

**[PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART III, SECTION 4
Dated 11th May, 2009]**

**The Competition Commission of India (Procedure in regard to the transaction of
business relating to combinations) Regulations, 2011**

(No.3 of 2011)

New Delhi, the 11th day of May, 2011

No. 1-1/Combination Regulations/2011-12/CD/CCI.--- In exercise of the powers conferred by sub-section (1) and clauses (b), (c) and (f) of sub-section (2) of section 64 read with sub-sections (2) and (5) of section 6 of the Competition Act, 2002 (12 of 2003), the Competition Commission of India hereby makes the following regulations, namely:-

1. Short title and commencement.-

- (1) These regulations may be called the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011.
- (2) They shall come into force on 1st day of June, 2011.

2. Definitions.-

- (1) In these regulations, unless the context otherwise requires:-
 - (a) "Act" means the Competition Act, 2002 (12 of 2003) as amended from time to time;
 - (b) "Combination" means and includes combination as described in section 5 of the Act and any reference to combination in these regulations shall mean a proposed combination or the combined entity, if the combination has come into effect, as the case may be;
 - (c) "Commission" means the Competition Commission of India established under subsection (1) of section 7 of the Act;
 - (d) "Director General" means the Director General appointed under sub-section (1) of section 16 of the Act and includes any Additional, Joint, Deputy or Assistant Directors General appointed under the said section;
 - (e) "Enterprise" shall mean "enterprise" as defined in clause (h) of section 2 of

the Act;

- (f) "Parties to the combination" means persons or enterprises entering into the combination and shall include the combined entity if the combination has come into effect;
 - (g) "Secretary" means the Secretary appointed under sub-section (1) of section 17 of the Act and includes an officer of the Commission authorized by the Chairperson to function as Secretary.
- (2) For the purposes of these regulations, reference to "days" shall mean calendar days unless otherwise specified in these regulations or the Act.
 - (3) Words and expressions used but not defined in these regulations shall have the same meanings respectively as assigned to them in the Act or the rules or regulations framed thereunder or in the Companies Act, 1956 (1 of 1956).

3. Power to determine procedure in certain circumstances.-

In a situation not provided for in these regulations or the Competition Commission of India (General) Regulations, 2009, the Commission may determine the procedure, in specific matters, if so required.

4. Categories of transactions not likely to have appreciable adverse effect on competition in India.-

In view of the duty cast upon the Commission under section 18 and powers conferred under section 36 of the Act, and having regard to the mandate given to the Commission to, inter- alia, regulate combinations which have caused or are likely to cause appreciable adverse effect on competition in terms of sub-section (1) of section 6 of the Act, it is clarified that since the categories of combinations mentioned in Schedule I are ordinarily not likely to cause an appreciable adverse effect on competition in India, notice under sub-section(2) of section 6 of the Act need not normally be filed.

5. Form of notice for the proposed combination.-

- (1) Any enterprise which proposes to enter into a combination shall give notice of such combination to the Commission in accordance with sub-section (2) of section 6 of the Act and these regulations.
- (2) The notice under sub-section(2) of section 6 of the Act, shall ordinarily be filed in

Form I as specified in schedule II to these regulations, duly filled in ¹[***] and accompanied by evidence of payment of requisite fee by the parties to the combination.

(3) Notwithstanding anything contained in sub-regulation (2) and without prejudice to the provisions of sub-regulation (5), the parties to the combination may, at their option, give notice in Form II, as specified in schedule II to these regulations, preferably in the instances where-

(a) the parties to the combination are engaged in production, supply, distribution, storage, sale or trade of similar or identical or substitutable goods or provision of similar or identical or substitutable services and the combined market share of the parties to the combination after such combination is more than fifteen percent (15%) in the relevant market;

(b) the parties to the combination are engaged at different stages or levels of the production chain in different markets, in respect of production, supply, distribution, storage, sale or trade in goods or provision of services, and their individual or combined market share is more than twenty five percent (25%) in the relevant market.

(3A) The parties to the combination shall give notice in Form I or Form II, as the case may be, in accordance with the notes to Form I and Form II issued by the Commission and published on its official website, from time to time.

(4) Where in the course of inquiry, it is found by the Commission that it requires additional information, the Commission may direct the parties to the combination to file such additional information:

Provided that the time taken by the parties to the combination in filing such additional information shall be excluded from the period provided in sub-section (11) of section 31 of the Act and sub-regulation (1) of regulation 19 of these regulations.

(5) Having due regard to the provisions of sub-regulations (2) and (4), in cases where the parties to the combination have filed notice in Form I and the Commission requires information in Form II to form its prima facie opinion whether the combination is likely to cause or has caused appreciable adverse effect on competition within the relevant market, it shall direct the parties to the combination to file notice in Form II as specified in schedule II to these regulations:

¹ Word "verified" omitted by the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2016.

Provided that the fee already paid by the parties to the combination while filing notice in Form I shall be reduced from the fee payable for filing notice in Form II:

Provided further that the time period mentioned in sub-section (2A) of section 6 of the Act, sub-section (11) of section 31 of the Act and sub-regulation (1) of regulation 19 of these regulations shall commence from the date of receipt of notice in Form II.

- (6) If the requisite details are not available for any of the columns in Form I or Form II, the date on which they may be submitted should be clearly indicated against those columns, by the parties to the combination:

Provided that the time taken by the parties to the combination to submit the requisite details shall be excluded from the period provided in sub-section (11) of section 31 of the Act and sub-regulation (1) of regulation 19 of these regulations.

- (7) The reference to the “board of directors” in clause (a) of sub-section (2) of section 6 of the Act, shall mean and include,-

- (a) the individual himself or herself including a sole proprietor of a proprietorship firm;
- (b) the karta in case of a Hindu Undivided Family (HUF);
- (c) the board of directors in case of a company registered under the Companies Act, 1956;
- (d) in case of a corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956) or an association of persons or a body of individuals, whether incorporated or not, in India or outside India or anybody corporate incorporated by or under the laws of a country outside India or a cooperative society registered under any law relating to cooperative societies or a local authority, the person or the body so empowered by the legal instrument that created the said bodies;
- (e) in the case of a firm, the partner(s) so authorized;
- (f) in the case of any other artificial juridical person not falling within any of the preceding sub- clauses, by that person or by some other person competent to act on his behalf.

- (8) The reference to the “other document” in clause (b) of sub-section (2) of section 6 of the Act shall mean any binding document, by whatever name called, conveying an agreement or decision to acquire control, shares, voting rights or assets:

Provided that if the acquisition is without the consent of the enterprise being acquired, any document executed by the acquiring enterprise, by whatever name called, conveying a decision to acquire control, shares or voting rights shall be the "other document":

²[Provided further that where a public announcement has been made in terms of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, for acquisition of shares, voting rights or control, such public announcement shall be deemed to be the "other document".]

- (9) Where, in a series of steps or individual transactions that are related to each other, assets are being transferred to an enterprise for the purpose of such enterprise entering into an agreement relating to an acquisition or merger or amalgamation with another person or enterprise, for the purpose of section 5 of the Act, the value of assets and turnover of the enterprise whose assets are being transferred shall also be attributed to the value of assets and turnover of the enterprise to which the assets are being transferred.

6. Filing of details of acquisition under sub-section (5) of section 6 of the Act.-

- (1) The details of acquisition by a public financial institution, foreign institutional investor, bank or venture capital fund, pursuant to any covenant of a loan or investment agreement, shall be filed without any fee in Form III, along with a certified copy of the loan agreement or investment agreement referred to in sub-section (5) of section 6 of the Act.
- (2) The duly filled in ³[***] Form III, along with one copy and electronic version thereof, shall be delivered to the Commission at the address published on its official website.
- (3) Without prejudice to the provisions of the Act, where details of acquisition filed in Form III under sub-regulation (1) are received in the Commission beyond the time limit mentioned in subsection (5) of section 6 of the Act, the Commission may admit such details of acquisition in Form III.

² Subs. by the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2016 for:

"Provided further that where such a document has not been executed but the intention to acquire is communicated to a Statutory Authority, the date of such communication shall be deemed to be the date of execution of the other document for acquisition".

³ Words "and verified" omitted by the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2016.

