

Competition & Antitrust



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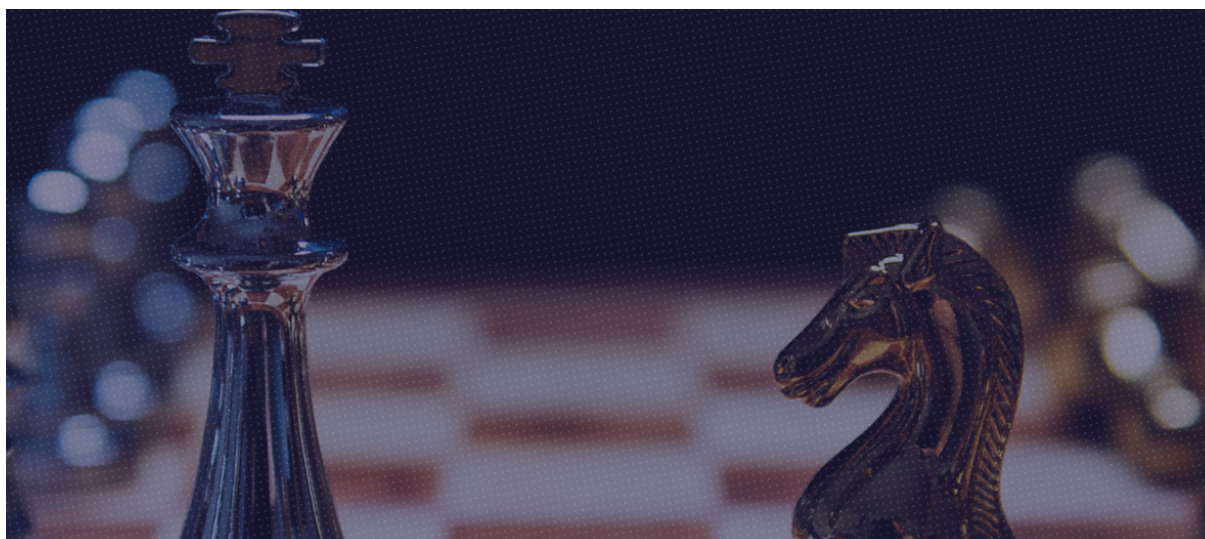




This newsletter is authored by the Competition & Antitrust team at Lakshmikumaran & Sridharan. It includes original articles and research pieces on competition law. It also reviews recent case laws and details regulatory as well as news updates on the subject.



ARTICLE



Competition Law in India

2021 A year in Review

The year 2021 has been a busy year for CCI. The CCI commenced investigations into a large number of sectors ranging from technology to sport, from public procurement to digital markets. The CCI also passed variegated penalty orders last year and ordered interim relief to parties with an unprecedented frequency. Additionally, as part of its advocacy and research mandate, market studies and discussion paper have also been published in several specialised sectors such as pharmaceuticals, telecom and blockchain technology.

In this article, **Charanya Lakshmikumar** (Partner) and **Neelambara Sandeepan** (Joint Partner) give a snapshot of the highlights of the year 2021 and give a sneak peek into the trends for the upcoming year.

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RATIO DECIDENDI

1. CCI imposes penalty on paper manufacturers for cartelisation

KEY POINTS

Mere attendance in meetings where commercially sensitive information such as pricing is discussed, influences and takes away the independent decision making ability of the competitors. They can no longer independently decide the price related policies in the market and therefore, attendings such meetings can be taken as an evidence of cartelisation.

BRIEF FACTS

The present case was a *suo moto* investigation triggered by the DG's communication to the CCI regarding the material gathered during an ongoing investigation. Having perused the material, the CCI noted that certain paper manufacturers might have formed a cartel to raise prices by using Indian Agro & Recycled Paper Mills Association, a representative body of non-wood based paper segment ("**Association**"), as a platform to cartelise. Further, the platform of the association was used to monitor implementation of price increase by attendees.

The CCI *prima facie* opined that there appears to be a case of collusion in relation to determining the sale price of writing and printing paper in contravention of the provisions of Section 3(1) read with Section 3(3)(a) of the Act and directed the DG to investigate into the matter. During the pendency of the investigation, Trident Ltd. filed a lesser penalty application ("**LPA**") under Section 46 of the Act.

Upon completion of the investigation, the DG recorded findings that confirmed collusive pricing by 10 paper manufacturers and the Association (hereinafter collectively referred to as the "**OPs**").

OBSERVATIONS OF THE CCI

Whether there was an "agreement" between the OPs to cartelise?

The CCI analysed the electronic evidence and the statements of the representatives/key persons of the OPs who had attended the meetings to

ascertain whether there was any 'agreement'. The CCI opined that the meetings attended by the representatives of the paper manufacturers under the aegis of the Association were convened with a purpose of discussing prices and drawing a roadmap for future increase, besides monitoring the level of implementation of the decisions taken in the previous meetings. Further, the CCI observed that attending such meetings where commercially sensitive information like prices is discussed, influences and takes away the independent decision-making ability of participant competitors and resultantly, they can no longer independently decide the price related policies in the market.

Accordingly, the CCI, placing reliance on the emails and depositions, concluded that there existed an agreement amongst the OPs within the meaning of Section 3 of the Act.

Whether the 'agreement' caused an Appreciable Adverse Effect on Competition ("AAEC")?

The CCI observed that Section 3 of the Act not only prohibits agreements which cause AAEC but also forbids the agreements which are likely to cause AAEC.

Furthermore, there is a statutory presumption that the existence of an agreement under Section 3(3) of the Act causes AAEC within India.

The CCI further observed that when competitors meet and discuss prices, such conduct undoubtedly, at the minimum, is likely to cause AAEC and that the OPs have failed to rebut the presumption of AAEC on the basis of factors mentioned under Section 19(3) of the Act.



CONCLUSION

The CCI held that the OPs had contravened the provisions of Section 3(1) read with 3(3)(a) of the Act. Along with the cease-and-desist order, a symbolic penalty of INR 5 lakh was imposed on each of the OPs. Further, Trident Ltd., having filed a lesser penalty application during the investigation, was given 100% reduction in penalty amount for full cooperation and vital disclosures. (*In Re: Anti-competitive conduct in the paper manufacturing industry - Suo Motu Case No. 05 of 2016; Order dated 17.11.2021*)

2. CCI orders investigation into alleged abuse of dominance by Google

KEY POINTS

In a well-functioning democracy, the critical role played by news media cannot be undermined, and it needs to be ensured that digital gatekeeper firms, such as Google, do not abuse their dominant position to harm the competitive process of determining a fair distribution of revenue amongst all stakeholders.

BRIEF FACTS

An information was filed by Digital News Publishers Association ("**Association/ Informant**"), a private company created to promote and protect the interest of digital news publishers, against Alphabet Inc., Google LLC, Google India Private Limited and Google Ireland Limited (collectively referred to as "**Google/OPs**").

