



CRITICAL COMPETITION
COMPETITION LAW NEWSLETTER
DECEMBER, 2023

ENFORCEMENT ORDERS

1. THE COMPETITION COMMISSION OF INDIA DISMISSED THE ALLEGATIONS OF ABUSE OF DOMINANCE AGAINST INDIAN BANK

The Competition Commission of India (CCI) dismissed a complaint filed by Mr. A. Ram Babu (**Informant**) alleging unfair practices by Indian Bank (**OP**) in violation of the provisions of Sections 4(2)(a) and 4(2)(b) of the Competition Act, 2002 (**Competition Act**). The Informant held fixed deposit accounts with the OP, and due to changes in the Reserve Bank of India's policy, he withdrew the fixed deposits prematurely. Subsequently, the OP imposed a penalty on the Informant for the premature withdrawal. The Informant alleged that the imposition of penalty by the OP was unfair and discriminatory, constituting a misuse of its market position. The Informant sought for an interim relief and demanded refund of the penalty amount. The CCI noted that the Informant's grievance primarily relates to the penalty imposed for the premature withdrawal of fixed deposits.

To assess these allegations, the CCI delineated the relevant market as "market for the provision of term deposit services in India". The CCI observed that there are several players operating in the said market which include public sector banks, private sector banks, post-offices, and other non-banking financial companies. Furthermore, the CCI noted that the Informant has failed to provide any evidence of the OP being dominant in the relevant market. Therefore, the CCI dismissed the complaint and passed an order under Section 26(2) of the Competition Act holding that no prima facie case for investigation was established by the Informant.

2. THE CCI DISMISSED A COMPLAINT AGAINST THE SURVEYOR GENERAL OF INDIA & THE TECHNICAL COMMITTEE FOR PURCHASE OF PLOTTER, SURVEY OF INDIA

The CCI dismissed a complaint alleging contravention of Section 3 of the Competition Act by the Surveyor General of India and the Technical Committee for Purchase of Plotter, Survey of India, (**collectively, OPs**) in a tender for procurement of LED Plotters with Folders. The Informant alleged that OPs had floated a tender wherein, they engaged in favoritism, denying competition and helping a cartel of bidders consisting of Reprographics India and its 2 resellers. It was also alleged that the bidders had a monopoly, enabling them to quote exorbitant rates due to lack of any competition in the bidding process.

The CCI observed that there is nothing in the Information to show that any cartel among the bidders existed and accordingly, examination of the alleged conduct under Section 3(3) of the Competition Act is not required at this stage. The CCI also noted the existence of numerous buyers procuring LED Plotters apart from the OPs and clarified that the CCI does not interfere unless the procurer is a dominant player in a relevant market.

The CCI reiterated its stance and referred to its past orders, including *Shri Prem Prakash v. Power Grid Corporation of India Ltd.* (Case No. 41 of 2016) and *Mr. Dushyant v. National Accreditation Board for Testing and Calibration Laboratories (NABL) & Ors.* (Case No.48 of 2021), to state that procurers have the freedom to exercise their choice freely in procurement, and stipulating standards within tender documentation is not inherently anti-competitive.



Further, the Informant has neither leveled any allegations under Section 4 of the Competition Act nor defined any relevant market, therefore, it is not necessary to assess the dominance of the Ops. The CCI held that no case of contravention of Section 3 or Section 4 of the Competition Act was established by the Informant. Consequently, the information was dismissed by way of an order under Section 26(2) of the Competition Act.

3. THE CCI DISMISSED A COMPLAINT AGAINST LUPIN LTD. AND DR. REDDY'S LABORATORIES LTD. FOR ALLEGED ANTI-COMPETITIVE ACTIVITIES

The CCI dismissed a complaint filed by Shri. Nadie Jauhri (Informant) alleging contravention of Section 3 and Section 4 of the Competition Act by Lupin Ltd. (Lupin) and Dr. Reddy's Laboratories Ltd. (Dr. Reddy's) (collectively, OPs).

On perusing the distribution policy of Lupin, the Informant alleged that refusal by Lupin to supply products to Indira Medical Agencies is in violation of the Drug (Price Control) Order, 2013 issued under Section 3 of Essential Commodities Act, 1965. Further, the terms and rules drafted by Lupin create conditions that do not allow the market to grow effectively as well as healthy competition to drive the market outcomes. The Informant also alleged that Dr. Reddy's issued letter of appointment to Shah Agencies to become its stockist but did not implement it because of non-issuance of NOC by State Chemist Association and lack of voluntary contribution for the association.

The CCI observed that the evidence provided did not substantiate the allegations and the documents submitted, such as an Office Memorandum and a letter from Lupin,

were insufficient. The CCI also noted that there was no evidence to support the Informant's claim that Lupin's terms restricted healthy competition or violated the provisions of the Competition Act. The CCI also noted that there is lack of evidence demonstrating non-implementation of the agreement by Dr. Reddy's with Shah Agencies. Furthermore, internal emails provided by the Informant were considered insufficient to support the claim of non-supply for want of NOC and voluntary contribution to the local association. Therefore, the CCI dismissed the complaint by way of an order under Section 26(2) of the Competition Act as no prima facie case was established.

