



India Merger Control in Focus: Scope for Introduction of a Simplified Merger Review Process

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India Merger Control in Focus: Scope for Introduction of a Simplified Merger Review Process

Introduction

Jurisdictional notification thresholds are considered one of the most objective ways of identifying transactions that are likely to have some impact on existing market conditions.¹ The rationale is rather straightforward; parties to a transaction that have ‘significant presence’ in a country are more likely (than not) to impact market conditions through combinations as compared to parties that have no or minimal presence. Transactions which exceed certain jurisdictional (global and local) asset and turnover thresholds are caught under the merger control provisions, unless they qualify for any available exemptions – the latter being a further filtration tool. India does not have high jurisdictional asset and turnover thresholds.² However, it has among other methods adopted, a *de-minimis* exemption, in accordance with which target businesses or merging businesses that have assets or turnover in India below a certain threshold are exempt from pre-notification requirements.³ Other exemptions that the Competition Commission of India (‘CCI’) has adopted include: minority acquisitions, top-up investments that do not result in a change in control, buybacks, intra-group re-organisations, financing, acquisition or subscription of shares undertaken by foreign institutional investors, or venture capital funds registered with the Securities Exchange Board of India. CCI believes these exemptions capture transactions that are unlikely to impact competitive conditions in any market in India.

Despite this, a majority of transactions notified to CCI are those that are unlikely to raise any competition concerns. For instance, transactions involving no horizontal overlaps or vertical relationships⁴ (‘No Overlap Transactions’) are routinely notified to CCI. Similarly, there is no carve-out for green field joint ventures (‘JV’) that have no envisaged operations in India. Since the JV has no operations in India, it could conceivably not affect competition in any market in India. Transactions involving foreign JV may require notification to CCI simply because the parent entities have transferred assets to the JV that (directly or indirectly) breach the rather low, local nexus thresholds and the parent entity is a large multinational conglomerate that would breach global jurisdictional thresholds under the Competition Act, 2002 (‘Act’) (‘Foreign JV with Asset Transfer’). Moreover, CCI makes no distinction between data requests for No Overlap Transactions and transactions involving horizontal overlaps or vertical linkages.

This article: (a) explores why a simpler merger review process may be the need of the hour for, at least, No Overlap Transactions and Foreign JV with Asset Transfer transactions; and (b) proposes a broad framework to implement a simplified merger review process, based on processes currently in practice in Europe.

Need for Introducing a Simplified CCI Notification

If a transaction is notifiable, parties have to file a notification with CCI by completing the information request in the CCI form. Regardless of the nature of the transaction, the notification to CCI requires parties to submit extensive corporate and market data. Although, CCI recommends a ‘short’ form for transactions with minimal market overlaps⁵, the information request even in the recommended short form is rather onerous. For instance, parties are required to not only provide market share information, but substantiate in detail why the transaction is unlikely to raise competition concerns in the narrowest possible market. There is no official mechanism for seeking concessions from CCI from these onerous information requests and incomplete information is a ground for invalidating the notification filed with CCI.

Detailed information requests for No Overlap Transactions or/and Foreign JV with Asset

1 OECD working group paper on ‘Local Nexus and Jurisdictional Thresholds in Merger Control’ available here: [http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DAF/COMP/WP3\(2016\)4&docLanguage=En](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DAF/COMP/WP3(2016)4&docLanguage=En)

2 Section 5 of the Competition Act, 2002 (‘Act’) specifies eight alternate tests. Depending on the test in question and subject to any applicable exemptions, if the value of the turnover or assets of one or more parties to the transaction cross the thresholds specified, then the transaction is subject to CCI review.

