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FROM CARTELS TO CLIMATE COLLABORATION: BUILDING A SUSTAINABLE COMPETITION FRAMEWORK FOR INDIA

An Emerging Legal Alliance between Environmental Sustainability and Competition Policy

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INTRODUCTION

Climate change has become an immediate policy concern, fundamentally altering competitive dynamics, regulatory assessments of cooperation, and market responses to ecological risk. As firms pursue net-zero targets, coordination on carbon accounting, sustainable sourcing, recycling systems, and green standards is increasingly necessary. However, competition law has historically treated cooperation between rivals with caution, given the risk of concealed collusion. The primary challenge is to ensure that competition policy does not unintentionally hinder the collective action required for sustainability.

THE GLOBAL SHIFT

Regulators in multiple jurisdictions increasingly acknowledge that sustainability and competition law can be aligned. The European Commission's revised Horizontal Guidelines include a dedicated chapter on sustainability agreements, indicating that certain horizontal cooperation may be compatible with competition rules when pursuing environmental objectives. Similarly, the United Kingdom's Competition and Markets Authority has adopted a pragmatic approach via its Green Agreements Guidance, shedding light on how environmental sustainability pacts are judged under competition regulations and identifies circumstances where enforcement action is unlikely.

This evolution matters because it reflects a broader regulatory realism. Environmental harms are no longer abstract externalities; they are market risks with direct social and economic consequences. At the same time, regulators must remain alert to agreements that merely borrow the language of sustainability while functioning as price-fixing, output restriction, or market-sharing arrangements. The real challenge lies in separating genuine environmental cooperation from disguised anticompetitive conduct.

INDIA’S LEGAL TENSION

India faces the same policy dilemma, but without a fully developed sustainability-specific competition framework. The Competition Act, 2002 treats certain horizontal agreements with serious suspicion under Section 3(3), especially where competitors coordinate in ways that may cause an appreciable adverse effect on competition. At the same time, the Act leaves room for a more nuanced assessment through Section 19, while Section 54 empowers the Central Government to grant exemptions in the public interest.

This creates a genuine legal tension for environmental cooperation. On one side, companies are increasingly expected to reduce emissions, adopt greener materials, and support circular economy practices. On the other hand, sector-wide collaboration on recyclable packaging, emissions benchmarks, or shared green infrastructure may attract scrutiny if it appears to reduce competition in the short term. The question is not whether competition law should remain strict, but whether it can become more context-sensitive without losing discipline.

READING SUSTAINABILITY INTO THE ACT

A complete rewrite of the Competition Act is not necessarily required. A purposive reading of existing provisions can already champion rigorously structured eco-friendly accords. Environmental benefits such as reduced pollution, lower carbon emissions, better waste management, and improved resource efficiency can be treated as legitimate public benefits, especially when the agreement produces measurable and verifiable long-term gains.

The European and UK frameworks are useful because they show that regulatory flexibility does not have to mean regulatory weakness. Both systems preserve antitrust enforcement while recognising that certain sustainability collaborations may be socially beneficial and legally acceptable. India can adopt the same logic by developing a structured method to improve environmental performance, market impact, and the risk of disguised collusion.

GUARDING AGAINST GREENWASHING

Any sustainability-based competition framework must still protect against abuse. Not every agreement that claims to support the environment should receive leniency. Competitors may use green language to delay innovation, preserve outdated business models, or increase prices under the cover of compliance costs. When competition watchdogs are relaxed, businesses can easily hide traditional, anti-competitive price-fixing schemes behind otherwise legitimate corporate sustainability goals.

For that reason, a green safe harbour must be tied to objective criteria. Transparency, narrow tailoring, measurable environmental outcomes, and the absence of unnecessary market restraints should all be essential. The law should encourage genuine environmental cooperation, not reward strategic rebranding.

THE INDIAN WAY FORWARD

India should adopt a clear, actionable roadmap for integrating environmental sustainability into competition policy. This requires the Competition Commission of India (CCI) to issue formal guidance outlining (i) the types of sustainability agreements that may qualify for exemption, (ii) the evidentiary standards for demonstrating net environmental benefit, and (iii) the criteria for balancing short-term competition effects with long-term ecological gains. The CCI should also commit to periodic review and iterative improvement of this guidance, ensuring it remains responsive to evolving scientific and market realities. Such a framework would reduce legal uncertainty, promote responsible climate collaboration, and align India with international best practices.

The final ask, therefore, is for the CCI to build both a formal and informal support structure: clear guidance for ex-post review, and an open-door, pre-transaction consultation process. This dual approach would empower businesses to innovate confidently while providing regulators with the tools to distinguish genuine sustainability efforts from anticompetitive practices. Ultimately, the CCI must ensure that competition analysis evolves to recognise environmental value even in the absence of immediate price effects, thereby supporting India's climate commitments without sacrificing market discipline.

CONCLUSION

The convergence of competition law and environmental sustainability demands a sophisticated regulatory response. India is uniquely positioned to pioneer an adaptive framework that balances fair market competition with climate action. By clearly delineating between illicit price-fixing and pro-competitive green collaborations, regulators can protect both economic efficiency and ecological resilience.

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