

Tussle between the regulators

What is the issue?

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- TRAI came up with a consultation paper on “Regulatory principles of tariff assessment” which has questions on delineating relevant markets, assessing dominance, and predatory pricing.

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- Following this, the chairman of CCI has argued that the CCI is better placed to look into matters related to predatory pricing.

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How is predatory pricing usually handled?

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- Predatory pricing is a strategy where the dominant market player prices its products or services below costs to undercut its rival.

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- Recent offers by Reliance Jio have led to allegations of predatory pricing.

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- Usually, the **ex-ante competition matters** i.e. anticipated issues based on forecasts fell in the domain of **TRAI**.

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- The **ex-post matters** i.e. issues based on actual results such as predatory pricing fell in domain of **CCI**.

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- Predatory pricing is a highly specialized field of competition assessment.

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Why does the existing mechanism need change?

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- In the present mandate, only a dominant position holder can be punished for

engaging in predation.

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- The dominant position is determined based on market share.
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- Reliance Jio is not in a dominant position.
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- Hence the recent complaints before CCI bore no results, in spite of Reliance Jio using unfair competition measures in its “promotional offer” which went on for several months.
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- Thus, the way CCI understands and acts against predatory pricing in the present scheme of legislative mandate is bound to leave an enforcement gap.
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What is the way out?

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- These enforcement gaps can be filled by TRAI, which can fix ex-ante to ensure fair competition.
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- Through this TRAI can ensure fair competition through means other than acting against mandated predatory pricing.
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- TRAI could also limit the duration of promotional offers, which include below cost pricing, so that a level playing field is ensured for all market players.
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- It could increase the interconnect usage charges (IUC) to a point where below cost pricing becomes unsustainable.
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- TRAI could be given the mandate to specify the duration and features of promotional offers.
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- The highly technical nature of this telecom sector issue has necessitated that CCI, a competition regulator consults with TRAI, a sector-specific regulator to ensure consumer welfare.

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Quick Facts

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TRAI

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Telecom Regulatory authority of India, established in 1997, by an Act of Parliament is to regulate telecom services and tariffs in India.

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CCI

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Competition Commission of India is a statutory body of the Government of India responsible for enforcing The Competition Act, 2002, to prevent activities that have an adverse effect on competition among companies in India.

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Source: Livemint

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