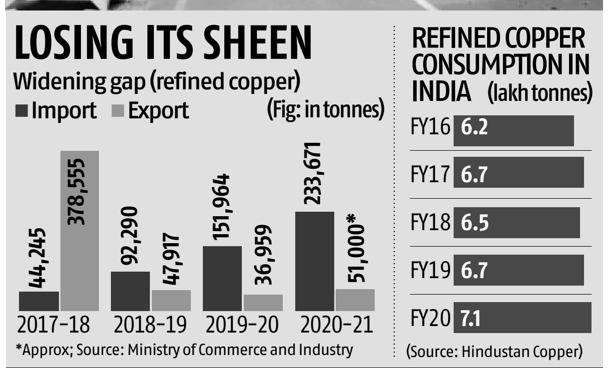
Red signals from Sterlite Copper

The prolonged closure of its controversial Thoothukudi plant has had an unintended impact on the country's exports of the industrial metal

SHINE JACOB
Chennai, 30 September



It's been three years since the police firing that killed 13 people and left 102 people injured during a protest against Sterlite Copper's 25-year-old units at Thoothukudi. Since then, there's been a long hiatus. In September, the Madras High Court, hearing a plea to make the National Human Rights Commission (NHRC) report on the incident public, termed the police firing against the protestors a "scar on democracy" and said the incident must not be forgotten.

It hasn't been, at least in Thoothukudi, where locals are still struggling to come to terms with what happened on May 22, 2018 — such as Jesubalan, father of four, whose wife Jahnsi, delivering fish to a relative, died after being caught in the crossfire that day. Nor has there been reprieve for Sterlite Copper, a unit of Anil Agarwal's Vedanta, which has been working hard to re-establish its credentials as a responsible manufacturer.

The second wave of the Covid-19 pandemic gave the plant a fresh lease of life. During the peak, it was reopened to produce oxygen for three months (April 27 to July 31), based on a Supreme Court order. "As part of the effort, we have been able to supply 2132 MT and 7833nm³ of high-purity, medical-grade oxygen to 32 districts in Tamil Nadu. We stand prepared to continue supporting the State, should the need arise," a Sterlite Copper spokesperson told *Business Standard*.

As part of its corporate social responsibility mandate, the company planted one million trees, implemented a scholarship programme for students from Thoothukudi's villages, started skill-training programmes, provided drinking water facilities to 22 villages and helped expand the region's hospital infrastructure during the pandemic by spending around ₹2 crore.

None of this has regained the confidence of locals, although all of them (bar one person who died later) have received compensation, according to S Mohan, associate director of People's Watch, a non-governmental organisation working in the region. The government moved one step ahead, too, by withdrawing the criminal cases against 84 people who were arrested, in addition to paying them ₹1 lakh each.

Jesubalan, for instance, received ₹20 lakh and a job for his elder daughter at the district education office. "After the incident, neither Sterlite nor any of its officials contacted us in the last three years," he said.

In fact, locals still panic at the prospect of the plant being reopened. "Lots of lives were lost in the area. When it comes to reopening we all have only one voice, which is against it. So far, none of the culprits got punished, which is what we want. The only thing is that the immediate kin got jobs and we got compensation money," said Jesu Rani, wife of Lourdhammalpuram resident K Glaston who lost his life in the incident.

Bringing the guilty to book is only one of the points of discontent. The long-standing pollution to the soil, water and air from the plant has not been conclusively addressed. Fisherfolk have been complaining of this problem since the 1990s. In July 1997, more than 90 people were hospitalised after a sulphur dioxide gas leak in the unit.

That was when the J Jayalalithaa government ordered the closure of the unit in March 2013. This was overturned by the National Green Tribunal (NGT) in May 2013. Following this, the plant was reopened. But the unrest did not die down. Protests resurfaced on a large scale in February 2018, when Sterlite announced plans to double the plant's annual capacity to 8 lakh tonne, making it one of the world's largest copper smelting units at a single location. This ultimately led to the May 22 firing incident.

Two days after the firing, the Tamil Nadu Pollution Control Board (TNPCB) ordered closure of the unit with immediate effect and disconnected its electricity supply. Against this, the company approached the NGT and got a favourable order in December 2018 directing the plant to be reopened. This was set aside by the Supreme Court in February 2019 on grounds that the matter did not come under the tribunal's jurisdiction. In 2019, the Tamil Nadu government had informed the Madras High Court that it had noticed more than 84 incidents of gas leaks from the plant in 2013 alone, responding to a Sterlite plea challenging the order of closure of the unit.

The impact of this long hiatus has not been small on the country's economy. India, which used to be an exporter of copper before the Sterlite unit shut down, has become a net importer now. Copper is used in electrical machinery, building, cabling for power and telecommunications, and automobile sectors.

In FY17, India exported copper worth $1.8 billion; that fell to $0.3 billion in FY2020. India now incurs an annual net foreign exchange outflow of $1.2 billion due to copper imports.

