



**COMPETITION COMMISSION OF INDIA**

**Combination Registration No.C-2023/05/1028**

**26<sup>th</sup> July 2023**

**Notice under Section 6(2) of the Competition Act, 2002 filed by Ipca Laboratories Limited**

**CORAM:**

Ms. Ravneet Kaur  
Chairperson

Ms. Sangeeta Verma  
Member

Mr. Bhagwant Singh Bishnoi  
Member

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

1. On 18<sup>th</sup> May 2023, the Competition Commission of India (**Commission**) received a notice under sub-section (2) of Section 6 of the Competition Act, 2002 (**Act**), filed by Ipca Laboratories Limited (**Acquirer**). The notice has been given pursuant to Share Purchase Agreement (**SPA**) dated 24<sup>th</sup> April 2023 executed among the Acquirer, Unichem Laboratories Limited (**Unichem/Target**) and Dr. Prakash Amrut Mody (**Seller**) (collectively, the Acquirer and the Target are referred to as **Parties**).
2. The proposed combination comprises of:
  - (a) **Share Purchase:** Pursuant to the SPA, the Acquirer will purchase ~33.38% of the issued and paid-up equity voting share capital (on a fully diluted basis) of the Target from the Seller.



(b) **Open Offer:** Given that (i) the Target is a listed company and (ii) the Acquirer is acquiring >25% shareholding in the Target pursuant to the SPA, the Acquirer is required to make an open offer for the purchase of equity shares of up to 26% of the Target's equity share capital in accordance with the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (The Share Purchase and Open Offer are collectively, the **Proposed Combination**). Accordingly, the Acquirer will acquire ~ 59.38% shareholding of the Target on account of the 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 (**Combination Regulations**), the Commission, *vide*, communication dated 26<sup>th</sup> May 2023, sought certain information(s)/clarification(s), *inter alia*, relating to the activities of the Parties; the response to the same was received on 7<sup>th</sup> June 2023. As the response received was incomplete in certain respects, therefore, in continuation to the letter dated 26<sup>th</sup> May 2023, another communication dated 19<sup>th</sup> June 2023 was sent. The response to the same was received on 23<sup>rd</sup> June 2023. Further, the Acquirer provided additional information through letter dated 6<sup>th</sup> July 2023 and 11<sup>th</sup> July 2023.

#### **Description of the Parties**

4. **Acquirer Group:** Mr. Premchand Godha and his family members (comprising of (i) Mr. Premchand Godha's (i) wife, Mrs. Usha Godha, (ii) sons, Mr. Pranay Godha and Mr. Prashant Godha, (iii) daughters-in-law, Mrs. Bhawna Godha and Mrs. Neetu Godha, (iv) brother, Mr. Nirmal Jain and (v) sister-in-law, Mrs. Kalpana Jain) (collectively, **Godha Family**) directly and indirectly exercise ~36.72% shareholding in the Acquirer. The Godha Family is the ultimate parent entity of the Acquirer. It is stated in the notice that the Godha Family and all entities over which the Godha Family directly or indirectly exercises (a) 10% or more shareholding, or (b) a right or ability to exercise any right not available to ordinary shareholders (including any advantage of a commercial nature) or (c) a right or ability to nominate a director or



observer comprise the **Acquirer Group**. The Acquirer Group does not carry out any business activities outside India except through the Acquirer. The Acquirer Group is engaged in business activities in the pharmaceutical sector in India through the following entities: (i) Makers Laboratories Limited (**Makers**) (ii) Resonance Specialties Limited (**Resonance**) and (iii) Kaygee Laboratories Private Limited (**Kaygee**).

