

January- June, 2011

S.No.	Date	News/Abstract	Comment
1.	Jan 04, 2011	<p><u>'CCI verdict on home loan foreclosure penalty a test case'</u> (By Joe C Mathew)</p> <ul style="list-style-type: none"> - The main question before CCI was to see whether there was an abuse of dominant position by any banks. - Samir Gandhi, associate partner of Economic Laws Practice the majority decision of CCI in the bank pre-payment penalty case is notable not just because it is its first substantive order on the merits of a case, but also because it clearly outlines the approach that CCI is likely to take when balancing consumer interests with the commercial practices of enterprises”. - While the majority verdict did not find merit in the argument of its investigation wing, thereby ruling in favour of banks, the dissenting rulings suggested it was indeed an issue of cartelisation. - The experts felt CCI should step up its advocacy activities, sighting such verdicts as case studies to avoid contentious decisions in future. <p>http://www.b-s.co.in/india/news/%5Ccci-verdict-home-loan-foreclosure-penaltytest-case%5C/420645/</p>	
2.	Jan 07, 2011	<p><u>CCI orders probe into high onion prices</u> (By Joe C Mathew)</p> <ul style="list-style-type: none"> - The CCI move has come at a time when India is reeling under food inflation, led by high onion prices. This has compelled the central government to ask the state governments to manage supply chains efficiently to rein in high prices of vegetables, including onions. - CCI is known to have found a prima facie case against onion trade, thereby hinting at the possibility of the existence of cartels that are creating an artificial price increase. <p>http://www.business-standard.com/india/news/cci-orders-probe-into-high-onion-prices/421031/</p>	
3.	Jan 12, 2011	<p><u>CCI gets HC go-ahead in case against DLF</u> (By Joe C Mathew)</p> <ul style="list-style-type: none"> - DLF’s petition in the HC had challenged the very first move of CCI in May last year, to ask its investigation wing to conduct an inquiry into the prima facie merit of the case. DLF also questioned the findings of the director general (investigations) of CCI - In an order on January 4, the HC rejected most of the complaints made by DLF against the actions of CCI in the case so far. <p>http://www.business-standard.com/india/news/cci-gets-hc-go-ahead-in-case-against-dlf/421559/</p>	

4.	Jan. 23, 2011	<p><u>Competition watchdog faces fresh challenge to jurisdiction</u> (By <i>Nikhil Kanekal, Sangeeta Singh & Utpal Bhaskar</i>)</p> <ul style="list-style-type: none"> - Delhi High Court stopped CCI from investigating alleged anti-competitive practices in aviation fuel supply by state-owned oil marketing companies (OMCs). OMCs approached the court challenging CCI's jurisdiction, stating that the case fell under the remit of the Petroleum and Natural Gas Regulatory Board (PNGRB). - The issue was whether CCI will have jurisdiction over a section of the market for which there exists a specialized statutory regulator? <p>http://www.livemint.com/2011/01/23232944/Competition-watchdog-faces-fre.html</p>	
5.	Feb 22, 2011	<p><u>CCI gears to check malpractices in biz</u></p> <ul style="list-style-type: none"> - The Competition Commission of India (CCI) plans to take stringent action against the business outfits engaged in malpractices that undermine the interests of the consumers. Sectors like real estate, entertainment, cement, petroleum, steel, travel industry, healthcare and education are on CCI's radar. - Dhanendra Kumar said the abuse of dominant position included imposing unfair conditions or price; predatory pricing; limiting production/market or technical development; creating barriers to entry; applying dissimilar conditions to similar transactions; denying market access; and using dominant position in one market to gain advantages in another market. - CCI is now fully geared to play its stipulated role as an effective instrument in accelerating economic growth through the various spin-off effects of competition in the economy and ensuring the markets work for the benefit of the common man. <p>http://www.business-standard.com/india/news/ci-gears-to-check-malpractices-in-biz/426060/</p>	
6.	Mar 11, 2011	<p>Godspeed!</p> <ul style="list-style-type: none"> - The author raises the question on the regulator's ability to deliver quick decisions. The commission will attempt to issue its final decision on a merger proposal within 180 days as against the 210 days required by the Competition Act. But six months are still too long for a transaction, and an adverse decision can prove too costly for the parties to the 	

