

# COMPETITION COMMISSION OF INDIA: ECONOMY

**NEWS:** CCI notifies new definitions to curb predatory pricing

## WHAT'S IN THE NEWS?

The Competition Commission of India (CCI) has defined "cost" as Average Variable Cost (AVC) to identify predatory pricing more accurately. This aims to ensure fair competition, particularly in dynamic sectors like e-commerce and digital services.

### Context and Objective

- The CCI has introduced a new regulatory framework to define "cost" in the context of predatory pricing.
- The objective is to prevent anti-competitive behavior by dominant firms, particularly in emerging sectors like the digital economy.
- This initiative strengthens India's competition law enforcement, aligning with dynamic market realities.

### What is Predatory Pricing?

- As per Section 4 of the Competition Act, 2002, predatory pricing is:
  - The practice of selling goods or services below cost
  - With the intent to eliminate competition or exclude competitors from the market.
- It is considered an abuse of dominant position under Indian competition law.
- However, until now, there was ambiguity around the definition of 'cost', leading to inconsistent interpretations.

### New Definition of Cost: Average Variable Cost (AVC)

- The Cost Regulations 2025 define cost as Average Variable Cost (AVC) for the purposes of predatory pricing analysis.

- $AVC = \text{Total Variable Cost} / \text{Total Output in a given time period}$ .
- Variable Costs include all expenses that vary with output and exclude fixed costs like rent, interest, and depreciation.
- This provides a more objective benchmark to assess whether pricing is predatory.

### Sector-Agnostic and Flexible Framework

- CCI has deliberately chosen not to adopt sector-specific definitions of cost.
- Instead, each case will be evaluated individually based on the specific market context, competitive landscape, and cost structures.
- This is particularly relevant in sectors like:
  - E-commerce
  - Online platforms
  - Digital services and apps, where pricing models and revenue streams are complex and non-traditional.

### Stakeholder Consultation and Feedback

- In February 2025, CCI released a draft notification and invited public comments.
- After reviewing inputs from businesses, legal experts, and consumer groups, CCI made the following refinements:
  - Avoided rigid cost rules that could stifle innovation.
  - Adopted a case-by-case approach for more nuanced regulatory decisions.
  - Ensured the regulation supports both fair pricing and market innovation.

### Key Takeaways from Cost Regulations 2025

- Establishes a uniform and logical cost metric (AVC) to identify predatory pricing.
- Allows for case-specific flexibility, important for fast-changing sectors like tech.
- Brings regulatory clarity for businesses and investigators alike.
- Strengthens enforcement against abuse of dominance, while maintaining a business-friendly approach.

### Implications and Impact

- Likely to tighten scrutiny on pricing practices of large/dominant firms in:
  - E-commerce platforms (like deep discounting by online marketplaces)
  - Telecom providers (with history of price wars)
  - Digital content and service aggregators (like OTT platforms, app stores)
- Helps protect smaller and emerging firms from being unfairly driven out by unsustainable pricing strategies of big players.
- Reinforces CCI's role as a proactive and adaptive regulator, especially in the era of platform economies and gig-based markets.

This initiative represents a mature regulatory step, balancing consumer welfare, innovation, and competitive fairness.

Source: <https://www.thehindu.com/business/cci-notifies-new-definitions-to-curb-predatory-pricing/article69554732.ece>