



सत्यमेव जयते



Fair Competition
For Greater Good

COMPETITION COMMISSION OF INDIA

Case No. 48 of 2015

In Re:

Ms. Bharti Verma

123, Hemkunth Chamber, Nehru Place,

New Delhi

Informant

And

Global Information Systems Technology Pvt. Ltd.

877, Udyog Vihar,

Phase-V, Delhi

Opposite Party

CORAM

Mr. Ashok Chawla

Chairperson

Mr. S. L. Bunker

Member

Mr. Sudhir Mital

Member

Mr. Augustine Peter

Member

Mr. U.C. Nahta

Member



Mr. M. S. Sahoo
Member

Justice (Retd.) Mr. G.P. Mittal
Member

Appearances:

Informant: Ms.Rashmi Jain, Advocate and Informant-in-person

Opposite Party: Shri Umang Jain, 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 Ms. Bharti Verma (hereinafter referred to as the ‘**Informant**’) against Global Information Systems Technology Pvt. Ltd. (hereinafter referred to as ‘**OP**’) alleging, *inter alia*, contravention of the provisions of section 4 of the Act.
2. As stated in the information, OP represents global publishers in India and is India’s leading subscription agent.
3. It is submitted that All India Council for Technical Education (AICTE), an apex body constituted for regulating the technical education in India, has made it mandatory for the technical institutions to subscribe to various e-journals in order to establish and/or continue as a technical educational institution in India. It is further submitted that for the academic year 2015-16, some of the journals, which were required to be subscribed mandatorily by the technical educational institutions in terms of the handbook of AICTE, were available with OP only.



4. The Informant has alleged that AICTE has placed OP in a dominant position by making it mandatory for the technical educational institutions to have the subscription of e-journals which were exclusively available with OP. OP is thus alleged to be in a position of strength in India, which allows it to operate independently of the other players.
5. The Informant has further alleged that OP is exploiting its dominant position to the prejudice of the technical educational institution. It is averred that OP is providing the subscription of these e-journals at an undeserving and exorbitant price without any concessions to the technical educational institutions. Furthermore, these technical educational institutions are required to pay the subscription amount in advance for a period of one year.
6. Based on the above allegations, the Informant has alleged that the conduct of OP is in contravention of the provisions of section 4 of the Act. Thus, the Informant has prayed, *inter alia*, for initiation of an inquiry under the Act.
7. The Commission heard the Informant and counsels on behalf of the parties in its ordinary meeting held on 23.07.2015 and directed the Informant to file any correspondence from AICTE to the technical educational institutions stating that the subscription of e-journals from OP is mandatory, any letter/communication sent by the Informant to other publishers of e-journals for technical education and reply received from them and to authenticate one of the annexure filed alongwith the information which shows the details of the mandatory subscription of prescribed e-journals and their sole agents. The



Commission also directed OP to file its reply alongwith a list of other players in India who offer e-journals for technical education in India.

8. The Commission perused the material available on record including the affidavit dated 29.07.2015 of the Informant alongwith the enclosures and the reply filed by OP.
9. The Informant, in her affidavit, has stated that the said annexure was the summary sheet which was prepared by her on the basis of emails received in respect of the price of different publishers from OP. In support of her statement, true copy of all emails received in this regard have been filed.
10. OP *vide* its reply has submitted that the company is only a subscription agent of the overseas publishers. It is further submitted that there are many scientific, technical and medical journals in the market which are handled by several subscription agents. Thus, the question of OP being dominant in the market does not arise. OP has mentioned few other publishing houses who offer e-journals for technical education in India like Allied Publishers Subscription Agency, Wiley-Blackwell, Balani Infotech Private Limited *etc.* OP has also pointed out in its written submission that in 2015, few technical educational institutes have placed direct orders with the overseas publishers like American Society of Civil Engineers (ASCE), American Society of Mechanical Engineers (ASME), Institute for Educational Leadership (IEL), Institute of Electricals and Electronics Engineers (IEEE), Institute of Engineering and Technology (IET) *etc.* It is contended that the price of e-journals are determined by the publishers and OP has no role in price determination, negotiation, quantum of supply *etc.* It is submitted that the subscription charges for e-journals remains same irrespective of



the fact whether it is subscribed directly from the publisher or through an authorized agent of the publisher.

11. The Commission has perused the information and also considered the submissions made by the parties.

12. The Commission observes that the Informant is primarily aggrieved by the conduct of OP for charging exorbitant price for the subscription of e-journals by the technical educational institutions in terms of the instructions of AICTE in its handbook.

13. The Commission notes that the business of subscription for e-journals by the technical educational institutions approved by AICTE comes within the larger domain of e-commerce. As per the information available in the public domain, there are various models of e-commerce but the aforementioned business practice of e-journals and its subscription by the technical educational institutions comes within the category of business-to-consumer (B2C) model. In a B2C model, any business or organization can sell its products or services to consumers over the internet for its own use. In the instant case, the well-known journals like Springer, ASCE, ASME, Wiley Blackwell *etc.* sell and provide their e-journal subscriptions to technical educational institutions in India either directly or through their agents.

14. Thus, considering the issues in the present matter, the relevant product market would be *“the market of services for providing subscription of e-journals to technical educational institutions as prescribed by AICTE”*. Since the service of provision of subscription of e-journals is applicable throughout the territory of India, the relevant market in the present case would be *“the market of services for providing*



subscription of e-journals to technical institutions as prescribed by AICTE in India”.

15. The Commission further notes that the Informant has not provided any detail with respect to e-journals where exclusive license has been granted to OP by the publishing house. The Informant has also not provided any detail regarding price of e-journals to be subscribed mandatorily in terms of the instructions issued by AICTE.
16. The website of OP reveals that it provides subscription for IEEE, ASME, ASCE, Springer, Oxford University Press *etc.* (which are listed in the Appendix 10 of Handbook of Approval 2015 by AICTE) for mandatory subscription by technical educational institutions. As per the information available in the public domain, there are other players like Allied Publishers Pvt. Limited, Balani Infotech., Informatics Limited *etc.* in the relevant market which provide same product *i.e.* subscription of e-journals. Further, the technical educational institutions also have the option of subscribing directly from the website of e-journals as prescribed by AICTE.
17. Thus, *prima facie*, OP does not appear to be in a dominant position in the relevant market. In the absence of dominance of OP, its conduct need not be examined under the provisions of section 4 of the Act.
18. 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 case. Accordingly, the matter is closed under the provisions of section 26(2) of the Act.



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

Sd/-

(Ashok Chawla)
Chairperson

Sd/-

(S. L. Bunker)
Member

Sd/-

(Sudhir Mital)
Member

Sd/-

(Augustine Peter)
Member

Sd/-

(U. C. Nahta)
Member

Sd/-

(M. S. Sahoo)
Member

Sd/-

(Justice (Retd.) G. P. Mittal)
Member

New Delhi
Dated: 25.08.2015