
(2026) 02 CCI CK 1792
In the Competition Commission Of India
Case No : Case No. 05 Of 2019

Matrix Info Systems Pvt. Ltd.

APPELLANT

Vs

Intel Corporation

RESPONDENT

Date of Decision : 12-02-2026

Acts Referred:

Competition Act, 2002 — Section 2(t), 3, 3(4)(c), 3(4)(d), 3(4)(e), 4, 4(2)(a)(i), 4(2)(b)(i), 4(2)(c), 19, 19(1)(a), 19(4), 19(6), 19(7), 26(1), 27, 27(b), 57

Citation : (2026) 02 CCI CK 1792

Hon'ble Judges : Ravneet Kaur, Chairperson; Anil Agrawal, Member; Sweta Kakkad, Member; Deepak Anurag, Member

Bench : Full Bench

Advocate : Khyati Dhupar, Yashwardhan Singh, Swarendu Chatterjee, Sunil Jain, Priyanka Jain, Prachi Jain, Samar Bansal, Karan Chandhiok, Tarushi Guliani, Aileen Aditi Sundardas, Evangelina Almirantearena, Karan Chandhiok, Avinash Amarnath, Nicky Collins

Final Decision : Disposed Of

Judgement

Order under Section 27 of the Competition Act, 2002

1. This order shall dispose of the case that has arisen from the Information filed by M/s Matrix Info Systems Pvt. Ltd. (hereinafter, the 'Informant'/'Matrix'), under Section 19(1) (a) of the Competition Act, 2002 (hereinafter, the 'Act') against Intel Corporation (hereinafter, the 'OP/ Intel') inter alia alleging contravention of the provisions of Sections 3 and 4 of the Act.

Facts in brief

2. The Informant stated itself to be a Delhi based Information Technology ('IT') trading company, incorporated in 2015 as a private company under the provisions of the Companies Act, 2013, engaged in the business of importing, wholesaling, distributing and supplying a wide range of IT products including CPUs, storage solutions, security cameras, RAMs, laptops and other computer

consumables as well as accessories including printing supplies, and hard disks etc.

3. OP is a leading multinational corporation and technology company incorporated in California, USA in 1968 and re-incorporated in Delaware, USA in 1989, engaged in the activities of designing and manufacturing of a wide range of IT components, peripherals, computer systems, etc. as well as manufacturing and distribution of electronic devices relating to communications and computing such as micro-processors, chipsets, mother-board, integrated circuit, etc.

4. The Informant stated itself to be a parallel importer of Intel micro-processors in India, which is legally permissible. As per the Informant, parallel imports are beneficial for the consumers as import of goods from a country with lower prices force sellers in the country of destination to reduce prices. The Informant stated that it imports Intel Micro-processors from OP's authorised distributors in other countries and sells the same to consumers in India at competitive prices.

5. As per the Informant, prior to 2016, Intel used to provide manufacturer's warranty within India on its Boxed Micro-Processors ('BMPs') that may have been purchased from any country in the world. However, w.e.f. 25.04.2016, Intel amended its warranty policy for India. As per this new policy, Intel would entertain warranty requests for Intel BMPs in India only when the same are purchased from an authorised Indian distributor of Intel('India Specific Warranty Policy').As a result of this India Specific Warranty Policy, OP does not acknowledge warranty requests on its BMPs that are purchased from its authorised distributors in the rest of the world and instead redirects them to country of purchase to avail the warranty.In support, the Informant placed on record various communications that took place between the Informant and Intel Technology India Private Limited ('ITIPL'), the Indian subsidiary of OP. As per the Informant, in some communications, ITIPL falsely alleged that such Micro-Processors are products of Original Equipment Manufacturers('OEMs')i.e., Tray Micro-processors, which are different from BMPs, to avoid acknowledging the warranty.

6. The Informant stated that such change in warranty policy has been made by OP without any legitimate justification and by doing so, OP has been behaving in a differential manner within the Indian market. As per the Informant, such separate warranty terms of Intel for India vis-à-vis the rest of the world, is arbitrary and unfair towards the Indian market and consumers. Quoting the statement of Mr. Rajiv Bhalla, Director, Direct and Channel Sales, Intel South Asia, published in Digit. In on 25.04.2016, the Informant averred that by adopting this new Indian Specific Warranty Policy, OP only intended to protect the market share of its own authorised distributors in India.

7. As per the Informant, because of the changed warranty policy, Indian customers are being forced to purchase Intel's BMPs only from the authorised distributors of OP in India in order to avail the after-sales warranty within the

country. Apart from limiting the choice of customers it also affected the business of independent resellers and parallel importers like the Informant. Further, such policy change gave Intel's Indian authorised distributors a position of power to sell its BMPs at higher prices. The Informant claimed that though it may be possible to claim warranty on Intel's Boxed Micro-Processors purchased from outside the country by sending them abroad, but it may not be feasible to do so on account of cross-border restrictions as well as cost and time implications. Hence, as per the Informant, such change in its warranty policy by Intel is abusive in nature and anti-competitive under the provisions of the Act.

8. The Informant delineated the relevant product market as 'market for sale of boxed Micro-processors for Desktop and Laptop Personal Computers ('PCs')' and relevant geographic market as 'India'. As per the Informant, in terms of the factors contained in Section 19(4) of the Act, Intel holds a dominant position in the relevant market for 'sale of Boxed Micro-processors for Desktop and Laptop PCs in India'.

9. The Informant alleged violation of Section 4(2)(a)(i) of the Act by Intel as it imposes unfair and discriminatory condition that warranty shall be provided only when BMPs are purchased in India from its authorised Indian distributor. Further, the Informant alleged violation of Section 4(2)(c) of the Act by Intel as it limits / restricts the business of other resellers and/or parallel importers and denies market access to them by not providing them warranty on Intel's BMPs in India when not purchased from the authorised distributors of Intel.

10. The Informant also levelled allegations of contravention of Section 3 of the Act against Intel. As per the Informant, the exclusive agreement between Intel and its authorised Indian distributors which gives them exclusive selling rights in India is violative of Section 3(4)(c) of the Act. The imposition of condition to purchase from only certain sellers/ distributors for claiming warranty in India and blanket ban on after-sales warranties if purchased from other sources is resulting in deprivation of consumer choice which is also violative of the provisions of Section 3(4)(d) of the Act. Further, Intel's restriction on independent resellers and/or parallel importers, by not providing warranty on Intel's Boxed Micro-Processors purchased from sellers other than Intel's authorised distributors in India, is violative of Section 3(4)(e) of the Act.

11. As per the Informant, by way of imposing unfair disadvantage on the independent resellers for selling Intel BMPs at lower prices in comparison to Intel's authorised distributors, Intel is causing Appreciable Adverse Effect on Competition('AAEC') in terms of Section 19 of the Act.

12. Based on the above submissions and contentions, the Informant alleged that Intel abused its dominant position by acting in contravention of provisions of Sections 3 and 4 of the Act.

13. The Commission had a preliminary conference with the parties on 02.07.2019.

Directions under Section 26(1) of the Act

14. The Commission, at the outset, considered the alleged contraventions under Section 3(4) of the Act by way of exclusive distribution agreement, refusal to deal and resale price maintenance on account of agreement between Intel and its authorised distributors. The Commission, noting the averment of Intel that agreement between Intel and its authorised distributors were not in the nature of exclusive distribution agreement and that its authorised distributors may sell Micro-processors of any brand, did not find any prima facie concern with respect to allegation of Section 3(4) of the Act.

15. The Commission further observed that the gravamen of the allegations of the Informant was introduction of India Specific Warranty Policy by Intel in 2016.

16. The Commission prima facie noted Intel to be dominant in the market of Micro- processors for Desktops and Laptop PCs in India. Further, the Commission, prima facie, opined that the India Specific Warranty Policy of Intel in regard to its BMPs appeared to be in contravention of Section 4(2)(a)(i) of the Act. The same also prima facie appeared to be limiting or restricting the market of BMPs for Desktop and Laptop PCs in the territory of India in contravention of Section 4(2)(b)(i) of the Act as well as denying market access to parallel importers in contravention of Section 4(2)(c) of the Act. Accordingly, the Commission, vide order dated 09.08.2019, passed under Section 26(1) of the Act (hereinafter, 'prima facie order'), directed the Director General ('DG') to cause an investigation into the matter and submit its report.

