COMPETITION COMMISSION OF INDIA

(Combination Registration No. C-2015/10/317)

16th December 2015

Notice under sub-section (2) of Section 6 of the Competition Act, 2002 filed by Standard Greases & Specialities Private Limited

CORAM:

Mr. Ashok Chawla
Chairperson

Mr. S. L. Bunker
Member

Mr. Sudhir Mital
Member

Mr. Augustine Peter
Member

Mr. U. C. Nahta
Member

Mr. M. S. Sahoo
Member

Mr. G.P Mittal
Member

Legal Representative of the parties: Platinum Partners

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

1. On 5th October 2015, the Competition Commission of India ("**Commission**") received a notice under sub-section (2) of Section 6 of the Competition Act, 2002 ("**Act**") filed by Standard Greases & Specialities Private Limited ("**Standard Greases**" or "**Acquirer**"). The proposed combination pertains to acquisition of shares

of Tide Water Oil Company (India) Limited ("**Tide Water**" or "**Target**") by the Acquirer, *inter alia,* through Open Offer under the relevant provisions of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, as amended ("**SEBI (SAST) Regulations**") and any other open market purchases. The notice has been filed pursuant to the public announcement made with respect to the Open Offer on 22nd September 2015 under the relevant provisions of SEBI (SAST) Regulations. The Acquirer together with Janus Consolidated Finance Pvt. Ltd. ("**Janus**"), Alpha TC Holdings Pte. Ltd ("**Alpha**") and Tata Capital Growth Fund ("**TCGF**") are the persons acting in concert ("hereinafter, the Acquirer, Janus, Alpha and TCGF are collectively referred to as **PACs**").

2. As submitted by the Acquirer, the proposed combination entails the following steps: (a) an Open Offer, under the relevant provisions of SEBI (SAST) Regulations, whereby Standard Greases has made an open offer to all the shareholders of Tide Water to acquire up to 26% of the voting share capital of the Target; (b) acquisition of 1.69% of the share capital of Tide Water from Janus by Standard Greases through open market purchases and/or off market purchases; (c) open market purchases by the Acquirer, in accordance with the SEBI (SAST) Regulations, which includes block and bulk deals during the Open Offer Period (till 3 days prior to the commencement of the tendering period) or after the Open Offer ("**Subsequent Acquisitions**"). As a result of the aforementioned steps, the PACs would hold up to 50.935% of the share capital of the Target.

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 ("**Combination Regulations**"), *vide* the Commission's communications dated 29th October 2015, the Acquirer was required to remove gaps vis-à-vis information provided in the Form I, to which the Acquirer responded on 2nd November 2015. In terms of the abovesaid communications, the Acquirer was required to provide, *inter alia*, details about the horizontal and vertical overlap between the products/services of the parties, segmenting the products into relevant product(s) based on their substitutability from demand side. As the information furnished had some gaps, a second communication was issued to the Acquirer on 20th November 2015 in

continuation to the Commission communication dated 29th October 2015, to which the Acquirer responded on 26th November 2015.

4. Given the proposed combination is a case of hostile takeover, sub-regulation (2) of Regulation 9 of the Combination Regulations provides that the Commission may direct the enterprise which is being acquired to furnish such information as the Commission deems fit and the time taken by the parties to the combination or the acquired enterprise, as the case may be, in furnishing the required information including document(s) shall be excluded from the period provided in sub-section (11) of Section 31 of the Act and sub-regulation (1) of Regulation 19 of these Combination Regulations. Accordingly, in this regard, *vide* the Commission's communication dated 29th October 2015, the Target was required to provide additional information under sub-regulation (4) of Regulation 5 and sub-regulation (2) of Regulation 19 of the Combination Regulations, to which the Target responded on 12th November 2015. As the information furnished on 12th November 2015 had certain gaps, a letter in continuation to the Commission's communication dated 29th October 2015, was issued on 20th November 2015 to the Target, to which the latter responded on 26th November 2015.

Detail about the PACs

5. As stated by the Acquirer, Standard Greases is a private limited company incorporated under the Companies Act, 1956 and is engaged in the business of manufacture and processing of grease, lubricants and coolants which are used for automotive or industrial purposes. The Acquirer is stated to be primarily a contract manufacturer for other enterprises who then sell these products under their respective brand name. As submitted by the Acquirer, certain percent of the equity share capital of the Acquirer is held each by Alpha and TCGF. In this regard, based on the submission of the Acquirer, it is observed that Alpha and TCGF have control over the Acquirer, as per the decisional practices of the Commission.

6. It has been also submitted that the Acquirer currently holds 23.24% of the share capital of the Target.

7. Alpha, incorporated under the laws of Singapore, is an investment holding company and is a wholly owned subsidiary of Tata Capital Growth Fund Limited Partnership ("**TCGF LP**"), which in turn is entirely owned by global institutional investors. It is primarily engaged in making portfolio investments in companies.

8. TCGF is a domestic venture capital fund, established as an irrevocable trust under the Indian Trusts Act, 1882. TCL has been appointed as the investment manager to TCGF. TCGF is registered under SEBI (Venture Capital Funds) Regulations, 1996 and it is primarily engaged in making portfolio investments in companies.

