

“CONFERENCE ON CARTELS AND THE LENIENCY PROGRAM IN INDIA” - MARCH 11-12, 2023



सत्यमेव जयते

M MINISTRY OF
C CORPORATE
A AFFAIRS
GOVERNMENT OF INDIA

EMPOWERING BUSINESS, PROTECTING INVESTORS
REGULATOR • INTEGRATOR • FACILITATOR • EDUCATOR

Funded by

Ministry of Corporate Affairs, Government of India

*Under the Scheme "Funding Research And Studies, Workshops And Conferences Etc.
Under The Plan Scheme "Corporate Data Management" of the Ministry*

Organised by
KIIT School of Law
KIIT Deemed to be University
Campus-16
Bhubaneswar, 751024
Odisha, India



About Ministry of Corporate Affairs

The Ministry is primarily concerned with administration of the Companies Act 2013, the Companies Act 1956, the Limited Liability Partnership Act, 2008 & other allied Acts and rules & regulations framed there-under mainly for regulating the functioning of the corporate sector in accordance with law.

The Ministry is also responsible for administering the Competition Act, 2002 to prevent practices having adverse effect on competition, to promote and sustain competition in markets, to protect the interests of consumers through the commission set up under the Act.

Besides, it exercises supervision over the three professional bodies, namely, Institute of Chartered Accountants of India (ICAI), Institute of Company Secretaries of India (ICSI) and the Institute of Cost Accountants of India (ICAI) which are constituted under three separate Acts of the Parliament for proper and orderly growth of the professions concerned.

The Ministry also has the responsibility of carrying out the functions of the Central Government relating to administration of Partnership Act, 1932, the Companies (Donations to National Funds) Act, 1951 and Societies Registration Act, 1980.

“Funding Research and Studies, Workshops and Conferences etc.” is conceived as a component part of a Central Sector Plan Scheme, titled “Corporate Data Management”. The major focus is to utilize the wealth of data available with the Ministry of Corporate Affairs by way of sponsoring Research Studies and Surveys etc. in areas related, inter alia, to corporate growth in overall macro-economic perspective. This would also include funding of Seminars, Workshops, Conferences, Symposia and Publications (Reports, Books and Monographs) which extract knowledge primarily from the MCA database and other sources, having implications for corporate governance and faster, sustainable and inclusive growth.



About Kalinga Institute of Industrial Technology – Deemed to be University

Kalinga Institute of Industrial Technology started as a modest vocational education institute in 1992 in rented premises in Bhubaneswar with only two staff and 12 students. However, it took shape as an institution in 1997, when engineering programme commenced. KIIT owes its existence to the vision of its founder Prof. Achyuta Samanta who, with strong zest and passion, marched forward to create an institution for the benefit of the society. From these small beginnings, KIIT has developed into a leading university with a strong interdisciplinary culture and a commitment to teaching excellence.

KIIT, now, is a multidisciplinary Deemed to be University, respected worldwide due to its rich educational culture of excellence. Research and innovation feed into the courses, encouraging the students to think critically and creatively. Its cosmopolitan campus is proud to have more than 30,000 students from all corners of India and around 22 countries, creating a mini metropolis in which a diverse multi-cultural community mingles and meets to study and relax together. There are 28 constituent schools, contiguously located in impeccably landscaped and modern-technology-enabled campuses offering graduate, postgraduate, doctoral and post-doctoral programmes in a wide range of disciplines.

