

Competition Commission imposes a monetary penalty on Google for anti-competitive practices

- The Competition Commission of India ('Commission') has imposed a penalty of Rs. 1,337.76 crore (on provisional basis) on Google for abusing its dominant position in multiple markets in the Android mobile device ecosystem.
- The Commission directed Google that the anti-competitive clauses of the respective agreements with Original Equipment Manufacturers ('OEMs') in India shall not be enforced by Google with immediate effect.
- The Commission also directed Google to implement necessary changes in its practices and/or modify the applicable agreements within 3 months and submit a compliance report to the Commission.
- The Commission outlined following 5 relevant markets:
 - a. Market for licensable Operating System ('OS') for smart mobile devices in India;
 - b. Market for app store for Android smart mobile OS in India;
 - c. Market for general web search services in India;
 - d. Market for non-OS specific mobile web browsers in India;
 - e. Market for Online Video Hosting Platform ("OVHP") in India.
- The Commission held Google to be dominant in all these relevant markets. Further, Google is also found to have abused its dominant position in contravention of the competition law in India.

Contraventions by Google, as concluded by the Commission:

- Mandatory pre-installation of entire Google Mobile Suite under the distribution agreement (with no option to un-install the same) and their prominent placement amounts to imposition of unfair condition on the device manufacturers. These obligations are also found to be in the nature of supplementary obligations imposed by Google on OEMs
- Google has perpetuated its dominant position in the online search market resulting in denial of market access for competing search apps.
- Google has leveraged its dominant position in the app store market for Android OS to protect its position in online general search.
- Google has leveraged its dominant position in the app store market for Android OS to enter as well as protect its position in non-OS specific web browser market through Google Chrome App.
- Google has leveraged its dominant position in the app store market for Android OS to enter as well as protect its position in OVHPs market through YouTube.
- Google, by making pre-installation of Google's proprietary apps (particularly Google Play Store) conditional upon signing of relevant agreements for all android devices manufactured/ distributed/ marketed by device manufacturers, has reduced the ability and incentive of device manufacturers to develop and sell devices operating on alternative versions of Android i.e., Android forks and thereby limited technical or scientific development to the prejudice of the consumers.

Remedial measures by the Commission:

- OEMs shall not be restrained from (a) choosing from amongst Google's proprietary applications to be pre-installed and should not be forced to pre-install a bouquet of applications, and (b) deciding the placement of pre-installed apps, on their smart devices.
- Licensing of Play Store (including Google Play Services) to OEMs shall not be linked with the requirement of pre-installing Google search services, Chrome browser, YouTube, Google Maps, Gmail or any other application of Google.
- Google shall not deny access to its Play Services APIs to disadvantage OEMs, app developers and its existing or potential competitors. This would ensure interoperability of apps between Android OS which complies with compatibility requirements of Google and Android Forks. By virtue of this remedy, the app developers would be able to port their apps easily onto Android forks.
- Google shall not offer any monetary/ other incentives to, or enter into any arrangement with, OEMs for ensuring exclusivity for its search services.
- Google shall not impose anti-fragmentation obligations on OEMs. For devices that do not have Google's proprietary applications pre-installed, OEMs should be permitted to manufacture/ develop Android forks based smart devices for themselves.
- Google shall not incentivize or otherwise obligate OEMs for not selling smart devices based on Android forks.
- Google shall not restrict un-installing of its pre-installed apps by the users.
- Google shall allow the users, during the initial device setup, to choose their default search engine for all search entry points. Users should have the flexibility to easily set as well as easily change the default settings in their devices, in minimum steps possible.
- Google shall allow the developers of app stores to distribute their app stores through Play Store.
- Google shall not restrict the ability of app developers, in any manner, to distribute their apps through side-loading.