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

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