

# Competition Law Hotline

September 08, 2009

## NEW COMPETITION LAW FINALLY REPEALS THE OLD REGIME

The archaic Monopolies and Restrictive Trade Practices ("MRTP") Act, 1969 ("MRTP Act") and the MRTP Commission are set to be phased out in the next two years commencing from September 1, 2009. Under a notification dated August 28, 2009, Section 66 of the Competition Act, 2002 (the "**Competition Act**") has been brought into force by virtue of which the Competition Act will now replace the MRTP Act.

Until the notification of this section, there was some uncertainty over which law would regulate anti competitive practices given that certain provisions of the MRTP Act as also the Competition Act, which overlapped to some degree, were both in force. The notification of Section 66 resolves this issue by providing that the MRTP Act will now stand repealed and the two year period for dissolution of the MRTP Commission begins on September 1, 2009.

Therefore, as regards pending cases (i.e., cases or proceedings filed before the commencement of the Competition Act), a two year time frame has been provided during which the MRTP Commission may continue to exercise its jurisdiction and power under the MRTP Act (for which limited purpose alone the MRTP Act will continue to have validity). Upon the expiry of the two year time frame, the MRTP Commission shall stand dissolved and all cases pending before it shall be transferred either to the Competition Appellate Tribunal or the National Commission constituted under the Consumer Protection Act, 1986 depending upon the nature of the cases. Thus starting September 01, 2009, the MRTP Commission shall no longer be entitled to entertain any new case arising under the MRTP Act. In its place, the Competition Commission of India ("CCI") will now be presiding over cases / carrying out investigations under the provisions of the Competition Act, thus ensuring that the MRTP Commission only works towards completing all matters currently pending before it.

The repeal of the MRTP Act will however not affect (i) anything duly done under the MRTP Act, (ii) any right, privilege, obligation or liability acquired, accrued or incurred previously under the MRTP Act, (iii) any penalty, confiscation or punishment incurred in respect of any contravention under the MRTP Act and (iv) any proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, confiscation or punishment as above under the MRTP Act, which may continue as noted above.

"With the repeal of the MRTP Act, and the commencement of the time period for winding up of the MRTP Commission, we now witness the dawn of a new and welcome era in competition law in India. India will now have a new regime that is at par in many ways with internationally accepted standards in this field of law." said Kartik Ganapathy, Partner, Nishith Desai Associates.

- Akshay Bhargav & Nishchal Joshipura

### References:

- Enforcement of Section 66 of Competition Act, 2002 and Section 50 of Competition (Amendment) Act, 2007 - Notification No. S.O. 2204(E), dated 28-8-2009 – [http://www.taxmann.net/datafolder/Flash/Flashst2-9-09\\_1.htm](http://www.taxmann.net/datafolder/Flash/Flashst2-9-09_1.htm)

### DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

## Research Papers

### Littler International Guide (India) 2024

November 08, 2024

### Unmasking Deepfakes

October 25, 2024

### Are we ready for Designer Babies

October 24, 2024

## Research Articles

### The Bitcoin Effect

November 14, 2024

### Acquirers Beware: Indian Merger Control Regime Revamped!

September 15, 2024

### Navigating the Boom: Rise of M&A in Healthcare

August 23, 2024

## Audio

### Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

### Renewable Roadmap: Budget 2024 and Beyond - Part I

August 26, 2024

### Renewable Roadmap: Budget 2024 and Beyond - Part II

August 26, 2024

## NDA Connect

Connect with us at events, conferences and seminars.

## NDA Hotline

Click here to view Hotline archives.

## Video

### "Investment return is not enough" Nishith Desai with Nikunj Dalmia (ET Now) at FI18 event in Riyadh

October 31, 2024

### Analysing SEBI's Consultation Paper on Simplification of registration for FPIs

September 26, 2024