3 Transaction where the target enterprise (*i.e.*, the enterprise whose shares, voting rights, assets or control are being acquired or are being merged/amalgamated) either has assets not exceeding INR 350 crore (INR 3.5 billion) (approx. USD 49.81 million) in India, or has a turnover not exceeding INR 1000 crore (INR 10 billion) (approx. USD 142.33 million) in India, are currently exempt from the mandatory pre-notification requirement. Please note that when only a portion of an enterprise/division/business is involved in a transfer (*i.e.*, in an asset sale), then only the value of the assets and turnover of such portion of enterprise/division/business should be considered to determine the applicability of the *de minimis* exemption. Please note that this exemption expires on 29 March 2022, unless it is further extended.

4 Horizontal overlaps refer to business activities of the parties that are substitutable/identical. Vertical relations refer to business activities of parties at different stages or levels of the production chain.

5 Transactions where the horizontal overlaps between parties exceed 15% or transactions where the combined market shares of the parties in any vertically linked market exceeds 25% are not considered as ‘minimal’ overlaps.

Transfers not only increase transaction costs for parties, but are an equal drain on CCI's (already constrained) resources. Having to review these 'routine' transactions diverts CCI's resources from complex cases that merit a substantive and thorough review, especially since CCI ultimately approves all No Overlap Transactions and Foreign JV with Asset Transfers transactions noting the absence of any overlaps in India. Insisting on detailed market information to reach a predictable conclusion is, at the very least, inefficient.

Best Practices in Other Jurisdictions and Concluding Thoughts

An ideal merger control regime would have notifiability criteria that capture transactions that are likely to raise competition concerns, while filtering out those that are wholly unlikely to. While this perfect model may be difficult to achieve, several competition authorities have introduced creative, yet easy to implement solutions. For instance, in France⁶, a simplified notification may be filed in the case of: (i) No Overlap Transactions; and (ii) transactions in the retail sector, subject to satisfaction of certain conditions⁷. Transactions eligible for the simplified notification in France can be notified with information on just the activities of the parties and market shares of the main players. The European Commission ('EC') also provides parties the option to notify transactions that are unlikely to raise competition concerns in a 'short form'. Unlike India, the EC 'short form' only requires basic details and dispenses with the need for a detailed analysis of the market. The EC also encourages parties opting for a simplified procedure to seek pre-notification engagement.

The advantages of a simplified notification process for *prima facie* non-problematic transactions are several, which include ease of doing business and cost-saving, both for the regulator and transaction costs for parties, and result in increased compliance from businesses. Simpler regulatory norms are known to ensure greater compliance, as parties have less to gain from avoiding compliance. For transactions other than No Overlap Transactions or Foreign JV with Asset Transfer, over time, CCI may adopt rules or even opt for a case by case approach to determine which transactions are eligible for such a simplified process.

Behavioural Orders—CCI

CCI Finds the Practice of Mandating No-Objection Certificates ('NOC') by Madhya Pradesh Chemists and Druggist Association Anticompetitive⁸

Background

CCI received information from the Madhya Pradesh Chemists and Distributors Federation ('Informant') alleging the limiting and controlling of supplies of pharmaceutical products in Madhya Pradesh, by: (i) Madhya Pradesh Chemists and Druggist Association ('MPCDA') and certain associations affiliated to MPCDA (including Indore Chemist Association ('ICA'), which was subsequently impleaded); and (iii) certain pharmaceutical companies. Based on its review of the information, CCI directed the Director-General ('DG') to investigate the matter.

The gravamen of the Informant pertained to the practice of MPCDA, and its affiliated associations including ICA (MPCDA and ICA together referred to as the 'Associations'), issuing NOC/Letter of Consent ('LOC') as a pre-requisite for appointment of stockists by the pharmaceutical companies. It was alleged that this practice of mandating NOC was stifling competition in the market by limiting access of consumers to various pharmaceutical products and controlling the supply of drugs in the market. It was also alleged that the pharmaceutical companies also adhered to these 'directives' of the Associations and had refused to appoint distributors till such time the Associations consented. The DG examined the conduct of different pharmaceutical companies and concluded that there was evidence to show that the market was divided into two parts with one part comprising companies which acted independently of the Associations' directives and the other part comprising companies which conformed to the Associations' directives.

