IN RE: UNILAZER VENTURES PVT LTD V. PVR LTD. & ORS.

Decision date: 24/07/2019

Keywords: abuse of dominant position

Issue: Whether the OPs colluded among themselves to carry out anti-competitive practices?

Rule: Sec. 3(3) read with Sec. 3(1) of the Competition Act, 2002.

The Informant had grievances against the OPs (engaged in the business of operating multiplex cinema theatres) on the following grounds:

- **Virtual Print Fee**: The Informant alleged that the VPF model was agreed upon by the producers/ distributors with a sunset period. Although, the agreed period is long over, the multiplexes have continued to charge the VPF even after the sunset period. The Informant further alleged that OP-1, OP-2, OP-3 and OP-4 do not negotiate on the VPF individually, but collude in charging the same, owing to an anti-competitive arrangement amongst the
- **Revenue Sharing Model and Sharing of Market:** The Informant alleged that the OPs have been colluding and putting forth an agreement with standard terms which is non-negotiable as a standard industry practice by them which points towards collusion on their part
- **Advance Payment Hold Up:** The Informant alleged that as a part of a concerted arrangement amongst themselves, multiplexes are not remitting, timely, the revenue share meant to be forwarded to the content creators after collection of the price from customers through sale of tickets for the movie by the exhibitors.
- **Trailers and Promotions:** It was alleged that, owing to lack of transparency in advertising policy followed by all multiplexes and to gain revenues from independent promotions and producers/ distributors, multiplexes tend to attach long advertisements to a film during intervals. The effort of a producer while editing and during the post production process to curtail the length of a film is sabotaged due to these practices.
- **Intervals:** Informant alleged that because of the content created by producers, like the Informant, multiplexes earn revenue from the food and beverage sales, advertising revenues, car parking revenues, merchandising, gaming, non-film promotions, *etc*, OPs instead of sharing a portion of such revenue with the producers, demand a huge chunk of revenue from the producers for exhibition of films.

- **Instances of Victimization, Abuse and Discrimination:** The Informant alleged that it faced discrimination, at the hands of the multiplexes, when it tried to release its film *Love Per Square Foot*.

The OPs denied all the allegations. They submitted that the current revenue share agreement was an outcome of the discussions and deliberations between the two groups of the entertainment industry. The terms and conditions of the revenue sharing agreement were tilted in favour of the producers/distributors. Further, the system of sharing Daily Collection Reports ("**DCR**") based on which invoices are raised is fully automated and they cannot interfere with this process. The allegations with respect to lack of transparency in showing advertisements or inserting intervals in any movie were submitted to be baseless which do not give rise to any competition concern.

The Commission held that there exists no *prima facie* case warranting investigation into the matter. It noted that there is no indication of any agreement or arrangement or understanding between the OPs which has been placed on record. Further, the Commission noted that the Informant has alleged that all the OPs indulged in parallel conduct and under the garb of standard industry practices acted in an anti-competitive manner. In this regard, the Commission observed that, it is an established principle of competition law that mere parallel behavior, by itself, does not amount to a concerted practice.

It also held that the revenue sharing arrangement was put in place with the consent and due deliberations between producers and multiplex owners and the Informant had not been able to demonstrate that such an arrangement was pursuant to any anti-competitive agreement among OPs.