








July-December 2011

S.No.	Date	News/Abstract	Comment
1.	Aug 17, 2011	<p><u>Competition Commission slaps Rs 630cr penalty on DLF</u> (By Tanushree Roy Chowdhury & Yogesh Kumar)</p> <ul style="list-style-type: none"> - CCI imposed penalty for misusing its dominant position in the market by drafting one-sided agreements with flat buyers in Belaire housing complex in Gurgaon. <p>http://timesofindia.indiatimes.com/business/india-business/Competition-Commission-slaps-Rs-630cr-penalty-on-DLF/articleshow/9628210.cms http://www.indianexpress.com/news/cci-fines-dlf-rs-630-cr-for-unfair-trade-practices/832940/ http://www.financialexpress.com/news/cci-slaps-rs-630-cr-penalty-on-dlf/832648/ http://www.business-standard.com/india/news/rs-630-cr-penaltydlf-for-unfair-trade-practices/446068/ http://www.thehindubusinessline.com/companies/article2611281.ece http://www.hindustantimes.com/News-Feed/HTBusiness/Competition-watchdog-slaps-Rs-630-cr-fine-on-DLF/Article1-734025.aspx</p> <p><u>CCI order may change realty scene</u></p> <ul style="list-style-type: none"> - Order will invite a revision of all one-sided clauses in the Builder-Buyer Agreement. <p>http://timesofindia.indiatimes.com/city/gurgaon/CCI-order-may-change-realty-scene/articleshow/9630219.cms</p>	<p align="center">☺</p>
2.	Aug. 31, 2011	<p><u>CCI asks DLF to stop unfair practices</u> (By Sangeeta Singh)</p> <ul style="list-style-type: none"> - CCI asked DLF to cease and desist from formulating and imposing such unfair conditions imposed on homebuyers in Gurgaon. - DLF spokesperson said “The company and its subsidiary will be filing an appeal with Compat shortly as the company continues to believe that it has a strong case.” - Supreme Court lawyer Anand Pathak disagrees and said “Firstly, how can one building become a so-called relevant market, and secondly, competition law is being used to achieve the goal of consumer protection, which in my view is wrong.” <p>http://www.livemint.com/Articles/2011/08/30215634/CCI-asks-DLF-to-stop-unfair-pr.html?atype=tp</p>	<p align="center">☺</p>

3.	<p>September 4, 2011</p> <p>Sept. 17, 2011</p>	<p><u>CCI order to act as a deterrent</u> (Biju Govind)</p> <ul style="list-style-type: none"> – CCI imposed a heavy penalty of Rs.630 crore on a Delhi-based real estate company for abusing its dominant position and issued a “cease and desist” order against forcing unfair conditions on the buyers of its flats. – The CCI is looking into more than 10 cases in which real estate companies had allegedly flouted norms or deemed to have carried out unfair trade practices. Today, it has become a powerful watchdog, apart from a redress forum for consumers, especially those buying homes. – Officials say the commission will look into issues involving every aspect of breach of contract between builder and consumer. This includes launching of projects without having the approval of the civic authorities, non-transparency in construction activities, and delay in delivery of homes. Some companies incorporate hidden clauses to increase prices, anticipating a shortage of labourers and a dearth of construction materials. – One of the main objectives of the commission is to make the markets work for the benefit and welfare of consumers. It will ensure a fair and healthy competition in economic activities in the country for faster and inclusive growth. <p>http://www.thehindu.com/todays-paper/tp-features/tp-propertyplus/article2421749.ece</p> <p><u>CCI’s punitive fine on DLF could be the first step towards greater regulation of the real estate sector</u> (by Sudipto Dey)</p> <ul style="list-style-type: none"> – The anti-monopoly watchdog’s plan to scrutinise buyer-seller contracts of other industry players, as well as their delivery track record, has sent the real estate industry into a tizzy. – The order has given the Centre and States a good opening to bring in more transparency in the operations of the real estate sector. This will also go a long way in stemming the flow of black money that the sector attracts. Regardless of the outcome of DLF’s appeal, this still will be viewed as a landmark moment in the real estate sector. <p>http://business.outlookindia.com/printarticle.aspx?278293</p>	
4.	Sept. 6, 2011	<p><u>CCI’s Tag of Market may Fail Legal Test</u> (By John Samuel Raja D)</p> <ul style="list-style-type: none"> – Under its three-step process to judge abuse of dominant market position, the CCI first defines what the relevant market is. It then ascertains if the company is a dominant player in that relevant market and, lastly, if it abused its dominance. 	

