



Fair Competition
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TRILEGAL

2025

MOOT PROPOSITION

4th NALSAR-CCI
ANTITRUST MOOT COURT
COMPETITION

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1. The Democratic Republic of Inca is a growing and ambitious developing economy in the continent of Arica. Despite its aspirations for economic growth, the country has historically grappled with significant public health challenges including protein malnutrition. This condition has profoundly stunted the physical and cognitive growth of its citizens, particularly among children and adolescents. The issue largely stems from the deeply ingrained dietary habits of Incans, whose traditional diet predominantly excludes meat and meat products, focusing instead on staples such as legumes, wheat, and rice. While nutritionally valuable, this diet has proven to be insufficient in providing the necessary levels of high-quality protein required by people, for optimal growth and development.
2. Recognizing the urgent need to address this nutritional deficit, the Incan government has, over the past decade, undertaken a series of targeted initiatives. These include significant investments in livestock rearing, the establishment of modern meat processing units, and aggressive campaigns promoting the inclusion of meat products in everyday diets. These measures have yielded measurable success, with meat consumption steadily increasing across various demographic groups. The Incan government also regularly hosts discussions, conferences etc., wherein different stakeholders from this industry (such as doctors, nutritionists, producers of meat products etc.), participate and discuss the government's past and future initiatives and policies in relation to reducing nutritional deficit in Inca.
3. The southern state of Desto has emerged as a critical player

in this transformation, becoming the largest producer of livestock and livestock products in the country. Desto's success has been instrumental in achieving a degree of nutritional self-sufficiency for Inca, marking a pivotal shift in the nation's public health narrative.

4. Amidst this backdrop, the Competition Commission of Inca (“**CCI**”) initiated a high-profile investigation into alleged anti-competitive practices involving five major manufacturers / producers of frozen meat products, i.e., (i) Alpha Pvt. Ltd. (“**Alpha**”), (ii) Beta Pvt. Ltd. (“**Beta**”), (iii) Gamma Goods Pvt. Ltd. (“**Gamma**”), (iv) Delta Enterprises Pvt. Ltd. (“**Delta**”), and (v) Epsilon Industries Pvt. Ltd. (“**Epsilon**”) (Alpha, Beta, Gamma, Delta and Epsilon are collectively referred to as “**Companies**”). The investigation was prompted by an information filed under Section 19(1)(a) of the Inca Competition Act, 2002 (“**Act**”), by Kappa Retailers Private Limited (“**Kappa**”). Kappa is a rapidly growing nationwide Business-to-Customer (“**B2C**”) grocery and fast-moving-consumer-goods (“**FMCG**”) products retail chain, primarily serving the bustling metropolitan cities of Inca. Kappa operates through brick-and-mortar retail stores in all the major metropolitan cities which provides its offerings at close to wholesale prices to customers. With its headquarters located in Rockbridge, the capital city-state, Kappa has captured a remarkable 40% market share in the FMCG and grocery retail sector, positioning itself as a prominent retail player in the industry.
5. In line with its strategy for growth and innovation, Kappa devised a plan to expand its offerings to include frozen meat

products. This initiative was intended to be undertaken on a trial basis in the North-Inca region, which encompassed three of the largest states in Inca along with the economically vital city-state of Rockbridge. As part of this plan, Kappa approached each of the five Companies individually, seeking price quotes for a selection of frozen meat products.

6. Amongst the Companies, Alpha and Beta operate state-of-the-art manufacturing facilities for frozen meat on the outskirts of Rockbridge, ensuring proximity to the nation's largest urban market. The other three Companies, i.e., Gamma, Delta, and Epsilon have strategically located their manufacturing units in the capital cities of the three states in the North-Inca region, i.e., Anzuk, Gotham and Zion, respectively. These locations provide logistical advantages, allowing them to efficiently serve their primary markets while maintaining competitive distribution networks.
7. Kappa, leveraging its well-established expertise and existing supply-chain network, aimed to negotiate favourable terms with each of the Companies, for frozen meat products. Kappa's business model hinges on its ability to offer products at prices lower than prevailing retail rates, thus attracting cost-conscious consumers. To strengthen its proposal, Kappa offered to take full responsibility for the transportation and cold storage, proposing to pick up the frozen meat products directly from the facilities of the Companies. Kappa planned to utilize its existing network of insulated vans, refrigerated trucks, and cold storage facilities to ensure efficient and cost-effective delivery to its customers.

