Utopian recommendation for India on combatting bid rigging under Competition Law in the light of best practices of USA and UK

Dr Souvik Chatterji[1], Indrajit Acharrya[2], Samrat Samaddar[3]
[1,2,3]*Competition Law, JIS University*

"The final cause of law is the welfare of society"
- Benjamin Cardozo

1.1Recommendations for combatting bid rigging in India: Although the Competition Act provides the fundamental framework for regulating competition, how it is interpreted and applied will be greatly influenced by the development of jurisprudence on its application. To enable better application of the Competition law, nations with established competition law regimes, such as the USA and the EU, have each had to create a number of sector- and issue-specific guidelines. Strong competition laws and regulations exist in both the US and the EU. Both the Sherman Act of 1890 and the Clayton Act of 1914 prohibit anti-competitive and abusive behavior in the United States. They also forbid mergers and price discrimination aimed at causing market distortions. The European Union's Articles 101 and 102 of the Treaty on European Union forbid trade between nations that impede competition. Cartelization and the misuse of a dominant position are outright forbidden.

Although the experience of other nations can serve as a guide, the CCI would need to gradually develop the law based on experience gained because competition law is specific to a particular socio-economic background. The way that each of these concepts needs to be addressed will become clearer as jurisprudence develops through the application of case law.

1.2 Suspicious Indicators:

- One could receive identical bids, either for individual line items or for a lump sum, from various companies.
- Bids are much higher than the agency's estimated contract value or significantly higher than comparable bids by the same firms in other sectors;
- A winning bidder subcontracts a portion of the work to one or more losing bidders.
- There are some signs that bids are physically changed, especially at the last minute.
- Some bidders' prices for specific line items are significantly higher than others' prices (unrelated to cost);
- The range of bids reveals a distinct difference between the winner and all other bidders (a sign that there is a situation where there is a number to bid above);
- One could notice that the bids from every company are extremely close to one another (indicating that bidders were aware of one another's prices).
- One could observe a consistent difference between each company's bids.
- When there is a known lack of work, all businesses submit high bids.
- In numerous contracts with short lead times, the company submits various bids for the same line item.
- By placing low bids on some aspects of the contract and bafflingly high bids on others, the companies appear to have engineered a split of the contract.
- Physical proof of collusion can be found in the form of bids from various companies that have the same handwriting, use the same envelopes, have the same mathematical or grammatical errors, or come from the same fax number.
- Even if they took initial action to bid, qualified bidders do not submit a bid.
- The bidders return in the same order or some bidders fails to rebid if a contract is rebid because all initial bids are unacceptably low.
- When there haven't been significant cost increases, the majority of bidders have significantly increased their prices from the previous ones.
- When a new bidder enters the fray, prices seem to drop; and.

- Near the time the bids are submitted or right after, competitors are seen meeting.

1.3 Conditions favorable to collusion

Although collusion or rigging can happen in almost any industry, it is more likely to happen in certain sectors than others. When industry conditions are already conducive to collusion, an indicator of collusion may be more significant.

- If there are few sellers, there is a higher likelihood of collusion. It is simpler for sellers to come together and agree on prices, bids, customers, or territories when there are fewer of them. Collusion may also happen when there are a lot of companies involved, but only a few of them are major sellers, and the rest are "fringe" sellers who only account for a small portion of the market.
- If the product in question cannot be easily replaced by another product or if there are stringent specifications for the product being purchased, the likelihood of collusion rises.
- The easier it is for rival businesses to agree on a standard pricing structure, the more standardized a product is. Other types of competition, like design, features, quality, or service, are much more challenging to come to an understanding on.
- Recurring purchases may increase the likelihood of collusion because vendors may get to know other bidders and subsequent contracts give rivals the chance to share the workload.
- Because of social ties, professional affiliations, established business ties, or job transfers from one company to another, competitors who are well acquainted are more likely to engage in collusion.
- When submitting their bids, bidders who are in the same city or building can easily communicate with one another in the final moments.

