

OPTIMISING THE SETTLEMENT LAWS – A NEW HORIZON FOR COMPETITION REGULATIONS

POLICY BRIEF

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List of Abbreviations

CCI	Competition Commission of India
DG	Director General
EU	European Union
IBC	Insolvency and Bankruptcy Code
MRTP	Monopolies and Restrictive Trade Practices
NCLAT	National Company Law Appellate Tribunal
SEBI	Securities and Exchange Board of India
US	United States

1. Introduction

India's approach to competition law has had to evolve rapidly with the significant growth and penetration of its digital economy. Historically, prior to the enactment of the Competition Act, 2002, India relied on the Monopolies and Restrictive Trade Practices (MRTP) Act, 1969. The MRTP Act, however, soon became almost obsolete because it proved inadequate in addressing the complexities of modern market systems and dynamics. The MRTP Act was mostly focused on curbing monopolies and lacked the sophistication needed to address emerging forms of anti-competitive agreements and abuse of dominance.

The Competition Act, 2002, was thus enacted, drawing inspiration from several established jurisdictions. Through this Act the Competition Commission of India (CCI) was constituted as the principal body to regulate and enforce competition law, promote fair competition, and maintain market integrity. The CCI is mandated to prevent anti-competitive agreements, prohibit abuse of dominant position, and regulate mergers and acquisitions that could potentially have an adverse effect on competition within India.

The Competition Act of 2002 was certainly an improvement to the earlier MRTP Act, however, with the growth of India's digital economy new and unique challenges and opportunities surfaced for the CCI. Digital markets, characterised by network effects, data-driven competition, and rapid innovation, required a nuanced regulatory approach. The CCI has had to adapt its enforcement strategies to address issues such as algorithmic collusion, predatory pricing by dominant digital platforms, and anti-competitive bundling of services. The increasing prevalence of digital platforms and e-commerce has also meant that the CCI has had to consider the global dimensions of competition law, given that many digital businesses operate across borders. Hence the Act was once again amended in 2023 to accommodate the newer challenges presented by India's rapidly growing digital economy.

It was no surprise that the case load and investigation load for CCI began to grow. Given the intricate nature of digital markets and the potential for protracted litigation, there were significant negative externalities in terms of cost of litigation for both regulator and for the parties concerned. The existing model was not the most efficient. Hence the CCI, in 2024, introduced fresh amendments and notifications to allow for settlements.

2. The Competition Commission of India (Settlement) Regulations, 2024

The Competition (Amendment) Act, 2023 introduced two procedural amendments i.e., settlement and commitment mechanisms, under Sections 48A and 48B, aimed at

promoting time-bound resolution of competition cases and improving compliance culture. These mechanisms were formally operationalised through the Competition Commission of India (Settlement) Regulations, 2024 (Notification No. 04 of 2024, dated 6 March 2024), which set out eligibility conditions, timelines and procedures for enterprises to propose settlements for alleged anti-competitive conduct.

In its 2023-24 Annual Report, the CCI Chairperson notes, *“The adoption of settlement and commitment mechanisms represents a pivotal shift in how we approach antitrust enforcement. These tools offer a pragmatic and efficient avenue for addressing competition issues without the prolonged processes typically associated with detailed investigations and litigation. These mechanisms not only offer a faster route to resolution but also promote procedural economy by reducing the burden on regulatory agencies and the judicial system. By streamlining enforcement actions, they contribute to greater efficiency in safeguarding competitive markets and protecting consumer welfare.”*

The CCI has emphasised that these regulations are intended to ensure “quicker market corrections” by allowing parties to reach negotiated outcomes before final adjudication. The Regulations permit applications after the Director General’s (DG) investigation but before the Commission’s final order. They are, however, restricted to **abuse of dominance** and **vertical agreement** cases, expressly excluding cartels and horizontal agreements. The framework also mandates consultation with the DG, invites objections from informants, and requires that proceedings be concluded within **180 working days** of receiving a complete application.¹

These provisions certainly mark a significant shift in India’s enforcement philosophy, from a purely punitive, often time consuming, approach to one that values expeditious solutions. As the first practical use of these mechanisms in April 2025, when the CCI accepted a settlement proposal from Google, after a long and protracted investigation since 2021. Under the settlement, Google proposed certain operational changes and also agreed to a 15 per cent settlement penalty. The Google settlement case not only demonstrates the efficacy of the settlement regulations, but also on how these regulations can become an important tool India’s competition governance.