The Association averred that in the last few years, the financial dependence of the media companies on digital advertising have increased. The revenue generated by digital advertisements is contingent upon the traffic on the news website i.e., the number of people visiting the website. It was further averred that majority of the traffic on news websites comes from online search engines, wherein Google is dominant.

The Association alleged that Google has abused its dominant position in the online web search business by refusing to provide the publishers (member of the Association) any data related to advertising revenue taken from the publisher's website and by unilaterally dictating the terms of the agreement to share advertisement revenues. Furthermore, Google does not fairly compensate the publishers for using the snippets of their content which is used by Google in search results.

It was also averred that Google's refusal to pay appropriate advertising revenue to the members of the Association has resulted in stifling innovation and technical development of the services provided by them as well as denial of market access in the digital advertising space.

Lastly, it was alleged that Google mandates the use of Accelerated Mobile Pages ("**AMP**") for publishers to sustain critical placement in mobile search. The use of AMP by the publishers allows Google to cache all the articles in AMP format and serve the content directly to the mobile users. This has resulted in surge in zero-click searches i.e., user query gets resolved on the search page itself which

in turn results in reduced traffic on the target websites. Further, Google also restricts paywall options unless publishers rebuild their paywall options and their meters for AMP. The only alternate to the AMP system is for publishers to subscribe with Google, which benefits Google, to the detriment of the publishers.

OBSERVATIONS OF THE CCI

What is the relevant market?

The CCI relied on its observation made in the *Google Search Bias Case* (Case No. 07 and 30 of 2012) with respect to the delineation of the relevant market i.e., '*market for online general web search services in India*' and '*market for online search advertising services in India*'. The CCI, with regards to the '*market for online general web search services in India*' observed in the said case that search engines have become the starting post for users looking for information online. Therefore, online general web search services cannot be substituted with direct search option by typing the URL of websites in internet browsers. Further, in relation to the '*market for online search advertising services in India*' the CCI had observed that characteristics of search and non-search advertising as well as online and offline advertising services are distinct from each other. Accordingly, the relevant market for the present matter were taken as '*Market for Online General Web Search Services in India*' and '*Market for Online Search Advertising Services in India*'.

The CCI further observed that a news publisher in the process of selling ad space on its website, interacts with various intermediaries in the digital advertising value chain (ad-tech) to reach out to the demand side of the market, i.e., advertisers. Based on the foregoing, the CCI delineated another relevant product market as '*market for online digital advertising intermediation services*'.

Whether Google is dominant in the delineated relevant market?

The CCI observed that in the market for online general web search services, Google trumps other Search Engines in terms of market share, with a 98.83% share in the search engine market, and a 99.59% share in the mobile search engine market. Google's high market share in the market for online general web search services indicates its dominant position. Further, the CCI, referencing its *Google Search Bias* order, stated that the web search and advertising markets were intertwined, and any barriers of entry in the former, led to barriers of entry in the latter. The CCI also considered the dependence of news publishers on Google owing to Google being the prominent source of online traffic to publisher's website and consequently for the ad revenue generated by them.

Accordingly, the CCI, *prima facie*, held Google to be dominant in both the relevant markets.

With respect to the market for online digital advertising intermediation services, the CCI, based on the reports published by various antitrust authorities which suggested that Google's market share ranged from 50% - 100% in various advertising intermediation services, observed that Google held a significant position in the said delineated market.

Whether Google has abused its dominant position?

The CCI observed that Google's position of strength not only in the markets for web search services, online search advertising services but also the online digital advertising intermediation services, have forced publishers to accept Google's terms and conditions when allowing their websites to be displayed by Google through hyperlinks etc. For both, traction for their website and for ad revenue generated through it, publishers cannot revert to alternatives to stand a fairer chance of gaining more appropriate revenue for their news publications, essentially implying that publishers have negligible bargaining power. Consequentially, Google's unilateral and non-transparent determination of sharing ad revenues was considered to be an abuse of dominance.

Furthermore, Google's refusal to pay publishers for news snippets displayed on Google's search results contributes to their abusive behaviour.

The snippets may contain either the headline of the news alone, or the summary of the news contained in the website as well, which in turn results in increase of zero click searches, thereby, reducing advertisement revenue in the process. Google, however, obtains revenue from the snippets regardless. The CCI also observed that Google's AMP system may have revenue implications for publishers as the publishers are restricted from pay-walling the articles, while having the traffic rerouted back to Google's search results.



CONCLUSION

The CCI found a *prima facie* case of abuse of dominance against Google under Section 4 of the Act and directed the DG to conduct an investigation under Section 26(1) of the Act (*Digital News Publishers Association v. Alphabet Inc. and Others – Case No. 41 of 2021; Order dated 07.01.2022*)

3. CCI initiates probe against Apple for abuse of dominance

KEY POINTS

Unlike traditional 'single-brand' markets or aftermarkets, the present digital ecosystems including app stores operate as a platform connecting two or multiple different sets of market participants, such as, app developers and users. The multisided nature of this market needs to be recognized to address the intricacies, complexities and interdependencies of such markets. Therefore, criticality of app stores in smart device digital ecosystems requires nuanced approach to market definition.

BRIEF FACTS

The present Information has been filed by Together We Fight Society ("**Society/Informant**"), a non-government organization against Apple Inc. ("**OP-1**") and Apple Distribution International Ltd. ("**ADI/OP-2**") (hereinafter collectively referred to as "**Apple**").

Apple is engaged in the business of designing, marketing and selling smartphones, personal computers, tablets etc. It also controls the application distribution software, "Apple's App Store", which allows users to download applications for apple devices, and developers to host applications for their installation.

The information filed alleged that Apple has abused its dominant position in three markets, namely, (i) the market for non-licensable smart mobile operating system, (ii) market for app store for apple smart mobile operating system in India and (iii) market for apps facilitating payment through Unified Payment Interface ("**UPI**"). It was averred that Apple, through its *App Store Review Guidelines* ("**Guidelines**"), forced developers seeking to enter into the app store market to accept unilaterally imposed contracts.

This 'take it or leave it' form of contract, as alleged by the Society, was arbitrary and discriminatory, as it forces developers to concede to this unilateral enforcement of Guidelines to reach users of iOS (smart device ecosystem of Apple). It was further alleged that Apple has mandated the app developers to use Apple's in-app payment solution i.e., In-App Purchase ("**IAP**") for distribution of paid digital content and pay an exorbitant commission of 30%. Further, in cases where the third-party apps are competing with Apple's own apps, such high commission would affect the competitiveness of these third-party apps

vis-à-vis Apple's own apps, as in case of the latter, the commission paid would be internalized. The Society also alleged that Apple mandatorily required developers to use IAP for paid apps and restricted the use of alternate payment mechanism. Further, Apple's marketing restrictions makes it difficult for the multi-platform apps to inform their users of the ability to make out-of-app purchases.

Lastly, it was alleged that Apple's Guidelines conditioned the use of its app store on the use of its IAP to the exclusion of alternative payment solutions, thereby, creating an unlawful tie-in arrangement.

