

TBA BULLETIN

December 08 to December 14

The TBA Bulletin is a weekly summary of the most important legal news from India and around the world.

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ANTITRUST

- CCI to implement a mechanism to protect the confidential information of businesses during proceedings
- Hyundai's proposed acquisition of Daewoo Shipbuilding & Marine Engineering Co Ltd is likely to face EU antitrust veto
- Amazon fined €1.13B by the Italian competition regulators for suspected abuse of market dominance

FOODTECH

- The New Consumer Protection Rules, 2021 have been notified by the Ministry of Consumer Affairs, Food and Public Distribution

SEBI

- SC sent out notices to Ruchi Soya, SEBI, BSE and NSE in a preferential allotment of shares matter

DATA PROTECTION

- Joint Parliamentary Committee investigating the Personal Data Protection Bill 2019, releases its findings

ANTITRUST NATIONAL

A secrecy rule will be implemented soon by the competition regulators

- The CCI will shortly implement a secrecy regime to protect the confidentiality of information pertaining to businesses during proceedings.
- The regime is supposed to provide a thorough framework for dealing with parties' requests for secrecy, as well as the method and criteria for the same.
- CCI proposed changes to the existing practise and procedure in April, which it claimed are overly burdensome and unsatisfactory for the parties and for the regulator resulting in unnecessary litigation and delays in an investigation's conclusion.
- Issues involving search bias, predatory pricing, deep discounting, and leverage have a clear connection to the competition law regime. It also underlined the importance of data in cases of merger evaluations in the digital arena.

- Since no two digital markets are the same, actions in merger assessments in technology markets need case-specific economic facts.
- This secrecy regime is likely to enable prompt interventions and a delicate balance to ensure that efficiency and innovation are not impeded and markets are free of anti-competitive activities.

Source: [Link](#)

INTERNATIONAL

EU used its veto over Hyundai-Daewoo acquisition for competition issues

- Hyundai Heavy Industries' proposed purchase of competitor Daewoo Shipbuilding & Marine Engineering Co. Ltd. faced an EU antitrust veto since the businesses refused to give remedies to address competition concerns.
- Hyundai said that it expects unconditional European Commission approval for the acquisition, which it announced in 2019 in part, owing to overcapacity in the sector.
- This is unlikely, since an informal offer of remedies, including the sale of a portion of a shipyard, fell through and no official proposal was ever made.
- The Commission's concern is that the purchase will split the

current three significant companies into two. Hyundai stated that it expects the European Commission's to permit this just like authorities in Singapore, China, and Kazakhstan have allowed it.

- An EU veto would be the first since the Commission in 2019, blocked Thyssenkrupp and Tata Steel's plan to form a landmark joint venture, since the deal would have pushed up prices and reduced competition.

Source: [Link](#)

In Italy, Amazon fined €1.3 B for antitrust violations

- Amazon has been penalised €1.13 B for abusing its market dominance by the Italian antitrust regulators.
- It is alleged that Amazon aggressively promotes its "Fulfillment by Amazon" (FBA) programme, which gives merchants incentives such as storage, packaging, and shipping services, as well as Amazon-provided customer care.
- Sellers using Amazon's platform are encouraged to use FBA. This allows Amazon to deduct a percentage from an item's sale price in exchange for the convenience of using FBA boosting the platform's overall revenue.

- Disallowing non-FBA third-party retailers to use the Prime label, is a violation of antitrust laws.
- The Commission is already working on other two ongoing investigations into Amazon's business practices: Amazon's usage of sensitive data from independent shops selling on its marketplace violates EU competition regulations and Amazon's own retail offerings and those of marketplace sellers who utilize Amazon's logistics and delivery services receiving preferential consideration.
- The Commission believes this inquiry complements the investigation into Amazon's behavior in the Italian logistics sectors.

Source: [Link](#)

FOODTECH **NATIONAL**

Ministry of Consumer Affairs, Food and Public Distribution notifies Consumer Protection (Search and Seizure and Compounding of offences by the Central Authority and Crediting of Penalty) Rules, 2021

- [The Consumer Protection \(Search and Seizure and Compounding of Offences by the Central Authority and Crediting of Penalty\) Rules, 2021](#) have been notified by the Ministry of

Consumer Affairs, Food and Public Distribution on December 6, 2021.

- These Rules deal with- process for obtaining copies or extracts of papers, records, or things seized or created, and disposal of items that degrade quickly or naturally laid down.
- A first-time offence is to be penalized before or after the filing of any charges, and to be compounded by an officer designated by the Chief Commissioner.
- If an authorised person seizes an article and determines that it is subject to rapid or natural decay, the authorised person may have the piece sold at public auction.
- Procedure for the Compounding of Offences wherein any person can, in the form prescribed by the Central Authority with the permission of the Central Government, apply to the compounding officer, either before or after the establishment of prosecution.
- The compounding officer can request any additional information from the applicant, which should be provided within thirty days, or more.
- Mandatory personal hearing before arriving at a decision.
- Compounding will not be allowed in case of apparent contradictions, inconsistencies,

or incompleteness in the applicant's case.

Source: [Link](#)

SEBI **NATIONAL**

Investor challenges non-allotment of preference shares by Ruchi Soya, before the SC

- Ruchi Soya Industries, country's markets regulators and stock exchanges, are brought before the SC to resolve a disagreement over a preferential allotment to an investor by Ruchi Soya.
- The SEBI, BSE, NSE, and Ruchi Soya have received notifications from the SC, to respond to a case filed by the investor where Ruchi failed to honor its pre-Covid commitments to allocate shares in the firm, which are now worth Rs 1,700 Cr.
- In February 2020, Ruchi Soya approved a special resolution granting the investor (Ashav Advisory) preferential allocation of 1.8 Cr shares worth Rs 13 Cr. Ruchi Soya was acquired by Patanjali Ayurved under IBC, and as on September 201, owns 98.9% of Ruchi Soya's equity.
- Ruchi's share sale proposal was approved by stock exchanges late in March 2020 but got delayed due to COVID lockdown and there was no preferential allotment

- NSE and the BSE in June 2020, sent warning letters to Ruchi Soya, not to proceed with the preferential allocation because it was in breach of SEBI guidelines. Ruchi Soya's free float was 1%, when every publicly traded firm must maintain a minimum public shareholding (MPS) of 25%.
- Ruchi Soya's application for relaxation was denied by SEBI in September 2020 because it did not meet the MPS standards.
- Ashav Advisory, filed a complaint with the Securities Appellate Tribunal (SAT) against the SEBI and stock exchanges. The tribunal decided in favour of the SEBI and stock exchanges. Now, the matter is challenged before the SC.

Source: [Link](#)

DATA PROTECTION **NATIONAL**

Report released on the Data Protection Bill by the Parliamentary Committee

- The Joint Parliamentary Committee established to investigate the Personal Data Protection Bill, 2019, released **its five findings:**
- Non-personal information is included
To minimise misunderstanding and mismanagement, personal and non-personal data to be

regulated under a single legislation and authority supervising all data originating from an individual.

- Social media regulation

The current framework under the Information Technology Act, as well as the proposed changes in the 2019 version, are insufficient to govern social media sites and solve the issues that they raise.

- Data Localization

Central Government to take steps to guarantee a mirror copy of sensitive and vital personal data is kept in India as a matter of course.

- Exemption for the government agencies

Central Government is permitted to exclude any of its agencies from the law's scope for certain valid reasons, such as state security, cordial ties with other nations, and public order, among others.

- Authority for Data Protection

The Data Protection Authority, the selection committee should be more diverse and independent without undue influence from the government.

Source: [Link](#)

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