



BEFORE THE
COMPETITION COMMISSION OF PAKISTAN

IN THE MATTER OF

FIRST PHASE REVIEW

ACQUISITION OF 100% SHARES IN M/S DEODAR
PRIVATE LIMITED BY M/S TANZANITE TOWER PRIVATE LIMITED

CASE: 913/Merger-CCP/17

Commission

Ms. Vadiyya S. Khalil
Chairperson

Mr. Ikram Ul Haque Qureshi
Member



ORDER

I Background

1. On 14th September 2017, the Competition Commission of Pakistan (the "**Commission**") received a pre-merger application (the "**Application**") of a proposed acquisition pursuant to Section 11 of the Competition Act 2010 (the "**Act**") read with Regulation 6 of the Competition (Merger Control) Regulations, 2016 (the "**Merger Regulations**") through which M/s Tanzanite Tower Private Limited ("TPPL") and M/s Deodar Private Limited ("DPL") (the "**Applicants**") submitted an Application to the Commission for the intended acquisition of _____ shares of DPL (the "**Target**") by TPPL (the "**Acquirer**") by way of share purchase.

II Acquirer

2. TTPL is a wholly owned subsidiary of edotco Pakistan Private Ltd ("EPPL") which is ultimately held by edotco Group. The edotco Group is a regional integrated telecommunication infrastructure service company with presence in five different countries of South and South East Asia including Pakistan, through EPPL. Edotco Group is a part of a Malaysian based Axiata Group. The Axiata Group is engaged in provision of mobile telecommunication services and network transmission related services.
3. TTPL is an independent owner and operator of communications towers infrastructure and related services in Pakistan. The company was recently incorporated on 4th May, 2017 and owns _____ towers across Pakistan. The parent company of TTPL owns _____ towers across Pakistan.
4. Since TTPL was formed on 4th May, 2017, it has not produced any audited financial statements, therefore, as per the unaudited management accounts submitted for the month of August 2017, TTPL has generated a turnover of PKR _____ for the month while the value of its total assets are stated at PKR _____ for the month of August 2017.

II Target

5. DPL was incorporated as a private limited company on 15th August, 2016 under the Companies Ordinance 1984, as applicable in Pakistan. The Target is principally engaged in the business of establishing, developing, expanding, enhancing, managing, operating, provision of consultancy with regards to telecommunication systems including towers, systems, signals, data, message and to extend the business of telecommunication.

6. DPL is operating as a wholly owned subsidiary of Pakistan Mobile Communications Limited ("PMCL"), while the ultimate parent company is VEON Ltd which is based in the Netherlands. DPL owns _____ across Pakistan.



18/9/17

7. The Applicants furnished unaudited financial statements for the period January 1st 2017 to August 31st 2017. For this period, the value of DPL's asset base amounted to PKR [redacted] while the turnover was reported at PKR [redacted].

III Previous Related Case

8. The Commission imposed certain conditions relating to the Infrastructure/network decommissioning in its Order dated 12th February, 2016 in the subject matter "**Amalgamation of Pakistan Mobile Communication Limited and Warid Telecom (Private) Limited**", refer to para 201 and 202 of the said Order.
9. The Applicants have stated in writing that they will uphold the above mentioned conditions imposed by the Commission in the Order dated 12th February, 2016.

III Transaction

10. The proposed transaction is an acquisition of shares whereby TTPL intends to subscribe [redacted] ordinary shares of PKR [redacted] each in the issued share capital of DPL at a subscription price of PKR [redacted], pursuant to the Share Purchase Agreement dated 30th August, 2017. Post-merger DPL will operate as a subsidiary of TTPL.
11. There is no financial support being received by the Acquirer as it will fund the proposed transaction through its own equity resources and funds provided by its parent group.
12. The transaction meets the notification thresholds as prescribed in Regulation 4(2)(a), (b), (c) & (d) 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. The transaction value is above PKR 100 million combined with the percentage of shares to be acquired exceeding 10% of the total shareholding in the Target.

IV Relevant Market:

13. The relevant product market in this case is defined as "**Construction and Management of Communication towers infrastructure and related services whether operated by tower sharing companies or mobile network service operators or other entities**".
14. Typically the assets of a tower are divided into two categories active equipment and passive equipment. Active equipment is responsible for providing connectivity. It carries signals between towers, end users and backhaul it includes antennas, microwave dishes etc. while the passive equipment is the supporting infrastructure that enables active equipment to operate. It typically includes space on the tower to host the antennas and microwave dishes, generators, batteries, security systems, grid connections, shelter and cooling systems. Typically a tower company owns the passive non-telecommunication infrastructure while the active or telecommunication infrastructure is owned by the Mobile Network Operators (MNO's).



