



22.07.2015

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

- CommScope, Inc. (“CommScope” or “Acquirer”)

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

**CORAM:**

Mr. Ashok Chawla  
Chairperson

Mr. S.L. Bunker  
Member

Mr. Augustine Peter  
Member

Mr. M.S. Sahoo  
Member

Mr. G.P. Mittal  
Member

Legal Representatives: M/s Luthra and Luthra Law Offices

**Introduction**

1. On 18.05.2015, 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 CommScope, a wholly owned subsidiary of CommScope Holding. The said notice was given to the Commission pursuant to execution of a Stock and Asset Purchase Agreement (“**SAPA**”) between CommScope, CommScope Holding and TE Connectivity Limited (“**TE**”) on 27.01.2015 (hereinafter CommScope and TE are collectively referred to as the “**Parties**”).
2. The proposed combination involves acquisition by CommScope of the Broadband Network Solutions (“**BNS**”) business of TE, which relates to the designing, manufacturing, selling, installation and



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distribution of fibre, copper, and wireless infrastructure components, cabling and systems for telecommunications and enterprise customers.

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 29.05.2015, the Acquirer was required to provide certain information/document(s) latest by 15.06.2015. The Acquirer submitted the reply on 29.06.2015 after seeking an extension of 14 days.
4. The Commission in its meeting held on 05.06.2015 decided to seek information in terms of sub-regulation (3) of Regulation 19 of the Combination Regulations from certain customers/distributors and competitors of the Parties. These companies were asked to provide details, *inter-alia* with regard to business models, state of competition, end user preferences etc. vide letters dated 09.06.2015. Their responses were received accordingly.
5. In terms of sub-regulation (4) of Regulation 5 and sub-regulation (2) of Regulation 19 of the Combination Regulations, vide letter dated 15.07.2015, the Parties were required to provide certain additional information/document(s) latest by 17.07.2015. The Parties submitted the reply on due date.
6. The Commission noted that CommScope had earlier filed a notice on 26.02.2015 with regard to its acquisition of BNS business of TE. The same was considered by the Commission in its ordinary meeting held on 10.04.2015 wherein it was noted that the notice filed by CommScope was incomplete and that CommScope had failed to provide requisite information as required vide letter dated 02.03.2015, issued under Regulation 14. In view of the foregoing, the Commission decided that the notice filed by CommScope is not complete and is not in conformity with the provisions of the Combination Regulations and therefore not valid in terms of Regulation 14 of the Combination Regulations. The Commission also noted that, as per the notice, the parties were stated to have a combined market share exceeding 15 percent in the sub-segment of enterprise solutions and accordingly the Commission decided that CommScope be directed to file a fresh notice for the proposed combination in Form II, in terms of sub-regulation (5) of Regulation 5 of the Combination Regulations, within a period of thirty days from the date of receipt of communication in this regard. In view of the foregoing, a fresh notice under sub-section (2) of Section 6 of the Act was filed by CommScope on 18.05.2015, pursuant to the said direction of the Commission.



### Parties to the Combination

7. CommScope is a global network infrastructure and connectivity provider offering broadband/telecom, enterprise and wireless solutions. As stated in the notice, CommScope is controlled by the Carlyle group, a global alternative asset manager. In India, CommScope operates through two wholly-owned subsidiaries, Andrew Telecommunications (India) Private Limited and CommScope Solutions India Private Limited. Andrew Telecommunications is engaged in the business of providing radio frequency subsystem solutions for wireless networks in communication infrastructure. CommScope Solutions is engaged in providing communication network infrastructure for enterprises.
8. TE is a technology equipment company that designs and manufactures connectivity and sensor solutions for a variety of applications, including transportation, industrial, telecommunications and data communications and consumer devices and appliances. As stated above, the proposed combination involves acquisition by CommScope of the BNS business of TE, which is a part TE's network solutions business. In India for the year 2013-14, TE operated its BNS business through TE, ADC India Communications Limited ("ADC") and TE Connectivity Global Shared Services India Private Limited ("TECGSS").

### Competition Assessment

9. As stated above, the proposed combination involves acquisition by CommScope of the BNS business of TE, which relates to the designing, manufacturing, selling, installation and distribution of fibre, copper, and wireless infrastructure components, cabling and systems for telecommunications and enterprise customers. The BNS business includes three business segments i.e., telecom/broadband solutions, enterprise solutions and wireless solutions.
10. As regards the broadband/telecom solutions business and wireless business, the Commission noted that there are no overlaps in the Parties' activities in India. CommScope does not currently sell any broadband products in India. As regards the Parties activities in wireless solutions in India, the Commission noted that there are two segments of wireless equipment at a broader level, i.e., telecom equipment for wireless coverage and capacity solutions and cell site solutions. In India, TE is engaged in the provisioning of telecom equipment for wireless coverage and capacity solutions through its sale of Distributed Antenna System ("DAS"), and CommScope is



engaged in provision of cell site solutions. As TE and CommScope are operating in India in different segments of wireless equipment, there are no overlaps in regard to wireless solutions in India. As regards the enterprise solutions business, the Commission noted that CommScope is engaged in the segments of SCS and other enterprise products such as data centres on demand (**DCoD**) and data centre infrastructure management (**DCIM**), while TE is engaged in the SCS segment only. Thus the activities of the Parties overlap primarily in the SCS segment. However, in addition to SCS, the manufacturers of cable and hardware for enterprise networks also provide automated infrastructure management (“**AIM**”) solutions which are also sold along with SCS as an optional enhancement feature. Given the presence of the Parties in SCS segment and the market for provisioning of AIM solutions, the Commission examined the proposed combination for likelihood of AAEC in both these segments.

