



COMPETITION COMMISSION OF INDIA

Case No. 37 of 2022

In Re:

People Interactive India Private Limited

Informant

And

Alphabet Inc.

Opposite Party No. 1

Google LLC

Opposite Party No. 2

Google India Private Limited

Opposite Party No. 3

Google India Digital Services Pvt. Ltd.

Opposite Party No. 4

WITH

Case No. 17 of 2023

In Re:

Mebigo Labs Private Limited

Informant

And

Alphabet Inc.

Opposite Party No. 1

Google LLC

Opposite Party No. 2

Google India Private Limited

Opposite Party No. 3

Google India Digital Services Pvt. Ltd.

Opposite Party No. 4

WITH

Case No. 27 of 2023

In Re:

Indian Broadcasting and Digital Foundation

Informant No. 1

Indian Digital Media Industry Foundation

Informant No. 2

And

Alphabet Inc.

Opposite Party No. 1

Google LLC

Opposite Party No. 2



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**Google India Private Limited
Google Asia Pacific Pte. Ltd.
Google Ireland Ltd**

**Opposite Party No. 3
Opposite Party No. 4
Opposite Party No. 5**

CORAM:

**Ms. Ravneet Kaur
Chairperson**

**Mr. Anil Agrawal
Member**

**Ms. Sweta Kakkad
Member**

**Mr. Deepak Anurag
Member**

Present

For People Interactive India Private Limited (**PIIPL**) : Mr. Jayant Mehta, Sr. Advocate with Mr. Abir Roy, Mr. Aman Shankar, Mr. Vivek Pandey, Mr. Udit Dedhiya and Mr. Sasthibrata Panda, Advocates

For Mebigolabs Private Limited (**Mebigo**) : Mr. Abir Roy, Mr. Aman Shankar, Mr. Vivek Pandey and Mr. Sasthibrata Panda, Advocates

For Indian Broadcasting and Digital Foundation (**IBDF**) and Indian Digital Media Industry Foundation (**IDMIF**) : Mr. Rajshekhar Rao, Senior Advocate with Ms. Pallavi Shroff, Mr. Yaman Verma, Ms. Parinita Kare, Mr. Ritwik Bhattacharya, Mr. Rohan Bhargava, Mr. Shivek S. Endlaw, Advocates along with Mr. Rishi Sharma and Ms. Siboney Sagar, Representative of IBDF/IDMIF

For Alphabet Inc., Google LLC, Google Ireland Limited, Google India Private Limited, Google : Mr. Sajan Poovayya, Senior Advocate with Mr. Karan Singh Chandhiok, Ms. Deeksha Manchanda, Ms. Avaantika Kakkar, Mr.



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Asia Pacific Pte. Ltd. and
Google India Digital Services
Private Limited (collectively,
'Google'/ 'OPs')

Kaustav Kundu, Mr. Tarun Donadi, Ms.
Bhavika Chhabra, Mr. Palash Maheswari, Ms.
Raksha Agrawal, Mr. Aditya Sahagal,
Advocates along with Mr. Thomas Bohnett, Ms.
Aditi Gopalkrishnan and Ms. Richa Srivastava,
Representatives of Google.

Order under Section 33 of the Competition Act, 2002

1. The present order shall govern the disposal of interim relief prayers made by the Informants seeking interim relief in terms of the provisions contained in Section 33 of the Competition Act, 2002 ("**the Act**") against the arrayed Opposite Parties. The Commission, *vide* an order dated 15.03.2024 passed under Section 26(1) of the Act, *prima facie* found a case of contravention of the provisions of Section 4 of the Act against the Opposite Parties, as detailed therein, and ordered the Director General ("**DG**") to cause an investigation to be made into the matter.
2. By way of background, it is noted that the Informations in the captioned cases have been filed under Section 19(1)(a) of the Act against Google alleging contravention of Section 4 of the Act, on its part.
3. Case No. 37 of 2022 has been filed by People Interactive India Private Limited (**PIIPL**) which is stated to be an internet company and operates brands such as Shaadi.com and Sangam.com and providing online matchmaking classified service across the globe.
4. Case No. 17 of 2023 has been filed by Mebiggo Labs Private Limited (**Mebigo**) which is stated to be an internet company that owns the brand such as Kuku FM and provides audio content such as audiobooks, stories, originals and similar categories through apps and website across the globe.
5. Case No. 27 of 2023 has been filed by Indian Broadcasting and Digital Foundation (**IBDF**) and Indian Digital Media Industry Foundation (**IDMIF**). IBDF is stated to



be a leading association which *inter alia* works towards the interests of the Indian television industry and the digital media industry. IDMIF is stated to be a subsidiary of IBDF.

