



COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2016/04/386)



23.06.2016

Notice under Section 6 (2) of the Competition Act, 2002 given by

- **B.S.A. International SA**

CORAM:

Mr. S. L. Bunker
Member

Mr. Sudhir Mital
Member

Mr. U.C. Nahta
Member

Mr. G. P. Mittal
Member

Legal representative: Cyril Amarchand Mangaldas

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

1. On 05.04.2016, the Competition Commission of India (“**Commission**”) received a notice under sub-section (2) of Section 6 of the Competition Act, 2002 (“**Act**”) filed B.S.A. International SA (“**Acquirer**”). The notice was filed pursuant to the execution of a Slump Sale Agreement (“**SSA**”) on 07.03.2016 amongst the Acquirer and Anik Industries Limited (“**Anik**” or “**Seller**”) (the Acquirer and the Seller are hereinafter collectively referred to as the “**Parties**”).
2. The proposed combination relates to the acquisition, by the Acquirer, of the dairy business of Anik which comprises the manufacture, sale, marketing and distribution of milk and milk related products (“**Target Business**”).
3. The Proposed Combination falls under Section 5(a) of the Act.



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4. While filing the notice, the Acquirer submitted an undertaking, under Regulation 14 of the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011 (“**Combination Regulations**”) to provide certain information/documents by 08.04.2016. The said information was submitted on 06.04.2016. Further, in terms of Regulation 14 of the Combination Regulations, *vide* letter dated 26.04.2016, the Acquirer was required to remove certain defects and provide information/document(s) by 28.04.2016. The Acquirers filed their response on 12.05.2016, after seeking extension of time. The Acquirer was asked to provide certain clarifications which were submitted on 14.06.2016.
5. The Acquirer is a company incorporated under the laws of Belgium and stated to be a part of Lactalis group based in France. Lactalis group is present across all the categories of the dairy market. The Acquirer is present in India through its subsidiary Tirumala Milk Foods Pvt. Ltd. (“**Tirumala**”) which is engaged in the production and manufacture of liquid milk and milk products.
6. Anik is a listed company engaged primarily in three sectors i.e. dairy, power generation and trading of coal and agro commodities. However, proposed combination relates only to the dairy business of Anik.
7. On the basis of information given in the notice, it is observed that the activities of the Parties overlap only in relation to: (a) Liquid Milk and (b) Ghee. It has further been submitted in the notice that within the dairy market, Anik also has presence in milk powder segment; however, the Acquirer does not operate in the same.

Liquid Milk

8. It has been submitted that relevant product market is the market for the sale of liquid milk as both the Parties are engaged in the sale of liquid milk. In this regard, it is noted that liquid milk can be categorized into two segments i.e. processed milk and raw milk. Processed milk is the raw milk which has been processed through sterilization or other processes and is associated with the organized segment in the market of liquid milk as against raw milk which is associated with the unorganised segment in the market of liquid



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milk. Therefore, on the basis of customer preference, prices and the market structure, a distinction can be made between processed milk and raw milk for defining relevant product market. However, the exact delineation of relevant market is being left open as the proposed combination is not likely to raise competition concerns in any of the alternative relevant markets in India.

9. Further, as per the submissions in the notice, Anik distributes liquid milk only in the States of Madhya Pradesh and Rajasthan whereas the Acquirer operates through Tirumala in the States of Andhra Pradesh, Karnataka, Tamil Nadu and Telangana. The Acquirer has submitted that liquid milk, being a perishable product, cannot be transported across large distances, which makes the market for liquid milk regional in nature. Therefore, if the State boundaries are considered as relevant geographic market, then there is no overlap between the Acquirer and the Target Business. In this regard, it is also noted that as per the information provided, the market share of the Parties is not significant in any of these states. Accordingly, even if the relevant geographic market is expanded to include two or more contiguous States, the proposed combination is not likely to result in any competition concern as the market share of the Parties remains insignificant.

Ghee

10. In relation to the market for Ghee, it is noted that the Ghee market is characterised by presence of both organized and unorganized players. Accordingly, the relevant product market may be differentiated on the basis of organised or unorganised nature of the market. The Parties have also submitted that Ghee has a long shelf life and can be transported long distances with ease without requiring refrigeration. Therefore, relevant geographic market is entire territory of India. However, the exact delineation of relevant market in this regard 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.
11. On the basis of information provided in the notice, it is noted that the market shares of the Parties in (a) organised segment or (b) organised and unorganised segments (combined), is insignificant to raise any competition concerns.



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12. In relation to vertical overlaps, it is noted that both the Acquirer and the Seller operate in the upstream market of liquid milk as well as in the downstream market of Ghee. However, since the Parties do not have significant market shares in upstream market as well as downstream market, the proposed combination is not likely to result in any vertical foreclosure.
13. Considering the facts on record, 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.
14. This order shall stand revoked if, at any time, the information provided by the Acquirer is found to be incorrect.
15. The Secretary is directed to communicate to the Acquirer accordingly.