

Nishith Desai Associates

Legal & Tax Counseling Worldwide

• MUMBAI • BANGALORE
• SILICON VALLEY • SINGAPORE



Competition Law Practice Statement

This practice statement is being provided only on request and is not intended to advertise our services or capabilities, or solicit work, in any manner whatsoever. The contents of this practice statement are aimed merely at providing more information about our firm to persons who are interested in knowing more about us. This practice statement is meant only for the information and use of the person(s) and not for circulation or public dissemination. Further, this practice statement does not, and shall not, create any attorney-client relationship between Nishith Desai Associates and any person(s). Nishith Desai Associates does not assume any responsibility whatsoever for any unauthorized distribution or dissemination of this practice statement or part thereof in any form, or any consequences thereof.

Competition Law in India

In pursuit of globalization, India has responded by opening up its economy, easing licensing requirements and resorting to liberalization. Inevitably, globalization and liberalization also leads to competition in the market place. As a corollary to this, India has enacted a new competition law called the Competition Act, 2002 ("**Competition Act**") which is meant to replace the extant Monopolies and Restrictive Trade Practices Act, 1969 ("**MRTP Act**"), and provide institutional support to healthy and fair competition.

The Competition Act, which has not been brought into force fully as yet, will play a pivotal role in consummation of any transaction *inter alia* domestic, inbound or outbound or any overseas transaction which has an effect on competition in India.

What NDA offers

Competition Law is an area of practice in which Nishith Desai Associates ("**NDA**" or the "**Firm**") has built a significant expertise. The Competition Law Practice at NDA endeavors to combine its rich international experience and expertise in domestic laws / regulations and international antitrust regulations combined with its research capabilities to devise innovative structures and provide strategic advice on combination clearance, behavioral pattern of the entities viz anti competitive agreements and abuse of dominance. The Firm has developed a unique skill set in Competition Law by successfully leveraging its cross-border specialization, experience and research capabilities to develop a vibrant Competition Law practice.

Our Competition Law practice area primarily focuses on the following broad areas:

- **Strategic advice on Competition Law issues**: The Firm advises on legal, strategic and compliance issues related to the Competition Act. The Firm provides practical solutions, on the basis of the extensive domain knowledge of the relevant industries, to complex legal problems that arise in the competition law space.
- **Documentation**: The Firm undertakes drafting and review of term sheets, definitive agreements, non-compete agreements, non-disclosure agreements, franchise agreements, escrow agreements, stock swap agreements, employment agreements *et al.*, to minimize the issues of competition law viz: anti competitive agreements and / or abuse of dominance which could arise before the Competition Commission of India ("**CCI**").
- **Competition Law Applications and Filings**: Once the substantive provisions of the Competition Act are in force, the Firm shall undertake filings for and representing clients before the CCI, in conjunction with other experts, with respect to applications for the clearance of combinations where such combinations exceed the applicable threshold limits specified in the Competition Act in terms of assets or turnover.
- **Regulatory advice**: The Firm provides regulatory review and advice with respect to issues and behavioral pattern of enterprises and / or transactions undertaken by foreign / domestic enterprises, which could have implications under the Competition Act.

- **Litigation:** The Firm has a robust Dispute Resolution Practice with members having skill and expertise to represent clients in different forums ranging from the CCI to the Supreme Court of India.

Core Team

Our core team comprises of group of experts with expertise across the entire spectrum of domestic and international transactions. Our core team comprises of:

- **Kartik Ganapathy** – Kartik heads the Competition Law Practice Group at NDA's Bangalore office. Kartik also heads the M & A and Corporate and Securities Laws Practice at NDA's Bangalore office. His other practice areas involve private equity and venture capital investments, M&As, joint ventures and foreign collaborations, and securities law, in addition to general corporate and commercial advice. He has also been involved with various facets of transactions including structuring of investments, fund raising, client acquisition and negotiations.
- **Nishchal Joshipura** – Nishchal heads the Competition Law Practice Group at NDA's Mumbai office. Nishchal also leads the M&A practice in Mumbai at NDA and is a senior member of the Corporate and Securities Practice. He has experience of working on a variety of funds including domestic and offshore private equity funds and offshore investments. His other practice areas include transfer pricing, international taxation, globalization, structuring of inbound/outbound investments, structuring of offshore funds, structuring of real estate investments, taxation of e-commerce, exchange controls, corporate and securities laws.
- **Siddharth Shah** - Siddharth is a senior member of the Competition law Practice Group and also heads the Funds practice group at NDA. Besides the Funds practice group, he is also a member of the Firm's M&A and Banking and Structured Finance groups and as a member of these groups he focuses on advising clients on corporate and securities law issues and on structuring of inbound and outbound investments.
- **Vaibhav Parikh** – Vaibhav is a senior member of the Competition law Practice Group and also heads the Technology Laws practice group at NDA. In addition to handling transactions spanning the entire gamut of Technology and Telecom Laws, he is involved in the Firm's M&A practice and advises clients on corporate and securities issues and also helps structure the proposed transactions in a legal, exchange control and tax-efficient manner.
- **Sangeeta Rana** – Sangeeta is a senior member of the Competition Law Practice Group and M&A Practice. She has vast experience in handling complex M&A transactions.
- **Amrita Singh** – Amrita is a senior member of the Competition Law Practice Group and Corporate & Securities Laws Practice. She has managed several M&A transactions and advises clients on structuring and documentation of the proposed transactions.
- **Vyapak Desai** – Vyapak is a senior member of the Competition Law Practice Group and also heads the Litigation & Dispute Resolution Practice Group. He is also a

senior member of the Corporate and Securities Laws Practice Group. He has advised clients on several cross border disputes and public offerings, M&As, PIPE deals, corporate and securities laws, foreign direct investment and other exchange control laws, corporate issues relating to setting up of private equity funds and offshore investment funds.

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