### **Competition Assessment: SCS**

#### *Relevant Product Market*

11. SCS comprises building or site telecommunications cabling infrastructure and associated hardware. The provisioning of SCS requires copper and fibre cabling and associated copper and fibre hardware. Further classification is also possible in accordance with the type of copper cable such as unshielded and shielded copper cables and associated hardware.
12. On the aspect of relevant product market, the Parties submitted that the relevant product market may be defined as the market for SCS. In support of their definition of relevant product market, the Parties submitted that the two types of cabling, viz., copper and fibre cabling are largely substitutable from the demand side as both cabling types have the same general function and are able to serve the same group of customers. It was further stated that structured cabling products are generally bid and sold as complete solutions, which include a mix of copper and fibre cabling as well as other hardware and/or software together and thus the competition in this segment occurs at the level of complete SCS.
13. The Commission noted that the key issue in definition of relevant product market here is, whether the relevant product market can be defined at the level of SCS or whether the relevant product market needs to be defined at the level of individual components of SCS. However, in view of the fact that



the proposed combination is unlikely to cause an appreciable adverse effect on competition (“AAEC”) at the SCS level or at the level of individual components of SCS, the Commission decided to leave the exact delineation of the relevant market open.

*Relevant Geographic Market*

14. On the aspect of relevant geographic market, the Parties submitted that the relevant geographic market is worldwide. In support of their definition of relevant geographic market, the Parties submitted, *inter-alia*, that customers consider worldwide opportunities while making purchases of SCS, import and transportation costs are low, there are no country specific standards and the competition to supply is global.
  
15. The Commission observed substantial differences in the state of concentration in India as compared to that at the global level, which may be indicative of market conditions in India not being homogenous as compared to the market conditions prevailing in other parts of the world. However, as the Commission’s analysis set out in paragraph 16 revealed that the proposed combination is not likely to cause AAEC even if the relevant geographic market is defined at India level, the Commission decided that for the purpose of the assessment of the proposed combination, the exact delineation of the relevant geographic market may be left open.

**Assessment of AAEC concerns**

16. The Commission considered the market share of the Parties in both the overall market for SCS and in narrower markets for copper and fibre cables and associated equipment for enterprise networks. The table below shows the market share ranges of the Parties in India based on the information provided by the Parties and data compiled in 2014 BSRIA Report<sup>1</sup>.

Market segment	Range of market share of CommScope (Percentage)	Range of market share of TE (Percentage)	Range of combined market share of the Parties (Percentage)
Copper cables	10-15	25-30	35-45
Copper hardware	5-10	25-30	30-40

<sup>1</sup> BSRIA (owned by The Building Services Research and Information Association) is an independent industry observer.



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Fibre cable	0-5	15-20	15-25
Fibre hardware	10-15	30-35	40-50
Overall SCS	5-10	25-30	30-40

In the overall SCS market, the market share of TE is estimated to be in the range of 25 to 30 percent and that of CommScope is estimated to be in the range of 5 to 10 percent leading to a combined market share in the range of 30 to 40 percent. In the narrower market for copper cables, the market share of TE is estimated to be in the range of 25 to 30 percent and that of CommScope is estimated to be in the range of 10 to 15 percent leading to a combined market share in the range of 35 to 45 percent. In the market for copper hardware, the market share of TE is estimated to be in the range of 25 to 30 percent and that of CommScope is estimated to be in the range of 5 to 10 percent leading to a combined market share in the range of 30 to 40 percent. In the market for fibre cable, the market share of TE is estimated to be in the range of 15 to 20 percent and that of CommScope is estimated to be in the range of 0 to 5 percent leading to a combined market share in the range of 15 to 25 percent. In the market for fibre hardware, the market share of TE is estimated to be in the range of 30 to 35 percent and that of CommScope is estimated to be in the range of 10 to 15 percent leading to a combined market share in the range of 40 to 50 percent. Apart from the market shares, the Commission also took into account other factors contained in sub-section (4) of Section 20 of the Act for the assessment of the proposed combination as detailed in the ensuing paragraphs.

