



**COMPETITION COMMISSION OF INDIA**

**Case No. 30 of 2016**

**In re:**

1. **Shri Prem Pal and Shri Amrish**  
**Mohalla Sohan Nagar,**  
**Post Office Wazir Gunj, Tehsil Bisauli,**  
**District Badaun, Uttar Pradesh**

**Informants**

**And**

1. **Indian Oil Corporation Ltd.**  
**G-9, Ali Yavar Jung Marg,**  
**Bandra East, Mumbai**
2. **Olympic Flame Indane Gas**  
**Bilsa Road, Bisauli, Uttar Pradesh**
3. **Jaishiv Indane Gas Service**  
**Wazirganj, District Badaun, Uttar Pradesh**

**Opposite Party No. 1**

**Opposite Party No. 2**

**Opposite Party No. 3**

**CORAM**

**Mr. Devender Kumar Sikri**  
**Chairperson**

**Mr. S. L. Bunker**  
**Member**

**Mr. Sudhir Mital**  
**Member**

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**Mr. Augustine Peter**  
**Member**

**Mr. U. C. Nahta**  
**Member**

**Justice G. P. Mittal**  
**Member**

**Appearances:**

**For Informants:** *Mr. Deepak Dhingra, Advocate*

**For OP 1:** *Mr. Amit Meharia and Ms. Tannishtha Singh, Advocates*

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

1. The information in the present case was filed by Shri Prem Pal and Shri Amrish ('**Informants**') under Section 19(1)(a) of the Competition Act, 2002 (the '**Act**') against Indian Oil Corporation Ltd ('**OP 1**'), Olympic Flame Indane Gas ('**OP 2**') and Jaishiv Indane Gas Service ('**OP 3**') alleging contravention of the provisions of Section 4 of the Act.
2. OP 1 is a government of India undertaking, *inter alia*, engaged in the business of extracting and selling Liquefied Petroleum Gas (LPG). OP 2 and OP 3 are the distributors of OP 1. The Informants are the consumers of LPG sold by OP 1.
3. As per the information, the Informants are residing in Badaun district of Uttar Pradesh and have been getting LPG cylinders from OP 2 which is stated to be



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catering to a large number of consumers in Badaun. As per the Informants, the services provided by OP 2 have been very satisfactory, prompt, and professionally managed with Interactive Voice Response System (IVRS) facility. It is stated that OP 1 has a transparency web portal *i.e.*, *indane.co.in* through which it, *inter alia*, gives options to its customers for portability of LPG connection from one distributor to another. Under this scheme, the consumers can opt for a distributor of their choice within a cluster in their vicinity.

4. The Informants have alleged that, contrary to its portability scheme, all of a sudden, OP 1 unilaterally transferred the LPG consumer numbers of the Informants from OP 2 to OP 3, without giving any reason. On enquiry, it was revealed that approximately 800 to 1000 other LPG consumer numbers have also been unilaterally transferred from OP 2 to OP 3 by OP 1. As per the Informants, OP 1 without the consent of the consumers cannot change the distributor of the consumers and force them to take LPG cylinders from any specific distributor. It is averred that OP 3 is recently appointed as the distributor of OP 1 and it has no requisite infrastructure facilities including the IVRS facility to serve the customers. Further, it is averred that OP 3 is selling LPG cylinder at higher price of Rs. 550/- compared to Rs. 537/- of OP 2. It is stated that the Informants have requested OP 1 several times to revert back their connection to OP 2 from OP 3 but no action has been taken. Finding no other option, the Informants have served a legal notice to OP 1 but, it has not responded to the same.
5. It is alleged that OP 1 holds a position of dominance over its customers and through the aforesaid conduct it has abused its position of dominance which is in contravention of the provisions of Section 4 of the Act. It is averred that the said conduct of OP 1 amounts to imposition of unilateral terms on the consumers. As per the Informants, the aforesaid conduct of OP 1 is not only



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illegal and unlawful but also unfair, unjust, monopolistic and restrictive in nature. It is alleged that the said conduct of OP 1 eliminates competition amongst the distributors and curtails the choice of the consumers to obtain LPG cylinder from a distributor of their choice.

