

COMPETITION COMMISSION OF INDIA

1st January, 2013

Combination Registration No. C-2012/11/95

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

1. On 30th November, 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 SAAB AB (Publ.) (hereinafter referred to as “**SAAB**”) and Pipavav Defence and Offshore Engineering Company Limited (hereinafter referred to as “**Pipavav**”).
2. The proposed combination relates to the acquisition of 2,45,07,881 equity shares of Pipavav by SAAB, constituting 3.329 per cent of the total paid up capital of Pipavav. The notice was given pursuant to a Share Subscription cum Shareholders Agreement executed on 1st November, 2012 (hereinafter referred to as “**SSSA**”) between Pipavav, SAAB, SKIL Infrastructure Limited, SKIL Shipyard Holdings Pvt. Limited, Grevek Investment and Finance Pvt. Limited and other(s).
3. In terms of Regulation 14 of the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011(hereinafter referred to as “**Combination Regulations**”), vide letter dated 6th December, 2012, SAAB was required to remove certain defects and provide information/ document(s) and their response to the letter was received on 18th December, 2012.
4. It has been clarified under the provisions of Regulation 4 of the Combination Regulations that since the categories of combinations mentioned in Schedule I are ordinarily not likely to cause appreciable adverse effect on competition in India, notice under sub-section (2) of Section 6 of the Act need not normally be filed. One such category (i.e. Item 1 of Schedule I of the Combination Regulations) pertains to an acquisition of shares or voting rights, referred to in sub-clause (i) or sub-clause (ii) of clause (a) of section 5 of the Act, solely as an investment or in the ordinary course of business in so far as the total shares or voting rights held by the acquirer directly or indirectly, does not entitle the acquirer to hold twenty five per cent (25%) or more of the total shares or voting rights of the company, of which shares or voting rights are being acquired,

directly or indirectly or in accordance with the execution of any document including a share holders' agreement or articles of association, not leading to acquisition of control of the enterprise whose shares or voting rights are being acquired.

5. It is observed that the proposed combination relates to an acquisition of 3.329 per cent of the total paid up capital of Pipavav. However, as per the information provided in the notice, the proposed acquisition is in the nature of a strategic technology partnership between SAAB and Pipavav whereby SAAB and Pipavav would jointly bid for projects within the scope of co-operation prescribed under the Strategic Technical Partnership Agreement dated 23rd August, 2012 entered into between SAAB, Pipavav & other(s). Further, under the SSSA, certain affirmative rights including the right to nominate one director on the Board of Pipavav have been granted to SAAB to enable it to preserve the value of its investment in the company and prevent misuse of intellectual property rights with respect to the projects. The proposed combination is, therefore, not an acquisition in the ordinary course of business or solely for the purpose of investment.
6. The proposed combination falls under Section 5 (a) of the Act.
7. SAAB, a company incorporated under the laws of Sweden, is stated to be an international defence, aerospace and security company. Pipavav, a listed company incorporated under the provisions of the Companies Act, 1956, is stated to be engaged in, inter-alia, the business of shipbuilding and ship construction for commercial, offshore as well as the defence sector and has a shipbuilding, repair and offshore fabrication yard at Pipavav in Gujarat.
8. As stated above, the proposed combination relates to the acquisition of 3.329 per cent of the total paid up capital of Pipavav by SAAB and post-combination, the promoters of Pipavav would continue to be its largest shareholders. It has also been stated in the notice that SAAB shall only be a technology investor in Pipavav and the overall management and control of Pipavav shall continue to remain with its promoters.
9. 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.

10. This approval is without prejudice to any other legal/statutory obligations as applicable.
11. This order shall stand revoked if, at any time, the information provided by the parties to the combination is found to be incorrect.
12. The Secretary is directed to communicate to SAAB accordingly.