



COMPETITION COMMISSION OF INDIA

(Combination Registration No.C-2015/11/339)

30.12.2015

Notice u/s 6 (2) of the Competition Act, 2002 given by ATC Asia Pacific Pte.Ltd. and Viom Networks Limited.

CORAM:

Mr. Sudhir Mital
Member

Mr. U. C. Nahta
Member

Mr. M. S. Sahoo
Member

Mr. G. P. Mittal
Member

Legal representative: M/s AZB & Partners and Cyril Amarchand Mangaldas

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

1. On 10th November 2015, 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 ('**Act**') given by ATC Asia Pacific Pte. Ltd. ("**ATC APP**") and Viom Networks Limited ("**Viom**"). (ATC APP and Viom are hereinafter together referred to as "**Parties**")
2. The Proposed Combination relates to the acquisition of a 51percent stake in the equity share capital of Viom by ATC APP, pursuant to a share purchase agreement dated 21st



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October 2015 (“SPA”) executed by and between ATC APP, American Tower International Inc., Viom and sellers¹.

3. ATC APP , a Singapore based company, is an indirect subsidiary of American Tower Corporation, USA (“ATC”) which is listed on the New York Stock Exchange (‘NYSE’). ATC, through its subsidiaries² operating in India, is *inter-alia* engaged in the business of providing passive infrastructure services to various telecom operators in India. For this purpose, ATC is registered with the Department of Telecommunications (‘DOT’) as an Infrastructure Provider Category – I (‘IP-I’) company. It currently operates approximately 14,000 towers in various circles across India.
4. Viom, a public company incorporated under the Companies Act, 1956, is inter-alia engaged in the business of providing passive infrastructure services to various telecom operators in India and is registered with the DOT as an IP-I company. It operates around 42,000 towers in various circles throughout India.
5. Telecom infrastructure in India is stated to be primarily divided into two broad categories: (i) active infrastructure which includes spectrum, switches and microwave equipment and, (ii) passive infrastructure which inter-alia constitutes telecom towers along with the facilities for power back-up. It has been stated that in terms of characteristics and intended use, passive infrastructure and active infrastructure are complementary products for provision of telecom services. Further, passive infrastructure can be provided on a sharing basis to the different telecom operators in the same circle. With regards to the telecom towers, it is observed that two categories of entities are allowed to create such infrastructure namely, IP-I registration holders and telecom service providers. While IP-I registrant is allowed to provide infrastructure throughout India, the telecom service providers can provide such infrastructure in the state of their license.

¹ Tata Tele Services Ltd. (‘TTSL’), SREI, Confident, Optimum, Right Towers, Resurgent, Aksayakala, QTIPL, Mr. Sunil Kanoria, Funderburk Mauritius Ltd., IDFCPE II, Indivest, Everest Capital (M) Ltd., The Infrastructure Fund of India. LLC, AMP Capital Asian Giants Infrastructure Fund, IIF.

²ATC APP operates in India through its following subsidiaries (i) ATC Tower Company of India Pvt. Ltd. (ii) ATC India Tower Corporation Pvt. Ltd (iii) Transcend Infrastructure Pvt. Ltd. (India) ATC Telecom Tower Corporation Pvt. Ltd.



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6. In this regard, as per the information provided in the notice and other documents on record, ATC APP and Viom are present in 22 circles³ and both ATC and Viom are in the business of providing passive infrastructure services. However, the exact delineation of relevant market is being left open as it is observed that the proposed combination is not likely to raise competition concerns in any of the alternative relevant markets in India.
7. As regards the presence of both the ATC and Viom in the provision of passive infrastructure services to telecom operators throughout India, it is observed that there are 574 IP-I service providers registered with the DoT indicating that there is no significant legal or regulatory barriers to enter into the business of providing passive infrastructure services. It has been submitted that currently, there are around four lakh telecom towers in India and the incremental market share as result of proposed combination is insignificant. Further, there are a number of players which includes both telecom operator backed tower companies, such as Indus Towers Limited, Bharti Infratel Limited, Reliance Infratel Limited, etc., independent tower companies, such as Tower Vision, Ascend Telecom Infrastructure Private Limited, GTL Infrastructure Limited as well as telecom service providers such as Bharat Sanchar Nigam Ltd., Vodafone, Idea which are engaged in provision of passive infrastructure services.
8. As regards vertical relationships, it is observed from the information submitted by Acquirer that there is no vertical relationship between them. Further, the TTSL which will continue to be a shareholder in Viom is a telecom service provider and it is a potential customer of the combined entity post-combination; however, the potential vertical relationship emanating from the proposed combination would also not give rise to any concerns considering that there are number of other competitors providing similar services.
9. 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

³Parties have submitted that the DOT has divided the country into 22 telecom circles.



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any appreciable adverse effect on competition in India and therefore, the Commission hereby approves the combination under sub-section (1) of Section 31 of the Act.

10. This order shall stand revoked if, at any time, the information provided by the Parties is found to be incorrect.
11. The Secretary is directed to communicate to the Parties accordingly.