



COMPETITION COMMISSION OF INDIA

Case No. 79 of 2014

In Re:

**Balbit Singh Jamwal
Flat No. 905, Tower 4, Paras Tierrea,
Sector 137, Noida,
Gautam Budhha Nagar,
Uttar Pradesh**

Informant

And

**Paras Buildtech India Pvt. Ltd.,
Through Managing Director,
11th Floor, Paras Twin Towers (Tower B),
Sector 54, Golf Course Road,
Gurgaon**

Opposite Party No. 1

**Bharti Airtel Limited,
Through its Chairman and Managing Director
Bharti Crescent, 1
Nelson Mandela Marg,
Vasant Kunj Phase – II,
New Delhi**

Opposite Party No. 2

CORAM

**Mr. Ashok Chawla
Chairperson**



Mr. S .L. Bunker
Member

Mr. Sudhir Mital
Member

Mr. Augustine Peter
Member

Appearances:

For the Informant: Shri Puneet Singh Bindra (Advocate) and Informant in person

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 Shri Balbit Singh Jamwal (hereinafter referred to as the ‘**Informant**’) against Paras Buildtech India Pvt. Ltd., Gurgaon (**OP 1**) and Bharti Airtel Limited, (**OP 2**) alleging, *inter alia*, abuse of dominant position by OP 1 in asking the residents of the apartments developed by it to use the Direct to Home (DTH) services of OP 2 only in contravention of the provisions of section 4 of the Act.
2. Briefly, the Informant has stated himself to be a tenant of Shri Sunil Kumar Singh (hereinafter referred to as ‘**Owner**’) at the relevant time who owned a residential flat in “Paras Tierrea” in Sector 137 at Noida (hereinafter referred to as ‘**Society**’) developed by OP 1. It was submitted that after the possession of flats by the respective owners, OP1 was providing maintenance and other facilities to the owners under the name and style of ‘Paras Re facility Management Pvt. Ltd’.



3. OP 2 was stated to be engaged in the business of providing wireless services, mobile commerce, fixed line services, high speed DSL broadband, IPTV, DTH etc. to its customers in India. The Informant submitted that previously he had a DTH connection of Tata Sky (a company providing DTH services). After shifting to the said residential apartment in the Society, the Informant met officials of OP 1 to seek their assistance for installation of Tata Sky DTH. The officials of OP 1 intimated the Informant that they have an arrangement with OP 2 under which the residents of the Society were allowed to utilize DTH services of OP 2 only. However when Informant enquired from the Owner (his landlord), he was informed that there was no such condition of utilising the DTH services of OP 2 only in the Buyers' agreement which was entered into with OP 1.
4. On 10.09.2014, the Informant sent a legal notice to OP 1 and OP 2 for which he did not receive any response from them. The Informant alleged that he was compelled to opt for DTH services of OP 2 on 17.09.2014. Thereafter, the Informant stated to have received reply from OP 2 denying the execution of any agreement or arrangement between OP 1 and OP 2.
5. Based on the above averments and allegations, the Informant alleged that the conduct of OP 1 and OP 2 is in contravention of the provisions of sections 3 and 4 of the Act. The Informant has prayed, *inter alia*, for the issuance of direction to OP 1 & OP 2 to stop the anti-competitive practices and allow the Informant & other residents to utilize the DTH services of their choice.
6. The Commission perused the information/material available on record. The counsel who appeared on behalf of the Informant was also heard by the Commission on 10.12.2014. At the outset, it is noted that allegations in the present case involves imposition of condition by OP 1 on the flat owners/residents of the said Society for utilizing the DTH services of OP 2 only. Pursuant to this arrangement, the Informant is alleged to have been prohibited to utilize his earlier DTH connection i.e., TATA Sky.



7. In view of the above, the Commission notes that the Informant is primarily aggrieved by the fact that due to the alleged understanding/arrangement between the OPs, he has not been able to use his TATA Sky DTH connection. The Informant has contended that such understanding/arrangement has the effect of restricting the freedom of residents of OP1 to use DTH services of their own choice.
8. Though the Informant has alleged abuse of dominance by OP 1, the Commission is not convinced that any such issue arises in this case. The facts of the present case does not suggest that OP 1 compelled its buyers to avail services of OP2 as a pre-condition for purchase of apartment nor the same is reflected in the Buyers' agreement. The same is evident from the email dated 31.08.2014 sent by the Owner to OP 1 whereby the Owner has specifically stated that at the time of purchase of flat from OP 1, the buyers were not informed that they have to compulsorily use the DTH services of OP 2. As such, the Commission is of the opinion that the allegations of dominance raised by the Informant are baseless and cannot be examined under Section 4 of the Act and.
9. As regards the allegations of anti-competitive arrangement/understanding between the Opposite Parties within the meaning of Section 3 of the Act, the Commission again refers to the above stated e-mail dated 31.08.2014, sent by the Owner to OP 1 which categorically mentions that the buyers were not informed that they had to opt for DTH services of OP 2 only at the time of purchase of flat from OP 1. In the said e-mail, the owner has expressed his suspicion regarding some sort of understanding/arrangement between OP 1 and OP 2 that the flat owners in the Society will be using DTH services of OP 2 only. However, the Informant has not been able to substantiate the same. It is evident from the reply dated 29.09.2014 sent by OP 2 in response to Informant's legal notice where OP 2 has specifically denied execution of any agreement/contract with OP 1 in relation to provision of



its DTH services to the residents in the Society. Thus, *prima facie* there seems to be no material on record on the basis of which the conduct of OP 1 & OP 2 can be scrutinized under section 3 of the Act.

10. In the light of the above analysis, the Commission is of the *prima facie* view that no case of contravention of the provisions of section 3 and 4 of the Act is made out against OP 1 and OP 2. Accordingly, the matter is closed under the provisions of section 26(2) of the Act.

11. 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**

New Delhi

Dated: 29.01.2015