

## COMPETITION COMMISSION OF INDIA

16<sup>th</sup> April, 2013

### Combination Registration No. C-2013/03/112

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

1. On 7<sup>th</sup> March, 2013, 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 Mr. Michael S. Dell (hereinafter referred to as “**MSD**”) and the Silver Lake Group, L.L.C. (hereinafter referred to as “**Silver Lake**”) (hereinafter MSD and Silver Lake are collectively referred to as the “**Acquirers**”).
2. 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 15<sup>th</sup> March, 2013, the Acquirers were required to remove defects and provide information regarding the notice. The Acquirers filed their response on 22<sup>nd</sup> March, 2013. Further, in terms of sub-regulation (2) of Regulation 19 and sub-regulation (4) of Regulation 5 of the Combination Regulations, on 25<sup>th</sup> March, 2013, the Acquirers were required to furnish additional information/documents, which was provided by them on 3<sup>rd</sup> April, 2013.
3. The proposed combination comprises acquisition of indirect control of Dell Inc. (hereinafter referred to as “**Dell**”) by MSD, jointly with Silver Lake, which is ultimately proposed to lead to the de-listing of Dell. The notice was filed pursuant to the execution of an Agreement and Plan of Merger, dated 5<sup>th</sup> February, 2013 (hereinafter referred to as the “**Merger Agreement**”) between Denali Holding Inc., Denali Intermediate Inc., Denali Acquiror Inc., (hereinafter Denali Holding Inc., Denali Intermediate Inc., Denali Acquiror Inc. are collectively referred to as “**Denali Entities**”) and Dell. It has been stated in the notice that the Denali Entities are special purpose vehicles set up for the sole purpose of facilitating the proposed combination. Further, while Denali Holding Inc. was incorporated by MSD and Silver Lake; Denali Intermediate Inc. was set up as a wholly owned subsidiary of Denali Holding Inc. and Denali Acquiror Inc. as a wholly owned subsidiary of Denali Intermediate Inc.
4. The proposed combination falls under Section 5 of the Act.

5. MSD is currently the Chairman and Chief Executive Officer of Dell. Silver Lake, a US-based private equity firm, is stated to be engaged in private investments in technology and technology-enabled industries. It has been stated in the notice that Silver Lake's affiliated private equity funds invest in a variety of portfolio companies engaged in the technology industry, ranging from semiconductors, cloud computing, and IT infrastructure to tech-enabled financial markets, transaction processing, mobile communication, and e-commerce.
6. Dell, a multinational computer technology company with principal place of business in USA, is presently listed on NASDAQ. Dell, through its subsidiaries, designs, develops, manufactures, markets, sells and offers its customers a wide range of IT products, IT related/ enabled solutions and IT related services. In India, Dell, acting through its subsidiaries, predominantly focuses on IT hardware and peripheral equipment, and IT services & solutions form only a small part of its revenue.
7. It is observed that the proposed combination, which concerns the market for IT hardware and peripheral equipment as well as the market for IT services/solutions, only involves a change in the ownership and control of Dell, with MSD and Silver Lake acquiring the indirect control of it. MSD, as an individual, has no business in India and notwithstanding that certain business activities of some portfolio companies controlled by Silver Lake in India, could have horizontal overlap as well as a vertical relationship with the business activities of Dell in India, it is observed that the revenue generated by these portfolio companies controlled by Silver Lake, from the said business activities in India, is insignificant. The market for IT hardware and peripheral equipments and IT services in India is also considered to be competitive with presence of a large number of players and insignificant entry barriers. In view of the foregoing, the proposed combination is not likely to give rise to any appreciable adverse effect on competition in India.
8. 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 after considering the relevant factors mentioned in sub-section (4) of Section 20 of the Act, 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 by the parties to the combination is found to be incorrect.

11. The Secretary is directed to communicate to the Acquirers accordingly.