



सत्यमेव जयते



Fair Competition  
For Greater Good

**COMPETITION COMMISSION OF INDIA**  
**Case No. 46 of 2015**

**In Re:**

**Cloudwalker Streaming Technologies Private Limited,  
504, Business Suites 9, S.V. Road,  
Santacruz (West), Mumbai**

**Informant**

**And**

**Bennett, Coleman and Co. Ltd,  
D.N. Road, Fort, Mumbai**

**Opposite Party**

**CORAM**

**Mr. S. L. Bunker  
Member**

**Mr. Sudhir Mital  
Member**

**Mr. Augustine Peter  
Member**

**Mr. U.C. Nahta  
Member**

**Mr. M. S. Sahoo  
Member**

**Appearances:**

For the Informant:

Shri Ajit Anekar, Advocate



### 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 Cloudwalker Streaming Technologies Private Limited (hereinafter referred to as the ‘**Informant**’) against Bennett, Coleman and Co. Ltd (hereinafter referred to as ‘**OP**’) alleging, *inter alia*, contravention of the provisions of section 4 of the Act.
2. As per the information, the Informant is, *inter alia*, engaged in the business of distribution of movies and for this purpose has an online portal [www.halfticket.tv](http://www.halfticket.tv). It is also engaged in showcasing /exhibiting feature films including short films *etc.* under the respective terms of service.
3. The Informant has submitted that it held an online French Film Festival from January 16, 2015 to February 16, 2015 in association with ‘uniFrance Films’, which showed French films on the website of the Informant. uniFrance is stated to be a prestigious organization for promoting French films in other countries. For the purpose of hosting the online film festival and publicizing about it to large number of people, the Informant intended to place advertisements in the daily newspaper of the Times Group, owned and controlled by OP.
4. The Informant has further submitted that in order to place advertisements in the Times of India (‘**TOI**’) daily newspaper, OP provided the ‘Times Group Entertainment Rate Card’ (‘**entertainment card**’) to the Informant, wherein prices of all cinema/ entertainment advertisements were provided. However, when the Informant approached the Times Group for placing the advertisement in its daily newspaper ‘Bombay Times’, it was informed that the said advertisement would fall under the ‘display category’, which is



सत्यमेव जयते



alleged to be nearly three times the rate charged for the ‘entertainment category’. OP is alleged to have stated since the Informant’s advertisement had words... “*Watch on Halfticket.tv.*” a higher rate would be charged for the same.

5. The Informant is stated to have explained to the concerned officials of TOI that it intended to place advertisements relating to cinema/movies therefore, entertainment card rates should have been applied in its case. In response, TOI personnel intimated to the Informant since the advertisement had the ‘Half Ticket’ logo, the ‘display category’ rates will apply to the said advertisement. The Informant, further, pointed out that all cinema halls, where movies are screened, have their logo on it (like PVR, Inox, DT Cinemax *etc.*) so it cannot be made to pay a higher rate under the ‘display category’ just because its movies will not be screened in cinema halls. The Informant thus requested TOI to fix the card rates under the entertainment category for the Informant’s advertisement.
6. The Informant has alleged that its attempt to reason out with OP for placing advertisements in ‘entertainment category’ were ignored. The Informant has further alleged that certain restrictive conditions were imposed on it by OP. The Informant has stated that there is no real or apparent difference between cinema advertisements and entertainment advertisements which are published in Bombay Times but the rates at which they are charged by publishers differ substantially. The Informant submits that it served a legal notice also upon the Times Group to immediately place its advertisements under the ‘entertainment category’ by charging rates as indicated in the ‘entertainment card’ instead of the ‘display category’. No response is stated to have been tendered by the Times Group to the aforesaid legal notice of the Informant. The Informant has alleged that due to the conduct of OP, it could not advertise the French Film Festival on a large scale.



