6 March 2020

Comments on the draft Competition (Amendment) Bill, 2020

Comments by Consumer Unity & Trust Society (CUTS International) on draft Competition (Amendment) Bill, 2020 are set out below:

Clause	Comment	Rationale
2(ba). Appellate Tribunal	The clause in the original Act should be replaced with the following words: **"Appellate Tribunal" means the Competition Appellate Tribunal" established under sub-section (1) of section 53A** In addition, all references in the Act to National Company Law Appellate Tribunal will be replaced with references to Competition Appellate Tribunal.	Not long ago, the Competition Appellate Tribunal (COMPAT) was wound up and its powers were transferred to the National Company Law Appellate Tribunal (NCLAT). The rationale for this move has never been clear. As it is, NCLAT is overburdened with appeals from the National Company Law Tribunal (NCLT) under Section 410 of the Companies Act, 2013. Further, all the insolvency and bankruptcy cases arising from the NCLT under Section 61 of the Insolvency and Bankruptcy Code 2016 are also placed before the NCLAT. Therefore, the cases coming from the Commission under Section 53A of the Competition Act have not received the due attention and expertise that they deserve. Further, the competition cases require niche knowledge of the subject and are distinctly distinguishable from other company law matters. Therefore, they need special expertise that can be possible only through constitution of a dedicated tribunal.
2(c). Cartel	The proposed amendment needs to be **retained.**	The extant definition restricts cartels to producers and sellers, with buyers having been left out. The proposed amendment aims at ensuring that buyers can also be punished for cartelisation. The main thrust of the

Clause	Comment	Rationale
		amendment in the definition is mainly to ensure that buyer cartels, which could create monopsony power, are also regulated under the Competition Act. This is quite commendable as it addresses a gap that has existed over such a long period.
2(f). Consumer	The proposed amendment needs to be **retained.**	The definition of 'consumer' has been broadened to include departments of government. This expansion is important as government departments are a significant market for private sector supplies. Thus, inclusion of government departments among the consumers makes it easier to prosecute anticompetitive issues arising from transactions involving government.
2(ia) and 8. Governing Board and all references to the Governing Board	The proposed amendment needs to be **deleted**. References to the "Governing Board" will need to deleted or be appropriately replaced by references to the "Commission". Accordingly, references to "part-time members" of the Governing Board will need to be removed or replaced at appropriate places with references to "members" of the Commission.	The proposed amendments provide no justification for establishing a governing board over the commission. While the need to obtain external advice in making regulation on matters relating to competition is important, this objective could be met by more effective ways and reforming/ improving the regulation making process of the Commission. Moreover, given the governing board was supposed to be manned by nominees and part-time members appointed by the government, and had the powers to superintendent, direct and manage affairs of the Commission, the likelihood of dilution of independence of the Commission was high should the proposed amendment be accepted as is. While there is no doubt that a channel of communication needs to be established between government and the Commission, a governing board may not be the best way to achieve this objective.

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		Experts have noted that the best way to go about designing a competition authority is for a country to start by considering the issues which seem to be most relevant to its domestic circumstances and the trade-offs they have to make. For instance, if the main concern in a country is that the civil service or the political class are corrupt, it may be useful to consider the adoption of various measures guaranteeing transparency in appointment process of the members of the competition authority and the independence of the status of the members as well as the transparency and the integrity of its decision-making process even if there is a risk that a very independent institution may carry less weight in terms of advocacy.[1] Consequently, introduction of Governing Board is unnecessary in Indian context and is likely to dilute the independence of the Commission owing to unwarranted government supervision in affairs of the Commission. The objective of obtaining external expertise can be achieved within the current structure of the Commission, which provides for constitution of expert advisory committees on different issues. These include committee on regulation through which external perspective and expertise on regulations could be easily obtained while preserving the sanctity of Commission in its current form.

