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CCI REJECTS ALLEGATIONS OF ANTI-COMPETITIVE BEHAVIOUR AGAINST SIEMENS

19 August 2021

The Competition Commission of India (CCI) in an order dated 13 August 2021 declined to initiate investigation into allegations of abuse of dominant position and anticompetitive vertical agreements against Siemens Healthcare Private Limited (Siemens).

Background:

An information (complaint) was filed by Star Imaging and Path Lab Private Limited and Janta X-Ray Clinic Private Limited (collectively, "Informants"), companies involved in providing diagnostics and pathology lab services in Delhi.

The Informants alleged abuse of dominant position and anti-competitive vertical agreements by Siemens Ltd., Siemens Aktiengesellschaft and Siemens (collectively, "Siemens Group") in contravention of Section 3 (4) and Section 4 of the Competition Act, 2002 (Act). Pertinently, allegations were made against Siemens Ltd. and Siemens Aktiengesellschaft, despite the fact that they have not been engaged in the healthcare business in India since mid-2015.

The Informants had purchased certain CT Scan machines and MRI machines (Machines) from the Siemens Group and alleged that the Siemens Group had imposed unfair and discriminatory conditions on the use of the Machines. The Informants further claimed abusive conduct with respect to the after sales services and spare parts sold by Siemens for the Machines.

Relevant Market:

The Informants delineated two separate relevant markets, a primary market in connection with the sale of Machines, and a secondary market for spare parts and after-sales services. However, the CCI rejected the Informants' delineation of the relevant market.

Accepting the submissions of Siemens, the CCI held that the case was fit for defining a unified systems market. The CCI noted that the Informants' ability to undertake whole life costing of the Machines, and the presence of independent service operators (ISOs) for third party after sales services for the Machines, demonstrated that only a unified systems market was required to be defined.

Although the CCI left the market definition open, it agreed with the contentions of Siemens and observed that the Machines were substitutable with the offerings of

competitors. The CCI, after considering the fact that similar products were being offered by several other manufacturers, decided not to define a narrow relevant market.

Dominance and Abusive Conduct:

The CCI concluded that Siemens was not in a dominant position, in view of the significant presence of other players in the markets for CT Scan machines and MRI machines. The CCI further highlighted the availability of spare parts and after sales services through various ISOs.

Despite not being required to record its findings on abusive conduct, the CCI observed that the conduct of Siemens was not abusive in any manner. It highlighted that the Informants did not provide any evidence to demonstrate unfair or abusive conduct by Siemens. The CCI recognized the opportunity for negotiation and the bilateral nature of the agreements between the Informants and Siemens.

Considering the above, the CCI concluded that there was no prima facie case for the alleged abuse of dominant position and anticompetitive vertical agreements under the Act. The CCI closed the investigation under Section 26(2) of the Act.

The CCI's order can be accessed [here](#).

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