



**COMPETITION COMMISSION OF INDIA**

**Case No. 03 of 2018**

**In Re:**

1. **Shri Kshitiz Arya**  
D-4, Tower-3, New Moti Bagh,  
Shanti Path, New Delhi – 110 023 **Informant No. 1**
  
2. **Shri Purushottam Anand**  
C-90, 3<sup>rd</sup> Floor, Chhatarpur Enclave,  
Phase-2, New Delhi – 110 074 **Informant No. 2**

**And**

1. **Viacom18 Media Pvt. Ltd.**  
Zion Bizworld, Subhash Road 'A',  
Next to Garware Institute, Vile Parle (East),  
Mumbai, Maharashtra– 400 057 **Opposite Party No. 1**
  
2. **Bhansali Productions**  
601/B Swati Mitra, Gulmohar Cross,  
Road No. 7, J.V.P.D. Scheme, Juhu,  
Mumbai, Maharashtra– 400 049 **Opposite Party No. 2**
  
3. **Ms. Twinkle Khanna**  
Block No. 4/A, Pushpa Niwas,  
Dr. Rajendra Prasad Road,  
Behind Shiv Sagar Hotel, Mulund (West),  
Mumbai, Maharashtra– 400 080 **Opposite Party No. 3**
  
4. **Kriarj Entertainment Private Limited**  
Shop No. Gf 34, Ground Floor,



**HDIL Harmony Mall,  
New Link Road, Goregaon (West)  
Mumbai, Maharashtra– 400 104**

**Opposite Party No. 4**

- 5. Side Films India Limited  
4<sup>th</sup> Floor, Interface, Building #7,  
Off Malad Link Road, Malad (W),  
Mumbai, Maharashtra– 400 076**

**Opposite Party No. 5**

- 6. Cape of Good Films Private Limited  
101, 1<sup>st</sup> Floor, A wing,  
Ambivali Azad Nagar, Veera Desai Road,  
Bharat Ark, Andheri (West),  
Mumbai, Maharashtra– 400 053**

**Opposite Party No. 6**

- 7. Hope Productions Private Limited  
34/35, Valentina, Gamadia Road,  
Mumbai, Maharashtra– 400 026**

**Opposite Party No. 7**

**CORAM**

**Mr. Devender Kumar Sikri  
Chairperson**

**Mr. Sudhir Mital  
Member**

**Mr. Augustine Peter  
Member**

**Mr. U. C. Nahta  
Member**



### Order under Section 26(2) of the Competition Act, 2002

1. The information in the present matter has been filed by Shri Kshitiz Arya and Shri Purushottam Anand (hereinafter, the '**Informants**') under Section 19(1)(a) of the Competition Act, 2002 (hereinafter, '**the Act**') against Viacom18 Media Pvt. Ltd. (hereinafter, '**OP-1**'), Bhansali Productions (hereinafter, '**OP-2**'), Ms Twinkle Khanna (hereinafter, '**OP-3**'), Kriarj Entertainment Private Limited (hereinafter, '**OP-4**'), Side Films India Limited (hereinafter, '**OP-5**'), Cape of Good Films Private Limited (hereinafter, '**OP-6**') and Hope Productions Private Limited (hereinafter, '**OP-7**') alleging violation of the provision of Section 3(3) of the Act.
2. The Informants are stated to be advocates and the OPs are engaged in production of movies. OP-1 and OP-2 are the producers of the movie '*Padmavat*' and OP-3 to OP-7 are the producers of the movie '*Padman*'. The primary grievance of the Informants relate to collusion of the filmmakers with respect to sharing of the market amongst themselves by allocating different time for release of their films.
3. The Informants have submitted that as per the media reports and trailer released by the filmmakers of the movie '*Padman*', the movie was due for release on 25.01.2018. On the same date another movie which was scheduled to be released was '*Padmavat*' which is produced by Bhansali Productions and Viacom18 Media Pvt. Ltd. It is further submitted that the movie '*Padmavat*' was facing severe protests from various social and religious groups in the country demanding a ban on its release. Many State Governments had passed notifications banning the release of the movie '*Padmavat*' in their respective States. However, subsequently the Hon'ble Supreme Court passed an order quashing such notifications issued by various State Governments.
4. The Informants have further stated that through a joint press conference held on 19.01.2018, Shri Sanjay Leela Bhansali, producer of '*Padmavat*' and Shri Akshay Kumar, an actor and a part of the cast of the film '*Padman*', announced



