



COMPETITION COMMISSION OF INDIA

Case No. 30 of 2020

In Re:

**Prachi Agarwal
LB-7, Gauri Sadan, 5 Hailey Road,
New Delhi – 110 001**

Informant

And

**Urbanclap Technologies India Private Limited
416, Udyog Vihar III, Sector 20,
Gurugram, Haryana – 122 022**

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 Information in the present matter has been filed under Section 19(1)(a) of the Competition Act, 2002 ('Act') by Ms. Prachi Agarwal ('Informant') against Urbanclap Technologies India Private Limited ('Opposite Party') alleging contravention of the provisions of Section 3(4)(b), 3(4)(c), 4(2)(a)(i) read with Section 4(2)(c) of the Act.
2. The Informant has stated to have availed the services of the Opposite Party as a consumer and is aggrieved by its practices. As per the information filed with the



Commission, the Opposite Party is engaged in providing an online platform *via* web and mobile app whereby various beauty and housekeeping services such as electricians, plumbing, cleaning, pests, *etc.*, are provided to customers.

3. The Informant has *inter alia* averred that the Opposite Party forces the professionals listed on its platform to purchase the products/material used by them, only from the Opposite Party itself. Further, these products are stated to be of selected brands as arbitrarily decided by the Opposite Party and in case the professional fails to procure the desired quantity, the Opposite Party deducts the amount from the account of the professional and dispatches the product arbitrarily. The desired quantity is stated to be quantified by the Opposite Party on the basis of the services given by the professional and roughly calculating the number of products that may have been used for the services.
4. For the purpose of assessment of the above mentioned conduct of the Opposite Party, the Informant has identified the relevant product market as “*Salon Home service through App/internet browsing*”. In support of her contention, the Informant has distinguished between walk-in salon services and home salon services. Further, salon services at home have been categorised into local on call salon service and app/internet browsing based salon service. As per the Informant, local on call salon service is part of the unorganised sector, whereas app/internet browsing based salon service is an organised sector and the two are averred not to be interchangeable or substitutable with each other. In relation to the relevant geographic market, it has been averred that the demand for the service of home salon by app based is homogeneous across the country. However, the demand for the same is not made in the villages as compared to the cities and towns. Therefore, considering the same, the relevant geographic market will be “*Towns and Cities of India*”. Thus, the relevant market has been delineated as “*Salon Home service through app /internet browsing in towns and cities of India*”.



5. The Informant has also contended that the Opposite Party is dominant in the relevant market as delineated above on the basis of various parameters, viz. number of service orders, annualised gross transaction value of services rendered, number of professionals, number of cities where the Opposite Party has presence, *etc.*
6. The Informant has alleged that the above mentioned conduct by the Opposite Party, wherein the professionals are forced to purchase the products from the Opposite Party itself, is imposition of unfair condition in purchase of goods under Section 4(2)(a)(i) of the Act, as the professionals have no option but to purchase the product from the Opposite Party which may in some cases be expensive as compared to the open market. It has been submitted that the products/ material sold by the Opposite Party are easily available in the open market sold by local vendors. It has also been alleged that the professionals have no choice to select the brands of the products and are forced to purchase the products sold by the Opposite Party. Based on the above, the Informant has averred that in terms of Section 4 (2)(a)(i) of the Act, the Opposite Party not only imposes unfair condition on the professionals but also on the consumers as they are also forced to use the brands offered by the Opposite Party.
7. The above stated conditions are also alleged to result in denial of market access for the professionals and the consumers in violation of the provisions of Section 4(2)(c) of the Act. The Informant has averred that the professionals are being denied access to the market of other brands as they are unable to procure brands other than those provided by the Opposite Party.
8. The Informant has averred that in the present case, there is a vertical arrangement between the Opposite Party and the professionals as seller and buyers. The Informant has alleged that the Opposite Party restricts the professional in two ways: one by restricting purchase of the products from any other source than from



the Opposite Party and second by restricting the purchase of any other brands than the ones sold by OP. The Informant has alleged that this arrangement is in contravention of the provisions of Section 3(4)(b) of the Act. Further, as per the Informant, Section 3(4)(b) of the Act cannot be read in isolation without visiting Section 3(4)(d) of the Act which defines refusal to deal as any agreement which restricts or is likely to restrict by any method the persons or classes of persons to whom goods are sold or from whom goods are bought. Therefore, any act attracting Section 3(4)(b) shall *ipso facto* attract 3(4)(d), however, *vice versa* may not be true. The Informant has further claimed that the abovementioned conduct of the Opposite Party has resulted in appreciable adverse effect on competition.

