COMPETITION COMMISSION OF INDIA

Case No. 09 of 2025

In Re:

Velusamy Karuppannan **Informant**
S/o M. Karuppannan
3/49, Perumal Patti, Manavadi Post
Karur, Tamil Nadu – 639 005.

And

AVEVA Group Ltd. **Opposite Party-1/OP-1**
High Cross Madingley Road Cambridge CB3 0HB
UK. Reg. No. 2937296.

AVEVA Solutions India LLP **Opposite Party-2/OP-2**
Sarjapur Outer Ring Road, Chandana
Kadabeesanahalli, Bengaluru - 560103, India.

AVEVA Information Technology India Pvt. Ltd. **Opposite Party-3/OP-3**
AVEVA Solutions India LLP Tower -1, 2nd Floor
WaveRock, Sy.no 115 APIIC IT/ITES SEZ
Nanakramguda, Gachibowli
Hyderabad – 500008, India.

CORAM:

Ms. Ravneet Kaur
Chairperson

Mr. Anil Agrawal
Member

Ms. Sweta Kakkad
Member

Mr. Deepak Anurag

Member

<u>Order under Section 26(2) of the Competition Act, 2002</u>

1. The present Information has been filed by Velusamy Karuppannan (‘**Informant**’) under Section 19(1)(a) of the Competition Act, 2002 (‘**Act**’), against AVEVA Group Limited (‘**Opposite Party -1**’/‘**OP-1**’), AVEVA Solutions India LLP (‘**Opposite Party -2**’/‘**OP-2**’) and AVEVA Information Technology India Private Limited (‘**Opposite Party -3**’/ ‘**OP-3**’) (hereinafter collectively referred to as ‘**AVEVA/OP**’) *inter alia* alleging contravention of the provisions of Sections 3 and 4 of the Act.

2. The Informant is a software professional in the manufacturing IT software segment. It is stated that in 2017, the Informant played a vital role in building CT Infotech India Private Limited which is engaged in the development of proprietary software products to enhance operational efficiency and productivity for manufacturing plants across sectors such as consumer-packaged goods and automobile industries and it specialises in services such as industrial automation software and solutions, manufacturing execution system software, and industrial internet of things.

3. It is further stated that the Informant was production engineer in a petrochemical company, then transitioned to Honeywell as a software engineer. In 2012, he joined the IT management division of Invensys, which later became a part of AVEVA and he continued to focus on delivering innovative software solutions that address the key challenges he observed during his tenure at AVEVA.

4. As per the Information, OP-1 is a global leader in industrial software, headquartered in Cambridge, UK and after its merger with Schneider Electric's (“**Schneider**”) industrial software business and the acquisition of OSIsoft (a leading manufacturer of application software for real time data management), OP-1 has positioned itself as a comprehensive provider of industrial software solutions.

5. The Informant has stated that OP-1's industrial software solutions enable companies to collect real-time operational data, monitor production processes, manage plant

operations, track equipment performance, and create manufacturing efficiency. These solutions are used across various sectors including oil and gas, manufacturing, energy, and infrastructure by major industrial companies globally, including in India by companies such as Reliance Industries and Tata Power.

6. As per the Information, OP-2 was founded in 2013. It is a subsidiary of OP-1, operating in India to provide localized sales, implementation, and support services for OP's industrial software solutions. It is stated to be responsible for distributing and implementing OP's software products across industrial facilities in India and provides technical support and maintenance services to Indian customers.

7. It is stated that OP-3 was founded in 2001 and serves as a training centre and technical support hub of OP-1 in India. OP-3 provides software development, technical support, and consulting services, contributing to OP’s global software development initiatives while supporting local implementation and customer requirements.

8. It is stated that industrial automation software is a broad category of digital solutions designed to control and optimize manufacturing and industrial processes. It helps reduce the machine hours required for operations, made possible through robust software, and helps reduce faults in the output product while also scheduling maintenance, reducing downtime, and creating prescriptive stages for decision-making.

9. These solutions include manufacturing execution systems (“**MES**”), supervisory control and data acquisition (“**SCADA**”) systems, historian software, and various other specialized software tools that have helped revolutionize industrial operations by creating integrated digital ecosystems within factories and processing plants.

