



COMPETITION COMMISSION OF INDIA

Case No. 24 of 2017

In re:

Federation of Corrugated Box Manufacturers of India	Informant No. 1
Andhra Pradesh Corrugated Box Manufacturers Association	Informant No. 2
Uttar Pradesh Corrugated Box Manufacturers Association	Informant No. 3

And

Gujarat Paper Mills Association	Opposite Party No. 1
Ramji Board and Paper Mill Private Limited	Opposite Party No. 2
Kaygaon Paper Mills Limited	Opposite Party No. 3
Umesh Board and Paper Mills Private Limited	Opposite Party No. 4
Hari Sharnam Trade Links Private Limited	Opposite Party No. 5
Vaibhav Paper Boards Private Limited	Opposite Party No. 6
Urvashi Pulp and Paper Mills Private Limited	Opposite Party No. 7
Gayatri Paper Mill	Opposite Party No. 8
Anantkrupa Paper Products	Opposite Party No. 9
Nice Papers Limited	Opposite Party No. 10
Awade Industries Private Limited	Opposite Party No. 11
Hardoli Paper Mills Limited	Opposite Party No. 12
Devang Paper Mills Private Limited	Opposite Party No. 13
Sukraft Papers Private Limited	Opposite Party No. 14
Ravi Kiran Paper Mills Private Limited	Opposite Party No. 15
Bedse Pulp Conversion Industries Private Limited	Opposite Party No. 16
Khandesh Paper Mills Private Limited	Opposite Party No. 17
Godavari Pulp and Paper Mills Private Limited	Opposite Party No. 18
Sunshine Pap-Tech Private Limited	Opposite Party No. 19
Padmavati Pulp and Paper Mills	Opposite Party No. 20
Sunshine Kraft	Opposite Party No. 21
Banganga Paper Mills	Opposite Party No. 22
Swastik Pulp and Papers Private Limited	Opposite Party No. 23



Best Paper Mills Private Limited	Opposite Party No. 24
Saiyed Paper Mills Limited	Opposite Party No. 25
Shree Gajanan Paper and Boards Private Limited	Opposite Party No. 26
Shree Ajit Pulp and Paper Limited	Opposite Party No. 27
R. A. Shaikh Paper Mills Private Limited	Opposite Party No. 28
Shweta Paper Industries Private Limited	Opposite Party No. 29
Sukraft Paper Mills Private Limited	Opposite Party No. 30
New Bombay Paper Mills Private Limited	Opposite Party No. 31
Super Deluxe Paper Mills Private Limited	Opposite Party No. 32
S. K. Paper	Opposite Party No. 33
Sezon Paper	Opposite Party No. 34
Radheshyam Paper Mills Private Limited	Opposite Party No. 35
Neelkanth Pulp and Paper Boards	Opposite Party No. 36
Shah Paper Mills Limited (Unit I & II)	Opposite Party No. 37
Astron Paper and Board Mill Limited	Opposite Party No. 38
Mac Paper Mill	Opposite Party No. 39
Somnath Kraft Mill Private Limited	Opposite Party No. 40
Resonance Paper Mill Private Limited	Opposite Party No. 41
Riddhi Siddhi Recyclers Private Limited	Opposite Party No. 42
Aryan Paper Mills Private Limited	Opposite Party No. 43
Surani Paper Private Limited	Opposite Party No. 44
Latin Paper Industries LLP	Opposite Party No. 45
Axle Paper Limited	Opposite Party No. 46
Samruddhi Paper and Pulp Conversion Private Limited	Opposite Party No. 47
Laxmi Board and Paper Mill Private Limited	Opposite Party No. 48
Bellona Paper Mill Private Limited	Opposite Party No. 49
Supreme Kraft Private Limited	Opposite Party No. 50
Akshat Papers Limited	Opposite Party No. 51
Aricon Papers Private Limited	Opposite Party No. 52
Karan Paper Mill	Opposite Party No. 53
Revival Paper Mills Private Limited	Opposite Party No. 54
Apna Paper Mills Private Limited	Opposite Party No. 55



Sachin Paper Mills Private Limited	Opposite Party No. 56
Maheshwari Logistics Limited (Paper Division) (Daman Ganga Paper Limited)	Opposite Party No. 57
Sayaji Paper Private Limited	Opposite Party No. 58
Sankalp Paper Industries Private Limited	Opposite Party No. 59
Lucky Star Paper Mills	Opposite Party No. 60
Gayatri Shakti Paper and Boards Limited (Unit – II)	Opposite Party No. 61
Kwality Pulp and Paper Mills	Opposite Party No. 62
Northern India Paper Mills Association	Opposite Party No. 63
Bindlas Duplex Limited	Opposite Party No. 64
Paswara Papers Limited	Opposite Party No. 65
Silverton Pulp and Papers Private Limited	Opposite Party No. 66
Maruti Papers Ltd.	Opposite Party No. 67
RAC Paper Ltd.	Opposite Party No. 68
Siddheshwari Industries Private Limited	Opposite Party No. 69
Tehri Pulp and Paper Limited	Opposite Party No. 70
Garg Duplex and Paper Mills Private Limited	Opposite Party No. 71
Genus Paper and Boards Limited	Opposite Party No. 72
Nikita Papers Limited	Opposite Party No. 73
Dev Priya Industries Private Limited	Opposite Party No. 74
Haripur Paper Company	Opposite Party No. 75
Silvertoan Papers Limited	Opposite Party No. 76
Sidharth Papers Private Limited	Opposite Party No. 77
Mahalaxmi Kraft and Tissues Private Limited	Opposite Party No. 78
Ashoka Kraft Paper Mills LLP	Opposite Party No. 79
Hyderabad Kraft Paper Mills Association	Opposite Party No. 80
Sharma Papers Private Limited	Opposite Party No. 81
Tirumala Venkateshwara Paper Board Private Limited	Opposite Party No. 82
Sai Tirumala Papers Private Limited	Opposite Party No. 83
Sri M. K. Paper Mills Private Limited	Opposite Party No. 84
Decor Paper Mills Limited	Opposite Party No. 85
Bahubali Boards Private Limited	Opposite Party No. 86



Classic Papers

Karanja Industries Private Limited
Venkata Padmavathi Paper Mills Private Limited
Kanishka Paper and Pulp Private Limited
Sri Chimmanlal Paper Mills
Rajahmundry Paper Mills Private Limited
Sri Luxmi Tulasi Agro Paper Private Limited
Peproll Paper Mills Private Limited
Limra Paper Mills Private Limited
V. L. Papers Private Limited
Vamshadhara Paper Mills Limited
Hyderabad Paper Mills Private Limited
Wings Papers and Board Mills Private Limited
Suvarna Durga Paper Mills Private Limited
Vijay Anand Kraft Papers Private Limited
SBS Paper Boards Private Limited
Sri Sai Strength Papers
Reliable Paper and Boards Mills Private Limited
Venkata Naga Lakshmi Paper Mills Private Limited
Sindhura Paper Products Private Limited
South Indian Kraft Paper Mills Association
Vishnu Paper Products Private Limited
Sripathi Paper and Boards Private Limited
Sri Pariyur Amman Kraft Papers Private Limited
The South India Paper Mills Limited
Suryaans Paper
Sastha Paper Mills Private Limited
Kovai Maruthi Papers and Boards Private Limited
Jagdhatri Papers Private Limited
Sri Andal Paper Mills Private Limited
Akshera Papers
Aruldevi Paper Mills Private Limited

Opposite Party No. 87
Opposite Party No. 88
Opposite Party No. 89
Opposite Party No. 90
Opposite Party No. 91
Opposite Party No. 92
Opposite Party No. 93
Opposite Party No. 94
Opposite Party No. 95
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Opposite Party No. 108
Opposite Party No. 109
Opposite Party No. 110
Opposite Party No. 111
Opposite Party No. 112
Opposite Party No. 113
Opposite Party No. 114
Opposite Party No. 115
Opposite Party No. 116
Opposite Party No. 117
Opposite Party No. 118



Vaithieswara Papers and Boards Private Limited
Indian Agro and Recycled Paper Mills Association

Opposite Party No. 119
Opposite Party No. 120

CORAM

Ashok Kumar Gupta
Chairperson

Sangeeta Verma
Member

Bhagwant Singh Bishnoi
Member

Present:

For Informant No. 1/IP-1 (Federation of Corrugated Box Manufacturers of India)	Ms. Charanya Lakshmikumaran, Ms. Neelambara Sandeepan, Ms. Barkha Dwivedi and Mr. Prathamesh Pareek, Advocates
For Informant No. 2/IP-2 (Andhra Pradesh Corrugated Box Manufacturers Association)	
For Informant No. 3/IP-3 (Uttar Pradesh Corrugated Box Manufacturers Association):	
For OP-1 (Gujarat Paper Mills Association)	Mr. G. R. Bhatia, Advocate
For OP-5 (Hari Sharnam Trade Links Pvt. Ltd.)	
For OP-12 (Hardoli Paper Mills Ltd.)	
For OP-13 (Devang Paper Mills Pvt. Ltd.)	
For OP-20 (Padmavati Pulp and Paper Mills)	
For OP-21 (Sunshine Kraft)	
For OP-23 (Swastik Pulp and Papers Pvt. Ltd.)	
For OP-32 (Super Deluxe Paper Mills Pvt. Ltd.)	
For OP-2 (Ramji Board and Paper Mill Pvt. Ltd.)	Mr. Rudresh Singh, Advocate
For OP-8 (Gayatri Paper Mill)	
For OP-10 (Nice Papers Ltd.)	
For OP-11 (Awade Industries Pvt. Ltd.)	
For OP-14 (Sukraft Papers Pvt. Ltd.)	
For OP-16 (Bedse Pulp Conversion Industries Pvt. Ltd.)	
For OP-28 (R. A. Shaikh Paper Mills Pvt. Ltd.)	



For OP-4 (Umesh Board and Paper Mills Pvt. Ltd.)	Mr. Arjun Nihal Singh, Advocate
For OP-6 (Vaibhav Paper Boards Pvt. Ltd.)	
For OP-15 (Ravi Kiran Paper Mills Pvt. Ltd.)	
For OP-25 (Saiyed Paper Mills Ltd.)	
For OP-26 (Shree Gajanan Paper and Boards Pvt. Ltd.)	
For OP-3 (Kaygaon Paper Mills Ltd.)	Mr. Divye Sharma, Advocate
For OP-9 (Anantkrupa Paper Products)	
For OP-17 (Khandesh Paper Mills Pvt. Ltd.)	
For OP-19 (Sunshine Pap-Tech Pvt. Ltd.)	
For OP-22 (Banganga Paper Mills)	
For OP-24 (Best Paper Mills Pvt. Ltd.)	
For OP-30 (Sukraft Paper Mills Pvt. Ltd.)	Ms. Nidhi Singh, Advocate
For OP-31 (New Bombay Paper Mills Pvt. Ltd.)	
For OP-7 (Urvashi Pulp and Paper Mills Pvt. Ltd.)	Mr. Pranjal Prateek, Mr. Aman Singh Baroka and Ms. Alisha Mehra, Advocates, along with Mr. Sundeep M. Shah, Managing Director of OP-7
For OP-18 (Godavari Pulp and Paper Mills Pvt. Ltd.)	Mr. Manas Kumar Chaudhuri, Mr. Ebaad Nawaz Khan, Mr. Mayuka Sah and Mr. Armaan Gupta, Advocates, along with Mr. Pankaj Mansingka, Managing Director of OP-18
For OP-27 (Shree Ajit Pulp and Paper Ltd.)	Mr. Sagardeep Rathi and Ms. Swati Bala, Advocates, along with Mr. Gautam D. Shah, Chairman and Managing Director of OP-27
For OP-29 (Shweta Paper Industries Pvt. Ltd.)	Mr. Samar Bansal, Mr. Vaibhav Choukse, Ms. Harsheen Madan, Ms. Nripi Jolly and Mr. Faiz Siddiqui, Advocates
For OP-33 (S. K. Paper)	Mr. Sarvar Khan, Partner of OP-33
For OP-34 (Sezon Paper)	Mr. Subodh Prasad Deo, Ms. Rinki Singh and Mr. Swarnim Shrivastava, Advocates
For OP-35 (Radheshyam Paper Mills Pvt. Ltd.)	
For OP-36 (Neelkanth Pulp and Paper Boards)	



For OP-38 (Astron Paper and Board Mill Ltd.)	
For OP-39 (Mac Paper Mill)	
For OP-40 (Somnath Kraft Mill Pvt. Ltd.)	
For OP-41 (Resonance Paper Mill Pvt. Ltd.)	
For OP-42 (Riddhi Siddhi Recyclers Pvt. Ltd.)	
For OP-44 (Surani Paper Pvt. Ltd.)	
For OP-45 (Latin Paper Industries LLP)	
For OP-46 (Axle Paper Ltd.)	
For OP-49 (Bellona Paper Mill Pvt. Ltd.)	
For OP-52 (Aricon Papers Pvt. Ltd.)	
For OP-53 (Karan Paper Mill)	
For OP-58 (Sayaji Paper Pvt. Ltd.)	
For OP-37 [Shah Paper Mills Ltd. (Unit I & II)]	Ms. Avinash Amarnath and Mr. Aditya Gupta, Advocates, along with Mr. Ashok Z. Shah, Director of OP-37
For OP-43 (Aryan Paper Mills Pvt. Ltd.)	Mr. Rajshekhar Rao, Senior Advocate, with Mr. Aditya Gupta, Advocate
For OP-47 (Samruddhi Paper and Pulp Conversion Pvt. Ltd.)	Mr. Tushar Pratap Sonawane, Director of OP-47
For OP-48 (Laxmi Board and Paper Mill Pvt. Ltd.)	Mr. Raunaq Kamath and Mr. Sauhard Alung, Advocate along with Mr. Rajesh Modi, Director of OP-48
For OP-50 (Supreme Kraft Pvt. Ltd.)	Mr. Rajshekhar Rao, Senior Advocate, with Mr. Siddharth H. Raval, Mr. Rahul Kumar and Ms. Abhilasha Nautiyal, Advocates, along with Mr. Tejas Dharia, Director of OP-50
For OP-51 (Akshat Papers Ltd.)	Mr. Deepak Sharma, Chief Accountant of OP-51
For OP-54 (Revival Paper Mills Pvt. Ltd.)	Ms. Abhilasha Nautiyal and Mr. Anandh Venkatramani, Advocates along with Mr. Kunal Dharia, Director of OP-54
For OP-55 (Apna Paper Mills Pvt. Ltd.)	None
For OP-56 (Sachin Paper Mills Pvt. Ltd.)	None
For OP-57 [Maheshwari Logistics Ltd. (Paper	Mr. Krishna Pratap Singh, Advocate



Division) (Daman Ganga Paper Ltd.)]	
For OP-61 [Gayatri Shakti Paper and Boards Ltd. (Unit – II)]	
For OP-59 (Sankalp Paper Industries Pvt. Ltd.)	Mr. Sanat Tulsian, Director of OP-59
For OP-60 (Lucky Star Paper Mills)	Mr. Noormohamad Vallimohamad Sheikh, Partner of OP-60
For OP-62 (Kwality Pulp and Paper Mills)	Ms. Lakshmi Krutika Vijay, Advocate along with Mr. Vijay Babu Madnaik, Partner of OP-62
For OP-63 (Northern India Paper Mills Association)	None
For OP-64 (Bindlas Duplex Ltd.)	Mr. K. K. Sharma, Mr. Akshit Saxena and Mr. Aman Mishra, Advocates, along with Mr. Pankaj Agarwal, Managing Director of OP-64, Mr. Devkant Agarwal, Chartered Accountant for OP-64, Mr. Sachin Agarwal, Director of OP-70 and Mr. Sunil Kumar, Authorised Representative of OP-70
For OP-70 (Tehri Pulp and Paper Ltd.)	
For OP-65 (Paswara Papers Ltd.)	Mr. M. M. Sharma, Advocate and Mr. Sudhanshu Prakash Singh, Advocate for OP-68
For OP-66 (Silverton Pulp and Papers Pvt. Ltd.)	
For OP-67 (Maruti Papers Ltd.)	
For OP-68 (RAC Paper Ltd.)	
For OP-69 (Siddheshwari Industries Pvt. Ltd.)	
For OP-71 (Garg Duplex and Paper Mills Pvt. Ltd.)	
For OP-73 (Nikita Papers Ltd.)	
For OP-74 (Devpriya Industries Pvt. Ltd.)	
For OP-75 (Haripur Paper Company)	
For OP-76 (Silvertoan Papers Ltd.)	
For OP-77 (Sidharth Papers Pvt. Ltd.)	
For OP-78 (Mahalaxmi Kraft and Tissues Pvt. Ltd.)	
For OP-72 (Genus Paper and Boards Ltd.)	Mr. Avinash Amarnath and Ms. Natasha Sood, Advocates along with Mr. Naresh Kumar Saini, Vice-President (Corporate



	Affairs and Legal) of OP-72
For OP-79 (Ashoka Kraft Paper Mills LLP)	Mr. Prateek Gupta, Mr. Anil Kumar Gupta and Mr. Joney, Advocates
For OP-80 (Hyderabad Kraft Paper Mills Association)	None
For OP-81 (Sharma Papers Pvt. Ltd.)	Mr. Paul Sharma, Managing Director of OP-81
For OP-82 (Tirumala Venkateshwara Paper Board Pvt. Ltd.)	Mr. Sridhar Reddy, Advocate along with Mr. Vivek Gandhi, Director of OP-82, Mr. T. Anjani Kumar, Director of OP-83, Mr. Ritesh Agarwal, Director of OP-85, Mr. Vivek Agarwal, Director of OP-86, Mr. Tottempudi Madhusan Rao, Managing Partner of OP-87, Mr. Shamji Patel, Managing Director of OP-90, Mr. Vytla Murali Krishna, Managing Director of OP-92, Mr. Rajasekhar Tetali, Director of OP-93, Mr. Mohammed Hameeduddin, Managing Director of OP-95, Mr. Mohammed Nooruddin, Director of OP-98, Mr. Hemant Patel, Executive Director of OP-99, Mr. J. Subhaskara Reddy, Managing Director of OP-100, Mr. Akshat Agarwal, Director of OP-101, Mr. Sajja Krishna Prasad, Director of OP-102, Mr. Deepak Santhwal, Partner of OP-103, Mr. Mohammed Mubeenuddin, Director of OP-104 and Mr. N. V. L. N. Swamy, Director of OP-105
For OP-83 (Sai Tirumala Papers Pvt. Ltd.)	
For OP-84 (Sri M. K. Paper Mills Pvt. Ltd.)	
For OP-85 (Decor Paper Mills Ltd.)	
For OP-86 (Bahubali Boards Pvt. Ltd.)	
For OP-87 (Classic Papers)	
For OP-89 (Venkata Padmavathi Paper Mills Pvt. Ltd.)	
For OP-90 (Kanishka Paper and Pulp Pvt. Ltd.)	
For OP-92 (Rajahmundry Paper Mills Pvt. Ltd.)	
For OP-93 (Sri Luxmi Tulasi Agro Paper Pvt. Ltd.)	
For OP-94 (Peprroll Paper Mills Pvt. Ltd.)	
For OP-95 (Limra Paper Mills Pvt. Ltd.)	
For OP-96 (V. L. Papers Pvt. Ltd.)	
For OP-98 (Hyderabad Paper Mills Pvt. Ltd.)	
For OP-99 (Wings Papers and Board Mills Pvt. Ltd.)	
For OP-100 (Suvarna Durga Paper Mills Pvt. Ltd.)	
For OP-101 (Vijay Anand Kraft Papers Pvt. Ltd.)	
For OP-102 (SBS Paper Boards Pvt. Ltd.)	
For OP-103 (Sri Sai Strength Papers)	
For OP-104 (Reliable Paper and Boards Mills Pvt. Ltd.)	
For OP-105 (Venkata Naga Lakshmi Paper Mills Pvt. Ltd.)	



For OP-106 (Sindhura Paper Products Pvt. Ltd.)	
For OP-88 (Karanja Industries Pvt. Ltd.)	Ms. Aishwayra J., Advocate
For OP-91 (Sri Chimmanlal Paper Mills)	Mr. Sarang Shah, Chartered Accountant
For OP-97 (Vamshadhara Paper Mills Ltd.)	Mr. T. Srinivasa Murthy, Mr. Anandh K. and Mr. Rahul Balaji, Advocates, along with Mr. K. Swaminathan, Authorised Representative for OP-107, Mr. G. Chellamuthu, Authorised Representative for OP-116 and Mr. Rajagopalan, Authorised Representative for OP-114
For OP-107 (South Indian Kraft Paper Mills Association)	
For OP-108 (Vishnu Paper Products Pvt. Ltd.)	
For OP-109 (Sripathi Paper and Boards Pvt. Ltd.)	
For OP-110 (Shri Pariyur Amman Kraft Papers Pvt. Ltd.)	
For OP-112 (Suryaans Paper)	
For OP-113 (Sastha Paper Mills Pvt. Ltd.)	
For OP-114 (Kovai Maruthi Papers and Boards Pvt. Ltd.)	
For OP-115 (Jagdhatri Papers Pvt. Ltd.)	
For OP-116 (Sri Andal Paper Mills Pvt. Ltd.)	
For OP-117 (Akshera Papers)	
For OP-118 (Aruldevi Paper Mills Pvt. Ltd.)	
For OP-119 (Vaithieswara Papers and Boards Pvt. Ltd.)	
For OP-111 (The South India Paper Mills Ltd.)	Mr. C. K. Nandakumar, Senior Advocate, Mr. Raghuram Kadambi, Advocate, along with Mr. Manish M. Patel, Managing Director of OP-111

ORDER UNDER SECTION 27 OF THE COMPETITION ACT, 2002

Facts:

- Information in the present matter was filed under Section 19(1)(a) of the Competition Act, 2002 ('Act') by the Federation of Corrugated Box Manufacturers of India ('Informant No.1'/'IP-1'), Andhra Pradesh Corrugated Box Manufacturers Association ('Informant No. 2'/'IP-2') and Uttar Pradesh Corrugated Box Manufacturers Association ('Informant No. 3'/'IP-3') [Collectively hereinafter, 'Informants'] against



the following Opposite Parties, alleging contravention of the provisions of Section 3 of the Act:

- i. Gujarat Paper Mills Association and its aforesaid 61 members (Opposite Party Nos. 1 to 62),
 - ii. Northern India Paper Mills Association and its aforesaid 16 members (Opposite Party Nos. 63 to 79),
 - iii. Hyderabad Kraft Paper Mills Association and its aforesaid 26 members (Opposite Party Nos. 80 to 100),
 - iv. South Indian Kraft Paper Mills Association and its aforesaid 12 members (Opposite Party Nos. 107 to 119),
 - v. Indian Argo and Recycled Paper Mills Association (Opposite Party No. 120), and
 - vi. Maharashtra Paper Mills Association and all its members (dropped as Opposite Party by the Commission, based on DG's finding that no such association exist)
2. The Informants were stated to be the associations of corrugated box manufacturers. IP-1 is India's apex body of corrugated box packaging industry, with a membership of over 2,000 corrugated box manufacturers. IP-2 is the body of Andhra Pradesh's corrugated packaging industry, with a membership of over 100 corrugated box manufacturers and IP-3 is the body of Uttar Pradesh's corrugated packaging industry. IP-2 and IP-3 are stated to be affiliated to IP-1.
3. South Indian Kraft Paper Mills Association, Maharashtra Paper Mills Association, Gujarat Paper Mills Association, Hyderabad Kraft Paper Mills Association and Northern India Paper Mills Association were stated to be regional associations of Kraft paper manufacturers, while Indian Agro and Recycled Paper Mills Association was stated to be the apex body which represents the non-wood paper segment in India.
4. The Informants submitted that their members, i.e., corrugated box manufacturers, were engaged in the manufacture of corrugated boxes. The primary input for manufacture of corrugated boxes is Kraft paper, which constitutes nearly 70-80% of the input cost and there is no alternative to Kraft paper for manufacture of the corrugated boxes. Thus, it was stated that any escalation in the cost of Kraft paper has a direct effect on the corrugated box manufacturers.



5. As per the Informants, Kraft paper is manufactured by Kraft paper mills located at various regions in India. It was alleged that the various associations of Kraft paper mills, by way of periodic meetings and correspondences, direct their members (*i.e.*, paper mills) to: (i) increase the price of the paper to be sold to the buyers, *i.e.*, corrugated box manufacturers; and (ii) create a condition of shortage to enforce the unjust price increase and shut the operation of the paper mills in a region collectively. The Informants alleged that such raising and fixing prices of Kraft paper by the Kraft paper mills is a violation of Section 3(3)(a) of the Act. Further, the closing of factories in a co-ordinated manner results in limiting the supply of Kraft paper to the corrugated box manufacturers, which is a violation of Section 3(3)(b) of the Act.
6. In view of the above, the Informants prayed the Commission to direct the Director General ('DG') to investigate the matter; declare that the Opposite Parties and their members have indulged in anti-competitive behaviour in violation of Section 3 of the Act; direct the Opposite Parties and their members to cease and desist from indulging in anti-competitive activities under the provisions of Section 3 of the Act; impose maximum penalty on the Opposite Parties under Section 27 of the Act; and pass any other order(s) as may be deemed appropriate under the Act.
7. The Commission, after perusing the material available on record, passed an order dated 17.08.2017 under Section 26(1) of the Act forming an opinion that, *prima facie*, the conduct of the Opposite Parties and their member paper mills as outlined by the Informants appears to be in contravention of the provisions of Section 3(3) of the Act read with Section 3(1) thereof. Thus, the Commission directed the DG to cause an investigation into the matter and submit an investigation report. It was made clear that if, during the course of investigation, the DG comes across any other conduct of the Opposite Parties in addition to those mentioned in the Information to be in contravention of the provisions of the Act, the DG shall also investigate the same. Further, if the DG comes across the involvement of any party(s) other than the Opposite Parties named in the Commission's order in respect of such contravention, the DG shall investigate the conduct of such other party(s) also. Further, the DG was directed to conduct a detailed investigation without restricting and confining itself to the duration mentioned in the Information.



8. During the pendency of investigation before the DG, the following paper mills approached the Commission by way of filing applications under Section 46 of the Act read with Regulation 5 of the Competition Commission of India (Lesser Penalty) Regulations, 2009 ('LPR'):

S. No.	Name of Paper Mill	Date and Time of Filing
1.	Ramji Board and Paper Mills Private Limited	10.05.2018 at 04:13 p.m.
2.	Umesh Board and Paper Mills Private Limited	11.05.2018 at 05:03 p.m.
3.	Kaygaon Paper Mills Private Limited	11.05.2018 at 06:24 p.m.
4.	Godavari Pulp and Paper Mills Private Limited	11.05.2018 at 07:18 p.m.
5.	Hari Sharnam Trade Links Private Limited	15.05.2018 at 05:59 p.m.
6.	Vaibhav Paper Boards Private Limited	15.05.2018 at 07:16 p.m.
7.	Anantkrupa Paper Products	22.05.2018 at 04:31 p.m.
8.	Nice Papers Limited	22.05.2018 at 05:08 p.m.
9.	Hardoli Paper Mills Limited	22.05.2018 at 06:16 p.m.
10.	Padmavati Pulp and Paper Mills	22.05.2018 at 07:23 p.m.
11.	Banganga Paper Mills	23.05.2018 at 02:51 p.m.
12.	Shree Gajanan Paper and Boards Private Limited	23.05.2018 at 03:27 p.m.
13.	Swastik Pulp and Papers Private Limited	24.05.2018 at 09:14 p.m.
14.	Ravi Kiran Paper Mills Private Limited	24.05.2018 at 09:38 p.m.
15.	Shree Ajit Pulp and Paper Limited	01.06.2018 at 06:06 p.m.
16.	Best Paper Mills Private Limited	01.06.2018 at 06:44 p.m.
17.	Saiyed Paper Mills Limited	01.06.2018 at 07:51 p.m.
18.	Urvashi Pulp and Paper Mills Private Limited	07.06.2018 at 08:41 p.m.
19.	Gayatri Paper Mills	07.06.2018 at 09:24 p.m.
20.	Awade Industries Private Limited	07.06.2018 at 09:58 p.m.
21.	Sunshine Kraft	18.06.2018 at 07:19 p.m.
22.	Sukraft Papers Private Limited	18.06.2018 at 07:55 p.m.
23.	Bedse Pulp Conversion Industries Private Limited	18.06.2018 at 08:24 p.m.
24.	Sunshine Pap-Tech Private Limited	20.06.2018 at 10:49 a.m.
25.	Khandesh Paper Mills Private Limited	27.06.2018 at 07:44 p.m.
26.	R. A. Shaikh Paper Mills Private Limited	27.06.2018 at 08:14 p.m.



S. No.	Name of Paper Mill	Date and Time of Filing
27.	Devang Paper Mills Private Limited	28.06.2018 at 06:26 p.m.
28.	Super Deluxe Paper Mills Private Limited	28.06.2018 at 07:33 p.m.
29.	Sukraft Paper Mills Private Limited	31.07.2018 at 03:39 p.m.
30.	New Bombay Paper Mills Private Limited	31.07.2018 at 03:51 p.m.
31.	Shweta Paper Industries Private Limited	17.08.2018 at 07:07 p.m.

Investigation by the DG:

9. The DG, after carrying out a comprehensive investigation, submitted its investigation report – confidential and non-confidential version – before the Commission.
10. During investigation, the DG issued notices to the Opposite Parties, their member paper mills, the Informants and various third-parties asking them to submit certain information in relation to the matter. Further, the DG obtained copies of circulars issued by the associations, Minutes of Meetings ('MoMs')/Gist of Meetings, copies of RG-1 Registers of various paper mills which were required to be maintained by the manufacturers of goods leviable excise duty before the implementation of Goods and Services Tax ('GST'), copies of electricity bills and invoices of various paper mills, *etc.* The DG also recorded the statements of certain individuals of the paper mills on oath, during which their mobile phones were also inspected, which revealed the existence of various WhatsApp groups, exchange of WhatsApp communications and e-mail communications between the paper mills.
11. With respect to Gujarat Paper Mills Association ('GPMA')/'OP-1'), the DG observed that it is a society registered under the Societies Registration Act, 1860, and in February 2017, the members of GPMA formed another association under the name and title of the Federation of Indian Paper Recyclers ('FIPR'), which was registered under the provisions of the Companies Act, 2013 and was a mirror image of GPMA, with a common President and Secretary. The office-bearers of GPMA from 2011 to 2015 were Mr. Vijay Madnaik of OP-62 as President, Mr. Sunil Agarwal of OP-26 as Secretary and Mr. Gautham Shah of OP-27 as Treasurer; and from 2015 onwards were Mr. Sunil Agarwal of OP-26 as President, Mr. Nimish Shah of OP-6 as Vice-President, Mr. Lalit Garg of OP-2 as Honorary Secretary and Mr. Hiten Shah of OP-32 as Treasurer.



12. The DG found that GPMA/FIPR issued various circulars to its members from April 2009 to December 2017 for increasing the prices of different grades of Kraft paper. The DG observed that a plain reading of such circulars establishes that GPMA/FIPR was involved in issuing directions to its members to increase the prices of different grades of Kraft paper from time to time. Further, the circulars also showed that GPMA/FIPR used to conduct meetings with its members wherein decisions regarding increase in prices were taken. MoMs held from February 2017 to April 2018 also showed that GPMA/FIPR was involved in fixing the prices of Kraft paper and collective shut-down of paper mills. MoMs showed that such meetings were held at various places in the states of Gujarat, Maharashtra, Daman, *etc.*, and that such meetings used to be attended by paper mills from Gujarat, Maharashtra, Chhattisgarh and Madhya Pradesh and, on certain occasions, by representatives of other regional Kraft paper associations such as Hyderabad Kraft Paper Mills Association and South India Kraft Paper Mills Association also. MoMs also indicated that GPMA/FIPR had formed a Monitoring Committee which used to monitor whether or not the paper mills were abiding by the shut-down decisions.
13. The DG also found existence of three WhatsApp Groups of paper mills owners: (i) one of paper mills from Gujarat, Maharashtra and Chhattisgarh *namely* “Paper Mills – GJ/MS/CGK”, (ii) one of Maharashtra Paper Mills, and (iii) one by the name of “NEWS (North East West South) Paper Mills” where almost all paper mills across India including of North, South, Hyderabad, Madhya Pradesh *etc.* were members. In these groups, members used to fix price of Kraft paper, discuss prices of raw material waste paper and collective shut-down of mills.
14. The DG also recorded the statements of representatives of various paper mills who were part of GPMA, many of whom admitted to the existence of an understanding between the paper mills with respect to, *inter alia*, increase in prices of Kraft Paper, collective shut-down of mills and monitoring of same by GPMA. The DG also found several e-mail communications issued by GPMA to its members in this regard.
15. The DG observed that the case of GPMA/FIPR is different from other cases of trade associations wherein the associations generally issue directions/*diktats* to members to follow. In case of GPMA/FIPR, the paper mills themselves conducted meetings under



the banner of GPMA/FIPR and took decisions regarding increase in prices of Kraft paper and shutting down of mills and thereafter issued circulars to the members.

16. Hence, based on the above evidences, the DG concluded that GPMA/FIPR and its 61 members were involved in collective increase of prices of Kraft paper and collective shut-down of paper mills, which conduct is in violation of the provisions of Section 3(3)(a) and 3(3)(b) of the Act.
17. The DG also concluded from such evidences that the paper mills were also, under the banner of GPMA, involved in collective fixing of prices of waste paper, which forms the basic raw material for the manufacture of Kraft paper.
18. With respect to Northern India Paper Mills Association ('NIPMA'/'OP-63'), the DG observed that it is an unregistered association of paper mill owners from North India, with Mr. Pankaj Aggarwal, Managing Director of OP-64 as its President.
19. The DG found that though Mr. Pankaj Aggarwal denied the existence of any association NIPMA, the evidences recovered from his e-mail as well as the WhatsApp messages exchanged by him, specifically on group "NEWS Paper Mills" proves that he was the President of NIPMA. Further, it was found by the DG that in January 2017, NIPMA had declared a shut-down of mills from 21.01.2016 to 25.01.2016 and several paper mills in North India had, in fact, shut-down during these days. On several other identical dates also, paper mills in North India were found to have shut-down, fully or partially, and these dates were in conformity with the shut-downs declared by NIPMA and intimated in the WhatsApp group "NEWS Paper Mills".
20. The DG further found that paper mills in North India also used to inform their dealers about price increase through WhatsApp, and such price increases were often identical, *i.e.*, exactly on pre-decided dates as decided in NIPMA meetings. NIPMA used to conduct meetings of different Kraft paper mills from time to time. In these meetings, attendees used to discuss controlling the price of waste paper, increasing the price of finished paper and collectively shutting down paper mills. After the meetings, NIPMA used to communicate through WhatsApp messages in "NEWS Paper Mills" about the decisions taken.



21. Hence, based on the above evidences, the DG concluded that NIPMA and at least its 16 members were involved in collective increase of prices of Kraft paper and collective shut-down of paper mills, which conduct is in violation of the provisions of Section 3(3)(a) and 3(3)(b) of the Act.
22. The DG also concluded from such evidences that the paper mills were also, under the banner of NIPMA, involved in collective fixing of prices of waste paper, which forms the basic raw material for manufacture of Kraft paper.
23. Regarding Hyderabad Kraft Paper Mills Association ('HKPMA'/'OP-80'), the DG observed that it is not a registered association and has no by-laws. It is based at Hyderabad and comprises of Kraft paper manufacturers of Telangana. It has no regular office-bearers; however, its default office-bearers are Mr. Prem Paul Sharma of OP-81 as President, Mr. Deepak Chand Agarwal of OP-101 as Vice President and Mr. T. Anjani Kumar of OP-83 as Secretary.
24. From the e-mail dumps of certain paper mills related to HKPMA, it was found by the DG that, like GPMA, HKPMA also used to conduct meetings wherein increase in prices of Kraft paper, controlling prices of waste paper and collective shut-down of mills was decided. Also, the DG found that **there** used to exist a WhatsApp group, *namely*, "Hyd Kraftmills Assn HKPMA" wherein members used to discuss controlling the price of waste paper, deciding the prices of finished Kraft paper and collective shut-down of mills.
25. The DG also recorded the statements of representatives of various paper mills who were part of HKPMA and most of them admitted to the existence of HKPMA and decisions taken in its meetings as well as at least partial implementation thereof. The DG also found several e-mail communications issued by HKPMA to its members in this regard.
26. Hence, based on the above evidences, the DG concluded that HKPMA and its 26 members were involved in collective increase of prices of Kraft paper and collective shut-down of paper mills, which conduct is in violation of the provisions of Section 3(3)(a) and 3(3)(b) of the Act.



27. The DG also concluded from such evidences that the paper mills were also, under the banner of HKPMA, involved in collective fixing of prices of waste paper, which forms the basic raw material for manufacture of Kraft paper.
28. Lastly, regarding South Indian Kraft Paper Mills Association ('SIKPMA'/OP-107'), the DG observed that it is registered as a private company under the erstwhile Companies Act, 1956, limited by guarantee and not having share capital. Its registered office is in Chennai. Its office-bearers are Mr. K. R. Krishnaswamy of OP-109 as President, Mr. Nandikeshwar of OP-108 as Vice-President, Mr. Perikaruppan of OP-113 as Treasurer and Mr. K. Swaminathan as Secretary.
29. The DG found various documentary evidences in the form of e-mails, MoMs and Gist of Meetings available on record, along with confessional statements of representatives of paper mills of SIKPMA, which evidenced that SIKPMA and its members were involved in conducting meetings of different Kraft paper mills from time to time. In these meetings, the attendees used to discuss controlling the price of waste paper/the price at which waste paper should be purchased. They were also discussing and increasing the price of finished Kraft paper and collectively shutting down the paper mills. After the meetings, SIKPMA used to communicate the decisions taken for increasing the price of finished paper and collective shut-down of mills to its members. Such increase in prices as well as shut-down was also co-ordinated by forming a WhatsApp group, *namely*, "South India Kraft Paper Mills". The office-bearers of SIKPMA were also members of all India level WhatsApp group "NEWS Paper Mills".
30. It was also observed by the DG that mills which attended the meetings of SIKPMA shut-down their plants on the dates decided by SIKPMA and increased prices of finished paper from time to time, fully or partially in accord with SIKPMA decisions. SIKPMA also proposed penalty on errant paper mills found not adhering to its decisions of price increase.
31. Members of SIKPMA were also found to be in regular touch with HKPMA and GPMA for co-ordinating price increase, prices of waste paper as well as collective shut-down of paper mills. Office-bearers of SIKPMA were also found to be attending certain meetings of HKPMA and GPMA wherein price increase and/or collective shut-down decisions took place.



32. Hence, based on the above evidences, the DG concluded that SIKPMA and its 12 members were involved in collective increase of prices of Kraft paper and collective shut-down of paper mills, which conduct is in violation of the provisions of Section 3(3)(a) and 3(3)(b) of the Act.
33. The DG also concluded from such evidences that the paper mills were also, under the banner of SIKPMA, involved in collective fixing of prices of waste paper, which forms the basic raw material for manufacture of Kraft paper.
34. Regarding Indian Agro and Recycled Paper Mills Association ('IARPMA'/'OP-120'), the DG observed that it is an association registered under the Societies Registration Act, 1860 in 2002, having its registered office at Delhi. It is providing liaison works for its members related to various issues such as energy shortage, customs duty, excise duty, VAT, GST, technological development, pollution *etc.* besides being involved in organising exhibition and conferences and releasing publications on Indian pulp, paper and allied industry to highlight the developments taking place in the pulp and paper industry worldwide to the doorstep of Indian Paper Industry.
35. The DG observed that OP-120 had not held any meetings related to price *etc.* as it had submitted that pricing of paper and marketing of products are internal matters of each paper mill. OP-120 had also claimed that it was not involved in issuing any directions to any paper mill to stop production *etc.* As such, the DG gave no finding of contravention of any of the provisions of the Act against OP-120.

Proceedings before the Commission:

36. The Commission considered the DG Report in its ordinary meeting held on 25.02.2021 and arrayed the additional 115 parties identified by the DG apart from the 06 named Opposite Parties, as Opposite Parties in the matter. The Commission also deleted the name of Maharashtra Paper Mills Association from the array of parties as the DG had found that no such association existed; thus, bringing the number of Opposite Parties to 120.
37. The Commission directed to forward an electronic copy of the non-confidential version of the DG Report to the 03 Informants and 119 OPs (except OP-120 against whom no contravention of the provisions of the Act had been found by the DG) for filing their

respective suggestions/objections, if any, to the DG Report along with a brief synopsis thereof. The Commission further directed the 119 OPs to furnish their audited balance sheets and profit & loss ('P&L') accounts/turnover and the details of the revenue and profit generated by them from the sale of Kraft papers by way of Affidavits supported by certificates of chartered accountants, for the following Financial Years ('FY'):

Gujarat Paper Mills Association and its members	Opposite Party Nos. 1–62	2009–10 to 2018–19
Northern India Paper Mills Association and its members	Opposite Party Nos. 63–79	2016–17 to 2018–19
Hyderabad Kraft Paper Mills Association and its members	Opposite Party Nos. 80–106	2010–11 to 2018–19
South Indian Kraft Paper Mills Association and its members	Opposite Party Nos. 107–119	2009–10 to 2018–19

38. Thereafter, from time to time, extension of time to file suggestions/objections to the DG Report and/or financial statements, were given to the parties by the Commission, on their request.
39. Finally, *vide* order dated 14.12.2021, the Commission fixed the schedule for the final hearing through video conferencing in the matter as follows:

Opposite Party Nos. 01–62	07.03.2022 at 10:30 a.m.
Opposite Party Nos. 63–79	08.03.2022 at 10:30 a.m.
Opposite Party Nos. 80–106	09.03.2022 at 10:30 a.m.
Opposite Party Nos. 107–119 and Informants	10.03.2022 at 10:30 a.m.

40. Accordingly, from 07.03.2022 to 10.03.2022, the Commission heard the oral submissions addressed by the respective Authorised Representatives of the parties (learned senior counsel(s)/learned counsel(s)/Chartered Accountants/parties in-person) on the DG Report and on the respective applications for lesser penalty filed by 31 OPs under Section 46 of the Act. The Commission decided to pass an appropriate order in the matter in due course. Thereafter, the parties also submitted their respective written arguments as well.



Analysis:

41. The Commission has perused the applications seeking lesser penalty filed under Section 46 of the Act by 31 OPs, the investigation report submitted by the DG and the evidences collected by the DG, the suggestions/objections to the DG Report and written arguments filed by the parties, and also heard the oral arguments made by the respective authorised representatives representing the parties in the matter.

Based on the evidences collected by the DG and the arguments made by the respective Opposite Parties, the Commission proceeds to make Opposite Party-wise analysis in the subsequent paragraphs.

42. **OP-1 (Gujarat Paper Mills Association - GPMA)**

42.1 As per its own submission before the DG, OP-1 had membership of 119 paper mills situated in the States of Gujarat, Maharashtra, Madhya Pradesh and Chhattisgarh, which included, *inter alia*, OP-1 to OP-13, OP-15 to OP-45 and OP-47 to OP-62.

42.2 From the DG Report, it is noted that OP-1 held several meetings with its members which were also attended by paper mills of other states and representatives of other regional associations. Details of some of the same, as collected by the DG from MoMs, are as under:

S. No.	Meeting dated	Attendees	Decision as recorded in MoM
1	15.02.2017 at JW Marriot, Mumbai	Attended by 71 paper mills of Gujarat and Maharashtra	• Penalty on members not shutting down mills as per decisions of GPMA. • Discussed increase in prices of various grades of Kraft paper and decision taken to increase price by ₹1 per kg across board with effect from 01.03.2017. • Decided to shut-down mills between 11.03.2017 to 15.03.2017. • Next meeting shall be held 15.03.2017.
2	15.03.2017 at Westin Hotel, Mumbai	Attended by 67 paper mills of Gujarat, Maharashtra and Chhattisgarh as well as paper mills of Hyderabad, Chennai	• Rates cannot increase at one go because in such a case, undercutting is bound to happen. • Credit period for supply of paper decided. • Discussed about trying to reduce the rate of waste paper. • Decision to take disciplinary action against certain paper mills which are not following shut-



S. No.	Meeting dated	Attendees	Decision as recorded in MoM
		and SIKPMA	down but taking benefit of price increase. Benefits of observing collective shut-down discussed, one of them being easily getting increase in rates of finished paper. - Decision to increase the price of Kraft paper by ₹2 per kg across the board. - Next meeting shall be held 07.04.2017.
3	28.03.2017 at Hotel TGB, Surat	Attended by 29 paper mills of Gujarat	- Discussed pricing of Kraft paper. - Discussed shut-down of mills and action against non-compliance of shut-down direction - Discussed about case being filed by corrugated box manufacturers against paper mills
4	07.04.2017 at Westin Hotel, Mumbai	Attended by 69 paper mills of Gujarat, Maharashtra, Chhattisgarh as well as paper mills of Telangana and SIKPMA	- Discussion on disciplinary action against members if found not complying with decisions of association/federation like collective decision of keeping the mills shut. - In order to reinforce/settle the increased rate of ₹7, it is necessary that paper mills strictly observe 100% shut. Still more effective would be increasing the shut period from 5 to 7 days a month. Shut has to be continued till December 2017 every month for 7 days. Shut for April would be from 05.04.2017 to 11.04.2017. - Shut for May 2017 would be from 02.05.2017 to 08.05.2017 for 7 days. - Decided not to declare increase in price of finished paper this time. - Next meeting shall be probably held 06.05.2017.
5	24.04.2017 at Hotel Comfort Inn Donil, Baroda	Attended by 32 paper mills of Gujarat	- Undercutting of rate should not happen and when a rate is declared and accepted by all, it should be followed strictly. - No order @ ₹7, hence, may have to keep the mills closed. - Rates should be fixed region wise. No old rates should be accepted. - Instead of 7 days shut a month, there should be 5 days shut every 15 days. - Paper mills of Vapi will dispatch orders only @ ₹7.
6	05.05.2017 at	Attended by 52	A meeting was held in Nagpur on 29.04.2017



S. No.	Meeting dated	Attendees	Decision as recorded in MoM
	Westin Hotel, Mumbai	paper mills of Gujarat, Maharashtra and Chhattisgarh	amongst paper mills of Nagpur, Raipur, Chhattisgarh, etc., wherein members unitedly assured that orders would be taken only at ₹7 and further discussions would be held in Mumbai on 05.05.2017. - Discussed report of Monitoring Committee to monitor shutting down of paper mills. - Points of view were expressed regarding certain mills not taking the benefit of increased rate, monitoring to be done for 5 days at an interval of 15 days in a month, monitoring to be done for 7 days at an interval of 20 days, declared rate of ₹7 to not be undercut, etc. - Asked the Maharashtra paper mills to take orders at ₹7 only. - Next meeting shall be held on 02.06.2017. - Monitoring period for the month of June 2017 would be 01.06.2017 to 06.06.2017.
7	02.06.2017 at Westin Hotel, Mumbai	Attended by 57 paper mills of Gujarat, Maharashtra and Chhattisgarh	- First meeting was held on 19.01.2017 and this is the 6th meeting. - FCBM members are planning to go to CCI and collecting necessary data regarding ₹7 increase in price of finished paper. - Monitoring period for the month of June 2017 would be 27.06.2017 to 03.07.2017. - Next meeting shall be held 01.07.2017.
8	25.07.2017 at JW Marriot, Mumbai	Attended by 48 paper mills of Gujarat, Maharashtra and Chhattisgarh	- No paper mill should act independently against the decisions of the association. - Uniform increase in price of finished paper across board shall be considered. - A group of sector leaders shall collectively approach the units which are not following decisions of the association and if such units continue to default, a penalty of ₹5 lacs shall be imposed. Only after payment of penalty, shall the unit be re-admitted. - Next meeting shall be held on 19.08.2017 and a meeting shall also be held on 10.07.2017.
9	19.08.2017 at Hotel Ramada	Attended by 36 paper mills of	A Committee must be formed which will have the authority and wisdom to declare rates of



S. No.	Meeting dated	Attendees	Decision as recorded in MoM
	Plaza Palm Grove, Mumbai	Gujarat, Maharashtra and Chhattisgarh	paper on a regular monthly basis and all stakeholders shall adopt the rates declared by this Committee. Next meeting shall be held on 16.09.2017 and a meeting was also held at Baroda on 10.08.2017.
10	22.11.2017 at GPMA Office, Vapi	Attended by 15 paper mills of Gujarat	Prices of finished paper fixed and increase letters decided to be sent.
11	05.12.2017 at Hotel Novotel, Mumbai	Attended by 35 paper mills of Gujarat, Maharashtra and Chhattisgarh	- Discussed “<i>if we remain united, we gain and lose if divided</i>”. - Next meeting shall be held on 25.12.2017.
12	25.12.2017 at Hotel Mirasol, Daman	Attended by 37 paper mills of Gujarat, Maharashtra and Chhattisgarh	- Discussed that objective of running a paper mill is not just to survive but also to earn profits. Only when there are collective and concerted efforts, leaving aside small difficulties, can the paper mills can survive and earn profits. - Discussed that efforts should be made to stabilise the waste paper rate at certain level. - Next meeting shall be held on 19.01.2018.
13	05.04.2018 at Club Aquaria, Mumbai	Attended by 27 paper mills of Gujarat, Maharashtra, Chhattisgarh and Madhya Pradesh	- Last meeting was held on 15.02.2018 in Mumbai. In between, there was a meeting at Nashik, as a result of which, uniformity and consensus prevailed and rates remained stable. It was discussed that this was the golden time for paper mills to save and earn. Prices of raw materials are going down but they should be careful that such advantage should not be passed down. - Meetings should be held at least once a month without fail. - All should have a single focus of doing better and earning. - Basic rate should not be lowered. All paper mills must observe patience and not be gripped by fear or psychosis, reducing the rate in fear of unhealthy competition. - Suggestions were received regarding how to keep the waste paper rate stable, take best advantage and declare rates for three months <i>etc.</i> - Discussed about present case filed with CCI.



S. No.	Meeting dated	Attendees	Decision as recorded in MoM
			• Next meeting shall be held on 21.04.2018.

42.3 In furtherance of the decisions taken in such meetings, OP-1 issued, *inter alia*, the following circulars to its members, for increasing prices of different grades of Kraft Paper:

Sl. No.	Date of Circular	Type of Paper	Rate increase per metric ton (In ₹)
1	07.04.2009	All grades of MG Kraft paper	1,250
2	18.12.2009	All grades of MG Kraft paper	1,000
3	08.02.2010	MG Kraft paper 12 BF and 14 BF MG Kraft paper 16 BF MG Kraft paper 18 BF and 20 BF MG Kraft paper 22 BF and above	500 750 1,000 1,250
4	21.02.2010	MG Kraft paper 12 BF and 14 BF MG Kraft paper 16 BF and above	1,000 1,250
5	23.04.2011	Upto 16 BF Kraft paper	500
6	12.05.2011	Upto 16 BF Kraft paper	500
7	09.09.2011	Upto 16 BF Kraft paper	1,000
8	11.12.2011	Upto 16 BF Kraft paper	1,000
9	01.03.2012	Upto 16 BF Kraft paper	1,000
10	02.05.2012	Upto 16 BF Kraft paper	1,250
11	03.06.2012	Upto 16 BF Kraft paper	1,000
12	04.09.2012	Upto 16 BF Kraft paper	1,000
13	01.03.2013	All grades of Kraft paper	1,000
14	20.03.2013	All grades of Kraft paper	1,000
15	19.06.2013	All grades of Kraft paper	1,000
16	29.08.2013	Different grades of Kraft paper (From BF 12 to 45)	1,000/1,500
17	13.02.2014	All grades of Kraft paper	750
18	13.03.2014	All grades of Kraft paper	750
19	22.07.2014	Upto 16 BF Kraft paper	500
20	02.08.2014	Upto 16 BF Kraft paper	500
21	29.08.2014	For 18 BF Kraft paper	500
22	03.01.2015	Upto 16 BF Kraft paper	1,000
23	05.03.2015	Upto 16 BF Kraft paper	1,000
24	20.06.2015	Upto 16 BF Kraft paper	1,000
25	24.09.2015	All grades of Kraft paper	1,000
26	16.02.2016	All grades of Kraft paper	1,250
27	06.05.2016	Upto 16 BF Kraft paper	1,000

Sl. No.	Date of Circular	Type of Paper	Rate increase per metric ton (In ₹)
28	19.07.2016	Upto 16 BF Kraft paper	1,000
29	09.09.2016	All grades of Kraft paper	1,000/500
30	25.11.2016	All grades of finish paper	1,000
31	09.01.2017	Upto 16 BF Kraft paper	2,000
32	01.03.2017	Upto 16 BF Kraft paper	1,000
33	04.03.2017	Upto 16 BF Kraft paper	2,000
34	15.03.2017	Upto 16 BF Kraft paper	2,000
35	08.04.2017	Upto 16 BF Kraft paper	1,000
36	25.07.2017	Upto 16 BF Kraft paper	1,000
37	21.11.2017	Upto 16 BF Kraft paper	1,250
38	05.12.2017	Upto 16 BF Kraft paper	1,000
39	25.12.2017	Upto 16 BF Kraft paper	1,000

42.4 OP-1 also issued, *inter alia*, the following e-mail communications, to its members:

- (a) E-mail dated 30.01.2013 sending Price Rise Circular dated 30.01.2013;
- (b) E-mail dated 20.03.2013 sending Price Rise Circular dated 20.03.2013;
- (c) E-mail dated 19.06.2013 sending Price Rise Circular dated 19.06.2013;
- (d) E-mail dated 29.08.2013 sending Price Rise Circular dated 29.08.2013;
- (e) E-mail dated 13.02.2014 sending Price Rise Circular dated 13.02.2014;
- (f) E-mail dated 16.02.2016 with the subject “*Fw: GPMA – Price Rise Circular dt. 16.02.2016*” attaching circular dated 16.02.2016 issued by OP-1 directing price increase by the members;
- (g) E-mail dated 19.07.2016 circulating copies of price increase circular of 19 paper mills to others:

“Dear Member,

Sending herewith attached copy of Customer Circular Copy of for your kind information.

...

19 attachments ...”

- (h) E-mail dated 09.09.2016 sending Price Rise Circular dated 09.09.2016;



- (i) E-mail dated 21.11.2016 fixing meeting dated 25.11.2016 through circular dated 21.11.2016:

“GPMA – Circular Dt. 21.11.2016

Dear Sir,

Sending herewith attached copy of above subject for your kind information.

...”

- (j) E-mail dated 26.11.2016 sending Price Rise Circular dated 25.11.2016;

- (k) E-mail dated 06.01.2017:

“Present Scenario of Kraft Paper Industry

...

V. To overcome the cash losses, we have to increase the “Finished Goods Price” by Rs. 3 to 4 per kg, on an immediate basis.

...

To overcome the gap between Demand & Supply and to build confidence in the Members, it is a must to curtail the production for next six months which will be continued by 4 days a month Plant Shut, till the slowdown is improved. ... For this we have to follow a Plant Shut Schedule as follows:

OPTION – I

A. First Month:- Eight Days (Every Saturday & Sunday)

B. Second Month:- Six Days (9th & 10th, 19th & 20th and 29th and 30th)

C. Third Month:- Six Days (14th & 15th and 29th & 30th)

OPTION – II

A. A joint meeting of All Member Mills in the state of “GUJARAT and MAHARASHTRA” to be organised and a Pre-planned Plant shut of 4 to 6 days to be taken at a time, as per a unanimous decision applicable in both the states.

B. ...

C. A strict penalty should be imposed on non-compliance of the unanimous decision i.e. Rs. 5000/mt. So a mill having capacity of 100 mt per day have to pay Rs. 5,00,000 X No. of days, for not taking the plant shut, even after giving the written confirmation.

D. ...”



- (l) E-mail dated 20.01.2017 sending copy of one paper mill's price rise circular as format for other paper mills to follow the same:

"Price rise Circular draft of Shree Gajanan Paper

URGENT

Dear Member,

Sending herewith attached Price Rise Draft copy of Shree Gajanan Paper for your kind information. Please same draft type on your Letter Pad and hard copy send to GPMA office or email to GPMA.

Thanking you,"

- (m) E-mail dated 30.01.2017 circulating draft declaration to be given for adhering to shut-down call:

"Urgent – Draft of Declaration

URGENT

Sending herewith attached copy of above subject for your kind information. Please Declaration of draft type in your Letter Pad & send hard copy to Following Address ... & Scan copy email to ID: ...

Thanking you,

For: Gujarat Paper Mills Association"



Monday, January 30, 2017

Surat/Baroda/Ankleshwar/Rajkot/Surendranagar/Morbi/Maharashtra Area

To,

The President,
Gujarat Paper Mills Association,
Vapi.

Dear Sir,

I hereby declare that, for couple of months we are making losses, hence any decision of price hike and / or production curtail, I would agree with decisions taken by the Association, from time to time.

1. We will strictly follow the instructions given by the Association for the shut period from "7 AM to 7 AM" for five days, i.e. for 120 Hours a month, from 11.02.2017 to 16.02.2017, without fail.
2. For any reason, (in case, the pulp is already lying in the chest or in pulper), we will shut the plant latest by 9 AM on the day, instead of 7 AM. If we have delayed the shut by two hours at 9AM, then we will also make sure that the plant will be shut continuously for 5 days and shall start the machine only after 120 hrs i.e. at 9 AM. We will communicate the Start and Shutdown timings to the association accordingly.
3. During the shutdown period, we will allow the Representatives of the Association to visit, inspect and observe our plant to confirm that, we are not running our machines
4. We will shut the Machines in the respective months if Association announces the Shutdown after mutual consent of Gujarat & Maharashtra for minimum 4 days and maximum 8 days, to save the Industry from loss.
5. We are ready to send our representative for five days continues monitoring in any mill of Gujarat/Maharashtra. His name and cell No. is _____
6. We are ready to pay Rs.2 Per Ton of Monthly Production towards the Membership Fees which will be utilized for Organizational purpose.
7. Our Email id is
 1. _____
 2. _____
 3. _____
8. In case of any Emergency, please contact any of the following persons.
 1. Sunil Agarwal
 2. Sanjay Agarwal
 3. Varun agarwal

Regards,

For Gajanan Paper Mills Ltd.,

Director

(n) E-mail dated 20.02.2017 circulating MoM dated 15.02.2017;

(o) E-mail dated 10-11.03.2017 sending agenda for meeting dated 15.03.2017;

(p) E-mail dated 18.03.2017 circulating MoM dated 15.03.2017;

42.5 In his statement recorded before the DG, Mr. Ganesh P. Thakur, Former Executive Secretary of OP-1 (from 2017 to 2019), acknowledged as under:

"GPMA/FIPR issued price hike circular to its members/mill owners. As per my knowledge GPMA has issued 11 price hike circulars during the period April 2011 to February 2016, showing a total increase of Rs.9, 750/- per MT.

Certain Kraft Paper mill owners from states like Gujarat, Maharashtra and Chhattisgarh were in the group and they used to exchange messages, on matters such as price of Kraft paper, price of waste paper, collective shutting down of mills, ...



... Now I recollect that paper mill owners from state of Gujarat, Maharashtra, Chhattisgarh and M. P. were used to attend GPMA meetings. In GPMA meeting held on 15.02.2017 attendees discussed about the price hike of Kraft Paper, collective shut-down of mill and chair decided to increase the price of Kraft Paper by Re.1/- with effect from 01.03.2017 and collectively shut the mills from 11th to 15th March 2017.

... GPMA has taken the decision to shut the mills collectively from Gujarat, Maharashtra and Chhattisgarh states during the period 02.05.2017 to 08.05.2017 (7 days) as per the MOM dated 07.04.2017. In the above meeting, GPMA has also decided to take action against member mills if found not complying with decisions of GPMA/FIPR and formed a monitoring team to ensure the above compliance.

... in the above meeting (25.07.2017), FIPR decided to impose a penalty of Rs.5 Lakhs on those Kraft Paper mills which are not collectively keeping shut as per the directions of FIPR. However, GPMA/FIPR never recovered any penalty from those mills, which are not complying with the directions of GPMA/FIPR regarding collective shut."

42.6 The DG has also found that there existed at least three WhatsApp Groups of the paper mill owners – (i) WhatsApp Group of Maharashtra Paper Mills; (ii) WhatsApp Group of paper mill owners of Gujarat, Maharashtra and Chhattisgarh namely “Paper Mills – GJ/MS/CGK; and (iii) WhatsApp Group namely ‘NEWS Paper Mills’ of a large number of paper mill owners from all over India. In such groups, members used to discuss issues regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills.

42.7 In its reply to the DG Report, OP-1 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it drawn by the DG.

42.8 However, it argued that it provided its platform to its members for engaging in collective increase in the sale price of Kraft paper, only for the members to survive in the market as they were bearing losses and/or low profit margins, price of raw material, i.e., waste paper was constantly on a rise and to keep operations profitable or at least commercially viable. Further, it submitted that, though it suggested several price increases to the members, not all were effectuated by the member paper mills to the extent suggested, and prices could only be increased marginally in light of stiff competition amongst the paper mills. With respect to collective shut-down of mills, OP-1 submitted that since the supply of Kraft paper outweighed the demand in the



market, collective halt was decided. Since the Kraft paper mills had surplus unsold inventory, collective shut-down of mills was decided as continually running the mills was not commercially viable and inventory lying unsold ensured no disruption in supply. OP-1 also submitted that corrugated box manufacturers enjoy substantial buying power *qua* Kraft paper manufacturers. They have reaped huge profits due to oversupply enabling them to purchase Kraft paper at low prices. Also, it was submitted that the WhatsApp group “NEWS Paper Mills” found by the DG had over 700 members; however, the DG has restricted its investigation to 114 paper mills only.

42.9 In regard to the above submissions made by OP-1, *firstly*, the Commission notes that the provisions of Section 3(1) of the Act not only proscribe agreements which cause an appreciable adverse effect on competition (‘AAEC’) in the market, but also forbid agreements which are likely to cause AAEC in the market. *Secondly*, the Commission notes that once an agreement of the types specified under Section 3(3) of the Act is established, the same is presumed to have an AAEC within India. Unless the parties are able to rebut such presumption of AAEC by showing positive effects emanating from the cartel activity in terms of the factors stated under Section 19(3) of the Act *i.e.*, accrual of benefits to consumers, improvement in production or distribution of goods or provision of services, or promotion of technical, scientific and economic development by means of production or distribution of goods or provision of services, the presumption of AAEC stands. In the present matter, except bald submission, there is no evidence put forth by OP-1 that the collective decisions taken on its platform from time to time to increase the price of Kraft Paper or shut-down the paper mills, was indulged into to ensure survival of the paper mills in the market or that, in the absence of the cartel, the paper mills would have gone out of business only because of the entry of new paper mills in the market since 2013–14. Hence, it is axiomatic to presume in the present matter that the impugned conduct of the parties caused AAEC within India. *Thirdly*, regarding collective shut-down of mills, the Commission observes that any paper mill having unsold inventory could have taken an independent decision to halt production. However, it is clear from the MoMs of OP-1 analysed by the DG that the collective shut-down of mills was directed in order to increase the price of Kraft paper in the market. *Lastly*, as far as the submission regarding the DG not holding all 700 members of the WhatsApp group liable is concerned, the Commission is of the view



that it is not of much relevance considering that there are clear and glaring evidences proving that the cartel amongst OP-1/FIPR and its certain members.

42.10 Therefore, based on the evidences collected by the DG as detailed above, the Commission finds that OP-1/FIPR held discussions with its members and issued directions to them from time to time for increasing the prices of Kraft Paper and for collective shut-down of paper mills, apart from monitoring whether the decision of collective shut-down was being adhered to by the members or not, which conduct amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act, from 2011 to 2018.

42.11 With respect to penalty, OP-1, *inter alia*, submitted that it had provided all requisite evidence and co-operation to the DG in the matter. The following mitigating factors also ought to be considered while deciding the quantum of penalty, if any, to be imposed upon OP-1: (i) Kraft paper mills use waste paper as raw material support and promote environmental sustainability; (ii) they indulged into crisis cartel to control prices only for their survival and not to further any profit-making agenda; (iii) they stimulate the economy by creating opportunities for low-income sectors; (iv) imposition of high penalty may impact mills' financial viability and result in shut-down of operations; (v) paper mills provide livelihood to a large number of workers who are dependent on mills for their survival; (vi) members mills are Micro, Small and Medium Enterprises ('MSMEs'); and (vii) COVID-19 pandemic has brought a great deal of economic uncertainty and curtailed the business of paper mills.

42.12 The above submissions made by OP-1 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

43. OP-2 Ramji Board and Paper Mill Private Limited

43.1 It is noted from the DG Report that representatives of OP-2, *namely*, Mr. Lalit Garg and Mr. Dinesh Garg, Directors, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 28.03.2017, 07.04.2017, 24.04.2017, 05.05.2017, 02.06.2017, 25.07.2017, 19.08.2017, 22.11.2017 and 05.04.2018, wherein discussions regarding fixing of prices,



shutting down of mills, etc., were held. Mr. Lalit Garg was also the Honorary Secretary of GPMA from 2015 onwards.

43.2 OP-2 was also named by GPMA as one of its members. Further, OP-2 was one of the recipients of e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013, 19.09.2016, 21.11.2016, 06.01.2017, 20.01.2017 and 30.01.2017 sent by GPMA to its members.

43.3 In his statement recorded before the DG, Mr. Lalit Garg acknowledged as under:

“My company is a member of Gujarat Paper Mills Association, Vapi (GPMA) and Federation of Indian Paper Recyclers (FIPR). ...

... my company and the other Kraft paper manufacturers of Gujarat and Maharashtra are collectively deciding the price of Kraft paper in collusion with each other by forming a cartel which lasted till April, 2018. After formation of GPMA around 15 years back, it gave a platform to the Kraft paper manufacturers of Gujarat, MP, Maharashtra and Chhattisgarh to discuss and decide about the price of the Kraft paper. The manufacturers from Gujarat and Maharashtra including my company used to meet under the banner of GPMA to decide the price of Kraft paper and shutting down of mills. ...

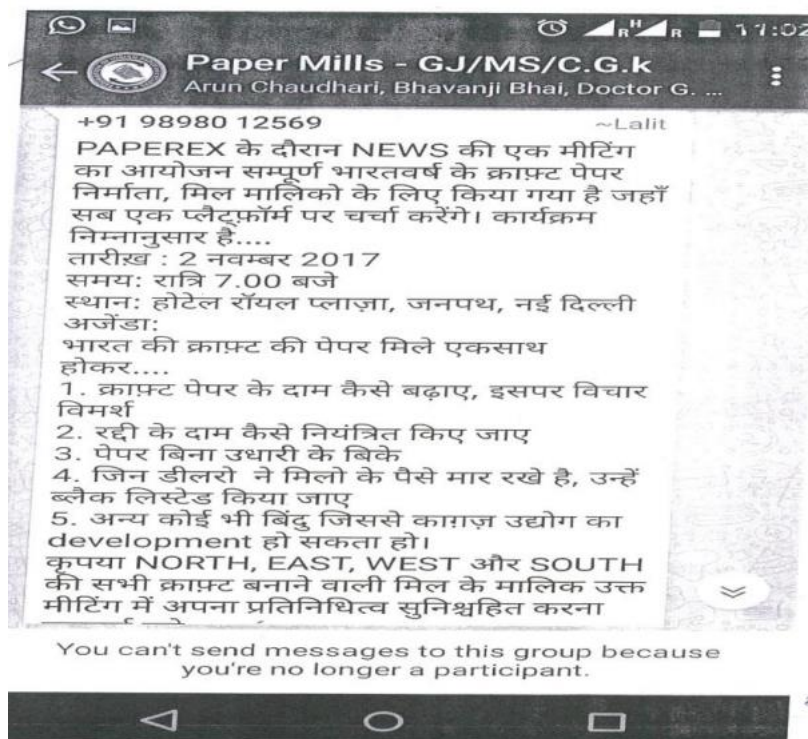
As a matter of practice, the members of GPMA including the Kraft Paper Mills of Maharashtra used to meet at different hotels and clubs to decide the price of Kraft paper and schedule shut-down of the paper mills. The shut-down of the paper mills was used to be undertaken to control the price of raw material i.e. waste paper. ... The price of Kraft paper was accordingly increased by the manufacturers of Gujarat and Maharashtra.

I may like to disclose that before receiving notice from your notice, there was a WhatsApp group of paper mills of Maharashtra, Gujarat and Chhattisgarh. There was also a WhatsApp group of almost all paper mills across India including North, South, Hyderabad, MP etc. This group was named as NEWS (North East West South). In all these groups, the issues regarding price and shut-down of mills were also used to be discussed.

43.4 Mr. Lalit Garg also provided to the DG copies of circulars dated 25.02.2016, 19.01.2017 and 23.11.2017 issued by OP-2 regarding increase in prices of its Kraft paper and/or shut-down of the paper mill of OP-2.

43.5 Mr. Lalit Garg was also a member of WhatsApp groups “Paper Mills – GJ/MS/CGK” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of

raw material waste paper and collective shut-down of mills took place. One of the messages sent by Mr. Lalit Garg in the WhatsApp group “Paper Mills – GJ/MS/CGK “, the screenshot of which was provided by Mr. Rajesh Mahajan, Partner of OP-9 to the DG, is as follows:



43.6 Even Mr. Omprakash Rathi of OP-3, with respect to Mr. Lalit Garg of OP-2, stated that “I along with Shri Lalit Garg of Ramji Paper, Shri Nimish Shah of Vaibhav Paper and Amrutbhai Patel of Sezon Papers Pvt. Ltd, Morbi and certain other representative of paper mills were admin of Maharashtra, Gujarat and Chhattisgarh WhatsApp group. “

43.7 The Commission also notes that OP-2 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, OP-2 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it drawn by the DG.

43.8 However, it, *inter alia*, submitted that it collectively decided to increase the sale prices of Kraft paper as it was bearing losses/low profit margins and was trying to survive in the market and at the same time employing a large number of workers whose livelihood depended on the profitable operations of OP-2. Furthermore, the price of raw material



waste paper was also constantly on a rise. Its other submissions were largely similar to those raised by GPMA.

43.9 In view of the Commission, low profit margins can never be an excuse for an entity to engage into cartel activity. Further, from the financial statements of OP-2 on record, it is noted that post FY 2009–10, OP-2 was not running into losses from the sale of Kraft paper in the market.

43.10 Therefore, based on the evidences collected by the DG as detailed above, the Commission finds that OP-2 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-2 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

43.11 With respect to penalty, OP-2 submitted that, being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-2.

43.12 Such submissions made by OP-2 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

44. OP-3 (Kaygaon Paper Mills Limited)

44.1 It is noted from the DG Report that representatives of OP-3, *namely*, Mr. Omprakash Rathi, Managing Director and his son Mr. Akshay Rathi, Director, attended several meetings of GPMA dated 15.02.2017, 07.04.2017, 02.06.2017, 25.07.2017, 05.12.2017, 25.12.2017 and 05.04.2018, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held. In fact, by his own admission, Mr. Rathi was representing the paper mills of Maharashtra as the President of the Kraft paper mills of Maharashtra, in the meetings of GPMA/FIPR. Even Mr. Chetan M. Dhatri, Partner of OP-22 and Mr. Banwarilal Kabra, Director of OP-29, stated that the Kraft paper mills



of Maharashtra considered Mr. Om Prakash Rathi, being a senior Kraft paper mill owner, as their leader.

44.2 OP-3 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013, 13.02.2014, 16.02.2016, 09.09.2016, 26.11.2016, 06.01.2017, 30.01.2017, 20.02.2017, 10-11.03.2017 and 18.03.2017 sent by GPMA to its members.

44.3 In his statement recorded before the DG, Mr. Omprakash Rathi acknowledged as under:

“My company represented by me is a member of Gujarat Paper Mills Association, Vapi (GPMA). ... I represent the paper mills of Maharashtra in the meetings of GPMA as President of Maharashtra Kraft paper mills as Maharashtra and Gujarat paper mills have common business interest. ... Since I am an experienced person in the Kraft paper industry in the state of Maharashtra, the other paper mills in the state pay regards to me and consider me as their President. ...

... I would like to state that my company and other paper mills of Gujarat and Maharashtra (totalling around 125 Kraft paper mills) are collectively deciding the price of Kraft paper since 2005 till April, 2018. I remember the name of some of the Kraft paper manufacturers who are part of the aforesaid pricing arrangement and also attended meetings of GPMA. ...

It is submitted that the aforesaid paper mills including my company and Hardoli Paper Mills Limited and all other paper mills of Gujarat and Maharashtra used to decide the price of Kraft paper since 2005 under the banner of GPMA and accordingly the price of Kraft paper used to be increased. The manufacturers used to meet under the banner of GPMA for deciding the price of Kraft paper and on many occasions the plants were shut-down to control the prices of raw material and due to absence of orders in hand. ...

... I would like to mention that there are around 125 manufacturers of Kraft paper in the state of Gujarat and Maharashtra but all are not attending the meetings but they are coordinating over phone and email in the decisions taken by GPMA. All the manufacturers are also not formal members of GPMA but they are following the decisions of GPMA in consultation with GPMA and other paper mills.

There have been several such meetings to increase the price of Kraft paper and shutting down of mills during 2005 to April, 2018.

... I would like to state that the manufacturers of Kraft paper from Chhattisgarh and MP sometime also used to attend the meetings of GPMA but



most of the times these manufacturers used to contact the other paper mills of Gujarat and Maharashtra for coordinating for the price increase. These paper mills of Chhattisgarh and MP always used to increase the price in tandem with Gujarat and Maharashtra Paper Mills.

I would also like to mention that my company used to receive circulars and notes from GPMA regarding shut-down of mills and increase of Kraft paper price. ... I would further like to disclose that my company also used to issue circulars and price increase decisions to dealers and customers through emails and other communication channels as per the decision of GPMA ...

I may like to disclose that before receiving notice from your notice, there was a WhatsApp group of paper mills of Maharashtra and another group of paper mills of Maharashtra, Gujarat and Chhattisgarh. There was also a WhatsApp group of almost all paper mills across India including North, South, Hyderabad, MP etc. This group was named as NEWS (North East West South). In all these groups, the issues regarding price and shut-down of mills were used to be discussed. After receiving your notice, I have exited from the aforesaid WhatsApp groups and deleted the messages.

Yes, I admit that by adopting such practices as disclosed by me in my statement, my company has committed violation of the provisions of Competition law for which my company and myself can be penalized.”

44.4 Mr. Omprakash Rathi also provided certain invoices of OP-3 of February and March 2017 as well as e-mails/circulars dated 20.01.2017, 23.02.2017 and 06.03.2017 issued by OP-3 to the DG regarding increase in prices of its Kraft paper, which shows that OP-3 increased the prices of its Kraft paper in tandem with the decisions taken by GPMA.

44.5 Mr. Rathi was also a member of WhatsApp groups of paper mill owners of Maharashtra, “Paper Mills – GJ/MS/CGK” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. In fact, Mr. Lalit Garg of OP-2, Mr. Sunil Vasant Chrimade of OP-8 and Mr. Rajesh Modi of OP-48 named Mr. Rathi as one of the admins of “Paper Mills – GJ/MS/CGK” WhatsApp group.

44.6 The Commission also notes that OP-3 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, OP-3 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it, as drawn by the DG. Further, it made certain other submissions which were largely similar to those raised by GPMA and OP-2.



44.7 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-3 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-3 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

44.8 With respect to penalty, OP-3 submitted that, being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-3.

44.9 Such submissions made by OP-3 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

45. OP-4 (Umesh Board and Paper Mills Private Limited)

45.1 It is noted from the DG Report that the representative of OP-4, namely, Mr. Satyanarayan Agarwal, Director, attended the meeting of GPMA dated 15.02.2017, wherein discussions regarding fixing of prices, shutting down of mills, etc., were held.

45.2 OP-4 was also named by GPMA as one of its members, though Mr. Satyanarayan Agarwal denied this fact. He, however, in his statement recorded before the DG, acknowledged as under:

“... I have attended certain meetings of Gujarat Paper Mills Association, Vapi (GPMA)...

... On advice of other Kraft paper mills in the state of Maharashtra, I first time attended a meeting of GPMA in 2005 wherein various issues related to Kraft paper industry were discussed. Thereafter, there has been various meetings of GPMA, some of which I have attended. ...

During the meetings decision regarding price increase of the final product i.e., Kraft paper used to be discussed and a price circular was generally used to be issued by GPMA indicating the price of Kraft paper to be increased by the manufacturers in state of Maharashtra even to non-members. On the advice and decision taken in the meetings of GPMA, my company and other



manufacturers used to increase the price of Kraft paper from 2005 to April, 2018. However, some times the price increased was not to the same extent as decided by GPMA.

Around December, 2016, GPMA and all paper mills of Gujarat and Maharashtra including my company also decided to shut-down the mills on scheduled dates so that the all mills can have orders as there was shortage of paper. On the direction of GPMA, my company also shut-down the plant on pre-decided dates at two occasions in 2017 from March 11-15 and Feb. 2 to 05...

Many a times, I was informed through WhatsApp group of GPMA about the price hike and shut-down of mills. After receiving your notice, I have exited from the said group.

I would like to clarify that I was also a member of WhatsApp group namely NEWS Paper Mills, almost all paper mills across India including North, South, Hyderabad, MP etc. were its members. This group was named as NEWS (North East West South). In this group also, the issues regarding price and shut-down of mills were used to be discussed.

Yes, I admit that by adopting such practices as disclosed by me in my statement, my company has committed violation of the provisions of Competition law for which my company and myself can be penalised."

45.3 Mr. Agarwal was also a member of WhatsApp group "NEWS Paper Mills", wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. His communication dated 18.03.2018 at 03:51:23 in the said group is also on record which he was confronted with, and which he did not deny.

45.4 The Commission also notes that OP-4 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, OP-4 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it, as drawn by the DG. It also made certain other submissions which were largely similar to those raised by GPMA and OP-2.

45.5 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-4 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-4 amounts to indirectly determining the sale prices of Kraft paper in contravention of the



provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

45.6 With respect to penalty, OP-4 submitted that, being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-4.

45.7 Such submissions made by OP-4 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

46. OP-5 (Hari Sharnam Trade Links Private Limited)

46.1 OP-5 was named by GPMA as one of its members. Further, in his statement recorded before the DG, Mr. Nitin Agarwal, Director of OP-5, acknowledged as under:

“I am not a registered member in GPMA due to non-payment of membership charges, but I attended the meeting couple of times whenever the meeting was held in Maharashtra.

During the meetings of GPMA, decisions regarding price increase of the final product i.e., Kraft paper used to be discussed and a price circular was generally issued by GPMA indicating the price of Kraft paper to be increased by the manufacturers in state of Maharashtra, even to non-members.

My father used to receive circulars from the associations but I don't know from which source he used to get the circulars. On the advice and decisions taken in the meetings of GPMA, my father Shri Satyanarayan Ji Agrawal used to convey the prices to me and I used to increase the price of Kraft papers as per the decision of the association as conveyed by my father from 2009 to April 2018. Even though I started the mill during 2009, yet I have attended GPMA meetings only couple of times. Shri Omprakash Rathi, Director Kaygaon Paper Mills Ltd. who is a family friend of mine along with my father Shri Satyanarayan Ji Agrawal was the only source of information about the decisions of GPMA for me. The decision of GPMA to increase the price and closure of mills has been implemented by my company from 2009 till April 2018.

... I recall attending GPMA meeting held on 07.04.2017 at Westin, Mumbai, specifically. I would also like to state that during the aforesaid meeting the issue of price hike and closure of mills was discussed. I was agreed to increase



the price and shut-down of Mills on schedule dates as discussed with GPMA.

...

Around December, 2016 GPMA and all paper mills of Gujarat and Maharashtra including my company also decided to shut-down the mills on scheduled dates so that all mills can have orders as there was shortage of orders, On the directions of GPMA, my company also shut-down the plant on pre-decided dates on multiple occasions during 2017. ...

I was also a member of WhatsApp group 'NEWS Paper Mills' ... In the said group almost all paper mills of Gujarat, Maharashtra, M.P., Chhattisgarh, North India and South India were members. They used to discuss about the price to be hiked and shut-down of mills.

Yes, I admit that by adopting such practices as disclosed by me in my statement, my company has committed violation of the provisions of Competition law for which my company and I can be penalized."

46.2 Mr. Nitin Agrawal even admitted to attending some meetings of GPMA/FIPR, whenever they were held in the State of Maharashtra. He was also a member of WhatsApp group "NEWS Paper Mills", wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place.

46.3 The Commission also notes that OP-5 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, OP-5 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it, as drawn by the DG in the Investigation Report. OP-5 also made certain other submissions which were largely similar to those raised by GPMA and OP-2.

46.4 Therefore, based on the evidences collected by the DG as detailed above, the Commission finds that OP-5 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-5 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

46.5 With respect to penalty, OP-5 submitted that, being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has



provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-5.

46.6 Such submissions made by OP-5 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

47. OP-6 (Vaibhav Paper Boards Private Limited)

47.1 It is noted from the DG Report that the representative of OP-6, *namely*, Mr. Nimish J. Shah, Director, attended several meetings of GPMA dated 15.02.2017, 24.04.2017, 25.07.2017, 19.08.2017, 22.11.2017 and 05.12.2017, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held. Mr. Shah was also the Vice-President of GPMA from 2015 onwards.

47.2 OP-6 was also named by GPMA as one of its members. Further, it was one of the recipients of e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013, 19.09.2016, 21.11.2016, 06.01.2017, 20.01.2017 and 30.01.2017 sent by GPMA to its members.

47.3 In his statement recorded before the DG, Mr. Nimish J. Shah acknowledged as under:

“My company is a registered member in Gujarat Paper Mills Association (GPMA) and Federation of Indian Paper Recyclers (FIPR). I am the Vice President of GPMA for the last one and a half years.

... since 2005 my company and the other Kraft paper manufacturers of Gujarat and Maharashtra are collectively deciding the price of Kraft paper in collusion with each other by forming a cartel which lasted till April, 2018. I joined the company as an Executive in 2005 and I have been witnessing the collective fixing of prices and shutting down of mills since then. ...

During the meetings of GPMA discussions held were primarily about price hike and scheduling of closures of mills. ... The decisions regarding price hike and schedule of shutting down of mills taken in the meetings were conveyed to the mill owners across Gujarat and Maharashtra through hand given circulars/emails/telephonic conversations. The price of Kraft paper was accordingly increased by the manufacturers of Gujarat and Maharashtra.

I would also like to clarify that for the purpose of informing the members of GPMA and non-member paper mills of Maharashtra, Gujarat, MP and Chhattisgarh, there was a WhatsApp group formed by GPMA wherein the decisions of GPMA regarding price hike of Kraft paper and shut-down of mills were used to be conveyed.



There was another WhatsApp group namely 'NEWS Paper Mills' wherein almost all Kraft paper mills of Gujarat, Maharashtra, MP, South India and Northern India were members. ... The decisions taken by GPMA, Northern India Paper Mills Association, South India and Hyderabad Kraft Paper Association used to communicate about price hike decision of Kraft paper and shut-down schedule.

Yes, I admit that by adopting such practices as discussed by me in my statement, myself as well as my company and GPMA have committed violation of the provisions of Competition law for which my company myself and GPMA can be penalized."

47.4 Mr. Nimish Shah, *inter alia*, provided to the DG, copies of circulars dated 01.03.2013, 20.03.2013, 19.06.2013, 29.08.2013, 13.02.2014, 13.03.2014, 02.08.2014 and 30.08.2014 issued by OP-6 regarding increase in prices of its Kraft Paper, which shows that OP-6 increased the prices of its Kraft paper in tandem with the decisions taken by GPMA.

47.5 He was also a member of WhatsApp groups of Maharashtra Paper Mills, "Paper Mills – GJ/MS/CGK" and "NEWS Paper Mills", wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. Mr. Lalit Garg of OP-2 and Mr. Omprakash Rathi of OP-3 also stated in their individual statements before the DG that they, along with Mr. Nimish Shah of OP-6 and a few others, were admins of "Paper Mills – GJ/MS/CGK" WhatsApp group.

47.6 The Commission also notes that OP-6 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, OP-6 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it, as drawn by the DG. It also made certain other submissions which were largely similar to those raised by GPMA and OP-2.

47.7 Therefore, based on the evidences collected by the DG as detailed above, the Commission finds that OP-6 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-6 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and



controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

47.8 With respect to penalty, OP-6 submitted that, being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-6.

47.9 Such submissions made by OP-6 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

48. OP-7 (Urvashi Pulp and Paper Mills Private Limited)

48.1 It is noted from the DG Report that representatives of OP-7, namely, Mr. Sundeep Shah, Managing Director, and Mr. Krish Shah, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 28.03.2017, 07.04.2017, 24.04.2017, 02.06.2017, 19.08.2017 and 05.04.2018, wherein discussions regarding fixing of prices, shutting down of mills, etc., were held.

48.2 OP-7 was also named by GPMA as one of its members. Further, it was one of the recipients of e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013, 19.09.2016, 21.11.2016, 06.01.2017, 20.01.2017 and 30.01.2017 sent by GPMA to its members.

48.3 In his statement recorded before the DG, Mr. Sundeep Shah acknowledged as under:

“... In context to the instant case, I would like to submit that after my company became the member of GPMA in 2011, I have attended various meetings of GPMA wherein hike in the price of the Kraft Paper as well as collective shut-down of the Mills were discussed and decided with mutual consents of all members of the association ... I used to be informed through email or GPMA circulars about the price hike and collective shut-down of mills. ...

I would like to disclose that in GPMA meetings, certain Kraft Paper mills of MP, Chhattisgarh and Maharashtra also used to come and discuss about the price hike of Kraft Paper and collective shut-down of mills during the period 2011 and April 2018. ...

... I would also like to disclose that for the purpose of informing the members of GPMA including the paper mills of Maharashtra, Gujarat, MP and Chhattisgarh which are not registered members of GPMA, there was a WhatsApp group formed by GPMA wherein the decisions regarding price hike



of Kraft papers and schedule of shut-down of mills used to be conveyed. I was a member of the said WhatsApp group. Further, there was another WhatsApp group namely NEWS Paper Mills wherein all Kraft paper mills of Maharashtra, MP, North India, South India were members. ...

... I confirm and admit that in the said group, as can be seen from the messages, the members used to discuss about the price hike of Kraft Paper, Price of raw material and shut-down of mills along with other related issues.

...

... I also admit that, although my company has not increased the identical price as decided by GPMA. However, price up to certain level was hiked for Kraft Board by my company. Since, I am director in Shree Samrat Paper Mills Pvt. Ltd., the participation in GPMA meetings by me and the decisions of price hike taken by it was also followed by Shree Samrat Paper Mills. ...

... I admit that my mill was shut-down from 28.01.2017 to 30.01.2017, 13.02.2017 to 15.02.2017, 06.04.2017, 03.05.2017 to 08.05.2017, 02.06.2017 to 06.06.2017 and 01.07.2017 to 03.07.2017 on the directions and decision taken by GPMA. ...

... My company also used to receive circulars issued by GPMA through emails about the decisions to increase the price of Kraft Paper and shut-down of mills.

...

Regarding Exhibit 14 i.e., email dated 19.09.2016, I admit that on the directions of GPMA, all Kraft paper mills of Gujarat and Maharashtra increased their price and issued price increase circulars to their customers and copies of the same were also provided to GPMA to ensure that the Kraft Paper mills are following their directions. In this Email, GPMA forwarded 19 such circulars issued by different paper mills including my company to the manufacturers of Kraft Paper for their information.

Yes, I admit that by adopting such practices as disclosed by me in my statement, my company has committed violation of the provisions of Competition law for which my company and myself can be penalized.”

48.4 Mr Sundeep Shah was also a member of WhatsApp groups “Paper Mills – GJ/MS/CGK” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place.

48.5 From his e-mail account, a circular dated 10.09.2016 issued by OP-7 regarding price increase, annexed with e-mail dated 19.09.2016 of GPMA, was also recovered as below:



10th September 2016

To,
All Paper Agents

Dear Sir,

Please note as all input prices of raw material, chemical and fuel & etc. have increased; it is not economical for us to supply paper at current prices. Therefore we have increased price of Paper & Paper Board by Rs.1000/- per M Ton in all grade Paper and all BF with immediate effect.

Kindly book your order at revised prices and oblige.

Thanking you,

Yours faithfully
For Urvashi Pulp & Paper Mills Pvt. Ltd


Sundeep M. Shah
Managing Director.

48.6 Further, an e-mail dated 01.02.2017 sent to GPMA, enclosing the following draft declaration of OP-7 regarding shut-down of mills, signed by one Mr. Rajnikant, Manager of OP-7, was also recovered from his e-mail account:

URVASHI
PULP & PAPER MILLS PVT. LTD.

Regd. Office :
315-316/1, G.I.D.C. Ind. Est. P.B. No. 7,
Ankleshwar 393 002, Dist. Bharuch.
CIN: U22122GJ1976PTC002883

Ank. Fact. : 02646-252096
Ank. Office : 7046046336
Mumbai Off. : 022-26206064
Reliance : 93775 10416
Email: urvashipulp@gmail.com
Web : www.urvashipaper.com

Monday, January 30, 2017

To,
The President,
Gujarat Paper Mills Association,
Vapi.
Surat/Bareda/Ankleshwar/Rajkot/Surendranagar/Morbi/Maharashtra Area

Dear Sir,

I hereby declare that, for couple of months we are making losses, hence any decision of price hike and / or production curtail, I would agree with decisions taken by the Association, from time to time.

