

### **I. Competition Commission of India penalizes publishers' and booksellers' association for cartelization**

The Competition Commission of India (CCI) has penalized the Federation of Publishers' and Booksellers' Associations in India (FPBAI) for cartelization in restricting discounts to be provided to Indian subscribers of print journals and e-resources.

The case was filed by a subscription agent engaged in the business of procuring various foreign and Indian journals from national and international publishers and supplying the same to its clients in India.

It was alleged that FPBAI issued directions to its members who deal in print journals and e-resources, to not give discounts on the publishers' prices to the Indian subscribers. It was also alleged that FPBAI threatened to take coercive actions against those members who failed to comply with its such directions by expelling them from FPBAI.

The detailed investigation revealed that FPBAI indirectly determined sale prices of books, journals, etc., sold by FPBAI members which is in contravention of the provisions of Section 3 (3) (a) read with Section 3 (1) of the Competition Act, 2002 (Act). FPBAI also prohibited its members from participating in advertisements in certain cases in violation of Section 3(3)(b) of the Act.

The CCI noted that FPBAI issued circulars and memorandums to its members to refrain from participating in tenders/advertisements which did not comply with FPBAI's rules. The CCI held that such advisories were not recommendatory but coercive in nature.

Such conduct was held violative of Section 3(3)(a) and Section 3(3)(b) of the Act. A penalty of INR 2,00,000/- on FPBAI as well as

INR 1,00,000/- each on its two office bearers was imposed by the CCI.

[Case: *M/s International Subscription Agency vs Federation of Publishers' and Booksellers' Associations in India* Case No. 33 of 2019, decision dated 23 February 2021]. The full text of the decision may be accessed [here](#).

### **II. CCI closes case of alleged cartelization in tender for printing, packing and dispatch of confidential documents**

The CCI has dismissed a case of alleged cartelization in tenders issued by Department of Printing, Ministry of Urban Development, Government of India for printing, packing and dispatch of confidential documents.

It was alleged that three enterprises, namely M/s Chandra Prabhu Offset Printing Works Pvt. Ltd., M/s Saraswati Offset Printers Pvt. Ltd, and M/s United India Tradex Pvt. Ltd had indulged in bid-rigging in tender issued by the Department in 2014 and 2015. It was alleged that the three opposite parties colluded to fix the tenders so that Chandra Prabhu could win the bid for all tenders. Payments by Chandra Prabhu to other two bidders were also shown.

The detailed investigation brought out close linkages between the Opposite Parties on the basis of common directorship, *inter-se* shareholding and commercial transactions between the Opposite Parties in the nature of loan exchanges, fund transfers, sale of paper, etc. The CCI noted that United India Tradex and Chandra Prabhu are related parties in terms of the Companies Act, 2013. Both the companies have certain common directors as well. As such, the CCI held that the inter-se dealings between the Opposite Parties are explained to be on account of their historic business linkages and such dealings thus appear to be in usual course of business.

The investigation could not find any evidence of collusion in the bidding process between the three opposite parties. The CCI agreed with the same and accordingly closed the case.

[Case: *In Re: Alleged bid-rigging in Tenders invited by Department of Printing for printing, packing and dispatch of confidential documents* Suo Moto Case No. 03 of 2019, order dated 12 February 2021. The full text of the order may be accessed [here](#).]

### **III. CCI closes case of cartelization in airlines industry**

The CCI has closed an investigation into alleged cartelization against airlines including Jet Airways (including Jet Lite), Indigo, Spice Jet, Go Air and Air India.

The case emanated upon receipt of a letter dated 31.01.2014 from Lok Sabha Secretariat with a request to examine whether there is any evidence of cartelization in the airlines sector.

Preliminary research from analysis of four sample major routes indicated that airlines were maintaining some degree of stability in their market shares in both lean and peak seasons during the examined period. Further, almost similar cost structure of the airlines also appeared to facilitate collusion on price to be charged in contrast to differentiated cost structure, where low-cost firms usually compete with high-cost firms on prices to capture greater market share. Also, it was observed that despite differences in base fares and airlines fuel surcharge, the end fares charged by all the airlines for tickets, were almost similar.

The detailed investigation found that the monthly market shares of each of the five airlines on all the four sectors during the given period as well as annually had been

fluctuating, at times by significant margins, and that the pattern of market share did not indicate any linkage between two or more airlines. The investigation further noted that had there been any cartelization amongst the airlines, the respective cartel members would have maintained stability in their relative market shares. However, no such behavior of maintaining stable market share was noticed by the DG during the analyzed periods.

The investigation also showed that even though price parallelism existed in the industry, there was no evidence of collusion between the airlines.

The CCI noted that parallel conduct is actionable under the Act only when the adaptation to the market conditions is not done independently and is attributable to information exchanged between the competitors or through some other collusive conduct, the object of which is to influence the market. In the present case, no exchange of communication between the airlines could be established. The case has been closed accordingly.

[Case: *In re: In Re: Alleged Cartelization in the Airlines Industry* Suo Moto Case No. 03 of 2015, order dated 22 February 2021. The full text of the order may be accessed [here](#).]

### **IV. CCI approves acquisition of additional minority shareholding in Ecom Express Private Limited by CDC Group, plc.**

The CCI has unconditionally approved the acquisition of minority shareholding of 2.78% in Ecom by CDC.

Prior to the transaction, CDC already held certain stake in Ecom and as a result of proposed combination its shareholding in Ecom will increase to 9.81%. CDC already holds the right of representation on the board of directors of Ecom. Additionally, no action

can be taken by Ecom without prior consent of CDC in respect of certain reserved matters. The proposed combination did not envisage acquisition of any additional rights relating to the management and affairs of Ecom by CDC.

The CCI held that activities of CDC and Ecom do not exhibit horizontal or vertical overlap and that although portfolio entities of CDC have availed certain services of Ecom but the nature and volume of interfaces is not significant. Moreover, as a result of the proposed combination, CDC is not acquiring any additional rights relating to the management and affairs of Ecom. The CCI has accordingly approved the proposed combination.

[Case: Notice given by CDC Group plc Notice No. C-2021/01/808, order dated 10 February 2021.] The CCI order can be accessed [here](#).

*This update is intended merely as an announcement to highlight recent developments. The information is general and should not be considered or relied on as legal advice. For any further enquiries, please contact the following:*



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