1.4 Observations as to Research Questions

1) What are the defects/shortcomings of Competition Commission of India? And what would be the control mechanism or regulatory framework to regulate and supervise the works of the Competition Commission of India?

Section 3 of the Competition Act of 2002, as amended by the Competition (Amendment) Act of 2007, addresses the idea of anti-competitive agreements and gives the Competition Commission of India the authority to forbid any agreement between businesses or individuals engaged in the same or similar trade of goods or services that could, either directly or indirectly, result in bid-rigging or collusive bidding[1]. These agreements have a negative impact on the market's level of competition, so the law forbids them.

There are cases that have been decided in India like Excel Crop Care Ltd v CCI and another[2], where the CCI opened an investigation based on a letter or complaint the FCI Chairman sent to the CCI. Allegations were made that the four APT (Aluminum Phosphide Tablet) producers had conspired against one another in order to harm competition. According to a submission, they had been quoting the same prices for the previous eight (8) years. The Supreme Court determined that the Appellants' claim that parallel pricing in an oligopoly market alone did not constitute a violation of the Competition Act does not hold much water because there have been numerous instances of the same-priced bids being submitted, despite the fact that each bidder's cost of production varies.

In addition to aforesaid case, there are other instances of CCI’s success. A case involving Western Coalfield Limited Vs SSV Coal Carriers Pvt. Ltd. and Ors[3], where one of Coal India's subsidiaries was the informant at the Competition Commission. It was a significant coal supplier to businesses across the nation. Its clients included many power plants. In the transportation bids, rival parties—a collection of coal transporters, were submitting identical quotes. The DG discovered evidence of cartelization in their actions. Repeatedly quoting the same prices for different bids, even at different costs of production, was found to be highly suspect, the Commission ruled. The Opposite parties stated that the prices they quoted were benchmarked against earlier prices, but no proof was provided to back this up. Additionally, they had regular social gatherings and conducted business with one another. Section 3 of the

[1] Section 3 of the Competition Act, 2002 as amended by the Competition (Amendment) Act 2007.

[2] Excel Crop Care Ltd v CCI and another, AIR 2017 SC 2734

[3] Case No. 34 of 2015, Western Coalfield Limited Vs SSV Coal Carriers Pvt. Ltd. and Ors.; Competition Commission of India

Competition Act of 2002 found them guilty of collusive bidding.

But there are many a limitation. To name few: -

a) To start with, India lacks a CCI website that is informational and highlights the pro and contra competitive aspects of bid rigging. MRTPC, CCI, COMPAT, and NCLAT have all rendered decisions in numerous cases of bid rigging. A Competition jurisprudence could have been developed by this time.

b) In addition, CCI lacked a mechanism for determining whether bid rigging in that industry had completely stopped after it was discovered to have occurred. For instance, strict CCI supervision is needed in the road and coal sectors.

c) The question of whether CCI's success of locating and preventing bid rigging, will remain unanswered unless the deterrent effect is tested.

2) Is bid rigging easily detected in India?

Regarding it, nothing is mentioned or said on the CCI website. The already-decided case studies provide information on success stories. However, there are no statistics for those instances where the CCI may have suspended the investigation in the middle and the bid rigging was not proven. That makes one of the other recommendations.

3) Can India learn from USA, UK art of addressing Bid Rigging?

The answer to this question is as followings which is divided into two parts i.e., 1) As to UK'S position and 2) as to USA'S position

UK's Position

In recent years, the UK had been successful in putting a stop to bid rigging. Following an investigation by the Competition and Markets Authority (CMA), ten construction companies with headquarters in the UK were fined £59,334,957 for colluding on prices through unlawful cartel agreements when submitting bids in open competitions for contracts. These bids were rigged to make the client believe they were competitive when they weren't. Between January 2013 and June 2018, each of the ten businesses participated in at least one instance of bid rigging. The fines are as follows: Brown and Mason: £2,400,000; Cantillon: £1,920,000; Clifford Devlin: $423,615; DSM: £1,400,000; Erith: £17,568,800; JF Hunt: £5,600,000; Keltbray: £16,000,000; McGee: £3,766,278; Scudder: £8,256,264; and Squibb: £2,000,000.

