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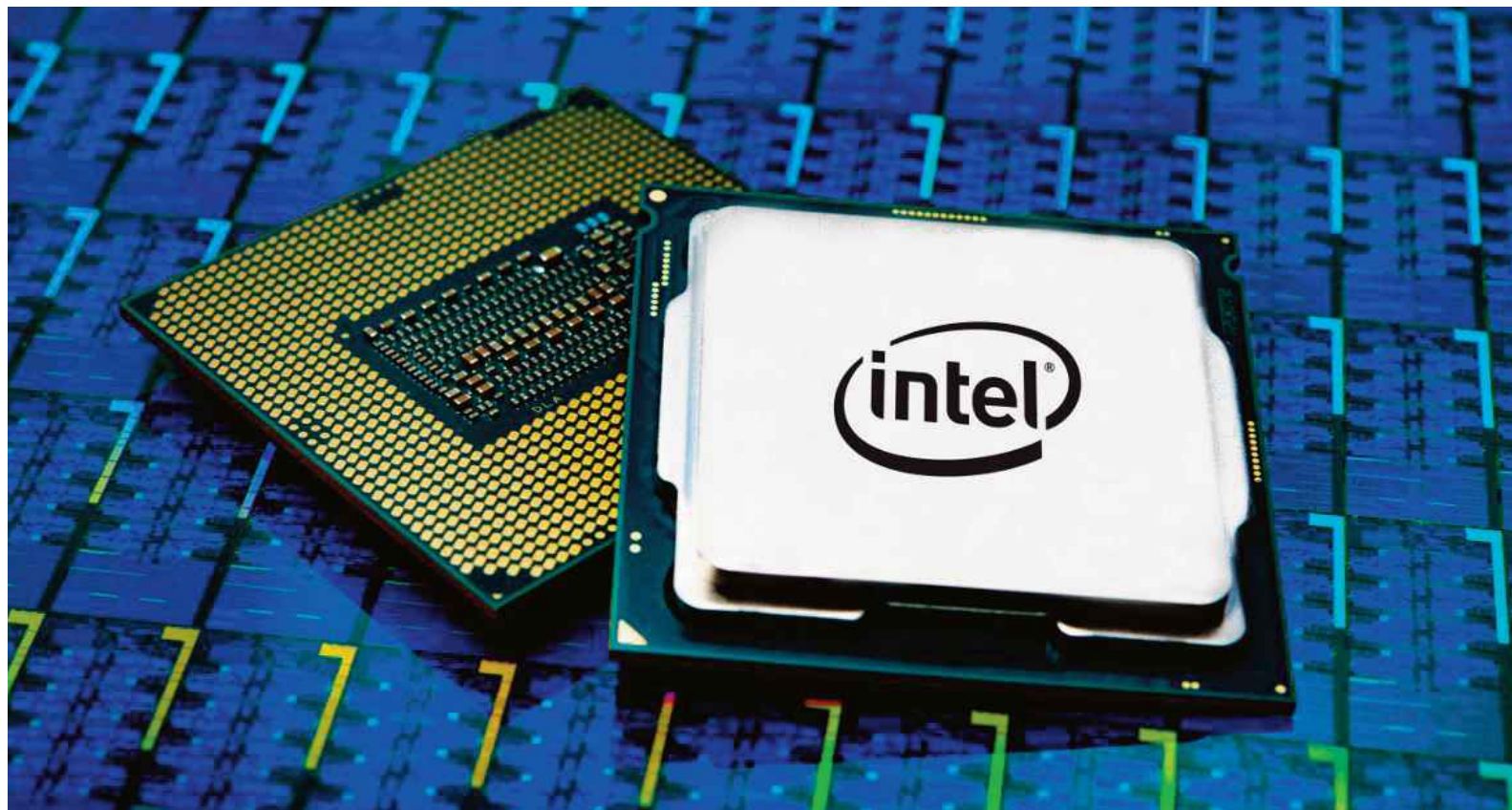
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Alleged to have Abused its Dominant Position with its New Warranty Licensing Policy

*Matrix Info Systems Private Limited vs. Intel Corporation & Other:*¹



Matrix Info Systems Pvt. Ltd., ('Informant'), engaged in the business of importing, wholesaling, distributing and supplying a wide range of IT products filed an Information against Intel Corporation ('Opposite Party No. 1/ OP-1') and its wholly owned subsidiary, Intel Technology India Pvt. Ltd. ('Opposite Party No. 2/ OP-2'), alleging abuse of dominant position under Section 4 of the Competition Act, 2002 (the 'Act'). The Informant was primarily aggrieved with the India specific warranty policy of Intel on its Boxed Micro-processors, according to which Intel does not provide warranty service within India for products that are not purchased in India from its authorised Indian distributors.

