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Fair Competition
For Greater Good

COMPETITION COMMISSION OF INDIA

Case No. 19 of 2021

In Re:

**TT Friendly Super League Association
1204, D Wing, Anuraddha Building
Bharatkhand CHS
Tilak Nagar
Mumbai-400 089**

Informant

And

**The Suburban Table Tennis Association
303, Cosmos Court, Opposite IOL Petrol Pump
SV Road, Vile Parle West
Mumbai-400 056**

Opposite Party 1

**Maharashtra State Table Tennis Association
Sharada Centre, 11/1, Erandawane
Behind Padale Palace
Pune-411004**

Opposite Party 2

**Table Tennis Federation of India
1-12, 3rd Floor, DSIIDC Industrial Complex
Near Udyog Nagar Metro Station, Rohtak Road
Delhi -110041**

Opposite Party 3

CORAM

**Mr. Ashok Kumar Gupta
Chairperson**

**Ms. Sangeeta Verma
Member**

**Mr. Bhagwant Singh Bishnoi
Member**



Order under Section 26(1) of the Competition Act, 2002

1. The present Information has been filed by TT Friendly Super League Association (**TTFSL/ ‘the Informant’**) under Section 19(1)(a) of the Competition Act, 2002 (**‘the Act’**) against The Suburban Table Tennis Association, (**TSTTA/ ‘Opposite Party 1’/‘OP-1’**); Maharashtra State Table Tennis Association (**MSTTA/‘Opposite Party 2’/‘OP-2’**); and Table Tennis Federation of India (**TTFI/ ‘Opposite Party 3’/‘OP-3’**) alleging contravention of the provisions of Sections 3 and 4 of the Act .The Opposite Parties 1 to 3 are hereinafter collectively referred to as **Opposite Parties (‘OPs’)**.
2. As per the averments made in the Information, the Informant is an NGO registered under Section 8 of the Companies Act, 2013, incorporated on 06.08.2020. The Informant is stated to work with the sole purpose of the promotion of table tennis (TT) in India, as stated in the Objective Clauses of its Memorandum of Association, and conducts friendly TT matches for its members around Mumbai City, Mumbai Suburban and Thane District in Maharashtra, as per the convenience of players and availability of venues, without any concept of prize money, referee, cup, medal, certificate or ranking of any sort. OP-1 is a registered society and is the district body headquartered in Mumbai having an affiliation with the State Body, with jurisdiction over Mumbai Suburban District only, responsible for conducting open district ranking tournaments in Mumbai Suburban jurisdiction for the selection of players to represent the State as well as promotion of table tennis in its jurisdiction. OP-2 is the State Body headquartered in Pune, Maharashtra having an affiliation with the National Federation, responsible for conducting open state ranking tournaments in the State of Maharashtra as well as for selection of players from its affiliated districts to represent the State as well as promotion of table tennis within the State of Maharashtra. OP-3 is the National Sports Federation (NSF) for the sport of table tennis in India, recognized by the Ministry of Youth Affairs and Sports, under the National Sports Code 2011, headquartered at Delhi, and is a registered society under the Societies Registrations Act 1860, formed on 28.02.1961, responsible for conducting national ranking tournaments and selection



of players from States to represent India in various international competitions such as Olympics, Commonwealth and Asian Games. OP-3 is also the apex body of the country recognized by International Table Tennis Federation and is also the affiliated member of Indian Olympic Association for regulation of the game of table tennis in India.

3. It is stated by the Informant that it was incorporated as an NGO on 06.08.2020 for promotion of the sport of table tennis for charitable purposes. The Informant further states that prior to incorporation as an NGO, it used to regularly organise friendly TT matches on Sundays under the same brand name (TTFSL) at different venues in Mumbai City, Mumbai Suburban and Thane areas where players participate in friendly TT events with no prize money, referee, cup, medal, certificate or any ranking of any sort.
4. The Informant further states that instead of appreciating the activities of the Informant to promote the sport of TT, the General Secretary of OP-1 *i.e.* Mr. Sameer Bhate, posted a circular/ notice on 30.10.2020 on a “Notices Only Masters Veterans” WhatsApp group addressed to players/parents/coaches/clubs, not to join any unaffiliated organisations and not to play any unaffiliated organisation’s matches, and it further stated that if any member club or academy enters into any arrangement with any other unaffiliated TT body, their club/academy would not be allowed to participate in any of the tournaments that the District body or State body organizes and will result in suspension/non-acceptance of their entries in TT tournaments. As a consequence of the OP-1’s notice, many suburban players refused to register as members of the Informant and the players who had earlier registered with the Informant, did not join the Informant by paying the one-time lifetime membership fee of Rs. 500/-.
5. It is further stated by the Informant that to get complete clarity regarding the illegal notice issued by OP-1, the Informant sent objection letters to OP-1, OP-2 and OP-3 on their respective official e-mail addresses, asking OP-2 and OP-3 to intervene in the matter. However, no reply was received by the Informant from OPs.



