

Indian Railways and IRCTC exonerated of alleged abuse of dominance

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Introduction

Decision

Recommendations

Introduction

On August 10 2015 the Competition Commission of India (CCI) [dismissed a case](#) alleging abuse of dominance by Indian Railways and the Indian Railway Catering and Tourism Corporation (IRCTC). It had been alleged that the parties were involved in unfair practices, including:

- unfair/discriminatory conditions in connection with the passenger reservation system;
- the compulsory provision of food on the Rajdhani, Shatabdi and Duronto trains;
- a market barrier discouraging entry of new IRCTC agents;
- a monopoly on food courts at large railway stations;
- restrictions on the technical and scientific development of Indian Railways; and
- restrictions against private players providing meals through e-catering in trains with no pantry facility.

Decision

The investigation by the director general of the CCI found no violation of the Competition Act. The major findings of the CCI are summarised below.

Ticket charges

The CCI found that the levy of service charges on tickets sold online did not amount to an abuse of dominant position by the IRCTC, as the online sale of tickets was a value-added service provided by Indian Railways and the service charges were levied in order to meet the additional costs incurred in facilitating it. Further, customers could avoid these service charges by buying tickets at ticket counters.

The CCI noted that the additional imposition of service charges on passengers purchasing tickets through IRCTC agents was not abusive, as the charges were nominal and the service was optional. Service charges were meant to cover additional expenditure incurred by IRCTC agents, including rent and electricity charges.

Regarding the premium charged for booking Tatkal tickets, the CCI held that the Tatkal scheme was established to facilitate last-minute travel plans. Further, the Tatkal and Premium Tatkal schemes generated additional revenue which helped to cover the revenue lost in fare subsidies. As such, it could not be considered an abuse of dominant position.

The CCI ruled that the imposition of cancellation or clerkage charges for the cancellation of tickets was carried out as per the Railways Act 1989 and amounted to a statutory function. Thus, it could not be challenged by the CCI.

Compulsory food

AUTHOR

**Man Mohan
Sharma**



The compulsory provision of food on the Rajdhani, Shatabdi and Duronto trains was alleged to be abusive as it obliged customers to buy food regardless of whether they wanted it. The CCI disagreed with this argument. It stated that the service was provided only on certain premium trains, accounting for less than 5% of the total number of trains operated by the railways. Procuring food from outside the trains (ie, on the railway platforms) was not be possible due to limited and brief stoppage. Further, allowing outside food on board would lead to security, safety and hygiene problems. Lastly, the prices charged were not excessive in comparison to prevalent market rates.

Technical and scientific development

Restrictions on the technical and scientific development of Indian Railways were held not to amount to abuse of a dominant position; however, the CCI acknowledged that there was scope for major improvement in the services provided.

Recommendations

The CCI concluded that Indian Railways and the IRCTC had not contravened Section 4 of the Competition Act. However, it recommended that Indian Railways consider discontinuing the levy of service charges and other unnecessary restrictions on online ticket bookings, as this would not significantly affect its revenues and would ensure that fees and other charges were efficiently and effectively levied on passengers. It noted that although the service charges imposed were not high, their discontinuation would benefit a wide section of society.

For further information on this topic please contact [MM Sharma](#) at Vaish Associates by telephone (+91 11 4929 2525) or email (mmsharma@vaishlaw.com). The Vaish Associates website can be accessed at www.vaishlaw.com.

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