



Leniency program in Indian competition law: A study on CCI (Lesser Penalty) regulations, 2009

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Abstract

The Competition Act, 2002 was enacted with the objective of ensuring healthy competition and eradicating anti-competitive practices in the market. Competition authorities across the globe have considered cartels as the most heinous form of anti-trust offence. Eradicating cartels have been the top-most priority of most of the jurisdictions and the Competition Commission of India has been no exception to it. However, over time, detecting and prosecuting cartels have become a challenging task for fair trade regulators. Henceforth, in a bid to aid enforcement, various jurisdictions, including India, have adopted leniency programs to encourage undertakings involved in cartels to disclose information about any existing cartels in exchange for complete or partial immunity. This research paper makes an attempt to interpret the leniency provisions contained in the Competition Act, 2002 as well as the Competition Commission of India (Lesser Penalty) Regulations, 2009 as amended in 2017.

Keywords: Competition, competition act, 2002, competition commission of India, cartel, lesser penalty, leniency

Introduction

One of the important objectives of Competition Law is to promote economic efficiency using competition as one of the means of assisting the creation of market responsive to consumer preferences. Cartels, seen as the most harmful type of anti-competitive conduct, involve arrangements or understanding between competitors to fix prices, divide markets, reduce output or rig bids. Serious or so-called 'hard core' cartels rely on secrecy and deception among participants with the deliberate aim of avoiding discovery. They are therefore difficult to detect and, as documentary evidence is rarely available, difficult to prosecute even when detected. Worldwide, competition authorities have identified the pursuit of cartels as a top priority. Cartel behavior is inevitably harmful to consumers as it results in their having to pay more than they should for goods and services. Cartels are by their very nature conspiratorial. The participants are secretive and hard-core cartels are notoriously difficult to detect and prosecute successfully^[1]. Immunity policies or alternatively referred to as leniency policies are widely regarded as having revolutionized anti-cartel law enforcement. This program encourages self-reporting of unlawful cartels by offenders at the earliest possible stage^[2].

Why leniency Program

Cartels are associations of manufacturers or sellers whose objective is to maximize their profits collectively through price-fixing, limiting supply, or any other practices. These types of agreements and associations deter healthy competition in the market thereby hampering the sustenance and growth of competitors in the market^[3]. Thus, cartels are universally established as being the most pernicious form of agreement for competition regulators. The problem with cartels is that they are very difficult to detect because the members are well aware of the illegal character of their activities and are anxious to conceal all evidence. Therefore, it has been extremely difficult to prove cartels as the unfolding of the events to detect a cartel is based solely on

circumstantial evidence like communications among the firms, minutes of meeting held with competitors, minor variations in bid quotations not justified by cost considerations, and prevalence of cross-ownership between participants etc. Henceforth, the fair-trade regulators worldwide supplement cartel detection and enforcement efforts with a robust leniency program, designed to give incentives to cartel members to take the initiative to approach the authorities and aid the competition law enforcers^[4]. Leniency programs that encourage participants in a cartel to come forward with inside information allow for a faster, more effective and successful dissolution of secret cartels; at times, it has been found that most harmful cartels operate internationally, which makes it even harder for the authorities involved to produce sufficient evidence as it is (partly) located outside their jurisdiction. Parties enjoying the benefits of a leniency program may provide evidence which the authority involved would otherwise be unable to obtain. Anti-trust experts have argued that success of cartel very much depends on the cartel members trusting each other (no cheating). The mere existence of a leniency program weakens a cartel as it adds an instrument for cartel members to cheat on each other. Creating more tension among its members, a leniency program may effectively hinder the existence of long lasting cartels^[5].

