

## STRIKE ONE: A CASE ANALYSIS OF THE AMATEUR BASEBALL FEDERATION OF INDIA

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### ABSTRACT

*On 3 June 2022 a cease-and-desist order was issued by the Competition Commission of India (CCI) against the Amateur Baseball Federation of India for abusing its dominant position. Under the provisions of Section 27 of the Competition Act 2002, the CCI found it to be in violation of Section 4 of the Act. This game has gained popularity in India and at the same time, the commercialization of sports has led various associations and federations to act as regulators as well as facilitators for the sports and sportspersons. Even though we have enacted a relatively recent Competition Act yet we frequently find such organizations in violation of the law. For such reasons, the Competition Commission of India acts as a check and balance system to maintain the law. However, the commission held back from imposing any sort of monetary penalty on the ABFI.<sup>1</sup> This paper analyses the role of the Competition Commission of India as the chief national competition regulator in India.*

### INTRODUCTION

The Competition Commission of India was apprised of this issue when the Confederation of Professional Baseball Softball Clubs (CPBSC) provided information that the Amateur Baseball Federation of India (ABFI) was abusing its dominating position in the market regarding the organisation of various baseball leagues, events, and tournaments in India. The latter is a recognized organisation under the National Sports Federation by the Ministry of Youth Affairs and Sports, Government of India which mainly focuses on the general promotion of baseball and its players.

It was claimed that the ABFI had issued a letter to all the Presidents and Secretaries of State Baseball Associations in the country restraining them from dealing with those leagues or organisations which were not recognized by them. They even threatened them by stating that they would take disciplinary action against all the players who would take part in such events. Further, they published a second letter stating that the '34th Senior National Baseball

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<sup>1</sup> Confederation of Professional Baseball Softball Clubs (CPBSC) v. Amateur Baseball Federation of India (ABFI) [2021], Case No.03 of 2021, (Competition Commission of India, 03 June 2022) [36]–[37]

Championship would be conducted at Nandyal, Kurnool, Andhra Pradesh from 29 March 2021 to 03 April 2021.

The CPBSC, in turn, asserted that they were going to organise the 'Club National 2021' Championship to provide for the best baseball clubs to compete with each other and provide a platform for young players. Due to being threatened with disciplinary action, the clubs which registered in this event rescinded their application for participation which ultimately caused losses to the informant party (CPBSC). Simultaneously, the ABFI even scheduled its own flagship event namely the National Championship which was to be held in the second wave of the pandemic (March 2021) which was later informed via a letter dated 1 March 2021.

This letter was later termed as malafide as it was only published after the CPBSC had fixed the dates of their private event which was a deliberate hindrance for them. Since ABFI is a government-regulated authority, an event organised by them is of prime importance for up-and-coming players to make their mark and grab a chance to represent India in any future events organised globally. The ABFI's move to restrict the players from advancing in State organised or other programs certainly caused a stir among baseball players and others as no person should be restricted from exploring their options and taking opportunities.

This matter was considered by the Commission and subsequently, the ABFI was sent a copy to file their para-wise reply to the allegations. They submitted that they may be a 'person' as defined under Section 2 (i) (v) of the Act but they were in no way entangled in any commercial activity and hence, they could not be termed as an 'enterprise' as given under Section 2 (h) of the Act.<sup>2</sup>

They stated that they did not hold a dominant position as alleged and hence they had no reason to abuse said position. Additionally, it was even asserted that they were unaware of the complainant party as it was not an affiliated organisation; they had only received a report that an unaffiliated organisation was planning to hold Baseball tournaments with the sole aim to profit from it. In order to regulate this presumed illegal event, they decided to send the letter in dispute.

In their reply, the informant party opposed the BFI's claim; they were in fact an 'enterprise' generating revenue being the regulatory authority governing various tournaments and events in the field of Baseball. Hence, they affirmed that due to the dated letter sent out by the ABFI,

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<sup>2</sup> The Competition Act 2002, s 2 (i) (v)

the informant party had suffered monetary losses as well as mental trauma.

## PROCEDURE

As per the procedure laid down in the Act, a three-step procedure is in place for when the CCI has been made aware of such abuse of dominant position and it decides to adjudicate upon the same:

- Delineation of the relevant market in which the enterprise exists<sup>3</sup>

‘Relevant market’ is defined under Section 2 (s) of the Act so that the CCI can examine the extent of adjudication required.<sup>4</sup> The appropriate market, in this case, for ABFI was identified as the "market for organisation of baseball leagues, events, and tournaments in India"<sup>5</sup> because—

- (i) Baseball holds a unique place that cannot be substituted by any other sport.
- (ii) The services provided by baseball's regulatory body are unparalleled and unmatched by any other governing body.

