



**COMPETITION COMMISSION OF INDIA**

**Case No. 30 of 2018**

**Mr. Meet Shah**

B-4, Anmol Apartment  
Near Ishwar Bhuvan, Navrangpura  
Ahmedabad- 380014  
Gujarat

**Informant No. 1**

**Mr. Anand Ranpara**

7-Jagnath Plot Corner,  
Dr.Radhakrishnan Road  
Rajkot- 360001  
Gujarat

**Informant No. 2**

**And**

**Union of India, Ministry of Railways**

Through the Chairman, Railway Board  
Rail Bhavan, Raisena Road,  
New Delhi- 110001  
Delhi

**Opposite Party No.1**

**Indian Railway Catering and Tourism Corporation Ltd**

Through the Chairman and Managing Director  
B 148, 11<sup>th</sup> Floor, Statesman House,  
Barakhamba Road,  
New Delhi- 110001  
Delhi

**Opposite Party No. 2**

**CORAM**

**Mr. Sudhir Mital**  
**Chairperson**

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

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



**Present:**

For the Informants:	Mr. Meet Shah, Informant in person Mr. AnandRanpara, Informant in person
For Opposite Party No.1 :	Mr. Rohit Kumar, DDTC-II Mr. Sanjay Kumar Jha, DDTC/Rates
For Opposite Party No.2	Mr. Jagdish Goyal, Law Officer Mr. R.K. Tiwari, Jt. General Manager

**Order under Section 26(1) of the Competition Act, 2002**

1. The present information has been filed by Mr. Meet Shah and Mr. Anand Ranpara (**Informants**) under section 19(1)(a) of the Competition Act, 2002 (**the Act**) against Ministry of Railways and Indian Railway Catering and Tourism Corporation Ltd (**the Opposite Parties**), alleging contravention of the provisions of Section 4 of the Act.
2. Brief facts and allegations in the present case are summarised as under:
  - a. The Informants *i.e.*, Mr. Meet Shah and Mr. Anand Ranpara are stated to be the individuals residing in Ahmedabad and Rajkot, respectively. The Opposite Party No.1 is the Ministry of Railways, which controls Indian Railways, a departmental undertaking of the Government of India which is administered by the Railway Board. The Ministry of Railways through Railway Board also owns and administratively controls a large number of Public Sector Undertakings including Opposite Party No. 2, Indian Railway Catering and Tourism Corporation Ltd. (**IRCTC**). The Opposite Party No.2, IRCTC is a public sector enterprise incorporated under the Companies Act, 1956 and is stated to be an extended arm of Indian Railways. The Opposite Party No.2 is, *inter-alia*, engaged in online ticketing operations of Indian Railways.
  - b. It has been submitted that Opposite Parties launched a new website for sale of e-tickets, *i.e.* <https://www.irctc.co.in/nget/train-search> (**Official Website**).



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The Official Website mentions bifurcation of total fare per passenger. Accordingly, total fare per passenger comprises base fare, reservation charge, superfast Charge (if applicable) and total GST (if applicable).

- c. It has been averred by the Informants that as per the pricing policy of the Opposite Parties published on the Official Website, rounding off to the next higher multiple of Rs. 5 is included in base fare. Base fare has two components, i.e. actual fare (the base fare arrived at before rounding off to the nearest multiple of Rs. 5) and total base fare (the base fare arrived at after rounding off to the nearest multiple of Rs.5).
- d. Based on the above, the Informants have alleged that the Opposite Parties round off the actual base fare to the nearest higher multiple of Rs.5 to arrive at the total base fare. For example, as per the Official Website, the total fare per passenger of the Sleeper Class of Ashram Express from Ahmedabad to Delhi is Rs.475. The actual base fare for the aforesaid journey can be Rs.421, Rs.422, Rs.423 or Rs.424. The total base fare for the said journey is 425 (after rounding off to the next multiple of 5).
- e. The Informant has defined the relevant product market as the “*e-payment service for online rail ticket booking*”. Further, as the sale of tickets electronically over the internet is not geographically limited, the relevant geographic market has been defined as the “*whole of India*”. Accordingly, the relevant market has been defined as “*e-payment service for online rail ticket booking in India*”.
- f. The Informants have averred that the Opposite Parties are in a dominant position in the relevant market as they are the only players but are empowered to determine the pricing of e-tickets. It has been alleged that consumers have no choice other than agreeing to the arbitrary, unreasonable and unfair terms and conditions of the Opposite Parties. Further, due to the statutory and regulatory framework, the dominance of the Opposite Parties is indisputable.



