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CASE ANALYSIS: HYUNDAI MOTOR INDIA LTD VS COMPETITION COMMISSION OF INDIA

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1. BACKGROUND

On January 17, 2011, Mr Shamsheer Kataria, a resident of New Delhi, filed a complaint with the Competition Commission of India (CCI) under Sections 3 and 4 of the Competition Act, 2002, specifically Section 19(1)(a). Mr. Kataria alleged that three automobile manufacturers, namely Honda Sael Cars India Limited, Volkswagen India Private Limited, and Fiat India Automobiles Limited, were involved in the abuse of their dominant positions and were engaged in anti-competitive activities.

The Additional Director General provided a report to the Competition Commission of India (CCI), noting that they had identified similar practices in other car manufacturers in India, particularly in the domains of after-sales service and the procurement of spare parts. As a result, the Additional Director General sought the CCI's permission to broaden the investigation's scope to include these other car manufacturers for a more comprehensive examination.

The CCI issued an order considering the request of the Additional Director General, which allowed the expansion of the scope of the investigation.

Following the CCI's order dated April 26, 2011, the Director General issued a notice dated May 4, 2011, to Hyundai Motor India Limited under Section 36(2), read with Section 41(2) of the Competition Act, 2002.

2. FACTS OF THE CASE

The case revolves around allegations of anti-competitive conduct by Hyundai Motor India Ltd. The central issue in the case was the practice of resale price maintenance (RPM), where Hyundai allegedly imposed certain restrictions on its authorised dealers regarding the pricing of its vehicles.

Resale Price Maintenance (RPM) is a practice where a manufacturer or supplier fixes or sets the resale price at which retailers can sell their products. In this case, Hyundai was accused of imposing pricing restrictions on its authorised dealers, effectively preventing them from offering discounts or setting their resale prices below a certain level.

A complaint was filed with the Competition Commission of India (CCI) on Hyundai's that its RPM practices were anti-competitive and violated India's competition laws. The complainant contended that these practices harmed competition in the automobile market and negatively affected consumers.

3. ANALYSIS

3.1 Decision of Competition Commission of India

The Competition Commission of India (CCI) has determined that Hyundai Motor India Limited (HMIL) violated the Competition Act of 2002. HMIL imposed certain conditions on its dealers that resulted in Resale Price Maintenance for their passenger cars. These conditions included monitoring maximum discount levels through a Discount Control Mechanism and obliging dealers to use recommended lubricants while penalising them for non-compliance. The CCI took action following a complaint from dealers associated with HMIL, specifically Fx Enterprise Solutions India Pvt. Ltd. and St. Antony's Cars Pvt. Ltd. As a result of this investigation, the CCI issued a cease and desist order against HMIL and imposed a penalty of Rs. 87 crore for their anti-competitive conduct, which equates to 0.3% of HMIL's average relevant turnover over the previous three years. Notably, the appropriate turnover calculation solely considered revenue from the sale of motor vehicles.

3.2 Analysis

The CCI's decision in the Hyundai case regarding RPM differed from its previous decisions. It lacked a thorough examination of the potential advantages of implementing RPM for Boosting

Car Sales, where CCI held that the discount control mechanism was against competition Law.

It's important to note that competition law is designed to protect and promote competition in the market. In the context of RPM, there can be both pro-competitive and anti-competitive effects, depending on the specific circumstances. RPM can enhance competition by ensuring all retailers have an equal opportunity to sell a product and preventing price wars that may harm smaller businesses. On the other hand, RPM can also be used to stifle competition by reducing price competition and limiting consumer choices.

The CCI's approach in the Hyundai case may have been more rigid or one-sided, presuming that RPM is inherently anti-competitive without a comprehensive assessment of its competitive effects. This could be seen as inconsistent with the CCI's broader decisional practice on RPM, where it may have taken a more balanced approach, considering both the potential benefits and harms of RPM.

It's worth noting that competition law can evolve, and enforcement agencies may refine their approach to specific practices based on their experience and evolving legal standards. If there are concerns about the consistency or fairness of the CCI's decisions regarding RPM, stakeholders, legal experts, and the CCI itself may engage in discussions and legal challenges to clarify and potentially modify the CCI's approach.

3.3 Decision of NCLAT

The Delhi bench of the National Company Law Appellate Tribunal (NCLAT) made a significant decision involving Hyundai Motor India Ltd and the Competition Commission of India (CCI). The NCLAT (National Company Law Appellate Tribunal) nullified the Rs 87 crore penalty imposed by the CCI (Competition Commission of India) on Hyundai for suspected anti-competitive behaviour.

3.4 Analysis

In its decision on September 19, 2018, the NCLAT emphasised the powers of the CCI regarding the investigation report prepared by the Director-General (DG). The tribunal clarified that the DG's report is essentially an opinion to assist the CCI. The commission can refer to the report submitted, but it is not mandated to follow it.

While the Commission can refer to the DG's report, it must independently apply its judicial mind to reach any conclusions.

The CCI had imposed the Rs 87 crore penalty on Hyundai, alleging anti-competitive behaviour under Section 3 and Section 4 of the Competition Act. However, the NCLAT, upon review, noted that the CCI had excessively relied on the DG's investigation report and had essentially reiterated the DG's observations without conducting an independent analysis.

The NCLAT pointed out that the CCI failed in its obligation to independently establish its rationale by considering the elements laid out in Section 19 of the Competition Act, 1962, which outlines the factors the Commission must take into account. This decision is seen as a positive step in ensuring that the CCI operates within the legal framework of the Competition Act.

The ruling also establishes a "test of conscience" for the Commission, emphasising that the CCI's reliance on the DG's report should be for reference purposes and not unduly influence the Commission's opinion. The NCLAT's decision in the Hyundai case drew from a prior Supreme Court judgment in the CCI vs. Coordination Committee of Artistes and Technicians of West Bengal Film and Television case. In this earlier case, the Supreme Court highlighted the necessity for the DG and the CCI to define the "relevant geographic market" and "relevant product market" when dealing with competition law matters before making any determinations. In the Hyundai case, the NCLAT noted that the DG and the CCI had overlooked these aspects and, consequently, ordered the company to receive a refund of any amount deposited.

In essence, this ruling underscores the significance of quasi-judicial bodies like the CCI adhering to their mandated responsibilities. It signals that the NCLAT will maintain a close watch over the actions of the Commission and stress the importance of grounding every decision on specific evidence.

CONCLUSION

Therefore, competition authorities, including the CCI, should conduct a thorough analysis of each case to determine whether RPM practices are anti-competitive or have legitimate justifications. This typically involves an assessment of market dynamics, the specific conduct

of the parties involved, and its impact on competition and consumers. Whereas the NCLAT set a "test of conscience" for the Commission, emphasising the need for independent reasoning and ordered a refund of any deposited amount by Hyundai. In summary, this ruling underscores the importance of quasi-judicial bodies like the CCI adhering to their statutory responsibilities and ensuring that their actions are evidence-based.