

Wednesday
5th August 2015

To

Mr. Ashok Chawla
Chair Person
Competition Commission of India
The Hindustan Times House
18-20, Kasturba Gandhi Marg,
New Delhi –110001, India

Sub: Regarding CCI Participation at the Upcoming 3rd International Conference on IPR and Competition

Dear Mr. Chawla,

We the undersigned organisations are writing to you convey our concerns on the upcoming International Conference on IPR and Competition, which is organised by the Associated Chambers of Commerce & Industry of India (ASSOCHAM).

We understand that the focus of the event is focusing on two issues viz. Standard Essential Patents (SEPs) and the competition aspects of licensing agreements. The conference brochure (**Annex 1**) carries CCI logo and it gives an impression that CCI is a co-organiser of the conference in partnership with such as Ericsson (Event Partner), Khaitan & Co (Knowledge Partner), Singh, Singh and Lall & Sethi (SSL&C) (Legal Partner), International Trademark Association and Patent Agent Association. From the brochure it is clear that the partnership/sponsorship is based against payment of money.

According to the program (**Annex 2**) your name is listed to give the inaugural address at the conference. Apart from you, two other members of the CCI viz. Mr. G P Mittal and Mr. M S Sahoo are chairing the two technical sessions and another CCI member Mr. S L Bunker is giving a special address at the valedictory function.

The participation of CCI at this conference raises serious concerns of conflict of interest. Further CCI's sharing of platforms with private actors would compromise the credibility and independence of CCI. As you know the event partner i.e. Ericsson is currently facing three CCI investigations on matters related to SEPs and issues related to licensing of technologies on fair and equitable terms. Ericsson is not only an event partner but also giving a speech at the inaugural session.

The themes of the conference clearly fall under the on-going investigations of CCI against Ericsson. Participation of CCI in any form in a conference organised by the financial support of Ericsson, which is facing three CCI investigations, would clearly send out a very wrong message regarding the integrity and independence of CCI.

As you know it is well set precedent that judicial and quasi-judicial bodies never directly or indirectly discuss matters pending before them. The conference is centred on discussing issues that are currently under the investigation of CCI along with commercial entities including the one, which is facing the investigation. CCI's participation in any form in this conference would be a departure from their above mentioned practice.

Further, all the judicial or quasi judicial bodies are expected to avoid not only actual conflict of interest but also the perceived conflict of interest. As you know the conflict of interest arises when there is an actual or perceived threat of the primary interest of the organisation (CCI) being influenced by the interest of another organisation/s (Ericsson). The participation of CCI in the International Conference on IPR and Competition Law along with set of private actors including Ericsson creates a situation where there is an actual or perceived threat of CCI getting influenced by the interest of commercial entities including Ericsson. Thus the participation of CCI in an event organised by a commercial entity especially the one which is facing a CCI investigation involves conflict of interest.

We would also take this opportunity to point out that this event is not an academic event and organised by a chamber of commerce and industry with clear commercial objectives in mind. The agenda is also very obvious; all the people who are making presentations in the technical sessions are approaching the issue from the perspective of IP owners. Further, we would like to remind you that industry never spends money without looking at the return. Therefore it is very clear the primary objective of the conference is regulatory capture through reaching out to CCI. Any direct or indirect participation of CCI in the conference would convey the signal with regard to the vulnerability of CCI to lobbying and corporate capture.

The issue of SEPs and licensing practices is of great importance of public interest. Restrictive conditions and barriers to access SEPs would affect the technological and industrial development of India. Further, it would affect the consumers by creating economic barriers to access the benefits of communication technology equipments such as mobile phones.

We question the ethics and propriety of participation of CCI in a conference sponsored and organized by private entities having economic interest in the issue. The participation of CCI in the event would compromise the credibility and independence of CCI. Therefore, CCI as a guardian of public interest should not be subject to the lobbying efforts of IP owners. Providing privileged access to lobbying

efforts of private enterprises like Ericsson, Qualcomm, Microsoft, Intel would cast a dark shadow on the neutrality of CCI.

Therefore we request you to not to participate in the conference. Further, we also request you to direct all the CCI members to avoid participation at the conference. And also, a similar direction of non-participation in the conference should be given to the CCI staffs involved in the investigation.

Thanking you,
Alternative Law Forum, Bangalore
Centre for Internet and Society, Bangalore
IT for Change, Bangalore
Knowledge Commons Collective, New Delhi
National Working Group on Patent Laws, New Delhi
Software Freedom Law Centre, New Delhi

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The Prime Minister of India
Chief Justice of India
Minister of Corporate Affairs
Minister Communications
Minister of Commerce and Industry
Minister of Law and Justice
Secretary, Department of Corporate Affairs
Secretary, Department of Industrial Policy and Promotion
Secretary, Department of Law and Justice