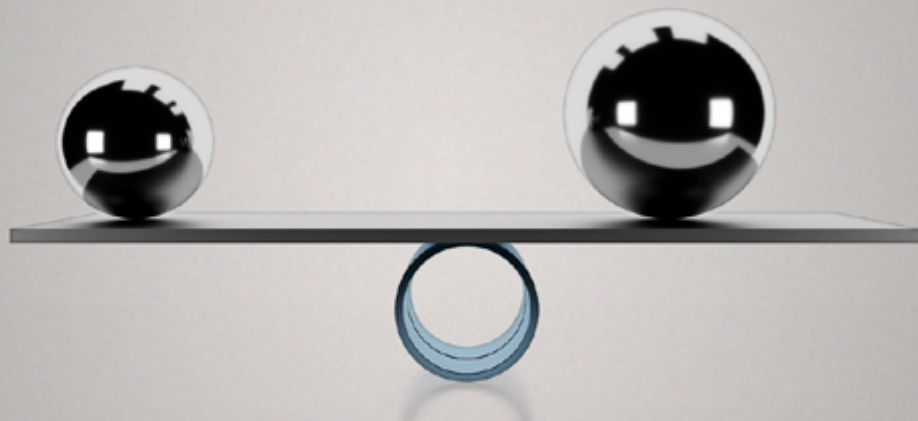


May 2025



Indian Competition Law Roundup: February to April 2025

In this Roundup, we highlight some important developments in Indian competition law from February to April 2025.

In summary:

- The National Company Law Appellate Tribunal (NCLAT) upheld part of the CCI's October 2022 order finding that Google had abused its dominant position in relation to the Google Play Billing System.
- The Competition Commission of India (CCI) issued its first settlement order under the new settlement regime, agreeing to a settlement by Google in relation to allegations that it had abused its dominant position in the markets for licensable operating systems (OSs) for smart TVs and for app stores for such OSs.
- The CCI found that companies leasing digital cinema equipment and providing post-production processing services had imposed a variety of vertical restrictions on cinema theatre owners and foreclosed the market for new providers of post-production processing services.
- The CCI at the *prima facie* stage dismissed allegations that Microsoft had, by including its own antivirus software in its Windows OS, abused its dominant position in the market for licensable OSs for desktops/laptops in India.

Anticompetitive Agreements

CCI Finds Vertical Restraints in the Digital Cinema Equipment Leasing and the Post-Production Processing Service Markets

On 16 April 2025, the CCI passed a final order finding that companies leasing digital cinema equipment (DCE) and providing post-production processing (PPP) services had contravened Section 3(4) read with Section 3(1) of

the Competition Act, 2002 (*Competition Act*) prohibiting anticompetitive vertical agreements.¹ The CCI found that *UFO Moviez Ltd. (UFO)* and *Qube Cinema Technologies Private Ltd. (Qube)* each had significant market power in the market for leasing DCE to cinema theatre owners (CTOs) and had imposed a variety of restrictions on them: (a) tie-in arrangements requiring lessees to obtain content from them as well; (b) requiring that only films with PPP services provided by them could be used on the DCE; and (c) requiring CTOs to refuse to deal with any film producer who had not availed of their PPP services.

The CCI found that these vertical restraints had resulted in an appreciable adverse effect on competition. It agreed with the findings of the investigating Director General that the restrictions had created barriers to entry for newer players in the PPP services market and that the market had been foreclosed to them. They had also hindered innovation and service-level improvements.

The CCI ordered UFO and Qube not to re-enter lease agreements and to modify existing agreements containing these restrictions. It also imposed a monetary penalty of INR 1.04 crore (approx. USD 122,000) on UFO and INR 1.65 crore (approx. USD 193,400) on Qube, based on their combined turnover from DCE leasing and PPP services.

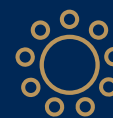
Abuse of Dominance

NCLAT Partly Upholds CCI Order against Google

On 28 March 2025, the NCLAT issued a judgment upholding significant parts of the CCI's October 2022 order² finding that

¹ *PF Digital Media Services Ltd. and Another v. UFO Moviez India Ltd and Another*, CCI, Case No. 11 of 2020 (16 April 2025).

² *XYZ v. Alphabet Inc. and Others*, CCI, Case 07 of 2020, etc. (25 October 2022).



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Google had abused its dominant position in relation to the Google Play Billing System (GPBS).³ Although it departed from a number of the CCI's findings, it upheld findings that Google had imposed a discriminatory condition by requiring app developers to use GPBS and that it had leveraged its dominance in the markets for licensable mobile OS and app stores for the Android OS to protect its position in the market for UPI enabled digital payment apps. The NCLAT also upheld six of the eight remedies directed against Google. The NCLAT modified the penalty imposed by the CCI from INR 936.44 crore (approximately USD 144 million) to INR 216.69 crore (approximately USD 25 million), considering the relevant turnover of Google.