7. Belated notice

Where a notice filed in Form I or Form II under sub-regulations (2) or (3) of regulation 5 of these regulations is received in the Commission beyond the time limit mentioned in sub-section (2) of section 6 of the Act, the Commission may, without prejudice to other provisions including that of section 43A of the Act, admit such notice.

8. Failure to file notice.-

- (1) Where the parties to a combination fail to file notice under sub-section (2) of section 6 of the Act, the Commission may under sub-section (1) of section 20 of the Act, upon its own knowledge or information relating to such combination, inquire into whether such a combination has caused or is likely to cause an appreciable adverse effect on competition within India.
- (2) Where the Commission decides to commence an inquiry, referred to in sub-regulation (1), the Commission, without prejudice to any penalty which may be imposed or any prosecution which may be initiated under this Act, shall direct the parties to the combination to file notice in Form I or Form II, as decided by the Commission.
- (3) The notice, referred to in sub-regulation (2), shall be filed, within 30 days of receipt of communication from the Commission, by the parties to the combination.

9. Obligation to file the notice.-

- (1) In case of an acquisition or acquiring of control of enterprise(s), the acquirer shall file the notice in Form I or Form II, as the case may be, which shall be duly signed by the person(s) as specified under regulation 11 of the Competition Commission of India (General) Regulations, 2009.

Provided that in case of a company, apart from the persons specified under clause (c) of sub-regulation (1) of regulation 11 of the Competition Commission of India (General) Regulations, 2009, Form I or Form II may also be signed by any person duly authorised by the ⁴[company].

- (2) In case the enterprise is being acquired without its consent, the acquirer shall furnish such information as is available to him, in Form I or Form II, as the case may be, relating to the enterprise being acquired:

⁴ Subs. by the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2016 for: "board of directors of the company for the said purpose".

Provided that all information required to be filed, relating to the enterprise being acquired shall be filed with the Commission within fifteen days from filing of the notice and in case the acquirer is not in a position to furnish all the required information in Form I or Form II, as the case may be, relating to the enterprise being acquired, the Commission may direct the enterprise being acquired to furnish such information as it deems fit and the time taken by the parties to the combination or the acquired enterprise, as the case may be, in furnishing the required information including document(s) shall be excluded from the period provided in sub-section (11) of section 31 of the Act and sub-regulation (1) of regulation 19 of these regulations.

- (3) In case of a merger or an amalgamation, parties to the combination shall jointly file the notice in Form I or Form II, as the case may be, duly signed by the person(s) as specified under regulation 11 of the Competition Commission of India (General) Regulations, 2009.

Provided that in case of a company, apart from the persons specified under clause (c) of sub-regulation (1) of regulation 11 of the Competition Commission of India (General) Regulations, 2009, Form I or Form II may also be signed by any person duly authorised by the ⁵[company].

- (4) Where the ultimate intended effect of a business transaction is achieved by way of a series of steps or smaller individual transactions which are inter-connected ⁶[***], one or more of which may amount to a combination, a single notice, covering all these transactions, shall be filed by the parties to the combination.
- (5) The requirement of filing notice under regulation 5 of these regulations shall be determined with respect to the substance of the transaction and any structure of the transaction(s), comprising a combination, that has the effect of avoiding notice in respect of the whole or a part of the combination shall be disregarded.

10. Obligation to pay the fee.-

- (1) The person or enterprise filing notice under regulation 5 or regulation 8 of these regulations shall pay the fee as specified under regulation 11 of these regulations.
- (2) Where the notice is filed jointly, the fee shall be payable jointly or severally,

⁵ Subs. by the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2016 for: "board of directors of the company for the said purpose".

⁶ Words "or inter- dependent on each other" omitted by the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2016.

11. Amount of Fee.-

The amount of fee payable alongwith the notice in Form I or Form II, as the case may be, shall be as under:-

- (a) where the notice is filed in Form I, the fee payable shall be rupees fifteen lakhs (Rs. 15,00,000) only;
- (b) where the notice is filed in Form II, the fee payable shall be rupees fifty lakhs (Rs. 50,00,000) only;

12. Mode of payment.-

The fee may be paid either by tendering demand draft or pay order or banker's cheque, payable in favour of the Competition Commission of India (Competition Fund), New Delhi or through Electronic Clearance Service (ECS) by direct remittance to the Competition Commission of India (Competition Fund), Account No. 1988002100187687 with "Punjab National Bank, Bhikaji Cama Place, New Delhi- 110066".

13. Procedure for filing notice.-

- (1) The duly filled in ⁷[***] notice under regulation 5 or regulation 8 of these regulations along with one copy and an electronic version thereof shall be delivered to the Commission at the address published on its official website.

Provided that if the parties to the combination request confidentiality of information or document(s) under sub-regulation (1) of regulation 30 of these regulations, such request may be filed as per the procedure laid down in the Competition Commission of India (General) Regulations, 2009, along with a duly filled in public version of the notice and an electronic version thereof.

- (1A) A summary of the combination, not containing any confidential information, in not less than 2000 words, comprising inter alia the details regarding: (a) the products, services and business(es) of the parties to the combination; (b) the values of assets/turnover for the purpose of section 5 of the Act; (c) the respective markets in which the parties to the combination operate; (d) the details of agreement(s)/other documents and the board resolution(s) executed/passed in relation to the combination; (e) the nature and purpose of the combination; and (f) the likely impact of the combination on the state of the competition in the relevant market(s) in which the parties to the combination operate, along with nine copies

⁷ Words "and verified" omitted by the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2016.

and an electronic version thereof shall be separately given while delivering the notice under sub-regulation (1).

(1B) A summary of the combination, not containing any confidential information, in not more than 500 words, comprising details regarding: (a) name of the parties to the combination; (b) the type of the combination; (c) the area of activity of the parties to the combination; and (d) the relevant market(s) to which the combination relates, along with an electronic version thereof shall be separately given while delivering the notice under sub-regulation (1). The summary submitted under this sub-regulation shall be published on the website of the Commission.

(2) All responses or other documents required to be filed before the Commission consequent to the filing of the notice under regulation 5 or regulation 8 of these regulations shall also be filed as per the procedure contained in sub-regulation (1).

Provided that for the purposes of this regulation, the Secretary may through public announcement inform the procedure for electronic filing, increase or decrease the number of copies or vary the format in which the electronic version is to be filed.

14. Scrutiny of notice.-

(1) The notice filed under regulation 5 or regulation 8 of these regulations shall not be valid unless it is complete and in conformity with these regulations.

(2) The Secretary shall issue an acknowledgement of the receipt of notice.

(2A) Notwithstanding anything contained in sub-regulation (2), the Commission may, after recording reasons, invalidate a notice filed under regulation 5 or regulation 8 of these regulations when it comes to the knowledge of the Commission that such notice is not valid as per sub-regulation (1) and, in that case, the Secretary shall convey the decision of the Commission to the parties to the combination within seven days of such decision of the Commission.

⁸[Provided that the Commission may give an opportunity of being heard to the parties to the combination in accordance with regulation 24 of these regulations before deciding to invalidate a notice:

Provided further that the period between the commencement of proceedings under sub-regulation (2A) of regulation 14 of these regulations till the decision of

⁸ Ins. by the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2016.

the Commission regarding validity of the notice, shall be excluded from the period specified in sub-section (11) of section 31 of the Act and sub-regulation (1) of regulation 19 of these regulations.]

- (3) Where the information or document(s) contained in the notice under regulation 5 or regulation 8 of these regulations or any response filed pursuant to these regulations is incomplete in any respect, the parties to the combination may be asked to remove such defect(s) or furnish the required information including document(s).
- (4) The Secretary shall place the proof of service of communication as referred to in sub- regulation (3) to the parties to the combination on record.
- (5) The parties shall comply with the directions as referred to in sub-regulation (3) within the time specified by the Commission and in the case of the notice filed under regulation 5 the time taken by the parties in removing such defects or furnishing the required information including document(s) shall be excluded from the period provided in sub-section (11) of section 31 of the Act and sub- regulation (1) of regulation 19 of these regulations
- (6) In case the parties fail to remove the defects or fail to furnish the required information including documents(s), within the time specified, the notice filed under regulation 5 or regulation 8 of these regulations shall not be treated as a valid notice.

15. Computation of time limit.-

Subject to the provisions of these regulations, the time period under sub-section (11) of section 31 of the Act shall commence from the date of receipt of notice, in writing, filed under regulation 5 of these regulations.