8. Kappa had multiple rounds of negotiations with the Companies, and despite its compelling offer, the Companies were reluctant to lower their prices below the existing retail levels. This stance was maintained even though Kappa's proposal significantly reduced external costs, such as transportation and storage, for all the Companies.
9. As a last resort, the Co-founder and Chief Marketing Officer of Kappa, Ms. Aranza Agrad, decided to informally discuss Kappa's offer individually with the senior management of the Companies, at a conference being hosted by the Incan government on 'Meat: Why don't you eat?'. Ms. Agrad was aware that the representatives of the Companies would be attending this conference since the Companies used to regularly attend similar conferences hosted by Incan government. Accordingly, in order to informally discuss its offer one last time, Ms. Agrad went for this conference on 15 December 2023, where she individually met with the senior executives of the Companies. During the discussion with Ms. Agrad, the Companies stated that they would not be able to lower their respective prices given the importance of maintaining their pricing integrity and preserving established relationships with other distributors and retailers. However, the Companies concluded the discussion by stating that they will internally discuss with their respective managements and e-mail Kappa with their final decision. The Companies sent their formal rejection e-mails to Kappa's offer on 16 December 2023. The rejection e-mails are enclosed as Annexure I.
10. Frustrated by its inability to secure favourable terms and

suspecting co-ordinated behaviour among the Companies, Kappa filed an information with the CCI on 26 January 2024 under Section 19(1)(a) of the Act (i.e., as Case No. ABC of 2024).

11. The CCI, after forming a prima facie view of potential collusion between the Companies in relation to their pricing, margins and strategies, directed the Director General (“DG”) to conduct a detailed investigation through an order dated 24 April 2024 (“Prima Facie Order”). Pursuant to the Prima Facie Order, the DG requisitioned for multiple information and data from the Companies during its investigation. On 5 October 2024, the DG carried out simultaneous surprise inspections at the head offices and manufacturing facilities of each of the Companies, to inter alia prevent potential tampering with evidence, in relation to Case No. ABC of 2024.
12. During these raids, the DG’s team seized and mirrored mobile phones, iPads and laptops of all the personnels that were present at the respective sites of the raids. Data that was mirrored included e-mails, financial records of the companies, internal documents, WhatsApp messages (including personal communication and pictures) etc. Two specific items that were mirrored were:
 - a. A strategy document dated 1 April 2023, from Delta titled “North Zone Plan” containing aggregated, non-anonymized pricing data for cold cuts for the financial years (“FY”) 2021-2022 and 2022-2023 and projected prices for FY 2023-2024 and 2024-2025, noting the

purpose to be alignment with government's initiatives (the strategy document is enclosed as Annexure II); and

- b. An e-mail dated 3 June 2024 from the Head of Marketing and Sales of Alpha (i.e., Mr. Nemo Navarro) to Gamma's Head of Marketing, in relation to broad insights on certain data for Gamma (the correspondence is enclosed as Annexure III).

13. During the raid at the head office of Alpha, certain documents that were stamped as 'TO BE SHREDDDED', which revealed that Alpha and Gamma were in talks of Alpha acquiring Gamma since April 2024, and the transaction was due to be consummated in the month of May 2025. Among the seized documents at Gamma's head office, a term-sheet between Alpha and Gamma was also found, which indicated that Alpha and Gamma had discussed potential collaboration on pricing strategies post-acquisition. Specifically, it stated:

- a. that the parties would align pricing approaches for cold cuts and frozen meat products after the acquisition, to maximize operational synergies; and
- a. that Alpha may provide inputs on pricing strategies and geographical allocation closer to the consummation of the acquisition regarding the supply and pricing of products to preserve the valuation of Gamma.

14. The documents seized from the raids also revealed that Mr. Nemo Navarro (i.e., Alpha's Head of Marketing and Sales),

had access to Gamma's profit margin data and cost structures during the due diligence process of the proposed transaction (i.e., acquisition of Alpha by Gamma).

15. Based on the information and data which was (i) submitted by the Companies to the DG, and (ii) recovered from the raids, the DG concluded in its investigation report dated 5 December 2024 ("DG Report") that the Companies had engaged in anti-competitive behaviour and had co-ordinated to align the prices of frozen meat products and the information shared between Alpha and Gamma was competitively sensitive and could negatively influence market dynamics. Based on the DG Report, the CCI concluded that the Companies had violated provisions of the Act, and subsequently passed an order under Section 27 of the Act on 10 January 2025 ("Final Order"), directing the Companies to cease and desist from anti-competitive behaviour and also imposed fines on each of the Companies.
16. The Companies during the investigation before the CCI, inter alia argued in their submissions that similar prices have not affected the consumer at large and the similarity / uniformity in prices is to ensure that the Companies are in alignment with the policies and initiatives, by the Incan government. Further, the evidence relied upon by the CCI was circumstantial and their pricing decisions were independently justified by the costs of inputs and market conditions. Alpha and Gamma also argued that the exchange of data in relation to Gamma's profit margin data and cost structures were routine for assessing viability of an acquisition and possible valuation of the deal. Accordingly, all the Companies,

challenged the CCI's findings in Final Order before the Inca's Competition Appellate Tribunal ("CAT") under Section 53B of the Act (i.e., as Appeal No. XYZ of 2025) on 1 March 2025.

