



COMPETITION COMMISSION OF INDIA

Case No. 04 of 2016

In Re:

Mr. Vishwambhar M. Doiphode

Informant

And

Vodafone India Limited

Opposite Party

CORAM

Mr. Devender Kumar Sikri
Chairperson

Mr. S.L. Bunker
Member

Mr. SudhirMital
Member

Mr. Augustine Peter
Member

Mr. U.C. Nahta
Member

Dr. M.S. Sahoo
Member

Justice G.P. Mittal
Member



are valid for 10 days and 30 days period. It has also been stated that the data usage charges in India was only around Rs. 4/- per MB.

6. The Informant has alleged that:

(a) against the normal standard rates for data usage in India of INR 4/-, OP charges INR 30/- per MB for data usage in a foreign country even when opts for 10 days or 30 days international roaming package; and when a consumer does not opt for roaming package; OP charges almost INR 564/- per MB for data usage which is 141 times more than the rate charged in India.

(b) OP does not inform its consumers before activating international roaming about the rates for data usage and thereafter, it charges exorbitantly high amount for data usage, as much as INR 564/- per MB. Thus, OP is misusing its dominant position by directly or indirectly imposing unfair or discriminatory price in purchase or sale of service to consumers who activate international roaming services. The price charged was unfair and also discriminatory as there cannot be any justification to charge INR 564/- per MB under roaming activation when OP charges only INR 30/- per MB if one opts for roaming package. Further, the price charged is stated to be much higher than the price paid by OP to the foreign service provider.

7. In connection with the matter, the Commission had a preliminary conference with the Informant on 17th March 2016. During the preliminary conference, the Informant reiterated the allegations levelled in the Information and also submitted that when contacted OP did not provide any justification for the issues raised by him regarding the exorbitant charged imposed for international roaming data service. However, pursuant to the clarification sought by the Commission regarding the dominance of OP and the presence of other telecom service providers, the Informant admitted that all the other



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telecom service providers operating in Mumbai also provide international roaming services.

8. Although OP did not turn up for the preliminary conference despite due service of advance notice, it filed written submission dated 16th March 2016, *inter alia*, stating that the Informant had already moved a complaint before the District Consumer Redressal Forum for the disputes highlighted in the information. The Commission notes that the Informant has neither disclosed the said fact in the information nor during the preliminary conference.
9. In the succeeding paragraphs, the Commission proceeds to examine the merits of the case on the basis of the materials available on record and the submissions made by the Informant during the preliminary conference.
10. The Informant has not made any submission on the relevant market. The Commission notes that the Informant has been a customer of OP for the past 19 years and had activated international roaming services when he had left for Canada from 4th August 2015. After his return from Canada on 17th August 2015, he received a bill dated 28th August 2015 issued by OP, *inter alia*, raising INR 68,607/- as charges for usage of mobile data. This according to the Informant amounts to unfair and discriminatory price and abuse of dominant position in contravention of the provisions of Section 4 of the Act.
11. For the purpose of examining the allegations of the Informant under the provisions of Section 4 of the Act, at the outset, it is necessary to determine the relevant market. The purpose of delineating the relevant market is to ascertain whether OP enjoys a position of strength required to operate independently of the market forces in the relevant market. Only when such a position is enjoyed by OP, it would be required to examine whether the impugned conduct amounts to abuse.



12. The gravamen of the allegations levelled in the information is that OP had charged exorbitant price for providing international mobile data services (on roaming basis) when the Informant travelled to Canada. Thus, the present case involves mobile and wireless communication services through which one could remain connected with the web world when they travel abroad.

13. The Commission notes that customers can access web world either through a landline connection or a cellular connection. However, the purpose of subscribing a landline connection or a cellular connection differs from each other. While land-line connection enables internet connectivity from a fixed location availing mobile data services through cellular connection enables the subscriber to access web world on mobile basis. Thus, for a cellular subscriber who seeks to access web world on mobile basis, a landline connection cannot be a viable substitute. Landline connection and cellular connection could further be distinguished in terms of characteristics such as data speed, price and devices required to avail the services. For these reasons, the Commission is of the view that internet access through land-line connections and mobile data services be regarded as substitutes.

14. Coming to the subscribers travelling abroad, it is observed that they may remain connected with the web world either by activating the international roaming services or opting for international mobile data package from their telecom service provider or by availing the services of specialized player like Matrix. All these options enable the subscriber to remain connected with the web world although the price charged for each of the above mentioned options may vary depending on the place visited and the underlying arrangement between the domestic and foreign telecom service providers. Taking into consideration the needs of the subscribers travelling abroad and the options available to them, the Commission is of the view that the relevant market in the instant case is the *market for provision of international mobile data services*.



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15. As regards the relevant geographic market, it is noted that the Informant is a resident of Mumbai. The customers/subscribers located in Mumbai cannot consider availing international mobile data services from any other territory and therefore, they have to approach service providers operating in Mumbai only. On the supply side, generally all the telecom services providers provide international mobile data services. For all these complaints, spectrum is the primary input required for offering wireless mobile communication services and the same is allocated to service providers through an auction process. India has been divided into 22 circles for such purpose and separate auction have been conducted for each circle. From the websites of services providers such as OP, Airtel and Idea, it appears that they determine charges circle-wise. In view of these factors, each of the said circles appears to constitute distinct and separate geographic market. Thus, the relevant geographic market in the instant case is the territory of Mumbai. Accordingly, the relevant market in the instant case appears to be the *market for provision of international mobile data services in Mumbai*.

16. The Informant has not furnished any material that shows the dominant position of the Opposite Party in the relevant market. As per the recent press release of Telecom Regulatory Authority of India (PR 47/2015 dated 1st September 2015), besides OP, Airtel, Idea, Reliance, Tata, Aircel and MTNL are also providing wireless telecommunication services in Mumbai. All these players also appear to offer international mobile data services. During the preliminary conference, the Informant had also admitted that the other telecom service providers operating in Mumbai also provide international mobile data services. All these players are comparable with each other in terms of size, resources and expertise. Thus, the relevant market in the instant case appears to be competitive and customers therein have choices. In addition to the above, a customer travelling abroad can also avail the services of Matrix. In view of these facts, the Commission is of the opinion that OP is not dominant in the relevant market.



17. In light of the above analysis, the Commission is of the view that no case of contravention of the provisions of Section 4 of the Act is made out against OP in the present case. Accordingly, the matter is ordered to be closed in terms of the provisions of Section 26(2) of the Act.

18. The Secretary is directed to inform all concerned accordingly.

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

**Sd/-
(S.L. Bunker)
Member**

**Sd/-
(SudhirMital)
Member**

**Sd/-
(Augustine Peter)
Member**

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

**Sd/-
(Dr. M.S. Sahoo)
Member**

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

**New Delhi
Date: 05/05/2016**