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COMPETITION COMMISSION OF INDIA

Case No. 43 of 2019

In re:

XYZ (Confidential)

Informant

And

Maharashtra Wine Merchants Association

Opposite Party 1

306, Allied Industrial Estate

3rd Floor, Prof. Ram Panjwani Marg

Mahim (W), Mumbai-400016

Pune District Wine Merchants Association

Opposite Party 2

F-27, 2nd Floor, Shanti Kunj, Opposite GPO

Pune-411001

Association of Progressive Liquor Vendors

Opposite Party 3

5, Dhanlaxmi CHS Ltd.

Mahakali Caves Road, Andheri East

Mumbai-400093

Pimpri Chinchwad Liquor Dealers Association

Opposite Party 4

Shop No. 3, Sai Park Apartment

Near Shastri Park, Pimpri, Pune 411017



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CORAM

Ravneet Kaur

Chairperson

Anil Agrawal

Member

Sweta Kakkad

Member

Deepak Anurag

Member

Appearances:

For Informant : None

For Opposite Party No. 1, Mr. Dilip Jamnadas : Mr. Anandh Venkataramani and
Giyani, President Caretaking Committee Ms. Anjali Agrawal, Advocates
Opposite Party No. 1, Mr. Balvinder Singh Rekhi,
President, Opposite Party No. 1 and Mr. Dayal
Idnani, Office Bearer, Opposite Party No. 1

For Opposite Party No. 2 and Mr. Ajay V : Ms. Gauri Puri, Advocate
Deshmukh, Secretary, Opposite Party No. 2

For Opposite Party No. 3, Mr. Arvind Miskin, : Mr. Manu Chaturvedi, Advocate
President, Opposite Party No. 3 and Mr. Sumit
Chawla, Vice President, Opposite Party No. 3



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Order under Section 27 of the Competition Act, 2002

1. The present Information has been filed by the Informant (who has requested confidentiality over his identity) under Section 19(1)(a) of the Competition Act, 2002 (the ‘Act’) against Maharashtra Wine Merchants Association (**‘Opposite Party No. 1’ / ‘OP-1’**); Pune District Wine Merchants Association (**‘Opposite Party No. 2’ / ‘OP-2’**); Association of Progressive Liquor Vendors (**‘Opposite Party No. 3’ / ‘OP-3’**); and Pimpri Chinchwad Liquor Dealers Association (**‘Opposite Party No. 4’ / ‘OP-4’**), alleging, *inter alia*, contravention of the provisions of Sections 3 & 4 of the Act.
2. As per the averments made in the Information, the Informant is a company engaged in the business of manufacturing, distribution and sale of alcoholic beverages (**‘Alcobev Companies’**). OPs are associations of licensed retail liquor vendors or wine shop owners. The Informant alleged that since 2014, the OPs have been operating as a cartel, by collectively stipulating that the companies engaged in the manufacture, distribution or sale of alcoholic beverages must adhere to terms such as in relation to retail margins, new product launching schemes, transport delivery terms, cash discount rates, credit period, mandatory launching fees, donations *etc.* The Informant has stated that such unfair and unilateral terms stipulated by the OPs are in contravention of the provisions of Section 3(3) and Section 4(2) of the Act.
3. Further, the Informant has alleged that the OPs have devised a practice under which, whenever a new product is launched by an Alcobev Company, the latter is forced to approach the OPs and the OPs then take a unilateral decision on the selling terms and prices. Thus, the Alcobev Companies are forced to sell their products at a particular price and fixed retail margins to all members of the OPs. Additionally, Alcobev Companies are also charged a mandatory ‘launching fee’ for their new product. The Informant has averred that if any Alcobev Company tries to circumvent the OPs and approach retail vendors (who are members of the OPs), then the OPs ensure that such company’s new product is boycotted.



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Directions to the Director General (DG)

4. After considering the Information, and other material on record, the Commission, *vide* order dated 21.01.2020 passed under Section 26(1) of the Act, formed an opinion that a *prima facie* case of violation of section 3(1) read with Section 3(3)(a) of the Act for imposing unfair conditions, fixing prices and restricting market access is made out and directed the Director General ('DG') to cause an investigation into the matter and submit a report within a stipulated time period. Pertaining to the violation of section 4 of the Act, however, the Commission noted that the allegation of abuse of dominance collectively by all the OPs does not warrant any examination under Section 4 as the present statutory scheme does not provide for joint or collective dominance.

Investigation by the Director General

5. To examine the allegations, the DG issued notices to the OPs and third parties to collect relevant information/ data. DG also recorded statements of the office bearer of the OP and third-party witnesses during the investigation. The Investigation Report was prepared on the basis of such documentary evidence, duly corroborated by the oral testimony of the witnesses.
6. The Investigation Report was submitted by the DG on 29.07.2022, in confidential and nonconfidential versions, along with case record. In the Investigation Report, the DG, *inter alia*, concluded as under:
 - 6.1 OP-1, OP-2 and OP-3 (collectively referred as '**the OPs**') were found to be engaging in anti-competitive conduct by issuing circulars to their members prescribing uniform terms relating to discount, payment conditions and transportation charges. Such concerted determination of commercial terms amounted to price fixing within the meaning of Section 3(3)(a) read with Section 3(1) of the Act.
 - 6.2 By forcing the Alcobev Companies to get NOC from it for the introduction of new products which are in nature of approvals for the launch of the new products in the market OP-1, OP-2 and OP-3 are also in violation of the provisions of Section 3(3)(b) of the Act.
 - 6.3 OP-4 was found to be defunct, and therefore no conclusive findings could be drawn against it.



