



The Competition Commission of India (Manner of Recovery of Monetary Penalty) Regulations, 2025



भारतीय प्रतिभूति और विनिमय बोर्ड
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INTRODUCTION

On 27 February' 2025, the Competition Commission of India (CCI) released the draft **CCI (Determination of Cost of Production) Regulations, 2025**, to align with the amendment of (Amendment) Act, 2023 and thereby repealing CCI Regulation, 2009.

The proposed regulation seeks to update the methodology for determining production cost in predatory pricing cases, defining the cost benchmark for assessing and regulating predatory pricing under Sec 4 of the Competition Act, 2002.

LEGAL FRAMEWORK

The Act defines “predatory pricing” as selling goods or services below their cost of production (as determined by regulations) to reduce competition or eliminate competitors. This practice is explicitly prohibited by Section 4(2)(a)(ii) of the Competition Act 2002, particularly when used to achieve unfair market dominance.

The draft regulations replace market value with average total cost. The determination of cost is proposed to be amended from the cost concept such as avoidable cost, market value to as average cost. Further the provision of Sec 4 of Competition Act, imposes a strict legislation stating that the dominant enterprise is considered to be abusing its market





position if it directly or indirectly imposes unfair or discriminatory prices, including predatory pricing.

And, to qualify as predatory pricing, a strategy must meet three criteria: first, the company must have a dominant market position, enabling them to manipulate prices; second, they must sell below their production cost, often measured by average variable or marginal cost; and third, there must be a demonstrable intention to eliminate rivals, not just to compete.

DIFFERENCE BETWEEN 2009 AND 2025 REGULATION

The **CCI (Determination of Cost of Production) Regulation, 2009** established market value as the primary basis for determining cost, defining it as the price customers paid or agreed to pay. This approach, however, proved to be more subjective, susceptible to market fluctuations and short-term pricing tactics.

In contrast, the **CCI (Determination of Cost of Production) Regulation, 2025** shifts the focus from market value to average total cost, which is calculated as total production cost divided by output during the referred period. Cost concept in this includes, average total cost, average avoidable cost and long run average incremental cost thereby replacing all the costs in the regulation 2009. This change provides a more objective and stable benchmark, relying on verifiable production costs rather than potentially volatile market values.

CONCLUSION As India continues to modernize its competition laws, the revised predatory pricing regulations under the CCI's new framework are expected to provide greater clarity and efficiency in regulating unfair pricing strategies. The consultation period for the draft is open from February 17, 2025, to March 19, 2025. Interested stakeholders can submit their feedback via [CCI's online portal](#).

