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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **A CRITICAL ANALYSIS OF JURISDICTIONAL CONFLICTS BETWEEN COMPETITION COMMISSION AND SECTORAL REGULATORS IN INDIA**

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## **ABSTRACT**

India's regulatory environment often ends in friction due to overlapping responsibilities between sector-specific regulators and the Competition Commission of India (CCI). Sectoral regulators are typically specialized bodies with in-depth knowledge and experience equipped for the unique needs of particular industries. In contrary, the CCI has a broader mandate, aimed at maintaining fair competition across the entire economy. This divergence in focus can lead to conflicts when regulatory actions from these bodies intersect or contradict one another. Further every action regarding competition needs to undergo double regulation which leads to negative impacts upon companies. Further this paper analyses the decided case laws to find out the lacunae.

A key focus of the paper is finding a workable balance between allowing sectoral regulators the autonomy needed to address industry-specific concerns and ensuring that the overarching objective of fair competition, championed by the CCI, is not compromised. Encouraging a model where both entities can work in tandem may promote consistency in regulatory decisions, reduce inefficiencies, and enhance overall market stability. Further, the paper proposes suggestions aimed at improving coordination and reducing conflict. These include legislative clarifications, standardized procedural protocols, and institutional frameworks that promote dialogue and joint decision-making. The ultimate goal is to support India's economic development by building a regulatory system where industry-specific expertise and competition principles complement each other, leading to more efficient markets and stronger consumer safeguards.

**Keywords:** Competition commission of India, sectoral regulators, regulatory overlaps.

## Introduction:

A fair competition in the market is essential not only for the economic development of a country but also for the upliftment of the living standard of people. India's economic liberalization in the 1990s stepped in a new era of growth, with markets were opened up to domestic and international players alike equally which was the impact of LPG. As India has experienced a transformation from a controlled economy to one driven by competition and innovation, the need for a robust regulatory framework became increasingly evident. Today, this framework includes both sectoral regulators, with a deep focus on specific industries, and the Competition Commission of India (CCI), which serves as a broad-based regulatory body ensuring fair competition across sectors. Sectoral regulators, such as the Telecom Regulatory Authority of India (TRAI) in telecommunications, the Insurance Regulatory and Development Authority of India (IRDAI) in insurance, and the Reserve Bank of India (RBI) in banking, were established to oversee technical compliance and to advance growth in these industries by enforcing rules that reflect each sector's unique challenges and opportunities. By setting technical standards, ensuring service quality, and protecting consumers, sectoral regulators play a crucial role in stabilizing industries and fostering sector-specific advancements. Regulatory ambiguity can be perceived as a deterrent by both domestic and foreign investors, who may question India's regulatory stability and predictability<sup>1</sup>.

In parallel, the CCI, established under the Competition Act, 2002, is tasked with the broad mandate of ensuring competitive practices across India's economy. The CCI's role is multi-faceted, including the prevention of anti-competitive agreements, the prohibition of monopolistic behaviour, and the regulation of mergers and acquisitions that could distort market dynamics and affect fair competition in market. Its primary goal is to promote a competitive market environment that benefits consumers, encourages innovation, and supports a level playing field for all businesses. Unlike sectoral regulators, the CCI is not restricted to a specific industry rather, it has the authority to address competitive concerns in any market, spanning industries as diverse as telecommunications, retail, pharmaceuticals, banking, and beyond as it has broader mandate over all the markets. However, the existence of both sectoral regulators and the CCI has resulted in a significant regulatory challenge and jurisdictional overlap. This issue arises when both sectoral regulators and the CCI seek to exercise authority

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<sup>1</sup> Raghuram G. Rajan, *India's Regulatory Environment: A Barrier to Growth?* 58 J. of Comp. L. & Econ. 245, 248 (2020)

over the same cases and issues simultaneously, often leading to regulatory conflicts. For example, pricing in telecommunications is an area of primary concern for TRAI, which regulates tariffs to ensure accessibility and fair pricing within the telecom industry. Yet, pricing can also have competitive implications, such as predatory pricing or abuse of market dominance, which fall within the CCI's jurisdiction. In cases like these, both the CCI and sectoral regulators may assert authority, leading to conflicting rulings, regulatory delays, and legal disputes. These overlaps not only create challenges for businesses that must navigate potentially conflicting regulations but also contribute to broader regulatory uncertainty, potentially deterring investment and innovation in India's markets.

