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COMPETITION COMMISSION OF INDIA

08.01.2025

Case No. 34 of 2024

In Re:

Mr. Maulik Surani

Informant

And

Alphabet Inc.

Opposite Party No. 1

Google LLC

Opposite Party No. 2

Google International LLC

Opposite Party No. 3

Google India Private Limited

Opposite Party No. 4

ORDER

1. The present Information has been filed by the Informant under Section 19(1)(a) of the Competition Act, 2022 (**Act**) against the Opposite Parties (collectively, **Google**) alleging contravention of the provisions of Section 3(4) as well as Section 4 of the Act.
2. The Informant is stated to be a co-founder of M/s Capset Infotech, a Surat-based entity which specializes in web, mobile application, and software development, with several mobile applications listed on the Google Play Store. Further, the Informant generates revenue by delivering in-app ads on its mobile applications and utilizes Google Ad Manager for this purpose.
3. The Commission considered the Information and documents filed therewith in its ordinary meeting held today and noted that the allegation of the Informant primarily relates to various ad-tech intermediation services provided by Google. The Commission observes that advertisers and publishers depend on such ad-tech intermediation tools for the placement of real-time advertisements, such as banner or display ads. These tools can be broadly categorized into three key components: (a) publisher ad servers which are primarily used by publishers to manage the advertising space on their websites and mobile applications. These servers facilitate the sale of display ad inventory and help optimize ad placements on the publishers' platforms. (b) ad buying tools are employed by advertisers to automate the management of their advertising campaigns, streamlining



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the process of purchasing ad inventory through features such as automated bidding, and (c) ad exchanges which serve as platforms where publishers and advertisers engage in real-time, typically *via* auctions, to buy and sell display ad inventory. Publishers use ad exchanges to auction their ad inventory, while advertisers access these inventories through ad buying tools. Google provides a suite of such ad-tech intermediation services, acting as an intermediary between advertisers and publishers to facilitate the display of ads on websites and mobile applications.

4. In the present case, the Informant has identified and segregated these tools into distinct relevant markets based on their unique functionalities and intended purposes. These markets include the (a) Market for Publisher Ad Servers for Websites and Mobile Applications in India, (b) Market for Ad Buying tools for Advertisers in India, and (c) Market for Ad Exchanges in India. Additionally, the Informant has also delineated the Market for General Web Search Services as a relevant market in this case. The Commission, in its *prima facie* assessment, acknowledges that each of these ad-tech tools serves distinct purposes, offers unique functionalities, and possesses specific characteristics that make them non-substitutable with one another. Consequently, at this stage, the Commission concurs with the Informant's market delineation, recognizing the inherent differences in the intended use and features of these tools.
5. As regards dominance of Google in these ad-tech intermediation digital tools, the Commission in its *prima facie* order dated 07.01.2022 passed in Case No. 41 of 2021 has noted that “...at this stage is *prima facie* satisfied that, based on the global presence of Google, as adumbrated supra, it can be reasonably inferred that Google occupies a significant position in the market for online digital advertising intermediation services, as well. The investigation would bring out these aspects in detail.” This matter is currently under examination before the Director General (DG).
6. Further, the allegations of the Informant are summarised below:
 - 6.1. Tying of DoubleClick for Publishers (DFP) with Google’s Ad Exchange (AdX) into Google Ad Manager has foreclosed competition, raised barriers to entry for other exchanges, and limited publisher choice, all of which potentially violate Section 3(4) of the Act.



- 6.2. Google has consistently favoured its own properties over those of Google Network Members, thereby imposed unfair and discriminatory conditions on publishers; limited and restricted the growth and development of the relevant market. Accordingly, Google's conduct constitutes a *prima facie* case of violation of Sections 4(2)(a)(i) and 4(2)(b)(i) of the Act.
- 6.3. Google's Open Bidding policy is anti-competitive and abusive *per se* because Google plays a dual role of hosting the auction and participating in it as a bidder through AdX. This dual role allows Google to impose unfair and discriminatory conditions on the publishers and third-party exchanges (**3PX**); limits and restricts the development and growth of the relevant market; harms publishers by limiting their choice and their ability to maximize revenue from 3PX. Accordingly, the conduct of Google is in *prima facie* violation of Sections 4(2)(a)(i) and 4(2)(b)(i) of the Act.
- 6.4. Google's Unified Pricing Rule functions as a *de facto* price parity clause and harms publishers by removing their flexibility to create competitive pricing structures, while also preventing 3PX from competing effectively on price. As per the Informant, such actions constitute an abuse of market power under Section 4(2)(a)(i) of the Act, as it imposes unfair and discriminatory conditions on publishers and 3PX.
- 6.5. While publishers generally receive adequate information about prices and fees from other ad tech providers, Google Ads is an exception, as it does not disclose the fees for its services. Moreover, publishers and advertisers lack visibility into Google's revenue share across the entire AdTech supply chain. Thus, the opaque and unfair terms and conditions of Google's AdTech tools constitute a violation of Section 4(2)(a)(ii) of the Act.
- 6.6. Google has imposed exorbitant fees on publishers, including the Informant, through Google Ad Manager. The increase in fees from 9% to over 30% is unfair and points to a *prima facie* case of violation of Section 4(2)(a)(ii) of the Act.



- 6.7. Google has leveraged its dominant position in the primary market of general web search to enter and protect its market position in the AdTech markets in violation of Section 4(2)(e) of the Act.
7. Based on the above, the Informant has alleged that Google has violated the various provisions of Section 3(4) as well as Section 4 of the Act. The Informant has, *inter alia*, prayed the Commission to pass an order under Section 26(1) of the Act to inquire into the conduct of Google.
8. As already stated, the allegation of the Informant in the present matter primarily relates to various ad-tech intermediation services provided by Google and the DG is already investigating certain aspects of such ad-tech intermediation services provided by Google in Case Nos. 41 of 2021, 10 of 2022, and 36 of 2022. Thus, the subject matter of the allegations made in the instant Information is substantially the same, with the subject matter under examination before the DG in the said ongoing investigation. Accordingly, in terms of *proviso* to Section 26(1) of the Act, the Commission decided to club the present matter with Case Nos. 41 of 2021, 10 of 2022, and 36 of 2022. Resultantly, the DG is directed to investigate various practices in the ad-tech intermediation services, as alleged by the Informant, in a comprehensive manner and submit a consolidated investigation report in the matter.
9. The Secretary is directed to send a copy of this order along with the Information to the Office of the DG forthwith. The Secretary is further directed to serve a copy of this order to the counsel(s) of the parties also, through e-mail.

Sd/-
(Deepak Anurag)
Member

Sd/-
(Sweta Kakkad)
Member

Sd/-
(Anil Agrawal)
Member

Sd/-
(Ravneet Kaur)
Chairperson