In its prima facie analysis, the CCI delineated two relevant markets, namely, "the market for Boxed Micro-processors for Desktop PCs in the territory of India" and "the market for Boxed Micro-processors for Laptop PCs in the territory of India", as there were two different end products being dealt by the Informant. Placing reliance on the ESYS

Information Technologies case and the Gartner's Supply Chain List of 2018, Research Bulletin by IC Insights, Passmark Report dated 16.12.2018, statement of Dell's CTO John Roesse and Annual Reports of the OPs and of its competitor AMD, the CCI was of the prima facie view that Intel is dominant in the markets of Micro-processors for Desktop and Laptop PCs in the territory of India. The CCI also observed that Intel's market share is at least three times the market share of its only competitor in the Micro-processors market i.e. AMD. As regards abuse, the CCI was of the prima facie view that Intel's new India specific warranty policy has the potential to result in denial of market access to the parallel importers and resellers of Intel Boxed Micro-Processors in India, who are competitors of Intel's Indian authorised distributors. CCI also noted that on few occasions Intel has even falsely alleged that the micro-processors sought to be replaced by the Informant are products of OEMs i.e. Tray Micro-processors, so as to avoid acknowledging the warranty.

In view of the above, the CCI was of the view that Intel's policy limited the choices for Indian consumers, as they could not avail the manufacturer's warranty, unless they purchased their product from an authorised Intel distributor in India, and could only have the benefit of claiming seller's warranty in cases of parallel imports. The CCI also observed that even though prices at Intel's authorised distributors abroad were cheaper, its new warranty policy in India seemed to be aimed at disincentivising purchases of Intel Micro-Processors from distributors other than Intel's authorised distributors in India, which had the effect of raising of prices by Intel authorised distributors in India. Further, the CCI also found the new warranty policy of Intel to be unfair and discriminatory, as such differential treatment was not being meted out by Intel in other jurisdictions. Thus, the CCI directed the DG to investigate the matter and submit its report. The CCI, however, did not find any violation in the nature of an anti-competitive agreement to be made out against the OPs.

¹Case No. 05 of 2019 (link: <https://www.cci.gov.in/sites/default/files/05-of-2019.pdf>, last accessed: 11.09.2019)

India Alleged to have Abused its Dominant Position in Barring Volleyball Players from Participating in other Tournaments

Mr. Shravan Yadav, Amitsinh Tanvar and Mr. Lavmeet Katariya vs. Volleyball federation of India and Baseline India ventures Pvt Ltd.²

The three Informants in this case, who are International volleyball players and who have represented India in numerous international championships and tournaments have alleged that Volleyball Federation of India ("VFI"), which is the National Sports Federation ("NSF") for Volleyball in India, has violated various provisions of the Competition Act by entering into an agreement with Baseline Ventures (India) Private Limited ("Baseline"), a company engaged in providing consultancy services, arranging sponsorships, marketing brands and sports events, brand licensing, including providing consultancy for sports management, celebrity endorsements and management, whereby Baseline has been granted the exclusive rights for 10 years to organize Volleyball League and by restricting and prohibiting any other person or enterprise from organising a similar Volleyball League. The Informants have alleged violation of Section 4 by VFI and violation of Section 3 by VFI and Baseline.

Placing reliance on its earlier decisions, namely, Hemant Sharma & Others and All India Chess Federation (Case No. 79 of 2011), Dhanraj Pillay and others And Hockey India (Case No. 73 of 2011) and Surinder Singh Barmi And Board for Control of Cricket in India (Case No. 61 of 2010), the CCI observed that the very fact that VFI has a mandate to undertake the economic activity of organising tournaments makes it an enterprise in terms of Section 2(h) of the Act.