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6. In addition, the Informant has alleged certain clauses of OP-3's Memorandum of Association (MOA) related to the definition of tournament, sanction for open tournament, restriction of players from participating in any unrecognised tournament and right to prohibit unauthorised tournaments by Executive Committee of OP-3, as anti-competitive.
7. The Informant has also alleged nexus and collusion by and between the OPs in as much as Mr. Rajeev Bodas, President of OP- 2 also holds a seat in the Executive Committee of OP-3 as Vice-President, and similarly, Mr. Prakash Tulpule, Honorary Secretary of OP-2, is also Joint Secretary of OP-3.
8. The Commission considered the Information in its ordinary meeting held on 11.08.2021 and decided to forward a copy thereof to the Opposite Parties (OPs) with a direction to file their reply thereto by 10.09.2021, with an advance copy to the Informant. The Informant was, thereafter, allowed to file its response(s) to such replies of OPs within 01 week of receipt, with advance copies to OPs. From the records, it is observed that only OP-1 has filed its reply, and the Informant has filed its rejoinder to the said reply of OP-1. OP-2 and OP-3 have not filed their replies.
9. OP-1 in its reply stated that it is not covered under the definition of 'enterprise' as given in Section 2(h) of the Act, as it is not carrying out any activity that falls under the category of production, storage, supply, distribution, acquisition or control of articles or goods or provisions of services, investment, or is in the business of acquiring, holding, underwriting or dealing with shares, debentures or other securities of any other body corporate. It was further submitted that members of OP-1 and the Informant are not "consumers" as defined under Section 2(f) of the Act. It was also emphasized that the Informant has no *locus standi* to challenge any of the provision of the Memorandum of Association of OP-3 Association.
10. Further, it was pointed out that the Informant is not a club or a sports organization, which can be recognized or affiliated with the OPs. The Director of the Informant is a table tennis enthusiast and cannot be permitted to run parallel associations in



competition with the recognized body as it may dilute/ frustrate the objectives of recognized associations.

11. Lastly, it was submitted that, in order to organize and to bring discipline in the sports and to avoid destructive competition amongst players, there is a prohibition for players from participating in any tournament which is not sanctioned/approved. All the associations are empowered to take disciplinary action against the players contravening the rules and regulations formulated under the Memorandum of Association. OP-1, however, denied that it has passed any resolution against the Informant or its members. It was pointed out that the Informant has been organising the commercial competitions and only unseeded players are participating in its events. Due to non-response from the seeded players, the Informant has filed the present unwarranted litigation and has also been spreading rumors on social media.
12. The Informant in its rejoinder pointed out that there is a catena of cases of sports federations/bodies already decided by the Commission on the issue of limiting/controlling the provision of services, restricting market access and abuse of dominant position. The Informant on the issue of *locus standi* contended that if any illegal bylaws exists in Memorandum of Association of any of the OPs, which is in violation of the provisions of the Act, then the challenge to such illegal laws by any person/association/body, clearly falls within the jurisdiction of the Commission.
13. The Informant also stated that OP-1 conducts district and state ranking/selection tournaments in its jurisdiction, distributes prize money, trophies, medals, certificates to TT players, and selects players to represent their respective districts besides receiving sponsorships, donations, royalty *etc.* and also collects yearly subscription fees from players in its jurisdiction as also clubs fees in the sub-urban district for inter-club tournaments. Based on this, it was pointed out that such revenue generating activities, being economic in nature, bring OP-1 within the purview of the term 'enterprise' as defined in Section 2(h) of the Act.



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14. Lastly, on the issue of organisation of commercial tournaments and not having access to seeded players, the Informant submitted that it has not organised any commercial competition tournaments, and all the events conducted so far have had no prize money, medal, certificate or even referee. The Informant has also denied that only unseeded players are playing in its leagues and stated that it does not distinguish between seeded and unseeded players at all. The Informant also pointed out that the notice issued by OP-1 *via* WhatsApp dated 30.10.2020 restricts all players from joining the Informant and does not differentiate between seeded and unseeded players.
15. The Commission considered the Information and other material available on record and based on the averments and allegations made in the Information, it is observed that the Informant is primarily aggrieved by the fact that it has been denied access to utilise the services of TT players because of the WhatsApp notice posted by the General Secretary of OP-1 as well as certain clauses of OP-3's Memorandum of Association which shall be detailed in the later part of this order, as violative of the provisions of the Act.
16. Before examining the issues projected in the Information, the Commission deems it appropriate to deal with the preliminary objection raised by OP-1 that, since it is not involved in any commercial activity, it is not an 'enterprise' within the meaning of the term as defined in Section 2(h) of the Act and, as such, it cannot be proceeded against under the Act.
17. In this regard, it is sufficed to note that Section 2(h) of the Act defines 'enterprise' as including *inter alia* any person or Department of the Government, which is engaged in *any* activity, relating to the production, storage, supply, distribution, acquisition or control of articles or goods, or the provision of services, *of any kind*. The definition is very wide in its amplitude and covers all activities of specified nature of any kind. Further, as per Section 2(u) of the Act, 'service' means service of any description which is made available to potential users and includes the provision of services in connection with business of any industrial or commercial