COMBINATION ORDERS

4. THE CCI APPROVED THE ACQUISITION OF ADDITIONAL STAKE IN NIVA BUPA HEALTH INSURANCE COMPANY LIMITED UNDER THE GREEN CHANNEL ROUTE

The CCI approved the secondary purchase of equity shares of Niva Bupa Health Insurance Company Limited (**Niva Bupa**) by Bupa Singapore Holdings Pte. Ltd. (**Bupa Singapore**). Pursuant to the proposed transaction, the equity shareholding of Bupa Singapore will increase to approximately 63%. Bupa Singapore is an investment holding company, and a subsidiary of the British United Provident Association Limited, which is a healthcare group. Niva Bupa is in the business of underwriting health insurance in India, providing insurance policies relating to critical illness, personal accident, and overseas medical insurance.



5. THE CCI APPROVED ACQUISITION OF VOTING RIGHTS IN VODAFONE GROUP PLC. BY ATLAS 2022 HOLDINGS LIMITED

The CCI approved the proposed acquisition of less than 25% of voting rights in Vodafone Group Plc. (**Vodafone**) by Atlas 2022 Holdings Limited (**Atlas**) through a series of on-market and/or off-market transactions. Atlas was incorporated on 24 February 2022, in the Cayman Islands, for the purposes of acquiring and holding Emirates Telecommunications Group Company PJSC's (**e&**) current 14.6% interest in Vodafone. Vodafone is active in the telecommunications sector through Vodafone Idea Limited (**VI India**) and its step-down subsidiaries. VI India offers mobile telephony services; broadband services; content and digital offerings in partnership with various over-the-top apps and content creators; and various value-added services such as entertainment services.

6. THE CCI APPROVED ACQUISITION OF 20.51% EQUITY SHARES IN INDO RAMA SYNTHETICS (INDIA) LIMITED BY MR. ALOKE LOHIA

Pursuant to a Share Purchase Agreement, the CCI approved the proposed acquisition of 20.51% equity shareholding in Indo Rama Synthetics (India) Limited (**IRSL**) by Mr. Alope Lohia (promoter of IRSL) from Brookgrange Investment Limited (**Brookgrange**). After acquiring the equity shareholding, Mr. Alope Lohia will transfer his shareholding by way of a gift deed to his sister-in-law Ms. Urmila Lohia. IRSL is engaged in the manufacture and supply of polyester fibers and filaments.

7. THE CCI APPROVED THE ACQUISITION IN BHARTI AXA LIFE INSURANCE COMPANY AND BHARTI MANAGEMENT SERVICES LIMITED

The CCI approved the proposed acquisition of 49% equity shareholding of Bharti AXA Life Insurance Company Ltd. (**BALIC**) by Bharti Life Ventures Private Ltd. (**BLVPL**) from AXA India Holdings (**AXA**) (**Proposed Acquisition I**) taking its total shareholding in BALIC to 100% and acquisition of BALIC's sole control. Further, the CCI approved the acquisition of 48.54% equity shareholding of Bharti Management Services Ltd. (**BMSL**) by Bharti Enterprises Ltd. (**BEL**) from Societe Beaujon (**a subsidiary of AXA**) (**Proposed Acquisition II**) taking its total shareholding in BMSL to 100% and acquisition of BMSL's sole control.

The Acquirers belong to the Bharti group, where BLVPL is a private holding company incorporated in India having its sole investment in BALIC, and BEL is a public unlisted company involved in the provision of management consultancy services. BALIC is a public unlisted company involved in providing life insurance policies and BMSL is a public unlisted company currently earning its income from rent and interest.

8. THE CCI APPROVED THE ACQUISITION OF MINORITY STAKE IN SHADOWFAX TECHNOLOGIES PRIVATE LIMITED BY ENTITIES CONTROLLED BY THE MIRAE GROUP

The CCI approved the acquisition of a minority stake in Shadowfax Technologies Private Limited (**Shadowfax**) by Mirae Asset Late-Stage Opportunities Fund (**Mirae IV**). Additionally, as part of the transaction, various entities directly or indirectly controlled by the Mirae group will collectively acquire the right to appoint a



director on the board of Shadowfax. Shadowfax provides logistics services, particularly, third party logistics services in India.

9. THE CCI APPROVED THE ACQUISITION OF EQUITY SHAREHOLDING IN DELANORD INVESTMENTS LIMITED BY ABU DABHI PORT COMPANY PJSC

The CCI approved the acquisition of equity shareholding in Delanord Investment Limited (**Delanord**) by Abu Dabhi Ports Company PJSC (**ADPCP**). The ADPCP is a trade, logistics and transport enabler which is listed on the Abu Dhabi Securities Exchange. Globally, it is inter alia engaged in: (i) operation of ports and terminals, (ii) provision of short-sea vessel operation services, (iii) provision of non-vessel operating common carrier services and

(iv) provision of freight forwarding services. Delanord is a provider of short-sea vessel operation services.

10. THE CCI APPROVED THE ACQUISITION OF 27.18% EQUITY SHAREHOLDING IN CARATLANE TRADING PRIVATE LIMITED BY TITAN COMPANY LIMITED

The CCI approved the acquisition of 27.18% equity share capital of CaratLane Trading Private Limited (**CaratLane**), by Titan Company Limited (**Titan**). Titan, a public listed company, is active in several business through lifestyle brands including, jewellery, eye-care, fragrances, fashion accessories, and Indian dress wear. CaratLane is a private limited company engaged in the business of manufacture and sale of gems and jewellery in India

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