

CUTS Comments on Competition Commission of India (Manner of Recovery of Monetary Penalty) Regulations, 2011

Background

The Competition Commission of India (CCI) is proposing amendments to its Monetary Penalty Recovery Regulations from 2011. These regulations, originally established under the Competition Act, of 2002, provide a framework for recovering monetary penalties imposed by the Commission on enterprises and individuals for specific violations.

The existing regulations were initially implemented on February 8, 2011, and have undergone two minor amendments - one in 2014 and another in 2021. The proposed amendments aim to streamline the penalty recovery process based on the Commission's accumulated experience in implementing these regulations over the years.

As part of the amendment process, the CCI is inviting stakeholder feedback. The legal basis for these regulations stems from Section 39 of the Competition Act, which empowers the Commission to specify the manner of recovering monetary penalties, and Section 64, which provides the regulatory-making power.¹

Overall Comments

We welcome the recent changes to the penalty recovery process, especially including “*person in default*” and their legal heirs. These changes improve the process's efficiency and clarity by providing clear definitions and structured procedures for issuing demand notices and recovery certificates.

The option for extended payment deadlines and instalment payments reflects a flexible approach, accommodating the financial realities of businesses. Additionally, the implementation of interest on outstanding penalties encourages timely compliance and offers a transparent framework for recovery.

Overall, these amendments demonstrate a commitment to fair competition in the market, ensuring that regulatory measures are effective and equitable. Some noteworthy examples include:

¹ [Draft amendments to the Competition Commission of India \(Manner of Recovery of Monetary Penalty\) Regulations, 2011](#)

1. **Clarification of Definitions:** The amendments provide clear definitions for terms such as “*enterprise in default*,” “*person in default*,” and “*recovery officer*.” This clarification aims to eliminate ambiguity regarding who is liable for penalties and who is responsible for their recovery.

2. **Issuance of Demand Notices:** The regulations stipulate that a demand notice must be issued to the relevant enterprise or person after a penalty is imposed. This notice will include a specified payment period (usually 30 days) which may be shortened at the Commission's discretion if necessary.

3. **Interest on Outstanding Penalties:** If penalties are not paid within the specified timeframe, a simple interest of 1.5% per month will accrue on the outstanding amount. However, the Commission cannot reduce or waive this interest under certain circumstances.

4. **Recovery Certificates:** The Commission can issue a recovery certificate if an enterprise or person defaults on payment. This certificate details the amount due and provides 15 days for payment before further recovery actions are initiated.

5. **Modes of Recovery:** The amendments detail various methods for recovering penalties, including the option to require third parties (such as banks or legal heirs) to pay amounts owed by the defaulting enterprise or person. This broadens the scope of recovery efforts beyond just the defaulting entity.

These amendments reflect the Competition Commission of India's efforts to enhance the efficiency of enforcing monetary penalties and ensuring compliance with competition laws, thereby promoting fair market practices.

About CUTS

CUTS is an independent, nonpartisan, and nonprofit think tank that focuses on enhancing the regulatory environment through evidence-based policy and governance interventions across various sectors.² Over its 40 years of operation, CUTS has evolved from a grassroots, consumer-centric organisation headquartered in Jaipur, with additional centres in Delhi and Kolkata, to opening overseas Resource Centers in Vietnam, Kenya, Zambia, Ghana, and Switzerland.

CUTS actively represents consumers' interests before state and central government ministries through various program centres, including the Centre for International Trade, Economics & Environment (CITEE)³, the Centre for Consumer Action, Research & Training (CART)⁴, the

² [CUTS International](#)

³ [CUTS Citee](#)

⁴ [CUTS Cart](#)

Centre for Human Development (CHD)⁵, and the Centre for Competition, Investment & Economic Regulation (CCIER).

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CUTS International has become a leading organisation in developing competition regimes, particularly in developing countries. Through extensive multi-country research projects, they have mapped competition frameworks across 121 countries and published comprehensive reports such as "Competition Regimes in the World"⁷ and the "India Competition Regulation Report."⁸ They have also conducted significant research initiatives like the "Towards a Functional Competition Policy for India" project.

Their work encompasses various areas, including policy development, advocacy, and international collaboration. Notable contributions include drafting consumer protection laws for Bhutan, forming the International Network of Civil Society Organisations on Competition (INCSOC), and contributing to India's Competition Act of 2002.

By adopting a multi-stakeholder approach and participating in global events with organisations like the WTO, World Bank, and OECD, CUTS International continues to generate knowledge, facilitate dialogue, and drive meaningful policy changes in competition law and regulatory frameworks across developing economies.

Signature

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⁵ [Cuts CHD](#)

⁶ [Cuts CCIER](#)

⁷ [Competition Regimes in the World – A Civil Society Report Vol-II - ccier](#)

⁸ [Launch of The India Competition & Regulation Report \(ICRR\) 2019 - ccier](#)

Consumer Unity & Trust Society (CUTS) expresses gratitude to the Competition Commission of India for inviting comments on the Draft Amendments to the Competition Commission of India (Manner of Recovery of Monetary Penalty) Regulations, 2011.

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