		<p>merger.</p> <ul style="list-style-type: none"> – Regulators must learn from other countries and be competitive with them. The author also suggests that the quality staff is the primary requirement for regulatory agencies. Its decisions seemed to honour only the letter of the law, raising questions on whether it ignored its spirit. <p>http://articles.economictimes.indiatimes.com/2011-03-11/news/28680204_1_merger-proposal-mergers-and-acquisitions-competition-commission</p>	
7.	Mar 31, 2011	<p><u>End regulatory stasis- Empower or wind up the Competition Commission of India</u></p> <ul style="list-style-type: none"> – Since its inception in 2003, the CCI has been in the news, and for all the wrong reasons. Members of the judiciary questioned the legality of the clauses under which the government could exclude members of the judiciary while considering candidates for heading the CCI. The legal battle remained unresolved for several years, weakening the institution since its inception. – For well over five years, the CCI could not have a full-time chairperson and for most of this period, it had only one functioning member in Vinod Dhall. The latest challenge to the CCI has come from within the government. The finance ministry has piloted an amendment bill for the banking sector, which seeks to take away CCI’s jurisdiction over M&As by banks. – The government has two options before it. One, it can decide that the CCI must be suitably empowered by ending all such legislation in different sectors. Two, it can take the bold decision to scrap it without further delay. <p>http://www.business-standard.com/india/news/end-regulatory-stasis/430350/</p>	☹
8.	April 06, 2011	<p><u>Should the CCI be abolished?</u> (By Pradeep S. Mehta)</p> <ul style="list-style-type: none"> – The competition law needs to be amended to enable the Commission to work in an autonomous manner, without explicit and implicit government control. The author has suggested the following ways to have effective Competition Act: <ul style="list-style-type: none"> i) The procedure for selecting the chairman and members of the Commission needs to be re- examined. ii) The competition law needs to be amended to ensure its independence. iii) The law needs to be amended to enable the Commission to work in an autonomous manner. iv) Resolve overlap issues between the CCI and sector regulators permanently so that the integrity of our economic governance system is not suborned. 	☹

		<p>(By Amitabh Kumar)</p> <ul style="list-style-type: none"> – Competition law requires expertise, but to be effective the Competition Commission of India needs real autonomy. <p>http://www.business-standard.com/india/news/shouldcci-be-abolished/431035/</p>	
9.	April 25, 2011	<p><u>Merger, acquisition regime to be effective from June 1: Deora</u> (PTI)</p> <ul style="list-style-type: none"> – Under the Competition Act, companies with a turnover of more than Rs 1,500-crore will have to approach the CCI for approval before merging with another firm. Also, companies with combined assets of Rs 1,000-crore or more, or a combined turnover of Rs 3,000-crore or more, would require the CCI's nod. – The maximum time limit for the CCI to vet mergers has been reduced to 180 days from the earlier 210 days. <p>http://www.thehindu.com/business/Industry/article1766471.ece</p>	☺
10.	April 28, 2011	<p><u>CCI promises quick disposal of merger and acquisition cases</u></p> <ul style="list-style-type: none"> – The Commission would examine in detail only a few complex cases which would adverse effect on competition. <p>http://www.thehindu.com/todays-paper/tp-national/tp-andhrapradesh/article1775611.ece</p>	☺
11.	May 10, 2011	<p><u>CCI Orders Probe into 'Cartelisation' by Pvt Airlines</u></p> <ul style="list-style-type: none"> – Competition watchdog CCI has found prima-facie evidence of cartelisation by private airlines to take advantage of strike by pilots of national carrier Air India. According to the preliminary findings, the airlines have been found to have formed a cartel to decide ticket prices during the period when Air India pilots went on a strike. – The CCI has called private airlines on May 13 to pass an interim order. The interim order would ask private airlines to immediately stop opportunistic pricing of tickets. <p>http://news.outlookindia.com/items.aspx?artid=721441 http://www.samachar.com/cci-orders-probe-into-cartelisation-by-private-airlines-lfkvKRiecjh.html http://www.b-s.co.in/india/news/cci-orders-probe-into-cartelisation-by-pvt-airlines/134724/on</p>	☺
12.	May 12, 2011	<p><u>CCI eases merger regulations further, lowers filing fees</u> (By Sangeeta Singh)</p> <ul style="list-style-type: none"> – CCI has relaxed rules relating to M&As, after two months of extensive lobbying by industry and corporate law firms. Some significant changes have been introduced in March draft norms: <ul style="list-style-type: none"> i) reduction in the filing fee to Rs. 50,000-Rs. 10 lakh from Rs. 10-40 lakh, exempting certain kinds of transactions from being notified to CCI. ii) Only cases made (through board resolutions, binding documents, etc.) on and after 1 	☺

