



COMPETITION COMMISSION OF INDIA

(Combination Registration No.C-2015/12/349)

15.01.2016

Notice filed by Schulke & Mayr GmbH (“Schulke Germany”)

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

CORAM:

Mr. S. L. Bunker

Member

Mr. Sudhir Mital

Member

Mr. Augustine Peter

Member

Mr. U. C. Nahta

Member

Mr. G. P. Mittal

Member

Legal representative: Khaitan & Co.

1. On 07.12.2015, the Competition Commission of India (“**Commission**”) received a notice given by Schulke Germany (“**Notice**”). As per the information given in the Notice, the proposed combination relates to the acquisition of healthcare antiseptics solutions business (“**HAS Business**”) of Ethicon, Inc. (“**Ethicon**”), a wholly owned subsidiary of Johnson & Johnson, USA (“**J&J**”), by Schulke Germany. For the purpose of the proposed combination, Schulke Germany and Ethicon entered into an Asset Purchase Agreement on



COMPETITION COMMISSION OF INDIA



Fair Competition
For Greater Good

25.03.2015 (“**Global APA**”). It has been submitted that pursuant to the terms of the Global APA, Schulke India Private Limited (“**Schulke India**”), a subsidiary of Schulke Germany and Johnson & Johnson Private Limited (“**JJPL**”), a wholly owned subsidiary of J&J, subsequently entered into a Country Transfer Agreement (“**CTA**”) for the transfer of JJPL’s HAS Business in India to Schulke India on 11.09.2015.

2. The proposed combination falls under Section 5(a) of the Act.
3. Schulke Germany is stated to be a wholly owned subsidiary of Air Liquide Deutschland GmbH (“**Air Liquide**”) and a part of the Air Liquide group of companies. Schulke Germany directly conducts only Special Additive International (“**SAI**”) business under which it sells preservative / technical biocide products for market segments such as personal care, metal working fluids, oil exploration and concrete admixtures. It has been submitted that Schulke Germany conducts most of its activities in India through Schulke India which is currently involved in the business of sale, purchase, development and trade of ‘Schulke & Mayr’ products. These products mainly comprise of various kinds of chemicals, drugs, compounds, household and commercial disinfectants, antiseptics, medical and surgical devices, etc.
4. Ethicon is stated to be a wholly owned subsidiary of J&J. It has been submitted that Ethicon does not conduct any activity in India, either directly or through any subsidiary, and its products are sold in India through JJPL. Thus, in India, the HAS Business is conducted by Ethicon through JJPL. JJPL is engaged in the business of manufacturing, marketing, distribution and sales of various healthcare and baby care products through J&J’s three business divisions namely, consumer healthcare, medical devices and diagnostics, and pharmaceuticals. The HAS Business which is to be sold pursuant to the proposed combination is a part of the medical devices segment of JJPL.
5. It has been submitted that Schulke Germany, through Schulke India, is active in the market of distribution of antiseptics and disinfection products for human use such as hand, skin, wounds, surgical preparations, skin care etc. (“**Human A&D Products**”), as well as non-human use such as surfaces and instruments. Ethicon is also active in the market for manufacture and distribution of antiseptics and disinfectants for human as well as non-



COMPETITION COMMISSION OF INDIA



Fair Competition
For Greater Good

human use. However, in India, Ethicon, through JJPL, is active in the market of manufacture and distribution of Human A&D Products only. The Acquirer has submitted that Human A&D Products comprises hand and skin disinfectants both of which have the same basic functionality, i.e. reduction/elimination of the colonization of germs on the external surface of the human body with as little irritation to the skin as possible. Therefore, the proposed combination concerns only the market for Human A&D Products in India.

6. As per the information given in the Notice, the combined market share of the parties in the market of Human A&D Products is [5-10] per cent in terms of volume and [10-15] per cent in terms of value. Moreover, the incremental market share resulting from the proposed combination is [0-5] per cent only. It has been further submitted that the parties to the proposed combination are at present not engaged in any activities relating to the HAS Business which are at different levels of the same production chain vis-à-vis each other.
7. It has been further submitted that the SAI business of Schulke Germany is unrelated to the HAS Business being acquired by it under the proposed combination. Further, the Air Liquide group has certain subsidiaries in India which are engaged in businesses that are completely separate from the HAS business and have no vertical or horizontal links to the HAS business whatsoever. In view of the foregoing, it is noted that the other businesses of Schulke Germany or its parent entity have no horizontal overlap or vertical links with the HAS Business being acquired.
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 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 hereby approves the same under sub-section (1) of section 31 of the Act.
9. This order is issued without prejudice to any proceedings under Section 43A of the Act.



COMPETITION COMMISSION OF INDIA



Fair Competition
For Greater Good

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