



सत्यमेव जयते



COMPETITION COMMISSION OF INDIA

(Combination Registration No. C-2020/07/755)

26th August, 2020

Notice under Section 6(2) of the Competition Act, 2002 filed by Comfort Investments II

CORAM:

Mr. Ashok Kumar Gupta
Chairperson

Ms. Sangeeta Verma
Member

Mr. Bhagwant Singh Bishnoi
Member

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

1. On 08.07.2020, the Competition Commission of India (**Commission**) received a notice (**Notice**) under Section 6(2) of the Competition Act, 2002 (**Act**), filed by Comfort Investments II (**CI-II/ Acquirer**). The Notice is filed pursuant to Investment Agreement (**Agreement**) dated 01.07.2020 signed between Acquirer, Nxtra Data Limited (**Nxtra Data/ Target**) and Bharti Airtel Limited (**Bharti Airtel**). Hereinafter, Acquirer and Nxtra Data will be referred to as "**Parties**".
2. The proposed transaction relates to the acquisition of compulsorily convertible preference shares (**CCPS**) and equity shares of Nxtra Data by the Acquirer. (**Proposed Combination**).
3. The Commission sought certain information(s)/ clarification(s) necessary for assessing the Proposed Combination from the Parties on 06.08.2020; response to these were received on 11.08.2020. Further, 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**), the Commission *vide* its email dated 13.08.2020, sought certain information /clarification(s) *inter alia*, relating to activities of the Parties; response to the same was received on 20.08.2020 (**Response**).

4. CI-II, an investment company, incorporated in Mauritius and is said to be specifically created for the purposes of the Proposed Combination. It is owned and controlled by investment funds advised by affiliates of the Carlyle Group Inc. which is the ultimate holding company (**Carlyle Group**).
5. The Carlyle Group is a global alternative asset manager, which manages funds that invest globally across multiple investment disciplines such as: (i) corporate private equity, (ii) real assets (real estate, infrastructure and energy and renewable resources), (iii) global credit, and (iv) solutions (private equity fund of funds program and related co-investment and secondary activities).
6. Nxtra Data is wholly owned subsidiary of Bharti Airtel Limited, incorporated in India. It is stated that Nxtra Data *inter alia*, provides services such as data center colocation, IT Hardware supply, installation and support.
7. With regard to horizontal overlaps, it is submitted in the notice that neither CI-II nor any of the entities controlled by or belonging to the Carlyle Group are engaged in any business activity which could be considered as similar/ substitutable to Nxtra Data's business activities.
8. In relation to vertical relationship, it is submitted that Carlyle Group has controlling stake in two entities namely, Veritas Technologies India Private Limited (**Veritas**) and Syniverse Technology Services India Private Limited (**Syniverse**) which employs the services of Nxtra Data.
9. Veritas is engaged in the business of developing, manufacturing and selling storage software products. It offers solutions for backup and recovery, disaster recovery, storage management, business continuity, archiving and eDiscovery. Syniverse is stated to provide a range of mobile transaction products and services, focused on



- mobile network operator and enterprise customers. The business provides wireless number portability, data clearing, messaging, signalling and roaming services to mobile network operators to facilitate carrier interconnection and interoperability globally.
10. With regard to existing vertical relationships, it is stated that Nxtra Data, at the upstream level, is *inter alia*, providing data center colocation services to Veritas and Syniverse. It is also stated that the Nxtra has only recently transacted with Veritas.
 11. For the purpose of competition assessment of Proposed Combination, the Parties provided presence of Nxtra Data in the “market for provision of data center colocation services in India” as the ‘**Upstream Segment**’; Parties also provided Veritas’ presence in the ‘market for provision of Back-up & Recovery Software in India’ as “**Downstream Segment-1**” and Syniverse’s presence in the ‘market for provision of mobile network services and solutions in India’ as “**Downstream Segment-2**”.
 12. The Commission observed that the above segments (Upstream or Downstream) may be further sub-segmented. For example, Upstream Segment may be segmented on the basis of each type of service provided such as Managed Hosting Services, Remote Infrastructure Management, Cloud and Disaster Management. Additionally, Cloud services may be further segmented on the basis of public, private and backup cloud. Further, the relevant geographic market may be narrowed down to region, state or city level in certain product sub-segments. However, the Commission decided to leave the definition of the relevant market open, as the material on record do not suggest that the Proposed Combination is likely to have AAEC in any segments or sub-segments, in India.
 13. Based on the submissions, it is noted that Nxtra Data’s market share in the Upstream Segment is in the range of 20-25 percent and there are other players such as STT GDC, NTT, Sify, CtrlS who will continue to pose competitive constraints to Nxtra Data. Further, it is also noted that the existing vertical relationship between Nxtra and Veritas / Syniverse is not such to raise any competition concern.
 14. It is noted that market share of Veritas is in the range of 10-15 percent in Downstream Segment-1 and there are other players such as DELL, IBM, Commvault, Veeam



present in the Segment. With regard to Syniverse, it is noted that the market share of Syniverse is in the range of 15-20 percent in Downstream Segment-2 and there are other players such as iConnective, SAP, Ericsson, Tata, FT, BICS, GMS, Mobilium present. In view of the submissions, it appears that the Proposed Combination is not likely to raise any foreclosure concern in any of the segments identified above.

15. Considering the material on record including the details provided in the Notice and the assessment of the Proposed Combination on the basis of factors stated in Section 20(4) of the Act, the Commission is of the opinion that the Proposed Combination is not likely to have any appreciable adverse effect on competition in India. Therefore, the Commission approves the Proposed Combination under Section 31(1) of the Act.
16. The Commission also notes that the non-compete clause is not ancillary to the Proposed Combination.
17. This order shall stand revoked if, at any time, information provided by Acquirer is found to be incorrect.
18. The information provided by Acquirer is confidential at this stage, in terms of and subject to the provisions of Section 57 of the Act.
19. The Secretary is directed to communicate to the Acquirer, accordingly.