KIIT has performed incredibly well in the rankings conducted by various national and international associations. Its strong commitment to teaching excellence has led to the grant of deemed to be university status under Section 3 of UGC Act, 1956 by the Ministry of Human Resources Development, Government of India in 2004, within only seven years of its inception. It holds a Limca Record for this accomplishment. KIIT was ranked 20 among Indian Universities by National Institutional Ranking Framework (NIRF), Ministry of Education, Government of India in 2022. KIIT Deemed to be University has been ranked No. 1 among the Private Higher Education Indian Universities by Atal Ranking of Institutions on Innovation Achievements (ARIIA), Ministry of Human Resource Development Government of India in 2021. KIIT Deemed to be University has been placed in the rank band of 201-250 in the overall category among Asian universities by Times Higher Education (THE) ranking of Asia's best universities for 2022 and in the rank band of 601 – 800 in Times Higher Education World University Rankings 2023. With this accolade, KIIT has emerged as the best in Eastern India, performing at par with the prestigious institutions in India like the IITs, NITs, NLUs and other reputed universities.



About KIIT School of Law

KIIT School of Law was established by KIIT Deemed to be University in the year 2007 to meet the growing demand for legal professionals in the wake of globalization and rapid expansion of India's economy. Legal education is multidimensional- it requires not only procedural skills but also a deep understanding in various epistemologies. For this reason, dual degree integrated courses like Law and Management or Law and Social Sciences or Law and Natural Sciences are becoming popular and assuming much importance in the corporate world. Legal studies are now mixed with management or scientific analytical skills to advance the rational judicial system. The curriculum of KSOL has evolved upon these paradigms. As an institution of excellence, scholarship and rigour, KSOL is dedicated to nurturing students into leaders inculcating in them the intellectual and ethical values that will mould them into socially responsible professional proficient in the dynamic domain of law. KSOL is committed to the evolution of law as an instrument of social change as well as its employment as a mechanism to confront the challenges thrown up by an increasingly industrialized and complex milieu. KSOL is constantly innovating to ensure new and better ways of training professionals of the legal fraternity of tomorrow, who would be competent as well as worthy of public trust. The LL.M. and Ph.D. programme of KSOL are also designed to pursue legal education emphasizing intellectual and jurisprudential science of law.

KSOL has entered into collaborations with many leading international law education consortiums including the International Association of Law Schools, Washington, USA and Asia- Pacific Association of Law Schools, Australia. It also has MoU with Northumbria University, School of Law, U. K., Miami University, USA, Dong A University, Korea. Presently, Prof. (Dr) Bhavani Prasad Panda is the Director of the School of Law.

The KIIT School of Law has been consistently ranked among top 15 Law Schools in India by National Institutional Ranking Framework (NIRF), Ministry of Human Resource Development Government of India with it being ranked 11th in 2022, 10th in 2021, 12th in 2020 and 2019.



About the Conference

Over the last decade or so, the Indian economy has transformed into one of the largest and fastest growing economies in the world. This was possible due to liberalised trade, investment and economic policies that catered to a steadily growing market-oriented economy. The pace of economic growth has been sustained by the competitive advantages of a large market duly supported by innovation and technology development. To reap the full benefits of a market economy and ensure economic efficiency, optimal allocation of resources and equitable outcomes for consumers, an effective and modern competition law regime is vital.

Cartels have come to be seen as cancers on the open market economy, as the supreme evil of antitrust, and as striking at the very heart of the principal virtue of economic activity. Hard-core cartels have been identified as the most egregious violation of competition law underlining the importance of effective action against hard-core cartels. These cartels usually emerge in concentrated settings, where the group controls the dominant share of the market. The rationale for coordination then lies with the ability of this group to achieve equilibrium prices that are higher than would have prevailed under a non-coordinated equilibrium. Internationally, competition policy aims to punish cartel formation by imposing fines, and increasingly also allowing follow-on damage claims. Fines and damages are often related to the extent of price overcharge, i.e., the difference between the cartel price and the price that would have prevailed in the absence of the cartel.

Corporate leniency programs have become an increasingly important tool for antitrust authorities to break cartels. These programs provide fine reductions and/or rewards for reporting a cartel to antitrust authorities by one of the cartel members. The number of cartels detected has increased considerably since the introduction of leniency programs, but in principle this could even be due to an increase in cartel activity

In order for leniency program to be successful, it is essential that there is a severe threat of sanctions in case of cartel detection. Under section 27 of the Competition Act, 2002; Competition Commission of India may impose a penalty upon cartel members of up to three times of their profit for each year of the continuance of such agreement or ten percent of their turnover for each year of the continuance of such agreement, whichever is higher. This creates a race for cartel members to apply for leniency (lesser penalty) so as to get the maximum possible benefit out of the leniency program.



