

ERGO

Analysing developments impacting business

THE COMPETITION COMMISSION OF INDIA (GENERAL REGULATIONS), 2024: REVAMPED AND RENEWED

27 September 2024

Introduction

On 17 September 2024, the Competition Commission of India (Commission) notified the updated Competition Commission of India (General) Regulations, 2024 (General Regulations 2024). These regulations govern the general procedure to be followed by the Commission and the parties appearing before it for adjudication of various matters.

The General Regulations 2024 replace the older regulations of 2009 (General Regulations 2009) and are based on the latest amendments to the Competition Act, 2002 (Competition Act) as well as the experience of the Commission over the years while dealing with the General Regulations 2009.

The key amendments brought about by the General Regulations 2024 are discussed below:

Monitoring agency

The Commission is now empowered to appoint an independent agency to monitor the implementation of final orders under the merger review process and orders passed under the settlements and commitments provisions. Such agency can be an accounting firm, a management consultancy firm, company secretaries, cost accountants, chartered accountants, etc. The regulation enlists the key responsibilities of such agencies, including informing the Commission of non-compliance with its order, submitting reports on the implementation of the directions, and maintaining confidentiality while discharging its duties.

Comment: The Commission has been regularly appointing monitoring agencies for effective implementation of modifications ordered in merger matters. The implementation of a similar mechanism for enforcement matters is a welcome step.

Interlocutory and miscellaneous applications

The General Regulations 2024 now provide a definition for 'interlocutory application' to mean an application filed before the Commission during the pendency of a case. In contrast, a 'miscellaneous application' is an application that is filed after a final order in a case has been passed.

The statutory fee prescribed under General Regulations 2024 for both applications are provided below:

Statutory fee for filing Interlocutory Application	
Nature of enterprise filing the application	Fees (General Regulations 2024) (INR)
Individual or Hindu Undivided Family	500
NGO, consumer association, co-operative society or trust, firm or company having turnover of less than INR 2 crore	1,000
Any other person or entity	5,000

Statutory fee for filing Miscellaneous Application	
Nature of enterprise filing the application	Fees (General Regulations 2024) (INR)
Individual or Hindu Undivided Family	3,000
NGO, consumer association, co-operative society or trust	6,000
A firm or company having turnover of less than INR 2 crore	25,000
A firm or company having turnover of more than INR 2 crore and upto INR 50 crore	60,000
Any other person or entity	3,00,000

Miscellaneous

- **Exoneration request:** The Commission can now, of its own volition, strike off a party to a proceeding on the grounds that no relief has been claimed by or will be granted against such party. Previously, the Commission could strike off such party only on receiving an application by a party to the proceedings.

Comment: This addition is quite practical and eases the overall adjudicatory process of the Commission.

- **Enhanced Filing Fees:** The fee for filing an information under Section 19 of the Competition Act has not been increased substantially. The fee previously set in the General Regulations 2009 and the fee under the General Regulations 2024 is set out below:

Fee for filing Information		
Nature of enterprise filing the application	Updated Fees (General Regulations 2024) (INR)	Old Fees (General Regulations 2009) (INR)
Individual or Hindu Undivided Family	6,000	5000
NGO, consumer association, co-operative society or trust	12,000	10,000
A firm or company having turnover of less than INR 2 crore	50,000	40,000
A firm or company having turnover of more than INR 2 crore and upto INR 50 crore	1,25,000	1,00,000
Any other person or entity	6,00,000	5,00,000

- Compulsory cross-examination: The Director General (DG) will now be required to provide an opportunity to cross-examine a witness to the concerned party if the DG wishes to rely on evidence based on oral examination of the witness to reach a finding against the concerned party in its investigation report.

Comment: Right to cross examine a crucial witness, based on whose testimony the DG records an adverse finding, is in accordance with the principles of fairness and propriety. It not only brings credibility to the investigation process but also reduces litigation timelines since the parties often file an application seeking cross examination after the DG report has been circulated to the parties by the Commission. Accordingly, the General Regulations 2024 will limit the time spent by the Commission in deciding such applications.

- Procedural requirements: General Regulations 2024 stipulates that every submission made to the Commission (including replies, letters, documents, applications, objections or suggestions etc.) shall be counter signed by the authorised representative of the party along with an affidavit even if the authorised counsel is making such submissions.

Comment: While this addition would bring more credibility to the submissions, it will also increase the burden on the parties appearing before the Commission.

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