10. It is stated that MES is the layer that enables communication between components, production phases and overarching systems like enterprise resources planning (“**ERP**”) and supply chain management. MES serves as the critical bridge between shop-floor operations and enterprise-level business planning. The system continuously monitors process parameters and alerts operators to potential issues before they become critical problems.

11. As per the Information, SCADA is defined as a flexible and customized program that collects all the data generated by various equipment that support the production process, to create a real-time conceptual map of the organization. In this way, local and remote monitoring of the different industrial plants becomes a simple and quick task.

12. It is stated that Historian Software is the next critical layer in the data collection and storage infrastructure, where it serves as a specialized time-series database designed specifically for industrial operations which captures, compresses, and stores high-speed process data from multiple sources across the plant floor. This data becomes crucial for various manufacturing operations, regulatory compliance, and process optimization.

13. It is stated that this digital ecosystem ensures that every batch is produced consistently, with the Historian maintaining detailed records of various parameters in the production process, while the MES actively manages the controls / settings in the production process. Historian, SCADA and MES systems work together to provide manufacturers with complete control and visibility of their operations, enabling better decision-making and continuous process improvement. The integration of these systems has become crucial for modern manufacturing operations, helping industries improve efficiency, maintain quality, reduce waste, and optimize resource utilization.

14. It is stated that OP develops and provides software solutions for industrial operations across sectors including manufacturing, infrastructure, and energy. Their software portfolio enables industries to digitize their operations, manage production processes, and optimize performance across manufacturing plants, refineries, power plants and other industrial facilities.

15. It is further stated that OP's key products include AVEVA MES Software for managing production processes and workflow, AVEVA Process Historian (including the PI System acquired from OSIsoft) for collecting and storing real-time operational data, and System Platform which provides the foundational infrastructure for system integration. Similarly, AVEVA Edge, with over 500,000 licenses deployed worldwide offers scalable HMI/SCADA Solutions. These SCADA services are also provided through AVEVA's Plant SCADA that is suited for industrial process and infrastructure customers and

AVEVA’s Enterprise SCADA for advanced pipeline operation such as enterprise oil and gas pipeline/gas distribution operations worldwide.

16. It is further stated that OP acquired OSIsoft’s PI System, which was and continues to be a leading process historian software solution in the market, consolidating its position in the industrial software market. It is also stated that in 2022, OP was positioned as a ‘Leader’ in its 2022 Magic Quadrant for Manufacturing Execution System for its AVEVA MES, which is the third time in a row.

17. The Informant has stated that OP maintains both perpetual licensing, where customers purchase specific products for permanent use, and Flex subscription options.

18. It is stated that the perpetual licensing model offers permanent ownership through one-time purchases. A perpetual licensing model includes an arrangement when a customer pays a one-time fee to access software indefinitely. The perpetual license never expires – once it is activated it can be used forever. This allows customers to choose individual components based on their specific operational needs, especially in relation to smaller industries or customers who required software services for limited verticals and purchased them as one-off instance, with separate support and maintenance agreements.

19. It is stated that OP's Flex subscription model is their credit-based licensing system, where customers purchase credits on AVEVA Flex that can be used across the company’s entire software portfolio, including cloud, hybrid, and on-premises solutions. These credits function as a flexible currency within OP's ecosystem, allowing customers to access and utilize various software products based on their operational needs. It is stated that the Flex subscription model operates through a centralized portal where customers purchase credits valid for one or three-year terms, the subscription includes technical support, development licenses, and fixed annual price increases of approximately 3% of their contracts and through this portal, customers can monitor credit consumption, view product costs, submit licensing requests, download licenses directly, and manage their entire software portfolio. The credit system allows customers to exchange unused licenses for other products or return them for credit value.

20. It is further stated that, the Line Operations Template ("**LOT**") bundle, an offering within the Flex Subscription framework, comprising six pre-built software solutions, i.e., Enterprise Integrator, MES, System Platform, Historian, Work Tasks and Intouch SCADA, is intended to provide a ready-made package for customers who needs MES solution. Several other bundles are available under the Flex subscription, each comprising a different combination of software products such as MES, SCADA, Historian, and other specialized tools.

