COMPETITION COMMISSION OF INDIA

Case No. 03 of 2023

***In Re*:**

Ms. Rachna Khaira **Informant**

And

Google India Private Limited **Opposite Party**

CORAM:

Ms. Ravneet Kaur
Chairperson

Mr. Anil Agrawal
Member

Ms. Sweta Kakkad
Member

Mr. Deepak Anurag
Member

Order under Section 26(2) of the Competition Act, 2002

1. The Information in this matter was filed by Ms. Rachna Khaira under Section 19(1)(a) of the Competition Act, 2002 ('Act') against Google India Private Limited (Google) alleging contravention of provisions of Section 4 of the Act.

2. It has been alleged that Google is granting exclusive access to Truecaller to share private contact information of the users with everyone while prohibiting other apps from doing the same. By doing this, Google is favouring Truecaller and distorting the market for caller ID and spam protection apps thereby providing a monopoly space to Truecaller. In this regard, the Informant has relied on the following policies:

2.1. Developer Policy of Google which states that Google does not allow unauthorised disclosure of people's non-public contacts:

"We don't allow unauthorised publishing or disclosure of people's non-public contacts".

2.2. Privacy policy of Truecaller, which allegedly allows it to publish and disclose people's non-public contacts:

"Truecaller may collect, store and use the list of identifiers associated with the said services linked to the Contact Information in order to enhance the results shared with other users."

3. The Informant has further alleged that Google has given preferential treatment to Truecaller because of their commercial arrangements wherein Truecaller is using Google's cloud storage service and Google Ad service. It has been further submitted that Truecaller has partnered with several world leading Android smartphones and when a preloaded Truecaller is activated, it uploads all the user's contacts. The Informant further avers that Google provides Application Programming Interface (APIs) which helped Truecaller in harvesting private contact information of billions of users. The averment is that Google has not allowed these APIs to other applications and even after a ban of harvesting from Google Android has been introduced, Google is allowing Truecaller to harvest the data and thereby distorting the competition.

4. The Informant has alleged that Google is abusing its dominance as the vendor of the Android Platform and is in contravention of Section 4(2)(b) of the ACT by limiting caller ID and spam protection applications and promoting Truecaller in violation of Google's own policies.

5. The Informant has sought following relief from the Commission:

5.1. To compel Google to enforce their policy for all applications uniformly and ban Truecaller from making private contact information public.

5.2. To not allow Google to favour one company *i.e.*, Truecaller and thus enabling it to act as a monopoly in the caller ID market.

5.3. Impose significant penalties on Google for creating and allowing a monopoly on Caller ID applications.

6. In addition, the Informant has also sought interim relief under Section 33 of the Act wherein she has prayed the Commission to compel Google to temporarily block Truecaller from operating on the Play Store till the issue is resolved.

7. The Commission considered the matter in its meetings held on 21.02.2023 and 21.06.2023. Having considered the Information, the Commission *vide* its order dated 21.06.2023 directed the Informant to furnish documents/ evidence, if any, in support of allegations made in the Information. The Informant filed her reply on 07.08.2023.

8. Further, the Commission *vide* its order dated 22.11.2023 directed Google to provide its response to the averments and allegations made by the Informant along with certain queries of the Commission. The Informant was also allowed to file its rejoinder, if any, thereto with advance copy to Google. Google filed its reply with the Commission on 29.01.2024 whereas, the Informant filed her submissions on 27.04.2024. Thereafter, Google filed a voluntary submission on 03.05.2024.

Submissions by Google

9. The averments of Google are summarised below:

9.1. The allegations of the Informant are incorrect, as the Google Play Store explicitly prohibits the unauthorised publishing or disclosure of users' non-public contacts. The apps distributed on the Play Store must abide by various Google policies. However, Informant alleges violation of Google's Play Store policies based on a *non-Play app* (*i.e.*, an app downloaded from the internet or from a third-party app store). The Informant incorrectly assumes that the Truecaller app distributed on the Google Play Store is the same as the app Truecaller distributes elsewhere.

9.2. The Informant provides no evidence that Truecaller's app distributed on the Play Store violates Google's Play Store policies. The Informant misrepresents and

selectively quotes Truecaller's privacy policies in order to claim that Truecaller collects user contact information without user consent in violation of Google's Play Store policies. In reality, Truecaller's privacy policies require user authorization for access to user contact information through its Google Play Store app. Whereas Truecaller's privacy policy makes it clear that its Google Play Store app does not collect or share any user Contact Information.

9.3. The Informant cites no evidence of discriminatory treatment and fails to identify any specific apps that have been injured through stricter enforcement of Google's Play Store policies.

9.4. In relation to preferential access to APIs, Google has stated that Android APIs are open source *i.e.*, they are freely available to any developer or manufacturer to implement on their devices. Google does not provide any privileged or unique Android API access to Truecaller. Google's Play Store policies apply across the board to all apps distributed on the Play Store and Google's API policies apply to all apps that access Play APIs.

9.5. In relation to commercial relationship between Google and Truecaller through Google cloud computing services and Ad services, it has been stated that none of the arrangements contain any exclusivity provisions or any contingency clauses relating to the sharing of non-public contacts.

9.6. The Informant had also alleged that Google has allowed Truecaller to access data from Android platform before banning harvesting of such data. In this regard, Google has submitted that the Informant may be referring to a policy change that occurred in May 2021 establishing a more robust data disclosure regime for apps on the Play Store and limiting the instances in which data collection is appropriate, but this was not a ban on the authorized collection of user phone book data. Rather, the policy introduced a "safety section" in Google Play intended to help users "*understand the data an app collects or shares, if that data is secured, and additional details that impact privacy and security*." As explained in the policy, developers

listing apps on Google Play are required to complete a disclosure that, among other things, describes how their app shares and uses collected data.