The three major players in India's copper industry in India are Sterlite Copper, Hindalco Industries and Hindustan Copper. Sterlite alone accounted for around 40 per cent (400,000 MT) of the country's total copper smelting capacity. According to industry sources, close to 120,000 jobs were affected due to the closure — including those employed in 400 small-scale downstream industries in the electrical, construction, chemical and automobile sectors, which were dependent on the Sterlite unit for products like copper, sulphuric acid and fluorosilicic acid.

Even though consumer demand is yet to pick up, copper demand has risen smartly. During the first quarter of the financial year 2021-22, copper imports shot up 26 per cent to 60,766 MT from 48,105 MT in the same period last year. The overall import of refined copper during the last financial year was 233,671 MT. The import figure for this financial year is expected to clock between 295,000 and 304,000 MT, a significant jump from the past year, based on industry estimates.

Copper demand in India is expected to grow 10-12 per cent in FY21-22. India's solar power generation capacity is close to 40,000 Mw, which alone requires over 332 million pound (15 lakh tonnes) of copper according to industry estimates. With the country betting big on expansion in the solar segment, imports are expected to increase further in the coming days raising concerns among the industry players.

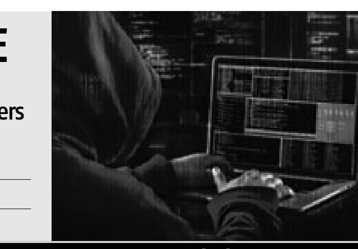
Closing a plant for environmental concerns, just as it may have been in a position to service India's climate change targets, must be one of the biggest ironies of Sterlite Copper's closure.

Online fraud thrives during banking hours

65–70% cases between 7 am and 7 pm, finds HDFC analysis

MANOJIT SAHA
Mumbai, 30 September

PEAK TIME



Age bracket of defrauded customers

Age	%
18–50	90
51–59	5
>60	5

FRAUD DISPUTE TIME ANALYSIS

Period	Time	%
Morning	07:00 am – 11:59 am	24
Noon	12:00 pm – 15:59 pm	28
Evening	16:00 pm – 18:59 pm	18
Night	19:00 pm – 06:59 am	30

Source: HDFC Bank

At the peak of the economic boom in late 2000, many banks used to offer banking services to their customers from 8 am to 8 pm. As digital transactions gained traction in the following decade, so has online fraud.

An analysis of such online frauds shows that the time preferred by fraudsters to target people also coincides with the peak business hours — 7 am to 7 pm.

A fraud dispute time analysis for the first three months of the current financial year by HDFC Bank — the largest private sector lender of the country — shows 70 per cent of the frauds happening during this 12-hour period.

According to the bank, digital frauds have had a makeover since the beginning of the pandemic and are now becoming sophisticated enough to gain people's trust.

There has been an increase in online mode of payments as compared to physical and paper-based instruments, data from Reserve Bank of India showed. Digital payment systems recorded 26.2 per cent growth in volume during 2020-21 on top of 44.2 per cent rise in the previous year.

"These scammers do not rely much on technical ways such as hacking to defraud people," said Manish Agarwal, Head - Risk Intelligence and Control, HDFC Bank.

"In fact, most of the frauds now happen through social engineering. The fraudsters are well aware of current affairs, regulations, etc. and use them as their theme to target customers," he told *Business Standard*.

According to Agarwal, fraudsters are generally concentrated in geographies around the metros and urban centres. This is primarily because the reach of law enforcement agencies is strong within metros.

Social engineering is the preferred modus operandi of the fraudsters, as their scripts are generally themed around greed, help, threat and commerce.

They lure the customer with a lottery (greed); promise to help the customer redeem card points; warn the customer to update KYC or risk deactivation of the account (threat). There are also examples of customers initiating a transaction (commerce) by ordering online from an unverified site (clothing to sell liquor, for instance) and thereby falling prey to fraudsters.

"Around 65-70 per cent of cyber frauds happen between 7 am and 7 pm since fraudsters want to gain the trust of their victims. Calling during working hours makes their offers appear more convincing and customers often fall prey to them as the calls appear legitimate," Agarwal said.

Another interesting point revealed by the analysis is that as many as 80-85 per cent of the affected customers are in the age group of 22-50, supposedly a tech-savvy cohort.

"While, technically, almost 80-90 per cent of frauds happen due to customer negligence, many times customers get defrauded even without sharing confidential information," Agarwal said.

Fraudsters, on the pretext of helping their targets, are now making victims download certain genuine applications (apps) and gaining access to their phones. Hence, without even asking their targets, they are gaining access to confidential information through legitimate apps.

"There are genuine apps that are used by IT professionals to service their customers in different locations. Through these apps, they take control of their customers' laptops/phones in order to mend and resolve issues," Agarwal explained.

Apart from asking customers not to share OTP, PIN and other confidential information, HDFC Bank is also asking them not to click any unknown links and make payments on unrecognised e-commerce platforms. "Customers are also being made aware that if someone is promising to send money, it does not require them to share any type of authorisation or PIN authentication," Agarwal added.

