

International Subscription Agency v. Federation of Publishers' and Booksellers' Association in India | Case No. 33 of 2019

Summary of order passed under Section 27 of the Competition Act, 2002

A. BACKGROUND

1. International Subscription Agency, a subscription agent that procures foreign and Indian journals and sells them in India, approached the Competition Commission of India (CCI) alleging that the Federation of Publishers' and Booksellers' Associations in India (FPBAI) through the terms of supply formulated by its Good Offices Committee (GOC), issued directions to all its members not to give discounts on the sale of print journals and e-resources to its customers. It was further alleged that the FPBAI threatens to take strict action, including expelling those members that don't comply with the discount control policy. Expulsion of members would in turn affect their ability to participate in various tenders issued by procurers, many of whom require FPBAI membership as an eligibility criterion.

B. CCI'S FINDINGS

2. On 23 February 2021, the CCI passed its final order, holding FPBAI liable for acting in contravention of the Competition Act, 2002, noting that-
 - i. The policy for discount control and issuance of advisories to members not to participate in certain procurement advertisements were not merely recommendatory in nature as members were coerced to follow these policies. Notices were issued to members and explanations were sought from them regarding non-compliance with these policies.
 - ii. FPBAI's discount control policy which restricts the discounts that its members can offer to buyers indirectly determines the sale price of books and journals in India.
 - iii. FPBAI's advisories to its members not to participate in certain advertisements containing conditions that are not as per FPBAI's expectations limited and controlled the supply of books and journals in the market.
3. Based on these findings, the CCI held the FPBAI liable for cartelization and imposed a penalty for the same. It also directed the FPBAI to cease and desist from the practice of (i) restricting the quantum of discounts that can be offered by its members and (ii) directing members not to participate in procurement advertisements containing terms and conditions that are not as per FPBAI's expectations.

4. PENALTIES IMPOSED

Under the provisions of Section 27 (b) of the CCI Act, the Commission has imposed upon FPBAI and its individuals viz. Shri Sunil Sachdev and Shri S.C. Sethi, the following amount of penalty;

1. FPBAI – Penalty imposed for Rs. 2,00,000/-
2. Shri Sunil Sachdev- Penalty imposed for Rs. 1,00,000/-
3. Shri S.C. Sethi – Penalty imposed for Rs. 1,00,000/-

5. In compliance with the CCI's directions, FPBAI has-

- i. Deposited the penalty imposed by the CCI;
- ii. Discontinued the practice of issuing advisories to members not to participate in certain advertisements containing conditions not as per its expectations;
- iii. Discontinued its discount policy in July 2020 itself by removing discount control recommendations in its membership form and GOC circulars.