



COMPETITION COMMISSION OF INDIA

Case No. 36/2018

M. Venugopal Reddy

H. No. 1-10-1/22, F. No. 502,
Eskay Residency, Ashoknagar- Near Satyanarayana Temple,
Hyderabad – 500020,
Telangana

Informant

And

Trans Union CIBIL Limited.

One Indiabulls Building,
19th Floor, Tower 2A-2B,
Senapati Bapat Marg, Lower Parel,
Mumbai - 400013

Opposite Party No. 1

Sri Satish Kumar Pillai, Managing Director/CEO

Trans Union CIBIL Limited,
One Indiabulls Building,
19th Floor, Tower 2A-2B,
Senapati Bapat Marg, Lower Parel,
Mumbai - 400013

Opposite Party No.2

CORAM

Mr. Sudhir Mital

Chairperson

Mr. Augustine Peter

Member

Mr. U. C. Nahta

Member



Present:

- For the Informant: Mr. P. Srinivas Reddy, Advocate
Informant in person
- For Opposite Party No.1 : Mr Rajshekhar Rao , Advocate
Mr. Anand S. Pathak, Advocate
Mr. Shashank Gautam, Advocate
Mr. Parth Sehan, Advocate
- For Opposite Party No.2 Mr. Avinash Amarnath, Advocate

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

1. The present information has been filed under Section 19(1)(a) of Competition Act, 2002 (“Act”) by Mr. M. Venugopal Reddy (“**Informant**”) against Trans Union CIBIL Limited (“**CIBIL/Opposite Party No.1**”) and Mr. Satish Kumar Pillai, Managing Director/CEO (“**Opposite Party No. 2**”), alleging contravention of the provisions of Section 4 of the Act.
2. Brief facts and allegations of the case are summarised as under:
 - a. The Informant is stated to be an individual engaged in the business of infrastructure projects through M/s VGRM Infra Projects and has raised capital through over draft facility and availed services of other financial institutions, as per his requirement.
 - b. The Opposite Party No.1 is a company established under Credit Information Companies (Regulation) Act, 2005 (“**CIC Act**”). Opposite Party No. 2 is the MD/CEO of Opposite Party No. 1.
 - c. As per the information, CIBIL is India’s largest credit information bureau which maintains credit information of more than 550 million individuals and business



consumer accounts and has a membership base of over 2400 banks and credit institutions, which includes banks, financial institutions, non-banking financial companies and housing finance companies. It has been submitted that financial institutions accord a lot of importance to CIBIL Credit Reports for judging the credit worthiness of an individual/company.

- d. It has been alleged by the Informant that he is being denied credit approvals in the form of loans, credit cards, *etc.* by banks and financial institutions on the basis of CIBIL's Credit Report dated 18.05.2018, which showed his CIBIL transunion score as 579.
- e. It has been averred that when the Informant applied for credit card and other services from HDFC Bank recently, HDFC Bank denied credit card to the Informant on the basis of CIBIL Credit Report dated 18.05.2018 which showed CIBIL Transunion score as 579. It was further stated that CIBIL Credit Report dated 10.10.2017, indicated Informant's CIBIL transunion score as 619, which was an improvement over earlier CIBIL transunion score of 606 as per CIBIL Credit Report dated 20.03.2017.
- f. It has been stated that the Informant brought the aforesaid issue to the notice of the Opposite Party through a protest letter dated 18.04.2017, requesting to rectify the data and update the scores, but no action was taken by Opposite Parties. It has also been stated that CIBIL had acknowledged the receipt of this protest letter and stated that the disputed sections in Informant's CIBIL Report will be marked as "Under Dispute" with an assurance that CIBIL will follow up with the credit institutions requesting them to expedite the dispute. Thereafter, the Informant served a legal notice dated 01.06.2018, on CIBIL, with a copy to Cabinet Secretariat, Ministry of Corporate Affairs, Ministry of Finance and Reserve Bank of India as no action was taken by CIBIL on Informant's letter dated 18.04.2017. However, allegedly no response was received by the Informant from CIBIL in the matter.