9.7. Google has thus, *inter alia* prayed the Commission to dismiss the Information as the Informant provides no evidence that Truecaller's Play app violates Google's Play Store policies.

10. The Commission has perused and examined the information available on record including the Information filed by the Informant, submissions of Google, rejoinder of the Informant in its meeting held on 29.05.2024 and decided to pass an appropriate order in due course.

11. It is noted that the Informant is primarily aggrieved by the disclosure of contact book of mobile phone users by Truecaller, whose primary function is to identify incoming calls by matching the caller's number with its database. The Informant alleges that Google is giving Truecaller special access to Android users' contact book details, which violates Google's own policies. The same is alleged to be an abuse of its dominant position in the relevant market by Google in violation of provisions of Section 4 of the Act.

12. The first step for analysing any alleged abusive conduct under Section 4 is to identify the relevant market(s) and assess dominance of the opposite party therein. This is followed by examining the alleged conduct for violation of any provision of Section 4 of the Act.

13. The allegation in the present matter pertains to Google's Play Store, which is a distribution channel for app developers to reach out to the Android smart mobile users. The Commission had the occasion to examine such market in Case No. 39 of 2018 *i.e.*, Google Android Case (Order dated 20.10.2022 issued under Section 27 of the Act) as well as in Case Nos. 07 of 2020, 14 of 2021 and 35 of 2021 *i.e.*, Google Play Case (Order dated 25.10.2022 issued under Section 27 of the Act). The Commission delineated the relevant market as the market for app stores for Android OS in India and

also found Google to be dominant in the same. The Commission is of the *prima facie* view that same principle continues to be valid, and no information has been brought on record which would warrant taking a different approach in the present matter. Accordingly, for the purpose of the present matter also, the Commission is of the *prima facie* view that the relevant market is *the market for app store for Android smart mobile OS in India* and Google is dominant in the same.

14. In respect of alleged conduct on part of Google, the Commission found merit in the argument of Google that the Informant, while making allegations against Google for giving preferential treatment to Truecaller and not taking any action for violating its own policies, has relied on a version of Truecaller's app which is not available on Play Store. The Informant in her rejoinder has contested these submissions by Google, but has not substantiated the same. Therefore, the allegation of the Informant remains unsubstantiated.

15. The Informant also alleged that Google has provided certain Android APIs to Truecaller allowing it to access user's contact book data. On the other hand, Google has asserted that Android APIs are open-source and available to all app developers. The Informant has failed to establish that Google has provided any preferential access to such APIs to Truecaller. The presence of other caller ID and spam protection apps on Play Store providing the same service and undertaking the same function indicates that Google does not prohibit other caller ID apps from undertaking the same function and providing the same service as Truecaller. Accordingly, the allegation that Google is limiting competition in the market for caller ID and spam protection by exclusively allowing Truecaller to share contact information does not appear to be validated.

16. In relation to commercial relationship between Google and Truecaller through Google cloud computing services and Ad services, Google has stated that none of the arrangements contain any exclusivity provisions or any contingency clauses relating to the sharing of non-public contacts. In this regard, it is noted that in the absence of any evidence to the contrary, mere commercial relationship between two entities *ipso facto*

cannot be assumed to grant any favourable / preferential treatment outside of those commercial arrangements.

17. In relation to the allegations of the Informant that Google has allowed Truecaller to access data from Android platform before banning harvesting of such data through change in policies, it is noted that the Informant has not placed any material on record to establish that such policy change has granted any competitive advantage to Truecaller over its rivals.

18. The Informant in her rejoinder made reference to another policy of Google and alleged that Truecaller displays real-world phone contacts and personally identifiable information (names being the most important) of non-consenting individuals in violation of the said policy. The Informant, thereafter, refers to an experiment run to assert that Truecaller is harvesting user data and Google is allowing unauthorised publishing of users' contact details. Google in this regard has *inter alia* averred that the Informant for the first time makes a reference to a separate Google Play store policy related to deceptive behavior in apps and that she continues to rely on non-Play Store Truecaller service. It has also been submitted by Google that Play Store app is merely presenting data that the Informant explicitly authorized to be shared during the experiment.

19. The Commission has perused the rival submissions of the Informant and Google as mentioned *supra*. Based on the experiment run by the Informant, it appears that users have voluntarily provided the contact details data to Truecaller. Therefore, the allegations of the Informant that Truecaller is engaging in 'unauthorised publishing' or that Google has allowed any preferential access to Truecaller do not appear to be substantiated.

20. Thus, the Commission is of the view that the allegation of the Informant remains unsubstantiated and despite sufficient opportunity, the Informant has not provided any evidence to *prima facie* establish that Google is according either preferential treatment

to Truecaller or resorting to discriminatory practises by allowing access to user's contact data to Truecaller while denying the same to the competing applications.

21. Given the facts and circumstances of the present case, the Commission finds that no *prima facie* case of contravention of the provisions of Section 4 of the Act is made out against Google in the instant matter. Accordingly, the Information is ordered to be closed forthwith in terms of the provisions contained in Section 26(2) of the Act. Consequently, no case for grant for relief(s) as sought under Section 33 of the Act arises and the said request is also rejected.

22. The Secretary is directed to communicate to the Informant as well as counsel of the Opposite Party, accordingly.

Sd/-
(Ravneet Kaur)
Chairperson

Sd/-
(Anil Agrawal)
Member

Sd/-
(Sweta Kakkad)
Member

Sd/-
(Deepak Anurag)
Member

New Delhi
Date: 24 / 06 / 2024