



COMPETITION COMMISSION OF INDIA

Case No. 19 of 2025

In Re:

M/s C.C.L. Optoelectronics Pvt. Ltd.
Plot No. EL-38, MIDC Electronic Zone,
Mahape, Navi Mumbai – 400710.

Informant

And

M/s Bharat Sanchar Nigam Ltd.
BSNL Corporate Office,
BSNL Bhawan, Janpath,
New Delhi – 110001.

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 present Information has been filed by M/s C.C.L. Optoelectronics Pvt. Ltd. (**'Informant'**) under Section 19(1)(a) of the Competition Act, 2002 (**'Act'**) alleging contravention of the provisions of Section 4 of the Act by M/s Bharat Sanchar Nigam Ltd. (**'OP'**).



2. The Informant is a company incorporated under the Companies Act, 1956 and is engaged in manufacture and sale of electronic products required in the telecommunication industry. The OP is a Government of India Enterprise engaged in providing telecommunication services including Wireline, GSM Mobile, Broadband services, and is a Public Sector Undertaking ('PSU').
3. The Informant participated in Tender No. GEM/2024/B/5584686 dated 12.12.2024 floated by the OP for the supply of 2,00,000 units of Splice Closure for Optical Fiber Cables.
4. It has been stated that the Tender Document prescribed eligibility criteria including a Minimum Average Annual Turnover of ₹664 lakhs for 3 years. In addition, following terms and conditions were stipulated for being qualified for the bidding process, which read as under:
 - i. If the Bidder/Supplier/Tenderer is a Micro and Small Enterprise as per the latest definition under the Micro, Small and Medium Enterprises ('MSME') Rules; or a Startup, then the Bidder/Supplier/Tenderer shall be exempted from the requirement of 'Bidder Turnover Criteria' and 'Experience Criteria' subject to meeting of quality and technical specifications. If the bidder is an Original Equipment Manufacturer ('OEM') of the offered products, it would be exempted from the 'OEM Average Turnover Criteria' subject to meeting of quality and technical specifications.
 - ii. In case any Bidder/Supplier/Tenderer is seeking exemption from Turnover/Experience Criteria, the supporting documents to prove its eligibility for exemption must be uploaded for evaluation by the buyer.
 - iii. Participation by the Bidder/Supplier/Tenderer in Reverse Auction ('RA') process would be considered as their consent for extension in offer validity by 30 days from the date of RA Initiation.



5. The Informant submitted that being registered as a MSME under the provisions of the MSME Act, 2006, it was exempted from submitting the Turnover/Experience Criteria and was eligible to participate in the tender process. Despite this, the Informant submitted its Udyam Certificate bearing No. UDYAM-MH-33-0092398 dated 14.06.2021 certifying it as a Micro and Small Enterprise, along with details of experience of manufacturing and supplying more than 2 lakh units of products/similar products under reference per year to various Public Listed Companies such as Vodafone Idea Ltd., Bharti Airtel Ltd., Tata Communications Ltd. and Tata Tele Business.
6. It is stated that *vide* portal report dated 03.03.2025, the Informant was disqualified by the OP from participating in the bidding/tender process, deliberately by mentioning contradictory and inconsistent terms and conditions in the Tender Document. The Informant alleged that the said act was manifestly done with the ulterior motive to favour a particular company to qualify for the bidding process and to stop and prevent the Informant from qualifying for the said bidding process.
7. The Informant *vide* an email dated 04.03.2025 requested the OP for reconsideration and re-evaluation of the disqualification decision of the Informant from the bidding process and drew attention of the OP to certain self-contradictory conditions in the Tender Document dated 12.12.2024.
8. Thereafter, on 11.03.2025, the Informant filed an appeal for re-evaluation and clarification of the disqualification decision. It is stated that *vide* this appeal, the Informant had highlighted the following:
 - i. The removal of 'Public Listed Companies' from the qualification criteria of the Tender Document appears to restrict the scope of eligible bidders and may lead to restrictive, unfair and monopolistic trade practices by the OP.
 - ii. The Informant stated that in the preceding tender period *i.e.* 2023-24, the Informant had successfully supplied huge quantities of similar products to Public Listed Telecom Companies, which are also Telecom Service Providers. Since then, the qualification of the Informant has strengthened in terms of



supply quantity references after the tender. Therefore, it is alleged by the Informant that it appears contradictory that the Informant was qualified in 2023-24 but not in 2024-25, despite an increase in the volume of referenced supply contracts.