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- 6.4 Six office bearers of OP-1 to OP-3 — Mr. Dilip Jamnadas Giyanani, President — Caretaking Committee (OP-1); Mr. Balvinder Singh Rekhi, President, (OP-1); Mr. Dayal Idnani, Office Bearer, (OP-1); Mr. Ajay V. Deshmukh, Secretary, (OP-2); Mr. Arvind Miskin, President, (OP-3); and Mr. Sumit Chawla, Vice President, (OP-3).) — being in charge of and responsible for the conduct of the respective associations, were held liable under Section 48 of the Act.
7. The Commission considered the Investigation Report of the DG in its ordinary meeting held on 10.08.2022 and directed to forward an electronic copy thereof (non-confidential version) to the Informant, OP-1, OP-2, OP-3 and their respective individuals identified under section 48 of the Act (collectively referred as '**Parties**') for filing their respective objections/ suggestions, if any to the Investigation Report.
8. OP-1's individuals and OP-2 sought an 8-week extension to file their replies and financials, while OP-3 filed three separate applications requesting *inter alia* legible copies of certain documents of Investigation Report and its annexures, the creation of a confidentiality ring to access the non-redacted record, and permission to cross-examine a third-party witness, [REDACTED] and the Informant. The Commission, *vide* order dated 30.09.2022, allowed OP-1 and OP-2 to file their objections/suggestions by 20.11.2022, directed the DG to provide legible copies of the documents as sought by OP-3, and permitted the cross-examination only of the third-party witness, noting that no oral testimony of the Informant was recorded. The DG completed the cross-examination on 13.10.2022 and submitted the report on 02.11.2022.
9. Counsels for OP-1 and OP-2 sought a final extension of ten days to file their replies to the Investigation Report. The Commission, *vide* order dated 28.11.2022, allowed OP-1 and OP-2 to submit their replies by 30.11.2022. Subsequently, OP-1, OP-2, and their respective individuals filed their replies and financial statements on 09.12.2022 and 05.12.2022, respectively.
10. OP-3, *vide* application dated 08.12.2022, sought an appropriate version of the report on cross-examination and requested an extension of four weeks to file its objections/suggestions to the Investigation Report from the date of receipt of the said



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report. The Commission, after considering the application on 06.09.2023, directed that an electronic copy of the non-confidential version of the cross-examination report be provided to OP-3 and its respective individuals, and granted them an extension of four weeks to file their objections/suggestions to the Investigation Report, as prayed for.

11. OP-1, in its objections/suggestions to the Investigation Report, sought permission to cross-examine third-party witnesses and access to video evidence before the final hearing. The Commission, *vide* order of 15.11.2023, observed that granting access to video evidence through a confidentiality ring could reveal the identity of the Informant. Accordingly, the Commission decided that the Informant be given an opportunity to present his case under Regulation 35 of the Competition Commission of India (General) Regulations, 2009, and directed the Informant to file a response within two weeks of receipt of the order. With respect to OP-1's request for cross-examination of third-party witnesses, namely [REDACTED]

[REDACTED]
[REDACTED] the Commission found merit in the request and directed the DG to complete the cross-examination proceedings within four weeks from receipt of the order and to submit a report. The Informant subsequently filed its reply, and the DG submitted the cross-examination report (both confidential and non-confidential versions with records) on 30.01.2024. The Commission, in its ordinary meeting held on 27.11.2024, considered the cross-examination report and directed that the non-confidential version be forwarded to OP-1 and its individuals.

12. The Commission, on 12.12.2024, on the request of OP-1 and OP-3, agreed to set up the confidentiality ring, subject to the condition that it does not allow the sharing of any documents, including video evidence that may result in the disclosure of the identity of the Informant.
13. Subsequently, OP-1 and its representatives filed an interlocutory application on 12.02.2025 (IA No. 43/2025) requesting directions regarding (i) alleged improper conduct of the cross-examinations and (ii) incomplete access to confidential records. OP-1 requested complete access to the confidential statements of [REDACTED]
[REDACTED] and additionally,



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permission to re-examine [REDACTED]
[REDACTED] and to [REDACTED] upon receiving the statements. OP-1 also mentioned in the application that if [REDACTED] failed to appear for cross-examination, all references to his statement and any reliance on it in the DG Report should be removed.

14. The Commission considered OP-1's application in its ordinary meeting held on 12.03.2025. It noted that there was no justification for issuing any directive regarding OP-1's request for a fresh cross-examination of [REDACTED]
[REDACTED] Regarding OP-1's request to disregard [REDACTED] deposition due to the absence of cross-examination, and to exclude the redacted portions of the Investigation Report and the video evidence, the Commission observed that these issues could be raised and addressed during the final hearing. Additionally, to ensure all Opposite Parties have a fair opportunity to present their defence, the Commission decided to allow all Opposite Parties and their identified representatives who had not submitted their objections/suggestions on the Investigation Report to do so within two (2) weeks from the date of receiving the order.
15. Subsequently, OP-3 submitted its objections/suggestions to the Investigation Report on 09.04.2025. Additionally, through a letter dated 29.04.2025, an additional response to the Investigation Report was filed on behalf of OP-1 and its associated individuals.
16. The Commission, in its ordinary meeting held on 21.05.2025, decided to forward copies of objections/suggestions and additional responses to the Investigation Report filed by the Opposite Parties and their respective individuals to the Informant for filing its reply thereto, if any, within four (4) weeks from the date of receipt of the order. The Informant *vide* letter dated 02.07.2025 submitted that he is satisfied with the progress of the proceedings thus far and has no further submissions at this stage.
17. The Commission, *vide* its order dated 06.08.2025, directed that the Opposite Parties (OP-1, OP-2, and OP-3), along with the individuals identified by the DG as liable under Section 48 of the Act, be heard on 24.09.2025 at 2:30 PM. It was further directed that the Informant be heard separately on 25.09.2025 at 2:30 PM. Subsequently, the



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Informant, *vide* email dated 17.09.2025, informed that he would not be attending the hearing either in person or through an authorised representative.

18. On 24.09.2025, the Opposite Parties (OP-1, OP-2, and OP-3) appeared before the Commission through their counsel and argued in the matter at length. They were also given an opportunity to file their respective synopsis of submissions within seven days. The Commission, thus, having heard the appearing parties, decided to pass a final order in the matter.

