



COMPETITION COMMISSION OF INDIA

Case No. 07 of 2021

In Re:

C Prabhu Daniel

**3, 1st Main Road
Seethammal Extension
Teynampet
Chennai — 18**

Informant

And

**M/s Tamil Nadu Theatre and Multiplex Owners
Association**

**Door No. 9A/3
Radhakrishnan Street
Chennai — 600017**

Opposite Party

CORAM

**Mr. Ashok Kumar Gupta
Chairperson**

**Ms. Sangeeta Verma
Member**

**Mr. Bhagwant Singh Bishnoi
Member**

Order under Section 26(2) of the Competition Act, 2002

1. The present Information has been filed by Shri C Prabhu Daniel ('the Informant') under Section 19(1)(a) of the Competition Act, 2002 ('the Act') against Tamil Nadu Theatre and Multiplex Owners Association ("TNTMOA") ('Opposite



- Party/ OP'), alleging, *inter alia* contravention of the provisions of Section 3 of the Act.
2. The Informant has filed this Information based on media reports and information available in the public domain. As per the Information, the OP, located in Chennai, claims to be an association to help and safeguard the interests of the film exhibition industry in Tamil Nadu. It is stated by the Informant that the Tamil movie 'Aelay' was scheduled to have a worldwide theatrical release on 12.02.2021. However, just three days before the theatrical release, theatres were not made available for the film as exhibitors/ theatre owners had put forth a strict policy that no movie should premiere on over-the-top (OTT) media platforms for a period of 30 days of its theatrical release. Being left with no option, the movie had to skip theatrical premier and had to premier through the television channel 'Star Vijay' on 28.02.2021.
 3. The Informant further states that as per the publicly available information, Tamil Film Active Producers Association (TFAPA) had called the exhibitors/theatre owners for talks, but the exhibitors/theatre owners refused to engage in talks with TFAPA. On the other hand, OP was unilaterally engaged in an arm-twisting strategy of demanding a written undertaking that '*for 30 days the movie producer would not premier the movie in OTT media platforms*' – a pre-condition to screen movies in theatres.
 4. The Informant has also alleged that the window of a 30-day gap between theatrical release and the OTT platform release demanded by exhibitors is for small and medium budget Tamil movies. In case of big budget movies, the exhibitors/theatre owners want the producers to not release their movies for at least 50 days in OTT platforms.
 5. The Informant has also alleged that the restriction imposed by OP strangulates the natural evolution of OTT platforms as an alternative or additional medium of Tamil movie distribution. Such restriction has constrained the potential of OTT



platforms to become an alternate or additional medium of movie exhibition and thereby compete with single screens and multiplexes. Besides restricting the provision of services, the restriction imposed by OP has effectively limited the incentives of OTT to invest and engage in technical development of their platforms and offer an effective medium for movie distribution to producers.

6. The Informant further alleges that by imposing restrictions, the OP forecloses/limits the simultaneous distribution of new Tamil movies to OTT platforms and acts as an unfair/risky trade-off to producers. Thus, the choice available to the producers as a consumer of exhibition services provided by OTT platforms is lost.
7. In support of the allegations, the Informant has submitted a copy of letter (translated version) dated 10.02.2021 of the Tamil Film Active Producers Association which states that, to release Tamil movies, theatre owners are compelling the concerned producer to issue a letter to the effect that they shall not release the movie on OTT platforms for 30 days.
8. In addition, the Informant has also submitted the transcript of an interview of Mr. Panneerselvam, General Secretary of OP whereby he has expressed his grief over release of the film “Ponmagal Vandhal” on an OTT platform and stated that they (OP) contacted the producer and informed not to release the film on an OTT platform. Since the producer did not pay heed, 2D production company was asked to release all its films only on OTT platforms.
9. Further, the Informant has also submitted the transcript of interview of Mr. Tiruppur Subramaniam, President, TNTMOA (OP) where, in response to a question regarding producers’ willingness towards OTT release of movies, he responded “*We will get a written statement from them saying that they will release the films on OTT after 30 days from the release of films in theatres, by accepting this rule only, we will release the films on theatres. Even now*



producers accepted this and giving letter regarding this, so there is no chance of early release of a movie in OTT.”

10. In light of the aforesaid allegations and averments, the Informant has prayed the Commission to direct the Director General to conduct investigation into the matter, in terms of Section 26(1) of the Act and also:

- a) direct OP to be restrained and be ordered to cease and desist from placing restriction on producers.
- b) direct OP to be restrained from imposing any unfair and unjustified restrictions on release and exploitation of the forthcoming film.
- c) order such remedial and punitive measures against OP and its members so as to address/reverse the harm to competition as well as create deterrence amongst interested parties to indulge in anti-competitive behaviour of same or similar nature; and
- d) pass such other and further order as the Commission may deem fit and proper in the circumstances of the case.

11. The Commission considered the Information in its ordinary meeting held on 04.05.2021, and *vide* its order of even date, directed to forward a copy thereof to the OP with a direction to file its reply thereto by 10.06.2021, with an advance copy to the Informant. The Informant was, thereafter, allowed to file its response to such a reply of OP within one week of its receipt, with an advance copy to OP. Further, the Commission *vide* its order dated 25.08.202, decided to forward a copy of the Information to Tamil Film Active Producers Association (TFAPA) and Tamil Film Producers Council (TFPC) to seek their response(s), if any, by 25.09.2021, with advance copies to the Informant and OP. The reply thereto, if any, was allowed to be filed by the Informant and OP within one week of the receipt of response(s).