As regards the relevant market, the CCI delineated the 'relevant market' from the point of view of spectators, who are unlikely to regard any other sport or event as substitutable, as well as of volleyball players, whose services could not be substituted with any other service. It thus delineated two relevant markets: the 'market for organization of professional volleyball tournaments/ events in India' and the 'market for services of volleyball players in India'.



As regards dominance, the CCI held that being the only national level volleyball federation in India, regulatory powers enjoyed by it under the pyramid structure of sports governance and being the predominant buyer of the services provided by professional volleyball players, VFI, prima facie, appears to enjoy dominant position in both the relevant markets, i.e., 'market for organization of professional volleyball tournaments/events in India' and 'market for services of volleyball players in India'.

Holding that there is an inherent conflict of interest when an entity is acting as a regulator as well as an organiser, the CCI observed that VFI, which is a regulator of volleyball as well as the organiser of volleyball tournaments, has put a complete bar on organisation of any other volleyball event at international, national, district or local level, which potentially forecloses the

relevant market for organization of professional volleyball tournaments/ events in India to other competitors of Baseline who seek to organise events similar to Volleyball League in India, for a period of ten years or even more, if the Agreement is extended by VFI. Consequently, the free movement of players, who are part of the Volleyball League, is also adversely affected, by not letting them participate in other tournaments. The CCI further observed that such restrictions do not seem to be necessary for promoting the game or preserving its integrity; on the contrary, such restrictions appear to limit the provision of services of participating volleyball players in the relevant market for services of volleyball players in India and thus appear to be covered under Section 4 the Act. It thus directed the DG to investigate and submit its report.

²Case 1 of 2019 (link: https://www.cci.gov.in/sites/default/files/01-of-2019_0.pdf, last accessed: 11.09.2019)

Evidence of Cartelisation or Abuse of Dominant position amongst the Andhra Pradesh and Telangana Local Movie Theatres:

*In re Mr. Ashok Kumar Vallabhaneni vs Geetha SP Entertainment LLP & Ors.*³

Mr. Ashok Kumar, a Telugu Film & T.V. serial producer and distributor of dubbed movies in Telugu language, filed an Information alleging cartelisation and abuse of dominance against 68 Opposite Parties who are engaged in the business of production and distribution of movies in the States of Andhra Pradesh and Telangana. The Informant was primarily aggrieved with the fact that the OPs, with the objective of earning maximum revenue from the three newly released Telugu movies, prevented the Informant from releasing the dubbed movie by not adequately providing the cinema screens, as requested.

Closing the matter, the CCI observed that abuse on account of collective dominance is a concept that is not recognized by the Indian Competition regime. Further, no single player is in a position of dominance. As regards the allegation of cartelisation, the CCI found that no evidence was furnished to show that the OPs had an agreement for allocation of screens for exhibition of dubbed movies in the States of Andhra Pradesh and Telangana.



³Case no. 17 of 2019. (link: <https://www.cci.gov.in/sites/default/files/17-of-2019.pdf>, last accessed: 11.09.2019)

Abuse of Dominant Position and/or Resale Price Maintenance by the Excise Dept., NCT of Delhi in Granting License for the Sale of Alcohol held to be Baseless

*In re United Breweries Limited vs The Commissioner, Department of Excise, Entertainment and Luxury Tax Government of National Capital Territory of Delhi.*⁴

United Breweries Limited ("Informant"), engaged in the business of manufacturing and marketing of beer, filed an Information against the The Commissioner, Department of Excise, Entertainment and Luxury Tax, Government of National Capital Territory of Delhi ("Opposite Party"/"OP") alleging resale price maintenance (i.e., prohibiting L-1 licensee from granting any discount/commission/rebate in any shape to any retail licensee for retail sale beyond what is permitted by the criteria fixed by the Commissioner) and abuse of dominant position (i.e., imposition one sided, unfair and discriminatory licensing conditions).

Closing the matter, the CCI held that the OP is not an 'enterprise' within meaning of Section 2(h) of the Act, as the impugned conduct of the OP falls within the realm of its statutory function / public policy. Further, since the OP is not involved in production, storage, distribution or sale of beer, there is no case of resale price



maintenance as there is no vertical agreement of the nature as mentioned under the Act.