Experimental studies of corruption sometimes find that the possibility of whistle-blowing leads to more, not fewer, corrupt transactions (Abbink 2006; Lambsdorff and Frank 2010), and theoretical and empirical analyses of leniency programs show that while they can make cartels less stable, they can also make them more likely to form in the first place (Motta and Polo 2003; Chen and Harrington 2007; Marvao 2016). The increasing prevalence of leniency makes it important to understand their effects.

The leniency program was introduced in India in 2009 but the first time it was granted was in the Brushless-DC fans cartel in 2017. From 2009-2021, there have been 12 leniency application cases. The first leniency applicant is not guaranteed immunity from fines, as it depends on the amount of information that the CCI already has against the cartelists and the additional information offered by the applicant. The leniency reduction is not only granted to firms but also to individuals that were prosecuted along with the cartel firms/ associations, although their share of leniency reduction is the same that was granted to the firm. There are no extra provisions in place to grant individuals additional leniency for added cooperation or for being the first reporter. While there are no provisions currently of penalty plus in the leniency program, the CLRC has recommended the insertion of leniency plus provisions in the Competition (Amendment) Bill, 2022 on the lines of jurisdictions like the United States, the United Kingdom, Singapore and Brazil to incentivize the parties in an ongoing cartel investigation to disclose information regarding other existing cartels. In the US, ringleaders are unable to claim immunity, whereas in the EC they can do so if they have acted as an instigator or played a determining role in a cartel but not if they have coerced others to join the cartel. Assessing which of these approaches is most effective in practice in deterring cartels would be a useful area for future research.

The standing committee on finance has made recommendation on limiting the scope of hub-and-spoke cartels to exclude those who did not intend to actively participate in the furtherance of a cartel, such as online platforms acting only as intermediaries or entities merely facilitating the organization of meetings. Also, to ensure faster market corrections and to save resources, the Competition (Amendment) Bill, 2022 had proposed a mechanism to settle certain ongoing CCI cases. The committee has now proposed to expand the scope of the settlement mechanism to include cartels. The bill had excluded cartels because there already exists a leniency regime for whistle-blowers who are willing to cooperate with the CCI. The impact of these recommendations needs to be researched in the context of the leniency program of CCI.



This conference is envisioned by KIIT School of Law in collaboration with the Ministry of Corporate Affairs, Government of India to promote empirical and qualitative research on the leniency program designed to combat cartelisation in India and around the world. The Conference shall provide a forum for discussion amongst practitioners, academicians and researchers to deliberate on the nuances and challenges surmounting the leniency program in India and submit their recommendations to the Ministry to formulate robust regulations for the leniency program. Further, the proceedings of the conference will be published in a special edition of KIIT Journal of Law and Society. Members of NICE (Network of Indian Competition Experts) and CWG (Cartel Working Group) along with practitioners will be the Conference Chairs to promote high-quality discussions on the themes.



Sub Themes of the Conference

- Hard Core Cartels
- Hub and Spoke Cartels
- Cartels in digital markets
- Crisis Cartels
- Leniency Programme
- Leniency Plus
- Penalty Plus
- Competition Law and Artificial Intelligence
- Competition Law and Intellectual Property Law

Call for Papers

Legal practitioners, academicians, policy makers, researchers, and students are invited to submit original, unpublished manuscripts, along with an abstract, for presentation in the Conference. Select papers will be published in the Special Edition of KIIT Journal of Law and Society [Volume XIII] (ISSN: 2231-5144), double blind peer review flagship journal of KIIT School of Law which will be published in 2023. The authors whose papers are published will each receive a hard copy of the Journal in paperback.