21. The Informant has listed various factors for the assessment of dominance, which are stated below in brief:

i. **Market shares:** It is stated by the Informant that a firm's ability to exercise market power depends on size of other firms in the market and the market structure, and an entity with lesser market share could be capable of acting independent of market forces in a highly fragmented market with large number of players having smaller market shares. It is further stated that the Commission in its combination order for Schneider / L&T observed that Schneider (OP's parent company) consistently had a significant market share in various relevant markets, including the electronics and automation market. It is stated that OP's website describes itself as the 'global leader in industrial software'. Specifically in relation to MES software, it also relies on the IDC MarketScape: Worldwide Manufacturing Execution Systems 2024-2025 which positions OP as a 'global leader'. It is stated that as per a market report released by OP itself, it was noted that OP PI System holds 40% market share across 130 countries. It is further stated that whilst examining the Historian market, it is important to consider OP's significant market position, largely driven by its acquisition of OSIsoft, a major player in the historian technology sector. OSIsoft's PI System is a core component of OP's historian solutions offering, and its integration within OP's broader industrial suite has solidified its dominant role in the market. By integrating and exchanging capabilities between the PI System and OP's existing portfolio including AVEVA historian, OP can further consolidate its market presence and strengthen its overall competitiveness in the historian software domain. It is further stated that, as per OP's annual report in 2022, it was noted as one of the world’s leading industrial software companies, as measured by market share and revenue.

ii. **Size and resources of enterprise / competitors:** It is stated that in *Matrimony.com Limited v. Google LLC and Ors*, the Commission observed that technology markets are primarily driven by innovation and market shares should not be transient. However, the consistently high market shares of Google were considered to demonstrate its “other advantages”, insulating its market position. Similarly, considering the size and resources accessible through Schneider, OP can be said to be in a dominant position and capable of operating independent of market forces.

iii. **Dependence of consumers:** It is stated that AVEVA Historian is designed to integrate seamlessly with OP's suite of industrial automation and control products. Similarly, OP’s system platform software is currently being marketed as the world’s only responsive, standards-driven, and scalable software for deploying advanced SCADA, MES, and LOT. This tight integration encourages customers to adopt multiple OP solutions, making it challenging to replace individual components without disrupting the entire system. It is further stated that high switching costs further entrench consumer dependence on established providers.

iv. **Countervailing buying power:** It is stated that as SCADA systems are required to be integrated with control hardware and other critical processes, any change in vendor will remain a costly affair for customers who are already paying for the flex subscription and bundles provided within it. This discourages customers from seeking alternative suppliers and gives incumbent vendors more pricing and contractual leverage, ultimately limiting buyers’ negotiating options in the market.

v. **Entry barriers and market structure:** The data historian market is characterized by high barriers to entry due to high capital costs and its highly technical nature leading to in reduction in effective competition. Factors such as increasing data capabilities and complexities, high deployment costs, and limited development are stifling market growth. The high initial costs associated with developing and deploying data historian systems pose a significant challenge for small and medium-sized enterprises attempting to enter the market.

22. It is alleged by the Informant that OP is in contravention of Sections 4(2)(a)(i), 4(2)(b), 4(2)(c), 4(2)(d) and 3(4) of the Act by forcing its customers to purchase its Flex Subscription, thereby restricting consumer choice and creating barriers for new entrants in the market for industrial automation software in India.

23. It is alleged by the Informant that OP violated section 4(2)(a) of the Act as it coerced customers to purchase the Flex Subscription since the product pages on OP's website only direct customers to its Flex Subscription, intentionally obscuring or hiding the option to purchase individual products. It is further alleged that OP's Flex Subscription price is higher than what is offered at under the Perpetual License and it ensures that customers must consume all of the credits purchased as part of the minimum commitment, if they are unable to do so within the designated period, OP indirectly forces customers to extend their subscription by 1-2 years so as to consume all of their credits. It is also alleged by the Informant that within the LOT bundle, the Historian and SCADA licenses are provided free of charge to the OLAM Group through Flex subscription which raises concerns about fairness and transparency related to pricing and creates a competitive imbalance by providing certain software offerings free of cost that other players in the market might not be in a position to provide. It is further alleged that under the Flex model, pricing is determined on a case-by-case basis, and the cost structure is not uniformly disclosed to all customers. As a result, the final pricing, influenced by factors such as bundle composition, volume, and customer-specific negotiations—varies significantly between customers leading to uncertainty about the overall cost and value of the bundled solutions.