- Establishing the dominance of enterprise within its relevant market<sup>6</sup>

Here, the term “pyramid structure” is used as a reference which helps the CCI to determine which sports organisation is in a dominant position; it refers to the organisational structure that the sports organisations have evolved and adopted in order to close governance gaps. It is crucial to remember that, despite the fact that these systems are monopolistic in nature, they undoubtedly ensure global uniformity in sports. Due to these factors as well as the authority granted by the Central Government, the Commission concluded that the ABFI was unquestionably a dominating organisation.

- Abuse of such a dominant position by the enterprise in its relevant market<sup>7</sup>

It is logical to conclude that the success of these groups is due to the monopolistic pyramid created by federations' obligation to manage and administer the local welfare and further advance itself as the exclusive authority. However, the traditional three-fold analysis of the misuse of a dominant position requires that the abuse of such a dominant position be considered

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<sup>3</sup> Pranav Tomar & Umang Chaturvedi, ‘The Case of “Amateur” Baseball Federation of India: Analysis Through Competition Lens’, Centre for Business and Commercial Laws, National Law Institute University, Bhopal, accessed 01 June 2022

<sup>4</sup> The Competition Act 2002, s 2 (s)

<sup>5</sup> *ibid* 3.

<sup>6</sup> *ibid* 2.

<sup>7</sup> *ibid* 2.

in addition to the sheer dominance in the relevant market.

In reference to this procedure, the Commission considered the reports from both sides, took note of the evidence and materials regarding this matter, and finally decided to pursue this issue further since there was a prima facie violation of Section 4 of the Act by the ABFI. As a result, under Section 26(1) of the Act, the Director General (DG) was directed by the Commission to conduct investigations into the said matter.<sup>8</sup>

While the investigations were taking place, the Commission also passed an order granting interim relief under Section 33 of the Act by an order dated 03 June 2021.<sup>9</sup> It restricted the ABFI from issuing further orders which would restrain any other organisations or players from regulating and/or participating in any tournaments or events, respectively. Therefore, each player and organisation was free to make their choices till any adjudication took place.

### **INVESTIGATIONS CONDUCTED BY THE DG**

The DG identified 3 issues as the subject of its investigation in the present case—

#### **I. What market is considered relevant in the current case? Whether the Opposite Party is in a dominant position in the relevant market as per the provisions of the Act (Competition Act, 2002)?**

The claim of “abuse of dominant position” is contingent on the fact that ABFI holds a dominant position in the ‘relevant market’. As such, delineation of the ‘relevant market’ is of absolute necessity to adjudicate on the question of whether there has been an abuse of the dominant position. In the current case, the DG has defined the “relevant market” as the market pertaining to the organisation of baseball leagues, events, and tournaments specifically within India. It also mentioned that the ABFI, which oversees all baseball-related activities in India, is the country's premier baseball organisation. Moreover, in any international baseball competition, it also represents India. An analysis of Explanation (a) of Section 4 of the Act led to the conclusion that ABFI indeed held a dominant position in the relevant market.

#### **II. Whether the Opposite Party has abused its dominant position in violation of the provisions of Section 4 of the Act, in the matter?**

The Director General (DG) ruled that ABFI had abused its authority as a regulator and placed an unjust and discriminatory requirement on professional baseball players. The letter dated 07

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<sup>8</sup> The Competition Act 2002, s 26 (1)

<sup>9</sup> *ibid* 1 [12]

January 2021 by ABFI was deemed unjustifiable and the actions of ABFI were held to be in violation of the provisions of section 4 (2) (a) (i) of the Act.<sup>10</sup>

The DG also found that restricting players from participating in events/tournaments not recognized by ABFI or its affiliated units was anti-competitive. These restrictions were thus in infringement of section 4 (2) (b) (i) of the Act.<sup>11</sup>

Furthermore, the DG also held that ABFI, vide its letter dated 07 January 2021, disrupted the growth of the entire ecosystem. Its conduct, in essence, foreclosed the market of organisation of baseball leagues/events/tournaments and is in contravention of section 4 (2) (c) of the Act.<sup>12</sup>

### **III. Whether there is any violation of the provisions of Section 3(3) of the Act?**

The DG found that there is a vertical relationship between ABFI and its affiliated units with ABFI being the apex body. As such, the letter dated 07.01.2021 sent by ABFI to its affiliated units cannot be categorised as an agreement between these entities. The impugned letter thus does not fall under the scope of Section 3 (3) of the Act.<sup>13</sup>

### **FINDINGS**

The Competition Commission of India (CCI) perused the investigation report submitted by the DG along with the submissions made by the parties. One of the contentions raised by ABFI was that the Federation could not be treated as an 'enterprise' within the ambit of section 2(h) of the Act and as such, the Commission cannot proceed against the Federation.<sup>14</sup>

The Commission found that section 2(h) has a wide definition of the term 'enterprise'. This definition is heavily reliant on the economic nature of the activities that an entity undertakes. The Act, therefore, covers all economic activities, regardless of whether they are commercial or non-commercial in nature. ABFI was held to be falling within the definition of 'enterprise' as per section 2(h) of the Act and thus could be proceeded against for the violation of section 4 of the Act.

