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Fair Competition
For Greater Good

COMPETITION COMMISSION OF INDIA

Case No. 100 of 2014

In Re:

Shri Amitabh

Informant

And

M/s KENT RO Systems

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: None for the Informant.

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

1. The present information has been filed by Shri Amitabh ('the Informant') under section 19(1) (a) of the Competition Act, 2002 ('the Act') against M/s KENT RO Systems ('the Opposite Party'/ OP/ KENT RO), alleging, *inter alia*, contravention of the provisions of section 4 of the Act.



2. Facts, as gathered from the information, may be briefly noted:
3. The Informant has described himself in the information as a law abiding citizen, an advocate by profession and one of the many customers who have suffered the alleged anti-competitive practices of the Opposite Party as detailed in the information hereinafter.
4. Based upon the claims made by KENT RO on its website and newspaper reports, it is averred in the information that the Opposite Party is a pioneer in bringing the revolutionary Reverse Osmosis (RO) technology to India. The Opposite Party is stated to have started its operations from Noida in the year 1999. It is also certified to be an ISO 9001:2008 company. It has two manufacturing units at Roorkee in Uttarakhand, each equipped with a capacity to roll out 500,000 water purifiers. Another manufacturing unit is stated to be under construction in Noida, with an investment of Rs. 100 crores.
5. The Informant has highlighted that India still faces the challenge of lack of safe drinking water as 13% of deaths of children below 5 years are caused due to water-borne diseases like diarrhoea. As such, it is stated that there is a high demand for water purifiers from middle income groups as well as rural households. The Informant has further stated that the present market of RO water purifiers is valued at Rs. 3000 crores and the Opposite Party leads the same with a market share of 35-40 %. The Informant has also stated that an RO water purifier functions properly when its spare parts are regularly replaced and maintenance services are carried out at regular intervals.
6. Detailing the alleged abusive instances of the Opposite Party, it is averred in the information that the Opposite Party being a dominant player in the aftermarket for supply of spare parts of RO water purifiers of its brand, through contracts limited the access of independent repairers and other



multi-brand service providers to genuine spare parts required to effectively compete with the authorized dealers of the Opposite Party in the aftermarket.

7. Further, it is alleged that by charging exorbitant price for its spare parts and after sales service, the Opposite Party has charged a price which is unrelated to the 'economic value' of the product, which in absence of the dominance that it currently enjoys in the relevant market could not have been otherwise charged. It has also been pointed out that the Opposite Party, in its terms and conditions of its warranty, has excluded the customer to purchase any spare part from an independent supplier.
8. Lastly, it is alleged that the Opposite Party is using its dominance in the relevant market of supply of spare parts to protect the other relevant market of after sales service and maintenance. Thus, it is alleged that the owner of RO water purifier of Opposite Party is in no position to avail services of independent repairers.
9. Despite notice, none appeared on behalf of the Informant when the matter came up for consideration before the Commission on 10.02.2015. Subsequently, the Informant moved an application seeking adjournment of the hearing for a later date. Accordingly, the Commission adjourned the matter for 24.02.2015. Even then the Informant did not appear before the Commission and sought further time. In these circumstances, the Commission decided to proceed in the matter on the basis of the material available on record.
10. The Informant, who has described himself as a law abiding citizen and an advocate by profession besides being the customer of the Opposite Party, has filed the present information alleging, *inter alia*, various alleged anti-competitive practices indulged in by the Opposite Party in the after-



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markets of sale of spare parts and services/ maintenance of KENT RO water purifier systems. The Informant is also aggrieved of “unusually high” price charged by the Opposite Party for its spare parts and after sale services/ maintenance.