Functioning of Leniency Program

Leniency means that no sanction or immunity or a reduced sanction, is imposed on a party, be it a person or company who violated the law. The leniency programs are a type of whistle-blower protections that proffer undertakings involved in cartels an opportunity to take a step forward and disclose information about the cartels. The undertakings have a chance to provide substantial evidence and cooperate with subsequent investigations, in exchange for immunity or leniency in the penalty imposed, which would have otherwise faced stringent action if the existing cartel would have been disclosed by the competition authority itself^[6]. The challenges associated with anti-cartel law enforcement

have prompted widespread adoption by competition authorities of a distinctive tool- the immunity or leniency program. It means providing eligible cartel member with immunity from penalties, this is a tool employed only in respect of cartel conduct and not in relation to any other type of anti-competitive conduct^[7].

Generally, leniency programs regarding cartel cases include the following obligations for the party involved in order to qualify for leniency treatment: to provide all information available on a secret cartel, to discontinue participation in the cartel and to cooperate truly and continuously throughout the investigation. Thus, Leniency programs include the conditions which must be met in order to qualify for such a treatment. Under most programs, total immunity from penalties is only granted to one cartel member, being the first one coming forward with information^[8]. However, the US and EU leniency policies provide that any or all cooperating cartel participants who may have lost the race for full immunity from prosecution may still receive a reduced penalty, which means that two equally culpable members of the same cartel can receive vastly different penalties based on their early acceptance of responsibility and the timeliness and value of their cooperation. India also falls in the same group^[9].

Leniency Program in India

It is well established that cartels are difficult to detect, as they operate in secrecy. Members of a cartel, seek to camouflage their activities to avoid detection by the competition authorities. Moreover, the best evidence against 'cartel' is usually in possession of the charged parties, which are not likely to easily part with and make available to the investigator or enquiring authority. Rationale of operating a leniency program for detecting cartel is well established. Under the leniency program a leniency treatment is offered to any member of cartel who is prepared to disclose the conspiracy, provide vital evidence against other cartel members and cooperate with competition authority in the course of investigation^[10]. In India, cartels have been found in various sectors like cement, steel, tyres, trucking etc. India also experienced the effect of overseas cartels like soda ash, vitamins, etc. to name a few. Such cartels tend to raise prices of products and/or reduce the choices of consumers. Business houses are affected most by cartels as the cost of procuring inputs is increased or choice is restricted pushing the houses to become uncompetitive, unviable, or simply satisfied with lesser profits^[11].

Under the Indian Competition Act, 2002, any agreement between enterprises or persons or association of enterprises or persons that causes or is likely to cause an appreciable adverse effect on competition (AAEC) within the relevant market in India is considered anti-competitive and is prohibited under the Act^[12]. Further, any such agreement entered into between or any decision taken by enterprises or persons or association of enterprises or persons including cartels, that involves fixing prices, discounts, areas of operation, or customers; limiting technological innovation, production, or supply; and bid-rigging or collusive bidding are presumed to have an appreciable adverse effect on competition (AAEC) in India and are void under the Act^[13]. The Competition Commission of India, on finding contravention of the provisions of the Act relating to anti-competitive agreements by a cartel, can impose on each

producer, seller, distributor, trader or service provider involved in that cartel, a penalty of the higher of :

- Up to three times of its profit for each year of the duration of such agreement.
- Up to 10% of the average annual turnover for each year of the continuance of such agreement^[14].

Thus, the Commission has a wide discretion regarding the quantum of financial penalty that may be imposed on enterprises, including individuals involved in a cartel found guilty of contravening the Act. The penalties may be up to the higher of three times the profit or 10% of the turnover for each year of the continuation of the cartel. In addition, the Commission can also impose a lesser penalty i.e. grant leniency on a member of an alleged cartel if such member has made a "full, true and vital disclosure" in respect of the alleged violations of Section 3 of the Act^[15]. Thus, the Indian policy on leniency stems out from Sec 46 of the Competition Act, 2002 which gives power to the Competition Commission of India to impose lesser penalties and lays down certain requirements of disclosure to be fulfilled by the applicant to avail leniency. Further, for establishing a leniency policy, the Competition Commission formulated the Lesser Penalty Regulations (LPR) in 2009 which contains the substantive provisions regarding leniency in cases of violation of Sec 3. In 2017, certain amendments were also made to the Lesser Penalty Regulations which considerably increased the scope of the powers conferred upon the Commission regarding leniency programs in India. Thus, Section 46 of the Competition Act read with the Competition Commission of India (Lesser Penalty) Regulations 2009 as amended in 2017 is the complete code for the leniency (or lesser penalty) regime in India.