⁴Case no. 22 of 2019 (link: <https://www.cci.gov.in/sites/default/files/22-of-2019.pdf>, last accessed: 11.09.2019)

West Bengal Ltd. (WBSEDCL) held to be Dominant but not Abusive

In Re National Consumers Co-operative Federation of India Limited vs New Town Electric Supply Company⁵

National Consumers Co-operative Federation of India Limited filed an Information against New Town Electric Supply Company Limited ("NTESCL") and West Bengal State Electricity Distribution Company Limited ("WBSEDCL"), collectively referred to as 'Discoms', alleging abuse of dominance on their part, on account of delay in services to supply electricity by the Discoms, delaying the completion of its Project. Considering that the determining factor for defining relevant product market is demand side interchangeability/substitutability of the product, from the point of view of factors such as basic characteristics, intended end-use, price etc, the CCI delineated the relevant market as "market for distribution of electricity in the licensed area of WBSEDCL served through its franchisee, NTESCL, in the state of West Bengal". Further, the CCI held that WBSEDCL indeed enjoyed a dominant position in the relevant market as it was the only distribution licensee of electric supply in the area where the residential



housing project was located. As regards abuse of dominance, the CCI observed that the key grievance of the Informant, which pertains to non-supply of electricity on the part of the Discoms, resulting in delay of his Project and numerous consumer complaints against it by the prospective residents of the Project which caused irreparable monetary loss and loss of goodwill to it, is not a competition issue. Citing its ruling in Mr. Hitesh Bhatt vs. Vadodara Municipal

Corporation and Gujarat Electricity Board (Case 01 of 2011), the CCI held that the deficiency in service by WBSEDCL was in the nature of individual consumer dispute having no bearing on competition in India. The CCI further observed that the Informant has not brought on record any material which inculcates these Discoms for an infraction of the provisions of the Act. Accordingly, the CCI closed the matter.

⁵Case no. 18 of 2019. (link: <https://www.cci.gov.in/sites/default/files/18-of-2019.pdf>, last accessed: 11.09.2019)

School Textbook is not Dominant in the Services for Offset Printing in Gujarat

In Re Ashokbhai M. Mehta vs Gujarat State Board of School Textbook⁶

Mr. Ashokbhai M. Mehta filed an information against Gujarat State Board of School Textbook ("OP") alleging abuse of dominance on their part. The Informant alleged that the OP is solely responsible for publishing of study material in the State of Gujarat, which confers monopsonist power upon it in respect of procurement of printing and binding services from the printers. The Informant alleged that the OP has abused its dominant position by imposing unfair and discriminatory price and conditions in purchase of such services, which entails conduct such as Unilateral Termination of Contract, Arbitrary Allotment of work, unfair



price in purchase of service, charging of earnest money, imposition of exorbitant penalty, no reasonable exit clause for bidders and discriminatory conditions.

The CCI observed that the tender issued by

the Opposite Party is one of the many opportunities available in the market for provision of offset printing services by these printers. Further, it observed that there is neither any guarantee for award of any contract by the OP nor can there be any legitimate expectation on the part of any printer on that account. However, the CCI delineated the relevant market as 'market for procurement of services of offset printing in the State of Gujarat' and found that the OP was not dominant. With regard to unilateral termination, the CCI stated that it was not a competition law issue and other remedies could be pursued. It thus closed the case.

⁶Case no. 04 of 2019. (link: <https://www.cci.gov.in/sites/default/files/04-of-2019.pdf>, last accessed: 11.09.2019)

No Abuse of Dominance by ONGC:

Indian National Shipowners' Association (INSA) vs Oil and Natural Gas Corporation Limited (ONGC):⁷



Indian National Shipowners' Association (INSA) had filed an information against Oil and Natural Gas Corporation Limited ('Opposite Party' / 'OP' / 'ONGC'), alleging abuse of dominance by way of imposition of unfair and onerous terms and conditions through the Charter Hire Agreement ("CHA") and their invocation in an abusive manner. In its report, the Director General ("DG") opined that the CHA between the offshore support vessels ('OSV') Providers and ONGC, being a private contract, is governed by the terms of the contract and

there was no evidence of abuse of dominance by ONGC.