सत्यमेव जयते



7. According to the Informant, OP enjoys a dominant position in the market of Indian media and entertainment Industry and as such, it is in a position to charge higher rates for advertisements in an arbitrary and restrictive manner and may stifle the film industry. Further, it has been alleged by the Informant that OP had forced it to put its advertisement in the ‘display category’ even though the contents of the advertisements fell under the ‘entertainment category’. Thus, it shows abuse of dominant position by OP in the relevant market. OP is alleged to have virtually monopolized the newspaper advertisement segment in India and has come up with vague and flimsy grounds to reject the Informant’s request to publish its advertisement under the ‘entertainment category’ and charge disproportionate rates.
8. The Informant has also pointed out that OP provides a service similar to that of the Informant *i.e.*, ‘BOX Tv’, wherein it distributes movies online. Thus, the Informant has alleged that the act of OP to charge arbitrarily higher rates from the Informant has been done with intent to scuttle the advertisement of *halfticket.tv* in the market.
9. The Commission, after hearing the counsel on behalf of the Informant on 29.07.2015, had granted liberty to the Informant to file additional submissions. Consequently, additional submissions were filed by the Informant on 08.08.2015. In its additional submissions, the Informant had proposed the relevant market as the ‘*advertisement space in English Language newspapers in Mumbai.*’ The Informant has asserted that the Times Group claims itself to be a long standing leader in print business and an emerging leader in other forms of media like radio, TV, magazines *etc.* The Informant has also placed reliance on the readership surveys, specifically Indian Readership Survey, 2013 released in 2014, to substantiate its allegation that TOI is dominant and has no competitors. As



सत्यमेव जयते



per this survey, TOI has an average readership of 21.5 lakh in Mumbai, followed by the Hindustan Times, with a readership of 13.62 lakhs.

10. The Commission has perused the information, additional submissions and other materials on record.
11. In the instant case, the Informant appears to be aggrieved primarily by the conduct of OP for not allowing it to place its advertisements under the 'entertainment category' of Bombay Times newspaper.
12. The Commission is of the opinion that the relevant product market in the present case would be the *"market of services of procurement of advertisement space in English print media"*. The relevant geographic market would be 'Mumbai', since the Informant wanted to advertise about the French film festival in Mumbai. As such, the relevant market may be defined as the *"market for services of procurement of advertisement space in English print media in Mumbai"*.
13. The Informant in its additional submissions has relied upon findings of Indian Readership Survey 2013, to submit that OP is one of the largest selling newspaper in Mumbai. However, it is pertinent to mention that the credibility of results Indian Readership Survey 2013 has been strongly questioned by the OP as well as other leading newspapers like Business Standard, Economic Times, The Hindu, Times of India, The Tribune, Mid day etc. For the purpose of examination of alleged dominance of OP, even if it is presumed that findings of Indian Readership Survey 2013 are reliable, apart from OP, there are several other established English dailies like The Indian Express, The Asian Age, Mumbai Mirror, Mid-Day, Free Press Journal *etc.* which are widely read in Mumbai. As per a report published by



सत्यमेव जयते



afaqs! Reporter,<sup>1</sup> in August 2013, the readership of other English dailies like Hindustan Times, Daily News & Analysis have also gone up in recent times in Mumbai.

14. In view of this, the Commission observes that although OP may be one of the leading English daily newspaper in Mumbai, the presence of large number of other English newspapers in Mumbai provides more choice to the Informant as well as inhibits OP from exercising any kind of monopolistic power independent of market forces, as has alleged by the Informant. The Informant also had the option of advertising on electronic media which has larger penetration in Mumbai. The Commission is of the view that OP may be enjoying a wide readership in the relevant market but there are several other reputed newspapers which are also enjoying a large readership in the relevant market and posing competition constraints to the OP.
15. The Commission is of the view that OP cannot be said to be *prima facie* dominant in the relevant market, under provisions of the section 4 of the Act.
16. In light of the above analysis, the Commission finds that no *prima facie* case of contravention of the provisions of section 4 of the Act is made out against OP in the instant matter. Accordingly, the matter is closed under the provisions of section 26(2) of the Act.

---

<sup>1</sup> Source: [http://www.afaqs.com/news/special\\_reports/index.html?rpID=589](http://www.afaqs.com/news/special_reports/index.html?rpID=589))



सत्यमेव जयते



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

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

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

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

**Sd/-**  
**(U. C. Nahta)**  
**Member**

**New Delhi**  
**Dated: 29.09.2015**

**Sd/-**  
**(M. S. Sahoo)**  
**Member**