Scope of Application of Leniency Program

In line with most of the developed competition law regimes, the Competition Act, 2002 also provides for establishment of a leniency program in India and has been active since the enforcement of the Act in May 2009 as well as enactment of the Competition Commission of India (Lesser Penalty) Regulations, 2009. The scheme of the Act and the Lesser Penalty Regulations have been designed to induce member of a cartel to defect from the cartel agreement as well provide vital information to enable the Commission to prosecute other offenders involved in the cartel.

The leniency program covers the following infringements of the competition law which:

- a. Directly or indirectly determines purchase or sale prices;
- b. limits or controls production, supply, markets, technical development, investment or provision of services;
- c. Shares the market or source of production or provision of services by way of allocation of geographical area of market, or type of goods or services, or number of customers in the market or any other similar way;
- d. Directly or indirectly results in bid rigging or collusive bidding^[16].

These types of agreements between competitors are presumed to have an appreciable adverse effect on competition and therefore attract significant penalties for their violation under the Act^[17].

Leniency under the Competition Commission of India (Lesser Penalty) Regulations, 2009

The procedural aspects of the law on leniency in relation to cartel investigations in India are provided under the Competition Commission of India (Lesser Penalty) Regulations, 2009. The regulations govern the procedure for claiming leniency and lay down the extent of leniency i.e. the reduction in penalties that is granted to the cartel members who choose to come forward and disclose information regarding cartels^[18].

Briefly, the Lesser Penalty Regulations, 2009 set out the following:

- a. Who can apply for Leniency Program
- b. Eligibility conditions for Leniency Application.
- c. Extent of Penalty Reduction.
- d. Procedural Rules for Leniency Application.
- e. Evaluation of Leniency Application.
- f. Confidentiality and Disclosure

a. Who can apply for Leniency Program

An application for lesser penalty must be made by the enterprise^[19] who is or was a member of a cartel and/or individuals who has been involved in the cartel on behalf of an enterprise^[20].

The Lesser Penalty Regulations, 2009 only permitted an "enterprise" to disclose anti-competitive conduct, and seek the benefit of lesser penalty under Section 46. The 2017 Amendment to Lesser Penalty Regulations now allows even an "individual" to approach the Commission to seek benefit of the Lesser Penalty Regulations – thereby expanding the reach of the leniency program to individual whistleblowers – who could be employees, or even former employees involved in such anti-competitive conduct on behalf of the enterprise^[21].

b. Eligibility conditions for Leniency Program

An applicant seeking the benefit of lesser penalty under section 46 of the Act shall satisfy the following conditions:

1. Cease to have further participation in the cartel from the time of its disclosure unless otherwise directed by the Commission;
2. Provide vital disclosure in respect of [contravention of the provisions] of section 3 of the Act;
3. Provide all relevant information, documents and evidence as may be required by the Commission;
4. Co-operate genuinely, fully, continuously and expeditiously throughout the investigation and other proceedings before the Commission; and
5. Not conceal, destroy, manipulate or remove the relevant documents in any manner that may contribute to the establishment of a cartel^[22].

In addition to this, the Commission may subject the applicant to further restrictions or conditions, as it may deem fit, after considering the facts and circumstances of the case^[23]. If the leniency applicant does not comply with its obligations, the CCI may revoke the leniency benefit granted to the applicant. Thus, depending on the circumstances in each case, the Commission may choose to impose additional restrictions or conditions that the applicants must comply with. Under the Competition Act and the Lesser Penalty Regulation, leniency is a conditional benefit, that is, the CCI is empowered to revoke the leniency benefit granted to applicants, if the Commission is satisfied

that the applicants were in violation of their obligations. In such cases the applicant would be penalized as though a lesser penalty had not been imposed.