सत्यमेव जयते



- a) to cause an investigation into the alleged violation of Section 4 of the Act by CIBIL and other ancillary reliefs, *inter-alia*, pertaining to updating of records by CIBIL;
 - b) pay compensation of Rs. 50,00,000/- to the Informant towards the business opportunity losses, societal reputation losses, *etc.* for the abuse of dominant position in the market; and
 - c) to impose penalty on CIBIL in the interest of justice.
5. The Commission considered the information and further heard the Parties through their authorised representatives during the preliminary conferences held on 16.10.2018 and 30.10.2018. The Commission has given a careful consideration to the information and submissions made during the preliminary conference and other material available on record.
 6. The Commission notes that the Informant has alleged contravention of the provisions of Section 4 of the Act.
 7. 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.
 8. The Commission notes that the Informant has delineated neither the relevant product market, nor the relevant geographic market in the information in which CIBIL is alleged to be dominant and abusing its dominant position.
 9. With regard to relevant product market, the Commission notes that credit information companies like CIBIL compile information relating to the quantum and nature of loans, amounts outstanding under credit cards, payment histories of individuals & companies and creditworthiness of borrower of a credit institution. Such information



is collected from credit institutions such as banks, financial institutions, *etc.* Thereafter, the credit information companies prepare a credit report containing the credit score based on the collected data. The credit score enables a credit institution to assess the creditworthiness and capacity of a borrower to repay his loans and other obligations in respect of the credit facilities availed by him. Thus, the services provided by credit information companies like CIBIL are unique in nature. Due to the unique characteristics of the services provided by such companies, a consumer of such services would not regard the services offered by them to be interchangeable or substitutable with any other service. Hence, the relevant product market for the purpose of competition assessment in the present case may be delineated as “*market for the provision of services by credit information companies.*”

10. In relation to the relevant geographic market, the Commission notes that in the present case, the conditions of competition for provision of services by credit information companies are same across India. Thus, the relevant geographic market in this case would be “*the whole of India.*”
11. Accordingly, the Commission is of the *prima facie* view that the relevant market in the present case is the “*market for the provision of services by credit information companies in India.*”
12. With regard to the assessment of dominance of CIBIL in the aforesaid relevant market, the Commission observes that the Informant has not provided any data to substantiate the claim of dominance of CIBIL. The Informant has asserted that CIBIL is in a dominant position in the relevant market as it is empowered to give CIBIL Score for credit information requirement. As regards the allegation of dominance, it was submitted by CIBIL during the preliminary conference that though CIBIL has the first mover advantage, there are other players such as Equifax Credit Information Services Private Limited, Experian Credit Information Company of India Private Limited and CRIF High Mark Credit Information Services Private Limited present in the market. In support of its submission, reliance was placed upon the notification issued by the Reserve Bank of India dated 15.01.2015,



DBR.No.CID.BC.59/20.16.056/2014-15 which provides that all credit institutions shall become members of all credit information companies. Therefore, according to it, it cannot be said that CIBIL holds dominant position in the relevant market as all credit information companies are on an equal footing. The relevant extract of the notification is as under:

“All Credit Institutions (CIs) shall become members of all CICs and submit data (including historical data) to them. Further, CICs and CIs shall keep the credit information collected/maintained by them, updated regularly on a monthly basis or at such shorter intervals as may be mutually agreed upon between CI and CIC in terms of Regulation 10(a)(i) and (ii) of the Credit Information Companies Regulations, 2006.”

13. In this context, the Commission, based on the information in public domain, notes that presently, there are four credit information companies in India. These are CIBIL, Equifax Credit Information Services Private Limited, Experian Credit Information Company of India Private Limited and CRIF High Mark Credit Information Services Private Limited. Notwithstanding the fact that all credit institutions are required to become members of each of the credit institutions in terms of the circular dated 15.01.2015 issued by RBI, the Commission notes that CIBIL, has gained prominence over a period of time and has established itself as a key player in the relevant market. CIBIL's scores are widely relied upon by credit institutions to determine the credit worthiness of a borrower. The other three existing credit information companies do not seem to pose any significant competitive constraint on CIBIL. Given all these facts, the Commission is of the *prima-facie* view that CIBIL enjoys a dominant position in the relevant market.

