

**7<sup>th</sup> SGTU NATIONAL MOOT COURT COMPETITION, 2023 IN  
COLLABORATION WITH COMPETITION COMMISSION OF  
INDIA**

BY

“FACULTY OF LAW, SHREE GURU GOBIND SINGH TRICENTENARY  
UNIVERSITY, GURUGRAM”

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**IN THE HON’BLE ANTITRUST COMMISSION OF  
REPUBLIC OF FRENCHLANDS BARDMICA**

**IN THE MATTER OF:-**

SUO MOTO CASE NO. 51 OF 2023

***IN RE: - ALLEGED ANTI-COMPETITIVE CONDUCT IN THE  
HOSTEL/HOSPITALITY MARKET IN REPUBLIC OF FRENCHLANDS  
BARDMICA***

**AGAINST:-**

DAVILLE STUDIO	...OPPOSITE PARTY 1
HIPPODROME	...OPPOSITE PARTY 2
THE TANGIERS	...OPPOSITE PARTY 3
WILLIE’S STRIPSTER	...OPPOSITE PARTY 4
ALL REPUBLIC OF FRENCHLANDS BARDMICA FEDERATION OF HOSPITALITY AND TOURISUM	...OPPOSITE PARTY 5

**MOOT PROBLEM**

***“Transparency in fair trade means serving as the window between the marginalized artisan  
and the global customer.”***

**By-Hala Scandar of Dandarah**

***“Fair trade is about working together to create meaningful jobs and celebrate lives of  
meaning.”***

**By-Mac McCoy of dZi Handmade**

**ABOUT REPUBLIC OF FRENCHLANDS BARDMICA:-**

The *Republic of Frenchlands Bardmica* is a country located in Northern Europe bordering the

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Baltic Sea, Gulf of Bothnia, Kattegat, and Skagerrak. The geography of *Republic of Frenchlands Bardmica* is mostly flat with mountains in the west. The *Republic of Frenchlands Bardmica*, also known as the Union Government or Central Government but often simply as the Centre, is the national authority of the *Republic of Frenchlands Bardmica*, a federal democracy located in Northern Europe, consisting of 29 States and 7 Union Territories. *Republic of Frenchlands Bardmica* has a mixed economic system in which there is a variety of private freedom, combined with centralized economic planning and government regulation. *Republic of Frenchlands Bardmica* is a member of the European Union (EU). The *Republic of Frenchlands Bardmica* economy’s GDP is pegged at \$ 3 tn. Guided by unwavering democratic credentials and strong government leadership, *Republic of Frenchlands Bardmica* is an emerging superpower with a vibrant economic climate.

**ABOUT ANTITRUST COMMISSION OF REPUBLIC OF FRENCHLANDS  
BARDMICA:-**

*Antitrust Commission of Republic of Frenchlands Bardmica* is the best means of ensuring that the ‘Common Man’ has access to the broadest range of goods and services at the most competitive prices. With increased competition, producers will have maximum incentive to innovate and specialize. This would result in reduced costs and wider choice to consumers. A fair competition in market is essential to achieve this objective. Goal of the *Antitrust Commission of Republic of Frenchlands Bardmica* is to create and sustain fair competition in the economy that will provide a ‘level playing field’ to the producers and make the markets work for the welfare of the consumers. The objectives of the Act are sought to be achieved through the *Antitrust Commission of Republic of Frenchlands Bardmica*. It is the duty of the *Antitrust Commission of Republic of Frenchlands Bardmica* to eliminate practices having adverse effect on competition, promote and sustain competition, protect the interests of consumers and ensure freedom of trade in the markets of *Republic of Frenchlands Bardmica*. The *Antitrust Commission of Republic of Frenchlands Bardmica* is also required to give opinion on competition issues on a reference received from a statutory authority established under any law and to undertake competition advocacy, create public awareness and impart training on competition issues.

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**FACTS:-**

That on 01.08.2023 *DaVille Studio* (OP-1) and *Hippodrome* (OP-2) filed an application under Section 46 of the *Antitrust Act, 2002* read with Regulation 5 of the *Antitrust Commission of Republic of Frenchlands Bardmica (Lesser Penalty) Regulations, 2009*. That aforesaid OP's were already held for alleged cartelization in relation to the developing, marketing and price fixing of hotel facilities in *Republic of Frenchlands Bardmica* by the *World Federation of Hospitality and Tourism*.