Objections/Comments to the Investigation Report by OPs and their oral submissions

19. At the outset, OP-1 submitted that the DG has failed to identify any horizontal agreement in the Investigation Report and has wrongly concluded that the Letters of Introduction ('LOI') is in contravention of Sections 3(3)(a) and 3(3)(b) of the Act without stating how the LOI indeed fits the description of an agreement amongst enterprises engaged in identical or similar trade of goods (i.e. amongst competitors) under Section 3(3) of the Act. OP-1 is not engaged in any trade as it is merely a representative body. Without having identified any horizontal agreement under Section 3(3) of the Act, there can be no presumption of Appreciable Adverse Effect on Competition ('AAEC') against the issuance of LOIs. Even if such communications amounted to an agreement, they still would not violate Section 3(3)(a) of the Act by reason of them being non-binding in nature and not falling under the ambit of sale or purchase price determination under Section 3(3)(a) of the Act.
20. OP-1 also submitted that the LOI have a pro-competitive effect in the market, as it enables small and medium retailers to negotiate better margins and promotional offers with large multinational manufacturers. It was contended that LOIs have been an established industry practice since the late 1990s, particularly benefiting FL-II license holders, most of whom operate as small proprietorships or partnerships with limited financial capacity. OP-1 highlighted that despite the removal of local body taxes, the benefit of higher margins was retained by manufacturers and not passed on to retailers, who continued to face reduced profitability due to identical or minimal margins offered by established players. According to OP-1, the LOI mechanism provides financial



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incentives to small retailers, allowing them to stock a wider range of products, thereby enhancing inter-brand competition at the retail level and ensuring greater consumer choice in the alcoholic beverages market.

21. OP-1 further submitted that the Investigation Report does not furnish any evidence to suggest that, in the absence of LOIs, there was any boycott of products or that the association restricted or controlled the supply of alcoholic beverages in the market. On the contrary, the deposition of [REDACTED] clearly establishes that retailers retained complete discretion to purchase or refuse products, even when an LOI was issued, thereby indicating their independent decision-making power and freedom to negotiate prices. Likewise, the testimony of [REDACTED] demonstrates that manufacturers were free to sell their products directly to retailers even without an LOI. It was also emphasized that OP-1 comprises only 480 members out of approximately 35,000 retailers across Maharashtra, representing merely 1.37% of the total retail outlets, thereby negating any allegation of market control or dominance.
22. It was further contended that the deposition of Mr. Dilip J. Giyanani remains uncontroverted, as the Informant failed to cross-examine him and the DG did not place his statement before third parties for comments; hence, it must be accepted as true. His deposition establishes that OP-1 takes no action against non-compliant members, Letters of Intent are issued only at the request of manufacturers, and manufacturers are free to supply directly to retailers without requiring an introduction letter from OP-1, and that there has been no instance of product boycott.
23. OP-1 contended that the depositions of [REDACTED] and Ms. Manpreet Kaur are inadmissible as they violate the principles of natural justice. It was submitted that despite OP-1's request, [REDACTED] failed to appear for cross-examination, and hence, no adverse inference can be drawn from his statement. The testimony of [REDACTED] being based on information received from [REDACTED] [REDACTED] Regional Sales Manager, amounts to hearsay and should be disregarded. Further, since the affidavit and WhatsApp chats relied upon by Ms. Manpreet Kaur were based on her personal knowledge and not merely documentary evidence, her presence for cross-examination was imperative.



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24. Additionally, OP-1 submitted mitigating factors including its non-commercial nature, lack of profit-driven activity, and the potential harm to small retailers if penalized. The individuals associated with OP-1 acted only in a representative capacity without deriving any personal gain or income, and therefore, no penalty should be imposed on them. OP-1 also emphasized that this is its first alleged contravention, warranting leniency, and that there is no evidence of market foreclosure, supply restriction, or product boycott.
25. OP-2, in its preliminary objection, contended that the DG failed to properly appreciate the market structure and statutory framework regulating the manufacture and sale of liquor in Maharashtra. In Maharashtra, liquor manufacturers produce and supply goods to distributors holding FL-I licenses, who are authorized to sell only to retailers designated by the manufacturers. The manufacturers themselves determine the Maximum Retail Price ('MRP') and wholesale prices of their products in accordance with the prevailing State Excise policies, which apply uniformly across the state. Distributors then sell the goods to retailers at the manufacturer-fixed wholesale price. Retailers operate under three main categories of licenses—FL-II (retail sale of all alcoholic beverages), FL/BR-II (sale of beer and wine only), and FL-III (on-premises consumption, such as bars or permit rooms). It was submitted that OP-2, representing only about 50% of FL-II retailers, lacks the capacity to control the supply of liquor, as manufacturers can directly approach retailers independently. Further, OP-2's membership is restricted solely to FL-II license holders, while the retail segment in Pune also includes FL/BR-II and FL-III licensees. Hence, OP-2 does not represent the majority of retailers, and the DG failed to appreciate that it cannot exercise any control over the market or restrict supply.
26. OP-2 further argued that the DG conducted the investigation in a hurried and incomplete manner, without due consideration of the available evidence, and that the mere circulation of informational letters cannot be construed as price-fixing or limitation of supply. It was also submitted that the DG's reliance on third-party depositions and the statements of OP-1's witnesses to draw adverse conclusions against OP-2 was misplaced and not supported by substantive evidence.



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27. OP-2 further submitted that the DG erred in concluding the existence of an “agreement” under Section 2(b) of the Act and consequently in finding a contravention under Section 3 of the Act, as the LOIs do not constitute an agreement but merely serve as informational communications facilitating parity and transparency among members. The invocation of Sections 3(3)(a) and 3(3)(b) of the Act was alleged to be misplaced, as there was no intent or action to fix prices, control supply, or affect market conditions. Further prices are determined by manufacturers and regulated by the State Excise Department.
28. OP-2 further contended that mere exchange of information does not establish the existence of a cartel, and the DG has wrongly interpreted lawful communications as evidence of collusion without demonstrating AAEC. It was also submitted that the DG failed to appreciate the regulatory constraints specific to the liquor industry in Maharashtra, where pricing and distribution are heavily governed by statutory controls, and the alleged conduct of OP-2 should have been examined within this legal and operational context.
29. On the issue of imposition of penalty, it was submitted that no penalty ought to be imposed on OP-2 and Mr. Ajay V. Deshmukh. Alternatively, if the Commission considers it necessary to levy a penalty, several mitigating factors must be taken into account. OP-2 is a charitable trust with no commercial revenue other than a nominal membership fee of Rs.500, employs only one office staff member, and pays no salaries or income to any individual. Relying on the Supreme Court’s ruling in *Excel Crop Care Ltd. v. CCI*, it was emphasized that penalties under Section 27 must be based on *relevant turnover* and adhere to the doctrine of proportionality to avoid the “death of the entity.” The Commission, in similar trade association cases (including the Suo Motu Case No. 06 of 2017: Beer Cartel matter), has applied this principle while considering the limited scope of the alleged infringement. With respect to individual liability under Section 48, it was contended that there is no evidence that Mr. Ajay V. Deshmukh was personally involved in any anti-competitive conduct; his role as Secretary was voluntary, without remuneration, and purely in execution of collective decisions of the Executive Committee. Accordingly, consistent with *Excel Crop Care Ltd. v. CCI*, no penalty can be imposed on him in the absence of relevant turnover or personal gain.