Considering a variety of factors, the CCI held ONGC to be dominant in the relevant 'market for charter hire of OSVs in the Indian EEZ'. As regards abuse, the CCI was of the view that the CHA clause containing unilateral right of termination, without assigning any reasons to ONGC, is not abusive in itself given the disproportionate risk that ONGC has to bear in case of such termination by the OSVs, especially when

the Commission found, based on the given facts and circumstances, that the invocation of such clause was not in bad-faith. The CCI also opined that the evidence on record indicates that the conduct of ONGC was driven solely in response to an exceptional change in market conditions. Further, the right of termination for convenience was exercised by ONGC for the first time in thirty years of the existence of such clause in the CHA. Thus, the CCI was of the opinion that no case of abuse of dominance is made out and closed the matter.

⁷Case No. 01 of 2018 (link: <https://www.cci.gov.in/sites/default/files/01-of-2018.pdf>, last accessed: 11.09.2019)

JAPAN'S NSK Ltd. and Its Indian Subsidiaries found Guilty of Anti-Competitive Conduct in the Electric Power Steering (EPS) Systems Market:

In Re: Cartelisation in the supply of Electric Power Steering Systems (EPS Systems)⁸



Based on a lesser penalty application filed by NSK Limited, Japan ('NSK'), the CCI initiated suo moto proceedings against NSK and JTEKT Corporation, Japan ('JTEKT'), along with their Indian subsidiaries, namely, Rane NSK Steering Systems Ltd. ('RNSS') and JTEKT Sona Automotive India Limited ('JSAI') for their alleged anti-competitive conduct in the market for supply of Electric Power Steering Systems (EPS System) to the various automotive Original Equipment Manufacturers ('OEMs'), having AAEC in India. Globally, in the EPS Systems market, NSK and JTEKT are counted amongst the top 5 companies in terms of revenue.

Pertinently, the CCI enquired into allegations of cartelisation amongst NSK and JTEKT from 2005 to 25.07.2011 only, in view of the fact that Japanese Fair-Trade Commission had conducted an onsite inspection of four Japanese companies, including NSK and JTEKT, in connection with alleged cartelisation in another product.

Be as it may, the CCI formed its prima facie view of anti-competitive conduct on 17.09.2014. During the pendency of the investigation by the Director General ("DG") / CCI, JTEKT also filed its lesser penalty application before the CCI.

In its report, the DG stated that based on

receipt of global 'Request for Information' ('RFI')/ 'Requests for Quotation' ('RFQ') from three automobile OEMs for supply of Electric Power Steering Systems (EPS System), the employees and executives of the aforesaid parties contacted each other and co-ordinated their prices, allocated market on the basis of geographical regions (India being one such market) and on the basis of type of vehicles/ platform/ product, thereby rigging the bidding process of the three automobile OEMs (whose names have not been disclosed by the CCI in its order).

In their objections/ suggestions to the report of the DG, JTEKT/ JSAI argued that JSAI cannot be held to be a part of the cartel as it was not directly involved in the contacts and meetings between NSK and JTEKT and that, being a subsidiary of JTEKT, it was not involved in the decisions related to the rates to be quoted to the OEMs for the global RFQ. JTEKT/ JSAI further submitted that RFQ was independently handled by JSAI on a competitive basis without any support from the individuals of JTEKT who were responsible for sales to that OEM / India. The CCI rejected the plea in the facts and circumstances of the case, particularly the fact that JSAI had abstained from taking part in the bid and NSK and JTEKT had admitted

the existence of such cartel.

Based on the 'relevant turnover' and 'relevant profits' of RNSS and JSAI (as direct sales of EPS Systems in India are made by NSK and JTKET through their respective Indian subsidiaries), the CCI found that 10% of the relevant turnover for each year of cartel was higher than relevant profit for each year of cartel in case of NSK / RNSS whereas the reverse was true for JTKET / JSAI. Having determined whether the relevant turnover or the relevant profit was higher, the CCI decided to impose upon NSK/ RNSS, penalty @ 4% (percent) of the relevant turnover of RNSS for each year of the continuance of the agreement, and thereafter gave it benefit of reduction in penalty of 100% (percent) for its role and assistance in the matter. As regards JTEKT / JSAI, the CCI imposed a penalty @ 1 times of the relevant profit of JSAI for each year of the continuance of the agreement, which was then reduced by 50% as it was the second leniency applicant. The key managerial persons of the parties were granted benefit of similar reductions, as granted to their respective companies, upon the penalty calculated @ 10% (percent) of the average of their incomes for the last three preceding financial years.

