

LEGAL UPDATES

CCI: GOOGLE PRIMA FACIE IMPOSING 'UNFAIR CONDITIONS' ON DIGITAL NEWS PUBLISHERS; DIRECTS INVESTIGATION

According to a complaint made by an Informant allegedly involved in promoting and protecting the interests of digital news publishers, CCI ordered the DG to undertake an investigation into the alleged abusive behavior by Alphabet Inc., Google LLC, Google India Pvt. Ltd., and Google Ireland Ltd. (collectively referred to as "Google") in continuing to deny fair digital advertising revenue to digital news publishers and divulging insufficient information to reach a favorable settlement. The order which was issued was passed by Mr. Ashok Kumar Gupta, the chairperson, Mr. Bhagwant Singh Bishnoi along with Sangeeta Verma, the members. The Informant claimed that the OPs had breached Sec.s 4(2)(a)(i), 4(2)(b)(ii), 4(2)(c), and 4(2)(c) of the Competition Act, 2002 by abusing their market dominance. It was argued that despite producing reliable news and working hard, members of the Informant are forced to lose advertising revenue and are unable to negotiate a fair part in the value chain of news transmission as a result of the unilateral, arbitrary, and unreasonable choices of the OPs. The OPs are accused of denying members of the Informant access to the market in the area of digital advertising by abusing their dominating status in the relevant market or markets. CCI observed that Google, which provides services across the whole ad-tech supply chain and is by far the world's leading provider of ad-tech services, has a very strong position in advertising intermediation, with a market share that ranges from 50% to 100% in various intermediary services. CCI stated that Google holds a prominent place in the ad-tech intermediary services worldwide. The strength of its highly integrated ecosystem, which includes not only the markets for online general web search services and online search advertising facilities but also the online digital advertising intermediary services, makes Google appear to be a preferred service provider to publishers, according to CCI. The Commission also emphasized that Google is a crucial business partner for news publishers because the bulk of their traffic is derived from Google. Additionally, CCI also stated that the allegations of the informant prima facie appear that news publishers are forced and have absolutely no choice but to agree to Google's terms

and conditions due to the ecosystem's vertical integration. In addition, it should be noted that Google pre-emptively and arbitrarily dictates the conditions of the agreements signed between the members of the informant and Google for sharing advertising revenues. Thus, it leaves the members of the informant with no choice but to accept them without any ability to negotiate. CCI further noted that the claimed unilateral and non-transparent determination and sharing of ad income appears to be an enforcement of unfair conditions on publishers given the dominance of Google's market in the online digital advertising intermediation services. The vital role that news media play in a functional democracy cannot be understated, and it is imperative to make sure that digital intermediary firms do not take advantage of their dominant position to impede the competitive method of determining a fair distribution of revenue between all stakeholders. As a result, the alleged conduct of Google seemed to involve the imposition of unfair terms and prices, which is, at least on the surface a breach of Sec. 4(2)(a) of the Act.