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30. OP-3 submitted that the evidence relied upon by the DG to make adverse findings against OP-3 comprises a purported video recording said to depict an interaction between certain members of OP-3 and a representative of an Alcobev Company. However, OP-3 and its legal representatives have never been granted access to the said video. It is a settled principle of law that no adverse finding can be sustained against a party without affording it a reasonable and effective opportunity to defend itself. Accordingly, the findings of the DG based on such undisclosed evidence are in clear violation of the principles of natural justice.
31. It is further submitted by OP-3 that the DG has placed sole reliance on the testimony of [REDACTED] to arrive at the finding that OP-3 has contravened Section 3(3)(b) of the Act. A bare perusal of the cross-examination report dated 13.10.2022 reveals that the statements of the said witness are entirely based on information supplied to him by the Regional Sales Manager of Trillium Beverages Pvt. Ltd. Such testimony is hearsay in nature, devoid of probative value, and cannot be the sole basis for establishing contravention by OP-3.
32. OP-3 submitted that the DG has also relied upon certain LOIs allegedly issued by OP-3 to an Alcobev Company. When OP-3 requested copies of the said documents on two separate occasions, only illegible copies were furnished. It is submitted that reliance on illegible and unverifiable documents, amounting practically to blank papers, cannot form a legally sustainable evidentiary basis. The findings based on such documents are therefore liable to be disregarded in toto.
33. OP-3 also argued that DG has also completely misconstrued the purpose and activities of OP-3. OP-3 is a representative association of liquor vendors established to lawfully highlight and address the issue of declining retail margins in Maharashtra. Over the years, margins have reduced drastically due to successive changes in tax and duty structures, severely impacting vendors' livelihoods. In pursuance of its objective, OP-3 has made legitimate representations before Alcobev Companies and government authorities, seeking fair and sustainable margins. These actions, being representative and advocacy-oriented in nature, cannot by any stretch be construed as attempts to fix prices or control markets in violation of Section 3(3) of the Act.



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34. It is further submitted that the DG has, without any substantiating material, inferred that OP-3 was “forcing” Alcobev Companies to increase margins. Such inference is wholly unfounded, speculative, and contrary to record. The communications relied upon by the DG merely reflect legitimate business requests for reconsideration of trade margins in light of prevailing economic hardship faced by retailers. No evidence whatsoever has been produced to establish any element of coercion, collective boycott, or concerted conduct on the part of OP-3. Despite having full access to the entire correspondence of OP-3, the DG has failed to identify any incriminating material and has disregarded evidence to the contrary. Accordingly, the findings recorded against OP-3 are perverse, unsupported by evidence, and liable to be set aside in the interest of justice.

Analysis

35. The Commission has carefully perused the material available on record, including the Information, the Investigation Report, the written submissions and responses filed by the parties, and has also heard the oral arguments advanced by the respective learned counsel(s) appearing for the Opposite Parties. However, it is pertinent to note that the Commission has not placed reliance upon the video evidence and the statement of [REDACTED] as the said video evidence was not made available to the Opposite Parties for the reasons stated hereinabove, and further, [REDACTED] declined to appear for cross-examination despite due opportunity.
36. Before proceeding on merits, the Commission deems it appropriate to deal with the preliminary issues raised by the parties. The Commission notes that OPs have contended that the Association and its affiliates are not engaged in similar trade of goods or provision of services as that of retail liquor vendors or wine shop owners, and thus, there is no question of agreement between them within the meaning of Section 3(3) of the Act. The Commission notes that OPs are associations comprising members who are engaged in similar trade, *i.e.* retail liquor vendors or wine shop owners. Any decisions taken or practices carried on by such association(s) are squarely covered by the provisions of Section 3(3) of the Act, which clearly includes *‘[a]ny agreement entered into between enterprises or associations of enterprises or persons or associations of persons or between any person and enterprise or practice carried on, or decision taken by, any*

association of enterprises or association of persons, including cartels, engaged in identical or similar trade of goods or provision of services [....]’. Further, in plethora of cases, the Commission has found similar practices of the trade associations to be falling within the domain of Section 3(3) of the Act. Thus, given the fact that decisions taken by association of persons engaged in identical or similar trade of goods or provision of services under Section 3(3) of the Act and the past decisions of the Commission, the objection raised by the OPs is found to be rather frivolous.

37. OPs have contended that they are representative associations of liquor vendors established to lawfully highlight and address the issues of liquor vendors in Maharashtra, and that the DG has completely misconstrued the nature and purpose of their activities. The Commission acknowledges the active role played by trade associations in promoting the interests of its members. This position has been clarified in many previous orders, including in Ref. Case No. 06 of 2014 (Cochin Port Trust and CTOCC and Ors.) where the Commission held that “[t]here can be legitimate reasons for forming trade associations and such associations undoubtedly serve an important platform for betterment of a particular trade, for establishing code of conduct, for laying down standards for fair trade, for facilitating legitimate co-operative behaviour in case of negotiations with government bodies etc. However, there is a very thin line between legitimate trade activities and anti-competitive practices that take place through these trade association meetings/discussions. And when these trade associations are used as a charade to transgress that thin line to promote illegitimate/anti-competitive ends, it becomes necessary for the Commission to intervene, for lifting the charade to penalise the anti-competitive conduct”.
38. Further, the purported pro-competitive justification advanced by the Opposite Parties with respect to the issuance of LOIs is untenable. Practices that facilitate coordination among competitors or impose uniform trading conditions cannot be defended under the guise of efficiency enhancement or market facilitation. Such conduct, by its very nature, restricts independent decision-making by market participants and impedes competition on price and terms of trade, which lies at the core of Section 3 of the Act.
39. Moreover, the argument that fixation of retail margins by the association was



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necessitated due to changes in the excise duty structure is equally unsustainable. Adjustments to margins in response to market or fiscal changes are commercial matters to be determined bilaterally between manufacturers and individual retailers, not collectively through an association. The collective determination or enforcement of margins amounts to an agreement with the object of fixing prices, which is presumed to have an AAEC under Section 3(3)(a) of the Act.

