



23.12.2014

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

- **Globalfoundries U.S. Inc.**

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

1. On 17<sup>th</sup> November 2014, the Competition Commission of India (hereinafter referred to as the “**Commission**”) received a notice under sub-section (2) of Section 6 of the Competition Act, 2002 (“**Act**”) filed by **Globalfoundries U.S. Inc.** (“**GF**” or “**Acquirer**”). The said notice was given to the Commission pursuant to execution of a Master Transaction Agreement (“**MTA**”) between GF and International Business Machines Corporation (“**IBM**”) on 18<sup>th</sup> October 2014.
2. The proposed combination involves acquisition by GF of certain assets, and assuming the liabilities, of IBM’s microelectronic business (“**Target Business**”) pursuant to the MTA. As per the information given in the notice and other documents on record, the Target Business consists of (a) captive design and manufacture of integrated circuits (“**ICs**”), specifically, microprocessors and application specific integrated circuits (“**ASICs**”) for use in the IBM’s server and storage businesses; (b) the design and manufacture of ASICs for sale to third parties and (c) the provision of wafer fabrication services to third parties for the manufacture of ASICs and application specific standard products (“**ASSPs**”).
3. In terms of Regulation 14 of Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011 (hereinafter referred to as “**Combination Regulations**”), vide letter dated 27<sup>th</sup> November 2014, the Acquirer was required to provide certain information/document(s) latest by 8<sup>th</sup> December 2014. The Acquirer submitted the reply on due date.
4. GF is a pure-play semiconductor foundry with headquarters in Santa Clara, California, United States. It offers a full range of wafer fabrication services and technologies to a wide range of third party IC suppliers and original equipment manufacturers (“**OEMs**”). Being a pure-play foundry, GF does not market, design or produce IC products. As stated in the notice, GF has no direct or indirect operations in India.



5. IBM is incorporated in the United States and involved in delivering innovative solutions through provision of Information Technology (“IT”) infrastructure and software to improve client outcomes. IBM's major operations consist of five business segments: (a) Global Technology Services; (b) Global Business Services; (c) Software; (d) Systems and Technology and (e) Global Financing. The Target Business is a part of Systems and Technology segment of IBM’s business operations. As stated in the notice, in India, IBM operates in all of the above stated business segments through its wholly owned subsidiary, IBM India Private Limited.
6. As regards the foundry services for manufacturing of ICs in India, the Commission noted that the industry is in a nascent stage and there is no domestic manufacturing of chips being undertaken in India and entire consumption is met through imports.
7. As regards the horizontal overlap, the Commission noted that there is a limited overlap in the businesses of GF and IBM in relation to the Target Business. As already stated, GF is a pure-play foundry that provides outsourced foundry services to a wide range of third party IC suppliers and OEMs whereas, IBM competes only to a limited extent as a supplier of outsourced foundry services to third party IC suppliers. Furthermore, GF does not have any operations in India and though IBM is operating in India, the Target Business generated an insignificant turnover in India. The Commission further noted the state of competition at global level by considering the market shares of various providers of foundry manufacturing services for ICs. The Commission noted that post-combination, GF would continue to be constrained by the presence of companies such as Taiwan Semiconductor Manufacturing Company Limited, United Microelectronics Corporation and others.
8. As regards the vertical relationship, the Commission noted that at a global level, there will be a vertical relationship between the Parties pursuant to the proposed combination since GF supplies processed silicon wafers for use in the supply of ASICs to a number of ASIC suppliers including IBM and IBM is active in the downstream market of supply of ASICs to device and equipment manufacturers. However, it is not likely to cause any appreciable adverse effect on competition (“AAEC”) in India, given the fact that at present, GF has no operations in India.



**COMPETITION COMMISSION OF INDIA**  
**(Combination Registration No. C-2014/11/223)**



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9. Considering the facts on record and the details provided in the notice given under sub-section (2) of section 6 of the Act and assessment of the proposed combination on the basis of factors stated 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 an appreciable adverse effect on competition in India in any of the relevant market(s) and therefore, the Commission hereby approves the same under sub-section (1) of section 31 of the Act.
10. This approval is without prejudice to any other legal/statutory obligations as applicable.
11. This order shall stand revoked if, at any time, the information provided by the parties is found to be incorrect.
12. The Secretary is directed to communicate to the Acquirer accordingly.