

Competition Law Bulletin

From the Editor's Desk...

Dear Reader,

Season's Greetings!

The Competition Commission of India (CCI) gets more aggressive in its sanctions against anti-competitive practices during the last quarter. Recent orders by CCI including imposition of penalty on Board of Control for Cricket for abusing its dominant position while conducting Indian Premiere League, All India Organization of Chemists and Druggists for limiting/denying market access to stockiest, fixing trade margins etc. have sent a strong message to the industry.

Similarly, after imposing a huge penalty on DLF, CCI recently modified the terms and conditions of the flat buyer agreement, although, the same has been stayed by COMPAT till the final disposal of the main case.

Taking the compliance of the provisions relating to Combinations seriously, CCI in two different cases imposed a penalty of ₹ 5 Lakhs and ₹ 1 Crore on Dewan Housing Finance Corporation Limited and Titan International, respectively, for belated filing of Combination notice.

In view of the above emerging trend, it will be advisable for all prudent corporate to seriously consider having a Competition Compliance Program in place, to avoid falling on the wrong side of the law.

On the positive side, the long controversy for exempting the banking sector from CCI's purview has been resolved by restricting such exemption to only failing banks. Further, by a recent amendment dated April 4, 2013, CCI has further liberalized the filing requirements for Combination notices in respect of benign transactions which are not likely to have any adverse affect on competition by fine tuning the existing Combination Regulations.

The Competition (Amendment) Bill, 2012 has also since been introduced in the Lower House of the Parliament (Lok Sabha) and is likely to be sent to the Upper House (Rajya Sabha) in the extended Budget Session commencing from April 22, 2013.

Happy reading!

Yours truly,



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INDIAN-PERSPECTIVE

SPECIAL FEATURE

A. CCI fines BCCI for abusing its dominant position

The CCI by way of order dated February 8, 2013 in *Surinder Singh Barmi v. Board of Control for Cricket in India*, has imposed a penalty of ₹ 52.24 Crores at the rate of 6%



of the average turnover for the last three preceding financial years on the Board of Control for Cricket in India (BCCI) for abusing its dominant position by restricting competition while conducting Indian Premier League (IPL) tournaments.

Facts of the Case

The Information was filed by Mr. Surinder Singh Barmi on November 2, 2010 alleging irregularities with the BCCI's grant of franchise rights, media rights and sponsorship rights in the context of the IPL.

Issues involved

Whether BCCI is an Enterprise under the Act: The CCI held that BCCI is an "enterprise" under the Competition Act, 2002 (Act) because the BCCI's role as ICC governing body for cricket in India was both as a "custodian" for the game and also that of "organizer" of matches. Although, BCCI was a "not for profit" society, its activities were revenue generating (e.g., it sold media rights as well as tickets). Accordingly, the CCI held that insofar as their entrepreneurial (i.e., revenue generating) conduct is concerned, all sports associations are to be regarded as "enterprises" for the purposes of the Act and treated at par with other business establishments.

Determination of Relevant Market: The CCI found that the relevant market was the "organization of private professional cricket leagues/ events in India." In this finding, CCI differentiated

- sports from other forms of television (including movies and general entertainment programs),
- cricket from other forms of sport, and

- first class/international cricket (e.g., Test Matches, One Day Internationals, or Ranji Trophy cricket) from cricket played in "private professional leagues" (such as the IPL).

The differentiations are based on qualitative and subjective demand considerations (e.g., "every sports event is unique in itself") as well as some viewer data.

Dominance of BCCI: The CCI observed that BCCI's dominance arises inter alia from its regulatory powers, control over infrastructure, control over players, ability to approve/ control the entry of other leagues, and "monopoly status, its ability to "approve leagues" and considers that to be "critical to the organization and success of any competing league." BCCI's ability to control an input which is indispensable to the success of cricket events is also a source of dominance for it."

