



COMPETITION COMMISSION OF INDIA

Case No. 46 of 2014

In Re:

M/s Albion InfoTel Limited

Informant

And

- | | |
|--|-----------------------------|
| 1. M/s Google Inc. | Opposite Party No. 1 |
| 2. M/s Google Ireland Limited | Opposite Party No. 2 |
| 3. M/s Google India private Limited | Opposite Party No. 3 |

CORAM

Mr. Ashok Chawla

Chairperson

Mr. M. L. Tayal

Member

Mr. S. L. Bunker

Member

Mr. Sudhir Mital

Member

Mr. Augustine Peter

Member

Present: Mr. Arshdeep Singh, Advocate for the Informant.



Order under section 26(1) 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 M/s Albion InfoTel Limited (**'the Informant'**) against M/s Google Inc. (**'the Opposite Party No. 1'**), M/s Google Ireland Limited (**'the Opposite Party No. 2'**) and M/s Google India Private Limited (**'the Opposite Party No. 3'**) [collectively **'Google'** hereinafter] alleging *inter alia* contravention of the provisions of section 4 of the Act.
2. The Informant is a company incorporated under the provisions of the Companies Act, 1956 having its registered office in New Delhi. It is stated to be an IT solutions company providing complete range of comprehensive IT solutions to its clients over a decade including *inter alia* Remote Tech Support, Consulting Services, Infrastructure Built Services, Facility Management Services, Software Services, Remote Infrastructure Management and Technical Support.
3. The Opposite Party No. 1 is a company incorporated under the laws of USA, the Opposite Party No. 2 is a company incorporated under the laws of Ireland, and the Opposite Party No. 3 is a company incorporated under the provisions of the [Indian] Companies Act, 1956.
4. It is averred that the Informant initiated the business of Remote Technology Support and for this purpose approached Google India for opening an account in Google AdWords account. This programme enables any advertiser to purchase individualized and affordable key word advertising that appears instantly on the google.com search results pages.
5. The Informant opened two AdWord accounts with Google on 10.06.2010 and 27.08.2013. Since the Informant's advertisement placed through Google



AdWord, when the consumers search for remote tech support services in the internet through Google search engine, the advertisement of the Informant will appear along with Google's search results pages and if the consumers click on the advertisement that will lead to the website of the Informant. The consumers then can contact the Informant by leaving a message or making a call on the phone numbers mentioned in the advertisement. It is also stated that while opening an account, the interested party is required to agree to the Google AdWord Policy and at the time of accepting this policy, the interested party also electronically accepts the Google User Safety Policy.

6. It is further averred that the phone calls made by the customer are routed to a call centre of the Informant where the employees of the Informant receive the calls or make calls and thereafter in a 'remote manner' provide technology support services to the customer on phone or through internet.
7. The Informant is essentially aggrieved by the suspension of its AdWord Accounts by Google in October/November, 2013. It is the case of the Informant that the same was done without any prior intimation or notice to it and without any cause of action.
8. It is alleged that the Google User Safety and AdWords Policy is extremely arbitrary, vague and one-sided giving rise to abuse of dominant position by Google. The vagueness in these policies has provided the ability to Google to unilaterally terminate the advertisement campaigns of the Informant from time to time and finally suspend its account without providing any legitimate reasons whatsoever.
9. It is further alleged that the entire bidding process of Google AdWord is extremely opaque and not transparent and there is lack of transparency in the mechanism of fixing the Cost per Click (CPC).



10. It has been stated that the Informant has always been diligently complying with all policy issues of Google. It is averred that the advertisements of the competitors of the Informant like www.iyogi.com, which is also in the same remote tech support business, have been approved by the Google Ad-Word team. It is alleged that, apparently, the decision of suspending the AdWord account of the Informant is nothing but a mechanism adopted by Google in collusion with iyogi to eliminate competition in the Remote Tech Support market.
11. It has been alleged that iyogi has achieved great heights in business of Remote Tech Support only because of its strong relationship with Google. The impugned suspension has been done only with a view to reduce/eliminate competition, alleges the Informant.
12. Reference has been also made to the information filed by other companies against Google before the Commission on the same/similar cause of action which are pending investigations.
13. Based on the above averments and allegations, the Informant has filed the instant information before the Commission.
14. The Commission has perused the information and the material available on record. The Commission has also heard the counsel appearing for the Informant.
15. From the information it appears that the gravamen of the information is directed against the suspension of Google AdWords Accounts of the Informant by Google. The Informant also appears to be aggrieved by the alleged unfair/discriminatory conditions imposed by Google in granting access to its AdWord programme. The Google User Safety and AdWords policy is also alleged to be arbitrary and one-sided giving rise to abuse of its dominant position.



16. To examine the allegations relating to abuse of dominance by Google, it is first necessary to determine and delineate the relevant market. In this connection, it may be pointed out that in the previous three cases against Google viz. Case Nos. 07/ 30 of 2012 and Case No. 06 of 2014, the Commission in its *prima facie* orders delineated the *market for online search advertising in India* as the relevant market. Furthermore, the Commission *prima facie* found Google to be in a dominant position in the said relevant market.
17. As the allegations in the present matter also pertain to the alleged abusive conduct of Google in the online search advertising market, the said market may also be considered as the relevant market in the present case as well. Since in the said relevant market, *prima facie*, Google has already been found to be in a dominant position in the previous cases mentioned above, it is not necessary to dilate any further on the said aspects.
18. It may be pointed out that the allegations levelled by the Informant in the present case are similar with those made in Case No. 06 of 2014 where the issue of suspension of AdWords account in respect of remote technology services market was involved. Furthermore, the issue of arbitrary, vague and one-sided nature of Google User Safety Policy and AdWords policy was also involved in the said case. As the Commission has already ordered investigation in that case for examining of contraventions under the provisions of section 4 of the Act, it would be in the fitness of things if the present matter is also sent for investigation to the Office of the Director General. It may be pointed out that the Informant has specifically averred in the information that the remote technology support business was carried out by it through Google AdWords in India.
19. Resultantly, *prima facie*, a case of contravention of the provisions of section 4 of the Act is made out against the Opposite Parties and the Director General is



directed to cause an investigation into the matter and to complete the investigation within a period of 60 days from receipt of this order.

20. The Secretary is directed to send a copy of this order alongwith the information and the documents filed therewith to the Office of the DG forthwith.

Sd/-

(Ashok Chawla)

Chairperson

Sd/-

(M. L. Tayal)

Member

Sd/-

(S. L. Bunker)

Member

Sd/-

(Sudhir Mital)

Member

Sd/-

Augustine Peter)

Member

New Delhi

Date: 12/09/2014