That the *Antitrust Commission of Republic of Frenchlands Bardmica* noted that there appears to exist collusion amongst OP-1 and OP-2 i.e. *DaVille Studio* and *Hippodrome* from the disclosures made in the lesser penalty application, alongwith *The Tangiers* (OP-3) and *Willie's Stripster* (OP-4) to align the prices of hotels and to seek/implement price adjustment in several provinces of *Republic of Frenchlands Bardmica*.

That aim of the aforesaid OPs appears to be to ensure consistency in their pricing policies, in particulars, price increases and to achieve this aim, OP-1 to OP-4 appears to have co-ordinated by way of series of multilateral and bilateral meetings and e-mail exchanges amongst themselves as well as through the common platform of the *All Republic of Frenchlands Bardmica Federation of Hospitality and Tourism* (OP-5).

Noting the above facts and circumstances, *Antitrust Commission of Republic of Frenchlands Bardmica* forming an opinion that prima facie, the conduct of the aforesaid OPs appears to be a contravention of the provisions of Section 3(1) read with Section 3(3) of the *Antitrust Act, 2002* and consequently passed an order dated 15.08.2023 under Section 26 (1) of the *Antitrust Act, 2002* directing the Director General (DG) to cause an investigation into the present matter and submit a report at earliest. While passing the order dated 15.08.2023 the *Antitrust Commission of Republic of Frenchlands Bardmica* also noted that the period of co-ordination between OPs to be 1<sup>st</sup> July, 2020 till 31<sup>st</sup> December, 2022 i.e. a period of pandemic.

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That DG conducted an investigation as per the order dated 15.08.2023 passed by the *Antitrust Commission of Republic of Frenchlands Bardmica* and during the investigation on 20.08.2023 search and seizure operations on the premises of the OPs conducted. That soon after the search and seizure operations conducted by the DG as per the *Antitrust Commission of Republic of Frenchlands Bardmica* order dated 15.08.2023 an application under Section 46 of the *Antitrust Act, 2002* read with Regulation 5 of the *Antitrust Commission of Republic of Frenchlands Bardmica (Lesser Penalty) Regulations, 2009* were filed by OP-3, OP-4 and OP-5 on 21.08.2023.

That in pursuant to order dated 15.08.2023, the DG submitted the final report of its investigation to the *Antitrust Commission of Republic of Frenchlands Bardmica*. In the final report DG observed that every step to enter or carried out the business of hostel falls within the ambit of List II of the Seventh Schedule of the Constitution of *Republic of Frenchlands Bardmica* i.e. the State List. It was also observed in the final report that services of hostel fall within the ambit of the Good and Service Tax. That on the basis of evidences collected during search and seizure operations, including statements on oath of OPs management persons, replies received to the notices under Section 41(2) read with Section 36(2) of the *Antitrust Act, 2002* information collected from the public domain, DG concluded that OPs indulged in the exchange of vital information to influence the market by creating cartel. The DG also finds that OP-1 to OP-4 collectively approached the different Provinces Government of the *Republic of Frenchlands Bardmica* through OP-5 to get price fixing in different tenders notified by the *Department of Hospitality and Tourism* of different Provinces of the *Republic of Frenchlands Bardmica* and also for any other purposes too. Therefore, OPs have contravened the provisions of Section 3(3) (a) read with Section 3(1) of the *Antitrust Act, 2002*.

While concluding the investigation report as per the order dated 15.08.2023, DG also indentified the present top management of the OPs to be liable in terms of the provisions of Section 48(1) of the *Antitrust Act, 2002*.

Taking into consideration of the investigation report submitted by the DG, the *Antitrust Commission of Republic of Frenchlands Bardmica* *vides* its order dated 26.08.2023 forwarded an electronic

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and hard copy of the final investigation report to all OPs management head related to the present matter identified by the DG to be liable in terms of the provisions of Section 48 of the *Antitrust Act*, 2002.

On 26.08.2023 *vide* separate order *Antitrust Commission of Republic of Frenchlands Bardmica* directed the OPs to file their suggestions/objections to the investigation report of the DG alongwith their brief written statement in bullet point for the Hon’ble Commission assistance to adjudicate the matter and also directed the registry of the *Antitrust Commission of Republic of Frenchlands Bardmica* to list the matter on 01<sup>st</sup> September, 2023 for final disposal in hearing category.

