



COMPETITION COMMISSION OF INDIA

Case No. 23 of 2016

In Re:

Confederation of Real Estate Brokers' Association of India

Anmol, 1st Lane, 7th Road

Santacruz East, Mumbai - 400055

Informant

And

1. Magicbricks.com

Times Centre (Digital Content Production Facility)

FC-6, Ground Floor, Sector 16-A

Film City, Noida - 201301

Opposite Party No. 1

2. 99acres.com

Info Edge (India) Limited

GF-12A, 94 Meghdoot Building

Nehru Place, New Delhi - 110019

Opposite Party No. 2

3. Housing.com

3rd floor, A Wing

Supreme Business Park Kensington

Rear Exit Road, Hiranandani Gardens

Powai, Mumbai - 400076

Opposite Party No. 3

4. Commonfloor.com

Unit No. – 403, Fourth Floor, Tower-A,

Signature Towers, South City-1

Gurgaon, Haryana - 122001

Opposite Party No. 4



5. Nobroker.in

**374, 23rd cross, HSR Layout
Sector-7, Bangalore - 560102**

Opposite Party No. 5

CORAM

**Mr. Devender Kumar Sikri
Chairperson**

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

**Mr. Sudhir Mital
Member**

**Mr. Augustine Peter
Member**

**Dr. M. S. Sahoo
Member**

**Justice G. P. Mittal
Member**

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

1. The information in the present matter was filed by Confederation of Real Estate Brokers' Association of India ('**Informant**') under Section 19(1)(a) of the Competition Act, 2002 (the '**Act**') against Magicbricks.com ('**OP 1**'), 99acres.com ('**OP 2**'), Housing.com ('**OP 3**'), Commonfloor.com ('**OP 4**')



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and Nobroker.in ('OP 5') [collectively, hereinafter 'OPs'] alleging, *inter alia*, contravention of the provisions of Section 4 of the Act.

2. The Informant, a Section 8 company registered under the Companies Act, 2013, is a confederation of thirty five real estate brokers' association, having combined membership of approximately 20,000 real estate brokers. OPs are various online portals engaged in the activities of real estate listing, property finder solution, *etc.* OPs run and manage their respective websites and property services division by acting as commission agents in real estate transactions.
3. It is the case of the Informant that OPs by advertising 'No Brokerage Policy' (NBP) on their websites, mobile applications, newspapers *etc.* are imposing unfair and discriminatory conditions on the traditional real estate brokers who are doing real estate business on the basis of commission. It is averred that OPs are practising NBP either through auction of properties or through the offer of 'buy directly from owners' on their websites and newspaper advertisements in order to eliminate competition and real estate brokers from the market. As per the Informant, OP 1 has advertised in various daily newspapers regarding sale of property through the offer of 'buy directly from owners'. Similar advertisements were also made by other OPs on their portals. It is alleged that, directly or indirectly, OPs and other online portals have adopted NBP to monopolise the real estate broking business in India. Such incidents are frequent in Powai in Mumbai, Pune, Ahmedabad, Surat, Vasai, Noida, Ajmer and many other parts of India.
4. The Informant has stated that services offered through the electronic media as a platform for sale of properties with latest technology scores over the conventional methods of broking business in India. It is alleged that because of the practice of these top players and other online real estate listing portals to do away with the broking charge or charging much less compared to



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traditional brokerage fee of 2% of the sale/ purchase value of a property, the traditional real estate brokers have not been able to compete with them and therefore they have been losing their business. It is averred that because of such practice of OPs and other online portals, the consumers prefer them over the traditional brokers.

5. As per the Informant, in India, more than one lakh brokers are engaged in real estate brokerage business and many of them have adopted it as a second line of profession. It is so because, till date, there exists no licensing or requirement of registration for brokers in real estate transaction and this profession does not require any qualification and much investment. Networking and engaging with the local demographics enables the brokers to become knowledgeable about the trade. They have to work very hard in the process of giving physical inspections of properties and also help in subsequent negotiations. It is stated that a broker is not only provide details regarding the historic value but also many other aspects of the property during the course of a transaction which no other platform/ media can provide. It is alleged that even though the traditional brokerage fee of 2% of the sale/ purchase value of a property and two months' rent for rental deals has been prevailing in India for ages, OPs through NBP has spoiled the business of lakhs of brokers. It is alleged that OPs, because of their dominance, are able to decide the percentage of brokerage or decide not to collect any brokerage from any real estate deal.
6. The Informant has alleged that OPs are dominant as they are top real estate listing websites in India. Further, digital presence of OPs through mobile applications and huge footfalls to their websites make them the only source of information to the world. The Informant, citing the data relating to web ranking by Alexa.com – a website ranking site, has stated that as of December, 2015 OP 1 ranked 170, OP 2 ranked 146, OP 3 ranked 484 and, OP 4 ranked 224. The Informant has also submitted the market capitalisation data for OP 2



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and OP 3 for 2014-15 which is Rs. 120 crores and Rs. 40 crores respectively. Further, OPs themselves claim in their advertisements and on their web portals that they are India's No. 1 property and real estate website.

