



COMPETITION COMMISSION OF INDIA
Case No. 40 of 2018

In Re:

Mr. Habib Rajmohamad Patel,
Address: A/40, Bramha Emerald
County, Off NIBM Road, Kondhwa
(Khurd), Kausar Bagh, Pune-
411048.

Informant

And

Chairman/Secretary, Royal Western
Turf Club India Ltd. (RWITC)
Address: Race Course, Dr. E Moses
Marg, Mahalaxmi, Mumbai-400034.

Opposite Party

CORAM:

Mr. Ashok Kumar Gupta
Chairperson

Mr. Augustine Peter
Member

Mr. U. C. Nahta
Member

Present: *For Informant:* Mr. Habib Rajmohamad Patel, Informant

For Opposite Party: Mr. Rajshekhar Rao, Advocate, Ms. Anandh Venkatramani, Advocate, Mr. Ravishekhar Nair, Authorised Representative, Mr. Parthasarathi Jha, Advocate, Ms. Deeksha Manchanda, Advocate, Ms. Pritika Magima, Advocate, Mr. Vivek Shirlikar, Advocate, Mr. Yashoda Desai, Advocate and Mr. Dosu Bodhanwalla, Advocate alongwith Mr. NHS Mani, CEO, Secretary, RWITC



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

1. The present Information has been filed under Section 19(1)(a) of the Competition Act, 2002 (“Act”) by Mr. Habib Rajmohamad Patel, (“**Informant**”) against the Chairman/ Secretary, Royal Western Turf Club India Ltd. (“**RWITCL**”/ “**Opposite Party**”/ “**OP**”) alleging contravention of the provisions of Section 3 and 4 of the Act.
2. The Informant has stated that RWITCL is a club limited by Guarantee, incorporated under the provisions of the Companies Act, 2013 and the affairs of RWITCL are managed and conducted in accordance with the provisions of the Companies Act, 2013 and Articles of Association of RWITCL.
3. The Informant has further stated that RWITCL has around 600 approved Horse Owners, 46 licensed Horse Trainers and around 80 licensed Horse Jockeys. It has 03 committees, namely, Management Committee, Stewards of the Club and the Board of Appeal.
4. The Informant has posited the composition and other details of the aforesaid committees as follows:
 - i) Management Committee - Management and activities of RWITCL, including the control over funds and property, are controlled by the Managing Committee. The Committee is elected annually by the members of RWITCL. The Managing Committee consists of 09 members, of which, 07 of the members are elected amongst the RWITCL members and the remaining 02 are Government nominees, usually, the Addl. Chief Secretary, Government of Maharashtra, Home Department and the Addl. Chief Secretary, Government of Maharashtra, Revenue and Forest Department.
 - ii) Stewards of the Club - The Managing Committee annually nominates 07 members of RWITCL to serve as Stewards of the Club. In addition to these nominated Stewards of the Club, there are government nominees who are usually the Commissioner/ Jt. Commissioner of Police, Mumbai/ Pune, the Director General, Anti-Corruption Bureau and the GOC-in-Chief, Southern Command, Pune. The



Stewards of RWITCL are responsible for the conduct of Horse Races and have jurisdiction over all the horse racing related matters.

iii) Board of Appeal - The Informant has stated that RWITCL has a Board of Appeal consisting of 06 members, elected by the members of RWITCL. In addition, there is also 01 Government nominee in the Board of Appeal who is usually, Addl. Chief Secretary, Government of Maharashtra, Home Department. The Board of Appeal deals with the appeals against the decision of the Stewards of RWITCL and one-third of the members of the Board of Appeal retire in rotation at each annual general meeting of RWITCL.

5. The Informant has alleged that the members of Managing Committee, Stewards of the Club and Board of Appeal are violating the principles of competition while conducting Horse Racing and betting operations at Mumbai and Pune Race Courses. It has further been alleged that all the Management Committee members, Stewards of the Club and the members of Board of Appeal are either race horse owners, stud farm owners or breeders and have direct interest in the horse races.
6. The Informant has also averred that the conditions of the Horse Jockey License Form are unfair and discriminatory in nature. It has also been alleged that RWITCL through its Managing Committee, Stewards of the Club and Board of Appeal are controlling Horse Racing Activity and imposing unfair and discriminatory conditions for getting results in their favour, which ultimately results in appreciable adverse effect on Horse Racing competition. It is further alleged that the rules of racing have been framed by RWITCL without approval from any government or statutory authority and the government has no control over betting operations conducted by RWITCL
7. Another allegation of the Informant is that without RWITCL's prior approval, no person can own any race horse, train any horse or ride any horse. The Informant has stated that in case of any violation of racing rules, the Stewards of the Club can revoke or suspend the approved race horse owners and also make monetary gains if any trainer or jockey or horse



owner violates the racing rules by levying fines and imposing punishment on them, which ultimately causes loss to racing punters who spend billions of rupees and are never compensated by RWITCL.

