



Fair Competition
For Greater Good

COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2016/08/423)

26th October, 2016

**Notice filed under sub-section (2) of Section 6 of the Competition Act, 2002 bearing
Registration no. C-2016/08/423, by MCPI Holdings Ltd.**

CORAM:

Mr. Devender Kumar Sikri
Chairperson

Mr. S. L. Bunker
Member

Mr. Sudhir Mital
Member

Mr. U. C. Nahta
Member

Mr. G. P. Mittal
Member

Legal Representative: Nishith Desai Associates

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

1. On 23rd August, 2016, the Competition Commission of India (“**Commission**”) received a notice under sub-section (2) of Section 6 of the Competition Act, 2002 (“**Act**”) given by MCPI Holdings Limited (“**MCPI**” or “**Acquirer**”). The notice has been filed pursuant to a Share Purchase Agreement (“**SPA**”) executed on 27th July, 2016 amongst Mitsubishi Chemical Corporation (“**MCC**”), Chatterjee Management Company (“**CMC**”) (on behalf of MCPI¹) and

¹ By a SPA Purchaser Nominee Deed dated 11th August, 2016, MCPI, owned by Mr Purnendu Chatterjee, has agreed to perform and comply with all obligations of CMC under the SPA as if it were a party thereto.



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MCC PTA India Corp. Private Limited (“**MCCPTA**”). On the same day, a Shareholders Agreement (“**SHA**”) was signed between the parties.

2. The proposed combination is structured as an acquisition of shares of MCCPTA by MCPI. Currently, 95 percent of the share of MCCPTA is held by MCC and remaining 5 percent is held by West Bengal Industrial Development Corporation (“**WBIDC**”). Prior to the proposed combination, MCC will acquire 4.4 percent shares from WBIDC and hence, shareholding of MCC in MCCPTA will go up to 99.4 percent. WBIDC would continue to hold 0.6 percent shares in MCCPTA.
3. The proposed combination entails the following steps: (i) Acquisition by CMC (through MCPI) of approximately 90.4 per cent of shareholding in MCCPTA from MCC; and (ii) Purchase of an additional 9% stake in MCCPTA by MCPI, by exercise of the call option by MCPI or put option by MCC.
4. CMC, incorporated under the laws of Delaware, USA and headquartered in New York, is a private equity investment management company of the Chatterjee Group (“**TCG**”). TCG is engaged in the business of petrochemicals, real estate, life sciences and information technology. Entities of TCG are controlled by Dr Purnendu Chatterjee.
5. MCPI, incorporated in Mauritius, has its registered office at Port Louis, Mauritius. MCPI, an entity of TCG, is controlled by Dr Purnendu Chatterjee.
6. MCCPTA, incorporated under the Companies Act, 1956, has its registered office in Kolkata and is engaged in the business of manufacturing and selling of Purified Terephthalic Acid (“**PTA**”) in India. As stated, MCCPTA does not have any subsidiaries in India.
7. MCC, a Fortune 500 company, is one of the diversified chemical companies of Japan and has operations in about 50 countries across the globe. It is stated to be one of the world’s largest producers of PTA. MCC set up its own PTA manufacturing facility in Haldia, West Bengal in 1997.



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8. In terms of Regulation 5(6) of the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011 (“**Combination Regulations**”), *vide* letter dated 23rd August, 2016, MCPI had undertaken to submit, *inter alia*, details about competitors of the parties at a later date. The Acquirer submitted the requisite information on 30th August, 2016. Further, in terms of Regulation 14 of Combination Regulations, *vide* letter dated 12th September, 2016, MCPI was required to remove certain defects and provide requisite information/document pertaining to, *inter alia*, rights held by WBIDC, MCC in MCCPTA before and during the proposed combination and details about horizontal or vertical relationship. The requisite information was submitted on 27th September, 2016, after seeking extension of time.
9. The Commission observes that SHA contains certain reserved matters in relation to MCCPTA such as, *inter alia*, entering into any corporate transaction like acquisition, amalgamation, joint venture *etc.* and entering into any contract, commitment, transaction or arrangement outside the ordinary course of business which carries exposure over certain sum of money, for which prior written consent of MCC is required till the time MCC holds 9 percent in MCCPTA. Based on its decisional practice the Commission notes that these rights may confer joint control to MCC over MCCPTA, till the time MCC holds 9 percent.
10. PTA, the product manufactured by MCCPTA, is a white, free flowing crystalline powder, free from any visual contamination and part of the fibre intermediate segment of petrochemicals industry. The main raw materials used for producing PTA are paraxylene and acetic acid which are provided by refining companies. PTA is used in the production of polyester and polyethylene terephthalate (“**PET**”). PTA applications can be found in plastic containers (made of PET) for beverages, food and electronics, apparel, home textiles, carpets and industrial fiber products, audio and video recording tapes and photographic films.
11. The Commission, based on the submissions of MCPI, observes that TCG does not, directly or indirectly, manufacture or distribute any products which are similar, identical or



- substitutable with the products (i.e. PTA) manufactured by MCCPTA. Further, MCPI submitted that none of the entities of TCG, directly or indirectly, are engaged in the manufacture of paraxylene and acetic acid. Also, TCG does not have portfolio investment in any company which is engaged in the manufacture of paraxylene, acetic acid or PTA.
12. The Commission observed that PTA is a homogenous product and has no substitutes which can be regarded as interchangeable or substitutable by the consumer, by reason of its characteristics, prices and intended use. Accordingly, the relevant product market is delineated as manufacturing and sale of PTA. As per MCPI's submissions, MCCPTA supplies PTA to its customers located across India. Hence, the relevant geographic market pertains to India. Thus, the relevant market is delineated as market for manufacture and sale of PTA in India.
 13. The Commission observed that the market share of MCCPTA is 20 – 25 percent in India. However, competitors of the parties (along with indicated market share) include Reliance (60 – 65 percent), Indian Oil Corporation (5 – 10 percent) which would continue to provide competitive constraint to the parties, post combination.
 14. In relation to vertical relationship, it has been submitted by the parties that MCCPTA is currently procuring acetic acid and paraxylene from MCC and its wholly owned subsidiary. However, this arrangement is for a limited time period and is not likely to raise any competition concern. Further, none of the entities of TCG are engaged in the manufacture or sale of products that are manufactured from PTA. Thus, there does not exist any concern on account of existing vertical relationship between the parties.
 15. Considering the facts on record and details provided in the notice given under sub-section (2) of Section 6 of the Act, assessment 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 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.



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16. This order shall stand revoked if, at any time, the information provided by the Acquirer is found to be incorrect.
17. The information provided by the Acquirer is confidential at this stage in terms of and subject to provisions of Section 57 of the Act.
18. The Secretary is directed to communicate to the Acquirer accordingly.