6. The Opposite Parties offers various internet-based products including a proprietary digital store for mobile based applications, *i.e.*, Google Play Store, and its proprietary OS, *i.e.*, Android OS.
7. Google filed its reply on the allegations as well as interim relief applications on 28.02.2024 and thereafter, the Informants also filed their respective rejoinders on 04.03.2024 and 05.03.2024. The Commission also heard the detailed arguments made by the learned senior counsel(s) appearing on behalf of PIPL, IBDF/IDMIF and Google and the learned counsel appearing on behalf of Mebigo on 06.03.2024. Thereafter, the Commission decided to pass an appropriate order in due course. The parties have also filed brief synopsis of their oral arguments.
8. The Informants are primarily aggrieved with Google's updated payment policies in relation to its proprietary app store (*i.e.*, Google Play Store), which are alleged to be in violation of Section 4 of the Act and is stated to be impacting several stakeholders, including app developers, payment processors, and users alike.
9. The Commission considered the information available on record and *vide* its order dated 15.03.2024 passed under Section 26(1) of the Act noted that the Informants are primarily aggrieved by the billing policy of Google for in-app purchases and paid apps. The Commission in the said *prima facie* order has delineated two relevant markets in the present case for examining the alleged abusive conduct of Google *i.e.*, the market for licensable OS for smart mobile devices in India and the market for app stores for Android smart mobile OS in India. Further, Google has also been found to be dominant in these two relevant markets. The Commission has also formed a *prima facie* view that Google has violated the provisions of Section 4(2)(a), 4(2)(b) and 4(2)(c) of the Act, as detailed therein which warrants detailed



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investigation. The Director General ('DG') has been directed to complete the investigation and submit a consolidated investigation report within a period of 60 days from the date of receipt of the said order.

10. In this backdrop, the Commission deems it appropriate to consider the interim relief prayer made by the Informants. During the course of hearing, all the parties made detailed arguments on the interim relief prayers. The Informants *vide* their post hearing submissions filed revised interim prayers. For felicity of reference, these interim relief prayers are excerpted below:

Combined Interim Prayers filed by PIPL and Mebiga

It is most humbly prayed that this Hon'ble Commission, pending a final order in this case, may graciously be pleased to:-

- 1. Direct that Google should not mandate the sharing of any financial information or payment transaction-related data (whether manually or through API), if, an in-app purchase or paid transaction is processed inside an app through third-party billing systems (other than GPBS).*
- 2. Prohibit Google from levying any fee / commission, if, an in-app purchase or paid transaction is processed inside an app through third-party billing systems.*
- 3. Direct Google to keep in abeyance its policy of mandating any guidelines, including UI/UX Guidelines (interim or final) which provides for user interface /flow;*
- 4. Direct Google not to delist and/or hamper the visibility of the apps listed on Play Store for non-adherence to the Impugned Policies of Google.*
- 5. Pass any other order as may be appropriate under the Competition Act, 2002.*

Interim Relief Prayers filed by IBDF/IDMIF

It is humbly prayed that pending the investigation and final disposal of the Information, in the interim, the Hon'ble Commission be pleased to stay the implementation of the Google Payments Policy, inter alia including on the following terms / conditions:



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- (i) *restrain the imposition of any fee / commission for transactions involving paid downloads or in-app purchases on apps offering digital products / services, including transactions processed through either GPBS or alternative payment processors under UCB;*
- (ii) *restrain the collection of any data from app developers. To facilitate any eventual payment by the app developers, should the Hon'ble Commission finally rule in Google's favour, app developers be directed to collect and collate and keep available with themselves the data required for calculation of the fee in an aggregated form as directed by the Hon'ble Commission;*
- (iii) *direct Google to allow all app developers (whether providing physical or digital products or services on their apps) the ability to provide the same payment option, and to impose no additional conditions on app developers providing digital products or services on their apps, than those imposed on app developers providing physical products or services on their apps; and*
- (iv) *direct Google not to de-list any app developer for failure to comply with any of the above provisions of the impugned Google Payments Policy.*

11. Section 33 of the Act reads as follows:

“Power to issue interim orders

33. Where during an inquiry, the Commission is satisfied that an act in contravention of sub-section (1) of section 3 or sub-section (1) of section 4 or section 6 has been committed and continues to be committed or that such act is about to be committed, the Commission may, by order, temporarily restrain any party from carrying on such act until the conclusion of such inquiry or until further orders, without giving notice to such party, where it deems it necessary.