8. The Informant submitted that licensing and approving power has been given to seven members of the Managing Committee who are directly involved in horse racing and have vested interest, as they are the main horse owners who employ multiple trainers and multiple jockeys for their horses.
9. The Informant has contended that RWITCL conducts betting operations independently as totalizer operator and fixed Odd Betting in partnership with licensed Bookmaker, the profit of which goes to RWITCL coffers. The Informant has further alleged that the committee formed to monitor betting operations also consists of the members of Managing Committee, Stewards of the Club and Board of Appeal whose horses participate in horse racing, thus, creating vested interest.
10. The Informant has alleged that the horses of sponsors invited by RWITCL to sponsor the Graded and Prestigious Cup Races, also participate in the races and win sponsored prize money as well as trophy. The Informant further stated that the employees of RWITCL responsible for racing, work under the management of Managing Committee/Stewards of the Club/Board of Appeal, which shows that races held by RWITCL will be unfair. He further contended that even while deciding the objections to the results of the horse races, the committee members responsible for taking decisions for the same, are horse owners.
11. After considering the information and the documents annexed therewith, the Commission held a preliminary conference with the parties on 21.12.2018. In the oral hearing, the Informant argued at length, on the lines of the allegations mentioned above.
12. In reply thereto, the learned counsel for the OP denied all the allegations and submitted that RWITC has not in any manner, contravened any provision of the Act or any other applicable law/rule/regulation for the time being in force. As per the learned counsel for



the OP, the Informant's allegations are not only vague, unclear and unsubstantiated, but are also contradictory to some of his own claims and raises no competition concern. The learned counsel for the OP argued that the game/ sport of horse racing is primarily governed by the Bombay Race Course Licensing Act, 1912, as amended from time to time ("BRCLA"). Section 3 of the BRCLA provides that

“no horse race can be held save and except on a race course for which license for racing is granted in accordance with the provisions of this Act.”

The Racing License is typically issued for a term of 1 year. The said license provides for strict and stringent conditions for conducting horse racing, including:

- (i) no license or permit can be granted to the Bookmakers without approval of the Government and the Government has the right to suspend or cancel the license or permit of any of the Bookmakers;
- (ii) the bookmakers are not entitled to have any dealings with the jockey or any agent of the jockeys, trainers or owners of horses with a view to interfere with the fair racing;
- (iii) If there is breach of any of the terms and conditions of the Racing License by the Club, the Government has the power to cancel the license at any time;
- (iv) The Club (*i.e.* RWITC), as a licensee, is also required to comply with the directions that may be given from time to time by the Government in connection with any of the activities carried out by the licensee.

13. The learned counsel for the OP further relied upon its written submissions, filed before the Commission, and stated that enough checks and balances have been placed for regulation of horse racing. It was submitted that the Rules of Racing govern the conduct of horse racing and provide for, *inter alia*, the power of the Stewards of the Club to conduct enquiry into any alleged malpractices by any person, including, owners of the race horses, trainers or jockeys. The learned counsel further stated that typically, in cases of a detailed enquiry by the Stewards of the Club, clearance of the result of race is kept in abeyance in the form of raising red hoist and a public announcement to that effect, until the enquiry is completed by the Stewards of the club. The concerned objections to any



race event are considered by the Stewards of the Club in a meeting. The proceedings of such meetings are telecast live through television screens placed at various locations of the Club and also at off-course betting centers. Thus, the entire process of objections or deliberations relating thereto takes place under a close public vigil and there is no scope for foul play or mischief. In this regard, the learned counsel for the OP submitted that enquires have been made into the alleged misconduct of even the trainers/jockeys of horses owned by members of the Managing Committee or Board of Appeal or Stewards of the Club. In suitable cases, these trainers/jockeys have also been fined and/or cautioned by the Stewards of the Club and/or Board of Appeal.

14. The learned counsel for the OP also cited various provisions which illustrated various checks on the club while conducting the horse races. The same are summarised hereinbelow:

- i) Article 117 of the Articles of Association of the Club provides that no person elected or appointed as a Steward of the Club and no member of the Board of Appeal shall bet at races conducted by the Club. Notably, as per the Racing License (Condition 13), this Article which has been made at the instance of the Government, cannot be amended by the Club without prior approval of the Government.
- ii) Rule 38(c) of the Rules of Racing states that no Steward of the Club, so long as he or she acts as Steward of the Club, shall bet on any horse. This is further buttressed by Rule 50 of the Rules of Racing which clarifies that no Stewards of the Club or member of the Board of Appeal, shall bet at races wherever such Rules are in place.
- iii) The presence of nominees of the Government as members of the Managing Committee, Stewards of the Club and Board of Appeal is an additional layer of safeguard against any possibility of malpractice (Article 96, 114 and 125 of Articles of Association of the Club). The provisions of the appointment of the Government nominees, as per Condition 13 of the Racing License, cannot be removed from the Articles of Association without prior approval of the Government.
- iv) Rule 50(c) of the Rules of Racing provides that a Steward of the Club or member of the Board of Appeal, cannot sit in an inquiry/hearing, if he has any direct or



indirect interest in any horse, Jockey or Trainer or the person involved in the inquiry/hearing in question.