24. It is alleged by the Informant that OP violated section 4(2)(c) of the Act as OP's Flex Subscription results in customers being locked-in to their ecosystem as a result of the high minimum commitment that customers must make, coupled with the compulsion to consume all of the credits purchased with such minimum commitment. As a result, they are unable to switch to other service providers and likely to continue using OP's products despite the availability of equally efficient competitors or more innovative alternatives. It is further alleged that OP's Flex Subscription results in a partial denial of market access for its competitors' products

25. It is further alleged by the Informant that OP violated section 4(2)(d) of the Act as it is utilising its dominance in the Historian and SCADA software, which is provided nearly free of cost to customers, to coerce customers to purchase its entire bundle of products through the Flex Subscription. It is further alleged that by offering a package wherein the Historian and SCADA License are provided free of cost within the flex subscription agreement as well as providing the suite of software at a discounted rate, OP undermines the ability of customers to solely purchase software solutions that best match their operational requirements. It is alleged that OP's attempt to persuade consumers to take up their Flex subscription is an attempt to eliminate competition by restricting the mobility of consumers and denying market access to other market players.

26. It is alleged by the Informant that OP violated section 4(2)(b) of the Act as OP's software runs on a base that was first developed in the early 2000s, and it has continued to make upgrades to the software without upgrading base in the last 20 years. As a result, its software experiences more frequent bugs and glitches, requires frequent maintenance, and greater technical expertise to resolve any issues. It is sated that in spite of these shortcomings, locked-in customers are forced to rely on OP's software and are unable to switch to alternatives which are technologically superior or economically more viable.

27. Informant has alleged that OP has violated section 3(4) of the Act as it is engaging in a tying arrangement by conditioning the purchase of its Historian software and SCADA License on the mandatory purchase of one or more of the complementary software products such as AVEVA InTouch HMI, AVEVA System Platform, AVEVA Edge, AVEVA Plant SCADA and AVEVA Clear SCADA. It is further alleged that OP's tying arrangement restricts customer choice or forces customers to purchase additional products they do not need, it reduces competition in the market for these tied products, harm consumers by increasing costs, and potentially prevent rival suppliers from competing effectively.

28. On the basis of the above, the Informant has sought the following relief from the Commission:

(a) Hold that OP is dominant in the Relevant Market and/or order an investigation under section 26(1) of the Act;

(b) Hold that the practices of OP are anticompetitive and violate Sections 4(2)(a)(i), 4(2)(b), 4(2)(c), 4(2)(d) and 3(4) of the Act;

(c) Direct OP to cease and desist from forcing customers to purchase their Flex Subscription.

(d) Impose a penalty on OP amounting to 10% of its average global turnover of the last three financial years; and

(e) Pass any other such order and / or direction and / or grant any such reliefs, as the Commission may deem fit in the interest of justice, equity and good conscience.

29. Subsequent to the Information, two separate emails have been received with reference to the Information.

30. In the first e-mail dated 14.06.2025 (**'Nestle email'**), received from an anonymous individual from email id nestle.cci-whistleblower@protonmail.com – The sender of this email has *inter alia* stated in the email that he/she became aware that the Informant is seeking information to assist in substantiating OP's market power and alleged market dominance to the Commission. It has been *inter alia* stated that in 2013, AVEVA leveraged its dominant position to compel Nestlé SA to formally designate it as the "Preferred Technical Supplier for MES". This decision was communicated to all the relevant stakeholders in Nestle internally, effectively excluding other major competitors such as Rockwell and Siemens. The sender has attached the document with the e-mail ('**Nestle Document 1**'). It is stated that the announcement was primarily driven by OP's overall market power and dominant position in the industrial automation space, particularly stemming from its bundled product offerings. It created substantial barriers to market entry, foreclosing competition, and stifling innovation from alternative vendors. It is further stated that in 2017, when Nestlé SA sought alternatives to AVEVA's MES system, it identified a promising new entrant, MAK Consulting Group from Canada ("**MAK**"), with its Digital Manufacturing Operations ("**DMO**") solution. The sender has