Long Articles: Between 5000 to 7000 words exclusive of footnotes. Papers in this category are expected to engage with the theme comprehensively and offer an innovative reassessment of the current understanding of that theme. Co-authorship unto two authors is permitted.

Short Articles: Between 3000 to 5000 words exclusive of footnotes. Papers in this category are usually meant to deal with a very specific issue, and make a more easily identifiable, concrete argument. Co-authorship unto two authors is permitted.

Case Comments: Between 2500-4000 words exclusive of footnotes. These should include interpretation of any landmark judicial pronouncement related to Competition Law.

Book reviews: Between 1200 and 1500 words. These are critical analysis of a book pertaining to Competition Law. All the book reviews must embody an assessment of ideas promoted by the author of the book from the point of view of originality, extent of analysis and quality.



Submission Guidelines

- The submissions shall be in English language only and the similarity index should not be above 15% after utilising the necessary filters.
- The manuscript should be accompanied by a covering letter specifying the author(s)'s name, designation, institute, contact number, and email for future reference.
- All articles and short articles must be accompanied by an abstract not exceeding 300 words.
- The word limits are exclusive of footnotes and only footnotes are to be used and no endnotes or bibliography. **The Harvard Bluebook, 20th edition** is the style which is to be strictly adhered to for citations.
- Sub-headings will be formatted in Normal with case size 12 in Times New Roman & Bold. The body of the writing will be formatted in Normal with case size 12 in Times New Roman and footnotes with case size 9 in Times New Roman.
- Co authorship is permissible up to a maximum of two. The submissions will undergo a double-blind peer-review process; therefore, the author/s shall not disclose their identities anywhere in the body of the manuscript.
- The Author(s) shall have to send a Declaration as to that the work has not been published anywhere else and has not been submitted for publication elsewhere. For any issues arising in contravention to such declaration, the KIIT Journal of Law and Society, and Editorial Board shall not be liable. The author shall be personally liable for his or her actions or omissions. The declaration should be a scanned document in PDF or Image (jpg or jpeg) formats containing the above-mentioned declaration.
- The submission shall also contain a separate Cover Letter as an attachment enumerating the following details:
 - Name of the author(s)
 - Address of the author(s)
 - Phone Numbers of the author(s)
 - Title of the manuscript
 - Submission Category — (Example Article/ Short Article/ Book Review)
 - Name of the institution
 - Year of study (in case of a student)/ Designation (in other cases)
 - Email address(s)



Timeline of Submission

Submission of Abstract: By 24th January, 2023

Abstract submission link:

https://docs.google.com/forms/d/e/1FAIpQLSdAh6EXFnBM5xjfePEq1f_FnWwlyZv3y8jObYUfTzDIuZLgdw/viewform?usp=sf_link

Confirmation of Abstract Selection: By 26th January, 2023

Submission of Paper: By 24th February, 2023

Paper submission link:

https://docs.google.com/forms/d/e/1FAIpQLScIO8uBcC0ViMXM1mBLsUhxSDwawRmD8WsecICPufwVtaTpQ/viewform?usp=sf_link

Confirmation of Paper Selection: By 28th February, 2023

Conference Dates: 11th and 12th March, 2023

Registration Details

Registration fee for students - Rs 500 per person

Registration fee for academicians - Rs 1000 per person

Registration fee for Practitioners - Rs 1000 per person

Participants shall be provided with Conference Kit and hospitality, excluding accommodation, for both the days. For select participants, in-campus accommodation may be provided on additional payment.

Fee Payment Details:

Name as in Bank Account: KIIT UNIVERSITY

Bank Name: CANARA BANK

Bank Account Number: 4915101003256

Account type: Savings/Current: SAVING

Branch name: KIIT CAMPUS BRANCH

IFSC Code: CNRB0004915



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Organising Team KIIT School of Law

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For any queries related to the Conference, you may please contact umang.ghildyal@kls.ac.in