1. We will strictly follow the instructions given by the Association for the shut period from "7 AM to 7 AM" for five days, i.e. for 120 Hours a month, from 11.02.2017 to 16.02.2017, without fail.
2. For any reason, (in case, the pulp is already lying in the chest or in pulper), we will shut the plant latest by 9 AM on the day, instead of 7 AM. If we have delayed the shut by two hours at 9AM, then we will also make sure that the plant will be shut continuously for 5 days and shall start the machine only after 120 hrs i.e. at 9 AM. We will communicate the Start and Shutdown timings to the association accordingly.
3. During the shutdown period, we will allow the Representatives of the Association to visit, inspect and observe our plant to confirm that, we are not running our machines
4. We will shut the Machines in the respective months if Association announces the Shutdown after mutual consent of Gujarat & Maharashtra for minimum 4 days and maximum 8 days, to save the industry from loss.
5. We are ready to send our representative for five days continues monitoring in any mill of Gujarat/Maharashtra. His name and cell No. is Shri Pavan Singh
6. We are ready to pay Rs.2 Per Ton of Monthly Production towards the Membership Fees which will be utilized for Organizational purpose.
7. Our Email id is
1. sundeep@urvashipaper.com
2. rajni@urvashipaper.com
3. urvashipaper@urvashipaper.com
8. In case of any Emergency, please contact any of the following persons.
1. Sundeep Shah
2. Rajnikant B Jaguwalla

Regards,
For Urvashi Pulp & Paper Mills Pvt. Ltd.,

Director



48.7 The Commission also notes that OP-7 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, OP-7 admitted to being a part of the cartel from 2008–09 to 2015–16. It however, stated that post 2016, OP-7 ceased to be a cartel member as it ceased the sale of Kraft paper for commercial purposes. It rather confined itself to the manufacture and sale of Kraft board, which is a different product altogether from Kraft paper, and it made only limited intra-group sale of Kraft paper to its sister concern Usha Packaging. Further, OP-7 submitted that any indulgence in the cartel activity even upto 2016 was done unknowingly and without any intention of contravening the provisions of competition law. No *supra* normal profits were made by OP-7. Further, its market share was very limited and as such, its conduct could not have caused AAEC in the market. Even the total market share of all the alleged cartel participants is not more than 20%; as such, no AAEC could have been caused by the alleged cartel conduct of all such members also. OP-7 also made certain other submissions which were largely similar to those raised by GPMA and OP-2.

48.8 In regard to the submission made by OP-7 regarding it ceasing to be a part of the cartel since 2016, the Commission observes that admittedly, in 2017 as well as 2018, OP-7 was privy to all the circulars, e-mails and meetings of GPMA/FIPR and Mr. Sundeep Shah of OP-7 was also a part of the WhatsApp Groups related to co-ordination with respect to Kraft paper upto 2018. Further, the Commission notes from the DG Report that there is not much difference between Kraft paper and Kraft board as averred by OP-7. The raw material used for making both Kraft paper and Kraft board is almost the same, *i.e.*, waste paper. Though there is some difference in the manufacturing process and end-usage of both, there is no substantial difference between the two except thickness, *i.e.*, gsm. As such, the submission made by OP-7 regarding it not being a part of the cartel post-2016 only because it engaged itself in the manufacturing and sale of Kraft board, does not seem to be acceptable. As far as the submission of OP-7 regarding participation in the cartel being made unknowingly and unintentionally is concerned, the Commission is of the view that *mens rea* is not an ingredient *sine qua non* in cartel cases. Regarding the argument of there being no AAEC, the Commission has already observed above that once an agreement of the types specified under Section 3(3) of the Act is established, the same is presumed to have an AAEC within India, unless the parties are able to rebut such presumption of AAEC by showing positive



effects emanating from the cartel activity in terms of the factors stated under Section 19(3) of the Act *i.e.*, accrual of benefits to the consumers, improvement in production or distribution of goods or provision of services, or promotion of technical, scientific and economic development by means of production or distribution of goods or provision of services. On a holistic evaluation of the submissions made by OP-7, the Commission is of the view that in the present matter, OP-7 has not been able to dislodge such statutory presumption by adducing cogent evidence evidencing either of the above. Hence, it is axiomatic to presume that the impugned conduct of the parties caused AAEC within India in the present matter.

48.9 Therefore, based on the evidences collected by the DG as detailed above, the Commission finds that OP-7 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-7 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

48.10 With respect to penalty, OP-7 submitted that, being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-7.

48.11 Such submissions made by OP-7 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

49. OP-8 (Gayatri Paper Mill)

49.1 It is noted from the DG Report that representatives of OP-8, *namely*, Mr. Sunil Chrimade, Partner, and Mr. Manoj Anand Kale, attended the meeting of GPMA dated 15.02.2017, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.

49.2 OP-8 was also named by GPMA as one of its members. Further, in his statement recorded before the DG, Mr. Sunil Chrimade, acknowledged as under:



“I am not a registered member of Gujarat Paper Mills Association (GPMA) but I have attended several meetings of the association. ... Normally, in GPMA meetings discussions pertained to waste paper prices, shortage of waste paper, price of imported raw material, price hike of Kraft paper, schedule of shut-down of mills etc.

... I attended the meeting of GPMA for the first time with Sh. Omprakash Rathi, Kaygaon Paper Mills Ltd. and I witnessed the discussions about price hike and schedule of shutting down of mills in 2014 in Mumbai. I also witnessed that various mills from Maharashtra and Gujarat attend the meetings and actively participate in the discussions. During the meetings of GPMA, discussions held were primarily about decisions related to price hike and schedule of shutting down of mills. ...

... but I used to get the information through telephonic calls/text messages from other mill owners. I along with the other Kraft manufacturers across Gujarat, Maharashtra and MP used to fix the price of Kraft papers according to the decisions taken in GPMA meetings.

... I would also like to state that to convey the decisions of GPMA I used to organize certain meetings locally for the paper mills in Jalgaon itself and discuss about the price hike and shutting down of mills. On the directions of GPMA I have hiked the prices and closed my mill several times during 2017.

Closure dates as per directions of GPMA.

Jan 28th to 31st 2017

Feb 12th to 15th 2017

March 12th to 15th 2017

May 3rd to 7th 2017

June 2nd to 6th 2017

July 1st to 4th 2017

August 1st to 5th 2017

... I would also like to state that on a few occasions, employees of member mills of GPMA visited my firm to inspect about the adherence of the decision of shut-down of mills as per the schedule decided in GPMA meetings.

... I would also like to state that for the purpose of conveying the decisions regarding price hike and schedule of shut-downs taken in GPMA meetings, there was a WhatsApp group namely ‘Maharashtra Paper Mills’ of which I was also a member along with other mills from Maharashtra. ...

Yes, I admit that by adopting such practices as discussed by me in my statement, myself as well as my firm have committed violation of the provisions of Competition law for which my firm and myself can be penalized.”



49.3 He also provided e-mails dated 10.01.2017, 19.01.2017 and 24.02.2017 to the DG, issued by OP-8 regarding increase in prices of its Kraft paper.

49.4 He was also a member of WhatsApp group of the paper mill owners of Maharashtra, wherein decisions of GPMA regarding price hike of Kraft paper and collective shut-down of mills, were conveyed. In fact, as per Mr. Omprakash Rathi of OP-3, Mr. Rathi, along with Mr. Sunil Chirmade of Gayatri Paper Mill, Jalgaon and certain others, were the admins of this WhatsApp group.

49.5 The Commission also notes that OP-8 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, OP-8 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it, as drawn by the DG in the Investigation Report. Further, it made certain other submissions which were largely similar to those raised by GPMA and OP-2.

49.6 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-8 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-7 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

49.7 With respect to penalty, OP-8 submitted that being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-8.

49.8 Such submissions made by OP-8 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

50. OP-9 (Anantkrupa Paper Products)

50.1 It is noted from the DG Report that the representative of OP-9, *namely*, Mr. Rajesh Mahajan, Partner, attended the meeting of GPMA dated 15.02.2017, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.



50.2 OP-9 was also named by GPMA as one of its members. Further, it was one of the recipients of e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013, 13.02.2014, 16.02.2016, 09.09.2016, 26.11.2016, 06.01.2017, 30.01.2017, 20.02.2017, 10-11.03.2017 and 18.03.2017 sent by GPMA to its members.

50.3 In his statement recorded before the DG, Mr. Rajesh Mahajan acknowledged as under:

“In the meetings of GPMA which were attended by me, the attendees were the Kraft paper manufacturers of Gujarat, Maharashtra and MP.

In all these meetings which I started attending from 2013, the attendees used to discuss about the common business-related issues and also used to discuss about collective price hike of Kraft paper and collective shut-down of mills and measures to enforce the decisions of GPMA.

After the meetings, GPMA used to issue circulars to all the manufacturers of Kraft paper from Gujarat and Maharashtra and also to the other attendees of the meetings about the decided price hike of the Kraft paper or schedule of shut-down of mills.

Sometimes decisions of GPMA used to be conveyed through emails and personal SMSs by other Kraft paper mills and through WhatsApp messages. As per GPMA decision I used to increase the price of Kraft paper and shut-down my factory. On two occasions, GPMA send Sri. Soma Vamshi of Gajanan Paper Mills to my factory, to ensure that my factory has been shut-down as per their schedules. After the price hike of Kraft paper as decided in GPMA meetings my mill issued circular to the customers ...

Even though I used to increase the prices as per GPMA’s schedule, yet the quantum of increase need not always be at par with their circulars. ...

I am submitting hard copy of screenshots of the messages on WhatsApp group namely “Paper Mills – GJ/MS/C.G.K.” (Exhibit 3 Colly) operated by GPMA officials. Through this WhatsApp group GPMA used to send matters related to price hike of Kraft paper, scheduled shutting down of mills, price of waste paper, its shortage, raw material issues, technical matters etc to all the group members, including myself. ...

Yes, I admit that by adopting such practices as discussed by me in my statement, myself as well as my company have committed violation of the provisions of Competition law for which my mill and myself can be penalised.

... I would use these circulars as guidelines and would then issue price circulars to my customers, keeping in mind my firm’s commercial situation and consideration ...”



50.4 Mr. Rajesh Mahajan also provided to the DG, copies of circulars dated 05.01.2017, 20.01.2017, 20.02.2017, 05.12.2017 and 29.12.2017 issued by OP-9 regarding increase in price of its Kraft paper and screenshots of messages exchanged in the WhatsApp group “Paper Mills – GJ/MS/CGK”, of which he was a member and in which, discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. Further, from his e-mail account, e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013, 13.02.2014 and 26.11.2016 sent by GPMA containing price hike circulars, were also recovered.

50.5 The Commission also notes that OP-9 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, OP-9 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it drawn by the DG. However, it made certain other submissions which were largely similar to those raised by GPMA and OP-2.

50.6 Therefore, based on the evidences collected by the DG as detailed above, the Commission finds that OP-9 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-9 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

50.7 With respect to penalty, OP-9 submitted that being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-9.

50.8 Such submissions made by OP-9 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

51. OP-10 (Nice Papers Limited)

51.1 It is noted from the DG Report that the representative of OP-10, *namely*, Mr. Rajesh Patel, Director, attended the meeting of GPMA dated 15.02.2017, wherein discussions



regarding fixing of prices, shutting down of mills, etc., were held. The DG has, in fact, noted that Mr. Rajesh Patel was appointed as the Joint Treasurer of FIPR in GPMA/FIPR meeting dated 15.03.2017.

51.2 OP-10 was also named by GPMA as one of its members though this fact was denied by OP-10. Further, it was one of the recipients of e-mails dated 16.02.2016, 09.09.2016, 06.01.2017 and 30.01.2017 sent by GPMA to its members.

51.3 In his statement recorded before the DG, Mr. Umesh Patel, Director of OP-10, acknowledged as under:

“... I also supported the decision of GPMA by increasing prices and shutting down mills, in spite of not actively participating in any of GPMA meetings before, because the other mills in Nagpur were also following the decision of GPMA.

On behalf of my company, my brother who is also one of the directors of the company attended a GPMA meeting in February 2017. In the meeting, he witnessed discussions pertaining to price hike, schedule of shut-downs and other general issues related to the industry. ...

... I used to get the information through emails/WhatsApp/telephone from other mill owners. I along with the other Kraft manufacturers across Gujarat, Maharashtra, MP and Chhattisgarh used to fix the price of Kraft papers according to the decisions taken in GPMA meetings.

I would also like to state that, on the directions of GPMA, I stopped the production at our mill on multiple occasions i.e. 26th Jan to 30th Jan, 2017, 12th Feb to 16th Feb, 2017 and 11th March to 15th March 2017. ...

... I would like to state that I was a member of a WhatsApp group namely ‘NEWS Paper Mills’. ...

Yes, I admit that by adopting such practices as discussed by me in my statement, myself as well as my company have committed violation of the provisions of Competition law for which my company and myself can be penalized.”

51.4 Mr. Patel also provided to the DG, copy of price hike circulars dated 28.02.2017 issued by OP-10 and from his e-mail account, e-mails of GPMA dated 21.11.2016, 18.03.2017 and 12.04.2017 were also recovered. In the e-mail dated 18.03.2017, MoM dated 15.03.2017 were shared while in the e-mail dated 12.04.2017, MoM dated 07.04.2017 was shared.



51.5 Mr. Patel was also a member of WhatsApp groups “Paper Mills – GJ/MS/CGK” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place.

51.6 The Commission also notes that OP-10 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, OP-10 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it drawn by the DG. However, it made certain other submissions which were largely similar to those raised by GPMA and OP-2.

51.7 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-10 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-10 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

51.8 With respect to penalty, OP-10 submitted that being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-10.

51.9 Such submissions made by OP-10 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

52. OP-11 (Awade Industries Private Limited)

52.1 It is noted from the DG Report that representatives of OP-11, *namely*, Mr. Sudharm Shetty, Marketing Manager, and Mr. Ravi Awade, Managing Director, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 07.04.2017, 05.05.2017, 02.06.2017, 25.07.2017, 05.12.2017, 25.12.2017 and 05.04.2018, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.

52.2 OP-11 was also named by GPMA as one of its members. Further, it was one of the recipients of e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013,



13.02.2014, 16.02.2016, 09.09.2016, 26.11.2016, 06.01.2017, 30.01.2017, 20.07.2017, 10-11.03.2017 and 18.03.2017 sent by GPMA to its members.

52.3 In his statement recorded before the DG, Mr. Ravi Awade acknowledged as under:

“I am not a formal member of GPMA (Gujarat Paper Mills Association), Vapi, but I used to attend its meetings held in Mumbai. I am a member of FIPR (Federation of Indian Paper Recyclers) and I have paid its annual subscription fee. ... I started attending the meetings of GPMA since 19.01.2017 which was held in Hotel Novotel at Juhu, Mumbai. I have personally attended altogether four meetings held in Mumbai on 19.01.2017, 02.06.2017, 05.12.2017 and 05.04.2018 (the last two meetings dated 05.12.2017 and 05.04.2018 were conducted under the aegis of FIPR). The meetings of GPMA held on 15.02.2017, 15.03.2017, 07.04.2017, 05.05.2017, 02.06.2017 and 25.07.2017 were attended by Shri Sudharm Shetti, Marketing Manager of the company on my directions. The meetings of FIPR held on 05.12.2017, 25.12.2017 and 05.04.2018 were also attended by Shri Sudharm Shetti on my directions. ...

... The decisions of GPMA regarding price rise and shutting down schedules were communicated to the mill owners through circulars sent by email.

... On 26.11.2016, the decision of rate increase by GPMA was communicated to Awade Industries Pvt. Ltd. through a circular dated 25.11.2016 by email. The other circulars issued by GPMA and received by AIPL are annexed (Exhibit 4 colly). After receiving the circular, I decided to implement the decision to increase the price of Kraft paper by Rs.1000/- per MT with effect from 28.11.2016 and authorized Shri Sudharm Shetti, Marketing Manager to issue circulars to our customers/dealers regarding the price rise. Thereafter, also as and when we decided to increase the price of Kraft Paper the decision was communicated to our customers/dealers through circulars ...

In some of the aforesaid meetings (Exhibit 1 colly), the attendants also used to discuss the price increase of Kraft Paper, and closure of mills and the measures to implement the decisions of GPMA. I also personally attended some of the aforesaid meetings of GPMA regarding price increase of Kraft Paper and closure of the mills. My company followed the decision of GPMA regarding price rise till March 2017 and closure of mills till June 2017. However, even after March 2017 the meetings of GPMA/FIPR were attended by our company.

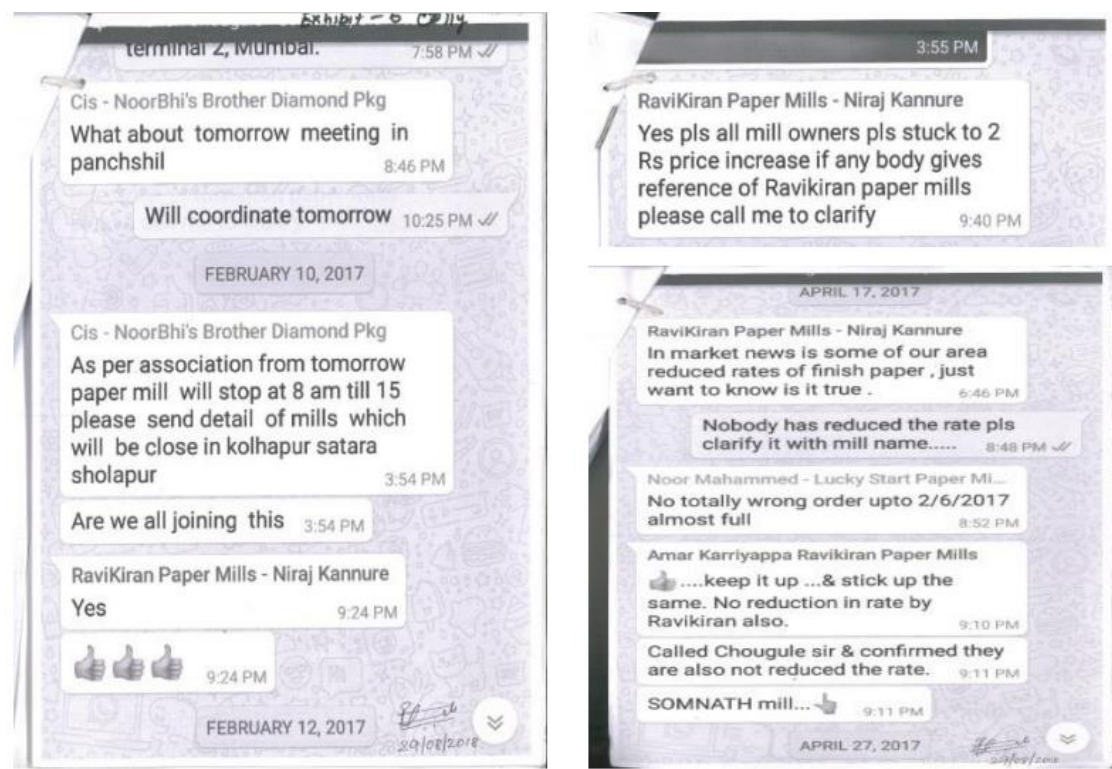
Our manufacturing plant was also shut-down during 27th to 31st January 2017 (5 Days), 11th to 15th February 2017 (5 Days), 11th to 14th March 2017 (4 Days), 05th to 11th April 2017 (7 Days), 02nd to 08th May 2017 (7 Days) and 02nd to 06th June 2017 (5 Days) on the directions of GPMA on the circulars issued by them. ...

I also communicated the price rise of Kraft Paper through WhatsApp groups namely “Maharashtra Paper Mills”, “Paper Mills – GJ/MS/C.G.K” operated by GPMA officials and “Kolhapur Paper Mills Association”. The members of the above WhatsApp groups used it as a platform to communicate the decisions and proceedings of the meetings. ...

At the time of occurrence, I was not aware of the Competition Act. However, after receiving the notice, I learned that such practices as discussed by me in my statement are in violation of the provisions of Competition Act.”

52.4 Mr. Ravi Awade also provided to the DG, copies of price hike circulars of OP-11 dated 08.08.2016, 28.11.2016, 06.12.2016, 30.12.2016, 21.01.2017, 22.02.2017 and 18.03.2017 and copies of shut-down circulars of OP-11 dated 07.12.2016 and 11.02.2017.

52.5 He was also a member of WhatsApp groups of Maharashtra Paper Mills, “Paper Mills – GJ/MS/CGK” and of Kolhapur Paper Mills Association, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. He also provided to the DG, screenshots of messages exchanged in the WhatsApp group Kolhapur Paper Mills Association, some of which are reproduced below:





The above WhatsApp messages clearly indicate that decisions regarding collective shut-down of mills and increase in price of Kraft paper also used to be taken at local level associations like Kolhapur Paper Mills Association in consonance with or after the decision of GPMA.

52.6 The Commission also notes that OP-11 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, OP-11 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it drawn by the DG. OP-11 also made certain other submissions which were largely similar to those raised by GPMA and OP-2.

52.7 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-11 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-11 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

52.8 With respect to penalty, OP-11 submitted that being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-11.

52.9 Such submissions made by OP-11 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

53. OP-12 (Hardoli Paper Mills Limited)

53.1 It is noted from the DG Report that the representative of OP-12, *namely*, Mr. Kailash Agarwal, Managing Director, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 07.04.2017, 05.05.2017, 02.06.2017, 25.07.2017, 05.12.2017 and 05.04.2018, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.



53.2 OP-12 was also named by GPMA as one of its members. Further, it was one of the recipients of e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013, 13.02.2014, 16.02.2016, 09.09.2016, 26.11.2016, 06.01.2017, 30.01.2017, 10-11.03.2017 and 18.03.2017 sent by GPMA to its members.

53.3 In his statement recorded before the DG, Mr. Anilkumar Murarilal Lakhotiya, Joint Managing Director of OP-12, acknowledged as under:

“Hardoli Paper Mills Ltd. (HPML) is a member of Gujarat Paper Mills Association (GPMA), Vapi since 2009. My company is also a member of Federation of Indian Paper Recyclers (FIPR) since 2017. ... Since 2009 all the meetings of GPMA were attended by Mr. Kailash Chandra Agrawal, Managing Director only. ...

I came to know from my Managing Director that in GPMA meetings, discussions were based on cost of Kraft Paper, raw material, Power, Coal, Chemicals and other routine expenses, collective price rise of Kraft Paper, coordinated shut-down of Mills.

... GPMA vide its various circulars dated 07.04.2009, 08.02.2010, 21.02.2010, 18.12.2010, 20.03.2013, 13.03.2014, 03.03.2015 and 16.02.2016 (Exhibit 1colly) directed its member mills and all other paper mills of Maharashtra and Gujarat including HPML to increase the selling price of all grades of Kraft Paper. However, all the member mills of GPMA including HPML have increased the prices not exactly as per the directions of GPMA but as per the individual situations of the member mills. However, there has been price increase after GPMA directions.

After receiving the circulars from GPMA, myself and Mr. Kailash Chandra Agrawal used to discuss about the implementation of price rise of Kraft Paper in our company and accordingly HPML issued circulars to its dealers/customers. ...

HPML also shut-down its manufacturing plant of Kraft Paper during specific periods from January 2017 to July 2017 as per the directions of GPMA as detailed below:

S. No.	Shut-down Period	Number of days
1.	27.01.2017 to 31.01.2017	5
2.	11.02.2017 to 15.02.2017	5
3.	11.03.2017 to 15.03.2017	5
4.	05.04.2017 to 08.04.2017	4
5.	02.05.2017 to 08.05.2017	7
6.	02.06.2017 to 06.06.2017	5



7.	01.07.2017 to 04.07.2017	4
	Total	35

... In the said meeting the members as well as non-members unanimously decided to continue the shut-down schedule till December 2017 and each shut in a month should be of 7 days. It was also decided in the meeting that the shut-down for the month of May 2017 would be from 02.05.2017 to 08.05.2017 for 7 days.

... There was a monitoring committee made by GPMA for monitoring the implementation of shut-down schedule of the Kraft Paper Mills. ...

Yes, I admit that by adopting the above practices as disclosed by me in my statement, my company has committed violation of the provisions of Competition Law for which myself and my company can be penalized."

53.4 Mr. Lakhotiya also provided copies of price hike circulars of OP-12 dated 06.08.2014, 25.02.2016, 24.02.2017, 25.07.2017, 20.11.2017 and 05.12.2017 to the DG. The DG also noted that Mr. Om Prakash Rath, Managing Director of OP-3, was also one of the Directors in OP-12.

53.5 The Commission also notes that OP-12 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, OP-12 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it, as drawn by the DG. It also made certain other submissions which were largely similar to those raised by GPMA and OP-2.

53.6 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-12 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-12 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

53.7 With respect to penalty, OP-12 submitted that being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-12.



53.8 Such submissions made by OP-12 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

54. OP-13 (Devang Paper Mills Private Limited)

54.1 It is noted from the DG Report that representatives of OP-13, *namely*, Mr. Thoban K. Patel, Director and his son Mr. Devang Patel, attended several meetings of GPMA dated 15.03.2017, 28.03.2017, 07.04.2017, 05.05.2017, 02.06.2017, 25.07.2017, 22.11.2017, 25.12.2017 and 05.04.2018, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.

54.2 OP-13 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013, 19.09.2016, 21.11.2016, 06.01.2017, 20.01.2017 and 30.01.2017 sent by GPMA to its members.

54.3 In his statement recorded before the DG, Mr. Thoban K. Patel acknowledged as under:

“Since 2011, my company is a member of Gujarat Paper Mills Association (GPMA), Vapi. My company is also a member of Federation of Indian Paper Recyclers (FIPR), Vapi. Most of the meetings of GPMA/FIPR are being attended by me. In my absence Shri Devang T. Patel used to attend the above meetings. ...

I personally attended GPMA/FIPR meetings since 2011. In GPMA/FIPR meetings we used to discuss matters related to the problems being faced by Kraft Paper Mills, shortage of raw material, price increase of raw material, delay in receipt of payments from dealers/corrugators, government policies, regulations, technical issues, pollution problems, shortage of supply orders from customers, collective shutting down of Kraft Paper Mills etc. The decisions being taken in the above meetings were conveyed through email messages.

I was a member of the WhatsApp group namely “Paper Mills – GJ/MS/C.G.K.” operated by GPMA officials. ...

On receipt of various circulars from GPMA/FIPR, I have implemented the decision of price hike and planned shutting down of mills taken in GPMA/FIPR meetings after internal discussion with the other directors as well as marketing people ...

*Yes, my company implemented the shut-down schedule of its manufacturing plant on the directions of GPMA during the following periods:
27.01.2017 to 31.01.2017 (5 days)*



11.02.2017 to 15.02.2017 (5 days)

11.03.2017 to 15.03.2017 (5 days)

05.04.2017 to 11.04.2017 (7 days)

02.05.2017 to 08.05.2017 (7 days)

01.06.2017 to 06.06.2017 (6 days)

27.06.2017 to 30.06.2017 (4 days)

A monitoring committee was also formed to implement the decisions of GPMA regarding shut-down of manufacturing plants of Kraft paper. The committee consists of 2 persons who used to visit various manufacturing plants of other areas to ensure the implementation of the shutting down schedule. Similarly, 2 persons from Morbi area visited my plant every time to ensure the implementation of shutting down schedule and also checked the electricity meter.

Yes, I admit that by adopting such practices as discussed by me in my statement, myself as well as my firm have committed violation of the provisions of Competition Law for which my firm and myself can be penalized.”

54.4 Mr. Thoban Patel also provided copies of price hike circulars of OP-13 dated 20.01.2017, 04.03.2017, 26.07.2017, 14.02.2017 and 26.12.2017 to the DG.

54.5 Mr. Patel was also a member of WhatsApp group “Paper Mills – GJ/MS/CGK” wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. He also provided screenshots of certain messages exchanged in the said group.

54.6 The Commission also notes that OP-13 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, OP-13 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it drawn by the DG. Further, it made certain other submissions which were largely similar to those raised by GPMA and OP-2.

54.7 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-13 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-13 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production,



supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

54.8 With respect to penalty, OP-13 submitted that being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-13.

54.9 Such submissions made by OP-13 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

55. OP-14 (Sukraft Papers Private Limited)

55.1 In his statement recorded before the DG, Mr. Sunil Patel, Director of OP-14, acknowledged as under:

“My company is a member of Gujarat Paper Mills Association (GPMA)/Federation of Indian Paper Recyclers (FIPR), Vapi. Most of the meetings of GPMA/FIPR are being attended by Mr. Karshanbhai Patel a.k.a. Babubhai Patel. In some of the meetings of GPMA Mr. Praveenbhai Patel and Mr. Bhavesh Patel, employees of the company also attended. ...

... After receiving the circulars from GPMA/FIPR through email ... I used to discuss with Mr. Karshanbhai Patel a.k.a. Babubhai Patel and Mr. Manoj Patel regarding the implementation of the price rise of Kraft Paper. Accordingly, our company issued circulars (Exhibit 2 colly) to its dealers/corrugators regarding price rise of Kraft Paper ...

I was a member of WhatsApp group namely “Paper Mills – GJ/MS/C.G.K.” operated by GPMA officials. ... My manufacturing plant of Kraft Paper was also shut-down on the direction of GPMA/FIPR during the following periods:

- 1. 27.01.2017 to 31.01.2017 (5 days)*
- 2. 12.02.2017 to 16.02.2017 (5 days)*
- 3. 11.03.2017 to 15.03.2017 (5 days)*
- 4. 05.04.2017 to 13.04.2017 (9 days)*
- 5. 05.05.2017 to 10.05.2017 (6 days)*
- 6. 01.06.2017 to 07.06.2017 (7 days)*
- 7. 27.06.2017 to 03.07.2017 (7 days)*

Yes, I admit that by adopting such practices as discussed by me in my statement, myself as well as my company have committed violation of the provisions of Competition Law for which my company and myself can be penalized.”



55.2 Mr. Sunil Patel also provided copies of price increase circulars of OP-14 dated 25.02.2016, 22.11.2016, 28.11.2016, 19.01.2017, 16.02.2017, 04.03.2017 and 16.03.2017 to the DG and e-mails dated 26.07.2017, 15.09.2017 and 26.12.2017 communicating price increase to its dealers were also recovered from his e-mail account.

55.3 Mr. Patel was also a member of WhatsApp group “Paper Mills – GJ/MS/CGK” wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place.

55.4 The Commission also notes that OP-14 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, OP-14 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it, as drawn by the DG. OP-14 also made certain other submissions which were largely similar to those raised by GPMA and OP-2.

55.5 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-14 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-14 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

55.6 With respect to penalty, OP-14 submitted that being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-14.

55.7 Such submissions made by OP-14 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

56. OP-15 (Ravi Kiran Paper Mills Private Limited)

56.1 It is noted from the DG Report that representatives of OP-15, *namely*, Mr. Amar Karyappa, Mr. Shrinivas Ashtekar, Mr. Niraj Kannure and Mr. Ashutosh Udgaonkar,



Directors, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 07.04.2017, 05.05.2017, 02.06.2017, 25.07.2017 and 19.08.2017, wherein discussions regarding fixing of prices, shutting down of mills, etc., were held.

56.2 OP-15 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mail dated 18.03.2017 sent by GPMA to its members.

56.3 In his statement recorded before the DG, Mr. Amar Karyappa acknowledged as under:

“My company was a member of Gujarat Paper Mills Association (GPMA)/Federation of Indian Paper Recyclers (FIPR), Vapi since November 2016 till August 2017. ...

In GPMA/FIPR meetings the main issues being discussed are the problems being faced by Kraft Paper industries such as environmental issues, labour related matters, production cost, selling price of Kraft Paper, waste paper price, shutting down schedule of mills, delay in receipt of payment from the dealers/corrugators etc. ...

... After attending GPMA/FIPR meetings by me, I used to discuss the main decisions being taken in the said meetings among the four directors and my company conveyed the decision of price hike to its dealers/corrugators through email messages. I was also a member of the WhatsApp group namely “Paper Mills – GJ/MS/C.G.K.” operated by GPMA/FIPR officials. GPMA/FIPR used to communicate their decisions through WhatsApp messages to my company regarding price hike/shutting down schedule in the above-mentioned WhatsApp group. ...

... My company also implemented the shutting down schedule of its manufacturing plant of Kraft Paper on the directions of GPMA/FIPR during the following periods:

- 1. 27th to 31st January 2017 (5 days)*
- 2. 11th to 15th February 2017 (5 days)*
- 3. 09th to 14th March 2017 (6 days)*
- 4. 06th to 11th April 2017 (6 days)*
- 5. 02nd to 07th May 2017 (6 days)*
- 6. 02nd to 07th June 2017 (6 days)*
- 7. 27th to 30th June 2017 (4 days)*

In order to ensure that all the Kraft Paper mills complied with the decisions of GPMA/FIPR, there was a monitoring committee formed by the association. It was decided in GPMA/FIPR meetings to impose a monetary penalty on those defaulting mills, but the same was not imposed on any of the mills. Even one of the representatives from GPMA once visited my factory in order to ensure that



my plant was not functioning during the shutting down schedule fixed by GPMA.

Yes, I admit that by adopting such practices as discussed by me in my statement my company and myself as an individual have committed violation of the provisions of Competition Law for which my company and myself can be penalized.”

56.4 Mr. Karyappa also provided to the DG copies of price increase e-mails dated 30.01.2017, 22.02.2017 and 16.03.2017, sent by OP-15 to its dealers.

56.5 He was also a member of WhatsApp group “Paper Mills – GJ/MS/CGK”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place.

56.6 The Commission also notes that OP-15 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, OP-15 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it, as drawn by the DG. Further, it made certain other submissions which were largely similar to those raised by GPMA and OP-2. Also, OP-15 submitted that unlike GPMA and other paper mills, it joined the cartel arrangement at a much later date in November, 2016.

56.7 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-15 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-15 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

56.8 With respect to penalty, OP-15 submitted that being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-15.

56.9 Such submissions made by OP-15 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.



57. OP-16 (Bedse Pulp Conversion Industries Private Limited)

57.1 It is noted from the DG Report that the representative of OP-16, namely, Mr. Ashok Patil, Managing Director, attended the meeting of GPMA dated 15.03.2017, wherein discussions regarding fixing of prices, shutting down of mills, etc., were held.

57.2 OP-16 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013, 13.02.2014, 16.02.2016, 09.09.2016, 26.11.2016, 06.01.2017, 30.01.2017, 20.02.2017, 10-11.03.2017 and 18.03.2017 sent by GPMA to its members.

57.3 In his statement recorded before the DG, Mr. Ashok Patil acknowledged as under:

"I am a member of Gujarat Paper Mills Association (GPMA) since 2010. I have attended only 3-4 meeting of GPMA. I never attended any of the Federation of Indian Paper Recyclers (FIPR) meetings. I have attended the first meeting of GPMA during 2010-11 and the last meeting of GPMA which I attended was on 15.03.2017. ...

... The issues being discussed in GPMA meetings are non-availability of waste paper, delay/default in payments from dealers/corrugators, price of Kraft paper, shutting down of mills, increased cost of raw materials such as local/imported waste paper, chemicals, coal, electricity, man power etc., pollution issues, taxation issues etc.

After GPMA meetings I used to receive circulars from the above association through courier. ... My company having a very small manufacturing plant of Kraft paper, used to intimate price hike of Kraft paper to my dealers/corrugators over telephone after receiving the circulars from GPMA. I have implemented GPMA decision regarding price hike and shutting down schedule of Kraft paper mills since 2010 to April'2018. ...

After GPMA meetings held during January to March 2017, it was also decided to shut-down the Kraft paper mills collectively. As per the instructions from GPMA I have implemented the above decision and shut-down my Kraft paper mill during the following periods:

- 1. 27.01.2017 to 30.01.2017 (4 days)*
- 2. 11.02.2017 to 13.02.2017 (3 days)*
- 3. 12.03.2017 & 13.03.2017 (2 days)*

Yes, I admit that by adopting such practices as discussed by me in my statement my company and myself as an individual have committed violation of the provisions of Competition Law for which my company and myself can be penalized."



57.4 The Commission also notes that OP-16 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, OP-16 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it, as drawn by the DG in the Investigation Report. OP-16 made certain other submissions which were largely similar to those raised by GPMA and OP-2.

57.5 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-16 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-16 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

57.6 With respect to penalty, OP-16 submitted that being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-16.

57.7 Such submissions made by OP-16 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

58. OP-17(Khandesh Paper Mills Private Limited)

58.1 OP-17 was named by GPMA as one of its members though OP-17 denied this fact. Further, it was one of the recipients of the e-mails dated 09.09.2016 and 26.11.2016 sent by GPMA to its members.

58.2 In his statement recorded before the DG, Mr. Kiran Kashinath Patil, Managing Director of OP-17, acknowledged as under:

“I personally attended most of GPMA meetings during 2007 to 2017, but I am not having any documentary evidence such as minutes of the above meetings. ... In GPMA meetings attended by me the points being discussed are price of waste paper, shortage of waste paper, increase in the price of chemicals, coal/fire wood, power, low price of Kraft paper, delay in payment from the dealers/corrugators, collective shutting down of Kraft paper mills etc. After



some of GPMA meetings I received circulars regarding price hike of Kraft paper ...

I am a part of the cartel from 2007 till March 2016. After GPMA meetings during the above period I also implemented the decision of collective price rise of Kraft paper as decided in the above GPMA meetings. On receipt of price hike circular from GPMA (Exhibit-1 colly), I used to intimate the same to my dealers/corrugators over telephone and hence I do not have any record of the above. Till March 2016, GPMA has never taken any decision regarding collective shutting down of Kraft paper mills. I was a member of the WhatsApp group namely "Paper Mills – GJ/MS/C.G.K" operated by GPMA/FIPR officials and I used to receive messages from the association regarding meetings/price hike/shutting down of Kraft paper mills etc. ...

Yes, I admit that by adopting such practices as discussed by me in my statement my company and myself as an individual have committed violation of the provisions of Competition Law for which my company and myself can be penalized."

58.3 Mr. Patil was also a member of WhatsApp group "Paper Mills – GJ/MS/CGK", wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place.

58.4 The Commission also notes that OP-17 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, OP-17 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it, as drawn by the DG. It also made certain other submissions which were largely similar to those raised by GPMA and OP-2.

58.5 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-17 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-17 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

58.6 With respect to penalty, OP-17 submitted that being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has



provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-17.

58.7 Such submissions made by OP-17 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

59. OP-18 (Godavari Pulp and Paper Mills Private Limited)

59.1 It is noted from the DG Report that the representative of OP-18, *namely*, Mr. Pankaj Mansingka, Managing Director, attended several meetings of GPMA dated 15.02.2017, 02.06.2017 and 25.07.2017, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.

59.2 OP-18 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013, 13.02.2014, 16.02.2016, 09.09.2016, 26.11.2016, 06.01.2017, 30.01.2017, 10-11.03.2017 and 18.03.2017 sent by GPMA to its members.

59.3 In his statement recorded before the DG, Mr. Mansingka acknowledged as under:

“I have attended some of the meeting GPMA before 2017 but I cannot recall the exact date of the meetings. ...

In GPMA/FIPR meetings, Kraft paper mill owners belongs to Gujarat, Maharashtra, Chhattisgarh states used to attend the meetings and discuss the issues regarding increase/decrease the rate of Kraft paper as well as shutting down of mills. After GPMA/FIPR meetings they issued circulars to the Kraft papermills regarding price hike of Kraft paper during 23.04.2011 to 16.02.2016 ...

... Out of the total of 11 circulars received by my company from GPMA during the period 23.04.2011 to 16.02.2016, I cannot confirm at the moment regarding the implementation of the first 5 circulars from 23.04.2011 to 29.08.2013. However, regarding the remaining 6 circulars from 13.02.2014 to 16.02.2016 I have implemented the price rise only on two occasions and even decreased the price on three occasions. ...

Regarding the collective shutting down of Kraft paper mills as directed by GPMA/FIPR, I am furnishing the details of shutting down of my mill implemented partially as per the following dates: -

S. No.	Date of closure	Total days
1.	28.01.2017 to 30.01.2017	3
2.	12.02.2017 to 14.02.2017	3

3.	13.03.2017 to 15.03.2017	3
4.	05.04.2017 to 10.04.2017	6
5.	02.05.2017 to 07.05.2017	6
6.	02.06.2017 to 05.06.2017	4
7.	28.06.2017 to 30.06.2017	3
8.	02.08.2017 to 04.08.2017	3
	Total	31

I was a member of the WhatsApp group namely “Paper Mills – GJ/MS/C.G.K” operated by GPMA/FIPR officials and I used to receive messages from the association regarding meetings/price hike/shutting down of Kraft paper mills etc. ...

I attended the meetings of GPMA as a Kraft paper mill owner. I came to know about the meetings through messages exchange on WhatsApp group namely “Paper Mills - GJ/MS/C.G.K”. Before the start of WhatsApp, I used to get information about the meeting dates from the other paper mill owners/dealers. ...

Yes, I am now aware. I admit that by adopting such practices as discussed by me in my statement my company and myself as an individual have committed violation of the provisions of Competition Law for which my company and myself can be penalized.”

59.4 Mr. Mansingka also provided copies of price hike circulars of OP-18 dated 04.02.2011, 06.12.2016, 15.02.2017, 04.03.2017, 15.03.2017 and 27.07.2017 to the DG.

59.5 Mr. Mansingka was also a member of WhatsApp group “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place.

59.6 The Commission also notes that OP-18 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, OP-18 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it, as drawn by the DG in the Investigation Report. Further, OP-18 made certain other submissions which were largely similar to those raised by GPMA and OP-2. OP-18 also submitted that it only partially complied with the directions issued by GPMA, that too because of the threat of imposition of penalty by GPMA for non-compliance.

59.7 The Commission noted that such directives were actually issued by GPMA and were known to OP-18. As stated above, the provisions of Section 3(1) of the Act not only proscribe agreements which cause an AAEC in the market, but also forbid agreements



which are likely to cause an AAEC in the market. Since the very knowledge of OP-18 regarding such directives compromises its independence regarding the commercially sensitive decisions and accordingly, the same was likely to cause AAEC in India.

59.8 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-18 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-18 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

59.9 With respect to penalty, OP-18 submitted that being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-18.

59.10 Such submissions made by OP-18 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

60. OP-19 (Sunshine Pap-Tech Private Limited)

60.1 It is noted from the DG Report that representatives of OP-19, *namely*, Mr. Praveen Patel, Managing Director, his son Mr. Bhavik Patel, Mr. Manoj Patel and Mr. Arun Agarwal, employees of OP-19, Mr. Jayesh Patel, Director, and Mr. Shankar Patel, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 07.04.2017, 05.05.2017, 02.06.2017, 25.07.2017 and 05.04.2018 wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.

60.2 OP-19 was also named by GPMA as one of its members. Further, one of its employees was a recipient of the e-mail dated 06.01.2017 sent by GPMA to its members.

60.3 In his statement recorded before the DG, Mr. Praveen Patel acknowledged as under:

“I am not an official member of Gujarat Paper Mills Association (GPMA), but I have attended around 10 meetings of GPMA. Members as well as non-members used to attend the meetings of GPMA. All the mill owners from the states of Gujarat, Maharashtra and Chhattisgarh are allowed to attend GPMA



meetings. I used to receive the information regarding the schedule of GPMA meetings over telephone from Sh. Om Prakash Rathi of Kaygaon Paper Mills Ltd., Aurangabad, Maharashtra. Sh. Manoj Patel and Sh. Arun Agarwal, employees of the company have also attended the meetings of GPMA, sometimes along with me. Sh. Bhavik Patel, my son also attended GPMA meeting on 07.04.2017. I am a member of Federation of Indian Paper and Recyclers (FIPR) and I have also paid membership fee to FIPR.

... I used to receive the communications from GPMA/FIPR regarding price hike of Kraft paper and shutting down of mills through WhatsApp messages. Some other occasions Sh. Arun Agarwal, sales person of the company and Sh. Manoj Patel, Finance person of the company used to receive communications from GPMA/FIPR and they used to convey the messages to me as well as to other Directors of the company.

After attending some of the meetings I used to discuss about the outcome of the meetings of GPMA/FIPR with my other of Directors of the company. Myself and other Directors jointly discuss the price hike of Kraft paper and final decision to implement the price hike and shut-down of mills was taken by Sh. Arun Agarwal, sales person of the company and Sh. Manoj Patel, Finance person of the company. ... The above mentioned circulars were issued by my company as per the direction of GPMA. My company also implemented shut-down schedule as directed by GPMA during following periods:

1. 28.01.2017 to 30.01.2017.
2. 12.02.2017 to 16.02.2017.
3. 12.03.2017 to 15.03.2017.
4. 06.04.2017 to 10.04.2017.
5. 05.05.2017 to 08.05.2017.
6. 02.06.2017 to 06.06.2017.

I am submitting hard copies of transcript of WhatsApp group namely "Paper Mills – GJ/MS/C.G.K" (Exhibit - 3) operated by GPMA/FIPR officials and I used to receive messages from the association regarding meetings/price hike/shutting down of Kraft paper mills etc. ...

At that time, I was not aware of the Law, but now I am aware. I admit that by adopting such practices as discussed by me in my statement, my company and myself as an individual have committed violation of the provisions of Competition Law for which my company and myself can be penalized."

60.4 Mr. Praveen Patel also provided copies of price hike circulars dated 01.07.2016, 01.02.2017, 17.02.2017, 04.03.2017, 23.05.2017 and 03.06.2017 issued by OP-19 on the directions of GPMA to the DG.



60.5 Mr. Patel was also a member of WhatsApp group “Paper Mills – GJ/MS/CGK”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place.

60.6 The Commission also notes that OP-19 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, OP-19 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it drawn by the DG. It also made certain other submissions which were largely similar to those raised by GPMA and OP-2.

60.7 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-19 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-19 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

60.8 With respect to penalty, OP-19 submitted that being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-19.

60.9 Such submissions made by OP-19 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

61. OP-20 (Padmavati Pulp and Paper Mills)

61.1 It is noted from the DG Report that representatives of OP-20, *namely*, Mr. Jayantilal Dedhia, Managing Partner and his son Mr. Fenil Dedhia, Partner, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 07.04.2017, 05.05.2017, 02.06.2017, 25.07.2017, 19.08.2017, 05.12.2017, 25.12.2017 and 05.04.2018, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.

61.2 OP-20 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013,



13.02.2014, 09.09.2016, 26.11.2016, 16.02.2016, 06.01.2017, 30.01.2017, 20.02.2017, 10-11.03.2017 and 18.03.2017 sent by GPMA to its members.

61.3 In his statement recorded before the DG, Mr. Jayantilal Dedhia acknowledged as under:

“... Since 2007 I used to attend Gujarat Paper Mills Association (GPMA) (Vapi) meetings when they conducted the meetings in Mumbai, but I was not a formal member of GPMA. ... Majority of GPMA/FIPR meetings were attended by me and in some of the meetings one of the other partners, Shri Fenil Dedhia also attended along with me. I used to receive the information regarding GPMA/FIPR meetings over phone by office staff of the above associations. ...

In GPMA/FIPR meetings main issues being discussed are cost of waste paper, being our major raw material (indigenous/imported), cost of coal, chemical, starch, electricity, manpower etc., not getting reasonable price to Kraft Paper, delay/non receipt of payment from corrugators, pollution problems, shutting down of Kraft Paper mills etc. After GPMA/FIPR meetings, I used to receive circulars regarding price hike of Kraft Paper and shutting down of mills from GPMA/FIPR. ...

After GPMA/FIPR meetings, either I would get the information regarding price hike or closure of Kraft Paper Mill by myself or receive the circulars from the association or get the information from the association over telephone or messages through WhatsApp group namely “Paper Mills – GJ/MS/C.G.K.”. In any case I implemented the decisions of price hike or shut-down of mills as per the directions of GPMA/FIPR in my firm. ...

My company has implemented the collective shutting down of Kraft Paper mills as directed by GPMA during the following periods:

- 1. 27.01.2017 to 31.01.2017 (5 days)*
- 2. 11.02.2017 to 16.02.2017 (6 days)*
- 3. 11.03.2017 to 15.03.2017 (5 days)*

I was the part of the cartel (collective increase of price of Kraft Paper and collective shutting down of Kraft Paper mills) since December 2016 to March 2018.

Earlier I was not aware of the above. Now I admit that by adopting such practices as discussed by me in my statement my firm and myself as an individual have committed violation of the provisions of Competition Law for which my firm and myself can be penalized.”

61.4 Mr. Dedhia also provided copies of price hike circulars issued by OP-20 via e-mails dated 20.01.2017 (five circulars), 07.02.2017, 20.02.2017, 02.03.2017, 04.03.2017, 05.03.2017 and 06.03.2017, and copies of log book entries and attendance register of



OP-20 for the months of January, February and March 2017 showing shut-down of OP-20's paper mill to the DG.

61.5 Mr. Dedhia was also a member of WhatsApp group "Paper Mills – GJ/MS/CGK", wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. Also, as per the MoM dated 15.07.2017, Mr. Jayanti Dedhia was appointed as one of the first Joint Treasurers of FIPR. He is also the member of the Managing Committee of FIPR.

61.6 The Commission also notes that OP-20 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, though OP-20 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it, as drawn by the DG, it submitted that the DG has erroneously held OP-20 to be a part of the cartel arrangement since 2007. OP-20 also made certain other submissions which were largely similar to those raised by GPMA and OP-2.

61.7 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-20 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-20 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

61.8 With respect to penalty, OP-20 submitted that being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-20.

61.9 Such submissions made by OP-20 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

62. OP-21 (Sunshine Kraft)



62.1 It is noted from the DG Report that the representative of OP-21, namely, Mr. Arun B. Chaudhari, Partner, attended the meeting of GPMA dated 15.02.2017, wherein discussions regarding fixing of prices, shutting down of mills, etc., were held.

62.2 OP-21 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013, 13.02.2014, 16.02.2016, 09.09.2016, 26.11.2016, 06.01.2017, 30.01.2017, 20.02.2017, 10-11.03.2017 and 18.03.2017 sent by GPMA to its members.

62.3 In his statement recorded before the DG, Mr. Arun B. Chaudhari acknowledged as under:

“I am a member of Federation of Indian Paper Recyclers (FIPR), Vapi since July 2017. I also used to attend the meetings of Gujarat Paper Mills Association (GPMA), Vapi, since 2008, but I was not a member of GPMA. ... I used to receive communication regarding GPMA meetings through WhatsApp or E-mail or telephone. The last meeting of GPMA was attended by me on February 2017.

The main issues discussed in GPMA/FIPR were regarding higher rate of waste paper, other raw materials, electricity, fire wood, marketing of Kraft paper, price increase of Kraft paper, shutting down of mills etc.

Most of the circulars of GPMA regarding price rise and shutting down of mills were received by my firm through email. Some of the circulars were also received by my firm through courier. ...

After receiving the circulars regarding price hike from GPMA, I along with the other partner, Sh. Amol Arun Patil, used to discuss the matter with dealers/corrugators and finally decided on the quantum of price to be increased and date from which it is to be implemented. Then I used to send WhatsApp message or direct SMS or through telephonic communication to the dealers/corrugators, but I do not have any records of the above price hike communication in any format. I was a member of the WhatsApp group namely “Paper Mills – GJ/MS/C.G.K” operated by GPMA/FIPR officials and I used to receive messages from the association regarding meetings/price hike/shutting down of Kraft paper mills etc. ...

I have also implemented the decision taken by GPMA/FIPR regarding collective shutting down of Kraft paper mills during the following periods and shut-down my manufacturing plant:

- 1. 02.05.2017 to 09.05.2017 (8 days)*
- 2. 01.06.2017 to 07.06.2017 (7 days)*



3. 27.06.2017 to 04.07.2017 (8 days)

I have also shut-down my Kraft paper mill during the following periods, but I cannot confirm whether the below mentioned closures were on account of the directions of GPMA:

1. 21.05.2016 and 22.05.2016 (2 days)
2. 08.07.2016 to 10.07.2016 (3 days)
3. 06.08.2016 and 07.08.2016 (2 days)
4. 27.08.2016 and 28.08.2016 (2 days)

I admit that I was a part of the cartel (collective implementation of price hike of Kraft paper by Kraft paper mills and collective closure of Kraft paper mill) from 2008 to November 2017.

I was not aware of the above earlier but now I came to know. I admit that by adopting such practices as discussed by me in my above statement my firm and myself as an individual have committed violation of the provisions of Competition Law for which my firm and myself can be penalized.”

62.4 Mr. Chaudhari was also a member of WhatsApp groups “Paper Mills – GJ/MS/CGK” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place.

62.5 The Commission also notes that OP-21 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, OP-21 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it drawn by the DG. However, it made certain other submissions which were largely similar to those raised by GPMA and OP-2.

62.6 Therefore, based on the evidences collected by the DG as detailed above, the Commission finds that OP-21 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-21 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

62.7 With respect to penalty, OP-21 submitted that being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has



provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-21.

62.8 Such submissions made by OP-21 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

63. OP-22 (Banganga Paper Mills)

63.1 It is noted from the DG Report that representatives of OP-22, namely, Mr. Chetan K. Dhatrak, Partner, his father Mr. K. P. Dhatrak, and Mr. D. G. Mankar, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 07.04.2017, 05.05.2017, 02.06.2017, 25.07.2017 and 05.12.2017 wherein discussions regarding fixing of prices, shutting down of mills, etc., were held.

63.2 OP-22 was also named by GPMA as one of its members. In his statement recorded before the DG, Mr. Chetan Dhatrak acknowledged as under:

“... I have also attended meetings of GPMA since February 2017 but I was not a formal member of Gujarat Paper Mills Association (GPMA). Most of GPMA/FIPR meetings were attended by me and some of the above meetings were attended by my father. ...

In GPMA/FIPR meetings which were attended by me, the main issues which were discussed are higher rate and shortage of raw materials such as waste paper (local/imported), coal, collective shutting down of Kraft paper mills, maintaining the demand of Kraft paper, price of Kraft paper etc. I got the information regarding GPMA meetings from the other mill owners around Nashik. I had attended the first meeting of GPMA on 15.02.2017 ... I have not received any circulars from GPMA/FIPR regarding price hike of Kraft paper/shutting down of Kraft paper mills. However, I used to note price increase of Kraft paper and shut-down schedule of mills in every meeting attended by me ...

As per the directions from GPMA/FIPR regarding the price hike of the Kraft paper, I have also implemented the decision, but not immediately as per association order. If I implemented the price hike decision immediately, I would have lost my regular customers.

I implemented the decision of collective price rise of Kraft paper from February to May 2017. I used to inform my dealers/corrugators regarding the price hike of Kraft paper over telephonic communications and WhatsApp messages only. I do not have any record of the said communications. ... As per the directions of GPMA, my firm also implemented the collective closure of

Kraft paper mills from February to June 2017 as per the details furnished below:

11.02.2017 to 14.02.2017 (4 days)

12.03.2017 to 17.03.2017 (6 days)

05.04.2017 to 10.04.2017 (6 days)

02.05.2017 to 08.05.2017 (7 days)

01.06.2017 to 06.06.2017 (6 days)

I was not aware of the above earlier, but now I came to know. I admit that by adopting such practices as discussed by me in my above statement my firm and myself as an individual have committed violation of the provisions of Competition Law for which my firm and myself can be penalized.

I was a member of the WhatsApp group namely “Paper Mills – GJ/MS/C.G.K” with my mobile no. In the said group I used to receive communications regarding the meetings of paper mills association from Maharashtra and Gujarat. In the said group communications regarding price increase/decrease of Kraft paper was also made. Frequently I used to send messages in the said group. I am not aware that the said group is solely operated by the officials of GPMA and created by Nimish Bhai. After receiving the communication regarding the meeting of GPMA/FIPR through WhatsApp or telephone, I attended the above meetings on 15.02.2017, 15.03.2017, 07.04.2017, 05.05.2017 and 02.06.2017. ...”

63.3 Mr. Dhatrak also provided to the DG, copies of invoices issued by OP-22 to some dealers showing price hike adopted by OP-22 as per the directions of GPMA.

63.4 Mr. Dhatrak was also a member of WhatsApp group “Paper Mills – GJ/MS/CGK”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place.

63.5 The Commission also notes that OP-22 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, OP-22 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it, as drawn by the DG. OP-22 submitted that it had started its operations only in 2016 and had joined GPMA meetings to gather insights regarding the market. Once it came to know about the anti-competitive activities of GPMA, it discontinued its association with it. OP-22 also made certain other submissions which were largely similar to those raised by GPMA and OP-2.



63.6 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-22 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-22 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

63.7 With respect to penalty, OP-22 submitted that being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-22.

63.8 Such submissions made by OP-22 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

64. OP-23 (Swastik Pulp and Papers Private Limited)

64.1 It is noted from the DG Report that representatives of OP-23, *namely*, Mr. Karsanbhai Somjibhai Patel *alias* Babubhai Patel, Director, Mr. Shankar Patel, Mr. Ritesh Patel and Mr. Vivek Patel, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 07.04.2017, 05.05.2017, 02.06.2017, 25.07.2017, 05.12.2017, 19.08.2017 and 05.04.2018 wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.

64.2 OP-23 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013, 13.02.2014, 16.02.2016, 09.09.2016, 26.11.2016, 06.01.2017, 30.01.2017, 20.02.2017, 10-11.03.2017 and 18.03.2017 sent by GPMA to its members.

64.3 In his statement recorded before the DG, Mr. Babubhai Patel acknowledged as under:

“I am a member of Federation of Indian Paper Recyclers (FIPR) since July 2017. I have attended the meetings of Gujarat Paper Mills Association (GPMA) since 2006, but not on a regular basis. I was not a member of GPMA.

...



In some of the meetings attendees including me used to discuss about the price of Kraft paper, cost of raw materials, collective shutting down of mills etc. Representing SPPL I am the sole person who had attended GPMA/FIPR meetings. In those GPMA meetings which was not attended by me, the decisions regarding price hike of Kraft paper, collective shutting down of mills were conveyed to me over telephone by ...

I have implemented the decisions of GPMA/FIPR regarding collective price rise of Kraft paper since 2006 and collective shutting down of Kraft paper mills since January 2017. I have not received any circulars from GPMA/FIPR regarding price rise and collective shutting down of mills till date. During 2006 to 2017, I attended almost 15 to 17 meetings of GPMA. During the said period, attendees of GPMA meetings discussed about the price of Kraft paper. My company implemented the price increase decision of GPMA during 2006 to 2017, 4 to 5 times. I have issued circulars 4 to 5 times to various dealers regarding price rise since 2006 to 2017, as per the directions of GPMA, ...

My company also implemented collective shut-down of its manufacturing plant as per the directions of GPMA during January 2017 to July 2017.

- 1. 27.01.2017 to 31.01.2017 (5 days)*
- 2. 12.02.2017 to 16.02.2017 (5 days)*
- 3. 11.03.2017 to 15.03.2017 (5 days)*
- 4. 05.04.2017 to 13.04.2017 (9 days)*
- 5. 05.05.2017 to 10.05.2017 (6 days)*
- 6. 01.06.2017 to 07.06.2017 (7 days)*
- 7. 27.06.2017 to 03.07.2017 (7 days)*

I was a member of the WhatsApp group namely “Paper Mills – GJ/MS/C.G.K” operated by GPMA/FIPR officials and I used to receive messages from the association and exchange messages in this group regarding meetings/price hike/shutting down of Kraft paper mills etc. ...

... However, I confirm that as per the directions of GPMA in the month of January 2017, I implemented the price hike of Kraft paper in my company @ Rs.2/- per MT instead of the suggested price hike of Rs.3/- to Rs.4/- per kg of Kraft paper.

... However, I can confirm that my company has implemented the decision of GPMA to increase the price of Kraft paper @ Rs.1000/- per MT after reviewing the scenario of my company at that time.

... I admit that by adopting such practices as discussed by me in my above statement my firm and myself as an individual have committed the violation of the provisions of Competition Law for which my firm and myself can be penalized.”



64.4 Mr. Patel also provided to the DG, copies of price hike circulars of OP-23 dated 19.01.2017, 16.02.2017, 05.03.2017 and 16.03.2017.

64.5 Mr. Patel was also a member of WhatsApp group “Paper Mills – GJ/MS/CGK”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. In fact, Mr. Omprakash Rathi of OP-3 even stated that he, along with Mr. Babubhai Patel of OP-23 and one other person, were the admins of the Maharashtra WhatsApp group.

64.6 The Commission also notes that OP-23 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, OP-23 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it, as drawn by the DG in the Investigation Report. However, it made certain other submissions which were largely similar to those raised by GPMA and OP-2.

64.7 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-23 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-23 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

64.8 With respect to penalty, OP-23 submitted that being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-23.

64.9 Such submissions made by OP-23 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

65. OP-24 (Best Paper Mills Private Limited)

65.1 It is noted from the DG Report that representatives of OP-24, *namely*, Mr. Ketan Shah, Joint Managing Director and Mr. M. Rathod attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 28.03.2017, 07.04.2017, 24.04.2017, 02.06.2017, 25.07.2017,



22.11.2017, 05.12.2017, 25.12.2017 and 05.04.2018, wherein discussions regarding fixing of prices, shutting down of mills, etc., were held. In fact, the DG has noted that Mr. Ketan Shah was appointed as the first Treasurer of FIPR in the meeting dated 15.03.2017.

65.2 OP-24 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 19.09.2016, 21.11.2016, 06.01.2017, 20.01.2017 and 30.01.2017 sent by GPMA to its members.

65.3 In his statement recorded before the DG, Mr. Ketan Shah acknowledged as under:

“I am a member of Gujarat Paper Mills Association (GPMA), Vapi since 2005 and Federation of Indian Paper Recyclers (FIPR), Vapi since July 2017 and I used to attend the meetings of GPMA and FIPR representing BPML. I have attended most of the meetings of GPMA/FIPR.

It was collectively decided to increase the price of Kraft paper by GPMA during January 2017. On certain occasions, I have also implemented the decision of GPMA to increase the price of Kraft paper in my company, ...

After the decision of GPMA regarding price hike of Kraft paper, I used to intimate my customers about the said decision in my company (BPML) through email communications or WhatsApp messages. ...

I was a member of the WhatsApp group namely “Paper Mills – GJ/MS/C.G.K” operated by GPMA/FIPR officials and I used to receive messages from the association and exchange messages in this group regarding meetings/price hike/shutting down of Kraft paper mills etc. ...

My company also implemented the shutting down schedule of its manufacturing plant (BPML) of Kraft paper during the following periods against the directions of GPMA:

S. No.	Shut-down schedule as directed by GPMA	Shut-down implemented by BPML
1.	27th to 31st January 2017 (5 days)	27th to 31st January 2017 (5 days)
2.	11th to 15th February 2017 (5 days)	11th to 15th February 2017 (5 days)
3.	11th to 15th March 2017 (5 days)	11th to 16th March 2017 (5 ¼ days)
4.	5th to 9th April 2017 (5 days)	5th to 11th April 2017 (7 days)
5.	2nd to 8th May 2017 (7 days)	(i) 2nd to 7th May 2017 (6 days)- Unit-1 (ii) 2nd to 8th May 2017 (7 days)- Unit- 2
6.	1st to 6th June 2017 (6 days)	1st to 5th June 2017 (5 days)
7.	27th June to 3rd July 2017 (7 days)	No closure



From the above shutting down schedule, it can be seen that I have also implemented the directions of GPMA almost in the same manner during January 2017 to June 2017.

I admit that the above price circulars dated 15.02.2017 and 04.03.2017 were issued by my company to my customers through courier and the price hike implemented by my company on 20.01.2017, 15.02.2017 and 04.03.2017 as per the directions of GPMA.

... I admit that by adopting such practices as discussed by me in my statement my company and myself as an individual have committed violation of the provisions of Competition Law for which my company and myself can be penalised.”

65.4 Mr. Ketan Shah also provided to the DG, copies of price increase circulars of OP-24 dated 15.02.2017 and 04.03.2017, which shows compliance of GPMA price increase circulars dated 20.01.2017, 15.02.2017 and 04.03.2017 by OP-24.

65.5 Mr. Shah was also a member of WhatsApp group “Paper Mills – GJ/MS/CGK”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place.

65.6 The Commission also notes that OP-24 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, OP-24 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it, as drawn by the DG. However, it made certain other submissions which were largely similar to those raised by GPMA and OP-2.

65.7 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-24 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-24 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

65.8 With respect to penalty, OP-24 submitted that being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has



provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-24.

65.9 Such submissions made by OP-24 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with

66. OP-25 (Saiyed Paper Mills Limited)

66.1 It is noted from the DG Report that the representative of OP-25, *namely*, Mr. Mehboob Saiyed, Director attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 07.04.2017, 05.05.2017, 25.07.2017, 19.08.2017, 22.11.2017, 25.12.2017 and 05.04.2018 wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.

66.2 OP-25 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013, 19.09.2016, 21.11.2016, 06.01.2017, 20.01.2017 and 30.01.2017 sent by GPMA to its members.

66.3 In his statement recorded before the DG, Mr. Mehboob Saiyed acknowledged as under:

“My company (SPML) is a member of Federation of Indian Paper Recyclers (FIPR), Vapi. My company (SPML) was a member of Gujarat Paper Mills Association (GPMA), Vapi. I used to attend the meetings of GPMA/FIPR from the 2nd half of 2016. ... My company was involved in the alleged cartel from mid-2013 to April 2018. ...

During GPMA/FIPR meetings, which were personally attended by me, the main points being discussed are recovery of debt from the dealers of Kraft paper, technical issues, price of Kraft paper, collective shutting down of mills, increasing cost of waste paper (local/imported), coal, chemicals, electricity, manpower, fluctuating rate of Dollar etc. After GPMA/FIPR meetings, association officials used to send circulars regarding price hike/shutting down of mills through email communications and WhatsApp messages.

After the decision taken by GPMA during January 2017 regarding the price hike, on certain occasions, I have also implemented the decision of GPMA to increase the price of Kraft paper in my company, but not immediately and not in the same quantum as directed by the association (GPMA), but implemented the price hike decision according to the customer. In the case of regular customers, I have increased the price of the Kraft paper only after completion of supply of the current order.



... My company also shut-down its manufacturing plant as per GPMA directions during the following periods:

S. No.	Shut-down schedule as directed by GPMA	Shut-down implemented by SPML
1.	27th to 31st January 2017 (5 days)	27th to 30st January 2017 (4 days)
2.	11th to 15th February 2017 (5 days)	11th to 15th February 2017 (5 days)
3.	11th to 15th March 2017 (5 days)	11th to 15th March 2017 (5 days)
4.	5th to 9th April 2017 (5 days)	5th to 11th April 2017 (7 days)
5.	2nd to 8th May 2017 (7 days)	2nd to 8th May 2017 (7 days)
6.	1st to 6th June 2017 (6 days)	1st to 6th June 2017 (6 days)

I was the member of WhatsApp group namely “Paper Mills – GJ/MS/C.G.K” operated by GPMA/FIPR officials and I used to receive messages from the association regarding meetings/price hike/shutting down of Kraft paper mills etc. ...

I was not aware about the above Act. I came to know only after getting notice by GPMA from your office. I admit that by adopting such practices as discussed by me in my statement my company and myself as an individual have committed violation of the provisions of Competition Law for which my company and myself can be penalized.”

66.4 Mr. Mehboob Saiyed also provided copies of several price increase circulars issued by OP-25 to its customers to the DG.

66.5 Mr. Saiyed was also a member of WhatsApp group “Paper Mills – GJ/MS/CGK”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place and he also submitted screenshots from the same regarding price hike communications sent to the dealers.

66.6 The Commission also notes that OP-25 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, OP-25 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it drawn by the DG. It also made certain other submissions which were largely similar to those raised by GPMA and OP-2.

66.7 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-25 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-25 amounts to indirectly determining the sale prices of Kraft paper in contravention of the



provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

66.8 With respect to penalty, OP-25 submitted that being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA were also submitted by OP-25.

66.9 Such submissions made by OP-25 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

67. OP-26 (Shree Gajanan Paper and Boards Private Limited)

67.1 It is noted from the DG Report that the Managing Director of OP-26, *namely*, Mr. Sunil Agarwal, was the Secretary of GPMA from 2011 to 2015 and President from 2015 onwards, in which capacities he signed various circulars of GPMA including those dated 29.08.2013, 09.09.2016 and 25.11.2016, whereby decisions to raise prices of different grades of Kraft papers were communicated to the other paper mills.

67.2 Mr. Agarwal also chaired several meetings of GPMA dated 15.02.2017, 15.03.2017, 28.03.2017, 07.04.2017, 24.04.2017, 05.05.2017, 02.06.2017, 25.07.2017, 19.08.2017, 22.11.2017, 05.12.2017, 25.12.2017 and 05.04.2018, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.

67.3 OP-26 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013, 13.02.2014, 16.02.2016, 09.09.2016, 19.09.2016, 21.11.2016, 26.11.2016, 06.01.2017, 20.01.2017, 30.01.2017, 20.02.2017, 10-11.03.2017 and 18.03.2017 sent by GPMA to its members.

67.4 In his statement recorded before the DG, Mr. Sunil Agarwal acknowledged as under:

“Yes, my company is a member of GPMA since 2002 (appx.) and FIPR since July 2017. I used to attend almost all the meetings of GPMA/FIPR. ...

... In GPMA meetings after taking decision regarding price hike, GPMA used to issue circulars to all the mill owners belongs to the states of Gujarat, Maharashtra, Chhattisgarh and Madhya Pradesh. GPMA started issuing price hike circulars to the mill owners which belongs to the above-mentioned states



since 2012. GPMA used to issue price hike circulars to the mill owners through fax, email or directly inform to the mill owner through telephone. In the above meetings, it was also decided to impose penalty on those mill owners which were not complying the decision of GPMA/FIPR. However, GPMA/FIPR was unable to enforce the above penalty. GPMA has formed a monitoring committee to check whether the mills were implanting the decision of shutting down declared by the association. In the above committee, employees of the Kraft paper mills belong to a particular area used to visit other Kraft paper mills in another area in order to monitor the shut-down of mills, but some of the mills were found working. Even though, GPMA has taken decision to impose penalty on non-complying mills, yet association failed to take any action for non-compliance.

After GPMA/FIPR meetings, I used to receive the information regarding price rise of Kraft paper through email communications. With regard to the decision on shutting down schedule of Kraft paper mills by GPMA/FIPR, I used to receive the information through email communications in the form of minutes of the meetings. ...

With regard to shutting down of Kraft paper mills as per the directions of GPMA/FIPR, my company also partially implemented the decision of the association.

I was the member of WhatsApp group namely “Paper Mills – GJ/MS/C.G.K” operated by GPMA/FIPR officials and I used to receive messages from the association regarding meetings/price hike/shutting down of Kraft paper mills etc.

I was not aware earlier about the above Act. But I came to know only after GPMA getting notice from your office. I was a part of the above cartel regarding collective price hike during 2012 to April 2018 and part of the collective closure of mill during January 2017 to June 2017. I admit that by adopting such practices as discussed by me in my statement my company and myself as an individual have committed violation of the provisions of Competition Law for which my company and myself can be penalized.”

67.5 Mr. Agarwal also provided hard copy of revised price list of OP-26 after price hike issued to customers on 16.03.2017 and copies of price hike circulars issued by OP-26 dated 21.11.2016, 15.02.2017, 04.03.2017, 16.03.2017, 25.07.2017, 12.11.2017 and 05.12.2017 to the DG.

67.6 Mr. Prahlad Patel, Trustee of OP-39 and OP-53, in his statement recorded before the DG, stated that “In GPMA/FIPR meetings price hike decision and collective shutting



schedule were decided by the Shri Sunil Aggarwal (Munnabhai), President of GPMA/FIPR.”

67.7 Mr. Agarwal was also a member of WhatsApp group “Paper Mills – GJ/MS/CGK”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. Some of the communications exchanged by him on this WhatsApp group, are as follows:

22/11/2017, 16:14 - Munna Gajanand Paper: Dear Valued Customers,

Due to increase in various cost of production, we have increased 1250₹ per ton in all grades we manufacture from today 22.11.2017.

We kindly request you to place all new orders with effect of new rates.

Regards

- - -

02/12/2017, 12:51 - Munna Gajanand Paper: Dear Members

We have arranged a meeting on 5th Dec 2017 at Novotel, Mumbai. All are requested to remain present in this meeting with your membership cheque in the name of Federation of Indian Papers Recyclers.

Sunil Agrawal, President, FIPR.

02/12/2017, 12:53 - Ketan Best: Meeting time 12.00

02/12/2017, 12:54 - Rathi kayegaon: Great job

02/12/2017, 12:54 - Munna Gajanand Paper: Thanks ketanbhai



05/12/2017, 06:44 - Munna Gajanand Paper: Still no change meeting is on time

05/12/2017, 13:06 - Munna Gajanand Paper: Dear Members,

In today's meeting it has been decided to increase finish paper rates in all grades by 1000/-₹ per ton with immediate effect.

Next general joint meeting for further rate increase has been scheduled on 25th December. Meeting place will be Vapi.

All members are requested to do needful at the earliest.

Sunil Agrawal
President
FIPR

25/12/2017, 22:08 - Munna Gajanand Paper: Dear Valued Customers,

Due to increase in various cost of production, we have increased 1₹ per ton in all grades we manufacture from today with immediate effect.

We kindly request you to place all new orders with effect of new rates.

Regards:
Sunil Agarwal, President, FIPR.

26/12/2017, 17:32 - Munna Gajanand Paper: Dear Valued Customers,

Due to increase in various cost of production, we have increased 1000₹ per ton in all grades we manufacture from today with immediate effect.

We kindly request you to place all new orders with effect of new rates.

Regards:



27/02/2018, 14:09 - Munna Gajanand Paper: Dear Members,

Today 27.02.18, we had a meeting With Paper mills of Maharashtra and Vapi in Nashik.

We all have decided not to decrease any further prices of finish.

If at all any member is facing problems due to any rumours of price reduction, please approach the association leaders.

We all have decided to have a general meeting of paper mills of western India in Mumbai immediately after Holy.

Friends, we have to be serious for the present situation instead of disturbing the whole market, we have to concentrate on the stability.

Meetings are also going on in north India and south India with the objective to keep market stable.

Very soon I will send you the date and venue of general meeting.

Regards
Sunil Agrawal
President
GPMA

27/02/2018, 20:26 - +91 98980 13480: Dear Members,

Tomorrow a very important meeting is been arranged at association office at 12 pm

All are requested to be present on time.

I will share with you the outcomes of our today's meeting at Nashik.

I had talks with all the regional presidents from Morbi to Nagpur.

I will inform you all the matters and facts for future strategies.

Sunil Agrawal
President
GPMA

67.8 The Commission also notes that OP-26 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, OP-26 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it, as drawn by the DG. OP-26 made certain other submissions which were largely similar to those raised by GPMA and OP-2.

67.9 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-26 was part of the discussions held at GPMA/FIPR regarding price increase of



Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-26 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

67.10 With respect to penalty, OP-26 submitted that being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-26.

67.11 Such submissions made by OP-26 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

68. OP-27 (Shree Ajit Pulp and Paper Limited)

68.1 It is noted from the DG Report that the representative of OP-27, *namely*, Mr. Gautam Shah, Director attended the meeting of GPMA dated 24.04.2017 wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held. Mr. Shah was also the Treasurer of GPMA till March 2015.

68.2 It is also noted from the DG Report that Mr. Gautam Shah is also a Director at Samrat Pulp and Paper Pvt. Ltd. in which the other two directors are Mr. Pankaj Mansingka of OP-18 and Mr. Sundeep Shah of OP-7. Both Mr. Pankaj Mansingka and Mr. Sundeep Shah have also been found by the DG to be a part of the Kraft paper mills cartel.

68.3 OP-27 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013, 19.09.2016, 21.11.2016, 06.01.2017 and 30.01.2017 sent by GPMA to its members.

68.4 In his statement recorded before the DG, Mr. Gautam Shah acknowledged as under:

“My company (SAPPL) is a member of Gujarat Paper Mills Association (GPMA), Vapi at least since 2011 (appx.) and used to receive circulars from GPMA since 2011. ...

My company has received price hike circulars from GPMA since 23.04.2011 to 25.12.2017. My company used to receive circulars from GPMA through courier service and may be through email communications as well. ...



... During 01.03.2013 to 16.02.2016, my company increased the price of Kraft paper 3 times, during July 2013, November 2013 and January 2015 ... My company also increased price of Kraft paper during 01.02.2017 and 04.03.2017, ...

My company used to convey the price hike decision to my customers through courier service and through telephonic communications. ...

GPMA directed the Kraft paper mills which were coming under them to shut-down their mills during the following periods: -

S. No.	Period of Closure	Number of days
1.	27.01.2017 to 31.01.2017	5 days
2.	11.02.2017 to 15.02.2017	5 days
3.	11.03.2017 to 15.03.2017	5 days
4.	05.04.2017 to 09.04.2017	5 days
5.	02.05.2017 to 08.05.2017	7 days
6.	01.06.2017 to 06.06.2017	6 days
7.	27.06.2017 to 03.07.2017	7 days

My company followed the directions of GPMA to close its mills partially on all first 6 instances and in the 7th instance my company was partially shut for 4 days instead 7 days as directed by GPMA. ...

I was a member of WhatsApp group namely “Paper Mills – GJ/MS/C.G.K” and “NEWS PAPER MILLS” which were operated by GPMA/FIPR officials and I was not an active member in both the above groups. ...

I was not aware earlier about the above Act. But I came to know only after GPMA getting notice from your office. My company was forced to partially participate in the collective closure of mill during January 2017 to June 2017. I admit that collective shut-down is in violation of the provisions of Competition Law for which my company and myself can be penalized.”

68.5 Mr. Gautam Shah was also a member of WhatsApp group “Paper Mills – GJ/MS/CGK” wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place.

68.6 The Commission also notes that OP-27 is also a lesser penalty applicant in the present matter. However, in its suggestions/objections to the DG Report, OP-27 submitted that it has not been involved in any contravention of the provisions of Section 3(3) of the Act and ought to be exonerated in the present matter. OP-27 submitted that *firstly*, Mr. Gautam Shah had attended only a single meeting of GPMA dated 24.04.2017 and not others; *secondly*, in the WhatsApp group of which he was a part, to the best of his

knowledge, he did not share even a single message; *thirdly*, OP-27 never increased its prices as per the directives of GPMA and rather while increasing its prices, it always consulted its customers; *fourthly*, OP-27 only partially closed its mills on the days as per the advisories issued by GPMA and also maintained continuous supply despite such closure and other closures maintained by OP-27 were due to business exigencies; and *lastly*, common directorship with other members of cartel did not affect OP-27's decision making. It also made certain other submissions which were largely similar to those raised by GPMA and OP-2.

68.7 With regard to OP-27's submissions that its Director Mr. Gautam Shah attended only one meeting of GPMA and not others and in the WhatsApp group of which he was a part, to the best of his knowledge, he did not share even a single message, the Commission notes that the very receipt of GPMA price hike circulars and messages being circulated in the said WhatsApp group by OP-27, gave it knowledge about competitor prices and strategies and hence, its conduct cannot be said to be independent or having no likelihood of causing AAEC in the market. Similarly, with regard to submission of OP-27 that it never increased its prices as per the directives of GPMA and also only partially closed its mills as per the advisories issued by GPMA, the Commission notes that the provisions of Section 3(1) of the Act not only proscribe agreements which cause an AAEC, but also forbid agreements which are likely to cause an AAEC in the market. Nonetheless, as stated above, OP-27 is also a lesser penalty applicant in the present matter.

68.8 Therefore, based on the evidences collected by the DG as detailed above, the Commission finds that OP-27 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-27 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

68.9 With respect to penalty, OP-27 submitted that being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has



provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-2.

68.10 Such submissions made by OP-27 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

69. OP-28 (R. A. Shaikh Paper Mills Private Limited)

69.1 It is noted from the DG Report that the representative of OP-28, namely, Mr. Iqbal Shaikh, Director, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 28.03.2017, 07.04.2017, 05.05.2017, 25.07.2017, 19.08.2017, 22.11.2017, 05.12.2017 and 05.04.2018, wherein discussions regarding fixing of prices, shutting down of mills, etc., were held.

69.2 OP-28 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 30.01.2013, 20.03.2013, 29.08.2013, 19.09.2016, 21.11.2016, 06.01.2017, 20.01.2017 and 30.01.2017 sent by GPMA to its members.

69.3 In his statement recorded before the DG, Mr. Iqbal Shaikh acknowledged as under:

“My company is a member of Gujarat Paper Mills Association (GPMA), Vapi since 2007 (appx.) and Federation of Indian Paper Recyclers (FIPR), Vapi since July 2017. Representing my company, I have personally attended most of the meetings of GPMA since January 2016 and FIPR since July 2017 and attended the last meeting of FIPR during April 2018. ...

During GPMA/FIPR meetings attendees used to discuss about general issues of Kraft paper industry such as raw material issues including waste paper (local/imported), coal, chemicals, pollution related matters, low cost of Kraft paper, collective price rise of Kraft paper, debt recovery from dealers/corrugators, collective closure of mills etc. ...

After GPMA meetings, I used to receive the price hike circulars from GPMA through email communications. With regard to the decision on shutting down schedule of Kraft paper mills by GPMA, I used to receive the information through email communications in the form of minutes of the meetings. ...

After receiving the price hike circulars and shutting down schedules from GPMA I used to communicate the decisions to my dealers/corrugators through email communications. ... My company implemented the decision of GPMA since 2011, but the circulars issued by my company prior to January 2017 are not readily available with me. ...



I am submitting the hard copy of shut-down schedule implemented by my company as per the directions of GPMA (Exhibit – 4).

I am also submitting hard copy of the table showing the quantity of Kraft paper dispatched by my company during the shut-down period as directed by GPMA (Exhibit – 5).

I am submitting hard copies of invoices issued by my company during the time of closure on 27.01.2017, 11.02.2017, 11.03.2017 and 05.04.2017 (Exhibit – 6 colly). ...

I was a member of WhatsApp groups namely “Paper Mills – GJ/MS/C.G.K” and “NEWS PAPER MILLS” which were operated by GPMA/FIPR officials. ...

I confirm that my company received the said mail sent by GPMA on 06.01.2017. My company has implemented the said circular of GPMA and accordingly issued price hike circular on 20.01.2017 to its dealers/corrugators showing a price hike of Rs.1.5 to Rs.2.0 against the direction of GPMA to increase the price by Rs.3 to Rs.4 (circular dated 20.01.2017 is already provided in Exhibit-3).

Earlier I was not aware about the above Act. But I came to know only after GPMA getting notice from your office. I was a part of the above cartel regarding collective price hike during 2011 to August 2017 and part of the collective closure of mill during January 2017 to August 2017. I admit that by adopting such practices as discussed by me in my statement my company and myself as an individual have committed violation of the provisions of Competition Law for which my company and myself can be penalized.”

69.4 Mr. Iqbal Shaikh also provided copies of several price increase circulars issued by OP-28 to its customers from January to March 2017, copy of shut-down schedule implemented by OP-28 as per the directions of GPMA, copy of a table showing quantity of Kraft paper dispatched by OP-28 during shut-down period as directed by GPMA and copies of invoices issued by OP-28 during the time of closure on 27.01.2017, 11.02.2017, 11.03.2017 and 05.04.2017 to the DG.

69.5 Mr. Shaikh was also a member of WhatsApp groups “Paper Mills – GJ/MS/CGK” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place.

69.6 The Commission also notes that OP-28 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, OP-28 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it, as drawn by the



DG. It also made certain other submissions which were largely similar to those raised by GPMA and OP-2.

69.7 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-28 was part of the discussions held at GPMA/FIPR regarding increase in the prices of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-28 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

69.8 With respect to penalty, OP-28 submitted that being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-28.

69.9 Such submissions made by OP-28 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

70. OP-29 (Shweta Paper Industries Private Limited)

70.1 It is noted from the DG Report that the representative of OP-29, *namely*, Mr. Nilkanth Awghate, Director, attended meetings of GPMA dated 15.02.2017 and 05.05.2017, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.

70.2 Though OP-29 denies this fact, it was also named by GPMA as one of its members. In his statements recorded before the DG, Mr. Banwarilal Kabra, Director of OP-29, acknowledged as under:

“Neither me nor my company is a member of any Kraft paper manufacturers association. However, me and one of the other directors Sh. Nilkanth Awghate have attended few meetings of Gujarat, Maharashtra and Chhattisgarh paper mills under the banner of Gujarat Paper Mills Association (Vapi) (GPMA). There is no formal association of paper mill in Maharashtra. However, the paper mills including my company had been called to attend certain meetings of GPMA. ...

My company (either me or Sh. Nilkanth Awghate) started attending the meeting of GPMA held at various locations viz, Vapi, Mumbai, Nagpur etc. since



October/November 2015. ... On their request, either me or Sh. Nilkant Awghate used to attend these meetings. However, my company has not attended all the meeting of GPMA. ... During these meetings, mill owners used to discuss the problems being faced by them such as shortage of supply orders of Kraft paper, non-receipt of reasonable price of Kraft paper, collective price hike of Kraft paper, collective shutting down of mills etc. My company used to increase the price of Kraft paper and follow the shut-down schedule as decided in GPMA meetings.

I personally attended the meetings of GPMA held during October/November 2015 at Vidarbha Cricket Association Club, Nagpur, held on 07.10.2016 at Nagpur, and a meeting held on 30th June 2017 at Nagpur. I am attaching the attendance sheet of GPMA meeting held at Nagpur on 07.10.2016 (Exhibit – 2). In this meeting, discussion was held regarding collective price hike of Kraft paper and collective shutting down of mills. After the above meeting, my company implemented the decision of collective price hike and planned shutting down of my mill as per the directions of GPMA. My company intimated the price hike decisions to my dealers/corrugators through telephonic communication/email messages. But I do not have any copy of the email messages sent to my dealers/corrugators. Regarding the implementation of the shutting down schedule, my company conveyed the decision to my dealers/corrugators through telephonic communications. ...

In order to show that my company has implemented the decision of GPMA regarding price hike of Kraft paper, I am attaching herewith a copy of invoices issued by my company as details below ...

My company has also implemented the decision of collective shutting down of Kraft paper mill since April 2016 to August 2017 as per the directions of GPMA, but not completely during June 2017 to August 2017 as per the details given below:

S. No.	Period of shut-down of mill	No. of days
1.	02.04.2016	1
2.	01.05.2016 to 03.05.2016	3
3.	30.10.2016 to 06.11.2016	8
4.	27.01.2017 to 31.01.2017	5
5.	11.02.2017 to 15.02.2017	5
6.	11.03.2017 to 15.03.2017	5
7.	05.04.2017 to 09.04.2017	5
8.	02.05.2017 to 08.05.2017	7
9.	02.06.2017 to 03.06.2017	2*
10.	05.06.2017 to 06.06.2017	2*
11.	29.06.2017 to 01.07.2017	3

12.	02.07.2017 to 04.07.2017	3*
13.	02.08.2017 to 04.08.2017	3*

**Partially implemented the shutting down schedule as per GPMA directions*

In order to ensure that all the Kraft paper mills of Gujarat/Maharashtra comply with the directions of collective shut-down as directed by GPMA, a committee has been constituted to ensure that mill owners strictly follow their directions. As per the above GPMA used to send monitoring team consisting of 2-3 persons from a particular region and they will inspect Kraft paper mills of other area to check whether the mills are complying with the directions of GPMA. Accordingly, two persons namely, Sh. Bhimsen Jina, Raipur and Sh. Brijesh Upadhyay, Vapi have visited my company between 2nd to 8th May 2017 in order to monitor the shutting down schedule. Further 2-3 persons visited my company between 2nd to 6th June 2017 in order to monitor the shutting down schedule, but I do not recollect the names of those persons. The Kraft paper mills who were the subject of the monitoring team had to share the monitoring teams expenses, ...

Sh. Nilkanth Awghate one of the other directors of my company has attended the meeting of Hyderabad Kraft Paper Mills Association (HKPMA) held at Hyderabad on 07.02.2017 ...

I was a member of the WhatsApp groups namely “Maharashtra paper mills” from 21.01.2017 and “NEWS PAPER MILLS” which were operated by Sh. Omprakash Rathi and GPMA/FIPR officials respectively. ...”

“I have seen the said backup of the said WhatsApp Group in which myself and Sh. Nilkanth Awghate, directors of Shweta Paper Industries Pvt. Ltd. are members since first half of 2016. In the said WhatsApp Group members used to exchange information regarding GPMA/Maharashtra Paper Mill Associations meetings, Kraft paper/waste paper rates, collective shutting down of Kraft paper mills, market scenario of Kraft paper mills etc.

The email serial no. (i) was sent to another mill owner from Chhattisgarh as a specimen circular in connection with price hike of Kraft paper. The said email was sent to the mill owner as per his own request. The above price hike format was made as per the direction of GPMA and same was implemented by my company too.

The emails serial no. (ii) to (xi) were sent to my Kraft paper dealers in connection with increase in the price of Kraft paper w.e.f. 22.11.2017. ... The last price hike of Kraft paper implemented by my company as per the directions of GPMA was during the month of April 2017. However, the decision of GPMA to shut-down the mills was partially implemented by my company till August 2017.