that the makers of movie 'Padman' i.e. OP-3 to OP-7 have decided to postpone the release date of their movie 'Padman' from 25.01.2018 to 09.02.2018 at the request of Shri Sanjay Leela Bhansali to avoid any loss of profits on account of competition between these two films. It is further submitted that in the press conference, Shri Akshay Kumar explained that Indian cinema industry is like a small family and justified the postponement by stating that he also wished that the movie 'Padmavat' be released solo and should not clash with any other movie.

5. It is alleged by the Informants that there is a strong understanding among the members of the Indian film industry who publicly acknowledge the fact of sharing of the market spaces amongst themselves by releasing films on their agreed timings. Further, it is stated that the actors of 'Padmavat' and 'Padman' were exchanging their gratitude for agreeing not to release the said movies on the same date through their Twitter and other social media accounts.
6. The Informants have further submitted that release of movies is strategically planned months ahead of the actual release dates. Therefore, producers of Bollywood movies try to avoid clash at the box office. In this regard, the Informants have also submitted that there were many similar incidents of collusive agreement/ understanding with regard to selecting, preponing and postponing the release dates of various films in the Indian market and the same is evident from newspaper reports.
7. The Informants have asserted that the makers of the aforesaid films entered into an agreement to adjust the release date/ time with a view to avoid competition. This is evident from the press conference held on 19.01.2018 wherein the producers of the film publicly declared their agreement to postpone the release of the film "Padman" to a later date at the request of Shri Sanjay Leela Bhansali to avoid any loss of profits on account of competition between the aforesaid two films.
8. As per the Informants, sharing and allocation of time-period for film release between different filmmakers is a collusion that falls within the ambit of clause



(c) of Section 3(3) which covers agreements by which persons or enterprises agree to share the market by way of allocation of geographical area of the market, or type of goods or services, or number of customers in the market or any other similar way. The Informants have interpreted the expression '*or any other similar way*' of Section 3(3)(c) to include various *modus operandi* depending on the nature, practices and other peculiarities of the market so long as it results in sharing of the market. According to the Informants, allocation of market by allocating the window of time to release the film is covered in 'any other similar way' as it has resulted in sharing of market in a manner and effect which is similar to the sharing of the market by allocating geographical area, type of services or number of customers.

9. It is alleged that the filmmakers limited the choice of the film viewers and the makers of the above two films colluded by dividing the different calendar weeks amongst themselves whilst controlling the supply of these movies to the end-consumers. It is further alleged that changing the release date of movies in this manner controls the supply of this service, and thereby limiting the options available to the customers and the aforementioned two films did not compete on the parameters such as quality of movie/ direction *etc.*
10. It is further alleged that the producers of the aforesaid two films have also contravened Section 3(3)(b) of the Act by controlling the supply of films. It is stated that if more films are released on the same day, only the best/ most entertaining film would be able to generate revenue.
11. Based on the above submissions, the Informants have prayed the Commission to conduct an inquiry into the anti-competitive agreement entered into by the OPs which allegedly violate the provisions of Section 3(3) of the Act and also to impose appropriate penalty on the OPs in accordance with the provisions of the Act.
12. The Commission upon perusal of the information observes that the Informants are primarily aggrieved by the fact that the makers of the two movies *i.e.* 'Padman' and 'Padmavat' have colluded to share the market by scheduling



different dates/ time frames for release of their respective movies resulting in controlling the supply of movies in the market thereby contravening the provisions of Section 3(3) of the Act.