15. In view of the above, the learned counsel for the OP submitted that the racing activities are carried out as per the Racing License which provides for supervision and monitoring by the Government of Maharashtra. Therefore, in the event of any foul play or mischief in the conduct of horse racing by the Club, it may lead to cancellation of the Racing License. The regular and up to date renewal of the said licenses by the State Government by itself is a proof of the fact that the racing activities are being carried out by the Club in a lawful and proper manner. Furthermore, it was submitted by the learned counsel that it is evident that the entire conduct of horse racing is regulated to the minutest of the details by implementing the terms and conditions of the Racing License read with the Articles of Association, the Rules of Racing and the Racing Calendar. As has been stated above, the regulations aim to mitigate and address all potential issues of misconduct that may arise in the process of conduct of the races (including conflict of interest) and betting.
16. The Commission has carefully analysed the information filed by the Informant, the documents annexed therewith, the submissions of the OP as sought by the Commission and the information available in the public domain as well as deliberated upon the arguments put forth by the respective parties during the course of oral hearing held on 21.12.2018.
17. The Informant has alleged contravention of the provisions of Sections 3 and 4 of the Act by the OP. First of all, the Commission proceeds to analyse the conduct of the OP under the provisions of Section 4 of the Act. For the purpose of analysing the present case under the provisions of Section 4 of the Act, the first requirement is to delineate a relevant market as per Section 2(r) of the Act with reference to the '*relevant product market*' or the '*relevant geographic market*' or with reference to both the markets. The next step is to assess the dominance of the OP in the defined relevant market as per the factors enumerated under Section 19 (4) of the Act. Once the dominance of the OP is established, the next step is to analyse the allegations pertaining to abuse of dominance.



18. At the outset, the Commission observes that, the Informant has not delineated the relevant market in which the OP is alleged to be dominant and is abusing its position of dominance.

19. The Commission observes that, every sport/ game has unique characteristics, leading to development of its own fan following. The instant case pertains to Horse racing, which has its own characteristics that differentiate it from other sports/ games. Horse racing is one of the sports in which betting is legal in India. The same view was observed by the Apex Court in the case of *Dr. K.R. Lakshmanan v. State of Tamil Nadu AIR1996SC1153*, wherein it was held that:

“We have no hesitation in reaching the conclusion that the horse-racing is a sport which primarily depends on the special ability acquired by training. It is the speed and stamina of the horse, acquired by training, which matters. Jockeys are experts in the art of riding. Between two equally fast horses, a better trained jockey can touch the winning-post.”

20. The Commission has further perused the information available on the website of the OP to assess the nature of the services provided by the OP. It is observed that the OP has the following vision:

“To ensure quality in its race programmes, racing surfaces, racing environment and conduct as behoves one of Asia's most famous race courses and home to the five Indian Classics.

To ensure that race courses at Mumbai and Pune continue to be maintained as world-class racing venues so as to measure up to RWITC's reputation as one of the leading race Clubs in Asia.

To set the highest standards in the organization and administration of the sport.

To provide superior amenities and up-to-date facilities to its racing patrons and members by way of the quality of entertainment, infrastructure and betting facilities.



To be totally transparent in every aspect of its working and to be always owner- as well as punter-friendly.

To maximize returns from its racing and non-racing activities.

To ensure for its sponsors optimum returns on investment.

To make horse racing a clean and family-oriented sport.

To provide the best working environment to its staff.

To contribute its bit toward social causes and be responsive to the needs of the society in to the best of its abilities.”

The Commission, in this regard, observes that the OP, *inter alia*, offers various services for the sport of Horse racing.

21. In view of the above, the Commission observes that the relevant product market in the instant case is ‘*Market for organisation of horse races by turf clubs*’.

22. With regard to the relevant geographic market, the Commission, from the information available in the public domain (*Source: <http://turfauthoritiesofindia.com/>*), observes that in India, horse racing is conducted by various turf clubs, which are enumerated below:

- Royal Calcutta Turf Club at Kolkata;
- Royal Western India Turf Club, Ltd. racing at Mumbai and Pune;
- Madras Race Club racing at Chennai and the hill station of Ootacamund;
- Bangalore Turf Club Ltd at Bengaluru;
- Hyderabad Race Club at Hyderabad;
- Mysore Race Club Ltd at Mysore; and
- Delhi Race Club (1940) Ltd.

