

सत्यमेव जयते



Fair Competition
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COMPETITION COMMISSION OF INDIA

(Combination Registration No. C-2020/07/758)

11.09.2020

Notice u/s 6 (2) of the Competition Act, 2002 filed by CA Clover Intermediate II Investments

CORAM:

Mr. Ashok Kumar Gupta

Chairperson

Ms. Sangeeta Verma

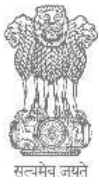
Member

Mr. Bhagwant Singh Bishnoi

Member

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

1. On 16.07.2020, the Competition Commission of India (“**Commission**”) received a notice under Section 6(2) of the Competition Act, 2002 (“**Act**”) filed by CA Clover Intermediate II Investments (“**Curie/ Acquirer**”), pursuant to *inter alia*, Business Transfer Agreement (“**BTA**”) dated 26th June 2020 executed between Piramal Pharma Limited (“**Pharma Co./ Target**”) and Piramal Enterprises Limited (“**PEL**”) (Hereinafter, Curie and Pharma Co. are collectively referred to as “**Parties**”).
2. The proposed combination relates to (i) the transfer of global pharmaceutical business (**Transferred Business**) by PEL to a wholly owned subsidiary of PEL, i.e. Pharma Co., followed by, (ii) the acquisition of 20% of the issued and paid-up equity share capital of Pharma Co. by Curie, a special purpose acquisition vehicle, owned and controlled by investment funds advised by



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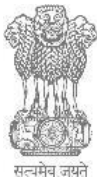
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the affiliates of the Carlyle Group Inc. (**Carlyle Group**) (**Proposed Combination**).

3. 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* email dated 06.08.2020, Parties were required to provide certain information(s) /clarification(s) *inter alia*, relating to activities of the Parties; responses to the same were received on 13.08.2020 and 21.08.2020.
4. Curie, a special purpose vehicle incorporated in Mauritius, is owned and controlled by investment funds advised by affiliates of the Carlyle Group. The Carlyle Group is stated to be a global alternative asset manager, which manages funds that invest globally across four investment disciplines: (i) corporate private equity (buyout and growth capital), (ii) real assets (real estate, infrastructure and energy and renewable resources), (iii) global credit (leveraged loans and structured credit, opportunistic credit, energy credit, private credit and distressed credit), and (iv) solutions (private equity fund of funds program and related co-investment and secondary activities).
5. Pharma Co. is a wholly owned entity of Piramal Enterprises Ltd. (“**PEL**”). It has been stated that Pharma Co. will hold PEL’s Transferred Business comprising of Contract Development and Manufacturing Organisation (“**CDMO**”), Complex Hospital Generics (“**CHG**”), Consumer Healthcare Division (“**CHD**”) business segments.
6. The CDMO business division of PEL uses collaborative partnership models to provide end-to-end services including research, development, and manufacturing a wide variety of solid dose forms, active pharmaceutical ingredients (APIs), for the marketplace. CHG business division of PEL manufactures and markets complex generic pharmaceutical products such as inhalation anaesthesia, sold to various hospitals/ institutional customers primarily through a third party distribution network in India. The CHD business division markets OTC branded products like analgesics, gastro, skin care, vitamins, etc. in India.
7. It has been submitted that Curie is not engaged in any business activity and does not therefore have any overlap with the business proposed to be transferred to Pharma Co. However, the Carlyle



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Group through its portfolio companies is present in the overall business segment of CDMO services.

8. In relation to CDMO it has been stated that CDMOs are involved in the provision of contract manufacturing or/and contract development services to its customers (i.e., pharmaceutical companies) under a contract/order. Contract manufacturing is a form of outsourcing where a pharmaceutical manufacturer enters a formal agreement with another manufacturing firm for manufacturing/development of its parts, products, or components. Such activity is undertaken only under a contract order from a customer and strictly under the terms of the contract. CDMOs do not maintain ready to supply “stock” and provide services further to an order placed by a customer.
9. The pharmaceutical supply chain in India comprises steps from the production, distribution and consumption of drugs and involves multiple stakeholders. For CDMOs, the supply chain is limited to selling products to pharmaceutical companies, other CDMOs or a distributor/ trader that re-sells to smaller generic pharmaceutical companies.
10. Further, it has been stated that as a result of the growing demand for generic medicines and biologics, many pharmaceutical companies have identified the potential profitability in contracting with a CMO (contract manufacturing outsourcing) for both clinical and commercial stage manufacturing. CDMOs work on a business to business model. In a few cases, the intermediate customer of CDMO can be another CDMO that provides a final product to another pharmaceutical company or a distributor/ trader selling further to a number of smaller generic pharmaceutical companies.
11. In relation to horizontal overlaps it has been stated that both Carlyle Group and Pharma Co. have presence in the overall CDMO segment in India. The market for CDMO may be sub-segmented into (i) CDMO services for finished dosage products (**FDPs**) [**CDMO-FDP**] (ii) CDMO services for active pharmaceutical ingredients (**APIs**) [**CDMO-API**]. Further, CDMO market may be sub-segmented as markets of contract manufacturing organization (**CMO**), and contract development organization (**CDO**).



12. With regard to vertical relationship it is stated that Carlyle Group has certain shares in Global Health Private Limited (present in the NCR, India region through the Medanta group of hospitals) (**Medanta**). PEL undertakes the sale of its CHG products primarily through contractual third party distributors (**Distributors**) and supports Distributors in their participation in tenders. For CHD, it is stated that PEL makes sales only through its Distributors who resell primarily to pharmacies and make limited sales directly to hospitals.
13. The Proposed Combination is assessed in the segments/ sub-segments identified above. However, the exact delineation of the relevant market is left open as it is observed that the Proposed Combination is not likely to cause an appreciable adverse effect on competition in any of the possible alternative relevant markets.
14. It has been submitted that in the sub-segmented markets of contract manufacturing organization (**CMO**), and contract development organization (**CDO**), the Parties do not have any horizontal overlap in respect of any API or FDP.
15. Based on the submissions of the Parties it is noted that the combined market shares of Carlyle Group and PEL is not significant in overall CDMO segment or sub-segments. Further, there are other players present such as Lonza, Catalent Inc., Recipharm AB, Syngene (subsidiary of Biocon Ltd.), Divis, Dishman who will continue to pose competition constraints on the Parties post the Proposed Combination.
16. It has been submitted that PEL does not undertake the sale of CHG products directly. PEL undertakes direct supply of CHG products only to government hospitals and municipal corporations. In all other cases, PEL sells its CHG products to Distributors for further distribution to third parties. The supply of CHG products takes place on a pan-India basis and through distributors, can be supplied to any part of the country. Accordingly, the Proposed Transaction is not likely to result in foreclosure effect to any other purchaser of CHG products in India.
17. Considering the facts on record and the details provided in the notice given under Section 6(2) of the Act and assessment of the Proposed Combination based on the factors stated in Section 20(4) of



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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 in any of the relevant market(s) and therefore, the Commission hereby approves the same under Section 31(1) of the Act.

18. This order shall stand revoked if, at any time, the information provided by the Acquirer is found to be incorrect.
19. The information provided by the Acquirer is confidential at this stage in terms of and subject to provisions of Section 57 of the Act.
20. The Secretary is directed to communicate to the Acquirer accordingly.