Reduced fines were given to settling parties who had admitted their involvement in the cartel activity, as announced in June last year, including Brown and Mason, Cantillon, Clifford Devlin, DSM, John F. Hunt, Keltbray, McGee, and Scudder.

Three directors of companies engaged in the illegal activity have been disqualified by the CMA. These are Mr. Paul Cluskey (current director of Cantillon) for 4 years and 6 months, Mr. Michael Cantillon (previous director of Cantillon) for 7 years and 6 months, and Mr. David Darsey (previous director of Erith) for 5 years and 10 months starting on February 2, 2023. Each of these directors has benefited from shorter disqualification periods because they voluntarily accepted the disqualification through undertakings to the CMA.

One or more of the construction companies agreed to submit bids that were purposefully priced to lose the tender, rigging the bidding process. Customers may end up paying more or receiving services of lower quality as a result of this practice, also known as "cover bidding."

The CMA also discovered that five of the firms were involved in agreements that called for the designated "losers" of the contracts to receive payment from the winner on at least one occasion. Although the amount of this compensation varied, it occasionally exceeded £500,000. To hide this aspect of the illegal behavior, some businesses created fictitious invoices.

The CMA discovered that the illegal collusion incidents occurred over a five-year period and had an impact on 19 contracts for demolition work in London, the Southeast, and the Midlands. The development of Bow Street Magistrates Court and Police Station, the Metropolitan Police training center in Hendon, Selfridges (London), Oxford and Coventry University properties, shopping centers in Reading and Taplow, a sizable office building on London's Southbank, and other sites in central London were among the public and private sector contracts that were impacted. Not all the companies that submitted bids for these contracts engaged in illegal collusion, and not all the contractors who submitted bids for these contracts did so. Thereby India can learn about the art of dealing with bid-rigging from both the UK and the USA.

A consensus among some or all of the bidders that predetermines the winning bidder and restricts or eliminates competition among the conspiring vendors characterizes nearly all types of bid-rigging schemes.

USA's Position

The USA excels at locating bid rigging as well. Both the Sherman Act of 1890 and the Clayton Act of 1914 prohibit anti-competitive and abusive behavior in the United States. They also forbid mergers and price discrimination aimed at causing market distortions. There are problems with tying agreements, exclusive licenses, patent pooling, and unilateral refusal to license that could cause competition to be distorted. A variety of allocation standards can be used by participants to determine who wins a specific contract. Such as:

Determining the Winner

- Rotating contracts so that each earns a consistent dollar volume over time.
- Rotation to ensure that each wins an equal number of contracts over time.
- Dividing up based on market share overall.
- Territory-based division, such as allocating to each company the accounts closest to its headquarters.
- Dividing up based on the type of customer, such as one accepting federal accounts while the other accepts state accounts; and.
- Depending on the situation—dividing the company so that each one maintains a fully operational assembly line or other piece of equipment.

Payback

Naturally, the winning company must provide some sort of compensation to the company that agrees to voluntarily lose business. This compensation may come in a variety of shapes, including:

- The loser will be promised that it can win another contract in the future (this is the most typical payback);
- A subcontract or offer may be awarded by the chosen contractor to one or more losers.
- A direct payoff could come in the form of products, money, or a check and is typically presented as a real payment.

Vitamin Cartel Case[4]

U.S investigations first learned about the vitamins cartel and Hoffman La Roche's involvement in it in late 1996 from sources at Archer Daniels Midland (ADM) who were at the time assisting the DOJ in its investigation into the citric acid cartel. In March 1997, the FBI questioned the director of Roche's vitamin division.

The following was used as proof. After the initial investigations, more evidence of the illicit activity started to emerge in 1997. A member of Boies and Schiller, the law firm Boies founded, asserts to have found proof of price fixing. He noticed that Roche customers were starting to complain a lot.