9. Based on the above averments and allegations, the Informant, *inter alia*, prayed the Commission to impose appropriate penalty on the Opposite Party for imposing unfair conditions upon the purchasers/ professionals and consumers.
10. The Commission considered the said Information in its ordinary meeting held on 22.09.2020 and decided to seek response from the Opposite Party. The Informant was also allowed, thereafter, to file its rejoinder, if any, to such response, with an advance copy to the Opposite Party. Such response and rejoinder thereto have since been received.
11. The Commission in its ordinary meeting held on 16.03.2021 considered the Information and other material available on record and decided to pass an appropriate order in due course.
12. The Informant's primary grievance emanates from an alleged conduct on the part of the Opposite Party that the service professionals listed on its platform are compulsorily forced and required to purchase the products / material (used by professionals to provide services to customers) only from the Opposite Party



based on the expected consumption by the professionals. These products are also alleged to be selected brands as arbitrarily decided by the Opposite Party.

13. In this regard, the Opposite Party had made detailed submissions, which are summarised below:

- i. The products that the Opposite Party purchases in the beauty segment and sells to its Partners are comparable to products offered in beauty parlours across the country and are selected based on consumer choice, affordability, and demand.
- ii. Partners purchase the initial kit from the Opposite Party at the time of enrolling on its platform, and this contains products that are considered necessary for the Partner to begin providing a certain quality of service to customers. This is a one-time purchase by the Partners and there is no requirement on the Partners to continue to purchase products that are part of the initial kit from the Opposite Party.
- iii. Partners are not restrained from procuring the products from third party sources that provide the same products. Partners are free to conduct their own price negotiations and assess whether the products they are procuring are available elsewhere at a lower price. It is entirely the Partners' choice to decide where to purchase the range of quality products that are required for their services.
- iv. Partners provide a number of beauty services without using any of the products that are available to purchase from the Opposite Party, but in fact procure products from other sources. The Opposite Party offers its Partners the choice of procuring products from it at a competitive price only as a facility, and such purchase is neither mandatory nor a precondition for Partners to offer beauty services through the Opposite



Party. Thus, Partners are free to choose whether to purchase such products from the Opposite Party or directly from the open market and indeed do routinely exercise such a choice.

14. Based on the above, the Opposite Party has contended that contrary to the Informant's allegations, it is not mandatory for Partners to purchase these products from the Opposite Party and there is no imposition of such a condition on the Partner, which can be said to be covered under Section 4 of the Act.
15. The Informant has also averred that the alleged conduct of the Opposite Party is unfair to customers also as this restricts the choice available to them in relation to the products to be used. The Opposite Party, in this regard, has submitted that it offers its customers the option of opting for a particular service using a particular product. In such cases, the customer chooses the service using particular products from the options available on its platform and expects the Partners to use and apply those products. Further, the choice of products that the Opposite Party procures and makes available for sale to its Partners is entirely based on (a) consumer demand for such products; (b) the need to ensure that the products to consumers are genuine and are of assured quality; and (c) Partners' feedback of the products used. If consumers do not like the products that a Partner provides, they will simply elect to procure such services from other beauty parlours and competing apps. The Opposite Party has also averred that it is simply not in its commercial interest to deny its customers the choice of products that they would like for their beauty treatment.
16. The Informant in its rejoinder has *inter alia* made the following submissions:
 - (i) The Opposite Party has not submitted evidence to support its claim that the professionals / partners decide the quantity and source for purchasing additional products, whether from the Opposite Party or third party sources.



