



**COMPETITION COMMISSION OF INDIA**  
**Case No. 20 of 2015**

**In Re:**

**Shri K. Rajarajan**  
**92/93, Vinayagar Street, 100 feet Road,**  
**Dr. MGR Nagar, Pondicherry**

**Informant**

**And**

- 1. Mahindra & Mahindra Ltd.**  
**Mahindra Limited Gateway Building,**  
**Apollo Bunder, Mumbai** **Opposite Party No. 1**
- 2. Tata Motors Ltd.**  
**Bombay House, 24, Homi Modi Street,**  
**Fort, Mumbai** **Opposite Party No. 2**
- 3. Honda Siel Cars India Ltd.**  
**2nd Floor, Kamal Theatre Complex,**  
**Safdarjung Enclave, New Delhi** **Opposite Party No. 3**
- 4. Volkswagen India Pvt. Ltd.**  
**E-1, MIDC, Industrial Area, Phase-III,**  
**Village Nigoje, Mhalunge Kharabwani,**  
**Chakan tal Khed, Pune** **Opposite Party No. 4**
- 5. General Motors India Pvt. Ltd.**  
**Chandrapura, Industrial Estate, Halol,**  
**Panch Mahal, Gujarat** **Opposite Party No. 5**



- 6. Toyota Kirloskar Motor Pvt. Ltd.**  
Plot No. 1, BIDADI, Industrial Area,  
Ramnagra Taluk, Bangalore Rural District,  
Karnataka

**Opposite Party No. 6**
- 7. Ford India Pvt. Ltd.**  
S.P. Koil Post Chengalpattu

**Opposite Party No. 7**
- 8. Renault India Pvt. Ltd.**  
ASV Ramana Towers, #37-38, 4th Floor,  
Venkatanarayana Road, T. Nagar,  
Chennai

**Opposite Party No. 8**
- 9. Hyundai Motor India**  
Plot No. H-1, SIPCOT Industrial Area,  
Irrungattukottai, Sriperumpudur Taluk,  
Kanchipuram, Tamil Nadu

**Opposite Party No. 9**
- 10. Ashok Leyland**  
1, Sardar Patel Road, Guindy,  
Chennai

**Opposite Party No. 10**
- 11. VEVC**  
3rd Floor, Select City Walk,  
A-3, District Centre, Saket,  
New Delhi

**Opposite Party No. 11**
- 12. Tractor and Farm Equipment Ltd.**  
77, Nungambakkam High Road,  
Nungambakkam, Chennai

**Opposite Party No. 12**



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**13. Piaggio Vehicles Pvt. Ltd.**

217/A, Okhla Industrial Estate,  
Corporate Office, Okhla Phase – III,  
Okhla Industrial Area, New Delhi