- iii. It is further stated that in the earlier tender, all 3 conditions such as (i) Minimum Average Turnover, (ii) Years of Past Experience, and (iii) Past Performance, were clearly mentioned. However, in the 2024-25 Tender Document, these 3 exemptions were completely absent. Therefore, the Informant sought clarification to address this inconsistency and to ensure alignment in the tender requirements.
 - iv. The Informant sought clarification on the rationale behind arbitrary adjustment in the Quantity Criteria and the mode of communication used to inform suppliers about the change of Past Performance quantity from 30% to 15%.
9. The Informant *vide* emails dated 05.03.2025 and 11.03.2025 requested the OP to carry out necessary amendments in the Tender Document as the same were tantamount to unfair, restrictive and monopolistic trade practices on part of the OP. A legal notice dated 16.04.2025 on behalf of the Informant was also served to the OP. However, no relief was granted.
 10. It is alleged that the OP deliberately and intentionally did not inform about the exemption not being applicable to the Informant. This lack of communication had adversely impacted the qualification of the Informant in the tendering/bidding process.
 11. The Informant alleged that the OP has clear competitive advantage in the market for providing telecom services such as Wireline, GSM Mobile, and Broadband Services. Being a PSU, it has major stake and dominance in the said sector and is misusing/abusing the said dominant position.



12. It is further alleged that the OP has abused its dominant position in the relevant market by way of (i) rejecting the bid of the Informant (ii) stipulating contradictory conditions in the Tender Document so as to prevent competition, and (iii) debarring the Informant from participating in the bidding process and thereafter selecting 3 buyer Companies viz. M/s R&M India Pvt. Ltd., M/s Ampson Engineering Pvt. Ltd. and M/s Nav Fibro Plastics as L1, L2 and L3, respectively.
13. The Informant has sought the following interim relief under Section 33 of the Act:
- i. to restrain the OP, their officers, employees, agents and any person claiming through by or under them from proceeding with the bidding/RA process and procurement of the supply of the goods of Splice Closure for Optical Fiber Cables by an order and injunction of the Commission and from carrying any offending/coercive act against the Informant,
 - ii. to restrain the OP from proceeding further with the procurement of the products till the final decision of the Information Petition,
 - iii. any other order in the interest of justice and fair play in favour of the Informant.
14. The Informant has sought for the following final reliefs from the Commission under Section 27 of the Act:
- i. to initiate an inquiry into the trade practices of the OP indulging in similar activities as detailed and give a finding that the OP has committed restrictive and unfair practices in contravention of the Act,
 - ii. to pass an order against the OP to cease and desist from carrying on such restrictive, unfair, monopolistic trade practices and misusing its dominant position,
 - iii. to pass an ex-parte order in terms of prayer (ii) hereinabove,



- iv. to cancel/revoke the bidding process *vis-à-vis* the selection of 3 buyer Companies viz. M/s R&M India Pvt. Ltd., M/s Ampson Engineering Pvt. Ltd. and M/s Nav Fibro Plastics as L1, L2 and L3 respectively and direct the OP to start the entire process of tendering & bidding of the products under reference *de novo* after making necessary changes in the Terms and Conditions synonymous to each other, along with declaring the Informant eligible for bidding for the supply of the product under reference,
 - v. to restrain the OP from proceeding further with the procurement of the products till the final decision of this Information Petition,
 - vi. to pass appropriate orders directing the OP and all the person/s claiming through them and award reasonable amount for costs incurred towards legal fees,
 - vii. to direct the OP to pay penalty not exceeding 10% of the average turnover of the last 3 preceding financial years,
 - viii. to pass such further order as the Commission may deem fit and proper in the facts and circumstances of the case.
15. The Commission considered the matter in its ordinary meeting held on 20.08.2025 and decided to pass an appropriate order.
16. The Commission has perused the Information and material available on record and notes that the Informant has alleged abuse of dominant position on part of the OP by imposing contradictory and discriminatory tender conditions and favouring selected bidders, in contravention of Section 4 of the Act. The Commission is of the view that the allegations raised by the Informant need to be analysed for abuse of dominant position by the OP, if any, as per the provisions of Section 4 of the Act. For analysing the said allegations, the Act requires delineation of the relevant market, followed by an assessment of the OP's position in the said relevant market and then, if the OP is found to be dominant, analysing its conduct with regard to the alleged abuse.

