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Fair Competition  
For Greater Good

**COMPETITION COMMISSION OF INDIA**

**Case No. 41 of 2014**

**In Re:**

**iJustice - A Public Interest Law Initiative of  
Centre for Civil Society**

**Informant**

**And**

**Common Law Admission Test (CLAT) Committee**

**Opposite Party**

**CORAM**

**Mr. M. L. Tayal**

**Member**

**Mr. S. L. Bunker**

**Member**

**Mr. Sudhir Mital**

**Member**

**Mr. Augustine Peter**

**Member**

**Appearances:** Shri Sai Krishna Rajgopal, Shri Prashant Narang and Ankur Sood, Advocates for the Informant.



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### **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 (**'the Act'**) by iJustice - A Public Interest Law Initiative of Centre for Civil Society (**'the Informant'**) against Common Law Admission Test Committee (**'the Opposite Party'**/CLAT Committee) alleging *inter alia* contravention of the provisions of section 4 of the Act.
2. Facts, as gathered from the information, may be briefly noted:
  - 2.1 The Informant is stated to be a public interest legal advocacy initiative of Centre for Civil Society (CCS). It represents and assists individuals and groups across India to challenge violations of fundamental rights and the Rule of Law.
  - 2.2 The Opposite Party is a body constituted through a Memorandum of Understanding (MoU) between 14 participating National Law Universities (NLUs) for conducting admission test, popularly known as CLAT for admission in premier NLUs across India to pursue legal studies at the undergraduate and postgraduate levels. CLAT has been instrumental in setting up and administering quality legal education in India. The CLAT Committee was established through an MoU arrived at between the then participating NLUs upon the advice of the Supreme Court of India and with assistance from the Ministry of Human Resource Development and University Grants Commission. The first CLAT Core Committee consisting of Vice-Chancellors of the seven participating NLUs at that time decided that the test shall be conducted by rotation in the order of their establishment. Accordingly, the first CLAT was conducted in the year 2008 by the National Law School of India University, Bangalore. Gujarat National Law University, Gandhinagar (GNLU) is the university in charge of conducting CLAT, 2014.



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2.3 Following 14 NLUs are currently participating in CLAT for providing admission to their 1,660 undergraduate and 490 postgraduate seats:

- i. National Law School of India University (NLSIU), Bangalore;
- ii. National Academy for Legal Studies and Research University (NALSAR) University of Law, Hyderabad;
- iii. The West Bengal National University of Juridical Sciences, Kolkata;
- iv. National Law Institute University (NLIU), Bhopal;
- v. National Law University (NLU), Jodhpur;
- vi. Rajiv Gandhi National University of Law (RGNUL), Patiala;
- vii. Hidayatullah National Law University (HNLU), Raipur;
- viii. Gujarat National Law University (GNLU), Gandhinagar;
- ix. Dr. Ram Manohar Lohia National Law University (RMLNLU), Lucknow;
- x. Chanakya National Law University (CNLU), Patna;
- xi. National University of Advanced Legal Studies (NUALS), Kochi;
- xii. National University of Study and Research in Law (NUSRL), Ranchi;
- xiii. National Law University, Orissa, (NLUO), Cuttack; and
- xiv. National Law University & Judicial Academy, Assam, (NLUJAA) Guwahati.

2.4 It has been submitted that though the CLAT examinations are conducted by participating NLUs each year on a rotational basis, the rules regarding the examination, counselling, granting of seats, final admission, fee matters and other administrative aspects are established upon the consensus of the CLAT Committee.

2.5 The Informant alleged that by virtue of inherent dominance that the CLAT Committee and participating NLUs enjoy in the legal education market, it has been consistently increasing the examination fees as well as the pre-admission advance deposit to be made at the time of counselling. The CLAT examination fee in 2014 has drastically increased from Rs. 3000 to Rs. 4,000 and the advance deposit has increased from Rs. 50,000 to Rs. 100,000. As per the



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Informant, this unfair practice of increasing these fees is unilateral and without consideration of the candidates' financial statuses which amounts to abuse of dominant position by the Opposite Party.

2.6 Further, as per CLAT Brochure and CLAT website for 2014 the candidates who qualify for counselling as part of the merit list will be allowed to participate in the online counselling against the seats available with the participating NLUs only upon depositing the adjustable fees of Rs. 1,00,000/-. Candidates failing to deposit the required fee by the specified date will forfeit their right to be considered for admission for that year and their names will be dropped from the CLAT merit list, and may only be considered for counselling in that year if the list of candidates is entirely exhausted and vacancies still remain.

