

WHATSAPP LLC VS COMPETITION COMMISSION OF INDIA

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Summary of the Case

Details of the Parties

- **Appellant:** WhatsApp LLC and Meta Platforms, Inc.
- **Respondents:** Competition Commission of India (CCI) and Others
- **Counsel for Appellants:**
 - WhatsApp: Mr. Mukul Rohatgi and Mr. Arun Kathpalia with supporting counsels
 - Meta Platforms: Mr. Kapil Sibal with supporting counsels
- **Counsel for Respondents:**
 - CCI: Mr. Samar Bansal and team
 - Other Respondents: Mr. Abir Roy and team

Facts of the Case

1. WhatsApp LLC and Meta Platforms, Inc. challenged the order dated **18.11.2024** passed by the Competition Commission of India (CCI), which found them in breach of **Section 4(2)** of the Competition Act, 2002 for alleged abuse of dominance.
2. The CCI imposed a monetary penalty of **₹213.14 crores** on Meta and issued multiple directions concerning WhatsApp's sharing of user data for advertising and other purposes.
3. WhatsApp's **2021 Privacy Policy Update** was central to the case, with the CCI alleging it had anti-competitive implications.

4. The CCI directed a **five-year ban** on WhatsApp sharing user data for advertising purposes and mandated changes to WhatsApp's policy for transparency and user consent.
5. The Appellants argued that the findings were based on **potential** and **likely effects** rather than actual anti-competitive effects, which is inconsistent with the law.

Issues Involved

1. **Jurisdiction:** Whether the CCI had jurisdiction to investigate and impose penalties on privacy and data-sharing practices.
2. **Anti-Competitive Effects:** Whether the alleged practices resulted in actual anti-competitive effects or only potential harm.
3. **Five-Year Ban:** The legality and proportionality of the five-year ban on WhatsApp sharing user data for advertising purposes.
4. **Overlap with Data Protection Laws:** Whether the enforcement of the **Digital Personal Data Protection Act, 2023** should preclude the CCI from addressing privacy-related issues.

Judgment

1. The NCLAT stayed the **five-year ban** imposed by the CCI under paragraph 247.1 of the impugned order, citing the significant impact it could have on WhatsApp's business model.
2. The directions under paragraphs 247.2 and 247.3, concerning transparency and user consent for data sharing, were not stayed and must be complied with by WhatsApp.
3. Regarding the monetary penalty of ₹213.14 crores, the NCLAT allowed partial relief, staying the penalty subject to WhatsApp depositing **50% of the amount** (taking into account the 25% already deposited) within two weeks.

4. The Appeals were admitted for further hearing on **17.03.2025**, with directions to complete pleadings within six weeks.

Conclusion

The NCLAT granted interim relief to WhatsApp and Meta by staying the five-year ban and partially staying the monetary penalty, subject to conditions. However, the Tribunal upheld the need for compliance with certain transparency-related directions. The final outcome will depend on further hearings, considering the enforcement of the **Digital Personal Data Protection Act, 2023** and other relevant developments.