Key Observations: CCI, *inter alia*, decided on the following issues:

- i. **Jurisdiction:** In response to the contention that the pharmaceutical sector is regulated by sectoral regulators *i.e.*, the Drug Control Department and National Pharmaceutical Pricing Authority ('NPPA'), CCI clarified that competition law is a spe-

⁶ Please refer to: <https://iclg.com/practice-areas/merger-control-laws-and-regulations/france>

⁷ Transactions relating to the retail sector are eligible for simplified procedure in France provided that (i) parties cross the thresholds applicable to the retail sector; but (ii) parties do not cross the general thresholds; and (iii) there is no change in brand name of the outlets concerned.

⁸ Case No. 64 of 2014



cial law with a mandate overarching all sectors. CCI bears the mandate to intervene when markets are adversely affected by anti-competitive conduct of the enterprises. In the present case, CCI observed that since the practices of the Associations and the pharmaceutical companies created entry barriers for stockists, CCI was competent to investigate.

- i. **Investigation v. Inquiry:** The pharmaceutical companies also challenged CCI's order under Section 26(8) of the Act, *i.e.*, directing the DG to cause further investigation in the matter, on the ground that the said provision only allows for 'further inquiry' and not further investigation. Rejecting the arguments put forth by the pharmaceutical companies, CCI observed that investigation is a sub-set of inquiry and remanding the matter to the DG for further investigation is within the scope of inquiry by CCI. Further, in the present case, there was no prejudice caused to the parties as they were provided the opportunity to make their submissions both before the DG as well as CCI.
- ii. **Whether Associations are caught within the ambit of Section 3(3):** It was argued that the Associations could not be proceeded against since the Associations are not engaging in similar activities as that of pharmaceutical companies. CCI rejected this argument relying on the language of Section 3(3) of the Act which includes in its scope "[a] decision taken by, any association of enterprises or association of persons, including cartels, engaged in identical or similar trade of goods or provision of services".
- iii. **The practice of requiring NOC obstructs fair competition:** CCI, upon examining the email communications between the Associations as well as Himalaya Drug Company ('Himalaya') and Intas Pharmaceutical Limited ('Intas'), observed that the Associations exercised influence over appointment of stockists and that the practice of requiring NOC/LOC was still persistent. The practice of mandating NOC before appointing a stockist dissuades expansion of competition in the market and leads to barriers to entry. CCI observed that every pharmaceutical company should be given the freedom to select their own distributors without any unnecessary hurdles. Accordingly, CCI observed that the category of pharmaceutical companies which abided by the directives (Himalaya and Intas) of the Associations also engaged in anti-competitive practice.

Order

CCI imposed penalties on Himalaya and Intas and the Associations for engaging in anti-competitive agreements in violation of the provisions of the Act. While the penalty on the pharmaceutical companies was levied at 1% of the average income of the preceding three financial years, the penalty on the Associations was levied at 10% of the average income of the preceding three financial years. The penalties on individuals responsible for the conduct of the pharmaceutical companies and the Associations were calculated at the same rates as those imposed on the respective enterprises.

Additionally, CCI directed the Associations to organise competition awareness and competition compliance programmes over a period of six months (five compliance programmes by MPCDA, and one compliance programme by ICA) and file a compliance report with CCI within one month of hosting the last programme.

CCI Dismisses the Allegations of Anti-Competitive Agreements and Abuse of Dominant Position against Macleods Pharmaceuticals Limited and Bengal Chemist Druggist Association⁹

On May 23, 2019, CCI, at the outset, dismissed the allegations of anti-competitive agreements and abuse of dominant position against Macleods Pharmaceuticals Limited ('MPL') and Bengal Chemist Druggist Association ('BCDA') filed by Mr. Kuntal Chowdhury ('Informant').