OBSERVATIONS OF THE CCI

What is the relevant market?

The CCI observed that app stores are developed to work on a particular Operating System ("OS") i.e., iOS or Android, and the consumers do not generally multi-home in these OSs. Further, the app developers, to maximise their reach to users, would not like to restrict only to the app store of one particular OS. On the other hand, the consumers may also consider certain apps essential irrespective of the OS they are available at. Due to this cross-side network, the app developers must develop the app for each of the OS. In view of the foregoing, the CCI delineated the relevant market as the '*market for app stores for iOS in India*'.

Whether Apple is dominant in the relevant market?

The CCI observed that the app developers are dependent on Apples' App Store to reach the consumers using Apple's smart mobile devices.

Similarly, in order to download an app, the users on iOS platform do not have any alternative other than Apple's App Store. Therefore, Apple acts as a gateway between the users and app developers. Thus, the CCI was of the *prima facie* view that Apple holds a monopoly position in the relevant market for app stores for iOS in India.

Whether Apple has abused its dominant position?

The CCI noted that Apple, by virtue of its Guidelines, mandates the app developers to use IAP for distribution of paid digital content and charges a commission of 30% as 'payment processing fee.' Further, pursuant to its anti-steering provision, Apple restricts the app developers from steering app users to a third-party payment solution and also from informing them about

other purchasing options which might be cheaper. To this, the CCI, *prima facie*, observed that the mandatory use of Apple's IAP restricts the app developers' choice to select any other alternate payment gateway, especially considering the alleged high commission fee of up to 30%, which is sustained through Apple's imposed tying of distribution service with payment processing service.

Secondly, the CCI noted that Apple's proprietary apps are competing with third party apps on the iOS platform. In this backdrop, the CCI observed that Apple may use the data collected from the users of its downstream competitors i.e., the third-party apps to gain competitive advantage over its competitors, who may not have such access. This could result into Apple using its dominant position in the app store market to enter or strengthen its downstream market of various verticals, such as apps for music streaming, video streaming, e-books etc.

With regards to the allegations of tying of IAP payment processing service with Apple's App Store by Apple, the CCI observed that subjecting app developers to such supplementary obligation, which by their nature or according to commercial usage, have no connection with the subject of the contract for provision of distribution services, appears to be abuse of dominant position.

Lastly, the CCI, having perused Apple's Guidelines and Apple Developer Program License Agreement, observed that Apple, by restricting the app developers from listing third party app stores on Apple's App Store, is foreclosing the market of 'app stores for iOS' for potential app distributors.



CONCLUSION

The CCI *prima facie* found Apple to be abusing its position of dominance. Accordingly, the CCI directed the DG to cause an investigation under Section 26(1) of the Act (*Together We Fight Society Vs. Apple Inc. & Another – Case No. 24 of 2021; Order dated 31.12.2021*)

4. CCI initiates investigation against IREL for abuse of dominant position

KEY POINTS

The thrust of the definition of the term 'enterprise' under the Act is on the economic nature of the activities discharged by the entity concerned.

BRIEF FACTS

An information was filed by Mr. Kalpit Sultania ("**Informant**") against IREL (India) Ltd. ("**IREL/OP**") alleging abuse of dominance. It was submitted by the Informant that the Beach Sand Sillimanite, a category of Sillimanite i.e., natural sand-based product generated during the extraction of rare earth compounds from beach sand, is primarily used by refractory manufacturers for lining furnaces and is also used in the ceramic industry. It is also stated that the Beach Sand Sillimanite cannot be replaced either with underground mined Sillimanite, i.e., another category of Sillimanite or Andalusite, which is imported from South Africa, in terms of quality and cost-effectiveness.

In relation to the dominance of IREL in the market for '*Beach Sand Sillimanite in India*', the Informant submitted that in 2016, *vide* a Central Government notification, Sillimanite was included in the category of atomic minerals. Subsequently, the Department of Atomic prohibited the grant of operating rights in respect of atomic minerals in any offshore areas in the country to any person, except the Government or corporation owned or controlled by the Government. As such, IREL is the only corporation engaged in the production of Beach Sand Sillimanite in India and also the sole manufacturer and supplier of Sillimanite in the Indian market.

The Informant alleged that IREL abused its dominant position by (i) indulging in prohibitive increase in the Sillimanite prices, (ii) following discriminatory pricing against the interest of Micro, Small & Medium Enterprises ("**MSMEs**"), while offering favourable rates for Sillimanites to foreign companies, and (iii) fixing the supply of Sillimanite. Thereby, contravening Section 4 (2)(a)(i) and Section 4(2)(b)(i) of the Act.

OBSERVATIONS OF THE CCI

Whether IREL is an 'enterprise' within the meaning of the Act?

The CCI observed that the thrust of the definition of the term 'enterprise' is on the economic nature of the activities discharged by the entity concerned. In the present case, Sillimanite is extracted and sold by IREL to its customers for a consideration, both in the country and abroad. This Sillimanite is in turn used in production of refractories that is used in metal and alloy making industry as well as in ceramic and foundry industry. Therefore, keeping in view the nature of the

functions performed by IREL, *prima facie*, IREL was found to be an 'enterprise' under Section 2(h) of the Act.

What is the relevant market?

The CCI delineated the relevant product market as '*mining and supply of Beach Sand Sillimanite*' on account of the contention of the Informant that underground mined Sillimanite or Andalusite cannot be a viable alternative for Beach Sand Sillimanite. Further, as IREL was the only player supplying Sillimanite within India and to its customers situated outside India, the relevant geographic market was taken as 'whole of India'. Accordingly, the relevant market was delineated as '*mining and supply of Beach Sand Sillimanite in India*'.

Whether IREL is dominant in the relevant market?

The CCI observed that IREL has acquired a dominant position by virtue of being a corporation which has exclusive right to undertake mining and supply of beach sand minerals in India. Therefore, IREL was held to be dominant in the relevant market.

Whether IREL has abused its dominant position?

The CCI noted that IREL substantially increased the prices of the Sillimanite from 2016-17 to 2020-21 following the restrictions imposed on the private players from mining and supply of Sillimanite. Further, the CCI noted that IREL has not refuted the fact that the foreign companies were sold adequate quantity of Sillimanite at a favorable rate as compared to the rates offered to MSMEs, who were supplied with lower amounts of Sillimanite. Similarly, none of the allegation pertaining to the abuse of dominant position by IREL was addressed by IREL in its reply.

In view of the foregoing, the CCI observed that *prima facie* there appears to be substance in the allegations made which points towards the contravention of the provisions of the abuse of dominance under the Act.