9. It has been further submitted by the Acquirer that Janus is a private limited company, incorporated under the Companies Act, 1956. Janus is an investment company and is currently engaged in investment and trading in equity shares. While Janus is not a part of any group, the shareholders of Standard Greases holds more than 80% of the share capital of Janus. Further, Janus holds certain shares in Atlantic Lubricants & Specialities Pvt. Ltd. ("**Atlantic Lubricants**") (an associate company of the Acquirer). Currently, Janus holds 1.69% of the equity shares of the Target.

Detail about the Target:

10. As stated by the Acquirer, Tide Water, a company incorporated under the Companies Act, 1913, is listed on BSE and NSE. The current promoter of the Target Company is Andrew Yule & Company Limited. Tide Water is stated to be engaged in the manufacture and marketing of grease, lubricants and coolants which are used for automotive or industrial purposes under the brand name 'Veedol'. Further, the Target has entered into a joint venture with JX Nippon Oil and Energy Corporation, Japan, pursuant to which JX Nippon TWO Lubricants India Pvt. Ltd. has been incorporated in 2014 to manufacture and sell lubricants under the brand name 'ENEOS'.

Detail about the products manufactured by the parties:

11. The parties to the combination are, *inter alia,* engaged in the manufacture and/or sale of grease, lubricants, coolants, additives and base oil. Grease is a semi-solid

lubricant, applied to mechanisms that can only be lubricated infrequently and where lubricating oil would not stay in position. Lubricants are liquid substance introduced to reduce friction between surfaces in mutual contact, which ultimately reduces the heat generated when the surfaces move. A coolant is a heat transfer fluid designed to remove excess heat from an internal combustion engine. It also serves to prevent freezing and most importantly protection from corrosion. Base oil and additives are raw materials for the manufacture of grease and lubricants. Base oil constitutes 85-95 percent of grease and lubricants.

12. With respect to horizontal overlaps, the Acquirer has submitted that both the Acquirer and the Target are engaged in the business of manufacture and sale of grease, lubricants and coolants which are used for automotive and industrial purposes. In this regard, it has been submitted by the Acquirer that the market share of the Acquirer (including that of Atlantic Lubricants) and the Target in the business of manufacture and sale of grease and lubricants in India would not be significant. Moreover, there are number of competitors engaged in the manufacture and sale of grease and lubricants. Major competitors of the parties (along with their market share) are, namely, IOCL (less than 25%), BPCL (less than 10%), HPCL (less than 10%) and Valvoline Cummins Limited (less than 5%). Other competitors operating in these product segments are BP, Gulf Oil, Shell, Total and Fuchs. Further, there are number of manufactures such as Castrol, Shell, IOCL, HPCL, Gulf Oil, BPCL. S-CCI India Pvt. Ltd., Anand Automotive System Private Limited and Lubz Corporation (India) Pvt. Ltd. which are engaged in, *inter alia*, the manufacture and sale of coolants in India.

13. With respect to vertical relationships between the parties, it has been submitted that the Acquirer purchases base oil from the Target and in terms of the agreement between them, the Acquirer processes greases and lubricant for the Target. Thus, there exists vertical relationship between the Parties in grease, lubricants and base oils.

14. In this regard, it has been submitted by the parties that during FY 2015, the supply of grease and lubricants to the Target by the Acquirer accounted for about a quarter of the total requirement of the Target. Further, the said quantity supplied by the Acquirer comprised marginal proportion of its total manufacture and sale of grease and

lubricants during FY 2015. However, the said vertical relationship is not likely to result in vertical foreclosure as there are other producers of grease and lubricants in India like IOCL, BPCL, HPCL, Valvoline Cummins Limited, BP, Gulf Oil, Shell, Total and Fuchs; together public sector undertakings account for more than 40% of the market share in grease and lubricants.

15. In the case of base oils, the Acquirer has submitted that it purchases minimal quantity of base oils from Target. Further, as per the submission of the Target, it is not engaged in the manufacture of base oils in India. It appears that the Target also procures the said product from other manufacturers. Given that both the parties are not engaged in the manufacture of base oils and there are other manufacturers of base oils in India such as IOCL (less than 20%), HPCL (less than 20%), BPCL (less than 10%) there appears to be no competition concern in this segment.

16. The Acquirer is also stated to be engaged in the manufacture of Additives in India through Royal Castor Products Limited in which it holds certain equity share capital. It appears from the submissions of parties as well as information available in public domain that the Target is not engaged in the manufacture of additives. Accordingly, it is noted that there exists a potential vertical relationship in additives which, as aforementioned, along with the base oil, are used as raw material to manufacture greases and lubricants. However, the market share of the Acquirer in the said business during FY 2015 is negligible and there are other competitors present in India such as Lubrizol India Limited, Indian Additives Limited and Afton Chemicals Limited, there appears to be no likelihood of foreclosure in the said business.

17. The Acquirer has also submitted that neither Alpha nor TCGF have stake in any portfolio companies that are engaged in overlapping business and/or of base oils and/or additives. Janus is also not engaged in business of base oils and/or additives.

18. Considering the facts on record, the details provided in the notice and assessment of the proposed combination on the basis of factors stated 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 approves the proposed combination under sub-section (1) of Section 31 of the Act.

19. This Order shall stand revoked if, at any time, information provided by the Acquirer is found to be incorrect.

20. The Secretary is directed to communicate to the Acquirer accordingly.