16. Intimation of any change. –

- (1) The parties to the combination having filed a notice under regulation 5 or regulation 8 of these regulations, shall inform the Commission of any change in the information provided in the notice to the Commission at the earliest during the continuation of the proceedings under the Act.
- (2) The Secretary shall place the information relating to any change in the notice before the Commission not later than the third working day of its receipt in the Commission.
- (3) The Commission shall assess the significance of the information relating to that

change and, if satisfied, take on record the information received.

- (4) Where the Commission is of the view that the change is likely to affect the factors for the determination of the appreciable adverse effect on competition significantly, it may, after giving an opportunity of being heard and after recording reasons, treat the notice already filed as not valid.
- (5) Where the Commission has held a notice to be not valid under sub-regulation (4), the Secretary shall convey the decision of the Commission to the parties to the combination within seven days of the decision of the Commission,

Provided that no additional fee shall be payable if a notice is filed again by the parties to the combination for the same transaction within a period of thirty days from the date of communication of the decision of the Commission.

17. Termination of proceedings. –

The proceedings under this Act relating to the combinations shall be terminated upon,-

- (a) receiving an intimation from the person(s) or enterprise(s) who filed the notice to the effect that the proposed combination will not take effect;
- (b) passing of an order by the Commission under section 31 of the Act.

Provided that if the approval of the Commission is conditional upon the parties to the combination carrying out modification to the combination, the proceedings shall terminate upon acceptance of the compliance report by the Commission under regulation 26 of these regulations.

18. Mode of service of notice(s), etc.-

Save as otherwise provided in the Act or in these regulations, the service of any notice excluding the notice under sub-section (2) of section 6 of the Act, or intimation to any person or enterprise under these regulations shall be effected in the manner as provided in regulation 22 of the Competition Commission of India (General) Regulations, 2009 or by electronic transmission as considered appropriate by the Commission.

19. Prima facie opinion on the combination. –

- (1) The Commission shall form its prima facie opinion under sub-section (1) of section 29 of the Act, on the notice filed in Form I or Form II, as the case may be, as to whether the combination is likely to cause or has caused an appreciable adverse effect on competition within the relevant market in India, within thirty working days

of receipt of the said notice.

- (2) For the purpose of forming its prima facie opinion under sub-section (1) of section 29 of the Act, the Commission may, if considered necessary, require the parties to the combination to file additional information or accept modification, if offered by the parties to the combination before the Commission has formed prima facie opinion under sub- regulation (1), as deemed fit by it:

Provided that the time taken by the parties to the combination, in furnishing the additional information or for offering modification shall be excluded from the period provided in sub-regulation (1) of this regulation and sub-section (11) of section 31 of the Act.

Provided further that in such a case where the modification is offered by the parties to the combination before the Commission has formed the prima facie opinion under sub-regulation (1), the additional time, not exceeding fifteen days, needed for evaluation of the offered modification, shall be excluded from the period provided in sub-regulation (1) of this regulation and sub-section (11) of section 31 of the Act.

- (3) Where the Commission deems it necessary, it may call for information from any other enterprise while inquiring as to whether a combination has caused or is likely to cause an appreciable adverse effect on competition in India.

Provided that the time taken in obtaining the information from such enterprise(s) shall be excluded from the time, not exceeding fifteen working days, provided in sub-regulation (1) of this regulation.

20. Calling for a report from the Director General.-

- (1) After receipt of the response to the notice to show cause from the parties to the combination under sub-section (1) of section 29 of the Act, the Commission may decide to call for a report from the Director General under sub-section (1A) of section 29 of the Act within the time as specified by the Commission.
- (2) The Secretary shall convey the direction of the Commission under sub-regulation (1) to the Director General, along with copy of the notice filed by the parties to the combination with all other documents, materials, affidavits, statements, which have been filed or are otherwise available with the said notice, the notice to show cause to the parties to the combination and response of the parties to the same.

21. Report by the Director General.-

- (1) The Director General shall include in his report the basis of having reached the conclusions therein together with all evidences or documents or statements collected during the investigation and analysis thereof;
- (2) Two copies of the report of the Director General duly signed on each page by the Director General, or his authorized officer, along with an electronic version in document format, shall be forwarded to the Secretary within the time specified by the Commission:

Provided that the Secretary may increase or decrease the number of copies of the report and may permit electronic transmission of the same.

22. Publication of the details of the combination. –

- (1) Where the Commission under sub- section(2) of section 29 of the Act is of the prima facie opinion that the combination has caused or is likely to cause appreciable adverse effect on competition within the relevant market in India, the Secretary shall, within four working days of such decision convey the direction of the Commission to the parties to the combination, to publish the details of the combination within ten working days of the date of such direction:
- (2) The details of combination shall be published by the parties in Form IV, as specified in Schedule II to these regulations.
- (3) The parties shall submit the details of combination to be published under sub-regulation (2) to the Commission before its publication and the Commission may host the same on its official website
- (4) The details of the combination to be published under sub-regulation (2) shall, also be hosted by the parties on the websites of their respective enterprises not later than the time specified in sub-regulation(1).
- (5) The parties shall publish the details of the combination under sub-regulation (2), not later than the time specified in sub-regulation (1), in all India editions of four leading daily newspapers including at least two business newspapers.

23. Proof of publication.-

The parties to the combination shall submit copies of publication, referred to in regulation 22, to the Secretary, not later than the fifteenth day of the direction of the Commission for publication of the details of the combination.

24. Appearance of the parties before the Commission.-

Where the Commission deems it necessary to give an opportunity of being heard to the parties to the combination before deciding to deal with the case in accordance with the provisions contained in section 31 of the Act, the Secretary shall convey its directions to the said parties, to appear before it by giving a notice of such period as directed by the Commission.

25. Modification to the proposed combination.-

- (1) Where the Commission is of the opinion that combination has or is likely to have appreciable adverse effect on competition but such adverse effect can be eliminated by suitable modification to such combination, it may propose appropriate modification to the combination to the parties to such combination.
- (2) Where the parties to the combination have accepted the modification proposed by the Commission under sub-section (3) of the section 31 of the Act or the Commission agrees with the amendment to the proposed modification by the parties and approves the combination under sub-section (7) of section 31 of the Act or the parties, in terms of the provisions of subsection (8) of section 31 of the Act, accept the modification proposed by the Commission under sub-section (3) of section 31 of the Act, the parties to the combination shall carry out such modification as per the terms and conditions and within the period as may be specified by the Commission and submit an affidavit to that effect.
- (3) Where the parties accept the modification proposed by the Commission under sub-section (3) of section 31 of the Act or the Commission agrees with the amendment submitted by the parties under sub-section (6) of section 31 of the Act, it shall by order, approve the combination.
- (4) If the parties to the combination fail to accept the modification proposed by the Commission within the time referred to in sub-section (6) of section 31 of the Act or within a further period referred to in sub-section (8) of section 31 of the Act, the combination shall be deemed to have an appreciable adverse effect on competition and be dealt with in accordance with the provisions of the Act.

26. Compliance by the parties for carrying out modification.-

- (1) The modification referred to in regulation 25 of these regulations shall be carried out by the parties to the combination within the period as may be specified by the Commission.
- (2) The parties to the combination shall, upon completion of modification, file a

compliance report for the actions required for giving effect to the combination before the Secretary within seven days of such completion.

- (3) In case the parties to the combination fail to file the compliance report under sub-regulation (2), the Secretary shall place the matter of such non-compliance before the Commission for appropriate directions.

27. Appointment of independent agencies to oversee modification.-

- (1) Where the Commission is of the opinion that the modification proposed by it and accepted by the parties to the combination needs supervision, it may appoint agencies, to oversee the modification, on such terms and conditions as may be decided by the Commission.
- (2) The agencies appointed under sub-regulation (1) shall be independent of the parties to the combination having no conflicts of interest. Such independent agencies referred to in this regulation may include an accounting firm, management consultancy, law firm, any other professional organization, or part thereof, or independent practitioners of repute.
- (3) The agencies appointed under sub-regulation (1) shall carry out the responsibilities as specified by the Commission from time to time.
- (4) The agencies appointed under sub-regulation (1) shall submit a report to the Commission upon completion of each of the actions required for carrying out the modification.
- (5) The payment to the agencies appointed under sub-regulation (1) shall be made by the parties to the combination by depositing it with the Commission or as may be directed by the Commission.