The impact of these conflicts can be substantial capable affecting the business, consumers etc. Inconsistencies and conflict in regulatory rulings may delay business decisions, disrupt strategic planning, and increase the risk of legal challenges, leading to economic inefficiencies. Additionally, regulatory ambiguity can be seen as a discouraging factor or deterrent by both domestic and foreign investors, who may question India's regulatory stability and predictability<sup>2</sup>. This is especially critical for industries with high regulatory scrutiny, such as telecommunications and banking, where businesses face the dual burden of complying with both sector specific rules and overarching competition mandates. Moreover, jurisdictional overlaps can lead to operational inefficiencies within regulatory bodies themselves, diverting resources toward jurisdictional disputes rather than toward the enforcement of effective regulatory practices.

The focus of this paper is not only on examining the regulatory conflicts in India but also on highlighting the strengths and limitations of both sectoral regulators and the CCI and specifically where the conflict arises. While sectoral regulators bring specialized knowledge and are attuned to the nuances of their respective industries, the CCI plays a critical role in ensuring uniform competitive standards that protect consumers and support a fair market. Balancing these functions is crucial to foster a regulatory ecosystem where both consumer welfare and sectoral growth are prioritized. The analysis in this paper emphasizes the value of clear legislative mandates, procedural guidelines, and collaborative frameworks to mitigate conflicts. By exploring both Indian and international perspectives, the paper aims to propose

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<sup>2</sup> Raghuram G. Rajan, *India's Regulatory Environment: A Barrier to Growth?* 58 J. of Comp. L. & Econ. 245, 248 (2020)

practical solutions that align sectoral regulation with competitive principles, creating a regulatory environment that is transparent, efficient, and conducive to India's economic goals.

This paper aims to examine the complexities surrounding these jurisdictional overlaps in India's regulatory framework, focusing on the challenges and implications of concurrent authority. By resolving jurisdictional conflicts and fostering inter-regulatory cooperation, India can achieve a regulatory environment that is both business-friendly and capable of adapting to the complexities of modern economic challenges.

### **Research Question:**

*How can India effectively delineate the overlapping jurisdictions of sectoral regulators and the Competition Commission of India (CCI) to enhance regulatory coherence, promote fair competition, and foster economic growth in various industries?*

### **Aim and objectives**

The primary aim of this research paper is to analyse the jurisdictional overlaps between sectoral regulators and the Competition Commission of India (CCI), with the goal of proposing practical solutions that enhance regulatory coherence, promote fair competition, and facilitate sustainable economic growth in India's diverse industries. To achieve this aim, the research will begin by examining the existing framework of sectoral regulation and competition law in India and case laws to identify specific areas of overlap and conflict between the roles of sectoral regulators and the CCI. This examination will highlight how the concurrent authority of these regulatory bodies can lead to regulatory ambiguity and inefficiencies that affect market dynamics.

### **Research Methodology**

This study will utilize a doctrinal research methodology to analyse the conflicting powers of sectoral regulators and the Competition Commission of India (CCI) in promoting fair competition within the Indian market. The research will begin with a comprehensive literature review to establish a theoretical foundation, followed by an examination of relevant statutes, such as the Competition Act, 2002, and the specific regulatory frameworks governing various sectoral authorities. In addition to analysing statutory provisions, the study will review landmark judicial decisions to understand how courts have interpreted jurisdictional overlaps

and conflicts between these regulatory bodies. The findings will be synthesized to propose practical recommendations for enhancing regulatory coherence and balancing the roles of sectoral regulators and the CCI in India.