[1] "*the long term effectiveness of competition authorities is not only dependent on the substantive quality of the economic analysis they perform or of the way they are managed but also dependent on the relevance of their institutional set up in the countries in which they are established.*" Frederic Jenny, The Institutional design of Competition Authorities: Debates and Trends, January 2016, at https://www.europarl.europa.eu/cmsdata/100755/Frederic%20Jenny%20The%20institutional%20design%20of%20Competition%20Authorities.pdf

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2(t) Relevant product market	The proposed amendment needs to be **retained**.	Currently, the Act only focuses on demand side substitutability as the criteria for defining the relevant market. In that regard, the definition was mainly from the perspective of the consumer. However, the proposed definition also embraces the supply side substitutability as the basis for concluding that products are in the same market. Thus, with this amendment, the market definition becomes more complete.
4(1) Abuse of dominant position	After the words "no enterprise or group" and before the words "shall abuse its…", insert the words "**alone or jointly with other enterprise or group**"	The extant section 4 of the Act, focusing on abuse of dominance, does not cover concerns related to collective or joint abuse of dominance. There are times when firms engaged in anticompetitive practices can escape prosecution simply because they have been wrongly accused of cartelisation when they are only exercising collective abuse of dominance. For instance, the onion cartel in India few years ago was an implicit cartel following price parallelism rather than an explicit cartel, and thus should have dealt with under the provisions of abuse of dominance. This is in line with the submission made by CUTS to the Competition Law Review Committee. Consequently, the proposed changes are required in the Act. However, since, not much jurisprudence is available on the concept of 'collective dominance', it may be advisable to adopt a calibrated and/or qualified approach in this regard. For instance, we may initially like to restrict application of this concept to very concentrated markets, where number of players are less or where two firms together hold more than two thirds of the market share.
4(2)	After the words "if an enterprise or a group", insert the words, "**alone or jointly with other enterprise or group**"	
4A. Protection to	The proposed amendment needs to be **retained**.	The exemptions given in the Act under section 3 on

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holders of intellectual property rights		intellectual property rights (IPR) as well as exports facilitation are now being made applicable to abuse of dominance as well. This amendment is in line with the submission that CUTS had made to the Competition Law Review Committee. Although agreements can be affected by the exercise of rights under IPR, the most applicable anticompetitive violation for IPR is abuse of dominance. However, section 4 of the Act, which focused on abuse of dominance, was hitherto not subject to exemptions on IPR grounds. Under the amendments, both anticompetitive agreements and abuse of dominance can be exempted in cases where there is reasonable imposition of conditions to protect rights under IPR. This is expected to go a long way in ensuring that the enforcement of competition law does not threaten innovation, and thus needs to be retained.
Proviso to 5. Combination 6(4) and 6(7). Exemption	After the first proviso and before the second proviso, insert the words, "**While prescribing any criteria in public interest, the Central Government will clearly state: a) the rationale for considering such criteria, b) its linkage with possible reduction of competition in the market, and c) steps that the Commission may consider while reviewing the proposed combination**"	The proposed amendment empowers the central government to prescribe additional criteria in public interest, on fulfilment of which the proposed combination will need to be reviewed by the Commission. However, no guidance is provided on considerations which the central government could have taken into account while prescribing such criteria. Also, there are no checks and balances to ensure that the powers bestowed upon central government are not misused. In its submission to the Competition Law Review Committee, CUTS had argued that there is need for a broader 'public interest' approach in competition analysis, particularly the need to also take care of producers' 'welfare', as a way of providing impetus to small businesses to grow. The public interest approach envisaged by CUTS differs from this open undefined public interest criteria which can be a tool for interference.

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		A review of literature on public interest considerations in competition law in general and combinations in particular reveal diverse approaches being adopted by different competition legislations. For instance, public interest considerations in South Africa and Nigeria include: development of particular industrial sector or region; employment; the ability of small businesses to become competitive; and the ability of national industries to compete in international markets. Some matured jurisdictions like Australia provide for broader public interest considerations such as ecologically sustainable development; social welfare and equity considerations; occupational health and safety, industrial relations and access and equity; economic and regional development, including employment and investment growth; the interests of consumers generally or of a class of consumers; the competitiveness of Australian businesses; and the efficient allocation of resources.[2] Despite the wide divergence, experts recommend a narrow, but well-defined list of public interest goals to be communicated to all stakeholders, including an explanation on the relevance of each of these goals to the current and foreseeable future status of the country.[3] In addition, capacity of the Commission to review the proposed combination on such considerations, ability of other authorities (such as central government departments in

[2] https://one.oecd.org/document/DAF/COMP/WP3/M(2016)1/ANN5/FINAL/en/pdf and https://www.researchgate.net/publication/331944061_Public_interest_consideration_in_competition_policy

