



17.01.2019

Press Release No. 18/2018-19

CCI decides the third Lesser Penalty case in respect of cartelisation in Indian Zinc-Carbon Dry Cell Batteries Market

The Competition Commission of India (‘CCI’) passed a final order imposing penalty on Panasonic Energy India Co. Limited (‘Panasonic’) and Godrej and Boyce Manufacturing Co. Limited (‘Godrej’) for colluding to fix prices of zinc-carbon dry cell batteries in India. In respect of Panasonic, CCI granted 100 percent reduction in penalty by invoking the provisions of Section 46 of the Competition Act, 2002 (‘the Act’) read with the Competition Commission of India (Lesser Penalty) Regulations, 2009 (‘Lesser Penalty Regulations’).

The case was taken up by CCI *suo motu* under the provisions of Section 19 of the Act based on the disclosure made by Panasonic under Section 46 of the Act read with the Lesser Penalty Regulations. From the evidence collected in the case, which included an anti-competitive clause in the written agreement entered into between Panasonic and Godrej for supply of batteries, and e-mail communications between the key managerial personnel of the two of them, CCI found existence of a bi-lateral ancillary cartel between Panasonic and Godrej in the market of institutional sales of dry cell batteries. It was found that Panasonic, which had a primary cartel with Eveready Industries India Ltd. and Indo National Limited as established in *Suo Motu* Case No. 01 of 2016 by CCI, having fore-knowledge about the time of price increase to be affected by this primary cartel, used such fore-knowledge as leverage to negotiate and increase the basic price of the batteries sold by it to Godrej. Further, Panasonic and Godrej, in accordance with the prices of the primary cartel, used to agree on the market price of the batteries being sold by them, so as to maintain price parity in the market.

Based on the above, CCI found that Panasonic and Godrej have indulged in the anti-competitive conduct of price co-ordination, in contravention of the provisions of Section 3 (3) (a) read with Section 3 (1) of the Act. It was observed that such conduct continued from 13.01.2012, when Panasonic and Godrej entered into a written agreement, till 30.11.2014, when Godrej terminated the said agreement.

Considering all the relevant factors, penalty on Panasonic was levied at the rate of 1.5 times of its profit for each year from January 2012 to November 2014 amounting to INR 31.76 crores, and on Godrej at the rate of 4 percent of its turnover for each year from January 2012 to November 2014 amounting to INR 85 lacs. Also, considering the totality of facts and circumstances of the case, penalty leviable on the individual officials of Panasonic and Godrej was computed at the rate of 10 percent of the average of their income for the preceding three years. As to Panasonic, to the officials of Panasonic also, 100 percent reduction in penalty was granted under the provisions of Section 46 of the Act read with the Lesser Penalty Regulations.