



COMPETITION COMMISSION OF INDIA

Case No. 24 of 2015

In Re:

M/s K Sera Sera Digital Cinema Pvt. Ltd.

Through Shri Dheeraj Salian, Regional Head - North

Unit No.101 A & 102,

First Floor, Plot No. B 17,

Morya LandmarkII, Andheri West,

Mumbai.

Informant

And

M/s NBC Universal Media Distribution

Services Pvt. Ltd.,

701, CNB Square, Sangam Complex, 127,

Andheri Kurla Road,

Andheri East, Mumbai.

Opposite Party No. 1

M/s UFO Movies India Ltd.,

Valuable Techno Park, Plot no. 53/1,

Road no. 7, Marol,

Andheri East, Mumbai.

Opposite Party No. 2

M/s Real Image Media Technologies (Pvt.) Ltd

7B, Third Street, Royapettah,

Balaji Nagar, Chennai.

Opposite Party No. 3

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

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 M/s K Sera Sera Digital Cinema Pvt. Ltd. through its Regional Head (North) Mr. Dheeraj Salian (hereinafter referred to as the '**Informant**') against M/s NBC Universal Media Distribution Services Pvt. Ltd. (hereinafter referred to as '**OP 1**'), M/s UFO Movies India Ltd. (hereinafter referred to as '**OP 2**') and M/s Real Image Media Technologies (Pvt.) Ltd. (hereinafter referred to as '**OP 3**') alleging, *inter-alia*, contravention of the provisions of sections 3 and 4 of the Act.
2. As per the information, the Informant is a digital cinema service provider company engaged in digital projection and screening of films in India through a specific technology known as its proprietary Sky Cinex Technology. It has been submitted that the Informant is among India's leading digital cinema service provider having tie-up with as many as 300 cinema theatres across India.



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3. It is submitted that the Informant has its projectors and servers installed and connected to over 300 movie theatres across India to provide its services. The cost of installation of one such system is stated to be Rs.15,00,000/- approx. per theatre, which is borne by the Informant itself being the service provider. The Informant is said to have made huge investment in the course of its business.
4. It is submitted in the information that OP 1 is a subsidiary distribution company of M/s Universal Studios (Producer of Fast and Furious 7) in India. OP 2 and OP 3 are also stated to be engaged in digital cinema services having tie-ups with more than 2000 theatres across India. It is further stated that the services and technologies, as provided by OP 2 and OP 3, are akin to the services and technology of the Informant.
5. It is submitted that the process of distribution and exhibition of movies, in the past few years, have undergone various complex technological changes to cut the production cost and counter piracy. Instead of the old practice of movie distribution/exhibition which involved making of reels and distribution of the same by manufacturing the motion picture reel film copies in multiple numbers, digital technology such as hard drives, internet, dedicated satellite links is used to distribute or project movies at even the most remote locations. It is further averred that a digital movie server and projector is installed now-a-days in each cinema/ theatre by digital cinema service providers which have the technology to convert/digitalize the movie content into their proprietary format and then deliver the same to their servers from where the movie is played. The whole system is said to be encrypted and can only support the respective server of the digital cinema service provider.



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6. It is explained that the digital cinema projection system can be broadly classified into two categories: E- cinema [Non- digital cinema initiatives (DCI) compliant] technology which is used by the Informant as well as OP 2 and OP 3 and the other is D Cinema (DCI compliant) technology. The primary purpose of DCI was to ensure a uniform and high level of technical performance, reliability, protection and quality control.
7. The Informant has submitted that it has been exhibiting/screening *Bollywood* movies earlier in its E-cinema format across theatres which are associated with it. The distributors of *Bollywood* movies have never imposed any restriction or condition on the Informant for conversion of movies into its E-cinema format and exhibiting the same.
8. It is submitted that the movie titled as “*Fast and Furious 7*”, produced by ‘Universal Studios’, was due for worldwide release on 02.04.2015. It is highlighted that earlier movies of Universal Studios were released only on DCI platform (D cinema) but in the recent past it had decided to release its movie “*Fast and Furious 7*” on E platform (Non-DCI platform).
9. It is alleged by the Informant that OP 1 had allowed OP 2 to convert the said movie and to release the said movie digitally. Thus, the Informant is alleged to have been refused the right to digitally release and show the said movie at its various associated theatres across the country depriving a large number of population from enjoying and viewing the movie at theatres.
10. The Informant has stated that the system of both the Informant and the majority of the systems of OP 2 and OP 3 are non- DCI compliant yet



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OP 1 had provided the rights only to OP 2 and OP 3 to digitally release the said movie. This conduct of OP 1 in collusion with OP 2 and OP 3 is alleged to be in violation of the provisions of sections 3 and 4 of the Act.

11. It is further alleged that if the production houses like OP 1 do not allow its movie to be run on the E format of the Informant, the system of the Informant and similarly placed players will be removed and systems of only those players will be installed who are encouraged and patronized by OP 1. It is alleged that the business of the Informant and other similar players would come to an end due to anti-competitive activities of the OPs and their associates.
12. The Informant has alleged that the conduct of OPs is in clear violation of the provisions of section 3(3) of the Act since the decision taken by them had resulted in determination of sale/purchase price of tickets because of lack of option available with the theatre owners and the viewers. Such conduct also results in limiting and controlling the supply of movies.
13. The Informant has alleged that OP 2 and OP 3 control 50-60% of the market share in the said business and are abusing their dominant position in the market in collusion with OP 1. The Informant has further submitted that OP 1 does not have any apprehension of copyright violation if the Informant is allowed to process the movie in its E -cinema format. Thus, OP 1 does not have any reason to withhold the Informant from conversion and exhibition of movies in its E-cinema format.
14. Based on the above stated allegations and the information, the Informant has prayed, *inter alia*, for the issuance of a notice of inquiry



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under section 26(1) of the Act against the OPs for indulging in anti-competitive and unfair trade practices.

15. After perusal of the information, the Commission directed the Informant to appear for hearing on 06.05.2015. None appeared on the said date of hearing but the counsel filed an application dated 06.05.2015 on behalf of the Informant for withdrawal of the information in the light of its undertaking and settlement entered into amongst the parties (OPs) before the Hon'ble Bombay High Court in Writ Petition No. 940/2015.
16. Facts of the case reveal that the grievance of the Informant primarily pertains to the cartelization by the OPs and abuse of their dominant position for not allowing the theatres to install the server and projector of its choice, which is alleged to be in contravention of the provisions of sections 3 and 4 of the Act.
17. The Commission notes that no material has been placed before it to infer an anti-competitive agreement as envisaged in section 3 of the Act. Considering the totality of the facts and circumstances, the Commission is of the view that no *prima facie* infringement of the provisions of section 3 of the Act is made out against the OPs.
18. With regard to the contravention of the provisions of section 4 of the Act, it is noted that the Informant has not submitted any cogent material to show dominance of the OPs in the market. However, in view of the facts and circumstances obtaining in the present case, the Commission does not deem it necessary to define the relevant market.
19. In the light of the above analysis, the Commission finds that no *prima facie* case of contravention of the provisions of sections 3 and 4 of the



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Act is made out against the OPs in the instant matter. Accordingly, the matter is closed under the provisions of section 26(2) of the Act.

20. 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: 04-06-2015