



**COMPETITION COMMISSION OF INDIA**

**Case No. 96 of 2015**

**In Re:**

**Meru Travel Solutions Private Limited (MTSPL)  
128, IJMIMA-Raheja Metroplex,  
Behind Goregoan Sports Club,  
Off. Link Road, Malad (W), Mumbai**

**Informant**

**And**

**Uber India Systems Pvt. Ltd.  
Regus Business Center Pvt. Ltd.  
Level 13, Platinum Techno Park,  
Plot No. 17/18, Sector 30A,  
Vashi, Navi Mumbai**

**Opposite Party No. 1**

**Uber BV  
Vijzelstraat 68, Amsterdam 1017,  
HL The Netherlands**

**Opposite Party No. 2**

**Uber International Holding BV  
Vijzelstraat 68, Amsterdam 1017,  
HL The Netherlands**

**Opposite Party No.3**

**Uber International BV  
Vijzelstraat 68, Amsterdam 1017,  
HL The Netherlands**

**Opposite Party No. 4**

**Uber Technologies Inc.  
182, Howard Street # 8,  
San Francisco CA 94105.**

**Opposite Party No. 5**



**CORAM:**

**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 M/s Meru:*

Mr. A. N. Haksar, Sr. Advocate  
Mr. Udayan Jain, Advocate  
Mr. Rahul Kapani, Director, MTSPL  
Mr. Akshay Nanda, Advocate

*For UBER:*

Mr. Amit Sibal, Sr. Advocate  
Mr. Rohan Arora, Associate  
Mr. Aman Singh Sethi, Advocate  
Mr. Mohit Abraham, Legal Director

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

1. The present information has been filed by Meru Travel Solutions Pvt. Ltd. (MTSPL) (hereinafter, the “**Informant**”) under Section 19(1)(a) of the Competition Act, 2002 (hereinafter, the “**Act**”) against Uber India Systems Pvt. Ltd. (hereinafter, the ‘**Opposite Party No. 1**’/ ‘**OP 1**’), Uber BV (hereinafter, the ‘**Opposite Party No. 2**’/ ‘**OP 2**’), Uber International Holding BV (hereinafter, the ‘**Opposite Party No. 3**’/ ‘**OP 3**’), Uber



International BV (hereinafter, the '**Opposite Party No. 4**'/ '**OP 4**'), and Uber Technologies Inc. (hereinafter, the '**Opposite Party No. 5**'/ '**OP 5**') (hereinafter, collectively referred to as '**Uber Group**'/'**OP Group**'/'**UBER**'), alleging *inter alia* contravention of the provisions of Sections 3 and 4 of the Act.

2. Briefly, the Informant is engaged in the radio taxi service business in India through its wholly owned subsidiaries namely Meru Cab Company Pvt. Ltd. and V-Link Automotive Services Pvt. Ltd. Both the subsidiaries provide radio taxi services under the brand names '*Meru*', '*Meru Genie*' and '*Meru Flexi*' in 21 major cities across India including Delhi- National Capital Region (NCR). The Informant started its business in the year 2007 from Mumbai and entered the Delhi-NCR market in 2008.
3. OPs 1 to 5 are part of Uber Group and OP 5 is the holding company of the Uber Group which was started in 2009. OP 3 and OP 4 hold 90% and 10% shares respectively of OP 1. Uber Group entered the Indian radio taxi services market in 2013 and started its operations in Delhi-NCR in December 2013, wherein it offered services under three different brands namely '*Uber Black*', '*Uber X*' and '*Uber Go*'. As per the information, OP 1 provides assistance in connection with marketing, logistics and operations to Uber Group in India and acts as an agent of OP 2 for doing business in India, under a contract executed between OP 1 and OP 2. OP 2 directly enters into a contract with different taxi owners attached to the Uber network and also with the passengers who use Uber's radio taxi services. OP 2 is also responsible for payments to drivers.
4. It is claimed that, till date, OP 5 has received a total funding of about USD 10 billion through various venture capital funds and private equity investors. The Informant has alleged that owing to its deep pockets, Uber Group has



unleashed a series of anti-competitive practices *inter alia* unfair conditions, predatory pricing, *etc.* proscribed under the Act, in order to wrongfully gain and strengthen its dominant position in different markets and to eliminate otherwise equally efficient competitors from the market. It submitted that the average market price of radio taxis existing in Delhi-NCR before the launch of UBER was about Rs. 23 per km. UBER launched its services at the following rates:

	Uber Black	Uber X	Uber Go
November 2013	Rs. 20/km	Not launched	Not launched
June 2014	Rs. 18/km	Rs. 15/km	Not launched
November 2014	Rs. 18/km	Rs. 15/km	Rs. 12/km
February 2015	Rs. 12/km	Rs. 9/km	Rs. 7/km

