



Fair Competition
For Greater Good

COMPETITION COMMISSION OF INDIA
(Combination Registration No. C- 2016/11/461)

04.01.2017

**Notice filed under sub-section (2) of Section 6 of the Competition Act, 2002 jointly given by
Koch Industries Inc. and Guardian Industries Corp.**

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: AZB & Partners

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

1. On 30.11.2016, 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 Koch Industries Inc. (“**KII**”) and Guardian Industries Corp. (“**Guardian**”) (hereinafter KII and Guardian are collectively referred to as the “**Parties**”). The notice was filed pursuant to the execution of Agreement and Plan of Merger between the Parties dated 25.10.2016 and Board



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resolutions passed by the Parties, each dated 25.10.2016. The Parties have submitted that the filing fee was remitted to the Commission on 22.11.2016 which could be credited in the account of the Commission only on 30.11.2016, leading to a delay in filing of notice by 5 days. The Commission considered the submissions of the Parties along with the supporting documents and decided to admit the notice without initiating proceedings under the provisions of Section 43A of the Act.

2. At present, KII, (through its affiliates) owns 44.50 percent outstanding shares of Guardian. The proposed combination involves acquisition of remaining 55.50 percent outstanding shares of Guardian by KGIC Merger Corporation, a wholly owned subsidiary of KII. Thus, pursuant to the proposed combination, KII would acquire the sole ownership of Guardian (“**Proposed Combination**”).
3. KII, a privately held United States of America (“**USA**”) corporation, owns a group of companies engaged in diverse businesses such as refining and chemicals and biofuels; forest and consumer products; fertilizers; polymers and fibers; electronic components; process and pollution control equipment and technologies; commodity trading; minerals; energy; ranching; and investments.
4. Guardian, a privately held USA corporation, along with its subsidiaries, is active worldwide in manufacturing float glass and fabricated glass products and coated injection moulded plastic parts for automotive and other applications. In the USA, Guardian is also active in distributing building materials for commercial and residential applications.
5. The Commission observed that Guardian is present in India by way of Gujarat Guardian Limited (“**GGL**”), a joint venture with Modi Rubber Ltd. GGL is involved in manufacturing of float glass in India producing various categories of glass including architectural glass, mirror and decorative glass and high performance glass. The Commission observed that there are no horizontal overlaps/vertical relationships between the businesses of the Parties in India.



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Accordingly, the Commission noted that the transfer from joint to sole control of KII in Guardian is not likely to result in change in competition dynamics in any market in India.

6. Considering facts on record and 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 appreciable adverse effect on competition in India and therefore, the Commission, approved the same under sub-section (1) of section 31 of the Act.
7. This order shall stand revoked if, at any time, the information provided by the Parties is found to be incorrect.
8. The information provided by the Parties is confidential at this stage in terms of and subject to provisions of Section 57 of the Act.
9. The Secretary is directed to communicate to the Parties accordingly.