3. Understanding the Potential Impact of Settlement Regulations

Settlement regulations have become a significant feature of competition law enforcement in numerous international jurisdictions, offering an alternative to protracted litigation. In jurisdictions such as the European Union (EU) and the United

¹ <https://www.cci.gov.in/images/whatsnew/en/gazette-notification-published-on-06-march-2024-regarding-the-competition-commission-of-india-se1709738701.pdf>

States (US), settlement procedures have been widely adopted and have significantly influenced competition enforcement without compromising enforcement aims. The advantages of such settlements are no different than what has been alluded to by CCI. For instance, they reduce the burden on competition authorities by saving time and resources. They also provide expeditious resolutions that offer businesses a certain sense of certainty and business continuity. Most importantly, it helps build consumer confidence by negating uncertainty.

International regulators use negotiated settlements to increase efficiency without sacrificing enforcement aims. The European Commission has a specific Settlement Procedure in Cartel Cases (Commission Notice on the conduct of settlement procedures) which details how such procedures would allow their Competition Commission to hear and handle more cases, with proper resolutions, with the same amount of resources. It states that these regulations bring greater monetary efficiency for the regulator. The US Federal Trade Commission likewise disposes matters through consent agreements / consent orders under its Rules of Practice which permit staff-negotiated agreements that the Commission may accept.

There also exists compelling precedence in India. The Securities and Exchange Board of India (SEBI) introduced settlement regulations in 2018 as a mechanism to resolve enforcement actions without formal adjudication. These regulations have had a notable impact on the Indian securities market, improving upon the earlier system in several key aspects.

Prior to the introduction of comprehensive settlement regulations, SEBI's enforcement process was primarily reliant on adjudication and the imposition of penalties through formal orders. This process was often time-consuming and resource-intensive, leading to delays in resolving violations and recovering funds for investors. The introduction of settlement regulations has provided a more streamlined and efficient alternative, allowing parties to resolve disputes through negotiated agreements. Furthermore, businesses also benefitted greatly from reduced legal costs and the avoidance of reputational damage associated with protracted litigation. SEBI received as many as 703 applications for settlement (403 in 2023-24), of which 284 were settled, while another 272 were either rejected, returned, or withdrawn (Business Standard, 17 August, 2025). By offering an opportunity to resolve violations without admission of guilt, SEBI incentivises entities to come forward and address potential breaches. This has presumably led to improved compliance within organisations and a greater willingness to cooperate with regulatory investigations.

Despite their benefits, SEBI's settlement regulations have faced certain challenges and criticisms. One concern is the potential for inconsistent application of the regulations, leading to perceptions of unfairness or bias. There have also been questions raised about the adequacy of transparency in the settlement process, with some stakeholders calling for greater disclosure of settlement terms and reasoning. Additionally, there are ongoing discussions about the appropriate level of penalties, including the use of non-monetary penalties, in settlement agreements, with some arguing that they should be more closely aligned with the severity of the underlying violations.

To address these challenges, SEBI has periodically reviewed and amended its settlement regulations, seeking to enhance their effectiveness and fairness. These efforts have included clarifying the criteria for settlement eligibility, strengthening the governance of the settlement process, and providing greater guidance on the determination of settlement amounts.

