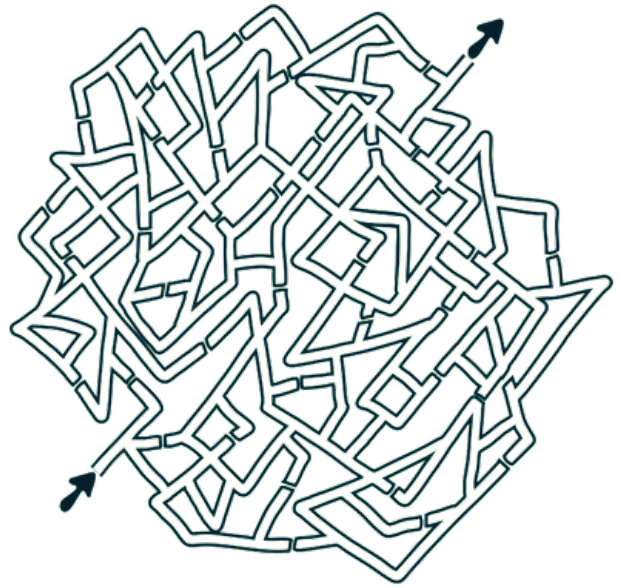




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CH PARAMJIT MISRA & SIDDHARTH SENGUPTA



Imagine you started a company. It went so well that it became one of India's biggest. You continue your operations but one day, someone publishes something negative about your business. No, it's not a tweet or an article but a full-fledged report on how you are pulling the largest business scam. Do you think these reports have the capability of toppling over your business? Well, it surely did for the colossal Adani.

Alright, folks! If you haven't caught wind of the two bombshell reports on Adani Enterprises yet, you are in for a wild ride.

First, we had the [Hindenburg report](#). Then hot on its heels, the [report](#) published by the Organized Crime and Corruption Reporting Project ("**OCCRP**"). This news took the Indian market by storm. While we won't be reinventing the wheel, we will spill the tea on what went down legally, in case it slipped under your radar.

THE STORY SO FAR

Let's quickly take a look on how this has unfolded so far.

UNDERSTAND THE CHRONOLOGY



Hindenburg popularly known for its “activist short-selling activities”

January 24, 2023

Research report titled “**Adani Group: How The World’s 3rd Richest Man Is Pulling The Largest Con In Corporate History**” released. Accusing the Adani group companies of accounting fraud, stock price manipulation, illegal related-party transactions and improper use of tax havens, among other things.



Petition filed. On 2nd March, the Supreme Court of India ordered SEBI to investigate into Adani Enterprises’ alleged wrongdoings based on the report.



Effect

led to a massive crash in the share prices of almost all Adani companies



OCCRP

August 31, 2023

- It made allegations of stock price manipulation and again, related party transactions aimed at breaching the promoters’ shareholding limit in a listed company.

- Excel Investment and Advisory Services Limited, a discreet firm based in the UAE and owned by Vinod Adani, brother of Gautam Adani and a member of the Adani promoter group, received more than \$1.4 million in "advisory" fees from management companies of EIFF, EMRF, and GOF.

SEBI faced two questions:

First, did the report by Hindenburg suffice as credible prima facie proof, considering that Hindenburg was not a "registered" research analyst?

Second, did they have any statutory backing to take action against Hindenburg or OCCRP, or even investigate their activities, considering they are not Indian entities

While the Supreme Court settled the first question by directing the Securities Exchange Board of India ("**SEBI**") to investigate, the second one remains a bit of a head-scratcher. No big help from the Court on that front. However, it is crystal clear that these research analyst reports pack a serious punch when they write about any business.

In the grand scheme of things, whether they are fact or fiction, they can wreak havoc in the securities market. Now, before going into what SEBI or Adani can or cannot do about this, let's briefly understand the legalities that they face.

WHAT EXACTLY IS SEBI LOOKING FOR?

Primarily, our market regulator is looking into three things – **(a)** if laws related to companies getting their shares listed on any stock exchange have been violated; **(b)** if the Adani group has failed to disclose any information on 'related parties' to SEBI; **(c)** if there was any manipulation in the prices of their stock.

Who are Related Parties?

SEBI LODR Regulations have this fancy definition for a 'Related Party,' which is all based on the Companies Act of 2013. It basically covers things like having common directors and key managerial persons. Close family members like an "elder brother" of key managerial personnel are also included. See what we did there?

But you know what's even more interesting? They've recently updated the rules to include anyone in the promoter or promoter group, no matter how much of the company they actually own. It's like they've cast a wider net!

Sounds simple enough, doesn't it? Then why is it taking SEBI so [long](#) to investigate?

Well, here's a major reason. Among many rules to list your shares on the stock market, a big one is to have at least twenty-five percent of shares with the public. To check this in Adani's case is a little complex. You see, Adani also has foreign investors putting their money in the business. Now, who owns and benefits from those foreign entities needs to be disclosed to SEBI so it can decide if twenty-five percent of shares are publicly held or closely tied to the Adani family itself.

Now, the catch is—not all of this information is available to SEBI. Who ultimately benefits from offshore funds investing in Adani is still unknown because such funds are established in tax haven countries. On top of that, in 2018, SEBI had also deleted some rules that required disclosures on every ultimate individual who benefits from, or who could have an economic interest in, the foreign portfolio investor (“**FPI**”). So, that surely didn't help the regulator in obtaining information.

However, SEBI maintains that altering such laws has not made things difficult during the investigation.

Well, it's best to leave it to SEBI to look into the nitty-gritty of the case. Speaking on a macro-level though, are there any rules for publishing such reports, or can anyone come up with one tomorrow and cite corporate fraud?