My company used to intimate the price hike decision implemented by my company as per the directions of GPMA through WhatsApp messages. The price hike decisions were communicated to my customers through email messages or through telephonic conversations.

Initially, myself and my company were not aware of the above. Later, in one of the meetings of GPMA I became aware of the above Act. Myself and other director of the company attended meeting of GPMA till 19.07.2017, later myself and other director of the company discontinued in attending the meeting of GPMA/FIPR.”

70.3 Mr. Kabra also provided copies of some invoices of OP-29 from January to April 2017 showing implementation of the decisions of GPMA regarding price increase, e-mails and documents related to expenses incurred by OP-29 for monitoring the team of GPMA, screenshots of some messages transacted in the WhatsApp group of Maharashtra Paper Mills regarding meetings of GPMA and the case filed at the Competition Commission of India, screenshots of some messages transacted in the WhatsApp group “Paper Mills – GJ/MS/C.G.K” and agenda of the HKPMA meeting held on 07.02.2017 to the DG. Ten e-mails whereby price increases were conveyed by OP-29 to its dealers were also recovered from Mr. Kabra’s e-mail account.

70.4 Mr. Kabra was also a member of WhatsApp groups of Maharashtra Paper Mills, “Paper Mills – GJ/MS/CGK” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place.

70.5 The Commission also notes that OP-29 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, OP-29 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it, as drawn by the DG. OP-29 also made certain other submissions which were largely similar to those raised by GPMA and OP-2.

70.6 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-29 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-29 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production,



supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

70.7 With respect to penalty, OP-29 submitted that being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-29.

70.8 Such submissions made by OP-29 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

71. OP-30 (Sukraft Paper Mills Private Limited)

71.1 It is noted from the DG Report that the representative of OP-30, *namely*, Mr. Arunbhai Agarwal attended the meeting of GPMA dated 15.02.2017 wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held. Further, it is also noted that Mr. Karsanbhai Somjibhai Patel *alias* Babubhai Patel, Director of OP-23, also attended several meetings of GPMA on behalf of OP-23 as well as OP-30.

71.2 It is also noted from the DG Report that OP-30 is part of Sukraft group which comprises of 3 other companies namely Sukraft Paper Pvt. Ltd., Nashik (OP-14), Swastik Pulp & Paper Mills Pvt. Ltd., Nashik (OP-23) and Sunshine Pap Tech Pvt. Ltd. (OP-19).

71.3 OP-30 was also named by GPMA as one of its members, though OP-30 denies the same. Further, it was one of the recipients of the e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013, 13.02.2014, 16.02.2016, 26.11.2016, 06.01.2017, 30.01.2017, 20.02.2017 and 10-11.03.2017 sent by GPMA to its members.

71.4 In his statement recorded before the DG, Mr. Sunil Patel, Director of OP-30, acknowledged as under:

"I am not a member of any association of Kraft paper manufacturers. Sh. Karshanbhai Patel, used to represent Sukraft group companies including SPMPPL since January 2015. However, Sh. Arun Agarwal, my office staff has attended one of the meetings of Gujarat Paper Mills Association (GPMA), Vapi held on 15.02.2017 at Hotel J W Marriott, Mumbai. ...

... After the above meeting, Sh. Arun Agarwal informed me that GPMA decided to impose penalty on non-compliance of the decisions of GPMA by Kraft paper

mill, decided to shut-down the Kraft paper mills from 11th to 15th March 2017 and increase the price of Kraft paper by Rs.2 to Rs.3. This meeting was reportedly attended by 71 Kraft paper mill owners from the states of Gujarat and Maharashtra. ...

After GPMA meetings, I used to receive the price hike circulars from GPMA through email communications/courier services. With regard to the decision on shutting down schedule of Kraft paper mills by GPMA, I used to receive the information through email communications in the form of minutes of the meetings. And on certain occasions, my company received the information regarding shutting down of mills through Sh. Karshanbhai Patel alias Babubhai Patel, Director, Swastik Pulp & Papers Pvt. Ltd., Nashik. ...

After receiving the price hike circulars and shutting down schedules from GPMA I used to communicate the decisions to my dealers/corrugators through telephonic conversations/email communications. ... My company implemented the decisions of GPMA regarding collective price hike of Kraft paper since June 2015 to April 2018.

I was a member of the WhatsApp group namely “Paper Mills – GJ/MS/C.G.K” which was operated by GPMA/FIPR officials. ...

I confirm that my company received the said email sent by GPMA to my company on 06.01.2017. My company has also implemented the said circular of GPMA and increased the price of Kraft paper, but not as per the quantum suggested by GPMA. ...

I was not aware about the above Act earlier. But I came to know only after Sh. Omprakash Rathi of Maharashtra Paper Mills Association received notice from your office. I was a part of the above cartel regarding collective price hike during June 2015 to April 2018. I admit that by adopting such practices as discussed by me in my statement my company and myself as an individual have committed violation of the provisions of Competition Law for which my company and myself can be penalized.”

71.5 Mr. Sunil Patel was also a member of WhatsApp group “Paper Mills – GJ/MS/CGK” wherein discussions regarding price of Kraft paper price of raw material waste paper and collective shut-down of mills took place.

71.6 The Commission also notes that OP-30 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, OP-30 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it, as drawn by the DG in the Investigation Report. OP-30 also submitted that though it was not an active participant in the activities of GPMA, all MoMs, price circulars and information



pertaining to GPMA were communicated to it by other companies of the Sukraft Group and their representatives. It also made certain other submissions which were largely similar to those raised by GPMA and OP-2.

71.7 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-30 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-30 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

71.8 With respect to penalty, OP-30 submitted that being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-30.

71.9 Such submissions made by OP-30 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

72. OP-31 (New Bombay Paper Mills Private Limited)

72.1 It is noted from the DG Report that representatives of OP-31, *namely*, Mr. Kamal Kedia, Mr. Shivank Kedia and Mr. Naman Agarwal, Directors, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 25.07.2017 and 19.08.2017 wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.

72.2 OP-31 was also named by GPMA as one of its members. In his statement recorded before the DG, Mr. Naman Agarwal acknowledged as under:

“My company has been a member of Federation of Indian Paper Recyclers (FIPR), Vapi since July 2017. ... My company is not a member of Gujarat Paper Mills Association (GPMA), Vapi, but used to attend the meetings of GPMA since 19.01.2017. Mill owners from the state of Maharashtra are not allowed to be a member of GPMA/FIPR. Regarding convening of GPMA/FIPR meetings, my company used to receive communications such as agenda and schedule of the meetings through WhatsApp messages/email communication ... Myself or/and the other directors have attended most of the meetings of



GPMA/FIPR since 19.01.2017. In GPMA/FIPR meetings, mill owners from the states of Gujarat and Maharashtra used to attend. I have attended the lone meeting of FIPR on 19.08.2017. After August 2017 my company discontinued attending the meetings of FIPR because discussing price hike decision collectively is against the present law.

The major issues which are being discussed in GPMA/FIPR meetings are increasing cost of raw materials such as waste paper (local/imported), coal, chemicals, electricity, availability of skilled manpower, low rate of Kraft paper, delay/non recovery of debts from the dealers/corrugators, excess supply of Kraft paper in the market, collective price hike of Kraft paper, collective closure of Kraft paper mills etc. ...

After GPMA meetings, I used to receive the price hike circulars from GPMA through email communications. With regard to the decision on shutting down schedule of Kraft paper mills by GPMA, I used to receive the information through email communications in the form of minutes of the meetings. ...

After receiving the price hike circulars and shutting down schedules from GPMA I used to communicate the decisions to my dealers/corrugators through email communications/telephonic conversations. ... I am submitting the hard copies of price hike/shut-down circulars sent by my company to my customers as per the directions of GPMA from 22.01.2017 to 15.03.2017 (Exhibit – 3 colly) as detailed below. My company implemented the decision of GPMA since January 2017. ...

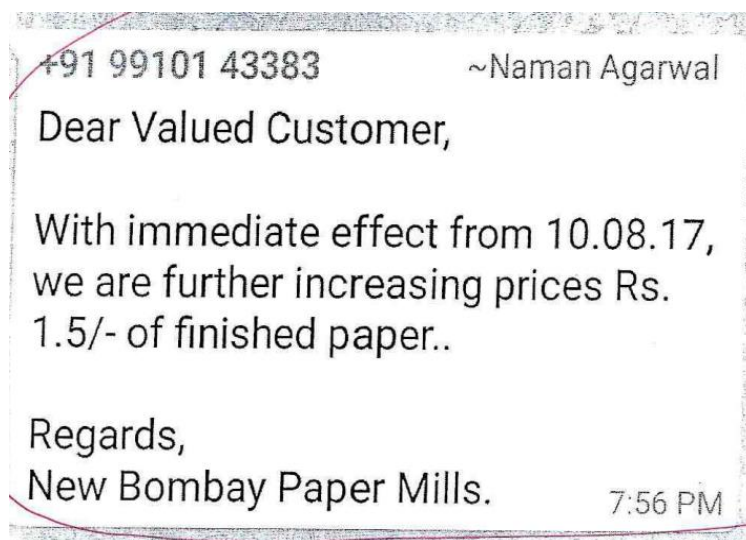
I am submitting the hard copy of shut-down schedule and logbook records implemented by my company as per the directions of GPMA in addition to the reasons related to up-gradation of plant and machinery/expansion of installed capacity of the plant /regular maintenance of the plant and machinery/erection of new plant and machinery etc.

I was a member of WhatsApp groups namely “Paper Mills – GJ/MS/C.G.K” which was operated by GPMA/FIPR officials. ... My company used to receive communications from GPMA regarding scheduling of meetings, minutes of the meetings, price hike circulars and shutting down of mills.

Earlier I was not aware about the above Act. But I came to know only after Sh. Omprakash Rathi of Maharashtra Paper Mills Association getting notice from your office. I was a part of the above cartel regarding collective price hike and collective closure of mill during January 2017 to August 2017. I admit that by adopting such practices as discussed by me in my statement my company and myself as an individual have committed violation of the provisions of Competition Law for which my company and myself can be penalized.”

72.3 Mr. Naman Agarwal also provided the copies of price hike/shut-down circulars issued by OP-31 dated 22.01.2017, 15.02.2017, 04.03.2017 and 15.03.2017 and copy of shut-down schedule and logbook records of OP-31 showing implementation of GPMA's collective shut-down directions to the DG.

72.4 Mr. Agarwal was also a member of WhatsApp group "Paper Mills – GJ/MS/CGK", wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. When confronted by the DG with the following screenshot of a message sent by him in the said WhatsApp group regarding price hike, Mr. Agarwal confirmed that he was the one who had sent the said message in the group:



72.5 The Commission also notes that OP-31 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, though OP-31 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it, as drawn by the DG. However, OP-31 mention that increase in prices by it or shut-down of plant by it were not only because of GPMA decisions, but also due to other factors. OP-31 also made certain other submissions which were largely similar to those raised by GPMA and OP-2.

72.6 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-31 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-31



amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

72.7 With respect to penalty, OP-31 submitted that being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-31.

72.8 Such submissions made by OP-31 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

73. OP-32 (Super Deluxe Paper Mills Private Limited)

73.1 It is noted from the DG Report that representatives of OP-32, *namely*, Mr. Hiten Shah, Mr. Kailash Nima and Mr. Kalpesh Vira, Directors, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 28.03.2017, 07.04.2017, 05.05.2017, 02.06.2017, 25.07.2017, 19.08.2017, 22.11.2017, 05.12.2017, 25.12.2017 and 05.04.2018, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held. Mr. Hiten Shah was also the Treasurer of GPMA from 2015 onwards.

73.2 OP-32 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013, 19.09.2016, 21.11.2016, 06.01.2017, 20.01.2017 and 30.01.2017 sent by GPMA to its members.

73.3 In his statement recorded before the DG, Mr. Hiten Shah acknowledged as under:

“My company was a member of Gujarat Paper Mills Association (GPMA), Vapi since 2007 and Federation of Indian Paper Recyclers (FIPR), Vapi since July 2017. Most of the meetings of GPMA/FIPR were attended by myself and on certain occasions, where I could not attend the same Sh. Kalpesh N. Vora used to attend the meetings. ... I have attended the last meeting of FIPR during April 2018.

General issues which were being discussed in the above meetings were raw material issues including waste paper (local/imported), coal, chemicals, pollution related matters, low price of Kraft paper, shortage of skilled



manpower, delay/non-recovery of payments from dealers/corrugators, collective price rise of Kraft paper, collective closure of mills etc. ...

I was a member of WhatsApp groups namely “Paper Mills – GJ/MS/C.G.K” and “NEWS PAPER MILLS” which were operated by GPMA/FIPR officials.

...

Either I or Sh. Kalpesh N. Vira, one of the directors of the company used to attend most of the meetings of GPMA, I am very well aware of the price hike decision and shutting down schedule of GPMA/FIPR and subsequently my company used to receive the price hike circulars/minutes of the meetings from GPMA through email communications. ...

After receiving the price hike circulars and shutting down schedules from GPMA I used to communicate the decisions to my dealers/corrugators through email communications. I am submitting the hard copies of price hike circulars sent by my company to my customers as per the directions of GPMA during November 2016 to March 2017 (Exhibit – 5 colly). My company implemented the decision of GPMA since 2015-16, but the circulars issued by my company prior to November 2016 are not readily available with me.

I admit that my company has implemented the shutting down schedule as per GPMA directions from January to July 2017. I used to inform the shut schedule to my customers through telephonic communications.

Earlier I was not aware about the above Act. But I came to know only after GPMA getting notice from your office during April 2018. My company was a part of the above cartel regarding collective price hike during 2015-16 to April 2017, but my company did not get the complete benefit of the price increase mandated by GPMA during 2015-16. My company was a part of the collective closure of mill during January 2017 to July 2017. I admit that by adopting such practices as discussed by me in my statement my company and myself as an individual have unknowingly committed violation of the provisions of Competition Law for which my company and myself can be penalized.”

73.4 Mr. Hiten Shah also provided the copies of some price increase circulars issued by OP-32 to its customers during November 2016 to March 2017, which show that OP-32 increased the prices of its Kraft paper in tandem with the decisions taken by GPMA to the DG.

73.5 It is noted from the MoM of GPMA dated 05.05.2017 that Mr. Hiten Shah was appointed as the Chairman of the Monitoring Committee of GPMA to ensure shut-down of mills as per the directions.



73.6 Mr. Shah was also a member of WhatsApp groups “Paper Mills – GJ/MS/CGK” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place.

73.7 The Commission also notes that OP-32 is also a lesser penalty applicant in the present matter. In its suggestions/objections to the DG Report, OP-32 stated that it fully agrees with the conclusions of contravention of the provisions of the Act by it, as drawn by the DG. It also made certain other submissions which were largely similar to those raised by GPMA and OP-2.

73.8 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-32 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-32 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

73.9 With respect to penalty, OP-32 submitted that being a lesser penalty applicant, it had provided all requisite evidence and co-operation to the DG in the matter and it has provided full, true and vital disclosures regarding the cartel. Further, mitigating factors similar to those argued by GPMA, were also submitted by OP-32.

73.10 Such submissions made by OP-32 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

74. OP-33 (S. K. Paper)

74.1 It is noted from the DG Report that representatives of OP-33, *namely*, Mr. Sarvar Khan, Partner and Mr. Aslam Khan attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 07.04.2017, 25.07.2017, 05.12.2017, 25.12.2017 and 05.04.2018, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.

74.2 OP-33 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mail dated 18.03.2017 sent by GPMA to its members.

74.3 In his statements recorded before the DG, Mr. Sarvar Khan acknowledged as under:



“SKP was a member of Gujarat Paper Mills Association (GPMA) since 2016. ... I have attended almost all the meetings of GPMA on behalf of SKP and I have attended the last meeting of GPMA held at Daman, during 2017-18. ...

In GPMA meetings the main points being discussed are importing of waste paper, recovery of payments from defaulting dealers/corrugators, maintenance of fixed price of Kraft paper in a region, shutting down of mills and a particular date for shutting down was decided in the said meetings.

I am the member of the WhatsApp group namely “Paper Mills – GJ/MS/C.G.k”. I used to receive message regarding price increase of Kraft paper, shutting down of mills, intimation regarding GPMA/FIPR meeting, waste paper price trend etc.”

“I supported the initiative done by Kolhapur based Paper Mill owners regarding price increase of Rs.2 on Kraft Paper and Shutting down of mills.

My firm also implemented the price hike as directed by GPMA, which is also due to increase in price of waste paper.”

74.4 From Mr. Khan’s e-mail account, e-mail dated 27.02.2016 sent by one Vikas Traders was recovered where in the trailing e-mails, price hike circulars of OP-20 and OP-18 were attached. Regarding the same, Mr. Sarvar Khan acknowledged that the same were sent to him as per his request to know how to prepare a price hike circular. Similarly, from his e-mail account, e-mail dated 27.02.2016 sent by OP-33 to various other related entities was recovered regarding which Mr. Sarvar Khan stated that after receiving samples of price hike circulars from Vikas Traders, OP-33 also issued price hike circular to its dealers/corrugators.

74.5 Further, though in his first statement recorded before the DG, Mr. Khan maintained that he did not implement the price hike or shut-down directives issued by GPMA, in his second statement, when confronted with OP-33’s various sale invoices showing price hike by OP-33, he acknowledged time and again that his firm also implemented the price hike as directed by GPMA, which is also due to increase in the price of waste paper. Further, when Mr. Khan was confronted with a WhatsApp conversation in the WhatsApp group “Paper Mills – GJ/MS/CGK” of which he was a member and wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place, he acknowledged that he supported the initiative by Kolhapur based paper mill owners regarding price increase of ₹2 on Kraft paper and shutting down of paper mills.



74.6 The DG has also clearly noted in its report that, as decided in the meeting of GPMA dated 05.05.2017 to carry out collective shut-down of mills from 01.06.2017 to 06.06.2017 and in the meeting dated 02.06.2017 to carry out collective shut-down of mills from 27.06.2017 to 03.07.2017, the manufacturing plant of OP-33 was shut from 02.06.2017 to 06.06.2017 and 28.06.2017 to 03.06.2017.

74.7 In its reply to the DG Report, OP-33 stated that “... *We have never participated in the Bandh call given by manufacturers Association and on all given dates our manufacturing unit was working in full strength. Our manufacturing unit was closed only if there is shortage of raw material or else supply problem being in remote village. As our Manufacturing Unit is in infant stage (Just completed seven years) we have become member of association only to get information/circulars/gazettes from Govt of India time to time which otherwise would not have available. ...*”

74.8 However, from the above evidences collected by the DG, clear implementation, even if partial, of price hike and shut-down directives issued by GPMA by OP-33, is evident.

74.9 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-33 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-33 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

75. OP-34 (Sezon Paper)

75.1 It is noted from the DG Report that the representative of OP-34, *namely*, Mr. Amrutlal Patel, father of one of the Directors of the company, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 07.04.2017, 24.04.2017, 05.05.2017, 02.06.2017, 25.07.2017, 19.08.2017, 05.12.2017 and 25.12.2017, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held. Mr. Amrutlal was also the Joint Treasurer of FIPR.



75.2 OP-34 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 10–11.03.2017 and 18.03.2017 sent by GPMA to its members.

75.3 In his statement recorded (in Hindi) before the DG, Mr. Amrutlal acknowledged that though he is not a Director in OP-34, but since his son is a Director, he considers the company as his own and the other Directors of OP-34 are also his relatives.

75.4 Mr. Amrutlal admitted that he started attending GPMA meetings in 2017 when the production of the plant started. He also admitted that in March 2017, he attended a meeting of GPMA at Mumbai wherein the rates at which material is to be purchased and at which the finished paper is to be sold, were discussed. He stated that after that, he attended most of the meetings of GPMA wherein discussions about when to shut-down the mills due to shortage of orders took place.

75.5 Mr. Amrutlal claimed that though he was not in agreement with the shut-down suggested by GPMA, on the advice of the association and on his own, he shut the mill from 05.04.2017 to 11.11.2017, 04.05.2017 to 09.05.2017, 02.06.2017 to 06.06.2017 and 28.06.2017 to 03.07.2017. He also admitted that, in GPMA meetings, it used to be decided as to by how much the price of Kraft paper is to be increased. Mr. Amrutlal stated that though OP-34 also increased the price of Kraft paper from January 2017 to September 2017, the same was due to increase in price of waste paper and not with the agreement of GPMA.

75.6 When Mr. Amrutlal was confronted with the MoM dated 15.02.2017 of GPMA wherein it was decided to increase the price and shut the mill from 11.03.2017 to 15.03.2017, he admitted that he attended the said meeting but stated that he was not in agreement with the association. However, he also stated that he kept mum during the meeting and that is why his dissent was not recorded in the minutes.

75.7 When Mr. Amrutlal was confronted with the MoM of GPMA dated 15.03.2017 wherein he was appointed as the Joint Treasurer of FIPR and it was also decided to increase the price of Kraft paper by ₹2 per kg, he admitted that he attended the said meeting and he was appointed as the Joint Treasurer of FIPR. He, however, stated that he had increased the price of Kraft paper on his own.



75.8 When Mr. Amrutlal was confronted with the MoM dated 07.04.2017 of GPMA wherein it was decided to shut-down the mills for 7 days every month and from the 2nd to 8th in the month of May 2017, he admitted having attended the said meeting. He also admitted that he shut-down the plant of OP-34 with some modifications in the dates.

75.9 When Mr. Amrutlal was confronted with the GPMA MoMs dated 24.07.2017, 28.03.2017, 05.05.2017 and 02.06.2017 wherein it was decided by GPMA to shut the mills and increase the price of Kraft paper, he admitted having attended the said meetings. It is also seen that when Mr. Amrutlal was confronted with the backup of WhatsApp group “Paper Mills - GJ/MS/CG”, he admitted being a member of the said WhatsApp group, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. Further, when Mr. Amrutlal was confronted with the backup of another WhatsApp group “NEWS Paper Mills”, he again admitted that he was a member of the said group, wherein the members used to discuss the increase of the price of Kraft Paper, shut-down of mills and prices of the waste paper.

75.10 Further, Mr. Amrutlal also admitted that he was one of the admins of WhatsApp group “Paper Mills – GJ/MS/CGK”. Mr. Lalit Garg of OP-2 as well as Mr. Omprakash Rathi of OP-3 also stated that they, along with Mr. Amrutbhai Patel of OP-34 and certain others were the admins of the said group. The backup of the said WhatsApp group was filed by Mr. Amrutlal as part of his statement. Some of the messages exchanged by Mr. Amrutlal Patel in the said WhatsApp group are as under:

09/11/2017, 21:22 - Amrit Bhai Morbi: 🤖 I think this is the right time to increase finish rate as we have order in hand. So we should meet and take initiative steps for our better future. 🤖

13/12/2017, 16:22 - Amrit Bhai Morbi: What's order position & New Rate Vapi & MH
Nemishbhai ?

25/12/2017, 14:22 - Amrit Bhai Morbi: We are 15 members on the way & we late 01 hrs.

05/01/2018, 12:47 - Amrit Bhai Morbi: Kaka Whats Rate Indian WP today in Vapi ?

01/03/2018, 18:08 - Amrit Bhai Morbi: Babubhai but what's basic Rate 18 BF ?

14/03/2018, 10:39 - Amrit Bhai Morbi: 🤖 Ha Ha aa Kirithbhai Ye Group me sabhi members ko Morbi Hi Dikhata He & kabhi MH me dekho Mitro



The above messages of Mr. Amrutlal clearly show that he was in favour of price increase and even convinced others through his messages.

75.11 It is also noted that when Mr. Amrutlal was confronted with the MoM dated 25.07.2017 of GPMA wherein he suggested to keep the members connected and disciplined and there should not be a big gap in the meetings of the association, he admitted that he suggested the same to the association because several times, the mill owners used to not shut the mills as per the schedule and quarrel with others. He also stated that many mills did not give the production figures and that is why he suggested the said idea.

75.12 When Mr. Amrutlal was confronted with the MoM of GPMA dated 19.08.2017 wherein the members shared their production figures, he admitted that he attended the said meeting and the production figures were shared to estimate the demand so that the rates can be increased. Mr. Amrutlal also admitted having attended the meetings dated 05.12.2017 and 25.12.2017.

75.13 OP-34 stated that its mere participation at GPMA meetings and membership of WhatsApp groups wherein important industry issues used to be discussed, without any evidence whatsoever on record as to whether it increased prices or carried out shut-downs as per the decisions taken in such meetings, do not establish its culpability regarding the alleged violation of the provisions of the Act. In fact, from the sale invoices of OP-34, analysis of its prices prior to and post GPMA decisions can be made which clearly show that OP-34 did not increase its prices as per GPMA's directives. Also, there is no evidence in the DG Report showing simultaneous and uniform price increase by the OPs. Further, for carrying out shut-down of mills, clear reasons were given to the DG, which the DG has failed to consider. In fact, there was no artificial scarcity of Kraft paper created in the market because of the shut-down of mill by OP-34. OP-34's customers ought to have been examined in that regard. OP-34 further submitted that no effective mechanism had been set up to ensure compliance to the decisions of GPMA/FIPR and most of the members did not comply with the directives issued. It also made certain other submissions which were largely similar to those raised by GPMA and OP-2.

75.14 In the opinion of the Commission, Mr. Amrutlal admittedly attended a number of meetings of GPMA/FIPR in 2017 in which decisions regarding increase of price as well



as shutting down of mills were taken. Also, Mr. Amrutlal was an active member of two WhatsApp groups which were used for the purposes of discussing the price of Kraft paper and collective shut-down of mills by the members. In fact, from the WhatsApp messages of Mr. Amrutlal on record, it is seen that in fact, he was in favour of such price increase and even convinced others through his messages. He was also stated to be the admin of one of these two WhatsApp groups. Therefore, based on clear evidences collected by the DG, as detailed above, the Commission finds that OP-34 was a part of the discussions held at GPMA/FIPR regarding price increase and collective shut-down of paper mills.

75.15 Even if the submission of OP-34 that it never increased its prices as per the directives of GPMA is taken at face value, still the directives issued by GPMA were known to it and as such, its ability to act as an independent competitor in the market stood compromised. As stated above, the provisions of Section 3(1) of the Act not only proscribe agreements which cause an AAEC in the market, but also forbid agreements which are likely to cause an AAEC in the market. The very knowledge of OP-34 regarding such directives was likely to cause AAEC in the market.

75.16 As far as shut-down directives of GPMA are concerned, in his statement recorded before the DG, Mr. Amrutlal clearly acknowledged that he did, in fact, from time to time, shut-down the mill as per the shut-down schedule issued by GPMA.

75.17 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-34 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-34 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

75.18 With respect to penalty also, OP-34 made several submissions which were largely similar to those raised by GPMA and OP-2.

75.19 Such submissions made by OP-34 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.



76. OP-35 (Radheshyam Paper Mills Private Limited)

76.1 It is noted from the DG Report that the representative of OP-35, *namely*, Mr. Sunil R. Patel, Director, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 28.03.2017, 07.04.2017, 24.04.2017, 05.05.2017, 02.06.2017, 25.07.2017, 19.08.2017 and 25.12.2017, wherein discussions regarding fixing of prices, shutting down of mills, etc., were held.

76.2 OP-35 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013, 13.02.2014, 06.01.2017, 30.01.2017, 20.02.2017, 10-11.03.2017 and 18.03.2017 sent by GPMA to its members.

76.3 In his statement recorded before the DG, Mr. Sunil R. Patel acknowledged as under:

"I am a member of the Kraft association namely Federation of Indian Paper Recyclers (FIPR), Vapi since 2017. I used to attend most of the meeting of FIPR. I attended the last meeting of FIPR in 2018. ...

After attended the aforesaid meeting I used to discuss with my other directors of the company regarding the price hike, shutting down of mills etc. Our company also shut-down my manufacturing plant as per GPMA/FIPR directions and also shut-down the mill on other dates also due to maintenance and sales problem. Our company was forced to shut-down the mills as per GPMA/FIPR directions. We scared that GPMA/FIPR may disturb our clients if we don't implement the shut-down decisions. After attended the meeting I have increased the price of Kraft paper as per input cost, market scenario etc. I used to communicate the price hike decision of Kraft paper to my customer through telephonic conversation, WhatsApp messages or email message.

I am the member of the said group and I used to receive message regarding increase in price of the Kraft paper, waste paper, collectively shut-down of the mills etc. ...

I was the member of the WhatsApp group namely "NEWS PAPER MILLS". I used to receive message regarding increase in price of the Kraft paper, collectively shut-down of the mills etc.

My company has implemented the shut-down decisions of GPMA/FIPR fully/partially on certain occasions due to threat from the association. My company shut its manufacturing plant during 27-31st January 2017 (5 days), 11-15 Feb 2017 (05 days), 11-15 March 2017 (05 days), 5th -9th April 2017 (05 days), 02-08 May 2017 (07 Days), 01-06 June 2017 (06 days), 27th June to 03 July 2017 (07 days)."



76.4 Mr. Sunil R. Patel also acknowledged that he attended 08 meetings of GPMA when he was confronted with their MoMs. Mr. Patel was also a member of WhatsApp groups “Paper Mills – GJ/MS/CGK” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place.

76.5 Screenshots of some of the messages exchanged by Mr. Patel in the WhatsApp Group “NEWS Paper Mills” are as under:

***“[22/02/17, 12:42:31] +91 98253 43288: Also continue shut down schedule 11 to 15 March.*”**

*[03/04/17, 17:07:34] +91 98251 34335: Dear Paper Mill Owners,
*Presidential Message**

I Thank all the paper mill owners for making this association strongest. We all have increased 7₹ till now across the board and all have got this increase. Whatever have we increased has compensated our increased cost of production only. Still our BS are not in profit.

**What About Our Profit ?* Friends, are we running a Charitable Trust?*

Why we are never thinking of our profits. Our industry is kept in red category by banks as well as pollution department.

Whenever we send our financial to our bankers they doubt our working because there is hardly any profit or negative.

Because of it we are not able to get best interest rates.

All our suppliers as well as customers say if we will not get this much profit, we will not do business e.g. Local waste, Imported Waste, Coal, Chemicals, Spares, Finish dealers, Corrugators etc.

Keep your hand on your heart and say if I am wrong ?

By making our association strong and the formation of Faderation we have to bring out our industry from the red category of banking and pollution.

We all should build up sufficient reserves in our BS.

My aim is to make all my friends debt free in coming days.

We will have to take several hard steps to do so. We will have to work hard on the implementation of the Faderation policies.

Friends I want your support to do all this.

Your trust in me has encouraged me and given responsibility to do betterment for the industry and I promise I Will do it.

We should not earn anything less then 20% of our turn over. If some one is more efficient he will earn 25% and if some one is less efficient he will earn 15% but we will have to make all efficient.



Our Faderation should work on to get the subsidies and concessions like that of textile and other industries are getting.

We all are meeting on 7th April at Mumbai in hotel Westin.

I want 100% attendance in this meeting.

I and Rathiji give responsibility to all regional leaders to bring all the mill owners in this meeting.

This meeting will be the historic Meeting and will be written with the golden ink in the history of paper mills of India.

We have had meetings in all the areas and all have confirmed to keep shut.

We had a very good meeting at Surat on 27th March.

We thank to all the dealers and Corrugators for accepting our need of price increase and started giving orders in increased prices.

They are also ready for future increase of prices.

We shall give you details related to the progress of Faderation in the meeting.

I want to give you example of the benefit of association - Recently our Surat area leader Sandeepji's mill Urvashi Paper was given closer by pollution. We had made all possible efforts to get the revoke order and we got it.

I request all the regions to arrange meetings of their areas on regular interval and seek the intervention of the Association / Faderation anywhere anytime needed.

Because it is your Association, your Faderation.

During Shut days to monitor the Shut, Monitoring teams in gujarat and maharashtra will be reaching to all places by 4th evening.

If at all any mill is found in running condition, be prepared, as severe action will be taken.

For few the whole industry can not be suffered.

INDISCIPLINE WILL NOT BE TOLERATED AT ALL.

Friends, We should not take any such decision in future wherein our unity comes under danger zone. No decisions at the cost of our unity.

I know WE CAN AND WE WILL jointly achieve all our dreams.

All those who agree with my this words and to support our association, reply with below three lines.

YES WE CAN - YES WE WILL

YES WE CAN - YES WE WILL

YES WE CAN - YES WE WILL

Regards

Sunil Agrawal

President

GPMA

[03/04/17, 17:34:19] +91 98253 43288: 📩 (Thumps Up)

[26/04/17, 22:34:04] +91 98251 34335: Rathiji now it is prove that without shut nothing is possible i have started my paper mill in 1998 i have never see this situation where no problem of order no issue of waste no issue of recovery in short this is proven technology

[26/04/17, 22:43:53] +91 98253 43288: 📩 (Thumps Up)"



From the above messages, it can be seen that Mr. Sunil Patel was in favour of shut-down decision of GPMA and *vide* message dated 22.02.2017 at 12:42:31, he suggested continuing the shut-down schedule from 11.03.2017 to 15.03.2017. In the other messages dated 03.04.2017 and 26.04.2017 also, it can be seen that he is giving his assent and support, by flagging thumbs up, to the shut-down and price hike decisions of GPMA.

76.6 Though Mr. Patel, in his statement recorded before the DG, denied that OP-35 increased the price of Kraft paper as per the directions of GPMA, he admitted that OP-35 shut-down the plant on many occasions on the directions of GPMA/FIPR.

76.7 In its reply to the DG Report, OP-35 made various submissions which were largely similar to those raised by GPMA, OP-2 and OP-34.

76.8 In the opinion of the Commission, admittedly, Mr. Patel attended a number of meetings of GPMA/FIPR in 2017 in which decisions regarding increase of price as well as shutting down of mills were taken. In fact, in the meeting of GPMA dated 25.07.2017, Mr. Patel even shared the monthly production of his company with GPMA. Mr. Patel was also an active member of two WhatsApp groups which were used for the purpose of discussing the price of Kraft paper and collective shut-down of mills by the members. Therefore, based on the clear evidences collected by the DG as detailed above, the Commission finds that OP-35 was a part of the discussions held at GPMA/FIPR regarding price increase and collective shut-down of paper mills.

76.9 As far as the submission of OP-35 that it never increased its prices as per the directives of GPMA is concerned, the same has already been dealt with in the earlier part of the present order. As far as the shut-down directives of GPMA are concerned, in his statement recorded before the DG, Mr. Sunil Patel clearly acknowledged that he did, in fact, from time to time, shut-down the mill as per the shut-down schedule issued by GPMA.

76.10 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-35 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-35 amounts to indirectly determining the sale prices of Kraft paper in contravention of the



provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

76.11 With respect to penalty also, OP-35 made several submissions which were largely similar to those raised by GPMA and OP-2.

76.12 Such submissions made by OP-35 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

77. OP-36 (Neelkanth Pulp and Paper Boards)

77.1 It is noted from the DG Report that the representative of OP-36, *namely*, Mr. Hitesh Patel, Partner, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 07.04.2017, 05.05.2017, 02.06.2017, 05.12.2017 and 25.12.2017, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.

77.2 OP-36 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mail dated 06.01.2017 sent by GPMA to its members.

77.3 In his statement recorded before the DG, Mr. Hitesh Patel acknowledged as under:

“My firm (NPPB) is a member of Federation of Indian Paper Recyclers (FIPR) since July 2017. I used to attend the meetings of Gujarat Paper Mills Association (GPMA), Vapi, Gujarat since January 2017. I have attended most of the meetings of GPMA/FIPR on behalf of my firm. ...

In GPMA/FIPR meetings, mill owners used to discuss about market scenario of Kraft paper, bad debts, technical issues, price of Kraft and waste paper, shutting down of mills etc.

... In order to show that my firm was following the directions of association regarding shut-down, I also closed down my plant partially during day time in the above period. ...

Regarding the shut-down of mill, I partially implemented the shut-down directions of GPMA/FIPR. During 27th to 31st January 2017, 11th to 15th February 2017, 11th to 15th March 2017, 5th to 9th April 2017, 2nd to 8th May 2017, 1st to 6th June 2017 and 27th June to 3rd July 2017 I closed my manufacturing plant. ...

*I was a member of the WhatsApp group *namely* “Paper Mills – GJ/MS/C.G.k” and “NEWS PAPER MILLS”. In the said groups I used to receive message*



regarding price increase/decrease of Kraft paper, waste paper and shutting down of mills. ... ”

77.4 Mr. Patel also acknowledged that he attended several meetings of GPMA wherein, *inter alia*, price of Kraft paper and shut-down of mills was discussed, when he was confronted with the MoMs of such meetings. He was also a member of WhatsApp groups “Paper Mills – GJ/MS/CGK” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place.

77.5 From his e-mail account, an e-mail dated 06.03.2017 sent by one of his dealers to him was recovered wherein it could be seen that OP-36 had increased the price of Kraft paper (12 to 18 BF/80 to 180 GSM) by ₹1/- to ₹2.75/- in March 2017. Though Mr. Patel denied that OP-36 increased the price of Kraft paper as per the directions of GPMA, it was noted by the DG that the price of Kraft paper was increased by OP-36 in the month of March 2017, after Mr. Patel had attended GPMA meeting dated 15.02.2017 wherein it was decided to increase the price of Kraft paper @ ₹1/- per kg.

77.6 Mr. Patel also admitted that OP-36 shut-down the plant on many occasions as per the directions of GPMA/FIPR.

77.7 In its reply to the DG Report, OP-36 made various submissions which were largely similar to those raised by GPMA, OP-2 and OP-34.

77.8 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-36 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-36 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

77.9 With respect to penalty also, OP-36 made several submissions which were largely similar to those raised by GPMA and OP-2.

77.10 Such submissions made by OP-36 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.



78. OP-37 [Shah Paper Mills Limited (Unit I & II)]

78.1 It is noted from the DG Report that representatives of OP-37, *namely*, Mr. Ashok Z. Shah, Director and Mr. Sanju S. Patel, attended several meetings of GPMA dated 01.07.2017, 15.02.2017, 15.03.2017, 28.03.2017, 07.04.2017, 24.04.2017, 05.05.2017, 25.07.2017, 22.11.2017, 05.12.2017, 25.12.2017 and 05.04.2018, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.

78.2 OP-37 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013, 19.09.2016, 21.11.2016, 06.01.2017, 20.01.2017 and 30.01.2017 sent by GPMA to its members.

78.3 In his statement recorded before the DG, Mr. Ashok Z. Shah acknowledged as under:

“My company is a member of Gujarat Paper Mills Association (GPMA), Federation of Indian Paper Recyclers (FIPR) and Vapi Industrial Association.

... I remember that in the meetings it was decided to control the price of waste paper, the mills should be shut-down collectively. GPMA also issued directions to members including my company to hike the price of different grades of Finished Kraft Paper ... I remember attending these two three meetings of GPMA on behalf of my company. Shut-down the plant was also undertaken by my company ...

I recollect receiving two three circulars in this regard either by email or by hand. ...

Except one or two meetings, my company has attended all the meetings of GPMA. These meetings have been attended either by me or Shri Kanti Bhai Patel.

It was our compulsion to shut-down the mills as per GPMA directions as the other members would have taken my customers by selling the Kraft Paper at lower rate. However, there are other reasons also for shut-down the mills However, I would like to mention that despite the shut-down of the mill as per GPMA schedule, my company had delivered all the order ...”

78.4 Further, when confronted with various price hike circulars of GPMA received by OP-37, Mr. Shah responded with respect to each such circular as under:

“After receiving the said circular, my company also announced price increase but my company implemented the said price hike on need to need basis and customer to customer basis. For example, price hike was done for certain



customers and it was not done for some other customers but it was increased on different dates. ...”

78.5 When confronted with various MoMs of GPMA wherein it was decided to shut-down the mills for a certain duration and take disciplinary action against member mills if found not complying the decisions, Mr. Shah stated as under:

“I admit that the said meeting was attended by me. The aforesaid decision was taken in the meeting. However, no disciplinary action was taken against our mill.”

78.6 Mr. Shah also acknowledged that he was a member of WhatsApp groups “Paper Mills – GJ/MS/CGK” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place.

78.7 Thus, it is observed that Mr. Shah, in his statement recorded before the DG, admitted that he increased the price of Kraft Paper from time to time though strictly not in accord with the directions of GPMA and he also admitted that OP-37 shut-down its plant on many occasions, partially on the directions of GPMA.

78.8 In its reply to the DG Report, OP-37 submitted that the Kraft paper manufactured by it is customised in nature and Kraft paper is a heterogenous product. As such, it is quite difficult for different players in the market to collude on aspects of price, production, shut-down etc. Moreover, it stated that the price applicable to a particular order is negotiated with each individual buyer. Buyers have significant negotiating power and thus, suppliers compete on both price as well as quality. Hence, price fixing was not possible. OP-37 also submitted that it is common for paper mills to shut-down their plants 2-4 days a month to carry out maintenance and the DG has failed to see whether the mill was shut-down by OP-37 for any such reason. Further, despite shut-down, the production of OP-37 remained constant and no scarcity was created in the market. OP-37 also submitted that the price increase decisions taken by it were taken independently and not in accordance with GPMA directives and the same is also evident from the price circulars and sale invoices of OP-37. Further, it was submitted that such price increases, even if decided by OP-37, could not actually be executed upon the customers, every time.

78.9 In the opinion of the Commission, evidently, Mr. Ashok Shah attended a number of meetings of GPMA/FIPR in which decisions regarding increase of price as well as



collective shutting down of mills were taken. He was also an active member of two WhatsApp groups which were used for the purpose of discussing the price of Kraft Paper and collective shut-down of mills by the members. Price increase circulars post GPMA meetings were issued by OP-37, even if not on the same dates or to the same extent as decided by GPMA. The shut-down schedule of OP-37 also at least partially matches the shut-down schedule proposed by GPMA and Mr. Shah also admitted before the DG that, even if under compulsion, OP-37 did shut-down its mill as per GPMA directions and considering other factors. Thus, compliance of GPMA directives by OP-37, even if partial, is evident from the material available on record.

78.10 In view of the Commission, such directives were actually issued by GPMA and were known to OP-37 and as such, its ability to act as an independent competitor in the market stood compromised. As stated above, the provisions of Section 3(1) of the Act not only proscribe agreements which cause an AAEC in the market, but also forbid agreements which are likely to cause an AAEC in the market. In the opinion of the Commission, the very knowledge of OP-37 regarding such directives was likely to cause AAEC in the market.

78.11 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-37 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-37 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

78.12 With respect to penalty, OP-37 made several submissions which are more or less similar to the submissions raised by other OPs.

78.13 Such submissions made by OP-37 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

79. OP-38 (Astron Paper and Board Mill Limited)



79.1 It is noted from the DG Report that the representative of OP-38, *namely*, Mr. Kirit Patel, Director, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 28.03.2017, 07.04.2017, 24.04.2017, 05.05.2017, 02.06.2017, 25.07.2017, 19.08.2017 and 05.12.2017, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held. OP-38 was also named by GPMA as one of its members.

79.2 In his statements recorded before the DG, Mr. Kirit Patel denied his membership of GPMA, however, when confronted with the MoMs of some of the meetings of GPMA where he was shown as an attendee, Mr. Patel acknowledged that he did attend some meetings of GPMA and in such meetings, various issues, including increase in the price of Kraft paper and collective shut-down of mills, were discussed. In fact, he acknowledged that, in certain meetings of GPMA, he had mentioned his company's monthly production figures in the attendance sheet and signed it.

79.3 When Mr. Patel was confronted with various MoMs of GPMA wherein price increase or shut-down decisions were taken, he stated that he had opposed such decisions of collective shut-down of mills in the meeting. However, the Commission notes from the MoMs of the said meetings that no such dissent/objection/opposition of Mr. Kirit Patel has been recorded in any of the MoMs.

79.4 When Mr. Patel was questioned about why he continued to attend GPMA meetings when he had objections to their discussions on issues like collective shut-down, he replied as under:

“Q. In spite of your objection in GPMA/FIPR meetings on those above issues why you continued to attend those meetings?”

Ans. I was forced to attend the meeting owing to threat from the Association as well as its member mills. I afraid that Association and its member mills may persuade my clients/suppliers/transporters from dealing with me and also because of the reason that my mill is situated in a remote village. I also feared that by opposing those Association and its member mills my company will be forced shut-down or will be in heavy loss. My company has already taken huge financial facility from multiple banks.”

79.5 Mr. Patel also confirmed that he had in fact, increased the price of OP-38's Kraft paper after GPMA meetings. However, he stated that he did not increase the price immediately after the meeting, but did so after noticing the change in cost and comfort of customers.

79.6 It is also noted from the DG Report that though Mr. Patel stated that he was opposed to the collective shut-down of mills decided in GPMA meetings, the mill of OP-38 was in fact, closed during 27.01.2017 to 31.01.2017, 12.02.2017 to 16.02.2017, 12.03.2017 to 16.03.2017, 06.04.2017 to 12.04.2017, 03.05.2017 to 08.05.2017, 02.06.2017 to 07.06.2017 and 27.06.2017 to 03.03.2017, which dates match exactly or partially with the shut-down declared by GPMA. In this regard, all Mr. Patel had to say was that the said shut-down was due to various reasons such as preventive maintenance, break-down, shortage in specific orders in width, non-availability of spares/stores, boiler and power plant passing, environmental issues etc. and in no way, connected to GPMA decisions.

79.7 It is also noted that OP-38 had issued a price hike circular dated 04.03.2017 to inform its customers about the price hike of Kraft paper with effect from 19.01.2017, 16.02.2017 and 04.03.2017. The said dates of price increase are exactly the same and to the tune of the same amount as decided by GPMA in its meetings.

79.8 When Mr. Patel was asked about his membership of WhatsApp groups consisting of Kraft Paper mills, he claimed that he was a member of two such groups, but he does not remember their names. He, however, admitted that members of those groups used to discuss price of Kraft paper, price of waste paper, collective shut-down of mills and its monitoring in the groups. In his second statement, however, when Mr. Patel was confronted with backups of these WhatsApp groups, he confirmed that such groups were “Paper Mills – GJ/MS/CGK” and “NEWS Paper Mills”, and stated that:

“In this WhatsApp group, members exchanged matters related to industrial pollution, technical matters, CPCB issues, price increase/decrease of Kraft Paper, collective shut-down of mills etc. Due to pressure from the office bearers of GPMA/FIPR namely Shri Sunil Agarwal alias Munnabhai, President of GPMA/FIPR, Shri Lalit Garg, Secretary of GPMA/FIPR and Shri Nimish Shah. The above office bearers of GPMA/FIPR used to communicate with me over telephone or message through WhatsApp for collective price increase/decrease and collective shut-down of mill and pressing me to remain active in this WhatsApp group. Due to their frequent threat, I also shared my price of Kraft paper and shut-down information of my mill on the above-mentioned WhatsApp group just to show that I was also active in this WhatsApp group. But actual price increase or decrease was done as per our input cost and shut-down of mill as per our requirements ...



Office bearers of GPMA/FIPR threatened me over phone that they will blacklist my company and my company will not get any transport facility from transporters, they will ask the villagers to protest against my company because my plant is located at remote village, complaint to GPCB in case I do not follow their dictate of price increase or shut-down of mill. It was my compulsion to follow their direction on certain occasions. ...”

Thus, from the above, it is clear that Mr. Patel acknowledged before the DG that he had shared increase in price and shut-down of his mill in the WhatsApp groups of paper mills and that he did follow GPMA directions on certain occasions. Some of such messages exchanged by Mr. Kirit Patel in the WhatsApp groups are as under:

“[26/01/17, 14:25:17] +91 98251 34335: Dear Mill Owners,
Presidential Message
We all have decided jointly to shut our mills from tomorrow to 31st. All are requested to put their confirmation of Shut in this group as soon as they shut their mill Monitoring teams in gujarat and maharashtra will be reaching to all places by today evening. All are requested to allow them to enter in the mill and see the machine is shut or not. They will be reporting to the Shut monitoring committee and this committee will inform to all regional presidents. I request all the regional presidents to arrange meetings of their area mills during this Shut. If at all any mill is found in running condition, be prepared, as severe action will be taken. For few the whole industry can not be suffered. INDISCIPLINE WILL NOT BE TOLERATED AT ALL.
Sunil Agrawal
President
GPMA
[26/01/17, 14:30:00] +91 90990 21356: 🍑 (Thumps up)”

“[28/01/17, 18:46:15] +91 98980 13480: Today South Indian kraft paper Mills meeting at Chennai it was decided to increase the price by Rs. 2000 per ton with effect from 1st February for all grades of kraft paper and billing at revised rate from 5th Feb onwards. In case if any mill is selling at old rate after 5th Feb they will be penalised with a fine of Rs. 5 Lakhs after verifying the same.

[28/01/17, 18:55:16] +91 90990 21356: 🍑 (Thumps up)’

“[02/02/17, 19:14:33] +91 90990 21356: आज दिनांक २ फ़रवरी को NIPMA की मीटिंग दिल्ली में हुई जिसने निम्नलिखित निर्णय लिए गए....
 - १ मार्च से ५ मार्च तक बंदी
 - हर महीने १ से पाँच तक बंदी ७ महीने तक लगातार
 - १ मार्च को २ रुपए की बढ़ोतरी
 - १ मई को फिर से २ रुपए की बढ़ोतरी
 - बंदी के समय में डिस्पैच भी बंद
पंकज अग्रवाल
अध्यक्ष



[04/02/17, 17:42:09] +91 98980 13480: Dear friends, Today ICCMA had invited GPMA at Mumbai to discuss the present situation due to increase cost of paper mills. It was a very successful meeting. Members of ICCMA were very positive. They were 100% positive and showed whole hearted support for price increase by paper mills. They have given some suggestions which we will discuss in our joint meeting scheduled on 15 Th feb at Mumbai. We take this opportunity to thank all the members of ICCMA for showing their full support to the present move of price increase by the paper mills across India.

[04/02/17, 17:46:16] +91 90990 21356: ☑ (Thumps up)

[18/02/17, 09:00:07] B B Gupta: Dear friends we had nice meeting today and following decision were made 2 r/s increase from 1 March in all qualities from 18-35 bf despatch And 1-6 for 5 days all machines will be closed No despatch will be made during shut period Every mill will have a person from another mill Another 2 r/s increase will be done from 1 st April despatch If any abnormal condition arise we will discuss

[18/02/17, 09:01:32] +91 90990 21356: Great.....☑☑ (Double Thumps Up)

[18/02/17, 19:06:37] +91 90990 21356: PANKAJ JI/BHUSHAN JI what about BHAGVATI KRIPA JAIPUR....they making around 5000mt in high grade of kraft They are with united or not...bcz they giving negative message to corrugators or parties and tel them that neither we are with any association nor we shut our plant....Pls suggest how can we take action on that....

[22/02/17, 21:20:00] +91 98980 13480: Then we should increase 2₹ every time minimum

[22/02/17, 21:20:45] +91 90990 21356: Yes

[23/02/17, 10:06:10] +91 93943 37777: West Rock (MWV) has increased prices in the US but not in India.... Typical MNC strategy of trying to kill Indian manufacturers.

[23/02/17, 10:21:07] +91 90990 21356: If that then we will try to boycott his suppliers in India ☑☑

[25/02/17, 21:17:27] +91 90990 21356: Dear valued customer, We will not be able to take any more orders in increased rate of 2000+1000₹ = 3000₹ we will inform you our new increase on 1st March 2017. Kindly support for our increased cost. American OCC has increased to 320 \$ as on date and still on increasing trend. As of now it has increased ₹9000 and other inputs extra. If this will be the case and trend we will have to increase our finished rate by 9 to 10₹ from existing prices. FYI
Regards

[25/02/17, 22:59:31] +91 98251 34335: Dear Paper Mill Owners, Unfortunate situation has come because of our increased cost of raw materials. I, Rathiji, and all committee of GPMA are continuously in contact with all the leaders of paper mills of all the region and states of India right from east to west and north to south. Many of the paper mills are getting frustrated because of the present losses. It is our humble request to have patience and have trust in association which is getting converted to Federation. Please have patience. Don't get panic and increase the local waste prices. We all are in same boat and same situation making losses. We all have to come out of this situation very fast but overnight is not possible. Please wait for the right time to come in coming days.

Regards
Sunil Agrawal
President
GPMA

[25/02/17, 23:17:36] +91 90990 21356: Yes be always....



[02/03/17, 18:59:26] +91 90990 21356: But sir now we are in loss maker that is the reason to shut try to understand and join with united

[10/03/17, 17:39:24] +91 98251 34335: Dear Mill Owners, Presidential Message

We all have decided jointly to shut our mills from tomorrow 11th march to 15th march for 5 days (120 hours).All are requested to put their confirmation of Shut in this group as soon as they shut their mill. I thank you all for the last Shut. We had a very good meeting at Nagpur And Ahmedabad. As per the need we had done interim increase of rates in the meeting of Ahmedabad on 4th After the increase of 4th march total increase is 5/- in all grades. We thank to all the dealers and Corrugators for accepting our need of price increase and started giving orders in increased prices. They are also ready for future increase of prices. Friends, We should not take any such decision in future wherein our unity comes under danger zone. No decisions at the cost of our unity. Finish paper prices have increased across India and across the globe and still on rising trend in peace meal manner. Initial formalities of Federation has been started and we have also mailed the minutes of the last meeting with certain resolutions. Now in next meeting we will give speed in formation of Federation. During Shut days to monitor the Shut, Monitoring teams in gujarat and maharashtra will be reaching to all places by today evening. All are requested to allow them to enter in the mill and see the machine is shut or not. I request all the regions to arrange meetings of their area mills during this Shut. If at all any mill is found in running condition, be prepared, as severe action will be taken. For few the whole industry can not be suffered. INDISCIPLINE WILL NOT BE TOLERATED AT ALL.

*Sunil Agrawal
President
GPMA*

[10/03/17, 17:43:16] +91 90990 21356: 🍑 (Thumps up)

[15/03/17, 15:30:23] +91 90990 21356: Outcome of todays meeting held at hotel westin mumbai, price increased by 2/- in all grades with immediate effect. Next shut from 5th april to 9th april. Next meeting at hotel westin on 8th april at 4pm Saturday followed by cocktail and dinner.

[16/03/17, 20:41:05] B B Gupta: आज की NIPMA की मीटिंग के निर्णय:-

- १- १० अप्रैल से १५ अप्रैल तक बंद
 - २- आज से २ रुपए की बढ़ोतरी
 - ३- consignment sale अप्रैल में बंद
 - ४- उधारी ३०-३५ दिन से ज्यादा नहीं
- जो मिले बंद नहीं करेंगी उनके गेट पर दरी बिछेगी
पंकज अग्रवाल

अध्यक्ष

[16/03/17, 20:44:16] +91 90990 21356: 🍑 (Thumps up)

[03/04/17, 13:01:00] +91 90990 21356: I think first time we will shut together of all regions

From north to south and west to east....🍑🍑"



From the above communications posted by Mr. Kirit Patel, it is evident that he was an active member of such WhatsApp groups and he was always supportive of the decisions of GPMA as well as other associations like Northern India Paper Mills regarding the increase of price or shut-down of mills. It is noted that, though Mr. Patel, in his statement recorded before the DG, claimed that he had opposed the price increase decisions or collective shut-down of mills in GPMA meetings, his messages in the WhatsApp groups show a completely opposite picture and make it clear that he was hand in glove with GPMA and other paper mills for collective increase of price of Kraft Paper and shut-down of mills.

79.9 In its reply to the DG Report, OP-38 made various submissions which were largely similar to those raised by GPMA, OP-2 and OP-34.

79.10 In the opinion of the Commission, admittedly, Mr. Kirit Patel attended a number of meetings of GPMA/FIPR in which decisions regarding increase of price as well as shutting down of mills were taken. Mr. Patel even shared monthly production of his company with GPMA. There is no record of his alleged dissent recorded in the MoMs of any of such meetings. Mr. Patel was also an active member of two WhatsApp groups which were used for the purpose of discussing the price of Kraft paper and collective shut-down of mills by the members. At least one price increase circular of OP-38 exactly matches GPMA decision and shut-down schedule of OP-38 also matches, albeit partially, the shut-down schedule proposed by GPMA. Mr. Patel also acknowledged before the DG that on certain occasions, OP-38 complied with GPMA directives, though he stated that the same was under force/threat by GPMA.

79.11 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-38 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-38 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.



79.12 With respect to penalty, OP-38 made several submissions which were largely similar to those raised by GPMA and OP-2.

79.13 Such submissions of OP-38 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

80. OP-39 (Mac Paper Mill)

80.1 It is noted from the DG Report that the representative of OP-39, *namely*, Mr. Prahlad Patel, Trustee (who is also the Trustee of OP-53), attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 28.03.2017, 07.04.2017, 24.04.2017, 05.05.2017, 02.06.2017, 25.07.2017, 19.08.2017, 05.12.2017 and 25.12.2017, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.

80.2 OP-39 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013, 13.02.2014, 09.09.2016, 06.01.2017, 30.01.2017, 20.02.2017, 10-11.03.2017 and 18.03.2017 sent by GPMA to its members.

80.3 In his statement recorded before the DG, Mr. Prahlad Patel acknowledged as under:

“Yes, I have attended 6 or 7 meetings of Gujarat Paper Mills Association (GPMA) representing Mac Paper Mill and Karan Paper Mill in which mill owners/representatives of the mills from Gujarat and Maharashtra states also attended.

... In GPMA/FIPR meetings price hike decision and collective shutting schedule were decided by the Shri Sunil Aggarwal (Munnabhai), President of GPMA/FIPR.

I was a member of the WhatsApp Group namely “Paper Mills – GJ/MS/C.G.K” and “NEWS PAPER MILLS” ...

*In this WhatsApp Group members discussed about GPMA meetings, price of waste paper, availability of waste paper both local and imported, decision of GPMA regarding price of Kraft Paper and planned shut-down of mills, technical issues *etc.* ...*

I do not remember regarding receipt of any circular from GPMA/FIPR but my firm has received couple of MOMs of GPMA/FIPR ...

My firm (MPM) has not implemented the price hike decision in the same quantum as suggested by GPMA/FIPR in the meetings. However, I have implemented the price hike decision taking into consideration of input cost. ... I



have communicated the price hike decision of Kraft Paper to my major clients through email messages. ...

Regarding the collective shutting down decision of mills by GPMA/FIPR, my firm has implemented the decision on certain occasions owing to shortage of orders/waste paper. For example, if GPMA/FIPR decided to shut-down the mills for 5 days, my firm has shut the mill for 3 or 4 days. Even though my firm has partially implemented the shut-down decision of GPMA/FIPR, ...”

80.4 Thus, evidently, Mr. Prahlad Patel admitted to his participation in GPMA meetings as well as in the WhatsApp groups “Paper Mills – GJ/MS/CGK” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. He also admitted that OP-39 implemented GPMA price hike decisions, however, he stated that it was not to the same extent as decided. Similarly, he also admitted to have at least partially implemented the collective shut-down decisions of GPMA.

80.5 It is also noted from the DG Report that Mr. Prahlad Patel was on the Board of Directors of FIPR from 2017 till April 2019.

80.6 In its reply to the DG Report, OP-39 made various submissions which were largely similar to those raised by GPMA, OP-2 and OP-34.

80.7 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-39 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially. Such conduct of OP-39 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

80.8 With respect to penalty, OP-39 made several submissions which were largely similar to those raised by GPMA and OP-2.

80.9 Such submissions of OP-39 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

81. OP-40 (Somnath Kraft Mill Private Limited)



- 81.1 It is noted from the DG Report that the representative of OP-40, *namely*, Mr. Hiren Agola, Director, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 28.03.2017, 07.04.2017, 24.04.2017, 05.05.2017, 02.06.2017, 19.08.2017 and 25.12.2017, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.
- 81.2 OP-40 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 10-11.03.2017 and 18.03.2017 sent by GPMA to its members.
- 81.3 In his statement recorded before the DG in Hindi, Mr. Hiren Agola admitted of his participation in various GPMA meetings from 2016 onwards, wherein many issues including price of Kraft paper, price of waste paper and collective shut-down of mills were discussed. Mr. Agola admitted that he once paid ₹15,000/- as membership fee to GPMA and that he was a member of WhatsApp group “Paper Mills – GJ/MS/CGK”. Mr. Agola admitted that, in the said WhatsApp group, members used to discuss the pricing of Kraft paper, waste paper, shut-down of mills and agendas of GPMA meetings.
- 81.4 When Mr. Agola was asked about the increase of price on the directions of GPMA, he stated that after GPMA meetings, the members used to increase the price but he increased the price on his own due to more orders in hand. He also admitted that, though he did not shut-down his plant on the directions of GPMA, but during the said period when GPMA decided to shut-down the plants, he also used to do maintenance of the plant. Thus, indirectly, Mr. Agola admitted that he also shut-down his plant as and when decided by GPMA.
- 81.5 When Mr. Agola was confronted with the MoM of FIPR dated 19.08.2017 wherein he had also shared his company’s production figures, he admitted that he attended the said meeting of FIPR and shared the production figures therein so that the total production in Gujarat can be estimated and GPMA could decide when to shut the mills. When Mr. Agola was confronted with the MoM of FIPR dated 25.12.2017, he admitted having attended the said meeting wherein it was discussed that all paper mills should remain united.



81.6 When Mr. Agola was confronted with the backup of WhatsApp group “NEWS Paper Mills”, he admitted to being a member therein and also confirmed that it was the backup of the same group where members used to decide to increase the price of Kraft paper, discuss waste paper and collective shut-down of mills. He gave the same answer in response to the backup of WhatsApp group “Paper Mills – GJ/MS/CGK”. It is noted from the WhatsApp backup that in response to the following message posted by Mr. Sunil Aggarwal, President of GPMA/FIPR in the group on 05.12.2017, Mr. Agola posted a thumbs up:

“Dear members, today’s meeting it has been decided to increase finish paper rates of all grades by 1000 rupees per ton with immediate effect. Next joint meeting for further rate increase has been schedule on 25th December. Meeting will be Vapi. All members are requested to do needful at the earliest. Sunil Agarwal, President FIPR”

In his statement, Mr. Agola admitted that he showed his concurrence to the price increase by sending the thumbs up but that he did not increase the price immediately and only did after 10–15 days.

81.7 Further, when Mr. Agola was confronted with the MoM of GPMA dated 15.02.2017 wherein it was decided to increase the price by ₹1 per kg from 01.03.2017 and shut-down the mills from 11.03.2017 to 15.03.2017, he admitted to having attended the said meeting but stated that he did not increase the price immediately. He gave the same answer when he was confronted with GPMA MoMs dated 15.07.2017, 28.03.2017, 07.04.2017, 05.05.2017 and 02.06.2017.

81.8 In its reply to the DG Report, OP-40 made various submissions which were largely similar to those raised by GPMA, OP-2 and OP-34.

81.9 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-40 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-40 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.



81.10 With respect to penalty also, OP-40 made several submissions which were largely similar to those raised by GPMA and OP-2.

81.11 Such submissions made by OP-40 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

82. OP-41 (Resonance Paper Mill Private Limited)

82.1 It is noted from the DG Report that representatives of OP-41, *namely*, Mr. Shailesh Mundadiya, Director and Mr. Abhishek Singhal, office staff, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 07.04.2017, 05.05.2017, 25.07.2017, 19.08.2017, 05.12.2017 and 25.12.2017 wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.

82.2 OP-41 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 10-11.03.2017 and 18.03.2017 sent by GPMA to its members.

82.3 In his statement recorded before the DG, Mr. Shailesh Mundadiya acknowledged as under:

“... I have attended 5 to 7 meetings of Kraft Paper Manufacturers Association namely, Gujarat Paper Mills Association (GPMA) and Federation of Indian Paper Recyclers (FIPR). I have attended the last meeting of the above Association about one year back (2018). I have paid one-time contribution of Rs.25000 (Appx.) to the Association. ... One of my office staff Shri Abhishek Agarwal alias Shri Abhishek Singhal also attended one of the meetings of GPMA during 2017/2018.

In GPMA/FIPR meetings in which I have attended the important points being discussed such as increase of price of Kraft Paper due to losses, shortage of waste paper including imported/local, pollution related, technical matters, collective shutting down of mills, fixing of waste paper price etc.

I was a member of the WhatsApp group operated by the office bearers of GPMA/FIPR namely “Paper Mills – GJ/MS/C.G.k.”. ... Shri Abhishek Singhal was also a member of above WhatsApp group and he used to translate me messages received in English the said group such as meetings dates, price of Kraft Paper, price of waste paper, collective shutting down of mills, pollution problems etc. ...

... are minutes of the meetings of GPMA received by me wherein it has been mentioned about the decision taken by the association to increase the price of

Kraft Paper. The said minutes of the meetings have been received by me over email from Shri Sunil Agrawal alias Munnabhai of GPMA. After the said meetings and receiving of the minutes of the meetings from GPMA, my company on certain occasions only had increased the price of Kraft Paper and on certain occasions increased less price as compare to what was decided by GPMA and on certain occasions did not increase the price. The price had been increased on the basis of the increase in cost also.

I admit that on the said dates, I shut-down my factory on the instructions of GPMA. However, I would also like to state that during the said period, my company was also having shortage of orders. On certain occasions the shut-down period of my factory was even more than the decided date. ...

I admit that myself and Shri Abhishek were members of the said group. I confirm the backup communication as shown to me. In the said WhatsApp group, I have shown thumbs-up on many occasions on the decisions of the association regarding collective price hike of Kraft Paper and shut-down of mill. The mill owners used to confirm in the group about their increase of price of Kraft Paper as per the directions of GPMA. I would like to state that on certain occasions the mill owners confirmed about the increase of the price of Kraft Paper due to fear of GPMA however, in the background they also issued debit notes to their customers. I admit that my company also increase the price of Kraft Paper as per GPMA directions but the increase was not immediate and, in many cases, my company increase the price after sometime of decision taken by GPMA. The price increase was also not exact same as decided by GPMA ...”

82.4 Thus, evidently, Mr. Mundadiya admitted of his participation in GPMA meetings as well as in the WhatsApp group “Paper Mills – GJ/MS/CGK”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. In the WhatsApp group, Mr. Mundadiya even concurred with the price increase decisions of GPMA from time to time. He also admitted that OP-41 implemented GPMA price hike decisions as well as collective shut-down decisions of GPMA, though he stated that the same were not exactly as was decided by GPMA and was also based on certain other factors.

82.5 In its reply to the DG Report, OP-41 made various submissions which were largely similar to those raised by GPMA, OP-2 and OP-34.

82.6 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-41 was part of the discussions held at GPMA/FIPR regarding price increase of



Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-41 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

82.7 With respect to penalty, OP-41 also made several submissions which were largely similar to those raised by GPMA and OP-2.

82.8 Such submissions made by OP-41 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

83. OP-42 (Riddhi Siddhi Recyclers Private Limited)

83.1 It is noted from the DG Report that the representative of OP-42, namely, Mr. Ketan Pandya, Director, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 07.04.2017, 24.04.2017, 05.05.2017, 02.06.2017, 25.07.2017 and 19.08.2017 wherein discussions regarding fixing of prices, shutting down of mills, etc., were held. OP-42 was also named by GPMA as one of its members.

83.2 In his statement recorded before the DG, Mr. Ketan Pandya acknowledged as under:

“... I have attended 5-6 meetings of Gujarat Paper Mills Association (GPMA) representing RSRPL. I have never paid any membership fee to GPMA. However, I was a member of the Debt Recovery Committee of GPMA.

In GPMA meetings in which I have attended the points being discussed are pollution related issues, GST/Income tax related issues, Bad Debts, increase in the price of Kraft Paper, increase/decrease in the price of waste paper, Collective shutting down of mills etc.

I used to receive telephone calls/emails/WhatsApp messages from GPMA regarding the proposed meetings. Regarding GPMA meetings I used to receive telephone calls from Shri Sunil Agarwal alias Munnabhai, President, Shri Lalit Garg, Secretary, Shri Nimish Shah (office bearers of GPMA) and Shri Ganesh Thakur, employee of GPMA.

... I have received 2-3 communications from GPMA regarding price hike of Kraft Paper and collective shut-down of mills.

I was member of two WhatsApp groups operated by Kraft Paper Manufacturers namely “NEWS PAPER MILLS” and “Paper Mills –

GJ/MS/C.G.K.” operated by the above association. In these WhatsApp groups members exchanged price of Kraft Paper/waste paper, collective shut-down of mills, part of paper mill machinery for sale/purchase, meetings of GPMA, debt recovery by mills etc. I also exchanged messages in those WhatsApp groups regarding price of waste paper, increase in price of Kraft Paper and shut-down implemented by my company etc.

I have also implemented the price hike decision in my company after GPMA decisions, but before implementing the price hike decision my company taken into consideration the input cost and market scenario at that time. ...

My company informed the price hike decision of Kraft Paper to Kraft Paper dealers/corrugators through email communication, telephone, WhatsApp messages, courier service. ...

I admit that I have also implemented the collective shut-down decision of GPMA/FIPR in my company but the period of shut down may be exactly the same period or for a lesser period or greater period decided by the Association. ...

Yes, these were the same WhatsApp group in which I was a member. ... In the said groups members used to put the rate of waste papers, Kraft Paper etc. I also exchanged messages on the above WhatsApp groups regarding price of Kraft Paper and waste paper in Ahmedabad region of various mills including my mill.”

83.3 When confronted with various MoMs of GPMA, Mr. Pandya admitted that he implemented the price hike and collective shut-down decisions taken in those meetings, although not to the full extent.

83.4 Thus, evidently, Mr. Pandya admitted of his participation in GPMA meetings as well as in the WhatsApp groups “Paper Mills – GJ/MS/CGK” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. He also admitted that OP-42 implemented GPMA price hike decisions, although not to the extent decided. Similarly, he admitted to have at partially implemented the collective shut-down decisions of GPMA. Mr. Pandya was also a member of the Debt Recovery Committee of GPMA.

83.5 In its reply to the DG Report, OP-42 made various submissions which were largely similar to those raised by GPMA, OP-2 and OP-34.

83.6 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-42 was part of the discussions held at GPMA/FIPR regarding price increase of



Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-42 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

83.7 With respect to penalty, OP-42 also made several submissions which were largely similar to those raised by GPMA and OP-2.

83.8 Such submissions made by OP-42 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

84. OP-43 (Aryan Paper Mills Private Limited)

84.1 It is noted from the DG Report that the representative of OP-43, *namely*, Mr. Mihir Shah, Director, attended several meetings of GPMA including those dated 15.02.2017, 15.03.2017, 28.03.2017, 07.04.2017, 24.04.2017, 05.05.2017, 02.06.2017, 25.07.2017, 19.08.2017, 05.12.2017, 25.12.2017 and 05.04.2018, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.

84.2 OP-43 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013, 19.09.2016, 21.11.2016, 06.01.2017, 20.01.2017 and 30.01.2017 sent by GPMA to its members.

84.3 In his statement recorded before the DG, Mr. Mihir Shah acknowledged as under:

“Yes, my company is a member of Gujarat Paper Mills Association (GPMA), Federation of Indian Paper Recyclers (FIPR), Vapi Industrial Association (VIA) and Material Recycling Association of India (MRAI). I am also a member of Vapi Green Enviro Ltd. (VGE), but I am not sure whether this is an Association. I also paid membership fee to GPMA but I am not sure whether I have paid membership fee to FIPR. ... I have attended the last meeting of FIPR around 1st half of 2017.

Representing my company, I have attended around 25-30 meetings of GPMA/FIPR. ... In GPMA/FIPR meetings points being discussed such as pollution issues, excise and customs issues, Government liasoning, Supply of



waste paper, price of waste paper both local/imported, price of Kraft Paper, collective shut-down of mills etc.

It is true that on certain occasions my company partially implemented the price hike decision ...

Yes, my company also implemented the shut-down decision as directed by GPMA/FIPR almost all occasions ...

Yes, I was member of the WhatsApp groups namely “PAPER MILLS – GJ/MS/C.G.K.” and “NEWS PAPER MILLS” operated by the office bearers of GPMA/FIPR.

... In this WhatsApp group members exchanged points related to price of Kraft Paper, price of waste paper, collective shut-down of mills, market trend of Kraft Paper/waste paper, pollution related issues, government related matters, economic scenario/news, general issues etc.

Yes, I admit that the above price hike circulars issued by GPMA might have been received by my company ...”

84.4 When confronted with 13 MoMs of GPMA, Mr. Shah confirmed that he has attended all such meetings and, in these meetings, *“it was decided by GPMA/FIPR to increase the price collectively and collectively shut-down the mills during certain periods.”*

84.5 Thus, evidently, Mr. Mihir Shah admitted of his participation in GPMA meetings as well as WhatsApp groups “Paper Mills – GJ/MS/CGK” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. He also admitted that OP-43 partially implemented GPMA price hike decisions and collective shut-down decisions of GPMA.

84.6 In its reply to the DG Report, OP-43 submitted that it had, *vide* e-mail dated 21.05.2018, objected to certain decisions taken by GPMA. It also submitted that there is no proof on record that OP-43 received any price increase circulars of GPMA. OP-43 also made several submissions similar to those raised by other OPs earlier, which have already been dealt with in the earlier parts of the present order.

84.7 The Commission notes that, in its entire reply to the DG Report, OP-43 has not made any comment on the fact that Mr. Mihir Shah, in his deposition recorded before the DG, has categorically admitted that OP-43 had partially implemented GPMA price hike decisions and collective shut-down decisions of GPMA. Further, it is noted from the



documents annexed with the reply of OP-43 that it did increase the prices of its Kraft paper from time to time as well shut-down its plant from time to time, coinciding with the decisions taken by GPMA in this regard. Though the price increase and shut-downs undertaken by OP-43 may not exactly be in accord with the decisions of GPMA and may also have been based upon other factors, the evidence on record clearly shows that the same were, in fact, influenced by GPMA meetings and decisions and, as admitted by Mr. Shah, were in partial implementation of GPMA decisions. In view of the Commission, such directives were actually issued by GPMA and were known to OP-43.. As stated above, the provisions of Section 3(1) of the Act not only proscribe agreements which cause an AAEC in the market, but also forbid agreements which are likely to cause an AAEC in the market. The very knowledge of OP-43 regarding such directives compromised its independence and was likely to cause AAEC in the market.

84.8 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-43 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially. Such conduct of OP-43 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

84.9 With respect to penalty, OP-43 made several submissions which were largely similar to those raised by the other OPs in the matter.

84.10 Such submissions made by OP-43 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

85. OP-44 (Surani Paper Private Limited)

85.1 It is noted from the DG Report that representatives of OP-44, *namely*, Mr. Mehul R. Surani, Managing Director and Mr. Tejas Surani, nephew of one of the Directors, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 28.03.2017, 07.04.2017, 24.04.2017, 05.05.2017, 02.06.2017 and 19.08.2017, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held. OP-44 was also named by GPMA as one of its members.



85.2 In his statement recorded before the DG, Mr. Mehul Surani acknowledged as under:

“Yes, I have attended 5-6 meetings of GPMA since the initial period of 2017. Representing SPPL I alone attended the above GPMA meetings. I have attended the last meeting of GPMA during June 2017.

In the meetings of GPMA in which I have attended the main points being discussed are pollution related, GST matters, price of Kraft paper, collective shutting down of mills and rate of waste paper.

I used to receive telephonic calls from Sh. Sunil Agarwal, President of GPMA, Sh. Lalit Garg, Secretary of GPMA, Sh. Nimish of GPMA or Sh. Ganesh from GPMA’s office. Sometimes I have received messages regarding the proposed GPMA meetings through WhatsApp Group messages.

I was a member of two WhatsApp Groups namely ‘PAPER MILLS – GJ/MS/C.G.K’ and ‘NEWS PAPER MILLS’. ... Sh. Tejas Patel, nephew of Sh. Surendrabhai Patel, Director was also a member of the WhatsApp Group namely ‘PAPER MILLS – GJ/MS/C.G.K’. However, he did not hold any official position in SPPL.

In the above WhatsApp Group members exchanged matters related to price of Kraft paper, price of waste paper, pollution related issues, technical issues, sale/purchase of spare parts of paper mills, collective shutting down of mills etc.

Shri Nimish Bhai Patel of GPMA got me added in the said group without my permission.

Since I was getting to know about the market trend such as rate of waste paper and finished paper of other mills, rate of imported waste, when the mills getting shut-down etc. that is why I did not leave the group.

I admit that the mill owners except my company used to discuss the prices of Kraft paper, collective shut-down of mills and prices of waste paper in GPMA/FIPR meetings. However, the individual mill owners used to implement the said decision as per their order book. GPMA wanted to know the total production capacity of Gujarat, Maharashtra and Chhattisgarh Paper mills. That is why I shared my production capacity in GPMA meeting of 19.08.2017.”

85.3 When confronted with various MoMs of GPMA, Mr. Surani admitted of his participation in GPMA meetings and acknowledged that price increase and collective shut-down was decided in the meetings; however, he stated that he did not implement such decisions. It can also be seen that, in the meeting dated 19.08.2017, Mr. Surani shared OP-44’s production capacity. Mr. Surani also admitted before the DG that he



never objected to the decisions taken in GPMA meetings. He also admitted that he did not consider it correct that price increase and shut-down of mills were discussed in GPMA meetings. In other words, Mr. Surani was aware that he was involved in unlawful activities. Mr. Surani also admitted before the DG that sometimes, his company got the benefit of price increase through GPMA meetings. It is also seen that Mr. Surani used to get e-mails from competitors about their price increase.

85.4 Further, Mr. Surani admitted before the DG, his membership in the WhatsApp groups “Paper Mills – GJ/MS/CGK” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. He even stated that he did not leave the NEWS group because he was getting to know in the same about the rate of finished paper of other mills, when the mills were being shut-down *etc.*

85.5 It can also be seen from the DG Report that the manufacturing plant of OP-44 was closed during 27.01.2017, 11.03.2017, 02.05.2017, 07.05.2017, 08.05.2017, 28.06.2017 to 30.06.2017 and 01.07.2017 to 03.07.2017, which dates exactly coincide with the collective shut-down decisions of GPMA. In his statement, Mr. Surani stated that this is merely a co-incidence.

85.6 In its reply to the DG Report, OP-44 made various submissions which were largely similar to those raised by GPMA, OP-2 and OP-34.

85.7 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-44 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-44 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

85.8 With respect to penalty, OP-44 also made several submissions which were largely similar to those raised by GPMA and OP-2.



85.9 Such submissions made by OP-44 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

86. OP-45 (Latin Paper Industries LLP)

86.1 It is noted from the DG Report that representatives of OP-45, *namely*, Mr. Sandip Sarsani and Mr. Mansukh Patel, Partners, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 24.04.2017, 02.06.2017, 25.07.2017, 19.08.2017 and 05.12.2017, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.

86.2 OP-45 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 10–11.03.2017 and 18.03.2017 sent by GPMA to its members.

86.3 In his statement recorded before the DG, Mr. Sandip Sarsani acknowledged as under:

“... I had attended 5-6 meetings of Gujarat Paper Mills Association (GPMA). I have received telephonic communications from Shri Sunil Agarwal alias Munnabhai, President of GPMA regarding the convening of meetings of GPMA. I started attending GPMA meetings during the second half of 2016. I do not recollect the month/year in which I have attended the last meeting of GPMA.

In most of the meetings of GPMA mill owners from the states of Gujarat and Maharashtra attended. Attendees of GPMA discussed about pollution related issues, matters related to GST implementation, rate of imported waste paper, rate of Kraft Paper and collective shutting down of mills.

I have received email from GPMA regarding collective price hike of Kraft Paper and collective shutting down of mill. ... Regarding increasing the price of Kraft Paper my firm informed the same to my dealers/corrugators over telephone or through email.

I have attended the above GPMA meetings to get information regarding pollution issues, GST related matters, rate of imported waste paper, rate of Kraft Paper and collective shutting down of mills etc. After attending the said meetings, I have also increased the price of Kraft Paper taken into consideration the hike in the input cost.

*I alone was a member of the WhatsApp group *namely* “PAPER MILLS – GJ/MS/C.G.K.” operated by GPMA officials.*



In the above WhatsApp group namely “PAPER MILLS – GJ/MS/C.G.k.” in which I was a member, mill owners discussed about GPMA/FIPR meetings, recovery of pending dues from the corrugators/traders, price of imported waste paper, increase of price of Kraft Paper, availability of supply order of Kraft Paper and collective shutting down of mill was discussed in the above WhatsApp group.

... I also admit that Shri Bharat Patel, one of the office staff of our firm was also a member of the WhatsApp group mentioned above.

I got to know about the prices of Kraft Paper. The prices decided by GPMA also benefited my firm somehow in the increase of price. If GPMA had decided to increase Rs.2 per KG then the said price hike decision benefited my firm in increase of price which may not exact Rs.2 per KG. The collective shut-down of mills decisions taken by GPMA also benefited my firm in stabilization of existing rates and creation of demand.”

86.4 Thus, evidently, Mr. Sarsani admitted of his participation in GPMA meetings as well as in the WhatsApp groups “Paper Mills – GJ/MS/CGK” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. He also admitted that OP-45 implemented GPMA price hike decisions, although not to the same extent as decided. Similarly, he also admitted to having implemented the collective shut-down decisions of GPMA. It was also noted by the DG that the price increase (14 BF paper to ₹25.25, 16 BF to ₹25.75, 18 BF to ₹26.75, 20 BF to ₹27.75 and 22 BF to ₹28.75 from ₹22.75, ₹23.25, ₹24.25, ₹25.25 and ₹26.25 respectively, which price increase matches with price hike decision taken by GPMA in meeting dated 15.03.2017) as well as shut-down dates (27-31.01.2017, 11-15.02.2017, 05-09.04.2017, 02-08.05.2017, 03-06.06.2017, 29.06-03.07.2017) of OP-45, matched the decisions taken in GPMA meetings.

86.5 In its reply to the DG Report, OP-45 made various submissions which were largely similar to those raised by GPMA, OP-2 and OP-34.

86.6 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-45 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-45 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production,



supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

86.7 With respect to penalty, OP-45 also made several submissions which were largely similar to those raised by GPMA and OP-2.

86.8 Such submissions made by OP-45 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

87. OP-46 (Axle Paper Limited)

87.1 It is noted from the DG Report that representatives of OP-46, *namely*, Mr. Vipul Kalia, Managing Director and Mr. Lalit Kumar Premjibhai, employee, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 07.04.2017, 24.04.2017, 05.05.2017, 02.06.2017, 25.07.2017, 05.12.2017 and 25.12.2017, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.

87.2 Further, OP-46 was also one of the recipients of the e-mails dated 10–11.03.2017 and 18.03.2017 sent by GPMA to its members.

87.3 In his statement recorded (in Hindi) before the DG, Mr. Lalit acknowledged that he had attended some meetings of GPMA after the start of the production of the company in March 2017. He admitted that, in GPMA meetings attended by him, the attendees discussed how to increase the price of Kraft paper. He also admitted that, in other meetings of GPMA, which were not attended by him, it was discussed to collectively shut-down the mills. It is also noted from the DG Report that Mr. Lalit shared the production figures of the company in GPMA meeting dated 25.07.2017.

87.4 Initially, Mr. Patel denied before the DG that he was in contact with the other paper mills through any mode of communication including WhatsApp. However, when confronted with the backup of the WhatsApp group “Paper Mills – GJ/MS/CGK”, he admitted that he was a member of the said group. It is noted from the backup of messages of the said group that, on 05.12.2017, Mr. Sunil Agarwal @Munna Bhai, President of GPMA, had sent a message regarding the decision take by GPMA to increase the price of Kraft paper by ₹1,000 per ton to which Mr. Lalit apparently gave concurrence by sending a thumbs up emoji. When Mr. Lalit was confronted with the



said message, he replied that he had no answer. Earlier, Mr. Lalit had stated that he did not read the messages of the said WhatsApp group.

87.5 It can also be seen from the DG Report that Mr. Lalit again tendered his apology before the DG of giving false answers. He confessed that after the decision of GPMA dated 05.12.2017, as conveyed in the WhatsApp group, his company increased the price of Kraft paper as per the directions of GPMA. He also confessed that whenever GPMA decided to increase the price of Kraft paper, OP-46 also increased the price.

87.6 It can also be seen from the DG Report that the manufacturing plant of OP-46 was shut from 11.02.2017 to 15.02.2017, 11.03.2017 to 15.03.2017, 05.04.2017 to 09.04.2017, 02.05.2017 to 08.05.2017, 01.06.2017 to 06.06.2017 and 26.06.2017 to 03.07.2017 which dates match with the shut-down dates declared by GPMA. When Mr. Lalit Patel was confronted with the same, he gave an evasive answer that he could not recollect.

87.7 Thus, evidently, Mr. Patel admitted of his participation in GPMA meetings as well as in the WhatsApp Group “Paper Mills – GJ/MS/CGK”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. He also admitted that OP-46 partially implemented GPMA price hike decisions from time to time and it is evident that OP-46 also implemented the collective shut-down decisions of GPMA.

87.8 In its reply to the DG Report, OP-46 made various submissions which were largely similar to those raised by GPMA, OP-2 and OP-34.

87.9 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-46 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially. Such conduct of OP-46 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

87.10 With respect to penalty, OP-46 also made several submissions which were largely similar to those raised by GPMA and OP-2.



87.11 Such submissions made by OP-46 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

88. OP-47 (Samruddhi Paper and Pulp Conversion Private Limited)

88.1 It is noted from the DG Report that representatives of OP-47, namely, Mr. Sunil Didwania, Former Director and his son Mr. Raghav Didwania, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 07.04.2017, 05.05.2017 and 02.06.2017, wherein discussions regarding fixing of prices, shutting down of mills, etc., were held.

88.2 OP-47 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013, 13.02.2014, 16.02.2016, 09.09.2016, 26.11.2016, 06.01.2017, 30.01.2017, 20.02.2017, 10-11.03.2017 and 18.03.2017 sent by GPMA to its members.

88.3 In his statements recorded before the DG, Mr. Sunil Didwania acknowledged as under:

“... SPPC has paid an amount of Rs.5000/- (Appx.) during 2016 end as contribution to Gujarat Paper Mills Association (GPMA)/Maharashtra Wing of GPMA. Representing SPPC, I have attended 4 to 5 meetings of GPMA and one or two occasions my son Shri Raghav Didwania too attended GPMA meetings. Shri Tushar Pratap Sonawane might have attended one meeting of GPMA, but I could not recollect the specific details of the meeting. I started attending the meetings of GPMA during the third quarter of 2016 and I attended the last meeting during April 2017. Even though I left SPPC from 28.02.2017, yet I continued to attend the meetings of GPMA as per the request of Shri Pratap Dada Sonawane, father of Shri Tushar Sonawane. Because Shri Tushar Sonawane had some severe health problem and he was in rehabilitation centre during this period for six months.

During the above meetings in which I have attended the main points being discussed such as increase of price of Kraft Paper, Price of waste paper, collective shutting down of mills, pollution issues, marketing issues, delay in recovery of dues from dealers etc.

When I was one of the Directors of SPPC, I received WhatsApp messages from the WhatsApp group namely “Paper Mills – GJ/MS/C.G.K.” operated by the office bearers of GPMA regarding conducting of GPMA meetings. I was also one of the members of the WhatsApp group operated by Maharashtra wing of GPMA, namely “Paper Mills Maharashtra”, but I am not sure whether I have received any message regarding GPMA meetings in this group. However, I



have never received any communication through telephone or email regarding GPMA meetings. ...”

“Member mills discussed issues such as increase of price of Kraft Paper, Price of domestic/imported waste paper, collective shutting down of mills, pollution issues, marketing issues, delay in recovery of dues from dealers etc.

I admit that on certain occasions SPPC has implemented the collective price hike decisions of GPMA. However, I would like to state that SPPC was never part of any collective shut during my tenure, but during the period from November 2016 to February 2017 SPPC was completely shut due to financial losses.”

88.4 When confronted with MoMs of various GPMA meetings attended by him, Mr. Didwania confirmed that he had attended the said meetings. He stated that, as Mr. Tushar Sonawane, present Director of OP-47, was not attending to the day-to-day affairs of the company owing to health issues, he was requested by the father of Mr. Sonawane to attend those meetings as he is based in Bombay. He stated that he had informed the decisions of GPMA meetings to one Mr. Anil Nemade, Accountant of OP-47, and he is not aware whether the said decisions of GPMA were implemented by OP-47 or not.

88.5 He further stated that the manufacturing plant of the company was totally shut from October 2016 to March 2017 due to certain issues. From his e-mail ID, two e-mails – one dated 29.02.2016 sent by OP-19 and other dated 23.02.2017 - sent by OP-50, regarding price increase, were recovered.

88.6 In its reply to the DG Report, OP-47 stated that Mr. Sunil Didwania, Former Director of OP-47, who had attended GPMA meetings and whose statement was recorded on behalf of OP-47, had resigned from OP-47 w.e.f. 20.02.2017. Thereafter, he had no authority to do any act on behalf of OP-47. He may have attended GPMA meetings or been a part of the WhatsApp group of paper mills, but the same were then in his personal capacity as he has his own paper business also. Further, on the date of recording of his statements by the DG, he had no authority to speak on behalf of OP-47. When Mr. Sonawane had received the DG notice for recording of his statement, he had requested the DG to give him some time as his father was undergoing a major brain surgery at the time. However, the DG instead recorded the statement of Mr. Didwania. His admissions cannot be used against OP-47. Since 2013, Mr. Sonawane had not



attended any meetings of GPMA. Mr. Sonawane was also never a part of any alleged WhatsApp groups. OP-47 was also never a part of any collective shut-down. E-mails received on OP-47's e-mail ID cannot be used as evidence as the e-mail ID was generally available in the industry. No price increases were undertaken by OP-47 as per GPMA directives. The two e-mails regarding price increase were received by Mr. Didwania on his personal e-mail ID and not on OP-47's official e-mail ID and OP-47 had no business dealings with these two competitors. Further, certain other submissions similar to those raised by the other OPs, as have been dealt with earlier, were also made.