17. Meanwhile, challenging the Commission's prima facie order, Intel filed a Writ Petition bearing W.P.(C) No. 50727 of 2019 before the Hon'ble High Court of Karnataka. Vide order dated 14.11.2019, the Hon'ble Court stayed the prima facie order passed by the Commission. Subsequently, vide judgment dated 23.08.2022, the Hon'ble Court dismissed the Writ Petition filed by Intel.

18. The DG submitted the investigation report, in confidential and non-confidential version on 25.01.2024, along with case record.

19. On 25.01.2024, OP had also filed an Interlocutory Application ('IA') bearing IA No. 07 of 2024, inter alia, stating that Intel will be changing its warranty service policy in India to a world-wide warranty service policy, effective from 01.04.2024 due to business reasons. Intel requested to take note of this change and close the present matter to save considerable time and resources of the Commission as well as of Intel and other third-parties that may be called as witnesses.

Proceedings before the Commission

20. The Commission considered the investigation report in its ordinary meeting held on 03.05.2024 and decided to forward an electronic copy of the non-confidential version of the same to the Informant, the OP and ITIPL, giving the parties an opportunity to file objections/ suggestions, if any, to the report, within four weeks and to the Informant to file rejoinder within two weeks thereafter.

The Commission also directed the OP and ITIPL to file their duly audited balance sheets and profit and loss accounts('financial statements')for the financial years('FYs')2020-21, 2021-22 and 2022-23, along with details of turnover/ revenue derived from sale of boxed micro-processors for the aforementioned FYs, in India, in terms of Competition Commission of India (Determination of Turnover or Income) Regulations, 2024('Turnover Regulations, 2024')and Competition Commission of India (Determination of Monetary Penalty) Guidelines, 2024 ('Penalty Guidelines').

21. In pursuance of the directions of the Commission, OP filed its audited financial statements on 30.05.2024 and the relevant turnover certificate on 11.07.2024, in confidential and non-confidential version. ITIPL filed its financial statements on 30.05.2024 stating that it is not engaged in the manufacture or sale of micro- processors in India and as such, it is not in a position to provide the relevant turnover information.

22. OP and ITIPL moved applications dated 10.06.2024 and 13.06.2024 respectively, requesting for creation of confidentiality ring to obtain access to complete confidential records including confidential version of the investigation report, and seeking extension of time for filing their objections/ suggestions to the investigation report. The Commission considered the aforesaid applications and vide order dated 28.08.2024, inter alia, decided to form a confidentiality ring in the matter and granted OP and ITIPL access to the confidential investigation report and confidential case records in terms of Regulation 36 of the Competition Commission of India (General) Regulations, 2024('General Regulations, 2024').

23. OP also moved IA No. 136 of 2024 dated 24.06.2024 seeking cross-examination of the Informant and two third-parties based on their written submissions, which was rejected by the Commission vide order dated 28.08.2024, noting that written submissions of the Informant and the third parties can be rebutted by OP through its own written submissions.

24. OP filed its objections/suggestions to the investigation report on 09.12.2024, in confidential and non-confidential version.

25. ITIPL filed a letter dated 09.12.2024, stating that it should be removed as a party from the present matter since, it is not engaged in the manufacture or sale of any product of OP including micro-processors, and is not present in the relevant market as defined in the investigation report. The Commission considered the same in its ordinary meeting dated 19.02.2025 and observed that it would be premature to remove ITIPL as a party from the present proceedings at that stage and granted liberty to take such pleas at the time of final hearing.

26. On 09.01.2025, OP also filed an expert opinion dated 25.12.2024 through IA No. 12 of 2025 of Dr. M.S. Sahoo('Report of Economic Expert'),in confidential and non-confidential versions. The Commission took the same on record and directed OP to press on the same at the time of final hearing.

27. The Commission, vide order dated 19.02.2025, fixed the hearing in the matter on 03.04.2025, which was adjourned to 21.05.2025 and then to 09.07.2025, on request of OP, vide orders dated 26.03.2025 and 30.04.2025, respectively. The hearing scheduled on 09.07.2025 was adjourned by the Commission further to 27.08.2025 and 28.08.2025, on request of the counsel for the Informant.

28. On 27.08.2025, the Commission heard the arguments of OP and ITIPL including on penalty and mitigating factors. Considering the adjournment request of the Informant, the Commission decided to schedule the matter on 24.09.2025 for hearing the Informant and rejoinder by the OP and ITIPL.

29. On 22.09.2025, the Informant filed its consolidated submissions on the investigation report and response of OP to the investigation report.

30. OP moved an IA No. 400 of 2025 dated 23.09.2025, inter alia stating that filing of written submissions by the Informant a day before the hearing denies OP the opportunity of effective rebuttal.

31. On 24.09.2025, the Commission took on record the submissions dated 22.09.2025 filed by the Informant, and considering the plea of OP, granted liberty to OP to rebut these submissions of the Informant by way of written submissions within a period of two weeks from the date of receipt of the order. Thereafter, the Informant argued the matter and the OP made its rejoinder arguments. After conclusion of the hearing, the Commission decided to pass an appropriate order and also granted liberty to the parties to file short written submissions, if so desired, latest by 07.10.2025.

32. In pursuance of the directions of the Commission, the Informant and OP filed their respective post hearing short written submissions dated 07.10.2025. On 14.10.2025, OP filed the rejoinder to the submissions dated 22.09.2025 of the Informant.

Submissions of the Parties

33. By way of oral arguments and written submissions, OP, inter alia, submitted as under:

33.1. Warranty is the substantive promise which Intel gives on its products: a three-year limited warranty on all genuine boxed microprocessors, regardless of the source or place of purchase. Warranty service, however, refers to the practical mechanism of availing the warranty. OP states that service arrangements of availing warranty differ across jurisdictions depending on market. In India, since April 2016, warranty service has been provided locally only for processors bought from Intel's authorised Indian distributors. If the processor was purchased abroad or via an unauthorised channel in India, the warranty is still intact, but the purchaser must claim service in the country of purchase.

33.2. IT hardware sector is plagued by a large grey market, where goods are undervalued at customs, salvaged/ used products are disguised as new, and counterfeit products are common. It is necessary to restrict warranty service in India to products bought from authorised distributors, who are monitored for compliance and quality. The Informant itself was caught indulging in mis-declaration, undervaluation, and import of old/used processors in violation of the EXIM policy in 2018.

33.3. The Commission has held in *Ashish Ahuja v. Snapdeal* bearing Case No. 17 of 2014, vide order dated 19.05.2014, that a manufacturer's decision to confine warranty service to products sold through authorised distributors was a legitimate business practice and not an abuse of dominance. It was noted by the Commission that protecting the sanctity of distribution channels was well within a manufacturer's rights. In *Kapil Wadhwa v. Samsung Electronics*, the Hon'ble Delhi High Court, vide its order dated 03.10.2012, ruled that Samsung had good reason to exclude warranties for goods imported into India through unofficial channels. The Court ordered parallel importers to clearly state that Samsung would not honour the warranty on those products. OP highlights that its own policy is far more permissive and consumer friendly than the abovementioned cases as it continues to provide warranty for parallel imports by redirecting warranty service to place of purchase.

33.4. On merits, it is contended that Matrix's entire case is based on just two warranty claims made in India that were redirected abroad. Out of 34 processors for which the Informant claimed warranty, 29 were replaced by Intel and three were denied because they were not boxed microprocessors but tray/OEM processors (on which Intel does not provide warranty directly) and only two filed in India were refused warranty service to be given in India. Of the 34, only two claims were filed in India; the others were made in Dubai and processed there successfully.

33.5. The Informant has continued importing Intel processors in bulk even after the implementation of 2016 policy. Between March 2017 and January 2018, Matrix imported at least 4,000 boxed microprocessors into India, despite knowing about the warranty service restrictions, which demonstrates that the India Specific Warranty Policy had no foreclosure effects and does not impair the Informant's ability to operate as a parallel importer.

