



BEFORE THE
COMPETITION COMMISSION OF PAKISTAN

FIRST PHASE REVIEW

In the matter of Joint Venture by M/s. ICI Pakistan Limited,
Morinaga Milk Industry Co. Limited, and Unibrands (Private)
Limited.

CASE: 869/Mergers/CCP/17

Commission

Ms. Vadiyya Khalil
Chairperson



Mr. Ikram Ul Haque Qureshi
Member

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I. THE BACKGROUND

1. On 02 February 2017, the Competition Commission of Pakistan (the "Commission") received a pre-merger application ("Application") from M/s. ICI Pakistan Limited ("ICI" or "JV 1") whereby a joint venture company, "JVCO" will be set up by ICI, Morinaga Milk Industry Co. Limited ("Morinaga" or "JV 2"), and Unibrands (Private) Limited ("UPL" or "JV 3"), (collectively, "JV parties") pursuant to a Shareholder's Agreement dated 17.01.2017 (the "Agreement"). The Application contains the necessary information pursuant to Regulation 5 (6) of the Competition (Merger Control) Regulations, 2017 (the "Merger Regulations").

The case is examined as under:

II. THE PARTIES

JV 1

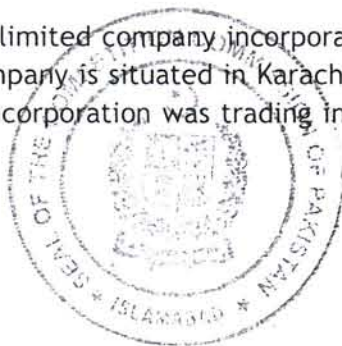
2. ICI, a public listed company incorporated under the laws of Pakistan has its registered office in Karachi, Pakistan. It consists of four main businesses: Polyester, Soda Ash, Chemicals and pharmaceutical/life sciences products. More pertinently, the company is engaged in the business of manufacturing and trading in a wide range of products including, among others, polyester, soda ash, general and specialty chemical, toll-manufactured pharmaceuticals, nutraceuticals, animal health products and agricultural products (including chemicals, field crop seeds, vegetable seeds).
3. ICI's turnover for the year ended June 30, 2016, was approximately PKR and its total assets for the same period amount to PKR

JV 2

4. Morinaga is a listed company and its shares are traded on the Tokyo Stock Exchange, Japan. The company is engaged in the business of production and sale of milk, dairy-based beverages, yogurt, desserts, condensed milk, powdered milk, butter, cheese, ice cream, nondairy beverages, clinical liquid diets and the manufacture of animal feed and design and construction of plant equipment.
5. Morinaga's worldwide turnover for the financial year ended March 31, 2016, was approximately PKR (JYP), and its total assets for the same period amounted to PKR (JYP)

JV 3

6. UPL is a private limited company incorporated under the law of Pakistan. The registered office of the company is situated in Karachi, Pakistan. The main business of the company at the time of incorporation was trading in baby food. UPL was subsequently transferred



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to Nutrico Pakistan (Private) Limited ("Nutrico"). Therefore, UPL's turnover for the year ended June 30, 2016, was PKR 1.2 billion and its total assets were PKR 1.2 billion.

7. Currently, UPL holds 49% shares of Nutrico, ICI holds 31% and Morinaga holds 20% shares of Nutrico, which is in the business of importing marketing and distributing imported Morinaga formula in Pakistan.
8. Post transaction, Nutrico shall continue to import, market and distribute imported Morinaga infant formula, while JVCO shall manufacture, market and distribute locally manufactured nutrition formula.

JVCO

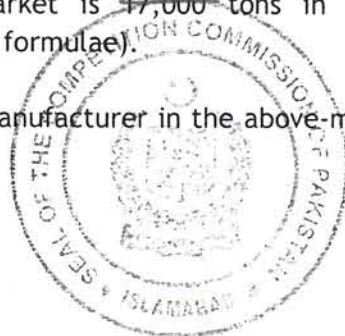
9. JVCO will be jointly owned by ICI, Morinaga, and UPL by 33.33%, 33.33% and 33.33% shareholding respectively. JVCO will operate under the brand name of Morinaga and will manufacture, distribute and market infant nutrition formula products in Pakistan.

