



26.03.2015

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

- **Zuari Fertilisers and Chemicals Limited and**
- **Zuari Agro Chemicals Limited**

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

1. On 5<sup>th</sup> January 2015, Zuari Agro Chemicals Limited ('ZACL') and Zuari Fertilizers and Chemicals Limited ('ZFCL') ('ZFCL' and 'ZACL' collectively referred to as the "**Acquirers**") filed a notice under sub-section (2) of Section 6 of the Act for acquisition of shares of Mangalore Chemicals and Fertilizers Limited ("**MCFL**") by way of an open offer under the relevant provisions of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 ("**Takeover Code**").
2. As per the information provided in the notice, the Proposed Combination relates to acquisition of upto 4,33,29,000 equity shares of MCFL (representing additional 36.56 percent stake in MCFL) by the Acquirers by way of an open offer as per the relevant provisions of Takeover code ("**Open Offer**") and/or by way of other means permitted under the applicable law ("**Proposed Combination**"). Hereinafter, the Acquirers and MCFL are collectively referred to as the "**Parties**".
3. The Acquirers have further stated that they also intend to complete the Proposed Combination within a period of two years from the date of the receipt of the approval of the Commission by way of market purchase, creeping acquisition or another subsequent open offer under the provisions of the Takeover Code; so long as the total aggregate shares to be acquired, under one or more of the aforesaid modes of acquisition, do not exceed the number of shares specified in the Open Offer i.e. upto 36.56 percent stake in MCFL. In this regard, it is noted that the Acquirers, have stated that in the event, the shares of MCFL are acquired either from the promoters of



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MCFL or under a specific arrangement with any of the public shareholders of MCFL, a notice under sub-section (2) of Section 6 of the Act, would be filed by them.

4. The Proposed Combination falls under section 5 (a) of the Act.
5. In terms of Regulation 14 of the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011 (“**Combination Regulations**”), vide letter dated 14<sup>th</sup> January 2015, the Acquirers were required to remove defects and provide certain information/document(s). The Acquirers filed their reply on 27<sup>th</sup> January 2015, after seeking extension. In terms of Regulation 14 of Combination Regulations, vide letter dated 29<sup>th</sup> January 2015, the Acquirers were asked to remove the defects in their response dated 27<sup>th</sup> January 2015 and the Acquirers filed their reply on 3<sup>rd</sup> February 2015. Further, in terms of Regulation 14 of Combination Regulations, vide letter dated 13<sup>th</sup> February 2015, the Acquirers were again asked to remove certain defects in the notice and their above said responses. The Acquirers filed their reply on 9<sup>th</sup> March 2015 after seeking extensions. The Acquirers were further asked to provide complete information vide letter dated 17<sup>th</sup> March 2015, the reply to which was duly submitted on 23<sup>rd</sup> March 2015.
6. In this regard, it is also pertinent to mention that the Acquirers had filed a notice under sub-section (2) of Section 6 of the Act on 11<sup>th</sup> June 2014 (bearing Combination Registration no. C-2014/06/181), pursuant to a shareholders agreement dated 12<sup>th</sup> May 2014, entered into between the Acquirers and UB group comprising United Breweries (Holdings) Limited, Kingfisher Finvest India Limited and McDowell Holdings Limited (“**Shareholders Agreement**”). The said combination related to acquisition of upto 3,08,13,939 equity shares of MCFL (representing additional 26 per cent stake in MCFL), by the Acquirers, by way of a competing open offer as per the relevant provisions of Takeover Code. In this regard, the Commission had noted that the promoters<sup>1</sup> of MCFL were also the

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<sup>1</sup> UB group comprising of United Breweries (Holdings) Limited, Kingfisher Finvest India Limited and McDowell Holdings Limited.



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persons acting in concert ('PAC') along with the Acquirers in the said competing open offer. The Commission approved the said combination vide its order dated 4<sup>th</sup> September 2014. As stated in the notice, the Acquirers issued a competitive bid in the month of November 2014 for acquisition of 26 percent shareholding in MCFL and could acquire only 0.04 percent in the said open offer.

7. As per the terms and conditions regarding the exercise of voting rights, the principles of the minimum quorum and mutual agreement / consent with respect to certain matters, laid down in the Shareholders Agreement, the Commission has noted that the Acquirers are in joint control of MCFL along with its promoters. As stated above, the Commission approved the combination (bearing Registration no. C-2014/06/181) vide its order dated 4<sup>th</sup> September 2014. Further, the Parties while filing the Proposed Combination have submitted that the Shareholders Agreement continues to be valid and subsisting.
8. Based on the information submitted in the notice and subsequent submissions of the Parties, there has been no significant change in the market conditions, post approval of the combination (bearing Registration No.-C-2014/06/181). Further, there would be no change in control in pursuance to the Proposed Combination. Accordingly, the Commission hereby approves the Proposed Combination under sub-section (1) of Section 31 of the Act.
9. Further, as regards the intention of the Acquirers to complete the Proposed Combination through one or more modes as stated in para 3 above, within a period of two years, the Commission considered the same and decided that the Acquirers may complete the Proposed Combination within a period of two years from the date of this approval of the Proposed Combination by the Commission, provided that, if the Acquirers propose to acquire shares through any means, other than those stated in para 3 above or through an arrangement with the promoters or any other shareholder of MCFL, which may result in change of control, the Acquirers



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shall give notice to the Commission in accordance with sub-section (2) of Section 6 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 Acquirers is found to be incorrect.
12. The Secretary is directed to communicate to the Acquirers accordingly.