33.6. The DG did not ask third parties questions with respect to dominance or end- product substitution and the investigation report lacks enquiry to consumers regarding lack of warranty, substitutability and dominance. The DG relied on market share data for 2016-18 while ignoring data from 2019-2021. The market share of Intel declined from.....to.....while market share of Advanced Micro Devices('AMD')rose from..._.to While assessing dominance, the DG placed disproportionate reliance on EU and UK law contrary to Commission's precedent in *Fast Track* and *Meru v ANI Technologies* (Case Nos. 6 and 74 of 2015) wherein it was held that dominance required durable and sustained market strength and

fluctuating market shares are a sign of healthy competition.

33.7. OP is not in a position to raise prices as done by AMD which is demonstrated in Report of Economic Expert based on average prices calculated by dividing sales value by sales volume.

33.8. The DG has done inaccurate assessment of size and resources of OP with size and importance of AMD as both had different business models- OP owns manufacturing facilities and AMD outsources manufacturing.

33.9. The Report of Economic Expert also demonstrated that high asset turnover ratio indicates revenue generation potential and AMD's asset turnover ratio improved from 1.29 in 2016 to 1.32 in 2021 while Intel's declined from 0.52 in 2016 to 0.47 in 2021. It also stated that market capitalization of AMD is significantly more than that of OP.

33.10. The DG noted high investment as a barrier to enter the concerned industry failing to recognise that AMD rapidly gained market share adopting a less- capital intensive model.

33.11. Even if OP is assumed to be dominant in the relevant market, its conduct cannot amount to abuse. The warranty service policy applies equally to all purchasers, including OP's own distributors if they import from unauthorised sources abroad. Warranty itself is always provided on genuine products; only the point of service differs.

33.12. The provisions of the Act concern itself with AAEC and not isolated trader grievances. The Informant has failed to furnish any evidence of AAEC. The Informant's complaint involves just two processors, which constitutes 0.05% of Informant's imports, in a market where millions of processors are sold annually.

33.13. Informant approached the Commission with "unclean hands" by not disclosing its own history of customs violations, tax investigations and claims that the Informant has been penalized for mis-declaration, undervaluation, and import of products contrary to the EXIM policy.

33.14. Placing reliance on the judgment dated 13.05.2025 passed in the Competition Commission of India v Schott Glass India Pvt. Ltd., SC, Civil Appeal No. 5843 of 2014, OP submitted that the Hon'ble Supreme Court of India recognized cross examination as a crucial aspect, which was not accorded to it.

33.15. In the event that the Commission considers it necessary to impose any penalty and/or remedies, it should consider (a) relevant turnover of OP in India, i.e. OP's turnover from sales of BMPs for desktop PCs in India for the three FYs preceding the year in which the investigation report is received by the Commission; (b) the impact on the market and consumers; and (c) significant mitigating factors.

33.16. It is submitted that the following mitigating factors be considered by the Commission: a) OP's conduct has not caused or is likely to cause AAEC in any

relevant market in India; (b) Intel has already discontinued the India Specific Warranty Policy w.e.f. 01.04.2024; (c) OP has consistently maintained compliance with the Act; (d) the present matter involves novel facts and circumstances and unique theories of harm where competition harm has been alleged based solely on the method of providing warranty services, as opposed to any condition that is directly related to purchase of the product in question; (e) the practices alleged to be in contravention of the Act are industry/ market practices; (f) OP's business condition has seen significant turbulence in recent times; and (g) OP operates in a technological market susceptible to disruptions.

33.17. In addition, should the Commission see it fit to impose any penalty or remedies in the present case, the Commission should: (a) allow OP the opportunity to advance separate arguments on penalty and remedies, by issuing a show cause notice and (b) engage in a thorough consultation with OP on potential remedies to avoid the risk of overcorrection.

Submissions of ITIPL

33.18. ITIPL submitted during the hearing that it is not engaged in the manufacture or sale of any product of OP including microprocessors in India. ITIPL also submitted that it is not responsible for developing, amending or implementing OP's warranty policies in India. It also asserted that the DG neither found ITIPL dominant in any relevant market nor recorded any finding of contravention against it. Accordingly, ITIPL requested to remove its name as party in the present matter.

Submissions of the Informant

34. The Informant filed its objections to the non-confidential version of investigation report and the response of OP on 22.09.2025 and post hearing submissions dated 07.10.2025. By way of oral arguments and written submissions, the Informant inter alia made the following averments:

34.1. The DG correctly defined the relevant market, in line with the statutory framework under section 2(t) of the Act.

34.2. With respect to dominance, it is stated that OP has a market share of over 85- 90% in the Indian BMPs for desktops segment. OP possesses immense global resources in terms of research and development capacity, financial capital, and strategic partnerships with individual software vendors and operating system providers. During the relevant period, AMD's presence in the desktop BMPs segment in India was limited and could not meaningfully constrain OP. There are high barriers to entry into the microprocessor market requiring enormous capital expenditures, multi-year architectural development, validation, etc.

34.3. Indian end customers and system integrators are fragmented and have a lack of bargaining strength to discipline OP's pricing or warranty terms. Even large OEMs are compelled to offer Intel BMPs to meet demands of Indian consumers.

34.4. The boxed desktop CPU channel in India is highly concentrated. Price analysis shows that Indian retail prices were significantly higher than global benchmarks, which is an indicator of weak competitive constraint.

34.5. OP contends that the India Specific Warranty Policy has been discontinued as on date but during 2016-2021 the relevant product market remained highly concentrated. Later shifts by OP cannot retrospectively sanitise earlier abuse.

34.6. Refusal of OP to honour warranty in India for boxed processors purchased abroad even when they were genuine products is discriminatory because OP does not impose similar restrictions in several other jurisdictions where global warranties are honoured. The India-specific restriction unfairly singled out Indian customers.

34.7. By restricting warranty to products sold by authorised Indian distributors, OP foreclosed parallel imports and discouraged system integrators from sourcing lower-priced BMPs from global markets. This impeded the ability of Indian consumers and small assemblers to access newer, affordable technology, thereby limiting the scope of technical and scientific development in this segment.

34.8. Indian consumers naturally prefer BMPs with warranty cover. This exclusionary strategy of Intel shielded its authorised distributors from competition and preserved Intel's ability to charge inflated prices.

34.9. Intel contends that the 2016 warranty policy no longer exists, however the Director of the Informant, based on her market information, pressed during the hearing that the warranty service is still denied by OP.

34.10. Reliance of Intel on the judgment passed in Schott Glass matter supra, is misplaced as the issue in the said matter was the extent of predatory pricing and whether below-cost pricing actually foreclosed rivals. It was to see whether predation was in fact capable of eliminating competition. By contrast, present case concerns denial of warranty and exclusion of parallel importers.

34.11. OP's objections on procedural errors are an attempt to distract from the overwhelming substantive evidence of abuse against it. Under the General Regulations, 2024, cross-examination is not an absolute right but a matter of discretion as envisaged in the Act.

34.12. Intel's claim that certain witnesses were planted is baseless and defamatory. The responses were obtained directly by the DG and not provided by the Informant. Alleging that witnesses were planted does not discredit the documentary evidence that corroborates the DG's findings.

34.13. Seeking reduced penalty on account of withdrawing the policy is untenable in law. The Supreme Court in the Excel Crop Care Ltd. v. CCI (2017) 8 SCC 47 has held that penalty must be proportionate yet deterrent, guided by the nature of contravention, its duration, and its impact on the market and consumers.

34.14. In addition to monetary penalty, Intel must be subjected to strict behavioural obligations. It must be directed to extend warranty coverage in India for all genuine Intel CPUs. Intel must notify the Commission of any future change in warranty and should be directed to file an annual compliance certificate with the Commission for five years.

Analysis of the Commission

35. The Commission has perused the Information, material available on record, the Investigation Report, the replies/suggestions/objections to the Investigation Report, the oral and written submissions of the parties.