III. THE TRANSACTION

10. As per the Application, the ownership of each JV parties in JVCO will be as follows: ICI 33.33%, Morinaga 33.33%, and UPL 33.33% shareholding respectively.
11. The transaction value, as equity injection in JVCO, is approximately PKR 1.2 billion.
12. Post-transaction, Nutrico shall be importing, marketing and distributing imported Morinaga infant formula, whereas JVCO shall be locally manufacturing infant nutritional formula products.
13. The transaction meets the thresholds as prescribed in Regulations 4 (2) (a), (b) and (c) of the Merger Regulations as the assets of the undertakings exceed PKR 1 billion, and the annual turnovers of the undertakings exceed PKR 1 billion. Also, the transaction value exceeds PKR 100 million.

IV. THE RELEVANT MARKET

14. The relevant product market is the market for infant nutrition formula in Pakistan. The estimated total size of this market is 17,000 tons in 2015 (this includes locally manufactured and imported infant formulae).
15. Nestle Pakistan is the only local manufacturer in the above-mentioned market and enjoys 70% market share.

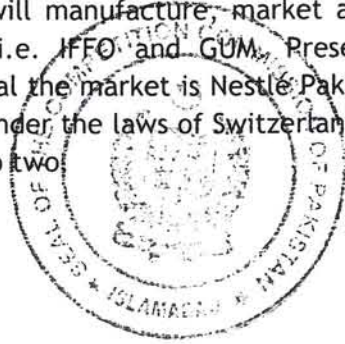


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16. There are eight imported infant formula manufacturers which sell their end product in Pakistan. The price of imported formula (400g) is approximately ... greater than the price of the locally manufactured formula.
17. JVCO will manufacture, market and distribute infant nutrition formula products in Pakistan.
18. JVCO's estimated market share during the first year of business is estimated to be ... and is estimated to reach ... in 10 year's time of manufacturing.
19. JVCO's access to the market is likely to increase competition and provide the consumer with cost effective choices for infant formula.
20. The relevant geographic market is Pakistan.

VI. FINDINGS OF THE PHASE I COMPETITION ASSESSMENT

23. This is a joint venture whereby ICI, Morinaga, and UPL will hold ... and shares in the JVCO respectively. JVCO will manufacture, market and distribute, among other things, infant nutrition formula i.e. IFFO and GUM. Presently, the only local manufacturer of IFFO and GUM in the local market is Nestlé Pakistan Limited which is a subsidiary of Nestlé S.A. incorporated under the laws of Switzerland¹. JVCO will increase the number of market players from one to two.



¹ In the matter of Acquisition of Pfizer Nutrition (a business unit of Pfizer Inc.) by Nestle S.A. (File No. 493/Merger-CCP/2012) dated 02.10.2012

24. The relevant market as defined above includes both local and foreign manufacturers and distributors. The number of market players manufacturing and distributing infant nutrition in Pakistan will increase from one to two.
25. Nutrico will continue to import, market, and distribute imported Morinaga infant formula, while JVCO shall be manufacturing infant nutritional formula products in Pakistan, which is likely to result in competition, *inter alia*, on price(s) and quality of the locally manufactured infant nutrition formula in the relevant market.
26. In view of the above, the transaction does not meet the presumption of dominant position as is prescribed under Section 2 (1) (e) read with Section 3 of the Competition Act, 2010 ("Act").

VII. CONCLUSION

27. In conclusion, there is no evidence to suggest a substantial lessening of competition by creating or strengthening a dominant position in the relevant market. The proposed transaction is hereby authorized under Section 31 (1) (d) (i) of the Act.

28. It is so ordered.



(Vadiyya Khalil)
Chairperson



(Ikram Ul Haque Qureshi)
Member



7th March 2017