The Informant was involved in the wholesale business of medicines and had been a stockist of MPL since 2012-13. The Informant's allegation related to stoppage of medicine supplies by MPL at the behest of BCDA, since the Informant's brother and BCDA had been engaged in litigation pertaining to mismanagement of elections of BCDA. The Informant also alleged that MPL had begun supplying to the Informant in the first instance upon receipt of an introductory letter issued by BCDA (alleged to be a form of an NOC).

Based on the parties' submissions, CCI observed that MPL stopped supplying medicines to the Informant because of delayed payments and the non-adherence by the Informant to conditions of advance payment. Additionally, since the stockistship of the Informant was still operative with MPL, the Informant could obtain supplies by making advance payment. Therefore, the

⁹ Case No. 44 of 2018

allegation of non-supply of medicines was rejected. Additionally, in the absence of any evidence which either proved the existence of an NOC or any conditional clearance of stockistship, the allegations against BCDA were dismissed. Thus, the allegation of requiring an NOC by the Informant from BCDA to become a stockist of MPL was also not substantiated, and the complaint was dismissed.

CCI Dismisses the Allegations of Anti-Competitive Agreements and Abuse of Dominant Position against Maharashtra Seamless Limited¹⁰

On May 23, 2019, CCI dismissed the allegations of refusal to deal and denial of market access against Maharashtra Seamless Limited ('MSL') filed by Oil Country Tubular Limited ('Informant').

The Informant was in the business of purchasing unprocessed, plain end seamless pipes ('Green Pipes') and processing them into 'seamless casing pipes', according to specifications of the American Petroleum Institute, to be supplied to Oil and Natural Gas Corporation Limited ('ONGC'), OIL India Limited and other such enterprises. In accordance with the government's steel policy (which provided for a preference to domestically manufactured iron and steel products in government procurement contracts valued at more than INR 50 crores (approx. USD 7 million)), ONGC/OIL India Limited tenders required the Green Pipes to be procured from Indian manufacturers only and import was prohibited.

According to the Informant, MSL, besides being a competitor of the Informant was also the only manufacturer of Green Pipes above the size of 7"OD, since the other registered manufacturers either did not produce Green Pipes of such size or had exited the market. For an ONGC tender in the month of October 2018, the Informant approached MSL thrice through email, requesting the supply of Green Pipes but MSL did not respond. Therefore, the Informant filed information with CCI alleging refusal to deal and denial of market access.

CCI noted that the Informant approached MSL each time at the last minute or at a belated stage which was inconsistent with ordinary business behavior. The Informant's conduct was therefore, held not to be diligent and lacking *bona fides*. Furthermore, MSL highlighted that the Informant had never approached them before October, 2018 and that the guidelines for tenderers prohibited such agreements between enterprises who were competitors/bidders for the ONGC tender. Accordingly, CCI observed that the allegations against MSL were unsubstantiated, and dismissed the case.

CCI Dismisses the Allegations of Anti-Competitive Agreement and Abuse of Dominant Position against Indiabulls Housing Finance Limited¹¹

On May 24, 2019, CCI at the outset dismissed allegations of anti-competitive agreement and abuse of dominant position against Indiabulls Housing Finance Limited ('Indiabulls') filed by Mr. Kanhaiya Singhal ('Informant').

The allegations pertained to a loan agreement executed between the Informant and Indiabulls. The Informant's primary grievance was the frequent and arbitrary revision in the rate of interest on the home loan which increased from 8.75% to 11.15% within four months for the Informant. Further, it was alleged that the Loan Agreement comprised clauses which raised competition concerns in India and contravene the provisions of the Act. The Informant further alleged that despite a drop in market rate of interest by the Reserve Bank of India ('RBI'), Indiabulls did not reduce the rate of interest which was because of its dominant position.