CONCLUSION

The CCI *prima facie* found IREL to be abusing its dominant position. Accordingly, the CCI directed the DG to investigate the matter under Section 26(1) of the Act. (*Kalpita Sultania v. IREL (India) Ltd. – Case No. 22 of 21; Order dated 03.01.2022*)

5. CCI closes matter against Intel for allegations of abuse of dominance

BRIEF FACTS

Velankani Electronics Pvt. Ltd. ("**Velankani/Informant**"), a company engaged in the business of designing and manufacturing electronic products in India, including 'servers', filed an information against Intel Corporation ("**Intel/OP**") alleging abuse of dominant position. Velankani, for the purpose of assembling servers and selling them in the market, executed a Manufacturing Enablement and Licensing Agreement ("**MELA**") with Intel. However, in order to design its own server, Velankani sought to manufacture its own server-board so as to have a competitive edge and manufacture cost effective servers.

Further, it was submitted that for servers to work, its various sub-assemblies, one of which is 'processor', need to interface with each other. However, a processor cannot be interchanged with any other product nor be manufactured by Velankani itself as it is not easily reproducible at a reasonable cost in the short-term. According to Velankani, Intel is a dominant player in the market for processors globally as well as in India. Therefore, to make a workable server, Velankani had to make sure that the server board it intended to manufacture interfaces with the processor manufactured by Intel. For the said purpose, Velankani required access to the reference design files and simulation files of server-boards from Intel to incorporate the same in the design of its server-board.

Velankani alleged that Intel withheld the provision of reference design files and simulation files of the processors which precluded Velankani from manufacturing its own server-board. It was further alleged that this preclusion by Intel has violated the provisions of the Act by (i) denying market access to Velankani, (ii) restricting the production of servers and market thereof and limited the technical/scientific development relating to servers, and (iii) Intel abusing its dominant position in the market for processors for servers to protect the market of servers.

The CCI had *prima facie* found Intel to be abusing its dominant position and accordingly, directed an investigation into the matter by the DG. Upon investigation, the DG found that Intel was a dominant player in the market for '*processors for servers in India*'. Further, it was found that Intel did not abuse its dominant position or denied market access to Velankani as Intel did not deny access to the information required by Velankani to enter into the server market as an original equipment manufacturer ("**OEM**").

OBSERVATIONS OF THE CCI

What is the relevant market?

The CCI noted that even though the denial of files by Intel to Velankani is stated to restrict the entry of Velankani in the 'server' or 'server-board' market, the conduct complained of is with regard to the design files which would enable Velankani to design a product compatible with the Intel's processor. Therefore, the CCI delineated the relevant product market as the '*market for processors for servers*'. Regarding the relevant geographic market, the CCI noted that the market conditions for micro-processors for servers across India are homogeneous. As such, the relevant geographic market is '*India*'. Accordingly, the relevant market in the present matter was delineated as the market for '*processors for servers in India*'.

Whether Intel is dominant in the relevant market?

The CCI assessed the position of Intel in the relevant market by taking into consideration its market shares, distribution figures of micro-processors as well the revenue figures of Intel from the sale of its products in India, entry barrier into the market in term of R&D cost and technology etc. In view of the foregoing, the CCI observed that Intel is able to operate independently of the competitive forces in the delineated relevant market and its position of strength affects its competitors, consumers and the relevant market in its favour. Therefore, CCI found Intel to be dominant in the relevant market.

Whether Intel abused its dominant position?

The CCI, in order to analyse the alleged abuse on the part of the Intel, examined the purported denial of access to the information required by Velankani to carry out successful manufacturing of the server-boards. With regards to reference design, CCI observed that Intel had provided access to all the required files to Velankani.

As far as simulation files were concerned, it was alleged by Velankani that it could not access certain files made accessible to it by Intel.

Further, the simulation file made accessible to it i.e., Simulation Program with Integrated Circuit Emphasis ("**SPICE**") simulation files did not accurately facilitate in the process of interfacing Intel's processor with the server-board being designed, as opposed to the Input/Output Buffer Information Specification ("**IBIS**") files.

To this, the CCI, based on the findings of the DG, observed that both the simulation model formats i.e., SPICE and IBIS were substitutable with each other, and the SPICE files provided seemed to be sufficient for Velankani to develop its own server-boards. Moreover, complete sets of SPICE simulation model as well as IBIS files were made available to Velankani.



CONCLUSION

The CCI held that Intel did not deny access to any requisite reference design files and/or simulation files to Velankani and therefore, no abuse of dominant position can be attributed to Intel under Section 4 of the Act. Accordingly, the CCI closed the matter in terms of Section 26(6) of the Act. (*Velankani Electronics Private Limited v. Intel Corporation* – Case No. 16 of 2018; Order Dated 03.12.2021)

6. CCI finds no collusive bid rigging in construction of roads in Uttar Pradesh

KEY POINTS

Mere commonality of ownership of participating firms is not sufficient to conclude bid rigging in the absence of any material indicating collusion.

BRIEF FACTS

Based on an audit report by Comptroller and Auditor General (“**CAG**”) on construction management in road works in Uttar Pradesh (“**U.P.**”), (“**Audit Report**”), the CCI took *suo motu* cognizance of the potential bid rigging in response to the tenders floated by the Public Works Department (“**PWD**”), U.P. for road construction. The CAG analysed data of bids received during 2011-2016 and observed that a majority of the tenders were not competitive as only one or two bids were received despite a large number of registered contractors in each district. Further, on various instances, the contractors, who submitted the bids, were related parties. Considering the observations made by the CAG in the Audit Report, the CCI passed a *prima facie* order directing the DG to investigate the matter in relation to price fixing and bid rigging under the Act. For the purpose of investigation, the CCI decided to examine the tenders having a value of INR 10 crore.

OBSERVATIONS OF THE CCI

Whether commonality of ownership of participating firms is sufficient to conclude bid rigging?

In relation to the related parties or parties having common ownership submitting bids, the CCI observed that mere commonality of ownership of participating firms, in itself, is not sufficient to record any conclusion about bid-rigging. Such allegations must be substantiated by material indicating collusion amongst such bidders while participating in tenders, which in the present case was missing.

Whether sole bidder's participation is indicative of collusion among bidders?

With respect to the sole bidder's participation, the CCI observed that a tender could not have been cancelled by PWD merely on account of receiving only one responsive bid in the absence of any rule regarding the same. Further, the CCI

observed that no inference of any anti-competitive conduct can be drawn on account of sole bidder participation in the absence of any material on record in this regard.



CONCLUSION

CCI was of the opinion that the material brought forth by the DG was not sufficient to record any finding of contravention of the provisions of Section 3(1) of the Act read with Section 3(3) thereof. Resultantly, the matter was closed in terms of the provisions of Section 26(6) of the Act. (*In Re: Alleged cartelization in road construction work in the State of Uttar Pradesh – Suo Motu Case No. 03 of 2018; Order dated 11.11.2021*)

MERGER CONTROL

1. Acquisition of Mutual Fund business of Indiabulls by Nextbillion.

Nextbillion Technology Private Limited ("**Acquirer/Nextbillion**"), and Indiabulls Asset Management Company Limited ("**Indiabulls AMC**") and Indiabulls Trustee Company Limited ("**Indiabulls Trustee**"), collectively ("**Targets**"), jointly filed a notice pursuant to execution of Share Purchase Agreement between Nextbillion, Indiabulls AMC, Indiabulls Trustee and Indiabulls Housing Finance Limited ("**Seller/IHFL**").