40. Having dealt with the preliminary objections/contentions, the Commission proceeds to determine the issue on the merits. Here, the Commission took note of modus operandi of the OPs in issuing LOIs. According to the DG, when an Alcobev Company introduces a new product, it would ordinarily approach retail liquor vendors directly to offer the product for sale. However, in practice, the associations have created a system that compels such companies to first approach them. These associations then unilaterally determine the selling price, retail margins, cash discounts, credit periods, and delivery terms, which the Alcobev Companies are obliged to follow. They also impose a compulsory “launching fee” on all new products introduced for sale to association members. If any Alcobev Company attempts to bypass the associations and deal directly with individual vendors, the associations ensure that such products are collectively boycotted in the market. The DG further noted that, to conceal evidence of anti-competitive conduct, these associations generally avoid official correspondence and instead communicate their demands through informal means such as oral discussions, meetings, WhatsApp messages, or phone calls, thereby creating an impression that the Alcobev Companies are voluntarily offering such “launching schemes” at the time of product introduction.

Issue for determination: Whether the conduct of the OP-1, OP-2 and OP-3 in issuing circulars to their members regarding discounts, payment terms, and transportation charges, and in allegedly compelling Alcobev Companies to obtain NOCs before the launch of new products amounts to a violation of Sections 3(3)(a) and 3(3)(b) read with Section 3(1) of the Act?

41. In this regard, at the outset, the Commission notes that in terms of Section 2 (b) of the Act, an ‘agreement’, *inter alia*, includes any ‘arrangement’ or ‘understanding’ or ‘action



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in concert’, whether or not formal or in writing or intended to be enforceable by legal proceedings. Thus, evidently, this definition, being inclusive and not exhaustive in nature, is a wide one. Understanding, for the purposes of Section 2 (b) of the Act, may be tacit and the definition covers situations where the parties act on the basis of a nod or even a wink.

42. The Commission is cognizant of the fact that there is rarely any direct evidence of action in concert and in such situations, the Commission has to determine whether those involved in any anti-competitive dealings had some form of understanding and were acting in co-operation with each other. In light of the definition of the term ‘agreement’, the Commission assesses the evidence in Section 3 cases on the basis of preponderance of probabilities. The Commission is also cognizant of the fact that since prohibition on participating in anti-competitive agreements and penalties the offenders may incur are well-known, it is normal that such activities may be conducted in a clandestine manner, where the meetings are held in secret and the associated documentation is reduced to a minimum.
43. Hence, it is to be kept in mind that it is often more than necessary to reconstruct certain details by deduction. In most cases, the existence of an anti-competitive practice or agreement has to be inferred from a number of coincidences and signs which, taken together, may, in the absence of any other plausible explanation, constitute evidence of the existence of an anti-competitive agreement.
44. Keeping in view the above, the Commission now proceeds to analyse the evidence collected by the DG, party-wise, as follows:

Analysis of evidence against OP-1

45. The Commission has examined a series of email communications obtained during the course of investigation between the OP-1, its office bearers, and various manufacturers or distributors of alcoholic beverages. These communications, elaborated as under collectively reveal a systematic practice of prescribing and enforcing uniform commercial terms through the mechanism of LOIs, which were made mandatory for



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launching alcoholic beverage products in the Maharashtra market:

45.1 The email dated 13.01.2018 from OP-1 (mwma306@yahoo.com) to [REDACTED] with the subject “Draft Application for Letter of Introduction” enclosed a letter forwarded by DeeJay Distilleries seeking approval from the OP-2 for the launch of Ria Black Premium Whisky. The accompanying document prescribed cash discounts and promotional schemes to be offered to association members. This indicates that OP-1 actively facilitated and vetted the terms of product launches, including promotional structures, on behalf of Alcobev Companies.

45.2 The email dated 11.04.2018 further establishes that OP-1 had itself provided a draft application format to [REDACTED] [REDACTED] should apply for its LOI in the same prescribed format. This reflects that OP-1 was not merely receiving applications but dictating the form and content in which applications for launch approvals were to be made.

45.3 The email dated 28.06.2018 from [REDACTED] to OP-1, titled “Re: Draft Application for Letter of Introduction”, demonstrates compliance with the format provided earlier. MMC applied for a LOI for its Indian-Made Foreign Liquor (‘IMFL’) brands “Directors No.1 Doctor Brandy,” “White Escort Whisky,” and “Maharani Gold XXX Rum” in Mumbai/Maharashtra, specifically indicating a 12% retailer profit margin, a launch offers of one case free on purchase of three cases, and recording payment of a membership subscription fee of Rs.29,500. The inclusion of a “membership fee” payable by a manufacturer (who is not eligible to be an association member) reinforces the finding that OP-1 imposed commercial obligations as a precondition to granting the LOI.

45.4 Further, the email dated 06.02.2018 from OP-1 to madhukar.devadiga@charosavineyards.com, copied to Mr Dilip Giyanani, contained attachments including a sample LOI and detailed “Launching Norms”. These norms listed seven specific conditions such as 12% retail margin, 3% cash discount, one free bottle for every six bottles purchased, and a launch fee of Rs. 50,000. The document also expressly stated that these terms were “*subject to change in any Working Committee meeting deciding these suggestions.*” This language confirms that such commercial terms were collectively determined by the association’s committee, representing a concerted decision rather than an individual commercial arrangement.



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45.5 Similarly, the email dated 30.01.2018 to [REDACTED] provided a sample LOI format for guidance, further showing that OP-1 maintained a standardized structure for all product launch applications, implying that no manufacturer could introduce products without conforming to such association-prescribed conditions.

45.6 The email dated 20.01.2020 from [REDACTED] to OP-1 seeking launch approval for its products [REDACTED]

[REDACTED] reiterated the same pattern where manufacturers were required to apply to OP-1 for introduction approval, specifying retail margins, launch schemes, and cash discounts. The very act of manufacturers submitting such applications to an association for approval underscores OP-1's control over product introductions in the market.