88.7 In the opinion of the Commission, from the statement of Mr. Didwania, it is clear that he, even post his resignation from OP-47 in February 2017, continued to attend the meetings of GPMA on behalf of OP-47 on request of Mr. Tushar Sonawane's father, as Mr. Didwania was based in Bombay where the meetings took place. Further, from the reply to the DG Report filed by OP-47, it is also evident that Mr. Sonawane was in fact, indisposed from December 2016 to June 2017. Hence, it is not unbelievable that Mr. Didwania, who was representing OP-47 in GPMA meetings and WhatsApp groups "Paper Mills – GJ/MS/C.G.K." and of Maharashtra Paper Mills till February 2017, continued to do so even thereafter. Hence, evidently, Mr. Didwania, on behalf of OP-47, was a part of the discussions held at GPMA/FIPR regarding price increase and collective shut-down of paper mills. In view of the Commission, such directives were actually issued by GPMA and were known to OP-47 and as such, its ability to act as an independent competitor in the market stood compromised. Given that the very knowledge of OP-47 about the competitors' strategies, compromised its independence and was, in fact, detrimental to competition, the same was likely to cause AAEC in the market.

88.8 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-47 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills. Such conduct of OP-47 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.



89. OP-48 (Laxmi Board and Paper Mill Private Limited)

89.1 It is noted from the DG Report that representatives of OP-48, *namely*, Mr. Ajay Patel and Mr. Rajesh Modi, Directors, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 07.04.2017, 05.05.2017, 02.06.2017 and 25.07.2017 wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.

89.2 OP-48 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013, 13.02.2014, 16.02.2016, 09.09.2016, 26.11.2016, 06.01.2017, 20.02.2017, 10-11.03.2017 and 18.03.2017 sent by GPMA to its members.

89.3 In his statements recorded before the DG, Mr. Rajesh Modi acknowledged as under:

“... myself and Shri Ajay Patel, Director have attended some of the meetings of Gujarat Paper Mills Association (GPMA)/Federation of Indian Paper Recyclers (FIPR). Myself and Shri Ajay Patel, Director started attending the meetings of GPMA since 2008 as an invitee. I attended the last meeting of FIPR during the first half of 2018. I have attended maximum 5 to 6 meetings of GPMA/FIPR during the last four years and attended a maximum of 10 meetings during the period 2008 to 2018. My company has paid Rs.2 Lakhs (Appx.) to FIPR towards contribution to meet the expenditure of its meetings.

...

*In those meetings in which I have attended attendees discussed issues related to pollution, bad debt recovery, increasing the price of Kraft Paper, non-availability of skilled labour, collective shutting down of mills, availability and price of local waste paper, GST related queries *etc.* My company received email communications and WhatsApp messages from GPMA/FIPR. ...*

*Yes, myself and Shri Ajay Patel, Director of LBPM were members of only one WhatsApp group *namely* “NEWS PAPER MILLS”, where Shri Sunil Agarwal alias Munnabhai and Shri Rathi were two admins, but I am not aware of the other admins of this WhatsApp group. In the above WhatsApp group members discussed issues related to pollution, bad debt recovery, increasing the price of Kraft Paper, non-availability of skilled labour, collective shutting down of mills, availability and price of local waste paper, GST related queries *etc.**

*I communicated with the above association and other Kraft Paper mill owners through telephonic talk, email communication, WhatsApp communications in the group *namely* “NEWS PAPER MILLS”. ...*

I have received couple of price hike circulars from GPMA/FIPR but my company has not received any MOM.”



“Now I remember that myself and Shri Rachit Modi were the members of the WhatsApp group namely “PAPER MILLS – GJ/M.S/C.G.k.” and myself, Shri Rachit Modi and Shri Ajay Patel were members of the WhatsApp group namely “Maharashtra paper mills” In the above WhatsApp groups members discussed issues related to pollution, bad debt recovery, increasing the price of Kraft Paper, non-availability of skilled labour, collective shutting down of mills, availability and price of local waste paper, GST related queries etc.

After attending GPMA meetings my company increased the price of Kraft Paper The rate implemented by company was not exactly as per GPMA directions. ... ”

89.4 When confronted with various price hike circulars of GPMA, Mr. Modi stated that his company may have increased the price as per the circulars, but he is not sure. When confronted with various MoMs of GPMA, Mr. Modi admitted that he attended the said meetings and in the same, it was decided to increase the price of Kraft paper and to shut-down the mills. He also stated that after the said meetings, OP-48 increased the prices of Kraft Paper, though not to the same extent and also shut-down the mill as per GPMA decisions from time to time.

89.5 In its reply to the DG Report, OP-48 made various submissions which were largely similar to those raised by the other OPs, which have already been dealt with in the earlier part of the present order. In addition, OP-48 submitted that it was never a member of GPMA and as such, had no participation in its decision making. It only attended certain meetings of GPMA as an invitee. Further, the five price hike circulars of GPMA were recovered by the DG from an e-mail account of OP-48, which is now defunct and which was not an official or public-facing e-mail ID nor regularly checked by OP-48 or its principal officers. OP-48 also did not issue any price increase circulars in consonance with GPMA’s directions or communicated a price increase consistent with GPMA’s recommendations. Rather, its actual price movements were quite contrary to GPMA’s decisions. It did not shut-down its mills on certain occasions when GPMA called upon its members to do so and continued all business transactions even on dates when its turbines and mill were shut-down.

89.6 In the opinion of the Commission, evidently, Mr. Modi admitted of his participation in GPMA meetings as well as in the WhatsApp groups “Paper Mills – GJ/MS/CGK” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw



material waste paper and collective shut-down of mills took place. He also admitted that OP-48 partially implemented GPMA price hike decisions and, at times, implemented the collective shut-down decisions of GPMA. In view of the Commission, such directives were actually issued by GPMA and were known to OP-48 and as such, its ability to act as an independent competitor in the market stood compromised. Given that the very knowledge of OP-48 about the competitors' strategies, compromised its independence and was, in fact, detrimental to competition, the same was likely to cause AAEC in the market.

89.7 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-48 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially. Such conduct of OP-48 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

89.8 With respect to penalty, OP-48 also made several submissions which were largely similar to those raised by the other OPs.

89.9 Such submissions made by OP-48 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

90. OP-49 (Bellona Paper Mill Private Limited)

90.1 It is noted from the DG Report that the representative of OP-49, *namely*, Mr. Dharmendra Kasundra, Director, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 07.04.2017, 24.04.2017, 05.05.2017, 02.06.2017, 25.07.2017, 19.08.2017 and 05.12.2017 wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.

90.2 OP-49 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 10-11.03.2017 and 18.03.2017 sent by GPMA to its members.



90.3 In his statement recorded before the DG, Mr. Dharmendra Kasundra acknowledged as under:

“... I have attended about 5 to 7 meetings of Gujarat Paper Mills Association (GPMA), Vapi. Before GPMA meetings I had got telephone calls from Shri Sunil Agarwal alias Munnabhai, President of GPMA. I do not remember whether myself or my company has received any communications regarding GPMA meetings in any other manner except telephone calls.

Yes, I was a member of the WhatsApp group operated by the office bearers of GPMA, Vapi, namely “PAPER MILLS – GJ/MS/C.G.K.”.

90.4 When confronted with the backup of messages of WhatsApp group “Paper Mills – GJ/MS/C.G.k.”, Mr. Kasundra stated as under:

“I admit that the members of the group used to discuss about the collective shut-down of mills, collective increase of price of Kraft Paper and scheduling meetings to discuss the same.”

90.5 When confronted with various MoMs of GPMA, Mr. Kasundra admitted that collective shut-down of mills and increase in the price of Kraft paper were discussed in such meetings which he attended, although he did not implement such GPMA discussions.

90.6 It is however, noted from the DG Report that OP-49’s mill was shut-down from 27.01.2017 to 31.01.2017, 11.02.2017 to 15.02.2017, 11.03.2017 to 15.03.2017, 07.04.2017 to 10.04.2017, 02.05.2017 to 08.05.2017, 01.06.2017 to 06.06.2017, 27.06.2017 to 03.07.2017, which dates match exactly with the shut-down schedule declared by GPMA. When Mr. Kasundra was asked about the same, he stated that he does not know why his shut-down dates match with the shut-downs decided by GPMA.

90.7 Thus, evidently, Mr. Kasundra admitted of his participation in GPMA meetings as well as in the WhatsApp groups “Paper Mills – GJ/MS/CGK” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. It is also seen that OP-49 shut-down its mill on the dates of collective shut-down declared by GPMA.

90.8 In its reply to the DG Report, OP-49 made various submissions which were largely similar to those raised by GPMA, OP-2 and OP-34.

90.9 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-49 was part of the discussions held at GPMA/FIPR regarding price increase of



Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially. Such conduct of OP-49 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

90.10 With respect to penalty, OP-49 also made several submissions which were largely similar to those raised by GPMA and OP-2.

90.11 Such submissions made by OP-49 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

91. OP-50 (Supreme Kraft Private Limited)

91.1 It is noted from the DG Report that the representative of OP-50, *namely*, Mr. Tejas Dharia, Director, and/or Mr. Kunal Dharia, his relative, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 28.03.2017, 07.04.2017, 24.04.2017, 02.06.2017, 25.07.2017 and 22.11.2017, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.

91.2 OP-50 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 19.09.2016, 21.11.2016, 06.01.2017, 20.01.2017 and 30.01.2017 sent by GPMA to its members.

91.3 In his statements recorded before the DG, Mr. Tejas Dharia acknowledged as under:

“Yes, SKPL is a member of Gujarat Paper Mills Association (GPMA) and Federation of Indian Paper Recyclers (FIPR) since inception i.e., 2002. I alone attended the meetings of GPMA/FIPR representing SKPL. SKPL has paid monthly subscription and corpus fund to GPMA/FIPR. I have attended most of the meetings of GPMA since 2011 and some meetings of FIPR during 2017. I have skipped some of the meetings of FIPR during the end of 2017- 18. Last meeting of FIPR was attended by me during 2017, but I do not remember the exact date of that meeting.

In GPMA/FIPR meetings Kraft Paper mill owners from Gujarat, Maharashtra, Northern India, Southern India, and Hyderabad areas attended. In GPMA/FIPR meetings attendees discussed about demand/supply of Kraft Paper, price of Kraft Paper, price and availability of waste paper domestic/imported, GST related common matters, coal price, bad debts



recovery, pollution related issues, collective shutting down of mills, export of Kraft Paper etc.

... SKPL has received above circulars from GPMA/FIPR ...

... I am a member of only two WhatsApp groups namely “NEWS PAPER MILLS” operated by Shri Pankaj Agarwal, President of Northern India Paper Mills Association and “PAPER MILLS – GJ/MS/C.G.K.” operated by the office bearers of GPMA/FIPR.

In the above groups members discussed about demand/supply of Kraft Paper, price of Kraft Paper, price and availability of waste paper domestic/imported, coal price, collective shutting down of mills, export of Kraft Paper etc. ...

I have exchanged information about Waste paper, coal and Dollar rates in the above WhatsApp groups and I too displayed price hike circular in the above WhatsApp group operated by GPMA/FIPR office bearers and it was done only because of the pressure excreted by the office bearers of the above associations.

We usually sent the email to GPMA about every price increase because GPMA should know about the price increase by my company.”

91.4 Thus, evidently, Mr. Dharia admitted of his participation in GPMA meetings as well as in the WhatsApp groups “Paper Mills – GJ/MS/CGK” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. Mr. Dharia also admitted before the DG that he partially implemented the price hike decisions of GPMA, though he stated that other factors also accounted for such increases. He also admitted to following certain collective shut-down directives of GPMA. He also admitted that he had exchanged information about OP-50’s price hike circulars with GPMA, though under pressure exerted by the office bearers of GPMA. Some of such e-mails sent by OP-50 to GPMA regarding price hike, are as follows:



Fw: increased the price of Kraft Paper

From: SUPREME KRAFT,PVT.LTD (supreme_kraft@yahoo.co.in)

To: gpma4u_vapi@yahoo.co.in

Date: Wednesday, 29 November, 2017, 05:22 pm IST

CIRCULAR

We hereby having informed you that we have increased the price of Kraft Paper board by 1.25 per kg with **immediate effect**.

No more booking at old Rate. Kindly book all order at increased price only.

We request your good self to kindly bear with us and extend your whole hearted support and co-operation as given in the past.

SUPREME KRAFT PVT. LTD. 207/208, IIND PHASE, GIDC, VAPI - 396 195 TEL : 0260-2424366 FAX : 0260-2400776

SCAN_20171129_172052930.pdf
55.4kB

Supreme Kraft Pvt. Ltd.

MFG : KRAFT PAPER

Regd. Office : 15/19, Krishna Niwas, 405, Kalsadevi Road, Roshan Baza - Mumbai - 400 002.

Tel. : 022-22000571 / 32621097 • Fax : 022-22031199

Factory : 207/208, G. I. D. C. Area, Vapi - 396 195

Tel : 0260-2424366 / 3253705 • Fax : 0260-2400776 • Email : supreme_kraft@yahoo.co.in

Date: 23-11-2017

CIRCULAR

We hereby having informed you that we have increased the price of Kraft Paper board by 1.25 per kg with **immediate effect**.

No more booking at old Rate. Kindly book all order at increased price only.

We request your good self to kindly bear with us and extend your whole hearted support and co-operation as given in the past.



For SUPREME KRAFT PVT. LTD.

Authorised Signatory

91.1 Further, from the e-mail account of OP-50, certain e-mails regarding price increase of OP-50 to its dealers were recovered (04.03.2017, 23.01.2017 and 23.02.2017). The price increase communicated through such e-mails partially match with the price increase declared by GPMA in its meetings. It is also noted from the DG Report that the mill of OP-50 was shut-down from 27.01.2017 to 31.01.2017, 11.02.2017 to 15.02.2017, 11.03.2017 to 15.03.2017, 05.04.2017 to 09.04.2017, 02.05.2017 to 08.05.2017, 01.06.2017 to 06.06.2017 and 27.06.2017 to 03.07.2017, which dates coincide with the collective shut-down dates declared by GPMA.

91.2 In its reply to the DG Report, OP-50 made various submissions which were largely similar to those raised by other OPs, which have been dealt with in the earlier part of the present order. It also submitted that the price increase and shut-down dates were decided by it on an independent basis, on basis of various factors.

91.3 In the opinion of the Commission, there is sufficient evidence on record which shows that the price increase of OP-50 was influenced by GPMA meetings in addition to other



factors and that OP-50 implemented the collective shut-down decisions taken by GPMA.

91.4 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-50 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-50 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

91.5 With respect to penalty, OP-50 made several submissions which were largely similar to those raised by the other OPs.

91.6 Such submissions made by OP-50 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

92. OP-51 (Akshat Papers Limited)

92.1 It is noted from the DG Report that the representative of OP-51, *namely*, Mr. Akshat Singal, Director attended several meetings of GPMA dated 15.02.2017, 28.03.2017, 24.04.2017, 25.07.2017, 25.12.2017 and 05.04.2018, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.

92.2 OP-51 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013, 21.11.2016, 06.01.2017, 20.01.2017 and 30.01.2017 sent by GPMA to its members.

92.3 In his statement recorded before the DG, Mr. Akshat Singal stated as under:

“... I have attended few meetings of Gujarat Paper Mills Association (GPMA)/Federation of Indian Paper Recyclers (FIPR) in last two three years.

In the above meetings attendees discussed about pollution issues, how to reduce the consumption of water, costing of Kraft Paper, price of OCC/waste paper, collective shutting down of mills etc.

Since our family friends/relatives are attached with GPMA and they also have Kraft Paper mills, they pressurized my company to attend the meetings of GPMA/FIPR. Since all the paper manufactures know each other and have



social and family relations, I have attended few meetings on their insistence just to save our face. ...

I was a member of two WhatsApp groups namely “NEWS PAPER MILLS” and “PAPER MILLS – GJ/MS/CGK”. I have been added in the said WhatsApp group by their admins. I was not the admin in any of these groups. I am not able to recall who added me in NEWS PAPER MILLS however, Shri Nimish Shah added me as a member in PAPER MILLS – GJ/MS/CGK. I exited from the said groups but the admins again added me and I finally exited the group around one year back. The members used to update about the OCC price scenario, current news regarding paper industry, schedule of association meetings, decision of the association regarding price hike and shut-down of mills. However, these decisions, as explained by me earlier never affected the working of my company as my company never shut-down the mill as per the directions of GPMA/FIPR nor increased the price of Kraft paper as our major production for the last three years has remain Kraft Board. Kraft Board has different customers and different price. I have never been active in the discussions of WhatsApp group and may have shared condolences and greetings only.

I have attended few meetings of GPMA as explained by me earlier. The meetings were attended on the insistence of family friends and relatives who are part of GPMA and to keep intact the social relations with them. My company has never hiked the price or shut-down the mill as per the directions of GPMA/FIPR. Rather my company’s product is different. ...”

92.4 In its reply to the DG Report, OP-51 stated that it was declared a sick company on 20.09.2006 and was undergoing proceedings before the Board of Industrial and Financial Reconstruction (‘BIFR’) vide Case No. 282/2004. It was facing deep financial crunch and only after arranging funds from relatives and friends could OP-51 be deregistered from BIFR on 11.02.2013. It stated that any allegation of following any instructions of any association, or being part of any anti-competitive activity against OP-51 is erroneous as, because of its small size and increasing bank liabilities towards interest, it could not have afforded any shut-down. Mr. Akshat Singal became part of GPMA meetings as well as part of WhatsApp groups simply for maintaining social relations with family and friends. He did not share any messages in such groups. The company mostly manufactures board paper and the manufacture of Kraft paper is very negligible. Profits generated, if any, are through trading of grey fabrics.



92.5 In the opinion of the Commission, evidently, Mr. Singal was a participant in certain GPMA meetings as well as was a member of the WhatsApp groups “Paper Mills – GJ/MS/CGK” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. OP-51 also received certain e-mails regarding price increase and collective shut-down from GPMA. The very knowledge of OP-51 about competitors’ strategies as shared in GPMA meetings and WhatsApp groups, compromised its independence and was, in fact, detrimental to competition and was likely to cause AAEC in the market. Its financial health also does not give it an excuse to indulge in anti-competitive activities.

92.6 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-51 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills. Such conduct of OP-51 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

93. OP-52 (Aricon Papers Private Limited)

93.1 It is noted from the DG Report that representatives of OP-52, *namely*, Mr. Hitesh Patel, Former Director and Mr. Mukesh Likhiya, Director, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 24.04.2017, 05.05.2017, 02.06.2017, 05.12.2017 and 25.07.2017, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.

93.2 OP-52 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 10-11.03.2017 and 18.03.2017 sent by GPMA to its members.

93.3 In his statement recorded before the DG, Mr. Hitesh Patel either kept mum or gave very evasive answers to many questions asked of him. However, when confronted by the DG with certain evidences available on record, he acknowledged as under:

“I attended one meeting of Kraft Paper Manufacturers at Morbi and another meeting of Kraft Paper Manufacturers at Mumbai, both in 2017. Name of the Association I do not remember. ...



... after looking at the backup I confirm that I was the member of the said WhatsApp group and removed on 13.11.2017. I am not able to remember what has been discussed in the said WhatsApp group.

... I am able to recollect that in the calendar year 2017 and 2018, only once or twice my company followed the decisions of GPMA/FIPR regarding collective shut-down of mills, but most of the times my company did not follow their decision despite attending the meetings by me. APPL did not increase the price of Kraft paper exactly on the same date as directed by GPMA/FIPR, however, APPL increased the price of Kraft paper after some time and after taking its customers into consideration.”

93.4 Mr. Patel also lied on oath about his date of resignation from the Directorship of OP-52, discussion in GPMA meetings, his knowledge about GPMA etc.

93.5 It is also noted from the DG Report that Mr. Hitesh Patel had shared the monthly production figures of OP-52 with GPMA in the meeting held on 25.07.2017. The manufacturing plant of OP-52 was also shut-down from 06.04.2017 to 11.04.2017, 06.06.2017 to 07.06.2017 and 28.06.2017 to 03.07.2017, which dates partially match with the shut-down dates 05.04.2017 to 09.04.2017, 01.06.2017 to 06.06.2017 and 28.06.2017 to 03.07.2017 declared by GPMA in the meetings attended by Mr. Hitesh Patel. Mr. Patel even admitted in his statement that OP-52 followed the shut-down directions of GPMA on certain occasions. It is also noted from the DG Report that Mr. Hitesh Patel as well as the other Director Mr. Mukesh Likhiya were members of WhatsApp group “Paper Mills – GJ/MS/CGK”.

93.6 In its reply to the DG Report, OP-52 made various submissions which were largely similar to those raised by GPMA, OP-2 and OP-34.

93.7 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-52 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially. Such conduct of OP-52 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.



93.8 With respect to penalty, OP-52 also made several submissions which were largely similar to those raised by GPMA and OP-2.

93.9 Such submissions made by OP-52 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

94. OP-53 (Karan Paper Mill)

94.1 It is noted from the DG Report that the representative of OP-53, *namely*, Mr. Prahlad Patel, Trustee (who was also the Trustee of OP-39), attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 28.03.2017, 07.04.2017, 24.04.2017, 05.05.2017, 02.06.2017, 25.07.2017, 19.08.2017, 05.12.2017 and 25.12.2017, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.

94.2 OP-53 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013, 13.02.2014, 09.09.2016, 06.01.2017, 30.01.2017, 20.02.2017, 10-11.03.2017 and 18.03.2017 sent by GPMA to its members.

94.3 In his statement recorded before the DG, Mr. Prahlad Patel acknowledged as under:

“... I have attended 6 or 7 meetings of Gujarat Paper Mills Association (GPMA) representing KPM and MPM. I have also attended one meeting of Federation of Indian Paper Recyclers (FIPR) in 2017.

I was a member of the WhatsApp Group namely “Paper Mills – GJ/MS/CG”
...

In GPMA/FIPR meetings in which I have attended, attendees discussed about increasing the price of Kraft Paper, price of waste paper, technical issues, market scenario of Kraft Paper, environmental issues, pollution issues, fuel related matters, processing related matters and shutting down of mills. In the WhatsApp group namely “Paper Mills – GJ/MS/C.G.k” members discussed issues related to price of Kraft Paper, waste paper, technical issues, pollution related matters. In the said group, members also shared their price of Kraft Paper. I also put thumbs up in supporting the increase of Price of Kraft @ Re.1250 PMT w.e.f. 22.11.2017 announced by Shri Sunil Agarwal alias Munna Bhai, President of GPMA and MD of Shree Gajanan Papers & Boards Pvt. Ltd., Vapi.

KPM has received couple of MOMs from GPMA and copies of seven of them have been submitted to your office along with firm’s reply dated 21.08.2018. KPM also partially implemented the decisions of GPMA/FIPR regarding price



hike and shutting down of mills. During 27th to 31st January 2017 GPMA has decided to shut-down the mills collectively and KPM also implemented the same.

... GPMA/FIPR has formed a monitoring committee to ensure that all Kraft Paper Mills strictly implemented the collective shut-down decision. As far as I know nobody from the above monitoring committee has ever visited KPM to monitor the collective shut-down.

I admit that my name was included in the members of the first Governing body of the federation and included as Vice President in the first office bearers of the Federation. However, in April 2019 I resigned from the form the said post of FIPR w.e.f. 11.04.2019.”

94.4 When confronted with various MoMs of GPMA, Mr. Patel admitted of his participation in the said meetings and confirmed that OP-53, at times, partially implemented the decisions regarding price hike and collective shut-down taken therein. When Mr. Patel was confronted with some of the e-mails received by OP-53 from GPMA, he admitted the receipt of such e-mails and at times partially implemented the decisions of GPMA regarding price hike and collective shut-down of plants, as communicated therein.

94.5 Thus, evidently, Mr. Prahlad Patel admitted of his participation in GPMA meetings as well as in the WhatsApp groups “Paper Mills – GJ/MS/CGK” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. He also admitted that OP-53 implemented GPMA price hike decisions, although not to the same extent as decided. Similarly, he also admitted to have partially implemented the collective shut-down decisions of GPMA.

94.6 In its reply to the DG Report, OP-53 made various submissions which were largely similar to those raised by GPMA, OP-2 and OP-34.

94.7 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-53 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially. Such conduct of OP-53 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of



Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

94.8 With respect to penalty, OP-53 also made several submissions which were largely similar to those raised by GPMA and OP-2.

94.9 Such submissions made by OP-53 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

95. OP-54 (Revival Paper Mills Private Limited)

95.1 It is noted from the DG Report that the representative of OP-54, *namely*, Mr. Kunal Dharia, Director, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 28.03.2017, 07.04.2017, 24.04.2017, 05.05.2017, 02.06.2017, 25.07.2017, 22.11.2017, 25.12.2017 and 19.08.2017, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.

95.2 OP-54 was also named by GPMA as one of its members. Further, it was also one of the recipients of the e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013, 06.01.2017, 21.11.2016, 20.01.2017 and 30.01.2017 sent by GPMA to its members.

95.3 In his statement recorded before the DG, Mr. Kunal Dharia acknowledged as under:

“Yes, RPMPL is a registered member of Gujarat Paper Mills Association (GPMA) since 2010 and Federation of Indian Paper Recyclers (FIPR) since the second half of 2017. Representing RPMPL I have attended 12 – 15 meetings of GPMA/FIPR since 2017. RPMPL also paid membership fees to GPMA and FIPR. I have also paid FIPR deposit to the association, however, the same has been refunded to RPMPL because some of the members do not paid the same.

During the meetings of GPMA/FIPR attendees discussed about demonetization issues, GST related issues, Pollution related issues, current market scenario of Kraft Paper, price of finished product and waste paper (both domestic/imported), collective shut-down of mills, factory safety issues etc.

Yes, I was member of one WhatsApp group namely “PAPER MILLS – GJ/MS/C.G.k.” operated by the office bearers of GPMA since 2017. ...

In the above WhatsApp group members discussed about GST related issues, Pollution related issues, current market scenario of Kraft Paper, price of finished product and waste paper (both domestic/imported), collective shut-down of mills, factory safety issues etc.



RPMPPL has received a total of 5 circulars from GPMA/FIPR since 2016, ...

Yes, I was a member of the aforesaid WhatsApp group also (NEWS) ...

I agreed that RPMPPL shut-down its manufacturing plant during the above period as per the directions of GPMA. ...”

95.4 When confronted with various MoMs of GPMA meetings, Mr. Dharia admitted to his participation in the said meetings and when confronted with certain e-mails received from GPMA, Mr. Dharia acknowledged the receipt of the said e-mails. He admitted that he partially implemented the price hike decisions taken in GPMA meetings and communicated through e-mails. He also admitted to following the collective shut-down directives of GPMA issued in such meetings and through e-mails. It is also noted from the DG Report that the mill of OP-54 was shut-down during the period 27.01.2017 to 31.01.2017, 11.02.2017 to 15.02.2017, 11.03.2017 to 15.03.2017, 05.04.2017 to 09.04.2017, 02.05.2017 to 08.05.2017, 01.06.2017 to 06.06.2017 and 27.06.2017 to 03.07.2017, which dates coincide with the collective shut-down dates of GPMA.

95.5 Mr. Dharia also stated that he attended certain meetings on behalf of OP-50 along with OP-54. Mr. Dharia also admitted to being a part of the WhatsApp groups “Paper Mills – GJ/MS/CGK” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. From OP-54’s e-mail account, various incriminating e-mails received from GPMA and competitors of OP-54 were also recovered.

95.6 In its reply to the DG Report, OP-54 made various submissions which were largely similar to those raised by other OPs, which have been dealt with in the earlier parts of the present order. It also submitted that it does not manufacture Kraft paper but rather is a manufacturer of Kraft board, which product is different from Kraft paper. Hence, it was not a part of the alleged cartel and has been wrongly implicated by the DG.

95.7 In the opinion of the Commission, there is sufficient evidence on record, apart from categorical admission on part of Mr. Kunal Dharia, which shows that the price increase of OP-54 was influenced by GPMA meetings in addition to other factors and that OP-54 implemented the collective shut-down decisions taken by GPMA.

95.8 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-54 was part of the discussions held at GPMA/FIPR regarding price increase of



Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially. Such conduct of OP-54 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

95.9 With respect to penalty, OP-54 also made several submissions which were largely similar to those raised by the other OPs.

95.10 Such submissions made by OP-54 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

96. OP-55 (Apna Paper Mills Private Limited)

96.1 It is noted from the DG Report that representatives of OP-55, *namely*, Mr. Ismail Quereshi, Director and Mr. Imran Quereshi, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 28.03.2017, 07.04.2017, 24.04.2017, 05.05.2017, 02.06.2017, 25.07.2017, 19.08.2017, 22.11.2017, 05.12.2017 and 25.12.2017, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.

96.2 OP-55 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013, 19.09.2016, 21.11.2016, 06.01.2017, 20.01.2017 and 30.01.2017 sent by GPMA to its members.

96.3 In his statement recorded before the DG, Mr. Ismail Quereshi acknowledged as under:

“Yes, APMP is a member of Gujarat Paper Mills Association (GPMA) since inception. But my company is not a member of Federation of Indian Paper Recyclers (FIPR). My company also paid annual membership fee to GPMA, but not paid any FIPR contribution.

I have attended 4-5 meetings of GPMA and 1-2 meetings of FIPR since 2017. I have attended the last meeting of FIPR during the initial months of 2018.

*In GPMA/FIPR meetings attendees discussed about the increase in the input cost and the ways to increase the price of Kraft Paper. Attendees also discussed about collective shut-down of mills due to shortage in orders of Kraft Paper, discussed about the price of waste paper and formation of FIPR, pollution related issues, GST related issues *etc.**



Yes, I was also a member of the WhatsApp group operated by GPMA office bearers namely “PAPER MILLS - GJ/MS/C.G.k.” but myself or my company is/was not a member of any other WhatsApp group operated by association of Kraft Paper Manufacturers.

I recollect that I was also a member of the said WhatsApp group (NEWS). ”

96.4 From Mr. Quereshi’s e-mail account, various incriminating e-mails were recovered.

When he was confronted with the same, he admitted to the receipt of such price hike circulars from GPMA and also admitted that OP-55 increased its prices of Kraft paper as per GPMA circulars which can also be seen from the price hike circulars of OP-55 sent via e-mail to its dealers. However, he also stated other reasons for such price hike by OP-55. When confronted with various MoMs of GPMA, Mr. Quereshi admitted to being a part of such meetings and also acknowledged that he shut-down his plant as per GPMA decisions. He also admitted that OP-55 increased the price as per GPMA decisions. However, he stated that there were some other reasons also for such price hike and price hikes were not exactly implemented as per GPMA decisions.

96.5 Thus, evidently, Mr. Quereshi admitted of his participation in GPMA meetings as well as in the WhatsApp groups “Paper Mills – GJ/MS/CGK” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. Mr. Quereshi also admitted that he partially implemented the price hike decisions of GPMA, though he stated that other factors also accounted for such increases. He also admitted having followed certain collective shut-down directives of GPMA.

96.6 In its reply to the DG Report, OP-55 stated that for the last 10 years, it has never made any profits and in fact in 2021-22, it sold all land and plant and machines to Gajanan Paper and Boards Pvt. Ltd. Further, earlier too, OP-55 was registered with BIFR vide Case No. 353/2001. Hence, it has never benefitted from any syndication to raise prices and is not a part of the same.

96.7 In the opinion of the Commission, there is sufficient evidence on record which shows that the price increase of OP-55 was influenced by GPMA meetings in addition to other factors and that OP-55 implemented the collective shut-down decisions taken by GPMA. Its financial health does not give it an excuse to indulge into anti-competitive activities.

96.8 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-55 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-55 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

97. OP-56 (Sachin Paper Mills Private Limited)

97.1 It is noted from the DG Report that the representative of OP-56 namely Mr. Naresh Borana, Director, attended several meetings of GPMA dated 15.02.2017, 28.03.2017, 07.04.2017, 02.06.2017, 25.07.2017, 25.12.2017 and 05.04.2018, wherein discussions regarding fixing of prices, shutting down of mills, etc., were held.

97.2 OP-56 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013, 21.11.2016, 06.01.2017, 20.01.2017 and 30.01.2017 sent by GPMA to its members.

97.3 In his statement recorded before the DG, Mr. Naresh Borana acknowledged as under:

“My company is a member of Gujarat Paper Mills Association (GPMA).

SPMPL has paid membership fee of Rs. 36,999/- to GPMA upto 2016-17 and also paid Rs.37,754/- for the year 2015-16. SPMPL has not paid any membership fee since 2017-18 till date, but not resigned from its membership.

Now I recollect that SPMPL has paid the above membership fee to FIPR for the period 2017.18 on 30.12.2017 and my company is a member of FIPR.

I have attended around 4 to 5 meetings of GPMA and not attended any meetings of FIPR. Voluntarily stated I have attended 2-3 meetings of GPMA and 2-3 meetings of FIPR.

In GPMA Meetings attendees discussed about price of waste paper & its quality, pollution related matters, prevailing market scenario of Kraft Paper, cost of production, increase the price of Kraft Paper by all paper mills and how to reduce the production cost.

I was a member of only one WhatsApp group namely “PAPER MILLS – GJ/MS/C.G.”, ...



My company communicated the price hike to its customers through telephone only and no communication was affected through email.

In the above WhatsApp group members used to discuss about the price of waste paper, pollution related matters, present market scenario of Kraft Paper/waste paper (domestic/imported), cost of production, increasing the price of Kraft Paper.

After seeing the backup of the said group (NEWS) as shown to me i.e., Exhibit 8 colly, I am able to recollect that I was a member of the said group. However, I am not able to remember about the discussion taking place in the said group.”

97.4 When confronted with certain e-mails recovered from his account containing GPMA MoMs, circulars etc., Mr. Borana also admitted that collective shut-down of Kraft paper mills was also discussed in GPMA meetings. He also admitted that he partially implemented the price hike and shut-down directives of GPMA. It is noted from the DG Report that the shut-down dates of OP-56 partially match the shut-down dates declared by GPMA.

97.5 When confronted with the backup of messages posted on WhatsApp group “Paper Mills – GJ/MS/CGK” and asked about the message dated 22.11.2017 at 16:14 posted by Mr. Sunil Aggarwal, President of GPMA, regarding price increase, to which Mr. Borana had posted a thumbs up at 18:58, Mr. Borana admitted that his company supported the price hike decision taken by FIPR. He stated that his company was a member of FIPR and hence, he was forced to support the decisions of the association.

97.6 Similarly, when asked about the message dated 05.12.2017 at 13:06 posted by Mr. Sunil Aggarwal, President of GPMA, regarding price increase, to which Mr. Borana posted a thumbs up at 13:24, Mr. Borana admitted that his company supported the price hike decision taken by FIPR. He stated that his company was a member of FIPR and hence, he was forced to support the decisions of the association.

97.7 Screenshots of such messages are as under:



22/11/2017, 16:14 - Munna Gajananand Paper: Dear Valued Customers,
Due to increase in various cost of production, we have increased 1250₹ per ton in all grades we manufacture from today 22.11.2017.
We kindly request you to place all new orders with effect of new rates.

Regards

22/11/2017, 16:15 - Babubhai: Jay Gurudev 🙏🙏🙏
22/11/2017, 16:36 - Rathi kayegaon: Congratulations Munna bhai...
Appreciate your efforts and Mamaji's Blessings
22/11/2017, 16:43 - Amrit Bhai Morbi: 🙏
22/11/2017, 18:55 - Sandip urvasi: 🙏
22/11/2017, 18:56 - Jenti padmavati: 🙏🙏
22/11/2017, 18:57 - +91 98980 00211: 🙏
22/11/2017, 18:58 - +91 98251 42470: 🙏🙏

In today's meeting it has been decided to increase finish paper rates in all grades by 1000/-₹ per ton with immediate effect.

Next general joint meeting for further rate increase has been schedule on 25th December. Meeting place will be Vapi.

All members are requested to do needful at the earliest.

Sunil Agrawal
President
FIPR

05/12/2017, 13:15 - +91 98980 13480: 🙏🙏
05/12/2017, 13:16 - +91 98250 15410: 🙏🙏🙏
05/12/2017, 13:23 - +91 98253 73002: 🙏
05/12/2017, 13:24 - +91 98251 42470: 🙏🙏

97.8 Thus, evidently, Mr. Borana admitted of his participation in GPMA meetings as well as in the WhatsApp groups “Paper Mills – GJ/MS/CGK” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. Mr. Borana also admitted before the DG that he partially implemented the price hike decisions and collective shut-down decisions of GPMA. His concurrence to price increase decisions of GPMA in the WhatsApp group “Paper Mills – GJ/MS/CGK” can also be seen.

97.9 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-56 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-56 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.



98. OP-57 [Maheshwari Logistics Limited (Paper Division) (Daman Ganga Paper Limited)]

98.1 It is noted from the DG Report that representatives of OP-57, namely, Mr. Neeraj Maheshwari, Chief Executive Officer and Mr. Vipul Vashi and Mr. Amit Maheshwari, Directors, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 28.03.2017, 07.04.2017, 24.04.2017, 02.06.2017, 25.07.2017, 19.08.2017, 22.11.2017, 05.12.2017 and 25.12.2017, wherein discussions regarding fixing of prices, shutting down of mills, etc., were held.

98.2 OP-57 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 19.09.2016, 21.11.2016, 20.01.2017 and 30.01.2017 sent by GPMA to its members.

98.3 In his statement recorded before the DG, Mr. Neeraj Maheshwari acknowledged as under:

“... I used to attend most of the meetings of Gujarat Paper Mills Association (GPMA) and Federation of Indian Paper Recyclers (FIPR). On certain occasions Shri Vipul Vashi, Director and Shri Amit Maheshwari, Director have also attended the above association meetings.

... MLL has paid old dues of membership fees for the period 2015-16 in respect of Damanganga Recycle Resources LLP to GPMA. ...

I have attended 5-10 (Appx.) meetings of GPMA/FIPR. Attendees of the above association meetings discussed about raw materials including waste paper, electricity and coal, government policies, GST matter, demonetization related issues, price of Kraft Paper, shutting down of mills etc.

Yes, I was a member of WhatsApp groups namely “Paper Mills – GJ/MS/CGK/Paper Mills - GJ/MS/CG” and “NEWS PAPER MILLS”. ... In the above WhatsApp groups members discussed about price of raw materials including waste paper, electricity & coal, government policies, GST matter, demonetization related issues, price of Kraft Paper, shutting down of mills etc. However, I never exchanged any message in the above WhatsApp group. I was also a member of the WhatsApp group namely “paper mill kitty” in this group members used to discuss about personal matters just for fun.

In the said WhatsApp groups two other directors Shri Amit Maheshwari and Shri Vipul Vashi were also members.

So far as I can remember MLL has received price circulars of GPMA during January 2016 to April 2018 ...



I was aware that the said acts are ethically wrong but I was not aware that said acts are violative of provisions of Competition Act. I have done the above acts due to ignorance of Law I request you to kindly take a lenient view against my company and me. I assure you that in future I will not participate in such anti-competitive acts.”

98.4 Several MoMs and price hike circulars of GPMA were also recovered from the e-mail account of Mr. Maheshwari. Further, Mr. Maheshwari also submitted that OP-57 was forced to implement GPMA decisions of shut-down due to threat from its office-bearers and OP-57 had also filed a complaint against the office-bearers of GPMA at local Police Station, Nanapondha. It is also noted from the statement of Mr. Maheshwari that he acknowledged that OP-57 had partially implemented the price hike decisions of GPMA, although other factors also contributed to such increase.

98.5 When confronted with MoM of GPMA dated 15.03.2017 in which Managing Committee/General Body of FIPR was formed where name of Mr. Neeraj Maheshwari was also included and he proposed registration of the Federation, Mr. Maheshwari stated that *“I admit that I have attended the above meeting along with Shri Vipul Vashi and Shri Amit Maheshwari. In the said meeting it was decided to increase the price of Kraft Paper by Rs. 2. My company has partially implemented the above price hike decision of GPMA. MLL has also taken into consideration present market scenario including price hike of waste paper. My name was included in the above committee. Later I resigned for the above committee because Association/Federation was supporting the decision of price hike as well as collective shutting down of mills, which I was not in favour. ... I also admit that during the said meeting I propose for the registration of Federation so that we can properly represent to the government authorities.”*

98.6 In this regard, the DG has noted that Mr. Maheshwari resigned from the said post only eight months after the DG had served notice to OP-57 in the present matter. Further, the DG has noted that the shut-down dates of OP-57 partially match the dates of shut-down declared by GPMA. The DG has also noted that though Mr. Maheshwari claimed that OP-57 only paid the old dues of Damanganga to GPMA for 2015-16 and made no further contribution, as per the receipts filed by OP-57 issued by GPMA on 23.01.2017 for the membership fee of 2015-16, in addition to ₹50,000 membership fee received



from OP-57, OP-57 also paid ₹99,120 and ₹41,300 on 03.01.2018 as special contribution to FIPR.

98.7 The DG also noted that OP-57 was incorporated in the year 2006. It started manufacturing Kraft Paper in October 2015 under the plant and equipment operating agreement with Damanganga Paper Ltd. In March 2018, OP-57 purchased the plant and machinery from Damanganga.

98.8 In its reply to the DG Report, OP-57 made various submissions which were largely similar to those raised by the other OPs in the matter. OP-57 also submitted that it cannot be held to be a part of the cartel before 2015 as it was not in the business of manufacture of Kraft paper that time. It became associated with GPMA only because of business reasons and it was not a member of GPMA. As such, it was not bound to follow the decisions of GPMA. In a letter dated 21.01.2017 addressed by Mr. Neeraj Maheshwari to GPMA, he had explicitly stated that *“we are not bound to accept any decision taken in GPMA meetings and we do not accept your decision regarding the shut-down as taken in previous meetings”*. In fact, vide letter dated 26.01.2017, OP-57 had also registered a complaint with the local police station at Vapi with regard to the unsolicited interference and objections raised by GPMA regarding the business operations of OP-57. In reply, the police department asked OP-57 to keep the paper mill shut in order to maintain peace in the area. Further, OP-57 submitted that no AAEC was caused as a result of the activities of OP-57. Rather, if price increase was not done by the Kraft paper mills, the very existence of several paper mills would be in jeopardy and lead to their closure on a large scale, which would have led to disruption in the supply of Kraft paper and would be detrimental to the interests of consumers.

98.9 In the opinion of the Commission, Mr. Neeraj Maheshwari admitted to his and his colleagues' participation in GPMA meetings as well as in the WhatsApp groups “Paper Mills – GJ/MS/CGK” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. He also admitted that OP-57 partially implemented GPMA price hike decisions although other factors also contributed to the same. Similarly, he admitted to have implemented the collective shut-down decisions of GPMA, even though he stated that OP-57 was forced to do the same and OP-57 had objected to the same by even filing a



police complaint against GPMA. It is also noted from the DG Report that, though OP-57 claims that it was averse to the decisions taken in GPMA/FIPR meetings and was objecting to the same, it made financial contributions to FIPR in 2018 and its CEO Mr. Neeraj Maheshwari was also a part of the Managing Committee/General Body of FIPR for two years. The very knowledge of OP-57 about competitors' strategies as shared in GPMA meetings and WhatsApp groups, compromised its independence and was, in fact, detrimental to competition and was likely to cause AAEC in the market. Further, OP-57's financial health does not give it an excuse to indulge in anti-competitive activities.

98.10 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-57 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-57 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

98.11 With respect to penalty, OP-57 also made several submissions which were largely similar to those raised by GPMA and OP-2.

98.12 Such submissions made by OP-57 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

99. OP-58 (Sayaji Paper Private Limited)

99.1 It is noted from the DG Report that the representative of OP-58, *namely*, Mr. Ramesh Patel, Director, Mr. Hasmukh Patel and Mr. Nandibhai Patel, attended several meetings of GPMA dated 15.02.2017, 28.03.2017, 07.04.2017, 24.04.2017, 05.05.2017, 02.06.2017, 25.07.2017, 19.08.2017 and 25.12.2017, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held. OP-58 was also named by GPMA as one of its members.

99.2 In his statement recorded before the DG, Mr. Ramesh Patel acknowledged as under:



“... I have attended 4-5 meetings of Gujarat Paper Mills Association (GPMA), but I have not attended any meeting of Federation of Indian Paper Recyclers (FIPR). I have paid Rs. 20,000 towards hotel expenditure of GPMA for the meeting held in Vadodara during 2017.

In the above association meeting attendees discussed about increasing the price of Kraft paper, price of domestic/imported waste paper, technical issues, shutting down of mills, pollution related issues, GST matters etc.

Yes, I was a member of WhatsApp groups namely “Paper Mills – GJ/MS/CG /Paper Mills – GJ/MS/C.G.k ” and “NEWS PAPER MILLS”. In the said WhatsApp groups members discussed about increasing the price of Kraft paper, price of domestic/imported waste paper, shutting down of mills etc. Some of the members also share their price of Kraft Paper in the said WhatsApp groups.

SPPL communicates to its customers regarding price hike of Kraft Paper and Kraft Board through telephone, WhatsApp and email.

Sometimes SPPL has received communication from GPMA/FIPR regarding price hike of Kraft Paper/Kraft Board, but has not received any communication/MOM/price hike circulars through email or post.

Yes, these are the same WhatsApp groups of which I was a member. On certain occasions I have also supported GPMA/FIPR price hike decisions by putting thumbs up due to the pressure exerted by the office bearers of GPMA/FIPR. However, SPPL implemented the price hike belatedly only.”

99.3 When confronted with various MoMs of GPMA recovered from OP-58's e-mail account, Mr. Patel admitted that he had attended the said meetings and decisions regarding price hike and collective shut-down were taken therein. He also admitted that OP-58 had shut its manufacturing plant, fully or partially, as per the decisions of GPMA but also stated certain other reasons for the said shut-downs. Regarding price hike, he stated that OP-58 also increased the price of Kraft Paper/Kraft Board as per GPMA decisions but stated that it implemented the same on a later date due to shortage of orders.

99.4 Thus, evidently, Mr. Ramesh Patel admitted of his participation in GPMA meetings as well as in the WhatsApp groups “Paper Mills – GJ/MS/CGK” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. He also admitted that he supported such price hike decisions communicated in the WhatsApp groups by putting thumbs up.



He also stated that OP-58 implemented GPMA price hike decisions, however, at a later date. Similarly, he also admitted to have implemented the collective shut-down decisions of GPMA, fully or partially, though other factors were also stated to have contributed to the same.

99.5 In its reply to the DG Report, OP-58 made various submissions which were largely similar to those raised by GPMA, OP-2 and OP-34.

99.6 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-58 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-58 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

99.7 With respect to penalty, OP-58 also made several submissions which were largely similar to those raised by GPMA and OP-2.

99.8 Such submissions made by OP-58 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

100. OP-59 (Sankalp Paper Industries Private Limited)

100.1 It is noted from the DG Report that the representative of OP-59, *namely*, Mr. Amit Tulsian, attended meetings of GPMA dated 15.02.2017, 28.03.2017 and 07.04.2017, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held.

100.2 OP-59 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 21.11.2016, 06.01.2017, 20.01.2017 and 30.01.2017 sent by GPMA to its members.

100.3 In his statement recorded before the DG, Mr. Amit Tulsian acknowledged as under:

“SPIP was a member of Gujarat Paper Mills Association (GPMA). But SPIP was not a member of Federation of Indian Paper Recycles (FIPR). Representing SPIP I have attended only two meetings of GPMA since January 2017, which were held at Mumbai. None of the other directors of SPIP attended any meetings of GPMA/FIPR.



As far as I know, SPIP has paid Annual Membership Fee of Rs.18,000/- to Rs.20,000/- (Appx.) to GPMA till 2016.

In GPMA meetings in which I have attended, attendees used to discuss about Pollution Issues, Debt Recovery, Increasing the price of Kraft Paper, Price of waste paper and its availability both local/imported, collective shutting down of mills.

After seeing the above (“PAPER MILLS – GJ/MS/CGK/PAPER MILLS – GJ/MS/CG”) I remember that myself and Shri Sanat Sushilkumar Tulsian were also members of the above WhatsApp group operated by GPMA office bearers.”

100.4 When confronted with the MoMs of GPMA meetings he had attended, Mr. Tulsian admitted that decisions regarding price hike and collective shut-down were taken therein. He also admitted that OP-59 had shut its manufacturing plant as per the decisions of GPMA, fully or partially, but also stated certain other reasons for the said shut-down. Regarding price hike, he stated that OP-59 also increased the price of Kraft paper/Kraft board as per GPMA decisions but stated that it implemented the same not exactly and also for other reasons. Mr. Tulsian also admitted to have implemented certain other collective shut-down and price hike directives of GPMA.

100.5 Thus, evidently, Mr. Tulsian admitted to his participation in GPMA meetings as well as in the WhatsApp group “Paper Mills – GJ/MS/CGK”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. He also stated that OP-59 implemented GPMA price hike decisions, though only partially. Similarly, he also admitted to have implemented the collective shut-down decisions of GPMA, fully or partially, though other factors were also stated to have contributed to the same.

100.6 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-59 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-59 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.



101. OP-60 (Lucky Star Paper Mills)

101.1 It is noted from the DG Report that representatives of OP-60, namely, Mr. Noormohammed V. Shaikh and Mr. Abudulla Shaikh, Partners, attended meetings of GPMA dated 15.02.2017, 07.04.2017 and 05.04.2018, wherein discussions regarding fixing of prices, shutting down of mills, etc., were held. OP-60 was also named by GPMA as one of its members.

101.2 In his statement recorded before the DG, Mr. Noormohammed Shaikh acknowledged as under:

“... I have attended two meetings of Gujarat Paper Mills Association (GPMA). I have not attended any meeting of Federation of Indian paper Recyclers (FIPR). I have also paid Rs 2000/-(appx.) each on two occasions being the hotel rent for GPMA meetings held in Mumbai. Apart from the above LSPM has not paid any other payment towards membership fee of GPMA/FIPR or onetime contribution or FIPR contribution. Now I recollect that LSPM has issued cheque for Rs 1 Lakh (appx.) towards one time contribution to GPMA, but the cheque was not encashed due to shortage of funds

In GPMA meetings members used to discuss issues such as waste paper shortage and its increasing cost, increasing the price of Kraft Paper, technical issues, pollution related issues, collective shutting down of the mills, input cost cutting etc.

... I was a member of the WhatsApp groups namely “Paper Mills-GJ/MS/C.G.K/Paper Mills-GJ/MS/CG” and “Maharashtra paper mills”. Sh. Abdullah Sheikh other partner was also a member of the WhatsApp group namely “Paper Mills-GJ/MS/C.G.K/Paper Mills-GJ/MS/CG”. In the said groups members used to share messages regarding the decisions of GPMA meeting, increasing the price of Kraft Paper, collective shutting down of mills, input cost cutting etc. Members also shared their revised price of Kraft paper in the said groups. I have also supported the decision of certain mills regarding price hike by putting “ok” message on the said groups.

LSPM send email messages or telephonic conversation to its customers regarding price hike of Kraft Paper.

LSPM has not received any communication/MOM/circulars from GPMA/FIPR regarding the price hike of the Kraft paper. However, myself and the other partner used to know GPMA decisions regarding price increase of Kraft paper through the WhatsApp groups stated by me ...

I admit that these are the same WhatsApp groups of which myself and Sh. Abdullah V.M. Sheikh were members.

LSPM increased the price of the Kraft paper as decided by GPMA, however, LSPM has not increased the price of Kraft paper on the dates decided by GPMA, but LSPM increased the price of the Kraft paper after a gap of 10-15 days. LSPM also did not increase the price of Kraft paper exactly as decided by GPMA. If GPMA decided to increase the price of Kraft paper by Re. 1-2, my firm may have increased Rs.0.5 to Re.1/-.

I admit that LSPM has shut its manufacturing plant on the aforesaid dates as decided by GPMA. However, LSPM was forced to shut its manufacturing plant during the above periods due to the pressure and threats from the office bearers of GPMA. GPMA also used to send its representative to check whether LSPM has also shut its manufacturing plant during the scheduled shut period. However, LSPM has done its maintenance work during the above shut periods.”

101.3 When confronted with the MoMs of GPMA meetings he had attended, Mr. Shaikh admitted that OP-60 had increased the price of Kraft paper as per GPMA decisions but stated that it implemented the same on a later date and not to the same extent. Further, Mr. Shaikh also admitted that he shut the manufacturing plant of OP-60 as per the decisions of GPMA, fully or partially, although he stated that he was forced to do so owing to the pressure and threats from the office-bearers of GPMA. He said that GPMA used to send its representatives to check whether OP-60 has shut its manufacturing plant during the scheduled shut period.

101.4 Mr. Shaikh also admitted that he and Mr. Abudulla Shaikh are active members of WhatsApp groups of Maharashtra Paper Mills and “Paper Mills – GJ/MS/CGK”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. It is also noted from the DG Report that GPMA had decided to shut-down the mills of its members collectively from 27.01.2017 to 31.01.2017 (5 days), 11.02.2017 to 15.02.2017 (5 days), 11.03.2017 to 15.03.2017 (5 days), 05.04.2017 to 09.04.2017 (5 days), 02.05.2017 to 08.05.2017 (7 days), 01.06.2017 to 06.06.2017 (6 days) and 01.07.2017 to 03.07.2017 (3 days) and, as revealed from the scanned copy of RG-1 Register of OP-60, OP-60 had also shut-down its manufacturing plant during 26.01.2017, 30.01.2017 and 31.01.2017 (3 days), 13.02.2017 to 15.02.2017 (3 days), 13.03.2017 to 15.03.2017 (3 days), 06.04.2017 to 10.04.2017 (5 days), 02.05.2017 to 07.05.2017 (6 days), 01.06.2017 to 05.06.2017 (5



days) and 01.07.2017 to 03.07.2017 (3 days), which dates partially match with the shut-downs declared by GPMA.

101.5 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-60 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-60 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

102. OP-61 [Gayatri Shakti Paper and Boards Limited (Unit – II)]

102.1 It is noted from the DG Report that representatives of OP-61, *namely*, Mr. Tonny D. Pereira, Manager, Mr. Nikhar G. Agarwal, Director, Mr. Mahesh Jalan, Executive Director and Mr. B.K. Dayama, attended several meetings of GPMA dated 15.02.2017, 15.03.2017, 07.04.2017, 05.05.2017 and 02.06.2017, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held. OP-61 was also named by GPMA as one of its members.

102.2 In his statement recorded before the DG, Mr. Tonny Pereira acknowledged as under:

“GPBL is a member of Gujarat Paper Mills Association (GPMA) since 2015 (Appx.). I have attended maximum three meetings of GPMA. I have attended the last meeting of GPMA approximately one year back at Hotel Westin, Mumbai. Shri Nikhar Agarwal, Director also attended some of the meetings of GPMA and he also attended one of the meetings of GPMA along with me.

In GPMA meetings attendees discussed about shortage of waste paper, purchase of waste paper by decreasing the price, collective increase in the price of Kraft Paper. ...

Once I was a member of WhatsApp group namely Gujarat Paper Mills apart from that I have never been a member of any other WhatsApp group.

Now I recollect that in some of GPMA meetings in which I have attended, attendees discussed about collective shut-down. But I could not specify the dates of those meetings in which the above matter was discussed.”

102.3 When confronted with the backup of certain messages exchanged in the WhatsApp Group “NEWS Paper Mills” of which Mr. Pereira was also a member, he stated that

such messages were exchanged by some of the paper mills of North India to inform the increasing trend of waste paper; as a result, the other paper mills got to know about the trend of the market so that they could take the decision about the price. With respect to WhatsApp Group “Paper Mills – GJ/MS/C.G.K” also, Mr. Pereira stated that *“In the said group members also exchanged messages regarding price of Kraft Paper/waste paper”*.

102.4 Though Mr. Pereira initially stated in his deposition that collective shut-down of mills was not discussed in GPMA meetings, when he was confronted with certain MoMs of GPMA, he recollected that in the said GPMA meetings, it was decided to shut the mills across Gujarat, Maharashtra and Chhattisgarh collectively for certain durations. He admitted that OP-61 also shut its manufacturing plant during the said days. Mr. Pereira also admitted that, in certain GPMA meetings, it was decided by GPMA to increase the price of Kraft paper by a certain amount. He stated that OP-61 did increase the price of its Kraft paper, although not exactly as decided by GPMA.

102.5 Mr. Pereira also acknowledged that OP-61 shut-down its manufacturing plant from 27.01.2017 to 31.01.2017 (5 days), 11.02.2017 to 15.02.2017 (5 days), 11.03.2017 to 15.03.2017 (5 days), 05.04.2017 to 11.04.2017 (7 days), 02.05.2017 to 08.05.2017 (7 days), 01.06.2017 to 05.06.2017 (5 days), 02.06.2017 to 06.06.2017 (partial shut), 27.06.2017 to 01.07.2017 (5 days), which dates coincide with the collective shut-down carried out by other members of GPMA.

102.6 Thus, evidently, Mr. Pereira admitted of his participation in GPMA meetings as well as in the WhatsApp groups “Paper Mills – GJ/MS/CGK” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. He also admitted that OP-61 implemented GPMA price hike decisions, although at a later date. Similarly, he admitted to have implemented the collective shut-down decisions of GPMA, fully or partially.

102.7 Further, in his statement recorded before the DG, Mr. Nikhar Agarwal acknowledged as under:

“GPBL is not a member of GPMA, however, I have attended only one meeting at Hotel Westin, Mumbai in 2017. I do not recollect the exact date of GPMA

meeting. Shri Tonny Dennis Pereira, Manager Sales has also attended the meeting of GPMA once along with me and couple of times he alone also.

In GPMA meetings, members discussed about disposal of plastic waste recovered from the Kraft Paper mills, price of Kraft Paper, price of waste paper, collective shut-down of mills, pollution related issues etc.

I admit that my company was shut during the aforesaid days due to compulsion and threat from the office bearers as well as members. The office bearers and the members came to my factory and forced me to shut GPBL's plant and refused to leave the plant until I confirm that I will shut-down my plant along with others."

102.8 Though Mr. Agarwal initially stated in his deposition that he was not a member of any WhatsApp Group in common with Mr. Pereira, when he was confronted with backup printout of "Paper Mills – GJ/MS/CGK", he recollected that he and Mr. Tony D. Pereira were members of the said group. It is noted that, in the said group, Mr. Agarwal posted a message on 17.11.2017 at 15:00 that *"leaving shut-down, we are with the association totally. We are with everyone for increasing the prices."* When confronted with the same, Mr. Agarwal submitted that *"Yes, I was supporting the price increase decision of GPMA, but I was not supporting the planned shut-down of the mills by the association"*. Similarly, it is noted that in the said group, Mr. Agarwal posted put two thumbs up on 17.11.2017 at 15:06 in response to a message posted by Mr. Manoj Thane that *"let's just declare the shuts with increase ... and don't shut"*. When confronted with the same, Mr. Agarwal submitted that *"Yes, I was supporting the price increase decision of GPMA, but I was not supporting the planned shut-down of the mills by the association."* It is also noted that in the said group, Mr. Agarwal posted a message on 21.11.2017 at 14:42 that *"we are willing to increase the rates with everyone as well as mentioned last week."* When confronted with the same, Mr. Agarwal again submitted that *"Yes, I was supporting the price increase decision of GPMA, but I was not supporting the planned shut-down of the mills by the association"*.

102.9 When confronted with MoM dated 15.03.2017 of GPMA, Mr. Agarwal admitted to have attended the said meeting and acknowledged that in the said meeting, it was decided to increase the price of Kraft paper which OP-61 supported. Similarly, when confronted with MoM dated 15.05.2017 of GPMA, Mr. Agarwal admitted to have



attended the said meeting and acknowledged that in the said meeting, it was decided to shut-down the mills collectively. However, he stated that OP-61 did not support the said decision.

102.10 Mr. Agarwal however, acknowledged that OP-61 shut-down its manufacturing plant from 27.01.2017 to 31.01.2017 (5 days), 11.02.2017 to 15.02.2017 (5 days), 11.03.2017 to 15.03.2017 (5 days), 05.04.2017 to 11.04.2017 (7 days), 02.05.2017 to 08.05.2017 (7 days), 01.06.2017 to 05.06.2017 (5 days), 02.06.2017 to 06.06.2017 (partial shut) and 27.06.2017 to 01.07.2017 (5 days), which dates coincide with the collective shut-down carried out by other members of GPMA. In this regard, he stated that OP-61 was shut during the aforesaid days due to compulsion and threat from the office-bearers as well as members of GPMA. The office-bearers and members came to OP-61's factory and forced Mr. Agarwal to shut the plant and refused to leave the plant until he confirmed that he will shut-down his plant along with others.

102.11 Thus, evidently, Mr. Agarwal was an active member of the WhatsApp group "Paper Mills – GJ/MS/CGK", wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. He was also a supporter of price hike decisions of GPMA, although he stated that he was forced to follow collective shut-down decisions of GPMA under threat from GPMA.

102.12 In its reply to the DG Report, OP-61 made various submissions which were largely similar to those raised by the other OPs in the matter, specifically OP-57. OP-61 also submitted that it became a member of GPMA for business reasons only and it was only a passive member. It had, in fact, refused to follow the decision of GPMA regarding closure of paper mills. In a WhatsApp message posted on WhatsApp group of paper mills, Mr. Nikhar Agarwal had clearly said that *"leaving shut-down, we are with association totally. We are with everyone for increasing the price."* In fact, OP-61 had even filed police complaints dated 31.01.2017 and 02.08.2017 at Bhilad Police Station against GPMA-forced shut-downs, however, it had to follow the shut-down call sometimes because of threat and coercion by GPMA. Further, it submitted that OP-61 only produced Kraft board till 2015 and began the manufacture of Kraft paper only thereafter. Also, it stated that it makes negligible sales to the Informants *i.e.*, corrugated



box manufacturers rather, majority of its sales are either exports or made to its sole dealer Paptex Ltd.

102.13 In the opinion of the Commission, both Mr. Tonny Pereira and Mr. Nikhar Agarwal admitted to their participation in GPMA meetings as well as in the WhatsApp groups “Paper Mills – GJ/MS/CGK” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. The very knowledge of OP-61 about competitors’ strategies as shared in GPMA meetings and WhatsApp groups, compromised its independence and was, in fact, detrimental to competition and was likely to cause AAEC in the market.

102.14 Further, it is an admitted fact that OP-61 supported and partially implemented GPMA price hike decisions. Similarly, it is also an admitted fact that OP-61 implemented the collective shut-down decisions of GPMA, partially or fully, *albeit* under GPMA threats. All such acts of OP-61 were likely to cause an AAEC in the market. In such a scenario, sales being made by OP-61 to corrugated box manufacturers directly or through a dealer, or sales being made majorly through exports by OP-61, is an immaterial fact.

102.15 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-61 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-61 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

102.16 With respect to penalty, OP-61 also made several submissions which were largely similar to those raised by GPMA and OP-2.

102.17 Such submissions made by OP-61 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

103. OP-62 (Kwality Pulp and Paper Mills)

103.1 It is noted from the DG Report that the representative of OP-62, *namely*, Mr. Vijay Madnaik, Partner, was the President of GPMA from 2011 to 2015, in which capacity he



signed various circulars of GPMA dated 23.04.2011, 01.03.2013, 20.03.2013, 19.06.2013, 29.08.2013, 13.02.2014, 13.03.2014, 02.08.2014, 24.09.2015 and 16.02.2016, whereby decision to raise prices of different grades of Kraft papers were communicated to other paper mills.

103.2 OP-62 was also named by GPMA as one of its members. Further, it was one of the recipients of the e-mails dated 30.01.2013, 20.03.2013, 19.06.2013, 29.08.2013, 19.09.2016, 21.11.2016, 06.01.2017, 20.01.2017 and 30.01.2017 sent by GPMA to its members.

103.3 In his statements recorded before the DG, Mr. Vijay Madnaik acknowledged as under:

“As the President of GPMA I coordinate meetings of Kraft Paper, Duplex Board and News Print mill owners to discuss general issues such as pollution related matters, government policy matters, Central Excise issues, raw material price/availability related matters, Kraft paper price, fuel issues, collective shut-down of mills etc. GPMA generally arrange meetings as per the request from its members. After collecting suggestions regarding price of raw material from the members present, I along with other office bearers used to analyse the suggestions and if found genuine then GPMA decides to increase the price of finished paper and issue price hike circulars to its members.

Mill owners from Vapi, Surat and Ankleshwar were the members of GPMA. Mill owners from other parts of Gujarat which was not mentioned above, Maharashtra, Andhra Pradesh and South India region have also attended some of the meetings of GPMA. GPMA used to collect membership fee from its members however, to be a member of GPMA, it was not mandatory to pay membership fee. Since inception of GPMA till now KPPM is a member of GPMA. KPPM has also paid membership fee to GPMA, but not paid membership fees for the last 2 to 3 years. I have attended the meetings of GPMA till 2015, i.e. couple of months after demitting as the President of GPMA. During my tenure as President of GPMA meetings of GPMA were held in the office of GPMA, hotels in Vapi, Daman and Mumbai.

So far as I can recollect there was an association for South India region regarding Kraft Paper ...

Since I was the President of GPMA, as well as partner of KPPM, I directly convey to my firm the price hike decisions of GPMA. Regarding shut-down, members including KPPM voluntarily decides their shut-down schedule. During my tenure KPPM follows price hike decisions of GPMA.



I do not remember whether KPPM has received any circulars/MOM regarding price hike of Kraft Paper or collective shut-down of mills from GPMA.”

“I admit that KPPM also shut its manufacturing plant almost as per the collective shut-down decision decided by GPMA. The reason for KPPM’s shut was due to shortage of orders and in connection with implementation of GST.

During 2015 and 2016 also in the meetings of GPMA, members discussed about price hike of Kraft Paper and decided to increase the price collectively and issued circulars accordingly.”

103.4 When confronted with various price hike circulars signed by Mr. Madnaik on behalf of GPMA, he admitted to issuing the same. It is also noted from the DG Report that Mr. Madnaik signed two such circulars even after demitting office as President of GPMA.

103.5 He also admitted when confronted with e-mail received from GPMA and OP-62’s sale bills that OP-62 implemented the price hikes communicated by GPMA at times, although not to the same extent and based on other factors.

103.6 It is also noted from the DG Report that the plant of OP-62 was shut-down on 27.01.2017 (partial shut - 7611 KG) and from 28.01.2017 to 31.01.2017 (4 days), on 11.02.2017 (partial shut - 9078 KG) and from 12.02.2017 to 14.02.2017 (3 days), on 15.02.2017 (partial shut – 20354 KG), from 12.03.2017 to 15.03.2017 (4 days), from 06.04.2017 to 09.04.2017 (4 days), from 03.05.2017 to 08.05.2017 (6 days), from 04.06.2017 to 05.06.2017 (2 days), on 28.06.2017 (partial shut – 4940 KG) and from 29.06.2017 to 01.07.2017 (3 days), which dates fully or partially coincide with the shut-down dates 27.01.2017 to 31.01.2017 (5 days), 11.02.2017 to 15.02.2017 (5 days), 11.03.2017 to 15.03.2017 (5 days), 05.04.2017 to 09.04.2017 (5 days), 02.05.2018 to 08.05.2017 (7 days), 01.06.2017 to 06.06.2017 (6 days) and 27.06.2017 to 03.07.2017 (7 days) issued by GPMA.

103.7 Thus, evidently, Mr. Madnaik issued various price hike circulars on behalf of GPMA. He also stated that OP-62 partially implemented GPMA price hike decisions and it is also evident that OP-62 partially implemented the collective shut-down decisions of GPMA.

103.8 In its reply to the DG Report, OP-62 made various submissions, which were largely similar to those raised by the other OPs. It also submitted that its price hike decisions were not based on GPMA directives but rather, were independent in nature and that its



shut-down dates only coincidentally match partially with the shut-downs declared by GPMA. In fact, in the MoM of GPMA dated 15.03.2017, a boycott call against OP-62 is specifically recorded on account of its refusal to follow GPMA *diktats*. OP-62 also stated that it was never a member of any WhatsApp group where prices or shut-downs were discussed.

103.9 In the opinion of the Commission as recorded in the earlier part of the present order numerous times, the provisions of Section 3(1) of the Act not only proscribe agreements which cause an AAEC in the market, but also forbid agreements which are likely to cause an AAEC in the market. Since the very knowledge of OP-62 and Mr. Vijay Madnaik regarding price increase and collective shut-down directives compromised their independence and the same was likely to cause AAEC in the market..

103.10 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-62 was part of the discussions held at GPMA/FIPR regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by GPMA/FIPR, fully or partially, in this regard. Such conduct of OP-62 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

103.11 With respect to penalty, OP-62 also made several submissions which were largely similar to those raised by GPMA and OP-2.

103.12 Such submissions made by OP-62 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

104. OP-63 (Northern India Paper Mills Association)

104.1 It is noted from the DG Report that Mr. Pankaj Aggarwal, Managing Director of OP-64, was the President of OP-63 and as such, his statement was recorded on oath by the DG. In his statement, Mr. Aggarwal denied the existence of any association by the name of NIPMA and denied that he is the President thereof.

104.2 However, it is noted from the DG Report that, as per various media reports, including in the *Economic Times* and *Pramaya News*, reproduced hereunder, the paper mills in North India had suspended their operations for five days, from 21.01.2016 to 26.01.2016 and Mr. Pankaj Aggarwal, as President of NIPMA, had given a statement in this regard to the newspapers:



THE ECONOMIC TIMES
Business News > Industry > Ind'l Goods/Svs > Paper / Wood / Glass/ Plastic/ Marbles

Benchmarks >
Nifty LIVE
11,109.05 ↑ 76.60

NSE Gainer-Large Cap >
Ibull HousingFin
509.75 ↑ 65.40

Precious Metal >
Gold (MCX) (Rs/10g.)
37,946.00 ↑ 189.00

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Market Watch

Around 130 paper mills in north India suspend operation

UPDATED: JAN 22, 2016, 12:36 PM IST

MUZAFFARNAGAR: Owners of around 130 paper mills in north India have suspended operation for five days citing rise in price of raw materials.

The paper mills have suspended production for five days since yesterday, President of Northern India Paper Mill Association, Pankaj Aggarwal said today.

A decision in this regard was taken last evening during a meeting of mill owners from different parts of northern india including Shamli, Ghaziabad, Meerut, Moradabad (UP), Roorkee (Uttarakhand), Kashipur (Himachal Pradesh) and Haryana, he added.

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The end of Five-Year Plans: All you need to know

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Around 130 paper mills in north India suspend operation

Published on 22 January 2016 By Prameya News7 (author)

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Muzaffarnagar: Owners of around 130 paper mills in north India have suspended operation for five days citing rise in price of raw materials.
The paper mills have suspended production for five days since yesterday, President of Northern India Paper Mill Association, Pankaj Aggarwal said today.
A decision in this regard was taken last evening during a meeting of mill owners from different parts of northern india including Shamli, Ghaziabad, Meerut, Moradabad (UP), Roorkee (Uttarakhand), Kashipur (Himachal Pradesh) and Haryana, he said.
- See more at: <http://prameyanews7.com/en/jan2016/national/12334/Around-130-paper-mills-in-north-India-suspend-operation.htm#sthash.CRKCKUiU.dpuf>

104.3 Further, the DG, from the e-mail account of OP-64, recovered the following e-mail, whereby, in reply to an e-mail dated 26.03.2018 sent by Mr. Ashok Gupta of OP-74 to Mr. Pankaj Aggarwal requesting him to send his bio-data for a workshop, Mr. Pankaj Aggarwal, vide email dated 27.03.2018, sent his bio-data mentioning himself as the Chairman of NIPMA:

Request for Bio-data
pankaj aggarwal
Tue 3/27/2018 3:40 PM
To: ALOK GUPTA <ashirwad626@rediffmail.com>
1 attachments (33 KB)
bio data for sri ram clg.doc
Plz find enclosed my bio data
Regards
Pankaj

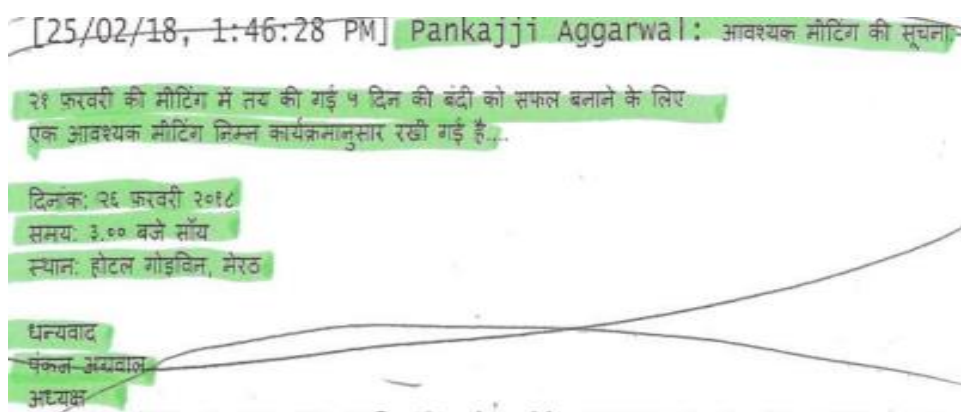


NAME : PANKAJ AGGARWAL
 FATHER'S NAME : SH. MOOLCHAND AGGARWAL
 DATE OF BIRTH : 18th October, 1968
 NATIONALITY : INDIAN
 EDUCATION : B.COM
POSITIONS HELD:
 MANAGING DIRECTOR- BINDLAS DUPLUX LTD., MUZAFFARNAGAR
 CHAIRMAN- NORTHERN INDIA PAPER MILLS ASSOCIATION
 EX-CHAIRMAN - NAGAR PALIKA PARISHAD, MUZAFFAR NAGAR .
 VICE CHAIRMAN- INDIAN AGRO & RECYCLE PAPER MILLS ASSOCIATION
 EX-CHAIRMAN - INDIAN INDUSTRIES ASSOCIATION, MUZAFFARNAGAR
 FROM 2003 TO 2005 AND 2007 TO 2009

When Mr. Pankaj Aggarwal was confronted by the DG with the above e-mail, he admitted that the e-mail was sent by his political assistant, Mr. Virender.

104.4 It is also noted from the DG Report that Mr. Pankaj Aggarwal was a member of the WhatsApp group “NEWS Paper Mills” in which mill owners from North, East, West and South used to discuss the prices of Kraft paper and collective shut-down of paper mills. In the said group, the following incriminating messages, *inter alia*, were found against Mr. Pankaj Aggarwal:

- (a) Message dated 25.02.2018 at 01:46, posted by Mr. Pankaj Aggarwal as President of NIPMA, in Hindi, regarding a meeting to be held on 26.02.2018 to make shut-down of five days as decided in 21.02.2018 meeting, a success:



- (b) Message dated 20.03.2018 at 06:57, posted by Mr. Pankaj Aggarwal as President of NIPMA, in Hindi, regarding a decision taken in a meeting regarding shut-down of paper mills from 02.04.2018 to 07.04.2018, increasing rate of Kraft paper by ₹1 per kg and further increase of rate by ₹1 per kg after shut-down from 02.04.2018:



[20/03/18, 6:57:02 PM] Pankajji Aggarwal: आज की मीटिंग का निर्णय:-

- १- बंदी २ अप्रैल से ६ अप्रैल तक
- २- फिनिश कागज में तुरंत १ रुपए की बढ़ोतरी
- ३- बंदी करके २ अप्रैल से १ और रुपए की बढ़ोतरी

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अध्यक्ष

- (c) Message dated 05.05.2018 at 10:43, posted by Mr. Pankaj Aggarwal as President of NIPMA, in Hindi, regarding a decision taken in a meeting to shut-down the mills for six months from the 2nd to 6th of every month and holding the price of finished paper 18BF @ ₹ 23 per kg and hold the next meeting on 15.05.2018:

[05/05/18, 10:43:06 AM] Bhushanji Gupta: आज की मीटिंग का निर्णय:-

१. हर महीने २ तारीख से ६ तारीख तक बंद छः महीने तक
२. कागज के रेट्स में कोई परिवर्तन नहीं। १८ BF के रेट्स न्यूनतम २३ रुपए नैचरल
३. अगली मीटिंग १५ मई को मेरठ में होगी

धन्यवाद
पंकज अग्रवाल

- (d) Message forwarded by Mr. B. B. Gupta of OP-79 on 31.08.2016, in Hindi, to which Mr. Pankaj Aggarwal responded, which shows that it was decided by Mr. Pankaj Aggarwal under the banner of NIPMA in the meeting held on 05.05.2018, to shut the mills from the 2nd to 6th of every month for the next six months and not change the prices of 18 BF paper by keeping it at a minimum ₹23 per kg:



[31/08/16, 18:11:36] B B Gupta: आज पेपर मिल एसोसिएशन की मीटिंग होटल रायल प्लाज़ा, नई दिल्ली में आयोजित की गई जिसमें 45 मेंबर ने भाग लिया। मीटिंग का निर्णय.....

1. 4 सितम्बर से 8 सितम्बर तक सभी क्राफ्ट की मिले बन्द। मिले 9 सितम्बर को चलेगी
 2. कागज़ में तुरन्त एक रुपये की बढ़ोतरी
 3. रद्दी में 20 पैसे कम 4 सितम्बर
- मीटिंग में सर्वसम्मति से निर्णय लिया गया कि जो इस निर्णय के नहीं मानेगा, उसके साथ सामाजिक बहिष्कार किया जाएगा।
धन्यवाद पंकज अग्रवाल, अध्यक्ष

[31/08/16, 18:18:45] Pankaj Aggarwal Paper Up: मनोज जी, आपको भी बन्द करनी है

[31/08/16, 18:19:27] +91 98120 30905: Ok sir

[31/08/16, 18:22:12] Pankaj Aggarwal Paper Up: Thanks Manoj ji

- (e) Messages exchanged between Mr. Pankaj Aggarwal and Mr. Neeraj Maheshwari of OP-61 on 01.09.2016, regarding a meeting in Mumbai:

[01/09/16, 11:00:51] Pankaj Aggarwal Paper Up: We had a wonderful meeting in Mumbai

[01/09/16, 11:01:13] +91 98795 96309: Yes such type of meeting again required..

[01/09/16, 11:01:16] Pankaj Aggarwal Paper Up: But sorry to say....we did not get your support

[01/09/16, 11:02:37] Pankaj Aggarwal Paper Up: However when northern paper mills increased the price..... Western mills started to feed customers here.

[01/09/16, 11:02:59] +91 98795 96309: Yes sir thats y time to meet again.

[01/09/16, 11:03:17] Pankaj Aggarwal Paper Up: That's why we stopped every month planned shuts.

- (f) Message dated 22.10.2016, posted by Mr. Pankaj Agarwal as President of NIPMA, in Hindi, about the decision taken in a meeting held a day before, regarding shut-down of mills from 31.10.2016 to 05.11.2016 and reduction in price of waste paper by 20 paise from 23.10.2016 and 25.10.2016:

[22/10/16, 10:39:40] Pankaj Aggarwal Paper Up: मुज़फ़्फ़रनगर में आयोजित कल की मीटिंग का निर्णय

१. सभी मिले ३१ अक्टूबर से ५ नवम्बर २०१६ तक बन्दी

२. २३ अक्टूबर से रद्दी में २० पैसे घटाएँगे और २५ से २० पैसे दोबारा

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- (g) Message dated 10.11.2016 posted by Mr. Pankaj Aggarwal, regarding the decision taken in a meeting held on 10.11.2016 for shut-down of paper mills for five days from 16.11.2016, increase in price of Kraft paper by ₹1 per kg with immediate effect and reduction in the price of waste paper:

[10/11/16, 14:51:53] Pankaj Aggarwal Paper Up: आज की मीटिंग का निर्णय

१६ तारीख से ५ दिन के लिए मिलें बंद

कागज में १ रुपए की तुरंत बढ़ोतरी

रद्दी में १ रुपया तुरंत कम

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[10/11/16, 14:54:14] Pankaj Aggarwal Paper Up: कृपया सभी अपने सप्लाइअर्स को और डीलर को तुरंत खबर कर दें

- (h) Message dated 16.11.2016 posted by Mr. Pankaj Aggarwal, in Hindi, informing members regarding a meeting of NIPMA to be held on 17.11.2016 at Hotel Godwin, Meerut:

[16/11/16, 09:51:01] Pankaj Aggarwal Paper Up: NIPMA की एक अति आवश्यक मीटिंग निम्न कार्यक्रमानुसार आयोजित की गई है:...

तारीख: 17 नवम्बर 2016

स्थान: होटल गोडविन, मेरठ

समय: 11 बजे सुबह

वर्तमान परिस्थिति में पेपर मिलों के भविष्य पर प्रश्नचिन्ह लग चुका है.....कोई भी अकेला व्यक्ति इसका समाधान नहीं निकाल सकता। ऐसे में हमें संगठित रहकर, एकता दिखाकर अपने वर्तमान और भविष्य को सुनिश्चित करना है।

कृपया सब समय पर आ जाए क्योंकि मुझे और नीरज जी को किसी महत्वपूर्ण कार्य से शीघ्र जाना है

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- (i) Message dated on 26.01.2017 posted by Mr. Sunil Agarwal, President of GPMA, sharing the decision of GPMA for collective shut-down of Kraft mills from 27.01.2017 to 31.01.2017. In support of the above decision, Mr. Pankaj Aggarwal also posted a message on 27.01.2017 mentioning that North Mills will also support the collective shut-down decision of GPMA:



[26/01/17, 14:25:17] +91 98251 34335: Dear Mill Owners,
Presidential Message
We all have decided jointly to shut our mills from tomorrow to 31st.
All are requested to put their confirmation of Shut in this group as soon as they shut their mill
Monitoring teams in gujarat and maharashtra will be reaching to all places by today evening.
All are requested to allow them to enter in the mill and see the machine is shut or not.
They will be reporting to the Shut monitoring committee and this committee will inform to all regional presidents.
I request all the regional presidents to arrange meetings of their area mills during this Shut.
If at all any mill is found in running condition, be prepared, as severe action will be taken.
For few the whole industry can not be suffered.
INDISCIPLINE WILL NOT BE TOLERATED AT ALL.
Sunil Agrawal
President
GPMA
 [27/01/17, 11:25:17] Pankaj Aggarwal Paper Up: आप लोग बंदी कामयाब करो।
 नोर्थ वाले भी शीघ्र साथ देंगे

- (j) Mr. K. Swaminathan, Secretary of SIKPMA posted a message on 28.01.2017 mentioning increase in the price of Kraft paper @ ₹2,000/PMT w.e.f. 01.02.2017. In support of the same, Mr. Pankaj Aggarwal added an emoji on the same date and assured strong decision in the meeting to be held on 02.02.2017:

[28/01/17, 18:46:15] +91 98980 13480: Today South Indian kraft paper Mills meeting at Chennai it was decided to increase the price by Rs. 2000 per ton with effect from 1st February for all grades of kraft paper and billing at revised rate from 5th Feb onwards. In case if any mill is selling at old rate after 5th Feb they will be penalised with a fine of Rs. 5 Lakhs after verifying the same.
 [28/01/17, 18:46:15] +91 98980 13480: It has been agreed by all mills
 [28/01/17, 18:52:18] Pankaj Aggarwal Paper Up: ☐☐
 [28/01/17, 19:04:30] Pankaj Aggarwal Paper Up: We have a meeting on 2nd Feb. We will take some strong decision

- (k) Mr. Arvind Kumar of OP-65 posted a message on 03.02.2017 asking Mr. Pankaj Aggarwal to suggest the North Mills to increase the price of Kraft Paper else his efforts will be wasted. In response, Mr. Pankaj Aggarwal replied that the mills have already increased the price by ₹1 per kg and are also planning to further increase ₹2 per kg from 01.03.2017:

[03/02/17, 22:47:28] +91 98370 22535: NORTH BELT KO SUGGEST KARO RATE INCREASE KARE SABKA SATH DE JID NA KARE VERNA AAP KI MEHNET BEKAR JAYEGI PAPER IND SAVE KARNI HEY TO SABHI SATH RAHE IMMIDITLY RATE INCREASE KARE
 [03/02/17, 22:48:55] Pankaj Aggarwal Paper Up: १ रुपया बढा चुके है। १ मार्च से २ रुपया और बढाया है



(l) Messages dated 25.02.2017 relating to NIPMA meeting:

[25/02/17, 21:46:23] Pankaj Aggarwal Paper Up: आज की NIPMA की मीटिंग

[25/02/17, 21:46:46] Pankaj Aggarwal Paper Up: १ मार्च से ५ मार्च तक सभी मिल बंद

(m) Mr. K. Swaminathan, Secretary of SIKPMA, asked Mr. Pankaj Aggarwal on 27.03.2017 about the prices to be increased by North India Mills and shut-down schedule in April 2017. In response, Mr. Pankaj Aggarwal said that he was going for a meeting now and stoppage of mills will be from 05.04.2017 to 09.04.2017:

[27/03/17, 15:50:40] +91 98400 57208: Mr Pankaj Agarwal no stoppage in April? How much price increase effected by North India mills. Hope today you are having a meeting. Swaminathan.

[27/03/17, 15:51:12] Pankaj Aggarwal Paper Up: We r going in meeting now

[27/03/17, 15:51:40] Pankaj Aggarwal Paper Up: Stoppage will be from 5th to 9th

[27/03/17, 15:52:50] +91 98400 57208: Ok

(n) Messages dated 03.02.2017 on price co-ordination:

[03/02/17, 22:51:49] +91 98370 22535: RATE KYO NAHI BADHA RAHE 1/-IMMIDIAT

[03/02/17, 22:51:57] Mukesh Paper: It's a bitter factbwat I hv written

[03/02/17, 22:52:17] Pankaj Aggarwal Paper Up: किसी को घर फूँक तमाशा देखना है तो देखे

[03/02/17, 22:53:03] Pankaj Aggarwal Paper Up: अरविंद जी कल मीटिंग में तय हुआ था कि १ मार्च से २ बढ़ाएँगे.

