



22.03.2019

Notice u/s 6 (2) of the Competition Act, 2002 given by Tirumula Milk Products Private Limited

CORAM:

Mr. Ashok Kumar Gupta

Chairperson

Mr. U. C. Nahta

Member

Ms. Sangeeta Verma

Member

Legal Representatives of the parties: (a) M/s Desai and Diwanji; and (b) Mr. Gautam Shahi, Advocate

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

1. On 11.02.2019, the Competition Commission of India (“**Commission**”) received a notice under Section 6(2) of the Competition Act, 2002 (“**Act**”) filed by Tirumula Milk Products Private Limited (“**TMPPL**”/ “**Acquirer**”) pursuant to a Share Purchase Agreement dated 21.01.2019 (“**SPA**”) executed by and amongst Prabhat Dairy Limited (“**PDL**”), Cheese Land Agro (India) Private Limited (“**CLAIPL**”), Sunfresh Agro Industries Private Limited (“**SAIPL**”), Promoters and TMPPL and Business Transfer Agreement dated 21.01.2019 (“**BTA**”) executed by and amongst PDL, Promoters, SAIPL and TMPPL (hereinafter, PDL, SAIPL and TMPPL are collectively referred to as “**Parties**”).
2. The proposed combination involves: (a) acquisition of the entire shareholding of SAIPL by TMPPL from CLAIPL (70.71 percent) and PDL (29.29 percent); and (b) acquisition of the



dairy business of PDL by SAIPL as a going concern leading to indirect acquisition of PDL's dairy business by the Acquirer ("**Proposed Combination**").

3. During the course of review of the Proposed Combination, the Acquirer submitted certain information(s)/clarification(s), *vide* submissions dated 08.03.2019 and 18.03.2019, *inter alia*, related to overlaps between the activities of the parties. Further, the Acquirer, *vide* application dated 18.03.2019 filed under Regulation 16 of the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011 ("**Combination Regulations**"), provided information in relation to additional overlaps in respect of Proposed Combination. The Commission considered the same and decided to take the same on record.
4. TMPPL, incorporated in India, is a part of BSA International Lactalis ("**Lactalis Group**"), a family-owned dairy group based in France. TMPPL is engaged in the business of milk and milk products in India. Lactalis Group also owns 100 percent shares in Anik Industries Limited ("**AIL**") which is also engaged in dairy business in India.
5. PDL, incorporated in India, is engaged in the business of milk and milk products directly or through its two subsidiaries *viz:-* (i) CLAIPL and (ii) SAIPL. PDL and SAIPL are involved in procurement and manufacture of milk / dairy products, processing and packaging of milk and milk products and wholesale trading of milk and milk products / dairy products. PDL and SAIPL are also engaged in the business of third party labels which entails manufacturing and then co-packing of milk and milk products under third party brands namely for Britannia, Mother Dairy, Nandini (Karnataka Milk Federation), Future Group and D-mart. CLAIPL trades in cattle feed but is not engaged in the business of selling dairy products.
6. It is observed that the activities of parties forming part of the Proposed Combination relate to dairy products in India. The Commission, in its decisional practice, in cases relating to dairy products, has observed that dairy products can be segmented on the basis of duration for which these products can be stored. Accordingly, dairy products have been segmented in two broad categories; (i) perishable dairy products, *i.e.* products for short term consumption like



milk, curd, paneer *etc.*; and (ii) non-perishable dairy products *i.e.* products for long term consumption like ghee, skimmed milk powder, *etc.* The Commission has further observed that the markets can be further segmented on the basis of each individual product. As regards relevant geographic market, the Commission in its decisional practice, has observed that relevant geographic market can be considered as territory of India for non-perishable dairy products; and territory of states where perishable dairy products are sold by the parties. However, the Commission has left the exact delineation of relevant market as open. The same approach has been followed in the present case.

7. On the basis of information given in the notice, it is observed that the activities of Parties overlap in relation to both perishable dairy products *viz.*, (i) Curd; (ii) Lassi; (iii) Milk; and (iv) Fresh Paneer and non-perishable dairy products *viz.*, (i) Ghee; (ii) Butter; (iii) skimmed milk powder (“**SMP**”); (iv) Dairy Whitener; (v) Ultra-high temperature processed milk (“**UHT Milk**”); and Ice Cream.
8. Considering the activities of the Parties, the Commission decided to assess the Proposed Combination in the following markets:
 - (i) *Market for Perishable Dairy Products:*
 - a. Market for Curd in the state of Maharashtra;
 - b. Market for Lassi in the state of Maharashtra;
 - c. Market for Milk in the state of Maharashtra; and
 - d. Market for Fresh Paneer in the state of Maharashtra.
 - (ii) *Market for Non-Perishable Dairy Products*
 - a. Market for Ghee in the territory of India;
 - b. Market for Butter in the territory of India;
 - c. Market for SMP in the territory of India;
 - d. Market for Dairy Whitener in the territory of India;
 - e. Market for UHT Milk in the territory of India; and
 - f. Market for ice cream in the territory of India.



COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2019/02/644)



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9. The Commission observed that the combined market share and/or incremental market share of the Parties in each of aforesaid perishable and non-perishable products is insignificant to cause any change in competition dynamics or to cause any appreciable adverse effect on competition in any of the aforesaid identified relevant markets.
10. 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. However, the Commission is of opinion that the non-compete obligation(s) envisaged by the Parties is not ancillary to the Proposed Combination.
11. This order shall stand revoked if, at any time, the information provided by the Acquirer is found to be incorrect.
12. The information provided by the Acquirer is confidential at this stage in terms of and subject to provisions of Section 57 of the Act.
13. The Secretary is directed to communicate to the Acquirer accordingly.