



Fair Competition
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COMPETITION COMMISSION OF INDIA

(Combination Registration No. C-2014/10/218)

04.03.2015

Notice u/s 6 (2) of the Competition Act, 2002 given by:

- (a) **Strides Arcolab Limited**
- (b) **Shasun Pharmaceuticals Limited**

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

1. On 28.10.2014, the Competition Commission of India (“**Commission**”) received a notice under sub-section (2) of Section 6 of the Competition Act, 2002 (“**Act**”) given by Strides Arcolab Limited (“**Strides**”) and Shasun Pharmaceuticals Limited (“**Shasun**”) (hereinafter, Shasun and Strides are collectively referred to as the “**Parties**”). The notice was filed with the Commission pursuant to the approval of a Scheme of Amalgamation (“**Scheme**”), under Sections 391-394 and other applicable provisions of the Companies Act, 1956, by the respective board of directors of Strides and Shasun on 29.09.2014.
2. The proposed combination relates to the merger of Shasun into Strides, pursuant to the Scheme. Post combination, Strides will be the surviving entity and in consideration of the proposed combination, the existing shareholders of Shasun will be allotted equity shares of Strides, and as a result the promoters of Shasun will become the promoters of Strides.
3. Strides is a public limited company incorporated under the provisions of the Companies Act, 1956 and is listed on BSE Limited (“**BSE**”) and the National Stock Exchange of India Limited (“**NSE**”). As stated in the notice, Strides is engaged in the development of generic pharmaceutical products in various therapeutic segments. It markets its products in India and in various other countries across the globe. It has been further stated in the notice that Strides is also engaged in the biotech business which is in the development stage.



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4. Shasun is also a public limited company incorporated under the provisions of the Companies Act, 1956 and is listed on the BSE and the NSE. As stated in the notice, Shasun is engaged in developing, manufacturing and selling active pharmaceuticals ingredients (APIs) and formulations. It is also engaged in contract research and manufacturing services (“**CRAMS**”) within and outside India. In addition, it is also involved in research and development services, manufacturing, sales, marketing and distribution of recombinant biopharmaceutical products. It also exports its products across the globe.
5. In terms of Regulation 14 of Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011 (“**Combination Regulations**”) *vide* letter dated 07.11.2014, the Parties were required to remove defects and provide certain information/document(s). The reply was given by the Parties on 18.11.2014. However, as the response submitted by the Parties had defects and was not complete, in terms of Regulation 14 of the Combination Regulations, *vide* letter dated 21.11.2014, the Parties were required to remove the defects and provide complete information / documents. The response in this regard was received on 03.12.2014. However, the response submitted by the Parties was still not complete and therefore, in terms of Regulation 14 of the Combination Regulations, *vide* letter dated 12.12.2014, the Parties were again required to provide complete information/documents. The reply of the Parties was received on 29.12.2014 after seeking extension of time. However, it was further noted that the response submitted by the Parties was not complete in certain aspects; therefore, in terms of Regulation 14 of the Combination Regulations, *vide* letter dated 02.01.2015, the Parties were again required to provide complete information/documents by 07.01.2015. The Parties submitted their reply on 16.01.2015 after seeking extension of time. Further, as the notice and the responses had defects, in terms of Regulation 14 of the Combination Regulations, *vide* letter dated 23.01.2015, the Parties were required to remove certain defects and provide the required information/document(s) by 28.01.2015. The reply was filed by the Parties on 19.02.2015 after seeking extension of time.
6. It is noted from the information given in the notice and other documents on record that Strides is engaged in the formulations as well as the biotech business. However, the biotech business of Strides is in the development stage and at present, there are no



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revenues from the said business. On the other hand, Shasun is engaged in formulations, APIs, CRAMS and the biotech business. In relation to the formulations business of Shasun, it has been submitted by the Parties that Shasun has transferred its domestic formulation business to Alchemist Limited in the year 2014. However, it is noted that Shasun has retained 27 per cent ownership/ financial interest in the formulations business transferred to Alchemist Ltd. Therefore, the formulations business of Shasun has been considered in the competition assessment of the proposed combination. In view of the foregoing, it is observed that the Parties have overlaps only in relation to their business activities pertaining to formulations.

7. In relation to the formulations business, the Commission in its previous Order¹ has considered it appropriate to define the relevant product market at the molecule level i.e. the medicines/formulations based on the same API constitute a separate relevant product market. In this case also, the Commission considered it appropriate to follow the same approach. Accordingly, on the basis of information submitted by the Parties, it is observed that the Parties have overlaps in six formulations. However, it is also noted that the combined market share of the Parties in these six relevant markets is insignificant and is unlikely to raise any competition concerns.
8. Further, as stated above, Strides is primarily active in formulations whereas, Shasun in the API business. In this regard, it is noted that the APIs are the primary inputs in the manufacture of formulations. Thus, the Commission has analysed the possibility of any vertical foreclosure resulting from the proposed combination. Vertical foreclosure is likely to raise competition problems only if the merged entity would have the ability as well as the incentive to substantially foreclose access. In this regard, the Parties have submitted that there are only three APIs of Shasun which have potential usage for Strides' formulation business. Accordingly, the Commission focussed its assessment of vertical foreclosure only with respect to these three APIs i.e. Ibuprofen, Tenofovir and Nizatidine.
9. In relation to these APIs, it is observed from the information provided by the Parties that there are other suppliers which are supplying these APIs to the entities engaged in the downstream market of formulations based on these three APIs, and that the merged

¹ Order of the Commission dated 05.12.2014 in combination case no. C-2014/05/170



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- entity would neither have the ability nor the incentive to substantially foreclose access to its inputs for these entities. Thus, the proposed combination is not likely to result in any vertical foreclosure in any of the relevant markets of these three APIs.
10. From the information provided in the notice, it is further observed that certain promoters of Shasun hold equity shares of Nutra Specialities Private Limited (“**Nutra**”), a company engaged in the manufacture of APIs including Voglibose and Levetiracetam. Post combination, these promoters of Shasun who will become promoters of Strides, as the merged entity, will also hold equity share capital of Nutra. Therefore, the Commission has analysed the possibility of horizontal overlap and vertical foreclosure with respect to the businesses of Strides and Nutra also. As per the information given by the Parties, there is no horizontal overlap between the products of Nutra and Strides as Strides is not engaged in the APIs business. However, Strides sells formulations based on Voglibose and Levetiracetam APIs. In this regard, it is noted from the information given by the Parties that these formulations are sourced by Strides from the third parties and are not manufactured by Strides. Further, in respect to Levetiracetam API, it is noted that Nutra has not sold this API in the domestic market in the financial year 2013-14. As regards Voglibose, it is noted that there are other suppliers who are supplying this API to the entities engaged in the downstream market of formulations based on Voglibose. Thus, the merged entity and Nutra is not likely to have either the ability or the incentive to foreclose access to the said inputs.
11. Considering the facts on record and the details provided in the notice given under sub-section (2) of Section 6 of the Act and the assessment of the combination after considering the relevant factors mentioned 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 any appreciable adverse effect on competition in India and therefore, the Commission hereby approves the Proposed Combination under sub-section (1) of Section 31 of the Act.
12. This approval is without prejudice to any other legal/statutory obligations as applicable.



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13. This order shall stand revoked if, at any time, the information provided by the Parties is found to be incorrect.
14. The Secretary is directed to communicate to the Parties accordingly.