Customers who made purchases from Roche would not be able to request price quotes from BASF or other vendors. A vague threat of retaliation was made to vitamin C buyers if they attempted to resell the products they had purchased.

Lawyers for Roche first learned of the allegations that some company managers were allegedly fixing the price of vita vitamins in late 1997 and early 1998. Because a senior Roche executive issued a directive specifically requesting that the conspiracy end, this discovery appeared to be supporting evidence.

Boies & Schiller brought a civil lawsuit alleging price-fixing in 1998 as a result of this new information. A grand jury was formed after the DOJ received the suit's allegations and possibly additional allegations. The DOJ later negotiated with Rhone-Poulenc, a French pharmaceutical manufacturer, to admit them into the leniency-program in 1999 after the choline chloride cartel was made public. This explains why this allegedly significant conspirator was not put on trial. The managers of Rhone-Poulenc consented to attend and tape-record a meeting about a conspiracy.

Because Roche and BASF entered guilty pleas and paid hefty fines within two months, the evidence the company disclosed must have been very damning. The government stated that the defendants' decision to "not contest the charges and to cooperate with our investigation" was directly influenced by information provided by Rhone-Poulenc, "which, along with information being provided by others, led directly to the charges.

The Vitamin Cartels' case's likely effects were as follows:

1. Vitamin prices rose between 60% and 100% over the course of the 16 vitamin cartels. Globally, there were roughly $7 billion worth of direct overcharges on consumers.

[4] Commission Statement IP/01/1625, Dated 21st November, 2001

2. Approximately 90% of the global cartel overcharges were paid by buyers in North America, the European Union, and Asia.
3. Almost every nation in the world participated in these global cartels' sales, but the majority of them took place in North America (20%), the European Economic Area (29%) and Asia (55%) instead.
4. Overcharges totaling more than 40% of impacted global trade were incurred by all cartels combined.

The result was that private vitamin cases were resolved in almost all cases. The jury determined that the cartel overcharged customers because the defendants conspired to fix the price of choline chloride in the only vitamin case that went to trial. Six of the major vitamin companies reached a settlement in the private class-action lawsuit brought in federal court on behalf of direct buyers of vitamins and vitamin premix in 1999. Later in 2000, the Department of Justice made guilty plea agreements from two Swiss nationals and two German nationals, three of whom held high positions in BASF's Fine Chemicals Division, and one of whom held a comparable position at Roche.

Lysine Cartel[5]

In dogs, poultry, and fish, the amino acid lysine promotes growth and results in the development of leaner muscles. Additionally, it is blended with corns and used as a component in feed goods. Five producers from Japan, Korea, and the US who together accounted for more than 97% of the world's capacity engaged in price fixing, quota allocation, and volume monitoring between 1992 and 1995.

The DoJ conducted searches with the assistance of the FBI and was able to establish a strong case of collusion on lysine prices around the world for three years based on subpoenaed documents, meeting tapes, and other evidence.

Soda Ash Cartel[6]

A shipment of soda ash at a cartelized price was attempted to be shipped to India in September 1996 by the American Natural Soda Ash Corporation (ANSAC), which was made up of six American soda ash producers. According to ANSAC membership agreement MRTP Commission by using its authority under Section 14 of the MRTP Act, the Commission determined that it was a prima facie cartel and granted a temporary injunction.

The Commission's order was overturned by the Supreme Court, among other reasons, chief of them it did not permit MRTPC to operate extraterritorially.

Trucking Cartel[7]

In the trucking industry, it is common practice to eliminate competition in the market by fixing freight rates without allowing truck operator union members to independently negotiate freight rates. It is the MRTPC that issued a "Cease and Desist" order against Bharatpur Truck Operators Union (order dated 24.8.1984). As per RTP Enquiry No. 10/1982, Goods Truck Operators Union, Faridabad; order dated 13.12.1989 in RTP Enquiry No.13.13.1987, Rohtak Public Goods Motor Union. However, no fines could be levied in the absence of any penalty provisions.

