

**COMPETITION COMMISSION OF INDIA**  
**Case No. 01 of 2013**

**January 16, 2013**

*In re:*

Raaj Kamal Film International

Informant

v.

M/s Tamil Nadu Theatre Owners Association

Opposite Party

**Order under section 26(1) of the Competition Act, 2002**

The informant was a registered partnership firm with two partners *viz.* Shri Kamal Haasan and Shri Chandra Haasan. As per information the opposite party was an association of theatre owners in Tamil Nadu. It is stated in the information that out of total number of theatres (1134) in Tamil Nadu, 698 theatres were members of the opposite party association. The informant had produced a feature film by the title ‘*Vishwaroopam*’ in three languages *viz.* Hindi, Tamil and Telugu. The Hindi version of the movie was called ‘Vishwaroop’. The movie in three languages was slated for simultaneous global theatrical release on Friday *i.e.* 11.01.2013 and the first show was to take place at 8 AM on that day.

2. The informant alleged that it had approached the theatre owners and distributors directly offering them terms of exhibition involving no minimum guarantee amount and only on revenue

sharing basis as per the normal industry practice. However, the informant as an innovative and pioneering step and to take advantage of exhibition of film *via* Direct to Home Satellite Television Services (DTH) platform, wanted to premiere the movie through DTH service providers with one-time viewing to be made available to subscribing consumers between 9 PM on 10.01.2013 and 2 AM on 11.01.2013 *i.e.* a day prior to its theatrical release, on payment of movie subscription charges by viewers.

3. For the purpose of premiering the movie through DTH platform the informant entered into a 'Content Provider Agreement' for one time telecast of the movie on identical terms with the six DTH providers operating in India under the brand names *viz.* Airtel, Sun Direct, Tata Sky, Dish TV, Videocon and Reliance Big TV.

4. The case of the informant is that while it was organising premier of the movie in a novel manner, the informant learnt of a decision taken by the opposite party association on 20.12.2012 whereby the association resolved '*not to lend co-operation for screening of any film that is released even before it comes to the theatre, through DTH or any other technology.*'

5. The informant's contention is that the aforesaid resolution dated 20.12.2012 passed by the opposite party was a direct and blatant contravention of the provisions of section 3(1) read with section 3(3)(b) of the Act.

6. The Commission has carefully perused the information and the documents filed therewith. The Commission also heard the informant's oral submissions on 16.01.2013.

7. The informant contended that the opposite party association acted like a cartel as is reflected from the concerted decision of its members not to exhibit any film including Vishwaroopam if it was already released on DTH platform. The impugned resolution was an anti-competitive agreement amongst the theatre owners in Tamil Nadu since the resolution limited and controlled the market of exhibition of films and use of technical development in exhibition of feature films. This as per informant was, in contravention of the provisions of section 3(1) read with section 3(3)(b) of the Act.

8. The objective of Competition law is to promote competition and consumer welfare. Dynamic efficiency is one of the key factors to it. Technological innovations or utilization of existing technology in a more novel manner is the right of every entrepreneur. Such ventures usually have an effect of enhancing competition and promoting consumer welfare. The informant herein was trying to experiment with an innovative way to have premier of its movie in India through DTH so as to have reach to maximum number of consumers/ viewers at a premier show through DTH medium. The decision of the OP not to exhibit this movie or any other movie released before it was released to theatres, through DTH or any other technology *prima facie* has an effect of limiting the market of exhibition of films for the benefit of viewers at large in the territories under its control. The decision *prima facie* also seems to be restricting informant from taking advantage of technological development in the relevant industry at a timing of its choice. Such a decision of OP *prima facie* seems to be anti competitive as it deters a producer from providing to consumers an

opportunity of watching premiere show in an economic manner in the comforts of his home. It also has the potential of adversely affecting the competition and depriving benefit to producers and consumers of newer technologies.

9. The words used in the resolution ‘any film’ and ‘through DTH or any other technology’ by the OP *prima facie* seems to have an effect not only on informant’s movie but also would amount to closing doors in future for forthcoming movies to choose innovative technologies as a mode of premiere show/ release of film . The resolution thus appears to be anti-competitive in nature.

10. The facts discussed above *prima facie* show that the resolution of OP was in the nature of an agreement among the members of the association and was intended to limit and control the market of exhibition of movies as well as innovative use of technical development in exhibition of feature films and thus, *prima facie* appeared to be in contravention of the provisions of Section 3 of the Act.

11. In view of above discussion the Commission is of the opinion that there exists a *prima facie* case and the issue needs a thorough investigation by DG. The Commission, therefore, directs the DG under section 26(1) of the Act to cause an investigation to be made into the matter and submit the report to the Commission within 60 days.

12. The Secretary is directed to send a copy of this order, the information and any other material available on record, to the office

of the DG and the parties in terms of the provisions of the Act and the regulations framed thereunder.

13. Nothing stated in this order shall tantamount to a final expression of opinion on merit of the case/ issue and the DG shall conduct an investigation without being swayed in any manner whatsoever by the observations made herein.

**(H.C. Gupta)**  
Member

**(R.Prasad)**  
Member

**(Geeta Gouri)**  
Member

**(Anurag Goel)**  
Member

**(M.L.Tayal)**  
Member

**(Justice S.N. Dhingra[Retd.]**  
Member

**(Ashok Chawla)**  
Chairperson