



COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2019/01/629)

Dated: 6th March, 2019

Notice under Section 6 (2) of the Competition Act, 2002 jointly given by Radiant Life Care Private Limited (Radiant), Kayak Investments Holding Pte. Limited (Kayak), Max Healthcare Institute Limited (MHIL) and Max India Limited (MIL)

CORAM:

Mr. Ashok Kumar Gupta
Chairperson

Mr. U. C. Nahta
Member

Ms. Sangeeta Verma
Member

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

1. On 9th January, 2019, the Competition Commission of India (**Commission**) received a Notice under sub-section (2) of Section 6 of the Competition Act, 2002 (**Act**), jointly given by Radiant Life Care Private Limited (**Radiant**), Kayak Investments Holding Pte. Limited (**Kayak**), Max Healthcare Institute Limited (**MHIL**) and Max India Limited (**MIL**). [Radiant, Kayak, MHIL, MIL are collectively referred to as "**Parties**"]. The Notice has been filed pursuant to various agreements executed between the Parties and amongst others on 24th December, 2018.



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2. 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**), *vide* letter dated 25th January, 2019 and 12th February, 2019, certain information and clarifications, *inter alia*, about the overlapping services and rights to be acquired as a result of Proposed Combination were sought from the Parties. The response to this was filed by the Parties on 11th February, 2019 and 15th February, 2019, respectively, after seeking an extension of time.

3. The Proposed Combination consists of following steps involving an acquisition, merger and demerger:
 - 3.1. *Step 1* - Subscription of additional shares by Kayak in Radiant.
 - 3.2. *Step 2* - The acquisition by Radiant of entire shareholding of Life Healthcare International Proprietary Limited (**LHIPL**) in MHIL (amounting to 49.70% of the total issued and subscribed share capital of MHIL).
 - 3.3. *Step 3* - A composite scheme of arrangement (**Scheme**) which contemplates (a) the demerger of all non-healthcare business assets/ and other non-MHIL related assets of Max India Limited (MIL) into NewCo, which will be a wholly owned subsidiary of MIL, with its registered office at Mumbai, Maharashtra. (b) demerger of Radiant's healthcare business into MHIL and (c) merger of MIL into MHIL (**MergedCo**), with a view to achieving consolidation of the healthcare businesses of MIL and Radiant in MHIL.
 - 3.4. *Step 4*: Upon the Scheme becoming effective, Kayak or its nominee will purchase from Max Ventures Investment Holdings Private Limited, one of the promoter entities of MIL (**Seller**) shares held in MergedCo. amounting to 4.99% of the issued and paid up capital of MergedCo.



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4. 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**), *vide* letter dated 16th October, 2018, certain information and clarifications, *inter alia*, about the overlapping services were sought from the Acquirer. The response to this was filed by the Acquirer on 22nd October, 2018, after seeking an extension of time.
5. **Kayak and KKR Group:** Kayak is a Singapore based private limited company. Kayak is an affiliate of KKR & Co. and is primarily engaged in holding investments. KKR's affiliated private equity funds invest in companies in a variety of sectors.
6. **Radiant** is a private limited company incorporated under the provisions of the Companies Act, 1956 and is engaged in developing, redeveloping, managing and operating health care facilities. At present, Radiant operates and manages BLK Super Specialty Hospital (**BLK**) in New Delhi and Dr. Balabhai Nanavati Hospital (**Nanavati Hospital**) in Mumbai (through its subsidiary named Radiant Life Care Mumbai Private Limited. It has been submitted that Radiant is jointly owned by the KKR group and Mr. Abhay Soi.
7. Radiant also holds investments in (i) Infrahealth Pte. Ltd., Singapore, (ii) Radiant Life Care Lucknow Private Limited, (iii) Radiant Life Care Foundation, and (iv) Neo Legno Capital Advisors LLP. It is stated that these entities are involved in general business consulting and healthcare consulting in India.
8. **MHIL** is a joint venture between MIL and LHIPL and is engaged in the business of providing healthcare services through a network of 14 hospitals in Delhi (including NCR), Mohali, Dehradun and Bhatinda¹; and other services

¹Max Super Speciality Hospital, West Block Saket; Max Super Speciality Hospital, Shalimar Bagh; Max Multi Speciality Centre, Pitampura; Max Multi Speciality Hospital, Noida; Max Multi Speciality Centre, Panchsheel Park; Max Hospital,



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such as diagnostic services, pharmacy services and construction of hospitals. Both MIL and LHIPL hold 49.70% each in MHIL.