[3] https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3256737

Clause	Comment	Rationale
		case of foreign investment or national security considerations) to review such transaction, must be considered. In this regard, the guidelines issued by the Competition Authority of Botswana may prove useful. These provide for the following test: "**the proposed merger would be likely to result in a benefit to the public which would outweigh any detriment attributable to a substantial lessening of competition or to the acquisition or strengthening of a dominant position in the market**".[4] In addition to the cost-benefit analysis, the guidelines in South Africa provides for a five-step test to aid the Commission analyse the proximity/ causality between public interest consideration and the proposed transaction: **1. determine the likely effect of the merger on the listed public interest grounds; 2. determine whether such effect is merger specific i.e.; causally related to, results / arises from, the merger; 3. determine whether such effect is substantial; 4. consider any likely effects to justify the approval, with or without conditions; and 5. consider possible remedies to address any substantial negative public interest effect.**[5] Some of the guidance available from other jurisdictions will be helpful in designing the public interest criteria in Indian context, the mechanism to test transactions against such criteria, avoiding unnecessary discretion and preventing

[4] https://www.competitionauthority.co.bw/sites/default/files/PUBLIC%20INTEREST%20GUIDELINES.pdf
[5] http://www.compcom.co.za/wp-content/uploads/2017/11/Gov-Gazette-Public-Interest-Guidlines.pdf

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		misuse. In addition, with the advent of digital economy, thresholds in addition to the turnover and asset-based thresholds to review transactions. For instance, the German and Austrian competition authorities have recently introduced **transaction size thresholds**. Experts have also suggested **market share thresholds**.[6] While it is important to consider applicability of such thresholds in Indian context, it may not be advisable to club them with the public interest criteria.
8(1). Composition of the Commission	As indicated earlier, all of the proposed amendments to sub-section (1) of section 8, relating to the Governing Board, will need to be **rejected**. Accordingly, all references to Governing Board will either need to be deleted or appropriately replaced with references to Commission. Similarly, all references to whole time members or part time members will need to be deleted or appropriately replaced with references to Members of the Commission. Sub-section (1) of section 8 in the principal Act will be replaced with the following: **"The Commission shall consist of a Chairperson, and six other Members, of which three will be Judicial Members, to be appointed by the Central Government.** **Provided that a Judicial Member is a Member who is qualified to be Judge of a High Court."**	The Commission always had judicial and non-judicial members. The Supreme Court, in the matter of State of Gujarat vs. Utility Users Welfare Association (2018 SCC OnLine SC 368), ruled that the presence of a judicial member while making an adjudicatory decision would be necessary to meet the test of constitutionality. The judgement was reiterated by the Delhi High Court in Mahindra Electric Mobility Ltd. v. CCI (2019 SCC OnLine Del 8032). The Delhi High Court directed mandatory presence and participation of a judicial member in Commission's adjudicatory proceedings, particularly when final orders are made. In order to ensure compliance with the evolving jurisprudence, a certainty is required with respect of number of judicial and non-judicial members in the Commission. This can be ensured by incorporating the suggested change.

[6] https://www.azbpartners.com/bank/introduction-of-alternative-merger-control-thresholds-is-it-the-way-forward/

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8 (2).	The proposed amendments regarding chairperson and members to the Commission to have expertise and experience on technology and administration needs to be **retained**.	Competition law enforcement cannot remain oblivious to increasing influence of digital technologies in all facets of economy. Thus, it will be important for the members of the Commission to have been exposed to and have working knowledge of technology and related issues.
12 (b). Restriction on employment of chairperson and members in certain cases	The proposed amendment restricting appointment of chairperson and members of the commission after ceasing their office needs to be **retained**.	The possibility of offering post-retirement benefits to chairperson and members of the Commission by private and public sector alike needs to be prevented. This would reduce the possibility of misaligned incentives for the members of the Commission, bolster functional independence of the Commission.
Proviso to 12(2)	**The proposed proviso exempting appointment of chairperson and members of the commission after ceasing their office with the government needs to be deleted.**	
16(1). Appointment of Director General	The proposed amendment vesting the power to appoint the Director General in the Commission needs to be **deleted**.	The transfer of the power to appoint the Director General from the Central Government to the Commission might comprise independent functioning of the DG and may result in concentration of the power with the Commission. The investigative arm of antitrust regulators should be independent of the adjudicatory or rule making functions of the regulator. In other jurisdictions as well, the investigative arms remain independent of the competition regulator. In USA, for instance, the Federal Trade Commission (FTC) and the Department of Justice-Antitrust Division investigations have