17. The case has garnered national attention, raising important questions about the scope of competition law enforcement, the admissibility of evidence across investigations, and market dynamics. Accordingly, the CAT has culled out the issues set out below for adjudication on 22 and 23 March 2025:

- a. Whether there was existence of an anti-competitive agreement between the Companies under Section 3 of the Act?
- b. Whether there was existence of an anti-competitive agreement between Alpha and Gamma under Section 3 of the Act, separate to the alleged anti-competitive agreement between the Companies?
- c. Whether the proposed exchange of information under the termsheet between Alpha and Gamma is in violation of the Act?

18. Please note that:

- a. All laws of Inca are *pari materia* to laws of India, including the Competition Act, 2002 (No. 12 of 2003) (as amended) and concomitant rules and regulations;

- b. The appellants in the present matter would be the Companies and the respondent would be CCI; and
- c. The counsels are required to address the issues and arguments specifically mentioned above and are also free to frame sub-issues and make other arguments (other than arguments on issue of jurisdiction).



ANNEXURE I

From: Nemo Navarro

Sent: Saturday, December 16, 2023 13:03

Subject: Re: Proposal to Collaborate with Kappa

Dear Aranza,

It was a pleasure to meet you yesterday and thank you for reaching out to us with your proposal to collaborate with the Kappa for selling our products. We greatly appreciate your interest in Alpha's product range.

After careful consideration, we regret to inform you that we are unable to proceed with this collaboration at this time. Our decision is primarily driven by the need to uphold our long-standing relationships with our existing retailers and distributors across the country. To ensure equitable pricing and maintain these valuable partnerships, we are unable to lower our costs below the current retail prices.

We trust you understand the importance of these relationships to our business and the constraints it places on our ability to engage with new distribution channels.

Thank you once again for your interest. We wish Kappa continued success in its endeavours.

Best regards,

Nemo Navarro

Head of Marketing and Sales, Alpha

From: Dorothy Dory

Sent: Saturday, December 16, 2023 13:02

Subject: Re: Proposal to Collaborate with Kappa

Dear Aranza,

Thank you for your proposal to collaborate with Kappa for selling Beta products. We truly appreciate your interest in partnering with us. Further, it was a pleasure to meet you yesterday.

After thorough review, we regret to inform you that we cannot proceed with this collaboration at the moment. Maintaining strong relationships with our existing distributors and retailers is of utmost importance to us, and to protect these relationships, we are unable to offer pricing below the current retail levels.

We hope you understand our position and the reasoning behind this decision.

Thank you once again for considering Beta. We wish you all the best in your business endeavours.

Best regards,

Dorothy Dory

Head of Sales, Beta

From: Bruce Wayne

Sent: Saturday, December 16, 2023 13:04

Subject: Re: Proposal to Collaborate with Kappa

Dear Aranzza,

Thank you for reaching out to Gamma with your proposal to collaborate with Kappa. We appreciate your interest in our products and the opportunity to explore new avenues.

However, after careful evaluation, we regret to inform you that we cannot move forward with this collaboration at this time. Our existing relationships with distributors and retailers nationwide are critical to our operations, and in order to preserve these partnerships, we are unable to adjust our pricing below the current retail cost.

We hope for your understanding and thank you for considering Gamma. It was a pleasure to meeting with you yesterday and look forward to meeting you at the next industry conference.

Best regards,

Bruce Wayne

Head of Marketing, Gamma

From: Tony Stark

Sent: Saturday, December 16, 2023 13:06

Subject: Re: Proposal to Collaborate with Kappa

Dear Aranza,

It was good meeting you yesterday, after such a long time – and thank you once again for expressing interest in partnering with Delta for the sale of our products through Kappa. We greatly value your consideration.

After internal discussions, we regret to inform you that we are unable to proceed with this collaboration. To maintain the trust and confidence of our existing retailers and distributors, we must adhere to our current pricing structure, which prevents us from lowering prices below the retail level.

We hope this decision does not deter you from future collaboration opportunities.

Best regards,

Tony Stark

Chief Executive Officer and Chief Marketing Officer, Delta

From: Steven Rogers

Sent: Saturday, December 16, 2023 13:05

Subject: Re: Proposal to Collaborate with Kappa

Dear Aranzza,

Thank you for reaching out to Epsilon with your proposal to collaborate on selling our products through Kappa. We truly appreciate your interest in our offerings.