5. **Acquirer:** The Acquirer is a publicly listed pharmaceutical company incorporated in India and is engaged in manufacture of formulations and Active Pharmaceutical Ingredients (**API**) for various therapeutic segments. The Acquirer has business activities in 120 countries across 6 continents i.e., Asia, Africa, South America, North America, Europe, and Australia. In India, the Acquirer is engaged in the manufacture and sale of branded formulations in multiple therapeutic segments. The Acquirer also manufactures and sells APIs and intermediates in India. The Acquirer is present in India through the following entities: (i) Ramdev Chemical Private Limited (**Ramdev**) (ii) Trophic Wellness Private Limited (**Trophic**) (iii) Avik Pharmaceutical Limited (**Avik**) (iv) Krebs Biochemicals & Industries Limited (**Krebs**) and (v) Lyka Labs Limited (**Lyka**). Further, the Acquirer has a wholly owned Indian subsidiary, Tonira Exports Limited, which is not engaged in any business activity.
6. **Target:** The Target is a publicly listed pharmaceutical company incorporated in India. Dr. Prakash Amrut Mody and his family members directly and indirectly exercise ~50.93% shareholding in the Target. Globally, the Target is active in the sale of formulations, APIs, intermediates, and contract manufactured finished formulation dosage in over 75 countries. In India, the Target is involved in the manufacture of APIs. The Target's formulations business is completely export-oriented and the Target does not sell any formulations in India. The Target has physical presence in India, *inter alia*, through formulation plants in Goa, Himachal Pradesh and Uttar Pradesh; API plants in Maharashtra and Madhya Pradesh and a research centre in



Goa. The Target also has an associate company Synchron Research Services Private Limited in Gujarat, which is involved in the business of contract research in India.

### **Identification of overlaps**

7. It is submitted in the notice that both the Acquirer Group and Target are involved in the manufacture and sale of APIs in India.
8. Further, the Acquirer also manufactures and sells intermediates in India; however, the Target sold limited intermediates solely on ad-hoc basis in India in FY 2023. These sales were only one-time disposal sales on account of excess production which generated miniscule revenue for the Target. Accordingly, it is submitted that there is no existing/potential vertical overlap on account of intermediates manufactured by the Parties. The Acquirer is also engaged in manufacture and sale of branded formulations in India; however, the Target does not sell any formulations in India and the Target's formulations business is completely export-oriented.

### **Horizontal Overlaps**

9. It is submitted in the notice that the Acquirer Group and the Target are active in the sale and manufacture of certain identical/substitutable APIs in India. It is stated that the APIs are the primary inputs used in the manufacture of formulations and that each API must be considered as a separate relevant market because when an entity manufactures a given formulation, it will necessarily require the specific APIs required to create the formulation. A formulation manufacturer, for the purposes of manufacturing a particular formulation, cannot use any API other than the API used in that formulation. Hence, APIs form the core element of any formulation and constitute a separate relevant market, distinct from formulations or other finished drug products.



10. The Acquirer has submitted that at the broad level, the relevant product market can be defined as the overall market for the manufacture and sale of APIs and at the narrower level each API can be considered as a separate product market. Accordingly, considering the identical/substitutable APIs manufactured and sold by the Acquirer Group and Target in India, the relevant product markets can be defined at the narrower level for the following APIs: (i) Biosprolol Fumarate (**BFu**), (ii) Hydrochlorothiazide (**HChl**), (iii) Bendroflumethiazide (**BFlu**), (iv) Metoprolol Succinate (**MSuc**), (v) Amlodipine Besylate (**ABes**), (vi) Quetiapine Fumarate (**QFum**), (vii) Phenylephrine Hydrochloride (**PHyd**), and (viii) Meloxicam. Further, the relevant geographic market for each of the APIs may be delineated as 'India'. In view of the foregoing, it is submitted that at the broader level, the relevant market may be considered as the 'market for the manufacture and sale of APIs in India' (**Broad API Market**) and at the narrower level, the relevant markets may be considered as follows:

- (i) Market for the manufacture and sale of BFu in India (**BFu Market**),
- (ii) Market for the manufacture and sale of HChl in India (**HChl Market**),
- (iii) Market for the manufacture and sale of BFlu in India (**BFlu Market**),
- (iv) Market for the manufacture and sale of MSuc in India (**MSuc Market**),
- (v) Market for the manufacture and sale of ABes in India (**ABes Market**),
- (vi) Market for the manufacture and sale of Qfum in India (**QFum Market**),
- (vii) Market for the manufacture and sale of PHyd in India (**PHyd Market**), and
- (viii) Market for the manufacture and sale of Meloxicam in India (**Meloxicam Market**)

[BFu Market, HChl Market, BFlu Market, MSuc Market, ABes Market, QFum Market, PHyd Market and Meloxicam Market are individually and collectively, **the Relevant API Markets**].