- (ii) The Opposite Party has accepted the fact that it is not only a marketplace for service professionals but also provides the facility of product purchase which sets it apart and distinct from the walk-in salons.
- (iii) The Opposite Party has submitted that the professionals/ partners are free to purchase the products from third parties, however, it has also submitted that one-time initial kit is to be purchased from the Opposite Party, which itself shows discrepancies to the extent that there is a need to purchase the products from the Opposite Party itself.
- (iv) Even if the products are allowed to be purchased from third party, the same does not justify the restriction on the limited brand available with the Opposite Party irrespective of customer demand or partners preference.
- (v) The partner/professional is ensured to be working only through the application of the Opposite Party and if same is not observed, the team of the Opposite Party calls the professional/partner to ensure compliances.
- (vi) The Opposite Party has itself admitted that it procures the products in bulk at price advantage and confirms to its genuine nature which itself speaks volumes about the reason why the Opposite Party indirectly ensures the supply of the same to its partners.

17. The allegations of the Informant are based on the alleged conduct of the Opposite Party that it restricts the choice of its Partners in terms of source as well as brands of the products to be used for rendering services. However, the Opposite Party has emphatically denied such compulsion on the part of the professionals. The



Opposite Party has also provided a copy of the service agreement entered with beauty professionals in support of its contentions.

18. The primary allegation of the Informant pertains to Section 4 of the Act. For analysing the same, the first requirement is to delineate the relevant market as per Section 2(r) of the Act followed by determination of dominance of the concerned party in the relevant market. Both the Informant and the Opposite Party have made rival submissions as to the delineation of the relevant market and determination of dominance of the Opposite Party in the said relevant market. As already stated, the Informant has averred that the Opposite Party is dominant in the relevant market for Salon Home service through app /internet browsing in towns and cities of India. However, the Opposite Party has contended that relevant product market should be an overall market for beauty and wellness services and include (i) walk-in salon services/beauty parlours and (ii) the unorganised sector. Further, as per the Opposite Party, the relevant geographic market should be pan India. The Opposite Party has also claimed that it is neither in a position to operate independently of competitive forces prevailing in the relevant market nor can it affect its competitors or consumers or the relevant market in its favour and thus not in a dominant position in any of the plausible relevant market.
19. The Commission has carefully perused these submissions. The wellness and beauty industry in India is evolving rapidly with the emergence of new and different delivery models to offer greater ease and tailored services to consumers. One of the models that is gaining increasing prominence is that of on-demand at-home services, facilitated through online technology platforms. The traditional and predominant modes of service delivery available to users are walk-in salon services provided by beauty parlours and the services provided by independent professionals who are available at the customer doorstep on call. A combination of factors influences consumer choice for beauty/salon services which in turn have a bearing on substitutability between different modes of delivery and



different service providers. These are quality of service, convenience, cost, brand image *etc.*, with the relative importance of each of these factors depending on consumer preference as also on the specific categories of beauty services. Determination of substitutability and delineation of the area of effective competition for the Opposite Party ought to account for these nuances and complexities germane to salon services.

20. However, a deterministic assessment of relevant market and hence, dominance is not necessary in the instant case as the alleged conduct of the Opposite Party does not appear to be abusive in nature. There is no provision/stipulation in the service agreement that mandates the Partners to procure the beauty products solely from the Opposite Party or that restrains them from procuring products from third-party sources. This allegation has also been categorically denied by the Opposite Party in its submissions. Regarding the impugned conduct of identification of beauty product brands to be used by Partners and the optional facility extended to Partners to purchase some of these products from the Opposite Party, the Commission finds merit in the reasoning and justification proffered by the Opposite Party. In salon services, overall customer experience and quality of service depend *inter alia* on the quality of products used for rendering services. The Opposite Party has submitted that it identifies reputed quality products and makes them available to its Partners to assure quality and reliability. In such a quality-driven market where brand image and goodwill are paramount, the conduct of the Opposite Party cannot be held as unfair and abusive on its Partners.
21. For similar reasons as detailed above, there does not appear to be any case against the Opposite Party under Section 3(4) of the Act as well.
22. In view of the above, the Commission is of the view that no case is made out against the Opposite Party for contravention of the provisions of Section 3(4) as



well as Section 4 of the Act and the Information is ordered to be closed forthwith in terms of the provisions contained in Section 26(2) of the Act.

23. The Secretary is directed to communicate to the parties, accordingly.

Sd/-
(Ashok Kumar Gupta)
Chairperson

Sd/-
(Sangeeta Verma)
Member

Sd/-
(Bhagwant Singh Bishnoi)
Member

New Delhi
Date: 24 / 03 /2021