**COMPETITION COMMISSION OF INDIA**

***Suo Motu* Case No. 01 of 2015**

***In Re:* Anti-Competitive Practices Prevailing in Banking Sector**

**<u>CORAM</u>**

**Mr. Devender Kumar Sikri**
**Chairperson**

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

**Mr. Justice G. P. Mittal**
**Member**

**<u>ORDER UNDER SECTION 26(6) OF THE COMPETITION ACT, 2002</u>**

1. The instant matter concerns Savings Bank Interest Rates ('**SBIRs**') and service charges on Automated Teller Machines ('**ATMs**') transactions, offered/ charged by banks. Considering the similarity of these rates across different banks, the Commission took up the matter on a *suo motu* basis under Section 19(1) of the Competition Act, 2002 ('**Act**').

**Background**

2. During the preliminary enquiry, the Commission considered various news reports/articles regarding static SBIRs offered by various Scheduled Commercial Banks ('**SCBs**'). In an article dated 31$^{st}$ December, 2014, published in *Business*

*Line* under the title *'Cartelising Savings Bank Rate'*, it was reported that even after deregulation of SBIRs by the Reserve Bank of India ('**RBI**'), all SCBs, barring a few, maintained the pre-deregulation SBIR *i.e.* four (4) percent. The news item suggested cartelisation as a possibility for such identical SBIRs across SCBs. It was also stated that Indian Banks' Association ('**IBA**') was against deregulation of SBIR as '*major banks warned of an apocalypse if rate was deregulated'*. The Commission considered this to be suggestive of banks acting in a concerted manner under the aegis of IBA. IBA was formed on 26th September, 1946, as an association of banks and financial institutions, for development, coordination and strengthening of Indian banking sector and to assist the member banks.

3. On careful consideration of the information available in public domain, the Commission observed that Savings Bank Accounts ('**SB Accounts**') are considered as the safest mode for all types of depositors to park their funds. It was noted that SB Account deposits constituted twenty-two (22) percent of the total deposits of the SCBs and about thirteen (13) percent of the household savings across the nation. Since RBI was regulating SBIRs, there was hardly any competition amongst banks in that regard. The RBI deregulated the SBIR applicable to Resident Indians with effect from 25th October, 2011. Post deregulation, banks were free to determine their SBIRs, subject to the following two conditions:

(a) each bank shall offer uniform interest rate on savings bank deposit up to rupees one (1) lakh, irrespective of the amount in the account within this limit; and

(b) for savings bank deposits over rupees one (1) lakh, a bank may provide differential rate of interest, if it so chooses, subject to the condition that banks will not discriminate in the matter of interest paid on such deposits, between one deposit and another of similar amount, accepted on the same date, at any of its offices.

4. After deregulation, it was expected that bigger banks would take a lead in offering competitive rates and general customers would benefit from the deregulation. Further, deregulation was also expected to enhance the attractiveness of SB Accounts in rural, semi-urban and urban areas. The Commission noted that despite deregulation, all SCBs, barring a few, were consistently maintaining SBIR at four (4) percent, which was the last rate prescribed by RBI before deregulation. The Commission noted that such a behaviour was highly unlikely for players in a competitive market, as players in open market often strive to garner market share by offering competitive services to consumers. The parallel behaviour of banks-not to hike SBIR, was considered indicative of an understanding/agreement amongst themselves.

5. Further, taking cognizance of a news article dated 6th June, 2013, published on *Money Life* under the title '*Cartelisation, not competition, decides banking service charges'*, the Commission noted that upon the recommendation of IBA in 2013, the RBI restricted the number of free ATM transactions for SB Account customers at ATM's of other banks from five (5) to three (3) transactions per month. This restriction was made applicable for ATM transactions done in six metro cities *viz.* Mumbai, Delhi, Chennai, Kolkata, Bengaluru and Hyderabad. The RBI, while accepting the recommendations of IBA, stated that banks were at liberty to allow more free ATM transactions to their customers. The banks, however, allowed only three (3) free inter-bank ATM transactions and imposed the highest possible fee of rupees twenty (20) for every withdrawal beyond the cap of three (3) free ATM transactions. Such behaviour of banks was also considered indicative of concerted action on their part.