attached another document with e-mail ('**Nestle Document 2**') which states that due to the existing lock-in agreements with AVEVA, Nestlé was unable to proceed independently with MAK, which had to be onboarded as a sub-contractor under OP. This lock-in arrangement allowed OP to manipulate perceptions around the scalability and viability of the DMO solution. AVEVA reportedly influenced end-users within Nestlé to believe that their MES product was superior, thereby diminishing trust in the new DMO solution and preserving AVEVA's entrenched position. It is further stated that another clear indication of AVEVA's market power is its ability to organize large-scale industry events such as AVEVA World. These events attract major global organizations to present so-called "success stories" with AVEVA's software, even in instances where the actual implementation outcomes were suboptimal or unsuccessful. It is stated in the e-mail that no other company in the industry appears capable of hosting an event of such magnitude, with comparable participation from the customer ecosystem. This phenomenon should be evaluated from a practical and strategic standpoint, rather than relying solely on technical calculations such as absolute market share or similar quantitative metrics.

31. In the second e-mail dated 14.06.2025, received from an anonymous individual from email id olam.cci-informer@protonmail.com.- The sender of this email has *inter alia* stated in the said email stated in the email that in 2019, Olam International Ltd, Singapore ("**Olam**") selected OP as its software provider especially for MES deployment, primarily due to its established position as a market leader with a dominant presence in the industrial automation sector and this decision was influenced by OP being the preferred MES supplier for Nestlé and by the credibility lent through Schneider Electric's (OP's parent company) active participation in the World Business Council for Sustainable Development ("**WBCSD**"). Sender has further stated that OP's market power and influence also played a role in compelling Olam to provide a testimonial for AVEVA's 2020 Annual Strategic Report ('**Olam Document 1**'). It is further stated that the said testimonial selectively overstated a partial and incomplete MES implementation at a single Olam manufacturing facility named as Ducati, located in the country Vietnam, as if it reflected a comprehensive, global deployment success across Olam. The sender has attached another document in its e-mail ('**Olam Document 2**') which states that the AVEVA Flex Subscription Agreement forces Olam to use their outdated MES bundled software solution indefinitely at a 75% overall discounted price which blocks Olam to

use better alternatives, especially new innovative MES software solutions from Indian startups. Additionally, it is alleged that AVEVA's bundled pricing in 2019 and offering of their Historian software for free in 2023 resulted in restricting healthy competition heavily in Olam's digital transformation project bids for the manufacturing operations segment.

32. Post- receipt of the above emails, the Informant has filed an application dated 23.06.2025 ("**Additional Information**") in which the Informant has stated that he has been made aware of the material evidence received by the Commission *vide* email dated 14.06.2025. It is stated by the Informant that the said emails were shared anonymously by certain industry stakeholders.

33. In the said application, the Informant has also shared the same documents which were attached with the two anonymous emails as received earlier. Informant has stated that Nestle Document 1 demonstrates the dominant position and corresponding influence OP holds.

34. It is also stated by the Informant that Nestle Document 2 shows that rather than permitting Nestlé to directly engage with MAK for the DMO solution, OP arranged a back-end subcontract with MAK, under which it bears the associated costs. This structure effectively prevents Nestlé from exercising independent vendor choice and illustrates the manner in which OP misused its dominant position within Nestlé by enforcing systemic dependency through its market power.

35. It is stated that Olam Document 2 reconfirms that OP sold an MES bundle to a mid-sized Olam which included multiple products such as SCADA, Historian, System Platform, MES, Work Tasks, and Enterprise Integrator for a total price of $125,000 for production environment license, while the development environment license is priced at just $6,250. In comparison, the market price (perpetual) for an MES solution alone excluding the Historian component from other leading vendors is approximately $400,000. This substantial under-pricing strongly indicates a clear intent to eliminate competition through predatory pricing practices.

36. It is stated that the pricing summary on Olam deployment indicates how OP has offered materially different pricing for identical software bundles across comparable sites through AVEVA Flex Subscription agreement. It is further stated that the two documents demonstrate that in multinational companies like Nestle, vendor-locked agreements are executed at the corporate headquarter level, thus, individual domestic markets like India possess limited choice for availing alternate service providers.

37. It is stated by the Informant that a company lacking significant market power, influence, or a dominant position would not be in a position to publish Olam's testimonial as a selectively overstated case study. It is further stated that a company which does not possess significant market power, influence, or a dominant position would not ordinarily be in a position to engage with the WBCSD in the manner that Schneider Electric presently does.