**Opposite Party No. 13**

**14. Bajaj Auto Ltd.**

Akrudi, Pune

**Opposite Party No. 14**

**15. Hero MotoCorp**

34, Community Centre, Basant Lok,  
Vasant Vihar, New Delhi

**Opposite Party No. 15**

**16. Mahindra Two Wheeler**

D-1 Block, Plot No. 18/2,  
MIDC Chinchwad, Pune

**Opposite Party No. 16**

**17. Honda Motorcycle & Scooter India Pvt. Ltd.**

Plot No. 1, Sector – 3, IMT Manesar,  
Gurgaon, Haryana

**Opposite Party No. 17**

**18. TVS Motor Co.**

Jayalakshmi Estate, 5th Floor,  
8, Haddows Road, Chennai

**Opposite Party No. 18**

**CORAM**

**Mr. Ashok Chawla**  
**Chairperson**

**Mr. S. L. Bunker**  
**Member**



**Mr. Sudhir Mital**  
**Member**

**Mr. Augustine Peter**  
**Member**

**Mr. U. C. Nahta**  
**Member**

**Mr. M. S. Sahoo**  
**Member**

**Appearances:** Shri Vikram Mehta and Shri Siddharth Jain, Advocates for the Informant alongwith Informant-in-Person.

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

1. The present information has been filed by Shri K. Rajarajan (“**Informant**”) under section 19(1)(a) of the Competition Act, 2002, (“**Act**”) alleging, *inter-alia*, contravention of the provisions of sections 3 and 4 of the Act by the Opposite Parties who are manufacturers of passenger cars, two wheelers, trucks, buses, three wheelers and tractors in India. The Opposite Parties against whom the present information has been filed are Mahindra & Mahindra Ltd.(**OP 1**), Tata Motors Ltd.(**OP 2**), Honda Siel Cars India Ltd. (**OP 3**),Volkswagen India Pvt. Ltd. (**OP 4**), General Motors India Pvt. Ltd. (**OP 5**),Toyota Kirloskar Motor Pvt. Ltd. (**OP 6**), Ford India Pvt. Ltd. (**OP 7**), Renault India Pvt. Ltd. (**OP 8**), Hyundai Motor India (**OP 9**), Ashok Leyland (**OP 10**), VEVV (**OP 11**), Tractor and Farm Equipment Ltd. (**OP 12**), Piaggio Vehicles Pvt. Ltd. (**OP 13**), Bajaj Auto Ltd. (**OP 14**), Hero MotoCorp. (**OP 15**), Mahindra Two Wheeler (**OP 16**), Honda Motorcycle & Scooter India Pvt. Ltd. (**OP 17**)and TVS Motor Co.(**OP 18**), collectively referred to as **Opposite Parties/ OPs**.



2. The Informant claims to be a businessman, engaged in the business of automobile dealership for passenger cars, two wheelers, commercial vehicles such as trucks, buses and three wheelers and tractors in the State of Tamil Nadu and Union Territory of Pondicherry for the last 25 years. The Informant has submitted that OPs are the manufacturers and sellers of automobile products in India and their combined market share is more than 50%.
3. The Informant has submitted that he has dealership of OP 1 for heavy, medium and light commercial vehicles since 2007 for the territories of Villupuram and Cuddalore. The dealership agreement between the Informant and OP 1 has been renewed from time to time and the last renewal was made for the period 2011 to 2014. Another dealership agreement was also entered into between the Informant and OP 1 for the retail sales and distribution of the vehicles. This dealership agreement was last renewed for the period 2013 to 2015.
4. The Informant has further submitted that he is also a dealer of OP 14 for two wheelers in the Union Territory of Pondicherry since 2004 and for the territory of Cuddalore since 1991. Dealership agreements for both Pondicherry and Cuddalore were renewed for the period from 2013 to 2015. However, both the agreements were terminated by OP 14 on 10.11.2014.
5. The Informant has filed the present information alleging restrictive trade practices being followed by OPs which have appreciable adverse effect on competition (AAEC) in India. It is alleged that the dealership agreements between the automobile manufacturers and authorized dealers are completely one-sided and in favour of the automobile manufacturers. The Informant has alleged that the dealership agreements are in violation of the provisions of the Act, especially in relation to the following:
  - a) Creation of barriers to new entrants in the market,
  - b) Foreclosure of competition by hindering entry into the market,



- c) Accrual of benefits to the consumer; and
  - d) Restricting the dealer not to deal other Products/ Services to make the dealership viable.
6. It is submitted that the automobile manufacturers in India generally sell their vehicles to consumers through authorized dealers. The automobile manufacturers appoint their authorized dealer through dealership agreements which are preceded by Letter of Intent (LOI). Usually a prospective dealer seeking dealership of an automobile company has to satisfy the automobile manufacturer that he has adequate infrastructure, personnel, investments, working capital *etc.*
7. It is averred that setting up of a showroom involves huge investments. The Informant in the present case has referred to some LOIs in order to highlight the requirement of huge investments for setting up of a showroom. The Informant has further pointed out that many a times, the manufacturer refuses to enter into dealership agreement after the authorized dealer has built the infrastructure in accordance with the terms of the LOI. The Informant has also highlighted certain restrictive clauses in the dealership agreements like restriction on dealing in vehicles similar to the manufacturer's vehicles directly or indirectly, maintenance of minimum stock in the showrooms, incurring huge expenditure in promotion of sales, exit barriers *etc.*, which are alleged to be one-sided and heavily biased in favour of OP 1 and OP 14.
8. Based on the above allegations, the Informant has prayed, *inter alia*, for restraining OPs from imposing restrictive/ anti-competitive conditions which are contrary to the provisions of sections 3(1), 3(4)(a) to (d) in their LOIs and dealership agreements.



