



COMPETITION COMMISSION OF INDIA
Case No. 93 of 2014

In Re:

CSC Forum
D-2, 5th Floor
Southern Park, Saket Place
New Delhi

Informant

And

CSC e-governance Services India Ltd.
Ministry of Communications & IT
6 C.G.O Complex, Lodhi Road, New Delhi

Opposite Party

CORAM

Mr. Ashok Chawla
Chairperson

Mr. S .L. Bunker
Member

Mr. Sudhir Mital
Member

Mr. Augustine Peter
Member

Mr. U. C. Nahta
Member



Appearances:

For the Informant: Shri Abir Roy, Advocate;
Shri T. Sundar Ramanathan, Advocate;
Shri Rajeev Aggarwal

Order under Section 26(2) of the Competition Act, 2002

1. The present information has been filed under section 19(1)(a) of the Competition Act, 2002 ('the Act') by CSC Forum ('the Informant') against CSC e-governance Services India Ltd. ('the Opposite Party/ SPV') alleging *inter alia* contravention of the provisions of sections 3 and 4 of the Act.
2. The Informant appears to be aggrieved by the alleged anti-competitive conduct of the Opposite Party/ SPV floated by Ministry of Communication & Information Technology for building a common identity for the Common Service Centre ('CSC') scheme - which is one of the 27 mission mode projects designed to be implemented on a public private partnership ('PPP') model. This model envisages a three tiered structure *viz.*, CSC operator/ Village Level Entrepreneur ('VLE'), Service Centre Agencies ('SCAs') and State Designated Agency ('SDA').
3. The Informant avers that under the Request for Proposal ('RFP') and the subsequent Master Services Agreement ('MSA') entered into by SCAs with SDA and the State Governments, the SPV was envisaged to facilitate the working of SCAs and VLE with the duty to monitor the CSC scheme and to create a stable and vibrant working atmosphere in SDA/ SCAs/VLE.
4. However, it is alleged by the Informant that the SPV, being the monitor of the scheme, is abusing its dominant position by undertaking the following activities:



- a) Creation of an independent portal by the SPV for the purpose of delivering G2C and B2C services and not integrating the portal with that of the SCAs and asking the VLE directly to register on its portal;
 - b) Entering into agreements with the vendors for providing B2C services and *suo moto* deciding on the commercials;
 - c) Unilaterally deciding the revenue split between SPV, SCAs and the VLE without even discussing the same with the SCA; and
 - d) Directly getting in touch with the VLE for delivery of services to the rural citizens bypassing the SCAs.
5. It is also averred that such conduct is being engaged in by the SPV without taking into account the operating costs of SCAs and it is stated that the SCAs are being pushed down the value chain making the whole scheme unviable. Further, it is alleged that the SPV is abusing the mandate given to it under the CSC scheme and projecting itself as in charge of setting up the CSC network.
6. The matter was considered by the Commission in its ordinary meeting held on 14.01.2015. During the hearing, the counsel appearing for the Informant, after making submissions, sought time to file additional information/ submissions. Acceding to the request, the Commission allowed the Informant to file the same and the matter was listed before the Commission on 18.02.2105 for oral hearing. In the additional information dated 12.02.2015, the Informant has further alleged that the Opposite Party is present in the same market as the SCAs and being dominant in that market, is denying market access to the SCAs in contravention of section 4(2)(c) of the Act.
7. In the additional information, the Informant proposed three relevant market definitions *viz.*, *'market for provision of B2B services for each of the segments (e.g. Banks, Insurance, IRCTC etc) through the CSC network in the territory of*



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India’ (Relevant Market-I); ‘*market for provision of B2B services through the CSC network in the territory of India*’ (Relevant Market-II); and ‘*market for provision of e-services through the CSC network*’ (Relevant Market-III).

8. It was urged by the Informant that Opposite Party is dominant in all these markets and is abusing its dominance in contravention of the provisions of section 4(2)(c) of the Act. The Informant has *inter alia* sought to restrain the Opposite Party from showing itself as a government enterprise and from entering into any contract with the VLE. It was further prayed that the public sector enterprises such as banks, LIC, IRCTC should be directed to refrain from awarding work to the Opposite Party on nomination basis and all such business awarded on a nomination basis should be ordered to be withdrawn from the Opposite Party.
9. The Commission has perused the material available on record and has heard the counsel for the Informant. At the outset, it may be observed that similar issues were raised in Case No. 68 of 2014 which was closed in terms of the order passed under section 26(2) of the Act as no *prima facie* case was made out against the opposite parties therein including the SPV.
10. The Informant has contended that the present case is different from Case No. 68 of 2014 as the Informant in that was a rural consumer who was a beneficiary under the CSC scheme, whereas in the present case the information has been filed by an association of the SCAs. It was argued by the Informant that in view of the above, the order in the previous case may not be relied upon. The Commission is not convinced with the reasoning provided by the Informant while differentiating between these two cases. Irrespective of the locus of the Informant, the Commission may examine the facts of every case from the point of view of the effect of alleged anti-competitive practices in the market. To the extent of similarity in issues, the Commission has no hesitation in referring to the view taken in the earlier case.



