



**COMPETITION COMMISSION OF INDIA**  
(Combination Registration No.C-2021/07/856)

**Public Version**

04.10.2021

**Notice under Section 6(2) of the Competition Act, 2002 filed by Clariant AG, Heubach Holding GmbH, and Luxembourg Investment Company 426 S.à r.l.**

**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 26.07.2021, the Competition Commission of India (**Commission**) received a notice under Section 6(2) of the Competition Act, 2002 (**Act**). The notice has been filed pursuant to the (i) Share Purchase Agreement (**SPA**) dated 11.06.2021 entered into between Clariant and Others, (ii) the Subscription and Contribution Agreement (**SCA**) dated 11.06.2021 entered into, *inter alia*, between, Luxembourg Investment Company 426 S.à r.l. (**Lux Holdco 1**) and Heubach Shareholders, and (iii) the Master Investment Agreement dated 11.06.2021 entered into, *inter alia*, between Lux Holdco 1, Clariant, and the Heubach Shareholders<sup>1</sup>. Initially, the notice was given only by Clariant AG (**Clariant/Acquirer-1**). Subsequently, other acquirers, namely Heubach Holding GmbH (**Heubach**) and Lux Holdco 1, became notifying parties by furnishing relevant documents.

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<sup>1</sup> Heubach Shareholders means (i) the individuals connected to the Heubach family, i.e., Johann Heubach, Carlotta Heubach, Marie Podda-Heubach, Kaspar Leonhard Heubach, and Isabelle Prinzessin zu Leiningen; and (ii) Ravi Kapoor, who currently own all shares in Heubach Holding GmbH.



2. In terms of Regulation 14 of the Competition Commission of India (Procedure in regard to transaction of business relating to combinations) Regulations, 2011 (**Combination Regulations**), the Commission, *vide* its communication dated 06.08.2021, sought certain information(s)/clarification(s), *inter alia*, relating to inter-connected transactions, and activities of the parties; the response to the same was received on 19.08.2021, after seeking an extension. In continuation to the earlier letter dated 06.08.2021, certain further clarifications were sought in relation to the response received, *vide* communication dated 27.08.2021; the response to the same was received on 06.09.2021. Additionally, the parties also provided certain information(s)/clarification(s) necessary to assess the proposed combination on 24.08.21 and 17.09.2021.

### **PROPOSED COMBINATION**

3. It is stated that the proposed combination consists of the business of production and/or commercialization of organic pigments, pigment preparations, and dyes conducted by Colorants International, Colorants Solutions, and their subsidiaries in various countries including India (**Clariant Pigments Business**) and the business of the production, manufacturing, and trading of corrosion protection pigments as well as organic and inorganic colour pigments, hybrid pigments, and pigment preparations as carried out by Heubach and its subsidiaries in various countries including India (**Heubach Business**), such that the entity holding the resulting combined business will be controlled indirectly by SKCP, with Heubach and Clariant holding minority stakes (Hereinafter, the above will be referred to as “**Proposed Combination**”).

### **PARTIES TO THE COMBINATION**

4. Clariant is a corporation organized and existing under the Laws of Switzerland. In India, Clariant operates through the following four subsidiaries and one joint venture: (i) Clariant Chemicals India Limited (**CCIL**); (ii) Clariant India Limited (**CIL**); (iii) Süd-Chemie India Private Limited (**Süd-Chemie**); (iv) Clariant Services India Private Limited (**CSIPL**); and (v) Clariant IGL Specialty Chemicals Private Limited.
5. It is stated that Clariant globally operates in six main businesses: (i) Additives, (ii) Catalysts, (iii) Functional Minerals, (iv) Industrial and Consumer Specialties, (v) Oil and Mining