9. MHIL has controlling investments in Crosslay Remedies Limited (77.95%)², Alps Hospital Limited (a wholly owned subsidiary)³, Hometrail Buildtech Private Limited (a wholly owned subsidiary)⁴ and Saket City Hospital Private Limited (a wholly owned subsidiary)⁵.
10. **MIL:** MIL (formerly known as Taurus Ventures Limited) is a public listed company duly incorporated under the laws of India, and its equity shares are listed on the National Stock Exchange (NSE) and Bombay Stock Exchange (BSE). MIL is a part of the Max group⁶, an Indian conglomerate present in life insurance, health and allied businesses. MIL holds investments in MHIL, Max Bupa Health Insurance Company Limited (**Max Bupa**), and Antara Senior Living Limited (**Antara**) (collectively, **MIL Group Companies**)⁷. MIL also provides functional support services to the MIL Group Companies and Max Group Companies⁸.
11. **MergedCo:** The objective of the Scheme is to achieve consolidation of the healthcare business activities carried on by Radiant and MHIL by ultimately creating a standalone listed entity i.e., MergedCo, which will exclusively be engaged in healthcare activities. It will house all the hospitals of Radiant and MHIL.

Gurgaon; Max Super Speciality Hospital, Vaishali; Max Super Speciality Hospital, Dehradun; Max Super Speciality Hospital, Bhatinda; and Max Super Speciality Hospital, Mohali.

² Owns, operates, maintains and runs Max Hospital in Vaishali, Ghaziabad

³ Operates, maintains and runs Max Hospital in Gurgaon

⁴ Operates, maintains and runs Max Hospitals in Bhatinda and Mohali

⁵ Provides medical services to Max Hospital in Saket, Delhi

⁶The Max group includes Max Financial Services Limited, MIL and Max Ventures India Limited (collectively, **Max Group Companies**).

⁷As mentioned in paragraph 2.3.1, pursuant to Proposed Demerger 1, Max Bupa and Antara along with their subsidiaries will be demerged from MIL into NewCo. Hence, for the purpose of the Proposed Combination, the Parties have only considered MIL's presence in the market for providing healthcare services through its shareholding in MHIL.

⁸Including Max Life Insurance (a joint venture of Mitsui Sumitomo Insurance (MSI) and Max Financial Services Limited)



Relevant Product Market:

12. As per the Parties, the market for provision of healthcare services through hospitals comprises (i) primary care, (ii) secondary care, (iii) tertiary care, (iv) quaternary care and (v) diagnostic and other ancillary services. As per the Parties, consumers do not differentiate between any of these services, and avail these services at an integrated level. Moreover, given the minimal overlap between the Parties and the negligible incremental market share as a result of the Proposed Combination, the Parties have submitted to leave the relevant market definition open. In the alternative, for competition analysis in relation to the Proposed Combination, the Parties have proposed the definition of relevant product market as “*market for provision of healthcare services through hospitals*”.
13. Referring to an earlier combination case⁹, the Parties in their market delineation have included corporate hospitals, standalone private multi-specialty hospitals, private/semi private beds of trust/autonomous hospitals. Beds allocated for the treatment of the Economically Weaker Sections (“EWS”) have been excluded. Similarly, smaller hospitals and nursing homes (fewer than 100 beds) have also been excluded in the relevant operational bed count.
14. The Parties exhibit a horizontal overlap in each of the four broad segments of care namely primary, secondary, tertiary and quaternary. The Commission noted that the above mentioned terminologies are used only by convention and there are no defined level of care at any of these four degrees of care. It is stated that as such, there are no clearly delineated parameters differentiating some medical treatments from others. The Commission in an earlier

⁹ Comb Reg. No. C-2018/09/601



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combination case¹⁰ observed that while primary and quaternary treatments are relatively well defined, the treatments offered at the secondary and tertiary level often cannot be strictly compartmentalised. In this regard, it has been submitted that most hospitals provide comprehensive and integrated healthcare services which include out-patient services, in-patient services, diagnostic services, pharmacy services etc. Therefore, the manner in which healthcare services are provided by hospitals is typically integrated across multiple specialties and services.

15. At a broad level of hospitals, the Parties have provided market share data on the basis of number of operational beds in hospitals which may be used as a metric to assess the market power because it depicts the overall infrastructure of the players in the market. However, for secondary/tertiary care, the Commission observed that it is the procedures or specialities offered by the hospital which attracts the patients and hence, the volume of procedures carried out may also be a good metric and therefore may also be used to assess the markets for competition purposes. Further, the Parties have provided market share data on number of specialist doctors as well. The Parties have identified organ and tissue transplants as procedures at the quaternary level of care and each of these procedures can be assessed separately as segments. In view of the above, the Commission has carried out the assessment in terms of total number of hospitals, total number of relevant operational beds and number of procedures (volumes) for secondary, tertiary and quaternary procedures separately.
16. Furthermore, the Commission decided to leave the exact delineation of relevant product market open as it was observed that the Proposed Combination is not likely to cause appreciable adverse effect on competition in any of the possible alternative relevant markets that could be delineated.