28. Orders of the Commission.-

- (1) Where the Commission is of the opinion that the combination has, or is likely to have, an appreciable adverse effect on competition in the relevant market in India, it shall pass an order under sub-section (2) of section 31 of the Act that the combination shall not take effect.
- (2) Where the Commission is of the opinion that the combination does not or is not likely to have an appreciable adverse effect on competition, it shall pass an order under sub-section (1) of section 31 of the Act, approving the combination.
- (3) Where the Commission approves the combination with modification, the order of

the Commission approving the combination shall specify the terms, conditions and the time- frame for all the actions required for giving effect to the combination.

- (4) Where the parties to the combination fail to carry out the modification accepted by them within the stipulated time limit, the Commission shall issue appropriate directions.
 - (5) The Secretary shall communicate to the parties to the combination, the decision of the Commission under sub-regulation (1) or (2) or (3) or (4) within seven days of such decision.
 - (6) Having due regard to the provisions contained in sub-section (11) of section 31 of the Act, the Commission shall endeavour to pass an order or issue direction in accordance with sub-section (1) or sub-section (2) or sub-section (7) of section 31 of the Act within one hundred and eighty days of filing of the notice under sub-section (2) of section 6 of the Act.
 - (7) Subject to the provisions of section 57 of the Act, and regulation 30 of these regulations, the orders passed by the Commission under section 31 of the Act shall be published on its website.
- 29.** [Omitted by the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2014]

30. Request for confidentiality.-

- (1) Any request for confidentiality of information or documents submitted during the investigation shall be duly considered having due regard to the procedure laid down in the Competition Commission of India (General) Regulations, 2009, as amended from time to time.
 - (2) The request under sub-regulation (1) shall clearly state the reasons, justification and implications for the business of the parties to the combination so that all relevant factors may be considered by the Commission while taking decision in the matter.
 - (3) The parties requesting for confidentiality shall file an affidavit as specified in regulation 42 of the Competition Commission of India (General) Regulations, 2009 stating that the conditions prescribed in regulation 35 of the Competition Commission of India (General) Regulations, 2009 are satisfied.
- 31.** [Omitted by the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2016]

32. Overriding effect.-

The provisions of these regulations shall have effect in all matters relating to combinations notwithstanding anything inconsistent therewith contained in any other regulations framed under the Act.

33. Power to Issue directions.-

Having regard to the provisions of the Act, the Commission may, from time to time, in discharge of its duties, issue general or sector specific directions, guidelines, clarifications or circulars for regulation of combinations.

34. Cooperation with other agencies or statutory authorities.-

Where the Commission deems fit, it may seek opinion of any other agency or statutory authority in relation to a combination.

35. Removal of difficulty.-

In the matter of implementation of the provisions of these regulations, if any doubt or difficulty arises, the same shall be placed before the Commission and the decision of the Commission thereon shall be final and binding.

SCHEDULE I

- (1) An acquisition of shares or voting rights, referred to in sub-clause (i) or sub-clause (ii) of clause (a) of section 5 of the Act, solely as an investment or in the ordinary course of business in so far as the total shares or voting rights held by the acquirer directly or indirectly, does not entitle the acquirer to hold twenty five per cent (25%) or more of the total shares or voting rights of the company, of which shares or voting rights are being acquired, directly or indirectly or in accordance with the execution of any document including a share holders' agreement or articles of association, not leading to acquisition of control of the enterprise whose shares or voting rights are being acquired.

⁹[*Explanation*:- The acquisition of less than ten per cent of the total shares or voting rights of an enterprise shall be treated as solely as an investment:

Provided that in relation to the said acquisition,-

- (A) the Acquirer has ability to exercise only such rights that are exercisable by the ordinary shareholders of the enterprise whose shares or voting rights are being acquired to the extent of their respective shareholding; and
- (B) the Acquirer is not a member of the board of directors of the enterprise whose shares or voting rights are being acquired and does not have a right or intention to nominate a director on the board of directors of the enterprise whose shares or voting rights are being acquired and does not intend to participate in the affairs or management of the enterprise whose shares or voting rights are being acquired.]
- (1A) An acquisition of additional shares or voting rights of an enterprise by the acquirer or its group, ¹⁰[***] where the acquirer or its group, prior to acquisition, already holds twenty five per cent (25%) or more shares or voting rights of the enterprise, but does not hold fifty per cent (50%) or more of the shares or voting rights of the enterprise, either prior to or after such acquisition:

Provided that such acquisition does not result in acquisition of sole or joint control of such enterprise by the acquirer or its group.

⁹ Ins. by the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2016.

¹⁰ Words " not resulting in gross acquisition of more than five per cent (5%) of the shares or voting rights of such enterprise in a financial year," omitted by the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2016.

- (2) An acquisition of shares or voting rights, referred to in sub-clause (i) or sub-clause (ii) of clause (a) of section 5 of the Act, where the acquirer, prior to acquisition, has fifty percent (50%) or more shares or voting rights in the enterprise whose shares or voting rights are being acquired, except in the cases where the transaction results in transfer from joint control to sole control.
- (3) An acquisition of assets, referred to in sub-clause (i) or sub-clause (ii) of clause (a) of section 5 of the Act, not directly related to the business activity of the party acquiring the asset or made solely as an investment or in the ordinary course of business, not leading to control of the enterprise whose assets are being acquired except where the assets being acquired represent substantial business operations in a particular location or for a particular product or service of the enterprise, of which assets are being acquired, irrespective of whether such assets are organized as a separate legal entity or not.
- (4) An amended or renewed tender offer where a notice to the Commission has been filed by the party making the offer, prior to such amendment or renewal of the offer:

Provided that the compliance with regulation 16 relating to intimation of any change is duly made.
- (5) An acquisition of stock-in-trade, raw materials, stores and spares, trade receivables and other similar current assets in the ordinary course of business.
- (6) An acquisition of shares or voting rights pursuant to a bonus issue or stock splits or consolidation of face value of shares or buy back of shares or subscription to rights issue of shares, not leading to acquisition of control.
- (7) Any acquisition of shares or voting rights by a person acting as a securities underwriter or a registered stock broker of a stock exchange on behalf of its clients, in the ordinary course of its business and in the process of underwriting or stock broking, as the case may be.
- (8) An acquisition of shares or voting rights or assets, by one person or enterprise, of another person or enterprise within the same group, except in cases where the acquired enterprise is jointly controlled by enterprises that are not part of the same group.
- (9) A merger or amalgamation of two enterprises where one of the enterprises has more than fifty per cent (50%) shares or voting rights of the other enterprise, and/or merger or amalgamation of enterprises in which more than fifty per cent (50%) shares or voting rights in each of such enterprises are held by enterprise(s) within the same group:

Provided that the transaction does not result in transfer from joint control to sole control.

- (10) Acquisition of shares, control, voting rights or assets by a purchaser approved by the Commission pursuant to and in accordance with its order under section 31 of the Act.

SCHEDULE II

FORM I

Registration No: (to be assigned by the Competition Commission of India)

Information required to be filled in by the notifying party(ies)

Part I: Basic information

1. Information about each of the party to the combination:
 - 1.1 Legal name of party(ies) to the combination:
 - 1.2 Registration number (if applicable):
 - 1.3 Registered address / Principal business address:
 - 1.4 City: Country: Pin/Postal/Zip Code:
 - 1.5 Contact details (Telephone no, Mobile no, Fax no., in each case, including Country/City/Area Code):
 - 1.6 E-mail address:
 - 1.7 Website address:
 - 1.8 Jurisdiction of incorporation/formation:
 - 1.9 Role of the party(ies) to the combination:
 - 1.10 Relevant 4 digit National Industrial Classification of the activities undertaken by the parties to the combination:
 - 1.11 Date of pre-filing consultation, if any:
 - 1.12 Name of the person signing on behalf of the party(ies) to the combination (enclose documentary proof of eligibility for signing the notice):

Part II: Proof of payment of fees

2. Provide details of fee deposited along with mode and the proof of payment.

Part III: Authorization regarding communication

3. Provide details (in the relevant format as provided in Part I above) of an individual located in India who is authorized to receive communication(s) on behalf of each of the notifying party(ies) regarding the notice and related inquiry/proceedings.