36. At the outset, the Commission takes note of the averments of ITIPL that it is not engaged in the manufacture or sale of any products of OP including BMPs within the territory of India. ITIPL stated itself to be engaged primarily in research and development and information technology enabled support services to group entities of Intel and is Intel's largest research and development center outside the United States of America. ITIPL also stated that it bears no responsibility for the development, amendment, or implementation of Intel's warranty policies or administration of warranty service in India. Accordingly, In this regard, the Commission takes note of the finding of the DG that as per agreement dated 01.04.2019, ITIPL was involved in providing marketing support services to OP. The instant matter pertains to change in warranty policy by OP in India. It is also noted that the investigation has not brought out any specific role of ITIPL in respect of the anticompetitive conduct under examination. Based on the averment of ITIPL and facts of the matter, the Commission decided to delete the name of ITIPL as one of the Opposite Parties in the matter in terms of Regulation 27 of the General Regulations, 2024. The cause title of Case No. 05 of 2019 is also directed to be amended accordingly.

37. Before proceeding further, the Commission deems it apt to deal with some preliminary objections of OP. Firstly, OP alleged that names of Guru Computers and Geonix, from whom information was collected by the DG, were given by the Informant and both are alleged to be interested parties. The Commission notes that this averment is of little relevance as during the course of investigation, the DG had gathered information from both the Informant and the OP; and had written to numerous third parties including those provided by the OP and the Informant. With respect to parallel imports, the DG had contacted 17 third parties out of which only 2 responded. It must be noted that there was no bar on the OP to provide the details of the parties engaged in parallel imports.

38. OP further alleged that the Informant has not approached the Commission with clean hands. In this regard, the Commission reiterates that antecedents of the Informant neither have a bearing on the merits of the present case nor do they prevent the Commission from taking cognizance of an abusive conduct of an entity causing or likely to cause AAEC. Also, the proceedings of the Commission

are in rem and not in personam.

39. The Commission takes note of the plea of Intel that it has been denied cross examination of the Informant and two third parties namely, Guru Computers and Geonix, which was critical in terms of the Hon'ble Supreme Court ruling passed in Schott Glass matter supra. In this regard, the Commission notes the submissions of the Informant that the issue under consideration in Schott Glass matter was substantially different than that in the present matter. The Commission further notes that it had already considered the request of OP seeking cross examination of the aforesaid parties based on their written submissions and disposed of the same, vide a detailed order dated 28.08.2024 with liberty to OP to file written submissions to counter the written submissions of the Informant and the aforesaid third parties, which has been done by OP.

40. Now, the Commission proceeds to examine the matter on merits. The Commission notes that the present matter concerns the change in warranty policy of OP effective from 25.04.2016, under which Intel would entertain warranty requests for Intel Boxed Micro-processors('BMPs')in India only when the same are purchased from its authorised Indian distributor. This resulted in non-provision of warranty service on its BMPs if the same are purchased from outside India even if purchased from the authorised distributors of Intel. The aforementioned conduct is found to be in violation of Sections 4(2)(a)(i), 4(2)(b) (i) and 4(2)(c) of the Act by the DG.

41. The issue which arises for consideration before the Commission is whether the OP is in contravention of the aforementioned provisions of Section 4 of the Act as a result of changing the warranty policy on its BMPs in India.

42. The allegations of the Informant regarding abuse of dominant position by OP, if any, need to be analysed 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 assessment of OP's position in the said relevant market and then, if OP is found to be dominant, analysing its conduct with regard to the alleged abuse.

Relevant market

43. The first issue before the Commission is the delineation of the relevant market. As per provisions of the Act, the relevant market has two dimensions: relevant product market and relevant geographic market.

44. As per Section 2(t) of the Act, 'relevant product market' means "a market comprising all those products or services which are regarded as interchangeable or substitutable by the consumer, by reason of characteristics of the products or services, their prices and intended use". Thus, the relevant product market comprises all those products which are regarded as substitutable by consumers by reason of characteristics, price and intended use.

45. From the investigation by the DG, the Commission notes that Micro-

processor is a type of miniature electronic device that contains arithmetic, logic and control circuitry, necessary to perform the functions of a digital computer's CPU. Modern micro-processors can perform extremely sophisticated operations in several areas. There are four main kinds of micro-processors: ARM, x64, x86, and MIPS. ARM processors have advantages like being power-efficient, simple to manage, and have a simple design. They are widely used in portable devices like laptops and smartphones. x64 and x86 micro-processors are widely used in PCs and servers. x86 is a Complex Instruction Set Computer('CISC')architecture that was first deployed in Intel's 8086 micro-processors. While x64 processors are an improvement over x86 processors because of more memory, processing power and ability to handle instructions more efficiently, making them better for mobile devices, video game consoles, supercomputers, and virtualization technology. On the other hand, x86 are used in personal computers, gaming consoles, laptops, and powerful workstations.

46. Intel has two types of Intel micro-processors for PCs: (a) Tray microprocessors, and (b) Boxed microprocessors. As per the DG, boxed microprocessors are different from tray micro-processors. Tray microprocessors are packaged together in plastic trays and are sold directly to OEMs who then pre-install the microprocessors in the devices/systems they manufacture. On the other hand, boxed microprocessors are sold with fan-heat sink, individually packaged in clearly marked boxes and are meant for customers whose demand is typically on a per unit basis. Boxed micro- processors are sold by Intel, either directly or through its group companies, to distributors on a principal-to-principal basis, who then sell them to customers including resellers.

47. With respect to delineation of relevant product market, OP has inter alia averred that the DG disregarded the intermediate nature of the product, failed to analyse factors enlisted in Sections 19(6) and 19(7) of the Act, and did not seek response from third parties regarding substitutability. The DG also ignored the Informant's own submission in the information that there existed substitutability among different brands of microprocessors. Regarding substitutability of architectures, it stated that Apple transitioned from x86 to ARM for its Mac portfolio, and other OEMs like Dell offer choice between Intel (x86), AMD (x86) and Qualcomm (ARM).

48. The Commission notes that Section 19(7) of the Act requires that due regard be given to 'all or any' of the factors enumerated therein which includes physical characteristics or end-use, price, consumer preference etc. The Commission is of the view that the characteristics and usage are discussed at length in the investigation report. With regard to price, it must be noted that BMPs exist in different variants of different generations, for instance, i3, i5, i7, i9 etc. and it is not required to consider each variant as a separate product market.

49. The Commission also notes the submissions of the Informant that BMPs constitute a distinct market as end user makes independent purchase decisions based on warranty and performance.

50. Regarding the intermediate nature of goods, the Commission notes the submissions of OP that it does not sell its boxed microprocessors to end-use customers directly. Rather, OP sells boxed microprocessors to its authorised distributors around the world who then sell the products to various kinds of channel customers in that country or region. In India, those channel customers include (a) system integrators, who assemble computer components to make computer systems and then sell those systems to end-use customers; (b) resellers, who resell boxed microprocessors to the public; and (c) traders, who resell the products to other channel customers. In view of the above, the Commission does not find substance in the argument of OP that BMPs are intermediate products as the same are sold independently in the market to system integrators and traders/resellers. A consumer who needs a BMP for assembling his desktop will not buy a notebook/laptop in place of microprocessor. The Commission also notes that in the instant matter, the warranty has been changed for BMPs sold in India otherwise than through authorised distributors and not with respect to microprocessors installed by OEMs in their products, which are already covered by OEM warranty.

51. With regard to substitutability of architectures, OP put forth instances of substitutability of architectures by OEMs such as Apple, Dell etc. for embedded devices like laptops, notebooks or branded desktops. Thus, substitutability referred by OP is more at the OEM level. Further, OP has itself stated that BMPs of Intel and AMD are based on x86 architecture. x86 architecture uses a common set of instructions which differs from ARM architecture. The DG has also noted in its report that ARM architecture has advantages like being power-efficient, simple to manage, and having a simple design, which works well in portable devices like laptops and smartphones, whereas x86 processors are widely used in PCs and servers. The Commission has earlier noted in *Esys Information Technologies v Intel Corporation* (Case No. 48 of 2011) that in the technology industry, changing technological paradigm introduces possibility of substitution and the appropriate approach would be to go by the end product classification and carved four distinct relevant product markets- microprocessors for desktops, laptops/mobiles/ notebooks/ net-books, servers and tablets; considering inherent differences in their portability, functionality and usage etc. This aligns with international jurisprudence in EU Intel case (T-286/09) in which x86 CPU was treated as distinct product market. Thus, substitutability referred to by OP does not appear to be correct for resellers/ traders and system integrators.