⁸Suo Motu Case No. 07 (01) of 2014. (link: <https://www.cci.gov.in/sites/default/files/Suo-Moto-07-01-2014.pdf>, last accessed: 11.09.2019)

Cartelisation and Bid-rigging by LPG cylinder Manufacturers:

In Re: Alleged cartelisation in supply of LPG Cylinders procured through tenders by Hindustan Petroleum Corporation Ltd. (HPCL)⁹

Based on an anonymous letter dated 25.04.2013, alleging bid rigging in tenders issued by HPCL, the CCI ordered an investigation on 02.01.2014 regarding the alleged contravention of Section 3(3) (d) of the Act. The DG submitted its findings to the CCI on 06.10.2016.

In so far as DG’s findings of bid rigging in Tender No.1 is concerned, the CCI held a contrary view as not only related entities, but even unrelated entities, had quoted identical rates for different States, there was no evidence on record that the bidders in their interaction with each other on several occasions had exchanged any strategic information in relation to quotation of bid prices in Tender No.1, and the fact that HPCL was neither constrained nor dependent on the rates quoted by the bidders as it acted independently regardless of the rates quoted by the bidders.

However, in respect of Tender No.2, the CCI found 51 OPs to be responsible for the contravention of provisions of Section 3(3)(d) read with Section 3(1) of the Act,



primarily on the ground that these entities had withdrawn their bids simultaneously without any proper justification. Further, the format of such withdrawal letters and wordings were similar as they were discussed amongst themselves and exchanged through emails. The CCI also noted that even the IP addresses of the OPs who had submitted bids for Tender No.2 were identical/same.

Thereafter, after considering the nature of contravention as well as the mitigating factors stated by the OPs, the CCI decided to impose penalties on the 51 OPs at the rate of 1 percent of their respective average relevant turnovers for the financial years 2013-14, 2014-15 and 2015-16 and at the rate of 1 percent of the respective average relevant income of the 42 key officials of the OPs.

⁹Suo Motu Case No. 1 of 2014 (link: <https://www.cci.gov.in/sites/default/files/Suo-Motu-Case-No-01-of-2014.pdf>, last accessed: 11.09.2019)

CCI found Real Estate Business Owner to be in Abuse of Dominant Position:

Naveen Kataria Vs. Jaiprakash Associates Limited¹⁰

Naveen Kataria (“Informant”), a buyer/allottee of a villa of 5700 sq. ft. along with a basement measuring 500 sq. developed by the Jaiprakash Associates Limited (“Opposite party/OP”), alleged that the provisional allotment letter (“PAL”) of the villa did not contain provisions such as complimentary golf membership, total area of the plot, and additional basement area of 500 sq. ft. It was also alleged that the developer was charging a very high per square foot rate for additional construction and that there was delay in possession. It was thus alleged that the terms and conditions in the PAL were unfair, one sided

and loaded in favour of the OP. After considering the material on record, the CCI vide its order dated 21.05.2015 directed the DG to investigate.

The DG submitted its report on 01.08.2016, in which the relevant market was defined as the ‘market for provision of services of development and sale of residential properties (including flats, villas and plots) in integrated township in Noida and Greater Noida’ and opined that the OP was dominant in such market.

However, upon consideration of the report, the CCI deemed it appropriate that the

matter be further investigated and the relevant market be assessed for provision of services of development and sale of residential villas, instead of including flats, plots, and villas in the same category, in integrated townships in Noida and Greater Noida. Similarly, the issue of dominance was not to be made with reference to all the residential properties in integrated townships but was to be confined to villas in integrated townships developed in the relevant geographic market. The supplementary investigation report was submitted by the DG to the CCI on 31.03.2017 in which the DG now defined



the relevant market as the 'market for the provision of development and sale of independent residential units such as villas, estate homes, town homes and row-houses in integrated townships in Noida and Greater Noida' and observed that the OP was dominant on the basis of holding 100% of the market share, land bank and resources and vertical integration vis-à-vis the cement manufacturing capabilities of Jaiprakash Group. It also held that the OP had violated the provisions of Section 4(2)(a)(i) of the Act by inserting one sided, unfair, arbitrary and anti-competitive clauses in the Standard Terms and Conditions of the Provisional Allotment Letter and has abused its dominant position in the relevant market.