38. The Commission considered the matter in its ordinary meeting held on 16.07.2025 and decided to pass an appropriate order in due course.

<u>Commission's Analysis</u>

39. The Commission has carefully perused the Information, e-mails, additional information and other material available on record and based on the allegations levelled in the Information, it is observed that the Informant is, *inter alia,* aggrieved by the conduct of OP in the industrial automation software services provided by it.

40. The Commission, on the basis of the material available on record, notes that the following issues arise for consideration and determination in the present case:

(i) What is the 'relevant market' in the present case?
(ii) Whether OP holds a dominant position in the relevant market?
(iii) If OP is dominant in the relevant market, whether the alleged conduct amounts to violation of Section 4 of the Act?

Issue (i): What is the 'relevant market' in the present case as defined in Section 2 (r) of the Act?

41. To examine the matter under the provisions of section 4 of the Act, the relevant market, consisting of the relevant product market and the relevant geographic market, in terms of section 2(r) of the Act needs to be delineated first, before determining the position of dominance of OP in the relevant market and its alleged abusive conduct.

42. With regard to relevant product market, the OP operates in the market for industrial automation software. The Commission notes that the OP provides over 200 industrial automation products. Industrial automation helps in monitoring, optimising and controlling the overall industrial process and minimizes labor costs, reduces material wastage, and lowers maintenance expenses. Industrial automation solutions include MES, SCADA systems, historian software, and various other specialized software tools that help optimise industrial operations by creating integrated digital ecosystems within factories and processing plants.

43. It appears that the basic framework of industrial automation software services revolves around three industrial automation products i.e., MES, SCADA and Historian as these software services provide the underlying architecture for other allied industrial software services. Further these three services do not appear to be substitutable with other product/services in terms of characteristics and intended use. This is because each industrial automation service has a specific purpose and cannot be substituted by any other service. Therefore, relevant product market in the instant matter may be considered as "*market for MES, SCADA and Historian industrial automation software.*"

44. As regards the geographic market, it may be noted that since conditions for competition appear to be homogenous in India, the geographic area of India may be considered as the relevant geographic market for the purposes of assessment.

45. Accordingly, "*MES, SCADA and Historian industrial automation software in India*" is considered as the relevant market in the instant case.

Issue (ii): Whether OP holds a dominant position within the scope of Section 4 of the Act?

46. The Commission notes that the OP deals with industrial automation software, which provides digital solutions designed to control and optimize manufacturing and industrial processes.

47. Based on the information available in the public domain, with respect to MES, SCADA and Historian software, there are multiple players operating in this market and providing these services. Although, there are no sources for markets shares available in the public domain, the market for industrial automation services appears to be highly competitive.

48. There are multiple players operating in this market such as Siemens (which offers SIMATIC IT, SIMATIC Process Historian, SIMATIC SCADA Systems); Rockwell (which offers FactoryTalk Production Centre, FactoryTalk Historian, FactoryTalk View); SAP (which offer SAP Manufacturing Execution); Oracle (which offers Manufacturing Operations Center, Oracle Utilities Flex SCADA); Honeywell (which offers Honeywell MES, Uniformance PHD, Experion SCADA); Emerson Electric Ltd. (which offers Emerson's Movicon SCADA, DeltaV system, Syncade MES) and ABB Ltd. (which offers ABB Ability Zenon, ABB Ability Symphony Plus Historian, ABB Ability MES).

49. The Informant has alleged that in 2022, OP's MES was positioned as a 'Leader' in Gartner's 2022 Magic Quadrant for Manufacturing Execution System and IDC MarketScape: Worldwide Manufacturing Execution Systems 2024-2025. However, upon perusal of information available in the public domain, it is observed that there were competitors of OP who were also positioned as 'Leader' in Gartner's 2022 Magic Quadrant for MES such as Critical manufacturing, Siemens Digital Industries Software, Rockwell etc. It is further observed from the information available in the public domain that GE Digital, Critical Manufacturing, Rockwell Automation and Siemens Digital Industries Software have been positioned as 'Leader' in the 2023 Gartner Magic Quadrant for MES. Similarly, OP's competitors such as Critical Manufacturing, Seimens and Rockwell have been named leader in IDC MarketScape: Worldwide Manufacturing Execution Systems 2024-2025.

