarchand Mangaldas,

FOCUS

The aim of the conference is to scale up competition advocacy and reach out to important stakeholders. The thematic focus of the Roadshow was on Public Procurement, Trade Associations, Cartels and Leniency.. The target audience of the conference were officials of PSUs, law firms, professionals, industry leaders, trade associations and government officials. The detailed agenda for the event is attached as Annexure 1 to this document.

INAUGURAL SESSION

The Chief Guest for the Conference, the Hon'ble Chief Minister, Government of Gujarat, Shri Vijay Rupani, in his Inaugural Address stated that Gujarat has traditionally relied upon competition as an important policy instrument for business facilitation and economic growth. The flourishing of business in the state has been possible as forces of competition have made the industry competitive. The international competitiveness that the state of Gujarat has been able to achieve could not be possible in the absence of strong competition amongst the businesses in Gujarat. He highlighted that despite having only 5 percent of the workforce, the state is contributing 22 per cent of the total exports of the country. He further said that Gujarat is

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“embracing competition to emerge as Global Manufacturing hub”. The Government is also providing support to the growing SME sector through the vast network of GIDC offices upto Tehsil level. The robust SME sector is not only contributing to employment and economic growth of Gujarat but is also making competition much vibrant and broad based. He complimented CCI for hosting the Roadshow in Ahmedabad.

Addressing the participants, Chief Secretary, Gujarat, Dr. J.N. Singh appreciated the CCI's initiative to reach out to states for promoting awareness about competition law. He articulated that Government Officers in charge of policy formulation would be benefitted by deliberations on public procurement and competition law. He further added that trade and industry which are major actors in the state economy stand to gain immensely by being on the right side of the competition law.

Shri Ashok Kumar Gupta, Chairman, CCI, in his theme address, mentioned that the Commission has a mandate to eliminate anti-competitive practices and promote competition in the country. He pointed out that the Act and the Commission, both are consumer and business friendly. In his address he stated that the Commission does not intend to come in the way of ease of doing business, or punish businessmen unnecessarily, but only intends to regulate anti-competitive behaviour. For achieving this objective, the Commission has to balance between its enforcement function and the advocacy function - the pillars on which the edifice of this law rests. According to him, advocacy is a continuous process, which requires fusion of efforts by the regulator and the regulated. The Chairman emphasized that as a market regulator, we appreciate our role as an enabler as much as we see ourselves as an enforcer. He highlighted the importance of building a culture of competition in public procurement systems in India and at the state level. Free, fair and effective procurement has the potential to reduce cost of delivery, free resources and make surpluses available, make the PSUs more competitive and allow the public sector to grow.

Dr. Jaimin R. Vasa, President, Gujarat Chamber of Commerce and Industry, gave the vote of thanks and expressed his gratitude to the Commission for hosting the Roadshow in Ahmedabad. He touched upon the issue of cartels, prevalent among industry, which create a burden on consumers in form of higher prices and loss of competitiveness for industry. Dr. Navneet Sharma from IICA had earlier welcomed the participants in inaugural session and highlighted that CCI is being assisted by IICA in this major advocacy initiative.

1ST SESSION

The first session was on ‘Infusing Competition in Public Procurement’ and it was chaired by Mr. A. M. Tiwari, Additional Chief Secretary, Home Department, Government of Gujarat and was moderated by Ms. Shweta Shroff Chopra, Partner, Shardul Amarchand Mangaldas & Co. The panellists for this session were Mr Manoj Pandey, Adviser, Competition Commission of India, Mr. S. Suresh Kumar, Additional CEO, Government eMarketplace (GeM), Ms. D. Thara, CEO, Gujarat CSR Authority, Prof. Anurag Agarwal, Professor, IIM Ahmedabad, and Mr. Jaimin Shah, MD and CEO, Dev Information Technology Ltd.

The session witnessed an intense discussion about the benefits of infusing competition in public procurement. The panellists used several examples from different states to demonstrate best practices for incorporating competition in bidding processes. The panel also discussed the various bidding mechanism and designs and analysed how each one of them can be modified to remove possibility of anti competitive elements. The panellists presented a holistic view of the entire process by including views from members of government, industry, academia and lawyers.

2ND SESSION

The second session focused on ‘Trade Associations, Cartels and Leniency’ and was chaired by Mr. Augustine Peter, Member, CCI. Prof. Viswanath Pingali, Professor, IIM Ahmedabad was the moderator for the session and the panellists were Mr. Samir J Shah, Chairman, CII Gujarat Panel on Skill Development & Affirmative Action and Partner, JBS Group of Companies State Council, Mr. Manas Chaudhuri, Partner Khaitan and Co. and Chairman, ASSOCHAM National Council for Competition Law, Ms. Avaantika Kakkar, Partner, Cyril Amarchand Mangaldas, Mr. Ashish Doshi, Central Council Member, ICSI and Mr. Tushar Hemani, Chartered Accountant and Lawyer.