23. The Commission further observes that Horse racing services are mainly sought by;

- i) the punters/ general public for betting on the horse races;
- ii) the horse owners for getting their horses registered for derby/ races; and
- iii) The trainers and jockeys who register themselves with the club.

Due to the seasonal nature of the sport and the high stakes involved, all sets of consumers of such horse racing services may visit any of the abovementioned clubs to avail them.



The Commission also notes that the Chairmen of the abovementioned Turf Authorities meet once in three months, to evolve rules, regulations and policies concerning racing and to also assist each other in common issues and to make joint representations to the Government on various matters, such as Betting Tax, *etc.* Therefore, based on the information available in the public domain, it appears that horse racing services can be availed from all across India, where horse racing is being carried out, without getting constrained by any regional or geographic barriers.

24. The Commission further notes that buying/ breeding horses for races is a capital intensive activity. A horse owner would not buy/ breed a racehorse so as to make it run in only one racecourse. As a business activity, any horse owner would want to extract the maximum returns from the horse and the same can only be achieved when the horse participates in maximum possible races. Similarly, any punter, who practices betting in horse races as a regular economic activity would also want to participate at maximum possible racing avenues and would not restrict himself to betting in one geographic area. The jockeys and trainers associated with the horse may also move along with the horses or can associate with different horses. The fact that horse racing services can be availed without any geographical constraints is further substantiated by the fact that the Indian Turf Invitation Cup, Sprinters' Cup, Stayers' Cup and Super Mile Cup, are the four Grade 1 races held every year, in rotation, at various racing venues across India, popularly known as The Indian Turf Invitation Cup Weekend.

25. In view of the above, the Commission observes that the conditions of competition are, therefore, homogenous, all across India where horse racing is legally allowed and therefore, the relevant geographic market would be the 'territory of *India*'. Therefore, the Relevant Market is '*Market for organisation of horse races by turf clubs in India*'.

26. After delineating the relevant market, the next step is to assess the dominance of the OP in the aforesaid relevant market. The Commission notes that the Informant has not provided any information to establish the dominance of the OP.



27. As mentioned above, the OP is one amongst the many turf authorities which provides Horse racing services. Further, from the information available in the public domain, it is also observed that round the year, many clubs organise various races. The Commission has perused the material available in the public domain and assessed the number of races organized by various clubs in India. It is observed by the Commission that from 22.12.2016 to 22.12.2018, the total number of major races organized by all the turf authorities across India were 145. Amongst these, the OP organised only 34 races (Mumbai and Pune put together), rest of the races were organised by other turf authorities.
28. In light of the above, the Commission observes that the OP is not the only entity which is provisioning the horse racing services. Furthermore, even in an event-wise classification OP is not the club, hosting the maximum of all races, as it only hosts 23% of the major horse races being organized across India. The punter/ general public, who want to bet in horse racing, and the horse owners who want to get their horses registered in races have sufficient options all over India to avail such horse racing services. Therefore, RWITC is not dominant in the relevant market delineated above. In the absence of its dominance, there is no case to examine abuse of dominance by RWITC in the matter, under the provisions of Section 4 of the Act.
29. Next, regarding the allegations made under Section 3 of the Act, the Commission notes that the nature of the instant case is such that it does not attract the provisions of Section 3 of the Act. The Commission observes that an 'agreement' as defined under Section 2(b) of the Act is a *sine qua non* to prove any contravention of the provisions of Section 3 of the Act. The Informant in the instant case has not submitted any material pertaining to any such 'agreement'. The Informant has made a general allegation that the OP has contravened the provisions of Section 3 of the Act without providing evidence of any agreement or practice or decision by the OP with any person(s) or with the members of Management Committee or Stewards of the Club or members of Board of Appeal. In view of the same, the Commission observes that the Informant has not been able to demonstrate as to how the allegations attract the provisions of Section 3 of the Act.



30. The Commission notes that the information filed includes allegations with regard to possible conflict of interest arising out of members of various committees, who are also the horse owners, indulging in betting on their horses of being anti-competitive in nature. However, it has been pointed out by the OP that the Stewards of the Club and the members of Board of Appeal are barred from betting in any race conducted by the OP. Thus, in view of the said fact, no violations of anti-competitive nature can be said to arise.
31. In view of the above analysis, the Commission holds that no case of contravention of either Section 3 or Section 4 of the Act is made out against the OP in the present matter.
32. In view of the foregoing, the matter is ordered to be closed forthwith in terms of the provisions of Section 26 (2) of the Act.
33. The Secretary is directed to communicate the order to the parties, accordingly.

Sd/-
(Ashok Kumar Gupta)
Chairperson

Sd/-
(Augustine Peter)
Member

Sd/-
(U.C. Nahta)
Member

New Delhi
Date: 15/01/2019