**Order under Section 26(1) of the Act**

6. Considering the above, the Commission was *prima facie* satisfied that under the aegis of IBA, majority of banks were acting in concert in relation to SBIRs and banking charges. This was found as a *prima facie* case of contravention of Section 3(3)(a) read with Section 3(1) of the Act. Accordingly, the Commission passed an order dated 27$^{th}$ January, 2015 under Section 26(1) of the Act directing the Director General ('**DG**') to cause an investigation into the matter and submit its report.

**Findings of Investigation**

7. After seeking due extension of time, the DG submitted the Investigation Report to Commission on 27$^{th}$ November, 2017. Among all the SCBs, the investigation examined conduct of top ten banks whose SB Account deposits accounted for about seventy (70) percent of the total market as on 31$^{st}$ March, 2016. These banks are - State Bank of India ('**SBI**') including five (5) of its associate banks, ICICI Bank, Punjab National Bank ('**PNB**'), Union Bank of India ('**UBI**'), Central Bank of India ('**CBI**'), HDFC Bank, Bank of Baroda ('**BOB**'), Bank of India ('**BOI**'), Canara Bank ('**CB**') and Axis Bank ('**Axis**') (hereinafter, collectively referred to as '**Sample Banks**'). Major findings of the investigation are summarised as under:

***A. Concerted action with respect to determination of SBIR***

7.1. Post deregulation in October 2011, private SCBs like IndusInd Bank, Yes Bank and Kotak Mahindra Bank promptly availed the opportunity provided by deregulation and increased their SBIRs. However, Sample Banks namely, BOB, BOI, CB and Axis did not change their SBIRs nor any agenda in this regard was presented to their Asset Liability Committee or the Asset Liability Management Committee (‘**ALCO’**), which comprises senior most management of the SCBs and has the authority to take a decision on SBIR. Other Sample Banks namely, SBI, ICICI, PNB, UBI, CBI and HDFC submitted that SBIR was discussed in one or few meeting(s) and that they independently decided not to enhance SBIR, based on internal assessment of fund position, prevailing market conditions, competition from other major players as well as small players.

7.2. It was noted that post July, 2017, SBI, Axis, BOB, ICICI and HDFC decided to reduce SBIR for different buckets. However, such decision was taken separately and independently by these banks, based on internal assessment of their respective fund position and market conditions, given the fact that post demonetisation, savings deposits had shown significant growth and substantially added to SBIR payment obligation. The internal document(s)/communication(s) of these banks did not suggest any discussion or meeting of mind amongst these banks regarding SBIR.

*Role of IBA in determining SBIR*

7.3. IBA is an association of all major banks in the country and acts as a platform for the member banks to come together and discuss issues, which affect them and to make representation to RBI and the Government. Based on deliberations of its Working Group, IBA felt that in the long run, deregulation of SBIR is essential to allow banks to come out with different product offerings as per specific requirements of the customers. Further, market driven SBIRs would improve operational efficiencies of banks. From the minutes of the meeting of IBA held on 30th December, 2005, it was seen that IBA had formed a panel drawn from its member banks and prepared a discussion paper on SBIR. While making out a case for deregulation in the long run, the said discussion paper suggested maintaining *status quo*, both in respect of interest rate as well as method of application of interest. IBA wrote a letter dated 18th February, 2008, to the RBI stating that time was not yet ripe for deregulation of SBIR.

7.4. The RBI published a discussion paper titled – *'Deregulation of Savings Bank Deposit Interest Rate: A Discussion Paper'* on 28th April, 2011, and invited public comments. IBA provided its consolidated views to the RBI on 30th May, 2011, along with the comments of twenty-four (24) member banks, whose businesses constituted seventy (70) percent of the overall banking business in India. On examination of a number of these responses, it was seen that all these banks, barring HSBC, were of the view that deregulation of SBIR may be deferred for the time being or may be implemented in a phased manner, considering the tight liquidity scenario. These banks apprehended that deregulation of SBIR may lead to extinction of no-frills accounts, as maintaining these would not be viable for banks. However, a larger number of these banks felt that deregulation could be considered when the liquidity scenario is comfortable and stable.