Affirming the definition of the relevant market provided by the investigation report of the DG, the Commission delineated the relevant market as the "market for organisation of Baseball leagues/events/tournaments in India" in the present case.

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<sup>10</sup> The Competition Act 2002, s 4 (2) (a) (i)

<sup>11</sup> The Competition Act 2002, s 4 (2) (b) (i)

<sup>12</sup> The Competition Act 2002, s 4 (2) (c)

<sup>13</sup> The Competition Act 2002, s 3 (3)

<sup>14</sup> The Competition Act 2002, s 2 (h)

The Commission noted that ABFI is the apex institution for baseball-related activities in India and is affiliated with World Baseball Softball Confederation (WBSC) and through WBSC to the Baseball Federation of Asia (BFA). ABFI is also the only body in the sport of baseball that is recognized by the Government of India, the International Baseball Federation, and the Indian Olympic Association. As a consequence of its position, the Commission held that ABFI is positioned as a monopoly in its relevant market and as such enjoys a dominant position.

It was found that the Federation, by requesting its affiliated State Baseball Associations to not entertain unrecognized bodies and not allowing the state players to participate in tournaments organised by such unrecognised bodies vide its letter dated 07.01.2021, has denied market access to associations/bodies that want to organize baseball tournaments. By doing so, ABFI has violated the provisions of section 4 (2) (c) of the Act.

The Federation also limited and restricted the provision of services and markets through its actions and as such violated the provisions of section 4 (2) (b) (i) of the Act. In furtherance of its initial letter, the conduct of the Federation in warning its players of strict action if they participated in the tournaments organised by bodies not recognized by ABFI, the Federation imposed an unfair condition upon the players. This conduct was thus in contravention of the provisions of section 4(2) (a) (i) of the Act.

Keeping the findings in the above issues in its mind, the Commission found ABFI to be in violation of the provisions of section 4 of the Act.

## **ORDER**

Journal of Legal Research and Juridical Sciences

Based on its findings in the matter, CCI passed its order which is provided hereunder:

- The conduct of ABFI was found to be in violation of sections 4 (2) (a) (i), 4 (2) (b) (i), and 4 (2) (c) of the Act. As such, ABFI was barred from any future actions which were found to be in contravention of the aforementioned provisions of the Act in the present case.
- The Commission refrained from imposing any penalty on ABFI in light of the Federation withdrawing the impugned letter. In addition, ABFI was warned of aggravated consequences for ABFI and its office bearers in their personal capacity if the Federation was found to be indulging in the outlawed conduct in the future.

## **CONCLUSION**

While the Competition Commission of India did not impose any penalty upon the Amateur

Baseball Federation of India (ABFI), we must note that this single event of misconduct has proved to be embarrassing and has exposed a system of power-hungry administrators. Since this is still a growing sport in India, there is all the more need for the relevant people and organisations involved in it to move parallel and simultaneously in order to continue growing and moving forward.

The ABFI was founded in 1985 while the Confederation of Professional Baseball Softball Clubs (CPBSC) is a comparatively new organisation that is rapidly expanding along with many other organisations. Hence, it is ascertained that the best way forward for a symbiotic existence between old and new organisations is for them to cooperate on all possible levels. This will also ensure that the various athletes and sportspersons do not face any adverse effects as such unilateral decisions prove to be hurdles and obstacles for them.

It is also vital to note that there has been a recent increase in the role of such sports organisations as economic and commercial bodies. Their primary motive might not be profit but it cannot be denied that they have financial gains from their nature of work in today's time as it is a vital component in the modern world. For such purposes, the role of the CCI has become more enhanced, and rightly so. The CCI has correctly reprimanded the ABFI as they should not have issued such directions in the first place as there are a number of precedent orders passed by the former of the same nature; this was highly ignorant of the ABFI to act contrary to the same.

In our opinion, all sports organisations must look forward to the long-term development of sports as a viable field for the youth to grow in. There must be regular seminars and conferences between the various federations to ensure cooperation in order for their smooth functioning on all levels. In addition to this, there must also be regulatory bodies in the extension of the CCI to assist them in maintaining a level playing field.