13. The Commission notes that according to media reports the movie ‘*Padmavat*’ was first scheduled to be released on 1<sup>st</sup> December, 2017. However, prior to its release the movie was entangled in certain controversies leading to legal proceedings thereby a delay in obtaining censor certificate from the Central Board of Film Certificate (CBFC). Further, various social groups and religious organisation had declared that they would agitate against the movie if it gets released and had also threatened to indulge in violence against the cinema halls screening the said movie. Meanwhile, in the month of November, the producers of ‘*Padmavat*’ had voluntarily decided to defer the release of the movie scheduled for December as protests pertaining to the historical accuracy of the movie ‘*Padmavat*’ continued across the country. Thereafter, CBFC set up a special panel to watch the movie on 28<sup>th</sup> December, 2017. After the special panel pre-viewed the movie, CBFC had recommended for five modifications in the movie which were accepted and implemented by the makers of movie ‘*Padmavat*’. Finally, the uncertainty over the release of the movie came to an end when CBFC issued the censor board certificate to the said movie. Thus, the delay of releasing a movie ‘*Padmavat*’ was caused due to the protest and regulatory impediments and not based on any collusion with any party.
14. Further, the Commission observes that as per the news article dated 9<sup>th</sup> January, 2018 published in the Deccan Chronicle, it appears that the decision of the producers of the movie ‘*Padman*’ to defer the release date of their movie is owing to non-availability of maximum numbers of screens due to the release of ‘*Padmavat*’ movie also on the same date. The relevant portion from the news article is reproduced below:

*“...Ideally, Padmavat would get all the 5,000-odd screens. But now, it will get approximately 2,500. Padman, which would have otherwise got most of the screens, has now to be content with only 2,500 screens....”*



सत्यमेव जयते



<https://www.deccanchronicle.com/entertainment/bollywood/090118/the-game-of-screens.html>

15. In this regard, it is observed that the releasing of a movie is a strategic and tactical business decision taken by the producers. The makers of a film have to consider a lot of factors before releasing the movies for distribution such as market targeting, branding of the movie, distribution expenditure, revenue sharing with the distributors and competition with other movies, among others. A major concern for the producer of a movie is to get the maximum number of screens for release of a movie as the same is directly proportional to the potential revenue generated by the movie. Further, owing to piracy issues in the film industry, movie production houses releasing mega budget movies adopt a business strategy of simultaneously releasing their new movies in a large number of screens in order to realise maximum revenue during the first week of their release. Thus, the strategy of production houses releasing mega budgeted movie in not competing with another big budget movie does not seem to be unfair as both the movies cannot be released simultaneously in maximum number of screens. It is further observed that the rationale behind mega budget movies not competing with other movies is that the producers would have lesser risk and would be able to earn better profit/ return on investment. Therefore, such decision, which is a result of market outcome, appears to be a legitimate business decision rather than an anti-competitive practice.
16. Considering the above, the Commission notes that the anti-competitive conduct alleged against the makers of *Padman* and *Padmavat* does not get established. The evidence supplied in the information does not seem to indicate any concerted action while deciding the dates for the release of the movies and accordingly, the Commission observes that the facts of the case do not raise any competition concerns.
17. In view of the foregoing, the Commission is of the *prima facie* opinion that no case of contravention of the provisions of the Act is made out against the OPs



and the matter is ordered to be closed forthwith in terms of the provisions of Section 26(2) of the Act.

18. The Secretary is directed to communicate this order to the Informant, accordingly.

**Sd/-**  
**(Devender Kumar Sikri)**  
**Chairperson**

**Sd/-**  
**(Sudhir Mital)**  
**Member**

**Sd/-**  
**(Augustine Peter)**  
**Member**

**New Delhi**  
**Date: 01/06/2018**

**Sd/-**  
**(U. C. Nahta)**  
**Member**