Clause	Comment	Rationale
		remained independent over the years. The Commissioners of the FTC are nominated by the President of the United States of America and confirmed by the Senate. In European Union, the European Commission appoints the officers in the Directorate-General for Competition, including the Director General, and not the Commissioner for Competition. Consequently, the proposed amendment needs to be rejected.
18A. Functioning and meetings of the Governing Board	The section will need to be **replaced** by the following: **18A. National Competition Policy** **1. The Commission will assist the Central Government in adopting a National Competition Policy.** **2. Within 60 days of this section coming into force, the Commission will submit a draft National Competition Policy to the Central Government, subsequent to review of the draft available in public domain and inviting suggestions from the public on such draft.**	The proposed amendment requires the Governing Board to assist Central Government in developing a National Competition Policy. Given the proposal to establish a governing board will need to be done away with, the function needs to shift to the Commission. However, there is no need to reinvent the wheel. Already a draft of National Competition Policy drafted in November 2011 is available on the website of Ministry of Corporate Affairs.[7] The same could be utilised as a draft for public consultation and an updated draft should be submitted to the Central Government by the Commission at the earliest.
21(1). Reference by Statutory Authority	In sub-section (1), replace the word "may" after the words "statutory authority" and prior to the words "make a reference" with the word "**shall**" In the proviso, replace the word "may" after the words "statutory authority", and before the words "suo moto" with the word "**shall**"	The need for coordination between the commission and statutory agencies has been well recognised for long and has been getting stronger with emergence of other statutory authorities (such as the proposed Data Protection Agency). However, experience has pointed towards weak coordination owing to the need for consultation between the commission and statutory agencies being optional. Absence of

[7] https://www.mca.gov.in/Ministry/pdf/Revised_Draft_National_Competition_Policy_2011_17nov2011.pdf

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21(2).	The proposed amendment to replace the words "recording reasons" with the words "or give its observations" needs to be r**ejected**.	institutionalised mechanism has also contributed to limited coordination. This has not augured well for development for the market, ensuring optimal competition, and preventing its distortion. Thus, statutory agencies and the commission must necessarily coordinate in areas of mutual interest, and provide reasons for their decision after considering opinion of the other authority. To ensure effective coordination, they must enter into a memorandum of cooperation to foster effective and proactive coordination.
21A. Reference by Commission	In sub-section (1), replace the word "may" after the word "Commission" and prior to words "make a reference" with the word "**shall**" In the proviso, replace the word "may" after the word "Commission" and before the words "suo moto" with the word "**shall**" Also, the following will be added as the second proviso after the first proviso to section 21A: **Provided that the Commission will enter into a memorandum of understanding with relevant statutory authorities to facilitate periodic coordination between the Commission and the statutory authority.**	
21A(2).	The proposed amendment to replace the words "recording reasons" with the words "or give its observations" needs to be r**ejected**.	
22(4).	As indicated earlier, in the proposed amendment, the reference to whole-time Members will need to be replaced with reference to Members. In addition, following proviso will be added to the section: "**Provided that at least one Judicial Member is part of each Panel and will participate in all functions of the**	As indicated earlier, in the matter of Mahindra Electric Mobility Ltd. v. CCI (2019 SCC OnLine Del 8032), the Delhi High Court directed mandatory presence and participation of a judicial member in Commission's adjudicatory proceedings, particularly when final orders are made. The suggestion will ensure compliance with the order.

Clause	Comment	Rationale
	Panel"	
41(5). Director General to investigate contravention	After the provision "produced before the Director General", the words "may be" should be replaced with: "**shall be**".	After dispossessing the original holder of the documents, the Director General should not have the authority to deprive the person of any right that may accrue to her/him by virtue of possession of those documents. A certified copy of those documents should be the right of the person in possession of that document.
47 Crediting sums realised by way of penalties	Replace the section with following text: **"1. All sums realised by way of penalties under this Act shall be credited to the Competition Advocacy Fund, which will be constituted under this Act.** **2. The Competition Advocacy Fund shall be applied solely for the purpose of competition advocacy such as generating awareness regarding pro-competition and anti-competitive policies and practices.** **3. The Commission may provide funding, and collaborate with experienced and credible consumer rights organisations, to comply with the objective under this section."**	The awareness about competition issues in India is still very low. There is a need to have dedicated resources on this issue. Consequently, on the lines of consumer welfare fund set up under the Central Excise and Salt Act,[8] the CGST Act 2015,[9] the Telecommunication Consumers Education and Protection Fund,[10] the Act must retain such funds for purposes of competition advocacy. The Commission may collaborate with credible consumer organisations in this regard.
48A. Settlement	After sub-section (3), add the following words:	The draft Bill introduces two new Sections 48A and 48B, allowing parties to apply to settle the investigation initiated