Abuse of dominant position by BCCI: CCI held that the BCCI abused its dominant position by:

- Denying market access to potential competitors to the IPL by "binding itself" not to organize, sanction, or recognize any private professional domestic leagues/ events other than the IPL; and
- Limiting the number of franchisees in one private professional league (the IPL).

Observations of CCI: CCI observed that BCCI's economic power is enormous as a regulator that enables it to pick winners. "BCCI has gained tremendously from the IPL format of cricket in financial terms. Virtually, there is no other competitor in the market, nor was anyone (e.g. ICL) allowed to emerge, due to BCCI's strategy of monopolizing the entire market. The policy of BCCI to keep out other competitors and to use their position as a de facto regulatory body has prevented many players who could have opted for the competitive league-ICL."

Order of CCI: Apart from imposing the penalty of ₹ 52.24 Crores, CCI has directed BCCI to cease and desist from any practice in future denying market access to potential competitors, including inclusion of similar clauses in any agreement. CCI has also asked BCCI to desist from using its regulatory powers in any way while considering and

deciding on any matters relating to its commercial activities. CCI has further directed that BCCI will set up an effective internal control system to its own satisfaction, in good faith and after due diligence.

(Source: Competition Commission of India: Order dated February 8, 2013)

Comment: Order is quite significant in as much as it rejects the defence of “one-federation-per-sport”, put forth by BCCI before the Commission. The Commission rightly held that the principle did not automatically grant monopoly rights to sports federations. The single federation is supposed to lay down the “safety guidelines” or the parameters under which the particular sport will be played and the rules of the game. Further, the Commission held that the International Cricket Council's rules regarding “disapproved cricket” – cricket that is not recognised by a national federation – is no doubt restrictive. This is the clause, which gave the BCCI the power to refuse recognition to the Indian Cricket League. The competition authority of any country will have the power to strike down such rules. Under Section 32 of the Competition Act, the CCI can examine transactions that take place outside India if it has an effect on competition in India. Sports Federations have to be reasonable in the exercise of their powers. Their monopoly status is for regulating the game. The problem starts when they start using their regulatory powers to stop competition from entering into the various commercial activities also controlled by them. .

B. CCI further amends the Combination Regulations, 2011

CCI by way of Gazette Notification dated April 4, 2013 has published the “The Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2013 (No. 1 of 2013)”, under Section 64 of the Act further amending the existing Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011. (**‘Combination Regulations’**).

The major changes made in **Schedule I** (Regulation 4) of the Combination Regulations are as under:



- A new **Category 1A** has been inserted which provides that there is no requirement to file the notice if an acquisition of additional shares or voting rights of an enterprise by the acquirer or its group, not resulting in gross acquisition of more than 5% of the shares or voting rights of such enterprise in a financial year, where the acquirer or its group, prior to the acquisition, already holds 25% or more shares or voting rights of the enterprise, but does not hold 50% or more of the shares or voting rights of the enterprise, either prior to or after such acquisition, provided that such acquisition does not result in acquisition of sole or joint control of such enterprise by the acquirer or its group.
- In **Category 5** two new items – “trade receivables” and “other similar current assets” have been inserted.
- **Category 8** has been modified to provide more clarity for intra-group acquisitions. As per the new Category 8 substituted for the existing one, an acquisition of shares or voting rights or assets, by one person or enterprise, of another person or enterprise within the same group, is exempted, except in cases where the acquired enterprise is jointly controlled by enterprises that are not part of the same group.
- **Category 8A** relating to intra-group mergers and amalgamations stands omitted.
- **Category 9** has been substituted by inserting that there is no requirement to file the notice if a merger or amalgamation of two enterprises where one of the enterprise has more than 50% shares or voting rights of the other enterprise, and/or merger or amalgamation of enterprises in which more than 50% shares or voting rights in each of such enterprises are held by enterprise(s) within the same group: provided that the transaction does not result in transfer from joint to sole control. This means that the *exemption granted to the intra-group mergers and amalgamations between holding companies and its subsidiaries and between subsidiaries owned by enterprises belonging to the same group, by the 1st Amendment has now been modified to the above extent.*

- Further, the exemption earlier granted to acquisition of current assets in the ordinary course of business by the 1st Amendment has now been included in Category 5, as above.

