



BEFORE THE  
COMPETITION COMMISSION OF PAKISTAN

IN THE MATTER OF

FIRST PHASE REVIEW

PURCHASE OF CERTAIN ASSETS AND LIABILITIES FROM M/S  
WYETH PAKISTAN LIMITED AND M/S PFIZER PAKISTAN  
LIMITED BY M/S ICI PAKISTAN LIMITED

CASE: 904/Merger-CCP/17

Commission

Ms. Vadiyya S. Khalil  
Chairperson

Mr. Ikram Ul Haque Qureshi  
Member



## Order

### I Background

1. On 19 June 2017, M/s ICI Pakistan Limited (“ICI” or the “Acquirer”) submitted a pre-merger application (the “Application”) to the Commission, for the intended acquisition of certain assets and liabilities from M/s Wyeth Pakistan Limited (“WPL” or the “Seller 1”) and M/s Pfizer Pakistan Limited (“PPL” or the “Seller 2”), (collectively, the “Sellers”). The Application was submitted along with the necessary information in accordance with Section 11 of the Competition Act, 2010 (the “Act”) and Regulation 6 of the Competition (Merger Control) Regulations, 2016 (the “Merger Regulations”).

### II Merger Parties

#### Acquirer

2. ICI, a public listed company is incorporated under the laws of Pakistan having its registered office in Karachi, consists of four main businesses: Polyester, Soda Ash, Chemicals, and Life Sciences. Through these businesses the company manufactures and trades in a range of products including polyester staple fiber, soda ash, general and specialty chemicals, toll manufacturing of pharmaceutical products, nutraceuticals (dealing in infant milk formula), animal health products and agricultural products (such as chemicals, field crop seeds, and vegetable seeds). In pharmaceutical, ICI is active through its wholly owned subsidiary, namely M/s Cirin Pharmaceuticals Private Limited (“Cirin”).
3. ICI’s assets as on 30 June 2016 amounted to PKR \_\_\_\_\_ while its reported gross turnover remained PKR \_\_\_\_\_ for the same period.

### III Targets

#### Seller 1

4. WPL, a public limited company incorporated under the law of Pakistan having its registered office in Karachi, is engaged in manufacturing and marketing of research based pharmaceutical, healthcare nutritional products for humans and animals in Pakistan. In 2009, Pfizer, Inc. (“Pfizer”), United States of America acquired sole control of the whole of the undertaking of Wyeth LLC (“Wyeth”), USA by way of share purchase. Subsequently, Wyeth merged into Pfizer. Wyeth holds \_\_\_\_\_ shares and Wyeth Holding Corporation, USA, a wholly owned subsidiary of Wyeth holds \_\_\_\_\_ shares of WPL. Post-acquisition, Pfizer is the ultimate majority shareholder of WPL. In Pakistan, however, WPL, and PPL continued to operate as separate legal entities.

WPL’s assets as on 30 November 2016 were PKR \_\_\_\_\_ while its turnover remained PKR \_\_\_\_\_ for the same period.



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## *Seller 2*

6. PPL, a public company incorporated under the laws of Pakistan having its registered office at B-2, S.I.T.E., Karachi, is principally engaged in manufacturing, import and marketing of a wide range of pharmaceutical products and in providing toll manufacturing services. PPL is a subsidiary of the Pfizer Corporation, Panama, which, in turn, is a subsidiary of Pfizer.
7. PPL's assets for the financial year ending 30 November 2016 valued at PKR \_\_\_\_\_ its turnover was PKR \_\_\_\_\_ for the same period.

## IV Transaction

8. Pursuant to Framework Agreement and Asset Purchase Agreements dated 19 May 2017 (the "**Agreements**"), the proposed transaction envisages ICI's intention to acquire, *inter alia*, certain pharmaceutical manufacturing assets (plant/machinery) and the right to market and manufacture products associated with those assets. The sellers are the producers of multiple pharmaceutical products and are in the ownership of further manufacturing and production assets, hence the transaction does not involve a sale of the Sellers business as a whole, but as are provided in the Agreements. The estimated transaction value in PKR is \_\_\_\_\_, being funded entirely by ICI's own funds.
9. The transaction meets the notification thresholds as prescribed in Regulation 4(2)(a), (b) & (c) of the Merger Regulations, with the combined assets of the parties being more than PKR 1 billion and combined turnover being more than PKR 1 billion. While the transaction value also exceeds PKR 100 million.

