



14.02.2019

Notice u/s 6 (2) of the Competition Act, 2002 jointly given by BCP Acquisitions LLC, CDPQ Fund 780 L.P. & CDP Investissements Inc.

CORAM:

Mr. Ashok Kumar Gupta
Chairperson

Mr. U. C. Nahta
Member

Ms. Sangeeta Verma
Member

Legal Representatives of the parties: M/s Cyril Amarchand Mangaldas

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

1. On 11.01.2019, the Competition Commission of India (“**Commission**”) received a notice under Section 6(2) of the Competition Act, 2002 (“**Act**”) jointly given by BCP Acquisitions LLC (“**BCP**”), CDPQ Fund 780 L.P. (“**CDPQ Fund**”) & CDP Investissements Inc. (“**CDP**”) (hereinafter, BCP, CDPQ Fund and CDP are collectively referred to as “**Acquirers**”).
2. The proposed combination relates to an acquisition of the Global Power Solutions business (“**Target**”) of Johnson Controls International plc (“**JCI**”) by Brookfield Assets Management Inc. (“**Brookfield**”) and Caisse de dépôt et placement du Québec (“**CDPQ**”) such that the entities controlled by them will hold 70% and 30% respectively, of the Target (“**Proposed Combination**”). For the purpose of Proposed Combination, BCP and JCI have entered into a Stock and Asset Purchase Agreement (“**SAPA**”) dated 13 November 2018. Further, Brookfield and CDPQ have entered into a binding



Term Sheet as on 13.11.2018 and propose to enter into a Shareholder Agreement (“SHA”) at a later date.

3. During the course of review of the Proposed Combination by the Commission, the Acquirers submitted certain information(s)/clarification(s) *vide* submission on 31.01.2019, 06.02.2019 and 11.02.2019, *inter alia*, related to overlaps between the activities of the parties.
4. BCP, incorporated in USA, is a special purpose vehicle formed for the purposes of the Proposed Combination and is not engaged in any activities in India. It is a part of Brookfield, an alternative asset manager, having investments in sectors such as real estate, infrastructure, renewable power and private equity.
5. CDPQ Fund and CDP both based in Canada do not have any direct presence in India. Both CDPQ Fund and CDP are wholly owned by CDPQ, a Canadian institutional investor that manages funds primarily for public and parapublic pension and insurance plans.
6. The Target is currently a business unit of JCI, an entity incorporated in Ireland. The Target is stated to be engaged in the business of researching, developing, marketing, manufacturing, licensing, distributing, selling and recycling low voltage energy storage products using lead-acid and lithium-ion technologies primarily for use with passenger vehicles, trucks and other motive applications. The Target’s products are sold to, or distributed through, original equipment manufacturers and aftermarket retailers and distributors. The Target is present in India, only through its 26 percent equity shareholding in Amara Raja Batteries Limited (“ARBL”).
7. As submitted, Brookfield does not have any portfolio investments in India in any entity engaged in the same business as that of the Target in India or in any business which may have potential vertical linkages with the business of Target in India. As regards CDPQ, it is submitted that CDPQ holds investments in certain entities engaged in manufacturing and sale of lead acid batteries in India or may have potential vertical linkages with the business of Target in India. As submitted, the investments in each of such enterprise is less than 5 percent of the total equity share capital and not accompanied with any special veto/governance rights. Based on the submissions of the Parties, the Commission is of the opinion that such



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investments may be considered as insignificant and thus the Proposed Combination is not leading to any significant horizontal overlap or a potential vertical relationship to cause any change in competition dynamics.

8. Considering the facts on record and the details provided in the notice given under Section 6(2) of the Act and 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 in any of the relevant market(s) and therefore, the Commission hereby approves the same under Section 31(1) of the Act.
9. The Commission also observes that the non-compete covenant, to the extent it relates to the duration/ time period, is beyond what is necessary for the implementation of the proposed combination and therefore, is not ancillary to the Proposed Combination in terms of “Guidance on Non-Compete Restrictions” as available on the website of the Commission.
10. This order shall stand revoked if, at any time, the information provided by the Acquirers is found to be incorrect.
11. The information provided by the Acquirers is confidential at this stage in terms of and subject to provisions of Section 57 of the Act.
12. The Secretary is directed to communicate to the Acquirers accordingly.