- Services, and (vi) Pigments. The Clariant Pigments Business mainly supplies (i) organic pigments, (ii) pigment preparations, and (iii) dyes to provide colour in a variety of products.
6. It is also stated that Clariant is active in the production and distribution of specialty chemicals used in different applications and industries. The Clariant Pigments Business mainly supplies organic pigments, pigment preparations, and dyes to provide colour in a variety of products. In some countries, including India, the Clariant Pigments Business also (re-)sells some inorganic pigments, which it does not produce itself but sources from the open market. The products of Clariant Pigments Business are used in a number of areas, including packaging, electronics, consumer goods, textiles, transportation, building and construction, and agriculture.
  7. Colorants International AG (**Colorants International**) is a corporation organized and existing under the laws of Switzerland. Colorants International is directly wholly owned by Clariant.
  8. Colorants Solutions USA LLC (**Colorants Solutions**) is a limited liability company organized and existing under the laws of the United States of America (**USA**). Colorants Solutions is wholly owned by Clariant Corporation, another USA entity, which is, in turn, wholly owned by Clariant.
  9. Heubach is a limited liability company under the laws of the Republic of Austria. Heubach is owned by Heubach Shareholders. It is stated that Heubach is a manufacturer of corrosion protection pigments as well as organic and inorganic colour pigments and pigment preparations. Heubach supplies its products for use in the paint, plastics, ink, and building industries, as well as for other applications. In India, Heubach is present through two subsidiaries and one joint venture: (i) Heubach Colour Private Limited (**Heubach India**), (ii) Heubach Pigment Private Limited, and (iii) Heubach Toyo JV.
  10. SKCP means SK Capital Partners, LP, while SKCI V means SK Capital Investment V, Limited, an affiliate of SKCP.



11. Luxembourg Investment Company 428 S.à r.l (**Lux Bidco**) is ultimately controlled by funds controlled by SKCI V, an affiliate of SKCP. It has been incorporated for the purpose of the Proposed Combination. It is stated that SKCP is a private investment firm focused on the specialty materials, chemicals, and pharmaceuticals sectors. SKCP, solely through certain portfolio companies controlled by its affiliates, has some activities in the pigments sector on the global level. In India, SKCP is active in these sectors through SKCP Portfolio Companies. It is stated that in India, Archroma is active in the sales of dyes and pigment preparations and Venator is active in the sale of inorganic pigments.
12. Hereinafter, (i) Lux Bidco, (ii) Clariant, (iii) Colorants International, (iv) Colorants Solutions, and (v) Heubach are referred to as “**Parties**”.

#### **HORIZONTAL OVERLAPS**

13. It is submitted in the notice that the activities of the Parties to the Proposed Combination overlap in four broad segments, as under:
- (i) manufacture/sale of **organic pigments**, including the narrower segments,
  - (ii) manufacture/sale of certain **inorganic pigments**, including narrower relevant segments,
  - (iii) **pigment preparations**,
  - (iv) (re-)sale of **dyes** in India.

#### **Organic Pigments and Inorganic Pigments**

14. Based on the submissions, it is noted that pigments are compounds that colour a material by covering its surface. They change the colour of reflected or transmitted light as a result of wavelength-selective absorption. In general, pigments can be either organic or inorganic. Organic pigments are chemically synthesized, carbon based products that generate a broad spectral range of brilliant, transparent, or opaque colour shades. Inorganic pigments, on the other hand, are generally based on metal oxides and exhibit high resistance and fastness properties.



15. Further, given the differences in the characteristics and application of different kinds of pigments, organic pigments cannot be seen as substitutable with inorganic pigments (except in very few cases). Accordingly, organic pigments would constitute a market distinct from inorganic pigments.
16. It is also noted that the broad segments of organic and inorganic pigments can be segmented on the basis of chemical class having regard to the differences on the basis of technical and chemical properties, performance and different end use application.
17. The Commission observed that there is a possibility of further sub-segmentation on the basis of colour index within each chemical class of pigments. On the basis of **colour index**, the parties have identified the overlaps (i.e., a list of colour indices where both Clariant Pigments Business and Heubach Business were present) in India in the year 2020, as follows:

S.No.	Pigment Class	Colour Index
1.	Monoazo Pigments	PY 074
2.		PY 191
3.	Diarylide Pigments	PY 012
4.		PY 013
5.		PY 014
6.		PY 083
7.	Naphthol Pigments	PR 112
8.	Benzimidazolone Pigments	PY 151
9.		PY 154
10.		PY 180
11.		PY 181



12.		PR 176
13.	Isoindoline Pigments	PY 139
14.	Phthalocyanine Pigments	P BL 015: Alpha
15.		P BL 015: Beta
16.		PG 007
17.	Quinacridone Pigments	PR 122
18.		PV 019
19.	DPP Pigments	PR 254

18. Based on above, the Parties' have submitted the following **Relevant Market(s)** at

(a) **the Broader Level**

- (i) Market for manufacture/sale of organic pigments in India; and
- (ii) Market for manufacture/sale of inorganic pigments in India.

