

2nd JUSTICE GOPALJI MEHROTRA NATIONAL MOOT COURT COMPETITION 2024

Response to questions for clarification

1. In the moot proposition para. 24 (a) where it's written CDA. So, is it CDA or DCA? - *It is DCA.*
2. Para. 25 it's written Hon'ble High court of Terra so does it means Technoterra or we just simply need to write Terra? – *Terra.*
3. With reference to paragraph no 4, 2nd last line about final order of the Commission, whether there's any appeal available to the infringing party or the decision of the commission is Final? – *No clarification required.*
4. Whether there's any specific tribunal formed by the Government for the cases related to the DCA? – *No clarification required.*
5. Regarding Clause 9.7 page 3 of the moot proposition, last line “except Technoterra” what does this line means to say? Who are these customers? – *No clarification required.*
6. Regarding Clause 10.2, Page 4 term used commercial arrangement, what all comes under this arrangement and what's the ambit of it? – *No clarification required.*
7. Regarding Clause 2.3, term 1 year is mentioned on the last line I would like to just seek whether this time period can be increased or not? – *No clarification required.*
8. Does other companies other than Electramart enters into any agreement with the Retail partners and with the service partners or it is just this company. – *No clarification required.*
9. Page 6, paragraph 24 clause (a) there's mention of Section 9 of CDA, What does CDA stand for here? – *Read it as “DCA”.*
10. Is the first sentence of Paragraph 20 of the moot proposition is a verified fact by government or commission? – *No clarification required.*
11. What does the phrase mean " except for customers that are excluded pursuant to law applicable in technotera " i.e, clause 9.7 in Para 14 or who are the customers specifically excluded in the mentioned phrase? – *No clarification required.*
12. User data specifically address and address for delivery that is provided under paragraph 12 of moot preposition will come under the definition of public data or not? Or provide list that separate public data and non public data for the moot problem. – *No clarification required.*

13. Whether DCA will be considered a special act as similar to Competition act,2002? – *No clarification required.*
14. Whether provisions of competition act, 2002 will prevail over DCA? As it's not specifically mentioned in any of acts. – *No clarification required.*
15. What is the name of the case? – *No clarification required.*
16. What is the user base, no. of retail partners, Global turnover, Technoterra turnover and Global market capitalization of Electramart in the last 3 years. (2021-2022 and 2022- 2023) – *No clarification required.*
17. Is data collection of users and sharing the same with service partners a standard practice in digital markets? – *No clarification required.*
18. Whether giving discounts is a standard practice in digital markets? – *No clarification required.*
19. Before designating Electramart as an SSDE, was the opportunity of being heard given to Electramart? – *Yes.*
20. Did Electramart place its own brands at an advantageous position at the top of every search result? – *No clarification required.*
21. Did Electramart submit a report under section 9 of the Digital Competition Act? – *No clarification required.*
22. Did electramart collect any other information other than the mentioned user data and share it with any third party? – *No clarification required.*
23. Did the end users have access or information of agreement between service partners and electramart? – *No clarification required.*
24. Did end users of electramart have the option to retract their consent? – *No clarification required.*
25. What kinds of data were collected, if any, by electramart under the “including but not limited to” part of clause 3.5. – *No clarification required.*
26. Did electramart share the data with any third party members other than its retail and service partners? – *No clarification required.*
27. Did electramart inform the end users what kind of data is being collected under "including but not limited to" under clause 3.5? – *No clarification required.*
28. What is the Gross Merchandise Value of ElectraMart from the last three financial years? – *No clarification required.*

29. What is the date of the order passed by the Hon'ble CCI designating the Petitioner as an SSDE and the date of the order passed by CCI initiating the investigation u/s. 26(1) of the Competition Act, 2002? – *The date of the designation order is 2 July 2024. No clarification is required for the rest of the question.*
30. Is the DEF a governmental organization? If not, then please provide some extra details as to its functioning? – *No clarification required.*
31. What is the date of filing the petition in the High Court of Terra? – *20 August 2024.*
32. Has the Digital Personal Data Protection Act been notified and enforced in Technoterra? – *No clarification required.*
33. Has the Central Government or CCI passed any Rules/Regulations pursuant to the notification of all provisions of the DCA? – *Implementing rules and regulations have been issued. However, the content of these rules and regulations are not relevant for the purposes of the current case.*
34. In para 14 of the Moot Proposition, Clause 9.1 mentions that real-time data is shared through the Nucleus Platform. Please provide information about the Nucleus Platform. – *No clarification required.*
35. The Moot Proposition refers to the 'Nucleus' platform (Para 14 Clause 9.1) - Is the Intellectual Property of the platform owned by Electramart or does it correlate to the 'Nucleus Intelligent Enterprise Platform' created by the software company 'Nucleus Software' in real life? If it is the latter, can details regarding the platform such as its data processing and privacy policy be referred to? – *Nucleus is a proprietary platform owned by Electramart and is only subject to Electramart's own policies and practices. It does not have any relation to "Nucleus Intelligent Enterprise Platform" or any other similar third-party platforms.*
36. The procedure for designation of an enterprise as an SSDE (u/ clause 3(3)) of the Draft Digital Competition Bill requires the Commission to issue a show cause notice (clause 4(5)) and then provide the enterprise with a hearing (clause 4(6)). Are we to presume that these provisions have been complied with by the Commission when designating Electramart as an SSDE in the Moot problem? – *Yes.*
37. Clause 4(3) of the Draft Digital Competition Bill provides that the Commission may only direct an enterprise to furnish information after the expiry of 90 days of Clause 3 coming into force. As per the Moot Proposition, all provisions of the DCA were notified on 9th June 2024 (Para 8). Even so on 18 June 2024 the Commission makes a direction under Section 4(3) of the DCA. In no case can the said 90 day period under the Bill be said to have been fulfilled. Therefore, are we to presume that this 90 day waiting period was complied with by the Commission? – *It is clarified that the 90-day period was removed from the Act before enactment.*

38. As per the Moot Proposition the Commission designates Electramart as an SSDE u/s. 3(3) of the DCA sometime between 30th June - July 2024. (Para 22-23. The exact date of designation is not specified) However, in its Prima Facie Order (Para 24) the Commission alleges a S.9 violation of the DCA (Para 24; Please note that the DCA has been provided as CDA in this paragraph), when the time-period for reporting is to be specified under regulations (as per clause 9(2) of the Draft Digital Competition Bill). It is unclear what the time period is and there is a gray area as to whether a) Electramart has contravened the time period for reporting or b) the Commission has fixed a very short date for reporting (30th June 2024- July 2024). Please issue a clarification so that an argument may be made with respect to S.9 compliance. – *It is clarified that the relevant deadline for reporting was 15 July 2024. Further, the prima facie order referred to at paragraph 24 of the Moot Proposition was passed on 5 August 2024.*
39. Are there any particulars about the discount and cashbacks policy (Para 23(a)) and how they are particularly given only to those who availed the servicing and repair services from Servicing Partners? – *No clarification required.*