



COMPETITION COMMISSION OF INDIA

Case No. 104 of 2015

In Re

**Registrars Association of India (RAIN)
C/o Universal Capital Securities (P) Ltd.
25, Shakil Niwas
Opp. Satya Saibaba Temple
Mahakali Caves Road
Andheri (East)
Mumbai – 400093**

Informant

And

**National Securities Depository Ltd. (NSDL)
Trade World, A Wing, 4th & 5th Floor
Kamala Mills Compound
Lower Parel
Mumbai – 400013**

Opposite Party No. 1

**NSDL Database Management Ltd. (NDML)
4th Floor, Trade World, A Wing
Kamala Mills Compound
Lower Parel
Mumbai – 400013**

Opposite Party No. 2

**Securities and Exchange Board of India (SEBI)
Plot No. C4 – A, G Block
Bandra Kurla Complex
Bandra (East),
Mumbai – 400051**

Opposite Party No. 3



CORAM

Mr. Devender Kumar Sikri
Chairperson

Mr. S. L. Bunker
Member

Mr. Sudhir Mital
Member

Mr. Augustine Peter
Member

Mr. U. C. Nahta
Member

Mr. M. S. Sahoo
Member

Justice G. P. Mittal
Member

Appearances:

For Informant: Shri Balbir Singh, Sr. Advocate; Shri Amol Sinha, Advocate;
Shri Abhishek S. Baghel, Advocate; Shri Rahul Kochar,
Advocate; Shri Milind Mondkar, Chairman of Informant; Shri
Suresh A. Kalra, Member of Informant and Shri Rakesh
Santhalia, Member of Informant.

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

1. The present information was filed by the Registrars Association of India ('RAIN'/ 'Informant') under Section 19(1)(a) of the Competition Act, 2002 (the 'Act') against National Securities Depository Ltd. ('NSDL'/ 'OP 1'),
Case No. 104 of 2015



NSDL Database Management Limited ('NDML' / 'OP 2') and Securities and Exchange Board of India ('SEBI' / 'OP 3') [collectively, 'OPs'] alleging, *inter alia*, contravention of the provisions of Sections 3 and 4 of the Act in the matter.

2. As per the information, Informant is an association representing Registrars to an Issue and Share Transfer Agents ('RTI' / 'STA'). The members of Informant are acting as an intermediary between the issuer (the entity/ company issuing securities) and the depository and, *inter alia*, providing services such as dematerialisation, initial public offers (IPO) and corporate actions in securities market in India. OP 1 is the largest depository in India and is engaged in the business of providing depository services like dematerialisation and it handles all securities held and settled in dematerialised form in the National Stock Exchange. OP 2, a wholly owned subsidiary of OP 1, is providing integrated services including information technology, process design, operations and administrative infrastructure *etc.* relating to securities market. OP 3 is a regulator formed to safeguard the interest of the investors and to promote/ develop the securities market in India.
3. The members of the Informant are operating in the participant market as RTI/ STA wherein OP 1 acts as a regulator. Informant has stated that OP 2 has filed an application before OP 3 for being registered as a RTI/ STA *i.e.*, to enter into the participant market. It is the case of the Informant that OP 1, through its wholly owned subsidiary OP 2, is trying to enter into the participant market *i.e.* RTI/ STA market wherein it acts as a regulator. As per the Informant, OP 1, being a regulator of the participant market, has all the information/ details about the said market and no new entrant in the market could match the infrastructure and muscle power of OP 2. Being a regulator in the participant market, it is apprehended that OP 1 would favour OP 2 as the preferred service provider. Informant has alleged that the said conduct of OPs would create business uncertainties for other players in the participant market and would lead to consolidation in the securities market where the two markets such as



depository services market and participant market (as envisaged in the Depositories Act, 1996) would merge, thereby creating a monopoly situation in the market.

4. Further, it is alleged that the said conduct of OPs is also likely to cause an anti-competitive effect in the market in contravention of the provisions of Sections 3 and 4 of the Act as the proposed entry of OP 2 into RTI/ STA market would discourage competition and hamper innovation in this segment. In view of the above, Informant has, *inter alia*, prayed before the Commission to institute an inquiry against OPs under Section 26(1) of the Act.
5. The Commission has considered the matter in its ordinary meeting held on 15th December, 2015 and decided to hear the Informant and to seek the views/ comments of SEBI in terms of Section 21A of the Act, as the allegations/ issues raised in the information related to the securities market in India. Subsequently, the Commission heard the Informant on 2nd February, 2016 at length and has also perused the information and other material available on record.
6. The main grievance of the Informant is that OP 1, through its wholly owned subsidiary OP 2, is trying to enter into the participant market. Since OP 1 acts as a regulator of RTI/ STA and it has infrastructure and financial strength, it is apprehended by the Informant that if OP 2 is allowed by SEBI to enter into the participant market, it would be difficult for the other players to enter into the said market and a monopoly situation would be created in that segment of the securities market.
7. The Commission observes that the Informant has filed this information based on the apprehension that OP 2's efforts to enter into RTI/ STA market may cause injury to the interest of its members as the parent company of OP 2 *i.e.*, OP 1 is the largest depository in India and is handling all the securities traded



on National Stock Exchange. The Commission notes that the allegations made by the Informant are premature as the application of OP 2 is at the preliminary stage of processing before SEBI. It may be noted that an action for an alleged anti-competitive conduct can be initiated by the Commission in terms of either the provisions of Section 3 or Section 4 of the Act only if the alleged anti-competitive conduct has already taken place. In the instant matter, entry of OP 2 in the participant market is a mere proposal. Since OPs are not operating in the participant market as of now, the alleged anti-competitive conduct of OPs in that market cannot be examined in terms of the provisions of Sections 3 or 4 of the Act at this stage.

8. It may also be noted that there is nothing binding on OP 1 to not engage in any activities relating to the participant market through its subsidiary OP 2. SEBI in its comments/ views has categorically stated that there are no restrictions on the activities that can be carried out by a subsidiary of a depository. SEBI has stated that RTI/ STA functions are commonly performed by Central Securities Depository (CSD) in a number of countries around the world and there are several jurisdictions where there is a single registrar in the market which is often the CSD. SEBI has also forwarded Thomas Murray Report wherein it is stated that in a number of jurisdictions, the market for registrar services is a competitive market wherein CSDs also compete.
9. As far as the apprehension of the Informant is concerned, it is observed that Informant, *vide* its three representations, has already raised the same issue before the SEBI and the SEBI has communicated the concerns raised and safeguards suggested by the Informant to OP 2. SEBI has also advised to OP 2 to submit nine undertakings in line with the safeguards suggested by Informant and OP 2 has already submitted the required undertakings before SEBI with some changes in five out of nine undertakings along with the rationale for such modifications.
10. Based on the above analysis, the Commission is of the view that the allegations levelled against OPs do not raise any competition concern in the market at this



stage. Thus, the Commission finds that no case of contravention of the provisions of the Act is made out against OPs in the instant matter and the matter is closed in terms of the provisions of Section 26(2) of the Act.

11. The Secretary is directed to inform the parties accordingly.

Sd/-
(Devender Kumar Sikri)
Chairperson

Sd/-
(S. L. Bunker)
Member

Sd/-
(Sudhir Mital)
Member

Sd/-
(Augustine Peter)
Member

Sd/-
(U. C. Nahta)
Member

Sd/-
(M. S. Sahoo)
Member

Sd/-
(Justice G. P. Mittal)
Member

New Delhi

Date: 29.03.2016