5. It was further submitted that UBER is offering huge discounts in addition to already reduced tariffs to customers and unreasonably high incentives to drivers to keep them attached to its network. It is alleged that because of such discounts and incentives, UBER is losing Rs. 204 per trip which does not make any economic sense other than pointing towards UBER's intent to eliminate competition in the market.
6. It has been alleged that as a result of UBER's anti-competitive practices and predatory pricing in different markets across India, the Informant suffered a big blow to its business and from a profit making company, it started incurring huge losses on an all India basis. Therefore, to survive in the market, the Informant started offering incentives and discounts in Delhi-NCR, due to which it incurred a loss of around Rs. 107 crores till July 2015. Further, it is submitted that Informant's market share has diminished from 18% in December 2013 (number of cars)<sup>1</sup> to about 11% as on September

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<sup>1</sup> The Informant has used number of cars as the parameter for calculating market shares for the month of December 2013, stating that the number of trips was not available at the relevant time.



2015 (number of trips) whereas UBER increased from nowhere to a market share of about 50% (number of trips).

7. It has been alleged that OP Group is dominant in the relevant market of 'radio taxi services in Delhi-NCR' by virtue of its unlimited financial resources and financial strength which is beyond comparison *vis-a-vis* the other competitors in the market. To substantiate its contention regarding the dominant position held by Uber Group, the Informant has relied upon a market research report namely 'Delhi-NCR Radio Taxi Service Market Analysis' conducted by *New Age TechSci Research Pvt. Ltd.* in September 2015 (hereinafter, the *TechSci* report). The report states that out of total 32645 fleets, UBER has 14,500 fleets, *i.e.* 44% in Delhi NCR. Out of total active fleet 13,755, UBER has 6000 active fleet *i.e.* 44% and out of total 65828 trips per day, UBER has a share of 33000 trips per day *i.e.* 50%. With this market share UBER is leading the radio taxi market in Delhi NCR followed by OLA (21%), Taxi for Sure (11%), Meru (7%), Easy Cabs (5%), Quick Cabs (3%), Mega (3%) and others (5%) (market share in terms of number of cabs). Market share for other players in terms of active fleet size is stated to be as follows: OLA (17%), Taxi for Sure (10%), Meru (11%), Easy Cabs (7%), Quick Cabs (3%), Mega (4%) and others (3%). Further, the market share of UBER, in terms of number of trips per day, is stated to be followed by OLA (14.6%), Taxi for Sure (8.5%), Meru (11.2%), Easy Cabs (7.5%), Quick Cabs (2.3%), Mega (3.7%) and others (2.1%).
8. The Informant has alleged that owing to its dominant position, the Uber Group has devised certain abusive practices which *inter alia*, include unreasonable discounts amounting to abysmally low/predatory pricing to consumers *etc.* to adversely affect and oust its competitor from the relevant market. It is alleged that under its business arrangement, UBER is giving the whole trip amount received from the passengers to the respective taxi



drivers along with additional incentives in order to get them attached exclusively with the UBER network. It is alleged that UBER's incentive policy is not based upon any economically justified consideration, but solely to gain and maintain the fidelity of the taxi owners and to prevent passengers/customers from obtaining radio taxi services from other radio taxi services operators. The loyalty inducing incentive schemes have or are likely to have an exclusionary effect in the relevant market to the detriment of other competitors. In addition to the payments to drivers, UBER is said to be offering huge discounts and benefits to its consumers which are difficult for similarly placed players to match. Thus, UBER is said to have abused its dominant position and violated Sections 4(2)(b)(i) and 4(2)(c) of the Act. Further it has been alleged that UBER has indulged in predatory pricing and violated Section 4(2)(a)(ii) of the Act.

9. Further, the Informant has also alleged that UBER enters into exclusive contract with taxi owners in violation of Sections 3(1), 3(2) and 3(4) of the Act whereby the taxi drivers are restrained from getting attached on to any other competing radio taxi operators' network.
10. Citing the abovementioned facts and allegations, the Informant has *inter alia* prayed that the Commission initiates an inquiry into the conduct of Uber Group under Section 26(1) of the Act.
11. The Commission has considered the facts and allegations stated in the information and heard the parties on 17<sup>th</sup> November 2015. Subsequently, the Informant made additional written submissions dated 30<sup>th</sup> November 2015. During the hearing, the learned counsel for OP 1 submitted that no case under the provisions of Section 4 of the Act can be made out unless dominance is established and there is no material placed before the Commission to form a *prima facie* opinion with regard to the dominance of



