




July-December 2010

S.No.	Date	News/Abstract	Comment
1.	Jul 31, 2010	<p><u>No SC stay for Kingfisher appeal on CCI powers</u></p> <ul style="list-style-type: none"> - The Supreme Court today declined to stay a Mumbai high court order to Kingfisher Airlines to cooperate with an investigation by the Competition Commission of India on charges of forming a cartel with Jet Airways. - The question being argued is whether an injunction can be ordered if the commission comes to a preliminary opinion that an action by an enterprise is anti-competitive. <p>http://www.business-standard.com/india/news/no-sc-stay-for-kingfisher-appealcci-powers/403115/ http://articles.economictimes.indiatimes.com/2010-07-30/news/27610714_1_kingfisher-airlines-plea-against-cci-probe-competition-act</p>	
2.	Aug 02, 2010	<p><u>Is competition commission of India a jinxed body</u> (By Kumkum Sen)</p> <ul style="list-style-type: none"> - Most quasi judicial bodies encounter resistance and hostility at the start up stage, notably DRT and NCLT. But, the CCI's involvement in a raging legal battle with its own appellate body within months of becoming operational is unprecedented. - One of the first complaints before the CCI, was by JSPL, informing the SAIL had entered into an anti-competitive agreement with Indian Railways on supply of Rails in breach of Sections 3(4) and 4(1) of the Competition Act, ('Act'). - The Commission did not record any reason in arriving at a decision that there was a prima facie case based on SAIL's interim reply. - The Appellate Tribunal relied on Sections 53A and 53B which provide for disposal of appeals against decisions and orders passed by the CCI under various Sections of the Act, including but not limited Section 31(1) to hold that the direction for investigation amounted to a decision could be appealed from - It was submitted by the Counsel for CCI that if appeals are permitted to be filed by extending Section 53(A) relating to directions or to a process, it may open a flood gate of litigation encouraging litigants to file appeals and thereby scuttling investigative procedures altogether. - The key issue is that of jurisdiction and powers which will determine the future functioning of the CCI. - The other critical query is whether CCI is bound to record reasons for directing an investigation. As in case of other highly sensitive economic offences. It should be possible and desirable to 	

		record reasons, disclosed only under specific situations. http://www.business-standard.com/india/news/is-competition-commissionindiajinxed-body/403229/	
3.	Aug 11, 2010	<u>Should certain weak sectors be excluded from the jurisdiction of CCI?</u> <ul style="list-style-type: none"> – CCI has made recommendations to the Planning Commission, for the NCP, to scrap the import tariffs on power equipment which will hit domestic major BHEL and benefit Chinese equipment suppliers. The competition would benefit the consumer. But, as a nation, the interests of Indian manufacturers/ producers in sectors where they are not strong enough to compete should be sacrificed? This creates a dilemma between protection and competition. http://www.competitionlawindia.com/author/editor/	☺
4.	Aug. 23, 2010	<u>CCI suggests setting up State-level commissions</u> (PTI) <ul style="list-style-type: none"> – CCI has proposed setting up of State-level commissions to safeguard interests of small businesses and spread its reach to different parts of the country. http://www.thehindu.com/business/Industry/article589806.ece http://www.b-s.co.in/india/news/cci-suggests-setting-upstate-level-commissions/405615/	☺
5.	Sep 01, 2010	<u>CCI mulls probe into contracts for Commonwealth Games</u> (by Ronojoy Banerjee) <ul style="list-style-type: none"> – The commission has noted that several contracts relating to the Games have been doled out to private players without conducting a fair tendering process. There are serious competition violations. – CWG is a case of non-tendering. The simple and transparent tendering process for selecting a sponsorship servicing contract has not been followed. We need to find out which are the firms that benefited the most from non-tendering. http://www.financialexpress.com/news/cci-mulls-probe-into-contracts-for-commonwealth-games/675560/0	☺
6.	Sept. 9, 2010	<u>CCI probe cannot be challenged before Competition Appellate Tribunal: Supreme Court</u> (PTI) <ul style="list-style-type: none"> – The Supreme Court held that the CCI has authority to investigate directly pertaining to fair trade practices and its directions cannot be challenged before COMPAT but such powers have to be exercised sparingly and had put some time-bound conditions. http://www.thehindu.com/news/national/article622907.ece http://www.livemint.com/2010/09/09113925/CCI-probe-cannot-be-challenged.html <ul style="list-style-type: none"> • SC paves way for smooth working of Competition Commission (Hindustan Times) 	☺

