Treating Joint Ventures under Indian competition law

Kawan Competition Law Blog
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The OECD describes a JV as a situation where participating firms agree to conduct or to carry on business together in a manner other than by merger, significant acquisition, transfer of shareholdings or to do both, the firms going beyond ad hoc cooperation, as the firms can be formed by incorporation or in any other such manner. A JV under the Competition Act, 2002 is a combination where the parties agree, or have agreements or arrangements, and which are subject to, at least one of the following:

2. Acts and other relevant provisions of any other law.
3. Acts and other relevant provisions of an agreement entered into by way of joint ventures if such agreement increases efficiency in production, supply, distribution, research and execution, acquisition of new technologies or skills and synergies from pooling of complementary resources or capabilities.
4. Acts and other relevant provisions of an agreement entered into by way of joint ventures if such agreement increases efficiency in production, supply, distribution, research and execution, acquisition of new technologies or skills and synergies from pooling of complementary resources or capabilities.

Under competition laws, a JV is defined as a JV having a management dedicated to its day-to-day operations and access to sufficient resources including finance, staff and assets. The CCI has considered the efficiencies being brought to the market because of the JV. The CCI considered the efficiencies being brought to the market because of the JV.

Under substantive analysis of Sherman Act, JVs are on a practice, usually analyzed under rule of reason, but can be held under per se or in certain circumstances (Hilton Hotelling and Ewing). Furthermore, it has also been held that a JV’s horizontal nature can provide an exception to an otherwise per se offense.

The CCI has also been held to be notified under the Competition Act. Only if a “full function” JV meeting the thresholds required under the Act will it be notified. A “full function” JV is defined as a JV having a management dedicated to its day-to-day operations and access to sufficient resources including finance, staff and assets. The CCI has considered the efficiencies being brought to the market because of the JV. The CCI has considered the efficiencies being brought to the market because of the JV.

Under Indian competition law, any JV that would be held to be notified under Competition regulations if the thresholds required under the Act are met. A JV is defined as a JV having a management dedicated to its day-to-day operations and access to sufficient resources including finance, staff and assets. The CCI has considered the efficiencies being brought to the market because of the JV. The CCI has considered the efficiencies being brought to the market because of the JV.

Under merger control regime, any JV that would be held to be notified under merger control if the thresholds required under the Act are met. A JV is defined as a JV having a management dedicated to its day-to-day operations and access to sufficient resources including finance, staff and assets. The CCI has considered the efficiencies being brought to the market because of the JV. The CCI has considered the efficiencies being brought to the market because of the JV.

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