14. The Commission notes that the Informant is primarily aggrieved by the act of CIBIL in reducing the CIBIL score of the Informant due to which credit card approval and other services applied for by the Informant was denied by HDFC Bank. The Informant has alleged that CIBIL is trying to build CIBIL score on fake data as it relies only on the documents/ statements made available by its members, without



giving any opportunity to the borrowers to contest such documents/statements. Further, the Informant is also aggrieved by the conduct of CIBIL of not updating his data, which has resulted in his lower credit score. The Informant has also alleged that CIBIL has breached his privacy by displaying his personal details such as PAN number, Passport Number, Voter Id Number, Ration Card Number, *etc.* in the CIBIL Report. Further, despite his serving legal notice dated 01.06.2018, upon CIBIL there was no response from the said party. During the preliminary conference, the Informant reiterated the facts as stated in the information which are not reproduced herein for the sake of brevity. In addition, it was averred that CIBIL is abusing its dominant position by sending a standard automated response in response to request of the Informant to update his records, in contravention of Sections 4(2)(a)(i) and 4(2)(a)(ii) of the Act.

15. CIBIL, on the other hand, contended that RBI is the regulatory body under the CIC Act, which determines the parameters under which credit information companies agencies operate. As regards the allegation of the Informant that CIBIL relies on fake data for evaluating CIBIL score, it was submitted that CIBIL prepares its report on the basis of information gathered from credit institutions concerned and the responsibility of accuracy of data lies with the credit institution and not with CIBIL. Reliance was placed upon Section 18 of the CIC Act which deals with the settlement of disputes amongst credit information companies, credit institutions, borrowers, *etc.* It was further averred that the details available with the CIBIL are required to be updated by credit institutions and not by CIBIL. CIBIL provides report on facts, software, proprietary algorithms and other parameters, which are squarely regulated by RBI. During the preliminary conference, CIBIL placed reliance upon emails dated 09.10.2014 and 29.10.2014 to state that it had updated its information and the information available with CIBIL was correct. Further, CIBIL had replied to legal notice dated 01.06.2018 of the Informant *vide* letter dated 21.09.2018, clarifying that it was only a repository of credit information and does not create a report on its own. It was submitted that any grievance with regard to credit information can be corrected based on the response of credit institution and CIBIL cannot unilaterally alter any information relating to the Informant.



16. The Commission has considered the rival submissions of the parties. The Commission notes that CIBIL is governed by CIC Act, 2005, which provides the broad framework under which the credit information companies operate. As regards the issues raised by the Informant concerning the accuracy of data, not updating of data and breaching of privacy principles, the Commission notes that various provisions of the CIC Act, 2005 provides safeguards and remedial measures thereunder. Further, issues raised by the Informant does not show any competition concerns warranting examination by the Commission under the provisions of the Competition Act, 2002.
17. With regard to allegation of the Informant that CIBIL relies on fake data while creating the CIBIL score, the Commission notes that CIBIL collects information from credit institutions and is only a repository of said information based on which it creates a score. CIBIL provides information at the request of members and cannot modify this information without confirmation from relevant credit institution. Thus, the allegation of Informant that CIBIL relies on fake data for evaluating the credit score is not tenable.
18. As regards Informant's allegation of CIBIL not updating its data, which resulted in lower credit score, the Commission notes that CIBIL *vide* email dated 09.10.2014, had intimated the Informant that it had updated his credit information based on confirmation by TCFSL. In its subsequent responses, CIBIL wrote to Informant stating that it was statutorily barred from modifying the credit information unless it receives confirmation from the respective banks/credit institutions. Thus, the allegation of the Informant that CIBIL is not updating data is not tenable.
19. With respect to the allegation of the Informant that CIBIL did not respond to the legal notice dated 01.06.2018, the Commission notes that CIBIL had responded to the said notice *vide* letter dated 21.09.2018, though belatedly after filing of the present information. In the said letter, CIBIL stated that the financial records were sent for verification to the respective banks and financial institutions and based on the



responses received from the said institutions, the credit information relating to Informant was updated. It was also informed to the Informant that CIBIL had requested the Informant to contact the respective banks/credit institutions as CIBIL was statutorily barred from making any changes in the credit reports, pending confirmation with respective banks and credit institutions.

20. Based on the material available on record, the Commission finds no *prima-facie* case of contravention of Section 4 of the Act by the Opposite Parties. Further, the issues raised by the Informant are beyond the purview of the Commission as it does not raise any competition issue.

21. In the light of the above analysis, the Commission finds that no case of contravention of the provisions of Section 4 of the Act is made out against the Opposite Parties in the instant matter. Accordingly, the matter is closed under the provisions of Section 26(2) of the Act.

22. The Secretary is directed to inform the parties accordingly.

Sd/-
(Sudhir Mital)
Chairperson

Sd/-
(Augustine Peter)
Member

Sd/-
(U. C. Nahta)
Member

New Delhi

Dated: 08.11.2018