[8] Innovative Funding for Consumer Groups, Intergovernmental Group of Experts on Consumer Law and Policy, 2017

[9] https://consumeraffairs.nic.in/organisation-and-units/division/consumer-welfare-fund/overview

[10] www.trai.gov.in/sites/default/files/201209030250489400257regulation15jun07%5B1%5D.pdf

Clause	Comment	Rationale
	"**Provided that an application under sub-section (1) or any order by the Commission under this sub-section shall not be construed as admission of or findings on contravention of the provisions of the Act by the applicant or the Commission, as the case may be."** After sub-section (4), add the following words: **"Provided that an order of rejection under this sub-section shall not be relied upon by the Commission or the applicant in such subsequent inquiry under section 26 of the Act"** Add a new sub-section (8): "**Subject to the provisions of section 48C, once the Commission has passed an order under sub-section (3), no cause of action, including under Section 53N of the Act, shall arise from the same conduct of the party or parties who entered into a settlement with the Commission.**"	under Section 3(4) or Section 4 of the Act against them (after the receipt of the Director General's report but prior to a final order), or offer commitments to close such an investigation (after the prima facie order directing an investigation, but prior to the receipt of the DG Report). The settlement and commitment procedure will thus apply to cases of restrictive vertical agreements and abuse of dominant position but not to cartels. **The commitment mechanism is only available during the course of the investigation and prior to the DG Report being submitted. Given that the investigation is conducted on a confidential basis, the opposite parties being investigated are not aware of the exact nature of the investigation including the evidence being collected against them. The timing of the commitment mechanism expects the parties to speculate the nature of allegations, potential contravention and the evidence collected against them, and offer commitments. Therefore, in the absence of details of the investigation, the commitments offered by the parties may not be constructive and meaningful. Additionally, there is no clarity if a compensation claim can be made if a party has opted for such a mechanism.** Under the Draft Bill, settlement or commitment mechanism can be availed prior to a final order being passed by the Commission under section 27 or 28 of the Competition Act. In the event, this mechanism is availed successfully by the party(ies), there shall not be a final order of the Commission. Whilst the Draft Bill states that there cannot lie an appeal

Clause	Comment	Rationale
		against any order passed by the Commission for settlement or commitment, it does not clarify whether a compensation claim can lie against a settlement or commitment order. As under the Competition Act, an application for compensation claim can be filed only against the final order of the Commission, the Draft Bill should clarify that there cannot be a compensation claim against a settlement or commitment order. **There should be wider time-framework for commitment mechanism upon initiation of an investigation. The provision should allow an opposite party the opportunity to provide commitments prior to the Commission directing an investigation.** Procedure followed by other jurisdictions also demonstrates the need to have a wider time limit for the commitment process. In fact, many competition law regimes do not have a fixed timeline for commitment discussions. This is because commitment decisions do not require extensive and long-lasting investigations but offer a relatively fast and flexible means to address antitrust concerns compared to full-fledged investigations. **Further, the Commission or the DG as the case may be, should permit some level of visibility and transparency during the investigation stage to allow parties to structure their commitments.**
53A. Appellate Tribunal	In place of Section 53A in the original Act, the following Section should be inserted: " **(1) The Central Government shall, by notification, establish an Appellate Tribunal to be known as Competition Appellate Tribunal to:**	As indicated earlier, the NCLAT will need to be replaced with a dedicated Competition Appellate Tribunal.

Clause	Comment	Rationale
	(a) hear and dispose of appeals against any direction issued or decision made or order passed by the Commission under appropriate sections of this Act; **(b) adjudicate on claim for compensation that may arise from the findings of the Commission or the orders of the Appellate Tribunal in an appeal against any finding of the Commission, and pass orders for the recovery of compensation** **(2) The Headquarter of the Appellate Tribunal shall be at such place as the Central Government may, by notification, specify.**" Accordingly, other sections of the Act will need to be amended.	
63. Power to make rules	Following will be inserted as section 63(3): **While exercising powers under sub-section 1, the Central Government will comply with the following procedure:** **1) The Central Government must publish a draft of a proposed rule, accompanied with a statement setting out, –** **(a) the objectives of the proposed rule;** **(b) the problem that the proposed rule seeks to address;** **(c) how solving this problem is consistent with the objectives of the Authority under this Act;** **(d) the manner in which the proposed rule will address this problem;**	Despite having wide powers under this section, the Central Government has not been mandated to ensure adequate transparency and accountability while issuing rules. There is no requirement to undertake cost-benefit analysis (CBA), public consultation while framing rules or periodically reviewing them. Consequently, the Act must mandate adopting scientific regulatory decision-making processes, in order to frame optimal rules, wherein the costs of regulations do not outweigh its intended benefits. The Central Government must undertake time-bound public consultation and should also review the justification of regulations from time to time.

