CIVIL

CCI Orders Investigation into TASMAC’s Beer Procurement Practices

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The Competition Commission of India (CCI) has directed an investigation into the procurement and sales practices of the Tamil Nadu State Marketing Corporation Limited (TASMAC) regarding beer distribution in the state. The order, issued under Section 26(1) of the Competition Act, 2002, follows a complaint filed by Chakra R Prabakaran alleging abuse of dominant position by TASMAC.

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Background of the Complaint

Chakra R Prabakaran, a resident of Cuddalore in Tamil Nadu, filed the complaint against TASMAC, the state-owned marketing corporation with exclusive rights to sell liquor through its extensive network of retail outlets across Tamil Nadu. The complainant alleged that TASMAC's beer procurement and sales practices violate Section 4 of the Competition Act by limiting market access to certain beer brands.

Allegations Against TASMAC

The complaint centres on TASMAC's alleged exclusive dealings with specific breweries, particularly SNJ Breweries, to procure and sell only a limited selection of beer brands. Despite 46 beer brands being available in Tamil Nadu, consumers reportedly have access to only 4-5 brands through TASMAC outlets. The complainant provided a white paper titled "TASMAC – Free Tamil Nadu" published by Tamil Nadu BJP president K. Annamalai as evidence, which highlights the limited consumer choice and potential monopolistic control by certain manufacturers in collusion with TASMAC.

Relief Sought by the Complainant

The complainant requested several remedies, including the phased closure of all TASMAC liquor shops within a year, immediate closure of 50% of TASMAC shops as interim relief, and imposition of penalties on TASMAC and its supplier breweries for causing an appreciable adverse effect on competition in the beer market.

CCI's Process and TASMAC's Response

The Commission sought responses from TASMAC on multiple occasions regarding their beer procurement policies and practices. After several extensions and opportunities provided to TASMAC to submit their comments and data, the corporation eventually responded in January 2025. TASMAC defended its procurement process as impartial and system-based, utilizing a weighted average sales calculation method to generate monthly orders for beer manufacturers.

CCI's Analysis of TASMAC as an Enterprise

The Commission confirmed that TASMAC qualifies as an enterprise under Section 2(h) of the Competition Act, as it engages in economic activities related to the distribution and sale of alcoholic beverages in Tamil Nadu. This determination was crucial for assessing potential competition law violations.

Relevant Market Assessment

The CCI delineated the relevant market as "procurement, marketing, distribution and sale of beer in the state of Tamil Nadu." This assessment considered both product characteristics (beer being distinct from other liquors) and geographic factors (state-level regulation of liquor sales under the Constitution of India).

Dominant Position Determination

The Commission found that TASMAC holds a dominant position in the relevant market due to its exclusive monopoly on liquor distribution in Tamil Nadu since 1983. With no competitive forces operating in the market, TASMAC's position enables it to act independently of market pressures, fulfilling the criteria for dominance under Section 4 of the Act.

Observations from Previous Judgments

The CCI referenced a 2014 Madras High Court judgment in the case of M/s Golden Vats Pvt. Ltd. versus TASMAC, where the court emphasized that consumer choice should prevail in monopolistic sales environments. The judgment stressed that all IMFL brands should be made available to consumers, a principle the Commission considered relevant to the current beer procurement practices.

Basis for Prima Facie View

The Commission's prima facie view that TASMAC may be abusing its dominant position stems from several factors:

– TASMAC's procurement data shows significant market share concentration among specific brands

– Well-known international beer brands have minimal procurement shares

– The weighted average sales calculation method may perpetuate existing market positions

– News reports and public information support allegations of limited brand availability

– The complainant's allegations align with evidence of consumer choice restrictions

CCI's Direction

The Commission has directed the Director General to conduct a thorough investigation into TASMAC's beer procurement practices. The investigation must be completed within 60 days of the order, with a comprehensive report submitted to the CCI. The Commission emphasized that this order does not constitute a final determination of the case merits but is based on the prima facie evidence presented.

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