### **An overview of Competition commission of India:**

The history of the Competition Commission of India (CCI) dates back to the early 2000s, when India recognized the need for a modern competition policy to align with its liberalized economy. Prior to the CCI, the Monopolies and Restrictive Trade Practices Act (MRTP Act) of 1969 served as India's primary legislation for controlling monopolistic practices and promoting fair competition. However, as India transitioned to a more market-driven economy in the 1990s, the limitations of the MRTP Act became apparent on its working. The Act was largely designed to prevent monopolies and restrict certain forms of trade, but it lacked the scope and flexibility to handle complex competition issues, such as mergers, cartels, and abuses of dominance, that arose in a liberalized economy due to LPG reforms. In response to these emerging needs, the Indian government appointed the Raghavan Committee in 1999 to study and recommend a new competition policy for India<sup>3</sup>. This committee recognized the importance of creating a regulatory body with broader powers to promote competition and consumer welfare. Based on the committee's recommendations, the Competition Act, 2002, was enacted, replacing the outdated MRTP Act. The new Act focused not only on preventing anti-competitive practices but also on fostering a fair and competitive market. To enforce this Act, the Competition Commission of India (CCI) was established in 2003 as an autonomous statutory body tasked with the promotion and maintenance of competition in India.

The Competition Commission of India (CCI) plays a pivotal role in maintaining a fair and competitive marketplace, an essential component of India's economic policy. Established to prevent anti-competitive practices, the CCI seeks to foster an environment where businesses can operate freely without the detrimental effects of monopolistic and unfair trade practices. Fair competition drives innovation, efficiency, and consumer choice, which are vital for a dynamic and growing economy like India's. The CCI was formed under the Competition Act, 2002, which replaced the outdated Monopolies and Restrictive Trade Practices (MRTP) Act, 1969. The shift to the CCI and the Competition Act signified a paradigm shift in India's

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<sup>3</sup> **Manoj Kumar**, *The Raghavan Committee and the Evolution of India's Competition Law*, 8 J. Indian L. & Soc'y 134, 136-37 (2001)

regulatory approach, moving from merely restricting monopolies to proactively promoting competitive markets<sup>4</sup>. The scope of the CCI's responsibilities extends to identifying and addressing anti-competitive agreements, abuse of dominant position, and regulating mergers and acquisitions that might adversely affect competition. These activities are particularly relevant in the context of India's liberalized economy, where an influx of domestic and foreign players brings both opportunities and challenges for the competitive landscape. Moreover, the CCI collaborates with sectoral regulators and stakeholders to ensure a balanced approach to regulation, recognizing both the need for industry-specific oversight and the broader benefits of a uniformly competitive market. In its role as a market watchdog, the CCI has not only shaped competition law jurisprudence in India but also strengthened consumer trust and economic resilience, setting the foundation for a fairer, more accessible market for all stakeholders<sup>5</sup>. Under Section 7 of the Competition Act, 2002<sup>6</sup>, the Competition Commission of India (CCI) was established as an independent statutory authority to enforce the Act's provisions. The CCI operates under the Ministry of Corporate Affairs (MCA) and is designed to function autonomously to maintain impartiality in its decisions.

The Section 3 of the Competition Act, 2002, targets agreements that distort competition in India. Anti-competitive agreements can undermine consumer welfare, restrict access to goods and services, and hinder economic development. The Act divides these agreements into horizontal and vertical categories, regulating each type based on its potential impact on the market. While having a dominant market position is not illegal in itself but abusing such dominant position is prohibited, Section 4 of the Competition Act prohibits any abuse of this dominance. Dominant companies are often influential players in their sectors, and their actions can significantly impact market competition. Sections 5 and 6 of the Act regulate mergers, acquisitions, and amalgamations (collectively referred to as combinations) that might distort competition. The goal of these provisions is to ensure that combinations do not lead to excessive market concentration, which could harm consumer welfare by reducing competition<sup>7</sup>. Section 6 empowers the CCI to review combinations within 210 days and mandates that certain transactions require pre-approval to prevent anti-competitive consolidation. This regulatory oversight has gained importance with the rise of large

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<sup>4</sup> Nivedita Prabhu, *The Evolution of Competition Law in India: From Monopoly Control to Market Regulation*, 13 J. Indian L. & Soc'y 187, 190-92 (2017).