17. The first issue before the Commission is the delineation of the relevant market as per the provisions of the Act. With respect to the delineation of the relevant product market, the Commission notes that the relevant product in the present case is Splice Closure for Optical Fiber Cables as this product is used in the telecommunication services. Therefore, the relevant product market is delineated as '*Market for Telecommunication Services*'.
18. With regard to delineation of the relevant geographic market, the Commission is of the view that telecommunication services are available across India which are provided by Telecommunication Service Providers. Therefore, the relevant geographic market in the present case is delineated as '*India*'.
19. Thus, the Commission notes that the relevant market in the present case is delineated as '*Market for Telecommunication Services in India*'.
20. The Commission, now deems it appropriate to examine whether the OP is dominant in the relevant market, and if yes, whether it has abused its dominant position in contravention of the provisions of Section 4 of the Act. In this regard, the Commission notes that, though the OP is a major public provider of telecommunication services in the relevant market, there are significant number of other players available in the relevant market like Reliance Jio Infocomm Ltd. (40.07%); Bharti Airtel Ltd. (32.01%); Vodafone Idea Ltd. (14.37%); Bharti Hexacom Ltd. (2.41%); while the OP (Bharat Sanchar Nigam Ltd.) has a market share of only 2.09% in the relevant market. Based on the market share of the OP in the delineated relevant market, the Commission is of the view that the OP does not hold a dominant position in the relevant market within the meaning of Section 4 of the Act.
21. Notwithstanding the above, the Commission examined the allegations of the Informant, to ascertain if the conduct of the OP is in contravention of the provisions of the Act.



22. With regard to the disqualification of the Informant from the Tender dated 12.12.2024, the Commission notes that the Informant was exempted from 'Bidder Turnover Criteria' (₹664 lakhs for 3 years) and 'Experience Criteria' but it was not exempted from meeting the 'Past Performance' (30,000 SJs) requirement. As per the portal report dated 03.03.2025, the reason for disqualification by the tendering authority was that documents relating to "*past experience of 30,000 SJs have not been submitted by the bidder*". Therefore, it is noted that the Informant was disqualified on the ground of non-fulfilment of the 'Past Performance Criteria' and not on the grounds of not meeting the 'Bidder Turnover Criteria' and 'Experience Criteria'.
23. The Commission notes from the Tender Document that in case the seller had any objection/grievance against any additional clauses or on any other aspect of the bid, then it could have approached the representation window of Government e Marketplace ('GeM') within 4 days of bid publication. It is noted that the Informant had not given any representation on GeM. Had this been done, the buyer may not have been allowed to open the bids as it was duty bound to reply to all such representations before opening the bids. Mere dissatisfaction with tender terms or with the rejection of bid cannot lead to a presumption of imposition of unfair or discriminatory conditions and abuse of dominance by the OP. It is opined that this matter essentially relates to the OP's procurement policy and practices and is not a competition issue under provisions of the Act.
24. The Commission observes that the Informant has made some other allegations against the OP such as removal of supplies to 'Public Listed Companies' from the 'Experience Criteria' in the Tender Document for 2024-25, and reduction in technical specification for past supply from 30% to 15%. In this regard, the Commission notes that these also relate to tender terms and conditions which are within the purview of the tendering authority.
25. The Commission also notes that the Informant has not provided any evidence to establish that the OP had imposed contradictory conditions with the intention of



favoring certain bidders or to exclude competitors in a manner that amounts to abuse of dominant position under the provisions of Section 4 of the Act. The Informant has also not placed on record any evidence which shows any agreement, concerted practice, or conduct on the part of the OP in collusion with other bidders, that may indicate any appreciable adverse effect on competition.

26. In light of the above, the Commission is of the view that no *prima facie* case of contravention of Section 4 of the Act is made out in the present matter. The Commission directs that the matter be closed forthwith under Section 26(2) of the Act. Consequently, no case for grant for relief(s) as sought under Section 33 of the Act is made out. Accordingly, the application under Section 33 is disposed of.
27. The Secretary is directed to communicate to the Informant, accordingly.

Sd/-
(Ravneet Kaur)
Chairperson

Sd/-
(Anil Agrawal)
Member

Sd/-
(Sweta Kakkad)
Member

Sd/-
(Deepak Anurag)
Member

New Delhi

Date: 07.10.2025