		<ul style="list-style-type: none"> – Rahul Singh (who advises companies on competition matters) said that in the DLF case, CCI has used all-India revenue data to estimate the company’s market share in Gurgaon, which might not be defensible in higher courts. – Samir R Gandhi, a competition lawyer with Economic Laws Practice said, “It is unclear on what basis the CCI decided that Gurgaon is the relevant market, and not the NCR.” – Another issue relates to use of an economic test called ‘small but significant and non-transitory increase in price’, or SSNIP, to determine relevant market. The CCI, in its order against the NSE in June, did not consider this test saying it’s not suitable in India but later in DLF case it used the same test. <p>http://epaper.timesofindia.com/Default/Scripting/ArticleWin.asp?From=Archive&Source=Page&Skin=ETNEW&BaseHref=ETD%2F2011%2F09%2F06&ViewMode=HTML&PageLabel=6&EntityId=Ar00600&AppName=1</p>	☹
5.	Sep 07, 2011	<p><u>DLF to challenge CCI order in Competition Appellate Tribunal</u> (By Dilasha Seth)</p> <ul style="list-style-type: none"> – DLF is planning to appeal against the CCI’s order imposing a Rs 630-crore penalty on the firm. – Research report has said DLF had the highest market share of overall residential development in Gurgaon in 2008 and 2009 which is denied by DLF.. – The Competition Appellate Tribunal takes about 12-18 months to deliver a verdict. R R Singh, director general of NAREDCO said, “Terming the penalty imposed on DLF by CCI is too harsh.” <p>http://www.business-standard.com/india/news/dlf-to-challenge-cci-order-in-competition-appellate-tribunal/448340/</p>	☺
6.	Sep 24 2011	<p><u>Competition watchdog headless amid mountain of cases</u> (By Ronojoy Banerjee)</p> <ul style="list-style-type: none"> – India’s anti-trust watchdog, saddled with dozens of high-profile cases of great import to the economy, is virtually rudderless since early June, with the Appointments Committee of the Cabinet yet to take a call on who should chair the body next. – Till date, there is little clarity as to when the commission, now being run by an acting chairman, will get its full-time chief. 	

		<ul style="list-style-type: none"> – Pradeep S Mehta said: “When the commission is operating without a full-time chairman, its advocacy functions could be impacted. This is an important time for the CCI when so many cases are pending. It needs a full-time chairman – Chawla’s name as the CCI chairman has been contested by Goel and Gupta, two of the commission’s members who were senior to him in the Indian Administrative Service. <p>http://www.indianexpress.com/news/competition-watchdog-headless-amid-mountain-of-cases/851069/0</p>	
7.	Oct 5, 2011	<p><u>Antitrust body seeks tighter M&A norms</u> (By Sangeeta Singh)</p> <p>An M&A between two companies now needs prior CCI approval if their combined sales is more than Rs4,500 crore. For global M&As, this threshold is \$2.25 billion with sales within India of Rs2,250 crore. However, in cases where the target company has sales of less than Rs750 crore the deal is exempt from CCI’s prior approval. CCI official said this wording could see many M&As being exempted, “especially if the acquisition is done through creating a special purpose vehicle with zero turnover”.</p> <p>http://www.livemint.com/2011/10/05003136/Antitrust-body-seeks-tighter-M.html http://businesstoday.intoday.in/story/antitrust-body-seeks-tighter-manda-norms/1/19138.html</p>	
8.	October 11, 2011	<p><u>Pharma acquisitions to be routed through CCI</u></p> <ul style="list-style-type: none"> – Brownfield investment would be allowed through the FIPB for six months, following which such acquisitions would be routed through the CCI <p>http://www.thehindu.com/todays-paper/tp-national/tp-newdelhi/article2527094.ece</p>	
9.	Oct 13, 2011	<p><u>Ashok Chawla to take charge as CCI chairman</u></p> <ul style="list-style-type: none"> – the Appointments Committee of Cabinet (ACC) has approved the appointment of Chawla as head of the anti-trust body. <p>http://articles.economicstimes.indiatimes.com/2011-10-13/news/30275439_1_ashok-chawla-cci-dhanendra-kumar http://www.indianexpress.com/news/ashok-chawla-to-head-cci/859774/ http://www.hindustantimes.com/India-news/NewDelhi/Ashok-Chawla-is-new-CCI-</p>	