Part IV: Meeting the thresholds

4. Describe the nature of the combination being notified and how the said notification falls within the purview of section 5 of the Act. Give details of assets and turnover in the format provided below:

| Name of the Parties | Assets (as on ____) | | Turnover (for FY _____) | |
|---------------------|-------------------------|----------------------------|-------------------------|----------------------------|
| | In India (in INR crore) | Worldwide (in USD million) | In India (in INR crore) | Worldwide (in USD million) |
| Party 1 | | | | |
| Party 2 | | | | |
| Combined | | | | |

Part V: Summary of the combination

5. A summary of the combination in terms of regulation 13(1A) and regulation 13(1B) of the Combination Regulations must be filed along with the notice.

Part VI: Description of the combination

6. Describe the combination by providing information regarding the following:

- 6.1 Name of the parties to the combination.
- 6.2 Explain the structure of the combination, including the following (with reference to relevant clause under the agreement(s), where applicable):
 - 6.2.1 Indicate each step of the combination along with timelines for each milestone of the combination.
 - 6.2.2 Structure, ownership and control, prior to and after the combination, of: (a) the parties to the combination; and (b) for the enterprises, whose structure, ownership and control will be directly or indirectly affected by such combination.
 - 6.2.3 Value of the transaction, i.e., the purchase price (or the value of all assets involved, as the case may be). Specify whether the consideration is in the form of equity, cash, or other assets and provide details.
- 6.3 Please explain the purpose (including business objective and/or economic rationale for each of the parties to the combination and how are they intended to be achieved) of the combination.
- 6.4 Please specify if the proposed combination is subject to filing requirements in jurisdictions other than India? If yes, provide status of such filings.
- 6.5 Furnish copies of approval of the proposal relating to merger or amalgamation by the board of directors of the enterprise(s) concerned referred to in clause (a) of sub-section (2) of section 6 of the Act and/or agreement /other document executed in relation to the acquisition or acquiring of control referred to in clause (b) of sub-section (2) of section 6 of the Act along with the supporting documents as listed in the Notes to Form I, if applicable.
- 6.6 In case the agreements/other documents relating to the combination contain a non-compete clause or the parties to the combination have executed/or propose to execute a non-competition agreement in relation to the combination, the following details must be provided:
 - 6.6.1 Scope, including: (i) the enterprises covered by the non-compete provision; and (ii) period; geographic scope and the products/services covered under the non-compete clause(s).

6.6.2 Justification for the non-compete provisions covering each of the elements as mentioned above.

Part VII: Details about parties to the combination and sector overview

7. Furnish details about the parties to the combination along with an overview of the sector as given below:

7.1 For each of the parties to the combination, provide details regarding the following:

7.1.1 List the registered entities in India and/or the physical presence in India (for example, sales office, factory, liaison office, branch office, etc.).

7.1.2 Name of the group to which the party to the combination belongs.

7.1.3 Trading name, business name and/or the brand names used in India.

7.1.4 Brief overview of activities worldwide.

7.1.5 Overview of the activities in India.

7.2 Provide separately a list/details of the products (manufactured and/or sold) and/or services of the parties to the combination.

7.3 In reference to 7.2 above, do the parties to the combination produce/provide similar or identical or substitutable products or services either directly or indirectly? If yes, provide details.

7.4 State whether any of the parties to the combination are engaged in any activity relating to the production, supply, distribution, storage, sale and service or trade in products or provision of services which is at different stages or levels of the production chain in which any other party to the combination is involved. If yes, provide details.

7.5 Do any of the parties to combination have direct or indirect shareholding and/or control over another enterprise(s) engaged in (a) production, distribution or trading of similar/identical /substitutable products or

provision of similar/identical/substitutable services; and/or (b) any activity relating to the production, supply, distribution, storage, sale and service or trade in products or provision of services which is at different stages or levels of the production chain in which any other party to the combination is involved ? If yes, provide details.

7.6 Provide a brief overview of the sector(s) to which the combination belongs.

Part VIII: Relevant Market(s)

8.1 What, according to the parties to the combination, is the relevant product and geographic market? Provide a detailed explanation regarding the delineation of relevant product and relevant geographic market.

8.2 Whether the parties to combination are engaged in any business activities in the same relevant market? If yes, specify.

8.3 Provide an estimate indicating the relevant source and the basis of estimate of the total size of the market, in terms of value of sales (in rupees) and volume (units), of identical/substitutes/similar products or services produced/distributed/supplied in India.

8.4 Provide details with regard to the sales in value (in rupees) and volume (units) along with an estimate of the market share(s) of each of the parties to the combination for identical/substitutes/similar products or services produced/distributed/supplied in India. In case of a group, same information should be given for all the enterprises of the group.

8.5 Provide name and contact details of the five largest competitors (along with their market shares), customers and suppliers.

8.6 In the event the parties to the combination are engaged in any activity relating to the production, supply, distribution, storage, sale and service or trade in products or provision of services which is at different stages or levels of the production chain in which any other party to the combination is involved, provide details, including inter alia,:

8.6.1 Market size of the upstream and the downstream market.

8.6.2 Market share of each of the party(ies) to the combination in the

upstream and downstream market.

8.6.3 Market share of five largest competitors in the upstream and downstream market.

8.6.4 Existing supply arrangements between the parties to the combination along with value of such transactions during the previous financial year and percentage of such sales/consumption of the respective parties in relation to the total sales/consumption in each of the market(s).

¹¹[DECLARATION

The notifying party declares and confirms that all information given in this Form and all pages annexed hereto is true, correct and complete to the best of its knowledge and belief, and that all estimates are identified as such and are its best estimates based on the underlying facts.

The notifying party is aware of the provisions of sections 44 and 45 of the Act.

Signed by or on behalf of the notifying party
Signature(s)

Name (in block capitals):

Designation:

Date: _____

[In case there are more than one notifying parties, each party may use the same format.]]

¹¹ Ins. by the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2016.

FORM II

{See Regulation 5(2)}

FORM OF FILING NOTICE WITH THE COMPETITION COMMISSION OF INDIA
UNDER SUB -SECTION (2) OF SECTION 6 OF THE COMPETITION ACT, 2002

Registration No. (To be assigned by the Competition
Commission of India)

| | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|
| | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|

1. Summary of combination

- 1.1 Give a brief statement about rationale, objectives, strategy and the likely impact of the combination.
- 1.2 Provide an executive summary of the proposed combination specifying: (a) the parties to the combination; (b) the nature of the combination; (c) the areas of activities of the parties to the combination; (d) the market(s) (including its structure and state of competition) in which the combination will have or is likely to have an impact; (e) information with reference to sub-section (4) of Section 20 of the Competition Act, 2002; (f) expected timeframe for completion of various stages of the Combination.

2. Purpose of the combination

- 2.1 What are the business objectives of the combination and how are these intended to be achieved?
- 2.2 Describe the economic rationale of the combination and its impact on the economy, market(s) and consumers.

3. Details of payment

- 3.1 Amount of fee deposited (provide proof)
Amount (in Rs.):
- 3.2 Mode of payment:
(Demand Draft/Banker's Cheque/ECS)
Number:
Date:
Drawn on:
Bank Identification and Code No.:

4. **Personal Details**

First applicant

Legal name of combining party:

Name of the person signing in terms of regulation 8 (enclose documentary proof of eligibility for signing the notice, in terms of regulation 8):

Son/Daughter of:

Principal Business address:

City: Country: Postal/Zip code:

Telephone no.: Country code: City/Area code:

Mobile no.:

Fax no.: Country code: City/Area code:

E-mail address:

Website address:

(in case there are more applicants, use the same format for additional applicants)

5. Provide details (in the format in paragraph 4) of an individual located in India, who is authorized to receive communications on behalf of each of the notifying party(s) regarding this notice and related proceedings.

6. **Details about the combination**

6.1 Please specify the part, sub-clause and clause of section 5 of the Act under which the combination falls.

6.2 Describe the nature of the combination being notified with the following details:

- (a) State the exact number of shares or voting rights and percentage of shares or voting rights being acquired, directly or indirectly, by the acquirer including number of shares or voting rights and their percentage held prior to such acquisition. Whether such acquisition of shares or voting rights, directly or indirectly, leads to control or may lead to control at a later date? Explain.
- (b) Provide details and value of assets being acquired. Whether such acquisition of assets, directly or indirectly, leads to control or may lead to control at a later date? Explain.
- (c) Provide details of series of constituent transactions leading to the combination and the sequence {including date(s)} in which they are likely to occur.