Background: The term 'Combination' has not been defined under the Act but includes the following categories of transactions, only when the parties to the transactions, either singly or collectively, exceed the threshold limits specified under Section 5 of the Act in terms of assets or turnover:

- Acquisition of controls, shares, voting rights or assets;
- Acquisition of control by a person over an enterprise where such person has control over another enterprise engaged in competing business;
- Merger or amalgamation between or amongst enterprises.

Any entity which proposes to enter into a Combination has to notify CCI within 30 days from the date of approval of the proposed transaction by the Board of Directors of each party in cases of mergers and amalgamations or signing of any definitive agreement or any binding document in case of acquisitions. If CCI concludes that the proposed Combination will cause or is likely to cause an appreciable adverse effect on competition within the relevant market in India, it can either prohibit it or propose suitably modification to the proposal such as divestiture etc. before grant of approval.

The "Combination Regulations" were brought in to force by CCI on June 01, 2011, simultaneously with the enforcement of the merger control provisions (section 6) of the Act by the Central Government (after a series of interactions with all stakeholders including the Apex Industry Chambers, Law Firms etc.) whereby a Schedule I of Regulation No. 4 of the Combination Regulations, dealing with transactions which are unlikely to cause an appreciable adverse effect on competition, in the relevant market in India, was, inter-alia, introduced. Such transactions do not normally require the filing of a Notice to CCI under Section 6 of the Act.

The Combination Regulations were first amended on February 23, 2012 through the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment, Regulations 2012,, wherein, inter-alia, some clarificatory changes were made in Schedule I, such as

exempting certain types of intra-group mergers and amalgamations, which were not covered under the original Combination Regulations of 2011.

CCI passes orders for closure of certain matters

CCI has passed orders in 198 cases of Information's filed under Section 3 and 4 of the Act and 22 cases of investigations transferred from the erstwhile Director General of Investigation & Registration (DGIR). The full texts of the said orders are duly displayed on CCI website www.cci.gov.in.

CCI approves fourteen more 'Combinations' within 30 days

Keeping its promise of fast track disposal of merger regulations, CCI has approved 14 more Combinations between January 2013 – March 2013, within 30 days from the date of filing of Notice under the Combination Regulations, 2011 holding in each case that the proposed 'Combination' was not likely to cause an appreciable adverse effect on competition in the relevant markets in India. Overall, since June, 2011 till March 2013, CCI has approved 122 combinations. Full Text of the Orders can be viewed on the CCI website www.cci.gov.in.

Media Updates

CCI penalizes AIOCD for anti-competitive practices



CCI has directed All India Organisation of Chemists and Druggists (AIOCD) to cease and desist from indulging in anti-competitive practices in violation of Section 3 of the Act. Besides, the Commission has also imposed a penalty of ₹ 47. 41 Lakhs on the association at the rate of 10% of its average turnover for the last three years. The case against AIOCD was filed by Santuka Associates, a C&F agent based at Cuttack alleging that the AIOCD was abusing its dominant position by imposing unfair and discriminatory conditions which has the effect of limiting/denying market access to genuine stockiest, distributors and C&FAs unless they submit to its dictates and mandates. The Commission in its order dated February 19, 2013, has also directed the

AIOCD to file an undertaking that the practices carried on by it and its members regarding grant of NOC for appointment of stockiest, fixation of trade margins, collection of PIS (product information service) charges and boycott of products of pharmaceutical companies have been discontinued within 60 days from the date of receipt of this order.

(Source: Competition Commission of India: Order dated February 19, 2013).