Based on its assessment, CCI did not find the existence of any 'agreement' (either at competitor level or at a buyer-supplier level) that could be brought under the purview of Section 3 of the Act, and therefore dismissed the allegations of the Informant under Section 3. In its assessment with respect to allegations of abuse of dominant position, CCI defined the relevant market as the market for provision of home loans in India. Owing to Indiabulls's low market share (1.37%) in such market, CCI observed that Indiabulls was not dominant in the relevant market and thus dismissed the allegation of abuse of dominance as well.

¹⁰ Case No. 48 of 2018

¹¹ Case No. 11 of 2019



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Combinations

CCI Approves the Acquisition of Larsen & Turbo's Electrical and Automation Business by Schneider Electric India Private Limited and MacRitchie Investments Pte. Limited with Modifications¹²

Background

On April 18, 2019, CCI approved the notice submitted by Schneider Electric India Private Limited ('SEIPL/Schneider') and MacRitchie Investments Pte. Limited ('MacRitchie'). The Notice was filed pursuant to a Business Transfer Agreement ('BTA') and a Share Subscription Agreement ('SSA'). SEIPL proposed to acquire the electrical and automation business ('Target Business') of Larsen & Toubro Limited ('L&T'), as a going concern, on a slump sale basis. After the acquisition, MacRitchie would acquire 35% of the shareholding in SEIPL ('Proposed Combination'). SEIPL and MacRitchie are referred to as the 'Acquirers' while SEIPL, MacRitchie and L&T are referred to as the 'Parties'.

On a preliminary assessment of the market position of the Parties, on the basis of their market share, concentration levels, entry conditions, nature of distribution network and innovation, etc., CCI was of the *prima facie* view that the Proposed Combination is likely to result in competition harm. The Acquirers had initially proposed certain remedies to cure the harm to competition expressed by CCI, but CCI noted that the behavioural commitments proposed by the Acquirers were insufficient to address the concerns raised by the CCI.

Assessment by CCI

Relevant Market

The Proposed Combination primarily related to the broad relevant market of low voltage ('LV') switchgears comprising various electrical products and solutions. Among products / solutions offered by Schneider and the Target Business in India, the Acquirers identified 29 products / solutions as competing with each other. CCI observed that each of these competing products are not used on a standalone basis and are complementary or supplementary to the other products that are used in the switchboard. Therefore, one can group the competing products under one or more clusters based on their choice as a portfolio / cluster, their functionality and utility. With regard to the relevant geographic market, in view of insignificant transportation costs and availability of the overlapping products across India, the entire territory of India was considered as the relevant geographic market.

Concentration Level and Entry of Competitors

CCI observed that the Proposed Combination would increase concentration significantly in 15 product / solutions¹³ which could confer the combined entity a dominant market position in several of the relevant markets. CCI also observed that since the Parties are major competitors, the combined entity would thus have the ability and incentive to discontinue the offerings of L&T as well as increase the price, affecting effective and vigorous competition in the relevant markets.

Given that there was a strong consumer preference for use of the same brand of products across an LV panel, a big player offering the complete portfolio of components would have an inherent advantage. Specifically for two of the products, the Parties were considered to be undisputed market leaders with a combined market share of 55-60%, followed by ABB (four times smaller). CCI also noted that in comparison the market shares of the competitors had remained static over a period of time. There was also no likelihood of an entry that would act as a competitive constraint. Additionally, CCI also observed that the combined entity would have inherent advantage in terms of its distribution network, which would be the largest in the country.

Harm to Competition

The Proposed Combination was likely to cause competition concerns due to the following:

- i. the Proposed Combination would confer the combined entity the ability to increase price in the relevant markets. Further, the extent of competitive constraint that would remain in the market would be insufficient to address the anti-competitive incentives of the combined entity;