7. **Supporting document**

- 7.1 Furnish date(s) of approval of the proposal relating to merger or amalgamation by the board of directors of the enterprise(s) concerned referred to in clause (a) of sub-section (2) of section 6 of the Act and/or other document executed in relation to the acquisition or acquiring of control referred to in clause (b) of sub-section (2) of section 6 of the Act. Attach copies of such board resolution or the agreement/other document.
- 7.2 Furnish copies of (a) analysis, reports, studies or surveys or any other document taken into account for the purpose of assessing the impact of the combination by the parties to the combination and/or (b) final version of any document(s) prepared or commissioned by the parties to the combination or considered by the board of directors, for the purposes of evaluating or assessing or analyzing the combination with respect to market shares, competition, competitors (actual or potential), markets, potential for sales growth or expansion of products or geographic markets, rationale of the combination and indicate (if not contained in the document itself) the date of preparation, and the name and title of each individual who prepared such document(s).
- 7.3 Copies of memorandum and articles of association of all the parties to the combination.
- 7.4 Furnish copies of the most recent annual reports and accounts of:
- (a) in case of an acquisition of an enterprise(s) under sub-section (a) of Section 5 of the Act, the acquiring enterprise(s) and the enterprise(s) being acquired (by way of acquisition of control, shares, voting rights or assets); or
 - (b) in case of an acquisition under sub-section (b) of Section (5) of the Act, the enterprise acquiring control; enterprise whose control is being/has been acquired; and the enterprise in which the acquirer already has direct or indirect control which is engaged in similar or identical or substitutable product(s)/service(s); or
 - (c) in case of merger or amalgamation under sub-section (c) of Section 5 of the Act, all the parties to such merger or amalgamation.
- 7.5 List of holders of five percent or more of voting rights or shares, directly or indirectly, of the parties to the combination.

- 7.6 List names of CEO/CFO/directors/partners/trustees/person in charge/persons acting in concert during the last one year. Also provide recent detailed organizational chart of each of the combining parties.

8. Information about the size of the Combination

- 8.1 How do the parties to the combination meet the criteria for filing notice, in terms of assets /turnover given under section 5 of the Act and the notification thereunder?

- 8.2 Furnish the following details, as per audited annual accounts of immediately preceding two financial years, separately, for all the parties to the combination:

| Name of enterprise(s) | Year | Value of assets | | Aggregate Turnover | |
|-----------------------|------|-------------------------|------------------------------|-------------------------|------------------------------|
| | | In India (Rs. In crore) | Worldwide (US\$ in Million). | In India (Rs. In crore) | Worldwide (US\$ in Million). |
| | | | | | |

- 8.3 Furnish the following details for the current financial year, separately, for all the parties to the combination):

| Name of enterprise(s) | Year | Value of assets | | Aggregate Turnover | |
|-----------------------|------|-------------------------|------------------------------|-------------------------|------------------------------|
| | | In India (Rs. In crore) | Worldwide (US\$ in Million). | In India (Rs. In crore) | Worldwide (US\$ in Million). |
| | | | | | |

- 8.4 Aggregate for the proposed Combination:

Furnish the following details as per last audited annual accounts of the immediately preceding financial year. If annual accounts for the immediate preceding financial year are not audited, furnish the following details as per the last audited annual accounts as well as for the subsequent financial years:

| For the proposed combination | Value of Assets | | Aggregate Turnover | |
|--|---|---|---|---|
| | For the financial year immediately preceding the date of notice | For the current financial year, for the completed calendar quarters till the date of notice | For the financial year immediately preceding the date of notice | For the current financial year, for the completed calendar quarters till the date of notice |
| In India (Rupees in crore) (as per audited accounts) (mention year) | | | | |
| Worldwide (US\$ in million) (as per audited accounts) (mention year) | | | | |
| In India (Rupees in crore) (as per unaudited accounts) (mention year) | | | | |
| Worldwide (US\$ in million) (as per unaudited accounts) (mention year) | | | | |

8.5 Furnish the following details in case of a group, to which the entity whose control, shares, assets or voting rights have been acquired or are being acquired would belong to or the entity remaining after the merger or the entity created as a result of amalgamation would belong to after acquisition/merger/amalgamation, as the case may be, namely:

| Group | Value of Assets | | Aggregate Turnover | |
|---|---|---|---|---|
| | For the financial year immediately preceding the date of notice | For the current financial year, the completed calendar quarters till the date of notice | For the financial year immediately preceding the date of notice | For the current financial year, the completed calendar quarters till the date of notice |
| In India (Rupees in crore) (as per Audited accounts) | | | | |
| Worldwide (US\$ in billion) (as per audited accounts) | | | | |
| In India (Rupees in crore) (as per unaudited accounts) | | | | |
| Worldwide (US\$ in billion) (as per unaudited accounts) | | | | |

9. **Ownership and Control**

- 9.1 Furnish a list of all the enterprises belonging to the same group for each of the parties to the combination and list all the enterprise(s) controlling the parties to the combination, directly or indirectly, along with the nature and means of control.
- 9.2 Whether the party to the combination, either singly or jointly, directly or indirectly control the affairs or management of another entity or group? If yes, please furnish the following:
- details of enterprise(s) exercising control and enterprise(s) whose affairs are being controlled;
 - form and manner in which the control is exercised; and
 - details of common directors/partners/coparceners/trustees.

- 9.3 Whether the parties to the combination and another enterprise or group referred to at 9.1 and 9.2 above, are engaged in production, distribution or trading of similar or identical or substitutable products or provision of similar/identical/substitutable services? If yes, provide following details:
- (a) names of similar or identical or substitutable products or services; and
 - (b) market share of each of the products or services mentioned in (a) above, prior to and after the combination.
- 9.4 Whether any of the parties to the combination is engaged in any activity relating to the production, supply, distribution, storage, sale and services or trade in products or provision of services which is at different stages or levels of production chain in which any other party to the combination is involved? If yes, provide details.
- 9.5 Furnish details of the intended structure of ownership and control of the acquired enterprise(s) /acquirer enterprise(s)/combined enterprise(s) after completion of the combination.

10. Details about the products or services

- 10.1 Furnish the following details:
- (a) Provide separately the products (manufactured and/or sold) or services of the parties to combination.
 - (b) Characteristics and end use of products or services (Attach current selling aids and promotional material of the concerned products or services).
 - (c) Do the parties to combination produce/provide similar or identical or substitutable products or services, discussing specifically whether the parties to combination are engaged in any business activities in the same relevant market?
 - (d) Market shares of the similar or identical or substitutable products or services of the parties to combination and also of rivals/competitors for similar or identical or substitutable products or services.
 - (e) Details of in-house consumption (both in terms of quantity and value), if any.
 - (f) Existence/availability of other specialised producers/suppliers. (Submit documents that identify specialised producers/suppliers or discuss the competitive position of specialised producers/ suppliers).
 - (g) Industrial classification of products or services. (Submit documents sufficient to show how the parties to combination classify and sell their products).

- 10.2 Are there any regulations/laws/rules/procedures/official press notes/directions/ notifications, etc. which restrict production, supply, distribution of the similar or identical or substitutable products or services of the parties to the combination? (Submit documents sufficient to demonstrate such restraints).
- 10.3 Are the similar or identical or substitutable products or services subject to local specifications prescribed by government/departments/authorities? If yes, provide details. (Submit documents and material sufficient to describe any specifications with which the parties to combination must comply).
- 10.4 Are there any licensing/registration requirements to set up facilities for production/supply of the similar or identical or substitutable products or services? Does their production/supply require any special technical knowledge that is not readily available?
- 10.5 Are there any Government procurement policies which offer special dispensation to the parties to combination or their competitors? (Attach sufficient documents/material).
- 10.6 How important/significant are “distribution facilities” of the similar or identical or substitutable products or services? Furnish details of your distribution channels and service networks (for example maintenance and repair) along with the ones that exist in the market. (Submit documents or material sufficient to show the location of all distribution facilities and any strategic plans or maps relating to distribution system of each similar or identical or substitutable product or service).
- 10.7 Whether the product can be transported? If yes, what are the possible modes of transportation? What is the unit cost of transportation per kilometre? What is the ratio of transportation cost to the sale price? (Submit documents sufficient to show shipping or transportation costs incurred in the distribution of the similar or identical or substitutable products or services).
- 10.8 State and explain (in your opinion) the scope of relevant product and relevant geographic market in relation to the proposed combination. Also provide a list of products and/or services which, in your opinion, may not fall within the scope of relevant market as mentioned above, but may pose competitive constraints.

