



**COMPETITION COMMISSION OF INDIA**

**Case No. 27 of 2020**

**In Re:**

**Mr. Vijay Chaudhry  
116, Central School Scheme, Air Force  
Jodhpur – 342001.**

**Informant**

**And**

**M/s India Yamaha Motor Private Limited  
1st Floor, The Great Eastern Centre  
70, Nehru Place, Behind IFCI Tower  
New Delhi – 110019.**

**Opposite Party**

**CORAM:**

**Mr. Ashok Kumar Gupta  
Chairperson**

**Ms. Sangeeta Verma  
Member**

**Mr. Bhagwant Singh Bishnoi  
Member**

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

1. The present information is filed by Mr. Vijay Chaudhary (hereinafter the “**Informant**”) under Section 19(1) (a) of the Competition Act, 2002 (hereinafter, the “**Act**”) against M/s India Yamaha Motor Pvt. Ltd. (hereinafter the “**OP/ Yamaha**”) on alleging contravention of the provisions of Section 4 of the Act.
2. As per the information, the Informant is an individual who was appointed as an authorised dealer of Yamaha in 1972 for selling its motorcycles and scooters in



Jodhpur; and continued to be OP's dealer till the termination of dealership in August 2017.

3. It is averred by the Informant in the information that OP was rechristened/reconstituted/ reorganized from Escorts to become Escorts Yamaha Motor Pvt. Ltd., then Escorts Ancillaries Pvt. Ltd., later Yamaha Escorts Pvt. Ltd. and finally became India Yamaha Motor Pvt. Ltd. Accordingly, during the dealership period with Yamaha, the Informant, from time to time, entered into agreements with Yamaha by signing blank dealership agreements.
4. The Informant has claimed that during his 45 years' old association with Yamaha, he was awarded with various accolades, appreciation and recognition and was one among the top ten flagship dealers of Yamaha. The Informant has, in the information, indicated his dependence on Yamaha dealership and his loyalty towards Yamaha by stating that he did not look for or accept any other lucrative business opportunities during his Yamaha dealership. The Informant has also sought to demonstrate his loyalty towards Yamaha by stating that his son also entered the dealership business, though he was a qualified engineer and had lucrative and promising career opportunities.
5. The Informant is aggrieved by the fact that despite having longstanding relationship which spanned for more than four decades, Yamaha terminated the Informant's dealership *vide* letter dated 16.08.2017 (**'termination notice'**) without assigning any reason. Through the termination notice, Yamaha gave the Informant two months' notice with a direction to comply with the post-termination provisions contained in the Dealers' Sale Agreement. Along with this, Informant was also asked to settle his account with Yamaha.
6. The Informant further alleged that such sudden and unreasonable termination of his dealership and severance of four decades' old business relationship led to the death of his only partner Mr. Ajay Chaudhary, aged 62 years, on 16.03.2018 leaving the family of his partner lurching into wilderness.



7. In a nutshell, the Informant has alleged that Yamaha abused its dominant position by:
- i) Not providing copy of duly filled and executed dealership agreements to the Informant.
  - ii) Terminating his dealership of 45 years without citing any plausible or justifiable reason(s).
  - iii) Appointed another dealer named Deedwania Automobiles as its new dealer in Jodhpur, in its place.
  - iv) Closed the Informant's Pymidol account in June 2017 which was way before the termination notice due to which the Informant could not punch the warranties of around 400 customers.
  - v) By letting the Informant suffer loss on account of unsold stock worth INR 28 lakhs, OEMs' spare parts worth INR 30 lakhs and special tools worth INR 8 lakhs.
  - vi) Alleging illegal usage of brand name and signage of India Yamaha Motor Pvt. Ltd. by the Informant after the expiry of notice period.
  - vii) Intimating HDFC Bank not to finance the vehicles retailed by the Informant.
  - viii) Creating hindrance in registration of vehicles sold by the Informant by writing to the Road Transport authorities.
8. The Informant served a legal notice dated 05.09.2017 upon Yamaha. In the said legal notice, the Informant has *inter alia* asked Yamaha to settle the dispute by invoking the arbitration mechanism under clause 32 of the dealership agreement. The content of the said legal notice was denied by Yamaha through its letter dated 13.09.2017 and it was further stated by Yamaha that before invoking the said clause, parties should first mutually attempt to reconcile their differences and invited the Informant to its office during the office hours for a discussion.
9. The Informant has annexed a letter dated 05.12.2017 issued by Yamaha through which Yamaha cautioned the Informant against using its Trade names, Brand names and intellectual property including but not limited to all signs, boards, posters and Pymidol account in terms of termination notice. Yamaha directed the Informant to cease and desist from using its brand name and signage after the expiry of notice



period and warned against legal recourse available to it for infringement of brand name and logo of Yamaha.