11. The basic thrust of the allegations of the Informant essentially centre to: limiting the access by the Opposite Party of its genuine spare parts to only authorized dealers and thereby ousting the independent repairers and other multi-brand service providers; charging of “exorbitant”/ “unusually high” prices for the spare parts and after sale services/ maintenance by the Opposite Party.
12. In support of the allegations, the Informant has relied upon a decision of the Commission in the case of *Shri Samsher Kataria v. Honda Siel Cars & Ors.*, Case No. 03 of 2011 (“*automobile case*”) where similar practices by the automobile manufacturers were found to be abusive by the Commission.
13. At the outset, it may be mentioned that the reliance placed by the Informant upon the said decision is not apposite. It may be noted that in the said decision the Commission had an occasion to examine almost the entire auto manufacturing sector wherein the impugned practices were found to be commonly/ uniformly present. In the present case, the Informant has only alleged certain practices against only one of the players in the RO water purifying systems. It is not the case of the Informant that the same is the scenario across the sector in the present case.
14. Furthermore, there is one more distinguishing feature which makes the comparison by the Informant of the present case with the *automobile case* inappropriate. In the said case, the Commission found that customers were not in a position to undertake a whole life cost analysis of *complex durable*



equipment like an automobile. In the present case, that does not appear to be the case. From the information available on the websites/ public domain, it is manifestly clear that the prices for Annual Maintenance Contract (AMC) services in respect of the RO System of the Opposite Party can be easily ascertained and as such, the assertion of the Informant that the customers cannot undertake the whole life cost analysis while buying the RO water purifiers of the Opposite Party does not seem to be well founded. It may also be observed that usually the purchasers are informed about these AMC charges at the time of purchase to enable them to select an annual maintenance plan. This, at any rate, is indicative of the whole life costing of the product.

15. In the *automobile* case, it was also noted by the Commission that the combined effect of the restrictive clauses, the near-monopoly supplier status in the aftermarket products/services, lack of inter-changeability of spare parts inter-brand, lack of ability of the consumers to switch to other automobiles without incurring substantial switching costs, information asymmetry to enable the car users to undertake whole life costing analysis, coupled with lack of adequate legislations to regulate the activity of car manufacturers in the aftermarket, have allowed the Original Equipment Manufacturers (OEMs) to insulate themselves from all possible competition in the aftermarket. Consequently, the Commission was of the opinion, that the case was an example of an industry where the market is not self-correcting and intervention was found to be necessary and justified.
16. In the present case, the Informant, except alluding to the *ratio* of the said decision, has not been able to demonstrate how the said considerations are also applicable in the present case. The Informant has singularly failed to adduce a single document or any pricing data to support the assertion that the prices charged by the Opposite Party are “exorbitant” and “unusually high”.



17. Unlike *automobile* case, it does not appear to be the case in respect of water purifiers that the customers cannot switch to alternative substitutable products without incurring substantial switching costs. The RO water purifiers systems appear to be in the pricing band of Rs. 10,000/- to Rs. 15,000/-. There are number of web based market places available for the customers to dispose of old/ used products and thereby making the potential buyers for such used products instantly available and facilitating switching by the existing customers much easier.
18. Lastly, it may also be observed that the allegations of the Informant to the effect that the spare parts of the RO systems of the Opposite Party are not available in the market, do not appear to be well founded. From the information available in the public domain, it appears that the spare parts may be purchased online by the customers.
19. Before concluding, it may be observed that in *automobile* case, the Commission concluded that the automobile primary market and the aftermarket for spare parts and repair services do not consist of a unified systems market since: (a) the consumers in the primary market (manufacture and sale of cars) do not undertake whole life cost analysis when buying the automobile in the primary market and (b) in-spite of reputational factors each OEM has in practice substantially hiked up the price of the spare parts (usually more than 100% and in certain cases approx. 5000%); therefore rebutting the theory that reputational concerns in the primary market usually dissuade the manufacture of the primary market product from charging exploitative prices in the aftermarket.
20. As noted earlier, the above considerations do not appear to be present in the instant case. As such, without delving deep into the market analysis, it is safe to conclude that there does not appear to be a case of contravention of the provisions of section 4 of the Act.



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21. In view of the above, the Commission is of view that no case is made out against Opposite Party for contravention of the provisions of section 4 of the Act and the information is ordered to be closed forthwith in terms of the provisions contained in section 26 (2) of the Act.
22. The Secretary is directed to inform the parties 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
Date: 26/02/2015