



FORUM OF INDIAN REGULATORS

Report on webinar

with

Ms. Tierno Centella

**Deputy Head of Unit Cartels, DG Competition at
European Commission**

on

"Cartel Enforcement and Competition Law"

Date: 15th July 2020

Time: 2:30 – 4:00pm (IST)

Organized by: -

Forum of Indian Regulators Centre



**Indian Institute of
Corporate Affairs**
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Speaker Profile:



Ms. Tierno Centella

Deputy Head of Unit Cartels,
DG Competition
European Commission

Ms. Tierno Centella is Deputy Head of Unit G2 in the Cartels Directorate within DG Competition at European Commission. Regular speaker on competition matters, she is the author of many specialized articles and chapters in manuals and magazines. She has previously worked within DG Competition to ensure consistency review of, a.o., draft Decisions and Statements of Objections in the field of antitrust and mergers. She co-drafted the existing Spanish public guidelines on leniency.

She previously worked (1992-1997) as Associate Lawyer in the Brussels office of Gómez-Acebo & Pombo, assisting companies in several fields of law including antitrust, State aid and internal market rules and negotiation of contracts. She drafted the Latvian basic bills on State aid as expert in the PHARE accession program for Latvia, and coordinated the first part of the PHARE program for the approximation of the legislation of Slovakia to that of the EC. She holds a Law Degree by the Universidad Complutense de Madrid and a Master degree on European law by the Université Libre de Bruxelles.

Participant Profile:

Participants: Regulatory officials from FOIR member organizations, Government officials, academicians and others from the field of regulation.

No. of participants: 104

Participant Categorization:

FOIR Member officials: 27

Academicians: 16

Law firms, Professionals & Students: 26

Others: 35

Program Outline:

The School of Competition Law & Market Regulation and Forum of Indian Regulators (FOIR) Centre at Indian Institute of Corporate Affairs (IICA) successfully conducted a webinar with Ms. Tierno Centella, Deputy Head of Unit Cartels, DG Competition at European Commission on "Cartel Enforcement and Competition Law" on 15th July 2020 (Wednesday). The webinar with Ms. Tierno Centella is the eighth webinar of a weekly webinar series organized by the School of Competition Law & Market Regulation to create awareness on various regulatory concepts, issues and International best practices. The webinar series covers a range of topics from the field of regulatory affairs and market regulation and engages speakers from across the globe including academicians, subject experts and Senior regulatory officials. The participants of the webinar include officials from FOIR member organizations, government officials, academicians and others working in the field of regulation.

Program Flow:

The webinar was led by Ms. Tierno Centella, Deputy Head of Unit Cartels, DG Competition at European Commission and moderated by Dr. Abha Yadav, Head, School of Competition law & Market regulation & Director, FOIR Centre.

The program was initiated with a welcome speech by Dr. Abha Yadav. She introduced the speaker Ms. Tierno Centella and threw light on the relevance of the topic in the current scenario. Dr. Yadav further elaborated the format of the webinar to the participants.

Ms. Tierno Centella thanked the School of Competition Law and Market regulation and FOIR Centre, IICA for organizing the webinar on cartel enforcement and competition law which would enhance knowledge sharing & increase discussions on the topic.

Ms. Tierno Centella informed the participants that Cartel enforcement is a priority for the competition law regulators across the globe because of the nature of its infringement followed by the competition issues raised by growing digital markets.

She covered several topics in her session such as the cartel enforcement models, sanctions for obstruction, due process of cartel enforcement, algorithms & cartels, feeding cases into pipeline using ex-officio & leniency instruments, settlements in EU Cartel enforcements, comparison of procedures, EU leniency for cartel enforcement, differential features in EU leniency, capacity for forensic analysis & digital investigation and reflection on competition enforcement in digital markets.

Ms. Centella elaborated the prosecutorial judicial model and administrative model of cartel enforcement and shared data on cartel fines imposed by the European commission in case of substantial infringement. She also explained the differential features in EU Leniency which are as stated below:

- Leniency is left entirely to the company's initiative
- Based on incentives, foster a race at all levels.
- All set out & motivated in the final decision to all parties.
- No leniency for individuals (no sanctions for individuals).
- Immunity applicants are addressees of a decision: single liability for damages.
- Decision making capacity rather than proposal to the judge by EU commission.

Ms. Centella apprised the participants about an e-lenieny tool provided by the EU commission for filing corporate statements and other submissions in the context of leniency, settlement, and non-cartel cooperation proceedings. She also mentioned that a 24*7 tool referred to as "Anonymous whistleblower tool" for detection of cartels has also been established, which provides a platform for all kinds of corporate disclosures by whistleblowers. This tool further provides the feature of interaction between the commission and the whistleblower without disclosure of the whistleblower's identity.

Ms. Centella stated that digital development has accelerated in the world and many companies have overcome digital limitations with the availability of several e-tools such as cloud computing. The EU being conscious of all these enhancements has a specific department looking into the competition issues raised by such digital development along with centralized network of intelligence and other agencies which flag potential competition issues to the commission. The department has a team of computer experts & analysts who perform data mining and machine learning methods to identify patterns and connections, further using deep learning methodology to identify data sets which is complicated to the human mind but is made accessible to the non-analysts with the use of graphic & intuitive presentations .

She also referred to exploring the 3-pillar approach on digital markets which is suggested & adopted by the EU commission, as stated below: -

- Increase in use of more Interim measures & it's firm enforcement
- New ex ante regulation: inception impact assessment for new rules (do's & don'ts)
- Consideration of a new Competition Tool (NCT) to tackle structural problems (mainly in digital markets)

She used diagrammatic representation and case-based approach and elaborated the processes & methodology adopted by the EU Commission for efficient cartel enforcement. The session was engaging, and energetic participation was seen in the webinar. Questions were taken up from the participants at the end of the session, which led to a healthy discussion.

Dr. Abha Yadav moderated the question-answer round, where a series of questions from participants with respect to responsibility in case of algorithms used for pricing decisions, Data mining & AI, Leniency, Conflict in EU regulations and country specific rules etc. were raised by the participants from various regulatory commissions such as the Competition Commission of India (CCI) and other participants working in the field of competition law and market regulation, which were effectively answered by Ms. Centella. The participants include several senior regulatory officials from across the country such as Mr. G.S Rajamani, Founding member, CERC, Mr. Tapan Chatterjee, Former Member AERC, Guwahati etc.

The participants received great insights on the working of the European commission and tools adopted by them for cartel enforcement & identification of competition issues arising out of digital advancements. The speaker and the participants appreciated IICA for organizing the webinar & appreciated the program's content.

The webinar ended with a vote of thanks by Dr. Abha Yadav, Head, School of Competition Law and Market Regulations and Director FOIR Centre (IICA)

Ms. Tierno Centella, Deputy Head of Unit Cartels, DG Competition at European Commission on "Cartel Enforcement and Competition Law" addressing the participants during the Webinar.