(b) **the Narrower Level**

- (i) Market for manufacture and sale of Monoazo Pigments in India;
- (ii) Market for manufacture and sale of Diarylide Pigments in India;
- (iii) Market for manufacture and sale of Naphthol Pigments in India;
- (iv) Market for manufacture and sale of Benzimidazolone Pigments in India;
- (v) Market for manufacture and sale of Isoindoline Pigments in India;
- (vi) Market for manufacture and sale of Phthalocyanine Pigments in India;
- (vii) Market for manufacture and sale of Quinacridone Pigments in India;
- (viii) Market for manufacture/sale of DPP Pigments in India;
- (ix) Market for manufacture/sale of TiO<sub>2</sub> in India;
- (x) Market for manufacture/sale of CICP in India;
- (xi) Market for manufacture/sale of BiVa in India



(c) On the basis of overlaps in **colour index**, the Parties have provided competition assessment in 19 colour index of sub-segments of pigments as mentioned in the above table.

### **Pigment Preparations**

19. Based on the submissions, it is noted that that pigment manufacturers typically supply pigment products in their original powder form but can add extra value by offering ranges of pigment preparations or dispersions, which are processed forms of pigments that make it easier to use pigments to colour a variety of materials.
20. It is also stated that the activities of the Clariant Pigments Business, the Heubach Business, and one of SKCP Portfolio Companies and affiliate of Lux Bidco, Archroma, overlap in the product segment of pigment preparations in India.
21. It is also stated that the relevant market in relation to pigment preparation segment may be considered as the *market for manufacture and sale of pigment preparations in India*.

### **Sale of Dyes in India**

22. Based on the submissions, it is noted that Dyes are substances that impart colour to a material with some degree of permanence. Dyes have smaller molecules than pigment particles. As they are soluble in water and in other types of solvents such as oil, alcohol, and glycerine, they are capable of being absorbed into the material to which they are applied. Pigments and pigment preparations, in contrast, are glued to the surface of materials, but not absorbed.
23. The Parties submitted that dyes may be further segmented by their chemical class. In this context, chemical class refers to the way the dye is applied to the substrate, for example, whether the dyeing takes place in an anionic (acid dye) or cationic (basic dye) environment. Thus, dyes have been segmented by chemical class into: (i) acid dyes, (ii) basic dyes, (iii) direct dyes, (iv) solvent dyes, (v) disperse dyes, (vi) mordant dyes, (vii) reactive dyes and (viii) vat dyes.



24. The Parties also submitted that Clariant Pigments Business and one of SKCP Portfolio Companies and affiliate of Lux Bidco, namely, Archroma, are active in the supply of dyes. Heubach Business does not supply any dyes.
25. It is submitted that the relevant product market may be considered '*manufacture/sale of dyes in India*' (Broader Market) and in the *narrower segment of acid dyes* (Narrower Segment).
26. The Commission decided to leave the delineation of the relevant market open as it was observed that the proposed combination, for the reasons detailed in the ensuing paragraph, is not likely to cause an appreciable adverse effect on competition in any of the possible alternative relevant markets that could be delineated.

#### **COMPETITION ASSESSMENT OF HORIZONTAL OVERLAPS**

27. Based on the submissions, it is noted in the market of (i) Organic and (ii) Inorganic pigments including narrower markets/segments as identified above, that either the combined market shares of the Parties is not significant and/or the increment in market share as a result of the Proposed Combination is low. Further, in each of the relevant markets/segments there is a presence of several other competitors who will continue to pose competitive constraints to the Parties post the Proposed Combination. Only in the case of the market for *manufacture/sale of Benzimidazolone Pigments in India* is the combined market share stated to be more than 25 percent, with the incremental market share between 5-10 percent. However, in this market also, there are other significant players, such as Sudarshan Chemical Industries (20-25 percent), Pidilite Industries (20-25 percent) and Anshan Hifi Company (10-15 percent), who will continue to pose competitive constraints to the Parties post the Proposed Combination.
28. In the *market for sale of pigment preparations in India*, based on the submission, it is observed that Clariant Pigments Business has an estimated market share of approx., (20-25 percent) by both volume and value in India, and Heubach Business's market share is (0-5 percent) by volume and value. Further, SKCP's Portfolio Company Archroma's market





