

## LEGAL UPDATES

### **CCI: QUASHED COMPLAINT ALLEGING CARTELIZATION BY HPCL ON INFORMANT FAILURE TO IDENTIFY CARTEL-PARTICIPANTS**

The Competition Commission Of India dismissed the complaint against Hindustan Petroleum Corporation Ltd. on presuming cartelization through its various offices, and held that *"The Informant has singularly failed to identify or array any cartel participants, much less indicate the modus and the details in respect of any such purported cartel."*

Informant, among other things, alleged that –

(i) OP floated a tender for the transport of packed LP gas cylinders, choosing Indane Gas Transporters as its L-1 bidder without engaging in negotiations with other bidders and purposefully not giving preference to its distributor, i.e., HP Gas Distributors/Transporters, Dealer's causing them irreparable financial loss.

(ii) By giving preferential treatment to the group of transporters and bidders who included "cartel pricing" in their bids, OP engaged in anti-competitive behaviour in the aforementioned tender procedures.

Nevertheless, the Hon'ble Commission concluded that the Informant has not supplied any information regarding the OP's supremacy.

Additionally, considering that OP operated 48 LPG bottling plants in 2017–2018, whereas its rivals IOCL and BPCL did so with 91 and 52, respectively, CCI believed that *"OP does not appear to be dominant concerning the number of bottling plants."*

Therefore, CCI noted that *"Given that OP is not a dominant firm, it is unnecessary to examine if the alleged conducts constitute an abuse of dominant position under the provisions of the Act."* and further concluded that *"Even otherwise, the grievance raised by the Informant*

*seeking preferential treatment for HPCL gas distributors in respect of the procured services, on the face of it, is antithetical to the very norms and spirit of competition law.”*