CCI modifies DLF-flat buyer agreements

CCI by way of order dated January 3, 2013, in the case of *Belaire Owner's Association Vs DLF Limited, HUDA & Ors.* has modified clauses in agreements



between DLF and apartment buyers after a direction was issued by the Competition Appellate Tribunal ('COMPAT') in March 2012, in the ongoing appeal filed by DLF, to pass an order specifying the extent and manner in which the terms and conditions of the apartment buyer's agreement needed to be modified. The amendments come in the form of a supplementary order under section 27(d) of the Act.

Key Amendments proposed are:

- Disallowed any additional construction beyond the approved building plan given to the buyers.
- The builder will no longer have sole ownership of open spaces within the residential project area not sold. The CCI has instead suggested a joint ownership mechanism among the owners of the project.
- The "time of essence clause", which was typically in contracts to enable one party liable in the event that the other party defaults in their contractual obligation, will now be applicable to both builder and allottees. Till date the agreements are skewed in favour of the builder - with only the buyer being liable for any defaults.

- Dropped the indemnification clause from the agreement. This clause was used to hedge owners from legal issues due to the builder's contractual obligations.
- The new agreement also stipulates that all payments made by the buyers must be based on construction milestones and not 'on demand' as is the current practice with most builders.
- Removed the clause stating that the builder will form the 'owner's association' on the behalf of the owners.
- The clause which is likely to cause most distress to the builders is regarding the ownership of open spaces, as this will result in a direct financial implication. This is an area of high profitability for the builder.

However, COMPAT on application moved by DLF has stayed the implementation of the proposed amendments till the final disposal of appeal.

(Source: Competition Commission of India: Order dated January 03, 2013).

CCI exonerates Multiplex Association of India (MAI)



CCI by way of order dated January 3, 2013 in the case of *M/s Film & Television Producers Guild of India Vs Multiplex Association of India (MAI)*

Mumbai & Ors. has exonerated the charges of cartelisation and abuse of dominance against the Multiplex Association of India (MAI), for want of evidence pursuant to the investigation into such charges levelled by the film producers. The Information was filed before CCI by the producers through Film and Television Producers Guild of India (FTPGI), which alleged that MAI and its 14 members forced the producers to accept their own terms with a threat of not exhibiting the film in their multiplexes. The members of the Multiplex Association of India (MAI) include PVR, DT Cinemas, Reliance MediaWorks, Inox Leisure, Cinemax and Satyam Cineplexes. CCI exonerated the association for want of evidence, although the Director General had found them guilty of cartelization under the ambit of MAI.

(Source: Competition Commission of India: Order dated January 03, 2013).

CCI fines NBFC for belated filing of Merger Notice

CCI by way of order dated January 3, 2013 has imposed a token fine of ₹ 5 lakhs on Dewan Housing Finance Corporation Ltd. (DHFL) for belated filing of Merger Notice. DHFL filed



the Merger Notice seeking approval of the proposed Combination much late after their respective boards approved the deal. Although, CCI had approved the merger of Dewan Housing Finance Corp's two arms - DHFL Holdings and First Blue Home Finance, with the parent company.

(Source: Competition Commission of India: Order dated January 3, 2013)

CCI contemplating antitrust cooperation with European Union, Australia

CCI is contemplating to enter into an antitrust cooperation agreement with EU and Australian Competition Authority to strengthen international cooperation and exchange of global best practices. The CCI has already signed Memorandums of Understanding with the antitrust authorities of US and Russia.

(Source: The Indian Express: January 14, 2013)

Central Government exempts failing banks mergers from CCI purview

Finally, the long controversy of exemption of the banking sector from the purview of the Act has been resolved. Central Government by way of Notification S.O. 93(E) dated January 8, 2013, has exempted



merger and takeover plans for loss-making and failing Banking companies in respect of whom the Central Government has issued a notification under Section 45 of the Banking Regulation Act, 1949 for suspension of banking etc., from the application of Section 5 and 6 of the Act dealing with 'Combination', for a period of five years from the date of publication of the notification.