7.5. The investigation also examined the emails exchanged between IBA and officials of member Sample Banks during the period April 2011 to December 2012 and found no communication/discussion regarding SBIRs. It was also found from the minutes of the meetings of IBA that officials representing banks were not permanent and kept changing. Under the circumstances, it appeared unlikely that these officials would communicate directly with their counterparts in other banks to build a consensus on SBIR, given the fact that all interest rates including SBIR are thoroughly deliberated and then decided by ALCO of the respective banks.

7.6. The investigation, thus, found no evidence of discussion by Sample Banks to fix SBIRs under the aegis of IBA.

7.7. Apart from above, the investigation also took into account the following factors to arrive at the conclusion that there was no cartelization amongst SCBs on SBIRs:

7.7.1 *Impact of increased SBIR offered by some other players*: Despite higher SBIR being offered by some of the private SCBs, there was hardly any significant migration of savings account to them from other SCBs offering four (4) percent SBIR. It is also noted that nearly all Sample Banks have introduced a variety of SB accounts with different balance requirements and accordingly, different types of services are provided either free or at reduced charges. This shows that banks compete on other terms rather than on rate of SBIR.

7.7.2 *Interest rate on Term Deposits*: The interest offered on Term Deposits varied across the Sample Banks. The rate of interest(s) on Term Deposits were deregulated since 1998. As on 31st March, 2016, interest paid on SB Account deposits constituted only twenty (20) percent of the interest payments made on Term Deposits. Thus, it appeared inconsequential for SCBs to fix SBIR while leaving determination of interest rate(s) on Term Deposits to market forces, as interest paid on SB Accounts is significantly lesser in comparison to the interest paid on Term Deposits.

7.7.3 *Cost of servicing SB Accounts*: Sample Banks determine SBIR on the basis of their cost towards servicing SB Accounts. The facilities offered for these accounts include free cheques, free ATM-cum-debit card, free ATM and direct debit transactions at self and other banks' ATMs and free statement of account. SB Account holders are not separately charged for each of these services and SCBs have to recover the costs towards these services from the interest payable on SB Account deposits. This could be one of the reason for SBIRs being lesser than interest rates on Term Deposits where the said costs are not incidental.

7.7.4 *Use of Core Banking System ('CBS'):* Banks operate on CBS platform, and offer sweep facility whereby beyond a certain limit, excess amount in SB Account is transferred to fixed deposit and starts earning a higher rate of interest automatically. Given such options, it is irrational on the part of Sample Banks to collude for determining SBIRs, as customers have the option to shift to Term Deposits without any difficulty whatsoever.

7.7.5 *Rate of Interest on Post Office deposits:* Postal Department of the Government runs various small saving schemes including savings bank, recurring deposits, National Saving Certificates, Kisan Vikas Patras *etc.* The department operates these schemes through its network of post offices across the country. In total savings bank deposit, it is at 12$^{th}$ position. It is neither a member of IBA nor under the supervision of the RBI. The interest rate is decided by the Government and is calculated on the minimum balance during a calendar month. It is observed that the interest rate for the Post Office Savings Bank Account is four (4) percent since June 2011. In fact, considering the annual compounding and absence of daily product, effective rate offered by Post Office is less than four (4) percent. Moreover, facilities like debit card, NEFT/RTGS/ bill payment *etc.* are not provided by Post Office Savings Bank Accounts. Thus, SBIRs offered by SCBs is higher than the rate offered by the Government of India on similar deposits.

7.7.6 *Competition from Payments Banks*: SCBs face competition from Payment Banks like PayTm Payments Bank ('**PPB**'), Airtel Payments Bank ('**APB**') and India Post Payments Banks ('**IPPB**'), which are prominent in digital payment sphere. The maximum amount in accounts offered by Payments Banks is limited to rupees one lakh at any point of time. While APB offers seven and a quarter (7.25) percent interest on the deposits, the other two payments banks are offering four (4) percent only. These Payments Banks are not yet members of IBA and do not offer services like cheque clearing, ATM/Debit cards *etc.* Yet, they are offering interest rate of four (4) percent only.