¹² Combination Registration No. C-2018/07/586

¹³ (i) Air Circuit Breaker, (ii) Moulded Case Circuit Breaker, (iii) Overload relays, (iv) Contactors (including Control Contactors) (v) Motor Protection Circuit Breaker, (vi) Outdoor Cabinets, (vii) Panel Accessories, (viii) Motor Management Relays, (ix) Power Factor Correction Components, (x) Residual Current Device, (xi) Final Distribution Breaker Components/Miniature Circuit Breakers; (xii) Electrical and Automation Solutions, (xiii) Switch Disconnect Fuse (xiv) Power Metering Products/Digital Panel Meters; (xv) Final Distribution Enclosure Systems/ DB



- ii. the Proposed Combination was likely to eliminate one of the most competitive option/ economic choice to the consumers;
- iii. L&T being a prominent brand in India with maximum installations, any discontinuation of its offering would lead to increase in the cost of replacement;
- iv. the extent of integration at different levels of supply chain post the Proposed Combination would create a significant barrier to entry for other competitors;
- v. degree of contestability in markets for LV switchgears market(s) in India is low and there is no likeliness of an entry that would be timely and sufficient in scope so as to act as a competitive constraint to the resultant entity of the Proposed Combination; and
- vi. the cost of the rivals to compete and increase their presence in the market would be much higher than the present market scenario.

Modifications Recommended by CCI

While CCI recommended the divestment of L&T's business in relation to six LV switchgear products having high market shares as well as two plants of L&T, the Acquirers submitted an alternate remedies proposal which was accepted by CCI. Among the remedies proposed by the Acquirers, the major remedies included:

- i. **White Labelling:** The Parties offered to strengthen existing LV manufacturers (except Siemens and ABB) by offering them products under a white labelling arrangement¹⁴ for a period of five years from the date of closing of the Proposed Combination;
- ii. **Transfer of Technology on a Non Exclusive Basis:** At the end of the five year term of the white labelling remedy, SEIPL would provide a mutually acceptable, non-transferable, non-sub licensable, royalty bearing non-exclusive technology license for a period of five years to a single third party that had availed white-labelling; and
- iii. **Removing Exclusivity of Distribution Network:** SEIPL undertook to amend the distributorship agreement and commercial policy to remove any barriers which encourage *de facto* exclusivity (i.e., deletion of termination clause, discontinuation of loyalty rebates).

The Proposed Combination was approved subject to the compliance of the abovementioned modifications and other modifications offered by the Acquirers that were aimed at alleviating competition concerns.

CCI Approves the Acquisition of Asian Colour Coated Ispat Limited by JSW Steel Coated Products Limited¹⁵

On April 9, 2019, CCI approved the acquisition of entire business operations of Asian Colour Coated Ispat Limited by JSW Steel Coated Products Limited ('JSWSCL'). The notice was filed pursuant to a resolution plan submitted by JSWSCL to the resolution professional as per the provisions of the Insolvency and Bankruptcy Code, 2016.

In its assessment, CCI observed that the activities of the parties competed in certain steel products in India i.e., (i) hot rolled coiled sheets and plates; (ii) cold rolled coils and sheets; (iii) galvanised products; and (iv) colour coated products ('CCPs'). CCI assessed the combined market shares of the parties on the basis of installed capacity and domestic sales, and concluded that the combined market shares of the parties did not exceed 30% and 20% respectively, except in the case of CCPs. Further, the incremental market shares were estimated to be around 0-5% on the basis of both installed capacity as well as domestic sales. For CCPs, the increment was within the range of 5-10%. Finally, CCI approved the transaction after considering the presence of significant competitors such as Tata Steel Limited, Essar Steel Limited and SAIL in each product segment.

CCI Approves the Amalgamation of GRUH Finance Limited into Bandhan Bank and HDFC's Subsequent Acquisition of 14.96% Stake in Bandhan Bank¹⁶

On April 15, 2019, CCI approved the amalgamation of GRUH Finance Limited ('GRUH') and Bandhan Bank, and the subsequent acquisition of 14.96% stake in Bandhan Bank by HDFC Limited ('HDFC'), subject to the approval of the RBI.

