

CCI's First - Ever Settlement Order: A landmark in Google's Android TV case

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Recently, on April 21, 2025, the Competition Commission of India (“**CCI**”) in re: Kshitiz Arya and Anr. vs. Google LLC and Ors. (Case No. 19 of 2020), passed its first ever order of Settlement under Section 48A(3) of the Competition Act, 2002 (as amended in 2023) (“**Act**”). The CCI accepted Google’s settlement proposal in the Android Television (“**TV**”) matter by imposing a settlement amount of INR 20.24 crores (approx. USD 2.37 million) upon Google, after applying a settlement discount of 15% in terms of Regulation 6 of the Competition Commission of India (Settlement) Regulations, 2024 (“**Settlement Regulations**”).

In view of Section 48A of the Act, an enterprise against which an inquiry / investigation has been initiated under Section 26(1) of the Act for violation of provisions of Section 3(4) of the Act (vertical agreements) and Section 4 of the Act (abuse of dominant position), may make an application for settlement to the CCI any time after the receipt of the report of the Director General (“**DG**”) and before passing of the final order under Section 27 or Section 28 of the Act. The CCI after taking into consideration the nature, gravity and impact of the contraventions, may agree to the proposal of settlement upon payment of a settlement amount by such enterprise and on other terms and manner of implementation of settlement and monitoring as specified under the Settlement Regulations.

Proceedings before the CCI

In the instant matter, an investigation was initiated by the CCI *vide* order dated 22.06.2021 against Google LLC, Google India Private Limited (collectively referred as “**Google**”) and TV manufacturers, Xiaomi Technology India Pvt. Ltd. (“**Xiaomi**”) and TCL India Holdings Pvt. Ltd (“**TCL**”) upon receipt of an information filed by two individuals, *namely*, Mr. Kshitiz Arya and Mr. Purushottam Anand (collectively referred as “**Informants**”). The Informants alleged that by virtue of its Television Application Distribution Agreement (“**TADA**”) and conditional Android Compatibility Commitments (“**ACC**”), Google violated provisions of Section 4 and Section 3(4) of the Act by abusing its dominant position in the smart TV ecosystem, and by entering into anti-competitive agreements *i.e.*, TADA and ACC with Xiaomi, TCL, and other original equipment manufacturers (“**OEMs**”), respectively. In compliance with the order of the CCI, the DG conducted the investigation and submitted its report with adverse findings against Google. The DG in its report found Google to be abusing its dominant position in contravention of Section 4 of the Act, in the relevant markets for “*licensable smart TV device operating system*” and “*App stores for android smart TV operating system in India*”, through its two agreements – TADA and ACC (discussed in detail below). However, it did not find any violation of provisions of Section 3(4) of the Act. After receiving the report of the DG, Google filed its application for settlement before the CCI. After considering the submissions of the DG and third parties, the CCI accepted Google’s Settlement subject to certain conditions (discussed in detail below) and passed its first ever order of settlement under Section 48A(3) of the Act.

Google’s conduct in smart TV ecosystem

A smart TV device manufacturer or OEM requires an operating system (“**OS**”) to provide its consumers a user-interface for facilitating the use of the Smart TV functions, which once installed cannot be changed. OEMs while opting for an OS have an option to choose from licensable OS such as Google’s Android TV OS or develop their own OS. Some OEMs have developed their own non-licensable OS such as Tizen (developed by Samsung), WebOS (developed by LG), Linus (developed by Sony) etc.

Prior to its Settlement Proposal, Google offered its Android TV OS to device manufacturers / OEMs *via* two free licenses – (i) TADA (which mandated acceptance of ACC by the OEMs) and (ii) Android Open-Source Project (“**AOSP**”). OEMs by using the AOSP could create their own version of Android OS *i.e.*, Android Forks, for their

devices but could not enjoy the right to distribute Google's proprietary apps such as Google Play Store, YouTube etc. or use Android logo or related trademarks. However, OEMs could distribute Google's proprietary apps and use Android logo and related trademarks under TADA only. Therefore, Google's must have app such as Google Play Store were accessible to OEMs only through TADA. Under TADA, Google required OEMs to mandatorily comply with ACC requirements as a condition therein. Under ACC, the OEMs were required to make all their Android compatible devices (such as TV, smart phones, laptops etc.) manufactured, distributed, and marketed by them to be Android compatible. Additionally, Google also required OEMs to be compliant with the Google TV Services ("GTVS") requirements that mandated pre-installation of collection of Google apps on OEM's devices such as Google Play, YouTube etc. that weren't a part of ASOP. Thus, GTVS were available only under TADA and OEMs were required to pre-install all of them on their devices. Further, OEMs were also mandated to not to pre-install incompatible Android platforms (other apps) on devices marketed under the same brand and seek approval of Google for all its devices regardless of whether they preload GTVS or are based on AOSP. Google explicitly also prohibited OEMs from developing their own forked Android-based OS.