46. The above email communications, when read collectively, clearly demonstrate a pattern whereby OP-1 not only prescribed the standard format of applications for product introduction but also dictated the commercial terms to be offered to its retail members. The draft formats, fixed margins, uniform launch schemes, and mandatory fees leave no doubt that the LOI/NOC mechanism functioned as a tool for price coordination and market control rather than as a voluntary introduction process.
47. The fact that manufacturers were required to pay “membership fees” or “launch fees” to obtain LOIs despite not being eligible as association members further indicates that the process was coercive and exclusionary in nature, effectively tying market access to compliance with association-imposed conditions. Such conduct eliminates independent negotiation between manufacturers and retailers and imposes uniformity in commercial terms across the market.
48. The investigation also recorded the statement on oath of Mr. Dilip Jamnadas Giyanani, President – Caretaking Committee of OP-1. In his deposition, Shri Giyanani categorically admitted that OP-1 provides guidance and directions to its constituent district associations regarding the format of introduction letters and the margin to be charged from manufacturers. The relevant extract from his statement reads as under:

Question 20: Do you guide the district associations in Maharashtra on how to draft the introduction letter or to arrive at the margin to be charged from the liquor

manufacturers?

Answer 20: Yes, we have told the district associations and shared the format of the introduction letter with them.

49. OP-1 contended that the deposition of Mr. Dilip J. Giyanani, having remained uncontroverted by the Informant and third parties, should not be relied upon. The Commission finds no substance in this contention, as the absence of challenge by other parties does not diminish the evidentiary value of the testimony. What is material is whether OP-1 has produced any rebuttal or contradictory evidence to discredit the statement, which it has failed to do. In the absence of any such rebuttal from OP-1, the deposition remains unchallenged on record and retains its evidentiary worth. The Commission accordingly accords due weight to his testimony as part of the evidentiary record.

50. The DG has gathered evidence in the form of LOIs issued by OP-1. An illustrative list of such LOIs is provided below:

50.1 LOI for [REDACTED]

[REDACTED] which includes certain terms & conditions such as 12% retail margin, discount offer of Rs. 400/- per bottle, 1 bottle of 750 ML free on purchase of 1 case, 1 bottle of 750 ML free for the display, 3% cash discount and transportation cost of Rs 12/- per case allowed to be deducted in 1 invoice.

50.2 [REDACTED]

[REDACTED] which includes certain terms & conditions such as 12% retail margin, 1 bottle free on purchase of 1 case, 3% cash discount and transportation cost of Rs. 12/- per case allowed to be deducted in invoice.

50.3 [REDACTED]

[REDACTED], which includes certain terms & conditions such as 12% / 15% retail margin, 1 case free on purchase of 3 cases and 4 cases free on purchase of 10 cases, 3% cash discount.

51. From the above LOIs, it emerges that OP-1 exercised control over the launch of new alcoholic beverages within the Thane and Raigad districts and other areas under its operational ambit. Each LOI explicitly prescribed the retail margins, discount structures, and launch schemes applicable to the product concerned. The documents further



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contained directions that “*a copy of this launch letter should be produced to the sender while booking order,*” thereby making such LOI a precondition for marketing and distribution through retailers affiliated with the association. By mandating uniform retail margins and prescribing identical discount schemes across its members, OP-1 has restricted the independent decision-making of retailers and manufacturers alike.

52. Accordingly, the Commission agrees with the DG’s findings that OP-1 has violated the provisions of Section 3(3)(a) read with Section 3(1) of the Act by issuing circulars to its members regarding discounts, payment terms, transportation charges, etc., which are matters that should ordinarily be determined by the individual commercial judgment of each Alcobev Company and licensed retail liquor vendor or wine shop owner. Further, the OP-1’s practice of requiring Alcobev Companies to obtain its NOC prior to launching new products amounts to seeking approval for market entry, thereby contravening Section 3 read with Section 3(3)(b) of the Act.

Analysis of evidence against OP-2

53. DG also collected evidence that OP-2 circulated LOIs among its members specifying margins, discounts and other schemes applicable to launch of the products in its geographical area as mentioned below:

53.1 [REDACTED] circulated to all members of the association, which includes certain terms & conditions such as 8.62% retail margin, cash payout (of Rs.24, Rs.37 & Rs.29) for every case, launch scheme on bottles as 10 cases + 4 cases free and launch scheme on cans as 10 cases + 4 cases (asserted size) free.

53.2 [REDACTED] circulated to all members of the association, which includes certain terms & conditions such as 8.62% retail margin, and a Perpetual Payout of Rs. 85.33 per case in every bill to compensate the association's demand of 12 % margin.

54. The above-mentioned LOIs clearly establish that OP-2 was actively involved in circulating directives to its members, specifying the launch terms for various alcoholic beverage products within the Pune market and adjoining areas. The Commission is of the



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view that the role assumed by OP-2 in determining commercial terms for its members and dictating launch schemes goes beyond the legitimate objectives of a trade association. By mandating uniform pricing and margins, OP-2 has facilitated a collective decision that directly or indirectly determines purchase or sale prices and the practice of conditioning product launches or NOCs upon compliance with such uniform terms amounts to limiting or controlling the supply and market access of manufacturers.

55. Accordingly, the Commission concurs with the DG's findings that OP-2 has violated the provisions of Section 3(3)(a) and Section 3(3)(b) read with Section 3(1) of the Act.

Analysis of evidence against OP-3

56. The DG recorded the statement of [REDACTED] a founding team member of [REDACTED], who stated that OP-3 determines the margins and promotional schemes to be offered by manufacturers to the retail members of the association, as well as issues NOCs for launching products in the market. He further explained that in 2019, Trillium Beverages Pvt. Ltd. attempted to directly sell three of its products to certain retailers in Mumbai. However, Mr. Arvind Miskin, President of OP-3, instructed the company's executives to first approach the association and obtain its NOC before selling products in Mumbai. The company was also informed that it must pay approximately Rs.30,000 as a launch fee per product, maintain a fixed retail margin of 12%, and offer a launch scheme of two free bottles for every five bottles purchased by retailers. The relevant extract from his statement reads as under:

Question 3. You are shown an email 20.01 2020 sent by an executive of your company to Maharashtra Wine Merchants Association (MWMA) Please explain the deal?