7.7.7 *Other factors:* SB Account is a hybrid of deposit and transaction account *i.e.* a demand deposit, payable whenever asked for by the customer. As suggested by the RBI, interest payable on SB Account deposits must be lower than the interest payable on Term Deposit of the lowest tenure *i.e.* seven days. It was observed that the rate of interest on Term Deposits of seven days' for major SCBs like SBI, ICICI, HDFC ranged between three and a half (3.5) percent to five (5) percent. Accordingly, SBIR remained static at four (4) percent.

7.8. On the basis of foregoing considerations, investigation concluded that SCBs operate in a common banking market and are affected by changes in the liquidity position, policy rates, economic factors *etc.* in almost a uniform manner and accordingly behave in a similar way. For example, SBIRs were reduced by all major banks after around seven months of demonetisation due to additional interest burden on account of high deposits. Such corrective course of action may appear to be a parallel conduct but it lacks concerted efforts. Thus, similarity in SBIRs across different SCBs, even after its deregulation, was found to be a result of independent and comprehensive assessment of the respective SCBs.

***B. Concerted action with respect to levy of service charges***

7.9. The investigation looked into various studies/reports of the Banking Codes and Standards Board of India ('**BCSBI**') to examine the issue of similarity of banking charges across SCBs.

7.9.1. In 2012, BCSBI study under the title '*Study of Charges levied by banks for Certain Services'* [2012] (**Report 1**) analysed the Tariff Schedule, Account Closure Charges and Charges for issue and cancellation of Demand Drafts ('**DDs**'), Pay Orders ('**POs**')/Bankers' Cheques ('**BCs**') and observed differing or a wide range of account closure charges, penalty for not maintaining minimum balance and commission charged for issuance and cancellation of DDs, POs and BCs. This study of BCSBI suggests that different banks levied different charges for same or similar service.

7.9.2. Upon reviewing Report 1, the RBI suggested BCSBI to undertake another study on specific aspects like transparency, cross-subsidisation and basis of pricing various services offered by SCBs. Accordingly, BCSBI conducted such study in 2013 ('**Report 1A**') and concluded that '*Some banks were found to be* *taking into account cost implication while fixing charges* [SBI, HDFC, Axis, Standard Chartered and HSBC], *while other banks were only taking into account competition by comparing charges levied by peer group banks*'. On a close examination of various aspects dealt in Report 1A, the investigation concluded that SCBs unilaterally decide their service charges with due regard to the charges levied by peer/ competitor banks.

7.9.3. In 2015, BCSBI undertook a study on charges levied for SMS alerts ('**Report 2**'). In this study, the charges of forty-eight banks from private and public sector were analysed. It was found that twenty-two banks levied service charges on lump sum basis, fifteen banks charged customers on actual basis and the remaining eleven banks provided the service free of cost.

7.9.4. In 2015, BCSBI undertook another study ('**Report 3**') on service charges levied for some common services used by individual customers and found that different banks had different methods to reckon minimum balance in the account. While some stipulated daily minimum balance, others prescribed average balance on monthly or quarterly basis, or linked the aspect with average relationship value.

7.10. From a perusal of various studies undertaken by BCSBI, conducted from the perspective of reasonableness of the charge, customer interest and transparency in publicity of the charge, the investigation concluded that there exists a large variety and dissimilarity in different service charges levied by SCBs which indicates that the same are decided independently and unilaterally, and there is no uniformity or parallelism.

7.11. Besides the BCSBI reports, the investigation also examined service charges of large banks such as PNB, SBI, ICICI, BOB, BOI, CBI *etc.* between 2015 and 2017. These details gathered from the websites of said banks, showed variation in service charges levied for issuance of cheques, executing stop payment instructions, account closure, issuance of DDs and failure to maintain minimum balance requirement. However, charges applicable for Real Time Gross Settlement ('**RTGS**'), National Electronic Funds Transfer ('**NEFT**') and SMS alerts were similar as all these services involve external agencies such as telecom companies for SMS alerts and the RBI for NEFT/ RTGS.