9. The Commission has perused the material available on record. The arguments made by the counsel on 12.05.2015 on behalf of the Informant were also considered by the Commission.
10. At the outset, the Commission notes that though the Informant has made allegations of contravention of the provisions of the Act against all the OPs, he has entered into dealership agreements with OP 1 and OP 14 only.
11. From the facts of the case, it is revealed that the Informant is primarily aggrieved by the imposition of alleged anti-competitive terms and conditions by OPs in their LOIs and dealership agreements. The Informant has alleged that the terms of the agreements entered with OP-1 and OP-14 are one-sided and loaded in favour of these two manufacturers only.
12. So far as the huge investment incurred for setting-up of a showroom for the sale of automobiles of a specific manufacturer is concerned, the Commission observes that the same is dependent on the brand, goodwill of the manufacturer and the nature of product. Every prospective dealer, who wishes to become an authorized dealer, is well aware of the requirements in terms of investment, infrastructure, stock of minimum vehicles, promotional activities *etc.*, thus the dealer has the choice of selecting the automobile manufacturer after weighing out the cost and other conditions. Therefore, the stringent criteria adopted by the automobile manufacturers in terms of technical expertise, infrastructure, investment *etc.* while appointing their authorized dealers may not be considered as unreasonable.
13. As regards the practices which have been alleged by the Informant to be contrary to the provisions of the Act, the Commission is of the view that such practices which have been highlighted by the Informant like non-compete



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clauses, maintenance of minimum stock in showroom, incurring expenditure in promotion of sales *etc.* are standard business practices being followed by the automobile manufacturers and do not by themselves appear to be contrary to the provisions of section 3 of the Act. As far as the issue of maintenance of minimum stock in dealer's showroom and promotion of sales, it is observed that such practices are trade customs and usages which are prevalent in the market and also do not appear to create any AAEC. Further, it is observed that OPs are competing each other in order to obtain the patronage of a large number of customers.

14. The Commission notes that the Informant has not provided any evidence to establish that OP1 and OP14 have compelled the Informant to accept any anti-competitive terms and conditions, which are contrary to the provisions of the Act. Essentially, the grievances of the Informant appear to be monetary disputes for which Informant has already initiated civil suits and arbitration proceedings before the appropriate authorities.
15. Lastly, it may be observed that in order to buttress his allegations, the Informant has placed reliance upon *Automobile Dealers Association v. Global Automobiles Limited* (Case No.33 of 2011) and *Shri Shamsher Katariav. Honda Siel Cars &Ors.*(Case No. 03 of 2011). However, it is noted that the issues/allegations involved in both the said cases were distinct from the present case.
16. Considering the facts and circumstances of the present case, the Commission is of the view that the Informant has not been able to even *prima facie* establish AAEC in the market with respect to the impugned terms and conditions contained in the LOI or dealership agreements of the OPs.





17. In light of the above, the Commission finds that no *prima facie* case of contravention of the provisions of sections 3 and 4 of the Act is made out against OPs in the instant matter. Accordingly, the matter is closed under the provisions of section 26(2) of the Act.

18. 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)**

**Sd/-**

**M. S. Sahoo  
(Member)**

**New Delhi**

**Date: 30.06.2015**