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Fair Competition
For Greater Good

COMPETITION COMMISSION OF INDIA

Case No. 59 of 2014

In Re:

**Dr. Rajender Kumar Gupta
R/o 196-P, Urban Estate-II,
Hisar, Haryana-125001**

Informant

And

**Shri B.D. Park, Managing Director,
Samsung India, and
Chief Executive Officer,
South-West Asia operations
SCO-35, HUDA Main Market,
Sector 31, Gurgaon- 122001, Haryana**

Opposite Party No. 1

**Shri Lee Kun Hee
Chairman, Samsung
SCO-35, HUDA Main Market,
Sector 31, Gurgaon- 122001, Haryana**

Opposite Party No. 2

CORAM

**Mr. Ashok Chawla
Chairperson**



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Mr. S. L Bunker
Member

Mr. Sudhir Mital
Member

Mr. Augustine Peter
Member

Mr. U. C. Nahta
Member

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 Dr. Rajender Kumar Gupta (hereinafter referred to as the **'Informant'**) against Shri B.D. Park, Managing Director, Samsung India and Shri Lee Kun Hee, Chairman, Samsung (hereinafter referred to as the **'Opposite Parties'**) alleging, *inter alia*, contravention of the provisions of Section 4 of the Act in the matter.
2. Facts of the case, as stated in the information, may be briefly noted:
 - 2.1 As per the information, the Informant purchased a Samsung Galaxy S Duos (Serial No. RZI D732X7ZZ) on 08/08/2013 from the Mobile Junction, Aggarsen Market, Hisar. The Informant later observed that the vibrator of the said mobile was not functioning. He alleged to have approached Care Point, Krishna Nagar,



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Delhi Road, Hisar, Haryana, (Authorised Service Centre for Samsung India Electronics Limited) to get the handset repaired.

2.2 It is averred that the Service Centre informed the Informant that due to percolation of water inside the mobile, the vibrator had stopped working. The Informant alleged that the said Authorised Service Centre gave him misleading information about the fault in the handset.

2.3 It is averred by the Informant that the Authorised Service Centre quoted around Rs.4502.90 as charges for replacement of the vibrator of his mobile. The Informant further submits that the reason given by the Authorised Service Centre for non-working of the vibration in the mobile was incorrect as there was some other problem related to the settings of the mobile handset. It is alleged that once the setting was fixed, the vibrator of the mobile started working properly.

2.3 The Informant has alleged that like other Samsung customer care centres, the Authorised Service Centre is situated in the residential area which is in violation of the Consumer Protection Act. The Informant submitted that the Opposite Parties are not taking due care of its customers and have thus allowed their consumers to be exploited by their Authorised Service Centre by overcharging for repair of the mobiles.

2.4 The Informant, vide his additional submissions dated 16/10/2014, further alleges that the Opposite Parties by restricting sale and supply of genuine spare parts, diagnostic tools, equipments, technical information and know-how etc. has created a monopoly over supply of such genuine spare parts, diagnostic tools etc. and indirectly determining the sale price of the spare parts and repair and maintenance service charges. The repair, maintenance and servicing of such products could only be carried out at the authorised service centres of the Opposite Parties.



2.5 Accordingly, it is alleged that such restrictive practices adopted by the Opposite Parties in conjunction with their respective Authorised Service Centres results in denial of market access to independent repair workshops which is in contravention of the provisions of section 3 and 4 of the Act.

2.6 Based on the above averments, the Informant has prayed, *inter alia*, for the issuance of direction to the Opposite Parties to pay an amount of Rs.2 lakh to the Informant as compensation.

3 The Commission has perused the information.

4. Facts of the case reveal that the grievance of the Informant primarily pertains to the alleged conduct of the authorised service centre for not providing satisfactory services i.e., charging excessive amount for repair of his faulty mobile phone.

5. The Commission notes that the Informant has submitted that like other Samsung customer care centres, the Authorised Service Centre is situated in the residential area which is in violation of the Consumer Protection Act and that the Opposite Parties are not taking due care of its customers and are thus allowed to be exploited by their Authorised Service Centre by overcharging for repair of the mobiles. Thus, it is basically a dispute between a consumer and its service provider where consumer alleges deficiency in service being provided by the service provider. The Commission is of the opinion that it does not involve any issue relating to competition which attracts the provisions of the Act.

6. It is also observed that the Informant has not provided any material in order to substantiate his allegation that the restrictive practices adopted by the Opposite Parties in conjunction with their respective Authorised Service Centres results in denial of market access to independent repairers in contravention of the



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provisions of section 3 and/or 4 of the Act. The Commission is, therefore, of the opinion that the Informant has not been able to show that the Opposite Parties have, *prima facie*, contravened the provisions of section 3 & 4 of the Act.

7. In the light of the above analysis, the Commission finds that no *prima facie* case of contravention of the provisions of section 3 & 4 of the Act is made out against the Opposite Parties in the instant matter. Accordingly, the matter is closed under the provisions of section 26(2) of the Act.
8. The Secretary is directed to inform all concerned accordingly.

Sd/-
(Ashok Chawla)
Chairperson

Sd/-
(S .L. Bunker)
Member

Sd/-
(Sudhir Mital)
Member

Sd/-
(Augustine Peter)
Member



Sd/-
(U. C. Nahta)
Member

New Delhi
Date:05-12-2014