Let's see if we can crack that nut!

SEBI'S POWER TO LOOK INTO THESE TYPE OF REPORTS

Usually, when an Indian entity drops a 'research analyst report,' it is governed by SEBI's [regulations](#) on Research Analyst. It says you've got to have SEBI's approval to release these reports. If you do not play by the rules, SEBI can drop the penalty hammer. It also insists that any foreign player who wants to join the reporting party in India needs to buddy up with a homegrown, registered research analyst. If the overseas company messes up, SEBI can penalise the local analyst or even kick them off the registered list.

But here's the kicker. This is pretty much where SEBI's powers stop when it comes to foreign research analysts. They are putting all their chips on that agreement between the Indian analyst and its foreign ally to keep things in line. So, what happens when someone outside the Indian sandbox throws out a report without holding hands with a registered Indian analyst? Well, SEBI is stuck in the mud, at least according to its own rulebook.

And that's exactly what went down with these two reports. It's like, the requirement of an agreement does not mean squat in cases like these. Even if SEBI had rules to punish foreign players, it has got no way to make them pay up unless they've got some property here in India. Plus, these folks, Hindenburg and OCCRP, don't have any business or investments in India that SEBI can get its claws into. So, if Adani is thinking of throwing legal punches at these entities, well, the answer is a little muddled.

SO, WHAT CAN BE DONE?

With all the googlies thrown at Adani Group, it is quite important to see what defensive options are available to them. Earlier this year, Adani already looked into possible legal actions against Hindenburg.

Just for the record, it is not the first time Hindenburg has alleged something like this against a company. Before this, they had called out companies like [Eros International](#). They shorted their stocks and released a detailed publication to make others aware so that it further brings down the share price. When Eros took that to the Court, it backfired on them, and since then, their stock price has [fallen by 90%](#) in the past years.

On the other hand, OCCRP, with the help of their previous reports, has already led to the imposition of over 10 billion USD worth of fines. Additionally, till date, it has helped regulators initiate 398 investigations and 702 official actions worldwide. So, looking at the unexpected tactics by Hindenburg and the success reports of OCCRP, Adani will probably have to take some kind of action. And this action needs to be fool-proof and backed by some pretty convincing evidence. Otherwise, they open themselves up to a whole lot of legal problems like suits of malicious prosecution, defamation and whatnot.

So, what in the world can Adani or SEBI do here?

On the domestic front, the first step would be asking SEBI to properly look into the reports. As we know, as a market regulator, SEBI itself does not have any power to penalise the Hindenburg or OCCRP for anything, even if they are blatant lies.

On the international front, and this is a more sure-shot approach, Adani can sue Hindenburg or OCCRP in their home countries. In any case, the conclusion to the Hindenburg side of the fiasco will most probably be seen in a foreign court if they decide to battle it out.

Well, the next move in this game of stock chess is obviously in the hands of the stakeholders, i.e., you. We pose some simple questions that we have delved into in the next segment.

FOOD FOR THOUGHT

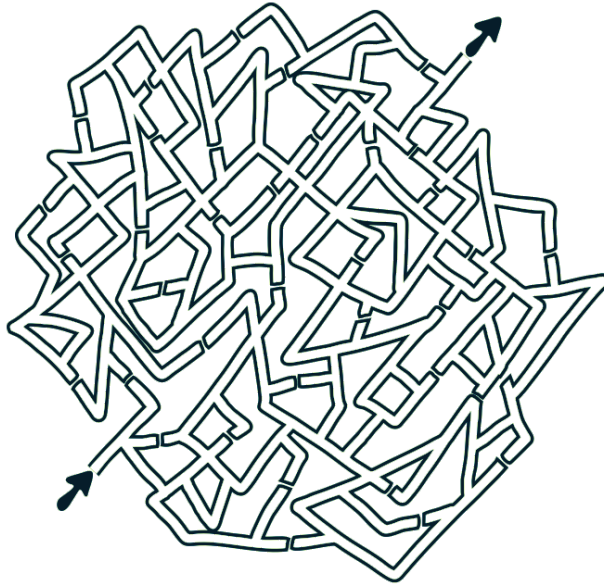
Ah, that was quite a read! While so many news articles have presented the business side of things, we hope we were able to simplify the legal side a bit for you. After knowing what has gone down, what do you think should happen?

We know that the Indian securities market is disclosure-based. Shouldn't SEBI have struck down such crucial laws? Has it actually tied their hands, and they may not be able to admit it?

Generally, what happens when a company's share prices plummet due to an investigative report, and it turns out the report was false? Can we handle such a situation?

If not, does that call for some restriction on market-related information such as these reports? Or would that hinder the flow of information in the market?

We leave our readers to ponder upon the answers to these questions. Let us know what you think!



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<i>Contributors</i>	<i>Contact Us</i>
<p>AUTHOR(S): Ch. Paramjit Misra Siddharth Sengupta</p> <p>EDITOR: Shivani Pattnaik</p> <p>DESIGN: Ch. Paramjit Misra</p>	<div data-bbox="927 1461 1084 1614"></div> <div data-bbox="643 1675 685 1724"></div> <div data-bbox="771 1682 889 1713"><p>LinkedIn</p></div> <div data-bbox="1101 1682 1143 1724"></div> <div data-bbox="1230 1682 1349 1713"><p>Website</p></div> <div data-bbox="643 1749 685 1791"></div> <div data-bbox="760 1759 906 1791"><p>Instagram</p></div> <div data-bbox="1101 1759 1143 1791"></div> <div data-bbox="1255 1759 1333 1791"><p>Email</p></div>