Fair Competition
For Greater Good

COMPETITION COMMISSION OF INDIA

(Combination Registration No. C-2013/08/128)

23.10. 2013

Notice u/s 6 (2) of the Competition Act, 2002 given by:

(i) Publicis Groupe S.A; and
(ii) Omnicom Group Inc.

<u>Order under Section 31(1) of the Competition Act, 2002</u>

1. On 26th August, 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 Publicis Groupe S.A. (hereinafter referred to as "**Publicis**") and Omnicom Group Inc. (hereinafter referred to as "**Omnicom**") (hereinafter Publicis and Omnicom are collectively referred to as "**parties to the combination**").

2. 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 "**Combination Regulations**"), on 30th August, 2013, the parties to the combination were required to remove certain defects and provide information/document(s) latest by 12th September, 2013. The reply to the communication dated 30th August, 2013 was filed by the parties to the combination on 20th September, 2013 after seeking extension of time for filing the response vide their letters dated 12th September, 2013 and 19th September, 2013. Thereafter, in terms of sub-regulation (2) of Regulation 19 and sub-regulation (4) of Regulation 5 of the

Combination Regulations, on 25th September, 2013, the parties to the combination were required to furnish additional information/documents latest by 3rd October, 2013. The reply to the communication dated 25th September, 2013 was filed by the parties to the combination on 8th October, 2013 after seeking extension of time for filing response vide their letters dated 1st October, 2013 and 7th October, 2013.

3. The notice relating to the proposed combination was given pursuant to execution of a Business Combination Agreement dated 27th July, 2013 between Publicis and Omnicom and passing of resolutions by the respective Boards of Publicis and Omnicom, unanimously approving the proposed combination, on 26th July, 2013. The proposed combination comprises the following steps:

a) ***Step 1***: Publicis will merge with a newly created holding company, Publicis Omnicom Group N.V. (hereinafter referred to as "**HoldCo**"), to be incorporated in the Netherlands and HoldCo would continue as the surviving corporation; and

b) ***Step 2:*** Omnicom will merge with a newly created wholly-owned subsidiary of HoldCo (hereinafter referred to as "**Merger Sub**"), to be incorporated in New York, with Omnicom continuing as the surviving corporation.

4. As a result of the proposed combination, the shareholders of Publicis and Omnicom will hold approximately 50.64 per cent and 49.36 per cent of the equity share capital of HoldCo, respectively.

5. The proposed combination falls under Section 5 of the Act.

6. Publicis is an international communications and advertising group, headquartered in Paris, France. Omnicom is also an international communications and advertising group, headquartered in New York, USA. Publicis and Omnicon, through their network of agencies, provide advertising and marketing services globally, including India.

7. The proposed combination, therefore, relates to the provision of advertising and marketing services in India. Generally, the advertising and marketing agencies create campaigns and engage in media buying and planning, amongst other advertising services, for their clients. The advertising and marketing agencies analyse the market for a particular product or service, create a communication strategy to convey the agreed-upon message and choose the most effective media for reaching a target audience. In addition, these agencies negotiate and place orders with the media owners i.e. the television broadcasters, print media, radio channels, digital platforms, etc. in accordance with their client's budget to implement their advertising campaigns. The clients may choose one or several types of advertising and marketing services, depending on their budget and the message they wish to communicate.

8. It is observed that the advertising and marketing services may be broadly classified into Marketing and Communications Services (hereinafter referred to as "**MCS**") and Media Buying Services (hereinafter referred to as "**MBS"**).

9. MCS includes development of marketing and branding campaigns, as well as production and design of advertisements; media, corporate communications, research and evaluation of advertising; planning, designing and implementing direct marketing and sales promotions; and providing services with respect to brand and corporate identity, package and retail design, corporate literature, etc.

10. MBS includes purchase of advertising time or space in various types of media (including broadcast and cable television, radio, newspaper, magazines, billboards and internet), as well as, media planning and strategic advice including identification of media channels, to deliver a given message consistent with the client's budget, and monitoring the campaign.

11. In India, both Publicis and Omnicom are active in the business of MCS and MBS. In respect of MCS, it is observed that human talent and creativity plays a vital role, as it is the human talent which conceives, creates, produces, manages and delivers these services. In these businesses, it is also generally noticed that not only the human talent moves easily among the competing companies, but the clients may also frequently switch from one agency to another without much difficulty.

12. In MCS in India, it is further observed that there are a number of alternate suppliers of MCS i.e. other global, local and independent players, who presently compete and may continue to compete with the parties to the combination in provision of these services. It is also observed that due to the presence of numerous suppliers of MCS, the

advertising clients also enjoy sufficient countervailing power in the provision of such services.

13. With respect to MBS in India also, it is observed that the parties to the combination compete against a large number of global, local and independent suppliers of MBS. This makes it relatively easy for the advertising clients to switch between the alternate suppliers of MBS. It is also observed that the advertising clients have the option to procure media time directly from the media owners. Some of the advertisers also have their in-house agencies for procuring media time, thus bypassing the advertising agencies. Further, with respect to procuring media time or space by the MBS agencies, it is observed that the media owners have sufficient countervailing power to constrain the media buyer.

14. 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 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 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.

15. This approval is without prejudice to any other legal/statutory obligations as applicable.

16. This order shall stand revoked if, at any time, the information provided by the notifying parties is found to be incorrect.

17. The Secretary is directed to communicate to the parties to the combination accordingly.

(Ashok Chawla)
Chairperson

(Geeta Gouri)
Member

(Anurag Goel)
Member

(M. L. Tayal)
Member

(S.N. Dhingra)
Member

(S. L. Bunker)
Member