52. The Commission further notes that the finding of investigation that boxed micro- processors are used in desktops only and that both Intel and its competitor AMD do not sell boxed micro-processors for laptops in India. Authorised distributors of Intel like Ingram Micro India Pvt. Ltd., also submitted that it does not have any engagement or arrangement for BMPs for laptops with the OP. Accordingly, considering the above, the relevant product market is delineated as 'Boxed Microprocessors for Desktop PCs in India'.

53. As per Section 2(s) of the Act 'relevant geographic market' means "a market comprising the area in which the conditions of competition for supply of goods or provision of services or demand of goods or services are distinctly homogenous and can be distinguished from the conditions prevailing in the neighbouring areas".

54. With regard to relevant geographic market, the Commission noted that OP does not manufacture its products in India and all its microprocessors are imported into India either separately or fitted into Information and Communications Technology ('ICT') devices/ equipment, from OP's authorised distributors or factories located outside India. Such imports are subject to trade policy, rules and regulations governing import, import duties, conversion rates etc. which vary from country to country. The Commission observes that the allegations pertain to change in warranty policy pertaining to India and subjected Indian markets and consumers to India Specific Warranty Policy. The competition conditions are also homogenous across the territory of India. Accordingly, the relevant geographic market is 'India' and the relevant market is 'market for Boxed Microprocessors for Desktop PCs in India'.

Assessment of Dominance

55. After delineating the relevant market, the Commission now proceeds to examine whether OP is dominant in the relevant market and if yes, whether it has abused its dominant position in the relevant market.

56. The DG examined 26 third parties and found that apart from OP, only AMD was engaged in manufacture and sale of BMPs for desktops in India. The DG examined the dominance of OP based on factors enlisted in Section 19(4) of the Act.

57. The DG compared the market share of Intel and AMD from 2016 till 2021 and observed that Intel is consistently leading the market of BMPs for desktop PCs with a significantly high market share during the period of contravention. Throughout the years 2016 to 2021 Intel remained the top player, with more than...market share during 2016-2018. In 2019, the market share of Intel declined to; however, it was still much higher than its competitor, AMD. Intel had high market shares in 2019 and 2020, both in terms of volume and value. The details are as under:

Table 1: Market Share of Intel and AMD

F.Y

VALUE

VOLUME

INTEL (Value

in Rs. Crore)

AMD

(Value in Rs. Crore)

TOTAL

INTEL (%)

AMD (%)

INTEL

(Volume)

AMD TOTAL (Volume

INTE

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58. Based upon the market shares calculated on the basis of both value and volume, the DG found that Intel was in a dominant position from 2016 to 2021.

59. Further, the DG noted that the size and resources of OP exceeded AMD's by approximately four times during the period from 2016 to 2021 and the revenue of Intel was also much greater than revenue of AMD throughout the entire period.

60. The DG also found that Intel held proprietary right over x86 architecture and is manufacturing most diversified variants of micro-processors in India such as Intel Quark, Intel Atom, Intel Celeron, Intel Pentium, Intel Xeon, Intel Xeon Phi etc. Major computer manufacturers like Acer, Apple, ASUS, Dell etc. are selling their PCs with inbuilt micro-processors manufactured by Intel. This increases the dependence of distributors as well as final consumers on Intel.

61. The DG also noted that the entry barriers are high in terms of IPR protection, branding, capital expenditure, R&D expenses and large economies of scale.

62. Taking into account the above factors, the DG concluded that Intel enjoys a dominant position in the delineated relevant market for 'Boxed Microprocessors for Desktops PCs in India'.

63. OP disputed DG's findings on dominance, stating that as per the International Data Corporation ('IDC') report, Intel's BMPs are being constrained by significant competition due to rapid technological developments, evolving user preferences and frequent improvements in products/ product introductions.

64. With respect to assessment of dominance by the DG, OP also submitted that the DG did not ask question on dominance or end-product substitution from the third parties and the investigation report lacks enquiry from consumers regarding lack of warranty, substitutability and dominance. In this regard, the Commission noted that the methodology to be used in investigating a matter is the prerogative of the investigator.

65. The Commission notes the averments of OP, that the DG relied on snapshot of market share data for 2016-18 and ignored the decline in market share during 2019- 2021 while finding Intel dominant in the relevant market. In this regard, the Commission observes that a bare perusal of data with respect to sales value shows that during 2016-2021, the share of Intel has remained in the range of...to... percent and AMD in the range of...to...percent whereas, in terms of sales volume, share of Intel ranged from....to....percent but AMD is in the range of...to...percent. It is further noted that even in the year 2021, the sales volume of Intel is almost double the sales volume of AMD. The Commission further notes

that reliance placed by OP on Fast Track matter supra, is misplaced. In the said matter, it was noted that the market share of Ola and Uber lacked durability as the same fluctuated on month-to-month basis with Ola having higher market share in some months and Uber in the other months, and both lacked market power to operate independent of market forces. In the instant matter, there has been no occasion where AMD outperformed Intel either in terms of value or volume, during the period under investigation i.e. 2016-2021.

66. The Commission further noted that OP relied on Report of Economic Expert to highlight that AMD has high market capitalization, better asset turnover ratio, has ability to raise prices, etc. In this regard, the Commission notes the assertion of OP that its business model is different than that of its competitor AMD; Intel owns manufacturing facilities and AMD outsources its manufacturing, which explains the better financial performance of AMD in comparison to OP. The strategy and business models are part of the internal mechanisms of a business entity to sustain competition. The Commission is concerned about the presence of competitors in the relevant market and its impact on consumers during the relevant period and not with the business model or financial performance indicators.

67. The Commission further notes that the presence of only two entities in the relevant market also underpins the capital as well as research-intensive nature of the industry as well as the relevant product.

68. In view of the foregoing, the Commission finds Intel to be dominant in the relevant market of boxed microprocessors for desktops in India during the relevant period.

Assessment of abuse of dominance

69. Having assessed the dominance, the Commission proceeds to examine the abuse of dominance by Intel as a result of introducing India Specific Warranty Policy.

70. At the outset, the Commission observes that OP admits that it changed warranty service policy in respect of BMPs in India in 2016. The Commission further observes the finding of the DG that OP abused its dominance by way of introducing India Specific Warranty Policy, which:

(1) was discriminatory in nature when compared to its warranty policy in China, Australia and rest of the world, in contravention of Section 4(2)(a)(i) of the Act;

(2) forced parallel importers to purchase BMPs from authorised Indian distribution channels at higher price, instead of purchasing from overseas distribution channels at a lower price that were consequently offered to final consumers at prices lower than that of its authorised distributors. This in turn restricted the choice of parallel importers and final consumers to buy at prices lower to that of authorised distributors of Intel resulting in restricting/limiting the market of microprocessors for Indian sellers as well as consumers in

contravention of Section 4(2)(b)(i) of the Act; and

(3) affected the sales of parallel importers whose sales remained constant or declined despite growth in the industry, leading to denial of market access in Section 4(2)(c) of the Act.

Unfair and/or discriminatory condition

71. The Commission notes that Intel does not manufacture its products in India and all its products are imported in India either by authorised distributors or parallel importers. The technology and quality of Intel products hence, remains the same, irrespective of the country where the product is being sold. The Commission further notes that prior to 2016, Intel used to provide a world-wide manufacturer's warranty on its products in India. On 25.04.2016, Intel launched a new country specific warranty only for India, according to which, Intel shall entertain warranty requests for any Intel BMP in India only when the same is purchased from Intel India's authorised distribution channel. This implies that OP's BMPs purchased from authorised distributors anywhere in the world except India will not be able to receive warranty service in India, unlike in the other countries where a world-wide warranty is available to all Intel consumers and/or re-sellers.