[03/02/17, 22:54:12] +91 98370 22535: VERY..GOOD PANKAJ JI HUM AAPKE SATH HEY RATE BADHAO 1/- WITH IMMIDIAT EFFECT

[03/02/17, 22:55:37] Pankaj Aggarwal Paper Up: मिले dealers को बोल सकती है की हमारे पास १ मार्च तक के ऑर्डर है और अब हम २ के ऑर्डर ही लेंगे

[03/02/17, 22:57:14] Pankaj Aggarwal Paper Up: अरविंद जी अगर आपके पास ज्यादा ऑर्डर है तो २ बढ़ा दो

[03/02/17, 22:57:52] Pankaj Aggarwal Paper Up: अब जो तय जो गया है वो ही मानना है

[03/02/17, 22:58:11] Pankaj Aggarwal Paper Up: आपको मीटिंग में आना चाहिए था

[03/02/17, 22:59:10] +91 98370 22535: SIR JI PL 1+2=3/-

[03/02/17, 22:59:49] Pankaj Aggarwal Paper Up: मीटिंग के डिजिज्ज को अब नहीं पलट सकते

[03/02/17, 22:59:55] +91 98370 22535: MAN LIJIYE RAW MAT KAL REDUCE HO JATA HEY TO BUYER 2/-DADHAKER DEGA KYA TURAT RATE NAHI LESS KAREGA MARKET RUN ONLY DEMAND&SUPPLY SABHI KO BAJAR KE HISAB SE CHALNA PADTA HEY YA KAL RAW MAT 300\$HO JAYE TO KYA KEWAL 2/-BADHAKER DELEVER HOGA

[03/02/17, 23:00:54] Pankaj Aggarwal Paper Up: २ बढ़ा दो ये बोलकर की मेरे पास फ्रखरी के ऑर्डर है

[03/02/17, 23:01:36] Mukesh Paper: Sahi kaha Pankaj ji

[03/02/17, 23:01:58] Pankaj Aggarwal Paper Up: □

[03/02/17, 23:02:50] +91 98370 22535: AAP SABHI SATH DOGE TO 1+2=3/-BADH JAYEGA

[03/02/17, 23:03:52] Pankaj Aggarwal Paper Up: हमने ऑर्डर बंद कर दिए

[03/02/17, 23:04:22] Pankaj Aggarwal Paper Up: १ तो ले लेंगे अभी

[03/02/17, 23:04:38] Pankaj Aggarwal Paper Up: १ मार्च से २

[03/02/17, 23:04:52] +91 98370 22535: VERY GOOD AB RATE BADH JAYENGE

[03/02/17, 23:05:38] +91 98370 22535: THANKS□□

[03/02/17, 23:06:25] Pankaj Aggarwal Paper Up: □

[03/02/17, 23:07:12] +91 98370 22535: AISE HI HOTA HEY SABKA SATH SABKA VIKAS GOOD NIGHT

[03/02/17, 23:07:24] Pankaj Aggarwal Paper Up: Good night



(o) Messages dated 07.02.2017 on price co-ordination:

[07/02/17, 12:59:14] +91 98980 12569: South indian kraft mills have got together here and we have also attending
 [07/02/17, 12:59:21] +91 98980 12569: Big strength
 [07/02/17, 13:02:55] +91 98980 12569: Seven states meeting!!!
 [07/02/17, 13:02:56] +91 98980 12569: Wow
 [07/02/17, 13:04:00] +91 93778 91201: □□□□□□□□
 [07/02/17, 13:13:15] +91 98371 00047: Wahh □
 [07/02/17, 13:15:50] Mukesh Paper: ब्रेट news
 [07/02/17, 13:17:57] Abhinav Rama Shyama: □□□□
 [07/02/17, 13:45:44] +91 99970 22666: □□□
 [07/02/17, 14:16:35] +91 98370 43652: □□□□
 [07/02/17, 14:23:36] Pankaj Aggarwal Paper Up: □□

(p) Messages dated 23.02.2017 on price co-ordination:

[23/02/17, 12:56:57] +91 98370 22535: PASWARA PAPERS UPDATE-
 With immediate effect prices of Multi layer kraft paper has been increased by Rs1/kg due to continuous rise in prices of raw material. New prices are as under :
 18 bf 140gsm 25+++
 20 bf 140gsm 26+++
 22 bf 140gsm 28+++
 25 bf 140gsm 30+++
 28 bf 140gsm 31+++
 35 bf 140gsm 34+++
 NOTE-
 1) GY Rs 1/kg extra in all quality.
 2) 25 paise extra for UP
 3) Payment within 30 Days strictly.
 4) Above prices valid only for February month another price hike of Rs 1/kg will be applicable from 1st March.
 [23/02/17, 12:57:42] Pankaj Aggarwal Paper Up: □□

(q) Messages exchanged on 26.04.2017 between Mr. Pankaj Aggarwal and others showing that Mr. Aggarwal organised all India level meetings of all the regional associations of Kraft paper mills regarding price hike of Kraft paper:

[26/04/17, 23:00:26] Pankaj Aggarwal Paper Up: We will make all arrangements



[26/04/17, 23:00:36] B B Gupta: किरत भाई जब आप कहे दिल्ली
[26/04/17, 23:00:42] +91 98251 45081: □
[26/04/17, 23:00:44] Pankaj Aggarwal Paper Up: Delhi will be best for all India meeting
[26/04/17, 23:01:01] B B Gupta: □
[26/04/17, 23:01:12] +91 98200 46076: □
[26/04/17, 23:01:17] +91 98251 45081: munnabhai arrange meeting
[26/04/17, 23:01:27] Pankaj Aggarwal Paper Up: Make it for 2 days
[26/04/17, 23:01:32] Pankaj Aggarwal Paper Up: Stay there too
[26/04/17, 23:01:43] +91 93778 91201: Yes
[26/04/17, 23:01:47] Pankaj Aggarwal Paper Up: We will have dinner, cocktail
[26/04/17, 23:02:12] Pankaj Aggarwal Paper Up: Will book rooms in a hotel
[26/04/17, 23:02:14] +91 98200 46076: □□
[26/04/17, 23:02:32] Pankaj Aggarwal Paper Up: We should communicate more and more
[26/04/17, 23:03:04] +91 93778 91201: □□□□□
[26/04/17, 23:03:08] Pankaj Aggarwal Paper Up: It will strengthen our unity
[26/04/17, 23:03:23] Pankaj Aggarwal Paper Up: We will organise wonderful program
[26/04/17, 23:03:24] +91 90990 21356: □□
[26/04/17, 23:03:47] +91 90990 21356: Let's go DELHI.....
[26/04/17, 23:04:25] Pankaj Aggarwal Paper Up: Welcome
[26/04/17, 23:04:30] +91 98251 34335: □
[26/04/17, 23:04:51] Pankaj Aggarwal Paper Up: It is need of time
[26/04/17, 23:04:56] +91 99135 99990: □□□
[26/04/17, 23:05:05] +91 90990 21356: Request to all pls share your comment for DELHI meeting
[26/04/17, 23:05:45] Pankaj Aggarwal Paper Up: At least 50 ppl from west should come
[26/04/17, 23:05:53] +91 93778 91201: Mission Delhi
[26/04/17, 23:05:59] +91 93778 91201: □□□□

[26/04/17, 23:06:08] Pankaj Aggarwal Paper Up: We will stay with you in hotel
[26/04/17, 23:06:19] Pankaj Aggarwal Paper Up: 10-15 from south
[26/04/17, 23:06:27] Pankaj Aggarwal Paper Up: 50 from north
[26/04/17, 23:06:33] Pankaj Aggarwal Paper Up: 10 from east
[26/04/17, 23:06:58] +91 98200 46076: 50 gujarat
[26/04/17, 23:07:01] Pankaj Aggarwal Paper Up: We will book more than 60 rooms in hotel
[26/04/17, 23:07:03] +91 90990 21356: No no only the need all members
[26/04/17, 23:07:16] Pankaj Aggarwal Paper Up: Yes, members only
[26/04/17, 23:07:22] Pankaj Aggarwal Paper Up: Owners
[26/04/17, 23:07:41] +91 98200 46076: Let's ensure all paper mill owners join for the meeting
[26/04/17, 23:07:50] Pankaj Aggarwal Paper Up: □□
[26/04/17, 23:08:04] +91 90990 21356: More than 300 owners will their
[26/04/17, 23:08:04] Pankaj Aggarwal Paper Up: Gazab ho jayega



[26/04/17, 23:08:30] Pankaj Aggarwal Paper Up: The more member come, more successful will be the meeting

[26/04/17, 23:08:55] Pankaj Aggarwal Paper Up: We can make money like anything

[26/04/17, 23:09:01] B B Gupta: कनटरीन में ठीक रहेगा परधान जी

[26/04/17, 23:09:02] +91 98200 46076: Exactly

[26/04/17, 23:09:17] Pankaj Aggarwal Paper Up: We should unite at all india level

[26/04/17, 23:09:27] Pankaj Aggarwal Paper Up: Royal plaza

[26/04/17, 23:09:30] +91 90990 21356: PANKAJ JI I suggest to book country in mohan nagar 100% vegetarian

[26/04/17, 23:09:37] Pankaj Aggarwal Paper Up: Or any other in delhi

[26/04/17, 23:09:52] Pankaj Aggarwal Paper Up: That we will decide later

[26/04/17, 23:10:02] Pankaj Aggarwal Paper Up: First block the dates

[26/04/17, 23:11:17] Pankaj Aggarwal Paper Up: Fix the dates

[26/04/17, 23:12:55] Pankaj Aggarwal Paper Up: Suggest dates

[26/04/17, 23:13:39] +91 98251 34335: Any date first week of june

[26/04/17, 23:14:04] B B Gupta: बीच में मई भी आती है

[26/04/17, 23:15:14] Pankaj Aggarwal Paper Up: 15-20 मई में रख लो

[26/04/17, 23:15:27] B B Gupta: जून लेट हो जायेगा

[26/04/17, 23:15:33] B B Gupta: मई में रखो

[26/04/17, 23:15:41] +91 90990 21356: Yes I think may is best

[26/04/17, 23:15:52] B B Gupta: ☐

[26/04/17, 23:15:53] B B Gupta: ☐

[26/04/17, 23:16:08] Pankaj Aggarwal Paper Up: मई की डेट बताओ

[26/04/17, 23:16:58] Akash Silver Ton: Around 8-9

[26/04/17, 23:17:04] Akash Silver Ton: Before mill starting

[26/04/17, 23:17:28] Pankaj Aggarwal Paper Up: बताओ सब

[26/04/17, 23:17:34] +91 90990 21356: Already we have in Mumbai on 5th

[26/04/17, 23:17:37] Pankaj Aggarwal Paper Up: राय दीजिए

[26/04/17, 23:18:07] +91 90990 21356: MUNNA SHETH pls suggest

[26/04/17, 23:18:19] +91 98241 99919: ☐☐☐☐☐

[26/04/17, 23:18:33] +91 98251 34335: In the month of May many of the mill owners will be out for holidays so i suggest the we should keep meeting in last week of May or then first week of June.

[26/04/17, 23:18:35] +91 76008 46564: ☐☐

[26/04/17, 23:18:42] +91 90990 21356: Between 15-20 may more suitable

[26/04/17, 23:18:49] +91 98241 99919: May mid

[26/04/17, 23:19:14] Pankaj Aggarwal Paper Up: जून लेट हो जाएगा

[26/04/17, 23:19:21] +91 98251 34335: After 22 May

[26/04/17, 23:19:29] +91 90990 21356: Yes too lat

[26/04/17, 23:19:33] Pankaj Aggarwal Paper Up: मय के बीच में रखो

[26/04/17, 23:20:02] Pankaj Aggarwal Paper Up: मई

[26/04/17, 23:20:04] +91 98241 99919: Munna Bhai

And all If



[26/04/17, 23:20:24] Pankaj Aggarwal Paper Up: मुन्ना भाई कृपया बताए

[26/04/17, 23:20:48] +91 98241 99919: All leaders request u to arrange meeting after 20 may

[26/04/17, 23:20:53] B B Gupta: 15 मई के आस पास। रखो परधान जी

[26/04/17, 23:21:32] Pankaj Aggarwal Paper Up: गुजरात वाले २० मई के बाद बोल रहे हैं

[26/04/17, 23:21:35] +91 98251 34335: Pankajji 21 may is ok

[26/04/17, 23:22:11] Pankaj Aggarwal Paper Up: २१ मई Sunday है

[26/04/17, 23:22:17] Pankaj Aggarwal Paper Up: ठीक रहेगा

[26/04/17, 23:22:20] +91 90990 21356: Monday 22nd may

[26/04/17, 23:22:40] Pankaj Aggarwal Paper Up: २१ मई को सुबह की फ्लाइट से सब आ जाए

[26/04/17, 23:22:43] +91 90990 21356: Then Saturday 20th

[26/04/17, 23:22:54] Pankaj Aggarwal Paper Up: लंच करेंगे साथ

[26/04/17, 23:23:08] +91 98241 99919: After 20 may any day is ok

[26/04/17, 23:23:10] Pankaj Aggarwal Paper Up: ओके २० मई

[26/04/17, 23:23:23] Pankaj Aggarwal Paper Up: २ दिन का प्रोग्राम

[26/04/17, 23:23:55] +91 98251 34335: Kiritbhai vapi ke seth log 20 ko lot ke aayege

[26/04/17, 23:24:36] Pankaj Aggarwal Paper Up: Lunch, dinner, cocktail on first day with one meeting and intersection

[26/04/17, 23:24:51] +91 98241 99919: Friends

This should be all India meeting

Each and every mills should be present

It will be everyone responsibility to bring every mill

[26/04/17, 23:25:18] Pankaj Aggarwal Paper Up: Next day breakfast then meeting then lunch and then return

[26/04/17, 23:25:53] +91 98241 99919: □□□□□

[26/04/17, 23:26:05] +91 98241 99919: Jai Ho

Pankaj Bhai

[26/04/17, 23:26:29] Pankaj Aggarwal Paper Up: We need more interaction on all India level

[26/04/17, 23:26:50] +91 98251 34335: Its ok Pankajji hum delhi aa rahe he aap jaisa bolo ge vesa hi karege

[26/04/17, 23:26:53] Pankaj Aggarwal Paper Up: Let me ask some hotels tomorrow

[26/04/17, 23:27:04] Pankaj Aggarwal Paper Up: Thanks Sunil ji

[26/04/17, 23:27:11] +91 90990 21356: Ohh than Monday Tuesday 22nd 23rd

[26/04/17, 23:27:42] +91 98241 99919: All region start arrangements

[26/04/17, 23:28:08] +91 90990 21356: We are ready

[26/04/17, 23:28:24] Pankaj Aggarwal Paper Up: All north india paper mill owners have to stay in hotel only

[26/04/17, 23:28:30] +91 98241 99919: All India

[26/04/17, 23:28:40] Pankaj Aggarwal Paper Up: Not at homes in delhi

[26/04/17, 23:28:52] +91 90990 21356: □

[26/04/17, 23:28:54] +91 98241 99919: Very good decision

[26/04/17, 23:28:57] +91 98251 34335: □



[26/04/17, 23:29:05] Pankaj Aggarwal Paper Up: Let me ask for some good package in some good hotel
[26/04/17, 23:29:27] 40640 98251 91+left
[26/04/17, 23:29:48] +91 98241 99919: Yes Pankajbhai
[26/04/17, 23:29:53] +91 90990 21356: Your friend ready to serve in MOHAN nagar
[26/04/17, 23:29:57] +91 98241 99919: We all are ready
[26/04/17, 23:30:14] Pankaj Aggarwal Paper Up: □□
[26/04/17, 23:30:58] +91 98241 99919: □□□□□□□□□□□□
[26/04/17, 23:31:02] Pankaj Aggarwal Paper Up: 1 रुपया किलो तो इसी मीटिंग से बढ़ जाएगा
[26/04/17, 23:31:15] +91 90990 21356: □
[26/04/17, 23:31:30] Pankaj Aggarwal Paper Up: □□
[26/04/17, 23:31:33] +91 98241 99919: Sports men sprit
[26/04/17, 23:32:10] +91 98980 13480: □□□□
[26/04/17, 23:32:10] +91 98251 34335: Pankajji 2 rs ke kam me maza nahi aata
[26/04/17, 23:32:10] +91 98980 13480: □□□□

[26/04/17, 23:32:32] +91 98980 13480: □
[26/04/17, 23:32:42] +91 90990 21356: Opener player
PANKAJ JI - MUNNASETH
[26/04/17, 23:33:04] Pankaj Aggarwal Paper Up: 3 बढ़ाओ पर मीटिंग में नाम से १ तो अपने आप बढ़ जाएगा
[26/04/17, 23:33:50] +91 98251 34335: Ok Pankajji
[26/04/17, 23:34:00] Pankaj Aggarwal Paper Up: □
[26/04/17, 23:34:10] Pankaj Aggarwal Paper Up: कल बताता हूँ
[26/04/17, 23:34:18] Pankaj Aggarwal Paper Up: शुभ रात्रि

- (r) Message dated 23.05.2017 posted by Mr. B. B. Gupta of OP-79 on behalf of Mr. Pankaj Aggarwal, President of NIPMA, in Hindi, regarding meeting held at OP-65 and decisions of the said meeting i.e., to increase ₹1 in price of Kraft paper and shut-down of mills from 02.06.2017 to 06.06.2017:

[23/05/17, 18:01:01] B B Gupta:
“आज दिनांक २३ मई को Paswara Paper Mills में मीटिंग हुई जिसने निम्नलिखित निर्णय लिए गए १ रुपया प्रति किलो तुरंत बढ़ाया गया २-६ जून तक मिले बंद
धन्यवाद
पंकज अग्रवाल
अध्यक्ष”

- (s) Message dated 16.09.2017 posted by Mr. Pankaj Aggarwal, in Hindi, intimating decisions taken in a meeting such as increase in price of Kraft Paper by ₹1/- per kg from 21.09.2017 and next meeting on 25.09.2017:

[16/09/17, 17:50:11] Pankaj Aggarwal Paper Up: आज की मीटिंग का निर्णय:-
१- पहले नवरात्रे से (२१ सितम्बर) से एक रुपया किलो की फिनिश पेपर में वृद्धि
२- अगली मीटिंग २५ सितम्बर को गोडविन होटल में ४ बजे शाम
३- रद्दी में २० पैसे किलो २१ सितम्बर से कम
धन्यवाद
पंकज अग्रवाल



- (t) Message dated 25.10.2017 posted by Mr. Pankaj Aggarwal, in Hindi, proposing a joint meeting of all Kraft paper mill owners from North, East, West and South region on 02.11.2017 at Hotel Royal Plaza, New Delhi. Being President of NIPMA, Mr. Aggarwal informed the members about the agenda of the meeting, such as discussions regarding price hike of Kraft paper and controlling price of waste paper and other associations also confirmed their participation:

Pankaj Aggarwal Paper Up: PAPEREX के दौरान NEWS की एक मीटिंग का आयोजन सम्पूर्ण भारतवर्ष के क्राफ्ट पेपर निर्माता, मिल मालिकों के लिए किया गया है जहाँ सब एक प्लेटफॉर्म पर चर्चा करेंगे। कार्यक्रम निम्नानुसार है....

तारीख: 2 नवम्बर 2017

समय: रात्रि 7.00 बजे

स्थान: होटल रॉयल प्लाज़ा, जनपथ, नई दिल्ली

अजेंडा:

भारत की क्राफ्ट की पेपर मिलें एकसाथ होकर....

- 1. क्राफ्ट पेपर के दाम कैसे बढ़ाए, इसपर विचार विमर्श*
 - 2. रद्दी के दाम कैसे नियंत्रित किए जाए*
 - 3. पेपर बिना उधारी के बिके*
 - 4. जिन डीलरों ने मिलों के पैसे मार रखे हैं, उन्हें ब्लैक लिस्टेड किया जाए*
 - 5. अन्य कोई भी बिंदु जिससे कागज उद्योग का development हो सकता हो।*
- कृपया NORTH, EAST, WEST और SOUTH की सभी क्राफ्ट बनाने वाली मिल के मालिक उक्त मीटिंग में अपना प्रतिनिधित्व सुनिश्चित करना कन्फर्म करें*

धन्यवाद

पंकज अग्रवाल

अध्यक्ष

नॉर्थ इंडिया पेपर मिल

[25/10/17, 21:06:12] Pankaj Aggarwal Paper Up: एसोसीएशन

[25/10/17, 21:08:59] Pankaj Aggarwal Paper Up: कृपया कन्फर्म करें

[25/10/17, 21:41:40] Sushil Agarwal Paper Up: □ □

[25/10/17, 21:56:40] +91 98250 26291: □

[25/10/17, 21:59:07] +91 98973 22522: □

[25/10/17, 22:03:17] +91 98100 97558: □

[25/10/17, 22:14:25] Pankaj Aggarwal Paper Up: □

[25/10/17, 22:24:22] Abhinav Rama Shyama: □

[26/10/17, 01:39:54] left 26240 98230 91+

[26/10/17, 07:40:17] Neeraj Goel Neeraj Marketing: Confirm pankaj bhai

[26/10/17, 08:09:04] Ayush Bansal Paper: □

[26/10/17, 08:28:30] +91 98290 69696: Confirmed great effort

[26/10/17, 08:58:05] +91 94408 02773: Sharma paper Hyderabad attending

[31/10/17, 17:37:49] +91 98400 57208: Mr Pankaj Agarwal

I am not a owner. As a capacity of Secy of South Indian Kraft paper Mills assn I hope I can attend the meeting. Pl confirm.

Regards

Swaminathan

[31/10/17, 17:38:33] Pankaj Aggarwal Paper Up: You are most welcome

- (u) Message dated 03.11.2017 posted by Mr. Pankaj Aggarwal, after meeting dated 02.11.2017, sharing decision of price hike of Kraft paper @ ₹2 per kg at all-India level:



[02/11/17, 13:43:50] Pankaj Aggarwal Paper Up: We will start Kraft meeting at Hotel Royal Plaza at 7 pm sharp
 [03/11/17, 19:43:39] Pankaj Aggarwal Paper Up: Rs 2 per kg increase was announced on all India level
 [03/11/17, 19:44:22] +91 91581 45777: Ok good □□
 [03/11/17, 19:45:23] Pankaj Aggarwal Paper Up: It was decided that an all India federation for Kraft paper manufacturer will be formed
 [03/11/17, 19:45:26] +91 98400 57208: Will it's stand? try to reduce waste Paper
 [03/11/17, 19:47:30] Pankaj Aggarwal Paper Up: If everyone announce, rates will definitely increase
 [03/11/17, 19:48:18] Pankaj Aggarwal Paper Up: But all hv to announce immediately
 [03/11/17, 21:33:28] +91 98980 12569: Pankajji, federation has already been initiated
 [03/11/17, 21:34:03] +91 98980 12569: It is "Federation of Indian Paper Recyclers"
 [03/11/17, 21:34:50] +91 98980 12569: Gujarat, Maharashtra, Chattisgarh, MP and others are slowly joining in.
 [03/11/17, 21:41:04] Pankaj Aggarwal Paper Up: Ok

The above WhatsApp communications made by Mr. Pankaj Aggarwal clearly show that an association by the name of NIPMA existed, and Mr. Pankaj Aggarwal was its President.

104.5 It is also noted from the DG Report that Mr. Pankaj Aggarwal was connected with other associations like GPMA, not only through message exchanges, but also otherwise, through participation in their meetings. The DG has noted that Mr. Pankaj Aggarwal is also the proprietor of a firm, namely, Annapurna Imports, Muzaffarnagar, U.P., which deals in the business of import of paper mill machinery. From the MoM of GPMA dated 07.04.2017, it is noted that one Mr. Vishal Agarwal, who is a relative of Mr. Pankaj Aggarwal, attended the said meeting of GPMA on behalf of Annapurna Imports. In the said meeting, it was decided by GPMA to shut-down Kraft paper mills from 02.05.2017 to 08.05.2017 and not increase prices. Dinner for said meeting was sponsored by the firm of Mr. Pankaj Aggarwal, i.e., Annapurna Imports. In his statement on oath recorded before the DG, Mr. Pankaj Aggarwal admitted to these facts. Further, he admitted that he attended another meeting of GPMA around 2–3 years ago at Hotel JW Marriot, Mumbai, and in the said meeting, discussions such as reduction in costing and increase of the rate of Kraft paper were held.

104.6 In fact, representatives of several members of GPMA also stated about NIPMA and Mr. Pankaj Aggarwal, in their statements on oath recorded before the DG:

(a) Mr. Lalit Garg of OP–2 stated that “Mr. Pankaj Aggarwal of Bindlas Duplex is also a member of this group who is also the president of Northern India Paper Mills Association. ...”



- (b) Mr. Omprakash Rathi of OP-3 stated that *“I remember that Mr. Pankaj Aggarwal of Bindlas Duplex was one of the admin of NEWS group. ...”*
- (c) Mr. Satyanarayan Agarwal of OP-4 stated that *“I would also like to state that Sh. Pankaj Aggarwal of Bindlas Duplex also used to send messages on this group on as President of North India Paper Mills Association regarding shut-down of mills and increase in price.”*
- (d) Mr. Nimish Shah of OP-6 stated that *“I remember that Mr. Pankaj Aggarwal of Bindlas Duplex used to exchange the decisions taken by Northern India Paper Mills Association regarding price hike and shut-down of mills.”*
- (e) Mr. Sundeep Shah of OP-7 stated that *“Sh. Pankaj Aggarwal of Bindlas Duplex who is the president of Northern India Paper Mills Association was also a member of the said WhatsApp group and he used to convey about the decisions taken by Northern India Paper Mills Association for price hike of Kraft paper and shut-down of paper mills.”*
- (f) Mr. Tejas Dharia of OP-50 stated that *“I am a member of only two WhatsApp groups namely “NEWS PAPER MILLS” operated by Shri Pankaj Aggarwal, President of Northern India Paper Mills Association and “PAPER MILLS – GJ/MS/C.G.K.” operated by the office bearers of GPMA/FIPR.”*

104.7 Thus, evidently, Mr. Pankaj Aggarwal was the President of an association named NIPMA and he was an active member of the WhatsApp group “NEWS Paper Mills” wherein he regularly posted messages as the President of NIPMA, in which, *inter alia*, meeting schedules, price hike decisions and collective shut-down decisions of NIPMA were included. Before the media and even in his bio-data, Mr. Aggarwal had clearly mentioned himself as the President of NIPMA. Even representatives of certain other paper mills who were members of GPMA, were aware of NIPMA and its President Mr. Pankaj Aggarwal.

104.8 Therefore, based on the clear evidences collected by the DG as detailed above, the Commission finds that OP-63 indulged in discussions with its members and issued directions to them from time to time for increasing the prices of Kraft paper and for collective shut-down of paper mills, which conduct amounts to indirectly determining



the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act, from 2016 to 2019.

105. OP-64 (Bindlas Duplex Limited)

105.1 As detailed above, Mr. Pankaj Aggarwal, Managing Director of OP-64, was the President of NIPMA. As such, he was actively involved in the anti-competitive activities of NIPMA, which included holding meetings to discuss and decide price hike of Kraft paper and collective shut-down of paper mills, and communicating the same to NIPMA members.

105.2 Further, it is noted from the DG Report that OP-64 followed the collective shut-down directives of NIPMA, fully or partially, from time to time:

NIPMA decision	OP-64's shut-down as per its Daily Stock Register/RG-1
21.01.2016 to 26.01.2016	19.01.2016 to 26.01.2016
04.09.2016 to 08.09.2016	04.09.2016 to 06.09.2016
31.10.2016 to 05.11.2016	31.10.2016 to 05.11.2016
01.03.2017 to 05.03.2017	01.03.2017 to 04.03.2017
05.04.2017 to 09.04.2017	05.04.2017 to 09.04.2017
02.06.2017 to 06.06.2017	02.06.2017 to 06.06.2017

105.3 In its suggestions/objections to the DG Report, OP-64 has, *inter alia*, argued the following points:

- The DG has not identified the product to which the investigation relates, and it has not delineated the market in the present case;
- The DG has also not shown which states are covered in the Northern region (NIPMA) for the purposes of investigation;
- Though multiple OPs have stated on oath before the DG that there is nothing like NIPMA, the DG has not believed the same and without there being any registration, membership, bank account, PAN, *etc.*, of the same, the DG has taken NIPMA to be a separate association and Mr. Pankaj Aggarwal to be the President of the same;



- (d) The DG has failed to establish any AAEC resulting from the alleged conduct of the OPs by taking into consideration the factors stated under Section 19(3) of the Act;
- (e) Several other arguments similar to those made by the other OPs in the matter have also been made.

105.4 As far as the first argument raised by OP-64 is concerned, it is evident from the DG Report as well as from the order passed by the Commission under Section 26(1) of the Act that the present case relates to the product “Kraft paper”. Further, as clarified by the Hon’ble Supreme Court of India in *Competition Commission of India v. Co-ordination Committee of Artists and Technicians of West Bengal Film and Television and Others*, *Miscellaneous Application No. 490 of 2017 in Civil Appeal No. 6691 of 2014 decided on 07.05.2018*, determination of a relevant market is not a mandatory pre-condition for assessing an alleged violation of Section 3(3) of the Act.

105.5 Regarding the second argument, that it is not clear as to which states are covered in the Northern region (NIPMA), again, delineation of relevant geographic market with respect to each association whose conduct has been examined in terms of Section 3(3) of the Act is not a precursor in the present matter.

105.6 Regarding the argument of OP-64 that multiple OPs have stated before the DG on oath that there exists no such association as NIPMA, the Commission notes that it is evident from the evidence available on record, as analysed above in respect of OP-63, and further in succeeding paragraphs in respect of other members of NIPMA, that several Kraft paper mills were collectively taking decisions regarding price of Kraft paper and collective shut-down of paper mills, under the aegis of an association by the name of NIPMA, and Mr. Pankaj Aggarwal of OP-64 was the President thereof.

105.7 As far as the argument regarding the DG not establishing any AAEC resulting from the alleged conduct of the OPs by taking into consideration factors stated under Section 19(3) of the Act is concerned, it is well-settled that in cases involving conduct violative of the provisions of Section 3(3) of the Act, AAEC is presumed; the infringers in fact have to, by resorting to positive factors stated under Section 19(3) of the Act, rebut the said presumption by showing that their conduct resulted in either accrual of benefits to consumers, improvement in production or distribution of goods or provision of services, or promotion of technical, scientific and economic development by means of



production or distribution of goods or provision of services. Since in the present matter, OP-64 has not given any submission to rebut the said presumption, such argument of OP-64 cannot be accepted.

105.8 Other arguments raised by OP-64 are similar to those raised by the other OPs in the matter and the same have already been dealt with in the earlier parts of the present order.

105.9 Therefore, based on the evidences collected by the DG as detailed above, the Commission finds that OP-64 was part of the discussions held at NIPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by NIPMA, fully or partially, in this regard. Such conduct of OP-64 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

105.10 In its supplementary suggestions/objections to the DG Report, OP-64 has, *inter alia*, put forth multiple mitigating factors as to why, even if anti-competitive allegations against it are proved, penalty should not be imposed.

105.11 Such submissions made by OP-64 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

106. OP-65 (Paswara Papers Limited)

106.1 It is noted from the DG Report that Mr. Arvind Kumar, Director of OP-65, was a member of two WhatsApp groups of paper mills, *namely*, “Kraft Paper Mills” in which Kraft paper mill owners from Shamli, Muzaffarnagar and Meerut were members and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. It is also noted from the DG Report that Mr. Arvind Kumar’s brother Mr. Vinod Agarwal and his cousin brother Mr. Kapil Gupta, who were also Directors of OP-65, were also part of the WhatsApp group “NEWS Paper Mills”.

106.2 In the WhatsApp Group “NEWS Paper Mills”, Mr. Arvind Kumar, is found to have shared various messages with his competitors, which *inter alia*, include the following:



- (a) On 06.06.2018 at 6:04:44, he posted, *“we have increased our rates by 1 Re/kg for all qualities of multilayer Kraft Paper effective immediately. No orders will be taken at old rates.”* In the other message sent on the same date at 6:04:45 PM, he updated *“results of the meeting that increase 1 Rs per kg”*.
- (b) On 24.08.2018 at 2:03:45 PM, he posted *“prices for multilayer Kraft Paper has been further increased by Re. 1 per kg, total increase is now 2 per kg all new booking will be accepted at new prices”*. Further on the same day, he sent a message at 02.06.41 updating *“we are fully booked till 15 Sep. order in hand Max Export aap log rate increase kare boldly rate 101% increase hoga”*.
- (c) On 09.09.2018 at 06:15:26 PM, he posted, *“prices for multilayer Kraft Paper has been further increased by Re. 1 per kg. Total increase now is Rs.4 per kg. all new bookings will be accepted at new prices as under”*. Further, on the same date he sent a message at 06:19:23 PM updating that he closed all bookings, and further at 06:19:27, he informed that *“October tomorrow decide hoga price”*.
- (d) On 09.09.2018 at 08:40:06 PM, he posted, *“dear saathiyo jo mill 2/- 3/- step wise full hote jaye pl Rs. 4 + per aa jaye now Paswara new rate is Rs. 4”*.
- (e) On 10.09.2018 at 11:30:50 AM, he posted, *“this is to inform you that due to continuous uncertainty and instability in market prices of input as waste paper, coal etc. has drastically increased by more than 50% in past couple of weeks and still continuously rising each day as INR fail to all time low vs US \$ and expected to further, deteriorate in coming days as forecast. So, prices for multilayer Kraft has been further increased by Rs. 1 per kg, total increase now is Rs. 4 per kg. 4 per KG price increase has come into effect as follows— w.e.f. 02.07.2018 Rs.1, w.e.f. 24.08.2018 Rs.1, w.e.f. 30.08.2018 Rs.1 and w.e.f. 08.09.2018 Rs.1”*.
- (f) On 31.01.2019 at 12:34:56 PM, he posted, *“this is to inform all that prices of multilayer Kraft Paper has been increased by Rs. 1 per kg request all to place order accordingly. Further increase of Rs. 1 per kg will be applicable from 11th Feb, 2019”*.

When Mr. Arvind Kumar was asked by the DG as to why he posted messages, such as the message dated 06.06.2018, regarding price increase of OP-65 to inform his



competitors in the WhatsApp group, he stated that “I informed the other paper mills that my company has increased the price, as it was upto them to take appropriate decision regarding price increase.” Further, when Mr. Kumar was asked about the messages dated 24.08.2018, 09.09.2018, 10.09.2018 and 31.01.2019, wherein he informed the group about the price increase of OP-65 and suggested other paper mills to increase the price as well, he stated that “... I also asked the other paper mills to increase the rate because all were suffering losses.”

106.3 It is also noted from the DG Report that Mr. Arvind Kumar had also shared the following messages in the “NEWS Paper Mills” WhatsApp group:

[28/01/17, 19:43:31] +91 98370 22535: HUM SATH-SATH HEY RATE 2/- BADHAO APNI MILL BACHAO AFTER BUDGET ACCHE DIN BHI AANE WALE HEY Arvind agarwal PASWARA □□

[30/01/17, 14:55:35] +91 98370 22535: WHY NOT ALL MILLS INCREASE RATE 1/-PER KG FOR FEB MONTH arvind paswara

[30/01/17, 15:03:52] +91 98370 22535: ALL PAPER MILL TAKE DECISION IMMEDIATELY TODAY

[30/01/17, 15:21:31] +91 98400 57208: Is there any reduction in input costs? Maintain the increase suggested earlier

[30/01/17, 15:28:17] +91 98370 24362: □

[30/01/17, 16:00:46] +91 98370 22535: □

[03/02/17, 17:59:37] +91 98370 22535: I REQUEST ALL PAPER MILLS PL INCREASE 1/-PER KG WITH IMMIDIATLY

[03/02/17, 18:04:30] +91 98480 69266: Sir v r talking of 2/- inc u will have to inc by 2/- only

[03/02/17, 18:05:38] +91 98480 69266: Dear customers

Due to steep increase in price of all input costs, we are increasing the price of Kraft paper by Rs 2.00/- per kg with immediate effect. Subham kraft papers(p)ltd.

[03/02/17, 18:07:25] +91 98370 22535: COMPLY IMMIDIAT

[03/02/17, 18:09:55] +91 98480 69266: Yes immediate

[03/02/17, 18:14:16] +91 98370 22535: DO

[03/02/17, 22:47:28] +91 98370 22535: NORTH BELT KO SUGGEST KARO RATE INCREASE KARE SABKA SATH DE JID NA KARE VERNA AAP KI MEHNET BEKAR JAYEGI PAPER IND SAVE KARNI HEY TO SABHI SATH RAHE IMMIDITLY RATE INCREASE KARE

[03/02/17, 22:51:49] +91 98370 22535: RATE KYO NAHI BADHA RAHE 1/- IMMIDIAT

[03/02/17, 22:51:57] Mukesh Paper: It's a bitter factbwat I hv written



सत्यमेव जयते



[03/02/17, 22:52:17] Pankaj Aggarwal Paper Up: किसी को घर फूँक तमाशा देखना है तो देखे

[03/02/17, 22:53:03] Pankaj Aggarwal Paper Up: अरविंद जी कल मीटिंग में तय हुआ था कि १ मार्च से २ बढ़ाएँगे

[03/02/17, 22:54:12] +91 98370 22535: **VERY..GOOD PANKAJ JI HUM AAPKE SATH HEY RATE BADHAO 1/- WITH IMMIDIAT EFFECT**

[03/02/17, 22:55:37] Pankaj Aggarwal Paper Up: मिले dealers को बोल सकती है की हमारे पास १ मार्च तक के ऑर्डर है और अब हम २ के ऑर्डर ही लेंगे

[03/02/17, 22:56:50] +91 98370 22535: **1/-ABHI EASILY BADH SAKTA HEY 2/-&2/- MARCH**

[03/02/17, 22:57:14] Pankaj Aggarwal Paper Up: अरविंद जी अगर आपके पास ज्यादा ऑर्डर है तो २ बढ़ा दो

[03/02/17, 22:57:52] Pankaj Aggarwal Paper Up: अब जो तय जो गया है वो ही मानना है

[03/02/17, 22:58:11] Pankaj Aggarwal Paper Up: आपको मीटिंग में आना चाहिए था

[03/02/17, 22:59:10] +91 98370 22535: **SIR JI PL 1+2=3/-**

[03/02/17, 22:59:49] Pankaj Aggarwal Paper Up: मीटिंग के डिसिज़न को अब नहीं पलट सकते

[03/02/17, 22:59:55] +91 98370 22535: **MAN LIJIYE RAW MAT KALREDUCE HO JATA HEY TO BUYER 2/-DADHAKER DEGA KYA TURAT RATE NAHI LESS KAREGA MARKET RUN ONLY DEMAND&SUPPLY SABHI KO BAJAR KE HISAB SE CHALNA PADTA HEY YA KAL RAW MAT 300\$HO JAYE TO KYA KEWAL 2/-BADHAKER DELEVER HOGA**

[03/02/17, 23:00:54] Pankaj Aggarwal Paper Up: २ बढ़ा दो ये बोलकर की मेरे पास फ़रवरी के ऑर्डर है

[03/02/17, 23:01:36] Mukesh Paper: Sahi kaha Pankaj ji

[03/02/17, 23:01:58] Pankaj Aggarwal Paper Up: □

[03/02/17, 23:02:50] +91 98370 22535: **AAP SABHI SATH DOGE TO 1+2=3/- BADH JAYEGA**

[03/02/17, 23:03:52] Pankaj Aggarwal Paper Up: हमने ऑर्डर बंद कर दिए

[03/02/17, 23:04:22] Pankaj Aggarwal Paper Up: १ तो ले लेंगे अभी

[03/02/17, 23:04:38] Pankaj Aggarwal Paper Up: १ मार्च से २

[03/02/17, 23:04:52] +91 98370 22535: **VERY GOOD AB RATE BADH JAYENGE**

[03/02/17, 23:05:38] +91 98370 22535: **THANKS□□**

[03/02/17, 23:06:25] Pankaj Aggarwal Paper Up: □

[03/02/17, 23:07:12] +91 98370 22535: **AISE HI HOTA HEY SABKA SATH SABKA VIKAS GOOD NIGHT**

[04/02/17, 15:19:23] +91 98370 22535: **WE INFORM ALL PAPER MILLS OWNERS/DEALERS/CORRUGATORS PRICE INCREASE OF 1/-PER KG IN ALL GRADES WITH EFFECT FROM 10 FEB AND FURTHER RATE REVISE WILL BE DONE IN FEB END.**

IRVIND AGARWAL

ASWARA PAPERS LTD

[04/02/17, 15:22:26] +91 89583 37777: □

[04/02/17, 15:23:38] +91 98370 22535: **THANKS NEERAJ JI**

[04/02/17, 15:23:53] +91 98371 00047: □□

[04/02/17, 15:25:10] +91 98370 22535: **THANKS ASHOK JI**

[04/02/17, 16:07:00] +91 99970 22666: □□

[04/02/17, 16:38:30] +91 98370 22535: **FURTHER NEW ORDER STOP TILL 10 FEB**

[04/02/17, 19:34:09] +91 98370 22535: **NORTH PAPER MILL SE REQUEST CARO RATE BDAHAY 1/-IMMIDIAT FURTHER FEB END**

[04/02/17, 19:36:06] +91 98251 34335: □



04/02/17, 19:37:16] +91 98400 57208: Total increase Rs.2 or 3 with the recent increase of Rs.1 by Northern India Mills?
 04/02/17, 19:43:09] Akash Silver Ton: Total 3
 04/02/17, 19:43:38] B B Gupta: □□□
 04/02/17, 19:43:56] +91 98400 57208: ok tks just idea what will be basic price for 18 BF and 20BF
 04/02/17, 19:44:06] +91 98400 57208: after this increase of Rs.1 per ton
 04/02/17, 19:44:07] +91 98370 22535: 1/- IMMIDIAT+MINIMUM 2/- FEB END TOTAL 3/-
 04/02/17, 19:44:54] Akash Silver Ton: After 3 r/s price will be 24.5
 04/02/17, 19:45:23] +91 98400 57208: ok
 04/02/17, 19:45:31] B B Gupta added Anshul Dev Priya
 [04/02/17, 19:50:54] +91 98370 22535: OK AFTER 1/- IMMIDIAT END FEB 2/- OR MORE AS PER SEE MARKET SCENRIO
 [04/02/17, 19:55:37] +91 98400 57208: why only Rs.1 whereas west/south increasing Rs.2 better to be on the same lines
 [04/02/17, 19:57:28] +91 98370 22535: OK

[05/02/17, 22:05:28] B B Gupta: आसाम में भी दो रुपये बढ़ाने की मिटिंग चल रही है
 [05/02/17, 22:09:00] Pankaj Aggarwal Paper Up: □□
 [05/02/17, 22:15:04] +91 98370 22535: AAP LOGO KI MEHNET BEKAR NAHI JAYGI HUM AAPKE SATH HEY
 [05/02/17, 22:53:08] +91 98980 13480: Dear Paper Mill Owners of India, A joint meeting of paper mills has been organized in Hyderabad on 7th Feb. Paper mills owners from 7 states are joining this meeting. This meeting is going to be a historic meeting in the history of paper mills in India. All the paper mills owners should attend this meeting.
 [05/02/17, 23:54:53] +91 98480 69266: True friends. This meeting is going to be special. All of you are welcome to join this meeting at Taj Krishna Banjara Hills Hyderabad on 7th Tuesday 12.30pm onwards

[06/02/17, 09:59:12] +91 98370 22535: □□VERY GOOD PRPOSAL HUM AAPKE SATH HEY PAPER INDUSTRY KO BACHANE KA YEHI RASTA HEY LAKIN RATE IMMIDIAT INCREASE KJIYE AAPKA SATHI

It can be seen from the aforesaid messages that Mr. Arvind Kumar used to inform the other paper mills about the price increase by OP-65 and he also used to request the other mill owners in the Northern belt to increase the rate of Kraft paper. It can also be seen that Mr. Arvind Kumar was in regular touch with Mr. Pankaj Aggarwal, President of NIPMA, for increasing the price of Kraft paper. He used to take suggestions from Mr. Pankaj Aggarwal regarding implementation of the price hike of Kraft paper by his company. It can be seen that, on 03.02.2017, Mr. Arvind Kumar requested Mr. Pankaj Aggarwal to support his company's price hike decision. Subsequently, on 04.02.2017, Mr. Arvind Kumar informed the other mill owners about the increase in price of all grades of Kraft paper by ₹1 per kg from 10.02.2017. He also specifically requested the other mill owners in the Northern India region for a further price increase of ₹1 from the end of February 2017. It can also be seen from the aforesaid WhatsApp communications that Mr. Arvind Kumar was in contact with other associations such as GPMA on the issue of collective price increase. He supported the decision of all-India level meeting for increasing the price of Kraft paper.



106.4 Thus, evidently, Mr. Arvind Kumar, on behalf of OP-65 was involved in fixing the price of Kraft Paper with other paper mills and used to exchange OP-65's sensitive pricing information so that competitors can also decide their prices accordingly. All these messages establish that Mr. Arvind Kumar used to co-ordinate with Mr. Pankaj Aggarwal, President of NIPMA, other associations and Kraft paper mills in the Northern India region, to collectively increase the prices of Kraft paper.

106.5 It is also noted from the DG Report that on 23.05.2017, a meeting was organised by Mr. Pankaj Aggarwal, President of NIPMA, regarding collective shut-down of paper mills from 02.06.2017 to 06.06.2017 and increase in the price of Kraft paper. A message regarding the said meeting was sent by Mr. Kapil Gupta, an official of OP-65, in the other WhatsApp group of Kraft Paper Mills, as follows:

“today in guidance of Mr. Pankaj Ji President Paper mill association we had a meeting in Paswara Papers Limited and discussed on various issues and it is decided in meeting that all of us will shut the machines from 02.06.2017 to 06.06.2017 to save the industry from ongoing crisis. New price list is attached below. Paswara Papers Limited informs all that new prices of multilayer Kraft Paper are as under.....”.

When Mr. Arvind Kumar was asked about the above message, he admitted that Mr. Pankaj Aggarwal, with 2-3 other paper mills, had come to his factory on 23.05.2017 for a courtesy call over tea. During tea, the crisis of high input cost was discussed, and therefore, Mr. Pankaj Aggarwal suggested that the paper mills of Muzaffarnagar and Meerut should be closed from 02.06.2017 to 06.06.2017, and it was also decided to increase the price of Kraft paper. Mr. Arvind Kumar also acknowledged that OP-65 was, in fact, shut-down mills on the said days.

106.6 Further, it is also noted from the DG Report that Mr. Aksheev Agarwal, son of Mr. Arvind Kumar, had sent a message to the dealers of OP-65 informing them of price increase by ₹2 per kg from 27.12.2017 and total price increase including previous increase of ₹4 per kg. Mr. Aksheev had also forwarded a message of Mr. Pankaj Aggarwal, President of NIPMA, to the dealers regarding decision taken in a meeting, to shut-down the mills from 02.04.2017 to 04.04.2017, increase the rate of finished kraft paper by ₹1 per kg and after shut-down, further increase by ₹1 per kg. When Mr. Arvind Kumar was asked about the same, he admitted that the said messages were sent



by his son. This clearly shows that to implement the decisions of NIPMA, Mr. Aksheev Agarwal had sent/forwarded such messages to OP-65's dealers.

106.7 It is also noted from the DG Report that OP-65 followed the price increase and collective shut-down directives of NIPMA, fully or partially, from time to time. The paper mill of OP-65 was closed from 03.06.2017 to 06.06.2017, 28.06.2017 to 04.07.2017, 15.07.2017 to 21.07.2017 and 11.11.2017 to 14.11.2017 which dates match the shut-down schedule of OP-64, as well as with some other OPs who were members of NIPMA. When Mr. Arvind Kumar was asked about the same, he said that the matching of dates with OP-64 is a mere coincidence. However, matching of shut-down dates on 4 separate occasions can hardly be believed to be a coincidence, specifically when both Mr. Arvind Kumar of OP-65 and Mr. Pankaj Agarwal of OP-64 were members of "NEWS Paper Mills" WhatsApp group where communications regarding collective shut-downs used to take place.

106.8 Regarding OP-65's participation in the cartel arrangement, Mr. Arvind Kumar stated in his statement recorded before the DG, as follows:

"I have increased my price and shut-down the mill due to adverse market conditions. I was not aware that discussing the problems over WhatsApp is a violation of Law. My intention was never to commit any illegal activities and the WhatsApp messages were exchange under ignorance of Law. I would like to clarify that the price increase decided and discussed with other paper mills were not actually increased, the prices used to come down whenever there is decrease in the input cost. Ever though the input cost kept on increasing my company has never caused any loss to our customers. My company has always been with the customer and never stop their supplies. A sympathetic view may be taken against my company. It was our compulsion to discuss the common industry issue like price hike etc. with the other paper mills because at that relevant time the industry was facing acute crisis. I also admit that my brother Sh. Vinod Agarwal and cousin brother Sh. Kapil Gupta were also part of the said WhatsApp group NEWS PAPER MILL and they also used to communicate with the other Kraft Paper manufacturers in the said group. I am personally aware about the messages sent by them in the group and individually to dealers/Kraft paper manufacturers etc. I take their full responsibility and I am aware about the messages sent by them ..."

106.9 In its suggestions/ objections to the DG Report, OP-65, apart from making submissions similar to those made by several other OPs, argued that mere sharing of price increase



messages or shut-down messages by a Kraft paper manufacturer in a WhatsApp group, without there being any proof that the increase was followed by the other Kraft paper manufacturers who were members of that group, does not amount to an anti-competitive agreement between the Kraft paper manufacturers. Such messages were shared in the WhatsApp group of which dealers were also members for their information and benefit.

106.10 In the opinion of the Commission, sharing of price increase and/ or shut-down information by one competitor with other players in the market compromises the independence of all such competitors; as such, the same amounts to sharing of commercially sensitive information. It is likely to cause AAEC in India, and as such, even mere sharing of such sensitive information/discussions, even if not followed by other competitors, may amount to a violation of the competition law. Be that as it may, in the present case, as can be seen in the latter part of the present order, price increase and collective shut-down directives of NIPMA, at times even those posted by Mr. Arvind Kumar in “NEWS Paper Mills”, were, in fact, implemented, fully or partially, by the other OPs from time to time. As such, the said argument of OP-65 holds no merit.

106.11 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-65 was part of the discussions held at NIPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by NIPMA, fully or partially, in this regard. Such conduct of OP-65 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

106.12 With respect to penalty, OP-65 made several submissions which were largely similar to those made by the other OPs in the matter.

106.13 Such submissions made by OP-65 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

107. OP-66 (Silverton Pulp and Papers Private Limited)



107.1 It is noted from the DG Report that Mr. Akshay Jain, Director of OP-66, was a member of two WhatsApp groups of paper mills, namely, “Kraft Paper Mills” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place.

107.2 In the WhatsApp group “NEWS Paper Mills”, Mr. Akshay Jain (mentioned as Akash Silver Ton) is found to have shared various messages with his competitors, which, *inter alia*, include the following:

[27/12/16, 18:16:25] +91 98980 13480: Dear friends
At present we all are making losses.
Is it possible that in all areas in a single slot, we all together
Reduce local waste 2000₹
All are requested to comment
[27/12/16, 18:16:54] +91 98980 13480: All are requested to comment
and discuss with the members of your area
27/12/16, 18:17:58] Akash Silver Ton: What is the prices in Vapi and
Morbi
[27/12/16, 18:18:46] +91 98980 13480: Whatever is the price
To Reduce 2000/- ₹ from the present level
[27/12/16, 18:19:11] +91 90333 67567: Yes it is necessary to
reduce.....
[27/12/16, 18:19:14] +91 90333 67567: □
[27/12/16, 18:19:29] Akash Silver Ton: Good suggestion
[27/12/16, 18:27:29] +91 98980 13480: Whatever is the price
To Reduce 2000/- ₹ from the present level in a single slot

[27/12/16, 18:30:09] Akash Silver Ton: Agar 80 percent bhi karenge to
bacha hue log apne aap kam karenge itna maal Ayega ki sambhal nahi
paog

[06/01/17, 09:15:11] Akash Silver Ton: Is there any working going on
price increase in west
[14/01/17, 21:01:50] Akash Silver Ton: Bombay ki meeting kab hai
[14/01/17, 21:17:03] +91 90990 21356: Maybe next weekend.....
[14/01/17, 21:19:38] Akash Silver Ton: How is the market scenario
[14/01/17, 21:19:50] Akash Silver Ton: Is there any panic in market
[15/01/17, 00:20:15] +91 98251 70382: Congratulations Amrutbhai
[15/01/17, 11:24:20] +91 90990 21356: We will plan to meet
tomorrow evening with dealers at Ahmedabad and discussion on
current scenario of market and will take confidence from them.....
[15/01/17, 11:38:49] +91 98797 88988: Pl discuss bed debts issue
also, we have started communicating with Mumbai traders Association
[15/01/17, 11:40:07] +91 90990 21356: Yes Also will discuss....
[15/01/17, 11:59:03] Akash Silver Ton: We have also outstanding
payment from mr Arzaan Fibrecon mumbai if anybody can help
[15/01/17, 16:41:12] left 36156 98250 91+
[15/01/17, 22:21:19] +91 98374 43440: Is this fake news
[15/01/17, 22:38:05] Akash Silver Ton: Yes I think so

26/01/17, 14:25:17] +91 98251 34335: Dear Mill Owners,
Presidential Message
We all have decided jointly to shut our mills from tomorrow to 31st.
All are requested to put their confirmation of Shut in this group as soon
as they shut their mill
Monitoring teams in gujarat and maharashtra will be reaching to all
places by today evening.
All are requested to allow them to enter in the mill and see the machine
is shut or not.
They will be reporting to the Shut monitoring committee and this
committee will inform to all regional presidents.
I request all the regional presidents to arrange meetings of their area
mills during this Shut.
If at all any mill is found in running condition, be prepared, as severe
action will be taken.
For few the whole industry can not be suffered.
INDISCIPLINE WILL NOT BE TOLERATED AT ALL.
Sunil Agrawal
President
GPMA
[26/01/17, 14:26:14] +91 98251 45081: □
[26/01/17, 14:26:35] +91 98250 15410: □□□
[26/01/17, 14:27:32] +91 98980 13480: □□□□
[26/01/17, 14:30:00] +91 90990 21356: □
[26/01/17, 14:30:03] +91 98371 00047: Wah Sunil ji □□□
[26/01/17, 14:31:16] +91 98252 31577: Good msg Sunilbhai □□□□
[26/01/17, 14:31:38] +91 98269 60111: □



[26/01/17, 14:32:12] +91 90990 21356: ASHOK ji i told PANKAJ ji and Akshay ji for joining us on 11th meeting at MUMBAI.....pls try to make united.....

[26/01/17, 14:32:48] +91 98371 00047: Ok Kirit bhai ☐

[26/01/17, 14:44:24] Akash Silver Ton: We will try

[28/01/17, 19:04:55] Akash Silver Ton: In north already 1 r/s had increased

[28/01/17, 19:05:14] Akash Silver Ton: We are planning another 2

[04/02/17, 19:34:09] +91 98370 22535: NORTH PAPER MILL SE REQUEST KARO RATE BDAHAY 1/-IMMIDIAT FURTHER FEB END

[04/02/17, 19:36:06] +91 98251 34335: ☐

[04/02/17, 19:37:16] +91 98400 57208: Total increase Rs.2 or 3 with the recent increase of Rs.1 by Northern India Mills?

[04/02/17, 19:43:09] Akash Silver Ton: Total 3

[04/02/17, 19:43:38] B B Gupta: ☐☐☐

[04/02/17, 19:43:56] +91 98400 57208: ok tks just idea what will be basic price for 18 BF and 20BF

[04/02/17, 19:44:06] +91 98400 57208: after this increase of Rs.1 per ton

[04/02/17, 19:44:07] +91 98370 22535: 1/- IMMIDIAT+MINIMUM 2/- FEB END TOTAL 3/-

[04/02/17, 19:44:54] Akash Silver Ton: After 3 r/s price will be 24.5

“[03/03/17, 15:16:23] Akash Silver Ton: Dear members yesterday's episode was in everybody's knowledge how our organisation had been insulted and thrown out and how wrong messages against unity had been given to customers so today we have kept a small meeting in mzn to discuss how to come up and how to save our industry many mill owners including silvertan pulp Nikita Maruti Bindal silvertan Garg Mahalaxmi Disha Meenu Siddhali was there and many mill owners was consulted on phone and it was decided that the dealers working with paswada will not work with any of the mill in unity and most of the dealers have been informed and also they have supported the unity .so big hand for them and once again we will stand united for our own good health”

[21/03/17, 08:07:21] Akash Silver Ton: What is current scenario of paper industry in west and south demand wise and rate acceptance

[03/04/17, 17:07:34] +91 98251 34335: Dear Paper Mill Owners,

Presidential Message

I Thank all the paper mill owners for making this association strongest.

We all have increased 7₹ till now across the board and all have got this increase.

Whatever have we increased has compensated our increased cost of production only. Still our BS are not in profit.

What About Our Profit ?

Friends, are we running a Charitable Trust ?

Why we are never thinking of our profits. Our industry is kept in red category by banks as well as pollution department.

Whenever we send our financial to our bankers they doubt our working because there is hardly any profit or negative.

Because of it we are not able to get best interest rates.

All our suppliers as well as customers say if we will not get this much profit, we will not do business e.g. Local waste, Imported Waste, Coal, Chemicals, Spares, Finish dealers, Corrugators etc.

Keep your hand on your heart and say if I am wrong ?

By making our association strong and the formation of Federation we have to bring out our industry from the red category of banking and pollution.

We all should build up sufficient reserves in our BS.

My aim is to make all my friends debt free in coming days.

We will have to take several hard steps to do so. We will have to work hard on the implementation of the Federation policies.

Friends I want your support to do all this.

Your trust in me has encouraged me and given responsibility to do betterment for the industry and I promise I Will do it.

We should not earn anything less then 20% of our turn over. If some one is more efficient he will earn 25% and if some one is less efficient he will earn 15% but we will have to make all efficient.



Our Faderation should work on to get the subsidies and concessions like that of textile and other industries are getting.
We all are meeting on 7th April at Mumbai in hotel Westin.
I want 100% attendance in this meeting.
I and Rathiji give responsibility to all regional leaders to bring all the mill owners in this meeting.
This meeting will be the historic Meeting and will be written with the golden ink in the history of paper mills of India.
We have had meetings in all the areas and all have confirmed to keep shut.
We had a very good meeting at Surat on 27th March.
We thank to all the dealers and Corrugators for accepting our need of price increase and started giving orders in increased prices.
They are also ready for future increase of prices.
We shall give you details related to the progress of Faderation in the meeting.
I want to give you example of the benefit of association - Recently our Surat area leader Sandeepji's mill Urvashi Paper was given closer by pollution. We had made all possible efforts to get the revoke order and we got it.
I request all the regions to arrange meetings of their areas on regular interval and seek the intervention of the Association / Faderation anywhere anytime needed.
Because it is your Association, your Faderation.
During Shut days to monitor the Shut, Monitoring teams in gujarat and maharashtra will be reaching to all places by 4th evening.
If at all any mill is found in running condition, be prepared, as severe action will be taken.

For few the whole industry can not be suffered.
INDISCIPLINE WILL NOT BE TOLERATED AT ALL.
Friends, We should not take any such decision in future wherein our unity comes under danger zone. No decisions at the cost of our unity.
I know WE CAN AND WE WILL jointly achieve all our dreams.
All those who agree with my this words and to support our association, reply with below three lines.
YES WE CAN - YES WE WILL
YES WE CAN - YES WE WILL
YES WE CAN - YES WE WILL
 Regards
 Sunil Agrawal
 President
 GPMA
 [03/04/17, 17:10:57] +91 98980 00211: **YES WE CAN - YES WE WILL**
YES WE CAN - YES WE WILL
YES WE CAN - YES WE WILL
 [03/04/17, 17:11:28] +91 98980 13480: **YES WE CAN - YES WE WILL**
YES WE CAN - YES WE WILL
YES WE CAN - YES WE WILL
 [03/04/17, 17:11:43] +91 98251 22345: □□□□□
 [03/04/17, 17:12:16] Akash Silver Ton: **YES WE CAN - YES WE WILL**
YES WE CAN - YES WE WILL
YES WE CAN - YES WE WILL

107.3 Thus, there is evidence of regular discussions on price fixing of Kraft paper between Mr. Akshay Jain of OP-66 and other paper mills, not only from North India but also who were members of GPMA.

107.4 In the WhatsApp Group “Kraft Paper Mills” also, Mr. Akshay Jain is found to have shared a message informing the dealers about price increase of OP-65 by ₹1,000/- PMT and shut-down of mills from 02.06.2017 to 06.06.2017. It is noted from the DG Report that such price increase and shut-down dates match with the decision taken in the NIPMA meeting held at OP-64 on 23.05.2017.

107.5 It is also noted that a message dated 05.05.2018 was also posted in “NEWS Paper Mills” by Mr. Bhushan Gupta of OP-79 informing the group about the decisions of NIPMA including dates of collective shut-down of mills. In this regard, Mr. Akshay Jain, in his statement recorded before the DG, acknowledged that OP-66 was closed from 03.07.2018 to 07.07.2018, which dates match with the dates of shut-down posted by Mr. Gupta in “NEWS Paper Mills”.



- 107.6 In the opinion of the Commission, this clearly shows that Mr. Jain also used to get information about collective shut-down dates from NIPMA and other paper mills.
- 107.7 It is also observed from the RG-1 Register filed by OP-66 that its manufacturing plant was shut from 06.04.2017 to 08.04.2017 (3 days) and on 09.04.2017 (partially) which dates also almost match with the collective shut-down dates declared by NIPMA. The manufacturing plant of OP-66 was also closed from 11.05.2016 to 14.05.2016, 02.03.2017 to 04.03.2017, 06.04.2017 to 08.04.2017, 03.05.2017 to 05.05.2017 and 03.06.2017 to 06.06.2017, which also closely match the shut-down dates of OP-64 and OP-67.
- 107.8 When the dates of shut-down of OP-66 match the shut-down dates declared by NIPMA and/or shut-down dates of other paper mills, that too when Mr. Akshay Jain was one of the members of the WhatsApp groups in which shut-down dates were discussed, it cannot be believed that OP-66's shut-down was solely due to maintenance reasons as stated by Mr. Jain in his statement recorded before the DG. The only inference which can be drawn is that OP-66 was involved in collective shut-down of kraft paper mills as a member of NIPMA.
- 107.9 In its suggestions/objections to the DG Report, OP-66 made submissions similar to those made by the other OPs, especially OP-65. The same have already been dealt with in the earlier parts of the present order.
- 107.10 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-66 was part of the discussions held at NIPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by NIPMA, fully or partially, in this regard. Such conduct of OP-66 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.
- 107.11 With respect to penalty, OP-66 also made several submissions which were largely similar to those made by the other OPs in the matter.



107.12 Such submissions made by OP–66 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

108. OP– 67 (Maruti Papers Ltd.)

108.1 It is noted from the DG Report that Mr. Atul Bansal, Director of OP–67, was a member of two WhatsApp groups of paper mills, *namely*, “Kraft Paper Mills” and “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut–down of mills took place. Mr. Sanjay Kumar Garg, CEO of OP–67, was also a part of two WhatsApp Groups *namely* “Paper Industries” and “Kraft Paper Mills”.

108.2 In his statement recorded before the DG, Mr. Atul Bansal admitted to his participation in “NEWS Paper Mills” and also admitted that discussion on prices of Kraft paper used to take place in such group. The relevant portion of his statement in this regard, is as follows:

“Yes this is the same WhatsApp group in which I was a member however, I was removed from the group on 11.02.2019. I remember that my name was added to the above group by Shri Brij Bhushan Gupta, Ashoka Rolls, Delhi. However, I was almost a silent member in this group. I admit that certain members of the group exchanged prices of Kraft Paper.”

108.3 In the WhatsApp group “Kraft Paper Mills”, Mr. Bansal admitted that he had sent a message in the month of June 2017 regarding increase in price of Kraft Paper and shut–down of OP–67. The said message was as follows:

“Dear Sir, please note that we are increasing our rates of papers by Rs. One from the 1st of June in all our qualities. We would also like to inform you that we will be shutting our plant from 2nd June for about 5 days due to mechanical work. So all the dealers are requested to please book future orders accordingly..... Maruti Papers Limited”

108.4 The Informants have also filed on record another message sent on WhatsApp group by an employee of OP–67 regarding price increase, which is as follows (though the same message has been denied by OP–67 in its suggestions/objections to the DG Report):

Dear sir
PI note that we have stopped the booking of old rate of +2/- . Now our latest rate is old rate + 4/- (2+2). Kindly book your further orders in new rate. We shall not accept any order in old rate effective immediately.
Thanks & regards.
Maruti Papers.

108.5 It is noted from the DG Report that identical messages were also sent by certain other paper mills to their dealers informing about the price increase, which are as follows:

Paswara Papers Update (27.December.2017) This is to inform all that further revision of ₹2/ kg in prices of Multilayer Kraft Paper has been made w.e.f 27/12/2017. Order at previously increased rates of ₹2/kg will only be accepted by today midnight. After that all orders will be accepted at total of 2+2=₹4/- increase. 17:30	Dear Sir, Due to increase in input cost we are further forced to increase prices of all varieties of Kraft paper by Rs 2/kg with immediate effect.now total increase is 4/kg. Regards Tehri Pulp & Paper Ltd 18:18	Dear dealers we have increased 2000 per ton immediately (total Rs 4000) due to unexpected rise in raw materials and uncertainty of production in the month of January so please take orders accordingly and oblige . Further rise is expected in the month of January . Thanks Regards RAC Papers Limited 18:46
immediate effect Total ₹ 4000/-pmt Thank you Siddheshwari industry muzafarnagar Sidharth paper kashipur 17:53 Dear sir PI book all fresh order with the increase of ₹ 2000/- pmt with immediate effect Total ₹ 4000/-pmt Thank you Siddheshwari industry muzafarnagar Sidharth paper kashipur 17:53	Due to pollution problems and changes in our raw material cost we are forced to increase the prices...Kindly book your orders in new rate. Our new prices will be with addition of 2 Rs. i.e. total Rs. 4 increase (2+2). We shall not accept any order in old rate from now. Thanks & regards. Mahalaxmi paper mill 18:03	

108.6 Similarly, it is noted that OP-67 had also sent the following message regarding increase of price by ₹1 per kg post meeting dated 23.05.2017 of NIPMA held at OP-65 by Mr. Pankaj Aggarwal:

Dear sir,
Please note that we are increasing our rates of papers by Rs. One from the 1st of June in all our qualities. We would also like to inform you that we will be shutting our plant from 2nd June for about five days due to mechanical work. So all the dealers are requested to please book future orders accordingly.
Regards
Maruti Papers Ltd.



A similar message regarding price increase was also sent by OP-66.

108.7 Similarity of price increase messages of OP-67 with OP-65, OP-68, OP-69, OP-70, OP-77 and OP-78 proves that they were all involved in collective price increase, otherwise identical messages for price increase would not have been sent.

108.8 It is also noted that, on 08.02.2014, one Mr. Neeraj Goel, Director of OP-70 and Managing Director of Agarwal Duplex Board Mills Ltd., had informed in the WhatsApp group about the decision of meeting of various paper manufactures held in Delhi on 08.02.2014 regarding increase in the price of finished paper by ₹1000/- MT, reducing ₹1000/- MT in waste paper, collective shut-down of plants from 12.02.2014 to 17.02.2014, and schedule of next meeting on 22.02.2014. He had, on 26.08.2014, also informed about the postponement of shut-down of mills and the new date of shut-down from 01.09.2014 to 06.09.2014.

108.9 On these messages, Mr. Sanjay Kumar Garg of OP-67, in his statement recorded before the DG, admitted that whenever there was an increase in input cost, the company tried to increase the price of finished paper. He further stated that the meeting in this regard may have been held in Delhi wherein the said decisions were taken. He also stated that Mr. Neeraj Goel is an old experienced person in the Kraft paper industry, due to which paper mills sometimes used to follow his advice.

108.10 Regarding the meeting on 08.02.2014, Mr. Atul Bansal had also forwarded the following WhatsApp messages on 03.02.2014 and 08.02.2014 to Mr. Sanjay Kumar Garg:

“02.03.2014 at 04:14 PM Atul Bansal: D/sir, manufacturer of Kraft (Agro & waste) are cordially invited in the meeting on 08th Feb in Delhi at 12:00 noon. Agenda to inc. Rs.3000/- MT. Regards Neeraj Goel.”

“02.08.2014 at 05:15 PM: Atul Bansal: Dear sir, decision of today's meeting held in Delhi: 1- To Inc. Rs.1000 MT in finished product with imm. effect. 2- To reduce Rs.1000 MT in waste paper with imm. effect. 3- Plants will remain shut from 12 Feb. to 17 Feb. 4- Next meeting is schedule on 22. Feb. in Delhi. Regards Neeraj Goel”

When asked about these messages, Mr. Sanjay Kumar Garg admitted that whenever the price of waste paper increased, Mr. Atul Bansal used to discuss with other mill owners to increase the price of Kraft paper and reduce the purchasing price of waste paper.



108.11 It is also noted from the DG Report that when Mr. Atul Bansal was asked about the reasons for his membership in “NEWS Paper Mills” and “Kraft Paper Mills” WhatsApp groups, he stated that it was helpful for him to get the information regarding prices of Kraft paper, shut-down schedule and prices of waste paper. The above evidence clearly shows that OP-67 was involved in fixing the price of Kraft paper with other paper mills.

108.12 It is also noted from the RG-1 Register of OP-67 that the manufacturing plant of OP-67 was shut from 22.01.2016 to 24.01.2016, 16.02.2016 to 20.02.2016, 24.03.2016 to 26.03.2016, 11.05.2016 to 13.05.2016, 31.07.2016 to 01.08.2016, 02.03.2017 to 04.03.2017, 06.04.2017 to 08.04.2017, 03.05.2017 to 05.05.2017, 03.06.2017 to 05.06.2017, 03.05.2018 to 04.05.2018, and 05.11.2018 to 08.11.2018, during which period, manufacturing plants of OP-64, OP-65, OP-66 and OP-68 were also shut-down, fully or partially. Though in its suggestions/ objections to the DG Report, OP-67 has presented a variety of reasons for shut-downs on such dates, in light of the fact that several paper mills located in different parts of North India, who were all members of NIPMA, were shut-down on same/similar dates, such reasons put forth by OP-67 are hardly believable and seem nothing more than an afterthought.

108.13 In the WhatsApp group “NEWS Paper Mills”, Mr. B. B. Gupta of OP-79 had also shared a message on 14.04.2017 informing the prices of different grades of Kraft Paper of OP-79 and informing its shut-down schedule from 02.05.2017 to 06.05.2017. The plant of OP-67 was also shut from 03.05.2017 to 05.05.2017. When Mr. Atul Bansal of OP-67 was confronted with the said message, he stated that Mr. B. B. Gupta may have shared the aforesaid message in the WhatsApp group.

108.14 In its suggestions/objections to the DG Report, OP-67 has also made other submissions similar to those made by the other OPs, especially OP-65. The same have already been dealt with in the earlier parts of the present order.

108.15 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-67 was part of the discussions held at NIPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by NIPMA, fully or partially, in this regard. Such conduct of OP-67 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions



of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

108.16 With respect to penalty, OP-67 made several submissions which were largely similar to those made by the other OPs in the matter.

108.17 Such submissions made by OP-67 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

109. OP-68 (RAC Paper Ltd.)

109.1 It is noted from the DG Report that Mr. Ajay Mittal and Mr. Manoj Gupta, Directors of OP-68, were members of WhatsApp Group “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. Mr. Mittal, in his statement recorded before the DG, also admitted that in the said WhatsApp group, the members used to discuss the prices of Kraft paper. It is also noted from the DG Report that Mr. Gaurav Mittal, Accounts Officer of OP-68 and nephew of Mr. Ajay Mittal, was also a member of WhatsApp Group “NEWS Paper Mills”. He was involved in sending messages regarding price increase of OP-68 to the dealers.

109.2 Mr. Gaurav Mittal, in his statement recorded before the DG, admitted that in the said WhatsApp group, the members used to exchange messages regarding prices of Kraft Paper, meetings of NIPMA and collective shut-down of mills. He also admitted that OP-68 was a member of NIPMA. Mr. Gaurav Mittal also stated as follows:

“Q19. I put to you that Kraft Paper mill owners across Northern India region collectively increase the price of Kraft Paper where RAC also increased the price during 2017, 2018 and 2019 as per the decision of NIPMA. What you have to say on this?”

Ans. I admit that RAC has also increased/decreased the price of Kraft Paper during the above periods. I sent price hike/decrease messages to RAC’s customers as per the directions of Shri Ajay Mittal, Director.

Q21. What are the functions of NIPMA?

Ans. As per my knowledge NIPMA is a paper Mill Association which is formed to discuss matter related to pollution, market related matters such as demand and supply, rate of Kraft Paper etc.



Q22. After attending the meeting did Shri Ajay Mittal, Director ever communicated you decisions of NIPMA?

Ans. Yes, Shri Ajay Mittal communicated me the decisions of NIPMA such as price increase/decrease of Kraft Paper. Accordingly, I sent price hike/decrease communications of Kraft Paper to RAC's customers."

109.3 It is also noted from the WhatsApp messages of Mr. Gaurav Mittal that on 27.12.2017, he sent the following identical message of price increase to OP-68's dealers which was also sent by other paper mills such as OP-65, OP-67, OP-69, OP-70, OP-77 and OP-78:

"Dear dealers we have increased 2000 per ton immediately (total Rs.4000) due to unexpected rise in raw materials and uncertainty of production in the month of January so please take orders accordingly and obliged. Further rise is expected in the month of January. Thanks regards RAC Papers Limited".

109.4 It is also noted that Mr. Gaurav Mittal had sent a message on 13.05.2017 to the dealers regarding increase in the price of Kraft Paper of OP-68 by ₹1 per kg from 15.05.2017 and further ₹1 per kg from 02.06.2017 and also informed about shut-down of mill from 02.06.2017 to 06.06.2017 to one of its dealers, Shri Radha Vallabh Enterprises. It is noted that, during the said period, as shown earlier, other paper mills in U.P. were also shut, as decided by NIPMA. When Mr. Gaurav Mittal was confronted with the said message, he admitted that he had sent the said message and production was also shut on the said dates.

109.5 In the earlier part of the present order, it has also been noted that the shut-down dates of OP-68 matched with the shut-down dates of other paper mills such as OP-64, OP-65, OP-66 and OP-67. When Mr. Ajay Mittal was asked about the same, he stated that the matching thereof is a mere coincidence.

109.6 It is also noted from the DG Report that the shut-down of OP-68 from 21.01.2016 to 26.01.2016 matched the shut-down declared by NIPMA for five days from 21.01.2016. When Mr. Mittal was asked about the said shut-down, he stated that the reason for the said shut-down was "strike".

109.7 Therefore, based on the evidences collected by the DG as detailed above, the Commission finds that OP-68 was part of the discussions held at NIPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also



followed the directions issued by NIPMA, fully or partially, in this regard. Such conduct of OP-68 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

110. OP-69 (Siddheshwari Industries Private Limited)

110.1 It is noted from the DG Report that Mr. Deepak Bansal, Mr. Shishir Sangal and Mr. Sushil Kumar (also a Director of OP-77), Directors, were members of WhatsApp Group “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. Mr. Bansal, in his statement recorded before the DG, admitted that these three Directors were a part of the said group and that in the group, members discussed “*technical issues, latest development in the paper industry, present scenario of Kraft Paper, rate of waste paper, price of Kraft Paper, shut-down of mills, pollution related issues etc.*”

110.2 When Mr. Bansal was confronted with the following message posted by Mr. Pankaj Aggarwal, President of NIPMA, in NEWS WhatsApp Group on 20.03.2018 at 06:57:02:

“Decision of today’s meeting:

- 1. Shut from 2nd to 7th April*
- 2. Re.1 increase in finish paper*
- 3. An increase of Re.1 from 2nd April by shutting down*

Regards

Pankaj Agarwal

President”

he stated that “*I admit that the above message was sent by Shri Pankaj Aggarwal and I may have read the message at that time. I agree that in the said group members exchanged the messages regarding price hike of Kraft Paper and shut-down of mill.*”

110.3 From the mobile phone of Mr. Deepak Bansal, a message dated 11.04.2019 sent by Mr. Neeraj Goel of OP-70 was discovered which stated as follows:



4/11/19, 10:53 AM - Messages to this chat and calls are now secured with end-to-end encryption. Tap for more info.
 4/11/19, 10:53 AM - Nerajji Neraj Marketing Dly: Dear sir As per 10th decision we hope you will convey to market thnx
 5/30/19, 9:48 PM - Deepak Bansal: <Media omitted>
 5/30/19, 9:49 PM - Deepak Bansal: <Media omitted>
 5/30/19, 9:49 PM - Deepak Bansal: <Media omitted>
 5/30/19, 9:49 PM - Deepak Bansal: <Media omitted>
 5/31/19, 8:41 PM - Nerajji Neraj Marketing Dly: Msg from Mr Ashok Garg

The above message hints that there was some decision taken by competitors including OP-69 and OP-70 on pricing which was required to be conveyed to the customers.

110.4 When Mr. Bansal was confronted with the above message, he gave an evasive answer that he could not recollect.

110.5 It is also noted from the DG Report that the mill of OP-69 was shut from 20.01.2016 to 24.01.2016 and 02.06.2017 to 06.06.2017, which dates match the shut-down dates declared by NIPMA. Also, the manufacturing plant of OP-69 was shut from 20.01.2016 to 24.01.2016, 15.02.2016 to 20.02.2016, 23.03.2016 to 27.03.2016, 11.05.2016 to 15.05.2016, 02.05.2017 to 04.05.2017, 02.06.2017 to 06.06.2017 and 02.05.2018 to 05.05.2018, during which period the manufacturing plants of OP-64 to OP-68 were also shut-down, fully or partially.

110.6 In its suggestions/objections to the DG Report, OP-69 made submissions similar to those made by the other OPs. The same have already been dealt with in the earlier parts of the present order.

110.7 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-69 was part of the discussions held at NIPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by NIPMA, fully or partially, in this regard. Such conduct of OP-69 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

110.8 With respect to penalty, OP-69 made several submissions which were largely similar to those made by the other OPs in the matter.

110.9 Such submissions made by OP-69 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.



111. OP-70 (Tehri Pulp and Paper Limited)

111.1 It is noted from the DG Report that Mr. Rakesh Kumar, Mr. Sushil Agarwal and Mr. Neeraj Goel, Directors, were members of WhatsApp Group “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place.

111.2 Mr. Rakesh Kumar, in his statement recorded before the DG, admitted that he was a part of the said group and that in the group, “members exchanged the price of Kraft paper” and “members shared the price of Kraft Paper, price of waste paper and shutting down schedules of mills”.

111.3 Mr. Neeraj Goel, in his statement recorded before the DG, also admitted that he used to attend two–three meetings of Kraft paper mills owners every year at Hotel Godwin in Meerut. In these meetings, apart from common industry issues, members used to discuss prices of Kraft paper as well as prices of raw material i.e., waste paper. He admitted that he was a member of WhatsApp groups “NEWS Paper Mills” and “Kraft Paper Mills” and also a member of NIPMA.

111.4 It is noted that in the WhatsApp group “NEWS Paper Mills”, Mr. Pankaj Aggarwal, President of NIPMA, had posted the following messages:

On 25.10.2017 at 21:05:35 (in Hindi):

“During PAPEREX, a meeting of the NEWS has been organized for Paper Mill owners, Kraft paper makers from all over India, where everyone will discuss a platform. The program is as follows

Date: 2 November 2017

Time: 7.00 pm

Location: Hotel Royal Plaza, Janpath, New Delhi

Agenda

Kraft paper of India got together....

1. Discussion on how to increase the price of Kraft Paper.

2. How to control waste paper prices.

3. Paper sold without credit facility.

4. The dealers who have defaulted Mill owner's money should be blacklisted.

5. Any other point from which the development of the paper industry can occur.

Please confirm the owner of all the craft making mills of NORTH, EAST, WEST and SOUTH to ensure their participation in the said meeting.

Thank you



*Pankaj Aggarwal
President
North India Paper Mill."*

On 25.10.2017 at 21:06:12 in continuation (in Hindi):

"Association".

On 25.10.17 at 21:08:59 in continuation (in Hindi):

"Please confirm"

In reply to the above messages, Mr. Neeraj Goel replied on 26.10.2017 at 07:40:17:

"Confirm pankaj bhai".

111.5 When Mr. Neeraj Goel was asked about the same, he admitted that he attended the above meeting in which Kraft paper mills owners across India and paper dealers also participated and that in the "NEWS Paper Mills" WhatsApp group *"members discussed points related to price of finished paper, price of waste paper, collective shut-down of mills, pollution related matters, delayed payments by dealers/corrugators, GST related matters etc."*

111.6 It is also noted from the DG Report that Mr. Neeraj Goel himself also sent several messages in "NEWS Paper Mills", some of which are as follows:

(a) On 08.02.2014 at 05:15 p.m.:

*Dear sir, decision of
today's meeting held in Delhi :*
1-to inc.Rs. 1000/MT in finished product with imm. effect.
2-to reduce Rs. 1000/mt in waste with imm. effect.
3-plants will remain shut from 12Feb to 17 Feb.
4-next meeting is scheduled on 22 Feb. in Delhi.
Regards
Neeraj Goel

(b) On 26.08.2014, *"D/Sir, on request of various distributors and considering heavy demand of Kraft, shut is postponed. New date of shut is from 12 noon of 1st September to 12 noon of 6th September. Thanks Neeraj Goel."*

(c) On 27.10.2017 at 14:16:19:

"Good afternoon all members final today Rs.2000/- increase immediately and another agenda for 9th Nov meeting at meerut for additional Rs.2000/- total Rs.4000/-thnx"



(d) On 31.10.17 at 11:51:20

“Good” in reply to the message sent by Mr. K. Swaminathan of South India Kraft Paper Mills Association that “Mr. Pankaj Agarwal Our Members from Karnataka/Tamil Nadu/Kerala around 10–15 will be attending the meeting on 2nd Nov 2017 at 7 pm. Swaminathan South Indian Kraft paper mills assn”.

(e) On 21.11.2017 at 12:50:08:

“Nice decision” in reply to the message sent by Mr. Om Prakash Rathi of OP–3 that “Good morning Members. After deliberations with all regions our association has decided to increase rates of finish Kraft paper by Rs 1250/– with immediate effect from today. All are advised to issue circulars immediately. Regards Prakash Rathi Maharashtra Paper Mills Association”.

Such messages of Mr Neeraj Goel show his support, involvement and co–ordination with other associations for increase in prices of Kraft paper.

111.7 It is also noted from the DG Report that in “NEWS Paper Mills”, Mr. B. B. Gupta of OP–79, also shared the following message:

***Dear distributors please note our
current rate are as under:
18 bf gy 29/- basic+++
22 bf gy 32/- basic+++
25 bf gy 34/- basic+++
28 bf gy 35/- basic+++
Kindly send your orders only in above rates. Secondly, we also
inform to you that our plant will be in shutdown from 2nd May to
6th May for maintenance.
20 bf agro rates will be inform soon.
Thanks and regards,
Tehri Pulp & Paper”.***

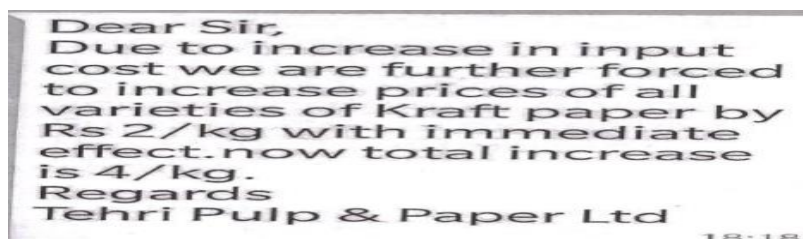
When Mr. Rakesh Kumar was asked about the said message, he stated that *“I cannot recollect why such message was sent by Shri B. B. Gupta”*. When Mr. Kumar was asked if had ever objected regarding price fixing messages and shut–down messages exchanged on “NEWS Paper Mills”, he answered *“I have never objected the same”*.

111.8 It is also noted from the DG Report that on 07.04.2018, OP–67 had sent a message to one of the dealers of OP–70 mentioning that *“Dear Dealers we wish to inform you that due to increase in our cost of production we six mills have decided to increase 1 r/s per*

KG in all qualities immediately further we will sit together on 28 to evaluate our position and if require we will increase prices further so kindly place your orders accordingly. Your support will be highly appreciable towards sustaining our industries. Thanks, regards Genus Paper and Boards, Devpriya Industries Ltd., Tehri Pulp and Papers Pvt. Ltd., Nikita Papers Ltd., Silverton Pulp and Papers Pvt. Ltd.”.

111.9 In this regard, all Mr. Kumar had to say was that “TPPL also might have increased the price of Kraft Paper due to increase in the input cost”. However, Mr. Neeraj Goel, when confronted with such message, admitted that “In the Kraft Paper industry it is not possible to increase the price of Kraft Paper by a single unit, so in most of the occasions Kraft Paper mills owners discuss together and try to implement the price hike together so that it may succeed in the industry. ...”

111.10 The following message sent by OP-70 through WhatsApp was also recovered by the DG during the course of investigation:



Identical messages were also sent by certain other paper mills, i.e., OP-65, OP-67, OP-68, OP-69, OP-77 and OP-78, to their dealers informing about the price increase. When Mr. Somen Sinha, Marketing Manager of OP-70, was confronted with the above message, he stated that “The above screen shot message was sent by Shri Vijay Singhal, Marketing Employee of Neeraj Paper Marketing Limited to one of its dealers mentioning the increase in the price of Kraft Paper in respect of TPPL. Since Neeraj Paper Marketing Limited sell different paper products of various mills, Shri Vijay Singhal put the message to show the hike in the price of Kraft Paper in respect of Tehri Pulp & Paper Limited.”

111.11 It is also noted from the DG Report that the manufacturing plant of OP-70 was shut from 22.01.2016 to 26.01.2016, 01.03.2017 to 05.03.2017, 08.04.2017 to 09.04.2018 and 03.06.2017 to 06.06.2017, during which period manufacturing plants of OP-64 to OP-68 were also shut-down, fully or partially.



111.12 In its suggestions/objections to the DG Report, OP-70 made submissions similar to those made by the other OPs, especially OP-64. The same have already been dealt with in the earlier parts of the present order.

111.13 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-70 was part of the discussions held at NIPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by NIPMA, fully or partially, in this regard. Such conduct of OP-70 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

111.14 In its supplementary suggestions/objections to the DG Report, OP-70 has, *inter alia*, put forth multiple mitigating factors as to why, even if anti-competitive allegations against it are proved, penalty should not be imposed.

111.15 Such submissions made by OP-70 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

112. OP-71 (Garg Duplex and Paper Mills Private Limited)

112.1 It is noted from the DG Report that Mr. Rajesh Jain (also Director of OP-66), Director, was a member of WhatsApp Group “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place.

112.2 In his statement recorded before the DG, Mr. Rajesh Jain admitted that he was a member of “NEWS Paper Mills” and that in the said WhatsApp group, members used to exchange messages regarding increase in price of Kraft paper, price of waste paper and meetings of associations of paper mills.

112.3 It is noted from the DG Report that OP-71 increased the prices of Kraft paper on many dates such as 28.01.2017 @ ₹0.75 per kg, 12.02.2017 @ ₹0.50 per kg, 09.03.2017 @ ₹2 per kg, 26.03.2017 @ ₹2 per kg, 26.05.2017 @ ₹0.50 per kg and 16.06.2017 @ ₹0.25 per kg. In these months, NIPMA had also decided to increase the prices of Kraft paper. When Mr. Rajesh Jain was asked about the same, he admitted



that OP-71 increased the price of Kraft paper, although not exactly on the dates and rates directed by NIPMA.

112.4 It is also noted from the DG Report that the manufacturing plant of OP-71 was shut from 20.01.2016 to 26.01.2016, 15.02.2016 to 20.02.2016, 24.03.2016 to 27.03.2016, 10.05.2016 to 14.05.2016, 01.03.2017 to 05.03.2017, 05.04.2017 to 09.04.2017, 01.05.2017 to 07.05.2017 and 06.06.2017 to 09.06.2017, during which period manufacturing plants of OP-64 to OP-68 and OP-70 were also shut-down, fully or partially.

112.5 When Mr. Rajesh Jain was asked about the shut-down from 20.01.2016 to 26.01.2016 by the DG during which dates manufacturing plants of other mills in North India were also shut and NIPMA had also declared a strike, Mr. Rajesh Jain replied that his company's manufacturing plant was shut due to *Magh Mela*, as directed by Central Pollution Control Board/U. P. Pollution Control Board. However, the DG noted from the information given by the company to the Excise Department that the reason for shut-down mentioned to them was "maintenance". Thus, evidently, the excuse of *Magh Mela* given to the DG for shut-down was an afterthought of Mr. Rajesh Jain. When Mr. Rajesh Jain was asked about the other shut-down dates matching, he stated that the same is a mere coincidence.

112.6 In its suggestions/objections to the DG Report, OP-71 made submissions similar to those made by the other OPs. The same have already been dealt with in the earlier parts of the present order. OP-71 also submitted that there are reasons for shut-down dates of several Kraft paper mill in North India coinciding such as *Kanwad Season*, *Kumbh Mela*, *Magh Mela*, Ganga River Cleaning Project, Directions from Pollution Control Board, etc. which the DG ought to have considered rather than arriving at a finding that mere coinciding of dates of shut-down of different Kraft paper mills means collusive decision. Further, OP-71 submitted that there is no correlation between the price increase directives of NIPMA and the actual price increases undertaken by OP-71.

112.7 In view of the Commission, even if the reasons put forth by the OPs for dates of their shut-down coinciding at certain times is taken at face value, the dates of shut-down matching at several other times remains unexplainable by the OPs. Further, mills located in other North India regions and not in the State of Uttar Pradesh also remaining



shut during the similar period is also suspicious. Matching of such dates at times with NIPMA directives also raises strong doubt. Therefore, the explanations for coinciding dates of shut-down of various paper mills situated in North India, as put forth by various OPs including OP-71, seem to be an afterthought and cannot be believed. Also, though the price increases undertaken by OP-71 may not exactly match the price increase directives of NIPMA, the same were definitely influenced by the decisions of NIPMA which is evident from the statement of Mr. Rajesh Jain, Director of OP-71, as noted above.

112.8 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-71 was part of the discussions held at NIPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by NIPMA, fully or partially, in this regard. Such conduct of OP-71 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

112.9 With respect to penalty, OP-71 made several submissions which were largely similar to those made by the other OPs in the matter.

112.10 Such submissions made by OP-71 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

113. OP-72 (Genus Paper and Boards Limited)

113.1 It is noted from the DG Report that Mr. Kailash Chand Agarwal, Managing Director of OP-72, was a member of WhatsApp Group “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place.

113.2 In his statement recorded before the DG, Mr. Agarwal admitted that he was a member of “NEWS Paper Mills” and that in the said WhatsApp group, members used to exchange messages regarding increase in price of Kraft Paper and collective shut-down of mills.



113.3 In fact, in the said group, on 07.04.2018, OP-67 had sent a message to one of the dealers of OP-70, stating that *“Dear Dealers we wish to inform you that due to increase in our cost of production we six mills have decided to increase 1 r/s per KG in all qualities immediately further we will sit together on 28 to evaluate our position and if require we will increase prices further so kindly place your orders accordingly. Your support will be highly appreciable towards sustaining our industries. Thanks, regards Genus Paper and Boards, Devpriya Industries Ltd., Tehri Pulp and Papers Pvt. Ltd., Nikita Papers Ltd., Silverton Pulp and Papers Pvt. Ltd.”*.

113.4 This clearly shows that collective price increase was undertaken by these six Kraft paper mills, including OP-72, in April 2018.