7.12. On the ATM charges, the investigation found that cost incurred for servicing ATM transactions vary from bank to bank. This was close to rupees twenty (20) per transaction in case of HDFC and BOI; was more than rupees twenty (20) per transaction for ICICI, BOB and PNB. Beyond the free ATM transactions, most banks were found to levy rupees twenty (20) per ATM transaction as this is the maximum price banks can charge for the said service, in terms of the RBI circular dated 14$^{th}$ August, 2014.

7.13. The investigation did not reveal any parallel behaviour with respect to SMS alerts and each bank was seen to have its own benchmark to charge the customers.

7.14. The process for determining service charges was also different from bank to bank. In SBI, any proposal relating to revision of service charges goes through several levels of approvals by senior management before being sanctioned by its Executive Committee to the Central Board (ECCB). In ICICI, the authority to revise service charges has been delegated to one of its Whole Time Director. In case of HDFC Bank, authority to determine service charges upto a certain limit has been delegated to the

Country Head - Retail Liabilities, Marketing and Direct Banking Channels.

7.15. Based on the discussion above, DG found that SCBs undertake independent and comprehensive assessment for revising their service charge(s). This includes assessment of financial impact and charges levied by peer banks. Overall, the practice of SCBs appears to be in line with oligopolistic interdependence which is generally visible in a large market with limited number of participants.

*Role of IBA in determination of service charges*

7.16. The minutes of IBA's *Committee on Retail Banking* meeting held on 15th March, 2012, shows that Department of Financial Services ('**DFS**'), Government of India had requested IBA to review the structure of service charges levied by different banks after deregulation of SBIR. IBA had always maintained the stand that neither it nor RBI should decide the service charges to be levied by banks and same should be left to the discretion of the individual banks. For instance, upon considering Report 1 of BCSBI on 2nd July, 2012, IBA expressed that its members were of the view that since service charges were deregulated, banks were free to fix charges in regard to rendering various services. The Managing Committee of IBA was of the view that service charges should be left to be decided by the market forces, and the Association [IBA] need not issue any guidelines or stipulate any benchmark rate.

7.17. The investigation further revealed that IBA has refrained from circulating standard benchmark charges to its member banks even upon request of BCSBI. IBA did not suggest or fix any service charge and reaffirmed its stance on such levy being the domain of individual banks. IBA was aware of the fact that any prescriptive decision by it could be understood to be against the provisions of the Act in addition to being an unfair trade practice. Taking all this into consideration, the investigation concluded that IBA had no role in determination of services charges levied by various banks.

8. The investigation hence, could not find any material or evidence indicating collusion amongst SCBs or any role played by IBA in determination of SBIR and/or service charges. These were, in fact, found to have been independently decided by the respective SCBs, based on their assessment of cost and competitive position in the market. The service charges of SCBs were found to be dissimilar. Hence, the DG concluded that no case of contravention of the provisions of Section 3 of the Act has been made out.

**Analysis**

9. The Commission has given a careful consideration to the Investigation Report. This matter was taken up by the Commission on *suo motu* basis to examine the parallel behaviour of banks in offering similar SBIRs and levying similar service charges, and the role, if any, played by IBA in determination of the said rate or charges, as the case may be. Upon consideration of the Investigation Report, the Commission decides as under:

