COMPAT

Why in news?

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- The government of India recently initiated the process of implementing its budgetary announcement of merging eight autonomous regulatory tribunals.
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- One of the replaced tribunals was the Competition Appellate Tribunal (COMPAT) is now merged with the National Company Law Appellate Tribunal (NCLAT).
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What is the issue?

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- This merger is done with the pretext that it would reduce cost and improve the efficiency and working of the quasi-judicial agencies.
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- But there is little which suggests a consultation had taken place with the stakeholders before reaching this decision.
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Why is a regulatory assessment needed?

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- A regulatory assessment to determine the feasibility of merging apparently non-congruous regulatory tribunals is essential in achieving the objective of improving the efficiency of India’s regulatory institutions and to ensure there is no detraction from the quality of the existing judicial decision-making functions of the replaced tribunals.
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Why the concern for COMPACT?

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- There is a difference between how most of the sectoral regulators and their respective appellate authorities divide functions & responsibilities when compared to the relation between Competition Commission of India (CCI) and the Competition Appellate Tribunal (COMPACT).
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- While the regulators such as TRAI, SEBI and Petroleum and Natural Gas Regulatory Board are responsible for prescribing the terms of licensing or required disclosures of the sectorial markets.
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- The adjudication responsibilities of the respective appellate authorities are limited to ensure the market participants are not in breach of such ex-ante prescribed terms.
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- This is not true for the enforcement mandate of the CCI and COMPAT.
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- The CCI acts more like a judicial body and prescribes the rules of appropriate market behaviour by deciding cases of alleged violation of the provisions of the Competition Act, 2003.
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- COMPAT's job is not merely to police the compliance of rules prescribed by the regulator but rather adjudicates if the CCI has correctly applied its judicial mind in enforcing the applicable provisions of the Act.
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- The institutional capacity of COMPACT which was built in the last 8 years will be lost as all the pending cases will be transferred to NLCAT and it may need time to recoup the jurisprudence developed by its predecessor.
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What is the way forward?

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- Regulatory reform should be a top priority of any governance mechanism but it should be more than a mere *inter se* transfer of regulatory responsibilities of one agency to another incongruous one.

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- Companies making investment decisions in India seek clear, predictable rules on how the country’s antitrust regime shall function.
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- Therefore, inconsistencies and frequent amendments in the Regulations can have major negative ramifications for the Indian economy.
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Source: Business Standard

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