### **Vertical Relationships**

11. With respect to vertical relationship amongst the Parties, it is submitted in the notice that five APIs manufactured by the Target in India and purchased by the Acquirer



from third parties can be used by the Acquirer for the formulations it manufactures in India. These are: (i) Amlodipine Besylate (**ABes**) (ii) Fenofibrate (**FFrib**) (iii) Lamotrigine (**LTrig**) (iv) Quetiapine Fumarate (**QFum**) and (v) Zolpidem Tartrate (**ZTar**). Considering the vertical relationship amongst the parties with respect to the manufacture of APIs and their use as inputs in the manufacture of formulations, the Acquirer has submitted that the upstream and downstream relevant markets may be considered as follows:

- (i) The upstream market for the manufacture and sale of ABes in India (**Upstream ABes Market**) and the downstream market for the manufacture and sale of formulations that use ABes as an input in India. (**Downstream ABes Formulation Market**),
- (ii) The upstream market for the manufacture and sale of Fenofibrate in India (**Upstream FFrib Market**) and the downstream market for the manufacture and sale of formulations that use FFrib as an input in India. (**Downstream FFrib Formulation Market**),
- (iii) The upstream market for the manufacture and sale of Lamotrigine in India (**Upstream LTrig Market**) and the downstream market for the manufacture and sale of formulations that use LTrig as an input in India. (**Downstream LTrig Formulation Market**),
- (iv) The upstream market for the manufacture and sale of QFum in India (**Upstream QFum Market**) and the downstream market for the manufacture and sale of formulations that use QFum as an input in India. (**Downstream QFum Formulation Market**), and
- (v) The upstream market for the manufacture and sale of Zolpidem Tartrate in India (**Upstream ZTar Market**) and the downstream market for the manufacture and sale of formulations that use ZTar as an input in India. (**Downstream ZTar Formulation Market**).

[The Upstream ABes Market, Upstream FFrib Market, Upstream LTrig Market, Upstream QFum Market and Upstream ZTar Market are collectively, referred as **Upstream Markets**. The Downstream ABes Formulation Market, Downstream



FFrib Formulation Market, Downstream LTrig Formulation Market, Downstream QFum Formulation Market and the Downstream ZTar Formulation Market are collectively referred to as the **Downstream Markets**].

12. The Commission decided to assess the Proposed Combination in the segments identified by the Parties. However, exact delineation of the relevant market has been left open.

### **Assessment of the Proposed Combination**

13. Based on the submissions of the Acquirer in relation to horizontal overlaps in manufacture and sale of APIs, it is noted that in Broad API Market and Relevant API Markets, except in HChl Market and PHyd Market, the combined market share of the Parties is in the range of [0-5] %, in terms of value and volume. In the HChl Market and PHyd Market the combined market share of the Parties is in the range of [5-10] % and [20-25] %, respectively, in terms of value and volume. However, the incremental market share, both in Broad API Market as well as in each Relevant API Market, is in the range of [0-5] % only. Further, the Broad API Market has presence of other players such as Dr. Reddy's Laboratories Limited, Aarti Drugs Limited, and Sun Pharmaceutical Industries Limited. Also, there are other players present in each of the Relevant API Markets as follows: (i) **BFu Market**: Mangalam Drugs and Organics Limited, Rusan Pharma Limited, and Harman Finochem Limited; (ii) **HChl Market**: Ctx Lifesciences Private Limited, Amoli Organics Private Limited, and Alembic Pharmaceuticals Limited; (iii) **BFlu Market**: Manus Aktteva Biopharma LLP, Jiyam Chemicals and Pharmaceuticals, and Dewka Pharmacon; (iv) **MSuc Market**: Sun Pharmaceutical Industries Limited, Granules India Limited, and Ctx Lifesciences Private Limited; (v) **ABes Market**: Zydus Lifesciences Limited, Hetero Drugs Limited, and Cadila Healthcare Limited; (vi) **QFum Market**: Teva API India Private Limited, Zci Chemicals Limited, and Nosch Labs Private Limited; (vii) **PHyd Market**: Malladi Drugs and Pharmaceuticals Limited, Divi's Laboratories Limited, and Aarti Industries Limited; and (viii) **Meloxicam Market**: Swati Spentose Private