Findings of the DG

Based on analysis of the factors enumerated under section 19(7) of the Act, *inter alia*, market share, size and resources of Google, Google's control over Android, consumer dependency on Android OS, Android network effects, lack of countervailing buying power of OEMs etc., the DG found Google's Android smart TV OS to be dominant in the relevant market for "*licensable smart TV device operating system*". Similarly, based on factors such as market share of Google Play Store, entry barriers, importance of Play Store, preference of app developers for the Play Store etc., the DG found Google's Play Store to be dominant in the relevant market for "*App stores for android smart TV operating system in India*". With respect to abuse of dominance by Google in the said relevant markets, the DG noted as follows:

- i. Google compelled OEMs to sign TADA and ACC to access 'must have' apps like Google Play Store and mandated them to preinstall entire suite of GTVS (amounting to tying apps under GTVS suite) in order to access the Google Play Store. The DG held that such practice of Google violated Section 4(2)(a)(i) and Section 4(2)(d) of the Act as the same imposed unfair condition upon OEMs and made conclusion of TADA subject to acceptance of ACC by OEMs. Further, Google's conduct of restricting OEMs from pre-installing incompatible Android platforms (other apps) on devices, requiring them to seek its approval for all devices regardless of whether they preload GTVS or are based on AOSP, and prohibiting OEMs from distributing non-GTVS versions of Android and working on Android forks, was also found to be in violation of Section 4(2)(d) of the Act by the DG.
- ii. With respect to condition requiring OEMs to make all their devices manufactured, distributed, and marketed by them to be Android compliant and mandatory pre-installation of GTVS on such devices, the DG held that such conduct violated provisions of Section 4(2)(b)(ii) and Section 4(2)(c) of the Act as the same limited technical or scientific development and also resulted in denial of market access. The DG noted that such conduct restricted the ability and incentive of the OEMs to develop and sell devices running on alternative versions of Android *i.e.*, Android forks.

- iii. Lastly, DG held that Google also violated the provisions of section 4(2)(e) of the Act by tying its YouTube app with Google Play Store. The DG noted that Google abused its dominant position in the secondary relevant market of “*online video hosting platforms in India*” (“**OVHP**”) by tying its YouTube app with the Play Store by mandating OEMs to pre-install entire GTVS on their devices.

Google’s settlement proposal and observations of the CCI

Under the Settlement Proposal, Google offered to adhere to the following commitments for 5 (five) years to address the above-mentioned findings of the DG:

1. Google will offer a “New India Agreement” for a certain fee to make available standalone license for Google Play Store and Google Play Services (“**GPS**”) for compatible smart TV devices sold in India. Google will offer its New India Agreement to all OEMs including – (a) current and former Android TV OEMs; (b) OEMs that use competitive smart TV OS such as Tizen; and (c) OEMs that offer incompatible Android devices. Alongside New India Agreement, Google will continue to offer its TADA agreement. Unlike previous agreement(s), New India Agreement will not require OEMs to preload any additional Google services such as YouTube etc. and will not impose any placement or default settings for the Google Play Store or GPS. Additionally, Google also offered that it will not certify any new Android TV models starting from 01.07.2025 but will continue to support such devices through ongoing arrangements till the end of 2029.

CCI’s Observations: The CCI noted that Google’s proposal of New India Agreement addresses DG’s findings regarding – (i) unfair imposition of entire GTVS suite under TADA amounting to contravention of Section 4(2)(a)(i) of the Act; and (ii) abuse of dominance by Google in the relevant market of OVHP by tying its YouTube app with the Play store in contravention of Section 4(2)(e) of the Act. The CCI noted that such proposal alongside TADA will offer greater flexibility to OEMs to either license only Google Play Store or pre-install the full suite of GTVS apps. Further, it will allow competitors of Google’s GVTs apps to preinstall their apps exclusively on devices, including alternatives to YouTube. Such proposal will enable OEMs to tailor their devices, cater to consumer preferences, and strategically select preinstalled apps.

2. Google will send letter to all of its Android TV partners that sell smart TV devices in India:
 - a) Indicating that Google has legally waived the TADA requirements to have a valid ACC for devices shipped into India that do not include Google apps.
 - b) Reminding them of the existing flexibility under their current agreements with Google to use the AOSP *i.e.*, open-source Android OS for smart TVs without taking any applications from Google or signing ACC; and develop TVs using other competing OS such as Tizen, WebOS, and Roku OS.

In addition to above, Google will also amend its TADA template to reflect the foregoing and will make the same to all new TADA partners, as well as to existing partners upon renewal of their current TADA.

CCI’s Observations: The CCI noted that proposal of Google of sending the aforementioned letters to its Android TV partners will address DG’s findings regarding – (a) limited technical or scientific development and denial of market access to the developers of Android forks amounting to contravention of Section 4(2)(b)(ii) and Section 4(2)(C) of the Act; and ACC condition restricting OEMs from distributing non GVTs version of Android and working on Android forks amounting to violation of Section 4(2)(d) of the Act. The CCI noted that the said waiver will allow

TADA signatories to introduce devices in India operating on non-compatible versions of Android (provided they do not incorporate Google applications). Further, it will also allow OEMs to not only launch smart TVs running incompatible versions of Android but also other device categories such as smartwatches and mobile phones.

Conclusion

The settlement proposal of Google is applicable only for a period of 5 (five) years, which has been found reasonable by the CCI. The acceptance of the settlement proposal of Google by the CCI is conditional upon payment of a settlement amount of INR 20.24 crores (approx. USD 2.37 million) which has already been paid by Google. Additionally, Google has also been directed by the CCI to submit annual compliance reports to the CCI by April 15th of each year (covering the period up to March 31st of that year) for the next five years, confirming the adherence to the obligations specified in the settlement proposal. In case Google fails to comply with the directions of the CCI or it comes to the knowledge of the CCI that it has not made true disclosures during the settlement proceedings or there has been material changes in the facts, the said order of the CCI would stand revoked and withdrawn. Also, in view of provisions of Section 48A(7) of the Act, no appeal against an order of settlement passed under Section 48A(3) of the Act would lie. Lastly, the Settlement Proposal of Google may prove to be a great support for enhancing innovation in the smart TV ecosystem and fostering competition. OEMs may now develop their own versions of Android Fork OS offering a pre-placement of Play Store that will allow them to penetrate into the market and compete effectively. As a result, consumers will also have ample options to choose from as per their preferences in terms of price and OS.

Disclaimer: The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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