9.1 At the outset, it is observed that out of the Sample Banks, BOB, BOI, CB and Axis did not discuss SBIRs in any of their meetings. ALCOs of the other Sample Banks *viz.* SBI, ICICI, HDFC, PNB, UBI and CBI had discussion regarding SBIRs but for different reasons chose not to change the SBIRs. Soon after deregulation, CBI was the first bank to discuss the issue of SBIR in its meeting dated 28th October, 2011. From the minutes of its ALCO meeting, it is seen that CBI considered the impact of an increase of fifty basis points (bps) *i.e.* half a percent in SBIR on the cost of funds and estimated a rise to result in increased cost by more than seven percent, which would have to be recovered from the borrowers of retail loans. Therefore, CBI deliberately decided not to enhance the SBIR. PNB considered SBIR in its meeting dated 29th October, 2011 and decided not enhance the same as no other major bank did so. PNB also believed that SB Accounts were more influenced by customer service and were not sensitive to interest rate to a large extent. Similarly, SBI in its meeting held on 3rd December, 2011 took note of certain smaller banks increasing SBIR but no impact on the growth of SB deposits in SBI was felt. Therefore, it decided to maintain the same SBIR *i.e.* four (4) percent. In its meeting held on 31st October, 2011, ICICI noted that unlike smaller banks, increase in SBIR by one hundred bps would have a significantly negative impact on the net interest income and therefore, it decided not to increase the SBIR. The in-depth investigation by the DG did not reveal any incriminating material suggesting cartel amongst the banks. Thus, the Commission is of the view that SBIRs offered by the banks are an outcome of their independent assessment of market conditions and not of any collusive arrangement.

9.2 After six years of deregulation of SBIR, some SCBs namely, SBI, Axis, BOB, HDFC, ICICI, Yes Bank reduced their SBIRs one after the other. SBI was the first to adopt reduction on 28th July, 2017. However, no meeting of IBA is seen to have taken place during this period. A reading of the relevant minutes of SBI suggests that reduction in SBIR was attributed to increased liquidity post demonetisation. A close look at the reduction by different Sample Banks shows that these banks reduced SBIR for different buckets and at different intervals. For example, SBI revised SBIR to three and a half (3.5) percent for deposits less than rupees one (1) crore with effect from 31st July, 2017, whereas, ICICI Bank revised its SBIR to three and a half (3.5) percent for deposits less than rupees fifty (50) lakhs, with effect from 19th August, 2017. Yes Bank revised its SBIR from six (6) percent to five (5) percent for balances less than rupees one (1) lakh. The investigation has concluded that reduction in SBIRs by SCBs was based on independent assessment of market conditions, and the main driver for the reduction was excess liquidity position resulting from demonetisation.

9.3 It is also relevant to note that Term Deposits across SCBs are around three (3) times the SB Account Deposits. The investigation has found that the Sample Banks regularly review the Term Deposit rates in their ALCO meetings and each bank has separate slabs attracting different rates of interest, which is substantially higher than the SBIRs. Thus, SCBs seem to be competing rigorously on Term Deposit rates and there appears no incentive for them to collude for determining SBIRs, as the interest outgo on SB Account deposits is substantially lesser than interest paid on Term Deposits.

9.4 In the digital age, all banks are working on CBS system, in which sweeping facility can be availed by SB Account customers whereby excess funds in SB Accounts shift to Term Deposits and start earning higher interest rate. This again raise a question on the incentive for SCBs to collude for determining the SBIRs.

9.5 The SCBs incur considerable costs towards facilities offered to SB Account holders. These include provision of cheque book, ATM cum debit card, free ATM transactions, direct debit, stop payment charges, fund transfers, statement of accounts *etc.* Generally, customers are not directly charged for these services, but these costs are recovered from the interest payable. Such costs are generally not incidental to Term Deposits and as a result, rate of interest on Term Deposits is higher than SBIR. Moreover, for considering any change in SBIRs, a bank would require information on cost of servicing SB accounts which is a tedious exercise and would entail costs in terms of resources and time required for estimation. These may be the factors influencing static SBIRs and frequent revision of Term Deposit rates.

9.6 With increasing e-commerce transactions and more and more digital payments, Payments Banks are likely to gain significance. These have the potential to aggressively compete with some of the SB Account services offered by SCBs. It is seen that Payments Banks such as APB, IPPB and PPB were able to gain notable presence within a small period of time. One of the other banking option is Post office, whose effective annual rate of interest is less than four (4) percent.

