

Decoding the CCI's first-ever settlement decision

27 April 2025

Introduction

On 21 April 2025, the Competition Commission of India (CCI) passed the first-ever settlement order in the case involving the alleged abuse of dominant position by Google in the Android TV operating system (OS) and the related app store markets. One noticeable aspect is that while most CCI orders are passed unanimously, the very first settlement order has one member issuing a dissent opinion.

The settlement regime came into effect on 6 March 2024. The regime allows for the submission of a settlement application to the CCI for vertical restraints and abuse of dominance cases once the party receives the investigation report by the Director General, CCI (DG). A party making a settlement application is required to submit a detailed proposal with the commitments which it is willing to offer to mitigate the concerns raised in the investigation report. Salient features of the settlement regime can be found in our previous briefings [here](#) and [here](#).

CCI's investigation order

The CCI ordered a DG investigation based on an information (i.e. complaint) filed by two android Smart TV users. The CCI took the preliminary view that Google had entered into agreements known as the Television App Distribution Agreement (TADA) and the Android Compatibility Commitments (ACC) with Smart TV original equipment manufacturers (OEMs), which imposed restrictive conditions on OEMs. These conditions amounted to an abuse of dominant position for the following reasons:

- (i) bundling of Google's app store, Play Store, with the Android TV OS, an operating system developed by Google especially for Smart TVs;
- (ii) denying market access by preventing OEMs from manufacturing, distributing, or selling devices running on a competing forked Android OS;
- (iii) restricting competition by not providing Play Store on other licensable OS; and
- (iv) limiting research and development and creating barriers to entry by prohibiting OEMs from developing their own forked Android-based OS.

DG's Investigation Report and the Settlement proposal by Google

The DG's investigation report found Google to have abused its dominant position. The CCI forwarded a copy of the investigation report to Google and on 21 May 2024, Google submitted a settlement proposal to address the concerns raised in the report.

The key findings of the report, the proposal by Google and the CCI's assessment of the proposal are summarised in the table below:

Key findings of the investigation report against Google	Settlement proposal by Google	CCI assessment
<p>Imposition of unfair conditions on the smart TV device manufacturers by mandatory preinstallation of the entire Google applications (GTVS) (such as YouTube) under TADA.</p> <p>Tying up YouTube app with the Play Store leading to denial of market access to YouTube's competitors (i.e. other Online Video Hosting Platforms (OVHP).)</p>	<p>(1) In addition to TADA, Google will make available a new standalone licence to the Google Play Store and Google Play Services (GPS) for compatible Android smart TV devices sold in India, for a certain fee (New India Agreement). The New India Agreement will:</p> <ul style="list-style-type: none"> a. not require OEMs to preload any additional Google services, such as YouTube; and b. not impose any placement or default settings for the Play Store or other Google services. <p>(2) The New India Agreement will be an alternative to the existing TADA, and the OEMs will have the option to choose any.</p> <p>(3) Google will offer the New India Agreement to all OEMs including:</p> <ul style="list-style-type: none"> 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 (forks). 	<p>Majority of the CCI was of the view that the proposal addresses the concerns highlighted in the investigation report since:</p> <ul style="list-style-type: none"> a. competitors of Google's GTVS apps would have the option to preinstall their apps exclusively on these devices, including alternatives to YouTube; and b. offering both the TADA and the New India Agreement would give OEMs greater flexibility to either license only the Google Play Store or preinstall the full suite of GTVS apps. <p>The CCI also allowed the proposal to charge a license fee under the New India Agreement, since the CCI was of the view that it cannot function as a price regulator. The CCI also agreed with Google's assertion that the imposition of a license fee is essential to compensate for revenue losses resulting from the exclusion of other income-generating Google applications under the New India Agreement.</p>
<p>Limiting technical or scientific development, and also denial of market access to the developers of Android forks by reducing the ability and incentive of device manufacturers to develop and sell devices operating on alternative versions of Android (i.e. Android forks)</p> <p>Concluding contracts subject to acceptance of unrelated conditions by mandating under the ACC that OEMs may not distribute non-GTVS versions on Sndroid and cannot even work on Android forks</p>	<p>(1) Google, by a binding letter, will waive the TADA's requirement to have a valid ACC for devices shipped into India that do not carry Google's proprietary apps;</p> <p>(2) Google will send a letter to all of its Android TV partners that sell smart TVs in India that reminds them of the existing flexibility under their current agreements with Google to (a) use the open-source Android OS for smart TVs without taking any applications from Google or signing an ACC; and (a) develop TVs using other competing OSs including Tizen, WebOS, and Roku OS.</p>	<p>The CCI viewed the waiver, by way of which the link between the TADA and the ACC was broken, to have addressed the concern outlined in the investigation report.</p>

Settlement Amount

Google contended that the calculation of the settlement amount should be based on the direct revenue generated from the Android TV business through video-on-demand and ads on the platform. Accordingly, the revenue from YouTube on Android TV and the Play Store on Android TV should be excluded. However, the CCI did not agree with the contention noting that:

- (i) the revenue generated from YouTube and the Play Store on Android TV is directly linked to the relevant market of Android TV and constitutes an integral component thereof, and
- (ii) Google had also engaged in an abuse of its dominant market position by enforcing a tie-in arrangement between the YouTube and the Play Store on Android TV.

Accordingly, after allowing a 15% settlement discount to a base amount, adjusted for mitigating circumstances, the settlement amount was determined to be INR 202.4 million (approx. USD 2.38 million)

Dissent

The dissenting member was of the view that rather than discontinuing the TADA, the settlement proposal provides OEMs with two options - to either pay for the New India Agreement license or continue with the free bundled applications under the TADA. The member was chiefly concerned that this dual structure would place the OEMs in a position where opting for the New India Agreement would lead to additional costs, while the bundled applications under TADA remain free but come with restrictive conditions. This arrangement is likely to skew market dynamics in favor of the existing arrangements based on practices found to be anti-competitive under TADA.

Comments

The settlement order has addressed some of the unanswered questions surrounding the settlement process. The first impressions are that the CCI is likely to be flexible in accepting proposals and may not seek strictly market tested proposals. With respect to the settlement amount too, the CCI appears to have a reasonable stance. It accounted for cooperation and the implementation of a dedicated compliance programme as mitigating factors, while it did not find any aggravating factors. As far as timelines are concerned, even as the entire proceedings were concluded within the outer timeline of 180 working days of settlement application's filing, it appears that the CCI has been liberal with stage-wise timeline adherence, although this may be owing to early teething issues.

It is also notable that the CCI has, subject to certain confidential information, issued a reasoned public order containing details of the allegations, findings of the DG, the settlement proposal, settlement amount and CCI's views on sufficiency of the proposal to address competitive concerns. A sufficiently detailed public order may subtly invigorate follow-on claims, which are not precluded following a settlement decision.

Google's application, within a few weeks of the settlement regime going live, must be seen against the background of the CCI having already decided similar issues against Google in the smartphones case. It is likely that Google would have weighed-in the unfavorable outcome in the smartphones case to assess whether to apply for settlement in this case. The coming months and years will set the course for the new regime.

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