The notice envisages acquisition of 100% shareholding of Indiabulls AMC and Indiabulls Trustee by Nextbillion ("**Proposed Combination**").

Nextbillion is a subsidiary of Billionbrains Garage Ventures Private Limited ("**Billionbrains**"). Billionbrains is a wholly owned subsidiary of Groww Inc ("**Groww**"). Nextbillion is registered with Securities Exchange Board of India as a stockbroker. It is also registered as a depository participant and a mutual fund distributor.

Both, Indiabulls AMC and Indiabulls Trustee are wholly owned subsidiaries of IHFL.

Indiabulls AMC has 3 business verticals viz. Mutual Fund Business ("**MF Business**"), Alternate Investment Fund Business ("**AIF Business**") and Portfolio Management Business ("**PMS Business**"). It provides asset management services to Indiabulls Mutual Fund ("**Indiabulls MF**") and operates/manages its schemes.

Indiabulls Trustee is engaged in the business of providing trusteeship services to the Indiabulls MF.

Before the acquisition of shares of Indiabulls AMC by Nextbillion, IHFL will demerge its PMS Business and AIF Business into its wholly owned subsidiary. Therefore, Nextbillion would acquire only MF Business.

Nextbillion operates an online trading platform named Groww that allows investors to invest, *inter alia*, in stocks and mutual funds. Targets are *inter alia* engaged in the business of provision of mutual funds. Thus, the activity of Nextbillion of enabling investors to invest in mutual funds and the activity of Targets of provision of mutual fund service exhibits vertical interface.

Groww's shareholders include Sequoia (more than 10% shareholding) and Tiger Global (less than 5% shareholding along with certain rights which are not available to ordinary shareholders).

Further, Sequoia also holds stake in two mutual fund distributors, Amica Financial Technologies Private Limited ("**Amica**") and Turtlemint Mutual Funds Distributors Private Limited ("**Turtlemint**").

Similarly, Tiger Global has stake in RKSV Securities India Private Limited ("**Upstox**") engaged in distribution of mutual funds.

As mentioned above, the Targets are engaged in provision of mutual funds. Thus, the mutual fund operation activity of the Targets is placed at different levels of supply chain in which Sequoia and Tiger Global are engaged, which is distribution of mutual funds. Assets under management of the Targets are not significant. Further, market shares of Nextbillion, Amica, Turtlemint and Upstox in the segment of distribution of mutual funds in India are not significant to raise any competition concern. The segment of distribution of mutual funds is also characterised by presence of several other players such as HDFC Bank, State Bank of India, Axis Bank, etc. Similarly, the segment of operation of mutual fund is also characterized by players such as ICICI Prudential MF, HDFC MF, Birla Sun life, UTI, Aditya Birla etc.

The CCI opined that the Proposed Combination is not likely to have any AAEC in India in any of the relevant market(s). Accordingly, the CCI approved the Proposed Combination.

2. Acquisition of BPO healthcare business of Hinduja Global Solutions Ltd. by Betaine

A notice was given pursuant to execution of a Master Framework Agreement, inter alia, between Betaine B.V. ("**Acquirer**") and Hinduja Global Solutions Limited ("**HGS/ Seller**"), and India Business Transfer Agreement between HGS and Betaine.

The notice envisages the acquisition of 100% interest in the worldwide healthcare business process outsourcing ("**BPO**") services of HGS along with certain assets, contracts and employees ("**Target Business**") ("**Proposed Combination**").

Betaine, incorporated in the Netherlands, is an entity ultimately owned and controlled by the Baring Asia Private Equity Fund VIII ("**BPEA Fund VIII**"), a fund

affiliated with Baring Private Equity Asia Pte. Ltd. ("**BPEA**"). BPEA is an international private equity firm with a focus on private equity investments in Asia. The BPEA Group and its Affiliates ("**BPEA affiliated funds**") advise various private equity funds active in several markets. The BPEA affiliated funds currently, *inter alia*, hold investments in various entities that are engaged in the provision of Information Technology ("**IT**") and IT-enabled services ("**ITeS**") in India, including the provision of BPO services.

Target Business is engaged in providing, inter alia, healthcare member lifecycle management services, healthcare provider lifecycle management services, healthcare claims benefits management services, healthcare medical cost management services and healthcare revenue cycle management services. HGS will continue to retain part of the business which does not relate to BPO healthcare services.

It was submitted by the Acquirer that the Target Business does not offer any services in India, and currently, all customers of the Target Business are overseas group companies of HGS. Given that the Target Business is not active in India, the question of it offering any services that are substitutable with those of the Acquirer or the portfolio entities of the BPEA Group does not arise. As such, there is only a notional overlap between the activities of the Target Business in India and the activities of the portfolio entities of the BPEA Group.

In this regard, CCI observed that the competition for supply of BPO/Knowledge Process Outsourcing ("**KPO**") services may take place at the location where the human resources are located, and activities are actually performed. Entities operating in India but supplying solely or largely to customers located outside India ("**Exporting Entities**") may exert competition constraints on the supplier that focuses largely or solely on the domestic market. The presence of the Exporting Entities in India may make India a contestable market. Therefore, the targets supplying services only to entities located outside India may not always be a sufficient reason to ignore overseas supplies of Target Business for the purpose of overlapping mapping.

Regarding relevant market, Betaine has alluded to the BPO services as relevant product. It has submitted that further segmentation of BPO services on the basis of sector being served is not warranted. It may be argued that the activities within the healthcare BPO segment are specialised services such as medical coding and billing, claims processing and data processing services. These services require expertise and domain knowledge related to the healthcare industry in as much as that they may be categorised as part of niche areas i.e., KPO. This is also reflected through the human resources involved and input costs incurred to deliver such services. Thus, these services are different from the services of other BPOs.

Therefore, the Healthcare BPO Services activity, a sub-segment of KPO services, may deserve separate assessment. However, the CCI decided to leave the precise delineation of relevant market open as the Proposed Combination was not likely to cause an AAEC in any of the plausible relevant markets.

The CCI also considered another notice filed in the CCI, where Starnmeer BV, an entity owned and controlled by the funds comprising BPEA Fund VII, a fund affiliated with BPEA, was proposing to acquire the entire issued share capital of Global Content Alpha Partners Holdco Pte. Ltd. ("**GCAPH**") which is engaged in the provision of services within the IT and ITeS sector (more specifically, BPO services) ("**Acquisition of GCAPH**"). In this regard, the CCI observed that competition assessment of a combination is ex-ante forward looking exercise.

Thus, if parties to a proposed combination envisage another merger and acquisition, whether or not, inter-connected to the Proposed Combination, which is likely to change market position of the parties going forward, it is imperative that competition assessment covers the impact of that merger and acquisition. Therefore, the Proposed Combination deserves competition assessment considering the Acquisition of GCAPH.