The second session focused mainly on the impact trade associations can have on the markets. The panel agreed that trade associations have a high potential to become breeding grounds for anti-competitive activities. The panel also agreed that the trade associations should take strong steps to promote anticompetitive behaviour by including competition law experts in their meetings. The participants from trade associations pointed out those trade associations try the best in their capacity to prevent anticompetitive conduct during their meetings.

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The panel also spent a substantial time of their discussion on dawn raids. The panellist stated that several checks and balances were already present which have to be necessarily followed during such a dawn raid. The panel also brought out the similarities between a dawn raid and an income tax raid. The panel concluded by stating that the best remedy available to an enterprise against fear of such raids is proper compliance.

EXHIBITION

The Conference also witnessed display of various kiosks and screening of audio-visual clips related to the theme of conference. On several kiosks, CCI's competition advocacy booklets along with other advocacy related material was made available.

SESSION ON VIBRANT GUJARAT

Post the open house session, a short session on Vibrant Gujarat was conducted wherein a short video presentation on Vibrant Gujarat Global Summit 2019 which is scheduled in January 2019 was made.

PARTICIPANTS

The day-long Roadshow was attended by around 350 participants from the industry, legal professionals, corporate lawyers, academics, law students and relevant stakeholders.

ANNEXURE 1

THIRD ROADSHOW ON COMPETITION LAW
PUBLIC PROCUREMENT | CARTELS | TRADE ASSOCIATIONS

Tuesday, December 18, 2018

Venue: Courtyard by Marriott, Ahmedabad, Gujarat

PROGRAMME

0900 – 1000 hrs.	Registration	
1000 – 1100 hrs.	<u>Inaugural Session</u>	
	Welcome	Dr. Navneet Sharma Head, School of Competition Law and Market Regulation, Indian Institute of Corporate Affairs
	Theme Address	Mr. Ashok Kumar Gupta Chairperson Competition Commission of India
	Address by the Guest of Honour	Dr. J. N. Singh Chief Secretary Government of Gujarat
	Address by Chief Guest	Mr. Vijay Rupani Chief Minister Government of Gujarat
	Vote of Thanks	Dr. Jaimin R. Vasa President, Gujarat Chamber of Commerce and Industry
1100 – 1130 hrs.	Tea/Coffee Break	

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1130 – 1300 hrs.	<u>SESSION 1 - Open House on Infusing Competition in Public Procurement</u> <i>a. Integrity in public procurements</i> <i>b. Bid design</i> <i>c. E-procurement – Benefits and challenges</i> <i>d. Red Flags and Monitoring</i> <i>e. Best Practices by State Governments</i> <i>f. Policy Interventions to Promote Competition</i>	
	Session Chairman	Mr. A. M. Tiwari Additional Chief Secretary Home Department Government of Gujarat
	Session Moderator	Ms. Shweta Shroff Chopra Partner Shardul Amarchand Mangaldas & Co.
	Panel Speakers	Mr Manoj Pandey Adviser Competition Commission of India
		Mr. S. Suresh Kumar Additional CEO Government eMarketplace (GeM)
		Ms. D. Thara CEO Gujarat CSR Authority
		Prof. Anurag Agarwal Professor IIM Ahmedabad
		Mr. Jaimin Shah MD and CEO Dev Information Technology Ltd.
	Open House Discussion/ Q&A	
1300 – 1345 hrs.	Lunch Break	
1345 – 1515 hrs.	<u>SESSION 2 - Open House on Trade Association, Cartels & Leniency</u> <i>a. Cartels: Decision and Enforcement</i> <i>b. Leniency –</i> <i>(i) Effective Implementation of Lesser Penalty Regulations</i> <i>(ii) Confidentiality</i> <i>c. Dawn Raids - Perspectives</i> <i>d. Trade Associations – Platform for Industry representation or</i>	

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	collusion? e. Effective Compliance and Competition Culture
	Session Chairman Mr. Augustine Peter Member, Competition Commission of India
	Session Moderator Prof. Viswanath Pingali Professor IIM Ahmedabad
	Panel Speakers Mr. Samir J Shah Chairman, CII Gujarat Panel on Skill Development & Affirmative Action and Partner, JBS Group of Companies State Council
	Mr. Manas Chaudhuri Partner Khaitan and Co. and Chairman, ASSOCHAM National Council for Competition Law
	Ms. Avaantika Kakkar Partner Cyril Amarchand Mangaldas
	Mr. Ashish Doshi Central Council Member ICSI
	Mr. Tushar Hemani Chartered Accountant and Lawyer
	Open House Discussion/ Q&A
1515 – 1530 hrs.	VIBRANT GUJARAT SESSION