The home ministry has operationalised a centralised helpline number (155260) and a reporting platform where victims can report incidents of cyber crime. The helpline is manned by respective state police departments and reported incidents are handled through the Citizen Financial Cyber Fraud Reporting and Management System, which is integrated with law enforcement agencies, banks and financial institutions.

Google versus CCI: Whom to blame for the media leak?

M M SHARMA

So, has Google got it wrong this time? Recently, the Delhi High Court rapped the internet giant for "threatening" to sue the fair market regulator, the Competition Commission of India (CCI), for the "leak" of the confidential investigation report of its investigative arm, the director general, to the media, leading to headline stories in India. The manner of Google's protest and reaction smacks of both arrogance and ignorance about the procedural aspects of India's common law and calls for a public debate.

Undoubtedly, the media leak of this magnitude, where the whole investigation report gets leaked to "unauthorised" persons, is unprecedented and has caused huge embarrassment to the CCI. It is condemnable and reveals chinks in CCI's armour, for which, I am sure, CCI must have started internal inquiries. This may undermine CCI's hard-earned reputation as an efficient regulator to keep business secrets, particularly those related to ex-ante and mandatory competition assessments of mergers and acquisitions. This deserves serious consideration at the highest levels in the government to restore the credibility of this essential institution, a sine qua non for growth of free market economy in India.

In the backdrop of the above caveats, can the allegedly "threatening letter" sent by Google's top US-based legal managers to the CCI chairman (leading to the filing of the legal suit), seeking that the investigation report itself be quashed on account of the leak, be legally and morally justified? Since the matter is sub judice, no outcome can be or should be predicted. Yet, it is pertinent to reflect on related aspects, which are germane to this episode for larger public interest.

Facts first. Like those in the European Union, Google is currently facing three parallel antitrust inquiries in India before the CCI on account of its alleged position of dominance in three separate yet related online markets. The first inquiry (vide a CCI order dated April 16, 2019) is for Google's allegedly unfair and restrictive conditions imposed on smartphone makers using its android operating system (OS) as well as in the market for the apps available on Google's Play Store for Android OS, which is used in 98 per cent smartphones globally as also in India. The second inquiry (dated November 9, 2020) relates to alleged leveraging of its dominant position to protect and strengthen its power in the market for apps facilitating online payments through UPI by allegedly favouring its own application, Google Pay, for app and in-app purchases. The third (dated June 22, 2021) relates to it using its dominant position allegedly for compulsory tying its "must have" app, the licensable android mobile OS and Google Play Store, with Android TV OS, Fire TV, etc., in the market for licensable android smart TV OS in India, and so on. The DG's investigation report pertains to the first inquiry and its findings are obviously most important since they will influence the findings in the other two pending investigations.

Google's letter to the CCI chairman is like someone blaming the trial court for media leaks of a police charge sheet

Mind you, these investigations are based on complaints filed by public spirited individuals in India (mainly lawyers in Delhi) after similar inquiries against Google in the European Commission. Google's main defence before the EC apparently is that since its innovative OS and Play Store and licensable android smart TV OS have been welcomed by consumers across the globe, these cannot be scrutinised under the competition law the main objective of which is consumer welfare, and for that very reason its market conducts are pro-competitive and not anti-competitive.

Be that as it may, the CCI as an institution, and certainly not its chairman, can be blamed for the self-harming media leak. The lapse has been on the part of the DG's office, which is headed by a serving IPS officer and is physically and legally a separate office — though under the administrative control of the CCI. It is responsible for conducting investigation into matters so directed by the CCI, an adjudicatory body, after finding prima facie case for intervention.

Google's letter to the CCI chairman is like someone blaming the trial court for media leaks of a police charge sheet! Google seems to have made a self-goal by this apparently ill-advised move, which may backfire, since the present litigation is likely to be seen as an attempt to frustrate the inquiry rightly ordered by CCI, which no higher court in India may agree to stall due to some landmark Supreme Court decisions. On the other hand, this unauthorised media leak by some corrupt persons in the DG office and its impact on CCI's reputation will hopefully lead to strict departmental action against them by the CCI and the central government under the CCS Conduct Rules; and perhaps also under the Official Secrets Act, since this episode may affect the friendly relations between India and US, to some extent. A quick and stern action by the CCI to identify and punish such rogue insiders in the DG office will help it recover its credibility.

At the same time, there is a need to revisit the limits on such "ultra-investigative" journalism by mainstream media in ongoing and sensitive cases pending in CCI against Big Tech, as such premature reporting damages the image of India's otherwise robust legal and judicial system. But hopefully this may also improve the regulatory oversight.

The author heads the Competition Law & Policy practice at Vaish Associates, Advocates, a corporate, tax and business advisory law firm in India. The views expressed are personal.
mmsharma@vaishlaw.com