

Only CCI can determine the monopolistic position under Section 19(4)(g) of the Competition Act enjoyed by any business goliath that may be attributable to a singular or pluralistic league of factors, and the TRAI is handicapped statutorily in doing so

Emphasising that the Competition Commission of India (CCI) is the only agency competent to determine the 'monopolistic' and 'dominant position' of any enterprise, the **Kerala High Court** in the case of **Jiostar India vs CCI [Writ Appeal No. 1551 of 2025] dated December 03, 2025**, has held that the monopolistic position under Section 19(4)(g) of the Competition Act enjoyed by any business goliath may be attributable to a singular or pluralistic league of factors, which the TRAI is handicapped statutorily in doing. Only the CCI can determine whether any enterprise/ entity actually enjoys a dominant position in the market or not.

Accordingly, the High Court dismissed Jiostar's appeal against the CCI probe and upheld the single judge's verdict allowing the CCI to continue its investigation into allegations that the broadcaster favoured Kerala Communicators Cable Ltd (KCCL) in the pricing of channels.

The Court explained that the width of the powers lodged with the CCI is indicative of the Parliamentary intent of bringing about sweeping changes in the economy which were necessitated owing to transition of the market from a licence/ permit raj to liberalisation in the late 1990s and from the opening up of the Indian territories to the international market owing to globalisation and trans-border/ trans-country businesses and investments in the country.

The Court also highlighted that Section 19(4) of the Competition Act is further indicative of the wide amplitude of powers vested with the CCI to reckon 'all' or 'any' of the factors whilst arriving at the finding as to whether any enterprise (like the SIPL in the instant case) enjoys a dominant position or not. So, when Section 19(4)(g) declares 'monopoly' or 'dominant position' as a trigger for ascertaining whether anti-competitive practices have been adopted or competition is being adversely affected, it is the CCI that can take into consideration singular or plural factors for such a determination.

The Court observed that the parallel enquiry or proceedings can continue under both the Competition Act as well as the TRAI Act under their respective enactments. If the grievance relates simpliciter to the licensing regulations or broadcasting regulations, without having any overtones of the subject matter of the Comp. Act, then TRAI must proceed with the inquiry, and CCI must keep its hands off. However, if the grievance stems from and raises the dispute falling within any of the categories of anti-competitive practices, then CCI can proceed with the inquiry regardless of the overlap with the powers and functions of TRAI under the TRAI Act.

Highlighting the scope of ample powers of the CCI which it possesses to pass an order of inquiry under Section 26(1) of the Competition Act on the complaint/ information of ADNPL if it is prima facie satisfied that anti-competitive practices have been resorted to by SIPL under the provisions of the Competition Act, the Court rejected the contention of the appellant SIPL that CCI could not have even formed a prima facie opinion or passed an order under Section 26(1) of the Competition Act. Thus, the CCI is entitled under law to proceed further with the matter after passing out the impugned order under Section 26(1) of the Competition Act and that ADNPL cannot be relegated to raise its dispute or grievance before the TRAI. However,

under Section 21-A, the CCI should, if found appropriate at the relevant stage must invite comments, opinions and consult the TRAI in view of the nature of allegations relatable to and touching upon the provisions of Regulation 7(3) and (4) of the TRAI Regulations, 2017.

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