12. Explaining the statutory scheme, the Hon'ble Supreme Court of India in the case of *Competition Commission of India v. Steel Authority of India Ltd.*, Civil Appeal No. 7779 of 2010 decided on 09.09.2010 held that this power has to be exercised by the Commission sparingly and under compelling and exceptional circumstances. Further, it was held that the Commission, while recording a reasoned order *inter alia* should: (a) record its satisfaction which has to be of much higher degree than the formation of a *prima facie* view under Section 26(1) of the Act in clear terms



that an act in contravention of the stated provisions has been committed and continues to be committed or is about to be committed; (b) it is necessary to issue order of restraint and (c) from the record before the Commission, it is apparent that there is every likelihood of the party to the *lis*, suffering irreparable and irretrievable damage or there is definite apprehension that it would have an adverse effect on competition in the market.

13. In legal proceedings, the granting of interim relief is a crucial aspect of ensuring fairness and justice, particularly when a matter is under investigation. Interim relief serves to prevent irreparable harm or maintain the *status quo* until a final decision is reached. However, the principles governing the grant of interim relief necessitate a careful consideration of the circumstances and alignment with the issues at hand as guided by the Hon'ble Supreme Court in the abovementioned judgement.
14. One of the fundamental principles for granting interim relief is the requirement for a clear nexus between the relief sought and the issues under investigation or in dispute. The Commission in the instant matter has directed investigation on select issues as against varied allegations made by the three Informants. Therefore, the relief sought must correspond to the issues outlined for the investigation. A plain reading of the interim relief prayers when juxtaposed with the issues on which investigation has been directed, reveals that there are various interim relief prayers in respect of which there is no corresponding direction for investigation *viz.* interim relief prayer relating to collection of data, UI/UX interface, *etc.* Therefore, no relief can be granted in respect of the same.
15. Further, the Commission has been prayed to restrain Google from collecting any fee for transactions involving paid downloads or in-app purchases on apps offering digital products / services. While there may be concerns about the fairness of Google's fee structure as outlined by the Commission in its *prima facie* order dated 15.03.2024, it is essential to recognize the costs and responsibilities associated with maintaining and operating app stores. In relation to this relief, Google has submitted



that grant of the same *would virtually amount to requiring Google to offer Play for free to developers in India. No other court or regulator has passed a similar relief despite repeated requests. This recognises that Google cannot provide its platform without any consideration, especially when developers continue to charge their users for digital in-app purchases and enjoy the services of Play.* While it is essential to ensure a level playing field and protect competition within the app store market, any measures taken should be proportionate and carefully crafted to minimize unintended consequences and preserve the overall integrity and functionality of the platform ecosystem. Based on the foregoing, the Commission is of the view that the Informants have not been able to demonstrate a case in their favour for grant of interim relief for complete restraint on Google from collection of its fee.

16. The Commission is further of the view that the Informants have also failed to meet the necessary criteria for grant of interim relief as propounded by the Hon'ble Supreme Court. The Informants have not been able to project any higher level of *prima facie* case warranting a positive direction as sought for by the Informants at the interim stage. The Informant has also not been able to demonstrate as to how the impugned conduct would result in irreparable harm that cannot be remedied through monetary compensation. The Commission is also not persuaded that balance of convenience lies in favour of the Informants.
17. Viewed in the aforesaid backdrop, the Commission is of the considered opinion that no case whatsoever has been made out by the Informants which warrants grant of interim relief. Resultantly, the applications stand dismissed.
18. It is also made clear that nothing stated in this order shall be tantamount to a final expression of opinion on the merits of the case, and the DG shall conduct the investigation without being swayed in any manner whatsoever by the observations made herein.



19. The Secretary is directed to communicate to the parties and the Office of the DG, accordingly.

Sd/-
(Ravneet Kaur)
Chairperson

Sd/-
(Anil Agrawal)
Member

Sd/-
(Sweta Kakkad)
Member

Sd/-
(Deepak Anurag)
Member

New Delhi
Date: 20 / 03 / 2024