The NCLAT made it clear that a competition effects analysis was required for abuse of dominance cases, in line with its 2023 decision in the *Google Android* case.⁴ The NCLAT clarified that such an analysis had to include both conduct leading to actual harm and conduct that was capable of causing such harm. Such conduct had to have *already* happened or occurred; there could be no contravention in respect of *future* conduct of the dominant entity.

CCI Issues First Settlement Order

On 21 April 2025, the CCI made its first settlement order under Section 48A(3) of the Competition Act and the Settlement Regulations 2024.⁵

The Informants had alleged that Google had abused its dominant position in the markets for licensable operating systems (OSs) for smart TVs and for app stores for such OSs. The investigating Director General (DG) found that Google was dominant in both markets and concluded that Google had abused its dominant position in a number of ways:

- a) the mandatory preinstallation of Google TV Services under the Television App Distribution Agreement (TADA) imposed unfair conditions on smart TV manufacturers;
- b) by making the pre-installation of Google's proprietary apps (in particular, Play Store) a condition for signing the Android Compatibility Commitment (ACC), Google had restricted the ability and incentive of manufacturers to develop and sell devices using alternative versions of Android (i.e., Android forks), thereby limiting technical or scientific development and resulting in denial of market access to Android forks' developers; and

- c) by tying the YouTube app with the Play Store, prominently placing YouTube on device screens, and not providing users an option to uninstall YouTube from their smart TV, Google leveraged its position in the market for licensable smart TV device OSs, to protect its position in the market for online video hosting platforms.

Google then submitted a settlement application. Its proposal included: (a) a "New India Agreement" offering a paid, stand-alone licence for Google Play Store and Google Play Services without pre-installation obligations (the TADA would continue to be offered alongside the new Agreement); (b) a waiver of the ACC for devices not preloading Google apps; (c) letters reminding OEMs of alternative OS options; and (d) a five-year duration with annual compliance reports.

After seeking comments from stakeholders, the CCI (by majority) accepted the proposal. It believed the New India Agreement would break the tie between Google Play Store and YouTube, restore OEM choice and allow competing apps to be pre-installed. CCI Member Anil Agrawal dissented, arguing that allowing the original TADA to co-exist with the New India Agreement would make the proposal ineffective.

Applying the 2024 Turnover Regulations and Penalty Guidelines, the CCI identified relevant turnover, determined a base amount, adjusted it for cooperation and compliance, and granted a 15% settlement discount. A settlement amount of INR 20.24 crore (approximately USD 2.35 million) was imposed on Google.

CCI Finds at Prima Facie Stage that Microsoft has not Abused its Dominant Position

On 3 March 2025, the CCI at the *prima facie* stage dismissed allegations that Microsoft had abused its dominant position in the market for licensable operating systems for desktops/laptops in India by pre-installing its anti-virus software – Microsoft Defender – in its OS.⁶

The CCI *prime facie* considered that Microsoft was dominant in this market by virtue of its market share, dependence of consumers and its vertical integration. However, it found that the anonymous informant had not made out the allegations of abuse. It found that there was no compulsion on users to exclusively use Microsoft Defender as their antivirus solution and that OEMs could pre-install alternative antivirus software

³ *Alphabet Inc. and Others v. CCI and Another*, NCLAT, Competition Appeal (AT) No. 04 of 2023 (28 March 2025).

⁴ *Google LLC v. CCI and others*, NCLAT, Competition Appeal (AT) No. 01 of 2023 (29 March 2023).

⁵ *Kshtiz Arya and Another v. Google LLC and Others*, CCI, Case No. 19 of 2020 (21 April 2025).

⁶ *XYZ v. Microsoft Corporation and Another*, CCI, Case No. 03 of 2024 (3 March 2025).



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on desktops and laptops running Windows OS. There was no impediment to technical and scientific development in the market for antivirus applications; rather, ongoing innovation in the sector suggested that including Microsoft Defender had not stifled technological advancement or deterred competition. There was no unlawful tying since there was no element of “coercion” for the OS and the antivirus software to be used together and no indication of foreclosure in the antivirus solutions sector. There was no compelling evidence to show that Microsoft had leveraged its dominant position in the OS market to safeguard its position in the markets for

computer security (antivirus) software for Windows OS. Finally, the CCI found that membership of Microsoft’s Microsoft Virus Initiative (MVI) programme was not mandatory and non-MVI antivirus developers were not prevented from distributing their applications on Windows (although they were subject to reasonable compatibility requirements). Notably, the CCI also observed that Microsoft may pursue its legitimate interests by prescribing certain reasonable compatibility requirements, which would not automatically be considered to run foul of the law.

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