Below are some additional significant investigative powers available in the US; -

1. Practically speaking, the Division's leniency program encourages conspirators who want to avoid severe criminal penalties and fines to "race" to the government by coming forward first with disclosing important information and proofs.
2. The government frequently receives extremely valuable evidence thanks to this cooperation.

Although it is unclear that who will conduct searches of commercial or residential properties and whether they will hold off until legal counsel shows up.

India's position

India adopted and adhered to laws, regulations, and executive orders known as "command-and-control" after gaining its independence in 1947. The conflict between the two laws is difficult for India to accept because it is still in the growing stage of economic liberalization. It became simpler to focus equally on the competition and innovative aspects as a result of liberalization,

[5] Judgment of the court of First Instance, Dated: 9th July 2003 in Joint Cases T-220/00, T-224/00 and T-230/00.

[6] Monopolies and Restrictive Trade Practices Commission, Alkali Manufacturers vs American Natural Soda Ash on 10 June, 1997
Equivalent citations: (1998) 3 Comp. LJ 152 MRTPC

[7] RTP Enquiry No. 250/10983.

globalization, and privatization. The Monopolies and Restrictive Trade Act of 1969, the first competition law ever passed by India, places limits on market monopolies. However, after India joined the WTO, a significant shift in the country's previously highly restrictive foreign trade policies was observed. For the overall economic development of the nation, the Indian government began taking steps in the 1990s to integrate the Indian economy with the global economy.

Therefrom the need to enact a new competition law for our nation arose from the realization that the MRTP Act, 1969 was insufficient to promote market competition and end anti-competitive behavior on a national and international level. A new competition regime was established by enacting the Competition Act, 2002, after the Government of India appointed the high-level committee[8] on competition policy and law in 1999 for advice on the competition law.

India is having trouble accepting the conflict between the two laws because it is still in the early stages of economic liberalization. Liberalism, globalization, and privatization made it simpler to focus equally on the aspects of competition and innovation. With the changes made to the MRTP Act after 1991, law also changed to reflect the changing economic paradigms. The new Act is a thorough regulation that addresses numerous forms of antitrust exercises i.e., Abuse of a dominant position, anticompetitive agreements, and combination control. The act also includes ancillary concepts for a relevant market and value contains specific instructions on how to identify the pertinent market and identify appreciable adverse effects in addition to containing such instructions in various Act i.e., provisions must be implemented by the regulatory body. A government notification dated October 14, 2003 authorized the creation of the Competition Commission of India under the Act. The Competition Commission of India was created with the objectives of promoting competition, preventing actions that have a negative impact on competition, safeguarding the interests of consumers, and ensuring freedom of trade by different economic actors.

To overcome or handle the challenges posed in mixed economy country like India it was inevitable to adopt newer growth policies with an aim to uphold the very spirit of Articles 38 and 39(b)[9] and (c) of the Indian Constitution that make the principles of economic democratization manifest. According to Article 38, the State is responsible for maintaining the social structure necessary to advance peoples' welfare. According to Article 39(b) and (c), ownership and control of the community's material resources are distributed in a way that best serves the common good, and the operation of the economic system does not lead to the concentration of wealth and production resources to the detriment of the general welfare.

To address anti-competitive practices, the Competition Act of 2002 provides both substantive law and procedural guidance. Agreements that are anti-competitive are covered by Section 3 in their entirety including cartels, whereas Section 19[10] of the Act gives procedure and power to. The Competition Commission of India is tasked with investigating any alleged violations of the Competition Act, either on its own initiative, in response to information provided by an individual, a consumer group, or an association, or in response to a referral from the Central as well as State Governments.

CCI has the authority to check whether under Section 19 of the Act[11] in general. If it appears to CCI that the agreements cause or may cause AAE, it will direct the Director General for further investigation under Section 26(1) of the Act. Agreements have an appreciable adverse effect on the Competition in the Indian relevant market, whether or not they do so. According to the Act, the Director General has been given the same authority that a civil court would have in carrying out his duties. Additionally, under Sections 240 and 240A of the Companies Act of 1956, the Director General, as well as anyone conducting an investigation on his behalf has the same authority as the "Inspector".

