

## **Draft Competition (Amendment) Bill, 2020**

### **Why in News?**

The Ministry of Corporate Affairs (MCA) has put the draft Competition (Amendment) Bill, 2020, in the public domain to seek feedback.

### **What is the current legislation?**

- The Competition Commission of India (CCI) imposes penalties on companies on the basis of their turnover if they flout competition rules.
- When it comes to directors of companies or proprietorship firms, penalties are imposed on the basis of their income.
- However, the law does not have any provision to empower the CCI to impose penalties on the income of individuals.

### **What does the draft Bill say?**

- The draft Competition Bill, 2020 seeks to amend the Competition Act.
- If the changes proposed by the MCA to the Competition Act are enacted, buyers forming a cartel may be penalised.
- It has sought to give monetary and penal powers to the director general for investigation under the CCI.
- It also seek to empower the director general for investigation to send a person to prison for up to 6 months or impose a fine of Rs 1 crore if the latter refuses to produce any document the former has asked for.
- The Bill has a provision of income, on which penalty could be imposed under Section 27 of the Competition Act.
- It has the word 'income' included in the Act, which may provide a legal basis to the CCI to impose penalties on individuals.

### **What are the clauses introduced?**

- The draft amendments also call for introducing a "commitment and settlement" clause in the Competition Act.
- The enabling clause will allow those found in contravention of the competition law to commit to correct their ways to avoid action even before investigation is completed.
- Even in cases where investigation is over, evidence has been found, and the adjudicating process has started, the companies can still enter a settlement.

- The companies will have to pay fine and avoid legal proceedings after ensuring that any anti-competitive practice will be corrected.

### **What does the Bill have to say about hub-and-spoke cartel?**

- The proposed amendment seeks to provide clarity to these cartels.
- The MCA suggested hubs also be covered under Section 3(3), which deals with cartels that hinder competition.
- A hub-and-spoke cartel is basically an arrangement between companies where a dominant player (hub) is wooed by other firms (spoke), to destroy competition by, say, increasing or lowering prices.
- The hub-and-spoke agreements were not specifically covered under the Competition Act.

### **How do these amendments impact the CCI's powers?**

- The CCI has imposed penalties by independently invoking Section 3(1) of the Competition Act.
- However, the CCI's powers to invoke Section 3(1) independently are pending adjudication before the Supreme Court.
- The proposed amendments also seek to expand the composition of the CCI by including part-time members in the Commission.
- The Commission is currently a 4-member body, including the chairman.

**Source: Business Standard**

### **Quick Fact**

### **Competition Commission of India (CCI)**

- The CCI is the competition regulator of India.
- In accordance with the provisions of the Competition (Amendment) Act, 2007, the CCI and the Competition Appellate Tribunal have been established.
- It is the duty of the Commission to -
  1. eliminate practices having adverse effect on competition
  2. promote and sustain competition
  3. protect the interests of consumers
  4. ensure freedom of trade in the markets of India