



07.12.2016

Notice u/s 6 (2) of the Competition Act, 2002 filed by Aditya Birla Nuvo Limited, Grasim Industries Limited and Aditya Birla Financial Services Limited

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

CORAM:

Mr. Devender Kumar Sikri
Chairperson

Mr. Sudhir Mital
Member

Mr. Augustine Peter
Member

Mr. U. C. Nahta
Member

Mr. G.P. Mittal
Member

Legal Representatives: M/s Shardul Amarchand Mangaldas & Co., New Delhi

Introduction

1. On 08.09.2016, 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 Aditya Birla Nuvo Limited (“**ABNL**”), Grasim Industries Limited (“**GIL**”) and Aditya Birla Financial Services Limited (“**ABFSL**”) (hereinafter ABNL, GIL and ABFSL are collectively referred to as the “**Parties**”).



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2. The proposed combination, as per the notice given by the Parties is structured as a merger and envisages: (i) amalgamation of ABNL with and into GIL (“**Step 1**”); (ii) demerger and transfer of the demerged undertaking¹ of GIL to ABFSL (“**Step 2**”); and (iii) transfer of shares held in Birla Sun Life Insurance Company Limited (“**BSLI**”) by ABNL to ABFSL as a condition precedent to Step 2 (“**BSLI Transaction**”). Step 1, Step 2 and BSLI Transaction are, hereinafter collectively referred to as “**Proposed Combination**”.
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 10.10.2016, the Parties were required to provide certain information/document(s) latest by 14.10.2016. The Parties submitted their reply on 25.10.2016, after seeking extension. Further, *vide* letter dated 16.11.2016, Parties submitted some additional information in continuation of the response submitted on 25.10.2016.
4. It is stated in the notice that GIL is listed on the Bombay Stock Exchange (“**BSE**”) and has three functional business segments *i.e.* manufacture and sale of Viscose Staple Fibre, cement (through its subsidiary Ultratech Cement Limited) and chemicals.
5. ABNL is engaged both in manufacturing and services business. It manufactures fertilisers (through its division Indo-Gulf Fertilisers), Viscose Filament Yarn (through its division Indian Rayon), insulators (through its division Aditya Birla Insulators), textiles (though its division Jayashree Textiles) etc. and is engaged in provision of telecom service (through its associate company Idea Cellular), life insurance products (through its subsidiary BSLI) and other financial services. It manufactures worsted yarn through its division Jaya Shree Textiles and caustic soda through its division Indian Rayon.
6. ABFSL is the holding company for certain financial services business of ABNL.
7. BSLI is engaged in life insurance sector, with 51% voting rights held by ABNL and 49% held by Sun Life.

¹ It has been submitted by the Parties that currently there are portions of financial services business which are held as divisions of ABNL, which will be demerged from the resultant entity created after Step 1 and be transferred to ABFSL, which post the Proposed Combination will become the subsidiary of GIL.



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8. The Commission observed that horizontal overlap exists between ABNL and GIL in respect of (i) manufacturing and sale of Caustic Soda and its by-products (being chlorine and hydrochloric acid); and (ii) worsted yarn.
9. It has also been stated in the notice that there exist certain vertical relationships between ABNL and GIL in as much as GIL sells caustic soda and salt to ABNL. Further, there have also been certain sales of wool tops from ABNL to GIL during the last financial year.
10. The Parties have stated in the notice that cost of transportation of caustic soda (and its by-products) and worsted yarn is insignificant and there are no regulatory or tax/excise duty related barriers in states where the parties have their manufacturing units. In the view of the same, the relevant geographic market may be delineated as India.
11. In the market of caustic soda, Parties have stated that the market share of GIL is in the range of 20-25% and of ABNL is 0-5%; and the combined market share would still remain in the range of 20-25%, the incremental market share being absolutely insignificant. There are other significant manufacturers of caustic soda including Gujarat Alkalies and Chemicals Limited, Reliance Industries Limited, Punjab Alkalies and Chemicals Limited, DCM Shriram Limited, Meghmani Finechem Limited, Gujarat Flourochemcials Limited and Sanmar Group. It has also been stated that imports form a significant portion of demand for caustic soda in India and acts as a competitive constraint. It has further been stated that since ABNL has a minimal market share in caustic soda, the Proposed Combination is not likely to remove a significant competitor from the market. The Parties have stated that given that chlorine and hydrochloric acid are by-products of caustic soda and are produced in proportion to it, the scenario in relation to these by-products of caustic soda *vis-a-vis* market shares and impact of imports on the market would be similar as that of caustic soda.
12. In the market of worsted yarn, the Parties have stated that market share of GIL is 0-5%, market share of ABNL is 5-10% and the combined market share would be in the range of 6-11%. Further, there are a large number of significant players such as Modern Woollens, Uniworth Limited, Bansal Spinning Mills Limited, BSL Limited and Oswal Woollen which will continue to provide competitive constraint to the Parties, post-combination. It is also stated that players



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such as OCM India Limited, BSL Limited, Reid & Taylor (India) Limited, Digjam Limited etc. are engaged in captive consumption of worsted yarn. Depending upon future market conditions, they may start selling worsted yarn, thus making the market contestable.

13. As alluded to earlier, the Parties are also engaged in a vertical relationship in caustic soda, salt and textiles. With regard to caustic soda, it is noted that the incremental market share is not significant enough to raise AAEC concerns in India. Further, with regard to salt, the Parties have stated that ABNL purchases salt from the Singach Unit of GIL for the manufacture of caustic soda (in which it has an insignificant market share) and salt produced by Singach unit of GIL belongs to industrial category and is not being sold under any brand name and is being consumed captively as well as sold to ABNL for caustic soda production. Further, GIL, having market share of less than 1%, does not sell salt to any other caustic soda manufacturer.
14. In textiles, it is stated by the Parties that GIL (through its subsidiary) has purchased certain amount of wool tops from ABNL which is used for blending purposes in polyester viscose fabric manufactured by GIL. It is stated that in wool tops (used as raw material for worsted yarn and other fabrics), although ABNL has 65-70% market share, other competitors of ABNL such as Raymond, Indoworth, Oswal, etc. produce their own wool tops for captive use in production of worsted yarn and if these captive capacities are taken into account, market share of ABNL would be much lower. Further, there are also other players such as Oswal Woollen Mills Ltd. and Modern Woollens operating in fragmented market for wool tops and as has been noted above, GIL has a market share of only 0-5% in worsted yarn.
15. Considering facts on record and 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 appreciable adverse effect on competition in India in any of the relevant market(s) and therefore, the Commission approved the same under sub-section (1) of section 31 of the Act.



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16. This order shall stand revoked if, at any time, the information provided by the parties is found to be incorrect.
17. The Secretary is directed to communicate to the Acquirers accordingly.