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- g. The Informants have alleged that a large number of e-tickets are booked everyday by passengers through the Official Website and charging the amount by rounding off to the next multiple of Rs.5 is an unfair condition/price in the sale of e-tickets resulting in unfair income to Indian Railways every day. It has also been stated that even if more than one e-ticket is booked from the same account for the same journey in the same train, the actual base fare would be rounded off to the next multiple of Rs. 5 per passenger. The Informant has explained that if for instance, the actual base fare for a journey is Rs.7 per passenger and four tickets are to be booked then the actual base fare would be Rs. 28 (Rs. 7 \*4), which after rounding off ought to be Rs. 30. However, the Opposite Parties rounds off the actual base fare for each passenger separately with the result that each individual ticket is rounded off to Rs.10 making the Opposite Parties to charge Rs.40 instead of Rs.30.
- h. It has been further stated that there is no need of rounding the actual base fare to the next multiple of Rs.5 as the e-portal provides facility to make payment of any amount whatsoever, making even transfer of a paisa electronically. Also, lakhs of passengers book e-tickets every day. By resorting to the aforesaid pricing policy, the Opposite Parties receive lakhs of rupees over and above the actual base fare.
- i. In view of the foregoing, the Opposite Parties have been alleged of abusing their dominant position by charging higher price than actual base fare for the sale e-tickets in contravention of Section 4(1) read with Section 4(2)(a)(ii) of the Act.
3. Accordingly, the Informants have, *inter-alia*, prayed that Commission directs the Opposite Parties to discontinue its practice of charging higher amount by virtue of its dominant position and impose such penalty on the Opposite Parties as it may deem fit; and pass such other order or issue such direction as it may deem fit.



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4. The Commission considered the information on 11.09.2018 and decided to call the Opposite Parties for a preliminary conference on 23.10.2018. The Commission also sought certain information from the Opposite Parties in relation to rounding off of fares. The same was filed by the Opposite Parties on 18.10.2018. Further, the Commission heard the Opposite Parties through their authorised representatives during the preliminary conference held on 23.10.2018. The Commission has given a careful consideration to the information and submissions made during the preliminary conference and other material available on record.
5. The Commission notes that the Informant has alleged contravention of the provisions of Section 4 of the Act.
6. To analyse the case under Section 4 of the Act, the first requirement is to delineate the relevant market as per Section 2 (r) of the Act. The next step is to assess the dominance of the Opposite Parties in the defined relevant market as per the factors enumerated under Section 19 (4) of the Act. Once the dominance of the Opposite Parties is established, the final step is to analyse the allegations pertaining to abuse of dominance.
7. The Informant has submitted that the relevant product market in the present case can be defined as the “*e-payment service for online rail ticket booking*”. As regards the relevant geographic market, the Informants have submitted that as the sale of tickets electronically over the internet is not geographically limited, the relevant geographic market has been defined as the “*whole of India*”. Accordingly, the relevant market has been defined as “*e-payment service for online rail ticket booking in India*”.
8. The Commission notes that the alleged abusive conduct in the present case pertains to conduct of charging of higher prices by the Opposite Parties by rounding off actual base fares to the next higher multiple of Rs. 5 in the online sale of e-tickets. The Informants are thus, consumers of services relating to sale of e-tickets by the Opposite Parties. The Commission observes that the customers of the Opposite Parties have an option to book tickets either through internet through e-payment method or at the manual Passenger Reservation System (**PRS**) counters of Indian Railways. The Commission also notes that purchasing tickets from counters is a traditional method and a lot of people in India



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may buy it from PRS counters directly. Further, the fare of tickets bought online or through PRS counters are comparable and a consumer can switch between these various channels, without incurring significant cost. The Commission, however, notes that characteristics of buying the tickets online and through PRS counters may be distinct and could also constitute a separate market. In addition, the allegations in the present case pertains to abusive conduct of the Opposite Parties in e-ticketing services. The Commission observes that irrespective of whether the relevant product market is restricted to online booking of rail tickets through e-payment method or is considered along with physical mode, the competition assessment in the present case would remain the same as the Opposite Parties are the only providers of service in both the markets. In view of the same, the Commission observes that the relevant product market may be defined as the “*market for sale of tickets by railways*”.

