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Fair Competition  
For Greater Good

**COMPETITION COMMISSION OF INDIA**

**Case No. 71 of 2016**

**In re:**

**M/s Indiacan Education Pvt. Ltd.**

**4<sup>th</sup> Floor, Software Block, Elnet Software City,**

**TS 140 Block 2 & 9, Rajiv Gandhi Salai,**

**Taramani, Chennai – 600 113**

**Informant**

**And**

**1. M/s Aldine Ventures Pvt. Ltd.**

**B - 173, Nirman Vihar, Delhi -110092**

**Opposite Party No. 1**

**2. Mr. Praveen Sharma**

**S/o Mr. S. P. Sharma,**

**B - 173, Nirman Vihar, Delhi – 110092**

**Opposite Party No. 2**

**3. Mr. Amit Popli**

**S/o Mr. Ram Popli,**

**Block S 221/127, Street No. 3,**

**Vishnu Garden, New Delhi – 110018**

**Opposite Party No. 3**

**4. Mr. Raj Kumar Nader**

**S/o Mr. Vijay Pal Singh,**

**B - 24, Gagan Enclave,**

**Amrit Nagar, Ghaziabad, U. P. - 201012**

**Opposite Party No. 4**

**5. Mr. R. K. Mehta**

**S/o Mr. Krishan Lala Mehta,**

**E - 75, Double Storey, Ramesh Nagar,**

**New Delhi – 110015**

**Opposite Party No. 5**



**CORAM**

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

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

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

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

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

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

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

1. The present information was filed by M/s Indiacan Education Pvt. Ltd. ('**Informant**') under Section 19(1) (a) of the Competition Act, 2002 (the '**Act**') against M/s Aldine Ventures Pvt. Ltd. ('**OP 1**'), Mr. Praveen Sharma ('**OP 2**'), Mr. Amit Popli ('**OP 3**'), Mr. Raj Kumar Nader ('**OP 4**') and Mr. R. K. Mehta ('**OP 5**') alleging, *inter alia*, contravention of the provisions of Sections 3 and 4 of the Act.
2. As per the information, the Informant is a private limited company engaged in the business of running coaching classes, *inter alia*, in the field of commerce and Chartered Accountancy (CA). OP 1 is a private limited company incorporated on 5<sup>th</sup> March, 2014 and it aims to provide advanced personalised coaching for CA/ CS (Company Secretary) aspirants. OP 2 is the Director of OP 1 and OP 3, OP 4 and OP 5 are faculty members of OP 1.



3. It is stated that the Informant has developed a network of technology based satellite coaching centers for CA aspirants under the brand name of 'ETEN CA' to provide advanced scientific and personalised coaching by engaging acclaimed faculty across the country. It is stated that the Informant had appointed OP 2 to OP 5 as faculty members in its coaching centers by signing Faculty Arrangement Agreements ('FAAs'). It is submitted that during the period of engagement, the Informant had given access to OP 2 - OP 5 to its confidential information including trade secrets, business information, student networks, techniques relating to V-SAT classes, trademarks, copyrights, etc.
4. It is averred that in August, 2014, OP 2 to OP 5 along with some other faculty members made certain illegal demands and threatened the Informant that they would leave its ongoing batches with immediate effect in the middle of the session if their demands are not fulfilled. It is submitted that the Informant would have incurred significant losses in case the faculty including OP 2 to OP 5 stopped taking classes in the middle of the session. Consequently, addendum contracts to FAAs were executed between the Informant and these OPs whereby, *inter alia*, the non-compete clause *i.e.* Clause 8 of the principal FAA was withdrawn.
5. It is alleged that during the existence of FAA and the addendum agreement, OP 2 to OP 5 formed a cartel in the name of OP 1 with the motive to control the provision of services of imparting coaching for CA aspirants. Further, it is alleged that these OPs misused the confidential information of the Informant including the information pertaining to the technologies of V-SAT studios.
6. It is averred that these OPs used social media platforms to indulge into illegal and unfair promotional activities like attempting to influence the 'ETEN CA' students to get enrolled with OP 1 by offering them free classes. It is further averred that with a view to deceive and instigate the students to join OP 1; OP 1 is using a trademark which is analogous to the trademark of the Informant. It is also stated that Shri Karan Kamboj, who was employed as the center manager at the Preet Vihar branch of the Informant, sent promotional SMS