4. Challenges of Settlement Regulations

The impact of settlement regulations on deterrence and efficacy is a subject of ongoing debate. Critics argue that settlements, particularly those involving monetary penalties alone, may not provide sufficient deterrence against future misconduct. There are concerns that businesses may view settlements as a cost of doing business, rather than a genuine deterrent. However, proponents of settlement regulations contend that they can be an effective tool for achieving specific enforcement objectives, such as the recovery of funds for investors/consumers or the implementation of corrective measures to prevent future violations.

The effectiveness of settlement regulations depends on several factors. The terms of the settlement must be sufficiently robust to address the competition concerns effectively and deter future anti-competitive behaviour. There must also be sufficient transparency and oversight to ensure that the settlement process is fair to all parties and that the agreed-upon remedies are properly implemented and monitored. Some criticisms of settlement procedures include concerns about the potential for leniency, where businesses may choose to settle, in the interest of time, cost, and certainty, even if they have not engaged in anti-competitive conduct. Another concern that is often raised is if such settlements provide sufficient deterrence.

Drawing from the experiences of other jurisdictions, India can glean several valuable lessons for its own settlement regulations. Firstly, it is crucial to establish clear and transparent procedures for settlement negotiations, ensuring that all parties have a fair opportunity to participate and that the process is free from undue influence and bias,

particularly when it comes to several sensitive sectors in India. Secondly, the terms of settlements should be carefully tailored to the specific circumstances of each case, taking into account the nature and severity of the anti-competitive conduct, the potential impact on consumers, and the need for effective deterrence. Thirdly, the CCI should ideally invest in resources to monitor the implementation of settlement agreements, ensuring that businesses comply with their commitments and that the agreed-upon remedies are effectively implemented. For instance, in the Google case, it is required for Google to report its compliance with the settlement terms for five years.

5. Premises for the Discussion

Settlement regulations have become an increasingly important tool for the CCI. Settlement mechanisms allow parties to resolve competition concerns through negotiated agreements, often involving commitments to modify their conduct. These regulations provide a more flexible and efficient means of addressing anti-competitive behaviour, especially in dynamic digital markets where timely intervention is critical. Settlements can lead to quicker remedies and can help preserve competition without the need for lengthy and resource-intensive legal battles. They also offer an opportunity for the CCI to secure behavioural remedies tailored to the specific circumstances of the case, thereby fostering a more competitive digital ecosystem. Our webinar discussed and deliberated the importance, implications, and impact of the settlement regulations on competition law, regulatory oversight, and jurisprudence.

6. Outcomes of the Discussion

This discussion shed light on broad agreement that the settlement and commitment framework represents a necessary evolution in India's competition enforcement regime. The panel reiterated that the purpose of the CCI's settlement mechanism is not punitive publicity, but a collaborative and corrective process that enables market participants and the regulator to resolve violations without protracted litigation. The framework is intended to ease the burden on the CCI's enforcement machinery, free up institutional capacity, and offer parties particularly, MSMEs and digital market players, timely closure and regulatory certainty.

It was highlighted that the settlement mechanism is carefully circumscribed and it does not apply to cartels or horizontal agreements, and is limited to vertical restraints and abuse of dominance. This design ensures that negotiated settlements are not misconstrued as leniency for the most serious forms of collusion. At the same time, the mechanism does not create space for repeat misconduct; the intent is to correct behaviour, not to provide an avenue for enterprises to "pay and continue".

A significant part of the discussion centred on institutional bottlenecks. The National Company Law Appellate Tribunal (NCLAT) continues to face constraints relating to capacity, domain expertise, and the prioritisation of Insolvency and Bankruptcy Code (IBC) cases, which compress the time available for competition appeals. Participants noted that a more efficient settlement framework could help reduce the appellate burden by limiting the number of contested orders.

Panellists also highlighted the need to understand the post-penalty impact of enforcement. Questions were raised on how penalty proceeds are utilised and whether compensatory pathways exist for smaller or injured market players who bear the brunt of sustained market abuse. The absence of a direct compensatory mechanism remains a gap in ensuring fairness and restitution.