The CCI agreed with the findings of the DG regarding the relevant market. It observed that on the parameters of price,

characteristic and intended uses, residential units in integrated townships differ from residential units elsewhere significantly. It further observed that independent residential units such as villas, estate homes, town home, and row-houses in an integrated township have unique characteristics and features and are an altogether different product, distinct and separate from other residential properties such as multi-storey apartments. As regards abuse, the CCI held that the terms and conditions in the Provisional Allotment Letter ('PAL') are unfair and one sided and are couched in a manner so as to unilaterally favour the OP and be unfavourable to the consumers. It also held that the OP grossly neglected the principle of equity and the allotment letter executed by the OP was observed to be vague which did not confer

any substantive rights on the buyers. The entire modus operandi of the OP, such as collecting money from the buyers without delivering the residential/dwelling unit on time, adding additional construction and amending /altering the layout plans, imposition of various charges, unfettered right to raise finance from any bank/financial institution/body corporate etc., is nothing but an imposition of unfair conditions on the buyers by the OP shows its dominance.

Thereafter, the CCI imposed a penalty @ 5% of the relevant turnover earned by the OP from the relevant market delineated supra. i.e., turnover from sale of independent residential units in integrated township located in Noida and Greater Noida during the financial years from 2009-10 to 2011-12.

¹⁰Case No. 99 of 2014 (link: <https://www.cci.gov.in/sites/default/files/99-of-2014.pdf>, last accessed: 11.09.2019)

CCI Imposes Penalty on IT companies for Bid-rigging:

*Nagrik Chetna Manch Vs. Saar IT resources Pvt Ltd and Ors.*¹¹



Nagrik Chetna Manch ('Informant'), had filed an information on 12.08.2015 against SAAR IT Resources Private Limited ('OP-1'), CADD Systems and Services Private Limited ('OP-2'), Pentacle Consultants (I) Private Limited ('OP-3') and Pune Municipal Corporation ('OP-4'/'PMC'), alleging anti-competitive conduct on their part.

OP-1 is engaged in providing information technology services like design and development, consultancy, implementation, software marketing and customer care/BPO services. OP-2 is engaged in the business of software, computers, and parts thereof. OP-3 is engaged in providing management, business consultant services, consulting engineer services and real-estate agent services while OP-4 is the civic body that is in charge of the civic and infrastructure needs of the residents of metropolis of Pune.

In pursuance of the judgment dated 20.09.2013 of the Hon'ble High Court of Bombay in PIL No.93/2009 to conduct tree census, OP-4 had floated three Tenders in 2015 which had to be scrapped as only one

bid was received in response to such tenders. The fourth tender ('Impugned Tender') was floated on 11.01.2016, which was allegedly rigged by OP1 to 3.

Based on the analysis of the investigation report and the submissions of the parties, the CCI observed that there was a tacit understanding between OP-1 and OP-2 as well as between OP-1 and OP-3, pursuant to which OP-2 and OP-3 merely acted as proxy bidders or cover bidders for OP-1. Lack of proper scrutiny by OP-4 ensured that OP-2 and OP-3 could qualify in the technical round and be in the reckoning so as to benefit OP-1 to get the tender. If OP-2 and OP-3 were not eligible bidders, then the tendering process itself would have failed with there being no participants other than OP-1. The CCI also found that OP-1 had arranged DD towards EMD for both OP-2 and OP-3 from its own coffers, and facilitated submission of online bid of OP-3 from the computer systems located in its own office. Further, the CCI also noticed similarities in documentation for the bids

indicating action in concert with each other. The call detail records and screenshots of messages revealed that there was an understanding between key officials of OP-1 in relation to submission of bids by OP-2. OPs were unable to counter the evidence against them and gave evasive replies over the same.

With regard to OP-4, the CCI observed that shortlisting proxy bidders who did not satisfy the technical criteria reflected systemic failures on the part of OP-4. Further, it did not rule out the possibility of involvement of OP4 as it had facilitated bid-rigging. However, the CCI did not examine its conduct further under the Act since it was the procurer.