share is (0-5 percent) by volume and value. It is also mentioned that the Combined Business will continue to compete in a fragmented market where they face competition from a number of established players.

29. In relation to the *market for sale of Dyes in India*, it is submitted that in the notice that Clariant Pigments Business estimated share is (0-5 percent) by volume and value, of which large amounts of the dyes sold by Clariant Pigments Business concerns re-sales. Further, it is submitted that Archroma's market share is (0-5 percent) by volume and value. With regard to the sub-segment of dyes for acid dyes, the combined market share (Clariant, Huebach, and Archroma) is around (0-10 percent) by volume and by value. There are other players present in the above segments, such as Colourtex Industries, Colorsperse Dyes and Intermediates, and Roha Dyechem & Intermediates, who will continue to pose competitive constraints to the Parties post the Proposed Combination.

#### **VERTICAL RELATIONSHIP**

30. It submitted in the notice by the Parties that the existing and potential vertical relationships in India between the Clariant Pigments Business, Heubach Business, and SKCP Portfolio Companies are as follows:

##### **(i) Existing Vertical Relationships**

- i) Sale of products as input material (various intermediates<sup>2</sup>) for production as well as for re-sale from the Clariant Pigments Business (**Upstream Segment-1**) to SKCP Portfolio Companies (**Downstream Segment-1**).
- ii) Purchase of products as input material<sup>3</sup> for the manufacture of pigment preparations and Diarylide Pigments by Clariant Pigments Business (**Downstream Segment-2**) from Heubach (**Upstream Segment-2**).

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<sup>2</sup> REDACTED

<sup>3</sup> REDACTED



- iii) Purchase of products<sup>4</sup> by Clariant Pigments Business (**Downstream Segment-3**) used for the manufacturing of dyes as a toller for Archroma (**Upstream Segment-3**).

(ii) **Potential vertical purchases:**

- i) Clariant Pigments Business' potential purchases<sup>5</sup> from Heubach/SKCP Portfolio Companies (**Downstream Segment-4**). It is submitted that Clariant Pigments Business is currently purchasing the input materials from third parties to manufacture its own products.
- ii) Heubach's potential purchases from Clariant/SKCP's Capital Portfolio Companies (**Downstream Segment-5**). It is submitted that the Heubach Business is currently purchasing input materials from third parties for resale/manufacturing of Phthalocynine Pigments.

31. The Commission decided to leave the delineation of the relevant market open as it was observed that the proposed combination, for the reasons detailed in the ensuing paragraph, is not likely to cause an appreciable adverse effect on competition in any of the possible alternative relevant markets that could be delineated.

**COMPETITION ASSESSMENT OF VERTICAL RELATIONSHIP**

32. Based on the submissions of the Parties, it is noted that the value of existing vertical relationships between the Parties is not significant to raise any competition foreclosure concerns. Further, based on the submissions, in relation to potential vertical relationships, considering the overall presence of Parties in the above identified segments and the presence of other players in these segments, it appears that the same is not likely to raise any competition foreclosure concerns.

33. Considering the facts on record, including details provided in the notice given under Section 6(2) of the Act and assessment of the Proposed Combination based on the factors stated in Section 20(4) of the Act, the Commission is of the opinion that the Proposed Combination is

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<sup>4</sup> REDACTED

<sup>5</sup> REDACTED



not likely to have any appreciable adverse effect on competition in India in any of the relevant market(s).

34. This order may stand revoked if, at any time, the information provided by the Parties is found to be incorrect.
35. The information provided by the Parties shall be treated as confidential in terms of and subject to provisions of Section 57 of the Act.
36. The Secretary is directed to communicate to the Parties accordingly.