		chairman/Article1-759754.aspx http://www.moneycontrol.com/news/business/new-cci-boss-ashok-chawla-promises-effective-competition_603132.html	
10.	Oct 17, 2011	<p><u>CCI efficacy to clear pharma deals doubtful: Experts</u> (By Joe C Mathew)</p> <ul style="list-style-type: none"> – Experts doubt the effectiveness of giving charge to CCI to scrutinise all mergers and acquisitions (M&As) happening in Indian pharmaceutical sector. According to them, competition law is not the appropriate platform to deal with the issue of developing and maintaining indigenous drug research capabilities for production of low-cost generic medicines. – Experts also feel the move to take away financial threshold limit for allowing CCI scrutiny of all pharma M&As is not practical – Pradeep S. Mehta considers the discussions about not having any financial thresholds for the pharma sector mergers/takeovers as “silly” and impractical <p>http://www.business-standard.com/india/news/cci-efficacy-to-clear-pharma-deals-doubtful-experts/452802/</p>	
11.	Oct 30 2011	<p><u>No ground for sectoral exemptions: CCI Chief</u></p> <ul style="list-style-type: none"> – Ashok Chawla is against granting exemptions to more sectors from provisions of competition law as it would dilute the purpose of the anti-trust legislation. The fundamental premise of competition law is that any commercial activity has to be in the purview of competition law. – Chawla said the exemptions should only be given to sensitive sectors like defence, atomic energy and, coins and currencies. Where even the state discharging functions are commercial in nature, for example the oil companies and parts of the railways, those logically cannot be exempted. – Section 54 of the Competition Act 2002, grants the government the power to exempt a sector from the purview of the CCI 	

		http://www.indianexpress.com/news/no-ground-for-sectoral-exemptions-cci-chief/867760/2	
12.	Nov 19, 2011	<p><u>Competition Commission of India to referee Indian hockey slugfest</u> (by Shruti Choudhury)</p> <ul style="list-style-type: none"> - India's officially-sanctioned hockey body is playing the bully by threatening sanctions against players who take part in hockey's version of the IPL organised by a rival group. - A senior CCI official said, "CCI will be looking into Hockey India's dominant role in the sport management aspect of the game and will seek international best practices as well." - According to competition law experts, such cases are very common internationally and CCI needs to set precedence in India. - Interestingly, in an identical case last week, the Delhi High Court had asked CCI to probe whether the All India Chess Federation (AICF) is abusing its dominant position by prohibiting players associating themselves with other chess federations. " <p>http://articles.economictimes.indiatimes.com/2011-11-19/news/30419506_1_hockey-india-competition-act-international-hockey-federation</p>	😊
13.	Nov 28, 2011	<p><u>State monopolies not exempt from Competition Act: Ashok Chawla</u> (By Shruti Choudhury)</p> <ul style="list-style-type: none"> - Chawla says proposals to grant the commission powers to conduct unannounced inspection on all businesses, which will give the watchdog more teeth, are under consideration. - Whenever there is a misuse of monopoly, CCI will take action. Another way to deal with government monopolies is advocacy, where CCI send advisory notes to departments and engage with them in changing their policy paradigms. <p>http://articles.economictimes.indiatimes.com/2011-11-28/news/30450357_1_competition-act-ashok-chawla-competition-law/2</p>	😊
14.	Dec 14, 2011	<p><u>CCI with Par Panel view to keep bank M&As out of its purview</u></p> <ul style="list-style-type: none"> - Competition watchdog CCI has welcomed parliamentary panel's recommendation to keep bank mergers outside its purview temporarily and said that it will pitch in wherever there is "an element of urgency" in decision making. - Chawla said "Where some weak bank or failing bank is going to be acquired by a healthy 	😐

		<p>bank where there is an element of urgency, where there is some dispatch required in the decision-making, CCI will intervene, but not across the board in respect of all mergers,"</p> <p>http://profit.ndtv.com/news/politics/article-cci-with-par-panel-view-to-keep-bank-m-as-out-of-its-purview-294094</p>	
15.	Dec 19, 2011	<p><u>Competition regulator to screen big JVs too</u> (By KG Narendranath, Ronojoy Banerjee)</p> <ul style="list-style-type: none"> – The corporate affairs ministry is considering two key changes in the Competition Act, 2002: <ul style="list-style-type: none"> i) to give the CCI regulatory powers over big joint ventures (JVs) and ii) to include deal size as a criterion for mergers and acquisitions (M&As) to come under the commission’s purview. – Policy behind it is that JVs have tendency to create concentration of market power, potentially harming competition within the relevant markets. <p>http://www.financialexpress.com/news/competition-regulator-to-screen-big-jvs-too/889468/</p>	😊
16.	Dec 20, 2011	<p><u>‘Don’t keep bank mergers out of CCI purview’</u></p> <ul style="list-style-type: none"> – CCI said the proposed exclusion of bank mergers from its purview was ‘not good’, as other sectors might also claim such exemptions. <p>http://www.thehindu.com/todays-paper/tp-business/article2730195.ece</p>	😐
17.	Dec 29, 2011	<p><u>Pharma deals may come under scanner</u> (By Joe C Mathew)</p> <ul style="list-style-type: none"> – The MCA is planning to amend the Competition Act, 2002, to introduce sector-specific assets and turnover thresholds for merger and acquisition (M&A) scrutiny. While the move is primarily meant to empower the CCI to take up the scrutiny of all M&As happening in the domestic pharmaceutical space, it will make sector-specific exemptions, if required, easy across industrial sectors. <p>http://www.business-standard.com/india/news/pharma-deals-may-come-under-scanner/460117/</p>	😊