

COMPETITION COMMISSION OF INDIA

28th August, 2012

Combination Registration No. C-2012/07/66

Order under Section 31 (1) of the Competition Act, 2002

1. On 6th July, 2012, the Competition Commission of India (hereinafter referred to as the "**Commission**") received a notice under sub-section (2) of Section 6 of the Competition Act, 2002 (hereinafter referred to as the "**Act**") given by Wireless Business Services Private Limited (hereinafter referred to as "**WBSPL**"), Wireless Broadband Business Services (Delhi) Private Limited (hereinafter referred to as "**WBBS Delhi**"), Wireless Broadband Business Services (Kerala) Private Limited (hereinafter referred to as "**WBBS Kerala**") and Wireless Broadband Business Services (Haryana) Private Limited (hereinafter referred to as "**WBBS Haryana**") (WBSPL, WBBS Delhi, WBBS Kerala and WBBS Haryana be collectively referred to as "**parties to the combination**").
2. The notice was filed pursuant to the approval of the proposed combination by the Board of Directors of each of the parties to the combination by their respective resolutions passed on 11th April, 2012 and the decision of the Commission on 6th June, 2012 in the notice bearing Combination Registration No. C-2012/05/55.
3. In terms of Regulation 14 of Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011 (hereinafter referred to as the "**Combination Regulations**"), on 9th July, 2012, the parties to the combination were required to remove certain defects and provide information/document(s). The parties to the combination filed their reply on 30th July, 2012. Since the required information was not furnished in the reply dated 30th July, 2012, vide further letter dated 1st August, 2012, the parties to the combination were required to furnish the information required vide letter dated 9th July, 2012. The parties to the combination filed their reply on 8th August, 2012.
4. The proposed combination is the merger of WBBS Delhi, WBBS Kerala, and WBBS Haryana into WBSPL pursuant to the scheme of amalgamation under the provisions of Sections 391 to 394 of the Companies Act, 1956. It has been stated in the notice that WBSPL would be the surviving entity after the proposed combination.
5. WBSPL is a company incorporated under the provisions of the Companies Act, 1956. It has been stated in the notice that WBSPL has executed an ISP License Agreement with the Department of Telecommunications (DoT) pursuant to which it has been authorised to provide internet access services as an Internet Service Provider. Further, DoT has earmarked Broadband Wireless Access (BWA) spectrum in favour of WBSPL in four service areas namely, Mumbai, Delhi, Kerala and Haryana, for offering telecommunications services. WBBS Delhi, WBBS Haryana and WBBS Kerala were also incorporated under the provisions of the Companies Act, 1956 for the purpose of providing internet access services. As per the details provided in the notice, 51 per cent and 49 per cent of the equity shares in each of the parties to the combination are held by Qualcomm Asia Pacific Pte. Ltd., which is a wholly owned subsidiary of Qualcomm Incorporated, and Bharti Airtel Limited, respectively.



6. As per the details provided in the notice, Qualcomm Incorporated was one of the successful bidders in the BWA auction conducted by the DoT in 2010. As a requirement in that regard, Qualcomm Incorporated was to nominate an Indian entity which could obtain an ISP license and use the BWA Spectrum allotted to Qualcomm for the purpose of offering telecom services. Accordingly, Qualcomm nominated each of the parties to the combination for obtaining an ISP license and providing internet services in the four service areas where Qualcomm was declared to be the successful bidder in the BWA auction. However, pursuant to the objection of the DoT, each of the parties to the combination and Qualcomm agreed before the DoT that the ISP license be given only to WBSPL and that upon issuance of ISP license to WBSPL, WBBS Delhi, WBBS Haryana and WBBS Kerala would be merged into WBSPL.
7. It has been stated in the notice that each of the parties to the combination is controlled by Qualcomm Asia Pacific Pte. Ltd. It is observed that the shareholding pattern of each of WBSPL, WBBS Delhi, WBBS Haryana and WBBS Kerala before the combination and the shareholding pattern of WBSPL, the surviving entity, after the combination would be same. Therefore, the proposed combination does not give rise to any adverse competition concern.
8. Considering the facts on record and the details provided in the notice, the Commission is of the opinion that the proposed combination is not likely to have an appreciable adverse effect on competition in India and therefore, the Commission hereby approves the proposed combination under sub-section (1) of Section 31 of the Act.
9. This approval is without prejudice to any other legal/statutory obligations as applicable.
10. This order shall stand revoked if, at any time, the information provided to the Commission is found to be incorrect.



Certified True Copy

[Handwritten Signature]
31/8/12
ANIL K. VASHISHT
Office Manager
Competition Commission of India
New Delhi