

SUN ELECTRONICS PVT. LTD. v ELECTEK SOLUTIONS PVT. LTD. & ORS.

Case No. 2 of 2019

Decision Date: 22.04.2019

Keywords: Collusion, Unfair condition in purchase of service.

Rule: s 3(3), 3(4), 4 of the Competition Act, 2002.

The Informant is a private limited company. OP-1 is an integrator and supplier of RTI products in the State of Maharashtra. OP-2 is the supplier of OP-1 and the sole authorised dealer of OP-3, engaged in the distribution and integration of RTI Home Automation Solutions across India. OP-3 is the Indian Company of OP-4, a global company based in the US providing Home Automation Solutions in India through OP-2 and OP-3.

The Informant finalised OP-1 who is the supplier and integrator of RTI Home Automation Solutions for the State of Maharashtra for its residential project and issued a work order. It is averred by the Informant that OP-1 has not abided by its obligation as per the work order and has sought additional sum of ₹10 Lac from the Informant for completing the assigned work. It has also insisted that the Informant buys additional AV equipment, appoint an MEP consultant and has withheld the XP8S license key from the Informant. The Informant's case against OP-2 (dealer and distributor) as well as OP-3 and OP-4 is that though they are the manufacturers of RTI Home Solutions and suppliers of OP-1, they have not taken any action against OP-1 despite repeated complaints by the Informant. OP-2 has asked the Informant to obtain an NOC from OP-1 for assigning the said work relating to RTI Home Solutions to some other vendor.

ALLEGATIONS:

- **s 3(1) r/w 3(3) Anti-competitive agreement, s 4 Collective Abuse of Dominance:**
The OPs together in collusion are tactically accomplishing such unlawful acts or are able to make such demands due to the dependence of the consumer on the enterprise.
- **s 3(4) Vertical Anti-Competitive Agreements:** The OPs, operating at different levels of supply chain, have entered into an agreement having anticompetitive effects.
- **s 4 Abuse of Dominance:** The conduct of OPs independently in making their demands was alleged to be an abuse of their dominant position.

ANALYSIS

- **On Collusion (s 3(3))**

The Commission noted that the Informant has not been able to show any 'agreement' amongst the OPs which can be examined within the framework of Section 3(3) read with Section 3(1) of the Act.

- **On Vertical Anti-Competitive Agreements**

The Commission noted that for a case to be examined under Section 3(4) of the Act, the parties should be operating at different stages or levels of the production chain in different markets.

In this regard, it observed that while OP-1 is stated to be an integrator and supplier of RTI Home Automation Solution in the State of Maharashtra, OP-2 is the dealer and distributor of such products across India. Similarly, OP-3 and OP-4 are companies engaged in the business of providing RTI Home Solutions and Automation products in India and abroad respectively. The Commission noted that the Informant is not part of the production chain of RTI Home Automation Solutions. Moreover, it noted that the work order was placed to provide RTI Home Automation Solutions for the residence of one of the Directors of the Informant company. Therefore, no case of contravention was made out.

- **On Collective Abuse of Dominance**

Such allegations do not warrant any examination as the present scheme of Section 4 of the Act does not envisage or provide for joint or collective dominance.

- **On Abuse of Dominance**

Relevant Market Analysis: The market for supply and installation of smart home solutions in India.

- **Relevant Product Market:** This product is unique in many aspects viz., it provides online security features, enables maintaining/ controlling the temperature of the residence from a remote location with the help of a mobile application etc. This product is totally different and can be distinguished easily based on its unique features, characteristics, comforts and services. As this product cannot be substituted with the traditional market of designing the interiors of a residential unit, the relevant product market appears to be 'the market for supply and installation of smart home solutions'.

- **Relevant Geographic Market:** Smart Home Solutions can be bought from anywhere in India as there are many suppliers of the same providing a variety of services on customized basis. As such, it appears that the relevant geographic market would be 'India'.

Analysis of OP's position in the Relevant Market

The Commission observed that there are many players providing smart home solutions in India. Some of these players are Schneider, Electric, Smartify, Z-wave, Pert, Cubical, Odessi, Infineon etc., who provide Smart Home Automation Solutions to the consumers by offering a variety of services. As such, in the view of the Commission, neither OP-1 nor OP-2 were found to be dominant in the relevant market delineated owing to the presence of several other integrators/ distributors who are vendors of the competitors of OP-3/ OP-4.

Further, the CCI also observed that OP-3/ OP-4 as supplier/ manufacturer of RTI Home Automation Solutions may also be facing inter-brand competition from other suppliers/ manufacturers operating in the relevant market. The Commission noted that the relevant market is evolving in India with the presence of many players who are offering Smart Home Solution to the consumers. Further, there is nothing on record to suggest that OP-1 is the only integrator to design Smart Home Solution in Mumbai or that OP-2 is the only distributor offering Smart Home Solutions or that the consumers are dependent on OP-1 and/ or OP-2, as the case may be.

Therefore, none of the OPs were found to be dominant.

HOLDING

In the absence of the dominance of an entity, the question of assessment of abuse does not arise; No evidence was presented to show an agreement between the OPs that can be examined within the framework of s 3(3) r/w 3(1); Since Informant is not a part of the supply chain, OPs cannot be held accountable for entering into an agreement violating s 3(4).

No case of contravention of the provisions of Section 3 or Section 4 of the Act has been made out and the matter is accordingly ordered to be closed