Clause	Comment	Rationale
	(e) the manner in which the proposed rule complies with the provision of this Act under which the regulation is made; **(f) an analysis of costs and an analysis of benefits of the proposed rule;** **(g) the process by which any person may make a representation in relation to the proposed regulation** **For the purpose of this sub-section, when carrying out an analysis of costs and benefits, the Central Government must consider probable costs that will be borne by and the probable benefits that will accrue to persons affected by the rule. The Central Government must use the best available data, and wherever not available, reasonable estimates, to carry out the analysis; and the most appropriate scientific method available to carry out the analysis.** **2) The Central Government must:** **a) give a time of not less than thirty days to enable any person to make a representation in relation to the proposed rule and consider all representations made to it within that time.** **b) publish all the representations received by it along with a general account of the response of the Central Government to the representations.** **3) If the rules differ substantially from the proposed regulations, the Central Government must publish the details and reasons for such difference; and an analysis of costs and an analysis of benefits, of the differing provisions.**	

Clause	Comment	Rationale
	4) (1) The Central Government must review every rule made by it within three years from the date on which that rule is notified.	
64. Power to make regulation	Following will be inserted as section 64(4): **While exercising powers under sub-section 1, the Commission will comply with the following procedure:** **1) The Commission must publish a draft of a proposed regulation, accompanied with a statement setting out, –** **(a) the objectives of the proposed regulation;** **(b) the problem that the proposed regulation seeks to address;** **(c) how solving this problem is consistent with the objectives of the Commission under this Act;** **(d) the manner in which the proposed regulation will address this problem;** **(e) the manner in which the proposed regulation complies with the provision of this Act under which the regulation is made;** **(f) an analysis of costs and an analysis of benefits of the proposed regulation;** **(g) the process by which any person may make a representation in relation to the proposed regulation** **For the purpose of this sub-section, when carrying out an analysis of costs and benefits, the Commission must consider probable costs that will be borne by and the probable benefits that will accrue to persons affected by the regulation. The Commission must use the best**	Despite having wide powers under this section, the Commission has not been mandated to ensure adequate transparency and accountability while issuing regulations. There is no requirement to undertake cost-benefit analysis (CBA), public consultation while framing regulations or periodically reviewing them. Consequently, the Act must mandate adopting scientific regulatory decision-making processes, in order to frame optimal regulations, wherein the costs of regulations do not outweigh its intended benefits. The Commission must undertake time-bound public consultation and should also review the justification of regulations from time to time. Inclusion of sunset clauses for regulations have been recommended in this regard.

Clause	Comment	Rationale
	available data, and wherever not available, reasonable estimates, to carry out the analysis; and the most appropriate scientific method available to carry out the analysis. **2) The Commission must:** **a) give a time of not less than thirty days to enable any person to make a representation in relation to the proposed regulation and consider all representations made to it within that time.** **b) publish all the representations received by it along with a general account of the response of the Commission to the representations.** **3) If the regulations differ substantially from the proposed regulations, the Commission must publish the details and reasons for such difference; and an analysis of costs and an analysis of benefits, of the differing provisions.** **4) (1) The Commission must review every regulation made by it within three years from the date on which that regulation is notified. The review must comprise an analysis of:** **a) costs and an analysis of benefits of the regulation;** **b) all interpretations of the regulation made by relevant quasi-judicial and judicial authorities; and** **(c) the applicability of the regulation to any change in circumstances since that regulation was issued.** **(2) The report prepared by the Commission of such review should be made public.**	

Clause	Comment	Rationale
	(3) Unless notified again before the conclusion of three years of notification of regulation and three months within its review, a regulation will automatically lapse and cease to remain in force from the completion of three years of its notification.	

For any queriers, suggestions, or comments, please contact Udai S Mehta (usm@cuts.org), Amol Kulkarni (amk@cuts.org), Ujjwal Kumar (ujk@cuts.org), or Prakash Vaibhav (prv@cuts.org)

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