17. The Commission noted that there are a number of suppliers of cables/equipment used in provisioning of SCS operating in India such as Schneider Electric, Molex, R&M, Panduit, Leviton, Corning, Nexans and Seimon etc indicating a competitive market. The same was confirmed vide responses of distributors/channel partners. All the distributors/channel partners submitted that because products used in provisioning of SCS are standardized, there is intense competition among vendors. It was further stated that apart from the aforesaid global players there are also local players such as Finolex and Sterlite present in all the segments and that the market is driven by quality and service.
18. The Parties stated that the purchasers of SCS are large distributors, system integrators, and large corporations and have considerable buyer power when dealing with suppliers. On this aspect, the distributors/channel partners were asked to submit their comments. The respondents confirmed that they consider the product offerings of CommScope and TE as substitutable with that of the other



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vendors. Further, as regards the preferences of end users, the channel partners indicated that while the global customers invariably mention a preference for around 2 or 3 of the available brands for the purpose of price discovery and logistics support from the vendor, Indian customers tend to go by the specified standards that suit their requirements to select vendors. In view of the response from the distributors/channel partners, it appears that the end customers and the distributors/channel partners are in a position to exercise countervailing buyer power.

19. The distributors/channel partners and competitors of the Parties were asked to provide details of any components which in their knowledge are supplied exclusively by CommScope and/or TE. All the distributors/channel partners indicated that there are no components which are exclusive to CommScope and/or TE. However, some competitors provided information on certain components which, according to them are exclusive to CommScope and/or TE. These included components such as VisiPatch, retrofit AIM components, iTRACS, and Full AXS connector. The Parties were asked to provide clarification on the same. As regards VisiPatch, it was submitted by the Parties that it is a type of system of patching and cable management used in copper cabling solutions. It was further submitted that all providers of SCS offer some form of patching system variants to the normal standards based patching system and customers may opt for VisiPatch or any standard based patching system. The Parties inferred retrofit AIM to mean the ability to take an already installed patch panel and later enable the software component needed for AIM solution or later make the panel “intelligent” by adding sensors and submitted that the same is not a distinct product, but a feature of AIM solution. It was further stated that most of the vendors of AIM solutions have the ability to upgrade or retrofit certain passive patch panels to AIM panels. As regards the full AXS connector and iTRACS, the Parties submitted that these are not the SCS products. While iTRACS is a DCIM product, full AXS connector is not even a product within TE’s BNS. On the basis of the aforesaid clarifications, the Commission noted that the proposed combination is not likely to lead to a situation of monopolizing any particular part of the market.

20. One of the competitors stated that the proposed combination will dilute competition and disadvantage customers. It was stated that the combined entity would have a market share between 38 to 55 percent and such share would give it the influence over channel partners, who deliver end solutions to the customer. An apprehension was expressed that the combined entity would have an ability to influence distributors on the aspect of carrying multiple vendors, causing market foreclosure for other vendors. The Commission examined the submissions on this aspect and noted that channel partners/distributors do not seem to be in a position to act independently of the preferences of end users who generally



specify 2-3 brands for the purposes of price discovery and logistical support or go by the specified standards. In view of the same, the apprehension expressed is not likely to materialize and cause an AAEC.

21. Though, the market has been defined at India level, the Commission also noted that competition from imports is also a relevant constraint in this case. As stated by the Parties, transportation costs and the import duties for most components and tools for the relevant products within India are relatively low. As per the information submitted by the Parties, for the year 2013, both TE and CommScope imported a significant percentage of their sales in India. TE's own imports of SCS in India were roughly half of sales in India in 2013. Further, it was submitted that CommScope has been active in India since the late 1990s but did not have any production facilities until about two years ago.
22. The Commission noted that despite the Parties' high combined market shares individual components used in provisioning of SCS, the same is not likely to cause an AAEC due to other factors relevant to competition such as standardized nature of the product, presence of other competitors, countervailing buyer power with distributors/channel partners and end users, and competitive constraints from imports.

#### **Competition Assessment: AIM Solutions**

23. AIM is a system of hardware and software that provides visibility/control over network connectivity to facilitate the management of cabling infrastructure (fibre or copper). AIM monitors cabling infrastructure and tracks locations of connected devices to manage changes to the network. It gives real-time information such as connection status between cables and patch panels, location of connectivity, capacity levels, server utilisation levels and automatically detects and documents any changes to the connectivity information.
24. The Parties submitted that AIM is sold with SCS as an optional enhancement feature and is a part of SCS. The Commission, however, considered AIM solutions as a separate and distinct part of SCS and examined the likelihood of AAEC in provisioning of AIM solutions. The competitors of the parties were asked to comment on the state of market for AIM solutions in India. The competitors in their reply stated that the demand for AIM solutions constitutes 5 – 7 percent of total demand of SCS, which corroborates the submissions of the Parties on the small size of the market for AIM solutions. Based on the estimates of market size as provided by the respondents, the Commission noted that the



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combined market share of the Parties for AIM solutions is not significant and unlikely to cause AAEC. Further, the combined entity would continue to face competitive constraints from other competitors such as Molex and Schneider Electric. This, given the size of the market, combined market share of the Parties and the number of players operating in the segment, it seems that the proposed combination is not likely to cause an AAEC in the market for AIM solutions in India.

25. 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.
26. This order shall stand revoked if, at any time, the information provided by the parties is found to be incorrect.
27. The Secretary is directed to communicate to the Acquirer accordingly.