c. Extent of Penalty Reduction

Sliding scale for grant of lesser penalty

There is a sliding scale for grant of lesser penalty under the Lesser Penalty Regulations. The first applicant may be granted benefit of reduction in penalty up to or equal to 100 %, if he makes a vital disclosure by submitting the evidence of a cartel, enabling the Commission to form a prima facie opinion regarding the existence of a cartel which is alleged to have contravened the provisions of section 3 of the Act and the Commission did not, at the time of application, have sufficient evidence to form such an opinion^[24]. Further, the Commission may also grant benefit of reduction in penalty up to or equal to one hundred per cent, to the first applicant, if he makes a vital disclosure by submitting such evidence which establishes the contravention of the provisions of section 3 of the Act, by a cartel, in a matter under investigation and the Commission, or the Director General did not, at the time of application, have sufficient evidence to establish such a contravention^[25]. The applicants after the first applicant may also be granted benefit of reduction of monetary penalty on making a disclosure by submitting evidence, which in the opinion of the Commission, may provide "significant added value"^[26] to the evidence already in possession of the Commission or the Director General, as the case may be, to establish the existence of the cartel, which is alleged to have contravened the provisions of section 3 of the Act^[27]. In this regard, the second applicant may be granted a reduction in penalty of up to or equal to 50% of the full penalty leviable^[28], and subsequent applicant(s) may be awarded a penalty reduction of up to or equal to 30% of the full penalty leviable^[29]. Additionally, individuals that file for leniency may also be awarded a penalty reduction that is generally equal to the penalty reduction granted to their respective enterprises. Thus, the Commission can reduce the penalties of more than one applicant. However, originally, the Lesser Penalty Regulations only extended the entitlement to a fine reduction to a maximum of three leniency applicants on a first-come, first-served basis. The amendment removed this limitation and now expressly allows the CCI to accept (and grant immunity to) more than three applicants^[30]. All applicants subsequent to the third are now eligible for a reduction in penalty up to or equal to 30% of the full penalty provided they assist in giving "significant added value" to the evidence already in the possession of the CCI or the Director General^[31]. This amendment is aimed at encouraging all cartel participants to come forward and seek leniency benefit under the Lesser Penalty Regulations.

d. Procedural Rules for Leniency Application

Form of Leniency Application

A leniency application must be made to the designated authority^[32] in writing, containing all the material information as listed in the Schedule to the Lesser Penalty Regulations^[33]. The applicant can also contact the designated authority (either orally or through email or fax) to submit information and evidence relating to the existence of a cartel^[34]. The designated authority, thereafter, shall put up the matter within five working days before the Commission for its consideration.

Contents of Leniency Application

The application for lesser penalty shall, *inter-alia*, include the following information, namely;-

1. Name and address of the applicant or its authorized representative as well as of all other enterprises in the cartel;
2. In case the applicant is based outside India, the address of the applicant in India for communication including the telephone numbers and the e- mail address, etc. ;
3. A detailed description of the alleged cartel arrangement, including its aims and objectives and the details of activities and functions carried out for securing such aims and objectives;
4. The goods or services involved;
5. The geographic market covered;
6. The commencement and duration of the cartel;
7. The estimated volume of business [affected in India by the alleged cartel];
8. The names, positions, office locations and, wherever necessary, home addresses of all individuals who, in the knowledge of the applicant, are or have been associated with the alleged cartel, including those individuals which have been involved on behalf of the applicant ;
9. The details of other Competition Authorities, forums or courts, if any, which have been approached or are intended to be approached in relation to the alleged cartel;
10. A descriptive list of evidence regarding the nature and content of evidence provided in support of the application for lesser penalty; and
11. Any other material information as may be directed by the Commission ^[35].

Thus, the leniency application must include details of all the members of the cartels; the cartel's objective; the *modus operandi* of the cartel; a description of the product or service in relation to which the cartel was formed and the geographic coverage of the product and cartel; the duration of the cartel; any communications and meetings between cartel members; and any other information requested by the Commission.

