



COMPETITION COMMISSION OF INDIA

Case No. 08 of 2022

In Re:

Praveen Khandelwal

C-89, Anand Niketan, New Delhi – 110021

Informant

And

Sppin India Pvt. Ltd.

No. 403, 4th Floor, Suchita Business Park
YS Jadhav Marg, Pant Nagar, Mumbai - 400077

Opposite Party

CORAM

Mr. Ashok Kumar Gupta
Chairperson

Ms. Sangeeta Verma
Member

Mr. Bhagwant Singh Bishnoi
Member

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

1. The present information has been filed by Mr. Praveen Khandelwal (hereinafter, '**Informant**') under Section 19(1)(a) of the Competition Act, 2002 (hereinafter, '**Act**') alleging contravention of provisions of Section 3 and 4 of the Act by Sppin India Pvt. Ltd. (hereinafter, '**Opposite Party**'/ '**Shopee**').

Facts and allegations as stated in the Information

2. Sppin India Pvt. Ltd. was incorporated in July 2021 and operates an e-commerce platform by the name Shopee. As per the Informant, it was launched in India as a mobile and web-based platform. Sppin India Pvt. Ltd. is held by SPPIN I Pvt. Ltd. and SPPIN II Pvt. Ltd. which are registered in



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Singapore. These two entities are in turn held by another parent company SPPIN Ltd. registered in the Cayman Islands. It is, *inter alia*, alleged that the complex restructuring is in contravention of the FDI policy.

3. The Informant has further alleged that, since its inception, Shopee has managed more than 1 lakh orders per day which has created a dominant position in India. It is alleged that Shopee offers hefty discounts on various products by selling them at extremely low prices and thereby, hampers other competitors and adversely affects the Indian marketplace. Such predatory pricing is allegedly being done to eliminate traditional and small-scale businesses in the country and is likely to cause an appreciable adverse effect on competition.
4. The Informant alleged that the Opposite Party's *modus operandi* is similar to Amazon and Flipkart and therefore, has an adverse effect on competition, as per Section 3 of the Act. The Informant relied upon the order passed under Section 26(1) of the Act in Case No. 40 of 2019, in support of his allegations under Section 3 of the Act.
5. The Informant has alleged that Shopee offers its products and services at unfair and discriminatory prices. The Informant has provided certain screenshots from Shopee's website and alleged that some of the products are sold at extremely low prices, such as ₹1/-, ₹9/-, ₹49/- etc. It is also alleged that Shopee indulges in heavy undercutting of prices and has deliberately reduced the prices of products or services to loss-making levels in the short term to undercut and eliminate small businesses and thus, this amounts to predatory pricing and unfair trade practice under Section 4 of the Act. Such tactics of deep discounting are also alleged to be in violation of FDI policy. Thus, Shopee is alleged to be in a dominant position and abusing its dominant position.
6. It is further alleged that the predatory pricing is essentially a two-step strategy for securing monopoly of a company. Shopee is currently at the 'predation' stage, where products are being sold at below-cost prices to drive competitors out of the market, and later, Shopee will recoup its losses and start charging



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monopoly prices to recover losses that have been incurred at the predation stage. Such deep discounting ‘*attracts huge base of customers, multitude of data on consumer preferences will be available to Shopee to use it to its advantage.*’ Moreover, it has been alleged that as per its privacy policy, the data generated from Indian citizens is stored outside India by Shopee (on Tencent Cloud controlled by a known Chinese entity) and may be used to the disadvantage of the Indian economy and consumer.

7. According to the Informant, Shopee poses a threat by the methods adopted by it in the Indian marketplace since small competitors and traditional brick and mortar sellers have significant fixed costs, lack the ability to burn cash, and are devoid of pan-India reach which such online marketplaces provide. With the entry of Shopee, small players will be pushed out of the market permanently.
8. Thus, the Informant has prayed to the Commission that appropriate action be taken to protect the interests of small traders and retailers in India by initiating an investigation into the matter.

Analysis of the Commission

9. The Commission considered the present Information in its meeting held on 15.02.2022 and decided to pass an appropriate order in due course.
10. The Commission has perused the Information and has also noted the information available in the public domain.
11. The Commission noted that recently, it had the occasion to examine similar allegations against Shopee in Case No 01 of 2022 [*In re: Vaibhav Mishra and Sppin India Pvt. Ltd.*] decided on 03.03.2022.
12. In the said case, the Commission had observed as under:

‘Shopee has had a very recent launch in the market of online platforms in India, which already has the presence of the e-commerce companies like Amazon, Flipkart, Myntra, Nykaa etc., which have been operating for some



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time now. The Commission further notes that, though the allegation is that Shopee is following similar discounting practices as allegedly done by Amazon and Flipkart, it does not appear to the Commission that Shopee possesses significant market power, much less dominance, at this stage, more so because of the fact that it is a new entrant in a market with established players. Further, the Informant has not pointed out the existence of any agreement in the Information for an examination under the provisions of Section 3 of the Act. Therefore, the Commission is of the view that no case is made out either under Section 3 or 4 of the Act.'

13. As the facts and allegations in the present matter are similar to the above mentioned case, the Commission is of the opinion that there exists no *prima facie* case of contravention of the provisions of Sections 3 or 4 of the Act against Shopee, and therefore, the matter be closed forthwith under Section 26(2) of the Act.

14. The Secretary is directed to communicate to the Informant accordingly.

**Sd/-
(Ashok Kumar Gupta)
Chairperson**

**Sd/-
(Sangeeta Verma)
Member**

**Sd/-
(Bhagwant Singh Bishnoi)
Member**

**New Delhi
Date: 03/03/2022**