3. The Commission has perused the material available on record besides hearing the counsel appearing for the Informant.
4. The crux of the grievance of the Informant is against the alleged unfair practice of charging very high registration fee of Rs. 4000 and an exorbitant pre-admission advance deposit of Rs. 1, 00,000/- by CLAT Committee from candidates aspiring to join the prestigious NLUs in India. It is alleged that the Opposite Party has been abusing its dominant position by imposing unfair and discriminatory conditions in provision of law admission test and also imposes supplementary unconnected obligations on candidates appearing for the law admission test conducted by it.
5. Before examining the alleged abusive conduct of the Opposite Party under the provisions of section 4 of the Act, it would be apposite to consider whether the Opposite Party is an 'enterprise' within the meaning of the said term as defined under section 2(h) of the Act.
6. As per section 2(h) of the Act, "*Enterprise*" means a person or a department of the Government, who or which is, or has been, engaged in any activity,



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*relating to the production, storage, supply, distribution, acquisition or control of articles or goods, or the provision of services, of any kind, or in investment, or in the business of acquiring, holding, underwriting or dealing with shares, debentures or other securities of any other body corporate, either directly or through one or more of its units or divisions or subsidiaries, whether such unit or division or subsidiary is located at the same place where the enterprise is located or at a different place or at different places, but does not include any activity of the Government relatable to the sovereign functions of the Government including all activities carried on by the departments of the Central Government dealing with atomic energy, currency, defence and space.*

*Explanation-For the purposes of this clause-*

- (a) “activity” includes profession or occupation;*
- (b) “article” includes a new article and “service” includes a new service;*
- (c) “unit” or “division”, in relation to an enterprise, includes—*
  - (i) a plant or factory established for the production, storage, supply, distribution, acquisition or control of any article or goods;*
  - (ii) any branch or office established for the provision of any service;*

7. A bare perusal of the definition reveals that for an entity to be an enterprise, the following conditions need to be fulfilled:

- (i) it must be a person or department of the Government;*
- (ii) it must be engaged in the specified economic activities; and*
- (iii) such activity must not be a sovereign activity.*

8. The term ‘person’ has been defined in section 2(1) of the Act and the same is quoted below:

*section 2(1): “person” includes-*

- (i) an individual;*
- (ii) a Hindu undivided family;*



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- (iii) a company;
- (iv) a firm;
- (v) an association of persons or a body of individuals, whether incorporated or not, in India or outside India;
- (vi) any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956);
- (vii) anybody corporate incorporated by or under the laws of a country outside India;
- (viii) a co-operative society registered under any law relating to cooperative societies;
- (ix) a local authority;
- (x) every artificial juridical person, not falling within any of the preceding sub-clauses

9. It is observed that as per the direction of the Hon'ble Supreme Court of India in the case of *Varun Bhagat v. Union of India & Ors.*, W.P. (Civil) No. 68 of 2006, under a Memorandum of Understanding (MoU) between seven National Law Universities, the first CLAT was conducted in 2008 by the National Law School of India University, Bangalore for admission to the under-graduate and post-graduate programmes for National Law Universities. Now 14 NLU's are part of CLAT. It does not appear that the participating NLU's have constituted a separate body/association for this purpose. The MoU stipulates that the NLU's shall conduct CLAT and also handle the counselling for the law programmes on a rotational basis each year. Thus, the MoU merely appears to be an 'agreement' and the same *per se* cannot be said to have created or constituted a person within the meaning of the term as noticed *supra*. The Informant has also not placed any material on record which can indicate that CLAT Committee is an association or body created or constituted under the said MoU. In these circumstances, it appears that conducting CLAT is merely an arrangement between the participating NLU's for the purpose of conducting CLAT and facilitating and streamlining the admission process of NLU's.



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10. In view of the above discussion CLAT is not an 'enterprise' under section 2 (h) of the Act, and no case of contravention of the provisions of section 4 of the Act is made out against the Opposite Party and the information is ordered to be closed forthwith in terms of the provisions contained in section 26(2) of the Act.

11. It is ordered accordingly.

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

**Sd/-**  
**(M. L. Tayal)**  
**Member**

**Sd/-**  
**(S. L. Bunker)**  
**Member**

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

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

**New Delhi**

**Date: 19.08.2014**