However, the CCI noted that the combined market shares [0 – 5%] of the Target Business and the BPEA Group and incremental market share for segment/sub-segments, viz. provision of IT and ITeS services; provision of BPO services; and provision of BPO services in the healthcare segment is not significant to raise any competition concern in India. Thus, the CCI approved the Proposed Combination.

3. Acquisition of a minority shareholding in HDFC Ergo General Insurance by HDFC Bank

A notice was filed by HDFC Bank Limited ("**HDFC Bank/Acquirer**") pursuant to the execution of a Binding Term Sheet between HDFC Bank and Housing Development Finance Corporation Limited ("**HDFC**"). It envisages an acquisition by HDFC Bank of 4.99% of the outstanding equity share capital, on an undiluted basis, of HDFC ERGO General Insurance Co. Ltd. ("**Target**") from HDFC ("**Proposed Combination**"). The Acquirer and Target are collectively referred to as ("**Parties**").

HDFC Bank is a banking company registered with the Reserve Bank of India. It has three key business segments namely wholesale banking, treasury and retail banking. It is submitted that the Acquirer is an associate company of HDFC.

Target is a joint venture between HDFC and ERGO International AG. It is engaged in the general / non-life insurance business in India and offers a complete range of general / non-life insurance products including motor, health, home and cyber insurance in the retail space and customized products like property, rural, marine, fire, liability and other specialized insurance in the corporate space.

As per the Parties, the business activities do not exhibit any horizontal overlap. With respect to vertical relationships, the Acquirer is engaged in distribution of general / non-life insurance products/services in India and the Target in business of general/non-life insurance in India. Thus, the Parties are engaged in activities at different levels or stages of the supply chain. In this context, the Parties defined the relevant product market at the upstream level as the market for general /non-life insurance products in India and at the downstream level as the market for distribution of general/non-life insurance products in India.

In the segments/ relevant market identified by the Parties, the CCI observed that the Target has a market share of [0-5] % and [5-10] % in the upstream market segment in terms of volume and value respectively and the Acquirer (including its subsidiaries/affiliates/associates) has a market share in the range of [0-5] % in terms of both volume and value in the downstream market segment. Hence, the presence of the Parties is insignificant to lead to an ability or incentive on the part of the Parties to foreclose competition in any market in India. The exact delineation of relevant market was however left open, as the Proposed Combination was not likely to cause any competition concern in India and was therefore approved.

4. Acquisition of Exide Life Insurance Company Limited by HDFC Life Insurance.

A notice was filed by HDFC Life Insurance Company Limited ("**Acquirer/HDFC Life**") pursuant to the execution of a Share Purchase and Share Swap Agreement, between HDFC Life, Exide Life Insurance Company Limited ("**Target/Exide Life**"), and Exide Industries Limited ("**Exide Industries**"). The Acquirer and Target are collectively referred to as ("**Parties**").

The notice envisages an acquisition by HDFC Life of 100% share capital of Exide Life from Exide Industries. As a part of the consideration for share sale, Exide Industries will be issued equity shares of HDFC Life amounting to 4.1% of the shareholding of the Acquirer. However, Exide Industries will not acquire any special/ strategic rights that are not available to an ordinary shareholder. Upon completion of the acquisition of Exide Life by HDFC Life, Exide Life is proposed

to be merged with HDFC Life such that HDFC Life will be the only surviving entity ('**Proposed Combination**').

HDFC Life is a life insurance company registered with the Insurance Regulatory Development Authority of India ("**IRDAI**"). It is a joint venture between HDFC Limited and Standard Life Aberdeen, a global investment company. Acquirer provides a range of individual and group life insurance solutions including participating, non-participating and unit linked insurance policies ("**ULIPs**"). Its product portfolio comprises of various life insurance and investment products such as protection, pension, savings, investment, annuity and health. It also provides certain riders pertaining to health benefits along with its primary life insurance policies.

Exide Life, a wholly owned subsidiary of Exide Industries, is also a life insurance company registered with IRDAI. It offers various individual and group life insurance products including protection plans (term insurance, child insurance plans), savings and investment plans (including ULIPs), retirement and pension plans. It also provides certain riders pertaining to health benefits along with its primary life insurance policies.

Based on the submissions of the Parties, it was observed that the business activities of the Parties exhibit horizontal overlap in the market for life insurance products and services in India.

CCI observed that the Parties have a combined market share of [0-5] % and [5-10] % in terms of volume and value respectively. The incremental market share, in terms of both volume and value, is insignificant. Other players present in the life insurance market include Life Insurance Corporation of India, SBI Life, ICICI Prudential Life, Max Life Insurance Company Limited, Bajaj Allianz Life etc.

It was also observed that the Parties exhibit minor horizontal overlap in the provision of certain health-related products constituting of riders and defined fixed benefits. However, it was observed that the revenue derived from this product segment by the Parties is insignificant and not likely to change the competition dynamics.

Thus, the CCI decided to leave the delineation of the relevant market open as it was observed that the Proposed Combination is not likely to cause an AAEC in any of the plausible alternative relevant markets that may be delineated.

Accordingly, the Proposed Combination was approved.

5. Acquisition of 100% shareholding of Inflow by Savex

A notice was filed by Savex Technologies Private Limited, India ("**Savex/ Acquirer**") pursuant to Share Purchase Agreement executed between Savex, Inflow Technologies Private Limited, India ("**Inflow**") and the existing shareholders of Inflow; and Shareholders Agreement executed between Savex, Inflow and the continuing Inflow shareholders.

The notice envisages acquisition of 100% shareholding of Inflow by Savex ("**Proposed Combination**").

Savex is a private limited company engaged in the distribution of Information and Communication Technologies ("**ICT**") products. It largely caters to the consumer and mixed segment and functions as an intermediary between Original Equipment Manufacturers ("**OEMs**")/ Original Brand Manufacturers ("**OBMs**") and the large-scale resellers, wholesalers, system integrators, etc. As part of its distribution services, Savex also offers ancillary services such as consulting and technical support. to its customers. Savex's wholly owned subsidiary, Savex Singapore Pte. Ltd is a distributor for Hewlett – Packard Singapore (Sales) Pte. Ltd. for their 'Enterprise, Server, Storage and Networking' division. It also distributes products of other brands like Huawei, LG and Samsung etc.

Savex has interest in Uniserved Tech Solutions Private Limited ("**Uniserved**") which is a marketplace for skilled and technically educated personnel for on-spot technical support and implementation services, field project management, field deployments, technical assistance support, etc.

Savex also has interest in Marina Distributors ("**Marina**") which is present in the downstream activity of system integration of ICT products sourced from various ICT distributors. System integration involves integrating the physical and virtual components of an organization's system to enable them to act like a single system.