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promoting OP 1 on 10<sup>th</sup> November, 2014 and 12<sup>th</sup> November, 2014 using the Informant's system and the student 'data' owned by the Informant.

7. The Informant has alleged that OP 1 is dominant in the relevant market of '*chartered accountancy coaching*' with a market share of around 15% and is abusing its dominant position by, *inter alia*, influencing the students in exercising their choice between different institutions in the market. It is also alleged that the OPs have indulged in anti-competitive behaviour by cartelising and adopting unfair trade practices. Accordingly, the Informant has prayed to the Commission to intervene appropriately and pass an order, *inter alia*, directing the OPs to cease and desist from the aforesaid anti-competitive practices.
8. The Commission has perused the material available on record. From the information, it appears that the Informant, *inter alia*, has tried to build a case of cartelisation by the OPs in forming OP 1 in contravention of the provisions of the Section 3(3) of the Act and abuse of dominant position by OP 1 by indulging unfair trade practices in the market of '*chartered accountancy coaching*' in contravention of the provisions of the Section 4 of the Act.
9. The Commission notes that since the allegation in the instant case pertains to the abusive conduct of OP 1 in the market for CA/ CS coaching services, the '*market for the provision of Chartered Accountancy/Company Secretary coaching services*' may be considered as the relevant product market in this case. The Commission is of the view that CA/ CS coaching services is a distinct service compared to coaching service for other professional areas and non-professional areas in terms of its characteristics, prices and end use. On relevant geographic market, it is observed that the Informant and OP 1 provide CA/ CS coaching services across the country through their web enabled technology. Hence, the relevant geographic market in this case may be considered as the '*geographic area of India*'. As such, the relevant market in this case may be defined as '*market for the provision of Chartered Accountancy/ Company Secretary coaching services in India*'.



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10. Having perused the material available on record, the Commission is of the view that in the relevant market delineated above, OP 1 does not appear to be in a dominant position. The Commission observes that in the relevant market, other than OP 1, many other CA/ CS coaching centers such as *Sanjay Saraf Education Institute Pvt. Ltd. (SSEI)*; *J. K. Shah Classes*; *Institute of Grooming Professional (IGP)* and *CA Club India* are operating and providing coaching services in both online and offline format, implying that the students have an option to choose CA/ CS Coaching services from several competitors of OP 1. With the presence of other players in the market, it does not appear that OP 1 enjoys a position of strength in the relevant market which enables it to operate independently of market forces prevailing in the relevant market. Since, OP 1 does not appear to be in a dominant position in the relevant market, the question of examination of its alleged abusive conduct within the meaning of the provisions of Section 4 of the Act does not arise.
11. With regard to the allegation of cartelisation by the OPs, the Commission observes that forming an entity in the form of OP 1 to compete with the Informant in the relevant market does not amount to cartelisation. It is observed that formation of OP 1 is simply a business decision by OP 2 to OP 5 to use the expertise gained by them from past work experience in a given field and to operate their own institution/ business in the same area/ subject where they have gained the expertise over the period of time. The same cannot be considered as anti-competitive. Moreover, it is also not clear from the information that OP 2 to OP 5 have joined as employees or are partner or shareholders of OP 1. In any case this will not amount to horizontal agreement between the OPs. Thus, the Commission is of the view that no case of contravention of the provisions of Section 3(3) of the Act is also made out against OPs.
12. In the light of the above analysis, the Commission finds that the information does not raise any competition issues. Thus, no case of contravention of the provisions of either Section 3 or 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**