(Source: Central Government Notification dated January 8, 2013).

CCI investigating Asbestos Cement Sheet Manufacturers for alleged cartelization



CCI has started a suo motu investigation into the alleged anti-competitive practices in asbestos cement sheet industry. The role of Asbestos Cement Products Manufacturers Association is also under investigation for facilitating the cartel. Asbestos

cement sheets are widely used for roofs in low cost houses sheds warehouses etc. and is mainly used in the rural areas. The market of asbestos cement sheets consists of 20 big firms and 68 manufacturing units, of which top six players hold 87% of the market share. High concentration in the market, product homogeneity, inelastic demand for the product and active association of manufacturers are some factors, which led to initiation of investigation.

(Source: The Economic Time: February 20, 2013)

CCI investigating Adani Gas for abusing its dominant position



CCI has started an investigation into alleged abuse of dominant position by Adani Gas Ltd (AGL) in providing natural gas to commercial and domestic

users in Faridabad. The investigation was triggered pursuant to Information filed by Faridabad Industries Association (FIA). FIA alleged that AGL is putting 'unilateral and lopsided' terms and conditions in Gas Sales Agreement (GSA) with its buyers.

(Source: The Business Standard: January 10, 2013)

Hyundai gets High Court stay against CCI auto parts investigation



Hyundai Motors has obtained a stay order from the Madras High Court against the CCI proceedings on alleged anti-competitive practice of selling spare parts at higher prices by car makers. Hyundai was among the 17 carmakers that the CCI is investigating. Hyundai Motors

argued that CCI had suo moto expanded the scope of investigations to the entire car industry even though it had originally received an Information against three carmakers, Honda, Volkswagen and Fiat.

(Source: The Economic Time: February 20, 2013)

CCI finds 29 suppliers of 'anti-theft elastic rail clips' guilty of bid-rigging

CCI by way of order dated February 21, 2013, directed 29 suppliers of 'anti-theft elastic rail clips' to "cease and desist" from anti-competitive practices including bid-rigging under section 3(3) of the Act. CCI started the investigation after receiving Information by South Eastern Railway alleging bid-rigging in procurement of 'anti-theft elastic rail clips' 29 suppliers. CCI also observed that this is a fit case where "imposition of penalty is not warranted". The order was passed against Orissa Concrete and Allied Industries, Rishi Engineering and Construction, Mam Kur Poly Machines, Vee Kay Industries, Logwell Forge, Asra Steels, Gondwana Enterprises and Mahabir Metal etc.

(Source: Competition Commission of India: Order dated February 21, 2013)

CCI investigating Kamal Haasan's complaint against theater association

CCI started an investigation against 'Tamil Nadu Theatre Owners Association' for alleged anti-competitive practices in restricting the release of film 'Vishwaroopam'. After forming a prima facie view in the case, CCI has referred the matter for DG investigation. According to the Information filed by Kamal Hassan, the Association acted like a cartel with its members' concerted decision not to exhibit any film including Vishwaroopam if it was already released on DTH platform.



(Source: Competition Commission of India: Order dated January 16, 2013)

COMPAT DECIDES PENDING MRTP MATTERS

COMPAT continues to decide the pending cases under the repealed MRTP Act. As per information received from the COMPAT, it had disposed of 2046 cases till March 31, 2013, as per details below:

RTP cases	311
UTP cases	957
Compensation cases	765
MTP cases	09

INTERNATIONAL NEWS

European Union

EU Commission fines Microsoft for non-compliance with browser choice commitments



The European Commission (EC) has imposed a €561 million fine on Microsoft for failing to comply with its commitments to offer users a browser choice screen enabling them to easily choose their preferred web browser. In 2009, EC had made these commitments legally binding on Microsoft until 2014. EC finds that Microsoft failed to roll out the browser choice screen with its Windows 7 Service Pack 1 from May 2011 until July 2012. About 15 million Windows users in the EU did not see the choice screen during this period. Microsoft has acknowledged that the choice screen was not displayed during that time. The new fine brings Microsoft's total contribution to the EU budget over the years to a total of €2.2 billion.