Limited, Techno Drugs and Intermediates Private Limited, and Apex Healthcare Limited.

14. Based on the submissions of the Acquirer with respect to vertical relationship amongst the Parties in relation to five APIs manufactured by the Target in India that can be used by the Acquirer for the formulations, it is noted that the individual market shares of the Target in each of the Upstream Markets and the Acquirer in the Downstream Markets is in the range of [0-5]%, except Upstream LTrig Market, where market share is in the range of [5-10]%, in terms of value. Further, the Upstream Markets and the Downstream Markets are characterized by the presence of other players.

#### **Potential Overlaps in Formulations Market in India**

15. Based on the submissions, it is noted that both the Acquirer and the Target are engaged in the manufacture of formulations in India. However, potential horizontal overlap in relation to formulations manufactured by the Parties and vertical relationship between APIs manufactured by the Acquirer and the formulations manufactured by the Target are not identified in the notice. In this regard, as stated above, the Acquirer has submitted that the Target does not sell formulations in India, and that its formulations business is completely export-oriented. Further, the Target also does not intend to sell formulations in India in the future and will continue its focus on exporting its formulations.
16. The Acquirer has stated that it sells approximately 1090 formulations in India (including various strengths of same formulations) under various brand-names and the Target sells 75 distinct formulations under the generic name of the formulations through exports; and that there are 9 common Anatomical Therapeutic Chemical (ATC)-3 classes and 7 common ATC-4 classes for the formulations of both the Parties. However, since the Target is not present in the formulations market in India,





there are no horizontal overlaps between the Acquirer's and Target's activities in the formulations market in India.

17. Further, based on an estimate of the market size in terms of volume, for each formulation type based on administration mode i.e. solids (capsules/ tablets), injections, liquids, topical, ophthalmic, etc., and considering the domestic sales of Acquirer (which includes formulations manufactured by itself as well as third parties under contract manufacturing and loan licensing) to estimate its market share, the Acquirer has submitted that it is an insignificant player in the formulations market in India. Further, considering the export volumes of the Target as a proxy for domestic sales, it is submitted that if the Target was hypothetically present in the formulations market in India, it would also have been an insignificant player. Moreover, there are other players in the formulations market in India such as Sun Pharmaceutical Industries Limited, Divi's Laboratories Limited, Dr. Reddy's Laboratories Limited, Cipla Limited, Emcure Pharmaceuticals, Biocon Limited, Torrent Pharmaceuticals Limited, Mankind Pharma Limited among others.
18. Further, in order to alleviate any potential competition concerns that may arise on account of Target's formulations business, the Parties have voluntarily submitted an undertaking under Regulation 19(2) of the Competition Commission of India (Procedure regarding the transaction of business relating to combinations) Regulations, 2011, wherein it is *inter alia* stated that:
- “Unichem will not re-enter the Indian formulations market for at least 36 months from the date of closing of the Proposed Combination (as defined in the notice filed under Section 6(2) of the Competition Act, 2002 (as amended) in the captioned matter).”*
19. Considering the material on record, including the details provided in the notice given under sub-section (2) of Section 6 of the Act and the 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 Proposed Combination is not likely to have an appreciable adverse effect on competition in India. Therefore, the Commission approves the Proposed Combination under Section 31(1) of the Act subject to compliance of undertaking voluntarily submitted by the Parties.

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