		<p>June will need CCI's approval.</p> <p>iii) A large number of business transactions have been given exemption, multiple filings in interconnected deals will not be required, besides elaborate safeguards have been built to protect deal confidentiality.</p> <p>iv) Maximum time it will take to approve M&As over a certain size from 210 days to 180 days.</p> <p>http://www.livemint.com/2011/05/12004100/CCI-eases-merger-regulations-f.html</p>	
13.	May 13, 2011	<p>'We'll ensure confidentiality of M&As'</p> <ul style="list-style-type: none"> - The CCI released guidelines for mergers and acquisitions (M&A) <p>http://timesofindia.indiatimes.com/business/india-business/Well-ensure-confidentiality-of-MAs/articleshow/8285904.cms</p>	☺
14.	May 25, 2011	<p>CCI probes carmakers on parts, servicing (By Nandini Sen Gupta)</p> <ul style="list-style-type: none"> - Top carmakers including Fiat, Honda and Volkswagen are under investigation by the Competition Commission of India (CCI) for restricting the supply of spare parts and technical know-how for servicing cars in the open market. - The contention is that when car brands have a limited distribution network, customers face inconvenience if their city does not have a workshop or dealer outlet. As a result the consumer is held hostage to the OEM dealerships. <p>http://timesofindia.indiatimes.com/business/india-business/CCI-probes-carmakers-on-parts-servicing/articleshow/8564191.cms</p>	☺
15.	May 30, 2011	<p>CCI order against NSE: A challenge for SEBI? (by Kripa Raman)</p> <ul style="list-style-type: none"> - A whole snarl of regulatory complications has been thrown up with the CCI finding the National Stock Exchange guilty of unfair trade practices in currency derivatives trading. - The order has created differences between the two regulatory bodies. NSE is registered under SEBI. Therefore SEBI needs to be the part of the whole process. Regulatory expert asked volley of questions. He asked, "Are NSE's actions within the arena that SEBI oversees. NSE itself is regulated by SEBI. Can SEBI just stand by and watch when an entity regulated by it is accused of unfair trade practices?" - It could be a possibility that the NSE has violated the Competition Act but has not violated any regulation governed by the SEBI, said another regulatory expert. "But that creates an anomalous situation in the regulatory arena. If one entity is not compliant with 	☹

		<p>one regulator but is compliant with another in respect of the same action, it is odd.”</p> <ul style="list-style-type: none"> – NSE can always say that all its schemes were approved by SEBI and that it was operating under its control. And where can its guilt lie?” asked a legal practitioner. – “Can SEBI just stand by and watch when an entity regulated by it is accused of unfair trade practices? Should it not look into the case at once?” <p>http://www.thehindubusinessline.com/markets/stock-markets/article2063191.ece</p>	
16.	Jun 3, 2011	<p><u>CCI to look at food price spike</u></p> <ul style="list-style-type: none"> – CCI is undertaking an exercise to look into competition issues into the agriculture sector with a focus on tracking down any "distortions and imperfections" in the distribution channel of commodities. – Process of price discovery will be based on direct field investigations and identification of competition and efficiency bottlenecks. <p>http://timesofindia.indiatimes.com/business/india-business/CCI-to-look-at-food-price-spike/articleshow/8701604.cms</p>	☺
17.	Jun 3, 2011	<p><u>Fair-play watchdog gets aggressive on cartels, monopolies (Pankaj Doval)</u></p> <ul style="list-style-type: none"> – The Chairman said that "To ensure fair and healthy competition in the Indian economy, the CCI is initiating a series of market studies to analyse and monitor the competitive dynamics in various industries. In the initial phase, we have taken up agriculture, steel and paper," <p>http://timesofindia.indiatimes.com/business/india-business/Fair-play-watchdog-gets-aggressive-on-cartels-monopolies/articleshow/8714260.cms?</p>	☺
18.	June 20, 2011 Sep 8, 2011	<p><u>Apple sued in India</u></p> <ul style="list-style-type: none"> – iPhone and iPad maker Apple Inc has come under the scanner of the Competition Commission of India for allegedly limiting the availability of its products to a few service providers using its dominant market position. Besides, Apple phones could only be serviced in Apple centres, which in turn charge high rates for servicing. <p>http://timesofindia.indiatimes.com/tech/news/hardware/Apple-sued-in-India/articleshow/8927565.cms</p> <p><u>CCI orders probe against Apple</u></p> <ul style="list-style-type: none"> – CCI has ordered investigations into allegations that iPhone- and iPad-maker Apple is limiting the availability of its products to few service providers using its dominant 	☺