Marker System for Leniency Application

The Indian leniency regime provides for a marker system, wherein "priority status" is granted to leniency applicants based on the time at which their application is submitted to the Commission. Once the applicant has filed a leniency application with designated authority, he shall, thereafter, put up the matter within five working days before the Commission for its consideration ^[36]. The Commission shall thereupon mark the priority status of the applicant and the designated authority shall convey the same to the applicant either on telephone, or through e-mail or fax ^[37]. However, if the information received by the designated authority is oral or through e-mail or fax, the Commission shall direct the applicant to submit a written application containing all the material information as specified in the Schedule within a period not exceeding fifteen days ^[38]. Where the application, along with the necessary documents, is not received within a period of fifteen days from the date of communication of direction or during the further period as may be extended by the Commission, the applicant may forfeit its claim for priority status and consequently for the benefit of grant of lesser penalty ^[39]. On receiving the

leniency application, the Commission, through its designated authority, shall provide written acknowledgement on the receipt of the application informing the priority status of the application ^[40]. Thus, the order of priority in which the leniency applications were submitted to the Commission is acknowledged by the Commission and conveyed to the applicant through its designated authority. However, the priority status granted to the applicant does not mention the rank of an applicant *inter se* other leniency applicants and only records the date and time of receipt of the application. Further, the grant of appropriate priority status to the applicant shall not entitle the applicant for grant of lesser penalty ^[41]. Thus, under the Indian leniency regime, the mere granting of priority status to an application does not entitle an applicant to lesser penalties. A reduction in the penalty is determined by the Commission based on certain factors laid down in the lesser penalty regulations.

e. Evaluation of Leniency Application

On receiving a leniency application, the Commission must acknowledge its receipt, mark the priority status of the applicant, and the date and time of receipt by the designated authority. The priority status must be notified to the applicant. The Commission then forwards this information to the Director General, who initiates an investigation. Subsequently, the Director General evaluates the evidence submitted, collects additional evidence as part of its investigation against other alleged cartel participants, including search and seizure operations. On completing the investigation, the Director General forwards a report with its findings, including the extent of the applicant's cooperation, to the Commission, which then invites oral and written submissions from the parties, including the applicant(s). While evaluating the leniency application if the Commission is of the opinion that the applicant or its authorized representative, seeking the benefit of lesser penalty or priority status, has not provided full and true disclosure of the information and evidence as referred and described in the Schedule or as required by the Commission, from time to time, the Commission may take a decision after considering the facts and circumstances of the case for rejecting the application of the applicant, but before doing so the Commission shall provide an opportunity of hearing to such applicant ^[42]. Where the benefit of the priority status is not granted to the first applicant, the subsequent applicants shall move up in order of priority for grant of priority status by the Commission and the procedure prescribed above, as in the case of first applicant, shall apply *mutatis mutandis* ^[43]. However, unless the evidence submitted by the first applicant has been evaluated and reasonable opportunity of being heard is given to the applicant, the next applicant shall not be considered by the Commission ^[44]. The decision of the Commission of granting or rejecting the application for lesser penalty shall be communicated to the applicant ^[45].

Factors to be considered for Grant of Lesser Penalty

The leniency applications are evaluated by the Commission by assessing whether such an application enables the Commission to commence an investigation; or whether applicant cooperate with an ongoing investigation and file for leniency by disclosing other material information and evidence. If there is an ongoing investigation, the

Commission also evaluates the lapsed time between the commencement of the investigation and the timing of the leniency application.

The major factors that should be considered by the Commission in granting reduction in monetary penalty are:

1. The stage at which the applicant comes forward with the disclosure;
2. The evidence already in possession of the Commission;
3. The quality of the information provided by the applicant; and
4. The entire facts and circumstances of the case ^[46].