9. In relation to the relevant geographic market, the Commission notes that the relevant geographic market in the present case would be the “*whole of India*” as the conditions of competition are same across India.
10. Accordingly, the Commission is of the *prima facie* view that the relevant market in the present case is the “*market for sale of tickets by railways in India.*”
11. With regard to dominant position of the Opposite Parties, the Commission notes that the underlying principle for assessing dominance of an enterprise is linked to the market power enjoyed by the enterprise. An enterprise is regarded as dominant if it enjoys a position of strength in the relevant market, which enables it to operate independently of competitive forces prevailing in the relevant market; or affect its competitors or consumers or the relevant market in its favour.
12. The Informants have stated that the Opposite Parties are in a dominant position in the relevant market as they are the sole players and are empowered to determine the pricing of e-tickets. It has been stated that consumers have no choice but to agree to the unfair terms and conditions of the Opposite Parties. Further, due to the statutory and regulatory framework, the dominance of the Opposite Parties is indisputable.



13. The Commission, in its earlier decision dated 10.08.2015 in Case Nos: 100 of 2013, 49 of 2014 and 89 of 2014 (*Shri Sharad Kumar Jhunjunwala and others Vs. Union of India and others, Shri Ismail Zabiulla Vs Union of India and others and Shri Yaseen Bala Vs. Union of India and others*), observed that MoR and IRCTC form a “group” for the purposes of the Act and are in dominant position in the market of transportation of passengers through railways across India, including the ancillary segments like ticketing, catering on board, platform facilities, etc., provided by Indian Railways. The Commission, in the aforesaid decision, noted that MoR through the Railway Board administers Indian Railways, which owns and operates India’s rail network/ transport. The Railway Board exercises all the powers of Government of India in relation to railways. As per the said decision, the market of transportation of passengers through railways across India including the ancillary segments like ticketing, catering on board, platform facilities, etc., provided by Indian Railways is solely catered by passenger segment of Indian Railways within the geographic territory of India thereby placing the Indian Railways in dominant position, enabling it to operate independently of competitive forces and affect its consumers and relevant market in its favour. The Commission also found that due to the statutory and regulatory framework, the dominance of Indian Railways in this market is undisputable. The Commission noted that Indian Railways is the main entity undertaking railway transportation of passengers in the country and therefore undisputedly commands the largest market share and has monopoly over railway operations in India.
14. Based on the decisional practice of the Commission discussed above, the Commission notes that the Opposite Parties enjoy dominant position in the ‘*market for sale of tickets by railways in India*’.
15. The Commission has given a careful examination to the alleged conduct of the Opposite parties of rounding up of actual fares to the nearest higher multiple of Rs.5 which according to the Informants is unfair and a discriminatory condition imposed on the Informants which merit examination as abuse of dominant position in the ‘*market for sale of tickets by railways in India*’.



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16. In its submissions as well as during the preliminary conference, the Opposite Parties submitted that fixation of rates/fare for carriage of passengers is prescribed under Section 30 of the Railways Act, 1989. Accordingly, the Ministry of Railways on the basis of budget announcements, revises the fare structure for carriage of passengers from time to time. *Vide*, commercial Circular No.6 of 2013, the Ministry of Railways revised the passenger fare with effect from 22.01.2013, with instruction of rounding off fares to the next higher multiple of Rs.5 in respect of all classes. Accordingly, Coaching Tariff No. 26 (part II) (passenger fare table) was issued. Clause 5 to the Explanatory Notes for Fares in the said tariff is reproduced as under:

*“5.1 Fares for all classes except Second Class Ordinary (Suburban). Chargeable Fares, as obtained after adding Miscellaneous Charges like Reservation Fee, Supplementary charge for Superfast trains, Catering Charge, Service Tax etc. to the Basic Fare, will be rounded off to the next higher multiple of Rs. 5.*

*5.2 Second Class (Suburban) Fares Chargeable Fares for Second Class Suburban passengers, as obtained after adding applicable miscellaneous charges like MUTP Surcharge (as and where applicable) etc. to the Basic Fare, is proposed to be rounded off to the next higher multiple of five rupees, except that in cases where either '1' or '6' comes up as the last digit (i.e. in unit's place) it was be rounded off to the immediately lower multiple of rupees 5, i.e. 11.00, 21.00, 31.00, etc. would respectively become rupees 10.00, 20.00, 30.00, etc. and 6.00, 16.00, 26.00 etc. would respectively become rupees 5.00, 15.00, 25.00 etc. And, Fare values ending in rupees 2, 3 or 4 would be getting rounded off to rupees 5 and those ending in rupees 7, 8 or 9 to rupees 10 and so on and so forth.*