Across interventions, there was consensus that technology must play a more central role in enabling efficient settlements. The current system still relies heavily on manual processes, repetitive data submissions, and extended timelines. Participants pointed to the potential use of AI-driven analytics, standardised digital forms, single-window data submissions, and broader virtual hearings to reduce friction and improve the quality and speed of investigations. It was also suggested that CCI could draw from SEBI's own settlement regulations experience.

Finally, speakers emphasised the need for a more coherent integration of legal and economic analysis within the settlement ecosystem. In platform markets shaped by network effects and multi-sided interactions, purely legal reasoning is insufficient for robust enforcement. A more economic-rational approach would improve the credibility and market relevance of settlement orders.

7. Recommendations

Some of the key recommendations that emerged from the discussion are listed below.

- **Develop a mechanism to track repeat offenders:** Drawing from SEBI's approach, the CCI should maintain a system for identifying repeat violations and impose graduated penalties, including monetary and non-monetary measures, to deter recurring abuse.
- **Extend the timeline for filing settlement applications after the DG report:** Parties currently face tight windows. A calibrated extension would ensure meaningful engagement without compromising overall timelines.

- **Introduce a fast-track settlement procedure:** Several jurisdictions allow simplified settlement for clear-cut cases. A fast-track route could reduce burden on the CCI and improve predictability for businesses.
- **Clarify that settlement orders are not open to appeal (except judicial review):** CCI may strengthen communication around the non-appealability principle to reduce frivolous challenges while preserving constitutional remedies.
- **Improve market definition and assessment of market power:** The CCI should provide greater clarity on first principles of market definition, especially in digital markets, to ensure consistency across investigations.
- **Strengthen the DG's investigative processes:** Adopting elements of SEBI's investigation model such as structured evidence collection, clearer timelines and coordinated data gathering would enhance credibility and reduce delays.
- **Ensure that every settlement ruling includes economic and legal reasoning:** Explaining the economic rationale to any settlement decision is as important as understanding the legal rationale. Every order that is to be passed must be done so after thorough examination that is conducted under a legal and economic lens.
- **Leverage technology to streamline settlement proceedings:** Digital templates, AI-enabled data processing, and automated removal of repetitive information can improve efficiency and reduce procedural friction.
- **Enhance institutional capacity and domain expertise:** Additional manpower, specialised economic expertise and continuous training will be essential to implement settlements predictably and at scale. Conducting capacity building initiatives for MSMEs through industry bodies and associations for raising awareness on settlement processes, regulations, and its advantages will also be vital
- **Ensure transparency and clarify utilisation of penalty funds:** Periodic disclosures on penalty utilisation and exploration of models for compensating injured parties, especially small players, would strengthen public trust.
- **Introduce structured post-settlement monitoring:** Behavioural commitments should be monitored through measurable indicators to ensure genuine compliance and prevent the dilution of deterrence.

About Policy Consensus Centre (PCC)

The Policy Consensus Centre (PCC), founded by Ms. Nirupama Soundararajan and Mr. Arindam Goswami, emerges with a distinct mission: to conduct impactful policy research and drive policy transformations. Our focus encompasses pivotal sectors crucial for India's advancement, along with those that have been underexplored. In the intricate landscape of India, divergent opinions often hinder consensus-building for policymakers amidst diverse stakeholders.

PCC stands dedicated to comprehensive, evidence-driven research, promoting inclusivity and rigor. Our objective resides in cultivating accord among stakeholders through independent, data-centric analysis, a catalyst for meaningful policy shifts. In a climate where some research entities avoid unconventional subjects, PCC remains resolute in advocating thorough exploration across all sectors. Our belief underscores the necessity to scrutinize seemingly unconventional domains, an approach vital for identifying accurate risks and formulating sound policies.

PCC champions the synergy of economic rationale and empirical data, pivotal in fostering consensus and enabling effective policymaker engagement. In essence, PCC embodies a pioneering spirit committed to navigating uncharted territories, propelling well-informed policy decisions for India's holistic growth.

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