10.9 Furnish the following :

- (a) the manner in which the parties to combination produce, price and sell the product and/or service in the relevant market. Also submit documents pertaining to price lists, pricing plans, pricing policies, pricing strategies, pricing analysis and pricing decisions for the previous two years as well as pricing forecast, of the parties to the combination relating to the relevant products and/or services.
- (b) details of prices of product and/or services in the relevant market relating to major competitors and imports , if any, during the last two years. (Attach copies of price- lists, along with the analysis, if any).

10.10 What, in your opinion, is the minimum viable scale (which means the smallest amount of production at which the average cost equals the price currently charged for the relevant product or services), the minimum and optimum plant size, capacity utilization rate, production volume and all factors required to attain any available cost savings? Provide details with supporting documents.

11. Information on the Market Structure (Demand and Supply Structure, Market Entry and Innovation)

- 11.1 Provide an estimate (indicate the relevant source and basis of estimate) of the total size of the market in terms of value of sales (in rupees) and volume (units) of identical/substitutes/similar products or services produced/distributed/supplied in India. Also provide name and contact details of five largest competitors (along with market shares), customers and suppliers.
- 11.2 Provide details with regard to sales in value (in rupees) and volume (units) along with an estimate of the market shares of each of the parties to the combination for identical/substitutes/similar products or services produced/distributed/supplied in India. (In case of a group same information should be given for all parties of the group).
- 11.3 Furnish a list of your main competitors, in your opinion, in the relevant market, with reasons and analysis.
- 11.4 An estimate of the market share in value (and where appropriate, in volume), of all the competitors (including importers) having at least five percent of the relevant market under consideration (in your opinion).

- 11.5 Describe the state of competition in the relevant market, supported by market studies, forecast, surveys etc, (if any) and including but not limited to the following:
- (a) relative strength / weaknesses of parties to the combination and other major players in the relevant market;
 - (b) supply and demand conditions; and
 - (c) attempts to win customers from other competitors and loss of customers to other competitors.
- 11.6 What is the level of concentration in the relevant market? How much will the level of concentration change after the proposed combination takes effect? (Provide number of enterprise(s) before and after the combination takes effect). For concentration levels provide an estimate of HHI (Herfindahl - Hirschman Index), along with change in the index post-combination. (Indicate the market shares used as a basis to calculate the HHI and the source from which the same have been obtained).
- 11.7 How many enterprise(s) have entered or attempted to enter the relevant market in the last five years? Provide their names, addresses, telephone numbers and e-mail addresses. Is there a likelihood of entry of enterprise(s) of significant size in the relevant market in the next one to two years? (Attach sufficient documents/material in support).
- 11.8 How many enterprise(s) have exited or attempted to exit from the relevant market in the last five years? Provide their names, addresses, telephone numbers and e-mail addresses and reasons of exit.
- 11.9 If any of the parties to the combination have entered in the relevant market in last five years, provide details of barriers to entry encountered, if any, along with analysis.
- 11.10 Describe the various factors influencing entry into the relevant market, including but not limited to the following:
- (a) the total costs of entry (R&D, production, establishing distribution system, promotion, advertising, servicing and so forth) on a scale equivalent to a significant viable competitor, indicating the market share of such a competitor;
 - (b) the portion of initial investment that will be permanently lost on exit;
 - (c) any legal or regulatory barriers to entry, such as government authorization or standard setting in any form, as well as barriers

- resulting from product certification procedures, or the need to have a proven track record;
- (d) any restriction created by the existence of patents, know-how and other intellectual property rights (IPRs) in these markets and any restrictions created by licensing such rights. (Provide details information separately for each combining party;
 - (e) provide details of IPRs that have been developed and registered by the parties to the combination in the last five years? With reference to the relevant market(s), provide details of IPRs that are held by each of the parties to the combination;
 - (f) the importance of economies of scale in the production or distribution of products and services in the relevant market; and
 - (g) access to sources of supply, such as availability of raw materials and necessary infrastructure.
- 11.11 Provide details of imports (total value, volume and sources) and its proportion to the total size of the relevant market for the relevant products and services for the last three years. Also, provide details of potential imports in the next one or two years. Also provide the difference in unit selling price, if any, between the imported and domestic price of similar or identical or substitutable products or services in the relevant market.
- 11.12 Provide details of exports (total value, volume and sources) and its proportion to the total size of the relevant market for the relevant products and services for the last three years? Provide the names of top five exporters and their contact details.
- 11.13 Identify some of the largest independent suppliers to the parties to the combination and their individual shares or purchases from each of these suppliers (of raw materials or goods used for purposes of producing the relevant products in your opinion). Mention their names, addresses and contact details.
- 11.14 Specify whether any of the parties to the combination, or any of the competitors have 'pipeline products or services' (products or services likely to be brought to the market in the near future) or have plans to expand or contract production or sales capacity. If so, provide an estimate of the projected sales and market shares of the parties to the combination over the next three to five years.
- 11.15 If the parties to the combination have few large buyers for the similar or identical or substitutable products or services, furnish their names,

addresses and contact details along with their individual shares in your sales/supply.

- 11.16 Explain the structure of demand in the relevant market, including the following, supported by the documents/data relied upon by the parties to the combination, while taking decisions in the ordinary course of business:
- (a) role of product differentiation in terms of attributes or quality and the extent to which the products or services of the parties to the combination are close substitutes; and
 - (b) role of switching cost (in terms of time and expense) for customers when changing from one supplier to another.
- 11.17 Are there any obligations to comply with language requirements, if any, in respect of the products/user's manual, etc. in any part of India? If yes, provide details. (Attach documents/ material sufficient to show any impact language has on the sale or distribution of each similar or identical or substitutable product or service).
- 11.18 Explain the importance of R&D capabilities of an enterprise to compete in the relevant market. Explain the nature and extent of the R&D activities, if any, carried out by the parties to the combination over the past few years.
- 11.19 State the intended R&D activities, subsequent to the combination taking effect and their likely impact on the nature of competition in the relevant market.
- 11.20 Have any of the parties to the combination or any other enterprise(s) in the relevant market radically affected the market conditions recently with new technology or business model or by rapid use of available capacity or by any other means? If so, give details supported by analysis.

12. Documents of compliance and filing in other jurisdictions

- 12.1 Whether any order has been passed on a competition issue by any Competition Authority/Court/Tribunal/Government/Regulatory Authority in the last five years in respect of the parties to combination? If yes, provide brief details of said order, indicating the issue and the direction of the authority.
- 12.2 Whether any bankruptcy/winding-up application/proceedings involving any of the parties to the combination have been filed with the relevant authorities in the last five years? If yes, provide details.

- 12.3 Furnish details of any application/notification/intimation/information relating to the proposed combination filed in a High Court/Company Law Board/Securities and Exchange Board of India or any other authority established under any law in India along with the status thereof and certified copies of the decision in the matter, if any.
- 12.4 Whether this combination is subject to filing requirements in jurisdictions other than India? If yes, list the notified, or to be notified, jurisdictions along with the certified copy (s) of the order (s)/decision (s) passed in that jurisdiction.
13. The parties to the combination are also encouraged to submit any other information that they believe could assist the Commission in assessing the proposed combination and the markets involved.