Ans 3. As informed by the sales executive concerned, our company started in 2019 with three products and approached some retailers in Mumbai to sell our products. The retailers took our products for selling. But soon we were called by Mr. Arvind Miskin of Progressive Association, Mumbai We were told to first come to the association and take NOC for selling our products in Mumbai market. We were told that if we try to supply directly to the retailers, the association would blacklist the company and no member of the association would take our products. Thus our executive was compelled to meet Sh. Miskin in his office located in Andheri (E) Mumbai behind his liquor shop named



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Diplomat wines In the meeting our executive was told that first the company is required to pay Rs. 30000 approx to the association for launch of one product. Moreover, the retail margin on our products was fixed at 12% along with scheme for launch which basically means giving 2 bottles free to the retailer on purchase of 5 bottles These terms were too heavy for the company and severely dented our profits. The company pursued the association for many days for reducing the retail margin to 10%, however, they did not relent and ultimately forced us to agree to their terms The association is very shrewd and probably understands the illegality in their conduct. Thus, the association members/officer bearers/key persons do not communicate the illegal things on email or in writing They simply ask the executive to meet in their office, where they verbally tell their demands. They also provided a sample offer letter from some other company, and asked us to submit an offer on the dictated terms. as if we proposed the terms. Thereafter, they gave us an acceptance letter which is sort of an NOC which is seen by their member retailers before taking our products. There may be some incriminating whatsapp chats between our company executive and the key person in the association, which we will fetch and submit with appropriate certificate. The company paid Rs 30000 approx as launch fee to the Progressive association The email shown to me is what our company has offered to the association for selling our products. It includes the retail margin and the free scheme Actually, as informed to me by the sales executive concerned. this offer was rejected by the association person and the company was compelled to send another offer with retail margin 12% + free scheme. In the matter, another member named Mr. James was also involved from the association side.

I am informed by our sales executive that the same process was repeated with MWMA, which is another association operating in Mumbai. In MWMA Sh Manish Tahiliyani was the key person dictating the terms of the association. There also the terms were same as agreed by us with Progressive association. I must mention here that I do not deal on the ground level and the above information has been provided to me by the Regional sales Manager of the company. However, I undertake to provide further documents as mentioned above as soon as possible.

57. The DG also gathered evidence under Section 65B of the Indian Evidence Act, 1872, in the form of WhatsApp chats between Ms. Manpreet Kaur, an executive of Trillium Beverages Pvt. Ltd., and Mr. James, a key representative of the OP-3. The



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communication indicates that OP-3 compelled the company to adhere to its prescribed terms and conditions for launching the product. The relevant extracts of the WhatsApp conversation are reproduced below:

"[09/01/20, 4:55:27 PM] James; Hi your application has been rejected as it's not meeting the criteria for Margin & launch offer. Request you to please submit fresh application with the changes."

58. OP-3 argued that the deposition of [REDACTED] should be disregarded, as his examination and cross-examination dated 13.10.2022 reveal that his testimony was based entirely on hearsay, relying on information from other employees of Trillium Beverages Pvt. Ltd., and is therefore inadmissible under Section 60 of the Indian Evidence Act, 1872. It was further submitted that Trillium Beverages had already been selling its products through retailers prior to seeking any NOC, indicating that OP-3 did not exercise control over retailers or manufacturers. [REDACTED] was also unable to recall key facts, such as whether OP-3 shared a sample launch letter, and he incorrectly stated that an email dated 20.01.2020 was addressed to OP-3, when it was in fact sent to OP-1.
59. The Commission observes that the statement of [REDACTED] is duly corroborated by the concurrent WhatsApp communication between the representative of [REDACTED] and the key functionary of OP-3, which substantiates the assertion that the association dictated the launch terms, including margins and schemes, to the manufacturer. The Commission considers it material to note that [REDACTED] is a founding member of [REDACTED] and has direct and first-hand knowledge of the events in question. Consequently, his deposition cannot be termed as hearsay or speculative in nature. Moreover, the witness was subjected to cross-examination by the OP-3, thereby affording due opportunity to test the veracity of his statement. Accordingly, the contention of OP-3 that the said statement is hearsay and therefore inadmissible is devoid of merit.
60. The Commission notes that two emails dated 06.07.2021 were sent by Mr. Arvind Miskin, President of OP-3, forwarding letters issued from the official association email ID [REDACTED]



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Both the emails bearing the subjects “Restoration of Vendor Retail Margins” and “Reminder of Vendor Retail Margins” respectively, requested early meetings with the companies to discuss revision and restoration of vendor retail margins.

61. From these communications, the DG concluded that OP-3, through its President, was collectively pursuing Alcobev Companies to alter or restore uniform vendor margins on behalf of its member retailers. Such concerted attempts to influence or determine commercial terms that should be independently negotiated between manufacturers and individual vendors amount to collective decision-making in contravention of Section 3(3)(a) read with Section 3(1) of the Act.
62. In its written submissions, OP-3 contended that these communications were merely representations made in the legitimate exercise of trade association functions, aimed at highlighting issues faced by members due to declining margins and seeking dialogue with manufacturers for fair business practices. OP-3 denied any coercive intent or collective enforcement, asserting that no binding directions or concerted actions followed such correspondence. However, the Commission finds that the language and context of these communications, coupled with the association’s repeated reminders to Alcobev Companies, go beyond mere representation and reflect an attempt to collectively influence pricing decisions, thereby attracting the provisions of Section 3(3)(a) read with Section 3(1) of the Act.
63. The Commission notes that the OP-3 issued an LOI dated 25.02.2019 for the launch of [REDACTED] which specified detailed commercial terms including a retail margin of 8.62%, a launch scheme of four cases free on the purchase of ten cases, and a cash discount of 2.87%.
64. From this document, it is evident that OP-3 not only influenced the introduction of new Alcobev products but also prescribed the pricing, margin, and promotional scheme applicable to all member retailers. Further, Alcobev Companies were required to obtain an NOC from OP-3 before launching their products in the Mumbai Metropolitan Region and adjoining areas under its coverage.