50. With regard to the allegation that an indication of OP's market power is its ability to organize large-scale industry events such as AVEVA World, it is noted that ability to organise large scale promotional events is neither an indicator of market dominance nor

does it give OP an ability to act independent of market forces. Additionally, from the public domain, it is observed that such events are also organised /taken part in by OP's competitors to showcase their products – Seimens (Hannover Messe 2025, Innovation Day 2024, Realize LIVE, User2User conference), Rockwell (ROKLive 2025 Gold Coast, Automation Fair), SAP (SAP Connect, SAP Sapphire), Oracle (OATUG Oracle E-Business Suite Customer Event, Oracle Cloud Applications Virtual Events), Honeywell (Penang Manufacturing Expo, CeMAT Australia 2025, LogiMAT 2025), Emerson (Emerson Exchange), ABB (all about automation Düsseldorf, EASA Convention & Solutions Expo).

51. With regard to the allegation that Nestle Document 1, which announces OP as the preferred MES supplier across Nestlé SA's global operations demonstrates OP's dominant position, it is observed by the Commission that being hired/chosen by a customer as the preferred supplier amongst its competitors does not reflect dominant position of an enterprise in terms of Section 4 of the Act.

52. The Informant has further alleged that a series of mergers over the years, especially with Schneider Electric Software and OSIsoft has increased OP's market power exponentially. It is observed by the Commission that despite these mergers, there exist a number of competitors in the relevant market and the Informant has not furnished any data with regard to market shares to support its claim.

53. With regard to the allegation that OP's alleged publishing of Olam's testimonial as a selectively overstated case study in its 2020 Annual Report also reflects its dominant position as a company lacking significant market power would not be able to do so, the Commission observed that alleged misrepresentation of an enterprise's performance does not establish its market power.

54. Regarding the allegation that credibility derived from Schneider Electric's (the parent company of OP) active participation in the WBCSD is a relevant factor in assessing the extent of market power, it is observed by the Commission that mere participation in WBCSD does not indicate market dominance and its competitors such as Seimens, SAP, ABB are also members of WBCSD.

55. The Informant has further alleged that OP's website states that 25 of the top 25 pharma companies use AVEVA PI System (OP's historian software), 1000+ power utilities utilize AVEVA PI System and 75% of the world's crude oil, natural gas, and liquids are produced with AVEVA PI System. In this regard, it is observed by the Commission that OP's claim of substantial market presence in particular sectors with respect to Historian does not reflect dominance in overall MES, SCADA and Historian market. It is further noted that the Informant has also referred to a market report by OP stating that it has 40% market share in the Historian market across 130 countries. This indicates presence of other competitors in the market, and does not establish dominance of OP by indicating its ability to act independently of market forces.

56. In view of the above, OP does not appear to be dominant in the market for "*MES, SCADA and Historian industrial automation software in India*".

57. It is also alleged by the Informant that OP is engaging in a tying arrangement by conditioning the purchase of its Historian software and SCADA License on the mandatory purchase of one or more of complementary software products. The Commission observed that the OP appears to provide entire suite of services which is customised according to usage by the customer and accordingly the credits are consumed. Further, there is no evidence furnished which shows that purchase of these software products is made mandatory on the purchase of Historian software and SCADA License by the OP.

Issue (iii): If OP is dominant in the relevant market, whether the alleged conduct amounts to violation of Sections 4 of the Act?

58. In view of the fact that OP is not dominant in the relevant market, the question of abuse of dominant position under Section 4 of the Act does not arise.

59. Upon consideration of the facts and circumstances of the present case, the Commission is of the view that there is no *prima-facie* case of contravention of provisions of Sections 3 and 4 of the Act warranting an investigation into the matter. Therefore, the matter is directed to be closed forthwith under Section 26(2) of the Act.

60. It is made clear that nothing disclosed in this order shall be deemed to be confidential or deemed to have been granted confidentiality, as the same have been used for purposes of the Act in terms of the provisions contained in Section 57 thereof.

61. The Secretary is directed to communicate the decision of the Commission to the Informant, accordingly.

Sd-
(Ravneet Kaur)
Chairperson

Sd/-
(Anil Agrawal)
Member

Sd/-
(Sweta Kakkad)
Member

Sd-
(Deepak Anurag)
Member

New Delhi

Date: 25/08/2025