- OP 1. It was alleged that the informant did not submit any data apart from the data used in the TechSci report which has limitations and is not free from infirmities.
12. While discrediting the *TechSci* report, OP 1 submitted that the *TechSci* report indicates the date of the data as 30<sup>th</sup> September 2015 and the present Information was filed on 9<sup>th</sup> October 2015. OP 1 stated that it is highly inconceivable that within 9-10 days since the report was published, the informant found the same in public domain and has filed the information relying on this report which was allegedly not commissioned by it. In addition OP 1 submitted that the baseline methodology of the report is also open to challenge considering that UBER, which is shown to be having the highest market share on various parameters, was not even interviewed. This allegedly showed that either UBER was not considered to be a significant player to be interviewed or it was intentionally left out in order to reach such pre-decided results.
13. Besides, the learned counsel for OP 1 also challenged the fleet size (14500) of UBER as used in the *TechSci* report and contended that it can submit the correct data in this regard on Affidavit if granted confidentiality. It was also highlighted that the report does not show the number of trips and different multipliers have been used for different radio taxi providers without any rational basis. It was submitted that there is nothing concrete on record to hold OP 1 dominant and thus, it was prayed that in the absence of *prima facie* evidence regarding OP 1's dominance, no investigation be ordered by the Commission.
14. With regard to the allegations under Section 3, it was submitted that OP 1 is not imposing any exclusivity conditions on the drivers on its network. In response to the Commission's query regarding the rationale behind giving huge discounts and incentives, OP 1 stated that it intends to bring the taxi



drivers and consumers to a system, to motivate them and to compensate them.

15. It was submitted that the Informant has failed to show that it was a profit making entity and it incurred losses because of OP 1. It was also stated that the reduction in prices by OP 1 is not to indulge in unhealthy competition but to bring more and more cabs and customers to its network and to increase the value of the network. In response to the Informant's allegation regarding the spree between OLA and UBER to divide the country, OP 1 responded that there is nothing wrong as long as UBER and OLA are competing vigorously.
16. During the hearing, the learned counsel for the Informant reiterated the allegations stated in the information. In response to the Commission's query regarding differences in the results in the *TechSci* report submitted by the Informant *vis-a-vis* another report prepared by another research and consultancy based company *6Wresearch*, the Informant submitted additional written submissions dated 30.11.2015. The Informant contended that the market survey report of *6Wresearch* gives data of market shares as on 08.04.2015 and it can be safely concluded that the report is based on historical data of March 2015. The Informant, without commenting on the accuracy of such data, requested that *6Wresearch* report be discarded as the same is based on data which is old and does not depict the actual current situation of the market. It was argued by the Informant that the market has undergone a significant change post March, 2015, since UBER has dropped its prices in February 2015 to edge out OLA and all others from March onwards. It was further submitted that since UBER had suspended its activities in December 2014-January 2015 due to government intervention, any survey based on the data collected during the said period will not depict the true picture. The Informant stated that the data used in the *TechSci* report





is latest (September 2015) and should, therefore, be accepted without any doubt.

17. The Commission has given a thoughtful consideration to the contentions made by both the parties. The Informant has raised allegations under Sections 3 and 4 of the Act against UBER. However, in view of OP 1's categorical denial to the imposition of any exclusivity conditions on the taxi drivers on its network and Informant's failure to adduce any evidence to object such denial, the Commission does not find it necessary to deal with the allegations made with regard to Section 3 of the Act.
18. With regard to the allegations pertaining to Section 4 of the Act *i.e.* abuse of dominant position by the Uber Group, the determination of relevant market, comprising of relevant product market and relevant geographic market, would serve as the starting point to assess whether the entity in question holds a dominant position or not. In view of the provisions of Sections 2(r), (s) and (t) of the Act, such determination is to be made after taking into account the factors laid down under Sections 19(6) and (7) of the Act.
19. The relevant product market comprises of all the products which are perceived to be substitutable by the consumer by reason of their basic characteristics, intended end-use, price *etc.* The Commission, in its earlier cases pertaining to similar facts and allegations has already noted that the features of radio taxis like convenience of time saving, point-to-point pick and drop, pre-booking facility, ease of availability even at obscure places, round the clock availability, predictability in terms of expected waiting/ journey time *etc.* makes them different from other modes of transport like auto-rickshaws, buses and other private taxis. Accordingly, the Commission, in its orders in Case Nos. 06 of 2015 and 74 of 2015, has defined the relevant product market as the market for 'radio taxi services'.



Keeping in view the facts and allegations in the present case, the Commission is of the view that the same relevant product market definition would serve the purpose.