(Source: European Commission: Press Release dated March 6, 2013)

EU Commission prohibits Ryanair's proposed takeover of Aer Lingus

EC has prohibited the proposed takeover of the Aer Lingus by the low-cost airline Ryanair. According to EC, the acquisition would have combined the two leading airlines operating from Ireland thereby harming consumers by creating a monopoly or a dominant position on 46 routes where, currently, Aer Lingus and Ryanair compete vigorously against each other. This would have reduced choice and, most likely, would have led to price increases for consumers travelling on these routes. During the investigation, Ryanair offered remedies. However the remedies proposed fell short of addressing the competition concerns raised by EC.

(Source: European Commission: Press Release dated February 27, 2013)

EU Commission blocks proposed acquisition of TNT Express by UPS

EC has prohibited the proposed acquisition of TNT Express by UPS. EC found that the take-over would have restricted competition in 15 Member States when it comes to the express delivery of small packages to another European country. In these Member States, the acquisition would have reduced the number of significant players to only 3 or 2, leaving sometimes DHL as the only alternative to UPS. During the investigation, UPS offered to divest TNT's subsidiaries in these 15 countries and allow the buyer to access its intra-European air network for five years. However, these remedies proved inadequate to address the identified competition concerns.



(Source: European Commission: Press Release dated January 30, 2013)

EU Commission fines Telefónica and Portugal Telecom € 79 million for illegal non-compete contract clause

EC has imposed fines of € 66 894 000 on Telefónica and of € 12 290 000 on Portugal Telecom for agreeing not to compete with each other on the Iberian telecommunications markets, in breach of Article 101 of the Treaty on the Functioning of the European Union (TFEU) which prohibits anti-competitive agreements. In July 2010, in the context of the acquisition by Telefónica of the Brazilian mobile operator Vivo, which was until then jointly owned by both parties, the parties inserted a clause in the contract indicating they would not compete with each other in Spain and Portugal as from the end of September 2010. The parties terminated the non-compete agreement in early February 2011, after the EC opened proceedings.



(Source: European Commission: Press Release dated January 23, 2013)

Others

Brazil: Fuel cartel fined heavily by CADE

CADE handed down a total of 120 million Brazilian reais (\$ 61 million) in fines in several cases involving price-fixing at gas stations. Three associations, 28 retail gas station companies and 31 people were "condemned" in six cases

that involved the Brazilian cities of Teresina, Bauru, Manaus, Caxias do Sul and Londrina. CADE turned to various methods, including phone taps, to detect violations of the Competition law in the six cases.

(Source: CADE: Press Release dated March 06, 2013)

China: National Development and Reform Commission (NDRC) imposes record fines for cartelization

- China's top luxury liquor makers Kweichow Moutai Co Ltd and Wuliangye Yibin Co Ltd have been fined a total of 449 million yuan (\$ 71.92 million) for resale price maintenance. The companies financially penalized third-party distributors who sold their premium "baijiu" alcohol at prices below levels set by the companies.

(Source: The Reuters: Press Release dated February 19, 2013)

- China's National Development and Reform Commission (NDRC) has fined six liquid crystal display (LCD) manufacturers namely Samsung, LG, AU Optronics, Chunghwa Picture Tubes, Chimei InnoLux, and HannStar a total of RMB 353 million (\$ 56 million) for their participation in a cartel to fix the price of LCD panels on the Chinese mainland between 2001 and 2006. These are by far the highest penalties ever imposed by the NDRC, though they are much less severe than those imposed by the United States and the European Commission, not to mention the prison sentences handed down to executives of the cartel members by U.S. courts. In addition to financial penalties, the NDRC imposed a set of commitments on the LCD manufacturers. The companies have promised to "strictly observe Chinese laws," to "fairly supply" Chinese television makers with new technologies, and to extend LCD warranties in China from 18 to 36 months.

