



सत्यमेव जयते



COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2020/08/763)

22nd September 2020

Notice under Section 6 (2) of the Competition Act, 2002 jointly given by Mr. Prashant Singh, Mr. Tushar Kumar, Prasad Uno Family Trust and API Holdings Private Limited

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 6th August 2020, the Competition Commission of India (“**Commission**”) received a notice under Section 6(2) of the Competition Act, 2002 (“**Act**”), jointly given by Mr. Prashant Singh (“**PS**”), Mr. Tushar Kumar (“**TK**”), Prasad Uno Family Trust (“**Trust**”) and API Holdings Private Limited (“**API**”) [Hereinafter, PS, TK and Trust are collectively referred to as “**Medlife Promoter Shareholders**”]. The notice was filed pursuant to the execution of binding term sheet (“**BTS**”) on 3rd August 2020 *inter alios* between the Medlife Promoter Shareholders and API.
2. As per the Notice, the Proposed Combination was envisaged through two distinct but inter-connected steps:
 - (i) *Step 1:* Acquisition of 100% of the equity share capital of Medlife International Private Limited (“**Medlife/Target**”) by API. Medlife would become a wholly-owned subsidiary of API.



- (ii) *Step 2*: Acquisition of up to 19.59% of the equity share capital of API by the Medlife Promoter Shareholders and other shareholders of Medlife, on a fully diluted basis, as consideration to Step 1.

[Hereinafter, API, Medlife Promoter Shareholders and Medlife are collectively referred to as “**Parties**”.]

3. The Parties *vide* communication dated 24th August 2020, submitted “Intimation of change in transaction” under Regulation 16 of the Competition Commission of India (Procedure in Regard to the transaction of Business relating to Combinations) Regulations, 2011 (“**Combination Regulations**”) as per which the Proposed Combination has been contemplated as acquisition of 100% of the equity share capital of Medlife by API; and acquisition of up to 19.59% of the equity share capital of API by the Trust and other shareholders of Medlife, on a fully diluted basis.
4. In terms of Regulation 14(3) of the Combination Regulations, the Commission *vide* emails dated 24th August 2020 and 1st September 2020 sought certain information and clarifications from the Parties *inter alia* on overlaps and shareholding structure. The response was submitted on 30th August 2020, 3rd September 2020 and 20th September 2020.
5. API, incorporated in India, is the ultimate parent entity of API Group. Pursuant to the Scheme of Amalgamation¹, API (directly or through subsidiaries) carries out various business activities including: (a) wholesale (“**B2B**”)² sale and distribution of drugs (including pharmaceutical products, medical devices and over-the-counter (“**OTC**”) drugs); (b) provision of transportation and delivery services primarily focused on pharmaceutical sector; (c) owning technology and intellectual property for developing e-commerce platforms including marketplaces for facilitating the sale of

¹ It is submitted in the Notice that a composite Scheme of Amalgamation (**Scheme**) was filed by API and other entities such as 91Streets Media Technologies Private Limited and Ascent Health and Wellness Solutions Private Limited with the National Company Law Tribunal (**NCLT**) on 16th September 2019. On implementation of the Scheme, all the shareholders of 91Streets, Ascent, etc. will become the shareholders of the merged entity, *i.e.* API. Subsequently, NCLT approved the Scheme on 8th June 2020. It is submitted that the Scheme was implemented and given effect on and from 27th August 2020.

² B2B: Business to Business



pharmaceutical products, medical devices and OTC drugs; (d) provision of manpower supply, support, business function support for group companies of API; (e) provision of master data management services support; (f) developing ERP and software solutions primarily for healthcare businesses and other customised application services for retail pharmacies; (g) operate and provide online application which provides a B2B order management system for retailers and distributors of pharmaceutical products, medical devices and OTC drugs; and (h) developing a platform which connects registered medical practitioners (“**RMPs**”) and patients whereby the patients could consult with RMPs through the platform by way of tele-consultation as well as physical consultation.

6. Medlife Promoter Shareholders hold majority shareholding in Medlife as well as have investments in other enterprises. Mr. Prashant Singh (*Managing Director of Medlife*) and Mr. Tushar Kumar are the co-founders of Medlife. The Trust is a private trust incorporated under the Indian Trusts Act, 1882. The Trust has various investments in the healthcare sector.
7. Medlife is a healthcare company incorporated in India in November 2014. It is primarily engaged in the wholesale sale and distribution of drugs (including pharmaceutical products, medical devices and OTC drugs). Medlife also engages in the retail sale (“**B2C**”)³ of such pharmaceutical products, medical devices and OTC drugs, through pharmacies and an online marketplace (called Medlife). Further, Medlife provides medicines and wellness products and services, including providing digital doctor consultation and online diagnostic tests services.
8. API has licensed the operation of the ‘PharmEasy’ marketplace to an unrelated and independent third-party. It is submitted that Medlife will also license its ‘Medlife’ platform, which carries out B2C operations, to an independent third party.

³ B2C: Business to Consumer



9. Based on the submissions, the Commission noted that the following horizontal overlaps exist between the products and services offered by Medlife, investee entities of Medlife Promoter Shareholders and API:
- (a) wholesale sale and distribution of drugs (and at narrower level in wholesale and distribution of (i) pharmaceuticals, (ii) medical devices and (iii) OTC drugs)
 - (b) provision of consultation services by RMPs;
 - (c) manufacture/marketing/sale of calcium preparations;
 - (d) manufacture/marketing/sale of ayurvedic products;
 - (e) manufacture/marketing/sale of hygiene products;
 - (f) manufacture/marketing/sale of vitamins, minerals and nutrients; and
 - (g) manufacture/marketing/sale of respiratory protective devices.
10. The Commission decided to leave the delineation of the relevant market open as it was observed that the Proposed Combination is not likely to cause an appreciable adverse effect on competition in any of the relevant markets.
11. As per information submitted, the combined market share of the Parties was less than [5%] in all these segments/sub-segments and the incremental market share was insignificant. It was also observed that API has recently entered in certain overlapping segments and hence has minimal presence.
12. Similarly, based on the submission of the Parties, the Commission noted that there are various vertical relationships, existing and potential, between the API, Medlife and investee entities of Medlife Promoter Shareholders. The existing vertical relationship between the B2B supply of drugs by API (*upstream*) and the B2C retail operations of Medlife (*downstream*) will cease to exist post the Proposed Combination. It is submitted in the Notice that this supply arrangement will be terminated as Medlife will no longer be able to continue its B2C operations on account of the extant FDI regulations.



13. Further, the market share(s) of the Parties are less than [5%] in each of the segment/sub-segment of the potential vertical relationships and there are several players present. Accordingly, based on the foregoing, it appears that the Parties do not have any ability or incentive to foreclose the competition.
14. Considering the material on record including the details provided in the Notice and the assessment of the Proposed Combination based on the factors stated in Section 20(4) of 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. Therefore, the Commission approves the Proposed Combination under Section 31(1) of the Act. Further, the Commission observed that non-compete clause is not ancillary to the combination.
15. This order shall stand revoked if, at any time, the information provided by the Parties is found to be incorrect.
16. The information provided by the Parties shall be treated as confidential in terms of and subject to provisions of Section 57 of the Act.
17. The Secretary is directed to communicate to the Parties accordingly.