

COMPETITION COMMISSION OF INDIA

06th October, 2010

M RTP Case-UTPE 73/2008

Filed by: B.C. Aurora
D-20, Green view apartment,
Sector 9, Rohini Delhi-110085

Against: T.V Channel Operators

ORDER UNDER SECTION 26(2) OF COMPETITION ACT 2002

Consequent upon the repeal of the MRTP Act this complaint has been transferred to the Competition Commission of India under section 66 (6) of the Competition Act, 2002.

2. Factual background

2.1 The complaint was filed before the MRTP Commission on 23.01.2008. The informant has alleged that all T.V channels have joined together and pooled timings for advertisements i.e. advertisements are aired at all the channels at the same interval and durations. This is to deprive the viewers of their legitimate right to view programme as per the choice at any given time, as this pooling, forces the viewers to see only one programme/serial at a time, which tantamount to unfair trade practice adopted by the T.V channel operators.

2.2 the complaint has alleged that the viewers are paying @Rs. 300 or more per month for all T.V Channels. He further alleged that about 100-150 Channels are aired free by the Govt. and other media. The T.V Channels operators are re-airing the same and charging the higher amount. He also alleged that the T. V Channels are wasting the money and time of the viewers by allotting more time to the advertisement/publicities than, to the actual programme.

3. The informant has sought following reliefs as under:

(i) To direct the T. V Channel operators to regulate the distribution of time between the actual programme and the advertisements.

(ii) To direct them to regulate the ratio of actual programme and advertisement as 5:1 i.e in an hour's programme only 10 minutes be allowed for publicity.

3. The matter was listed before the MRTP Commission on 27.03.2008 and the Commission ordered the DG (I&R) to submit preliminary investigation report. Accordingly the Director General issued a probe investigation letter to the 36 T.V channel operators on 17.06.2008 under section 11(1) of the MRTP Act 1969. Out of 36 T.V channel operators 33 have filed their replies which are on record.

4. The T.V channel operators have denied the allegations made by the informant and have submitted the requisite documents to DG (I&R). Opposite parties have also put an argument in support of their stand that airing of T.V programme require huge funds and the advertisements is the main source of income for any TV channel, therefore, it is not possible to adopt the proportion between advertisement and programme as suggested by the informant. The T.V channels have categorically denied that there is any concert/cartel among the T.V channel operators.

5. The Director General (I&R) did not submit the preliminary investigation report. At this stage matter has been transferred to this Commission under section 66 of the Competition Act, 2002.

6. The matter was earlier considered by the Competition Commission of India in its meeting held on 16.6.2010 wherein the informant was asked to file written submissions or appear in the next meeting of the Commission to explain his case. The informant reiterated his prayer vide his letter dated 30.6.2010 stating "In view of captive/under duress/under compulsion viewing of ads, the consumers need to be compensated for their time wasted, extra electricity consumption/Bill at least to the extent that no monthly charges be levied or alternatively all channels be provided free to air as was the practice of erstwhile Door-Darshan Kendras. As regards investments made by channel operators, they are earning leaps & bounds through numerous ads running for 20 to 30 minutes in an hour programme". However, he did not appear in the ordinary meeting held on 06.07.2010.

7. The Commission also sought the views of the Telecom Regulatory Authority of India and Advertising Standards Council of India. The ASCI has replied that the issue is outside of their purview and TRAI has not given their views.

8. The Commission therefore, considered the, material on record in the ordinary meeting held on 06.10.2010. From the scrutiny to the material available on record it appears that the informant has not supplied sufficient material to substantiate his allegations against the T.V. Channel operators. The informant has also failed to show that the alleged action of the T. V. Channel operator is synchronized or concerted. It is also noteworthy that despite being given opportunity to explain his case the informant did not choose to avail the opportunity. In the absence of any reliable material bare allegations cannot form the basis for referring the matter for investigation. The views/comments of TRAI and ASCI were also sought but TRAI did not furnish its views and ASCI has stated that the issue is not in their purview.

9. In view of the forgoing analysis of the facts and circumstances of the case the informant has failed to make out a prima facie case and therefore there is no need to refer the matter to the DG for investigation and matter deserves to be closed.

10. In view of the above conclusion the present matter is hereby closed.

Secretary is directed to inform the informant accordingly.

Member(R)

Member(GG)

Member(AG)

Member(T)

Chairperson