A penalty @10 % of average turnover was imposed on OP-1 to OP-3. Further, a penalty @ 10% of Average Income for the FY 16, 2016-17, and 2017- 18 was imposed on 2 officials of the OP1 and one official each of OP No. 2 & 3 under Section 48 (1) & (2) of the Act.

¹¹Case No.12 of 2017 (link: <https://www.cci.gov.in/sites/default/files/12-of-2017.pdf> , last accessed: 11.09.2019)

1. Competition Commission of India approves acquisition of entire share of ACSA Global Limited in Mumbai International Airport Ltd. by GVK Airport Holdings Limited:

The CCI approved the proposed acquisition of additional shares by GVK Airport Holdings Ltd. (“GVK”/“Acquirer”) of Mumbai International Airport Limited (“MIAL”/ “Target”) (“parties”) pursuant to a share purchase agreement between them, which was intended to raise GVK’s share from 50.5 per cent to 60.5 per cent in MIAL. GVK is one of the players in the airport services sector. However, the CCI was of the opinion that such an increase in shareholding will not change the competitive landscape and accordingly approved the merger.

2. Competition Commission of India approves acquisition of Sundaram BNP Paribas Home Finance Ltd. by Sundaram Finance Ltd.:

Sundaram Finance Limited (SFL/Acquirer) filed a notice for the proposed acquisition of 49.9% equity shareholding in Sundaram BNP Paribas Home Finance Limited (SHFL/Target) from BNP Paribas Personal Finance SA (BNPP) pursuant to a share purchase agreement executed amongst them. SHFL is a joint venture between the Acquirer and BNPP, wherein the acquirer already held a 50.1% stake but post the acquisition it would have become a wholly owned subsidiary of it. SFL is not involved in the housing finance sector except through SHFL. SFL is only involved in the distribution of financial products and is vertically placed to SHFL. As the value of the housing products did not raise any competition concern, the CCI approved the acquisition.

3. CCI approves the acquisition of 51.20% shareholding of Apollo Munich by HDFC and subsequently merger of Apollo Munich into HDFC ERGO:

A joint notice had been filed by Housing Development Finance Corporation Limited (HDFC), HDFC ERGO General Insurance Company Limited (HDFC ERGO) and Apollo Munich Health Insurance Company Limited (Apollo Munich) for the merging of Apollo Munich into HDFC ERGO, a unit of HDFC. HDFC and HDFC ERGO, proposed to acquire 51.20% shareholding of the Apollo Munich from some of its existing shareholders. The CCI observed that, both Apollo Munich and HDFC Group are engaged in health insurance business in India, which includes personal accident insurance and travel insurance, and that a lot of public and/or private sector general insurance companies were present in this segment dealing with the same. With regard to HDFC, it was observed that HDFC which is in the business of scheduled commercial bank inter alia engaged in the distribution of insurance products, and Gruh Finance Limited, an affiliate of HDFC, was also in the process of being merged into Bandhan Bank, which also engaged in distribution of insurance products. The CCI, then placed reliance on the annual report of the Insurance Regulatory and Development Authority of India and observed that distribution through individual agents and direct sales are the major modes of distribution of health insurance (excluding personal accident and travel insurances), and banks only accounted for 8% of the products in this segment. Further, in the

segment of distribution of personal accident and travel insurances products, it was observed that the presence of Apollo Munich was insignificant. Hence, the CCI was of the opinion the proposed combination is not likely to incentivise the parties to engage in any conduct which would raise competition concerns and approved the merger.

4. CCI approves the acquisition of shares in Delhivery Private Limited by Canada Pension Plan Investment Board
5. CCI approves acquisition of additional outstanding voting securities of MakeMyTrip Limited by Ctrip.com International, Limited
6. CCI approves acquisition of shares in International Paper APPM Limited by West Coast Paper Mills Limited
7. CCI approves acquisition of sole control over Altran Technologies S.A. by Capgemini
8. CCI approves increase in shareholding of Mitsubishi Corporation in TVS Automobile Solutions Private Limited from 3.26% to 25%
9. CCI approves acquisition of shareholding in Aakash Educational Services Limited by Singapore VII Topco I
10. CCI approves acquisition of 0.51% of the equity share capital of Qess Corp Limited by Amazon.com NV Investment Holding LLC

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