		http://www.hindustantimes.com/India-news/NewDelhi/SC-paves-way-for-smooth-working-of-Competition-Commission/Article1-598614.aspx	
7.	Sept.10, 2010	<p><u>KFCC drags CCI to court over Raavan</u></p> <ul style="list-style-type: none"> - The chamber questioned the legality and validity of the commission's order in asking it to allow <i>Raavan</i> to be exhibited in Karnataka without any restriction. <p>http://www.thehindu.com/todays-paper/tp-national/tp-karnataka/article624264.ece http://www.southscope.in/kannada/news/karnataka-film-chambers-drags-raavan-court</p>	☹
8.	Sept.12, 2010	<p><u>CCI to maintain confidentiality in anti-competition probes: SC</u></p> <ul style="list-style-type: none"> - Any breach of confidentiality during the process of investigation, the corporates would be entitled to seek appropriate directions from the CCI. - Diljeet Titus, a senior partner at law firm Titus and Co, said, "The Supreme Court ruling and the directions given by it are welcome and will ensure speedier resolution of commercially sensitive disputes by the CCI." <p>http://www.hindustantimes.com/India-news/NewDelhi/CCI-to-maintain-confidentiality-in-anti-competition-probes-SC/Article1-599163.aspx</p>	☹
9.	Sep 13, 2010	<p><u>Govt mulls state watchdogs to tone up competition laws</u> (By Ronojoy Banerjee)</p> <ul style="list-style-type: none"> - In a bid to strengthen competition laws in the country, the government is mulling setting up state competition regulators to look into issues arising out of health and education that form a part of the state list. - According to a corporate affairs ministry official, it would not only create awareness about competition-related issues but would be well placed to deal with local problems effectively. - As per the plan, the Competition Commission of India would continue to operate as the apex competition body looking into high-profile disputes including inter-State problems and issues arising in the areas etched out in the Union and Concurrent list. - "State competition bodies would work towards strengthening competition in education, health and waste management issues of which they would be in the best position to understand because of their local expertise and act upon them directly <p>http://www.financialexpress.com/news/govt-mulls-state-watchdogs-to-tone-up-competition-laws/680745/0</p>	☺
10.	Sep 15, 2010	<p><u>M J Antony: CCI wins a 'competition'</u> (By M J Antony)</p> <ul style="list-style-type: none"> - The court ruled in a judgment running to over 100 pages that the commission can order an 	

		<p>investigation into a complaint of an anti-competitive agreement or abuse of dominant position in the market. It cannot be appealed against except in rare cases. It can also issue orders temporarily restraining a firm from carrying on a disputed act till the enquiry is over. A decision must be taken within two months.</p> <ul style="list-style-type: none"> - The court has, therefore, put enormous power in the hands of the commission. <p>http://www.business-standard.com/india/news/m-j-antony-cci-wins%5Ccompetition%5C/408110/</p>	☺
11.	Nov 22, 2010	<p><u>CCI imposes Rs 1 cr fine on KFA for not providing facts</u></p> <ul style="list-style-type: none"> - CCI imposed a fine of Rs 1 crore on Kingfisher for non-compliance. Kingfisher Airlines has not furnished certain information that the Director General (Investigations) had asked for while probing the case. - According to Section 44 (b) of the Competition Act 2002, if any person, being a party to a combination, "omits to state any material particular knowing it to be material, such person shall be liable to a penalty which shall not be less than Rs 50 lakh but which may extend to Rs 1 crore, as may be determined by the Commission". - The high court passed its judgment in favour of CCI, after which the probe resumed. <p>http://www.business-standard.com/india/news/cci-imposes-rs-1-cr-finekfa-for-not-providing-facts/415726/</p>	☺
12.	Nov 30, 2010	<p><u>CCI examining complaints against real estate companies</u></p> <ul style="list-style-type: none"> - CCI was examining 11 complaints of anti-competitive practices received against real estate companies. <p>http://www.thehindu.com/business/Industry/article922333.ece</p>	☺
13.	Dec 24, 2010	<p><u>CCI starts probe into airfares hike</u></p> <ul style="list-style-type: none"> - The fares continue to be on the higher side despite the Centre's intervention and tough talk. But the CCI, which looks into issues of cartelisation between airlines, has yet to formally initiate an inquiry into the matter. - For the past several years, airfares have become 'dynamic' and their levels depend on the market demand. Last year too, the competition regulator had sent notices to airlines whether they were acting together to raise or lower airfares. The airlines had then replied in the negative <p>http://m.indiatoday.in/story/cci-starts-probe-into-airfares-hike/1/124376.html http://businesstoday.intoday.in/video/probe-into-airfare-hikes/1/11681.html</p>	☺
14.	Dec 27 2010	<p><u>CCI outsources talent search to National Law School</u> (By Nikhil Kanekal & Utpal Bhaskar)</p>	

		<ul style="list-style-type: none">- NLSIU, the country's premier law school, has started the process of hiring officers for the understaffed CCI for a second year.- Pallavi Shroff said "None of the people (in CCI) really have experience on competition law. They all have to be trained. People from the European Union, United States of America and United Kingdom have been brought in to train them periodically. Everybody is learning." <p>http://www.livemint.com/2010/12/26203119/CCI-outsources-talent-search-t.html?atype=tp</p>	
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