

COMPETITION COMMISSION OF INDIA

4th February, 2013

Combination Registration No.: C-2013/01/105

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

1. On 07th January, 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 Mahindra and Mahindra Limited (hereinafter referred to as “**M&M**” or the “**Acquirer**”). The said notice was filed pursuant to execution of a Share Purchase Agreement on 4th January, 2013 between M&M, International Truck and Engine Mauritius Holding Limited (hereinafter referred to as “**IMH**”), Navistar International Corporation (hereinafter referred to as “**Navistar**”) and International Truck and Engine Corporation Cayman Islands Holding Company.
2. In terms of Regulation 14 of the Competition Commission of India (Procedure in regard to transaction of business relating to combinations) Regulations, 2011 (hereinafter referred to as the “**Combination Regulations**”), vide letter dated 11th January, 2013, the Acquirer was required to remove defect(s) and furnish information in relation to the notice. The response of the Acquirer, in this regard, was received on 18th January, 2013 and 21st January, 2013.
3. M&M is a listed public limited company incorporated under the provisions of the erstwhile Indian Companies Act, 1913. As per the disclosures given in its annual report, M&M is engaged in different business segments like automotive, farm equipment, IT services, financial services, steel trading and processing, infrastructure, hospitality, systech and others. As part of automotive segment, M&M and its affiliates manufacture and sell passenger vehicles, commercial vehicles and two/three wheelers.
4. IMH is a company incorporated under the laws of Mauritius and is stated to be an indirect wholly owned subsidiary of Navistar. It has been stated in the notice that IMH is engaged only in investment holding activities and does not engage in the manufacture or sale of any products. Navistar, a company incorporated under the laws of the state of Delaware, USA, is a holding company whose subsidiaries and affiliates produce international brand commercial and military trucks, MaxxForce brand diesel engines, IC Bus brand school and commercial buses and Navistar RV brands of recreational vehicles. Navistar also provides truck and diesel engine service parts.

5. Mahindra Navistar Automotives Limited (hereinafter referred to as “MNAL”) is an unlisted public limited company incorporated under the provisions of the Companies Act, 1956. As per the information given in the notice, 51 per cent of the issued and paid-up equity share capital of MNAL is held by M&M and the remaining 49 per cent of the issued and paid-up equity share capital of MNAL is held by IMH. It has been stated in the notice that presently MNAL is under joint control of IMH and M&M as IMH, being a shareholder of MNAL, has affirmative voting rights with respect to certain matters in relation to management of MNAL. It has been further stated in the notice that MNAL is engaged in the business of designing, developing and sale of light, medium and heavy commercial vehicles i.e. commercial vehicles with gross vehicle weight more than 3.5 tonnes and parts thereof.
6. As per the details provided in the notice, the proposed combination relates to the acquisition of 49 per cent of the issued and paid up equity share capital of MNAL by M&M from IMH. Post combination, MNAL will become a wholly owned subsidiary of M&M and, therefore, will be under the sole control of M&M.
7. The proposed combination falls under Section 5(a) of the Act.
8. The proposed combination concerns the automotive sector in India. As per the information published on the automotive sector by the Society of Indian Automobile Manufacturers (SIAM), the automobile vehicles manufactured in India are categorized into passenger vehicles (passenger cars), commercial vehicles (comprising of passenger and goods carrying vehicles), three wheelers and two wheelers. It is observed from the information given in the notice and other details placed on record that M&M and its affiliates are engaged in all the segments of the automotive industry in India i.e. passenger vehicles, commercial vehicles and two/three wheelers. On the other hand, MNAL is engaged only in the commercial vehicles segment. As per the data published by SIAM, the market share of M&M and MNAL in the commercial vehicle segment was 15.69 per cent and 1.71 per cent respectively during 2011-12. The increase in the market share of M&M, post-combination due to the acquisition of sole control of MNAL, would not be significant. Further, as per the SIAM reports, commercial vehicles can be further sub-categorized into medium & heavy passenger carrying vehicles; light passenger carrying vehicles; medium & heavy goods carrying vehicles and light goods carrying vehicles on the basis of their size/weight and primary use. It is observed from the information given in the notice that M&M sells commercial vehicles with gross vehicle weight up to 3.5 tonnes and MNAL sells commercial vehicles with gross vehicle weight more than 3.5 tonnes. Accordingly, they could be considered to be operating in different segments of the commercial vehicle market in India.

9. Further, as stated in the notice, it is observed that apart from its stake in MNAL, Navistar is not engaged in manufacturing, designing or sale of light, medium and heavy commercial vehicles in India and post-combination, both M&M and Navistar would operate in different geographical territories in manufacturing, designing or sale of light, medium and heavy commercial vehicles.
10. In view of the foregoing, the proposed combination resulting in acquisition of sole control of MNAL by M&M is not likely to result in adverse effect on competition in India.
11. Considering the facts on record and the details provided in the notice given under sub-section (2) of Section 6 of the Act and the assessment of the proposed combination, 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 the Section 31 of the Act.
12. This approval is without prejudice to any other legal/statutory obligations as applicable.
13. This order shall stand revoked if, at any time, the information provided by the Acquirer is found to be incorrect.
14. The Secretary is directed to communicate to the Acquirer accordingly.