

Competition Law and Competition Policy in India: How the Competition Commission has Dealt with Anticompetitive Restraints by Government Entities

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Abstract

Can adoption of an antitrust/competition law substitute for a formal competition policy that lays down principles for reforming other government policies that affect competition? We address this question in the context of India, which has a track record of antitrust enforcement as well as a history of extensive controls over the private sector and domination of key sectors by state owned firms. After briefly summarizing these features, we argue that several clauses of the Competition Act, 2002, allow the Competition Commission of India (CCI) to challenge public restraints on competition. We then undertake a detailed review of several cases that have addressed public restraints and that have gradually extended the jurisdiction of the Act. We also identify some areas that remain beyond its reach—government policies that violate competitive neutrality, and discretionary purchases by public buyers—and we note possible social or business justifications for such restraints. Finally, we briefly discuss conflicts between the CCI and other regulatory agencies. We suggest that these remaining challenges can be addressed without laying down a broader policy.