Upon careful consideration, we regret to inform you that we cannot proceed with the proposed partnership. Our commitment to maintaining strong and equitable relationships with our existing distributors and retailers necessitates adherence to our current pricing model, which does not permit reductions below the retail price.

We appreciate your understanding of our position and wish Kappa every success in its endeavours. Please do stay in touch and I look forward to discussing more industry issues like we did yesterday.

Best regards,
Steven Rogers,
Head of Sales, Epsilon

ANNEXURE II

[On the letterhead of Delta Enterprises]

North Zone Plan

Date: 1 April 2023

Background

The compilation of pricing data presented in this document is a result of collaborative efforts between various stakeholders, including the Government of Inca and other key players within the industry. This initiative aligns with the government's broader objectives to address malnutrition concerns through the promotion of affordable, accessible, and nutritious cold cuts and meat products. In recent meetings with regulatory authorities, industry stakeholders, and other market participants, it was recognized that regulation of market could play a crucial role in stimulating consumption of these essential food items, which are vital for improving public health outcomes.

This report consolidates pricing structures and industry insights that reflect the outcomes of these strategic discussions, aiming to ensure market stability while adhering to governmental guidelines. By fostering synergies between industry leaders, we seek to create a more efficient pricing framework that supports both consumer needs and sustainable industry practices. The collaborative approach taken reflects a shared commitment to addressing the challenges posed by malnutrition, while also enhancing operational efficiencies across the sector.

Table 1: Data in relation to prices (historic and projected)

Company	Product(s)	FY 2021 – 2022 price	FY 2022 – 2023 price	FY 2023 - 2024 projected price	FY 2024 – 2025 projected price
Alpha	<i>Frozen Sausages</i>	250	260	272	280
	<i>Frozen Tikka</i>	450	465	480	495
	<i>Frozen Salami</i>	300	290	310	312
	<i>Frozen Fish Fillet</i>	500	515	535	550
	<i>Frozen Meatballs</i>	350	360	370	355
Beta	<i>Frozen Sausages</i>	252	265	270	280
	<i>Frozen Tikka</i>	449	477	488	494
	<i>Frozen Salami</i>	302	296	305	312
	<i>Frozen Fish Fillet</i>	502	510	530	540
	<i>Frozen Meatballs</i>	351	361	372	357
Gamma	<i>Frozen Sausages</i>	248	261	270	280
	<i>Frozen Tikka</i>	450	477	488	496
	<i>Frozen Salami</i>	298	290	310	312
	<i>Frozen Fish Fillet</i>	498	515	535	550
	<i>Frozen Meatballs</i>	349	360	370	355
Delta	<i>Frozen Sausages</i>	251	265	272	282
	<i>Frozen Tikka</i>	450	477	488	495
	<i>Frozen Salami</i>	299	290	310	312
	<i>Frozen Fish Fillet</i>	499	515	535	550
	<i>Frozen Meatballs</i>	350	360	370	355
Epsilon	<i>Frozen Sausages</i>	249	255	265	280
	<i>Frozen Tikka</i>	451	470	484	495
	<i>Frozen Salami</i>	301	300	305	320
	<i>Frozen Fish Fillet</i>	501	512	512	550
	<i>Frozen Meatballs</i>	352	355	355	355

ANNEXURE III

From: Nemo Navarro

Sent: Monday, June 3, 2024 18:06

Subject: Request for broad insights on margin-related data for Gamma

Hi Bruce,

I hope this e-mail finds you well. First and foremost, thank you for your continued effort in ensuring that this due diligence process is conducted seamlessly and within the bounds of all compliance protocols. The insights and analysis you've shared so far have been instrumental in helping us navigate the early stages of this potential transaction with Gamma.

We believe that a closer collaboration could provide significant opportunities to enhance our positions as market leaders, both pre and post our transaction. Given our complementary strengths and the potential for operational synergies, we see promising avenues through our combined capabilities that could enable us to drive greater value, scale, and innovation within the industry. By exploring potential ways to align our strategies, we believe we could further solidify our standing and lead the way in shaping the future of the market.

As we progress, I wanted to touch base regarding a specific query – i.e., we are keen to understand the profitability across Gamma's product categories. While I completely understand the sensitivity of detailed margin data, it would

be helpful to receive broad insights or aggregated ranges that can provide directional clarity. We would also like to understand the products that are driving higher margin contributions versus lower-margin products, to start work on merging our product catalogues.

Looking forward to your insights and, as always, grateful for your meticulous approach. I may disturb you again, for some broad production related data (including the projected production numbers of Gamma for the current and next financial year).

Please let me know if you require any clarification or if you would like to discuss the above points over a call / in-person (if easier).

Best regards,
Nemo Navarro
Head of Marketing and Sales, Alpha