

Competition Commission of India Imposes Penalty of Rs. 2544.64 crores on 14 Car Companies

The Competition Commission of India ('the Commission') has found 14 Car Companies to be in contravention of the provisions of the Competition Act, 2002 ('the Act'). The informant, Shri Shamsher Kataria, had approached the Commission alleging anti-competitive conduct by 3 Car Companies in not allowing the spare parts and after sale services market to grow to the detriment of consumers and independent repairers. In view of prevalence of anti-competitive issues throughout the automobile industry, the Commission directed the Director General (DG) to include other car companies also under the scanner of its investigation.

Ensuing detailed investigation, the Commission found that the conduct of the Car Companies was in violation of the provisions of section 3(4) of the Act with respect to its agreements with local Original Equipment Suppliers (OESs) and agreements with authorized dealers whereby it imposed absolute restrictive covenants and completely foreclosed the aftermarket for supply of spare parts and other diagnostic tools. Further the Commission found that the said companies, who were found to be dominant in the aftermarkets for their respective brands, abused their dominant position under section 4 of the Act and affected around 2 crore car consumers. The 14 car companies were found to be indulging in practices resulting in denial of market access to independent repairers as the latter were not provided access to branded spare parts and diagnostic tools which hampered their ability to provide services in the aftermarket for repair and maintenance of cars. Having a monopolistic control over the spare parts and diagnostic tools of their respective brands, the car companies charged arbitrary and high prices for their spare parts. The car companies were also found to be using their dominant position in the market for spare parts and diagnostic tools to protect their market for repair services, thereby distorting fair competition.

The Commission has prescribed corrective measures to make the automobile market more competitive and to put an end to the present anti-competitive conduct of the car companies. While deciding the case, the Commission was guided by two prime motivations i.e. (i) to enable the consumers to have access to spare parts and to have freedom of choice between independent repairers and authorized dealers and (ii) to enable the independent repairers to participate in the aftermarket and provide services in a competitive manner.

Accordingly, Commission, under Section 27 of the Act, directed the car companies to cease and desist from indulging in conduct which has been found to be in contravention of the

provisions of the Act. The car companies were also directed to adopt appropriate policies which shall allow them to put in place an effective system to make the spare parts and diagnostic tools easily available in the open market to customers and independent repairers. Further, the Commission directed the car companies not to put any restrictions or impediments on the operation of independent repairers/garages. Other behavioural remedies to ensure a competitive market conditions were also prescribed by the Act.

Commission also imposed a penalty calculated at the rate of 2% of the average turnover of the 14 Car companies amounting to Rs. 2544.64 crores in aggregate. The penalty is to be deposited within 60 days of receipt of the order.

Detailed order can be seen at commission's website www.cci.gov.in