**In the present matter following question of law are before the Hon’ble Antitrust Commission of Republic of Frenchlands Bardmica for adjudication:-**

- 1) Whether the OPs indulge in cartelisation in the hostel/hospitality market of *Republic of Frenchlands Bardmica* in contravention of the provisions of Section 3 of the *Antitrust Act*, 2002?
  - 2) Whether the top management of the OPs (presently working) are liable for their company’s/association’s conduct in terms of Section 48 of the *Antitrust Act*, 2002 at the time of the said contravention?
- **Both parties have to raise one or more additional relevant issues of their choice. (Mandatory)**

**NOTE:-**

- Participants are requested to argue on the side of the Petitioners as well as on the side of the Respondent before the “*Hon’ble Antitrust Commission of Republic of Frenchlands Bardmica*” pertaining to the above case and further elucidate the arguments with appropriate case laws and inputs.
- The laws of *Republic of Frenchlands Bardmica* are *pari material* with laws of India. The *Republic of Frenchlands Bardmica* considers the leading common law precedents as being highly persuasive. Hence, all the relevant ancient, modern, texts of Indian law may be referred for arguing the

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case.

- This Moot Problem has been formulated solely for the purpose of this competition for furthering the academic exercise only.

**ANNEXURE – 1**

<b>DETAILS OF LESSER PENALTY UNDER SECTION 46 OF THE <i>ANTITRUST ACT, 2002</i> READ WITH REGULATION 5 OF THE <i>ANTITRUST COMMISSION OF REPUBLIC OF FRENCHLANDS BARDMICA (LESSER PENALTY) REGULATIONS, 2009</i></b>				
DaVilee Studio	Hippodrome	The Tangiers	Willie’s Stripster	All Republic of Frenchlands Bardmica Federation of Hospitality and Tourism
Application filed on 01.08.2023	Application filed on 01.08.2023	Application filed on 21.08.2023	Application filed on 21.08.2023	Application filed on 21.08.2023
Application with Documents	Application with Documents	Application	Application	Application with Documents
Documents consist of E-mail communications, Ledger, Balance Sheet, meetings	Documents consist of Ledger, Balance Sheet.	NIL	NIL	Documents consist of E-mail communications, meetings details.

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details.				
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**ANNEXURE – 2**

<b>MANAGEMENT CHART OF OPs</b>				
DaVilee Studio	Hippodrome	The Tangiers	Willie’s Stripster	All Republic of Frenchlands Bardmica Federation of Hospitality and Tourism
X1 as Former Chairman from 2018-2020	X2 as Former Chairman from 2018-2019	X3 as Former Chairman from 2017-2021	X4 as Former Chairman from 2018-2019	X5 as Former Chairman from 2020-2022
Y1 as Chairman (TM) from 2021 till date	Y2 as Chairman (TM) from 2019 till date	Y3 as Chairman (TM) from 2022 till date	Y4 as Chairman (TM) from 2020 till date	Y5 as Chairman (TM) from 2023 till date

**Note** – TM denotes to Top Management.

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**ANNEXURE – 3**

<b><u>TURNOVER OF OPs</u></b>				
<b>OPs</b>	<b>2019-2020</b>	<b>2020-2021</b>	<b>2021-2022</b>	<b>2022-2023</b>
DaVilee Studio	5	7	9	3
Hippodrome	1	5	7	4
The Tangiers	4	5	6	5
Willie’s Stripster	4	8	5	6
All Republic of Frenchlands Bardmica Federation of Hospitality and Tourism	10	13	15	9



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**Note** – Turnover is in Billion Dollar.

**ANNEXURE – 4**

**IMPORTANT POINTS OBSERVED BY THE DG WHILE INVESTIGATING  
THE OPs CONDUCT WITH RESPECT TO MARKET:-**

1. Fixation of tender prices by the OP-1, OP-3 and OP-4.
2. Maintain market share by the OP-1, OP-3 and OP-4.
3. Identical prices for hostel services in different provinces of *Republic of Frenchlands Bardmica* by the OP-1, OP-3 and OP-4.
4. Email communication between OP-1, OP-3 and OP-4 to discuss price strategies for manufacturing the hostel from government.
5. Approaching governments of different provinces of *Republic of Frenchlands Bardmica* collectively by the OP-1, OP-3 and OP-4.
6. Sharing periodical bookings and profit data by the OP-1, OP-3 and OP-4.

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7. Strategy to oppose the government policies of different provinces of *Republic of Frenchlands Bardmica* in regard to hospitality and tourism by the OP-1, OP-3 and OP-4.
8. OP-5 providing the common platform to the OP-1, OP-3 and OP-4 to get tender price and polices revised.
9. Providing financial incentives to the Government official to support the OP-1, OP-3 and OP-4.

**Note:** - Polices (with respect to establishment of hostels) of Rajasthan, Mumbai, Goa, Delhi, and Jammu & Kashmir can be consider by the parties to advanced the arguments before the *Hon’ble Antitrust Commission of Republic of Frenchlands Bardmica*.