(Source: China's National Development and Reform Commission: Press Release dated January 17, 2013)

Germany: The Federal Cartel Office fined companies heavily on cartelization

- Germany's Cartel Office (FCO) fined a number of consumer goods companies 39 million euros (\$51 million), including L'Oreal and Procter & Gamble in

Germany, for taking part in anti-competitive sharing of information. The companies had shared information between 2004 and 2006 during working groups on personal care, laundry and cleaning products. The information exchanged included upcoming price increases, discounts demanded by retailers and negotiations with retailers. The probe was triggered by Colgate-Palmolive, which escaped fines for its role as whistleblower. The office had already fined nine companies a total of 24 million euros as part of the same investigation in 2008 and 2011.

(Source: The Federal Cartel Office, Germany: Press Release dated March 18, 2013)

- FCO imposed fines of approx. € 41 million on 22 companies, the association of German mills and their representatives on account of their involvement in illegal agreements in the sale of flour. According to FCO, since 2001 representatives of the milling companies involved had agreed on prices, customer allocation and supply volumes in regular rounds of talks. In addition, the companies coordinated capacity planning by shutting down mills or preventing mills which had already been shut down from being returned to operation.

(Source: The Federal Cartel Office, Germany: Press Release dated February 19, 2013)

- FCO hit 11 chocolate and confectionery companies including Kraft Foods, and Nestle SA and their representatives with €60 million (\$81.5 million) in fines for operating an illegal price-fixing cartel in Germany in the late-2000s. The proceedings were initiated after a leniency application filed by Mars GmbH, against which no fine was imposed. According to FCO, the companies informed each other about demands from the retail trade for rebates from the other confectionery manufacturers and about how the manufacturers had reacted to these demands. This information enabled the companies to adjust their own strategies in the negotiations.

(Source: The Federal Cartel Office, Germany: Press Release dated January 31, 2013)

Korea: Korea fined schoolbook publishers for cartelization



Korea's Fair Trade Commission (KFTC) has fined four schoolbook publishers 900 million won (€640,000) for colluding to fix the price

of text books in online bookstores. The Commission also issued a cease and desist order to the Korea Federation of Bookstore Association which had involved in the publishers' discount rate collusion. Before launching the investigation, the KFTC monitored press reports and market activities regarding school reference book prices as new term began in 2012 and found suspicious attempts to fix the book discount rate.

(Source: Korea Fair Trade Commission: News Room dated January 14, 2013)

Mexico: America Movil's Telmex gets \$51.6 Million Antitrust Fine



Telmex, the Mexican landline unit of America Movil SAB, was fined 657 million pesos (\$51.6 million) by Mexican Competition Authority for abusing its dominant position. The sanction follows an investigation into the market

for lines leased to competitors. Telmex didn't provide service for almost two years to rival Axtel SAB in 32 cities and six inter-city routes.

(Source: Bloomberg News Report dated February 8, 2013)

Norway: Norway imposes record fines on asphalt cartel

The Norwegian Competition Authority has imposed administrative fines on Veidekke and NCC for price fixing and bid-rigging. Veidekke was fined NOK 220 million and NCC was fined NOK 140 million for illegal collusion during the period 2005-2008. The collusion consisted of market sharing, price-fixing and bid-rigging and the exchange of other strategic information in connection with asphalt tendering in the counties of Nord- and Sør-

Trøndelag, including the city of Trondheim. However, Veidekke approached the Competition Authority with information that led to the disclosure and proof of the collusion, and sought full leniency (immunity) from the fine.