<sup>5</sup> Supra 4

<sup>6</sup> Competition Act, 2002, No. 12 of 2003, S. 7

<sup>7</sup> S. R. SANKARAN, COMPETITION LAW IN INDIA 45 (LexisNexis 2019)

conglomerates and cross-border mergers in India's expanding economy.

### **Role of CCI in ensuring fair competition in market**

The Competition Commission of India (CCI) plays a central role in maintaining a competitive market environment by preventing anti-competitive practices, regulating mergers, and ensuring that no single entity monopolizes the market to the impact the interest of consumers and other businesses<sup>8</sup>. This role has evolved over time, especially as India's economic landscape has grown increasingly complex with liberalization, globalization, and rapid technological advancements.

#### **A. Regulating Anti-Competitive Agreements and Cartels**

One of the core functions of the Competition Commission of India (CCI) is to regulate anti-competitive agreements, which are enumerated under Section 3 of the Competition Act, 2002. These agreements include arrangements like price-fixing, market allocation, and output restriction, all of which can distort the natural market dynamics, harm consumers, and limit competition. Anti-competitive agreements, particularly cartels, are harmful because they allow firms to increase their profits at the expense of fair competition and consumer choice. Cartels can lead to artificially high prices, reduced output, and an overall decline in consumer welfare<sup>9</sup>.

#### **B. Preventing Abuse of Dominance**

Another key function of the CCI is to prevent the abuse of dominance, which is regulated under Section 4 of the Competition Act. While holding a dominant position in a market is not illegal, abusing this position to harm competitors or exploit consumers is strictly prohibited and considered illegal. Abuse of dominance can affect the market in several ways, including predatory pricing, exclusive dealings, discriminatory pricing, and refusal to deal. The CCI carefully monitors firms with significant market power to prevent them from engaging in these practices, which can distort competition and harm consumer welfare.

#### **C. Regulating Mergers and Acquisitions**

Mergers and acquisitions are essential for corporate growth, but they can also reduce competition if they lead to market concentration or the creation of monopolies which may ultimately leads to lowering of market competition. CCI regulates Mergers and

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<sup>8</sup> Abhishek Dutta, The Competition Act, 2002: A Tool for Consumer Welfare, 8 J. INT'L COM. L. & TECH. 1, 5 (2013)

<sup>9</sup> Ibid

acquisitions activities in India to prevent these outcomes. According to Sections 5 and 6 of the Competition Act, Mergers and acquisitions that exceed specified asset or turnover thresholds must seek CCI's approval before proceeding as enumerated by competition act. This regulatory function allows the CCI to assess the potential competitive effects of mergers, ensuring that they do not result in unfair advantages or excessive market concentration.<sup>10</sup> When evaluating Mergers and Acquisitions transactions, the CCI examines whether the combined entity would have the ability to dominate the market or restrict competition which would have the effect of affecting consumer interest ultimately. In cases where an Mergers and Acquisitions is found to reduce competition substantially, CCI can impose modifications to the merger terms, or in extreme cases, block the transaction entirely.

#### D. Consumer Protection and Welfare

The protection of consumer interests is central to CCI's mission. Anti-competitive practices, such as price-fixing and market division, can lead to higher prices and limited choices, directly impacting consumers as consumers are the ultimate aim of competition act. By enforcing competition laws and curbing such practices, CCI ensures that consumers benefit from fair prices, improved product quality, and access to a variety of goods and services. For instance, through its actions in the e-commerce, telecommunications, and pharmaceutical sectors, CCI has intervened to ensure fair pricing and consumer access to quality products.

### **Role of Sectoral Regulators in Fair Competition:**

In a diverse economy like India, sectoral regulators play a crucial role in maintaining fair competition within their respective domains. As the economy evolves, due to LPG the rise of MNC and private sector growth mandated for the sectoral regulators and sectors undergo rapid changes, the need for specialized regulatory bodies becomes increasingly important. These regulators not only oversee market conduct but also ensure that their sectors remain competitive, transparent, and conducive to growth. They achieve this by formulating and enforcing regulations, monitoring market practices, and addressing anti-competitive behaviours.