		<p>position.</p> <p>http://articles.timesofindia.indiatimes.com/2011-09-08/hardware/30129798_1_iphone-apple-phones-anti-competitive-agreements-and-abuse http://www.financialexpress.com/news/cci-orders-probe-against-apple/843167/ http://www.business-standard.com/india/news/cci-orders-probe-against-apple/146198/on</p>	
19.	Jun 22, 2011	<p><u>MCA to look into regulatory overlap in competition law</u> (By Ronojoy Banerjee)</p> <ul style="list-style-type: none"> – Fearing a sectoral backlash against the competition law, MCA has formed a core committee to look at the issue of regulatory overlap in relation to the Competition Act. – Among the key mandates that the committee is empowered with is to identify specific examples of other extant laws that allow sectoral regulators to deal with competition issues. – The ministry wants the CCI to have a clear mandate to tackle every kind of competition issue that arises principally from three situations — cartels, abuse of dominance and combinations. – According to competition law expert M M Sharma, “the CCI is best suited to tackle every case of competition. There are many sectoral regulators like Trai, Central Electricity Regulatory Commission, Irda, Sebi and PNGRB which have been vested with powers to promote competition in their respective sectors. But since the CCI has got the special mandate, they are best suited to look into these issues.” – Pradeep S Mehta advised that structural issues should be dealt with the sectoral regulators and behavioural issues should lie with the CCI like it happens in Europe. <p>http://www.financialexpress.com/news/mca-to-look-into-regulatory-overlap-in-competition-law/806775/0</p>	😊
20.	June 24, 2011	<p><u>India’s top bourse fined for free trades</u> (By Mary Watkins)</p> <ul style="list-style-type: none"> – MCX-SX, backed by entrepreneur Jignesh Shah’s Financial Technologies Group, alleged that NSE had used its dominant position to eliminate competition from the Indian currency derivatives market by, among other things, not charging for its services. – India’s competition watchdog said that by not charging for currency derivatives transactions, NSE’s rivals had been forced to offer their services for free in order to compete. The regulator said it found “a clear intention on the part of NSE to eliminate 	😊

		<p>competition in the relevant market”</p> <ul style="list-style-type: none"> – The Competition Commission of India ordered the NSE to modify its zero price policy and introduce “appropriate transaction costs” within the next 60 days. <p>http://www.ft.com/intl/cms/s/0/8ecff4e0-9e8c-11e0-9469-00144feabdc0.html#axzz25mNvAcdd</p>	
21.	Jun 27, 2011	<p><u>FE Editorial: Competing for the future</u></p> <ul style="list-style-type: none"> – When a decision was taken to withhold some important codes from the trading software ODIN (developed by rival MCX-SX’s promoter firm Financial Technologies), it’s not clear just how focused NSE’s top management was on its implications. When the CCI’s powers were notified, and push came to shove, MCX-SX took the case to CCI; the latter investigated the matter and found NSE guilty of abusing its dominant position to stifle competition. – For company managements focused only on the future, this is timely wake-up call—it’s a good idea to stick to the straight and narrow since you don’t know when the past can come back to haunt the future. With this order, which NSE will certainly contest in the courts, India’s CCI has arrived as a serious competition watchdog. <p>http://www.financialexpress.com/news/fe-editorial-competing-for-the-future/809059/0</p>	