(Source: Norway Competition Authority: Press Release dated March 5, 2013)

Pakistan: CCP imposes PKR 25 million fines on Institute of Chartered Accountants of Pakistan (ICAP) for violating competition act

The Competition Commission of Pakistan (CCP) has issued an order in the matter of prohibition imposed by the Institute of Chartered Accountants of Pakistan (ICAP) on the training of non-ICAP



accountancy students by their approved training organizations. The show cause notice had alleged that ICAP's Directive dated July 4, 2012 (the 'July Directive'), which prohibited ICAP's members and their accountancy firms from offering training opportunities to non-ICAP accountancy students, amounted to an anti-competitive decision of an association of undertakings in relation to the market for the professional training of accountancy students. CCP observed such a prohibition, issued by ICAP to protect its own economic interests, would stunt the growth in the accountancy services sector and reduce choices available in the market. CCP declared ICAP's prohibition to be in contravention of Section 4 of the Competition Act, 2010 (anti-competitive agreements) and, held to be without any legal force, fined ICAP PKR 25 million for the violation and restrained ICAP from issuing similar directives to its members in the future.

(Source: Competition Commission of Pakistan: Press Release dated January 10, 2013)

Turkey: Turkey fines banks €467 million for cartelization

Turkey's Competition Authority imposed record fines against 12 banks for allegedly colluding over interest rates. After almost two-and-a-half years of investigation, on

March 8 2013, the Competition Board announced the outcome of its high-profile investigation against 12 Turkish banks, including three state-owned banks, private Turkish banks and numerous international banks operating in Turkey. Banks colluded to harmonize their trade terms for cash deposit interest, credit and credit card fees, the board levied turnover-based monetary fine of TRY1.1 billion (approximately \$670 million or €481 million) against all 12 of the investigated banks, at different rates and nominal values. These rates varied between 1.5% and 0.3% of the defendants' 2011 turnovers.

(Source: Turkish Competition Authority: Press Release dated March 08, 2013)

UAE: New UAE antitrust legislation in force from February 23, 2013

On October 23, 2012, the United Arab Emirates enacted its Federal Competition Law, which laid down new rules on anti-competitive agreements, merger control and abuse of dominance. However, any actions by the Federal Government of the UAE or the local government of an Emirate (including "establishments owned or controlled by the Federal Government or any of the Emirates' Governments") are exempted from the application of the law. The UAE currently partially addresses competition regulation by means of the Commercial Code and the Consumer Protection Law, although it does not have merger control regulation.

(Source: UAE Federal Competition Law (Federal Law No. (4) Of 2012))

United States: FTC ends Google investigation

The U.S. Federal Trade Commission (FTC) has ended its nearly two-year-old antitrust investigation of Google's search engine practices with minimal consequences to Google. FTC held that Google has not violated antitrust law. Google Inc. has agreed to change some of its business practices to resolve Federal Trade Commission concerns that those practices could stifle competition in the markets for popular devices such as smart phones, tablets and gaming consoles, as well



as the market for online search advertising. Under a settlement reached with the FTC, Google will meet its prior commitments to allow competitors access – on fair, reasonable, and non-discriminatory terms – to patents on critical standardized technologies needed to make popular devices such as smart phones, laptop and tablet computers, and gaming consoles.

(Source: Federal Trade Commission: Press Release: dated January 3, 2013).

United Kingdom

Mercedes-Benz and three commercial vehicle dealers fined for cartelization

Mercedes-Benz and three of its commercial vehicle dealers, Ciceley, Road Range and Enza,



have admitted infringing competition law and agreed to pay fines totaling £2.6 million. According to OFT, the nature of the infringements varies but all contain at least some element of market sharing, price coordination or exchange of commercially sensitive information. Not every settlement party was involved in every infringement and the conduct, products and duration varied from infringement to infringement.

(Source: Office of Fair Trading: Press Release dated February 21, 2013)

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