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matters such as banking, communication, education, financing, insurance, chit funds, real estate, transport, storage, material treatment, processing, supply of electrical or other energy, boarding, lodging, entertainment, amusement, construction, repair, conveying of news or information and advertising.

18. The thrust of the definition of the term ‘enterprise’ is on the economic nature of the activities discharged by the entities concerned. It is immaterial whether such economic activities were undertaken for profit making/ commercial purpose or for philanthropic purpose. Thus, even non-commercial economic activities would be subject to the discipline of the Act as the Act does not distinguish economic activities based on commercial or non-commercial nature thereof. In ascertaining as to whether an entity qualifies to be an ‘enterprise’, the Commission examines this from a functional rather than a formal approach.
19. Moreover, it is also pertinent to point out that Section 3 of the Act prohibits anti-competitive agreements and, *inter alia*, mandates that no enterprise or association of enterprises or *person or association of persons* shall enter into any agreement in respect of production, supply, distribution, storage, acquisition or control of goods or provision of services, which causes or is likely to cause an appreciable adverse effect on competition. This provision does not confine the entities, which are subject to this prohibition, to ‘enterprise’ as even the ‘person’ and ‘association of persons’ have been included within its purview. Further, the specified conduct of such entities in Section 3(3) of the Act, is presumed to have an appreciable adverse effect on competition.
20. In the aforesaid statutory backdrop, if the Information is examined, the Commission is of *prima facie* opinion that the activities discharged by OPs bring them within the purview of the term “enterprise” as defined under the Act. In this regard, from the Information, it is observed that OPs organise/conduct TT tournaments, distribute prize money, trophies, medals, certificates to TT players, conduct coaching camps, select players to represent respective District/State/Country respectively and receive sponsorships and donations,



royalty, advertising revenue, besides collecting yearly subscription fees. OPs also receive sponsorships and revenue from advertisements, royalty and media, receive equipment support from equipment companies and give away prize money, medals, trophies and certificates to participants and players.

21. In the view of statutory framework defining ‘enterprise’ as detailed above and keeping in view the nature of functions performed by OPs, as adumbrated *supra*, OPs *prima facie* are held to be ‘enterprise’ within the meaning of the term as defined in Section 2(h) of the Act.
22. Having held OPs to be an ‘enterprise’, the Commission now proceeds to assess the impugned conduct of OPs within the parameters of Section 4 of the Act which prohibits abuse of dominant position by undertakings in the relevant market.
23. In this regard, first the relevant market needs to be defined and thereafter the dominance of the enterprise or group concerned has to be ascertained therein before proceeding to examine the alleged abusive conduct.
24. In any case of alleged abuse of dominant position, delineation of relevant market is important as it sets out the boundaries of competition analysis. Proper delineation of relevant market is necessary to identify in a systematic manner, the competing alternatives available to the consumers and accordingly the competitive constraints faced by the enterprise under scrutiny. The process of defining the relevant market is in essence a process of determining the substitutable goods or services as also to delineate the geographic scope within which such goods or services compete.
25. In the instant case, looking at the nature of allegations and the issues arising therefrom in light of the statutory scheme, the Commission *prima facie* assesses the relevant product market as *market for organization of table tennis leagues/events/ tournaments*. Further, as TT players from any part of India may participate in the events organised by the Informant, the relevant geographic market may be taken as whole of India.



