

12 January 2024

To

Mrs Ravneet Kaur
Chairperson, The Competition Commission of India (CCI)
9th Floor, Office Block - 1, Kidwai Nagar (East),
New Delhi: 110023, India.

**Asia Internet Coalition's Submission on Draft Competition Commission Of India
(Determination Of Turnover Or Income) Regulations, 2023**

On behalf of the [Asia Internet Coalition](#) (AIC) and its members, I am writing to express our sincere gratitude to the Competition Commission of India (CCI) for the opportunity to submit comments on the **Draft Competition Commission Of India (Determination Of Turnover Or Income) Regulations, 2023**. AIC is an industry association comprising leading internet and technology companies. We seek to promote technology and policy issues in the Asian region, and we are fully committed to the cause of a safe and open internet.

The CCI's implementation of the Competition Act over the last 14 years has put in place "best in class" antitrust enforcement and merger control mechanisms which are in line with global best practices, including those recommended by the International Competition Network (ICN) and the OECD. We understand, that the CCI proposes the draft CCI (Determination of Turnover or Income) Regulations, 2023 which provide for the determination of turnover or income for the purposes of Section 27(b) and Section 48 of the Act.

Detailed comments and recommendations:

Provision	<i>"2(e) Turnover means turnover as defined under section 2(y) of the Act and as explained in Explanation 2 under section 27(b) of the Act."</i>
Comment	It is humbly submitted that imposing a penalty on the relevant turnover (i.e. turnover arising from infringing products) as opposed to total turnover is an international best practice followed in several mature competition law systems like India. For instance, it is followed in the EU and UK. In EU, the Fining Guidelines (2006/C 210/02) bring this clarification, while in the UK, the "Guidance as to the appropriate amount of penalty" of the OFT has provided such clarification
Suggestions	Accordingly, we request the Hon'ble Commission to include the definition of relevant turnover in the CCI (Determination of Turnover and Income) Regulations, 2023. Separately, the Hon'ble Commission may also kindly consider releasing a set of fining guidelines for public consultation and subsequently for implementation.

Provision	<i>3(4) In case audited financial statements are not available, turnover, as determined above, shall be the amount certified by the statutory auditor of the enterprise and supported by an affidavit by any of the persons authorised to sign financial statements of the enterprise. In case of an enterprise where statutory auditor is not appointed, turnover, as determined above, shall be the amount certified by a Chartered Accountant and supported by an affidavit by any of the persons authorised to sign financial statements of the enterprise.</i>
Comment	It may be extremely challenging for global companies to verify their financial statements for the purpose of an investigation before the Hon'ble Commission with officers and employees who are generally responsible for signing of financial statements for the companies. Likewise it will not be possible to obtain certification for financials from a Chartered Accountant as defined under Indian local laws as certain global companies may not have any Chartered Accountants as defined under Indian local laws.
Suggestions	Accordingly, the Hon'ble Commission may kindly consider revising Sub-Regulation 3(4) to allow certification and verification of financials by any person within the company who is an authorized representative in connection with the case before the Hon'ble Commission.

As responsible stakeholders, we appreciate the ability to participate in this discussion and the opportunity to provide inputs into the policy-making process in India. **As such, we would like to respectfully request CCI to consider the above-mentioned comments and recommendations.**

Should you have any questions or need clarification on any of the recommendations, please do not hesitate to contact me directly at Secretariat@aicasia.org or +65 8739 1490.

Thank you for your time and consideration and we look forward to hearing from you.



Sincerely,

Jeff Paine
Managing Director
Asia Internet Coalition (AIC)