Bandhan Bank is an Indian public listed company and is engaged in the business of providing banking services. GRUH is registered with the National Housing Bank ('NHB') as a Housing

¹⁴ A white-label product is a product or service produced by one company (the producer) that other companies (the marketers) rebrand to make it appear as if they had made it.

¹⁵ Combination Registration No. C-2019/03/650

¹⁶ Combination Registration No. C-2019/03/651



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Finance Company ('HFC'), engaged in the business of, *inter alia*, providing housing finance, loans against deposits, loans against property, personal loans etc. Similarly, HDFC is an Indian public limited company, also registered as a HFC with the NHB. HDFC has several subsidiaries, which are present in the sector of financial services.

CCI noted that the activities of the parties broadly competed in segments such as provision of bank accounts, provision of loans, accepting deposits, provision of card based payment services, provision of online banking services, distribution of mutual funds products, and distribution of insurance (life and non-life) products. CCI further carried out a competition assessment at a narrow level with respect to segments such as provision of loans, distribution of mutual fund products, and distribution of insurance products. However, in the absence of any competition concern, the definition of relevant market was left open.

While approving the combination unconditionally, CCI observed that the combined market share of the parties in each of the above-mentioned business segments would be insignificant (including the incremental market share), except in relation to micro loans where the combined market share was in the range of 25-30%. However, no competition concerns were anticipated by CCI even within the segment of micro loans in light of the presence of various competitors, including public sector and private sector banks.

CCI Approves the Acquisition of up to 71% of the Total Equity Shareholding of NIIT by Hulst¹⁷

On April 26, 2019, CCI approved the acquisition of up to 71% of the total equity shareholding of NIIT Technologies Limited ('NIIT') by Hulst B.V. ('Hulst/Acquirer'). The transaction was structured to be implemented by way of: (i) acquisition of 30.04% of NIIT's share capital on a fully diluted basis from the promoters; (ii) acquisition of 26% of NIIT's shares in an open offer; and (iii) acquisition of the remaining of 15% shares from the open market.

While NIIT is a global IT solutions provider, Hulst is an international private equity firm, which is part of the Baring Group, with a focus on private equity investments in Asia. It was noted that a group company of the Baring Group (Baring Asia Private Equity Fund V, L.P.) has invested in and controls HT Global IT Solutions Holdings Limited, which owns approximately 62.59% of the shares in Hexaware Technologies Limited ('Hexaware'). Hexaware operates in a similar segment as NIIT Tech and offers various Information Technology ('IT') and Information Technology Enabled Services ('ITES').

In its assessment, CCI observed that a broad overlap existed between the Acquirer (present through Hexaware) and NIIT in the market for IT and ITES, and more specifically in relation to IT consulting, business process outsourcing, IT implementation services, and IT outsourcing services. However, owing to the insignificant combined market share of the parties and the presence of large players such as Tata Consultancy Services, Infosys, IBM, and Wipro, CCI unconditionally approved the combination.

CCI Approves the Acquisition of Compulsorily Convertible Debentures of ECL Finance by CDPQ Private Equity Asia Pte. Limited¹⁸

On April 26, 2019, CCI approved the proposed CDPQ Private Equity Asia Pte. Limited's ('CDPQ Asia') acquisition of compulsorily convertible debentures ('CCDs') (comprising less than 20% equity shareholding when converted) of ECL Finance Limited ('ECL'). The transaction also envisaged restructuring of certain businesses of the Edelweiss group housed in the group's entities, namely, Edelweiss Retail Finance Limited, Edelweiss Housing Finance Limited and Edelweiss Finvest Private Limited ('EFPL') (together with ECL the 'Target Companies'), prior to the proposed acquisition of CCDs by CDPQ Asia.

While CDPQ Asia (wholly owned subsidiary of Caisse de depot et Placement du Québec ('CDPQ')) is engaged in managing funds for pension and insurance plans in Canada, ECL is a non-banking financial company registered with the RBI offering, *inter alia*, structured collateralised finance and real estate finance.