72. The Commission further observes from the investigation report that Intel offers three-year limited warranty on its BMPs irrespective of the country of purchase. However, it has a separate 'warranty service' policy for India, Australia, China and rest of the world.

73. The Commission notes that apart from the Indian 'warranty service' policy, none of the policies prevailing in other jurisdictions restrict the applicability of warranty service for BMPs purchased from other countries. In this regard, the Commission takes note of the justifications put forth by Intel that the policy was brought into effect to protect the market share of Intel's authorised distributors and to protect the consumers from counterfeit/ salvaged products disguised as new. In this regard, the Commission notes the submissions dated 16.12.2022 of OP wherein it was stated that it has a robust mechanism to check the authenticity of Intel microprocessors by running Intel Processor Diagnostic Tool('Intel PDT')software on the system. Two numbers are required for checking warranty status of BMPs: (i) batch number known as"FPO"and (ii) serial number known as"ATPO".Each BMP has a distinct FPO number and ATPO number. Both FPO and ATPO numbers are mentioned on the packaging box of a BMP. FPO and ATPO numbers are also part of markings on Intel boxed microprocessors. The Commission further observes that under the changed warranty policy, for products not bought from its Indian authorised distributors, Intel redirects the customer to country of purchase in order to avail warranty service, and hence declines warranty even on its genuine products purchased from its authorised distributors outside India. It is to be noted that the reason for non-provision of warranty service in India is not on account of being a counterfeit product but on

account of not being purchased from its authorised distributors in India. Also, the issue of counterfeit products is not limited to India but is present globally. In view of the above, the Commission does not find any substance in the justification of Intel of protecting Indian consumers from counterfeit/ grey market activities.

74. The Commission further takes note of the averment of Intel that it is common for manufacturers of IT and electronic products, to follow a practice of not offering warranty service in India on products purchased outside India or on products purchased from unauthorised distributors and that the change in policy was aimed at protecting its authorised distribution network which was also in line with the Commission's decision in Ashish Ahuja matter supra and Hon'ble Delhi High Court verdict in Kapil Wadhwa matter supra. The Commission also observes that the facts of the present case are different from that of the relied upon case law, which have been discussed at length in its prima facie order dated 09.08.2019 and the Commission reiterates the same. Hence, it needs no fresh deliberation. The relevant excerpt of the order dated 09.08.2019 is reproduced below for ease of reference:

"38. Further, the Commission notes that Intel has argued that its warranty policy is compatible with the Indian legal position by placing reliance on the Commission's decision in Ashish Ahuja (supra). The Commission however, observes that the facts of the said case are entirely different from the present case. In that case, it was not the situation that SanDisk would not provide warranty services on products purchased from authorised distributors of SanDisk merely because the purchases are made from outside India. Further, in that case, SanDisk did not limit its warranty policy in any particular country/ ies. Furthermore, the Commission notes that Intel has also placed reliance on a judgment of the Hon'ble Delhi High Court in Kapil Wadhwa (supra) to contend that a manufacturer is entitled to refuse warranty service on products purchased from unauthorised distributors. However, the Commission, on perusal of the said judgment finds that in that case, refusal of warranty in India by Samsung was held by the Hon'ble Court to be justified in the circumstances that no warranty on those products was provided by the manufacturer Samsung, even in the country from which they were imported by the Appellant."

75. The Commission also considers the averment of Intel that market conditions are different in China, Australia or elsewhere and the DG itself has delineated the relevant geographic market to be India. In this regard, the Commission notes that South Asia region has largely similar conditions of competition, and due to discriminatory policy, the customers in South Asian region except India were able to enjoy the world-wide warranty service whereas Indian consumers are discriminated vis a vis other consumers in rest of the world or even in the South Asian region.

76. The Commission also takes into account that the Indian market has been one of the top markets for microprocessors of Intel. Intel recorded high sales in India

and India has remained among the top 10 countries in terms of sales value and volume during 2016 to 2021.

77. The Commission observes that OP has a worldwide warranty policy and a separate warranty/warranty service policies for India, Australia and China. Warranty policies in Australia and China do not have similar restrictive conditions as in India. The Commission finds the India specific warranty/warranty service of OP as unfair and discriminatory in terms of Section 4(2)(a)(i) of the Act, which has deprived Indian consumers from availing a rightful warranty service in India on a genuine Intel BMP since 2016 till OP withdrew the policy in 2024.

Limiting/restricting choice of parallel importers and final consumers to purchase from authorised distributors at high prices rather than importing at relatively lower prices

78. The Commission now examines the next allegation that change in warranty policy restricted the choice of parallel importers and final consumers and compelled them to buy from authorised distributors at high prices rather than importing at relatively lower prices.

79. In this regard, the Commission takes note of the submissions of OP that it has a single worldwide price list for BMPs called 'Standard Distributor Cost' ('SDC') which it offers to its authorised distributors (excluding taxes, duties and other import related costs) across the world and SDC is the price at which Intel's group companies ship Intel products to the authorised distributors. Intel does not have any role in how distributors or resellers determine their pricing. In line with global practice, where manufacturers offer performance-based rebate and bonus programs to reward distributors, Intel has also put in place various such incentive programmes involving rebates, discount and consequently, distributors also provide item specific discounts and rebates to its retail customers which differ from distributor to distributor. From 2016 onwards, Intel has three authorised distributors of boxed microprocessors in India namely Ingram Micro India Pvt. Ltd., WPG C&C Computers & Peripherals (India) Pvt. Ltd., and Rashi Peripherals Pvt. Ltd.

80. During investigation, OP submitted the comparison of weighted average net price that Intel charged from its authorised distributors and/or resellers for top selling five BMPs in India from 2016 to 2021, given in the table below:

Table 2: Prices of Top five selling BMPs

OP submitted that the net price of four out of five boxed microprocessors to its authorised distributors in India was lower than its net price to its distributors elsewhere.

81. The Commission notes that the prices charged by Intel from its authorised distributors is not the appropriate benchmark for comparison as such prices do not represent the prices at which these products are sold to retail/final consumers.

82. Further, from the data submitted by Intel vide submissions dated 18.01.2024, the DG noted difference in prices offered by distributors in different countries and also noted that microprocessors are sold at lower rates in countries like.....etc. The same is reproduced below for ease of reference:

Table 3: Prices of different types of BMPs in India, China, Hongkong and UAE

83. The Commission notes that as per above data provided by Intel, some of its products are relatively cheaper in places like..... etc. For instance,isavailable in.....for.....and in.....at.....in the year;.....available at.....in.....and at.....in..... in.....

84. Intel has argued that parallel imports do not lower the prices of BMPs in India. To counter this argument of Intel, the DG carried out comparison of prices at which the Informant has bought boxed microprocessors in India with the average prices (exclusive of taxes) at which boxed microprocessors are sold by authorised distributors of Intel (Ingram and Rashi Peripheral) during 2015-16 to 2018-19, which is tabulated below:

Table 4: Comparison of prices of the Informant and authorized distributors

85. The DG noted that prices (exclusive of taxes) of the Informant are slightly lower than the prices of authorised distributors barring few exceptions. In this regard, during the oral hearing, counsel for OP contended that this is an incorrect comparison of purchase price of Informant with sale price of OP's authorised distributors. Upon adding the import duty and other miscellaneous costs etc. and margin to this purchase price of Informant, the resultant sale price will be more than the sale prices offered by the authorised distributors of OP.

86. The Commission notes that indeed the purchase price of Informant has been compared with the sale price of authorised distributors of OP in India by the DG and important components such as import duty and margin are missing from the Informant's prices to make it comparable with the selling price of authorised distributors of OP.

