



**COMPETITION COMMISSION OF INDIA**  
(Combination Registration No. C-2016/02/374)

11<sup>th</sup> May 2016

**Notice under Section 20 (1) of the Competition Act, 2002 given by**

- Mitsui & Co. Ltd., and
- Kocide LLC

**CORAM:**

Mr. Devender Kumar Sikri  
Chairperson

Mr. S.L. Bunker  
Member

Mr. Sudhir Mital  
Member

Mr. U.C. Nahta  
Member

Mr. M.S. Sahoo  
Member

Mr. G.P. Mittal  
Member

**Legal Representative:** M/s Shardul Amarchand Mangaldas & Co.

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

1. On 11<sup>th</sup> February 2016, the Competition Commission of India (hereinafter referred to as the “**Commission**”) received a notice jointly given by Mitsui & Co. Ltd. (“**Mitsui**”/ “**Acquirer 1**”) and Kocide LLC (“**Kocide**”/ “**Acquirer 2**”). (Hereinafter, Acquirer 1 and Acquirer 2, are together referred to as ‘**Acquirers**’)
2. The notice was given pursuant to the Commission’s direction dated 7<sup>th</sup> January 2016 under sub-section (1) of Section 20 of the Competition Act, 2002 (“**Act**”) read with Regulation 8 (2) of the of the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011 (‘**Combination Regulations**’). The combination relates to acquisition of copper fungicide business (“**Target business**”) of E.I Du Pont De Nemours and Company (“**DuPont**”/“**Seller**”) by the Acquirers, pursuant to an



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Asset Purchase and Sale Agreement (“**APSA**”) entered into and between Certis Cu LLC (“**Certis**”<sup>1</sup>) and DuPont on 19<sup>th</sup> August 2014. (Hereinafter Acquirers and DuPont are together referred to as ‘**Parties**’).

3. In respect of the acquisition of Target business, as a first step of the Combination, Acquirers have acquired intellectual property assets including patents, trademarks<sup>2</sup>, registration data, biological data, and manufacturing know-how (including process patents), related thereto, by Acquirers from DuPont. In the second step of the combination, Mitsui would acquire a manufacturing facility of DuPont located in USA.
4. It has been stated in the notice that Parties have also entered into a ‘Supply and Distribution Agreement’ under which DuPont will continue to supply copper fungicide products for a period of five years exclusively in Asia Pacific region.
5. In terms of Regulation 14 of the Combination Regulations, the Acquirer, vide Commission’s letter dated 29<sup>th</sup> February, 2016, was required to provide certain information; response to the same was provided on 04<sup>th</sup> March, 2016. Another letter seeking certain information / clarification from the Acquirers was issued on 22<sup>nd</sup> March 2016, the response to which was provided on 28<sup>th</sup> March, 2016.
6. The combination falls under Section 5(a) of the Act.
7. Mitsui, a company listed in Japan, is engaged in worldwide trade of commodities and other businesses, including the sale, distribution, purchase, marketing and supply of products relating to areas such as iron and steel, non-ferrous metals, machinery, electronics, chemicals, energy-related commodities, logistics, and investing in infrastructure projects.
8. Kocide<sup>3</sup>, established in July 2014 for the purpose of acquiring the copper fungicide business from DuPont, is a limited liability company created under the laws of state of Delaware, USA and is a subsidiary of Mitsui. As submitted, Kocide does not have any activities in India.
9. DuPont, a company incorporated in USA and listed at New York Stock exchange, is engaged globally in three segments: (i) agriculture & nutrition; (ii) speciality chemicals; and (iii) advanced materials and bio-based industrials products. It is also active globally in building materials, crop protection, electronics and communications, industrial biosciences, nutrition and health, packaging and industrial polymers, performance polymers, agricultural products, protection technologies and sustainable solutions.
10. As per information provided in the notice, while DuPont is present in the sale of copper fungicides, Mitsui is present in the manufacture and sale of bio-fungicides in India. It is observed, on the basis of information provided by the Acquirers that, the market shares of the Parties in their respective businesses i.e. copper fungicides and bio-fungicides are

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<sup>1 & 3</sup> *Certis has been renamed as Kocide LLC*

<sup>2</sup> *DuPont™ Kocide® and ManKocide® brands.*



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insignificant and unlikely to raise competition concerns. Apart from above, it is observed that there are a number of large competitors such as Indore Biotech Inputs and Research, Varsha-bioscience Technology, Bayer Crop Science etc. active in bio-fungicides business in India. With regards to copper fungicides business, it is observed that significant competitors such as Syngenta AG, Rallis India, Dhanuka Agritech, Isagro agrochemicals etc., are present in the copper fungicides business in India.

11. With regard to vertical relationships, it has been stated in the notice that there is no existing vertical relationship between the Parties. Further, the relationship emanating from the Supply and Distribution Agreement would not raise competition concern as prior to the combination, the Acquirers are not present in the manufacture and sale of copper fungicides in India.
12. Considering the facts on record and the details provided in the notice and assessment of the combination on the basis of factors stated in sub-section (4) of Section 20 of the Act, the Commission is of the opinion that combination is not likely to have an appreciable adverse effect on competition in India and therefore, the Commission hereby approves the same under sub-section (1) of section 31 of the Act.
13. This order is, however, issued without prejudice to proceedings under Section 43A of the Act.
14. This order shall stand revoked if, at any time, the information provided by the Acquirers is found to be incorrect.
15. The Secretary is directed to communicate to the Acquirers accordingly.