10. In view of above, the Informant has stated that an inquiry should be conducted against Yamaha in accordance with the provisions of the Act.
11. The Informant has, *inter alia*, prayed to the Commission to direct Yamaha to cease and desist from abusing its dominant position. For interim relief, the Informant has attached a computation sheet specifying his claims against Yamaha, to the tune of INR 1,77,59,792 owing to abuse of its dominant position.
12. The Commission considered the present information in its ordinary meeting held on 18.08.2020 and decided to pass an appropriate order.
13. The Commission notes that the Informant has alleged the aforesaid acts and deeds of Yamaha detailed in the preceding paras as a portrayal of abuse of dominant position by Yamaha over a hapless dealer like the Informant. Upon an analysis of facts, the Commission notes that the gravamen of the allegations arises out of sudden termination of long-standing dealership of the Informant by Yamaha and appointment of another dealer in its place in Jodhpur, Rajasthan.
14. The Commission observes that for *prima facie* analysis of the allegations of abuse of dominant position by Yamaha, the relevant market may be ascertained keeping in view the product and geographic dimensions. Thereafter, it is required to assess whether Yamaha enjoys a position of strength to operate independently of the market forces in such relevant market. Once Yamaha's dominance is established in the relevant market, then the Commission will proceed to examine the allegations of abuse of such dominance.
15. As per the website of Yamaha, it is a 100% subsidiary of Yamaha Motor Co., Ltd, Japan (YMC) and functions as the regional headquarters and corporate control body of India business operations for YMC. Yamaha's manufacturing facilities comprises of three plants at Faridabad (Haryana), Surajpur (Uttar Pradesh) and Kanchipuram



(Tamil Nadu). As per its website, the infrastructure at all its plants support production of motorcycles, scooters and its parts for domestic as well as overseas market.

16. The Commission finds that Yamaha is engaged in the manufacture and sale of motorcycles and scooters. From the point of dealership, a dealer stocks scooters as well as motorcycles. Also, the Informant has pointed out that he used to sell both the scooter and motorcycles of Yamaha. Moreover, based on the information available at this stage, it appears that motorcycles and scooters may not be regarded as substitutable in terms of characteristics and consumer preference and may constitute two different relevant product markets. Therefore, the relevant product markets in the facts and circumstances of the present case can be delineated as market for “*manufacture and sale of scooters*” and market for “*manufacture and sale of motorcycles*”. As far as the geographic market is concerned, the conditions of competition for two-wheelers are homogenous across India. Therefore, the Commission is of the view that the relevant markets appear to be “*market for manufacture and sale of scooters in India*” and ‘*market for manufacture and sale of motor-cycles in India*’.
17. The Commission notes that the Informant’s dealership was terminated by Yamaha *vide* letter dated 16.08.2017, though the Information has been filed in the year 2020. For the examination of the allegations as contained in the information, the Commission has considered the market position as existing at the time of alleged termination of dealership agreement *i.e.* the year 2017.
18. As per the information available in public domain<sup>1</sup> in respect of the relevant period in both the markets in India, Yamaha cannot be said to be having significant market power (market share of less than 10%) and there is existence of well entrenched inter-brand competition in the form of players like Hero MotoCorp Ltd., Honda Motorcycles & Scooters India Private Limited, TVS Motor Company, Royal Enfield, India Yamaha Motor Pvt. Ltd. and Suzuki Motorcycle India Private Ltd. This

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<sup>1</sup> CRISIL Research 2020



assessment in the view of the Commission is not likely to undergo any change, even if the relevant geographic market were to be confined to the State of Rajasthan.

19. Based on the facts and material available on record, the Commission concludes that Yamaha is not dominant in the relevant markets. In the absence of dominance, the question of analysis of abuse of dominance under the provisions of the Act does not arise.
20. In view of the foregoing, the Commission is of the opinion that there exists no *prima facie* case of contravention of the provisions of Section 4 of the Act against Yamaha. and the information filed is directed to be closed forthwith under Section 26(2) of the Act.
21. The Secretary is directed to communicate to the parties, accordingly.

Sd/-  
**Mr. Ashok Kumar Gupta**  
Chairperson

Sd/-  
**Ms. Sangeeta Verma**  
Member

Sd/-  
**Mr. Bhagwant Singh Bishnoi**  
Member

**New Delhi**  
**Dated: 07/09/2020**