7. The Informant has alleged that OPs have abused their dominant position by imposing unfair and discriminatory condition with respect to the fee charged for listing of property for buy, sale or lease; practising NBP for real estate transactions; denying market access to other service providers like brokers and mediators; conducting public auction of properties to eliminate brokerage; and eliminating competition by charging no fee or commission.
8. Based on the above submissions, the Informant, *inter alia*, has prayed the Commission to restrain OPs from conducting any public auction of properties and ban such public auctions conducted which are without commission of 2% or more; order OPs to remove all such pages from their websites which claims 'No Brokerage'; direct OPs to decrease the registration fee for property listing by brokers and individuals; impose a penalty of 10% on OPs for abusing their dominance to the prejudice of real estate brokers; and pass such other and further order or orders as the Hon'ble Commission may deem fit and proper in the circumstances of the case.
9. The Commission has perused the information available on record and has given a thoughtful consideration.
10. The Informant primarily appears to be aggrieved by the conduct of OPs in indulging NBP or charging much less as brokerage fee compared to the traditional brokerage fee of 2% of the sale/ purchase value of a property while undertaking a real estate transaction or public auctioning of properties. It is averred that due to such practice of OPs traditional real estate brokers are getting eliminated from the market. The Informant has alleged that OPs are dominant and have contravened of the provisions of Section 4 of the Act.



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11. The Commission observes that India is one of the fastest growing e-commerce markets. With the growth of e-commerce, the number of online portals engaged in the activities of real estate listing, property finder solution, *etc.* have been increasing. It is observed that, besides OPs, there are also many other real estate listing sites which are offering similar services, providing various options to the consumers. Besides the online platforms, real estate brokerage business in India is also undertaken by the traditional brokers in a large scale. Both the online platforms and the off-line traditional brokers are offering similar services to the customers. Accordingly, the Commission is of the view that on-line and off-line services of brokers cannot be distinguished while defining the relevant product market in the instant case. Both are alternative channels of delivering the same service. So, the market for '*the services of real estate brokers/ agents*' is considered as the relevant product market in the present case.
12. With regard to the relevant geographic market the Commission observes that the traditional brokers/ agents provide services within their respective localities whereas OPs offer their services anywhere in India. The services offered by OPs on the supply side enables real estate properties located anywhere in India to be listed for sale/ purchase/ renting whereas on the demand side OPs through their website enable consumers to purchase/ rent any property in their localities or anywhere in India. Further, OPs provide services regarding details of properties such as value, area, locality *etc.* to the real estate brokers as well as to the consumers throughout India. Therefore, the relevant geographic market in this case is considered as '*India*'.
13. In view of the relevant product market and the relevant geographic market defined *supra*, the relevant market in the instant case is delineated as market for '*the services of real estate brokers/ agents in India*'.



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14. On the issue of dominance it is observed that based on the claims of OPs on their respective websites and in their advertisements, ranking of websites by Alexa.com, and market capitalisation data of OP 2 and OP 3; the Informant has submitted that OPs are dominant real estate portals/ websites. However, the Commission has considered the relevant market as '*the services of real estate brokers/ agents in India*', which is different and broader than the relevant market conceived by the Informant. The Commission observes that in the said market, there are large number of players operating, both through online and off-line channels. It is so because presently, in India, no licence or registration is required to undertake the brokerage business in real estate sector. Thus, the presence of a large number of listing sites and traditional brokers in the said relevant market pose competitive restraint on each other and hence no specific player can act independently of the market forces and affect the consumers or other players in its favour. The Commission has also perused the website ranking figures of Alexa.com as submitted by the Informant and is of the view that based on the said figures it is not possible to gauge the dominance of any of the OPs in the relevant market because the ranking is limited to only the websites/ portals and does not include the off-line brokers. Further, the said rankings are based on traffic attracted by the websites which keep on changing regularly based on the number of page views. Furthermore, it is observed that based on the said ranks none of the websites (*i.e.*, OP 1 to OP 4) has either been able to secure a rank within top 10 or even able to secure a rank within top 100. Also, there exist wide disparities in ranking amongst OP 1 to OP 4. Accordingly, the Commission is of the opinion that none of the OPs are dominant in the relevant market.
15. In the absence of dominance of any of the OPs in the relevant market, the Commission is of the view that, no case of contravention of the provisions of Section 4 of the Act is made out against any of the OPs in the present case and the information is ordered to be closed forthwith in terms of the provisions contained in Section 26(2) of the Act.



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16. The Secretary is directed to inform all concerned accordingly.

Sd/-
(Devender Kumar Sikri)
Chairperson

Sd/-
(S. L. Bunker)
Member

Sd/-
(Sudhir Mital)
Member

Sd/-
(Augustine Peter)
Member

Sd/-
(Dr. M. S. Sahoo)
Member

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

New Delhi

Dated: 03.05.2016