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<sup>10</sup> *Abhishek Dutta, The Competition Act, 2002: A Tool for Consumer Welfare, 8 J. INT'L COM. L. & TECH. 1, 5 (2013)*

Sectoral regulators, such as the Securities and Exchange Board of India (SEBI), Telecom Regulatory Authority of India (TRAI), Insurance Regulatory and Development Authority of India (IRDAI), and Reserve Bank of India (RBI), are established to protect consumer interests and promote fair practices in their respective industries. Each regulator has its own mandate, framework, and mechanisms to ensure competition and safeguard the interests of stakeholders. This chapter will explore the role of these sectoral regulators in promoting fair competition, examining their specific provisions, powers, and landmark cases that highlight their contributions to ensuring market integrity. By analysing the functions and responsibilities of these regulators, we can better understand how they complement the efforts of the Competition Commission of India (CCI) in maintaining a competitive landscape in the Indian economy.

### **Conflict between CCI and Sectoral Regulators in ensuring fair competition:**

In India, the Competition Commission of India (CCI) and various sectoral regulators operate with the conflicting goal of promoting market efficiency and protecting consumer welfare. However, each of these bodies is bound by a distinct mandate and operates under specific legislative frameworks, leading to overlapping jurisdictions, particularly in areas concerning anti-competitive practices. The CCI, established under the **Competition Act, 2002**, is empowered to ensure fair competition across all economic sectors, prevent monopolistic practices, and eliminate abuse of dominance in the market. Its jurisdiction covers all forms of economic activities, creating an extensive mandate that sometimes intersects with the regulatory purviews of sectoral regulators which is unavoidable.

Sectoral regulators, on the other hand, such as the **Telecom Regulatory Authority of India (TRAI)**, **Securities and Exchange Board of India (SEBI)**, **Insurance Regulatory and Development Authority of India (IRDAI)**, and the **Reserve Bank of India (RBI)**, are vested with industry-specific powers through respective statutes. These bodies are responsible for overseeing and managing the unique technical, operational, and economic factors inherent in their sectors. For example, TRAI regulates telecommunication services, including tariffs, licensing, and quality of service, while SEBI ensures fair practices and investor protection in particularly the securities market. The specialization of these regulators provides them with a deep understanding of the unique needs and challenges within their respective domains, often making them more effective in addressing sector-specific issues than a general regulatory body

like the CCI. However, the overlapping jurisdiction of CCI and sectoral regulators has created significant legal and operational challenges. For instance, when CCI investigates cartelization, abuse of dominance, or mergers in sectors like telecommunications or banking, it often encounters resistance from sectoral regulators claiming that such issues fall exclusively within their jurisdiction.

The jurisdictional ambiguity between CCI and sector-specific regulators has broader implications for regulatory governance and market stability in India. When regulatory conflicts arise, businesses face inconsistent or even contradictory regulatory standards, complicating compliance and potentially stifling innovation. Moreover, prolonged legal battles, as seen in several high-profile cases, impose additional costs on businesses and undermine the efficacy of regulatory oversight and further discourage businesses. Recognizing these challenges, experts and policymakers have suggested revisiting the legislative framework to delineate the respective roles of CCI and sectoral regulators more precisely, thereby reducing conflicts and enhancing the efficiency of India's regulatory system. To sum up, the jurisdictional conflicts between CCI and sectoral regulators highlight a fundamental tension in India's regulatory architecture. While the CCI's mandate is indispensable for fostering competitive neutrality and preventing monopolistic practices across sectors, sectoral regulators bring essential technical expertise that is crucial for the nuanced regulation of specific industries. Resolving this jurisdictional overlap requires a balanced approach that respects both CCI's competition-focused oversight and the specialized functions of sectoral regulators

### **Key Areas of Conflict between CCI and Sectoral Regulators**

The intersection of CCI's mandate with sectoral regulators often leads to conflict in specific domains where both competition concerns and sector-specific issues converge. The primary areas of conflict include merger control, pricing regulations, and market conduct, where each regulator's interpretation of public interest and market fairness may differ. These areas exemplify how the absence of a clear jurisdictional framework can result in regulatory discord, legal uncertainty, and inconsistent enforcement.