87. The Commission peruses the prices and notes that in respect of some models the difference in price is more than 40%. For instance, the price of CPU G-3240 model imported by the Informant in 2015-16 was Rs. 2417 and in 2016-17 was Rs. 1675.77, but sold by Ingram at Rs. 3479 and Rs.3486 in 2016 and 2017 respectively, which is substantially higher than the import price. Similarly, in 2018-19, import price of CPU i9-9900K was Rs. 36157 and the price at which it is sold by authorised distributor-Rashi Peripherals was Rs. 52810. Similar is the trend for Microprocessor 3250 which was imported at Rs 1509.90 in 2016-17 and was sold by Ingram at Rs 3516 and Rs. 3380 in 2016 and 2017, respectively. It may be noted from above that the difference in the import price of the Informant and the sale price of the authorised distributors were in the range of 44% to 133%. In this regard, the Commission is of the view that there is significant difference in import and authorised' distributors price in India in respect of

certain models. The above analysis corroborates that despite uniform SDC, there is difference between the prices of certain BMP models; and certain models imported into India at lower prices were available through authorised distributors at higher price.

88. The DG also relied upon the submission of two parallel importers viz. Geonix and Guru Computers to conclude that parallel importers and final consumers were forced to buy from authorised distributors at high prices.

89. Geonix stated that due to the concerned warranty policy, the independent traders were compelled to sell their imported products at discount due to non-availability of warranty service on products sold by them. However, the Commission finds it is only an assertion without being substantiated by any documentary evidence in the form of invoice(s), etc.

90. Further, the Commission notes the submissions of Guru Computers that it was part of the authorised distribution channel of Intel and was terminated on 03.03.2014. As per Guru Computers, Intel changed its policy from 2016, under which all imported Intel microprocessors would not be entertained for warranty service in India anymore despite being purchased from authorised distributors outside India. Guru Computers stated that it had to buy at least 40-60% of Intel's products from Indian authorised distributors at a higher price. Guru Computers provided copies of certain invoices to indicate purchase from the authorised distributors, post introduction of the India specific warranty policy.

91. In this regard, the Commission notes that from the invoices pertaining to small purchases made during 2017-2020 and considering the annual sales of thousands of units by Guru Computers during that period, it cannot be ascertained that Guru Computers made 40-60 % of its total purchases from authorised distributors of OP in India.

92. However, from the submission of Guru Computers during investigation, the Commission notes that it was part of the channel supplier programme and was terminated vide letter dated 28.02.2014. A copy of the letter is reproduced below for ease of reference:

93. Upon perusal of the aforesaid letter, the Commission notes that Intel discontinued its channel supplier programme and Guru Computers was no more part of this programme w.e.f. 03.03.2014 and hence would not be eligible for benefits under Intel Technology Provider program including points accruals. Intel further stated in the letter that it will "continue to recognise and support your [Guru Computers] purchases with benefits through our three Intel Authorised Distributors in India, including the points accrual for qualifying products". This indicates that through changed policy Intel appears to have nudged the traders/parallel importers who were part of its channel supplier programme, to buy from its authorised distributors in India for its continued support including benefits and for getting warranty service at a later stage i.e. in 2016. By doing so, Intel appears to have been strengthening its authorised distribution network in India.

This conduct of Intel is also corroborated with its submissions that India Specific Warranty Policy was adopted to protect the network of authorised distributors in India.

94. The Commission also notes that the Informant had provided comparison of rates, as of 29.06.2019 of Intel i8300 Microprocessor, offered by Intel's authorised distributors in India and outside India (Japan, USA and Germany) to demonstrate that the prices in India were higher than outside India. These rates were obtained by the Informant from OP's website. In this regard, Intel submitted that its authorised distributors in India reported their first sales of boxed i3-8300 microprocessors in 2021. OP further submitted that Intel.com shows publicly available retail prices obtained from online resellers, online marketplaces, or OEMs in a country. For India, Intel.com displays the prices from Dell, Amazon, Mouser, Flipkart, and Croma Retail. Some of those resellers/intermediaries, such as Amazon, allow third-party sellers to post product offerings. As Intel did not ship any boxed i3-8300 microprocessors to authorised distributors in India before 2021, it is likely that the price shown on Intel.com for i3-8300 on 29.06.2019, was offered by a parallel importer or a reseller outside Intel's authorised distributor channels in India. Therefore, the aforesaid price comparison submitted by the Informant does not represent a valid comparison between pricing through Intel's authorised distributors within and outside India, and therefore, sheds no light on any potential effect of parallel importers on the price of Intel boxed microprocessors in India. The Commission takes note of the submissions of Intel. However, the above instance demonstrates that a particular model which was not available in India through authorised distribution network until 2021 was available in 2019 through retail platforms due to parallel importers/traders in India. This in turn highlights wider choice availability to consumers in India.

95. In view of the foregoing the Commission is of the view that by introducing India Specific Warranty Policy, OP encouraged parallel importers/ traders to buy from authorised distributors at higher prices. It also limited the choice of end consumers in India and forced them to buy from authorised distributors in India at relatively higher prices, in contravention of Section 4(2)(b)(i) of the Act.

Denial of market access to parallel importers

96. The DG also examined the sale by the authorised distributors and observed that as a result of change in warranty policy, the sale of authorised distributors have increased, which led to decline in the sale of parallel importers.

Table 5: Sale by Authorised distributors in India

Table 6: Sale by Two Parallel importers in India

97. The data submitted by the Informant showed that it stopped dealing in BMPs from 2019 onwards. During investigation, the Informant submitted that it incurred substantial losses due to decline in sales of Intel BMPs from 2016

onwards as a result of change in warranty policy. The Informant had calculated potential losses for the years from 2017 till 2022 on the premise of 0.5% market gain in number of microprocessors sold per year in the PC market and value of microprocessors based on actual average selling price with 5% increment from 2020. The Commission does not find substance in the averment of the Informant of incurring potential losses since there was an overall downward trend in sale of Intel's boxed microprocessors for desktops, since 2017 onwards. However, the Commission is cognizant of the fact that its sales declined 2017 onwards and Informant was out of the relevant market from 2019.

98. The DG concluded that restriction on warranty policy affected the parallel importers whose sales remained constant or declined despite growth in the industry. Despite boom in the market in 2017, the sale by parallel importers did not see much growth and the India Specific Warranty Policy led to denial of market access to parallel importers.

99. The counsel for OP argued during the hearing that the sales of Guru Computers showed an increasing trend in 2017 and 2018 which is ignored by the DG.

100. The Commission notes that the sales made by two parallel importers viz. the Informant and Guru Computers do not represent the whole subset of sales made by parallel importers. Also, there is no holistic examination of total sales recorded by Intel through authorised distributors with that of the parallel importers to support the finding of the DG that post change in warranty service policy, the sale of authorised distributors increased and the sale of parallel importers declined.

101. The Commission observes that data of sales volume collected by the DG during investigation is available for OP for the years 2016 till 2021 and for the authorised distributors for FY 2016-17 till 2021-22 referred to hereinabove. In order to see the impact of policy on sales volume of the authorised distributors, the Commission compares the aggregate sales made by authorised distributors of Intel in India with the total units reported to be sold by Intel in India:

Table 7: Sales of BMPs by Intel and its authorised distributors in India during 2016-2021

Source: collated from tables in para 6.134 and 6.145 of DG report

102. At the outset the Commission notes that the volume of boxed microprocessors sold by OP and one of its authorised distributor Ingram is available for calendar years, whereas, those of Rashi Peripherals and WPC is available for FYs, due to which the percentage of units sold by authorised distributors in the year 2020-21 and 2021-22 appears to be more than the sale volume reported by OP. However, this analysis does demonstrate an overwhelming increase in the units of BMPs sold by the authorised distributors after implementation of the India Specific Warranty Policy. This trend also

corroborates one of the underlying justifications put forth by OP that change in warranty policy was implemented in order to protect the authorised distribution channel, which Intel appears to have succeeded by taking into account the above figures which demonstrates that majority sales of BMPs in India was through the authorised distribution channel of OP during 2016-21 despite an overall declining trend in the sale of BMPs.

103. In view of the foregoing, the Commission is of the view that change in warranty policy resulted in increase in sales of authorised distributors of OP to the disadvantage of parallel importers thereby causing denial of market access in contravention of Section 4(2)(c) of the Act.

