

Q1. What are the strategic actions that your authority will undertake to contribute to the economic recovery and the envisaged activities to be implemented in this regard during the pandemic and beyond?

Response

1. As we are all aware, the unabated spread of COVID-19 has posed unprecedented challenges not only to public health but also to markets and economies. Businesses have responded with significant adjustments in the face of depressed demand, disrupted value chains and supply shortages. Market regulators have also had to re-examine their priorities and re-organise their operations. The Competition Commission of India, since the onset of the COVID-19 pandemic, has strived to facilitate businesses in their legitimate responses to this extraordinary situation while furthering its enforcement and advocacy agenda with unstinted vigour to make sure that consumers are not deprived of the benefits of competitive markets in these troubling times.

2. We believe that the Commission has an important role to play in economic recovery that would require reigniting private sector output and increasing productivity. The role of competition as a key driver of productivity and economic growth necessarily implies that the policy aimed at economic recovery should incorporate competition considerations. The value of competition needs to be acknowledged and embedded in policies as in the business conduct of enterprises. Our aim is therefore to step up our efforts in the months to come and develop a sustained and effective competition advocacy message to ensure a pro-competitive policy environment. To this end the participation of CCI in policy deliberations and engagement with various

arms of the Government assumes great importance. Policymaking is indeed an act of balancing various objectives and encouraging competition driven efficiency in allocations is one such objective that should be factored in policymaking discussions.

3. We recognised early during the pandemic that certain forms of co-operation between competitors are necessary to ensure essential supplies. This approach will be continued in order to maintain – or revive – the manufacturing and supply of essential products, severely disrupted by the pandemic. However, we will continue to monitor the developments closely and be vigilant in protecting competition and consumers in these turbulent times. The learnings thus far will inform our actions going ahead. While effective, transparent and flexible enforcement of the law will continue, the CCI will also promote competition as a guiding principle in building economic recovery. The goal will not only be to spur economic rebound but to also ensure that the steps towards recovery do not irreversibly alter markets. Reducing competition and competition enforcement in a crisis can entail heavy costs.

4. However, there may be certain country specific caveats. In India, MSMEs contribute nearly 8% of the country's GDP, around 45% of the manufacturing output, and approximately 40% of the country's exports. They are the backbone of the economy. This sector generates significant employment and its contribution with respect to entrepreneurship development especially in semi-urban and rural areas of India is immense. The pandemic has hit this sector hard. The lockdown due to the pandemic impacted the supply of finished goods, procurement of raw material and availability of employees to work in production and supply processes. The CCI has been cognizant of the economic distress brought about by the pandemic on the MSME sector. In this regard, we will continue to be guided by the larger goal of facilitating overall market correction rather than penalising individual firms through monetary penalties. Such accommodative stance of the regulator has been devised to meet the

extraordinary situation arising out of the global pandemic. We are sure that this approach would create the necessary confidence in business revival and encourage small and medium enterprises to rekindle their business activity while staying on the right side of the competition law.

5. We have seen that the pandemic has changed the way business runs. The ubiquitous role which technology plays in our lives has become even more accentuated due to the pandemic-induced lockdown in many countries across the world. Consumers have made a shift to digital modes of commerce for meeting their demands. This leaves them vulnerable to potential harmful effects of anti-competitive practices in digital markets, which are characterised by high concentration of market power. Going forward, the Commission would keenly observe the developments in the digital space for emerging competition dynamics and its related issues.

6. One way to support economic recovery is to redirect enforcement resources towards strategic markets and industries that are at the center of the recovery process. Digital sector maybe one such sector. Other areas of priorities would be to weed out cartels from crucial physical infrastructure sectors in order to spur economic growth

7. The Commission during the pandemic also continued with its practice of understanding market dynamics through the judicious use of market studies. The market study in the e-commerce sector was completed at the beginning of the year 2020 and a self-regulation charter was issued for the e-commerce marketplaces. During the pandemic, market studies on telecom sector, pharmaceutical sector and an issue-based study on common ownership were initiated by the Commission. The Commission like its other international counterparts is moving in the direction of more expert administration and problem-solving approaches rather than relying solely on adjudication.

8. The pandemic has brought the Pharma sector into focus as timely and adequate supply of medicines and healthcare at a reasonable cost has become critical not only in addressing health concerns but also revival of the economic activity. The Commission has received a number of cases from the sector in the past twelve years of its enforcement regime, pertaining mostly to the pharmaceutical distribution segment. Many of these conduct related cases before the Commission have shown that the entire supply chain of drugs is 'self-regulated' by the trade associations resulting in market distortions. The sector's peculiar structural features with their possible limiting effects on competition and the multitude of cases raising competition law issues, prompted the Commission to take a comprehensive look at the sector from a competition standpoint.

9. A market study was thus initiated in October 2020, with the overarching objective of understanding the competition landscape in the pharmaceutical sector in India. The study traversed the specific realms of the distribution architecture for drugs (including the emergence of e-pharmacies), trade margins, prevalence of branded generic drugs in India and its implications for competition. The pharmaceutical sector being a regulated sector, the study aimed to explore the areas of regulation-competition interface with a view to ascertain the Commission's advocacy priorities.

10. On the merger front as we usher economic revival, I would like to state that CCI will continue to make procedures on M&A front more business friendly and ease of business oriented as was done during the pandemic last year. We will review our M&A processes further to trim down procedures and make them hassle free for parties. While doing so, we will further add analytical tools for quicker market assessment in M&A cases.

11. Overall, the Commission will strive to step up its engagement with the stakeholders by highlighting the importance of competition compliance. More than being a strict watchdog and an intervening regulator, we would like to be perceived as a facilitator of competition and growth. We strongly believe that the Indian economy has enough resilience to overcome the challenges posed by the pandemic and CCI will play a vital role as a market regulator, in its recovery.