20. The definition of relevant geographic market in the radio taxi services market has been dealt with by the Commission in many previous cases, namely Case nos. 06 of 2015, 74 of 2015 and 81 of 2015. Briefly, the Commission has opined that since transport is a state subject under the Constitution, the radio taxi services market is largely regulated by the State transport authorities. Thus, the conditions of competition appear to be homogenous only in a particular city/State. Moreover, a consumer wishing to travel within a particular city or geographic region will not avail the radio taxis operating in another city/State. Though the Informant has proposed the geographic market to be Delhi-NCR, the Commission is of the opinion that the regulatory architecture in Delhi is quite different from that operating in the NCR. Moreover, pursuant to the Delhi High Court's order in the recent past directing the taxi operators to use CNG vehicles within Delhi makes it apparent that the radio taxis operating in the NCR region may not necessarily be substitutable for those operating in Delhi. The demarcation of Delhi as a separate relevant geographic market is further corroborated by the fact that the app (*i.e.* applications) designed by such aggregators (*i.e.* OP, OLA *etc.*) also specifically distinguish between taxis available for booking within Delhi and those available for booking for commuting from Delhi to NCR. Therefore, it appears that the radio taxis operating in Delhi region face homogenous competitive constraints distinct from those prevailing in other cities/States. For the foregoing reasons, the Commission is of the view that the relevant geographic market in the instant case will be '*Delhi*'. Accordingly, the relevant market in the present case would be market for '*Radio Taxi Services in Delhi*'.



21. The Commission notes that during the hearing, OP 1 pointed at various deficiencies while challenging the authenticity of the *TechSci* report urging that conclusions may not be drawn solely on the basis of such report. The Commission has considered the *TechSci* research report and it is a matter of fact that Uber Group was not interviewed during the collection of data in the *TechSci* report. Thus, the doubts raised by OP 1 regarding the inaccuracy of data have some merit. The reliability of the data contained in the *TechSci* report is further weakened due to the existence of another research report *i.e.* *6Wresearch* report, with contradictory results, pertaining to the same relevant market received by the Commission in another case *i.e.* Case No. 82 of 2015. The *TechSci* research report submitted by the Informant shows the market share of UBER on the basis of different parameters to be 44.42% (fleet size), 41.38% (active fleet size) and 50.1% (number of trips) as opposed to the market share figures of the next competitor *i.e.* OLA (along with Taxi For Sure) which are 32% (fleet size), 27% (active fleet size) and 23.1% (number of trips). The *6Wresearch* report, on the other hand, shows the market share of OLA to be 52.9% (fleet size), 54.3% (active fleet size), 52.3% (monthly revenue) and 57.5% (number of daily trips) as opposed to UBER's market share which is stated to be 17.6% (fleet size), 7.8% (active fleet size) and 3.8% (monthly revenue). Noting the stark differences in the results depicted by the said two reports, the Informant was given an opportunity to explain the contradiction in the results of the *6Wresearch* report *vis-a-vis* the report submitted by it.
22. The Informant explained the differences in the two research reports by citing the difference in the time period during which the two reports were prepared. It was submitted that the *6Wresearch* report was prepared in April, 2015 and was probably based on the data collected during March 2015. The *TechSci* report, as submitted by the Informant, was prepared on the basis of data collected in September 2015 and thus, based on latest data. It was also



submitted that since UBER was non-operational from December 2014 to January 2015, hence, the *6Wresearch* report does not depict the correct market data.

23. Evidently, there are glaring differences in the data and results depicted by the two research reports *i.e.* *6Wresearch* report and *TechSci* report; casting a serious doubt on their authenticity and neutrality. The conflicting results indicate that either the data relied upon in the said reports is not accurate or the data has been selectively collected and relied upon to reach some pre-determined results. Therefore, despite the Informant's attempt to discredit the results of the *6Wresearch* report, the Commission is apprehensive in drawing conclusions with regard to the market share of UBER on the basis of such contradictory research reports. It may be pertinent to point out here that the Commission is conscious of the fact that the findings in the *6Wresearch* report and *TechSci* report relate to the market shares for the Delhi-NCR market whereas the Commission has delineated the relevant geographic market as only Delhi. However, notwithstanding such fact, it seems unlikely that the market shares of the various players on different parameters used in these reports would have changed substantially had these reports been prepared for the radio taxi services market in Delhi alone. Hence, despite the deficiencies observed above, a conclusion may be drawn from a combined reading of both these research reports that there exists stiff competition, at least between OLA and UBER, with regard to the radio taxi industry in Delhi. Further, both the research reports have acknowledged the presence of other major players in the market, apart from UBER and OLA.
24. Further, the fluctuating market share figures of the various players show that the competitive landscape in the relevant market is quite vibrant and dynamic. Based on the foregoing, the Commission is of the view that the radio taxi services market in Delhi is competitive in nature and UBER does



not appear to be holding a dominant position in the relevant market. Since Uber group does not seem to be dominant in the relevant market, there is no need to go into the examination of its conduct in such relevant market.

25. Based on the aforesaid, the Commission is of the view that no case of contravention is made out against Uber Group under Sections 3 or 4 of the Act. Accordingly, this case is hereby directed to be closed under Section 26(2) of the Act.

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

**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: 10.02.2016**