Inflow is a private limited company active as distributor of ICT products, such as, networking systems, cyber security, storage and server management systems, largely catering to the enterprise segment for various technology vendors and OEMs. It is present all over India and South Asia. It has a wholly owned subsidiary in Singapore and indirect subsidiaries in Singapore and Sri Lanka catering to customers in the SAARC Region with products similar to those provided by Inflow in India.

The Proposed Combination will take place in the following manner:
In the first tranche, Savex would acquire 58% shareholding of Inflow. Thereafter, the remaining Inflow shareholders shall have the right to exercise a put option

and Savex shall have the right to exercise a call option for the remaining equity shares in Inflow in three tranches. There are more than 10 distributors, including the parties, of ICT products at the national level who are members of the Technology Distribution Association of India.

Savex and Inflow operate as distributors of ICT products and provide ancillary services related to distribution. Based on the end consumers, both the parties exhibit horizontal overlap in the enterprise segment of ICT products.

CCI stated that, most of the distributors of ICT products are engaged in distributing a majority of the products, and therefore the ICT may be considered as a relevant market on representative basis. However, all the distributors might not be supplying all products in different categories. Hence, all the distributors in the segment of ICT products cannot be said to exerting competition constraint on all the other players. Even if all the distributors might be supplying all the products in different categories, their competitive position may not be similar in all the product categories in the ICT. Hence, on representative basis also, distribution of ICT products as a whole cannot be considered as single relevant market, and consideration of all the distributors of ICT products may not represent the market reality.

At the broader level, for distribution of ICT products in India, and the segment of distribution of ICT products to enterprises in India, the combined market share of the parties is less than 5%. At a narrower level for overlapping product segments, the combined market share of the parties is around 15% or less except for rack optimised servers, where the combined market share is less than 20%. The incremental market share at the narrower level overlapping product segments is less than 5%. Further the segment of distribution of ICT products to enterprises and its sub segments are also characterized by the presence of one or more of the players such as Ingram Micro India Private Limited, Redington India Limited etc.

Thus, the precise delineation of the relevant market was left open, as it was observed that the Proposed Combination was not likely to cause an AAEC in any of the plausible relevant markets in India. Accordingly, the Proposed Combination was approved.

6. Acquisition of joint control over Parexel by EFMS and Goldman Sachs Group, Inc.

A notice was filed by Phoenix Parentco, Inc. ("**Phoenix**") pursuant to execution of the Interim Investors Agreement inter alia between Phoenix, EQT Investors and

GS Investors; and Agreement and Plan of Merger inter alia between Phoenix, Phoenix Merger Sub Limited and Parexel Investment Holdings, L.P.

The notice envisages acquisition of 100% of the equity shareholding of Parexel International Corporation ("**Parexel/Target**") by Phoenix. EQT Fund Management S.à r.l. ("**EFMS**") and Goldman Sachs Group, Inc. ("**Goldman Sachs**") being the parent entities of Phoenix, will acquire joint control over Parexel. Phoenix is a special purpose vehicle, incorporated in State of Delaware, USA. It is jointly controlled by EFMS and Goldman Sachs.

Parexel is headquartered in Durham, USA. It provides biopharmaceutical outsourcing services ("**BOS**") to biopharmaceutical companies globally. It is claimed to provide a full suite of services related to Phase I – IV clinical research, regulatory and access consulting as well as strategic advisory services making it an end-to-end clinical development partner for pharmaceutical enterprises and biotech companies. Services of Parexel can take a molecule from discovery through clinical trials to a regulatory approved treatment ready for commercialization on a global level. Its activities in India are largely consistent with its global business.

BOS provided by the Target in India can broadly be classified into Clinical research organization ("**CRO**") services, Real World Evidence services and Healthcare consulting services.

Phoenix submitted that in India, the Target is mostly engaged in intra-group activities, where almost all of its turnover is generated through sale of its services and products to its overseas group entities. The revenue on account of rendering services to third party customers, and the revenue on account of supply of services/product to overseas group entities, separately, is less than 1000 crores. Only if both these revenue numbers are considered cumulatively, then the de-minimis exemption threshold is breached. The de-minimis exemption exempts from the mandatory requirement of prior notification to CCI in cases where the turnover of the target enterprise is not more than one thousand crores in India.

Phoenix stated that, intra-group turnover should not be included while applying this exemption as, including the revenue derived by the overseas parent entities from third parties in India would result in double counting.

The CCI considered the submissions and delved on whether (i) turnover originating from outside India and terminating in India (Import Turnover in India); or (ii) intra-group turnover originating from India and terminating outside India (Intra-Group Export Turnover) should be excluded for the purpose of de-minimis exemption.

It was observed that approach suggested by Phoenix regarding the import turnover in India is not appropriate as this turnover relates to rendering of services to customers in India. These transactions essentially represent the value of business relatable to India and should be included in computation of turnover for de-minimis exemption.

For intra-group export turnover, the CCI observed that the purpose of exclusion of intra-group turnover is to avoid double counting. When overseas group entity makes further supply of these services, (supplied to it under intra-group export) outside India, the turnover relating to such subsequent sale is not counted as turnover in India. However, if intra-group export turnover is excluded, then the economic value addition generated from India goes unaccounted. Intra-group turnover cannot be excluded mechanically. Location of the parties to the intragroup sales and the scope of acquisition needs to be appropriately factored in the determination of turnover for the purpose of the Act, as well as de-minimis exemption. Further, tests such as parties test and location test are to be conducted.

In simple terms, if the revenue of further sales outside the group is relatable to India, thereby being already accounted for, then exclusion of all earlier intra-group sales is warranted to avoid double counting.

From the break-up of turnover of Target relating to India for FY 2020-21, it was observed that cumulatively, non intra group turnover; and intra-group turnover exceeds INR 1000 crore. Thus, it breaches the threshold under de-minimis exemption and thus not eligible for the exemption.

It was further noted that one of the portfolio entities of Goldman Sachs, is engaged in providing CRO services in India. Thus, activities of Goldman Sachs and the Target and its affiliate(s) exhibit horizontal overlap. However, combined market shares of the said portfolio entity of Goldman Sachs, Target and its affiliate(s); and incremental market share are not significant. Further, this activity is also characterised by presence of other players. Hence, the precise delineation of the relevant market was left open, as it the Proposed Combination was not likely to cause an AAEC in any of the plausible relevant markets in India. Accordingly, the same was approved.

7. Acquisition of up to 71.25% shareholding of ASK Investment Managers Limited by BCP TopCo

A notice was filed by BCP TopCo XII Pte Ltd. ("**Acquirer**") pursuant to a Share Purchase Agreement ("**SPA**") between itself and ASK Investment Managers

Limited ("**Target**"), persons set out in the SPA and the Shareholders Agreement, inter alia between the Acquirer and the Target. The Acquirer and the Target will be collectively referred to as ("**Parties**").

The notice envisages the acquisition of up to 71.25% shareholding (fully diluted) in the Target by the Acquirer from various selling shareholders ("**Proposed Combination**") along with certain rights.

