COMPETITION COMMISSION OF INDIA

Case No. UTPE no. 104/2009

Date 25.11.10

Rajesh Nandal

Informant

V.

LPG Gas Companies

Respondent

ORDER

The case has been received by the Competition Commission of India (Commission) on transfer from the office of Director General and Investigation and Registration (DGIR), Monopolies and Restrictive Trade Practices Commission (MRTPC) under Section 66 (2) of the Competition Act, 2002 (the Act). The relevant facts of the case are as follows:

1. The Complainant, Rajesh Nandal filed a complaint against LPG Gas Companies before erstwhile MRTPC. It is stated by the complainant that LPG Gas Companies including Bharat Petroleum Corporation Limited (BPC) are allowing their distributers (LPG distributors) to sell gas stoves to consumers along with new connection. It was stated that where a new customer was not willing to take gas stove from them, LPG distributers are charging Rs. 150/- as an inspection/testing fee for just noting the ISI code. As per the complaint the LPG distributors are also being allowed to charge an additional sum of Rs. 25/- as an installation charge for no reason. In other words, it has been alleged that the LPG distributers are charging many consumers a total amount of Rs. 175/- without rendering any extra service. It was also alleged that these companies had formed a cartel to cheat

consumers and make profit by allowing their distributors to indulge in such types of unfair practices.

2. The MRTPC took cognizance of the matter and *vide* its order dated 15.06.2009 directed the DGIR to investigate into the matter and submit the preliminary investigation report (PIR) to the MRTPC.

2.2 The DGIR initiated a preliminary investigation and issued a probe letter to Ministry of Petroleum and Natural Gas (Ministry) for furnishing information on the following:-

(a) Whether any norms have been laid down by the Ministry regarding the charges to be collected by the gas companies from the consumer.
(b) Whether gas companies had themselves fixed charges and intimated the Ministry,
(c) If Ministry has acceded the proposal of gas companies regarding the charges to be levied on the consumer on release of new connection, what was the basis of it?

2.3 The Ministry in its reply answered the above questions as follows-

(a) The Ministry has not laid down any norms regarding the charges to be collected by the gas companies from the customers. However, the Ministry has constituted several committees to look into the aspects of providing better services to LPG consumers including the Sudha Joshi Committee whose recommended for the inspection of stove was accepted.
(b) The charges to be collected at the time of release of new connections are not intimated to the Ministry nor is this desired by the Minsitry.
(c) In view of the above response, the Ministry stated that the third point in DGIR's probe letter is not applicable. Where the gas stove is purchased from a source other than the OMC distributors for inspection of such gas stoves at

customers' premises nominal charges were fixed and revised taking into consideration cost escalation.

2.4 The Ministry also stated that the distributors were not authorized to charge inspection charges where the LPG stove had been purchased from them. An inspection is carried out by the companies if a consumer had purchased the BIS approved LPG stove from a source of their choice to ensure that the hot plate is safe and fit for use. The hot plate inspection charges in such cases are fixed at Rs. 150.

2.5 DGIR MRTP also issued letters to LPG companies namely BPC, Indian Oil Corporation Limited (IOC) and Hindustan Petroleum Corporation Limited (HPC) for furnishing comments on the allegations of the complainant and for submission of other information. These LPG Companies submitted their replies denying the charge.

2.6 IOC submitted its reply *vide* letter dated 01.09.2009 denying charges and stated that customers are not bound to obtain LPG connection from their distributers. It was submitted that the consumers have a choice to procure it from any Public Sector Organization (PSO) or Private Oil Companies. It was also submitted that IOC's distributors stock and sell only BIS approved LPG stove and accessories. The IOC distributors abide by the Liquefied Petroleum Gas (Regulation of supply & distribution) order, 2000 and cannot force customer to buy gas stove from them. IOC also stated the head-wise charges levied on consumers at the time of release of new LPG connection. As per the recommendation of Sudha Joshi Committee, inspection of the hot plate is carried out for safe use of LPG. Oil companies have authorized the LPG distributers to recover charges towards inspection of hot plate. LPG is highly inflammable and dangerous so quality of hot plate is to be ensured by the distributer. Distributers at their cost obtain insurance coverage for the accident of domestic LPG customer. So installation should be checked for any fault and

distributors have been allowed to charge one time installation charge of Rs. 25/- for the cost of manpower fixing and installing new connection.

2.7 HPC replied *vide* its letter dated September 09, 2009 stating that LPG distributors are allowed to recover Rs. 25/- as installation charges Distributers are required to ensure the quality of the hot plate if it was not purchased from them by sending a trained person to the house of customer. For this service distributers are allowed to charge a fee. These charges are allowed only when hot plate is not purchased from the distributor.

3. BPC filed its reply *vide* its letter dated 16.09.2009 and stated that their distributers stock and sell LPG stove and accessories as part of business. Consumers are free to take new connection from any PSO Oil Companies or Private Oil Companies of their choice. Distributers are not authorized to recover inspection charges where the LPG stove is sold by them. But in cases where hot plate is procured from some other source, quality of the hot plate is to be checked by the distributor through inspection, as LPG is a highly inflammable and dangerous product. The Ministry *vide* its letter no. P-39014/1/86-MKT dated 14.08.88 advised the implementation of the recommendation of the Sudha Joshi Committee, that the distributer should inspect the hot plate available with the customer to ensure that it is safe and fit for use. To cover the expenses for inspection of hot plate, distributors have been authorized by the Oil Companies to recover standard charges for inspection of the hot plate and to collect installation charges of Rs. 25/ on a one time basis at the time of release of new connection.

4. The Commission considered the matter in its meeting held on 25.11.2010, and after thoughtful consideration of all the facts and circumstance of the case and issues involved, is of the opinion that LPG companies are not forcing customers to purchase hot plate from distributors. Pursuant to the recommendation by the Sudha Joshi Committee, the LPG distributes are checking the quality of the hot plate in cases where the same was not purchased from them and charging only

the inspection fees in this regard. The Informant was also called to explain his case on 27.07.2010. However, he did not turn up and failed to establish any contravention.

5. After considering the submissions made before the DGIR MRTPC, the Commission is of the opinion that neither a violation of relevant provisions of MRTP Act nor a violation of the provisions of section 3 and 4 of the Competition Act is found. Therefore, on these facts and in the circumstances of this matter and on the basis of above discussion, the Commission believes that no *prima facie* case is made out against the respondents to proceed further in the present case. Accordingly, the Commission has decided to close the matter.

6. The matter is hereby closed forthwith. The Secretary is directed to inform the informant accordingly.

Certified True Copy

05/01/2011

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New Delhi