- i) Merger and Acquisition Control**
- ii) Pricing and Tariff Regulation**
- iii) Market Conduct and Anti-Competitive Practices**
- iv) Licensing and Entry Barriers**
- v) Consumer Protection Objectives**

## Judicial approach over conflict of decisions between CCI and Sectoral regulators

### i) *CCI vs. Bharti Airtel*

The case of *Competition Commission of India (CCI) vs. Bharti Airtel*<sup>11</sup> is a landmark judgment that deals with the jurisdictional conflict between sectoral regulators and the competition commission in India. It specifically highlights the interplay between the Telecom Regulatory Authority of India (TRAI) and the Competition Commission of India (CCI) in addressing and enforcing anti-competitive behaviour in the telecom sector. The case reiterates the importance of defining clear jurisdictional boundaries while ensuring that competition related concerns are adequately addressed. However this case has set a pathway that, at first the sectoral regulator shall investigate for violations if it has found competition violations, then CCI shall have jurisdiction.

### ii) *Monsanto Holdings*

The Monsanto Holdings case<sup>12</sup> presents a significant departure from the approach taken in *Bharti Airtel*, further complicating the debate on jurisdictional conflicts between the Competition Commission of India (CCI) and sectoral regulators. This case revolved around Monsanto's royalty fees for its BT-II cotton seed technology, which was patented under the Patents Act, 1970. Monsanto, a global agrochemical giant, was accused of imposing excessive royalties and restrictive licensing conditions on Indian seed companies for the use of its genetically modified cotton seed technology. The matter gained attention and momentum when the CCI initiated an inquiry, against the Monsanto's pricing practices as it may violate Section 3(4) and Section 4(2)(a)(i) of the Competition Act, 2002, which deal with anti-competitive agreements and abuse of dominant position, respectively.

### iii) *Amir Khan Productions Private v. Union of India*

The *Amir Khan Productions Private Limited v. Union of India*<sup>13</sup> case further reinforced the Competition Commission of India's (CCI) authority to assess its own jurisdiction when dealing with competition related disputes. The dispute arose when the petitioner, Amir Khan Productions, challenged CCI's jurisdiction over matters related to the film industry, arguing that the Copyright Act, 1957, comprehensively governed all aspects

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<sup>11</sup> *Competition Commission of India v. Bharti Airtel Ltd.*, (2019) 2 SCC 521

<sup>12</sup> *Monsanto Holdings Pvt. Ltd. v. Competition Commission of India*, (2020) 219 Comp Cas 1 (Del).

<sup>13</sup> *Amir Khan Productions Pvt. Ltd. v. Union of India*, (2010) 6 Comp LJ 228 (Bom).

of intellectual property rights related to films, including licensing, distribution, and royalty agreements. The petitioner contended that since the Copyright Act contained exhaustive provisions regarding licensing and agreements within the film industry, any dispute concerning these aspects should fall exclusively under the jurisdiction of copyright law and not competition law.

### **Conclusion and suggestions:**

The issue of jurisdictional conflicts between the Competition Commission of India (CCI) and sectoral regulators has been a persistent challenge in India's regulatory framework, which has an impact on fair competition. The research has revealed several key findings that highlight the complexities of this conflict, its impact on businesses, and the need for structural reforms for enforcing competition laws effectively. These findings demonstrate that while competition law and sector-specific regulations share the common goal of ensuring market fairness, their overlap has led to judicial inconsistencies, regulatory inefficiencies, and legal uncertainty which posed challenges on enforcement. A detailed analysis of these findings provides deeper insights into the structural issues within the regulatory framework. Now judiciary also have given a conflicting decisions case to case which further increases the ambiguity rather than solving it.