26. Accordingly, *prima facie*, the relevant market in the instant case for assessment of abusive conduct appears to be ‘*market for organization of table tennis leagues/events/ tournaments in India*’.
27. On the issue of dominance of OPs in the afore-delineated relevant market, the Commission notes that OPs are organised in the pyramidal structure governing and regulating the sport of table tennis in India from the district to the national level. OP-1 is the district body having affiliation with the State body (OP-2) with jurisdiction over Mumbai Suburban District only. OP-2 is stated to be the State body headquartered in Pune, Maharashtra, having affiliation with the National Federation (OP-3). OP-3 is the National Sports Federation (NSF) for the sport of table tennis in India, recognized by Ministry of Youth Affairs and Sports , under the National Sports Code 2011, headquartered at Delhi, and is a registered society under the Societies Registrations Act 1860, formed on 28.02.1961, responsible for conducting national ranking tournaments and the selection of players from States to represent the country in various international competitions such as Olympics, Commonwealth and Asian Games. OP-3 is the apex body of the country recognized by International Table Tennis Federation and is also an affiliate member of Indian Olympic Association for regulation of game of table tennis in India. As such, all the OPs are linked and affiliated to each other in the pyramidal structure. They are responsible for representing, coordinating, administering, marketing and developing the sport. Hence, in the given eco system of TT at the national level, *prima facie* it appears that OPs hold a dominant position in the relevant market as delineated *supra*.
28. As regards the abusive conduct, the Informant has submitted a self-certified true screenshot capture of the WhatsApp message posted by the General Secretary of OP-1 on 30.10.2020, addressed to players/ coaches/ clubs/ academies restricting them from joining/ playing the non-affiliated clubs/organizations and stating that non-adherence to the said direction will result into their suspension/non-acceptance



of their entries in TT Tournaments. OP-1 in its reply has also not denied the WhatsApp message.

29. From the Information, it is also noted that not only the Informant but the players are also aggrieved of such conduct of OP-1 which is evident from an online petition started and signed by 50-60 players of the Mumbai Suburban jurisdiction on website www.change.org entitled “*TSTTA Plz don't Punish TT Players*” dated 06.11.2020 requesting OP-1 to withdraw the impugned notice.
30. The Commission notes that WhatsApp message posted by the General Secretary of OP-1 on 30.10.2020, addressed to players/coaches/clubs/academies appears to restrict them from joining/playing the non-affiliated clubs/organizations and further states consequences flowing from non-adherence thereof by way of suspension/non-acceptance of their entries in TT Tournament. This *prima facie* appears to contravene the provisions of Section 4(2)(c) of the Act, as it may result in denial of market access to the Informant and other similarly placed organisations.
31. The Commission has also considered the impugned clauses of MoA of OP-3 and specifically clause 27(a) which provides for “sanction for open tournament” by stating that “*sanction to hold an open tournament shall only be given by an Association to a District unit in whose jurisdiction the club is situated*”. Further, clauses 28(a) and (b) of MoA provide as follows:
 - a) “No player of the Federation shall take part in any open tournament which has not been sanctioned or which has been prohibited by the Council or by the Committee of any affiliated association and the club staging a recognised open tournament shall not receive or accept the entry of any player who has been prohibited from taking part in any open tournament or competition”
 - b) “Any player taking part in an open tournament which has not been recognised by an Association, if held within its jurisdiction, shall be suspended or debarred from taking part in any open tournament held under the auspices of an



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Affiliated Association, provided that the committee may re-instate a player for good cause shown”.

32. On a plain reading of the aforesaid byelaws of OP-3 *prima facie* indicate that the same are unfair being restrictive in nature and as such *prima facie* appear to be anti-competitive in contravention of the provisions of Section 4(2)(a)(i) of the Act. Such conditions also *prima facie* noted to limit or otherwise restrict the provisions of services or markets therefor, and thereby also contravene the provisions of Section 4(2)(b)(i) of the Act besides violating the provisions of Section 4(2)(c) thereof, as the restrictions also deny market access to players as well as organisers.
33. Resultantly, the Commission directs the DG to cause an investigation to be made into the matter under the provisions of Section 26(1) of the Act. The Commission also directs the DG to complete the investigation and submit the investigation report within a period of 60 days from the receipt of this order.
34. The Commission is also of the opinion that the impugned conduct may also be examined by the DG within the framework of Section 3 of the Act which prohibits anti-competitive agreements and inter alia mandates that no enterprise or association of enterprises or person or association of persons shall enter into any agreement which limits or controls production, supply, markets, technical development, investment or provision of services. The impugned acts of OP-1 in communicating its decision *vide* WhatsApp messages *prima facie* seems to limit or control provision of services, and thereby stand captured within the framework of Section 3(1) read with Section 3(3) of the Act. Also, the byelaws of OP-3, as discussed *supra*, also *prima facie* appear to contravene the Section 3(1) read with Section 3(3)(b) of the Act as the same apparently limit and control the markets and provision of services.
35. It is made clear that nothing stated in this order shall tantamount to a final expression of opinion on the merits of the case and the DG shall conduct the



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investigation without being swayed in any manner whatsoever by the observations made herein.

36. The Secretary is directed to send a copy of this order along with the material available on record to the DG forthwith.

Sd/-

**Ashok Kumar Gupta
(Chairperson)**

Sd/-

**Sangeeta Verma
(Member)**

Sd/-

**Bhagwant Singh Bishnoi
(Member)**

New Delhi

Date: 17/11/2021