



COMPETITION COMMISSION OF INDIA

Case No. 05 of 2020

**Multix Owners and Users Welfare Society,
Through its Secretary - Sh. Soman. M
Kottayil House, SS Road,
Vengara P.O, Malappuram District,
Kerala-676304**

Informant

And

**Eicher Polaris Pvt. Ltd.
3rd Floor, Select City Walk, A-3,
District Centre, Saket,
New Delhi-110017**

Opposite Party No. 1

**Eicher Motors Ltd,
3rd Floor, Select City Walk, A-3,
District Centre, Saket,
New Delhi-110017**

Opposite Party No. 2

**Polaris Industries Inc.
Through its Wholly Owned Subsidiary
Polaris India Pvt. Ltd,
2nd Floor, M6, Uppal Plaza, Jasola,
New Delhi-110025**

Opposite Party No. 3

CORAM:

**Mr. Ashok Kumar Gupta
Chairperson**

**Ms. Sangeeta Verma
Member**

**Mr. Bhagwant Singh Bishnoi
Member**



Order under Section 26(2) of the Competition Act, 2002

1. The present Information has been filed by Multix Owners and Users Welfare Society ('**Informant**') against Eicher Polaris Pvt. Ltd., New Delhi ('**EPPL/ OP-1**'), Eicher Motors Ltd., New Delhi ('**Eicher Motors/ OP-2**') and Polaris Industries Inc. through Polaris India Pvt. Ltd., New Delhi ('**Polaris/ OP-3**') alleging contravention of various provisions of Sections 3 and 4 of the Act.
2. The Informant is stated to be a social organization registered in the State of Kerala for the purpose of redressal of grievances of MULTIX owners/ consumers before various authorities, executive and judicial bodies and the members have common interest.
3. As per the information available in public domain, OP-2 is a company listed on BSE & NSE and is engaged in the business *inter alia* of manufacture, sale, distribution and servicing of passenger motor vehicles. Polaris *i.e.* OP-3 is a US based company engaged in manufacture of motorcycles, snowmobiles, *etc.*
4. It is further stated in the Information that OP-1 is a private limited company formed as a 50:50 joint venture, in 2012, between OP-2 and OP-3 for the purpose of manufacturing a Personal/Multi Utility Vehicle *i.e.* MULTIX in India. OP-1 set up its first plant in 2013 for manufacturing the vehicle which was commercially launched in the year 2015. However, *vide* stock exchange communication and media statement dated 12.03.2018, OP-2 announced that board of directors of OP-1 passed a resolution at a meeting held on 09.03.2018, to close the operations of OP-1 with immediate effect. It was stated in the communication that MULTIX initially generated significant interest from customers, however, the same could not be sustained and subsequent sales performance was slower than the expectations. Therefore, the board decided to close the operations of OP-1.



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5. The Informant has stated that in the said announcement, OP-2 assured to provide spares and service support for the fleet of MULTIX vehicles on the road but has miserably failed to do so till date and the assurances have turned out to be false and misleading. The Informant has alleged that due to lack of genuine spare parts, inadequate repair/ maintenance services, MULTIX vehicles have been condemned to the garages.
6. By means of the present Information, the Informant has alleged anti-competitive practices on the part of the OPs whereby the genuine spare parts of MULTIX vehicles manufactured by OPs as well as the technological information, diagnostic tools and software programs required to maintain, service and repair the technologically advanced automobiles have not been made freely available in the open market and to the independent repair workshops, and the same could only be carried out at the workshops or service stations of the authorized dealers of OPs, the operations of which the Informant claims are also operated/ authorized/ regulated or otherwise controlled by OPs .
7. The Informant has further stated that due to the aforementioned restrictions on availability of spare parts and technological information *etc.* in the open market and to independent repairers, OPs are charging arbitrary and high prices to the consumers who are forced to avail the services of the authorized dealers of the OPs for repairing and maintaining their automobiles, even as the cost of getting a car repaired in an independent workshop would be 35-50% cheaper.
8. It is also alleged by the Informant that the components and parts used in the manufacture of their respective brand of automobiles are often sourced from independent original equipment suppliers ("OESs") and other suppliers who are restrained by OPs from selling the parts/ components in the open market. Such restriction on the ability of the OESs to sell the spare parts/ components further limits the access of such spare parts/ components in the open market,



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thereby, allowing OPs to create a monopoly-like situation wherein they become the sole supplier of the spare parts/ components of their respective brand of automobiles. Such restrictions allow OPs to influence and determine the price of the spare parts/ components used to repair and maintain the respective brands of automobiles.

9. The Informant alleges that the acts of OPs in restricting the sale and supply of spare parts and technical information, diagnostic equipment and tools to independent automobile service providers have effectively created a monopoly over the supply of such genuine spare parts and repair/ maintenance services and, consequently, have indirectly determined the purchase or sale prices of both the automobile spare parts as well as the repair and maintenance services. The Informant has alleged that the aforementioned acts of OPs are arbitrary, illegal and devastating to free and fair competition, and are in direct contravention of Sections 3(3)(a) and 3(3)(b) of the Act. Further, the Informant alleges that by refusing to sell the spare parts to independent operators, OPs are in violation of Section 3(4) (d) of the Act; the denial of access to the repair and maintenance market to the independent service workshops is in violation of Section 4(2) (a), 4(2) (b) and 4(2) (c) of the Act; by imposing restrictions on their suppliers of spare parts from supplying automobile parts into the open market, OPs are limiting and controlling production and supply of components/spares in the Indian automobile aftermarket and are in violation of Section 4(2)(d) of the Act. Further, the restriction by OPs on their authorized dealers from taking up dealerships of other competing vehicle manufacturers is in contravention to the provisions of Section 4(2)(a), 4(2)(b) and 4(2)(c) of the Act. The Informant has submitted that the present case is covered by the decision of the Commission in *Re: Shri Shamsher Kataria in Case No. 03/2011 (Auto spare parts case)*.



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10. In view of the foregoing, the Informant has requested the Commission to hold an inquiry into the restrictive and/ or unfair trade practices of OPs, alleged to be in contravention of the provisions of the Act; order OPs to cease and desist from such restrictive, unfair, monopolistic trade practices and from misusing its dominant position, *etc.*
11. The Commission has carefully perused the Information and the material available on record besides the information available in public domain. The Information relates to the alleged infraction of the provisions of Section 3 and 4 of the Act by OPs and their respective dealers in not providing genuine spare parts of MULTIX vehicles and its technological equipments for providing maintenance and repair services in the open market and in the hands of the independent repairers.
12. At the outset, the Commission observes that save and except making reference to the allegations made in *Shamsher Kataria* case, the Informant has not adduced any evidence or material to substantiate the averments and allegations made in the Information.
13. Further, in the present matter, the concerned party *i.e.* OP-1 which launched the automobile in question appears to have closed its operations due to insufficient demand and unviable business proposition. In these circumstances and in the absence of any material to support the allegations, the Commission is not inclined to interfere in the present matter.
14. In view of the above, the Commission is of the view that no case is made out against OPs for contravention of the provisions of Sections 3 and 4 of the Act and the Information is ordered to be closed forthwith in terms of the provisions contained in Section 26 (2) of the Act.



15. The Secretary is directed to communicate to the Informant, accordingly.

Sd/-
(Ashok Kumar Gupta)
Chairperson

Sd/-
(Sangeeta Verma)
Member

Sd/-
(Bhagwant Singh Bishnoi)
Member

New Delhi
Date: 11/05/2020