The regulatory overlap between the Competition Commission of India (CCI) and various sectoral regulators remains a complex issue, leading to legal uncertainty, contradictory decisions, and enforcement delays which has a heavy impact on competition regulation. While CCI is entrusted with ensuring fair market competition across all industries, sectoral regulators have been created to oversee specific industries with a more specialized focus with a specialised knowledge and understanding that is expertise in the particular field to deal with sector specific issues. This dual regulatory mechanism often leads to jurisdictional clashes, where both authorities claim the right to adjudicate disputes related to anti-competitive practices, market control, and sectoral regulations. Both the authority in order to prove their supremacy, they are violating the genuine interest of the stakeholders. The fundamental concern is the lack of a clear legislative framework to delineate their respective roles, leading to protracted legal battles and inconsistencies in market governance.

### **Suggested reform in working and powers of CCI and sectoral regulators for resolving conflicts - CCI as adjudicator and sectoral regulator as investigating authority**

As there exist a jurisdictional overlap in certain aspects of maintaining fair competition, Inorder to resolve the conflict between the competition commission of India and sectoral regulators on regulation and enforcement of fair competition in India, this researcher suggest the model of having CCI as adjudicating authority and sectoral regulators as investigating authority may be efficient. Further when there arises an anti-competitive behaviour in a particular sector by an alleged violator, i.e. a company or enterprise. This model gives certainty to the competition law enforcement and decisions without undermining the authority of the competition commission of India, at the same time without ignoring the sector specific expertise of the sectoral regulators as well. .

#### **1. Prosecuting violators by Initiation of proceedings**

If a company is alleged to be violating the competition law and creates a appreciable adverse effect on competition by indulging in an anti- competitive practice, and that company comes within the ambit of sectoral regulation then, enquiry proceedings can be initiated by the sectoral regulator. Further any person can make a complaint before the CCI regarding the anti-competitive practice of a particular company or an enterprise or CCI shall also have suo motto powers to initiate proceedings against an enterprise indulging in anticompetitive practice.

#### **2. Enquiry into the anticompetitive practices**

On initiation of prosecution proceedings against an alleged violator, enquiry shall be carried out by the sectoral regulator on violators either on direction of CCI, if proceedings initiated not by the sectoral regulator before the CCI and sectoral regulator can submit its final report about the violation along with evidences before the competition commission of India.

#### **3. Rule of fair hearing for opposite party**

In all the proceedings before the CCI, the sectoral regulators shall act like a prosecuting authority similar to the criminal cases in India and whereas the alleged violators may be given a fair opportunity to defend themselves and present their side before the competition commission of India to ensure the compliance of natural justice principles.

4. CCI shall have powers of civil court for purposes of adjudication disputes

For the purpose of appearance, attendance and production of documents at the time of enquiry before the forum, CCI shall have all the powers of civil court for ensuring the appearance of witness and production of documents before the CCI and all other powers incidental thereto as conferred by CPC to civil courts in India. As far as the procedure for enquiry is concerned, CCI is not bound by the procedures of CPC or any other procedural law, but it is bound by the principles of natural justice and fairness.

5. Powers of passing of orders and judgements and its enforcement

After all the enquiry and submissions by both the side and based upon the evidences produced by the sectoral regulators and the alleged violator, the CCI will have the powers to issue final orders and judgments in the interest of justice as empowered by the competition act, 2002 to competition commission of India, order of competition commission of India shall be enforced as a decree of a civil court throughout India as per Civil procedure code.

Therefore it is suggested by the author that, the competition act, 2002 can be amended and to introduce a new chapter to include these changes in the powers of CCI and sectoral regulators as a new chapter or it shall be amended in appropriate places in order to resolve the conflict. Further the powers and functions of adjudicator i.e. CCI as well as the investigating authority sectoral regulators shall be demarcated, to avoid any further jurisdictional disputes between CCI and sectoral regulators in India. Original exclusive jurisdiction shall be given to competition commission of India to investigate upon the competition law violation and anti-competitive practices and also CCI shall have the overriding powers.