In its assessment CCI observed that CDPQ Asia as well as CDPQ did not compete with the Target Companies in India. Although, there was certain competition between CDPQ's non-controlling portfolio companies and the Target Companies; however, they were unlikely to cause any anti-competitive concerns in the business segments where the Target Companies are present. With respect to potential buyer-supplier level overlaps (on account of CDPQ Asia and EFPL's common shareholding in Edelweiss Assets Reconstruction Company) CCI noted the insignificant market share of the Target Companies as well as the presence of commercial banks in the broader as well as the narrower market segment of lending services. Accordingly, absent any

¹⁷ Combination Registration No. C-2019/04/658

¹⁸ Combination Registration No. C-2019/03/649

competition concerns, CCI approved the Proposed Combination.

CCI Approves the Acquisition of 6.5% Equity Shareholding of PNB Housing Finance Limited by General Atlantic Singapore HF Pte. Limited¹⁹

On May 8, 2019, CCI approved the acquisition of 6.5% equity shareholding of PNB Housing Finance Limited (“Target”) by General Atlantic Singapore HF Pte. Limited (“GAHF”). CCI also noted that General Atlantic Singapore FII Pte. Limited, an affiliate of GAHF already held 9.9% shareholding in the Target.

GAHF, incorporated in Singapore, is an investment holding company, and its principal business activity comprises investing, holding and disposing of investments in growth companies in Asia. The Target, incorporated in India, is an HFC registered with the NHB. It is, *inter alia*, engaged in the business of providing housing and non-housing loans to individuals and corporates against mortgage of immovable properties.

In its assessment, CCI observed the absence of any competition and buyer-supplier relationship between the products and services of GAHF and the Target. Further, CCI noted the presence of other established players in the business of providing housing and non-housing loans market (*i.e.*, the business activity in which the Target was engaged). Accordingly, CCI noted that no competition concerns in India were likely to be raised due to the proposed combination, and approved the transaction.



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¹⁹ Combination Registration No. C-2019/04/657



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Tier 1 in Competition / Antitrust
Benchmark Litigation Asia-Pacific, 2019

❖
Competition & Antitrust Law Firm of the Year
Global Leading Lawyers, 2017

❖
Competition Law Firm of the Year
Corporate INTL, 2016

❖
Corporate Law Firm of the Year
Chambers Forum India Awards 2019

❖
Law Firm of the Year
VC Circle, 2018, 2017, 2016 & 2015

❖
Law Firm of the Year | Best Overall Law Firm of the Year
India Business Law Journal, 2018 & 2017

❖
Best Law Firm of the Year – India
Corporate USA Today – Law Awards, 2018

❖
India Deal Firm of the Year
ALB SE Asia Law Awards, 2018

❖
Tier 1 in India M&A Rankings
Asian Legal Business 2018

❖
Outstanding Law Firm of the Year, India
Corporate and Mergers & Acquisitions | Highly Recommended Law Firm of the Year
Asialaw Profiles, 2018

❖
Ranked No.1
for the Indian M&A Announced Deals League Table by Value and Volume
Ranked No. 1
for the Indian M&A Completed Deals League Table by Value and Volume
Thomson Reuters' Emerging Markets M&A Legal rankings Q1 2018

❖
Ranked No. 1
for India in the M&A Announced Deals League Table by Deal Value and Deal Count
Bloomberg's Global M&A, Legal rankings Q1 2018

❖
Ranked No. 1
for India in the M&A Rankings by Deal Value and Deal Count
Mergermarket's Global and Regional M&A League Tables of Legal Advisors Q1 2018

❖
Ranked No. 1
for PE and M&A Rankings by Deal Count and Deal Value
Venture Intelligence League Tables of Legal Advisors 2017

❖
Ranked No.1
RSG Top 40 Indian Law Firms Ranking, 2017

❖
Client Service Law Firm of the Year
Chambers Asia-Pacific Awards, 2017

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