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11. To examine the allegations made by the Informant in the present case, it would be appropriate to first define the relevant market. In this regard, it is noted that Relevant Market-I and Relevant Market-II proposed by the Informant, require segregation of the services provided to different segments *i.e.* Insurance, Banking, Railways *etc.* and segregation of B2B & B2C, respectively. The Commission finds this segregation superficial and unnecessary as the services provided by SCAs in these segments are of similar nature. While these segments, undoubtedly, are different in nature they do not qualify as separate relevant markets as proposed by the Informant. The buyers of the goods and services may differ in their own operations but that does not require segregation of the services offered by one supplier/manufacturer to those different categories of consumers. Therefore, the Commission is of the opinion that Relevant Market-I and Relevant Market -II are quite narrow and cannot be accepted.
12. On a careful consideration of the markets proposed by the Informant and the material available on record, the Commission notes that the SCAs are engaged in provision of various e-services through the CSC network and as such, Relevant Market-III suggested by the Informant *viz.*, '*market for provision of e-services through the CSC network*' may be taken as the relevant product market for the purposes of the present case. Further, as the conditions of competition appear to be homogenous across the country, the relevant geographic market may be taken as the whole of India. Resultantly, '*market for provision of e-services through the CSC network in India*' may be considered as the relevant market in the present case.
13. Having defined the relevant market, the issue of dominance of the Opposite party may be examined. In this regard, the Informant has argued that since SCAs are dependent upon the Opposite Party for financial support, they have no option but



to submit to the mandates of the Opposite Party such as submitting all the information solicited by the Opposite Party *e.g.* market data, business intelligence including details of VLE *etc.* which the Opposite Party uses to its own commercial advantage. It was submitted that Opposite Party has the authority of submitting negative reports against the SCAs. It was averred that such reports can have financial and operational effects on the SCAs as the State can levy penalties on the SCAs. It was also submitted that since the Opposite Party is carrying out both regulatory and commercial functions, its dominance is further accentuated.

14. To demonstrate the dominance of the Opposite Party and its abuse, the Informant has placed on record a copy of an e-mail from the Opposite Party dated 26.09.2014 to one of the SCAs *viz.*, 'Sahaj' regarding charging of unauthorised amount from VLE and coercive sale of products. In the said e-mail, the Opposite Party stated that if 'Sahaj' does not stop such coercive selling, it may have to ask the State Government to initiate legal action against it. This, as per the Informant, is indicative of dominance and abuse.

15. The Commission has perused the said e-mail and the reply sent by 'Sahaj' on 30.09.2014 to the Opposite Party. In its reply, 'Sahaj' has categorically stated that the e-mail sent by the Opposite Party is misplaced as there were no guidelines stating that SCAs cannot charge from the VLE. It was further mentioned that SCAs have a rollout cost, so they are well within their right to charge from the VLE. It was also suggested by 'Sahaj' in the said reply that the Opposite Party should refrain from using offensive language. 'Sahaj' also mentioned in the e-mail that the Opposite Party should not transgress the role which is given to SCAs.

16. On a careful perusal of the correspondence, it does not appear that the SCAs are dependent upon the Opposite Party in the relevant market. In this connection, it is also observed that the tenor of the reply sent by 'Sahaj' also does not indicate that



the Opposite Party was exerting dominance *qua* the SCAs. Furthermore, the Informant did not place any further communication from the Opposite Party or any material to show that any action was taken by the Opposite Party against 'Sahaj'. In these circumstances, it is difficult to subscribe to the submissions made by the counsel of the Informant that the Opposite Party is in a dominant position.

17. Moreover, there is no data that indicates that the Opposite Party enjoys a dominant position in the relevant market. Considering the foregoing, the Commission is of the view that the Opposite Party *prima facie* is not dominant in the market for provision of e-services through the CSC network in India.

18. With regard to allegations against the Opposite Party entering into agreements with various vendors such as IRDA, LIC, banks and other public institutions for awarding orders on nomination basis to the Opposite Party in contravention of provisions of section 3 of the Act, suffice to note that the same issue also arose before the Commission in Case No. 68 of 2014. The Commission while closing the matter *inter alia* observed that '*...[t]here is nothing wrong with the decision taken by IRDA, SBI, LIC etc. in choosing OP 1 over other SCAs on nomination basis ...*'

19. In view of the above, the Commission is of the opinion that no *prima facie* case of contravention of the provisions of sections 3 and 4 of the Act is made out against the Opposite Party in the present case. Accordingly, the matter is closed forthwith in terms of the provisions contained in section 26(2) of the Act.

20. The Secretary is directed to inform all concerned accordingly.

Sd/-
(Ashok Chawla)
Chairperson



Sd/-
(S. L. Bunker)
Member

Sd/-
(Sudhir Mital)
Member

Sd/-
(Augustine Peter)
Member

Sd/-
(U. C. Nahta)
Member

New Delhi
Dated: 24.03.2015