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65. During the hearing and in its written submissions, OP-3 contended that the LOI relied upon by the DG is illegible and, therefore, cannot be treated as credible evidence. However, it is pertinent to note that a legible copy of the said document is available on the case record. Moreover, the concerned LOI was issued by OP-3 itself, and the DG has clearly recorded the date of issuance and the name of the concerned Alcobev Company to whom it was addressed. Accordingly, OP-3's argument regarding the illegibility and evidentiary value of the document is devoid of merit and cannot be sustained.
66. Thus, the Commission concurs with the findings of the DG that OP-3 is in violation of the provisions of Section 3(3)(a) read with Section 3(1) of the Act by communicating with its constituent members through circulars and emails on matters such as pricing, margins, and commercial terms, which should otherwise be left to individual business discretion. Further, OP-3 has been compelling Alcobev Companies to obtain a NOC from it prior to the introduction of new products, thereby exercising a form of approval control over product launches, which amounts to a contravention of Section 3(3)(b) read with Section 3(1) of the Act.
67. Considering that the contravention by the OPs, i.e., OP-1 to OP-3, is established, the Commission now proceeds to analyse the conduct of the officers/employees of the OPs, who would be liable for such anti-competitive acts of the OPs in terms of Section 48 of the Act. According to the Investigation Report, the DG identified six office bearers of OP-1 to OP-3 — Mr. Dilip Jamnadas Giyanani, President – Caretaking Committee (OP-1); Mr. Balvinder Singh Rekhi, President, (OP-1); Mr. Dayal Idnani, Office Bearer, (OP-1); Mr. Ajay V. Deshmukh, Secretary, (OP-2); Mr. Arvind Miskin, President, (OP-3); and Mr. Sumit Chawla, Vice President, (OP-3)— as individuals, liable under Section 48 of the Act.
68. With respect to the above, the Commission notes that no evidence pertaining to the investigation period has been placed on record against Mr. Sumit Chawla, in his capacity as Vice President of OP-3, to establish his participation in, or responsibility for, the anti-competitive conduct examined in the present matter. Accordingly, Mr. Sumit Chawla cannot be held liable under Section 48 of the Act, and the proceedings against him, to



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that extent, stand closed.

69. In respect to the liability of the remaining officials of the OPs, the Commission notes that the concerned individuals, being persons in charge of and responsible for the conduct of the business of the contravening OPs, were required to demonstrate that the anti-competitive conduct had occurred without their knowledge or that they had exercised all due diligence to prevent such conduct. However, no material has been placed on record by any of these officials to discharge this statutory burden. In particular, as noted by the DG, Mr. Dilip Jamnadas Giyanani, who has been the President of the Caretaking Committee of OP-1 for several years, Mr. Balvinder Singh Rekhi, who has been the President of OP-1, and Mr. Dayal Idnani, who has been the Treasurer of OP-1 during the relevant period, were actively involved in and have played a key role in the perpetuation of the anti-competitive practices on behalf of OP-1. Mr. Ajay V. Deshmukh, Secretary of OP-2, acted as the authorised signatory and executed the LOIs issued by OP-2, thereby facilitating and furthering the impugned conduct. Further, Mr. Arvind Miskin, President of OP-3, is also found to have participated in and adopted anti-competitive practices. In the absence of any evidence to rebut their involvement or to establish due diligence, the officials above are held liable under Section 48 of the Act.

ORDER

70. The practices of issuing circulars, emails, or other communications by the Maharashtra Wine Merchants Association (OP-1), the Pune District Wine Merchants Association (OP-2), and the Association of Progressive Liquor Vendors (OP-3) to their members prescribing or influencing pricing, margins, discounts, payment terms, transportation charges, or other commercial terms that ought to be independently determined by each enterprise, as well as imposing mandatory requirements on Alcobev Companies to obtain NOCs prior to launching new products, have been held to violate Section 3(3)(a) and Section 3(3)(b), read with Section 3(1) of the Act.
71. As far as individuals' liability is concerned, the Commission holds the following individuals of the OP-1 to OP-3, viz. Mr. Dilip Jamnadas Giyanani (OP-1), Mr. Balvinder Singh Rekhi (OP-1), Mr. Dayal Idnani (OP-1), Mr. Ajay V. Deshmukh (OP-2), and Mr.



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Arvind Miskin (OP-3) liable under Section 48 of the Act.

72. Accordingly, the Commission, in exercise of its powers under Section 27(a) of the Act, directs the Maharashtra Wine Merchants Association (OP-1), the Pune District Wine Merchants Association (OP-2), and the Association of Progressive Liquor Vendors (OP-3), together with their respective officials held liable under Section 48 of the Act, to cease and desist from all practices found in this order to be in contravention of Section 3 of the Act.
73. As regards the imposition of monetary penalty, the Commission notes the various mitigating factors advanced by the OPs. It has been submitted that OP-1 has already discontinued the practice of issuing LOIs or recommendations and has undertaken not to engage in such conduct in the future. The Commission further observes that the Opposite Parties, who are trade associations are first-time offenders. The OPs have also contended that the imposition of a monetary penalty would adversely affect the financial viability of OPs and would lead to the discontinuation of various welfare-oriented activities undertaken for the benefit of small and vulnerable liquor retailers, including legal assistance and protective measures. With respect to individuals, the OPs have argued that the concerned officials have not earned any income from the OPs or from the issuance of LOIs.
74. Therefore, against the above backdrop, the Commission, in the interest of justice, refrains from imposing any monetary penalty upon the OPs and their respective officials in the peculiar circumstances of this case. The Commission is of the considered view that a cease and desist order under Section 27 of the Act would serve the ends of justice in the matter. It may, however, be noted that any such future conduct of OPs would be construed as recidivism with attendant aggravated consequences not only for OPs but also for their office bearers in their personal capacity.
75. Before parting, the Commission deems it appropriate to deal with the request of the Informant and three (3) of the third parties seeking confidentiality over certain documents and information filed by them, as well as on their identity under Regulation 35 of the Competition Commission of India (General) Regulations, 2009 (as amended).



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Considering the grounds put forth by the parties for the grant of confidential treatment, the Commission grants confidentiality to such documents and information in terms of Regulation 36 of the Competition Commission of India (General) Regulations, 2024, read with Section 57 of the Act, for a period of three years from the passing of this order. The Commission also grants confidentiality on the identity of the Informant and third parties, as claimed. It is, however, made clear that nothing used in this order shall be deemed to be confidential or deemed to have been granted confidentiality, as the same has been used for the purposes of the Act in terms of the provisions contained in Section 57 thereof. Accordingly, the Commission directs that two versions of the present order may be issued i.e., public version shall be served upon all the parties and a confidential version shall be shared with the OPs through members of the confidentiality ring.

76. The Secretary is directed to forward certified copies of the present order to the parties, in terms of the directions above.

Sd/-

(Ravneet Kaur)

Chairperson

Sd/-

(Anil Agrawal)

Member

Sd/-

(Sweta Kakkad)

Member

Sd/-

(Deepak Anurag)

Member

New Delhi

Date:11.12.2025