6. Based on the above submissions, the Informants have, *inter alia*, requested the Commission to initiate action against OP 1 for its alleged abusive conduct. The Informants have also requested the Commission for grant of interim relief in the matter.
7. The Commission has perused the material available on record and heard both the Informants and OP 1 in its ordinary meeting held on 20.07.2016.
8. The Commission observes that the Informants appear to be aggrieved by the conduct of OP 1 in arbitrarily transferring their LPG consumer numbers from OP 2 to OP 3 without taking their consent. It is alleged that said conduct of OP 1 amounts to imposition of unilateral terms on the consumers in contravention of the provisions of the Section 4 of the Act.
9. For examining the allegations in terms of Section 4 of the Act, it is necessary to first define the relevant market and then to establish the dominance of OP 1 in the relevant market. The Commission observes that OP 1 is a supplier of LPG cylinders and OP 2 and OP 3 are the distributors of OP 1. The allegations of the Informants relate to the services relating to distribution/ supply of LPG. Accordingly, the relevant product market in this case may be defined as the '*market for the provision of services for distribution of LPG cylinders*'. The relevant geographic market in this matter may be taken as Badaun district of Uttar Pradesh as the consumers can choose the services of any distributor in the said area and a distributor can supply LPG cylinder in that area. Further, the conditions of competition for supply of LPG cylinders in Badaun district



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of Uttar Pradesh are homogenous and distinct from the conditions prevailing in its neighbouring areas. In view of the relevant product market and the relevant geographic market defined above, the relevant market in this matter may be considered as the *'market for the provision of services for distribution of LPG cylinders in Badaun district of Uttar Pradesh'*.

10. While assessing dominance of OP 1 in the aforesaid relevant market, the Commission has relied on the information filed by the Informant, submissions made by the parties and the material available in the public domain. Having perused the material available on record, the Commission is of the view that in the relevant market, OP 1 does not appear to be in a dominant position. The Commission observes that in the relevant market, other than OP 1, two other major players namely, Hindustan Petroleum Corporation Limited (HPCL) and Bharat Petroleum Corporation Limited (BPCL) with comparable size and resources are operating and they pose competitive constraints upon OP 1 in the relevant market. Presence of such players indicates that the consumers have option to choose from other LPG suppliers in the relevant market. Accordingly, the Commission is of the view that OP 1 does not possess such market power so as to act independently of competitive forces prevailing in the relevant market or to affect its competitors or consumers in its favour. In the absence of dominance of OP 1 in the relevant market, its conduct need not be examined in terms of the provisions of Section 4 of the Act.
11. Even otherwise, the information does not disclose any case of abuse of dominant position by any of the OPs in terms of Section 4 of the Act. The allegations of the Informants that OP 1 has unilaterally changed their LPG consumer numbers from OP 2 to OP 3 and deficiency in the services of OP 3 do not raise any competition issue and therefore, do not fall within the ambit of the Act.



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12. In the light of the above analysis, the Commission finds that no case of contravention of the provisions of Section 4 of the Act is made out against any of the OPs in the instant matter. Accordingly, the matter is closed under the provisions of Section 26(2) of the Act.

13. The Secretary is directed to inform all concerned accordingly.

**Sd/-**  
**(Devender Kumar Sikri)**  
**Chairperson**

**Sd/-**  
**(S. L. Bunker)**  
**Member**

**Sd/-**  
**(Sudhir Mital)**  
**Member**

**Sd/-**  
**(Augustine Peter)**  
**Member**

**Sd/-**  
**(U. C. Nahta)**  
**Member**

**Sd/-**  
**(Justice G. P. Mittal)**  
**Member**

**New Delhi**  
**Dated: 10.11.2016**