Thus, the discretion of the Commission, in regard to reduction in monetary penalty under lesser penalty regulations, shall be exercised having due regard to the priority status awarded to an applicant, the quality of the applicant's (enterprise or individual) information disclosed, evidence that is already on record with the Commission prior to the application being filed, and the applicant's cooperation with the Commission.

f. Confidentiality and Disclosure

The Competition Act, 2002 and the Lesser Penalty Regulations, 2009 allows the identity of the applicant and the statements made in support of a leniency application to be considered as confidential. Therefore, the Commission and the Director General must treat the identity of the applicant and the information, documents and evidence submitted by the applicant under regulation 5 as confidential ^[47].

However, the identity of the applicant or such information or documents or

evidence furnished by the applicant in support of a leniency application may be disclosed in the circumstances mentioned below may be disclosed if,—

1. The disclosure is required by Law; or
2. The applicant has agreed to such disclosure in writing; or
3. There has been a public disclosure by the applicant ^[48].

Competition Commission of India (Lesser Penalty) Amendment Regulations, 2017 introduced significant changes to the provisions on confidentiality. The amendment allows the Director General to disclose information, documents and evidence submitted by an applicant to other parties for the investigation if it deems necessary ^[49]. This is to ensure that the parties against whom a negative finding may be made are afforded a fair opportunity to controvert evidence, and to allow the DG to test this evidence (or collect further evidence) by placing it before the other parties. Previously, the identity of an applicant seeking immunity and the evidence submitted could not be disclosed by the Director General or the Commission, unless the disclosure was required by law or was consented to by the applicant, or the information was already made public by the applicant. Now, the DG may disclose confidential information without seeking the applicant's approval, after recording its reasoning for disclosure in writing; and seeking the approval of the Commission ^[50].

Inspection and access to records

The amendment further provides leniency applicants with the ability to access and review case records containing

information submitted by the applicants under the Lesser Penalty Regulations. Accordingly, after the Commission shares the Director General's report with the parties concerned, the "non-confidential" version of the information, documents and evidence furnished by the applicant under regulation 5 becomes available for inspection by the parties ^[51]. However, such party shall not disclose the information, documents and evidence so obtained other than for the proceedings under the Act ^[52]. Thus, inspection and access to records is not allowed till the time the Director General's report is not submitted to the Commission. However, parties may request vide a written application to the Commission to inspect documents on record that (i) have not been claimed as confidential under the General Regulations, 2009; or (ii) are not internal documents.

Conclusion

Leniency programs are among the most effective tools used by competition authorities to collect high quality evidence in establishing cartels. In India, the leniency program has been active since the enforcement of the Competition Act, 2002 as well as enactment of the Competition Commission of India (Lesser Penalty) Regulations, 2009. Section 46 of the Act has been adopted with the prime motive of unveiling the cartels existing in the market and to deter undertakings from entering into anti-competitive agreements. The intent is to create a sense of distrust among the participants involved in cartels as there is a perpetual threat of disclosure of the cartel agreement by any of the participants to the authorities concerned. Pertinently, before delving into the lesser penalty regulations, the Commission must inoculate certain essential conditions in its orders such as the nature of the information i.e., it must be a 'vital disclosure', the cooperation of the applicant must be genuine, full and expeditious, and the relevant evidence must not be hampered with or manipulated, to mention a few. Further, a leniency application must be made as soon as the prospective applicant becomes aware of an offence under the Competition Act. Although the application can be made after the investigation has started, no immunity is granted to an applicant if the application is made once the Director General has submitted its investigation report to the CCI. In 2017, the Competition Commission of India introduced certain amendments to the Competition Commission of India (Lesser Penalty) Regulations, 2009 which considerably increased the scope of the powers conferred upon the Commission regarding leniency programs in India. The Amendment will impact multiple ongoing, as well as fresh cartel proceedings initiated by the CCI. Broadly, the Amendment expands the scope of the Lesser Penalty Regulations by allowing individuals to approach the Commission with incriminating evidence on collusion which will allow the CCI to strengthen its leniency program and effectively identify more cartels, with better quality of evidence and expending lesser amount of resources. Thus, given that cartels are typically very difficult to detect, the Commission's extension of India's leniency program to individuals will significantly strengthen the regime, and allow the Commission to get additional evidence on cartels. Further, abolishing the earlier upper limit on the number of leniency applicants who could benefit from the penalty waiver (i.e. three) would encourage all cartel participants to come forward and seek leniency. Also, significantly