## V Relevant Market

10. The Acquirer has submitted that the merging entities are engaged in the manufacturing and marketing of research based pharmaceutical and healthcare products. Hence, the relevant product market is **manufacturing and marketing of pharmaceuticals products**. The Commission is of the opinion that the pharmaceutical market can be segmented either on the basis of (i) Anatomical Therapeutic Classification system of the World Health Organization, or (ii) the classification system devised by the European Pharmaceutical Marketing Research Association. Both classification system generally classifies the pharmaceutical products into four main categories by (i) the part of the body being treated by a medicine, (ii) the active pharmaceutical ingredient (molecule level), (iii) therapeutic use, and (iv) therapeutic/pharmacological indication i.e. their intended use. Depending on the businesses operation of the undertaking, one or more classifications can be used as the starting point for investigating and defining the relevant product market in competition assessment, in particular, competition between the manufacturing undertakings. In the circumstances of this case, the Commission is not inclined to segment the market and take manufacturing and marketing of pharmaceutical products as the relevant product market, which it may nevertheless depart from in the future competition/merger assessment.



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11. The relevant geographic market is Pakistan as pharmaceuticals products are supplied nationwide and the conditions of competition are sufficiently homogeneous.

## VI Findings of the Phase I Competition Assessment

12. The phase I competition assessment of the proposed transaction is as follows:
- i ICI is a conglomerate active in the production and distribution of a number of products in addition to the pharmaceutical products. Cirin is a wholly owned subsidiary of ICI and is engaged in the pharmaceutical business including the production and distribution of medicines and life-saving drugs. ICI also undertakes contracts manufacturing of pharmaceutical products for third parties.
  - ii The proposed transaction involves the acquisition of certain pharmaceutical assets (plant/machinery) and associated licenses for the production and marketing of:
    - a. from Wyeth – its rights, title and interest in the trademarks, manufacturing technology/facilities, know-how, inventory, assets, and liabilities pertaining to pharmaceutical products namely, Entox, Lederplex, Mucaine, Nilstat, Trihemic and Wymox for the therapeutic use of different illness and disorders in humans.
    - b. from Pfizer – its rights, title and interest in trademarks, manufacturing technology, inventory and all assets and rights of PPL in respect of Citralca and Combantrin for the therapeutic use of different illness and disorders in humans.
  - iii According to the Applicant, the transaction is another strategic step taken by ICI to expand its pharmaceutical portfolio and footprint in the production and distribution of pharmaceutical business. The aforementioned purchase of assets will enhance its manufacturing base, allowing it to make an inroad into the therapeutic areas of gastroenterology, multi vitamins, antifungal, antibiotics, and urology.
  - iv The proposed merger involves horizontal overlaps at the manufacturing level and vertical relationship on the marketing/distribution level. On the basis of Moving Annual Turnover (MAT), the Acquirer has submitted that its market share in the pharmaceutical sector is approximately \_\_\_\_\_ while WPL's is \_\_\_\_\_ and PPL's is \_\_\_\_\_ as of March 2017. The top three players are GlaxoSmithKline with approximately \_\_\_\_\_, Abbot Lab Pakistan Limited approximately \_\_\_\_\_, and Getz Pharma approximately \_\_\_\_\_ of the market share in the relevant market. Post transaction, Cirin's market shares on the basis of MAT would increment to a market share of \_\_\_\_\_.

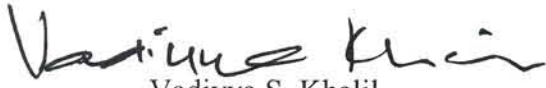



Based on the market share of the merger parties above, the proposed merger does not meet the presumption of dominance as determined under Section (2) (1) (e) read with Section 3 of the Act.

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## VII Conclusion

13. In conclusion, there proposed transaction is unlikely to substantially lessen competition through the creation or strengthening of a dominant position in the relevant market. The proposed transaction is hereby authorized under Section 31(1) (d) (i) of the Act.
14. It is so ordered.

  
Vadiyya S. Khalil  
Chairperson

  
Ikram Ul Haque Qureshi  
Member



ISLAMABAD THE 03 AUGUST, 2017