It is important to note that CCI does not impose monetary fines that exceed the threshold limits specified by the Act and Rules. Also, CCI can allow a lesser punishment under Section 46 of the Act[12] whereby CCI has the authority to impose a lesser fine if the producer, distributor, seller and the service provider come and visit CCI to disclose all the information after engaging in cartels and other anti-competitive agreements as specified in Section 3 of the Act[13] in relation to cartel. Small monetary fines are not enough for big fish companies in the market to have the necessary punitive or deterrent effects. Again, according

[8] Raghavan Committee, 1999

[9] Article 39(b) and (c) of the Constitution

[10] Sec.19 of the Competition Act, 2002

[11] Ibid

[12] Sec.46 of the Competition Act, 2002

[13] Sec. 3 of the Competition Act, 2002

to Sec.64 of the Act[14] the CCI in 2009 drafted the "Competition Commission of India (Lesser Penalty) Regulations, 2009". These rules offer the framework within which the commission can lessen the penalty that was actually awarded according to the provisions of the Act. In addition, the CCI over the years have fined various cartels, including the Cement, Airways and Tire cartels but on most occasions the COMPAT has rejected them on the grounds that they have not complied fundamentals of natural justice.

Extra territorial jurisdiction is expressly allowed by the new competition law through significant and direct AAE mechanism. Section 32 of the Act[15] and the "effect doctrine." make all anti-competitive behavior subject to the CCI's jurisdiction. Any parties to agreements, including cartels under Section 3, that have been made outside of India, as long as these agreements have or are likely to have significant, immediate, and appreciable negative effects in India. In other words, the CCI has the authority to look into a deal if it has or is likely to have a materially negative impact on the competition in the Indian relevant market.

In conclusion, it can be said that Federal Law enforcement officials (i.e., FBI agents) are authorized to carry out or execute search warrants, but Division attorneys frequently accompany law enforcement personnel during undisclosed searches. Division attorneys may conduct impromptu "drop in" visits to question witnesses and targets in their homes or places of business on the eve of the issuance of a grand jury subpoena or search warrant. The government is not allowed to question suspects who are being held by the police without first informing them of their right to an attorney and their right to remain silent, as stipulated by the constitution's due process safeguards. Any further questioning of the suspect must stop if they ask for an attorney, and till the attorney arrives. This protection does not apply to drop-in interviews because the interviewees are not considered to be "in custody," so any statements made without the proper notification of rights or in response to police inquiries after an attorney has been requested will not be admissible in court. ".

So, from the aforementioned discussions the researcher comes to the conclusion that the given hypothesis[16] of this research is hereby proved. India has not still mastered the art of combatting bid rigging and cartels with deterrence like that of US and UK. After researching the position of the US and UK, the researcher concludes that the US and UK's Competition provisions are more supportive of Bid protection when compared to fostering market competition, with the main concerns being the abuse of dominant position, bid rigging, cartelization, etc.

1.5Suggestions

In the context of these discussions, the researcher would like to mention and provide his suggestions to the Competition Commission of India, they are as follows:-

1. India's competition investigation arm i.e., Competition Commission of India has huge scope and capacity. At present it is having its head office located at New Delhi. But in the opinion of the researcher, CCI must decentralized workings of its head office, that means along with New Delhi Head Office they must have their regional offices in four main regions of India like having regional office at Kolkata for Eastern part of India, at Guwahati for North-East regions, at Mumbai/Pune for Western part of India, at Bengaluru for Southern region of India. This will demographically be more feasible for investigating wings of CCI to locate the exact/ probable cause and location of Bid Rigging because of their presence in the vicinity of cause of action.

   Other than this, more Regional Offices mean more efficient human resources to be employed or worked with CCI which will make DG Investigation much smoother, accurate and timely.
2. In the opinion of researcher, CCI must more fully and specifically disclose/ mention facts for suspicion, if any, regarding any sectoral bid rigging through their website. This will create a panic and alarming situation in the mind of the price fixers before or during commission of this white-collar crime.