17. The Opposite Parties, in their response, have also stated that this policy was introduced with effect from 22.01.2013 for all classes except second class ordinary (suburban). However, in First Class, AC II tier, and AC First class, rounding off of fares was effective from 01.04.2012 and in Rajdhani, Shatabdi and Duronto Trains, rounding off was effective from 01.04.2009. It has been submitted that this policy is applicable to fares of all classes except second class ordinary. Further, railway fare is uniform for all classes whether booked online or across counters.





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18. As regards the rationale of this policy, the Opposite Parties have submitted that as per the social obligation of Indian Railways, in most of the classes, passenger fare is not charged as per the cost of running of services and is subsidised. It has been averred that there is a huge recurring loss in the passenger segment and the passenger fare has not increased substantially during the last fifteen years. Due to taking and giving change amount, the transaction time for issue of tickets would also increase. Therefore, it was decided by the Opposite Parties to round off the fares in order to reduce transaction time and serve the passengers expeditiously without consuming time, thereby serving more passengers in a given time. As regards a specific query in relation to the total amount collected by Indian Railways/IRCTC by rounding off the actual fares since the policy of rounding off is in vogue and the accounting treatment accorded in its books of account for such collection, the Opposite Parties have stated that there is no separate account which is maintained for such rounding off.
19. During the preliminary conference, the Informants submitted that the Opposite Parties are in dominant position and are abusing their dominant position in contravention of the provisions of the Act by rounding off the actual base fares to the next multiple of Rs.5. The Informants submitted that consumers are completely dependent upon the Opposite Parties and have no choice as there is no substitute to the services offered by the Opposite Parties. It was also contended that the Opposite Parties round off actual base fares for each e-ticket separately even though more than one tickets are booked from the same account. It was averred that the Opposite Parties have earned around Rs. 18 crores by rounding off of actual base fares, at the cost of consumers, who have no choice but to accept the unfair conditions imposed by the Opposite Parties.
20. The Commission has considered rival submission of the parties. The Opposite Parties have not been able to convince the Commission as to why the policy of rounding off of actual base fares to the next higher multiple of Rs.5 is applicable to the sale of online tickets, when it may be possible for the Opposite Parties to transfer even one paisa electronically. Further, during the preliminary conference, the Opposite Parties could



not explain why rounding off is done separately for each passenger even when more than one tickets are booked through one account of the same time for a journey.

21. At this juncture, it appears that the Opposite Parties are rounding off the actual base fares for the online bookings without any plausible justification for the same. In view of the foregoing, the Commission is of the view that the practice of rounding off actual base fares to the next higher multiple of Rs. 5 by the Opposite Parties, *prima-facie* amount to an imposition of unfair condition in the market for sale of rail tickets in India, particularly for online booking of rail tickets, in contravention of provisions of Section 4 (2)(a)(i) of the Act.
22. Based on above discussion, *prima-facie*, a case of contravention of the provisions of Section 4 of the Act is made out against the Opposite Parties. Accordingly, the Director General (the **DG**) is directed to cause an investigation into the matter and submit his report within a period of 60 days from the receipt of this order.
23. It is made clear that, if during the course of the investigation, the DG comes across anti-competitive conduct of any other entity/person in addition to those mentioned in the information, the DG shall be at liberty to investigate the same. Also, the DG is directed to conduct a detailed investigation without restricting and confining to the duration mentioned in the information.
24. The DG is also directed to investigate the role (if any) of the persons/office bearers who were in charge of, and were responsible for the conduct of the businesses of the OPs within the meaning of Section 48 of the Act, at the time the contravention was committed, after giving due opportunity of hearing to such persons.
25. Nothing stated in this order shall tantamount to final expression of opinion on the merits of the case and the DG shall conduct the investigation without being swayed in any manner, whatsoever by the observations made herein.
26. The Secretary is directed to send a copy of this order along with the information and the documents received in relation to this matter to the Office of the DG.



27. It is ordered accordingly.

**Sd/-  
(Sudhir Mital)  
Chairperson**

**Sd/-  
(Augustine Peter)  
Member**

**Sd/-  
(U. C. Nahta)  
Member**

**New Delhi  
Dated: 09.11.2018**