Acquirer is a newly created entity incorporated in Singapore. It is controlled by funds advised and/or managed by affiliates of the Blackstone Inc., collectively, ("**Blackstone Group**"). Blackstone Inc. is a global alternative asset manager headquartered in the United States and operates as an investment management firm. Blackstone Group is active in the financial services sector in India through portfolio companies, namely, Aadhar Housing Finance Limited ("**Aadhar**") and Fino Paytech Limited ("**Fino**"), collectively ("**Relevant Portfolio Entit(y/ies)**"). Target is an asset and wealth management company. It is the ultimate holding entity, engaged in the business of providing financial services, directly and through its associate and subsidiary companies, namely, ASK Property Investment Advisors Private Limited ("**ASK PIAPL**"), ASK Wealth Advisors Private Limited ("**ASK Wealth**"), ASK Financial Holdings Private Limited ("**ASK FH**"), etc.

With respect to horizontal overlaps, as per the notice, the activities of the Relevant Portfolio Entities of Blackstone Group and the Target (through ASK FH and ASK Wealth) overlap in the financial services sector in India, particularly (i) in the market for the provision of loans and lending services in India; and (ii) the market for the distribution of insurance products in India.

As per the Parties, the market for provision of loans and lending services in India can be further segmented into the market for provision of retail loans and wholesale loans in India.

However, the Relevant Portfolio Entities of Blackstone Group are only present in the narrow segment for the provision of retail loans. The Target is present to a limited extent in the segment for the provision of retail loans and that too in connection of loans against securities; however, its focus is on lending solutions for corporates, etc. i.e., the provision of wholesale loans. Hence, the overlap is generally limited to the activity of provisions of loans and lending services, and at a narrower level, to the activity of provisions of retail loans.

The Parties have delineated the relevant markets for the Proposed Combination as (i) Broad relevant market for the provision of loans and lending services in India (Relevant Market 1); (ii) Narrow relevant segment for the provision of retail loans in India (Narrow Relevant Segment); and (iii) Relevant market for the distribution of life insurance products in India (Relevant Market 2), collectively referred to as ("**Relevant Markets**").

With respect to vertical relationship, Parties submitted that there is a complementary linkage between Aadhar and a subsidiary of the Target, i.e., ASK PIAPL. While ASK PIAPL is engaged in the activity of investment advisory services and can offer guidance to consumers to invest in certain real estate projects, Aadhar is engaged in the provision of housing finance and could provide the necessary financing for acquiring such real assets. However, this linkage is only notional, since ASK PIAPL focuses on high net-worth clients while Aadhar is a player in the affordable housing finance segment.

Based on the submissions, CCI noted that the combined market shares of the Parties in the Relevant Markets are negligible. Further, the market for provision of loans (including retail loans) and lending services is marked by the presence of competitors like State Bank of India, etc., as well as private players such as HDFC Bank Ltd., etc., among others, and the market for the distribution of life insurance products in India has the presence of players such as BankBazaar, Renewbuy etc. Also, it is noted that the complementary relationship between the Parties is insignificant, and the Parties are competing with other players such as HDFC Bank, Motilal Oswal Real Estate, etc. Thus, CCI left the exact delineation of the relevant market open as the Proposed Combination was not likely to cause any competition concern in India and accordingly approved the same.

NEWS NUGGETS

1. Netherlands' Antitrust Regulator holds Apple liable for commissioning In-App Payments

Apple was fined by the Authority for Consumers and Markets ("**ACM**") for its commissioning of in-app payments from app developers, with the Dutch authority holding that the commissions are anti-competitive. Coming from an investigation launched by the ACM in 2019, the authority found that App developers paid hefty commissions to keep its apps in the App Store and were further charged for in-app payments, if any were made. Furthermore, developers had no choice but to accept Apple's terms and conditions as Apple was dominant in the market for the installation of applications on its devices, where it provided no support for third-party providers.

2. Swedish Competition Authority investigates price-fixing in COVID-19 test Centres.

Konkurrensverket, Sweden's competition law watchdog, has conducted investigations into unauthorized cooperation between companies offering PCR tests for COVID. A dawn raid was carried out due to the suspicion that the companies engaged in fixing the prices of the PCR tests, thereby intending to limit the competition in the market for COVID-19 tests.

3. Lighting Company in the UK booked for Resale Price Maintenance

The UK Competition and Markets Authority has provisionally found Lighting firm 'Dar Lighting Limited' liable for Resale Price Maintenance ("**RPM**"). The company restricted retailers from setting their own price for the lighting products and insisted that the product must be sold at a minimum price or higher. This is the 2nd time that the lighting industry has seen an investigation into practices of RPM.

4. The European Commission publishes consultations surrounding its revised draft rules for Vertical Block Exemption Regulations

The European Commission published the public comments and consultations surrounding the revised guidelines for Vertical Block Exemption Regulations ("**VBER**") on November 22, 2021. The results of the public consultation by the Commission generally saw comments relating to dual distribution, parity

obligations, active sales restrictions and indirect measures restricting online sales. The Commission proposed to exclude dual distribution as an exemption, as it would raise horizontal issues. The Draft VBER introduces the possibility of including the appointment of more than one exclusive distributor for a particular territory or customer group. Finally, online sales measures would not be considered a hardcore restriction.

TEAM PROFILE



L BADRI NARAYANAN

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(Advisory, Corporate,
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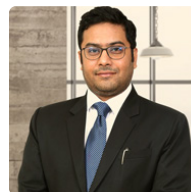
Badri specialises in Corporate, Competition and Regulatory matters. He is qualified to practice as a lawyer in India and New York. He advises on various issues involving consortiums and joint ventures such as contract manufacturing scenarios, valuation, secondment, royalties and license fee arrangements. He has represented parties before various fora in tax and commercial disputes. He practiced as a patent attorney in the United States before moving to L&S.



CHARANYA LAKSHMIKUMARAN

PARTNER
(Disputes, Competition and
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Charanya has over a decade of experience working in the fields of intellectual property, taxation and regulatory litigation. She is an Advocate-on-Record designated by the Supreme Court and was a former associate in the chambers of the Attorney General of India. Charanya regularly appears before the Supreme Court and focuses on competition and regulatory litigation before the NCLT and the NCLAT.



ADITYA BHATTACHARYA

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Aditya has worked with L&S since 2010 and regularly appears before the Supreme Court of India, various High Courts, the Competition Commission, NCLT and the NCLAT. His practice is focused on litigation emanating from the manufacturing sector, including matters of taxation, competition and regulatory issues.



NEELAMBERA SANDEEPAN

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Neelamberra advises on the full range of competition law matters including cartel enforcement, abuse of dominance, leniency applications, merger control, audits and compliance. She appears before the CCI, NCLAT and various High Courts. Neelamberra has represented clients in high-profile, precedent setting behavioral cases (Cement Cartel case) and advised on complex M&A transactions. She has previously worked at the WTO in Geneva.



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Legal 500

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Legal Era Awards 2020

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2021**

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Lakshmi Kumaran & Sridharan recognised
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