   This also may cause a change of mind of future prospective bid riggers because they will start believing that their ulterior action will not go unnoticed from the CCI and sooner or later their enterprises will also be under scanner of CCI's investigation which will cause a steady downfall of their share (only if they are listed in share market) in the share market. Consequentially a steady growth of their rival enterprises could also been in the share market.

[14]Sec.64 of the Competition Act, 2002

[15]Sec.32 of the Competition Act, 2002

[16] Ibid to Chapter 1

3. Most importantly the CCI must impose criminal punishment for the wrong doer. This regard the Competition Act must also be amended to include criminal sanction for the violators. Researcher thinks this will create more deterrence in the way of Bid Rigging. Corporal punishment is what a man is always afraid of and this will definitely remain so in long future. Unless physical punishments be included in the Act, the wrong doers would certainly not mind paying compensations or damages howsoever hefty that amount may or may not be. The big fish enterprises are ready to sacrifice 10% of their last 3 (three) financial years turn over to earn a hefty amount through the given tender.

   As of now CCI can impose a pecuniary penalty of 10% of the average turnover of the entity, earned from the sale of the respective products for last three (3) financial year. Whereas in USA violation of Sherman Act is a felony punishable by up to 10 years imprisonment and a $1 million fine for individuals and a fine of up to $100 million for corporations. Along with criminal sanction, an enterprise or an individual convicted under the Sherman Act, may also be ordered to make reimburse to the victims for all overcharges. Aggrieved parties of bid rigging conspiracy may also seek civil recovery up to three (3) times the number of damages suffered. On the other hand, in UK a criminal cartel offence operates alongside the Competition Act, 1998 civil regime, an individual convicted of an offence may receive a sentence of up to five (5) years imprisonment and/ or an unlimited fine[17].
4. CCI must display or upload all of their successful detection and investigation relating to bid rigging cases in their official website. This will cause a tremor in the mind of future bid riggers or price fixers. The icing on the cake will be if these detected cases reflect corporal or physical punishment that would not only cause a tremor in fixers mind but would definitely cause a cold wave of blood through their spine.
5. Dawn raid is another combatting or deterrence measure that CCI could adopt to stop this malpractice. As the term suggests a dawn raid typically takes place early in the morning. In the U.S federal antitrust investigation context, a dawn raid is usually conducted by officers and agents of DOJ and the Federal Bureau of Investigation (FBI) or other law enforcement agencies. DOJ and other law enforcement agents can simultaneously search multiple companies at once situated at different places. In fact, competition authorities outside the U.S may conduct simultaneously raids at foreign company's location.

   Researcher is of the opinion that if this type of raid can be jointly conducted by Enforcement Directorate (ED) and Director General (investigation) of CCI at once to every office premises of the suspected Enterprise, that would do world of good in terms of curbing Bid Rigging or Price Fixing.
6. Researcher also suggests that every year Director General (investigation) of CCI should spend some considerable time in some industries in India where agencies are expected to accept the lowest bid and therefore it is easy to collude like roadways, coal sector, ship building sector, education sector, health sector.

   If needed as and when the Competition Act may require to be amended to include this step as a deterrence measure towards controlling Bid Rigging. If this measure could be incorporated then the amount of bid rigging in India will possibly be meagre, as intense and regular supervision of CCI is the only thing that is lacking in terms of strict implementation of competition provisions in India.
7. Lastly, researcher would like to suggest that if a given enterprise is winning a specific bid for last 3 years or terms, then before handing over the tender to them or before declaring that enterprise as successful bidder, a DG investigation must take place. This measure can be adopted for both public and private sector bidding. The Competition Commission of India must find these situations as a fit case to be investigated by Director General. Accordingly, CCI may direct DG to cause an investigation and submit their report more fully mentioning the findings they have within a given timeframe.

[17] When convicted before a jury in the Crown Court