changing the provisions on confidentiality and file inspections appears to be intended to ensure that the parties against whom a negative finding may be made are afforded a fair opportunity to controvert evidence; and allow the Director General to test such evidence (or collect further evidence) by putting it to other parties. While the change to the confidentiality provisions brings much needed clarification on the temporal and scope of disclosure permissible, allowing the Director General to disclose such information during the course of the enquiry could be of some concern. It remains to be seen how frequently, and on what legal grounds, will the Director General invoke this provision.

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2. *Id.* at B-32.
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4. *Ibid.*
5. *Supra* note 1 at B-33
6. *Supra* note 3.
7. *Supra* note at B-33.
8. *Id.* at B-32.
9. *Id.* at B-37.
10. *Ibid.*
11. *Ibid.*
12. The Competition Act, 2002 (Act 12 of 2003), s. 3(1).
13. *Id.*, s. 3(3).
14. *Id.*, proviso to s. 27(b).
15. *Id.*, s.46 provides that the Commission may, if it is satisfied that any producer, seller, distributor, trader or service provider included in any cartel, which is alleged to have violated section 3, has made a full and true disclosure in respect of the alleged violations and such disclosure is vital, impose upon such producer, seller, distributor, trader or service provider a lesser penalty as it may deem fit, than leviable under this Act or the rules or the regulations:
16. *Supra* note 12, s. 3(1).
17. *Id.*, s. 27.
18. Hemangini Dadwal and Nandini Modi, "Cartel Leniency in India: Overview", available at Cartel Leniency in India: Overview | Practical Law (thomsonreuters.com) (last visited on 12 November, 2023).
19. *Supra* note 12, s. 2(h).
20. The Competition Commission of India (Lesser Penalty) Amendment Regulations, 2017 (No. 1 of 2017), reg. 2(1)(b).
21. The Competition Commission of India Amends Lesser Penalty Regulations, available at The Competition Commission of India Amends Lesser Penalty Regulations (azbpartners.com) (last visited on 14 November, 2023)
22. The Competition Commission of India (Lesser Penalty) Regulations, 2009 (No. 4 of 2009), reg. 3(1).
23. *Id.*, reg. 3(3).
24. *Id.*, reg. 4(a).
25. *Id.*, proviso to reg. 4(a).
26. Explanation to reg. 4(b) provides the meaning of "added value" which means the extent to which the evidence provided enhances the ability of the Commission or the Director General, as the case may be, to establish the existence of a cartel, which is alleged to have contravened the provisions of section 3 of the Act.
27. *Supra* note 22, reg. 4(b).
28. *Id.*, reg. 4(c)(i).
29. *Id.*, reg. 4(c)(ii).
30. Added by The Competition Commission of India (Lesser Penalty) Amendment Regulations, 2017
31. *Id.*, reg. 4(c)(ii)
32. *Id.*, reg. 2(f) defines designated authority as an officer of the Commission who is
33. authorized by the Chairperson to function as such, for the purpose of these
34. regulations.
35. *Id.*, reg. 5(1)
36. *Ibid*
37. *Id.*, schedule to The Competition Commission of India (Lesser Penalty) Regulations, 2009.
38. *Id.*, reg. 5(1).
39. *Id.*, reg. 5(2).
40. *Ibid.*
41. *Id.*, reg. 5(4).
42. *Id.*, reg. 5(5).
43. *Ibid.*
44. *Id.*, reg. 5(7).
45. *Id.*, reg. 5(8).
46. *Id.*, reg. 5(6).
47. *Id.*, reg. 5(9).
48. *Id.*, reg. 3(4).
49. *Id.*, reg. 6.
50. *Id.*, proviso to reg. 6.
51. *Id.*, second proviso to reg. 6.
52. *Ibid.*
53. *Id.*, reg. 6A.
54. *Id.*, proviso to reg. 6A.