[Handwritten signature]

15. Cellular mobile network covers approximately . . . percent of the land area of Pakistan. The demand for towers is a derived demand as it is directly related to demand for mobile services. The year 2014-15 saw . . . increase in number of towers as compared to 2013-14. The total number of towers in Pakistan are . . . The relevant market in Pakistan is undergoing evolution, up till now the relevant market was dominated by the Mobile Network Operators with DPL (PMCL) having . . . towers with the highest number of towers followed by CMPak with . . . while Telenor and Ufone with 8,321 towers each². The Acquirer along with its parent company owned only . . . towers.
16. However, through the proposed transaction the market is experiencing a major strengthening in the position of a specialized telecommunication tower infrastructure provider by way of consolidation. The customers of a specialized telecommunication tower infrastructure provider are MNO's and Wireless Local Loop (WLL) operators.
17. The Relevant Geographic market is "Pakistan" since towers and telecom infrastructure may be installed across the country, where the conditions of competition are sufficiently homogenous.

VI Competition Assessment

18. The competition assessment in Phase - I have resulted in the following findings:
 - i. The proposed transaction would result in acquisition of 99.99% shares of the Target by the Acquirer via subscription. The Acquirer and the Target both operate in the relevant product and geographic market therefore creating a horizontal relationship between the two.
 - ii. The Acquirer (TTPL) is a specialized telecommunication tower infrastructure provider that owns a small share of the relevant market with . . . towers. The Acquirer's parent company EPPL also owns 5 towers thus pre-merger the combined market share of the Acquirer along with its parent company is up to . . . while the Target (DPL) has . . . towers with a market share of up to . . .
 - iii. Post-merger the combined market share of the Acquirer will increase to approximately : . . . The transaction will result in evolving the market through strengthening of market position of a specialized telecommunication tower infrastructure provider by way of consolidation.
 - iv. The relevant market has a fair amount of competition with around 14 companies having Telecom Tower Provider (TTP) licenses. Issuing authority of TTP licenses is PTA. The proposed transaction will create positive synergies with the Acquirer drawing upon the expertise of its parent group i.e. the Axiata Group in network and technology rollout, marketing, product development, human capital building and procurement. The strong financial position of the Acquirer will enable it to compete with the infrastructure service providers in the relevant market including the MNO's.



Annual Report 2015, Pakistan Telecommunication Authority
Annual Report 2015, Pakistan Telecommunication Authority

V82 #

- v. The Target has entered into Novation Agreements with its major customers namely, Telenor, Ufone and Zong according to which the Target will continue to honor its obligations toward its customers after the consummation of the proposed transaction.
- vi. PMCL owns and operates about 10 towers for certain critical services such as for MSCs (switching centers) but these are not available for provision of infrastructure services to other operators.
- vii. The Master Services Agreement Draft ("MSA") to be executed between DPL and PMCL, contains an ancillary restriction relevant to the transaction. After successful completion of the intended transaction, the MSA will become effective. Under clause of the MSA, a Non-Compete clause is present in the MSA.
- viii. Potential entry barriers for players can be considered as obtaining license from PTA and other relevant government institutions in addition to extensive capital injection for setting up of communication tower infrastructure.
- ix. The proposed transaction relates to an acquisition and is not likely to result in the creation or strengthening of a dominant position in the relevant market. The intended merger does not meet the presumption of dominance as determined under Section (2) (1) (e) read with Section 3 of the Act.

VI Conditions

19. The proposed transaction is hereby approved subject to following conditions:
- a) The Merger parties are directed to seek exemption for the ancillary restrictions as stated in clause of the MSA.
 - b) The Merger parties will uphold the conditions as stated in para 201 and 202 of the Commission's Order dated 12th February, 2016, in the matter of Amalgamation of Pakistan Mobile Communication Limited and Warid Telecom (Private) Limited.

VII Conclusion

20. In conclusion, there is no evidence that suggests a substantial lessening of competition by 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.
21. It is so ordered.


(Vadiyya S. Khalil)
Chairperson


(Ikram Ul Haque Qureshi)
Member



Islamabad the 27th October, 2017