113.5 It is also noted from the DG Report that the manufacturing plant of OP-72 was shut from 21.01.2016 to 26.01.2016, 24.03.2016 to 27.03.2016, 02.03.2017 to 05.03.2017 and 06.04.2017 to 09.04.2017, during which period, the manufacturing plants of OP-64 to OP-68 and OP-70 were also shut-down, fully or partially. It is also noted that from 20.01.2016 to 26.01.2016, shut-down was also declared by NIPMA and during this period, the production of OP-72 was 97 MT, 43 MT, 6 MT, 4 MT, 16 MT and 178 MT only respectively, compared to 321 MT on 20.01.2016 and 331 MT on 27.01.2016. This shows that the manufacturing plant of OP-72 was substantially shut-down when shut-down was declared by NIPMA.

113.6 When Mr. Agarwal was asked about the same, he mentioned the matching of shut-down dates to be a mere coincidence. However, in the opinion of the Commission, when shut-down schedules are exchanged on the WhatsApp group of which Mr. Agarwal is a member and dates of shut of OP-72 are matching the shut-down dates declared by NIPMA and observed by other paper mills, it cannot be believed that OP-72's shut-down dates are matching coincidentally.

113.7 In its suggestions/objections to the DG Report, OP-72 has made submissions similar to those made by the other OPs. The same have already been dealt with in the earlier parts of the present order. It has also submitted that there is no evidence on record against it, as may be the case with other OPs, of its active participation in the WhatsApp group “NEWS Paper Mills”. The DG has held OP-72 liable merely on the basis of its membership in the said group. Further, it has submitted that at the time of



WhatsApp message dated 07.04.2018, its Kraft paper prices had in fact decreased and not increased, as stated in the said message.

113.8 In the opinion of the Commission, being member of “NEWS Paper Mills”, OP-72 was privy to the information about price increase and collective shut-down being exchanged on the said group. As such, its ability to act as an independent competitor in the market stood compromised. Hence, such membership of OP-72 was likely to cause AAEC in the Kraft paper mills market in India. There is no submission or evidence on record that OP-72 had exited or ever objected to exchange of such messages in the WhatsApp group.

113.9 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-72 was part of the discussions held at NIPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by NIPMA, fully or partially, in this regard. Such conduct of OP-72 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

113.10 With respect to penalty, OP-72 made several submissions which were largely similar to those made by the other OPs in the matter.

113.11 Such submissions made by OP-72 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

114. OP-73 (Nikita Papers Limited)

114.1 It is noted from the DG Report that Mr. Ashok Kumar Bansal, Director, was a member of WhatsApp group “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place.

114.2 In his statement recorded before the DG, Mr. Ashok Bansal admitted that he was a member of the WhatsApp group “NEWS Paper Mills” and that in the same, members used to exchange messages regarding increase in price of Kraft paper and collective shut-down of paper mills.



114.3 It is noted from the DG Report that in “NEWS Paper Mills”, on 20.03.2018, Mr. Pankaj Aggarwal had sent a message regarding the decision taken by NIPMA to increase the prices of Kraft Paper by ₹1 from 02.04.2018 by shutting down the mills. The manufacturing plant of OP-73 was also shut from 03.04.2018 to 04.04.2018 and on 07.04.2018, OP-67 had sent a message to one of the dealers of OP-70 stating that *“Dear Dealers we wish to inform you that due to increase in our cost of production we six mills have decided to increase 1 r/s per KG in all qualities immediately further we will sit together on 28 to evaluate our position and if require we will increase prices further so kindly place your orders accordingly. Your support will be highly appreciable towards sustaining our industries. Thanks, regards Genus Paper and Boards, Devpriya Industries Ltd., Tehri Pulp and Papers Pvt. Ltd., Nikita Papers Ltd., Silverton Pulp and Papers Pvt. Ltd.”*. This clearly completes the chain of circumstances which shows that OP-73 was involved in collective price increase of Kraft paper.

114.4 It is also noted from the DG Report that the manufacturing plant of OP-73 was shut from 21.01.2016 to 26.01.2016, 15.02.2016 to 20.02.2016, 23.03.2016 to 26.03.2016, 10.05.2016 to 14.05.2016, 02.03.2017 to 04.03.2017 and 03.06.2017 to 04.06.2017 during which period the manufacturing plants of OP-64 to OP-68 and OP-70 were also shut-down, fully or partially. It is also noted that, from 20.01.2016 to 26.01.2016, shut-down was also declared by NIPMA.

114.5 When Mr. Ashok Bansal was asked about the same, he mentioned the matching of shut-down dates to be a mere coincidence. However, in the opinion of the Commission, when shut-down schedules are exchanged on the WhatsApp group of which Mr. Bansal is a member and dates of shut-down of OP-73 match with the shut-downs declared by NIPMA and observed by other paper mills, it cannot be the case that OP-73's shut-down dates match coincidentally.

114.6 When Mr. Ashok Bansal was asked about fixation of price of Kraft paper and collective shut-down of mills on “NEWS Paper Mills”, he stated as follows:

“I think that exchanging the price of Kraft Paper and price of waste paper are not wrong, but in my opinion collective shutting down of mills is wrong.

I did not think of leaving the above WhatsApp group. I admit that by continuing to be a member of the above WhatsApp group I have made a mistake.



I have never objected to such messages to save myself from any kind of disputes.”

114.7 In its suggestions/objections to the DG Report, OP-73 has made submissions similar to those made by the other OPs, especially OP-65 and OP-71. The same have already been dealt with in the earlier parts of the present order.

114.8 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-73 was part of the discussions held at NIPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by NIPMA, fully or partially, in this regard. Such conduct of OP-73 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

114.9 With respect to penalty, OP-73 made several submissions which were largely similar to those made by the other OPs in the matter.

114.10 Such submissions made by OP-73 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

115. OP-74 (Dev Priya Industries Private Limited)

115.1 It is noted from the DG Report that Mr. Ashok Kumar Gupta, Managing Director, was a member of the WhatsApp group “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place, as well as of a WhatsApp group “NCR Paper Mills Committee”, wherein issues regarding price of Kraft paper as well as waste paper were discussed. He was also a member of other WhatsApp groups of paper mill owners like “NCR PNG Group”, “NCR Paper Mill Association” and “Paper Pollution Group”.

115.2 It is noted from the DG Report that in “NEWS Paper Mills”, on 23.02.2017, Mr. Arvind Agarwal of OP-65 put messages regarding OP-65’s price increase. In response to the same, Mr. Ashok Gupta showed his approval by putting an emoji. When Mr. Gupta was confronted with the said message, he admitted that he gave his approval to price increase by adding the emoji.



- 115.3 Further, it is noted that on 07.04.2018, OP-67 had also sent a message in “NEWS Paper Mills” stating that *“Dear Dealers we wish to inform you that due to increase in our cost of production we six mills have decided to increase 1 r/s per KG in all qualities immediately further we will sit together on 28 to evaluate our position and if require we will increase prices further so kindly place your orders accordingly. Your support will be highly appreciable towards sustaining our industries. Thanks, regards Genus Paper and Boards, Devpriya Industries Ltd., Tehri Pulp and Papers Pvt. Ltd., Nikita Papers Ltd., Silverton Pulp and Papers Pvt. Ltd.”*. The said message clearly indicates that the aforesaid six paper mills decided to collectively increase the price of Kraft paper.
- 115.4 When Mr. Gupta was asked about the same, he stated that *“I have not attended any meeting on 28th regarding increase of price of Kraft Paper”*. However, he admitted that *“Yes, I shared the price of Kraft Paper if Maruti ask me”* and *“Yes I have shared price of Kraft Paper if any mill ask to me”*. Thus, clearly, OP-74 used to share the prices of its Kraft paper with other paper mills including OP-67, when they asked.
- 115.5 It is also noted from the DG Report that the manufacturing plant of OP-74 was shut from 15.02.2016 to 16.02.2016 and 23.03.2016 to 25.03.2016, during which period the manufacturing plants of OP-64 to OP-68 and OP-70 were also shut-down, fully or partially.
- 115.6 In its suggestions/objections to the DG Report, OP-74 has made submissions similar to those made by the other OPs, especially OP-65 and OP-71. The same have already been dealt with in the earlier parts of the present order.
- 115.7 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-74 was part of the discussions held at NIPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by NIPMA, fully or partially, in this regard. Such conduct of OP-74 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.



115.8 With respect to penalty, OP-74 made several submissions which were largely similar to those made by the other OPs in the matter.

115.9 Such submissions made by OP-74 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

116. OP-75 (Haripur Paper Company)

116.1 It is noted from the DG Report that Mr. Sumit Garg, Partner, was a member of the WhatsApp group “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. He was also a member of certain other groups of paper mills such as “Panjab Kraft Paper Mills”, “Baddi Kraft” and “Kraft Boards Mill Owners”.

116.2 In his statement recorded before the DG, Mr. Garg admitted that he was a member of several WhatsApp groups and that in said groups, members used to exchange messages regarding increase in price of Kraft paper and collective shut-down of mills. When confronted with certain messages exchanged in “NEWS Paper Mills”, Mr. Garg also admitted that *“I admit that the paper mills of different regions used to discuss the collective shut-down of plant, collective increase of the price of Kraft Paper, fixing the price of waste paper and also about the meetings. I was one of the members of the group. HPC have never shut-down our mill according to the group. However, regarding price hike, HPC may have sent price increase messages to the dealers and customers as per the decision in the group on certain occasions but I am not sure whether the price hike was implemented or not.”*

116.3 In the Information filed before the Commission, the Informants had filed a price increase circular dated 06.03.2017 of OP-75 to show that the paper mills in North India were increasing the price of Kraft paper in collusion. When Mr. Garg was confronted with the said circular, he confessed that *“The paper mills of North India may have asked the other paper mills to increase the price of Kraft Paper in the dates and rates as mentioned above but my company increase the price as per the market condition. We generally try to match the rates of UP paper mills.”*

116.4 When Mr. Garg was asked about fixing price of Kraft paper and collective shut-down of mills on “NEWS Paper Mills”, he stated as follows:



“I admit that members of the above WhatsApp group including GPMA and NIPMA used to exchange price hike of Kraft Paper and waste paper and shutting down of mills. I have also put the above message to congratulate Shri Sunil Agarwal on becoming President of GPMA.

I admit that I was a member of aforesaid WhatsApp group and members exchanged price of Kraft Paper, price of waste paper and shut-down of mills.”

116.5 In its suggestions/objections to the DG Report, OP-74 made several submissions similar to those made by the other OPs, especially OP-65 and OP-71. The same have already been dealt with in the earlier parts of the present order. It also submitted that it is situated in the State of Himachal Pradesh which is a completely separate geographic market having different competitors than Kraft paper mills situated in the geographic region of the State of Uttar Pradesh. As no other Kraft paper mill out of 50 others situated in the State of Himachal Pradesh has been included by the DG as part of its investigation, inclusion of OP-75 in the present case is also fallacious. If OP-75 tried to base its decisions of price increase on the basis of decisions taken by Kraft paper mills of Uttar Pradesh, it will be in a disadvantageous position *qua* the other paper mills situated in the State of Himachal Pradesh.

116.6 In the opinion of the Commission, the geographic location of OP-75 is not of much relevance given the fact that its representative Mr. Sumit Garg has admitted that he was one of the members of the “NEWS Paper Mills” WhatsApp group where members exchanged prices of Kraft Paper, discussed price of waste paper and collective shut-down of paper mills and that OP-75 may have sent price increase messages to the dealers and customers as per the decisions posted in the group on certain occasions. Clearly, from time to time, the price increase decisions of OP-75 were influenced by decisions of NIPMA as communicated in the said group.

116.7 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-75 was part of the discussions held at NIPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by NIPMA, fully or partially, in this regard. Such conduct of OP-75 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and



market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

116.8 With respect to penalty, OP-75 made several submissions which were largely similar to those made by the other OPs in the matter.

116.9 Such submissions made by OP-75 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

117. OP-76 (Silvertoan Papers Limited)

117.1 It is noted from the DG Report that Mr. Amit Garg, Director, was a member of the WhatsApp Group “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. He was also a member of WhatsApp groups “NCR PNG” and “NIPMA”.

117.2 In his statement recorded before the DG, Mr. Garg admitted that he was a member of the WhatsApp group “NEWS Paper Mills” and that in the said group, members used to exchange and share their prices of Kraft paper, price of waste paper and collective shut-down of mills. In the said group, Mr. Garg also posted the following message on 15.12.2017:

“Dear dealers, due to changes in the market and sudden rise in costing of paper mills, we are force to increase our prices of finished goods in the market. Kindly oblige placing orders at new rates. So we have increase our prices by Rs.2/- per kg with immediate effect. Please booking (with size only) according new rate.”

Regarding the above message, Mr. Garg, in his statement before the DG, acknowledged that *“I have also exchanged certain messages including price hike circular of my company on the said group 15.12.2017 at 17:42:04. I have shared my consent on many occasions regarding the price hike decision of the members by putting the emoji (thumbs up). I have shared the said price hike intimation only to follow others.”*

117.3 It is also noted from the DG Report that the manufacturing plant of OP-76 was shut from 01.03.2017 to 05.03.2017 during which period the manufacturing plants of OP-64 to OP-68 and OP-70 were also shut-down, fully or partially. In the “NEWS Paper Mills” group of which Mr. Garg was a member, Mr. Pankaj Aggarwal, President of NIPMA, had also posted the following message regarding the said shut-down:



“[25/02/17, 21:46:23] Pankaj Aggarwal Paper Up: आज की NIPMA की मीटिंग

[25/02/17, 21:46:46] Pankaj Aggarwal Paper Up: १ मार्च से ५ मार्च तक सभी मिल बंद”

117.4 In its suggestions/objections to the DG Report, OP-76 has made submissions similar to those made by the other OPs, especially OP-65 and OP-71. The same have already been dealt with in the earlier parts of the present order.

117.5 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-76 was part of the discussions held at NIPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by NIPMA, fully or partially, in this regard. Such conduct of OP-76 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

117.6 With respect to penalty, OP-76 made several submissions which were largely similar to those made by the other OPs in the matter.

117.7 Such submissions made by OP-76 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

118. OP-77 (Sidharth Papers Private Limited)

118.1 It is noted from the DG Report that Mr. Sushil Kumar Bansal, Director, was a member of the WhatsApp group “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. Mr. Bansal was also one of the Directors of OP-69.

118.2 Mr. Sushil Bansal sent, *inter alia*, the following messages in “NEWS Paper Mills”:

(a) On 06.04.2018 at 03:32:04 p.m.:

Dear sir Due to continuous hike in the prices of raw materials, fuel and other inputs, we r compelled to share some partial burden on the shoulders of our Prestigious Dealers/Consumers by increasing Rs.1000/MT price of our all quantities Kraft paper with effect from 9th of April, 18.

(b) On 05.11.2016 at 12:07:26:

Dear Dealer As u r well aware of the prevailing critical condition of the Kraft market and it's a bitter fact that mills have reached on ventilator system and almost on last breaths. On the other hand raw material prices r on continuous increase so we have no other alternate left either to increase prices by Rs 250 pmt wef 10th of November.. Rs 250 pmt wef 15th of November.. Rs 250 pmt wef 20th of November.. Rs 250 pmt wef 25th of November Making a total increase of Rs 1000pmt We request u to understand and cooperate by giving orders accordingly. Thanks

(c) A thumbs up emoji in response to price increase request dated 30.01.2017 of OP-65.

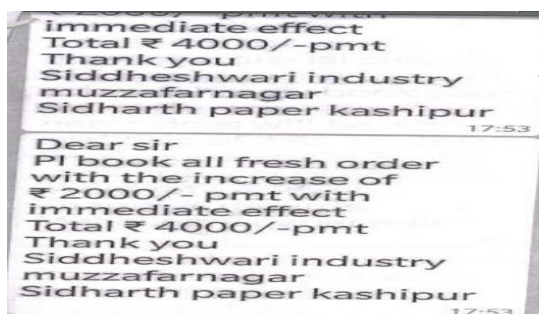
(d) On 18.06.2017 stating that “that's cool” in reply to a message sent by Mr. B.B. Gupta of OP-79 that “22 people attended today's meeting. It was decided that till 30 June dispatch the current rates will be valid. Due to the implementation of GST from July 1, a meeting will be held in the last week of June to decide on new rates. Thank you Pankaj Aggarwal President”.

(e) A thumbs up emoji in response to price increase dated 23.02.2017 of OP-65.

In fact, OP-77 also increased its price w.e.f. 25.02.2017. The price increase of OP-77 in March 2017 also corresponded with those of other paper mills when it was decided by the paper mills in North India to increase the price of Kraft paper.

118.3 In his statement recorded before the DG, Mr. Bansal gave evasive answers; however, on being confronted with the backup of “NEWS Paper Mills”, he accepted his membership therein.

118.4 It is also noted from the DG Report that Mr. Rajeev Gagneja, Sales Manager of OP-77, had sent the following message dated 27.12.2017 to the dealers, which was identical to the price increase messages sent by other paper mills:





When Mr. Gagneja was confronted with the same, he stated as follows:

“I admit that I sent the above message showing the price hike (present hike of Rs.2000/- PMT and total hike of Rs.4000/- PMT) of Kraft Paper in respect of Siddeshwari Industries Pvt. Ltd. (SIPL). and Sidharth Papers Pvt. Ltd. (SPPL) which are engaged in the manufacturing of Kraft Paper alone. Myself being an employee of SPUPL sent the said message for the associate/sister company as per the instruction of Shri Sushil Bansal. In Siddeshwari Industries Pvt. Ltd. and Sidharth Papers Pvt. Ltd. marketing issues are being handled by their director itself. Whenever Shri Sushil Bansal or Directors of two other companies namely SIPL and SPPL directed me to issue price hike/decrease communication I used to communicate the same to the dealers/customers.”

118.5 The similarity of price increase messages of OP-77 with OP-65, OP-67, OP-68, OP-70 and OP-78 proves that they were involved in collective price increase, otherwise the identical messages for price increase would not have been sent.

118.6 When Mr. Bansal was asked about fixing price of Kraft paper and collective shut-down of mills on “NEWS Paper Mills”, he stated that “I found exchanging the price of Kraft paper and waste paper are proper, but collective shut-down of mills is wrong”.

118.7 In its suggestions/objections to the DG Report, OP-77 has made submissions similar to those made by the other OPs, especially OP-65 and OP-71. The same have already been dealt with in the earlier parts of the present order.

118.8 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-77 was part of the discussions held at NIPMA regarding price increase of Kraft paper and it also followed the directions issued by NIPMA, fully or partially, in this regard. Such conduct of OP-77 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act, read with Section 3(1) of the Act.

118.9 With respect to penalty, OP-77 made several submissions which were largely similar to those made by the other OPs in the matter.

118.10 Such submissions made by OP-77 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

119. OP- 78 (Mahalaxmi Kraft and Tissues Private Limited)



119.1 It is noted from the DG Report that Mr. Ajay Kumar Garg, Director, was a member of WhatsApp Group “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place.

119.2 In the said group, Mr. Pankaj Aggarwal, President of NIPMA, had sent a message dated 20.03.2018 (extracted in the earlier part of this order), regarding a decision taken in a NIPMA meeting regarding shut-down of mills from 02.04.2018 to 07.04.2018, increasing rate of kraft paper by ₹1 per kg and further increase of rate by ₹1 per kg after shut-down from 02.04.2018.

119.3 Mr. Mohd. Arif, former employee of OP-78, also sent the following message to its dealers in 2018:

“Sir, Plants will be under maintenance shut from 2/4 till 7/4... Due to current loss in the industry we are forced to increase 1 rupee & further another rupee from 2/4... hope you will cooperate with us Regards Mahalaxmi paper mill”

119.4 When confronted with the above message sent by him, Mr. Arif admitted that “I have sent the above messages to one of the dealers of MCTP regarding shut-down of mill and increase in the price of Kraft Paper. ... I used to communicate dealers/customers price hike decision of MCTP as per the directions of Shri Ajay Kumar Garg. Since I am not well versed in English the aforesaid message was not prepared by me.”

119.5 Thus, evidently, OP-78 followed the NIPMA directives of price increase by ₹1 per kg and further increase by ₹1 per kg after shut-down, and collective shut-down of mills from 02.04.2018 to 07.04.2018.

119.6 It is also noted from the DG Report that Mr. Mohd. Arif sent the following messages to its dealers on 27.12.2019:

“Due to pollution problems and changes in our raw material cost we are forced to increase the prices... Kindly book your orders in new rate. Our new prices will be with addition of 2 Rs i.e. total Rs.4increase (2+2). We shall not accept any order in old rate from now. Thanks & regards. Mahalaxmi paper mill”

“Further plant will be shut from 15 to 30 of January bcoz of the order of hon. Supreme court”

He also sent the following messages to Mr. Sandeep Kumar Mittal of one Shri Radha Vallabh Enterprise on 27.12.2017:



“Due to pollution problems and changes in our raw material cost we are forced to increase the prices... Kindly book your orders in new rate. Our new prices will be with addition of 2 Rs i.e. total Rs.4 increase (2+2). We shall not accept any order in old rate from now. Thanks & regards. Mahalaxmi paper mill”

“Further plant will be shut from 15 to 30 of January bcoz of the order of hon. Supreme court”.

Messages identical to the above were also sent in 2017 by other paper mills such as OP-65, OP-67, OP-68, OP-69, OP-70 and OP-77 to their dealers.

119.7 When Mr. Arif was asked about such messages, he admitted in his statement before the DG that the above messages were sent by him regarding shut-down of mill and increase in the price of Kraft paper. However, he stated that he used to communicate price hike decisions of OP-78 to the dealers/customers only as per the directions of Mr. Ajay Kumar Garg.

119.8 Thus, the above messages clearly show that OP-78 was involved in collectively increasing in the price of Kraft paper and shut-down of mills with other Kraft paper mills.

119.9 In the WhatsApp group “NEWS Paper Mills”, it is also noted that Mr. Ajay Garg had sent, *inter alia*, the following messages supporting other paper mills in price increase:

[13/01/17, 14:10:23] +91 94222 23430: सभी पेपर मिल वाले से निवेदन है
हमारी अपनी मिल चलाने के लिए वेस्ट पेपर का भाव बढ़ाने से हमारे पास वेस्ट पेपर ज्यादा आयेगा यह जो सोचते है. वह गलत है
क्या दुसरे की मिल भले ही बंद हो जाय
एक ने ऐसा करने पर वैसे ही दुसरी मिल वाले करते है
और वेस्ट के भाव बढ़ते जाते हैं
और आखिर में हमारी मिलमे आने वाला वेस्ट पेपर उतना ही आता है
और हमारी गलतियों की वजह से वेस्ट पेपर के भाव बढ़ जाता है
और हम अपना नुकसान कर लेते हैं
तो सभी मिलों से निवेदन है की वेस्ट के भाव बढ़ाने के बदले कम करने की बीनती है
और होने वाले नुकसान से बचाना होगा
[13/01/17, 14:33:49] +91 99272 12111: Very true pl all mill owners understand and cooperate.

[30/01/17, 14:55:35] +91 98370 22535: WHY NOT ALL MILLS INCREASE RATE 1/-PER KG FOR FEB MONTH arvind paswara
[30/01/17, 14:56:36] +91 98370 43652: 🐼 □
[30/01/17, 15:03:52] +91 98370 22535: ALL PAPER MILL TAKE DECISION IMMEDIATELY TODAY
[30/01/17, 15:21:31] +91 98400 57208: Is there any reduction in input costs? Maintain the increase suggested earlier
[30/01/17, 15:28:17] +91 98370 24362: 🐼
[30/01/17, 16:00:46] +91 98370 22535: 🐼
[30/01/17, 16:40:51] +91 99272 12111: Good suggestion



From the above messages, it can be seen that Mr. Ajay Garg, on 13.01.2017, requested the paper mills to cooperate and understand that they should not increase the purchase price of waste paper as suggested by some paper mills in the earlier message. Further, he welcomed the suggestions of price increase by all paper mills on 30.01.2017, as suggested by OP-65.

119.10 In its suggestions/objections to the DG Report, OP-78 also made submissions similar to those made by the other OPs, especially OP-65 and OP-71. The same have already been dealt with in the earlier parts of the present order.

119.11 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-78 was part of the discussions held at NIPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by NIPMA, fully or partially, in this regard. Such conduct of OP-78 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

119.12 With respect to penalty, OP-78 made several submissions which were largely similar to those made by the other OPs in the matter.

119.13 Such submissions made by OP-78 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

120. OP-79 (Ashoka Kraft Paper Mills LLP)

120.1 It is noted from the DG Report that Mr. B. B. Gupta, Partner, was the admin and one of the active members of WhatsApp Group “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper and collective shut-down of mills took place. Many of the messages sent by him in the said group have already been extracted in the earlier parts of the present order.

120.2 When Mr. Gupta was confronted with the fact that the name of WhatsApp group “NEWS Paper Mills” means North, East, West and South, where paper mills across India used to decide prices of Kraft paper and collective shut-down of mills, he admitted that whenever the paper mills of North India decided to increase the prices,



they (he and Mr. Pankaj Aggarwal, President of NIPMA) used to inform in the said WhatsApp group.

120.3 It is also noted from the backup of WhatsApp messages exchanged in the said group that on 06.04.2018, Mr. B. B. Gupta had informed about the price increase of OP-79 and thereafter, the other paper mills had also increased the prices of their Kraft paper. The relevant messages in this regard are as under:

[06/04/18, 2:54:08 PM] Bhushanji Gupta: 168F में एक रुपया रेट बड़ा दिया है अशोक दिल्ली नया रेट 24.50-120gsm & 25.50-100gsm. दिनांक -6.4.2018 से
[06/04/18, 3:32:04 PM] +91 98370 43652: Dear sir
Due to continuous hike in the prices of Raw Materials, fuel and other inputs, we are compelled to share some partial burden on the shoulders of our Prestigious Dealers/Consumers by increasing Rs. 1000/MT price of our all qualities kraft paper with effect from 9th of April, 18.
You are requested to please place your further orders accordingly.
Regards
SIDHARTH PAPERS PVT LTD
[06/04/18, 3:34:39 PM] Bhushanji Gupta: [REDACTED]
[06/04/18, 3:34:56 PM] +91 99100 28370: [REDACTED]
[06/04/18, 3:34:56 PM] Bhushanji Gupta: [REDACTED]
[06/04/18, 3:36:29 PM] +91 98378 04605: [REDACTED]
[06/04/18, 3:51:13 PM] Amrith Singhal Muzaffarnagar: Dear Dealers
We have increased 1. Rupee Pkg in all varieties of finish paper 7th April. Plz. Co-operate us
Thanks
Silvertoan papers ltd.

120.4 Further, on 28.04.2018, Mr. B. B. Gupta had posted in the group the following message regarding the decision taken by the house (NIPMA) about the prices of Kraft paper from the following month:

[28/04/18, 3:32:25 PM] Bhushanji Gupta: Dear members today finally house decided rs 1000/= pmt less for next month and old rate order collecting 25% from distributors thnx

When Mr. B. B. Gupta was confronted with the above message, he stated that a meeting of NIPMA was held under the Presidentship of Mr. Pankaj Aggarwal in Meerut, wherein it was decided to reduce the price of Kraft paper by ₹1 per kg. Mr. Gupta claimed that he got the said message from Neeraj Marketing and forwarded the same in the said group. Such statement of Mr. B. B. Gupta clearly shows that he was privy to the price fixing decisions of Kraft paper taken by NIPMA.

120.5 Apart from the above, Mr. B. B. Gupta also shared many other decisions of NIPMA as and when it decided to increase the prices of Kraft paper or collectively shut-down the paper mills.

120.6 In its suggestions/objections to the DG Report, OP-79, like other OPs, argued that there is no association existing by the name of NIPMA and there is no registration, membership, bank account, etc. of the same. However, such argument taken by OP-79 is incorrect in view of the clear evidences against OP-63 gathered by the DG and discussed above.

120.7 Even on 05.05.2018, Mr. B. B. Gupta shared the following message of Mr. Pankaj Aggarwal, President of NIPMA, in “NEWS Paper Mills” regarding shut-down of mills from the 2nd to 6th of every month for the next six months and no change in prices of Kraft paper:

[05/05/18, 10:43:06 AM] Bhushanji Gupta: आज की मीटिंग का निर्णय:-
१. हर महीने २ तारीख से ६ तारीख तक बंद छः महीने तक
२. कागज के रेट्स में कोई परिवर्तन नहीं। १८ BF के रेट्स न्यूनतम २३ रुपए नैचरल
३. अगली मीटिंग १५ मई को मेरठ में होगी
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It is evident from the above WhatsApp messages that Mr. B. B. Gupta was an active member of “NEWS Paper Mills” who used to regularly communicate regarding price fixing of Kraft paper and collective shut-down of paper mills in the said group. Some of the other WhatsApp messages exchanged by Mr. B. B. Gupta in “NEWS Paper Mills” in this regard, are as follows:

[31/08/16, 18:11:36] B B Gupta: आज पेपर मिल एसोसिएशन की मीटिंग होटल रायल प्लाज़ा, नई दिल्ली में आयोजित की गई जिसमें 45 मैमबर ने भाग लिया। मीटिंग का निर्णय.....
1. 4 सितम्बर से 8 सितम्बर तक सभी क्राफ्ट की मिले बन्द। मिले 9 सितम्बर को चलेगी
2. कागज में तुरन्त एक रुपये की बढ़ोतरी
3. रद्दी में 20 पैसे कम 4 सितम्बर
मीटिंग में सर्वसम्मति से निर्णय लिया गया कि जो इस निर्णय के नहीं मानेगा, उसके साथ सामाजिक बहिष्कार किया जाएगा।
धन्यवाद पंकज अग्रवाल, अध्यक्ष



सत्यमेव जयते



Fair Competition
For Greater Good

[03/09/16, 20:09:18] B B Gupta: संशोधित निर्णय

1. 5 सितम्बर से 9 सितम्बर तक सभी क्राफ्ट की मिले बन्द। मिले 10 सितम्बर को चलेगी
 2. कागज में तुरन्त एक रूपये की बढ़ोतरी
 3. रद्दी में 20 पैसे कम 4 सितम्बर
- मिले बंद करने के बाद सब लोग देव की दोनों मिलो में धरना देंगे। अगर वे या कोई अन्य फिर भी नहीं माने तो उनका सामाजिक बहिष्कार किया जाएगा।
- धन्यवाद पंकज अग्रवाल, अध्यक्ष

[16/03/17, 20:41:05] B B Gupta: आज की NIPMA की मीटिंग के निर्णय:-

- १- १० अप्रैल से १५ अप्रैल तक बंद
 - २- आज से २ रुपए की बढ़ोतरी
 - ३- consignment sale अप्रैल में बंद
 - ४- उधारी ३०-३५ दिन से ज्यादा नहीं
- जो मिले बंद नहीं करेंगी उनके गेट पर दरी बिछेगी
- पंकज अग्रवाल
अध्यक्ष

[25/03/17, 17:16:21] B B Gupta: NIPMA की मीटिंग की सूचना...

दिनांक: २७ मार्च २०१७

दिन: सोमवार

स्थान: होटल गॉडविन, मेरठ

समय: ४ बजे शाम

विषय: ५ एप्रिल से ९ एप्रिल तक बंदी और कागज के रेट बढ़ाने पर विचार विमर्श

[12/05/17, 19:48:56] B B Gupta: आज की मीटिंग का निर्णय ...

- १- सभी मिले २ जून से ७ जून तक बंद रहेंगी
 - २- १५ मई से सभी ऑर्डर १ रुपया किलो बढ़ाकर लेना है
- धन्यवाद
- पंकज अग्रवाल

[17/06/17, 18:41:54] B B Gupta: आज की मीटिंग में २२ लोग उपस्थित हुए। निर्णय

लिया गया कि सिर्फ ३० जून की dispatch तक वर्तमान रेट्स मान्य होंगे। १ जुलाई से जी.एस.टी. लगने की वजह से जून के आखिरी सप्ताह में एक मीटिंग की जाएगी जिसने नए रेट्स पर निर्णय लिया जाएगा

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[27/06/17, 07:38:40] B B Gupta: आज दिनांक २६ जून को होटल गॉडविन में मीटिंग के निर्णय:

१. फ़िनिश के रेट ५ जुलाई से १ रुपया बढ़ाना है और २१ जुलाई से १ रुपया और बढ़ाना है
२. १६ जुलाई से २० जुलाई तक बंद। मिले २१ जुलाई को चलेंगी

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अध्यक्ष



120.8 It is also noted from the DG Report that on 19.01.2017, Mr. Nimish Shah of OP-6 informed in “NEWS Paper Mills” about shut-down schedule and price increase decision of GPMA. Thereafter, Mr. B. B. Gupta, on 19.01.2017, added an emoji to show his support for the said decision. He also requested Mr. Pankaj Aggarwal, President of NIPMA, to do something for the North also. On this, Mr. Pankaj Aggarwal suggested to hold a meeting which was also supported by Mr. B. B. Gupta. These messages clearly show that Mr. B. B. Gupta was involved in fixing the prices of Kraft paper with other paper mills as well as NIPMA. The chain of such messages is as under:

*[19/01/17, 16:34:24] +91 98980 13480: January Shut 27th to 31st
February Shut 11th to 15th
Price increase
14 - 2.0 ₹, 16 - 2.0 ₹, 18 - 2.0 ₹, 20 - 1.5 ₹, 22 - 1.5 ₹, 24 - 1.5 ₹, 28 - 1.5 ₹,
35 - 1.5 ₹
Next meeting 11th February, Mumbai.
New rates implement from 1 st February
All Dispatch from 1st February in new rates only.*

*[19/01/17, 18:34:29] Pankaj Aggarwal Paper Up: Great efforts
[19/01/17, 18:34:40] B B Gupta: 🍊
[19/01/17, 18:35:18] B B Gupta: परधान जी आप भी कुछ करवाओ
[19/01/17, 18:35:42] Pankaj Aggarwal Paper Up: ज़रूर
[19/01/17, 18:36:17] Pankaj Aggarwal Paper Up: २५ के बाद मीटिंग रख लेते हैं। मैं
२४ को लौटूँगा
[19/01/17, 18:37:36] B B Gupta: बिलकुल ठीक सर
[19/01/17, 18:38:33] Pankaj Aggarwal Paper Up: कुछ इतिहास बनवा दो भूषण जी
[19/01/17, 18:44:19] B B Gupta: ये आपको करना है
[19/01/17, 18:48:11] Pankaj Aggarwal Paper Up: 90% लोग मेरा साथ दो। बाक़ी
10% की ज़िम्मेदारी मेरी। बस मेरे साथ चलना होगा
[19/01/17, 18:53:13] +91 90990 21356: 🍊
[19/01/17, 18:58:18] +91 98210 94090: We should try telling clients that
we shall give 50% old price and 50% new price on all old pending orders,
while agreeing to complete the pending orders as committed!
[19/01/17, 19:01:24] B B Gupta: बिलकुल ठीक परधान जी*

120.9 On certain occasions, Mr. B. B. Gupta also requested the paper mills in Assam to increase their prices. As per the statement of Mr. Gupta before the DG, certain paper mills from Guwahati, apart from his company, were also members of “NEWS Paper Mills” WhatsApp group. One relevant message of Mr. Gupta in this regard is as under:



[08/02/17, 11:16:30] B B Gupta: सुशील जी व लोहिया जी आसाम में भी 2.00बडाने की बता पक्की करो

[05/03/17, 12:08:58] B B Gupta: सब जगह 5से6रुपये फ़िनिश पेपर का रेट बड़ा है आसाम में एक रुपया ही बड़ा है आसाम वालों जागो और 2रुपये बड़ाने की तैयारी करो व होली के बाद बड़ा देना चाहिये

120.10 Mr. Gupta also used to inform the group about the prices of OP-79 as OP-79 used to sell Kraft paper in North India also, apart from Assam. A message exchanged in this regard, is as under:

12/02/17, 14:31:17] B B Gupta: Dear Sir,

Due to abnormal rise in the price of waste paper & other inputs we are compelled to increase the price of Kraft paper by ₹1000 per ton. The increase will be effective from 15.2.17.

We request your kind support as always.

Thanking you

For Ashoka Kraft paper ASSAM

120.11 The collusion and active involvement of Mr. B. B. Gupta is also noted from the fact that apart from discussing/deciding price increase of Kraft paper and shut-down of paper mills, Mr. Gupta also used to threaten paper mills who did not follow the dictates/directions of NIPMA. On 18.02.2017, he informed the group that one of the paper mills in Jaipur is not following the directions of shut-down and accordingly, he solicited suggestions from Mr. Pankaj Aggarwal/ Bhushan to take action against the said mill. Thereafter, the said mill owner replied that he is with the association. The chain of messages in this regard, is as under:

[18/02/17, 19:08:06] B B Gupta: PANKAJ JI/BHUSHAN JI

what about BHAGVATI KRIPA JAIPUR....they making around 5000mt in high grade of kraft

They are with united or not...

bcz they giving negative message to corrugators or parties and tel them that neither we are with any association nor we shut our plant....

Pls suggest how can we take action on that....

[18/02/17, 19:09:04] Pankaj Aggarwal Paper Up: Let us talk to them

[18/02/17, 19:21:11] +91 98290 69696: Dear Bhushan ji / Pankaj ji and all our colleagues- We do not approve the comments/ ur observations. Coz We are also equal effected by the market conditions. So their is no way that we go against the interest of the industry. Still you are most welcome to talk. Let their be no spread of misgivings about us. We are always with Industry and it's Interest. Regards sanjeev mehra

[18/02/17, 19:22:14] B B Gupta: 🍑



120.12 It is also noted that on 28.03.2017, when some mill owner asked about the price increase effected by mills in North India from January 2017, as decided in NIPMA meeting, Mr. Gupta disclosed the price to be increased and the further increase of price after shut-down. The said messages are as follows:

*[28/03/17, 13:15:14] +91 98400 57208: Mr Pankaj Agarwal
How much price increase effected by North India mills from January till y
day meeting
[28/03/17, 13:19:44] B B Gupta: 6.00
[28/03/17, 13:19:46] B B Gupta: R/s
[28/03/17, 13:20:12] +91 98400 57208: okay thanks
[28/03/17, 14:24:37] B B Gupta: 7.00 की तैयारी है बन्दी के बाद*

120.13 In its suggestions/objections to the DG Report, OP-79 argued that no discussions took place in “NEWS Paper Mills” which can directly or indirectly impact competition in the relevant market and the messages of Mr. B. B. Gupta only show that he used to inform price increment of Kraft paper for general information with honest intention which cannot be construed to be anti-competitive. As per OP-79, price discussions is not anti-competitive, though fixing of price may be. OP-79 submitted that mere price discussions do not amount to an “agreement” within the meaning of the Act and Mr. B. B. Gupta was anyhow not authorised by OP-79 to indulge into the acts which he did. Other arguments similar to those raised by the other OPs have also been raised by OP-79.

120.14 In the opinion of the Commission, “price discussions” of Kraft paper in “NEWS Paper Mills” WhatsApp group impacted the independence of competitor Kraft paper mills in the market, and were likely to cause AAEC in the market. As such, these discussions were in themselves anti-competitive in nature and amounted to an “agreement” for the purposes of Section 3 of the Act. The agreement may not have been to fix price of a particular commodity, but the agreement could have been to simply collectively increase the prices by all paper mills. Since such conduct of OP-79 through its Partner Mr. B. B. Gupta is evident from the evidence available on record, the submissions made by OP-79 that mere price sharing is not anti-competitive, hold no merit.

120.15 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-79 was part of the discussions held at NIPMA regarding price increase of Kraft



paper and collective shut-down of paper mills, and it also followed the directions issued by NIPMA, fully or partially, in this regard. Such conduct of OP-79 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

121. OP-80 (Hyderabad Kraft Paper Mills Association)

121.1 It is noted from the DG Report that HKPMA is not a registered association and has no by-laws. It has no regular office-bearers; however, Mr. Prem Paul Sharma of OP-81 is the President of HKPMA, Mr. Deepak Chand Agarwal of OP-101 is its Vice President and Mr. T. Anjani Kumar of OP-83 is the Secretary of HKPMA.

121.2 In his statement recorded before the DG, Mr. Prem Paul Sharma admitted that he is the President of HKPMA; however, he stated that it is an unregistered association. He also stated that generally, the paper mills meet under the banner of the association on social occasions. Mr. Sharma admitted that the decisions taken in those meetings could have been sent to other paper mills through e-mails or circulars, but he had no record. However, Mr. Sharma admitted that, through these circulars, HKPMA informed the paper mills about the rate at which raw material is to be purchased and the minimum price for the sale of finished paper. He also disclosed that certain paper mills used to follow the directions of association whereas a few did not.

121.3 During the course of investigation, the DG recovered several e-mails sent/received by HKPMA, some of which are as follows:

- (a) E-mail dated 21.09.2010 sent by Mr. Anjani Kumar, Secretary of HKPMA, containing MoM of the 7th HKPMA meeting dated 13.09.2010 held at Hyderabad. In the said meeting, members/attendees discussed and shared the selling price of Kraft paper as well as purchasing price of waste paper. It was also decided to increase the price of Kraft paper @ ₹500 across all BFs.
- (b) E-mail dated 07.02.2013 containing MoM of 34th HKPMA meeting dated 03.10.2013. In the said meeting, members/attendees discussed and shared the selling price of Kraft paper and purchasing price of waste paper.



- (c) E-mails dated 03.07.2013 and 05.07.2013 sent by Mr. T. Anjani Kumar, Secretary of HKPMA, to paper mills along with agenda of 31st HKPMA meeting held on 02.07.2013. *Vide* e-mail dated 05.07.2013, a revised MoM was sent. In the said meeting, decision regarding increase in price of finished Kraft paper was taken apart from discussing other pricing issues.
- (d) E-mail dated 07.09.2013 sent by HKPMA to paper mills, wherein Mr. Anjani Kumar, Secretary of HKPMA, informed that customers are accepting recent price increase and also congratulated the mills for increase in price.
- (e) E-mail dated 16.09.2013 along with trailing e-mails sent by HKPMA to paper mills. In the trailing e-mails, price increase circular of OP-37 in furtherance of GPMA circular dated 14.09.2013 was attached, and it was discussed by HKPMA to implement the second price increase by HKPMA also.
- (f) E-mail dated 07.10.2013 sent by HKPMA, wherein agenda and MoM of 34th HKPMA meeting dated 03.10.2013 were attached. In the said meeting, it was decided not to increase the price of Kraft paper but to hold on.
- (g) E-mail dated 04.12.2013 sent by HKPMA, wherein minutes of joint meeting dated 07.08.2013 of Andhra Pradesh Recycle Paper Mills Association ('APRPMA') and HKPMA at Hotel Gateway, Vijayawada, were attached. In this regard, Mr. Vivek Gandhi, Managing Director of OP-82, explained that, in the said meeting, shut-down schedule of mills in Hyderabad and Andhra Pradesh was jointly decided because of shortage of raw material in addition to other issues. The mills were directed to shut operations for at least 3-4 days in the first fortnight of December 2013 and 2-3 days in the second fortnight of December 2013. Members also decided to reduce waste paper prices by ₹1,000 per ton in two phases. The members discussed that the demand is dull and shutting down the Kraft mills is the only solution to correct the demand supply gap.
- (h) E-mail dated 30.01.2014 sent by HKPMA along with trailing e-mail dated 03.02.2014 regarding meeting held at Hyderabad along with Andhra Pradesh Kraft paper mills on 07.02.2014, wherein APRPMA and HKPMA wanted to discuss how to control the losses by either reducing the input cost or increasing the finished goods' price.



- (i) Following e-mail dated 28.02.2014 sent by Mr. T. Anjani Kumar, Secretary of HKPMA, to Mr. K. Swaminathan, Secretary of SIKPMA, and other paper mills, whereby the agenda and MoM of 35th HKPMA meeting held on 24.02.2014 were attached. In the said meeting, which was attended by 15 paper mills, HKPMA decided to hold the waste paper price at a maximum of ₹11,200 per ton. The paper mills also informed about their selling price of different grades of Kraft paper and purchase price of waste paper, and it was decided to increase the price of finished paper by ₹1,000 per ton with immediate effect.

From: Hydkraftpapermills assn <kraftmills.hyd@hotmail.com>
Sent: 28 February 2014 4:22 PM
To: Swaminathan South India Kraft mill Assn; Swaminathan South India Kraft mill Assn;
 SRI SRINIVASA PAPER MILLS; Luxmi Tulasi Agro Papers P Ltd; KVR PAPER
 INDUSTRIES; SIMHAGIRI PAPER MILLS; VAMSHADARA PAPERS PVT LTD; VEDADRI
 PAPER MILLS; AKULA BOARDS; ARUNA PAPER AND BOARDS; COASTAL AGRO
 INDUSTRIES; JAI VIJAYA PAPER MILLS; JAYANTI BOARDS; PUJITHA INDUSTRIES;
 ROLLEX PAPER MILLS; SANJAY KRAFT PAPER MILLS; SHIVA SHANKARA PAPER
 MILLS; SRI GODAVARI KRAFT PAPERS; VENKATA NAGALAKSHMI; ASRITHA; BAHU
 BALI BOARDS (P) LTD; BHASKAR RAO; CHIMANLAL PAPERS; CLASSIC PAPERS;
 H.B.PAPERS; Karanja; MEENAKSHI; Mr.Srinivas Reddy; PARIMALA PAPERS &
 BOARDS PVT LTD; PEPROLL UNIT 1; RELIABLE PAPER & BOARD; RITESH AGARWAL;
 SAI JYOTHI; SAI TIRUMALA PAPERS PVT LTD; sanjay kumar jha; Shamji Patel;
 SHARMA PAPER; SHIV PATEL; SRC PAPERS (P) LTD; SRC PAPERS PVT LTD; SRI SAI
 STRENGTH PAPERS; SRI UMAMAHESWARA PAPERS PVT LTD; SRI VENKATA DURGA
 PAPER MILLS; Sudhaavarshini Papermills; SVR PAPERS; VUAYANAND; VL PAPERS
 PVT.LTD; WINGS PAPER & BORDS; punith.kedia@yahoo.com;
 anmolpackaging@yahoo.com; RAJAHMUNDY PAPER MILLS; VIVEKGANDHI
 TIRUMALA VENKATESWARA; Mahesh Gandhi Tirumala Venkateswara
Subject: xxxv ASSN MEETING MOM
Attachments: ASSN XXXV MEETING.doc

Dear members

Please find attached MOM of the XXXV meeting held at Hyderabad on 24th Feb 2014.

Members are requested to strictly follow and implement the decisions taken during the meeting for the benefit of all members.

Regards
 Anjanikumar

Paul Sharma
 12/6/18

When confronted with the above e-mail, Mr. Prem Paul Sharma, Secretary of HKPMA, admitted that the said e-mail was sent to the paper mills by the



association (HKPMA) including to SIKPMA, and he also admitted the contents of MoM of this meeting.

- (j) E-mail dated 03.03.2014 issuing a circular by APRPMA (which is not an OP in this case) to its members as well as to HKPMA, to shut-down the mills from 06.03.2014 to 10.03.2014. HKPMA, after receiving the said e-mail, forwarded it to SIKPMA and other paper mills. The scanned copy of said e-mails are as under:

From: Hydkraftpapermills assn <kraftmills.hyd@hotmail.com>
Sent: 05 March 2014 6:33 PM
To: Swaminathan South India Kraft mill Assn; Swaminathan South India Kraft mill Assn; ASRITHA; BAHU BALI BOARDS (P) LTD; BHASKAR RAO; CHIMANLAL PAPERS; CLASSIC PAPERS; H.B.PAPERS; Karanja; MEENAKSHI; Mr.Srinivas Reddy; PARIMALA PAPERS & BOARDS PVT LTD; PEPROLL UNIT 1; RELIABLE PAPER & BOARD; RITESH AGARWAL; SAI JYOTHI; SAI TIRUMALA PAPERS PVT LTD; sanjay kumar jha; Shamji Patel; SHARMA PAPER; SHIV PATEL; SRC PAPERS (P) LTD; SRC PAPERS PVT LTD; SRI LAKSHMI TULASI; SRI SAI STRENGTH PAPERS; SRI UMAMAHESWARA PAPERS PVT LTD; SRI VENKATA DURGA PAPER MILLS; Sudhaavarshini Papermills; SVR PAPERS; VIJAYANAND; VL PAPERS PVT.LTD; WINGS PAPER & BORDS; arnolpackaging@yahoo.com; punith.kedia@yahoo.com; VIVEKGANDHI TIRUMALA VENKATESWARA; Mahesh Gandhi Tirumala Venkateswara
Subject: FW: Shut- Reg

Date: Mon, 3 Mar 2014 13:04:43 +0530
 Subject: Fwd: Shut- Reg
 From: aprepma@gmail.com
 To: akula_boards@yahoo.com; arunapaper@yahoo.co.in; ascentindustries@gmail.com; coastalagro@gmail.com; elr_deltapap@sancharnet.in; jaivijayapaper@gmail.com; jayantiboards@rediffmail.com; kvrindustriespaperdivision@gmail.com; lpm@mpotgroup.com; slppaper@gmail.com; maharaja_paper@yahoo.com; pujithaboards@gmail.com; rjypapermills99@gmail.com; nsr.ramadas@gmail.com; siva@ratnasree.in; sameerapapers@yahoo.co.in; sanjaykraft@gmail.com; sbpapers@yahoo.co.in; 7hillspapers@gmail.com; sspaper_mills@yahoo.co.in; shreepapers@yahoo.com; simhagiri_papers@yahoo.co.in; sivakalyani_papers@yahoo.co.in; sreeagastesvara@yahoo.com; godavaripapers@yahoo.com; sriluxmitulasi@yahoo.com; srpb1387@gmail.com; ramadaspaper@rediffmail.com; sreedhar.kov@gmail.com; srinivasapapers@gmail.com; srisvpbl@gmail.com; teja1896@yahoo.co.in; scpapaper@rediffmail.com; swathikraftpapers@gmail.com; vamshadhara@sennars.com; vedadripapermills@yahoo.co.in; vnlpapermills@rediffmail.com; kraftmills.hyd@hotmail.com

Dear Members,

We Request you all to go through the forwarded Mail from Mr. S. Sai Baba MD of M/s, SBS Paper Boards Pvt Ltd, regarding Shut of Kraft Mills from 6th to 10th Morning of March 2014.

Thanks & Regards,

D. Srinivas Reddy
 Co-Ordinator
 APRPMA
 Rajahmundry.

Paul Shanna
 12/6/18

----- Forwarded message -----
From: saibaba sajja <sbpapers@yahoo.co.in>
Date: Mon, Mar 3, 2014 at 12:38 PM



Subject: Shut- Reg
To: APREMA <aprepma@gmail.com>

Dear Members,

You are all aware the three important decisions confirmed by our APREMA and are forwarded to all, by our coordinator Mr.Srinivasreddy .Stoppage of mills is also a valuable message, which must go to the knowledge of waste paper suppliers and accordingly we are to take steps, keeping them silence for some time at least.

After having the opinions about the power holidays declared by the department from our members and basing on the interest of the most of the members, the same decisions made in our last meeting and are allowed to put into implementation and all are requested to go ahead and stop mills for 4 days ie from 6th to 10th morning of march. Kindly note no deviation on this aspect and look forward for your 100 % cooperation and let all of us hope positive result, if not immediately we try and try to get it.

Paul Sharma
12/6/18

Regards,

S.Saibaba

Managing Director

M/s. SBS PAPER BOARDS PRIVATE LIMITED,
DoorNo.81-22-6, Venkateswara Nagar
Rajahmundry533 106
Tele/Fax:0883 2448124
E-mail: sbspapers@yahoo.co.in

When Mr. Paul Sharma, President of HKPMA, was asked about the above e-mails, he admitted that the mills used shut-down in the same way many times due to shortage of waste paper as well as to control prices so that paper mills can purchase waste paper at identical rates.

- (k) E-mail dated 07.03.2014 sent by HKPMA to paper mills along with trailing e-mails. In one of the trailing e-mails dated 03.03.2014, OP-102 had requested to shut-down mills from 06.03.2014 to 10.03.2014. The e-mail was sent by OP-102 to APRPMA which was in turn sent to HKPMA.
- (l) E-mail dated 13.03.2014 sent by HKPMA to paper mills discussing invitation of All India Kraft Papers conclave with Informants No. 1 and Informants No. 2 at Hyderabad on 22.03.2014 and 23.03.2014. It was also discussed in the agenda about



the market strategy is to be adopted in the future, shortage of waste paper, credit period *etc.*

- (m) E-mail dated 27.03.2014 sent by Mr. T. Anjani Kumar, Secretary of HKPMA, to Mr. K. Swaminathan, Secretary of SIKPMA, and other paper mills, whereby the agenda and MoM of HKPMA and All India Kraft Paper Mills Association joint meeting held on 22.03.2014 and 23.03.2014 was attached. It is noted from the said e-mail that HKPMA, in this meeting, which was attended by 19 paper mills, discussed various issues. The said meeting was also attended by Mr. K. Swaminathan of SIKPMA.
- (n) E-mail dated 19.04.2014 sent by HKPMA to paper mills attaching circular of SIKPMA to reduce the price of waste paper by ₹500 PMT.
- (o) E-mail dated 13.11.2014 sent by HKPMA, wherein gist of the meeting of SIKPMA held on 08.11.2014 was attached. In the said meeting, several manufacturers of Kraft paper from HKPMA were also invited and many industry issues were discussed.
- (p) E-mail dated 28.01.2015 sent by HKPMA to manufacturers of Kraft paper, wherein the MoM of 40th HKPMA meeting held on 22.01.2015 was attached. In the said meeting, Kraft paper prices were discussed. However, no decision was taken regarding price hike of Kraft paper.
- (q) E-mail dated 03.03.2015 sent by HKPMA to manufacturers of Kraft paper, wherein the MoM of 41st HKPMA meeting held on 02.03.2015 was attached. In the said meeting, many common and technical issues were discussed. However, the members present also informed their purchase price of raw material and selling price of Kraft paper.
- (r) E-mail dated 26.08.2015 sent by HKPMA to paper mills attaching the MoM dated 24.08.2015 of HKPMA. In the said meeting, prices of raw material and Kraft paper were discussed and it was decided to reduce the purchase price of waste paper by ₹1,000 per ton and hold the price hike.



(s) E-mail dated 08.02.2016 sent by HKPMA to paper mills attaching the MoM of HKPMA meeting dated 30.01.2016. In the said meeting, prices of raw material and Kraft paper were discussed and it was decided to hold the current prices.

(t) E-mail dated 07.03.2016 sent by HKPMA to paper mills attaching the MoM of HKPMA meeting held on 03.03.2016. In the said meeting, prices of raw material and Kraft paper was discussed and it was decided to increase the price of finished paper by ₹1,000 PMT across all BF.

121.4 When Mr. Paul Sharma, President of HKPMA, was confronted with allegations of collective price increase by HKPMA members, he admitted that the association used to receive suggestions from its members about increase in price of Kraft paper due to increase of cost. Accordingly, the association increased the price of finished paper whenever there was an increase in the cost. Mr. Sharma confessed that due to shortage of raw material, paper mills were in losses for last 4–5 years, and therefore, to save the paper mills from losses, HKPMA used to decide to collectively increase the price of finished paper and shut-down the mills.

121.5 In his statement recorded before the DG, Mr. T. Anjani Kumar, Secretary of HKPMA also admitted as follows:

“In the meetings members discuss about the general issues pertaining to Kraft paper mills including technical issues, pollution related issues, raw material and trends in imported and local raw material, shortage of raw material, how to overcome shortage and increase or decrease of the Kraft paper price, shutting down of mills, power shortage etc. All the decisions are taken by the majority of the members present in the meeting of Hyderabad Kraft Paper Mills Association.

Yes, members discuss the price of Kraft paper, raw material, power etc. In the said meeting members also discuss the increase and decrease of the Kraft paper price. Sometime the members collectively decided to increase or decrease the price but all the members never followed the same.”

121.6 It is noted from the DG Report that in the HKPMA meeting dated 01.12.2015, the members even decided to keep caution deposits with the association and penalise the mills if they deviate from the decisions of HKPMA.

121.7 It is also noted from the DG Report that Mr. T. Anjani Kumar, Secretary of HKPMA, had formed a WhatsApp group, namely, “Hyd Kraftmills Assn HKPMA” on which,



discussions and decisions on price of finished Kraft paper and collective shut-down of paper mills took place. Mr. Prem Paul Sharma was also an active member of the said group.

121.8 Further, it is noted from the DG Report that Mr. Prem Paul Sharma and Mr. T. Anjani Kumar had attended meetings of GPMA dated 15.02.2017 and 15.03.2017, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held. In this regard, Mr. Satyanarayan Agarwal of OP-4, Mr. Nimish Shah of OP-6, Mr. Sundeep Shah of OP-7 and Mr. Sunil Agarwal of OP-26 had also given statements.

121.9 Also, when Mr. Paul Sharma, President of HKPMA, was asked about his relationship with Mr. K. Swaminathan, Secretary of SIKPMA, he stated that Mr. Swaminathan is his old friend though he could not recollect whether HKPMA sent any e-mail to him or not.

121.10 In view of the above statement of Mr. Prem Paul Sharma, President of HKPMA, as well as documentary evidences on record including MoMs of HKPMA meetings and e-mails evidences, it is clear that HKPMA was involved in deciding prices of finished Kraft paper and collective shut-down of mills and that it also used to coordinate with other associations like GPMA and SIKPMA in this regard. It also used to put pressure on the members to follow such decisions under the threat of imposition of penalty.

121.11 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-80 indulged in discussions with its members as well as with other associations like GPMA and SIKPMA for increasing the prices of Kraft paper and for collective shut-down of paper mills, and also issued directives in this regard, which conduct amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft Paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act, from at least 2010 to 2017.

122. OP-81 (Sharma Papers Pvt. Ltd.)

122.1 As detailed above, Mr. Prem Paul Sharma, Managing Director of OP-81, was the President of HKPMA. As such, he was actively involved in the anti-competitive activities of HKPMA, which included holding meetings to discuss and decide price



hike of Kraft paper and collective shut-down of paper mills, and communicating the same to HKPMA members and others.

122.2 Further, it is noted from the DG Report that OP-81, *vide* e-mail dated 09.03.2017, had informed its customers about increase in price of finished paper by ₹4 per kg. When Mr. Prem Paul Sharma was asked about the said e-mail, he, in his statement recorded before the DG, admitted sending the same to its customers and also admitted that the same rate was approximately increased by other paper mills also.

122.3 In his reply to the DG Report, OP-81 submitted that its mill has been closed down permanently during COVID-19 pandemic and it be exempted from the present proceedings.

122.4 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-81 was part of the discussions held at HKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by HKPMA, fully or partially, in this regard. Such conduct of OP-81 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

123. OP-82 (Tirumala Venkateshwara Paper Board Pvt. Ltd.)

123.1 It is noted from the DG Report that representatives of OP-82, *namely*, Mr. Vivek Gandhi, Managing Director and Mr. Mahesh Gandhi, attended meetings of HKPMA dated 02.07.2013, 22.01.2015, 03.03.2015, 24.08.2015 and 03.03.2016, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held. Mr. Vivek Gandhi also attended All India Kraft Papers Conclave at Hyderabad on 22.03.2014 and 23.03.2014 where further discussions in this regard, took place. He was also a member of the WhatsApp group, *namely*, “Hyd Kraftmills Assn HKPMA”, wherein members used to discuss about price hike of Kraft paper, raw material prices and shut-down schedule of Kraft paper mills.

123.2 Further, from Mr. Vivek Gandhi’s e-mail account, e-mails dated 03.07.2013, 05.07.2013, 07.09.2013, 16.09.2013, 07.10.2013, 04.12.2013, 30.01.2014, 28.02.2014,



07.03.2014, 13.03.2014, 27.03.2014, 19.04.2014, 13.11.2014, 28.01.2015, 03.03.2015, 26.08.2015, 08.02.2016 and 07.03.2016 sent by HKPMA were recovered.

123.3 In his statement recorded before the DG, Mr. Vivek Gandhi, also acknowledged as under:

“...I attend the meetings of Hyderabad Kraft Paper Mills Association. ...

We generally discuss the availability of raw material and its pricing. We also discuss how to control the increasing price of raw material for domestic waste i.e. local OCC. We also discuss about the import of OCC, Upgradation of machines, technical issues. Based on the said input cost, sometimes we discuss in the association about the selling price of the Kraft paper also. Sometimes, due to non-availability of raw material, we also discuss in the association about the shut-down of the mills to control the raw material prices and availability. These meetings are attended either by me or by Shri Mahesh Gandhi.

My entity R.A. Kraft Paper Pvt. Ltd is dealing in trading of Kraft paper of various mills. The customers insists for written price increase letters from the manufacturers in case of price increase. Through email dated 29.06.2013, we informed customer S J Packaging that certain mills have increased the price. The mills increased the identical price because if they increase differently then they will not get the price accepted in the market.

My entity R.A. Kraft Paper Pvt. Ltd is dealing in trading of Kraft paper of various mills. The customers insists for written price increase letters from the manufacturers in case of price increase. Through email dated 29.06.2013, we informed customer Century Packaging and Chaitanya Packaging that certain mills have increased the price. The mills increased the identical price because if they increase differently then they will not get the price accepted in the market. In the said email, we also attached the circular of price increase by GPMA which was forwarded to us by Best Paper Mill and Super Deluxe Paper Mills Pvt. Ltd. as they are based in Vapi.”

123.4 When confronted with various e-mails received from HKPMA, Mr. Vivek Gandhi acknowledged receipt of such e-mails and also admitted attending meetings of HKPMA from time to time by either himself, or Mr. Mahesh Gandhi. He also admitted implementing the decisions of price hike and/or collective shut-down by OP-82, from time to time, as per HKPMA directives.

123.5 Regarding All India Kraft Papers Conclave, of which invite was sent to OP-82 by HKPMA through e-mail dated 13.03.2014, Mr. Vivek Gandhi acknowledged that “I



recollect that a conclave of all paper mills from across India was held. The conclave was attended by me. I recollect that in the said conclave, issues regarding controlling of waste price were discussed. The corrugators were also a part of the conclave and all the discussions took place in their presence.”

123.6 When confronted with e-mail dated 30.04.2015 sent by him to Mr. Mahesh Gandhi and Mr. Manoj Gandhi wherein a few images and the backup of WhatsApp Group “Hyd Kraftmills Assn HKPMA” were attached wherein prices of Kraft paper and shut-down of mills were discussed, Mr. Vivek Gandhi admitted that *“I confirm the backup of the WhatsApp group. I was a member of the said group and left the group about 6 months ago. All the members of HKPMA were members of this group. In the said group, the members used to discuss about price hike, raw material price and shut-down schedule to control raw material price and fill the demand supply gap.”* Some of the messages which formed part of this backup, are extracted hereunder:

Apr 24, 13:10 - Sharma Paul: I am closing my mill on 25th morning at 6 a.m. sharma.

Apr 24, 13:15 - Anjani Kumar: Sarmaji said yes

Apr 24, 10:59 - +91 92469 16001: Dear Anjani kumar garu, As suggested by you ,we are clubbing our shut with association decided dates, i.e. tomorrow and day after tomorrow... Classic papers.

Apr 24, 11:03 - Anjani Kumar: Thanks Madhusudhan Garu

Apr 24, 13:33 - +91 98482 69585: I'm closing my mill on 25th morning as soon as the shift ends at 9am...and will start it again on Monday 9am

Apr 24, 17:03 - Hyderabad Paper Mil: Dear sir
Greetings

Due to abnormal rise in waste paper prices (Rs 12/kg) our association has decided to SHUT down all mills for 2 days in a week starting 25 & 26 April

Request you to pre plan ORDER schedule enabling us to serve you better.

Thanking you for your business

Regards

Apr 25, 08:23 - Anjani Kumar: Excellent response all mills stopped. Talked to all for last hour. Great people r resolved to prove our unity

Apr 25, 09:38 - VIVEK GANDHI: Machine stopped
At 9.00am

Apr 24, 12:05 - Anjani Kumar: 6 mills IN. What about others

Apr 24, 12:05 - Anjani Kumar: Sarmaji, Ashok, Afroz, Parvez pls say yes



The above messages clearly reflect the action of HKPMA for shut-down of mills. Even Mr. Vivek Gandhi had shut OP-82's mill on 25.04.2015 and confirmed in the group.

123.7 When confronted with several other e-mails received by OP-82 from HKPMA, Mr. Gandhi admitted receipt of the same and explained their context.

123.8 When confronted with price hike circular dated 10.03.2017 issued by OP-82 to increase the prices of all variety of Kraft paper from February 2017 till 10.03.2017, Mr. Vivek Gandhi stated that *"The price of the Kraft paper was increased not only by my company but by other manufacturers also due to increase in input cost. The circular was issued on the demand of corrugators."*

123.9 It is also noted from the DG Report that Mr. Vivek Gandhi had attended meeting of GPMA dated 07.04.2017 wherein discussions regarding fixing of prices, shutting down of mills, etc., were held. Also, when confronted with an e-mail dated 22.06.2015 sent by GPMA to him and Mr. Mahesh Gandhi wherein GPMA attached a circular regarding joint meeting between paper mills of Gujarat, Maharashtra, Andhra Pradesh, Madhya Pradesh and Chhattisgarh in which all members expressed their view that cost of production has increased, Mr. Vivek Gandhi stated that *"I admit that a meeting as above was held and I received the said circular from GPMA."*

123.10 It can also be seen from the statement of Mr. Vivek Gandhi that he disclosed that he attended the last meeting of HKPMA around 6-8 months ago and confessed that he was not aware that discussing the price of raw material, finished paper and collectively increasing/decreasing price and shut-down of mills is anti-competitive. He further confessed that OP-82 was involved in such activities as a routine and in a casual manner since 2012-13 till April 2018 when the DG Office served a notice on HKPMA.

123.11 In its suggestions/objections to the DG Report, OP-82 submitted that corrugators always insist on collective price revisions by all Kraft paper mills and agree to an increase in price only after confirmation from other mills. Further, it submitted that many Hyderabad mills have closed their operations during COVID-19 pandemic and others are also struggling to survive in this economy. It also pleaded that the Kraft paper mills were not aware of competition law before receiving notices from the DG office.



123.12 The Commission observes that any of the above submissions taken by OP-82 does not justify cartelisation by Kraft paper manufacturers for price increase or collective shut-down. Ignorance of law can never be an excuse. Further, businesses facing difficulties can at best constitute a mitigating factor for calculation of penalty, but does not justify doing of an illegal act.

123.13 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-82 was part of the discussions held at HKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by HKPMA, fully or partially, in this regard. Such conduct of OP-82 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

124. OP-83 (Sai Tirumala Papers Private Limited)

124.1 As detailed above, Mr. T. Anjani Kumar, Executive Director of OP-83, was the Secretary of HKPMA. From the DG Report, it is noted that Mr. Kumar operated the e-mail ID of HKPMA. As such, he was actively involved in the anti-competitive activities of HKPMA, which included holding meetings to discuss and decide price hike of Kraft paper and collective shut-down of paper mills, and communicating the same to HKPMA members and others.

124.2 In his statement recorded before the DG, Mr. T. Anjani Kumar acknowledged his role as the Secretary of HKPMA as under:

“Hyderabad Kraft Paper Mills Association is an unregistered Association. APCMA (Andhra Pradesh Corrugated Box manufacturers Association) wanted to conduct joint events like cricket matches, family get-together, conclaves etc. between Corrugators and paper mills; there was a need for a name for the Kraft paper mill group. So, it was jointly decided to have the name of Hyderabad Kraft Paper Mills Association and the logo for the Hyderabad Kraft Paper Mills Association was also designed developed and handed over by APCMA to Kraft Paper mill owners.

... I don't know exactly when Hyderabad Kraft Paper Mills Association was formed. From 2011 onwards I am actively involved in this association.



I am not a selected or appointed Secretary but people and Kraft paper mill owners call me Secretary of Hyderabad Kraft Paper Mills Association as I used to do all the work as Secretary in order to help the President of the Hyderabad Kraft Paper Mills Association who is not well versed with writing/sending emails/letters in English.

... At times I used to write Secretary of Hyderabad Kraft Paper Mills Association in letters where joint events were conducted.

In the meetings members discuss about the general issues pertaining to Kraft paper mills including technical issues, pollution related issues, raw material and trends in imported and local raw material, shortage of raw material, how to overcome shortage and increase or decrease of the Kraft paper price, shutting down of mills, power shortage etc. All the decisions are taken by the majority of the members present in the meeting of Hyderabad Kraft Paper Mills Association.

Yes, members discuss the price of Kraft paper, raw material, power etc. In the said meeting members also discuss the increase and decrease of the Kraft paper price. Sometime the members collectively decided to increase or decrease the price but all the members never followed the same.

I operate the email ID of HKPMA i.e ... ”

124.3 Further, regarding OP-83 being a part of HKPMA, Mr. T. Anjani Kumar stated as under:

“My company regularly received minutes of the meetings from HKPMA wherein HKPMA members had taken the decision to collectively increase of the price of Kraft Paper as well as on certain occasions collectively decrease the price of Kraft Paper also regarding collective shut-down of mills.”

124.4 When confronted with various e-mails received by OP-83 regarding price hike of other Kraft paper mills, and several e-mails recovered from the e-mail ID of HKPMA which was being operated by Mr. T. Anjani Kumar, including e-mails received from OP-83 regarding price increase of other paper mills, e-mails received from other Kraft paper mills themselves including from OP-83 regarding their price increase, e-mails from SIKPMA regarding its meetings wherein price increase was discussed, and e-mails from SIKPMA about GPMA price increase, Mr. Anjani Kumar admitted that he forwarded/received the said e-mails, received/sent by various mill owners, to HKPMA. He stated that the paper mills used to inform their prices to each other so that the customers can accept price increase as they were reluctant to increase the price if not



increased by all. He also admitted that he forwarded e-mails received from SIKPMA to HKPMA. He admitted that SIKPMA sent the said e-mails to various mills, including to OP-83, to inform them about the price hike, even of GPMA, but he claimed that HKPMA members did not implement any of the GPMA circulars as HKPMA used to decide the prices of Kraft paper without being influenced by GPMA.

124.5 It is, however, clear from the above e-mails that OP-83 was in regular touch with SIKPMA regarding its price increase and also kept a watch on GPMA price increase. In fact, Mr. Omprakash Rathi of OP-3, Mr. Satyanarayan Agarwal of OP-4, Mr. Nimish Shah of OP-6 and Mr. Sundeep Shah of OP-7 mentioned in their statements recorded before the DG that certain GPMA meetings where price hike of Kraft Paper and collective shut-down of mills was discussed, were also attended by Mr. T. Anjani Kumar of HKPMA. Also, Mr. Anjani Kumar himself admitted that he attended the meeting dated 14.12.2013 of SIKPMA to discuss the prevailing market conditions of Kraft paper along with Mr. Mahesh Gandhi and Mr. Vivek Gandhi of OP-82 and Mr. Deepak Agarwal of OP-101, during which meeting attendees discussed about price of Kraft paper, maintaining price of waste paper, etc. He also admitted that he attended certain other meetings of SIKPMA along with Mr. Prem Paul Sharma, President of HKPMA.

124.6 Mr. Anjani Kumar also admitted before the DG that he is a member of two WhatsApp Groups consisting of Kraft paper mills, namely, "Hyd Kraftmills Assn HKPMA" and "NEWS Paper Mills". In this regard, Mr. Anjani Kumar stated as follows:

"... I have created the WhatsApp group namely "Hyd Kraftmills Assn HKPMA" on 21.04.2015, I subsequently changed the name to "HKPMA" and still continue to be the Admin of the WhatsApp group. In this group most of the members were Kraft Mill owners from Telangana state.

In the WhatsApp group "Hyd Kraftmills Assn HKPMA" members discussed points regarding increase of rate of Kraft Paper, their rates of Kraft Paper, rate of waste paper, collective shutting down of mills, meetings of HKPMA, pollution issues, technical matters, GST related points, information regarding Kraft Paper industry in other regions, present and future scenario of Kraft Paper industry etc.

... I being the Admin of "Hyd Kraftmills Assn HKPMA" I used to encourage mill owners coming under HKPMA to shut the mills collectively, mostly owing to shortage of waste paper, shortage of power supply etc. Those Kraft Paper



mills used to display their current electricity meter reading in order to show that they have implemented the collective shutting down decision as directed by HKPMA. My company also shut on 25th and 26th of April 2015 and displayed the same in the WhatsApp group. The members also used to discuss about the collective increase/decrease of the price of Kraft Paper and the price at which the waste paper to be purchased.”

124.7 Mr. Anjani Kumar also admitted to have attended several meetings of HKPMA when confronted with their MoMs wherein price increase of finished Kraft paper and collective shut-down of mills was discussed. He also stated that *“I was not aware that holding meetings with the other Kraft Paper mills, taking decision for collective shut-down of mills and collective increase the price of Kraft Paper is illegal. I was not aware that exchanging price information and taking decision regarding price hike over WhatsApp groups as shown to me was also illegal. Only after receiving your notice, I came to know that my activities are not in consonance with the Competition Act. ... The collective price hike decision taken in the meetings of HKPMA since 2009–10 till receipt of your notice was the compulsion of paper mills as we were suffering losses and the customers were not accepting any price hike. Therefore, we were forced to take the decision for collective increase of the price of Kraft Paper. However, said collective increase of the price has never resulted into super normal profit. ...”*

124.8 In its suggestions/objections to the DG Report, OP-83 made submissions similar to those made by the other OPs. The same have already been dealt with in the earlier parts of the present order.

124.9 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-83 was part of the discussions held at HKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by HKPMA, fully or partially, in this regard. Such conduct of OP-83 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

125. OP-84 (Sri M.K. Paper Mills Pvt. Ltd.)



125.1 It is noted from the DG Report that representatives of OP-84, namely, Mr. Punit Kedia and his uncle Mr. Susheel Kedia, attended meetings of HKPMA dated 24.02.2014, 23.03.2014 and 07.07.2014, wherein discussions regarding fixing of prices, shutting down of mills, etc., were held. Mr. Punit Kedia was also a member of the WhatsApp group, namely, “Hyd Kraftmills Assn HKPMA”, wherein members used to discuss about price hike of Kraft paper, raw material prices and shut-down schedule of Kraft paper mills.

125.2 In his statement recorded before the DG, Mr. Punit Kedia, acknowledged as under:

“I have attended the Hyderabad Kraft Paper Mills Association (HKPMA) meeting during 2014 couple of occasions. My company was a member of HKPMA since 2013. Mill owners from the state of Telangana used to attend HKPMA meetings. Shri Paul Sharma was the president of HKPMA then. In the HKPMA meetings mill owners used to discuss about the general issues faced by mill owners, payment issues, shortage of waste paper, price of Kraft paper, supply of finished product on credit etc. HKPMA is the part of South Indian Kraft Paper Mill Association (SIKPMA).

I attended 1st meeting of HKPMA in 2014. The president of Shri Prem Paul Sharma and Secretary of the association Shri Anjani Kumar. In the meetings of the association, the members including me on behalf of my company used to discuss many issues of common interest like recovery of payments from defaulters. The other issues were relating to the hike in the price of Kraft paper of all paper mills of HKPMA. Sometimes we also used to discuss about the price at which the waste paper was to be purchased. Further the members of my company also used to discuss about the collective shut-down schedule of mills. The last meeting of HKPMA was attended by me in October 2017. I also recollect that on many occasions during the said period the Kraft paper mills including my company used to collectively issue the price hike circular to the customers on the basis of the decision taken in the meetings of HKPMA. I also recollect that there was a WhatsApp group namely “HydKraftmills Assn HKPMA” created by Anjani Kumar on which the Paper mills including myself used to discuss about the shut-down of mills, price hike of Kraft paper and price of waste paper. ...”

125.3 When confronted with various MoMs and e-mails of HKPMA recovered from the e-mail account of OP-84, as well as price increase e-mails sent by OP-84 to various customers, Mr. Kedia admitted to receiving the said e-mails/MoMs and the fact that representatives of OP-84, including himself at times, attended such meetings of HKPMA. He also admitted that the decisions conveyed in such meetings/e-mails of



HKPMA were implemented by OP-84 from time to time, however, considering other factors as well. He also stated that shut-down schedule as communicated by HKPMA were not always implemented by OP-84; OP-84 only sometimes implemented the shut-down schedule conveyed by HKPMA.

125.4 Regarding WhatsApp Group “Hyd Kraftmills Assn HKPMA”, Mr. Kedia stated that *“I admit and confirm that this is the same WhatsApp group which I have referred earlier on this group and the members including my company used to discuss the price of Kraft paper, price of waste paper and shut-down schedule of mills.”*

125.5 It is also noted from the DG Report that Mr. Sushil Kedia of OP-84 even attended a meeting of GPMA dated 07.04.2017, wherein discussions regarding fixing of prices, shutting down of mills, etc., were held.

125.6 In its suggestions/objections to the DG Report, OP-84 made submissions similar to those made by the other OPs. The same have already been dealt with in the earlier parts of the present order.

125.7 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-84 was part of the discussions held at HKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by HKPMA, fully or partially, in this regard. Such conduct of OP-84 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

126. OP-85 (Decor Paper Mills Limited)

126.1 It is noted from the DG Report that the representative of OP-85, namely, Mr. Ritesh Jaiprakash Agarwal, Director, attended meetings of HKPMA, *inter alia*, dated 03.03.2015 and 20.04.2015, wherein discussions regarding fixing of prices, shutting down of mills, etc., were held. Further, from OP-85's e-mail account, e-mails dated 07.10.2013, 22.10.2013, 28.02.2014, 07.03.2014, 13.03.2014, 04.12.2014 and 03.03.2015 sent by HKPMA were recovered.



126.2 In his statement recorded before the DG, Mr. Ritesh Agarwal, acknowledged as under:

“Yes, I have attended some of the meetings of HKPMA. So far as I can remember I have attended 3 to 4 meetings during 2010 & 2011 and 3 to 4 meetings during 2015 & 2016 of HKPMA. During 2017 also I have attended 1 meeting of HKPMA in which paper mills from other states too attended. Shri T. Anjani Kumar, Secretary HKPMA used to inform me about the HKPMA meetings through SMS and telephone. After the meetings Shri T. Anjani Kumar, Secretary of HKPMA sent MOM to me on certain occasions.

Mill owners from Telangana state used to attend the HKPMA meetings and members used to discuss matters related to price of finished paper, price of waste paper, pollution/electricity/sale tax/GST related matters, collective shut-down of mills etc.”

126.3 When confronted with the above e-mails received by OP-85 from HKPMA including its MoMs, Mr. Agarwal admitted to having receiving the said e-mails and sharing the price of OP-85's Kraft paper in such meetings. He also admitted to having attended certain meetings of HKPMA from 2015 to 2017 and that, at times, he forwarded HKPMA's e-mails regarding price increase to OP-85's dealers. Mr. Agarwal also stated that dinner for the HKPMA meeting dated 03.03.2016 was hosted by OP-85. However, Mr. Agarwal refused that any of the shut-down directives of HKPMA were implemented by OP-85. From OP-85's e-mail account, other incriminating e-mails were also recovered by the DG.

126.4 It is however, noted from the DG Report that in the HKPMA meeting dated 20.04.2015 which was attended by Mr. Agarwal, members discussed and shared the prices of Kraft Paper and waste paper and during the meeting, it was also decided to shut the mills for 8 days (25.04.2015, 26.04.2015, 01.05.2015, 02.05.2015, 09.05.2015, 10.05.2015, 16.05.2015 and 17.05.2015) in one month to control waste paper prices and shortage of orders. It was also decided in the meeting to monitor the shut-down of mills. The manufacturing plant of OP-85 was also partially shut during these days. When Mr. Agarwal was confronted with the e-mail regarding the said meeting, he admitted that his company received the above e-mail and that his plant was also partially shut on 10.05.2015 and 16.05.2015, though that was due to some technical problem. Such explanation given by Mr. Agarwal does not seem to be believable in light of the fact that he was an attendee to HKPMA meeting dated 20.04.2015.



126.5 Similarly, it is also noted from the DG Report that in the HKPMA meeting dated 22.07.2016, it was decided to shut-down the member mills for 6 days each during August, 2016 (07.08.2016, 14.08.2016, 15.08.2016, 21.08.2016, 27.08.2016 and 28.08.2016) and September, 2016 (04.09.2016, 10.09.2016, 11.09.2016, 18.09.2016, 24.09.2016 and 25.09.2016). It is also seen from the RG-1 Register filed by OP-85 that its manufacturing plant was also shut during 24.09.2016 and 25.09.2016 (2 days).

126.6 In its suggestions/objections to the DG Report, OP-85, apart from making submissions similar to those made by the other OPs, also submitted that it was not a part of any WhatsApp group but had only attended a few meetings of HKPMA. It had never replied to any e-mail received from HKPMA nor implemented any directives of HKPMA. Mere sharing of rates or matching of shut-down dates on a couple of odd occasions does not mean that OP-85 was part of the cartelisation.

126.7 In the opinion of the Commission, attending HKPMA meetings and receiving e-mails therefrom, OP-85 was privy to the information about price increase and collective shut-down being exchanged between HKPMA members. As such, its ability to act as an independent competitor in the market stood compromised. Further, matching of dates of shut-down of OP-85 on certain occasions with those declared by HKPMA also does not seem to be a mere coincidence.

126.8 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-85 was part of the discussions held at HKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by HKPMA, fully or partially, in this regard. Such conduct of OP-85 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

127. OP-86 (Bahubali Boards Private Limited)

127.1 It is noted from the DG Report that the representative of OP-86, *namely*, Mr. Vivek Agarwal, Managing Director, attended meetings of HKPMA dated 24.02.2014, 02.03.2015, 20.04.2015, 30.01.2016 and 03.03.2016, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held. He was also a member of the



WhatsApp group, namely, “Hyd Kraftmills Assn HKPMA”, wherein members used to discuss about price hike of Kraft paper, raw material prices and shut–down schedule of Kraft paper mills. Further, from OP-86’s e-mail account, e-mails dated 08.02.2016 and 07.03.2016 sent by HKPMA were recovered.

127.2 In his statement recorded before the DG, Mr. Vivek Agarwal, acknowledged as under:

“Yes, I know HKPMA is an association of the Kraft paper manufactures coming under Telangana State. I have attended a maximum of 4 to 5 meetings of HKPMA since 2013 – 2014 till 2017 – 2018.

In the HKPMA meetings in which I have attended members discussed issues regarding unloading of Kraft paper in the manufacturing plant, delay in payment, pollution norms, waste paper/Kraft paper price, collective shutting down of mills etc.

...

... I admit that BBPL has received circular/MOM/communication from HKPMA by email. ...

After seeing Exhibit – 1, I recollect that members also discussed price of Kraft paper and collective shut–down of mills in the aforesaid WhatsApp group (Hyd Kraft Mills Assn HKPMA).”

127.3 When confronted with MoMs of various HKPMA meetings, Mr. Agarwal admitted that he attended several such meetings and also shared the price of Kraft paper of OP–86 with HKPMA.

127.4 It is also noted from the RG–I Register filed by OP–86 before the DG that the manufacturing plant of OP–86 was shut on 25.04.2015, 26.04.2015, 01.05.2015, 02.05.2015, 09.05.2015 and 10.05.2015, which dates partially match with the shut–downs declared by HKPMA in the meeting dated 20.04.2015 i.e. 25.04.2015, 26.04.2015, 01.05.2015, 02.05.2015, 09.05.2015, 10.05.2015, 16.05.2015 and 17.05.2015.

127.5 Further, it is noted from the backup of the WhatsApp group “Hyd Kraft Mills Assn HKPMA” of which Mr. Agarwal was a member that Mr. Agarwal had informed the group about shut–down of his paper mill on 25.04.2015 for 10 days when the others were also shutting down their mills as per the decision of HKPMA.



127.6 In its suggestions/objections to the DG Report, OP-86 made submissions similar to those made by the other OPs. The same have already been dealt with in the earlier parts of the present order.

127.7 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-86 was part of the discussions held at HKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by HKPMA, fully or partially, in this regard. Such conduct of OP-86 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

128. OP-87 (Classic Papers)

128.1 It is noted from the DG Report that the representative of OP-87, *namely*, Mr. T. Madhusudan Rao, Managing Partner, attended meetings of HKPMA dated 03.10.2013, 23.03.2014, 20.04.2015 and 03.03.2016, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held. He was also a member of the WhatsApp group, *namely*, “Hyd Kraftmills Assn HKPMA”, wherein members used to discuss about price hike of Kraft paper, raw material prices and shut-down schedule of Kraft paper mills. Further, from OP-87’s e-mail account, e-mails dated 07.09.2013, 07.10.2013, 05.03.2014, 27.03.2014, 24.04.2015, 07.10.2015, 03.12.2015 and 07.03.2016, sent by HKPMA were recovered.

128.2 In his statement recorded before the DG, Mr. T. Madhusudan Rao, acknowledged as under:

“Myself or CP is not an official member of any association of Kraft paper manufacturers but I have attended 7 to 8 meetings of Hyderabad Kraft Paper Mills Association (HKPMA) since 2013. Last meeting of HKPMA was attended by me during September, 2019 (Appx.). Representing CP, myself alone has attended all the above meetings of HKPMA.

I used to get telephone calls from Shri Prem Paul Sharma, President of HKPMA or Shri T. Anjani Kumar, Secretary of HKPMA. I have received most of the copies of MOMs of HKPMA after the meetings through CP’s email id i.e.

...



In the HKPMA meetings in which I have attended, attendees discussed about price of waste paper, price of Kraft Paper, collective shut-down of mills, pollution related matters, GST matters, government related issues etc.

Yes, I am a member of the WhatsApp group namely “HKPMA” (formerly the name of the group was “Hyd Kraft Mills Assn HKPMA”).

In the above WhatsApp group members discussed about price of waste paper, price of Kraft Paper, collective shut-down of mills, pollution related matters, government related issues etc.

Yes, I have shared CP’s price increase/decrease decision of Kraft Board to Shri Anjani Kumar, Secretary of HKPMA.”

128.3 When confronted with MoMs of HKPMA meetings recovered from the e-mail account of OP-87, Mr. Rao admitted that he attended several such meetings and also shared the price of OP-87’s Kraft paper therein. He also stated that OP-87 implemented various price hike and collective shut-down decisions of HKPMA (regarding Kraft board) partially because OP-87 is mainly involved in manufacturing White Duplex Board and production of Kraft Board is quite limited.

128.4 It is also noted that OP-87 had also received e-mails dated 05.03.2014 and 07.03.2014 from HKPMA along with trailing e-mails in which OP-102 had conveyed the decisions of APRPMA regarding shut-down of their mills for 4 days from 06.03.2014 to morning of 10.03.2014 for controlling the price of waste paper. OP-87 also received an e-mail dated 18.08.2015 from OP-97 wherein OP-97 appealed to all Kraft paper manufacturing mills in Telangana and Andhra Pradesh and suggested to stop production of Kraft paper at least for 2 days per week for a minimum period of one month so that Kraft paper mills can bring down the price of waste paper and thereby reduce the selling price of Kraft paper.

128.5 Upon inspection of the mobile phone of Mr. Rao, he was also confronted with backups of the following three WhatsApp chats and in this regard, he stated as follows:

- (a) WhatsApp chat with Mr. Suresh Tirupur where Mr. Rao had forwarded Mr. Suresh’s price hike circular for Duplex Board of GVG Paper Mills Pvt. Ltd., Tamil Nadu and OP-109. Mr. Rao, in this regard, stated that he received the above circulars from Divya Shakti Papers, Hyderabad (Duplex Board manufacturer) to inform price hike decisions of the above companies.

(b) WhatsApp chat with Mr. Vinod Sattur Venkayeswara, an employee of Sattur Venketeshwara Paper Mill Limited, where Mr. Rao had sent a message on 03.02.2017 at 09:47 that “*with immediate effect, due to steep increase in waste paper prices and imported waste paper prices we are increasing the prices of Kraft grades by Rs.2000 per ton and Rs.1000 per ton on all white Duplex grades. Classic paper and Viva boards*”. Mr. Rao, in this regard, admitted that he sent the above message to Mr. Vinod Sattur Venkayeswara to inform about the price hike decision of OP-87.

(c) WhatsApp chat with Mr. Malu Paper Narayan, employee of Malu Paper, where Mr. Malu Paper Narayan had sent a message on 04.10.2019 at 12:04 that “*may reduce 300 more tom or day after*” in response to which Mr. Rao replied that “*yes sir. We too reduced 200 yesterday*”. Mr. Rao, in this regard also, admitted that he sent the above message to inform Mr. Malu Paper Narayan that OP-87 had also reduced the purchase price of old news print.

128.6 When Mr. Rao was confronted with the backup of WhatsApp group, *namely*, “Hyd Kraftmills Assn HKPMA” wherein he sent a message on 24.04.2015 at 10:59 that “*Dear Anjani Kumar Garu, as suggested by you, we are clubbing our shut with association decided dates, i.e. tomorrow and day after tomorrow... Classic Papers*”, on 25.04.2015 at 07:18 that “*as said we stopped our mill at 6 am... Classic Papers ...*”, on 25.04.2015 at 10:28 sharing OP-87’s meter reading, and on 25.04.2015 at 11:26 that “*Yes... Classic*” in response to the message sent by Mr. T. Anjani Kumar of OP-85 requesting all the mills to confirm that their mills are shut, he admitted that he sent the above messages in support of the collective shut-down decisions of HKPMA and sent the meter reading of OP-87’s manufacturing plant showing a shut-down.

128.7 In its suggestions/objections to the DG Report, apart from making various submissions similar to those made by the other OPs, OP-87 also submitted that it has a very minor production of Kraft paper and is mainly a producer of White Duplex Board. Any WhatsApp messages exchanged by Mr. Rao regarding shut-down was to satisfy others only.