12. The OP and TFPC have submitted their reply and response respectively. However, the Informant has not filed its rejoinder either to the reply of OP or to the response of TFPC. Further, TFAPA has also not submitted any response.
13. OP in its reply denied all allegations levelled against it as being frivolous and blatantly false, without any concrete back up evidence. On the allegation of an “agreement” among the members of OP to ban the Tamil film ‘Aelay’, the OP has submitted that this is a complete misrepresentation as no such agreement was even discussed nor was any Board resolution passed by the association. OP further stated that some theatre owners may have individually expressed their displeasure on releasing the film on OTT in a short span as it affects their revenue widely. The dissonance of a few theatre owners can never amount to a unanimous resolution of the association, and the attempt of the Informant to project this as a unanimous resolution is misconceived and has been deliberately made to mislead the Commission. It was further submitted that the Informant appears to be a meddlesome interloper and blackmailer who files frivolous complaints for extraneous considerations and has made vague allegations, without specifying any details regarding the theatres and the reasons as to why they were not able to release the movie in the theatre. OP also submitted that, except citing hearsay statements, media reports and rumours, the Informant has not adduced any concrete proof in support of its allegations. OP further submits that it is an irony to claim that exhibitors deny access to release films on their screens that too in an unprecedented situation like the current pandemic, where theatre owners are hungry for more films to screen so that they can make ends meet.
14. On the transcript of Mr. Panneerselvam, General Secretary of OP, which the Informant has annexed as secondary evidence, it was submitted that the same is nothing but forged and tailored to give credence to the Informant’s allegations. Mr. Panneerselvam has not uttered anything regarding banning the movie, and has only stated that the association will discuss the future scenario in the coming days so that theatres can survive.



15. TFPC in its response pointed out that it is not directly or indirectly related to the issues alleged in the matter or the reliefs prayed thereunder. TFPC is an association with the primary object of promoting the interests of Tamil film producers. It submitted that the decision of mode and medium of release of the film, either by theatrical release or OTT or both or in any other manner whatsoever, is absolutely within the discretion and power of the film producer and does not involve TFPC at any point of time. It further submitted that due to the release of the film on OTT (due to the COVID-19 pandemic and the consequent lockdowns imposed from time to time), the release of films in theatres have been affected immensely since March 2020. This, in turn, has increased the demand for release of films on OTT platforms. It also pointed out that, in the event that a film is released in theatres and is also released on OTT within a short span of time, the film may not augment the expected revenue in theatres.
16. The Commission has perused the Information and other material by way of replies/ responses, as excerpted *supra*.
17. In the present matter, based on certain media reports, the Informant has alleged that OP Association is restricting producers to have an additional or alternative medium of film release by insisting on written undertakings from the producers that they would not premier the movie for 30 days after theatrical release. The gist of the allegations made by the Informant and the basis thereof has already been noted in the order and, as such, it is not necessary to recapitulate the same herein.
18. In this regard, it is apposite to note the reply of OP, wherein it has emphatically denied the allegations made by the Informant. It pointed out that the Informant has failed to produce any material to show an agreement between the theatre owners and even correspondences exchanged between the theatre owners wherefrom any agreement, as alleged, can be inferred. The Informant has made



very vague allegations lacking in specificities regarding the theatres and the reasons as to why they were not able to release movies. The Informant is a random party without any stake in the theatre industry and can take no exception to internal policies of the OP, which are perfectly in line with the laws of the land, including the Competition Act. It is absurd to suggest that exhibitors deny access to release films on their screen during the pandemic, when they are “hungry” to make ends meet. Personal displeasure expressed by few theatre owners in their personal capacity cannot be grounds to impute anti-competitive behaviour on the part of the answering association. It was averred that OP cannot be sued for grievances against individual theatre owners. The hearsay statements, media reports and rumours cited by the Informant in support of the allegations are inadmissible, irrelevant, unreliable and insufficient besides being incapable of proof under the Indian Evidence Act.

19. The Commission has also perused the response filed by TFPC, wherein it has, *inter alia* emphatically stated that the decision as regards the mode and medium of release of films, viz. through theatrical release or OTT or both or in any other manner whatsoever, is absolutely within the discretion and power of the film producers. The film producers, distributors, financiers, etc. enter into independent agreements which delineate their respective rights and obligations.
20. Having perused the Information and the reply and response filed thereto by the OP and TFPC, the Commission is of the opinion that not only has the Informant failed to adduce any material to support its allegations but has not even filed a rejoinder to the categorical denials made in reply/response filed by the OP and TFPC. In these circumstances, the Commission is of the considered opinion that the Informant is not able to show or otherwise present any material wherefrom even a *prima facie* finding of contravention can be recorded against the OP.
21. Resultantly, the Commission is of the opinion that no case of contravention of the provisions of the Act is made out, and the matter is ordered to be closed forthwith in terms of the provisions contained in Section 26(2) of the Act.



22. The Secretary is directed to communicate to the parties, accordingly.

Sd/-

**Ashok Kumar Gupta
(Chairperson)**

Sd/-

**Sangeeta Verma
(Member)**

Sd/-

**Bhagwant Singh Bishnoi
(Member)**

**New Delhi
Date: 21/10/2021**