¹⁰ *ibid*



Relevant Geographic Market:

17. The Parties provide overlapping healthcare services through their hospitals which overlap only in one city of India, namely, Delhi. However, the Parties have provided information pertaining to Delhi (including NCR) also. The Commission has considered both Delhi and Delhi (including NCR) for the purpose of assessing the Proposed Combination at a broader level of hospitals and at the level of specialties.
18. The Commission, based on discussions with healthcare professionals in an earlier combination case and information available in the public domain, observed that the market for quaternary procedures such as transplants of heart, liver, lungs etc. are at a very nascent stage in India and considering their nature, such procedure(s) at this stage may not give rise to competition concerns.
19. In view of the foregoing, the Commission is of the opinion that the delineation of the relevant geographic market may be left open.
20. **Vertical Overlaps:** It is stated that the Parties do not have any vertical relationships. However, it is submitted that KKR has an investment in Panasonic Healthcare Co., Ltd. (**PHC**) which is engaged in sale of healthcare devices and services in the form of in vitro diagnostic devices and life science devices and services, which it sells worldwide. However, the Commission noted that this vertical overlap is insignificant to cause any foreclosure of competition in market.
21. It is also stated that while MHIL, through 'Max Labs', offers standalone diagnostics services, Radiant does not operate any standalone diagnostic centres / pharmacies etc. In this regard, the Commission noted that most tertiary hospitals have in-house diagnostic capabilities and apart from above



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there are large organized players including SRL Diagnostics, Thyrocare, Dr Lal Pathlabs. Further, there exist a huge segment of unorganised and fragmented players in retail diagnostic market.

22. **Competition Assessment:** The Commission noted that the segments of primary care service providers and to a large extent secondary care service providers are highly fragmented with very low individual market share for each primary care and secondary care service provider.
23. It is stated in the notice that the Parties' services overlap in Delhi (including NCR) and Delhi and these market appears to be well supplied with multiple large tertiary hospitals. As already mentioned in the preceding paragraphs, at a broader level, the Parties have provided data on private operational beds as a metrics reflecting the current state of available supply of healthcare infrastructure. Based on the details of operational beds provided by the Parties, the combined market shares of the Parties was not at a level so as to raise any competitive concerns.
24. At a narrower level of specialities / procedures, such as cardiac care, neurosciences, orthopaedics, renal sciences and oncology, market shares have been assessed based on the total number of procedures carried out by all relevant hospitals (i.e. tertiary corporate hospitals, standalone hospitals and trusts/autonomous hospitals as well as secondary – small hospitals and nursing homes) in overlapping areas i.e. Delhi and Delhi (including NCR). Either the combined market shares of the Parties post the Proposed Combination, or incremental share post the Proposed Combination across overlapping specialities is not significant in the overlapping areas. Apart from above, the Commission noted that the combined entity will face significant competitive pressure from other competing players such as Apollo Hospitals, Fortis, Medanta and Sir Gangaram Hospital. In view of the above, there will be no significant change in the competitive dynamics in any market in India.



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25. In relation to the overlaps identified at the quaternary level of care such as organ transplants (heart, liver, kidney) and tissue transplants (bone marrow), it is noted that these surgeries are highly specialized, life-threatening procedures which require a multi-disciplinary approach for treatment. From a patient's perspective, the choice of a hospital is based on perceived expertise of the doctor and likelihood of success of the procedure – both these factors are essentially driven by the primary doctor involved in the procedure. Only a few doctor teams have been able to build a large experience profile over the last decade. It is also stated that patients are often willing to travel large distances across the country to get themselves treated by a “specific” doctor team.
26. The Parties have provided information on the basis of number of procedures carried out in relation to each overlapping transplant. There is negligible increment as a result of the Proposed Combination. Further, such segments of the transplant procedure(s) are currently at a very nascent stage and are growing rapidly.
27. Considering the facts on record, 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 the 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 any 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.
28. This order shall stand revoked if, at any time, the information provided by the Acquirer is found to be incorrect.
29. The information provided by the Acquirer is confidential at this stage in terms of and subject to provisions of Section 57 of the Act.



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30. The Secretary is directed to communicate to the Acquirer accordingly.

(U. C. Nahta)
Member

(Sangeeta Verma)
Member

(Ashok Kumar Gupta)
Chairperson