128.8 In view of the Commission, there is clear admission by Mr. Madhusudan Rao of OP-87 regarding OP-87 not only attending meetings of HKPMA and receiving e-mails



from it, but also OP-87 at least partially implementing price hike and collective shut-down decisions of HKPMA (regarding Kraft board), specifically because OP-87 is mainly involved in manufacturing White Duplex Board and production of Kraft paper is quite less. As such, evidently, it was a part of the cartel arrangement between HKPMA and its members.

128.9 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-87 was part of the discussions held at HKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by HKPMA, fully or partially, in this regard. Such conduct of OP-87 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

129. OP-88 (Karanja Industries Private Limited)

129.1 It is noted from the DG Report that representatives of OP-88, namely, Mr. Vijaykumar Patil, Director and Mr. Raghavendra Patil, attended meetings of HKPMA dated 23.03.2014, 20.04.2015, 01.12.2015 and 22.07.2016, wherein discussions regarding fixing of prices, shutting down of mills, etc., were held. Further, from OP-88's e-mail account, e-mails dated 27.03.2014, 24.04.2015 and 03.12.2015, sent by HKPMA were recovered.

129.2 In his statement recorded before the DG, Mr. Vijaykumar Patil, stated as follows:

“As far as I know KIPL is a member of South India Kraft Paper Manufacturers Association (SIKPMA) since 2010 till today. I do not know whether KIPL was a member of SIKPMA before 2010. KIPL is not a member of any other association of Kraft Paper manufacturers.”

129.3 When confronted with various MoMs of HKPMA meetings and other e-mails regarding price increase recovered from OP-88's e-mail ID, Mr. Patil admitted that OP-88 is a member of HKPMA and that he, Mr. Raghvendra Patil, and/or other persons from OP-88 attended several meetings of HKPMA. Mr. Patil admitted that prices of Kraft paper and collective shut-down of mills was discussed in HKPMA meetings. He also admitted that price of finished Kraft paper as well as waste paper was



shared by him in those meetings and that from time to time, OP-88 also implemented the price hike of Kraft paper decisions and partially, collective shut-down decisions, taken in HKPMA meetings.

129.4 It is also noted from the RG-1 Register filed by OP-88 that its manufacturing plant was closed on 11.02.2017, 12.02.2017, 13.02.2017 (partially shut), 14.02.2017, 15.02.2017 (partially shut), 11.03.2017 and 13.03.2017 to 15.03.2017 which dates partially correspond with the HKPMA shut-down dates 11.02.2017 to 15.02.2017 (5 days) and 11.03.2017 to 15.03.2017 (5 days).

129.5 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-88 was part of the discussions held at HKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by HKPMA, fully or partially, in this regard. Such conduct of OP-88 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

130. OP-89 (Venkata Padmavathi Paper Mills Private Limited)

130.1 It is noted from the DG Report that the representative of OP-89, *namely*, Mr. Venkata Rao Pathuri, Managing Director, attended the meeting of HKPMA dated 30.01.2016, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held. He was also a member of the WhatsApp group, *namely*, “Hyd Kraftmills Assn HKPMA”, wherein members used to discuss about price hike of Kraft paper, raw material prices and shut-down schedule of Kraft paper mills. Further, from OP-89’s e-mail account, MoMs dated 24.08.2015, 07.11.2015 and 30.01.2016 sent by HKPMA were recovered.

130.2 In his statement recorded before the DG, Mr. Venkata Rao Pathuri, acknowledged as follows:

“Yes, I know Hyderabad Kraft Paper Mills Association (HKPMA). The President of HKPMA is Shri Prem Paul Sharma. I have attended 4 to 5 meetings of HKPMA. In the meetings of HKPMA members discuss about



current market scenario, price of Kraft Paper, price of waste paper, pollution related matters etc.

So far as I can remember I was a member of WhatsApp group namely “HKMPA”. Further, I am not a member of any other WhatsApp group in which Kraft paper manufacturers are/were also members. In the said WhatsApp group members used to discuss about price of Kraft Paper, price of waste paper, collective shut-down of mills etc.

Yes, I have shared the price of Kraft Paper and price of waste paper of VPPML to HKPMA in the meetings attended by me.”

130.3 It is also noted from the DG Report that in the WhatsApp group “Hyd Kraftmills Assn HKPMA”, Mr. Anjani Kumar, Secretary of HKPMA, had sent a message on 24.04.2015 at 11:05 that “*Tomorrow is 25th our first shut day. Let’s all say yes for 25th and 26th shut*” and further on 24.04.2015 at 13:29 “*Yes from Mr. VenkatRaoVenkataPadmavathi*”. It is also noted from the DG Report that the manufacturing plant of OP-89 was shut during the period 13.04.2015 to 30.04.2015.

130.4 When confronted with the MoM dated 24.08.2015 of joint meeting of HKPMA and APRPMA where it can be seen that OP-89 had shared the price of Kraft paper and waste paper and in which meeting, HKPMA had decided to shut-down the member mills for 8 days during September 2015 and 9 days during October 2015, Mr. Pathuri admitted that he shared the price of Kraft paper and waste paper to HKPMA though he did not attend the said meeting. When he was asked about the confirmation given by him to Mr. Anjani Kumar regarding shut-down decided in the said meeting, Mr. Pathuri admitted that he shared the shut-down information of his company with Mr. Anjani Kumar over telephone. He also admitted that his plant was shut during the period 11.09.2015 to 18.09.2015, 23.09.2015 to 14.10.2015, 21.10.2015 to 25.10.2015 and 29.10.2015 to 02.11.2015. However, he stated that the shutdown of plant during the aforesaid period was not in furtherance of HKPMA directive.

130.5 In the view of the Commission, when the shut-down schedule of OP-89 matches with the HKPMA decision and Mr. Pathuri has also admitted that he received the information about the said shut-down from HKPMA, it cannot be believed that OP-89 shut the plant due to shortage of raw material and not because of HKPMA directive.



130.6 When confronted with certain other MoMs of HKPMA meetings recovered from the e-mail account of OP-89, Mr. Pathuri admitted that OP-89 increased the price of Kraft paper and partially followed the price hike decisions of HKPMA.

130.7 In its suggestions/objections to the DG Report, OP-89 made submissions similar to those made by the other OPs. The same have already been dealt with in the earlier parts of the present order.

130.8 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-89 was part of the discussions held at HKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by HKPMA, fully or partially, in this regard. Such conduct of OP-89 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

131. OP-90 (Kanishka Paper and Pulp Private Limited)

131.1 It is noted from the DG Report that representatives of OP-90, namely, Mr. Shamji Patel, Managing Director, his son Mr. Paresh Kumar, Director and Mr. Mehul Patel, Director, attended meetings of HKPMA dated 03.10.2013, 24.02.2014, 23.03.2014, 20.04.2015, 24.08.2015, 07.11.2015, 30.01.2016, 03.03.2016, 22.07.2016 and 07.07.2017, wherein discussions regarding fixing of prices, shutting down of mills, etc., were held. Mr. Shamji Patel was also a member of the WhatsApp group, namely, “Hyd Kraftmills Assn HKPMA”, wherein members used to discuss about price hike of Kraft paper, raw material prices and shut-down schedule of Kraft paper mills.

131.2 In his statement recorded before the DG, Mr. Shamji Patel, acknowledged as follows:

“Yes, I know HKPMA and also attended 3 to 4 meetings of the above association every year. ...

In the HKPMA meetings in which I have attended, members discussed about price of Kraft Paper, price of waste paper, collective shut-down of mills, pollution related matters, GST matters etc.

Yes, I am a member of the WhatsApp group namely “HKPMA” in this group other Kraft Paper mill owners from Hyderabad are also members. Earlier name of the above WhatsApp group was “HydKraftmills Assn HKPMA” which



was created by Shri T. Anjani Kumar, Secretary of HKPMA. I am a member of the above WhatsApp group since 2015.

In the above WhatsApp group members discussed about price of Kraft Paper, price of waste paper, collective shut-down of mills, HKPMA meetings, pollution related matters, GST matters etc.

Yes this is the same WhatsApp group as stated by me in response to Q4 in the said WhatsApp group members discuss the price of Kraft Paper, waste paper and collective shutting down of mill. In the said group I also use to share the information regarding the shutting of KPPPL's manufacturing plant. I have also shared meter reading of KPPPL in the said group."

131.3 When confronted with various MoMs of HKPMA meetings, Mr. Shamji Patel admitted to having attended several of those meetings with Mr. Mehul Patel and/or Mr. Paresh Kumar and that he shared the price of Kraft paper therein. He also admitted that OP-90 partially implemented the price hike and collective shut-down decisions taken in HKPMA meetings.

131.4 It is also noted from the RG-1 Register of OP-90 that its manufacturing plant was shut in accordance with the decision taken by HKPMA regarding collective shut-down during 01.05.2015, 02.05.2015, 09.05.2015, 10.05.2015, 16.05.2015, 17.05.2015, 13.09.2015, 17.09.2015, 10.10.2015, 11.10.2015, 21.10.2015, 11.09.2016, 12.02.2017 to 15.02.2017 (4 days) and 13.03.2017 to 15.03.2017.

131.5 In its suggestions/objections to the DG Report, OP-90 made submissions similar to those made by the other OPs. The same have already been dealt with in the earlier parts of the present order.

131.6 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-90 was part of the discussions held at HKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by HKPMA, fully or partially, in this regard. Such conduct of OP-90 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

132. OP-91 (Sri Chimmanlal Paper Mills)



132.1 It is noted from the DG Report that representative of OP-91, namely, Mr. Rajender Kumar Agarwal, Proprietor, attended meetings of HKPMA dated 22.01.2015, 03.03.2015, 24.08.2015 and 03.03.2016, wherein discussions regarding fixing of prices, shutting down of mills, etc., were held. He was also a member of the WhatsApp group, namely, “Hyd Kraftmills Assn HKPMA”, wherein members used to discuss about price hike of Kraft paper, raw material prices and shut-down schedule of Kraft paper mills. Further, from OP-91’s e-mail account, e-mails dated 07.09.2013, 05.03.2014, 07.03.2014, 27.03.2014, 24.04.2015, 18.08.2015, 24.08.2015, 03.12.2015 and 30.01.2016 sent by HKPMA were recovered.

132.2 In his statement recorded before the DG, Mr. Rajender Agarwal, acknowledged as under:

“Yes, I know HKPMA as an association of Kraft Paper manufactures in which Kraft Paper mills owners from Telangana state used to attend. Representing SCPM, I alone have attended 3 – 4 meetings of HKPMA around 2 – 3 years back. During the HKPMA meetings in which I have attended, Shri Prem Paul Sharma, President and Shri T. Anjani Kumar, Secretary were also present. I used to get telephonic calls from Shri T. Anjani Kumar, Secretary of HKPMA regarding above Association’s meetings.

In the HKPMA meetings in which I have attended, price of Kraft paper, price of waste paper, members discussed about power related matters, labour matters etc. I also came to know that in the HKPMA meetings members also discussed collective shut-down of mills, collectively decided to increase the price of Kraft Paper etc.

Yes, I was a member of the WhatsApp group namely “HydKraftmills Assn HKPMA” operated by Sh. T. Anjani Kumar, Secretary of HKPMA ...

In the above WhatsApp group, members discussed about price of Kraft paper, price of waste paper, HKPMA meetings, collective shut-down of mills, power related matters, GST matters, Govt. policy matters etc.”

132.3 When confronted with the backup of WhatsApp group, namely, “Hyd Kraftmills Assn HKPMA”, Mr. Agarwal stated that *“I admit that mill owners who were members of the above WhatsApp group exchanged price of Kraft Paper, price of waste paper, collective shut-down of mills etc.”*

132.4 When confronted with various MoMs of HKPMA meetings, Mr. Agarwal admitted having attended some of the said meetings and sharing price of Kraft paper therein. He

also admitted having received the e-mail dated 13.04.2017 from OP-97 forwarding price increase announcement circular of OP-97. In this regard, Mr. Agarwal also stated before the DG that “SCPM has also compelled to increase the price of Kraft Paper due to heavy increase in the waste paper cost and partially increased the price of Kraft paper (14 BF/100 GSM) @ Rs.4000/- PMT w.e.f. 28.03.2017 (in respect of the sales made to Vishnu Packaging) i.e. implemented the price hike decision of HKPMA belatedly (instead of increasing the price of Kraft Paper from 15.03.2017 @ Rs.2000/- PMT, SCPM has increased the price from 28.03.2017 only).” He also admitted having belatedly increased the price of OP-91 partially in accord with HKPMA decisions on a couple of occasions.

132.5 It is also noted from the DG Report that the following shut-down dates of OP-91 as shown in its RG-1 Register partially match the shut-down dates declared in HKPMA meetings:

Dates declared by HKPMA	Dates of OP-91
25.04.2015 and 26.04.2015	25.04.2015 and 26.04.2015
01.05.2015, 02.05.2015, 09.05.2015, 10.05.2015, 16.05.2015 and 17.05.2015	01.05.2015 and 02.05.2015
05.09.2015, 06.09.2015, 12.09.2015, 13.09.2015, 17.09.2015, 18.09.2015, 26.09.2015 and 27.09.2015	17.09.2015, 26.09.2015 and 27.09.2015
02.10.2015, 03.10.2015, 10.10.2015, 11.10.2015, 18.10.2015, 19.10.2015, 20.10.2015, 21.10.2015 and 31.10.2015	18.10.2015
07.08.2016, 14.08.2016, 15.08.2016, 21.08.2016, 27.08.2016 and 28.08.2016	14.08.2016 and 15.08.2016
04.09.2016, 10.09.2016, 11.09.2016, 18.09.2016, 24.09.2016 and 25.09.2016	04.09.2016, 24.09.2016 and 25.09.2016
11.02.2017 to 15.02.2017	12.02.2017
11.03.2017 to 15.03.2017	11.03.2017 to 13.03.2017

132.6 In this regard, Mr. Agarwal also stated before the DG that “SCPM has partially followed the shutdown decisions of HKPMA ...”.

132.7 In its suggestions/objections to the DG Report, OP-91 did not make any new submissions except those made before the DG.

132.8 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-91 was part of the discussions held at HKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions



issued by HKPMA, fully or partially, in this regard. Such conduct of OP-91 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

133. OP-92 (Rajahmundry Paper Mills Private Limited)

133.1 It is noted from the DG Report that the representative of OP-92, namely, Mr. V. Murali Krishna, Managing Director, attended meetings of HKPMA dated 24.08.2015 and 03.03.2016 wherein discussions regarding fixing of prices, shutting down of mills, etc., were held. Further, from OP-92's e-mail account, e-mails dated 26.08.2015, 03.12.2015 and 07.03.2016 sent by HKPMA were also recovered.

133.2 In his statement recorded before the DG, Mr. V. Murali Krishna, acknowledged as follows:

"I have attended 2 – 3 meetings of HKPMA. ... HKPMA is meant for those Kraft Paper mills located in Telangana State, however, I have attended those meetings just to know the prevailing market condition at that time. ...

I have attended 1 – 2 meetings of SIKPMA.

In the HKPMA and SIKPMA meetings in which I too attended, members discussed about price of raw material (local/imported waste paper), Kraft Paper, collective shut-down of mills (due to power shortage/lack of orders), power problems, government related matters including new pollution norms, GST, incentives etc.

I alone was a member of a WhatsApp group in which Kraft Paper mill owners across Andhra Pradesh and Telangana States were also members. As far as I can remember the name of the aforesaid WhatsApp group was "Kraft Group".

I have received couple of MOM/agenda/circular from HKPMA and SIKPMA thorough WhatsApp only. I have received couple of communications mentioned above through email also from both the above Associations. ...

In the above WhatsApp group, members discussed about price of raw material (local/imported waste paper), Kraft Paper, collective shut-down of mills (due to power shortage/lack of orders), power problems, government related matters including new pollution norms, GST, incentives etc.

Based on our local market conditions RPMPL used to take individual decisions and partially follow the decisions of SIKPMA and HKPMA."



133.3 When confronted with various MoMs of HKPMA wherein price increase and/or collective shut-down decisions were taken, Mr. Krishna admitted that he received e-mails regarding the said MoMs, attended the said meetings, shared price of Kraft paper and waste paper therein and followed the price increase/shut-down decisions of HKPMA partially.

133.4 In its suggestions/objections to the DG Report, OP-92 made submissions similar to those made by the other OPs. The same have already been dealt with in the earlier parts of the present order.

133.5 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-92 was part of the discussions held at HKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by HKPMA, fully or partially, in this regard. Such conduct of OP-92 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

134. OP-93 (Sri Luxmi Tulasi Agro Paper Private Limited)

134.1 It is noted from the DG Report that representatives of OP-93, *namely*, Mr. Tetali Rajasekhar and Mr. Padala Rama Krishna Reddy, Directors, attended meetings of HKPMA dated 23.03.2014, 24.08.2015, 30.01.2016 and 03.03.2016, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held. Mr. Rajasekhar was also a member of the WhatsApp groups, *namely*, “Hyd Kraftmills Assn HKPMA” and “NEWS Paper Mills”, wherein members used to discuss about price hike of Kraft paper, raw material prices and shut-down schedule of Kraft paper mills. Further, from OP-93’s e-mail account, e-mails dated 27.03.2014, 26.08.2015 and 07.03.2016, sent by HKPMA were also recovered.

134.2 In his statement recorded before the DG, Mr. Rajasekhar, acknowledged as follows:

“I have attended around 5 – 6 meetings of HKPMA during the last 5 years. On certain occasions Shri Padala Rama Krishna Reddy, Director has attended couple of meetings. ... I have attended couple of meetings of South India Kraft



Paper Mills Association (SIKPMA) during the last five years. Last meeting of SIKPMA attended by me during 2017–18. ...

In the HKPMA meetings in which I have attended, attendees discussed about several issues connected with Kraft Paper industry like pollution control norms, changes in tax structure, technical advancement, Price/availability/quality of waste paper, price/quality of Kraft Paper, collective shut-down of mills, power problems/tariff, training of manpower etc. Mill owners from Telangana State used to attend the meetings of HKPMA and around 90% those mills are situated in and around Hyderabad. On rare occasions some Kraft Paper mills from Andhra Pradesh State and Karnataka State also attended very few meetings of HKPMA.

I am a member of the WhatsApp group namely “HKPMA” and I was also a member of another WhatsApp group namely “NEWS” in which other Kraft Paper mill owners were also members. There was another WhatsApp group namely “ICCMA Task Force (South)”, in which some Kraft Paper mill owners and corrugators from South India are also members in addition to me. In the group namely “HKPMA”, most of the mill owners are from Telangana, Andhra Pradesh and Karnataka States. But in the WhatsApp group namely “NEWS”, mill owners from Pan India were members. ...

In the above WhatsApp groups, members discussed various issues which are connected to Kraft Paper industry such as pollution control norms, changes in tax structure, technical advancement, Price/availability/quality of waste paper, price/quality of Kraft Paper, collective shut-down of mills, power problems/tariff, training of manpower etc. In the above groups members exchanged price of waste paper and price of Kraft Paper.”

134.3 When confronted with message dated 25.04.2015 at 09:27 sent by him in the WhatsApp group “Hyd Kraftmills Assn HKPMA” that “Machine stopped at 6:00 am – Meter Reading 631948” in reply to Mr. Anjani Kumar, Secretary HKPMA’s message dated 24.04.2015 at 11:05 regarding collective shutdown that “Tomorrow is 25th our first shut day. Let’s all say yes for 25th& 26th shut” and in reply to which Mr. Anjani Kumar had sent another message on 25.04.2015 at 09:59 that “You r super RajeshkarGaru. Ur stopping gives us great support”, Mr. Rajasekhra admitted that “I admit that I put the above message as shown above partially in support of the collective shut-down decision of HKPMA and SLTA’s manufacturing plant was also partially shut during the above period. But the reason for SLTA’s shut was also due to certain other reasons such as machine maintenance, shortage of raw material, lack of orders etc.”



134.4 Further, when confronted with a few MoMs of HKPMA wherein price increase and/or collective shut-down decisions were taken, Mr. Rajasekhar admitted that he received the said e-mails and attended the said meetings (at times with Mr. Padala Rama Krishna Reddy) wherein price increase and collective shut-downs were discussed. He also admitted that he shared Kraft paper and waste paper prices and also partially implemented the price hike decisions regarding Kraft paper.

134.5 It is also noted from the DG Report that from the e-mail account of OP-93, price increase e-mails of some other paper mills were also recovered.

134.6 It is further noted from the DG Report that a letter dated 31.01.2017 was sent by Mr. Rajasekhar to OP-93's corrugators/dealers/manufacturers of various products using Kraft paper showing increase of ₹2 per kg with immediate effect. HKPMA had also decided to increase the price of Kraft paper @ ₹2 per kg w.e.f. 01.02.2017. In this regard, all Mr. Rajasekhar had to say was that *"I admit that the above price hike circular was issued by SLTA to its customers including corrugators/ dealers/ manufacturers showing a price increase of Rs. 2/- per Kg on Kraft paper. SLTA has not implemented the price hike decision as per the rate and date suggested by HKPMA. This letter was intended to inform SLTA's customers regarding intended price hike and its reasons, but SLTA has not implemented the price hike to all its customers at the same rates and also not implemented immediately."*

134.7 It is furthermore noted from the DG Report that HKPMA had decided to shut the Kraft paper manufacturing plants of its members on 15.08.2016, 21.08.2016, 27.08.2016, 28.08.2016, 04.09.2016 and from 11.02.2017 to 15.02.2017. From the RG-1 Register of OP-93, it is noted that the manufacturing plant of OP-93 was also partially shut on the said dates and Kraft paper manufactured on said dates was 11.02.2017 – 84.859 MT, 12.02.2017 – 40.519 MT, 13.02.2017 – 48.839 MT, 14.02.2017 – 36.886 MT, 15.02.2017 – 42.950 MT, 15.08.2016 – 126.266 MT, 21.08.2016 – 199.184 MT, 27.08.2016 – 225.903 MT, 28.08.2016 – 208.554 MT and 04.09.2016 – 151.228 MT.

134.8 In its suggestions/objections to the DG Report, OP-93 made submissions similar to those made by other OPs. The same have already been dealt with in the earlier parts of the present order.



134.9 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-93 was part of the discussions held at HKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by HKPMA, fully or partially, in this regard. Such conduct of OP-93 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

135. OP-94 (Peprill Paper Mills Private Limited)

135.1 It is noted from the DG Report that the representative of OP-94, *namely*, Mr. G. Subbaraju, Managing Director, attended meetings of HKPMA dated 20.04.2015, 24.08.2015, 01.12.2015, 30.01.2016 and 03.03.2016, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held. He was also a member of the WhatsApp group, *namely*, “Hyd Kraftmills Assn HKPMA”, wherein members used to discuss about price hike of Kraft paper, raw material prices and shut-down schedule of Kraft paper mills. Further, from Mr. Subbaraju’s e-mail account, e-mails dated 24.04.2015, 26.08.2015, 03.12.2015, 08.02.2016 and 07.03.2016 sent by HKPMA were recovered.

135.2 In his statement recorded before the DG, Mr. G. Subbaraju, acknowledged as under:

“As far as I know, HKPMA as an association of Kraft paper manufacturers situated in and around Hyderabad. However, in some of the meetings mill owners from other part of Telangana, Andhra and Karnataka states also attended. I have attended 4 to 5 meetings of HKPMA since 2015–2016 till 2017–2018. ...

In the HKPMA meetings, attendees discussed about waste paper price, price of Kraft paper, collective shut-down of mills, technical issues, pollution related matters, GST related matters etc.

I was a member of a WhatsApp group in which Kraft mill owners from Hyderabad area are also members. As far as I know the name of the WhatsApp group was “HKPMA”. ...

*In the WhatsApp group *namely* “HKPMA” members discussed about HKPMA meetings, waste paper price, price of Kraft paper, collective shut-down of mills, technical issues, pollution related matters, GST related matters etc.*



Yes, I have shared the price of Kraft paper and waste paper to HKPMA only during the meetings.

Yes, I shared shut-down details of my mill to HKPMA through WhatsApp.”

135.3 When confronted with various MoMs of HKPMA meetings, Mr. Subbaraju admitted that he attended the said meetings and received the said e-mails. He also admitted that he shared the prices of his Kraft paper in the said meetings and partially implemented the shut-down decisions of HKPMA, and on one occasion, price hike decision of HKPMA. He also admitted that he hosted dinner for HKPMA meeting dated 30.01.2016.

135.4 It is also noted from the DG Report that the manufacturing plant of OP-94 was shut-down during 11.02.2017 (partially), 12.02.2017 to 15.02.2017, 12.03.2017 and 15.03.2017, which dates almost match with the HKPMA shut-down schedule.

135.5 In its suggestions/objections to the DG Report, OP-94 made submissions similar to those made by the other OPs. The same have already been dealt with in the earlier parts of the present order.

135.6 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-94 was part of the discussions held at HKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by HKPMA, fully or partially, in this regard. Such conduct of OP-94 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

136. OP-95 (Limra Paper Mills Private Limited)

136.1 It is noted from the DG Report that the representative of OP-95, namely, Mr. Mohammed Hameeduddin Afroze, Managing Director, attended meetings of HKPMA dated 24.02.2014, 20.04.2015, 24.08.2015, 07.11.2015 and 30.01.2016, wherein discussions regarding fixing of prices, shutting down of mills, etc., were held. He and Mr. Mohammed Hafeezuddin Feroz were also members of the WhatsApp group, namely, “Hyd Kraftmills Assn HKPMA”, wherein members used to discuss about price hike of Kraft paper, raw material prices and shut-down schedule of Kraft paper mills.



136.2 In his statement recorded before the DG, Mr. Mohammed Hameeduddin Afroze, Managing Director, acknowledged as under:

“Representing LPMP I have attended 5 – 8 meetings of HKPMA, but myself or LPMP is not a member of HKPMA. Last time I have attended the meeting of HKPMA was about two years back. Mill owners from the state of Telangana used to attend the meetings of HKPMA. However, in some of the meetings of HKPMA a few mill owners from Andhra Pradesh also attended. ...

Yes, I along with Shri Mohammed Hafeezuddin Feroz are members of the WhatsApp group namely ‘HKPMA’ operated by Shri T. Anjani Kumar, Secretary of HKPMA.

In the HKPMA meetings and in the WhatsApp group, members discussed about price of waste paper, bad debts recovery, price of Kraft Paper, collective shutting down of mills etc.”

136.3 When confronted with various MoMs of HKPMA meetings, he admitted to having attended most of the said meetings and receiving the said e-mails. He also admitted to have shared the price of Kraft paper of OP-95 in the said meetings and partially and belatedly implemented the decisions taken in HKPMA meetings. Mr. Afroze also admitted before the DG that *“LPMP used to increase the price of Kraft Paper along with other mills of Telangana State due to increase in the input cost. In order to survive in the market LPMP along with other mill were forced to follow the decisions of HKPMA. LPMP used to partially follow the decisions of HKPMA Further, LPMP used to implement the decision of HKPMA belatedly.”*

136.4 When confronted with the backup of WhatsApp Group, namely, “Hyd Kraftmills Assn HKPMA” of which he and Mr. Mohammed Hafeezuddin Feroze were members, Mr. Mohammed Hameeduddin Afroze stated that *“Yes, this is the same WhatsApp group in which myself and Shri Feroz are also members. In the said WhatsApp group members shared the price of Kraft Paper, waste paper and shutting down of mills. I also shared the above information regarding LPMP in the said group”.*

136.5 It is also seen from the DG Report that in the said group, in response to Mr. Anjani Kumar, Secretary of HKPMA’s message regarding shut-down of mills on 24.04.2015, Mr. Mohammed Hameeduddin Afroze sent a message on 24.04.2015 at 15:35 that *“Yes”*. Further, he also sent a message on behalf of OP-86 that *“Bahubali is also yes”*. Mr. Afroze also sent a message on 29.04.2015 at 18:49 regarding waste paper price of



OP-96. When asked about such messages, Mr. Afroze admitted to having sent the same. From such messages as extracted hereunder, it is clear that Mr. Mohammed Hameeduddin Afroze was supporting the collective shut-down decisions of HKPMA:

Apr 24, 13:29 - Anjani Kumar: Yes from Mr.venkatrao venkatapadmavathi
 Apr 24, 13:33 - +91 98482 69585: I'm closing my mill on 25th morning as soon as the shift ends at 9am...and will start it again on Monday 9am
 Apr 24, 13:35 - +91 98482 69585: Peprroll
 Apr 24, 13:37 - Anjani Kumar: 11 yeses come on others. Pls post say yes
 Apr 24, 13:39 - Anjani Kumar: GRS Reddy, Patel's, wings
 Apr 24, 14:17 - VIVEK GANDHI: Yes
 Apr 24, 15:17 - +91 98491 72412: Yes
 Apr 24, 15:22 - +91 99498 26002: yes
 Apr 24, 15:32 - Anjani Kumar: Finally Patel's have posted
 Apr 24, 15:35 - Afroze: AFROZ YES
 Apr 24, 15:37 - Jain Ashok: What about Bahubali whether it is yes or no?
 Apr 24, 15:38 - Jain Ashok: What about chimanlal sharmaji
 Apr 24, 15:38 - Afroze: Bahubali is also yes
 Apr 24, 15:40 - Jain Ashok: That's the spirit Afroz bhai

You may quote your driving licence #, Voter ID # etc as your ID Proof but definitely not your PAN.
 Beware!!!!.

Spread this msg to all ur frndz and relatives.

Apr 29, 18:49 - Afroze: WASTE PAPER PRICE RS. 11.40 W.E.F 1-5-2015 LIMRA PAPER MILLS (P) LTD

Apr 29, 20:53 - Anjani Kumar: Excellent. Afroz has done it again. He led the fall of waste prices on earlier occasions also

Apr 29, 21:06 - Anjani Kumar: Let's all get together once again to make the next shut a grander success

136.6 It is also noted from the DG Report that the following shut-down dates of OP-95 as shown in its RG-1 Register partially match the shut-down dates declared in HKPMA meetings:

Dates declared by HKPMA	Dates of OP-95
25.04.2015 and 26.04.2015	25.04.2015 and 26.04.2015
01.05.2015, 02.05.2015, 09.05.2015, 10.05.2015, 16.05.2015 and 17.05.2015	01.05.2015, 02.05.2015, 10.05.2015, 16.05.2015 and 17.05.2015 (partially)
05.09.2015, 06.09.2015, 12.09.2015, 13.09.2015, 17.09.2015, 18.09.2015, 26.09.2015 and 27.09.2015	05.09.2015 (partially), 06.09.2015, 12.09.2015 (partially), 17.09.2015 (partially), 18.09.2015 and 26.09.2015
02.10.2015, 03.10.2015, 10.10.2015, 11.10.2015, 18.10.2015, 19.10.2015, 20.10.2015, 21.10.2015 and 31.10.2015	03.10.2015, 10.10.2015, 11.10.2015, 18.10.2015 and 19.10.2015 (partially)
07.08.2016, 14.08.2016, 15.08.2016, 21.08.2016, 27.08.2016 and 28.08.2016	14.08.2016 and 15.08.2016
06.12.2015, 13.12.2015, 20.12.2015 and 27.12.2015	27.12.2015 (partially)



136.7 In its suggestions/objections to the DG Report, OP-95 made submissions similar to those made by the other OPs. The same have already been dealt with in the earlier parts of the present order.

136.8 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-95 was part of the discussions held at HKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by HKPMA, fully or partially, in this regard. Such conduct of OP-95 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

137. OP-96 (V. L. Papers Private Limited)

137.1 It is noted from the DG Report that representatives of OP-96, *namely*, Mr. Ashok Kumar Jain and Mr. Shiv Prakash Mantri, Directors, Mr. Rajesh Bung, Mr. Vinod Bangad and Mr. R.K. Dayama, attended meetings of HKPMA dated 03.10.2013, 24.02.2014, 25.11.2014, 22.01.2015, 03.03.2015, 20.04.2015, 24.08.2015, 12.10.2015, 07.11.2015, 30.01.2016, 03.03.2016 and 22.07.2016, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held. Mr. Ashok Jain and Mr Shiv Prakash Mantri were also members of the WhatsApp group, *namely*, “Hyd Kraftmills Assn HKPMA”, wherein members used to discuss about price hike of Kraft paper, raw material prices and shut-down schedule of Kraft paper mills. Further, from OP-96’s e-mail account, e-mails dated 07.10.2013, 04.12.2014, 03.03.2015, 24.04.2015, 26.08.2015, 06.10.2015, 16.10.2015, 03.12.2015, 08.02.2016 and 07.03.2016 sent by HKPMA were also recovered.

137.2 In his statement recorded before the DG, Mr. Ashok Jain, acknowledged as follows:

“I along with some other Directors of VLPPL have attended 10 to 15 meetings of Hyderabad Kraft Paper Mills Association (HKPMA) but VLPPL is not a registered member of HKPMA. VLPPL never paid any membership fee, caution deposit or any other payment to HKPMA.

In the HKPMA meetings in which I have attended members discussed about price of waste paper, Kraft Paper, recovery of payments, collective shutting down of mills, pollution related issues, GST matters etc.



I along with Shri Shiv Prakash Mantri are members of the WhatsApp group namely “HKPMA” in which other Kraft Paper mill owners are/were members. However, I am not sure about the other Directors.

Yes, VLPPL has shared the price of Kraft Paper, waste paper and shutting down of VLPPL’s manufacturing plant details to HKPMA.

Yes, VLPPL has received communication/MOM/circular from HKPMA.

...

I admit that in the said WhatsApp group (HydKraftmills Assn HKPMA), members used to discuss the price of Kraft Paper, waste paper and collective shutting down of mills. I also admit that in the said WhatsApp group myself and Shri Shiv Prakash Mantri have also shared the shut-down details of VLPPL’s manufacturing plant and price of Kraft Paper/waste paper.”

137.3 When confronted with various MoMs of HKPMA meetings recovered from the e-mail ID of OP-96, Mr. Ashok Jain admitted that representatives of OP-96 (including himself at times) attended the said meetings and that OP-96 received the said e-mails from HKPMA. He also admitted to have shared the price of Kraft paper and shut-down of OP-96 in the said meetings. He also stated in response to several questions asked by the DG that “I admit that VLPPL used to follow the decisions of HKPMA regarding price hike of Kraft Paper”, “I also admit that VLPPL used to follow the decisions of HKPMA regarding shutting down of mills” and “VLPPL also used to follow the decisions of HKPMA to control the price of waste paper”.

137.4 It is also noted from the DG Report that the following shut-down dates of OP-96 as shown in its RG-1 Register partially match the shut-down dates declared in HKPMA meetings:

Dates declared by HKPMA	Dates of OP-96
01.05.2015, 02.05.2015, 09.05.2015, 10.05.2015, 16.05.2015 and 17.05.2015	02.05.2015 and 16.05.2015
05.09.2015, 06.09.2015, 12.09.2015, 13.09.2015, 17.09.2015, 18.09.2015, 26.09.2015 and 27.09.2015	05.09.2015, 06.09.2015, 12.09.2015, 13.09.2015, 17.09.2015, 18.09.2015 and 26.09.2015
02.10.2015, 03.10.2015, 10.10.2015, 11.10.2015, 18.10.2015, 19.10.2015, 20.10.2015, 21.10.2015 and 31.10.2015	02.10.2015, 03.10.2015 and 11.10.2015
17.10.2015, 21.10.2015, 22.10.2015, 23.10.2015 and 31.10.2015	22.10.2015 and 23.10.2015



Dates declared by HKPMA	Dates of OP-96
06.12.2015, 13.12.2015, 20.12.2015 and 27.12.2015	06.12.2015 and 13.12.2015
07.08.2016, 14.08.2016, 15.08.2016, 21.08.2016, 27.08.2016 and 28.08.2016	15.08.2016 and 21.08.2016 and
04.09.2016, 10.09.2016, 11.09.2016, 18.09.2016, 24.09.2016 and 25.09.2016	04.09.2016

137.5 In its suggestions/objections to the DG Report, OP-96 made submissions similar to those made by the other OPs. The same have already been dealt with in the earlier parts of the present order.

137.6 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-96 was part of the discussions held at HKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by HKPMA, fully or partially, in this regard. Such conduct of OP-96 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

138. OP-97 (Vamshadhara Paper Mills Limited)

138.1 It is noted from the DG Report that representatives of OP-97, *namely*, Mr. V. Ramesh, Marketing Manager, Mr. Selvaraj, Assistant Marketing Manager, and Mr. Rajendran, Director, attended meetings of HKPMA dated 03.10.2013, 24.02.2014, 25.11.2014, 22.01.2015, 20.04.2015, 03.03.2015, 24.08.2015, 07.11.2015, 03.03.2016 and 22.07.2016, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held. Further, Mr. R. Kaushik, Joint managing Director and Mr. R. Vajay Sekhar, Managing Director, were also members of the WhatsApp group, *namely*, “Hyd Kraftmills Assn HKPMA”, wherein members used to discuss about price hike of Kraft paper, raw material prices and shut-down schedule of Kraft paper mills. Also, from OP-97’s e-mail account, e-mails dated 07.10.2013, 04.12.2014, 03.03.2015, 24.04.2015, 26.08.2015, 06.10.2015, 03.12.2015 and 07.03.2016 sent by HKPMA were recovered.

138.2 In his statement recorded before the DG, Mr. V. Ramesh, acknowledged as under:

“... I have attended a maximum of 5 or 6 meetings of HKPMA. After attending the HKPMA meetings I used to report to Shri N. S. Murthy, Senior Marketing Manager who retired in December 2018. In some of the meetings (1 or 2) Shri G. Venkatesh, GM also attended because I was unable to attend the same. After Shri G. Venkatesh joined VPML, I did not attend any meetings of HKPMA. As far as I can recollect, I have attended last meeting of HKPMA during 2017. ...

In the HKPMA meetings attendees discussed about information regarding raw material, price of Kraft Paper, price of waste paper, collective shutting down of mills, bad debt recovery etc.

VPML has shared price of Kraft Paper, waste paper and shutting down information to HKPMA during the meetings attended by me or any other person on behalf of VMPL.”

138.3 When confronted with various MoMs of HKPMA meetings, Mr. Ramesh admitted that representatives of OP-97 (including himself at times) attended the said meetings. He also admitted to have shared the price of Kraft paper and shut-down of OP-97 in the said meetings. He also stated in response to several questions that *“I admit that VPML used to follow the decisions of HKPMA regarding price hike of Kraft Paper partially”, “I also admit that VPML used to follow the decisions of HKPMA regarding shutting down of mills” and “VLPPPL also used to follow the decisions of HKPMA to control the price of waste paper”.*

138.4 When confronted with backup of WhatsApp group, namely, “Hyd Kraftmills Assn HKPMA”, Mr. Ramesh acknowledged that Mr. R. Kaushik and Mr. R. Vijay Sekhar were the members of the said WhatsApp group in which other Kraft paper mill owners from Telangana State were also members. He stated that Mr. R. Kaushik used to communicate to Mr. Murthy, former Marketing Manager of OP-97, all decisions of HKPMA received by him in the said WhatsApp group. Some extracts of the said WhatsApp group are as follows:



Apr 25, 12:02 - Anjani Kumar: Please shut ur mill for two days ie 25th & 26th as all of us hv shut as per decision taken during meeting. Pls cooperate as it is for our benefit

Apr 25, 12:17 - +91 99891 31100: Kanishka paper meter reading Kwh 220396 KVARH 427485

Apr 25, 12:31 - +91 98491 72412: location: <https://maps.google.com/?q=17.23216,78.9537>

Apr 25, 12:32 - +91 98491 72412: <Media omitted>

Apr 25, 12:33 - +91 98491 72412: <Media omitted>

Apr 25, 12:34 - +91 98491 72412: <Media omitted>

Apr 25, 12:34 - +91 98491 72412: <Media omitted>

Apr 25, 12:42 - Anjani Kumar: Thanks Dilip for ur visit. It was pleasure for u visiting us at

Apr 25, 12:48 - Anjani Kumar: Mr. Dilip will be visiting Hans & Sarma Papermills soon. Pls welcome them Mr.Koushik & Mr.Sarmaji

Apr 25, 12:48 - +91 93485 37603: Ok sir Will do the needful ...

- Apr 22, 20:23 - +91 74011 22242: Vamshadhara 27150944

Apr 26, 11:24 - Anjani Kumar: Request all members to confirm their mills are shut. Say yes

Apr 26, 11:25 - Anjani Kumar: Saitirumalapapers yes

Apr 26, 11:25 - +91 90006 93366: Yes

Apr 26, 11:26 - +91 92469 16001: Yes... Classic

Apr 26, 11:26 - +91 98484 54054: Yes...M.K.paper

Apr 26, 11:26 - Anjani Kumar: Mr.ChandrashekarReddy will be visiting Limra, bahubali, wings, venkatapadmavathi,Vl

Apr 26, 11:31 - +91 93485 37603: Yes.....hand

Apr 26, 11:31 - +91 93485 37603: Yes....hans

Apr 27, 20:11 - +91 93485 37603: Yes sir... we have reduced by 2

Apr 27, 20:11 - +91 93485 37603: By 200/-

Apr 30, 11:32 - Anjani Kumar: Need more volunteers. Request more members come forward

Apr 30, 11:32 - Anjani Kumar: Welcome feroze

Apr 30, 11:53 - +91 93485 37603: Yes sir....I will depute my people for inspection

Apr 30, 11:53 - +91 93485 37603: Pls guide me how to help you and I will do the needful

It can be observed from the above extracts that Mr. Vijay Shekhar had sent the meter reading of OP-97 in the aforesaid WhatsApp group on 22.04.2015 at 20:23. Further, Mr. R. Kaushik had shared on 27.04.2015 at 20:11 that the selling price of Kraft paper of OP-97 has been reduced by ₹200.

138.5 The above messages clearly show that even the Managing Director and Joint Managing Director of OP-97 were involved in exchange of information of price of Kraft paper and shut-down of mills with competitors.

138.6 It is also noted from the DG Report that the following shut-down dates of OP-97 as shown in its RG-1 Register partially match the shut-down dates declared in HKPMA meetings:

Dates declared by HKPMA	Dates of OP-97
25.04.2015 and 26.04.2015	25.04.2015 (partially) and 26.04.2015
01.05.2015, 02.05.2015, 09.05.2015, 10.05.2015, 16.05.2015 and 17.05.2015	01.05.2015, 02.05.2015, 09.05.2015 and 10.05.2015 (both partially)



Dates declared by HKPMA	Dates of OP-97
05.09.2015, 06.09.2015, 12.09.2015, 13.09.2015, 17.09.2015, 18.09.2015, 26.09.2015 and 27.09.2015	05.09.2015, 06.09.2015, 12.09.2015 (partially), 13.09.2015, 17.09.2015 (partially), 18.09.2015 (partially), 26.09.2015 (partially) and 27.09.2015 (partially)
02.10.2015, 03.10.2015, 10.10.2015, 11.10.2015, 18.10.2015, 19.10.2015, 20.10.2015, 21.10.2015 and 31.10.2015	02.10.2015 and 03.10.2015 (partially)
06.12.2015, 13.12.2015, 20.12.2015 and 27.12.2015	06.12.2015, 20.12.2015 and 27.12.2015 (all partial)
07.08.2016, 14.08.2016, 15.08.2016, 21.08.2016, 27.08.2016 and 28.08.2016	22.08.2016 and 24.08.2016 (both partial)
04.09.2016, 10.09.2016, 11.09.2016, 18.09.2016, 24.09.2016 and 25.09.2016	25.09.2016

138.7 In its suggestions/objections to the DG Report, OP-97 made submissions similar to those made by the other OPs, specifically OP-107. The same have been dealt with in the later part of the present order.

138.8 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-97 was part of the discussions held at HKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by HKPMA, fully or partially, in this regard. Such conduct of OP-97 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

139. OP-98 (Hyderabad Paper Mills Private Limited)

139.1 It is noted from the DG Report that representatives of OP-98, *namely*, Mr. Mohammed Aliuddin and Mr. Mohammed Nooruddin (Parvez), Directors, attended meetings of HKPMA dated 02.03.2015, 20.04.2015, 24.08.2015, 12.10.2015, 07.11.2015, 30.01.2016, 03.03.2016 and 22.07.2016, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held. They were also members of the WhatsApp group, *namely*, “Hyd Kraftmills Assn HKPMA”, wherein members used to discuss about price hike of Kraft paper, raw material prices and shut-down schedule of Kraft paper mills.



139.2 In his statement recorded before the DG, Mr. Mohammed Aliuddin, acknowledged as under:

“... HPMPL used to attend the meetings of Hyderabad Kraft Paper Mills Association (HKPMA). Myself or Sh. Mohammed Nooruddin, Director or both of us together attended 8 to 10 (appx.) meetings of HKPMA. I along with Sh. Mohammed Nooruddin attended the meeting of HKPMA last time during the first half of 2018. HPMPL used to get telephonic calls/WhatsApp message from Sh. T. Anjani Kumar, Secretary of HKPMA regarding the association meetings.

In the HKPMA meetings in which myself or other director of HPMPL have attended, members discussed about present scenario of Kraft paper industry in Telangana State, price of Kraft paper, price of waste paper, availability of waste paper both local/imported, bad debtors, collective shut-down of mills, technical matters such as pollution water and air, GST matters, Govt. policies etc.

Myself and Sh. Mohammed Nooruddin are members of the WhatsApp group namely “HKPMA”. In this WhatsApp group members discussed about present scenario of Kraft paper industry in Telangana State, price of Kraft paper, price of waste paper, availability of waste paper both local/imported, collective shut-down of mills, shared the price of waste paper/Kraft paper, bad debtors, technical matters such as pollution water and air, GST matters, Govt. policies etc.

HPMPL used to share the price of Kraft Paper, waste paper and shutting down of manufacturing plant details to HKPMA during the meetings in which myself or the other director of HPMPL have attended.”

139.3 When confronted with various MoMs of HKPMA meetings, Mr. Aliuddin admitted that representatives of OP-98 (including himself at times) attended the said meetings. He also admitted to have shared the price of Kraft paper and shut-down of OP-98 mill in the said meetings. He also stated in response to two questions that *“HPMPL used to follow the HKPMA decisions partially”*.

139.4 When confronted with the backup of WhatsApp group, namely, “Hyd Kraftmills Assn HKPMA” Mr. Aliuddin admitted that *“myself and Sh. Mohammed Nooruddin are members of the above WhatsApp group. I also admit that in the said group, members used to discuss the price of Kraft Paper, waste paper and collective shutting down of mills. In the said WhatsApp group I have also shared the meter reading of my mill to show our company is also supporting HKPMA decision.”* A relevant extract of the WhatsApp group in this regard is as follows:



Apr 25, 08:20 - +91 99597 74786: Good morning members Hyderabad paper mill machine stopped at 7:00 a.m.
Meter reading:
KWH: 498165 (@ 8:15 a.m)

139.5 It is also noted from the DG Report that the following shut-down dates of OP-98 as shown in its RG-1 Register partially match with the shut-down dates declared in HKPMA meetings:

Dates declared by HKPMA	Dates of OP-98
01.05.2015, 02.05.2015, 09.05.2015, 10.05.2015, 16.05.2015 and 17.05.2015	01.05.2015
05.09.2015, 06.09.2015, 12.09.2015, 13.09.2015, 17.09.2015, 18.09.2015, 26.09.2015 and 27.09.2015	17.09.2015
02.10.2015, 03.10.2015, 10.10.2015, 11.10.2015, 18.10.2015, 19.10.2015, 20.10.2015, 21.10.2015 and 31.10.2015	02.10.2015
17.10.2015, 21.10.2015, 22.10.2015, 23.10.2015 and 31.10.2015	23.10.2015
01.11.2015, 07.11.2015, 11.11.2015, 12.11.2015, 15.11.2015, 21.11.2015, 22.11.2015, 28.11.2015 and 29.11.2015	07.11.2015, 11.11.2015, 12.11.2015 and 29.11.2015
07.08.2016, 14.08.2016, 15.08.2016, 21.08.2016, 27.08.2016 and 28.08.2016	15.08.2016

139.6 In its suggestions/objections to the DG Report, OP-98 made submissions similar to those made by the other OPs. The same have already been dealt with in the earlier parts of the present order.

139.7 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-98 was part of the discussions held at HKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by HKPMA, fully or partially, in this regard. Such conduct of OP-98 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

140. OP-99 (Wings Papers and Board Mills Private Limited)

140.1 It is noted from the DG Report that representatives of OP-99, *namely*, Mr. Hemant Patel and Mr. Bhavani Shankarlal Patel, Directors and Mr. Mehak Patel, son of Mr.



Hemant Patel, attended meetings of HKPMA dated 03.10.2013, 24.02.2014, 23.03.2014, 25.11.2014, 22.01.2015, 24.08.2015, 07.11.2015, 22.07.2016 and 07.07.2017, wherein discussions regarding fixing of prices, shutting down of mills, etc., were held. Mr. Hemant Patel and Mr. Shankarlal Patel were also members of the WhatsApp group, namely, “Hyd Kraftmills Assn HKPMA”, wherein members used to discuss about price hike of Kraft paper, raw material prices and shut-down schedule of Kraft paper mills. Further, e-mails dated 07.10.2013, 28.02.2014, 27.03.2014, 19.04.2014, 04.12.2014, 26.08.2015, 06.10.2015, 03.12.2015 and 22.07.2016 were also sent by HKPMA to OP-99.

140.2 In his statement recorded before the DG, Mr. Hemant Patel, stated as under:

“... myself and Shri Bhavani Shankarlal Patel, Director have attended a maximum of 10 meetings of Hyderabad Kraft Paper Mills Association (HKPMA) during 2014 to 2018. ...

In the HKPMA meetings, attendees discussed the price of waste paper, price of Kraft Paper.

Myself and Shri Bhavani Shankarlal Patel, Director are members of a WhatsApp group namely “HKPMA”. In the said WhatsApp group members use to discuss about GST related issues and Pollution norms.”

140.3 When confronted with MoMs of various HKPMA meetings whose e-mails were sent to OP-99 and some other e-mails, Mr. Patel admitted that representatives of OP-99 (including himself at times) attended the said meetings. In the said meetings, though he initially denied it, he admitted to have shared the price of Kraft paper and shut-down dates of mills of OP-99. Similarly, though he initially denied it, when confronted with the backup of WhatsApp group, namely, “Hyd Kraftmills Assn HKPMA”, Mr. Patel admitted that *“In this WhatsApp group members discussed the price of Kraft Paper, waste paper and collective shutting down of mills”*.

140.4 It is noted from the DG Report that OP-99 issued a price hike circular dated 10.03.2017 to Darshan Corporation, Secunderabad showing a price increase of Kraft Paper of ₹2,000 PMT w.e.f. 11.03.2017. HKPMA had also decided to increase the price of Kraft Paper @ ₹2,000 PMT w.e.f. 10.03.2017.

140.5 Similarly, from the sales register of OP-99, it is seen that OP-99 increased the price of Kraft paper (16 BF/100 GSM) @ ₹1,000 PMT w.e.f. 21.02.2017 for the sale made to



Darshan Corporation. HKPMA had also decided to increase the price of Kraft paper @ ₹1,000 PMT w.e.f. 05.02.2017.

140.6 From the sales register of OP-99, it is also seen that OP-99 increased the price of Kraft paper (16 BF/100 GSM) @ ₹2,000 PMT w.e.f. 23.03.2017 for the sale made to Darshan Corporation. HKPMA had also decided to increase the price of Kraft paper @ ₹2,000 PMT w.e.f. 15.03.2017.

140.7 It is also noted from the DG Report that the following shutdown dates of OP-99 as shown in its RG-1 Register partially match the shut-down dates declared in HKPMA meetings:

Dates declared by HKPMA	Dates of OP-99
05.09.2015, 06.09.2015, 12.09.2015, 13.09.2015, 17.09.2015, 18.09.2015, 26.09.2015 and 27.09.2015	06.09.2015, 13.09.2015, 17.09.2015 and 27.09.2015
02.10.2015, 03.10.2015, 10.10.2015, 11.10.2015, 18.10.2015, 19.10.2015, 20.10.2015, 21.10.2015 and 31.10.2015	02.10.2015, 11.10.2015 and 18.10.2015
06.12.2015, 13.12.2015, 20.12.2015 and 27.12.2015	06.12.2015, 13.12.2015, 20.12.2015 and 27.12.2015
07.08.2016, 14.08.2016, 15.08.2016, 21.08.2016, 27.08.2016 and 28. .08.2016	07.08.2016, 14.08.2016, 15.08.2016, 21.08.2016 and 28.08.2016
04.09.2016, 10.09.2016, 11.09.2016, 18.09.2016, 24.09.2016 and 25.09.2016	04.09.2016, 11.09.2016, 18.09.2016 and 25.09.2016

140.8 In its suggestions/objections to the DG Report, OP-99 made submissions similar to those made by the other OPs. The same have already been dealt with in the earlier parts of the present order.

140.9 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-99 was part of the discussions held at HKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by HKPMA, fully or partially, in this regard. Such conduct of OP-99 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.



141. OP-100 (Suvarna Durga Paper Mills Private Limited)

141.1 It is noted from the DG Report that representatives of OP-100, namely, Mr. J. Subhaskara Reddy, Managing Director, Mr. Chandra Sekhar Reddy, Former Director, and Mr. J. Srinivasa Reddy, attended meetings of HKPMA dated 03.10.2013, 24.02.2014, 23.03.2014, 24.11.2014, 22.01.2015, 20.04.2015, 24.08.2015, 12.10.2015, 01.12.2015, 03.03.2016 and 22.07.2016, wherein discussions regarding fixing of prices, shutting down of mills, etc., were held. Mr. Chandra Sekhar Reddy was also a member of the WhatsApp group, namely, “Hyd Kraftmills Assn HKPMA”, wherein members used to discuss about price hike of Kraft paper, raw material prices and shut-down schedule of Kraft paper mills. Further, e-mails dated 07.10.2013, 28.02.2014, 27.03.2014, 04.12.2014, 24.04.2015, 26.08.2015, 06.10.2015, 16.10.2015, 03.12.2015, 08.02.2016 and 07.03.2016 were also sent by HKPMA to OP-100.

141.2 In his statement recorded before the DG, Mr. Subhaskara Reddy, acknowledged as under:

“I have attended 10 – 12 meetings of Hyderabad Kraft Paper Mills Association (HKPMA) since 2014 till 2018. In some of the meetings of HKPMA in which I could not attend, Shri Chandra Sekhar Reddy, Director (former) also attended. Nobody has attended the meetings of HKPMA except me and Shri Chandra Sekhar Reddy since 2014. ...

In the HKPMA meetings in which I have attended, members discussed about Bad Debtors, Defaulters, availability of waste paper in the receivable cycles, latest technology in the Kraft Paper industry, labour issues, pollution related matters and its implementation, price of waste paper, price of Kraft Paper and power related issues. ...

Most of the attendees of HKPMA were Kraft Paper mill owners from the state of Telangana, but on most of the occasions Kraft Paper mill owners in and around Hyderabad only attended. In certain meetings of HKPMA, a few Kraft Paper mills owners from Andhra Pradesh state also attended.

Yes, SDPM has received MOM from HKPMA. However, SDPM has not received any communication from SIKPMA

Yes, I or Shri Chandra Sekhar Reddy, Director has shared the price of Kraft Paper and price of waste paper of SDPM to HKPMA in the meetings in which any of the Directors attended”



141.3 When confronted with various MoMs of HKPMA meetings, Mr. Reddy admitted that *“So far as I can remember in every meeting attended by me or other Directors on behalf of SDPM has shared the price of Kraft Paper and waste paper to HKPMA. Regarding shutting down or breakdown details of SDPM’s manufacturing plant, I or Shri Chandra Sekhar Reddy sometimes inform it to HKPMA or Shri T. Anjani Kumar, Secretary of HKPMA.”* He also admitted that OP-100 hosted dinner for HKPMA meeting dated 12.10.2015.

141.4 When confronted with HKPMA MoM dated 03.03.2016 wherein it was, *inter alia*, decided to increase the price of Kraft Paper by ₹1,000 across all BFs, Mr. Reddy stated that *“I admit that SDPM has received the above email and ... In the said meeting it was decided to increase the price of Kraft Paper by Rs.1000/- PMT across all BFs. Due to increase in input cost and increase in the credit period with some customers SDPM was forced to increase the cost of Kraft Paper.”*

141.5 When confronted with the backup of WhatsApp group, namely, “Hyd Kraftmills Assn HKPMA” in which Mr. Chandra Sekhar Reddy was a member and had supported the decision of collective shut-down of HKPMA during April 2015 by putting a thumbs up, Mr. Reddy stated that *“... Shri Chandra Sekhar Reddy, Director is/was a member of aforesaid WhatsApp group. He has also supported the shut-down decision of HKPMA by putting thumbs up. As it can be seen from the RG-1 our company has stop production partially on 25.04.2015.”* In the said group, Mr. Anjani Kumar, Secretary of HKPMA, had sent a message on 27.04.2015 at 08:47 that *“Shut program 100% successful. Thank all members for ur excellent cooperation. Special thanks to Mr. Chandarshekhar Reddy, Mr. Subhaskar Reddy, Mr Parvez, Mr. Dilip Patel, Mr. Afroz, Mr. Mahesh Gandhi for volunteering and spending ur valuable time for the assn cause”* and another message on 27.04.2015 at 08:49 that *“I would appreciate the extraordinary effort put by Chandrashekhar Reddy & Subhaskar for going all the way to Nizamabad yesterday on short notice. A big round of applause for them”*. In this regard, Mr. Subhaskara Reddy stated that Mr. Chandra Sekhar Reddy *“has also supported the shut-down decision of HKPMA and it can be seen from the RG-1 our company has stop production partially on 25.04.2015. I also admit that he has visited Nizamabad to ensure the collective shut decision of HKPMA.”* Relevant extracts of the aforesaid WhatsApp conversations are as follows:



Apr 24, 11:05 - Anjani Kumar: Tomorrow is 25th our first shut day. Let's all say yes for 25th & 26th shut.

Apr 24, 11:05 - +91 97013 03456: 👍

Apr 24, 11:06 - +91 98482 69585: 👍

Apr 24, 11:08 - +91 98855 64874: 👍

Apr 24, 11:55 - Anjani Kumar: Classic, lenor, peprol, saistrength IN. What about others. Say yes

Apr 24, 11:56 - +91 88860 65544: 👍

Apr 24, 11:57 - +91 98484 54054: 👍

Apr 24, 12:05 - +91 90006 93366: 👍

Apr 27, 08:49 - Anjani Kumar: I would appreciate the extraordinary effort put by ChandrashekarReddy & Subhaskar for going all the way to Nizamabad yesterday on short notice. A big round of applause for them

141.6 It is also noted from the DG Report that the following shut-down dates of OP-100 as shown in its RG-1 Register partially match the shut-down dates declared in HKPMA meetings:

Dates declared by HKPMA	Dates of OP-100
25.04.2015 and 26.04.2015	25.04.2015 (partially)
01.05.2015, 02.05.2015, 09.05.2015, 10.05.2015 16.05.2015 and 17.05.2015	01.05.2015, 09.05.2015 and 10.05.2015
05.09.2015, 06.09.2015, 12.09.2015, 13.09.2015, 17.09.2015, 18.09.2015, 26.09.2015 and 27.09.2015	05.09.2015, 13.09.2015 and 27.09.2015
02.10.2015, 03.10.2015, 10.10.2015, 11.10.2015, 18.10.2015, 19.10.2015, 20.10.2015, 21.10.2015 and 31.10.2015	03.10.2015, 10.10.2015 (partially), 11.10.2015 (partially) and 21.10.2015
17.10.2015, 21.10.2015, 22.10.2015, 23.10.2015 and 31.10.2015	21.10.2015 and 22.10.2015
06.12.2015, 13.12.2015, 20.12.2015 and 27.12.2015	06.12.2015 and 13.12.2015
07.08.2016, 14.08.2016, 15.08.2016, 21.08.2016, 27.08.2016 and 28.08.2016	Manufacturing plant was completely shut during August 2016

141.7 In its suggestions/objections to the DG Report, OP-100 made submissions similar to those made by the other OPs. The same have already been dealt with in the earlier parts of the present order.

141.8 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-100 was part of the discussions held at HKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by HKPMA, fully or partially, in this regard. Such conduct of OP-100 amounts to indirectly determining the sale prices of Kraft paper in contravention of the



provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

142. OP-101 (Vijay Anand Kraft Papers Private Limited)

142.1 As noted by the DG, Mr. Deepak Agarwal, former Chief Operating Officer of OP-101, was the Vice-President of HKPMA. He was also the Chair of HKPMA meeting dated 30.01.2016. As he is settled in Italy, his statement could not be recorded by the DG. However, in this regard, Mr. Abhishek Agarwal, present Chief Operating Officer of OP-101 stated that the name of Mr. Deepak Agarwal was wrongly mentioned as Vice-President of HKPMA. He, in the said HKPMA meeting, had only taken a lead in the absence of Mr. Paul Sharma, who usually headed the meetings.

142.2 It is noted from the DG Report that representatives of OP-101, *namely*, Mr. Deepak Chand Agarwal, Mr. Veereswara Rao, Former Deputy General Manager and Mr. Abhishek Agarwal, attended meetings of HKPMA dated 03.10.2013, 24.02.2014, 23.03.2014, 22.01.2015, 02.03.2015, 24.08.2015, 01.12.2015, 30.01.2016, 03.03.2016 and 07.07.2017 wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held. They were also members of the WhatsApp group, *namely*, “Hyd Kraftmills Assn HKPMA”, wherein members used to discuss about price hike of Kraft paper, raw material prices and shut-down schedule of Kraft paper mills. Further, from OP-101’s e-mail account, e-mails dated 07.10.2013, 28.02.2014, 07.03.2014, 27.03.2014, 03.03.2015, 24.04.2015, 26.08.2015, 06.10.2015, 03.12.2015 and 07.03.2016 sent by HKPMA were also recovered.

142.3 In his statement recorded before the DG, Mr. Abhishek Agarwal, also acknowledged as under:

“Myself, Shri Deepak Chand Agarwal, former Chief Operating Officer and Shri Veereshwar Rao, former Marketing Manager used to attend the meetings of HKPMA. I have attended 5 – 10 meetings of HKPMA and the last one was attended during October/November 2019. Shri Deepak Chand Agarwal and Shri Veereshwar Rao left VAKP on 15.09.2019 and August 2018 respectively.

In the HKPMA meetings in which I have attended, attendees used to discuss about price of Kraft Paper, price of local waste paper, shutting down of mills, pollution related matters, GST, Government policy, technical upgradation,



implementation of software, Bad Debts, prevailing market scenario, export potentials, fuel prices, labour problems, price and scope of imported waste paper etc.

After the meeting, Shri Deepak Chand Agarwal and Shri A. Veereshwar Rao used to inform me about the decisions/discussions/developments of HKPMA meetings attended by them.

Most of the attendees of HKPMA meetings were the mill owners/representatives from the state of Telangana.

I am still a member of the WhatsApp group namely “HKPMA” operated by office bearers of the above Association only. Shri Deepak Chand Agarwal and Shri A. Veereshwar Rao were also members of the above WhatsApp group.

In the above WhatsApp group members used to discuss about price of Kraft Paper, price of local waste paper, shutting down of mills, pollution related matters, GST, Government policy, technical upgradation, implementation of software, Bad Debts, prevailing market scenario, export potentials, fuel prices, labour problems, price and scope of imported waste paper, organizing the meetings of HKPMA etc.”

142.4 When confronted with MoMs of various HKPMA meetings, Mr. Abhishek Agarwal admitted to the receipt of the said e-mails and stated that representatives of OP-101 attended the said meetings. In the said meetings, he also admitted to have shared the price of Kraft paper and shut-down of OP-101. It is also noted from the DG Report that OP-101 hosted the cocktail dinner for HKPMA meeting dated 20.04.2015. Mr. Agarwal was also confronted with certain other incriminating e-mails recovered from OP-101's e-mail ID, which he admitted to receiving.

142.5 When confronted with the following messages sent by Mr. Deepak Agarwal in the WhatsApp group “Hyd Kraftmills Assn HKPMA”, Mr. Abhishek Agarwal admitted that Mr. Deepak Agarwal had sent the said messages in the group:

- i. *On 21.04.2017 at 15:37 as “Today vapi waste price 15.5”,*
- ii. *On 26.06.2017 at 17:54 as “We have already reduced 100rs per ton”,*
- iii. *On 26.06.2017 at 17:55 as “1000rs” (corrected the amount as Rs.1000 from Rs.100),*
- iv. *On 30.06.2017 at 13:58 as “We have reduced 300rs in local waste wef 1st we are not reducing any price in finish”,*
- v. *On 27.07.2017 at 18:30 as “we have reduced 300rs from 27th”,*
- vi. *On 18.04.2019 at 18:53 as “we have also reduced waste 250rs from immd effect”,*
- vii. *On 25.04.2017 at 11:34 as “we are also reducing from today in waste paper”,*
- viii. *On 09.05.2019 at 20:22 as “we have further reduced 300rs in waste from tomorrow.....”.*

142.6 Similarly, when confronted with the following message put by Mr. A. Veereswara Rao in the WhatsApp group “Hyd Kraftmills Assn HKPMA”, Mr. Abhishek Agarwal admitted that Mr. Rao had sent the said messages in the group:

31.03.2017 at 15:41 as “Dear corrugators/dealers due to transport strike no waste paper is receiving hence we are forced to stop machine and stopped taking orders for time being. This is for information”

142.7 It is also noted from the DG Report that OP-101 had issued a price revision/increase circular on 11.03.2017 at 12:49 through e-mail, which reads as “Dear dealer/corrugator, In view of scarcity of both indigenous and import WASTE PAPER we are forced to increase the finished product of Kraft Paper by Rs.5000/- PMT with immediate effect. This increase is a total basic price of prior to Dt: 31/01/2017. This increase is due to the above reason so it is inevitable. The inconvenience caused is regretted. With regards, A. Veereswar Rao, with regards, Vijay Anand Kraft Papers Pvt. Ltd. regd office: 15-2-345, MukthiyarGunj, Hyderabad – 12 ...”. The DG has noted that during the aforesaid period, other paper mills of HKPMA also increased their prices.

142.8 It is also noted from the DG Report that the following shut-down dates of OP-101 as shown in its RG-1 Register partially match with the shut-down dates declared in HKPMA meetings:

Dates declared by HKPMA	Dates of OP-101
25.04.2015 and 26.04.2015	25.04.2015 and 26.04.2015
01.05.2015, 02.05.2015, 09.05.2015, 10.05.2015, 16.05.2015 and 17.05.2015	01.05.2015 and 09.05.2015
05.09.2015, 06.09.2015, 12.09.2015, 13.09.2015,	05.09.2015 (partially), 18.09.2015



Dates declared by HKPMA	Dates of OP-101
17.09.2015, 18.09.2015, 26.09.2015 and 27.09.2015	(partially) and 26.09.2015
02.10.2015, 03.10.2015, 10.10.2015, 11.10.2015, 18.10.2015, 19.10.2015, 20.10.2015, 21.10.2015 and 31.10.2015	10.10.2015, 11.10.2015 and 31.10.2015
06.12.2015, 13.12.2015, 20.12.2015 and 27.12.2015	27.12.2015 (partially)

142.9 Regarding the aforesaid shut-downs of OP-101's manufacturing plant, Mr. Abhishek Agarwal explained that the company usually takes 150 hours shut in a month, and for each of the shut-downs mentioned above, the shut hours are well below the average shut-down time taken per month.

142.10 It is also noted from the DG Report that the mill owners in Southern region shut their manufacturing plants from 11.02.2017 to 15.02.2017. It is observed from the RG-1 Register of OP-101 that its manufacturing plant was also shut on 15.02.2017. When Mr. Abhishek Agarwal was confronted with the said fact, he admitted that the manufacturing plant of the company was shut on aforesaid day. However, he stated that matching of the said shut-down date of OP-101's is purely coincidental.

142.11 It is also noted from the DG Report that Mr. Deepak Agarwal had also attended the meeting of GPMA dated 07.04.2017 wherein discussions regarding fixing of prices, shutting down of mills, etc., were held. In fact, in his statement recorded before the DG, Mr. Omprakash Rathi of OP-3 stated that Mr. Deepak Agarwal and a few others from HKPMA sometimes used to attend the meetings of GPMA, wherein pricing and shut-down of mills was discussed.

142.12 In its suggestions/objections to the DG Report, OP-101 made submissions similar to those made by the other OPs. The same have already been dealt with in the earlier parts of the present order.

142.13 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-101 was part of the discussions held at HKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by HKPMA, fully or partially, in this regard. Such conduct of OP-101 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production,



supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

143. OP-102 (SBS Paper Boards Private Limited)

143.1 It is noted from the DG Report that the representative of OP-102, *namely*, Mr. S. Krishna Prasad, Director attended the joint meeting of HKPMA and APRPMA dated 24.08.2015, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held. He was also a member of the WhatsApp group, *namely*, “Hyd Kraftmills Assn HKPMA”, wherein members used to discuss about price hike of Kraft paper, raw material prices and shut-down schedule of Kraft paper mills. Further, from OP-102’s e-mail account, e-mails dated 03.07.2013, 05.07.2013, 07.09.2013, 16.09.2013, 07.10.2013, 04.12.2013, 30.01.2014, 28.02.2014, 07.03.2014, 13.03.2014, 27.03.2014, 19.04.2014, 13.11.2014, 28.01.2015, 03.03.2015, 26.08.2015, 08.02.2016 and 07.03.2016 sent by HKPMA were recovered.

143.2 In his statement recorded before the DG, Mr. Krishna Prasad, stated as under:

“I have attended only one meeting of HKPMA during 2015. In addition to the above, nobody has attended any meetings of HKPMA from SBS.

In the HKPMA meeting in which I have attended attendees discussed about prevailing market conditions of Kraft Paper industry, new developments in the industry.

No, myself or anybody from SBS never shared the price of waste paper or price of Kraft Paper in the HKPMA meeting in which I have attended during 2015 and also in the meetings in which nobody has attended from SBS.”

143.3 However, when he was confronted with the MoM dated 24.08.2015, Mr. Prasad acknowledged that he attended the said meeting and in the same, OP-102 shared the price of waste paper, Kraft paper and shut-down details of OP-102. In the said meeting, collective shut-down on 05.09.2015, 06.09.2015, 12.09.2015, 13.09.2015, 17.09.2015, 18.09.2015, 26.09.2015 and 27.09.2015, as well as on 02.10.2015, 03.10.2015, 10.10.2015, 11.10.2015, 18.10.2015, 19.10.2015, 20.10.2015, 21.10.2015 and 31.10.2015 was decided. It is noted from the DG Report that the mill of OP-102 was also shut-down during 05.09.2015, 06.09.2015, 12.09.2015 (partially), 13.09.2015, 17.09.2015 and 18.09.2015 (both partially shut), as well as during 03.10.2015,



10.10.2015, 11.10.2015, 21.10.2015 and 31.10.2015 (partially), which dates partially coincide with the collective shut-down dates declared by HKPMA.

143.4 Further, when confronted with the following e-mail sent by OP-102 to APRPMA, Mr. Prasad stated that *“I admit that the aforesaid email was sent by SBS mentioning the requirement of collective shut-down of mills in AP for 4 days from 6th to 10th March 2014. ...”*

“Dear Members, you are all aware the three important decisions confirmed by our APREPMA and are forwarded to all, by your coordinator Mr. Shrinivas reddy. Stoppage of mills is also a valuable message, which must go to the knowledge of waste paper suppliers and accordingly we are to take steps, keeping them silence for some time at least. After having the opinions about the power holidays declared by the department from our members and basing on the interest of the most of the members, the same decisions made in our last meeting and are allowed to put into implementation and all are requested to go ahead and stop mills for 4 days that is from 6th to 10th morning of March. Kindly note no deviation on this aspect and look forward for your 100% cooperation and let all of us hope positive result, if not immediately we try and try to get it. Regards, S. Saibaba Managing Director M/s SBS PAPER BOARDS PRIVATE LIMITED.”

143.5 Also, when confronted with the e-mail dated 03.03.2017 sent by OP-97 to OP-102 along with various other paper mills in Andhra Pradesh and Telangana regarding stop order for further booking, Mr. Prasad stated that *“I admit that SBS has received the above email sent by Vamshadhara Paper Mills regarding stop order for further booking at the old rates. In this regard I want to state that SBS has not increased the price @ Rs.2000/- PMT, but increased upto a maximum of Rs.750/- PMT only. ...”*

143.6 It is further noted from the DG Report that paper mills of HKPMA had increased the price of Kraft Paper @ ₹2,000 each PMT w.e.f. 01.02.2017 and 15.03.2017. Even OP-102 had increased the price of Kraft Paper (14 BF/110 GSM) @ ₹2,000 PMT w.e.f. 21.03.2017 and further @ ₹5,000 PMT w.e.f. 26.03.2017 for sales made to Coromandal Cartons & Containers, Vizag.

143.7 Similarly, paper mills of HKPMA had increased the price of Kraft Paper @ ₹2,000 each PMT w.e.f. 15.03.2017. Even OP-102 had increased the price of Kraft Paper (14 BF/100 GSM) @ ₹2,000 PMT w.e.f. 20.03.2017 for sales made to Costal Andhra Papers Production, Vijayawada.



143.8 It is also noted from the DG Report that the following shut-down dates of OP-102 as shown in its RG-1 Register also partially match shut-down dates declared in HKPMA meetings:

Dates declared by HKPMA	Dates of OP-102
25.04.2015 and 26.04.2015	25.04.2015 and 26.04.2015
01.05.2015, 02.05.2015, 09.05.2015, 10.05.2015, 16.05.2015 and 17.05.2015	01.05.2015, 02.05.2015, 16.05.2015 and 17.05.2015
01.11.2015, 07.11.2015, 11.11.2015, 12.11.2015, 15.11.2015, 21.11.2015, 22.11.2015, 28.11.2015 and 29.11.2015	01.11.2015, 07.11.2015 (partially) and 15.11.2015 (partially)
04.09.2016, 10.09.2016, 11.09.2016 18.09.2016, 24.09.2016 and 25.09.2016	04.09.2016 (partially) and 11.09.2016
11.02.2017 to 15.02.2017	11.02.2017 to 15.02.2017
11.03.2017 to 15.03.2017	11.03.2017 to 15.03.2017

143.9 In its suggestions/objections to the DG Report, OP-102 made submissions similar to those made by the other OPs. The same have already been dealt with in the earlier parts of the present order.

143.10 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-102 was part of the discussions held at HKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by HKPMA, fully or partially, in this regard. Such conduct of OP-102 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

144. OP-103 (Sri Sai Strength Papers)

144.1 It is noted from the DG Report that the representative of OP-103, *namely*, Mr. Umesh Kumar Marda, Former Partner, Mr. Vedant Marda, Manager, Mr. Girish Rathi, Mr. Varun Singhal, Mr. Deepak Santhwal and Mr. Narender, Partners, attended meetings of HKPMA dated 25.11.2014, 20.04.2015, 01.12.2015, 03.03.2016 and 07.07.2017, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held. Mr. Umesh Marda, Mr. Vedant Marda and Mr. Varun Singhal were also members of the WhatsApp group, *namely*, “Hyd Kraftmills Assn HKPMA”, wherein members used



to discuss about price hike of Kraft paper, raw material prices and shut-down schedule of Kraft paper mills. Further, from OP-103's e-mail account, e-mails dated 28.02.2014, 04.12.2014, 24.04.2015, 26.08.2015, 06.10.2015, 16.10.2015, 03.12.2015 and 07.03.2016 sent by HKPMA were also recovered.

144.2 In his statement recorded before the DG, Mr. Umesh Kumar Marda, acknowledged as under:

"SSSP was not a member of any association of Kraft Paper manufacturers however, SSSP used to attend some of the meetings of Hyderabad Kraft Paper Mills Association (HKPMA). ... I have attended 3 – 4 meetings of HKPMA and Shri Girish Rathi, Partner have attended 5 – 6 meetings of HKPMA.

In the HKPMA meetings in which I have attended members/attendees used to discuss price of Kraft Paper, price of waste paper, pollution related matters, GST/Central Excise related matters, collective shutting down of mills in order to control the price of waste paper.

Myself and Shri Girish Rathi, Partner were members of the WhatsApp group namely "HKPMA" created by Shri T. Anjani Kumar, Secretary of HKPMA.

In the above WhatsApp group members used to exchange messages connected with price of Kraft Paper, price of waste paper, pollution related matters, collective shutting down of mills in order to control the price of waste paper.

Yes, SSSP has shared the price of Kraft Paper, waste paper and shut details of my manufacturing plant to HKPMA couple of times while attending the meetings. Even when nobody from SSSP has attended the meeting association used to collect the aforesaid information from SSSP over telephone.

I used to get the information about the meetings of HKPMA through WhatsApp, through Shri Girish Rathi, Partner or through telephonic conversation by Shri T. Anjani Kumar, Secretary of HKPMA.

Most of the attendees of HKPMA meetings were Kraft Paper Mill owners/representatives from Telangana State."

144.3 When confronted with MoMs of various HKPMA meetings, Mr. Marda admitted that OP-103 shared the price of waste paper and Kraft paper in the HKPMA meetings. He also admitted that OP-103 partially implemented the collective shut-down and price hike decisions of HKPMA on certain occasions.

144.4 Further, when confronted with the backup of WhatsApp group, namely, "Hyd Kraftmills Assn HKPMA", Mr. Marda admitted that "Yes, this is the same WhatsApp



group in which myself and Shri Vedant Marda staff of SSSP were also members. In this group myself and Shri Vedant Marda occasionally shared the shut-down information of my mill including electricity meter reading and other members shared the price of waste paper and Kraft Paper.”

144.5 In the said group, Mr. Marda, in response to Mr. Anjani Kumar, Secretary of HKPMA’s message dated 26.04.2015 at 11:24 regarding confirmation for shut-down of mills, sent a message on 26.04.2015 at 12:02 that “we are closed today and our readings at 8 am today are KWH-4097.98 KVAH-4103.37 KVA-353... Sri Sai Strength Papers ...”.

144.6 Further, in his statement recorded before the DG, Mr. Deepak Santhwal, Partner, also acknowledged as under:

“... SSSP used to attend meetings of Hyderabad Kraft Paper Mills Association (HKPMA). I used to attend most of the meetings of HKPMA. I have attended around 6 meetings of HKPMA.

In the HKPMA meetings which were attended by me, members/attendees discussed about purchase price of waste paper, selling price of Kraft Paper, shutting down of mills, pollution related matters, fuel/electricity related matters, overall market of Kraft Paper industry in India and labour related matters.

SSSP used to receive information regarding the HKPMA meeting through WhatsApp message and telephone calls from Shri T. Anjani Kumar, Secretary of HKPMA. Couple of occasions SSSP received copies of MOM of HKPMA meetings

Myself and Shri Varun Singhal are members of the WhatsApp group namely “HKPMA” operated by Shri T. Anjani Kumar, Secretary.

In the above WhatsApp group, members exchanged messages regarding purchase price of waste paper, selling price of Kraft Paper, shutting down of mills, pollution related matters, fuel/electricity related matters, overall market condition of Kraft Paper industry in India and labour related matters.

Yes, SSSP shared the selling price of Kraft Paper, purchase price of waste paper and collective shutting down of mills in the aforesaid WhatsApp group.

I admit that myself representing SSSP also exchanged purchase price of waste paper, selling price of Kraft Paper, details of shutting down of mills etc. In this WhatsApp group, members including me decided to control the price of waste paper just to save my mill from permanent closure.”



144.7 Further, when confronted with the backup of WhatsApp group, namely, “Hyd Kraftmills Assn HKPMA”, Mr. Santhwal admitted that he sent the following messages regarding confirmation of price hike of Kraft paper of OP-103 in the said group:

On 05.09.2017 at 10:44, Mr. Anjani Kumar, Secretary of HKPMA sent the following message:

“Observations and decisions taken during yesterday's meeting

- 1. There is acute wastepaper shortage as material flowing to vapi and aurangabad*
- 2. Elaborate discussion on NO CREDIT to market. Everyone agreed it would solve all our problems and is the best thing if it can be implemented. Decision taken to discuss this point during next meetings also and then decide on how and when to implement*
- 3. Decided to increase finish prices by Rs.2000/–with immediate effect 14–26.50, 16– 28.50, 18–29.50 and so on. These prices are no credit prices ie. Immediate payment prices.*
- 4. Wastepaper. It has been advised to buy wastepaper even if required by paying more. No restrictions on wastepaper prices.”*

On 12.09.2017 at 17:57, Mr. Anjani Kumar sent another message:

“Peproll, vl, sarma, kanishka, saitirumala, hyd paper mill, sudhavarshini and hans have increased prices. What about others. Can you all confirm please”.

In reply to the above messages, Mr. Deepak Santhwal of OP-103 sent the following message on 12.09.2017 at 18:04:

“ssspfp increased too”

On 21.12.2017 at 22:15, Mr. Anjani Kumar sent the following message:

“Today's decisions. 1. Increase finish price by 1000/– wef 25th Dec 2. Limit credit period to 45days wef 1st Jan 2018 3. Forward defaulters list from every mill”

In reply, Mr. Deepak Santhwal sent the following message on 25.12.2017 at 18:52:

“Dear corrugators and dealer Due to increase in waste paper price and short of occ inwards and rise in production cost. We are increasing fp by Rs1000/– per ton w.e.f 20/dec/2017 Note:– depending upon market further rate correction from jan2018 Thanks for your support Sri sai strength papers”



144.8 It is also noted from the DG Report that the following shut-down dates of OP-103 as shown in its RG-1 Register partially match the shut-down dates declared in HKPMA meetings:

Dates declared by HKPMA	Dates of OP-103
25.04.2015 and 26.04.2015	25.04.2015 and 26.04.2015
01.05.2015, 02.05.2015, 09.05.2015, 10.05.2015, 16.05.2015 and 17.05.2015	10.05.2015 and 17.05.2015
05.09.2015, 06.09.2015, 12.09.2015, 13.09.2015, 17.09.2015, 18.09.2015, 26.09.2015 and 27.09.2015	06.09.2015, 13.09.2015 and 27.09.2015
01.11.2015, 07.11.2015, 11.11.2015, 12.11.2015, 15.11.2015, 21.11.2015, 22.11.2015, 28.11.2015 and 29.11.2015	01.11.2015
11.02.2017 to 15.02.2017	11.02.2017 to 15.02.2017
11.03.2017 to 15.03.2017	13.03.2017 and on 12.03.2017 and 14.03.2017 (partially)

144.9 In its suggestions/objections to the DG Report, OP-103 made submissions similar to those made by the other OPs. The same have already been dealt with in the earlier parts of the present order.

144.10 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-103 was part of the discussions held at HKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by HKPMA, fully or partially, in this regard. Such conduct of OP-103 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

145. OP-104 (Reliable Paper and Boards Mills Private Limited)

145.1 It is noted from the DG Report that the representative of OP-104, *namely*, Mr. Mohammed Mubeenuddin @Imran, son of the Managing Director Mr. Mohammed Sirajuddin, attended meetings of HKMA dated 20.04.2015, 24.08.2015, 12.10.2015, 01.12.2015 and 03.03.2016, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held. He was also a member of the WhatsApp group, *namely*, “Hyd Kraftmills Assn HKPMA”, wherein members used to discuss about price hike of



Kraft paper, raw material prices and shut-down schedule of Kraft paper mills. Further, from OP-104's e-mail account, e-mails dated 24.04.2015, 26.08.2015, 06.10.2015, 16.10.2015, 03.12.2015 and 07.03.2016 sent by HKPMA were recovered.

145.2 In his statement recorded before the DG, Mr. Mohammed Mubeenuddin @Imran, who looks after the day-to-day business of OP-104, acknowledged as under:

"Myself or RPBM is not a member of HKPMA however, I have attended a maximum of 3 meetings of HKPMA since 2013. The last meeting of HKPMA was attended by me during 2016. ...

In the HKPMA meetings which I have attended in 2016, attendees including me discussed about scarcity of waste paper, the prices of waste paper, to fix the prices of finished paper as well as collective shutting down of mills. I have not attended any meeting after 2016. However, I attended around 3 meetings of HKPMA in 2016 wherein the said discussion took place. I have not attended any meeting of HKPMA prior to 2016.

The schedule of meetings used to be communicated by Shri Anjani Kumar, Secretary of HKPMA through telephonic messages and WhatsApp communications.

Yes, I am a member of the WhatsApp group namely "HKPMA" operated by the Shri Anjani Kumar, Secretary HKPMA ...

In the WhatsApp group namely HKPMA members including me discussed the price of waste paper, price of finished paper as well as collective shutting down of mills, agenda, place and time of HKPMA meetings, minutes of the meetings of HKPMA, decisions of HKPMA meetings, pollution related matters.

In the HKPMA meetings in which I have attended most of the attendees were either owner of the mills or employee/representative of mills from Telangana State."

145.3 When confronted with MoMs of various HKPMA meetings, Mr. Imran admitted that he attended the said meetings representing OP-104 and shared the price of waste paper and Kraft paper therein. He also admitted that OP-104 implemented the price hike decision taken in HKPMA meeting dated 03.03.2016 partially due to increase in input cost.

145.4 When confronted with the backup of WhatsApp group, namely, "Hyd Kraftmills Assn HKPMA", Mr. Imran admitted that he was a part of the said group and that in the same, he sent the following message supporting the collective shut-down decision of



HKPMA and OP-104's manufacturing plant was also shut-down on 25.04.2015 and 26.04.2015:

Mr. Anjani Kumar, Secretary of HKPMA, sent the following message dated 25.04.2015 at 06:24:

"Let's stop machines"

and another message on 25.04.2015 at 06:51:

"All members requested to post meter reading as of now".

In reply to the above, Mr. Imran of OP-104 sent the following message on 25.04.2015 at 08:32:

"machine stopped at 6.00 am. Meter reading 17367246 (@ 8.30 am)".

Subsequently, he sent another message at 08:40:

"Thanks !!! Anjani Sir, This was really required"

Mr. Anjani Kumar also sent another message on 26.04.2015 at 17:24:

"Hyd. Paper and Reliable are shut. On the way to Sai Strength"

145.5 It is also noted from the DG Report that the following shut-down dates of OP-104 as shown in its RG-1 Register partially match the shut-down dates declared in HKPMA meetings:

Dates declared by HKPMA	Dates of OP-104
01.05.2015, 02.05.2015, 09.05.2015, 10.05.2015, 16.05.2015 and 17.05.2015	01.05.2015, 09.05.2015, 10.05.2015, 16.05.2015 and 17.05.2015
05.09.2015, 06.09.2015, 12.09.2015, 13.09.2015, 17.09.2015, 18.09.2015, 26.09.2015 and 27.09.2015	06.09.2015, 12.09.2015, 13.09.2015, 17.09.2015, 18.09.2015, 26.09.2015 and 27.09.2015
02.10.2015, 03.10.2015, 10.10.2015, 11.10.2015, 18.10.2015, 19.10.2015, 20.10.2015, 21.10.2015 and 31.10.2015	11.10.2015, 19.10.2015, 20.10.2015 and 21.10.2015
17.10.2015, 21.10.2015, 22.10.2015, 23.10.2015 and 31.10.2015	21.10.2015 and 23.10.2015
01.11.2015, 07.11.2015, 11.11.2015, 12.11.2015, 15.11.2015, 21.11.2015, 22.11.2015, 28.11.2015 and 29.11.2015	07.11.2015, 11.11.2015, 15.11.2015, 21.11.2015, 28.11.2015 and 29.11.2015
06.12.2015, 13.12.2015, 20.12.2015 and 27.12.2015	06.12.2015, 13.12.2015, 20.12.2015 and 27.12.2015



145.6 In its suggestions/objections to the DG Report, OP-104 made submissions similar to those made by the other OPs. The same have already been dealt with in the earlier parts of the present order.

145.7 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-104 was part of the discussions held at HKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by HKPMA, fully or partially, in this regard. Such conduct of OP-104 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

146. OP-105 (Venkata Naga Lakshmi Paper Mills Private Limited)

146.1 It is noted from the DG Report that the representative of OP-105, *namely*, Mr. Vatsavai Sitaramaraju, Director, attended, *inter alia*, the meeting of HKPMA dated 24.08.2015, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held. He was also a member of the WhatsApp groups, *namely*, “Hyd Kraftmills Assn HKPMA” and “APRePMA”, wherein members used to discuss about price hike of Kraft paper, raw material prices and shutdown schedule of Kraft paper mills. Further, from OP-105’s e-mail account, e-mails dated 07.03.2014, 07.10.2013, 28.02.2014, 27.03.2014, 04.12.2014, 03.03.2015, 24.04.2015, 26.08.2015, 16.10.2015 and 03.12.2015 sent by HKPMA were also recovered.

146.2 In his statement recorded before the DG, Mr. Sitaramaraju, acknowledged as under:

“... I have attended some of the meeting of the Hyderabad Kraft Paper Mills Association (HKPMA). I have also attended some of the meetings of Andhra Pradesh Recycled Paper Mills Association (APRePMA).

In the HKPMA meetings members discussed about the price of the waste paper, price of Kraft paper, collective shut-down of the mills, pollution related matters, GST, power related issues, government policy related matters etc. In the APRePMA meetings members discussed about the price of waste paper, rate of rice husk which is used in the boilers, price of Kraft Paper, GST, power related issues, government policy related matters etc.