AAEC

104. Having noted that the 2016 India Specific Warranty Policy of Intel was abusive in nature, the Commission deems it appropriate to deal with the averment of Intel that the DG failed to demonstrate causality between 2016 policy and its purported effects on sale of BMPs given low warranty claims and redirection rates and that there is no AAEC in India on account of change in the warranty policy.

105. At the outset, the Commission notes the argument of OP that warranty and warranty service are different concepts and OP has not denied warranty on BMPs not purchased from authorised distributors in India rather only redirected to the place of purchase for availing the warranty service. The Commission does not find substance in this argument as sending the product to the place of purchase i.e. outside India for claiming warranty service on a defective product, entails significant costs and time involved in transporting the product. In such a situation, the only alternative available to a consumer/ buyer of a defective boxed microprocessor is to get it repaired from a third party in India. However, it must be noted that this alternative is not comparable with a warranty service which ensures replacement with genuine parts unlike dealing with third party parts, which could be less reliable and increase the risk of repeated failures.

106. With respect to the Informant's allegation of denial of warranty service, OP stated that out of 34 claims raised by the Informant, only 2 were redirected to the country of purchase. Intel asserted that total warranty claims to total BMP sales is less than 2 % and redirected warranty claims to total BMP sales is less than 0.1%. It relied on the Report of the Economic Expert to state that India Specific Warranty Policy has affected a tiny fraction of total warranty claims and that the 2016 policy was not a factor in purchase decisions for BMPs as the Informant has also stated in its Information that warranty is not an essential service.

107. The Commission is of the view that a warranty is one of the relevant factors in purchase of a boxed microprocessor as it protects against manufacturing defects, minimises costs associated with premature failure and also offers peace of mind to the consumer. It also reduces financial risk in case of

high-end microprocessors, such as intel i5-11600KF or i9-11900K, which cost approximately INR 33,000 and INR 65,934, respectively.

108. The Commission perused the details of warranty claims submitted by Intel which are as under:

Table 8: Details of warranty/warranty service claims in India

109. From the data submitted by Intel, the Commission notes that there is increase in overall rejection of warranty claims as a percentage of total sales from..... tofrom 2016 to 2021. Also, an increase can be seen in rejection of claims on account of redirection to country of purchase as a percentage of total warranty claims raised from.....to.....from 2016 to 2021. During 2016-2021,..... customers invoked warranty claims out of approximately Indian consumers of boxed microprocessors and.....Indian consumers were denied warranty service in India and redirected to place of purchase.

110. The DG found two entities, namely Geonix and Guru Computers who had stated to have raised warranty claims but denied warranty service on account of changes brought on by warranty policy but only Guru Computers could produce email evidence in respect of four claims. Guru Computers also stated that some warranty claims were raised telephonically over Intel's customer care line and record of such warranty claims was not possible to be kept by it. OP submitted that only two parties viz. Guru Computers and Geonix, out of many parties contacted by the DG office, have made assertions without any substantiating evidence except four emails which have no/low evidentiary value. The Commission is of the view that assertions of Guru Computers and Geonix regarding warranty rejection on the ground of place of purchase, though not completely supported by documentary evidence, do corroborate the allegation of denial of warranty service in India by OP, which cannot be ignored. This is also supplemented by OP's own data showing increase in redirected warranty claims.

111. Even if Intel's submissions are to be relied upon, that its product are of such good quality that they rarely fail, the Commission finds the same irrelevant because its own data of receiving.....warranty claims during 2016-2021 indicates that its product does fail. Considering the high-end nature and relevance/role of a microprocessor in the functioning/performance of a desktop PC, the possibility of defective microprocessor for which the warranty service is not available in India despite being purchased directly or indirectly from authorised distributors outside India has the potential to cause AAEC in the Indian market.

112. The Commission also takes note of IA No. 07 of 2024 dated 25.01.2024 filed by OP, inter alia, intimating about changing its policy from 01.04.2024. The same has been confirmed by OP during the hearing as well as in its written submissions. The Commission observes that nothing survives in the said application and the same stands disposed of.

Conclusion:

113. In view of the foregoing, the Commission holds conduct of OP to be in contravention of Sections 4(2)(a)(i), 4(2)(b)(i), and 4(2)(c) of the Act.

Order

114. On the basis of investigation and examination of the matter and considering all other material available on record, the Commission finds that OP has abused its dominant position by imposing unfair and discriminatory India Specific Warranty Policy in respect of boxed microprocessors imported into India from its authorised distributors outside India in contravention of Sections 4(2)(a)(i), 4(2)(b)(i) and 4(2)(c) of the Act causing AAEC in the Indian market, preventing the Indian consumer from availing after sale warranty service on authentic Intel boxed microprocessors in India from 25.04.2016 till 01.04.2024.

115. In terms of the provisions contained in Section 27(b) of the Act, the Commission is empowered to impose appropriate penalty upon OP.

116. With respect to imposition of penalty and submissions regarding mitigating factors, OP put forth its oral arguments at the time of final hearing. OP requested to consider relevant turnover of Intel in India in light of principles laid down by the Hon'ble Supreme Court in Excel Crop Care, impact of its conduct on the market and consumers, and various mitigating factors, including (a) it has already discontinued the 2016 India Specific Warranty Policy w.e.f. 01.04.2024 which is the subject matter of the instant case, (b) significant business turbulence faced by it in recent times, nature of technological market which is susceptible to disruptions, and (c) cooperation extended by it throughout the proceedings.

117. With regard to quantum of penalty, the Commission takes into account the contention of OP of considering turnover of boxed microprocessors and also finds the same in line with the Turnover Regulations, 2024. As per the certificate submitted by OP, the relevant turnover details are as under:

Table 9: Turnover of OP from sale of BMPs

118. Taking into account the aggravating factor that the above stated policy remained operative for a long period of eight years, the Commission decides to impose penalty @ 8% (Eight percent) of the average total relevant turnover stated above as the basis for determination of penalty to be imposed upon the OP under Section 27(b) of the Act. Accordingly, the amount so determined isonly), based on average total relevant turnover as computed above.

119. After undertaking careful assessment of the various mitigating factors, such as the OP operates in a dynamic technology market, it extended full cooperation during investigation and that it had already withdrawn the India Specific Warranty Policy with effect from 01.04.2024, the Commission decides to reduce

the amount of penalty as determined in previous para by.....

120. Accordingly, the Commission imposes a penalty of INR 27.38 crore (INR twenty- seven crore and thirty-eight lakh only), upon OP for violating Section 4 of the Act. OP is directed to deposit the penalty amount within sixty (60) days of the receipt of this order.

121. The Commission, having considered that OP has withdrawn its India Specific Warranty Policy with effect from 01.04.2024, further directs OP, in terms of Section 27(g) of the Act, to widely publicise this change in order to spread awareness about withdrawal of the impugned India Specific Warranty Policy, and submit a compliance report within a period of sixty (60) days from the date of receipt of this order.

122. Before parting with the order, the Commission deems it appropriate to deal with the request of the parties seeking confidentiality over certain documents/ information filed by it under Regulation 36 of the General Regulations, 2024. Considering the grounds given by the parties for the grant of confidential treatment, the Commission grants confidentiality to such documents / data / information in terms of Regulation 36 of the General Regulations, 2024, subject to Section 57 of the Act, for a period of three years from the date of passing of this order. It is however made clear that nothing disclosed in the public version of this order shall be deemed to be confidential or deemed to have been granted confidentiality, as the same have been used and disclosed for purposes of the Act in terms of the provisions contained in Section 57 thereof. Accordingly, the Commission directs that two versions of the present order may be issued i.e., public version shall be served upon the parties and a confidential version shall be shared with the OP through members of the confidentiality ring. The public version of the order shall be prepared keeping in mind the confidentiality requests and the provisions of Section 57 of the Act read with Regulation 36 of the General Regulations 2024. For convenience, it is directed that the confidential version of this order may be provided to such ring members/ individuals through one of the ring members, who may then share the same with the other ring members nominated by the OP.

123. Any pending application(s) filed by the parties shall be deemed to be disposed of in light of the above order.

124. The Secretary is directed to forward a copy of this order to the parties, in terms of provisions of the Act.