9.7 Some private SCBs namely, Kotak Mahindra Bank, Yes Bank, IndusInd Bank and RBL Bank were found to offer higher SBIR but were unable to attract/shift any significant customer base of major SCBs. Further, the investigation found SCBs to offer a variety of SB Accounts with different minimum balance requirements. Different types of services are provided either free or at reduced rates. As noted earlier, SB Account customers appear to be less price sensitive and are more concerned with the customer-service, convenience and other ancillary facilities offered by them. This reinforces the fact that SCBs are competing more on non-price factors like debit cards acceptable at various pay points, different minimum balance requirements, payment of utility bills, free cheque books, alert facilities, waiver of charges for loyal customers, better customer care services *etc.* These suggest that SCBs apparently had no compulsion to revise their SBIRs.

9.8 On the issue of similarity in service charges, it is noted that rates of SCBs for different types of services varied significantly. The studies of BCSBI, which covered public, private and foreign banks, suggest that there was no similarity in charges levied by different banks for various services like account maintenance, account closure, issue and cancellation of DDs, POs, BCs, ATM transactions, SMS alerts *etc.* They also reveal that very few SCBs conducted costing exercise, in addition to considering the charges levied by peer banks, for imposing/ revising service charges. As similarity of service charges across banks is not observed, Commission is of the view that there has not been any collusion amongst the SCBs for determining service charges as well.

9.9 As regards role of the IBA, investigation could not bring forth any material indicating use of its platform to decide or implement similar SBIRs by banks. This is further reinforced by the fact that private SCBs such as Yes Bank, Kotak, IndusInd Bank are offering higher SBIRs despite being members of IBA. Even on the recommendation of BCSBI to IBA for issuance of guidelines on certain service charges, IBA took the stance that it will not prescribe any standard service charges and the same should be determined by individual banks having due regard to their costs and other relevant factors. Thus, it is difficult to draw an inference that IBA was used as a platform or was instrumental in determining similar SBIRs or coordinating service charges.

9.10 The Indian Banking sector has an oligopolistic market structure. Out of seventy (70) percent of the total SB Account deposits as on 31$^{st}$ March, 2016, around fifteen (15) percent are held by three private SCBs namely ICICI, HDFC and Axis. The remaining fifty-five (55) percent are held by seven PSBs. Among PSBs, thirty (30) percent is held by SBI and its five associate banks, followed by PNB holding around seven (7) percent. The left out eighteen (18) percent is held by remaining five PSBs, each holding around three (3) to five (5) percent. The sector is lopsided with few PSBs having majority share of Saving Deposits in Indian Banking sector. The lopsided structure of Indian banking leaves little incentive for banks, especially PSBs to compete for SB deposits on the basis of SBIR.

9.11 Further, PSBs have large branch network and therefore, have a deep reach all over India. This wide reach is not matched by competitors and thus, these large banks do not seem to face serious threat to their deposit base in the form of competition from smaller banks. Therefore, it is not imperative on the part of larger PSBs to try to match the higher SBIRs of smaller competitor banks like Kotak, IndusInd and Yes Bank, which are confined to urban areas. Moreover, customers are also aware that PSBs are backed by Government, so they trust PSBs more for their deposits' security. Therefore, PSBs have access to a secure deposit base and they have little incentive to compete on the basis of interest rates for SB deposits. These unique characteristics give rise to a '*Cozy Oligopoly*' in Indian Banking sector where there is little incentive for price competition in SB Account deposits.

10. In view of the foregoing, Commission is of the view that there is no reason to disagree with the findings of the DG as the material on record does not suggest any cartelisation amongst banks and/or IBA, between 2011 to 2016, to determine SBIRs or service charges. Accordingly, no case of contravention of the provisions of Section 3(3) of the Act is made out.

11. Accordingly, the Commission orders the matter to be closed in terms of Section 26(6) of the Act.

**Sd/-**
**(Devender Kumar Sikri)**
**Chairperson**

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

**Sd/-**
**(Justice G. P. Mittal)**
**Member**

**New Delhi**
**Dated: 24/04/2018**