*I was a member of the WhatsApp groups *namely* “APRePMA” and “HKPMA”.*

...



In the said WhatsApp groups, members discussed about the price of waste paper, price of Kraft paper, collective shut-down of the mills, pollution related matters, GST, power related issues etc.

My company has received communications regarding agenda/MOM/circulars from HKPMA and APRePMA. ...

VNLP used to receive telephonic calls, WhatsApp messages, email messages from Sh. T. Anjani Kumar, Secretary HKPMA. Regarding, APRePMA meetings VNLP received telephonic calls, WhatsApp messages from Sh. Murli, Rajahmundhry Paper Mills.

VNLP shared the price of Kraft Paper, purchase price of waste paper and shut-down details of VNLP to HKPMA or APRePMA.”

146.3 When confronted with MoMs of various HKPMA meetings since 2010 recovered from the e-mail ID of OP-105, Mr. Vatsavai admitted to having attended the same. He also admitted that OP-105 increased the price of Kraft paper and controlled the purchase price of waste paper as per the HKPMA decisions. Also, when confronted with certain other incriminating e-mails (including price hike e-mails sent by OP-97) recovered from OP-105's e-mail ID, Mr. Vatsavai admitted receiving the same. He also admitted that he forwarded the price increase decisions of Kraft paper to inform OP-97 that OP-105 is also cooperating with the other mills.

146.4 When confronted with an e-mail dated 20.09.2013 sent by OP-97 to Shri T. Trinadha Raju of Sri Vinayaka Traders in trail e-mail of which price increase circular of OP-105 was also included which mentioned that OP-105 has increased the price of Kraft Paper @ ₹1,000 PMT for all BFs w.e.f. 09.09.2013, Mr. Vatsavai admitted that OP-105 received the above e-mail and OP-105 increased the price of Kraft Paper @ ₹1,000 PMT w.e.f. 09.09.2013 along with OP-102, Costal Agro Industries Ltd. and OP-85 w.e.f. 10.09.2013, 17.09.2013 and 12.09.2013 respectively. He also admitted to have shared the price of OP-105 with Mr. Rajendran of OP-97. Accordingly, he communicated to his dealers regarding price increase by the above mills.

146.5 It is also noted from the DG Report that the following shut-down dates of OP-105 as shown in its RG-1 Register partially match the shut-down dates declared in HKPMA meetings:

Dates declared by HKPMA	Dates of OP-105
25.04.2015 and 26.04.2015	25.04.2015 (partial)



01.05.2015, 02.05.2015, 09.05.2015, 10.05.2015, 16.05.2015 and 17.05.2015	01.05.2015, 02.05.2015 (partial), 10.05.2015 (partial), 16.05.2015 (partial) and 17.05.2015
05.09.2015, 06.09.2015, 12.09.2015, 13.09.2015, 17.09.2015, 18.09.2015, 26.09.2015 and 27.09.2015	05.09.2015, 06.09.2015 (partial), 12.09.2015, 13.09.2015, 17.09.2015, 26.09.2015 and 27.09.2015 (partial)
02.10.2015, 03.10.2015, 10.10.2015, 11.10.2015, 18.10.2015, 19.10.2015, 20.10.2015, 21.10.2015 and 31.10.2015	03.10.2015 (partial), 10.10.2015 (partial), 21.10.2015 and 31.10.2015

146.6 In its suggestions/objections to the DG Report, OP-105 made submissions similar to those made by the other OPs. The same have already been dealt with in the earlier parts of the present order.

146.7 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-105 was part of the discussions held at HKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by HKPMA, fully or partially, in this regard. Such conduct of OP-105 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

147. OP-106 (Sindhura Paper Products Private Limited)

147.1 It is noted from the DG Report that the representative of OP-106, *namely*, Mr. Paleti Nageswara Rao, Managing Director, attended the joint meeting of HKPMA and APRPMA dated 24.08.2015, wherein discussions regarding fixing of prices, shutting down of mills, *etc.*, were held. He was also a member of the WhatsApp groups, *namely*, “Hyd Kraftmills Assn HKPMA” and “South India Kraft Paper Mills”, wherein members used to discuss about price hike of Kraft paper, raw material prices and shut-down schedule of Kraft paper mills.

147.2 In his statement recorded before the DG, Mr. Rao, acknowledged as under:

“SPPL is a member of Andhra Pradesh Recycled Paper Mills Association (APRePMA) and attended most of the meetings of it. Latest meeting of APRePMA attended by me was during 2016. ... I have also attended only one meeting of Hyderabad Kraft Paper Mills Association (HKPMA) before 2016.



SPPL's Marketing Manager also attended some of the meetings of HKPMA due to frequent pressure through telephone calls by the office bearers of HKPMA. On certain occasions, office bearers of HKPMA used to contact other Kraft paper mills in A.P. and subsequently those mill owners convey the invitation to my company also. Those meetings of HKPMA being attended by the Marketing Manager/Employee of SPPL, after the meeting, they used to inform me about the discussion/decisions taken in the HKPMA meetings.

In the meeting of HKPMA attended by me, members discussed about the availability/price of imported waste paper, latest technology in Kraft paper industry and pollution related matters. In the other meetings of HKPMA in which Marketing Manager/Employee of SPPL has attended, after the meeting they briefed me about the discussions/decisions of HKPMA. In those HKPMA meetings attended discussed about GST related matters, paper exhibition details, truck overloading issues, packaging of Kraft paper for safety purpose, electricity breakdown & usage of generator during that period. In the APRePMA meetings being attended by me, attendees discussed about the availability/price of imported waste paper, latest technology in Kraft paper industry and pollution related matters.

I was a member of South India Kraft Paper Mills Association (SIKPMA) in which Sh. K. Swaminathan was the Secretary. SPPL paid the membership fee for a year during 2017 on the basis of the annual production of Kraft paper and duplex board in MT of SPPL multiplied by Re. 1/-. I was also a member of the WhatsApp group namely, South India Kraft Paper Mills Association (SIKPMA) operated by Sh. K. Swaminathan, Secretary for one year during 2017. In the above WhatsApp group mill owners of Kraft paper, White paper and Duplex board were members. ...

In the above WhatsApp group, members exchanged the messages regarding imported waste paper availability/price, details of the meetings of SIKPMA, Govt. policy related matters, taxation issues, pollution related matters and details about the commencement of new paper mills.

SPPL received communications regarding the meetings of APRePMA, HKPMA and SIKPMA through WhatsApp, SMS messages and telephonic message."

147.3 When confronted with a few MoMs of HKPMA meetings, Mr. Rao admitted to having shared the purchase price of waste paper, price of Kraft paper and shut-down details of OP-106 in the meetings. He also admitted that OP-106 used to implement the decisions of APRPMA partially regarding price hike of Kraft paper and shut-down its manufacturing plant as per HKPMA decisions.



147.4 It is noted from the DG Report that HKPMA/APRPMA had collectively decided to increase the price of Kraft paper by ₹2,000 during the first half of March 2017. From the e-mail ID of OP-106, an e-mail dated 07.03.2017 was also recovered along with trailing e-mail sent by OP-106 to Shivaram Traders which stated that “*Dear sir, Kind Attn Mr. Narayana Swamy, Please note that we have sent a price list today only, whereas due to steep hike in raw material, chemicals, shortage of raw materials, our paper mill association took a decision for increasing selling price i.e. Rs. 2000/MT with immediate effect in addition to pervious prices. Sorry for the inconvenience caused to you to in this regard and we are humbly request you to extend your cooperation ... P. V. Prasad, General Manager, SPPL*” and which contained an attachment regarding price list dated 07.03.2017 showing an increase of ₹2,000 PMT in Kraft paper prices.

147.5 Further, it is noted from the DG Report that another e-mail dated 22.11.2017 along with trailing e-mail was also sent by Mr. K. Swaminathan, Secretary of SIKPMA, to OP-106, in which a circular requesting OP-106 to pay membership fee of ₹5,000 and annual charges of ₹15,000 was attached. Another e-mail dated 30.11.2017 along with trailing e-mail sent by OP-106 to SIKPMA in which it was written that “*Dear Swaminathan (Secretary, South India Duplex Board Mfrs Assn) We are very much thankful to you for including us in your Duplex Board Mfrs Assn. today we have transferred Rs. 5000/- through NEFT bearing UTR No. SBIN717334108302 in favour of SOUTH INDIA KRAFT PAPER MILLS ASSN ... P. Nageswara Rao, MD, SPPL*” was also seen. In this regard, Mr. Rao, in his statement, stated that “*I admit that SPPL has paid the membership fee of Rs. 5000/- to SIKPMA. But SPPL never paid any further membership fee to SIKPMA even after repeated request from SIKPMA.*”

147.6 It is further noted from the DG Report that the following shut-down dates of OP-106 as shown in its RG-1 Register partially match the shut-down dates declared in HKPMA meetings:

Dates declared by HKPMA	Dates of OP-106
01.05.2015, 02.05.2015, 09.05.2015, 10.05.2015, 16.05.2015 and 17.05.2015	01.05.2015, 02.05.2015, 16.05.2015 and 17.05.2015
05.09.2015, 06.09.2015, 12.09.2015, 13.09.2015, 17.09.2015, 18.09.2015, 26.09.2015 and 27.09.2015	05.09.2015, 06.09.2015, 12.09.2015 (partially) and 13.09.2015
02.10.2015, 03.10.2015, 10.10.2015, 11.10.2015,	02.10.2015 and 03.10.2015



18.10.2015, 19.10.2015, 20.10.2015, 21.10.2015 and 31.10.2015	
01.11.2015, 07.11.2015, 11.11.2015, 12.11.2015, 15.11.2015, 21.11.2015, 22.11.2015, 28.11.2015 and 29.11.2015	07.11.2015
06.12.2015, 13.12.2015, 20.12.2015 and 27.12.2015	13.12.2015 (partially)
07.08.2016, 14.08.2016, 15.08.2016, 21.08.2016, 27.08.2016 and 28.08.2016	07.08.2016 (partially), 15.08.2016 and 27.08.2016 (partially)
04.09.2016, 10.09.2016, 11.09.2016, 18.09.2016, 24.09.2016 and 25.09.2016	11.09.2016 and 25.09.2016 (partially)

147.7 In its suggestions/objections to the DG Report, OP-106 made submissions similar to those made by the other OPs. The same have already been dealt with in the earlier parts of the present order.

147.8 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-106 was part of the discussions held at HKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by HKPMA, fully or partially, in this regard. Such conduct of OP-106 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

148. OP-107 (South Indian Kraft Paper Mills Association)

148.1 It is noted from the DG Report that SIKPMA is registered as a private company under the erstwhile Companies Act, 1956, limited by guarantee and not having share capital, having its registered office at Chennai. It used to hold meetings of various South Indian paper mills from time to time, details of some, as gathered from their MoMs, are as follows:

- (a) Meeting held on 28.02.2009 at Hotel Comfort Inn, Marina Towers, Chennai wherein attendees/members discussed the price of Kraft paper and purchasing price of waste paper. In the said meeting, attendees/members also discussed finished paper price and purchase price of waste paper of GPMA.
- (b) Meeting held on 06.03.2013 at Hotel Residency, Coimbatore, wherein member/ attendees discussed market conditions of Kraft paper. In the said meeting, Mr. K.



Swaminathan, Secretary of SIKPMA, informed that the mills from Gujarat/ Maharashtra made a total increase of ₹2,000 PMT and paper mills from Hyderabad made an increase of ₹1,000 PMT. In the said meeting, members/attendees also suggested increase in the price of Kraft paper by ₹1,500 to ₹2,000 PMT.

- (c) Meeting held on 15.07.2014 at Hotel Residency, Coimbatore, wherein members/ attendees discussed the price trend of waste paper and prices of Kraft paper in various regions. In the said meeting, Mr. R. Krishnaswamy, President of SIKPMA, requested its members to reduce the price of local waste paper by ₹500 to ₹1,000 PMT in two phases.
- (d) Meeting held on 20.08.2015 at Hotel Residency, Coimbatore, wherein members/ attendees discussed shutting down of mills on Saturdays and Sundays from September 2015.
- (e) Meeting held on 03.03.2016 at Hotel Residency, Coimbatore, wherein attendees/ members discussed price of Kraft paper, purchasing price of waste paper and shutting down of mills. In the said meeting, attendees/members also discussed finished paper price and purchase price of waste paper of Northern/Western Indian/Karnataka paper mills.
- (f) Meeting held on 28.01.2017 at Hotel Residency Tower, Chennai, wherein members/ attendees discussed and decided to increase the price of Kraft paper by ₹2000/- PMT w.e.f. 01.02.2017.

148.2 It is also noted from the DG Report that Mr. K. Swaminathan, Secretary of OP-107, attended, *inter alia*, the meeting of GPMA dated 15.03.2017, wherein discussions regarding fixing of prices, shutting down of mills, etc., took place. He was also one of the recipients of the e-mails dated 13.02.2014, 09.09.2016 and 26.11.2016 sent by GPMA. In fact, Mr. Omprakash Rathi of OP-3, Mr. Satyanarayan Agarwal of OP-4, Mr. Nimish Shah of OP-6, Mr. Sundeep Shah of OP-7 and Mr. Sunil Agarwal of OP-26 also stated in their statements recorded before the DG that Mr. Swaminathan of OP-107 used to attend the meetings of GPMA, and South Indian Kraft paper mills also used to discuss and increase the prices of finished paper.



148.3 When asked about the same, Mr. Swaminathan, in his statement recorded before the DG, admitted that *“Yes, I attended one (1) meeting in 2015 in Mumbai and another meeting in Vapi in around 2012”* and further stated that he also attended a GPMA meeting in 2017.

148.4 When asked about the discussions that took place in the 2017 GPMA meeting, Mr. Swaminathan stated that *“The attendees of the meeting were discussing price increase and price revision of Kraft papers. They were discussing how much price of Kraft paper is to be increased due to the cost of raw material”*. When asked how much price of Kraft paper SIKPMA informed its members to increase after the 2017 GPMA meeting, Mr. Swaminathan answered, *“Our association held a meeting on 28.01.2017 to discuss on participation in IPTA seminars in Chennai. In the said meeting, some members suggested to increase the price of Kraft paper by INR 2000 per ton. GPMA meeting held thereafter on 15.02.2017. My association i.e. South India Paper Mills Assn. suggested members in 28.01.2017 meeting to increase the price by INR 2000 per ton but members increased some price in bits and pieces in March and April 2017”*. He also stated that *“My association suggested the members to stop production in case of non-receiving of orders or non-receiving of raw material in 2017 itself”*.

148.5 When confronted with the MoM of GPMA meeting dated 15.03.2017, which he had attended, Mr. Swaminathan admitted that *“Yes, I admit that I attended the said meeting wherein GPMA decided to increase the price of Kraft paper by INR 2 per kg. I would like to disclose that earlier also GPMA decided to increase the price of Kraft paper. GPMA and Maharashtra paper mills were procuring raw material from South India at higher rate due to which our association had to increase the price of both Kraft paper and raw material”* and that *“I admit that GPMA and North India Paper Mills Assn used to inform me about their decisions related to price changes and shut-down of mills”*.

148.6 It is also noted from the DG Report that Mr. Swaminathan was in contact with Mr. Sunil Agarwal, President of GPMA, and he used to exchange messages regarding fixing of price of Kraft paper with him. Some such messages recovered from the e-mail dump of OP-108 show that on 10.03.2017, Mr. Swaminathan had forwarded the messages exchanged by him with Mr. Sunil Agarwal to OP-108:



6/14/2018

<https://outlook.office.com/owa/projection.aspx>

Reply all | Delete Junk | ...

(No subject)

K Swaminathan

Fri 3/10/2017, 9:13 AM

Vishnu <kraftnandhu2006@yahoo.co.in>

Reply all |

Sent Items

[15:48, 3/4/2017] +91 98400 57208: Price increased with effect of 04.03.17. As below

Upto 18 BF - ₹ 2.00

20 BF - ₹ 2.25

22 BF and above all ₹ 2.50

[15:48, 3/4/2017] +91 98400 57208: Yes

[15:48, 3/4/2017] +91 98400 57208: OK that means Rs 3000 increase from today onwards.

[16:05, 3/4/2017] +91 98400 57208: [04/03, 15:59] Gajanan sunil agarwal Gujarat Paper: Due to sudden spikes in waste paper, we are forced to increase prices of paper as below:

Upto 18 bf: 2/-

20 bf: 2.25/-

22 and above: 2.5/-

With immediate effect.

Sunil Agarwal

President Gpma

[04/03, 15:59] +91 98980 12569: Total increase till date in 2017 is 5/-

The aforesaid messages show that on 03.04.2017, Mr. Sunil Agarwal, President of GPMA and Mr. K. Swaminathan, informed each other about their respective price increase of Kraft paper.

148.7 When Mr. Swaminathan was confronted with the above messages, he admitted that he discussed the prices of Kraft paper with Mr. Sunil Agarwal over WhatsApp and forwarded the said messages through e-mail to Mr. Nandikeshwar of OP-108.

148.8 Mr. Swaminathan also exchanged price increase messages with HKPMA and *vide* the following e-mail dated 11.03.2017, forwarded the said messages to Mr. Nandikeshwar of OP-108:



Price revision

K Swaminathan

Sat 3/11/2017, 6:24 AM

Vishnu <kraftnandhu2006@yahoo.co.in> ✉

👍 🔄 Reply all | ▼

Sent Items

[04/03, 15:59] Gajanan sunil agarwal Gujarat Paper: Due to sudden spikes in waste paper, we are forced to increase prices of paper as below:
 Upto 18 bf: 2/- (total increase 5/kg)
 20 bf: 2.25/- (Total increase 5/kg)
 22 and above: 2.5/-(total increase 5/kg)
 With immediate effect.

Sunil Agarwal
 President Gpma

[10/03, 18:28] SHARMApapr(hyderabad Kraft paper mills assn)
 Thanks everbody for attending the Meeting at Hotel RoyalTon Abids. Gist of the meeting is :-
 1. Credit Period 30 days Maximum
 2. Rate hike a) 14-16 +bf Rs. 2.00 per kg(4/kg total increase)
 B) 18+ and above Rs. 3.00 per kg(total increase 5/kg)

3. Shut Program for month of March 5days

We sincerely hope that everybody would praticanate in above decisions.

148.9 When Mr. Swaminathan was confronted with the aforesaid messages, he admitted to having exchanged the same with Mr. Prem Paul Sharma, President of HKPMA as well as with Mr. Sunil Agarwal, President of GPMA.

148.10 Mr. Swaminathan also admitted that he attended some meetings of HKPMA and used to receive some e-mails regarding the decisions taken by HKPMA for price increase of Kraft paper and/or shut-down of Kraft paper mills. The DG, in this regard, noted that like Gujarat and Maharashtra paper mills have common interests, Hyderabad and South Indian paper mills also had a common interest in fixing the prices of finished paper due to their shared neighbourhood. Therefore, Mr. Swaminathan was in regular and frequent contact with HKPMA. The same is also evident from the following e-mails exchanged between HKPMA and Mr. Swaminathan:

(a) On 09.02.2016, HKPMA sent MoM dated 30.01.2016 to Mr. Swaminathan which meeting of HKPMA was attended by Mr. Swaminathan. In the said meeting, it was



decided by HKPMA to shut-down the paper mills on all Sundays but this was not agreed to by two paper mills. In the said meeting, members also discussed the prices of waste paper as well as of finished paper. The paper mills exchanged their selling price of Kraft paper and purchase price of raw material. It was decided in the meeting to hold the finished paper prices. When Mr. Swaminathan was confronted with the said e-mail, he admitted that he attended the said meeting of HKPMA and forwarded the e-mail received from HKPMA to Mr. Krishnaswami of OP-109, the President of SIKPMA.

(b) On 03.12.2015, Mr. Swaminathan forwarded an e-mail dated 03.12.2015 received from HKPMA to Mr. Krishnaswami of OP-109, President of SIKPMA, as well as certain other paper mills. In the said e-mail, HKPMA had sent the agenda of its meeting dated 01.12.2015 and MoM thereof. In the said meeting, it was decided by HKPMA to keep caution deposits with the association and penalise mills if they deviate from the decisions of HKPMA. Further, it was decided to hold the prices of finished paper. When Mr. Swaminathan was confronted with the said e-mail, he admitted having received the same and forwarded the same to the President of SIKPMA, Vice-President of SIKPMA, Mr. Nandikeshwar of OP-108 Mr. Vijay Sekhar of OP-97 and Mr. Manish Patel of OP-111, the former President of SIKPMA.

(c) On 26.08.2015, Mr. Swaminathan forwarded an e-mail dated 26.08.2015, received from HKPMA, to Mr. Krishnaswami of OP-109, President of SIKPMA, as well as certain other paper mills. In the said e-mail, agenda of HKPMA meeting dated 24.08.2015 and MoM thereof were attached. From the MoM of the said meeting, it is seen that in the said meeting, members discussed and shared selling price of Kraft paper and purchase price of waste paper. When Mr. Swaminathan was confronted with the said e-mail, he admitted that he received the said e-mail from HKPMA and forwarded the same to the President of SIKPMA and others.

(d) On 28.01.2015, Mr. Swaminathan forwarded an e-mail dated 28.01.2015 received from HKPMA to Mr. Krishnaswami of OP-109, President of SIKPMA, as well as to certain other paper mills wherein the agenda of HKPMA meeting dated



22.01.2015 and MoM of the same were attached. From the MoM of the said meeting, it is seen that in the said meeting, members discussed and shared the selling price of Kraft paper as well as purchasing price of waste paper. When Mr. Swaminathan was confronted with the said e-mail, he admitted that he received the said e-mail and forwarded it to various mills paper mills of SIKPMA.

- (e) An e-mail dated 03.03.2015 was also sent by OP-97 to different paper mills as well as to Mr. Swaminathan, wherein OP-97 attached a draft letter to be sent to the dealers/ customers regarding stopping of taking orders. When Mr. Swaminathan was confronted with the said e-mail, he admitted that he received the said e-mail from OP-97 to inform him as well as other paper mills regarding their stopping of taking orders.
- (f) On 20.02.2017, Mr. Swaminathan also forwarded an e-mail to OP-97 which contained the following letter sent to South India Corroborated Box Manufacturers Association informing that SIKPMA cannot consider their request to hold the price increase:



SOUTH INDIAN KRAFT PAPER MILLS ASSOCIATION

130, Bells Road, Triplicane, Chennai 600 005

Telefax No.28552098

www.southkraft.com

Email:southkraft2009@gmail.com

17th Feb.2017

Mr SK Ramaswamy

President

The South India Corr.Box.Mfrs Assn

Coimbatore Chapter

Coimbatore.

Sir,

Kraft Paper Price Revision

We are in receipt your letter by email and noted the contents therein. Our members tried to avoid this hike in price, but it seems inescapable and hope that you understand their situation.

Due to the influence of many factors, our members had to take this decision to survive in the industry. We have discussed with our Members and the members request the following for your consideration:

1. We have not raised the prices of our products for almost 3 years despite the continuous rise in all related inputs and expenses.
2. Labour costs have increased over 10 % annually .
3. Power cost has increased by 20%

There has been an undeniable rise in prices of raw-materials and fuels that we use. And The following costs increased considerably during the last 6 months;

4. Local Waste Paper	Rs. 2500 per ton
5. Imported Waste Paper	US \$ 70/ ton(till 10.2.17) &(US \$ 100/t 17.2.17)
6. Increase in dollar exch. rate	Rs.3 per dollar
7. Fuel, etc,	Rs.1000 per ton

All the above price increases are trust upon us without warning and time and we have no say in the purchase. We have silently absorbed all the above increases waiting for the market to stabilize or come down .

Further due to delay in getting the payments, higher working capital requirements has forced our members to pay higher interest.

The mills have been forced to stop their production as availability of raw materials is becoming scarce.

Our productivity rate and usage of the most advanced technologies in the market have allowed us to adjust the rise so that you, our loyal consumers, shall not bear the full brunt of the increase.

..2



SOUTH INDIAN KRAFT PAPER MILLS ASSOCIATION

130, Bells Road, Triplicane, Chennai 600 005

Tele No.28552098

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Email:southkraft2009@gmail.com

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We also wish to inform in advance that very strong indications are available from the market that raw material (local and imported) prices will further continue to rise to the abnormal levels, our members may be forced again to pass on some of the increase to your good selves. We only wish and hope that your members understand our precarious situation and cooperate with us for the survival of the industry.

For your information, 28 kraft paper mills in South India have closed down their Units due to heavy losses incurred during the last five years. Further, another 10 kraft paper mills are likely to get closed in view of the increasing trend in input costs. If the input cost escalation is not passed on atleast marginally like what we are doing now.

Due to the above facts put before you, we are unable to consider your request for holding the price rise for 1 ½ months.

We look forward to your continued support to our Members.

Thanking you,

Yours faithfully
for South Indian Kraft Paper
Mills Assn.

When Mr. Swaminathan was confronted with the aforesaid letter, he admitted that he issued the said letter on behalf of SIKPMA in response to a letter dated 08.02.2017 received from South India Corrugated Box Manufacturers Association, whereby they requested not to increase the price of Kraft paper. The above letter clearly shows that SIKPMA was involved in fixing/ increasing the price of Kraft paper and such price increase or fixing price by SIKPMA was a formal arrangement wherein it used to inform the customers or their associations on behalf of the members through written letters.

148.11 It is also on record that on 06.03.2013, a meeting of SIKPMA was held at Hotel Residency, Coimbatore wherein Mr. Swaminathan informed that the mills from Gujarat, Maharashtra and Hyderabad have increased their prices. The members of SIKPMA also decided to increase their prices by ₹1,000 PMT and a draft letter for price increase to be issued to the dealers/customers by the paper mills was also discussed. With regard to the above meeting, on 07.03.2013, Mr. Swaminathan sent an e-mail dated 07.03.2013 to OP-109 and OP-114 along with trailing e-mails. When



Mr. Swaminathan was confronted with the same, he admitted that he sent the said e-mail and a meeting was held on 06.03.2013 wherein the aforesaid discussions/decision took place.

148.12 On 13.04.2017, OP-97 also sent an e-mail to Mr. Swaminathan and others attaching a copy of its price increase circular. The said e-mail was forwarded by Mr. Swaminathan to the paper mills under SIKPMA. When Mr. Swaminathan was confronted with the said e-mail, he admitted that he sent the said e-mail to the other paper mills as OP-97 had informed about its price increase.

148.13 It is also noted from the DG Report that Mr. Swaminathan was a member of the WhatsApp group “NEWS Paper Mills”, wherein discussions regarding price of Kraft paper, price of raw material waste paper, and collective shut-down of mills took place. He himself admitted his membership in the said WhatsApp group before the DG.

148.14 It is also noted that the Informant had filed a letter dated 28.01.2017 issued by SIKPMA to its member paper mills to increase the price of Kraft Paper by ₹2,000 per ton from 01.02.2017, along with the Information. When confronted with the said letter, Mr. Swaminathan admitted to having issued the same. Mr. Swaminathan also confessed that SIKPMA was involved in deciding/suggesting/directing the members to increase the price of Kraft paper since 2012. He also confessed that he is aware that the conduct of SIKPMA, of discussing the price of Kraft paper and accordingly revising the same, is anti-competitive.

148.15 It is, thus, evident from the above WhatsApp communications and e-mails as well as confessional statements of Mr. Swaminathan that SIKPMA was involved in fixing the price of Kraft paper with HKPMA and GPMA.

148.16 It is also noted from the DG Report that, on 23.08.2015, Mr. Swaminathan sent an e-mail to Mr. Vijay Sekhar of OP-97 with a copy to certain other paper mills informing that he had spoken with Vishnupria Paper Mill and OP-113 regarding shut-down. The said e-mail was sent by Mr. Swaminathan on the appeal of another association *i.e.* APRPMA, to Telangana and Andhra Pradesh mills to shut-down their mills. When Mr. Swaminathan was confronted with the said e-mail, he admitted that he had sent the said e-mail. He also disclosed that APRPMA had appealed to SIKPMA to support the shut-



down decision and accordingly, SIKPMA also suggested its members to shut their mills.

148.17 The said e-mail and statement thereon of Mr. Swaminathan clearly indicates that SIKPMA was involved in collective shut-down of mills as well.

148.18 In its suggestions/objections to the DG Report, OP-107 made several submissions similar to those made by the other OPs. Further, it also submitted that the DG has not made any industry specific analysis. It has not placed on record any data or economic analysis of actual prices of the OPs, or data or analysis relating to the OPs' market share and total market, or data or analysis relating to entry and exit of Kraft paper mills during the period of investigation. In the absence of such data, the case of the DG seems to be solely built on sharing of price increase information and shut-down of mills. Whether exchange of such information actually led to any price increase or shut-down, or there were other reasons for such shut-down, has not been verified by the DG. Moreover, circumstances and market structure leading to such sharing of information have also not been considered by the DG. The DG has also not been able to prove that exchange of any information led to AAEC in India by creation of barriers to new entrants in the market, or driving of existing competitors out of the market, or foreclosure of competition in the market.

148.19 In regard to the above submissions made by OP-107 and the fact that such discussions and decisions were actually taken at OP-107 platform, the Commission notes that the provisions of Section 3(1) of the Act not only proscribe agreements which cause an AAEC in the market, but also forbid agreements which are likely to cause an AAEC in the market. Further, once an agreement of the types specified under Section 3(3) of the Act is established, the same is presumed to have an AAEC within India. Unless the parties are able to rebut such presumption of AAEC by showing positive effects emanating from the cartel activity in terms of the factors stated under Section 19(3) of the Act *i.e.* accrual of benefits to the consumers, improvement in production or distribution of goods or provision of services, or promotion of technical, scientific and economic development by means of production or distribution of goods or provision of services, the presumption of AAEC stands. In the present matter, OP-107 or any of the other OPs, have been unable to rebut such presumption. Thus,



discussions itself on collective price increase and collective shut-down at OP-107 platform compromised the ability of the competitors to act independently in the market. Hence, such discussions were likely to cause AAEC in the Kraft paper mills market in India and therefore, constitute an anti-competitive agreement within the meaning of Section 3(3) of the Act.

148.20 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-107 indulged in discussions with its members as well as with other associations like GPMA and HKPMA for increasing the prices of Kraft paper and for collective shut-down of paper mills, and also issued directives in this regard, which conduct amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft Paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act, from at least 2009 to 2017.

149. OP-108 (Vishnu Paper Products Private Limited)

149.1 It is noted from the DG Report that, from the e-mail account of Mr. S. Nanthikeswaran, Managing Director, as well as from the e-mail account of OP-108, the DG recovered several incriminating documents. The said e-mails received/sent by OP-108 show that Mr. Nanthikeswaran attended most of the SIKPMA meetings wherein members/attendees, including OP-108, discussed/decided the prices of Kraft paper and collective shut-down of paper mills.

149.2 In his statement recorded before the DG, Mr. S. Nanthikeswaran, acknowledged as under:

“SIKPMA used to conduct 3 – 5 meetings every year and as an office bearer of the above association I used to attend most of the meetings except when I am out of station or engaged due to my busy schedule. Mill owners from the states of Tamil Nadu, Kerala, Karnataka and Andhra Pradesh (before bifurcation of the state) used to attend the meetings of SIKPMA. Around the year 2017 onwards, mill owners from the state of Tamil Nadu alone regularly attend the meetings of SIKPMA. Other mill owners from Kerala, Karnataka, Telangana and Andhra Pradesh rarely attend the meetings of SIKPMA at present.

I am Honorary Vice President of SIKPMA since 2010.



In the SIKPMA meetings, attendees used to discuss the price of Kraft Paper, price of waste paper, collective shutting down of mills, policy decisions of the government in different states representing the mills, duties/taxes, electricity issues and pollution relation matters. SIKPMA also used to record discussions/decisions of the meetings and communicate it to its members/attendees through post, email and WhatsApp group namely “South India Kraft Paper Mills Association”.

149.3 When Mr. Nanthikeswaran was confronted with the recovered e-mails, he further acknowledged as under:

“I admit that my company has received/sent the above emails. As the Vice President of SIKPMA and MD of VPPP I have attended most of the meetings of SIKPMA. During the meeting attendees including me discussed the price of Kraft Paper, the price to be fixed of waste paper and collective shutting down of mills. Accordingly, Shri K. Swaminathan used to communicate the decisions of SIKPMA to its members/attendees including my company. SIKPMA’s members increased the price of Kraft Paper due to heavy increase in the input cost. The decision of SIKPMA to shut-down the member mills collectively because of the scarcity of waste paper. My company was also collectively implemented the price hike decision of SIKPMA due to heavy increase in the input cost. Regarding shut-down VPPP also shut-down its mills partially as per the SIKPMA decision, due to shortage of raw material.”

149.4 It is also noted from the DG Report that Mr. Nanthikeswaran was a member of WhatsApp groups “South India Kraft Paper Mills” and “Pondy Group”.

149.5 From the backup of “Pondy Group”, the DG noted that its members including Mr. Nanthikeswaran used to exchange prices of Kraft paper and decide collective shut-down of mills. When Mr. Nanthikeswaran was confronted with the backup of the said WhatsApp group, he confessed that he was a member of the same in which members used to send messages regarding shut-down of mills, prices of waste paper and prices of finished Kraft paper in Puducherry. Further, he stated that Mr. K. Swaminathan of OP-107 also used to share the decisions of SIKPMA in the said WhatsApp group regarding shut-down of mills and price of Kraft paper in Puducherry.

149.6 When Mr. Nanthikeswaran was confronted with the backup of WhatsApp group “South India Kraft Paper Mills”, he admitted that he, along with other mill owners of South India, were members of the said WhatsApp group.



149.7 During the course of his statement, Mr. Nanthikeswaran also confessed that OP-108's manufacturing plant was shut-down from 11.02.2017 to 15.02.2017 (partially or fully) and from 11.03.2017 to 15.03.2017, as per the decisions taken by SIKPMA.

149.8 In its suggestions/objections to the DG Report, OP-108 made submissions, *inter alia*, similar to those made by the other OPs, especially OP-107. The same have already been dealt with in the earlier parts of the present order. OP-108 also tried to explain the context of the various e-mails recovered from the e-mail ID of Mr. Nanthikeswaran. However, in the opinion of the Commission, in light of the statement of admission given by Mr. Nanthikeswaran, such explanations do not hold much water.

149.9 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-108 was part of the discussions held at SIKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by SIKPMA, fully or partially, in this regard. Such conduct of OP-108 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

150. OP-109 (Sripathi Paper and Boards Private Limited)

150.1 It is noted from the DG Report that Mr. R. Krishnaswamy, Chairman and Managing Director of OP-109, was the President of SIKPMA. In his statement recorded before the DG, Mr. Krishnaswamy acknowledged as under:

“As a member I started to attend the meetings from 2003 i.e. since the inception of SPB. I became the President of SIKPMA in 2011-12 and used to attend 4-5 meetings every year. ... Informally we also used to discuss in the meetings about the market conditions, the current price of Kraft Paper, waste paper, chemicals, coal supply situation, power situation, demand of Kraft Paper and other general discussions.”

150.2 It is also noted from the DG Report that Mr. Krishnaswamy was a member of WhatsApp groups “NEWS Paper Mills” and “South India Kraft Paper Mills”. In this regard, Mr. Krishnaswamy admitted in his statement as under:

“In the above WhatsApp groups, members used to exchange information regarding domestic/import price of waste paper, price increase/decrease of



Kraft Paper at various cities, shutting down of mills, pollution/power/water/Tax related matters, developments in Kraft Paper industry in various locations.”

150.3 He also confessed that “... SPB used to receive communications regarding meetings/MOM. May be SPB has also received information regarding market scenario which includes price of Kraft Paper, raw materials such as waste paper, chemicals, power and fuel etc....”

150.4 From the backup of the WhatsApp group, namely, “NEWS Paper Mills”, it is observed that Mr. Krishnaswamy shared the following message in the same on 22.02.2017 at 12:49:51 regarding shut-down of his company’s manufacturing plant:

[22/02/17, 12:41:57] +91 98253 43288: Auto plant association sending mails that they will not unload material from 23 to 26feb. So as per my opinion we should shut our plant 27,28 Feb and 1st March.

[22/02/17, 12:42:31] +91 98253 43288: Also continue shut down schedule 11 to 15 March.

[22/02/17, 12:43:01] +91 98253 73002: Right sunilbhai

[22/02/17, 12:43:02] +91 98253 73002: 🍌☐

[22/02/17, 12:49:51] +91 98422 24323: It is not fair for auto plants not accepting the deliveries in protest against our shut. We have stopped our machines just to cut excess production so that our raw material price won't go up further and also we may pass the increase in raw material price . On the contrary auto plants are buying paper cheaper than other corrugators and still raising their voices. We will appreciate if they recognise our problem in the light of global prices of waste paper as well as finished goods.

It can be seen from the aforesaid messages that one Mr. Sunil Patel informed that the auto plant association will not upload material from 23.02.2017 to 26.02.2017. Thereafter, Mr. Sunil Patel further informed to continue the shut-down schedule from 11.03.2017 to 15.03.2017. In response to the said message, Mr. Krishnaswamy replied that the mills have stopped production to cut excess production so that raw material prices do not increase further.

150.5 It is also noted from the DG Report that the manufacturing plant of OP-109 was in fact shut-down from 11.03.2017 and 15.03.2017 (partially) and from 12.03.2017 to 14.03.2017 (fully) which dates match the shut-down schedule mentioned in the above message. The manufacturing plant of OP-109 was also shut on 11.02.2017 and 15.02.2017 which dates also match the shut-down schedule declared by SIKPMA. Mr.



Krishnaswamy also admitted to such shut-downs. He also admitted that the members of SIKPMA used to discuss about collectively shutting down of mills in order to reduce losses and control the prices of the waste paper.

150.6 When Mr. Krishnaswamy was confronted with certain MoMs/Gist of Meetings of SIKPMA dated 28.02.2009, 06.03.2013, 15.07.2014, 03.03.2016 and 28.01.2017, which meetings he had attended, he confessed that he had attended the said meetings of SIKPMA wherein members/attendees discussed the prices of Kraft paper, prices of waste paper, and also decided to increase the prices of Kraft paper and control the prices of waste paper.

150.7 Mr. Krishnaswamy was also confronted with the MoM of GPMA meeting dated 13.03.2017 which was also attended by Mr. Swaminathan, Secretary, SIKPMA. It is seen from the said MoM that, in the said meeting, GPMA had decided to increase the prices of Kraft Paper @ ₹2 per kg with immediate effect. On this MoM, Mr. Krishnaswamy admitted that Mr. Swaminathan had attended the said meeting of GPMA to know the prices of Kraft paper and price of waste paper in Gujarat and Maharashtra region.

150.8 Mr. Krishnaswamy was also confronted with the e-mail dated 28.08.2015 sent by SIKPMA to its Vice President. Via said e-mail, Mr. Swaminathan had informed the Vice-President about OP-109 confirming the stoppage of production for Saturdays and Sundays in the month of September 2015. It is noted from the DG Report that the manufacturing plant of OP-109 was, in fact, shut on 05.09.2015 and 06.09.2015 (Saturday and Sunday). On this, Mr. Krishnaswamy admitted that OP-109's manufacturing plant was shut-down on these dates to reduce losses.

150.9 Mr. Krishnaswamy was also confronted with the e-mail dated 16.08.2011 sent by Mr. Swaminathan to OP-109 along with agenda of SIKPMA meeting to be held on 27.08.2011 at Hotel Atria, Bengaluru. It is seen from the agenda shared that Mr. Swaminathan had shared information to OP-109 regarding increase in price of Kraft paper @ ₹1,250 from 06.08.2011 by GPMA. In regard to this e-mail, Mr. Krishnaswamy again admitted that OP-109 had received the said e-mail.

150.10 Mr. Krishnaswamy was also confronted with other e-mails dated 09.02.2016, 03.12.2015, 26.08.2015 and 28.01.2015 sent to OP-109 by Mr. Swaminathan. It is seen



from the said e-mails that Mr. Swaminathan forwarded the MoMs of HKPMA meetings regarding increase in the prices of Kraft Paper. In regard to these e-mails, Mr. Krishnaswamy admitted that OP-109 received the said e-mails and the same were sent by Mr. Swaminathan for information purposes.

150.11 Mr. Krishnaswamy was also confronted with another e-mail dated 13.04.2014 along with price increase letter sent by Mr. Swaminathan to OP-109 whereby the price increase decision of Kraft paper of OP-97 was communicated by it to HKPMA and subsequently the same was forwarded to Mr. Swaminathan. Mr. Krishnaswamy admitted that the aforesaid e-mail was sent to OP-109 for information purposes.

150.12 In its suggestions/objections to the DG Report, OP-109 made submissions, *inter alia*, similar to those made by the other OPs, especially OP-107. The same have already been dealt with in the earlier parts of the present order.

150.13 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-109 was part of the discussions held at SIKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by SIKPMA, fully or partially, in this regard. Such conduct of OP-109 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

151. OP-110 (Sri Pariyur Amman Kraft Papers Private Limited)

151.1 It is noted from the DG Report that Mr. K. M. Shanmugha Perumal, Managing Director, used to attend the meetings of SIKPMA and he was a member of WhatsApp group “Coimbatore Mills” and from his e-mail account, WhatsApp chats “Kapil Akesra” and “Directors Pariyurammam” were also recovered.

151.2 In his statement recorded before the DG, Mr. Perumal acknowledged as under:

“... SPAK is a member of South India Kraft Paper Mills Association (SIKPMA) since 2009 (Appx.). SIKPMA used to conduct 3 – 4 meetings every year and I used to attend one or two meetings in a year. ... I have attended a maximum of 8 –10 meetings of SIKPMA till date. In the SIKPMA meetings in which I have attended attendees discussed issues related to price of waste paper



domestic/imported, price of Kraft Paper, shutting down of mills due to shortage of waste paper/lack of orders, pollution norms, central government schemes, post budgetary discussions, GST matters, recovery of bad debts etc.

SPAK used to receive email message, WhatsApp message or telephone calls from Shri K. Swaminathan, Secretary of SIKPMA. SIKPMA sometimes send Agenda and MOM/gist of the meetings through email.”

151.3 Further, when confronted with various MoMs of SIKPMA, Mr. Perumal confessed attending the said meetings and implementing the Kraft paper price increase decisions taken therein.

151.4 Mr. Perumal also acknowledged that he attended one meeting of HKPMA dated 23.03.2014 wherein he gave a presentation on Kraft paper pricing and price index. He confessed that in the said meeting, attendees/members also discussed purchasing price of waste paper and selling price of Kraft paper. Such statement of Mr. Perumal points to the fact that Mr. Perumal was also in contact with HKPMA for discussing/deciding the prices of Kraft paper.

151.5 It is seen from the WhatsApp chat of “Kapil Akesra” that Mr. Perumal exchanged messages regarding price of waste paper, prices of Kraft Paper with one Mr. Kapil of Aksara Paper Mill, Erode, Tamil Nadu. When Mr. K. M. Perumal was confronted with the said WhatsApp chat, he confessed that he used to exchange the price of Kraft paper and waste paper with Mr. Kapil of Aksara Paper Mill.

151.6 Hence, admittedly, OP-110 was involved in fixing and increasing the price of Kraft paper in collusion with other members of SIKPMA.

151.7 It is further seen that on 10.03.2017 at 08:06:24, Mr. Perumal shared a message in chat “Directors Pariyurammam” regarding shut-down of paper and board mills from 11.03.2017 to 15.03.2017. The said dates of shut-down match the shut-down dates declared by SIKPMA and observed by many other paper mills of South India. Mr. Perumal also shared a message regarding the decision of the mills to collectively increase the price of Kraft paper by ₹2,000 PMT again and totalling ₹4,000/- PMT. On this chat, Mr. K. M. Perumal confessed that OP-110’s manufacturing plant was closed on the aforesaid days as per the decisions of SIKPMA. It is further noted that the manufacturing plant of OP-110 was also shut from 11.02.2017 to 15.02.2017 (5 days) which dates also match the shut-down decision of SIKPMA. When Mr. K. M. Perumal



was confronted with the same, he confessed that OP-110's manufacturing plant was shut-down on the aforesaid dates as per the decision of SIKPMA.

151.8 Further, when Mr. Shanmugha was confronted with the e-mail dated 28.08.2015 sent by SIKPMA to OP-110, wherein OP-110 had confirmed the stoppage of production for Saturdays and Sundays in the month of September 2015, he admitted that the company's manufacturing plant was shut-down on the aforesaid days. It is also noted from the DG Report that the manufacturing plant of OP-110 was indeed shut-down on 05.09.2015, 06.09.2015, 13.09.2015, 20.09.2015 and 27.09.2015 (Saturday/Sunday).

151.9 The said matching of shut-down dates as well as statement of Mr. Perumal shows that OP-110 was involved in collective shut-down of mills as well.

151.10 In its suggestions/objections to the DG Report, OP-110 made submissions, *inter alia*, similar to those made by the other OPs, especially OP-107. The same have already been dealt with in the earlier parts of the present order.

151.11 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-110 was part of the discussions held at SIKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by SIKPMA, fully or partially, in this regard. Such conduct of OP-110 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

152. OP-111 (The South India Paper Mills Limited)

152.1 It is noted from the DG Report that Mr. Manish Patel, Managing Director, used to attend the meetings of SIKPMA and he was a member of the WhatsApp groups "South India Kraft Paper Mills" and "Karnataka Mills", as well as "NEWS Paper Mills" wherein discussions regarding price of Kraft paper, price of raw material waste paper, and collective shut-down of mills took place. Mr. Patel himself admitted to his membership in the said WhatsApp groups before the DG.

152.2 In his statement recorded before the DG, Mr. Manish Patel acknowledged as under:



“TSIP is a member of South Indian Kraft Paper Mills Association (SIKPMA) since the inception of SIKPMA that is in the late 1980’s. TSIP is paying annual subscription calculated on the actual production of Kraft Paper in a year multiplied by Re.1/–.

Yes, myself or Shri Ramprasad, GM Commercial used to attend the meetings of SIKPMA. I used to attend one meeting every year if possible. As far as I can remember, I have attended 2 – 3 meetings in the last 3 years. Those meetings which were not attended by me but attended by Shri Ramprasad, he used to inform the discussions of SIKPMA after the meetings.

In the SIKPMA meetings members used to discuss various topics such as prevailing market conditions of Kraft Paper/its price, government policies, pollution matters, waste paper availability/price, information about new Kraft Paper plants, closure of Kraft Paper plants, bad debt recovery etc.

Myself and Shri Ramprasad are members of the WhatsApp group namely “South India paper mills” and “Karnataka Mills”. ...

In the WhatsApp group “South India paper mills” members used to discuss about scheduling of meetings of SIKPMA, availability & price of waste paper, sale price of Kraft Paper in various markets of various grades prevailed in South India, pollution related matters, GST, government policies etc.

... I was a member of the WhatsApp namely “NEWS PAPER MILLS.”

152.3 It is also noted from the DG Report that Mr. Manish Patel was one of the Directors in OP-48, which has also been found to be involved in anti-competitive activities as discussed in previous part of the present order. When Mr. Manish Patel was asked by the DG whether any director/employee of OP-48 had informed him about collective shut-down decision and price increase of Kraft paper by GPMA, he confessed that Mr. Ajay, another Director of OP-48 who is also his cousin, had informed him that there were discussions amongst the mill owners of west zone in December 2016 or January 2017, to collectively shut-down paper mills and increase price of the Kraft paper. Mr. Manish Patel also admitted that he once exchanged price of the Kraft Paper of OP-111 with Mr. Rajesh Modi, another Director of OP-48. It is rather noted from the WhatsApp chats backup of Mr. Manish Patel with Mr. Rajesh Modi, as retrieved by the DG from the mobile phone of Mr. Patel that, he was regularly getting information on prices of other paper mills from Mr. Rajesh Modi.

152.4 It is further noted from the DG Report that Mr. Manish Patel also attended the HKPMA meeting dated 23.03.2014 wherein he gave suggestions regarding production



of higher BF of Kraft paper and stoppage of lower BF production. When confronted with MoM of this meeting, Mr. Patel admitted that he attended the said meeting and stated that, in the said meeting, members discussed the gap between demand and supply as well as the way to resolve the excess supply of Kraft paper.

152.5 Mr. Manish Patel was also confronted by the DG with certain MoMs of SIKPMA whereby he admitted to having attended those meetings either himself or through some other person of OP-111 and in which price increase and collective shut-down of mills decisions were taken. It is also noted from the DG Report that the manufacturing plant I of OP-111 was partially shut on 19.09.2015 and 20.09.2015 (Saturday and Sunday), and plant IV partially shut on 05.09.2015 (Saturday) and 27.09.2015 (Sunday), and fully shut on 19.09.2015 (Saturday), 20.09.2015 (Sunday) and 26.09.2015 (Saturday), in accordance with the SIKPMA decisions. Further, OP-111's machine – I was also shut from 11.02.2017 to 14.02.2017, which dates also match the shut-down declared by SIKPMA.

152.6 Mr. Manish Patel was also confronted by the DG with the e-mail dated 16.08.2011 sent by Mr. Swaminathan, Secretary of SIKPMA, along with agenda of SIKPMA meeting to be held on 27.08.2011 at Hotel Atria, Bengaluru. It is seen from the said agenda that Mr. Swaminathan shared information regarding increase in price of Kraft paper @ ₹1,250 from 06.08.2011 by GPMA. In this regard, Mr. Manish Patel admitted that he received the said e-mail and that the said e-mail was sent to him for convening the SIKPMA meeting at Bengaluru.

152.7 In its suggestions/objections to the DG Report, OP-111 made several submissions, *inter alia*, similar to those made by the other OPs. The same have already been dealt with in the earlier parts of the present order.

152.8 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-111 was part of the discussions held at SIKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by SIKPMA, fully or partially, in this regard. Such conduct of OP-111 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production,



supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

152.9 With respect to penalty, OP–111 made several submissions similar to those argued by the other OPs in the matter.

152.10 Such submissions made by OP–111 shall be considered in the subsequent part of the present order, where imposition of penalty is dealt with.

153. OP–112 (Suryaans Paper)

153.1 It is noted from the DG Report that Mr. Vinod Kumar Patel, Managing Partner, used to attend the meetings of SIKPMA and he was in fact, the Treasurer of SIKPMA also. He was also a member of the WhatsApp group, namely, “South India Kraft Paper Mills”.

153.2 In his statement recorded before the DG, Mr. Vinod Kumar acknowledged as under:

“SP is a member of South Indian Kraft Paper Mills Association (SIKPMA) and SP is paying annual subscription @ Re.1/- per ton of the total actual production of Kraft Paper of SP during every year. Myself and Shri Unnat Patel attended about 10 meetings of SIKPMA. ...

In the SIKPMA meetings members used to discuss regarding waste paper availability & shortage, price of waste paper, price of Kraft Paper, increase in the price of Kraft Paper, pollution matters, technical issues, GST matters etc.

Yes, for the last 7 – 8 months, I am Treasurer of SIKPMA.

Yes, I am a member of the WhatsApp group namely “South India Paper Mills” for the last 2 – 3 years. ...

In the WhatsApp group namely “South India Paper Mills” members used to discuss regarding waste paper availability & shortage, fixing the purchase price of waste paper, price of Kraft Paper, hike in the price of Kraft Paper, pollution matters, technical issues and GST matters.”

153.3 When asked about how Mr. Vinod Kumar got information about SIKPMA meetings, he answered:

“I used to get telephone calls or SMS or receive email message from Shri K. Swaminathan, Secretary of SIKPMA to SP’s email id i.e. suryaanspaper@gmail.com .”



153.4 Mr. Vinod Kumar further stated that *“Yes, SP used to receive Gist of the Meeting after the SIKPMA meetings. Sometimes SP received circulars/communications from SIKPMA”*.

153.5 When confronted with two Gist of Meetings of SIKPMA where prices of Kraft paper and/or collective shut-down of paper mills was discussed, Mr. Vinod Patel admitted that he attended the said meetings and prices and shut-downs were discussed therein. He also confessed that OP-112 issued price hike circulars to its customers and implemented plant shut-downs, as per SIPKMA price hike decisions taken in such meetings.

153.6 When confronted with an e-mail dated 28.08.2015 sent by Mr. K. Swaminathan, Secretary of SIKPMA, where decision of stoppage of production by 23 Kraft paper mills of South India including OP-112 on Saturdays and Sundays in September 2015 was shared, Mr. Vinod Patel admitted that his firm used to communicate to Mr. Swaminathan regarding shut-down of OP-112's plant.

153.7 It is also noted from the DG Report that Mr. Vinod Patel attended the meeting of GPMA dated 15.03.2017, along with Mr. Swaminathan, Secretary of SIKPMA, wherein discussions regarding fixation of prices, shutting down of mills, etc., were held. In this regard, Mr. Nimish Shah of OP-6 had also stated in his statement before the DG that meetings dated 15.02.2017 and 15.03.2017 were attended by Mr. Vinod Patel of OP-112 amongst others. On being confronted with the MoM of the GPMA meeting dated 15.02.2017, Mr. Vinod Patel admitted that he attended the said meeting and *“In the above GPMA meeting it was decided to hike the price of Kraft Paper by Rs.2 Per KG, benefit of collective shut-down of mills, discussed the price of waste paper etc.”*

153.8 It is further noted from the DG Report that SIKPMA had sent an e-mail dated 04.12.2014 to OP-112 and other mills related to SIKPMA sharing information regarding prices of waste paper, Kraft paper and collective shut-down of mills in Delhi region. Further, e-mails dated 19.04.2014, 26.08.2015, 04.12.2014, 04.12.2014 and 16.08.2011, were also sent by SIKPMA to OP-112 and others to control the price of waste paper. It is also seen that SIKPMA shared MoM of HKPMA meetings dated 25.11.2014 and 24.08.2015 with OP-112. It can be seen from the MoMs of the said

meetings that members/ attendees discussed and shared selling price of Kraft paper and purchasing price of waste paper in such meetings. On all such e-mails, Mr. Vinod Kumar Patel admitted that he received the said e-mails.

153.9 OP-112 had also sent an e-mail dated 02.12.2014 to other SIKPMA paper mills where Mr. Vinod Patel mentioned that paper mills owners should remain united and suggested collective price increase/ decrease price of Kraft paper.

153.10 It is furthermore noted from the DG Report that the manufacturing plant of OP-112 was shut-down on many dates which almost match the collective shut-down schedule decided by SIKPMA. Details of the same are as follows:

S. No.	Dates of shut-down declared by SIKPMA	Dates of shut-down of OP-112
1	11.02.2017 to 15.02.2017	11.02.2017 (partially – nominal production) and 12.02.2017 to 15.02.2017 (fully)
2	11.03.2017 to 15.03.2017	11.03.2017 and 15.03.2017 (partially – nominal production) and 12.03.2017 to 14.03.2017 (fully)

153.11 In its suggestions/objections to the DG Report, OP-112 made submissions, *inter alia*, similar to those made by the other OPs, especially OP-107. The same have already been dealt with in the earlier parts of the present order.

153.12 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-112 was part of the discussions held at SIKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by SIKPMA, fully or partially, in this regard. Such conduct of OP-112 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

154. OP-113 (Sastha Paper Mills Private Limited)

154.1 It is noted from the DG Report that Mr. Annamalai Perikaruppan, Managing Director, was the Treasurer of SIKPMA for 15 years. In his statement recorded before the DG, Mr. Annamalai Perikaruppan acknowledged as under:



“I was the Treasurer of South India Kraft Paper Mills Association (SIKPMA) for the last 15 years (Appx.) i.e. till February 2018. I used to attend the meetings of SIKPMA during the above period, if the meeting of the above Association is being held in Chennai. SPMP is a member of SIKPMA since its inception of my company. ...

In the SIKPMA meetings members used to discuss about purchase price of waste paper, selling price of Kraft Paper, government policies, pollution issues, market scenario, GST/Excise related matters, shutting down of mills. SIKPMA used to conduct 3 – 4 (Appx.) meetings in a year. I have attended most of the meetings of SIKPMA held in Chennai because I am staying there. SPMP is to pay annual subscription @ Re.1/- Per Ton of the total actual production of Kraft Paper in a year, but I have paid the amount after rounding off to the nearest Rs.5000/- (Appx.)”

154.2 When confronted with two MoMs of SIKPMA where prices of Kraft paper and/or collective shut-down of paper mills was discussed, Mr. Perikaruppan admitted that he attended the said meetings and Kraft paper prices and collective shut-down of mills was discussed therein. It is also seen from the MoMs of the said meetings that in the same, attendees/members discussed about finished paper price and purchase price of waste paper of other regions.

154.3 When confronted with various e-mails dated 16.08.2011, 07.03.2013 and 04.12.2014 (containing MoM of HKPMA meeting dated 25.11.2014) sent by SIKPMA to OP-113 and other paper mills related to SIKPMA, Mr. Perikaruppan admitted receipt of the aforesaid e-mails. Similarly, he also admitted receipt of the e-mail dated 02.12.2014 from OP-112 and e-mail dated 04.12.2014 from OP-97 (regarding price hike of Kraft paper and price increase of waste paper in the Delhi region).

154.4 From his e-mail ID, e-mail dated 20.03.2010 sent by Mr. S. R. Rabinder of Sennar Paper & Boards Ltd. along with trailing e-mails was also recovered. The trailing e-mail was a circular dated 20.03.2010 in the name of Andhra Pradesh Small Paper Mill Association regarding price increase of Kraft paper w.e.f. 19.03.2010 due to increase in the price of waste paper. Further, in the said e-mail, there is mention of three-time price increase of Kraft Paper on 28.01.2010, 24.02.2010 and 06.03.2010. It is also mentioned in the circular to maintain a minimum revised basic price for various grades of Kraft paper. When Mr. Perikaruppan was confronted with the said e-mail, he admitted receipt of the same.



154.5 Also, another e-mail dated 02.03.2013 sent by OP-113 to one Mr. Sethu along with trailing e-mail sent by Mr. Swaminathan, Secretary of SIKPMA to OP-109, was recovered. In the said e-mail, Mr. Swaminathan had shared the price increase of Kraft paper by ₹1,000 PMT (total increase of ₹2,000 PMT) by the mills from Gujarat and Maharashtra. When Mr. Perikaruppan was confronted with the said e-mail, he admitted receipt of the same.

154.6 In his statement recorded before the DG, Mr. Perikaruppan also admitted as follows:

“Yes during the SIKPMA meeting members/attendees discussed and share the price of Kraft Paper and purchase price of waste paper.”

“Members including me used to discuss the prices of Kraft Paper at which we were selling, the prices at which we were purchasing the waste paper and collective shut-down of mills, on few occasions, because we wanted to know the market trend. Since my company and the other members were not able to get the required price of Kraft Paper that is why on few occasions during the period after 2009 till my tenure in 2017, we discussed that the required prices can be tried to be obtained by collective shut-down of mills. ...”

154.7 In its suggestions/objections to the DG Report, OP-113 made submissions, *inter alia*, similar to those made by the other OPs, especially OP-107. The same have already been dealt with in the earlier parts of the present order.

154.8 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-113 was part of the discussions held at SIKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by SIKPMA, fully or partially, in this regard. Such conduct of OP-113 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

155. OP-114 (Kovai Maruthi Papers and Boards Private Limited)

155.1 It is noted from the DG Report that Mr. M. Rajagopalan, Managing Director, and Mr. K. Soundararajan, were members of a WhatsApp group, *namely*, “South India Kraft Paper Mills”. With regard to the discussions been held in the said group, Mr. Rajagopalan stated before the DG as under:



“In the WhatsApp group namely “South India paper mills” members discussed about pollution related issues, price of Kraft Paper, availability & purchase price of waste paper both local/imported, chemicals related, labour shortage, bad debts, accidents occurred in the factories & the ways to prevent it, technology up-gradation, energy saving issues, Central Excise/GST related matters, government policies and budget related matters.”

155.2 In his statement recorded before the DG, Mr. Rajagopalan also acknowledged as under:

“KMPB is a member of South Indian Kraft Paper Mills Association (SIKPMA) since 1997 (Appx.). SIKPMA’s annual subscription is @ Re.1/- multiplied by the actual production of Kraft Paper in MT during the year. KMPB paid Rs.24,000/- for the year 2018-19 on 12.04.2019. Either me or Shri K. Soundararajan, Executive Director attended one or two meetings of SIKPMA in a year ...

In the SIKPMA meetings being attended by me members used to discuss about pollution related issues, discussing the price of Kraft Paper, availability & purchase price of waste paper both local/imported, chemicals related, labour shortage, bad debts, accidents occurred in the factories & the ways to prevent it, technology up-gradation, energy saving issues, Central Excise/GST related matters, government policies and budget related matters

I am aware that in the SIKPMA meetings members/attendees discussed about collective shutting down of mills.”

155.3 He also admitted before the DG that he used to receive telephonic calls/e-mails/WhatsApp messages/SMSs from Mr. K. Swaminathan, Secretary of SIKPMA, regarding the meetings of SIKPMA. When confronted with various MoMs of SIKPMA where prices of Kraft paper and collective shut-down of mills were discussed, Mr. Rajagopalan admitted that he attended the said meetings and that prices and collective shut-downs were discussed therein. He also confessed that OP-114 had to increase the prices of Kraft Paper partially because of heavy increase in input costs as per the SIKPMA decisions.

155.4 When confronted with another gist of Meeting of SIKPMA wherein it was decided to shut-down the mills on Saturdays and Sundays from September 2015, Mr. Rajagopalan admitted to have attended the said meeting and that OP-114’s manufacturing plant was partially shut-down on the aforesaid days. It is also noted from the DG Report that the



manufacturing plant of OP-114 was, in fact, partially shut on 06.09.2015 (Sunday), 12.09.2015 (Sunday) and 20.09.2015 (Sunday).

155.5 It is also noted from the DG Report that the manufacturing plant of OP-114 was shut on 11.02.2017, 13.02.2017 and 14.02.2017 (3 days fully shut), 12.02.2017 and 15.02.2017 (2 days partially shut), and 13.03.2017 and 14.03.2017 (2 days fully shut) and 15.03.2017 (partially shut), which dates match the shut-down decisions of SIKPMA. On this, Mr. Rajagopalan confessed that OP-114's manufacturing plant was shut-down as per the decisions of SIKPMA.

155.6 In its suggestions/objections to the DG Report, OP-114 made submissions, *inter alia*, similar to those made by the other OPs, especially OP-107. The same have already been dealt with in the earlier parts of the present order.

155.7 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-114 was part of the discussions held at SIKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by SIKPMA, fully or partially, in this regard. Such conduct of OP-114 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

156. OP-115 (Jagdhatri Papers Private Limited)

156.1 It is noted from the DG Report that Mr. Satish Kumar Goel, Director, was a member of WhatsApp group, *namely*, "South India Kraft Paper Mills" wherein members used to discuss the selling prices of Kraft paper, purchase price of waste paper and shut-down of paper mills. With regard to the discussions held in the said group, Mr. Goel stated before the DG as under:

"In the abovementioned WhatsApp group members including me discussed about government policies, pollution related matters, GST/Central Excise and purchase price of imported waste paper."

156.2 In his statement record before the DG, Mr. Satish Goel also acknowledged as under:

"Yes, JPPL is a member of South Indian Kraft Paper Mills Association (SIKPMA) since 2008 (Appx.). JPPL paid Annual Membership Fee every year"



@ Re.1/- of the total production of Kraft Paper in MT. SIKPMA used to conduct 3 – 4 meetings every year and I used to attend 2 – 3 meetings in a year. Representing JPPL, I alone have attended the meetings of SIKPMA. I have attended a total of 10 – 15 (Appx.) meetings of SIKPMA.

In the SIKPMA meetings in which I have attended, attendees discussed about price of Kraft Paper, purchase price of waste paper local/imported, pollution related matters, government policies, GST/Central Excise, bad debts and collective shutting down of mills.”

156.3 Mr. Goel also admitted that he attended one meeting of HKPMA wherein members/attendees discussed about the selling price of Kraft Paper, purchasing price of waste paper and collective shut-down of paper mills.

156.4 When confronted with three MoMs of SIKPMA, Mr. Goel admitted to have attended the said meetings and that discussions on Kraft paper prices and collective shut-down took place therein. He admitted that the price increase decisions taken in SIKPMA meeting were implemented by OP-115, though belatedly, and it is also noted from the RG-1 Register of OP-115 that the mill of OP-115 was, in fact, shut on 19.09.2015 (Saturday) and 27.09.2015 (Sunday) (partially), which days match the collective shut-down days decided in the SIKPMA meeting.

156.5 In its suggestions/objections to the DG Report, OP-115 made submissions, *inter alia*, similar to those made by the other OPs, especially OP-107. The same have already been dealt with in the earlier parts of the present order.

156.6 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-115 was part of the discussions held at SIKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by SIKPMA, fully or partially, in this regard. Such conduct of OP-115 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

157. OP-116 (Sri Andal Paper Mills Private Limited)

157.1 It is noted from the DG Report that Mr. S. Velliangiri, Former Director, in his statement recorded before the DG, acknowledged as under:



“Yes, SAPM was a member of South Indian Kraft Paper Mills Association (SIKPMA) during my tenure as a Director. I have attended 4 – 5 meetings of SIKPMA. Representing SAPM, I alone have attended the meetings of SIKPMA.

In the meetings of SIKPMA in which I have attended, members/attendees discussed about power related matters, debt recovery, increasing the price of Kraft Paper, purchase price of waste paper and shutting down of mills. After attending the meetings of SIKPMA I used to inform Shri P. Subramaniam, MD of SAPM about the discussion/decisions held in the above association meetings. SAPM used to implement the decisions of SIKPMA partially taking into consideration the prevailing situation including purchase price of waste paper and selling price of finished paper.”

157.2 When confronted with MoM of SIKPMA dated 06.03.2013, Mr. Velliangiri admitted that Mr. Selvaraj, Former Director, had attended the said meeting and that discussions and decision on increasing Kraft paper prices took place therein. Further, when confronted with the MoM of SIKPMA dated 15.07.2014, Mr. Velliangiri admitted that he attended the said meeting wherein members/attendees discussed the purchasing price of waste paper and selling price of Kraft paper. When confronted with the Gist of SIKPMA meeting dated 20.08.2015, Mr. Velliangiri admitted that he attended the said meeting wherein members/attendees discussed purchasing price of waste paper and collective shut-down of paper mills on all Saturdays and Sundays from September 2015. Further, he confessed that OP-116's manufacturing plant was shut-down on the aforesaid days as per the SIKPMA decision. It is also noted from the RG-1 Register of OP-116 that the mill of OP-116 was, in fact, partially shut on 06.09.2015 (Sunday), fully shut on 13.09.2015 (Sunday) and partially shut on 19.09.2015 and 20.09.2015 (Saturday and Sunday). When confronted with the MoM of SIKPMA dated 03.03.2016, Mr. Velliangiri admitted that he attended the said meeting wherein member/attendees discussed the purchasing price of waste paper, selling price of Kraft paper and collective shut-down of mills for 4 to 6 days in a month. When confronted with the Gist of SIKPMA meeting dated 28.01.2017, Mr. Velliangiri admitted that he attended the said meeting wherein members/attendees discussed the price of Kraft Paper, price of waste paper and decided to increase the price of Kraft paper by ₹2,000 PMT. Further, Mr. Velliangiri confessed that OP-116 partially implemented the said price hike decision of SIKPMA.



157.3 As Mr. Velliangiri, in his statement, had disclosed that after attending the meetings of SIKPMA, he used to inform Mr. P. Subramaniam, Managing Director, about the decisions/ discussions taken in the meetings, the DG also recorded the statement of Mr. P. Subramaniam. His statement corroborated that of Mr. Velliangiri, as follows:

“SAPM is a member of “South Indian Kraft Paper Mills Association (SIKPMA)” since inception of my company. I never attended any meetings of SIKPMA, but Shri S. Velliangiri, former Director attended 3 – 4 meetings of the above association. SAPM’s employee might have attended few meetings of SIKPMA along with Shri Velliangiri. After attending every meeting of the above association, Shri Velliangiri used to inform me about the discussions/decisions taken in the meetings.

In the SIKPMA meetings members/attendees discussed about purchase price of waste paper, selling price of Kraft Paper, shutting down of mills and availability of local/imported waste paper.”

157.4 Mr. Subramaniam also admitted that OP-116 used to receive electronic calls from Mr. K. Swaminathan, Secretary of SIKPMA, regarding its meetings and OP-116 also used to receive the MoMs/Gist of Meetings of SIKPMA on his e-mail.

157.5 It is also noted from the DG Report that Mr. P. Subramaniam was a member of WhatsApp group, namely, “South India Kraft Paper Mills” wherein members used to discuss about the prices of Kraft paper, price of waste paper and collective shut-down of paper mills. When Mr. Subramaniam was confronted with the backup of said WhatsApp group, he admitted that he was a member of the same.

157.6 Further, when confronted with various MoMs/Gist of Meetings of SIKPMA, Mr. P. Subramaniam admitted that Mr. Selvaraj and Mr. Velliangiri attended the said meetings of SIKPMA wherein members/attendees discussed the prices of Kraft paper, price of waste paper and collective shut-down of paper mills. He confessed that Mr. Selvaraj and Mr. Velliangiri, after attending the meetings of SIKPMA, used to brief him about the decisions/discussions of the meetings. Further, he confessed that OP-116 used to partially follow the price hike and collective shut-down decisions of SIKPMA.

157.7 It is also noted from the DG Report that the manufacturing plant of OP-116 was partially shut during 11.02.2017 to 15.02.2017 (05 days), fully shut during 11.03.2017 to 15.03.2017 (05 days) and fully shut on 10.04.2017 and 11.04.2017, which dates match the shut-down dates declared/decided by SIKPMA. Mr. Subramaniam also



admitted to the said shut-downs. When confronted with the statement of Mr. Velliangiri, he also stated the same to be correct.

157.8 In its suggestions/objections to the DG Report, OP-116 made submissions, *inter alia*, similar to those made by the other OPs, especially OP-107. The same have already been dealt with in the earlier parts of the present order.

157.9 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-116 was part of the discussions held at SIKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by SIKPMA, fully or partially, in this regard. Such conduct of OP-116 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

158. OP-117 (Akshera Papers)

158.1 It is noted from the DG Report that Mr. Ramesh Krishnan Krishnasamy, Managing Partner and Mr. Kapil Thomas, were members of WhatsApp group, *namely*, “South India Kraft Paper Mills” wherein members used to discuss the selling prices of Kraft paper, purchase price of waste paper and collective shut-down of paper mills. With regard to the discussions \held in the said group, Mr. Krishnasamy stated before the DG as under:

“Myself and Shri Kapil Thomas are members of the WhatsApp group of Kraft Paper manufacturers of South India namely “South India paper mills”.

In the above WhatsApp group members used to discuss about pollution related matters, government policies including GST/Central Excise, quality of imported waste paper, availability & price of Kraft Paper and price of waste paper.”

158.2 It his statement recorded before the DG, Mr. Krishnasamy also acknowledged as under:

“Yes, AP is a member of South Indian Kraft Paper Mills Association (SIKPMA) since inception. Either me or Shri Kapil Thomas used to attend one or two meetings of SIKPMA annually.



n the SIKPMA meetings members/attendees used to discuss about pollution related matters, government policies including GST/Central Excise, quality of imported waste paper, availability and price of Kraft Paper, price of waste paper and shutting down of mills collectively. In case I failed to attend the meeting of SIKPMA, but if Shri Kapil Thomas attended the meeting, if any important decision or discussion held in the above meeting he used to inform me about the same.

Myself used to get telephone calls from Shri K. Swaminathan, Secretary, SIKPMA. AP used to get Agenda of the meeting through post, WhatsApp message or email.

AP used to receive MOM/Gist of the meetings of SIKPMA, but copies of the same are not available in my records.”

158.3 When confronted with various MoMs of SIKPMA where prices of Kraft paper and collective shut-down of mills were discussed, Mr. Krishnasamy admitted that he attended the said meetings (and some of them were also attended by Mr. Kapil Thomas) and that prices of Kraft paper and collective shut-down of paper mills was discussed therein. It is also noted that the manufacturing plant of OP-117 was partially shut on 18.09.2015 (Sunday), which date matches the shut-down declared in the SIKPMA meeting dated 20.08.2015 and OP-117 had also increased the price of its Kraft paper by ₹2,000 PMT w.e.f. 05.02.2017 after decision in the SIKPMA meeting dated 28.01.2017. In this regard, Mr. Krishnasamy even confessed that OP-117 increased the price of Kraft paper as per the decision of SIKPMA only and that it was compelled to do the same due to heavy increase in the input cost, especially cost of waste paper.

158.4 Further, it is also noted from the DG Report that the manufacturing plant of OP-117 was shut during 11.02.2017 to 15.02.2017, 11.03.2017 and 14.03.2017 (partially) and 12.03.2017 and 13.03.2017, which dates also match with the collective shut-down decisions of SIKPMA.

158.5 In its suggestions/objections to the DG Report, OP-117 made submissions, *inter alia*, similar to those made by the other OPs, especially OP-107. The same have already been dealt with in the earlier parts of the present order.

158.6 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-117 was part of the discussions held at SIKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions



issued by SIKPMA, fully or partially, in this regard. Such conduct of OP-117 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

159. OP-118 (Aruldevi Paper Mills Private Limited)

159.1 It is noted from the DG Report that Mr. Parvatham Gnanavel, Managing Director, was a member of WhatsApp group, namely, “South India Kraft Paper Mills”, wherein members used to discuss the selling prices of Kraft paper, purchase price of waste paper and collective shut-down of mills. In his statement record before the DG, Mr. Gnanavel acknowledged as under:

“Yes, APMP is a member of South Indian Kraft Paper Mills Association (SIKPMA) since 2008. Either me or Shri P. Krishna Murthy or both used to attend most of the meetings of SIKPMA. Myself and Shri P. Krishna Murthy used to attend three to four meetings of SIKPMA every year. In case I did not attend the meeting of SIKPMA I depute Shri P. Krishna Murthy to attend the above meeting. After the meeting he used to inform me about the decisions/discussions held in the SIKPMA meetings. In the SIKPMA meetings in which myself or Shri P. Krishna Murthy attended, members/attendees discussed about the price of Kraft Paper, purchase price of waste paper, market conditions of Kraft Paper, government policies, pollution related matters, debt recovery, GST/Central Excise related matters, technical issues and collective shutting down of mills.

I used to receive telephone calls or SMS from Shri K. Swaminathan, Secretary, SIKPMA regarding its meetings. Myself or APMP never received any message regarding SIKPMA meeting through WhatsApp message or email message. Earlier, SIKPMA used to send the copy of MOM/Gist of the meeting to APMP, however during the last couple of years, aforesaid association did not sent the same.”

159.2 When confronted with various MoMs of SIKPMA wherein prices of Kraft paper and collective shut-down of mills was discussed, Mr. Gnanvel admitted that he and Mr. Krishnamurthy attended the said meetings and that prices of Kraft paper and collective shut-down of paper mills was discussed therein. He also confessed that OP-118 partially implemented the price hike decisions of SIKPMA taken in the meetings dated 06.03.2013 and 28.01.2017, belatedly. It is also noted that the manufacturing plant of



OP-118 was shut on 06.09.2015 (Saturday), partially shut on 05.09.2015 (Saturday), 19.09.2015 (Saturday), 26.09.2015, (Saturday) and 29.09.2015 (Sunday), which dates match the shut-down declared in the SIKPMA meeting dated 20.08.2015.

159.3 In its suggestions/objections to the DG Report, OP-118 made submissions, *inter alia*, similar to those made by the other OPs, especially OP-107. The same have already been dealt with in the earlier parts of the present order.

159.4 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-118 was part of the discussions held at SIKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by SIKPMA, fully or partially, in this regard. Such conduct of OP-119 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

160. OP-119 (Vaithieswara Papers and Boards Private Limited)

160.1 It is noted from the DG Report that Mr. C. Shanmugaraju, Former Director and Mr. Thirunavukkarasu, Managing Director, were members of the WhatsApp group, *namely*, “South India Kraft Paper Mills” wherein members used to discuss the selling prices of Kraft paper, purchase price of waste paper and shut-down of paper mills. With regard to the discussions held in the said group, Mr. Shanmugaraju stated as under:

“Myself and Shri K. Thirunavukkarasu, MD are the members of the WhatsApp group namely “South India paper mills”. ...

In the WhatsApp group namely “South India paper mills” members exchanged messages regarding Kraft Paper industry, government policy, pollution related matters, price of Kraft Paper, purchase price of waste paper, and GST/Central Excise related matters.”

160.2 In his statement recorded before the DG, Mr. Shanmugaraju also acknowledged as under:

“Yes, VPBP was a member of South Indian Kraft Paper Mills Association (SIKPMA) since inception of my company. I have attended two to three meetings of SIKPMA every year. On certain occasions Shri K. Thirunavukkarasu, Managing Director attended the meetings of SIKPMA



along with me. Most of the meetings of SIKPMA have been attended by Shri K. Thirunavukkarasu. VPBP used to receive email messages and sometimes telephone calls from Shri Swaminathan, Secretary of SIKPMA regarding the proposed meetings. I attended the SIKPMA meetings as per the directions of Shri K. Thirunavukkarasu, MD. Whenever I attended the meetings of SIKPMA alone, after the meeting I used to inform Shri K. Thirunavukkarasu, MD about the decisions/discussions of the aforesaid association meetings. ...

In the SIKPMA meetings in which I have attended members/attendees discussed about price of Kraft Paper, purchase price of waste paper, collective shutting down of mills, pollution related matters, government policy related matters and GST/Central Excise related matters. ”

160.3 It his statement recorded before the DG, Mr. Thirunavukkarasu also acknowledged as under:

“VPBP is a member of South Indian Kraft Paper Mills Association (SIKPMA) since 2010–11 (Appx.). I never attended any meetings of SIKPMA. Most of the meetings of SIKPMA were attended by Shri Shanmugaraju. VPBP used to receive information regarding the proposed meetings of SIKPMA. SIKPMA meetings were attended by Shri Shanmugaraju alone representing VPBP. As far as I know Shri Shanmugaraju has attended a maximum of 4 – 5 meetings of SIKPMA.”

160.4 When confronted with various MoMs of SIKPMA wherein prices of Kraft paper and collective shut–down of mills was discussed, Mr. Shanmugaraju admitted that he and/or Mr. Thirunavukkarasu attended the said meetings and that prices of Kraft paper and collective shut–down of paper mills was discussed therein. In fact, one meeting dated 03.03.2016 of SIKPMA was attended by Mr. Shiva Kumar, one of the office staff of OP–119. Mr. Shanmugaraju also confessed that OP–119 partially implemented the price hike decision of SIKPMA taken in the meeting dated 28.01.2017, belatedly.

160.5 It is also noted from the DG Report that the manufacturing plant of OP–119 was shut on 06.09.2015 (Saturday), 15.09.2015 (Sunday), 19.09.2015 (Saturday), 20.09.2015 (Sunday), 26.09.2015 (Saturday) and 27.09.2015 (Sunday) which days match the shut–down declared in the SIKPMA meeting dated 20.08.2015. Further, the manufacturing plant of OP–119 was also shut on 05.04.2017, 06.04.2017, 10.04.2017 and 11.04.2017 and partially shut on 07.04.2017, 08.04.2017 and 09.04.2017, which dates again match the collective shut–down decision of SIKPMA from 05.04.2017 to 11.04.2017. Mr.



Shanmugaraju as well as Mr. Thirunavukkarasu admitted that the manufacturing plant of OP-119 was shut-down on these dates.

160.6 When Mr. Thirunavukkarasu was confronted with various MoMs of SIKPMA, he admitted that the said meetings were attended by Mr. Shanmugaraju or any other employee of the company and decisions regarding fixing prices of Kraft paper, purchase price of waste paper and collective shut-down of paper mills were taken therein. He also admitted that OP-119 implemented the price hike decisions as well as the shut-down directions of SIKPMA.

160.7 When confronted with the statement of Mr. Shanmugaraju, Mr. Thirunavukkarasu admitted that he attended 4 meetings of SIKPMA and confessed that OP-119 implemented the price hike decisions and collective shut-down decisions of SIKPMA. He also admitted that the statement of Mr. Shanmugaraju is correct.

160.8 In its suggestions/objections to the DG Report, OP-119 made submissions, *inter alia*, similar to those made by the other OPs, especially OP-107. The same have already been dealt with in the earlier parts of the present order.

160.9 Based on the evidences collected by the DG as detailed above, the Commission finds that OP-119 was part of the discussions held at SIKPMA regarding price increase of Kraft paper and collective shut-down of paper mills, and it also followed the directions issued by SIKPMA, fully or partially, in this regard. Such conduct of OP-119 amounts to indirectly determining the sale prices of Kraft paper in contravention of the provisions of Section 3(3)(a) of the Act and limiting and controlling the production, supply and market of Kraft paper in contravention of the provisions of Section 3(3)(b) of the Act, read with Section 3(1) of the Act.

161. OP-120 (Indian Agro and Recycled Paper Mills Association)

161.1 With regards to OP-120, the Commission agrees with the findings of the DG that it had not held any meetings related to price *etc.* as OP-120 had submitted that pricing of paper and marketing of products are internal matters of each paper mill and that it was not involved in issuing any directions to any paper mill to stop production *etc.*



Accordingly, the Commission is of the opinion that OP-120 has not contravened the provisions of the Act.

Conclusion:

162. From the above Opposite Party wise analysis, the following conclusions emerge:

162.1 GPMA/FIPR (OP-1) was involved in increasing and deciding the price of Kraft paper in the market and deciding collective shut-down of Kraft paper mills from at least 2011 to 2018. It also used to monitor its collective shut-down directives by sending representatives to the paper mills to enforce the shut-down. In the discussions being held on the platform of GPMA, at least 61 Kraft paper mills (OP-2 to OP-62) were involved who may have joined in anytime from between 2011 to 2018. Most of such mills also implemented the directives of GPMA, fully or partially, regarding price increase of Kraft paper and collective shut-down of manufacturing plants. There is ample documentary evidence available in this regard in the form MoMs of GPMA, price hike circulars issued by GPMA, e-mail communications, WhatsApp messages exchanged on three WhatsApp groups *i.e.* of Maharashtra paper mills, “Paper Mills – GJ/MS/CGK”, and “NEWS (North East West South) Paper Mills”, as well as oral depositions of various representatives of these 61 paper mills. Thirty One (31) lesser penalty applicants have also admitted to such conduct. Therefore, based on such evidences, the Commission finds GPMA and 61 paper mills in contravention of the provisions of Section 3(3)(a) and 3(3)(b), read with Section 3(1) of the Act.

162.2 NIPMA (OP-63) was also involved in increasing and deciding the price of Kraft paper in the market and deciding collective shut-down of Kraft paper mills from at least 2016 to 2019. It was in constant touch with other associations like GPMA, not only through message exchanges, but also otherwise by participation in meetings. In the discussions held on the platform of NIPMA, at least 16 Kraft paper mills (OP-64 to OP-79) were involved who may have joined in anytime from between 2016 to 2019. Most of such mills also implemented the directives of NIPMA, fully or partially, regarding price increase of Kraft paper and collective shut-down of plants. There is ample documentary evidence available in this regard in the form of WhatsApp messages exchanged on WhatsApp groups, *namely*, “NEWS Paper Mills” and “Paper Mills”, price hike messages, as well as oral depositions of various representatives of



these 16 paper mills. Therefore, based on such evidences, the Commission finds NIPMA and 16 paper mills in contravention of the provisions of Section 3(3)(a) and 3(3)(b), read with Section 3(1) of the Act (except OP-77 who has been found to be in contravention only of the provisions of 3(3)(a) read with Section 3(1) of the Act.

162.3 HKPMA (OP-80) was also involved in increasing and deciding the price of Kraft paper in the market and deciding collective shut-down of Kraft paper mills from at least 2010 to 2017. It was in constant touch with other associations like GPMA and SIKPMA, not only through e-mail exchanges but also by participation in meetings. In the discussions being held on the platform of HKPMA, 26 Kraft paper mills (OP-81 to OP-106) were involved who may have joined in anytime from between 2010 to 2017. Most of such mills also implemented the directives of HKPMA, fully or partially, regarding price increase of Kraft paper and collective shut-down of plants. Representatives of most of the member mills admitted to the existence of HKPMA and discussions and decisions being held on its platform. There is also documentary evidence available in this regard in the form of WhatsApp messages exchanged on WhatsApp group, *namely*, “HydKraftmills Assn HKPMA”, and e-mail communications from HKPMA, apart from oral depositions of various representatives of the 26 paper mills. Therefore, based on such evidences, the Commission finds HKPMA and 26 paper mills in contravention of the provisions of Section 3(3)(a) and 3(3)(b), read with Section 3(1) of the Act.

162.4 SIKPMA (OP-107) was also involved in increasing and deciding the price of Kraft paper in the market and deciding collective shut-down of Kraft paper mills from at least 2009 to 2017. It also used to threaten its members with monetary penalties in case of refusal to follow its price hike and/or collective shut-down directives. It was in constant touch with other associations like GPMA and HKPMA, not only through e-mail exchanges, but also otherwise by participation in different meetings. In the discussions being held on the platform of SIKPMA, at least 12 Kraft paper mills (OP-108 to OP-119) were involved who may have joined in anytime from between 2009 to 2017. Most of such mills also implemented the directives of SIKPMA, fully or partially, regarding price increase of Kraft paper and collective shut-down of plants. There is ample documentary evidence available in this regard in the form of SIKPMA MoMs and Gist of Meetings, e-mail communications, WhatsApp messages exchanged



on WhatsApp groups, *namely*, “South India Kraft Paper Mills” and “NEWS Paper Mills”, as well as oral depositions of various representatives of these 12 paper mills. Therefore, based on such evidences, the Commission finds SIKPMA and 12 paper mills in contravention of the provisions of Section 3(3)(a) and 3(3)(b), read with Section 3(1) of the Act.

162.5 In view of the above, it may be seen that the four associations made available their platforms for anti-competitive practices such as taking decisions relating to collective shut down of paper mills. The Commission also concludes that in the instant matter, the OPs (four paper mill associations) have acted as a platform for its members *i.e.* paper mills to fix/decide prices as well as monitoring the implementation of such decisions by the paper mills.

Penalty and Lesser Penalty:

163. Once contravention of the provisions of the Act has been established, the Commission now proceeds to assess the penalty to be imposed, if any, under the provisions of Section 27(b) of the Act, upon the contravening parties.
164. The Opposite Parties have argued a host of mitigating factors before the Commission. On the other hand, the Informants in their suggestions/objections to the DG Report, largely agreeing with the findings of the DG, have pleaded for imposition of maximum penalty.
165. It is noted that several Opposite Parties are MSMEs and first time offenders. They have argued that the market structure is such that in the past few years, especially as a fallout of COVID–19 pandemic, several Kraft paper mills stand sold/closed and several others of these entities are going through a period of economic and financial stress. They have also argued that the cartel was formed as a result of prevailing market circumstances due to rising input costs and lack of individual bargaining power. Several members of GPMA were lesser penalty applicants before the Commission and several others have also admitted to their wrongdoings during the course of investigation. Even members of HKPMA and SIKPMA have admitted to their wrongdoings during the course of investigation.



166. Therefore, against the above backdrop, considering the matter holistically and cumulatively, the Commission, in the interest of justice, refrains from imposing any monetary penalty upon the Opposite Parties, keeping in mind the peculiar facts and circumstances of the instant case, as noted above. The ultimate object of the Act is to correct market distortions and discipline the behaviour of the market participants. The Commission is of the considered opinion that the objectives of the Act would be met if the Opposite Parties in the present matter are directed to cease such cartel behaviour and desist from indulging in similar behaviour in the future.
167. The Opposite Parties are cautioned to ensure that their future conduct remains strictly in accord with the provisions of the Act, failing which any such future conduct/behaviour by the OPs would be viewed seriously constituting recidivism with attendant consequences.
168. Before concluding, the Commission would like to deal with the findings of the DG regarding cartelisation amongst the OPs with respect to fixing the prices of waste paper in the market. Waste paper is the basic raw material required for the manufacture of Kraft paper. Almost all the OPs have submitted that the prices of imported waste paper is set by foreign suppliers and importers and the prices of domestic waste paper follow the same trend. Without going into any greater detail, based on the material available on record and considering the submissions made by the OPs in this regard, the Commission is of the opinion that there are not enough evidences available on record which can support the finding of the DG regarding cartelisation by the OPs with respect to fixing the prices of waste paper in the market.
169. In view of the above, the Commission passes the following:

ORDER

170. OP-1 to OP-76 and OP-78 to OP-119 are found guilty of contravention of the provisions of Section 3(3)(a) and 3(3)(b) of the Act, read with Section 3(1) thereof. OP-77 is found guilty of contravention of the provisions of Section 3(3)(a) of the Act, read with Section 3(1) thereof.
171. The Commission, in terms of Section 27(a) of the Act, directs OP-1 to OP-119 to cease and desist in future from indulging in any practice/conduct/activity, which has been



found in the present order to be in contravention of the provisions of Section 3 of the Act, as detailed in the earlier part of this order.

172. It is made clear that all information used in the present order is for the purposes of the Act and as such, in terms of Section 57 of the Act, does not qualify for the grant of confidential treatment.
173. The Secretary is directed to forward certified copy of the present order to the counsel for the parties, accordingly.

Sd/-
(Ashok Kumar Gupta)
Chairperson

Sd/-
(Sangeeta Verma)
Member

New Delhi
Date: 12.10.2022

Sd/-
(Bhagwant Singh Bishnoi)
Member