(Attach documents/reports/materials, if any, in support of the above)

Notes:

- (1) The parties to the combination, in providing the above information including the supporting documents, as far as possible, are required to rely on the documents/data used in the ordinary course of taking business decisions.
- (2) If any third party information/estimates are being relied upon by the notifying parties, then the relevant source of such information/estimates shall be clearly indicated.
- (3) If any additional information is needed by the Commission for determining whether a combination would have the effect of or is likely to have an appreciable adverse effect on competition in the relevant market, the parties to the combination may be required to furnish such additional information.
- (4) For the purpose of figures in this Form the accounting standards, as notified by the Government of India, from time to time, or the International Financial Reporting Standards or the US Generally Accepted Accounting Principles shall be followed.
- (5) Assets shall mean total assets and its value shall be computed in accordance with explanation (c) of section 5 of the Act.
- (6) The turnover shall be computed in accordance with section 2(y) of the Act, excluding indirect taxes, if any.
- (7) The rate of conversion of foreign exchange currency into Indian Rupees or US Dollars shall be based on the average spot rate of the last six months quoted by the Reserve Bank of India from the date calculated with reference to the event given in section 6(2) of the Act.
- (8) Unaudited figures shall be certified by the Managing Director, Director, the Chief Executive Officer or the Chief Financial Officer of the enterprise duly authorized by the board and accompanied by a certificate of the auditor of the enterprise.

¹²[DECLARATION

The notifying party declares and confirms that all information given in this Form and all pages annexed hereto is true, correct and complete to the best of its knowledge and belief, and that all estimates are identified as such and are its best estimates based on the underlying facts.

The notifying party is aware of the provisions of sections 44 and 45 of the Act.

Signed by or on behalf of the notifying party

Signature(s)

Name (in block capitals):

Designation:

Date: _____

[In case there are more than one notifying parties, each party may use the same format.]

¹² Ins. by the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2016.

FORM III
[See regulation 6]

FORM FOR FILING OF DETAILS OF ACQUISITION UNDER SUB-SECTION (5) OF
SECTION 6 OF THE COMPETITION ACT, 2002

Registration No. (To be assigned by the Competition
Commission of India)

| | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|
| | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|

1. Particulars of the parties filing details of acquisition :

Legal Name of the party(s) filing details of acquisition:

Principal Business Address (including Country/City/Area Code):

Telephone No.(including Country/City/Area Code):

Mobile No. (including Country/City/Area Code):

Fax No. (including Country/City/Area Code):

E-mail Address:

Website Address:

(in case there are more than one applicants use the same format for additional applicants).

2. Details of acquisition:

(a) Describe the acquisition of control, shares (including share subscription or financing facility), voting rights or assets that the party filing details has taken, and the modalities involved therein. Describe the loan, financing facility, investment etc that the parties filing details has given to the entity whose shares, assets or control are being acquired or are liable to be so acquired.

(b) Also explain as to how the provisions of sub-section (4) of section 6 of the Act are applicable in this case (attach documents/reports etc).

3. Whether the acquirer/buyer is:

- (a) public financial institution; or
- (b) foreign institutional investor; or
- (c) venture capital fund; or
- (d) bank.

4. Describe the nature and extent of acquisition and justification to the effect that acquisition attracts the provisions of sub-section (4) of section 6 of the Act.
5. Furnish details of approval by the board of directors of the acquirer or execution of agreement or other document and also whether filing of details is within the time specified, or otherwise, the extent of delay in filing and the reasons thereof.
6. Whether the “acquisition” is subject to foreign filing requirements, and, if yes, list the jurisdictions and furnish the details.
7. Whether details of acquisition being filed is original or corrective, and, in case of latter, indicate the date of original filing and attach a copy thereof.
8. Indicate as to whether: (i) entity to which loan has been given or investment has been made and (ii) any of the party to which the loan has already been given / investment has already been made, are engaged in production, supply, distribution, storage, sales or trade of similar or identical or substitutable “goods”, or provision of “services” and if so, the details thereof.
9. Whether the acquisition of control, shares (including share subscription or financing facility), voting rights or assets that the party filing details has taken, meets the threshold limits as provided in section 5 (a) or (b) of the Act. If yes, describe how either the parties filing details of such acquisition or the group to which the enterprise whose shares, assets, voting rights or control is being acquired shall belong pursuant to such acquisition, meet the thresholds provided under the Act or by way of a notification provided by the Central Government from time to time, based on the audited annual accounts of the financial year immediately preceding the financial year in which the acquisition has taken place. If the annual accounts for the immediate preceding financial year are not audited, furnish the details as per the last audited annual accounts as well as for the annual accounts of the each subsequent year, duly certified by the Managing Director/ Chief Executive Officer/ Chief Financial Officer as per the authorisation of the Board(s) of the parties concerned and supported by the certificate of the Auditor of the enterprises, up to the financial year immediately preceding the year in which the acquisition has taken place.
10. What is the ‘relevant product market’ of the products or services whose control, shares, assets or voting rights have been acquired or are being acquired?
11. What is the ‘relevant geographic market’ of the products or services whose control, shares, assets or voting rights have been acquired or are being acquired?
12. What is the relevant market for the acquisition keeping in view the relevant product market and relevant geographic market?

(In case relevant market has been worked on the basis of some study or is based on market report, the details of the organization which conducted the study and furnished the report and whether the organization which conducted the study and furnished report is a related party and whether any grant has been made to such organization which has given the report may also be furnished.)

13. To determine 'control' *the following information is to be furnished:

| Parties to acquisition | Details of entities exercising control | Form and manner in which control is exercised. | Details of common Directors / Partners/Co-parceners/ Trustees. |
|------------------------|--|--|--|
| | | | |

* Note: Furnish details of the nature of direct as well as indirect control as the case may be.

14. Whether, in your opinion, the acquisition of control, shares (including share subscription or financing facility), voting rights or assets is likely to cause or has caused an appreciable adverse effect on competition in the market in India?
15. Any other additional information which, in your opinion, is relevant may be furnished.

¹³[DECLARATION

The notifying party declares and confirms that all information given in this Form and all pages annexed hereto is true, correct and complete to the best of its knowledge and belief, and that all estimates are identified as such and are its best estimates based on the underlying facts.

The notifying party is aware of the provisions of sections 44 and 45 of the Act.

Signed by or on behalf of the notifying party
Signature(s)

Name (in block capitals):

Designation:

Date: _____

[In case there are more than one notifying parties, each party may use the same format.]]

¹³ Ins. by the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2016.

FORM IV
[See regulation 22]

Details of combination under subsection (2) of Section 29 of the Competition Act, 2002

1. The Competition Commission of India ("Commission") is investigating into the combination between [●] (name and address) and [●] (name and address).
2. The details of the combination in form of the summary, as provided by the parties to the combination under column 1 of Form II are as under:
3. In order to determine whether the combination has or is likely to have an appreciable adverse effect on competition in the relevant market in India, the Commission invites comments/ objections/ suggestions in writing, from any person(s) adversely affected or likely to be affected by the combination, to submit in writing, as provided under sub-section (3) of section 29 of the Act, to be addressed to the Secretary, Competition Commission of India, the Hindustan Times House, 7th Floor, 18-20, Kasturba Gandhi Marg, New Delhi-110001, within fifteen working days from the date of this publication.
4. The comments/objections/suggestions shall state:
 - (a) name, address and contact details of the person(s) writing to the Commission, and
 - (b) with supporting documents, how such a person(s) is adversely affected or is likely to be affected by the combination, keeping in view the relevant provisions of the Act/ factors provided under sub-section (4) of Section 20 of the Act.

The Commission is not likely to consider unsubstantiated objections.

Note: Principal Regulations were published vide Notification No. F. No. 1-1/ Combination Regulations/2011-12/CD/CCI in the Gazette of India, Extraordinary, Part III, Section 4, dated the 11^h May, 2011 and were subsequently amended by,-

(a) The Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2012 published vide F. No. 3-1/Amend/Comb.Reg./2012/CD/CCI in the Gazette of India, Extraordinary, Part III, Section 4, dated the 23rd February, 2012;

(b) The Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2013 published vide F. No. 3-1/Amend/Comb. Reg./2012/CD/CCI in the Gazette of India, Extraordinary, Part III, Section 4, dated the 4th April, 2013;

(c) The Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2014 published vide F. No. CCI/CD/Amend/Comb.Reg./2014 in the Gazette of India, Extraordinary, Part III, Section 4, dated the 28th March, 2014;

(d) The Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2015 published vide F. No. CCI/CD/Amend/Comb.Reg./2015 in the Gazette of India, Extraordinary, Part III, Section 4, dated the 1st of July, 2015; and

(e) The Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2016 published vide F. No. CCI/CD/Amend/Comb.Reg./2016 in the Gazette of India, Extraordinary, Part III, Section 4, dated the 7th of January, 2016.