



**BEFORE
THE COMPETITION COMMISSION OF PAKISTAN**

FIRST PHASE REVIEW

**Reorganization, Demerger, and Amalgamation of M/s
Descon Engineering Limited, M/s DEL Engineering
Domestic Private Limited, M/s DEL Chemicals Private
Limited, M/s DEL Power Private Limited, and M/s Descon
Private Limited**

CASE: 902/Mergers/CCP/17

Commission

Ms. Vadiyya S. Khalil
Chairperson



Mr. Ikram Ul Haque Qureshi
Member

I. BACKGROUND

1. On 14 June 2017, Descon Engineering Limited ("DEL", or the "Transferor Co." or the "Applicant") filed a pre merger application (the "Application") notifying and seeking clearance from the Competition Commission of Pakistan (the "Commission") of the Scheme of (re)arrangement, demerger and transfer of DEL's assets and liabilities into Del Engineering Domestic Private Limited ("DEDPL" or "Transferee Co. 1"), DEL Chemicals Private Limited ("DCPL" or "Transferee Co. 2"), DEL Power Private Limited ("DDPL" or "Transferee Co. 3") and Descon Private Limited ("DPL" or "Transferee Co. 4") in accordance with the provisions of Section 11 of the Competition Act, 2010 (the "Act") and the Competition (Merger Control) Regulations, 2016 (the "Merger Regulations"). The Commission's review of the proposed scheme of arrangement is as follows:

II. THE PARTIES

Transferor Co.

2. DEL, a public company, limited by shares, is incorporated in Pakistan. The company is active predominantly in multi-disciple engineering services as well as fertilizers, chemicals, power, cement, and textile in Pakistan and across the member states of Gulf Cooperation Council. DEL is 100% owned by DEL Projects Private Limited which, in turn, is owned by Abdul Razak Dawood and Family (ARD & Family) in the following proportion: Abdul Razak Dawood shares, Taimur Dawood shares, Faisal Dawood shares, Bilquis Dawood shares and Mehreen Dawood shares.
3. DEL's assets for the financial year ended 30 June 2016 were approximated at PKR while its turnover remained PKR (in Pakistan) and (worldwide) for the same period.

Transferee Co. 1

4. DEDPL, incorporated in Pakistan as a private limited company, is established to carry out the business in the provisions of licensing, acquiring/developing technology, know-how for businesses across industries, and provide consultancy services pertaining to feasibility, marketing and engineering projects and services. In addition, the company will provide facilities for plant design, engineering and fabrication of equipment,



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[services for] procurement of material, construction equipment, installation, plant commissioning, engineer training, plant maintenance, and operations.

5. The company was incorporated on 11 July 2013 and is yet to commence its commercial operations or realize any revenue.

Transferee Co. 2

6. DCPL, incorporated in Pakistan as a private limited company, is established to carry out the business to buy, sell, manufacture, prepare, import, export and any other activity related to resins, adhesives - synthetic or natural, and all kinds of chemicals, plastics, molding powder, polyester and allied products.
7. The company was incorporated on 2 June 2014 and is yet to commence its commercial operations or realize any revenue.

Transferee Co. 3

8. DPPL, incorporated in Pakistan as a private limited company, is established to carry out the business of constructing, operating and managing electric power generation projects and transmission systems for generating electricity. In addition, the company will manufacture, assemble, acquire, generate and supply/transmit, among other things, electricity to customers both public and private.
9. The company was incorporated on 22 August 2013 and is yet to commence its commercial operations or realize any revenue.

Transferee Co. 4

10. DPL, incorporated in Pakistan as a private limited company, is established to carry out the business of development, processing, and holding intangible assets and intellectual property including, *inter alia*, materials, concepts, know-how, formulas, inventions, improvements, industrial designs, patents, copyrights, trade names, brands, logos, trade secret, software, prototypes and specifications.
11. The company was incorporated on 23 April 2014 and is yet to commence its commercial operations or realize any revenue.

III. THE TRANSACTION

12. Pursuant to a Scheme of Arrangement dated 24 February 2016 (the "Transaction") between the Transferor Co (and its members) and Transferee Co. 1, Transferee Co. 2, Transferee Co. 3 and Transferee Co. 4 (and their respective members), the principal object of the Transaction is to provide reconstruction of Transferor Co. into:

- i. Transferee Co. 1 (DEDPL) as follows:



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- a. shareholding of Transferor Co. in Descon Engineering FZE (Descon FZE), Descon Engineering Qatar (Descon Qatar), Olayan Descon Engineering Company Limited (ODECL) and Olayan Descon Industrial Company Limited (ODICL) including all rights, liabilities, and obligations; and
 - b. all properties, undertakings, assets, privileges, powers, bank accounts, permissions, permits, rights, liabilities and obligations of DEL related to any businesses being carried out by DEL through the branch office of DEL situated in Abu Dhabi, the United Arab Emirates and registered with the Department of Economic Development, Abu Dhabi as "Descon Engineering" (Descon AD).
- ii. Transferee Co. 2 (DCPL) as follows:
 - a. _____ shares of PKR _____ each of Descon Oxychem Limited (DOL), and
 - b. all rights, liabilities, and obligations of DEL pertaining to the above.
 - iii. Transferee Co. 3 (DPPL) as follows:
 - a. _____, shares of PKR _____ each of Altern Energy Limited (AEL), and
 - b. all rights, liabilities, and obligations of DEL pertaining to the above.
 - iv. Transferee Co. 4 (DPL) as follows:
 - a. Descon IP comprising of all trademarks, service marks, patents, copyrights, designs, brand names, good and any other intellectual property rights of DEL.

13. The estimated Transaction value in PKR is _____, according to the Applicant.

14. The Transaction meets the merger notification thresholds prescribed under Regulation 4(2)(a), (b) and (c) of the Merger Regulations with the combined assets of the undertakings valuing PKR 1 billion, combined turnover valuing more than PKR 1 billion and the transaction value exceeding PKR 100 million.

IV. FINDINGS OF PHASE-I COMPETITION ASSESSMENT

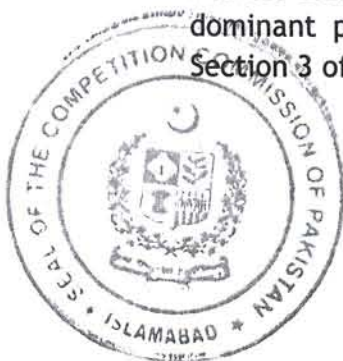
15. According to the Applicant, all the parties to the demerger and reorganization are part of the Descon Group and various business segments currently housed in the Transferor Co. (a de facto holding company) are being bifurcated into separate corporate entities i.e. the afore named Transferee Cos., as a result of



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which each entity shall be engaged in the business area that best suits its niche.

16. The Applicant has further submitted that because of the current structure of the Descon Group and in particular, the Transferor Co., it is exposed to multiple risks. The Transaction shall allow for multiple benefits *such as* better tax management, business and segment-wise corporate restructuring, separation of foreign and local risks, availability of multiple investment options and multiple listing, among other things.
17. The relevant information of the transferred undertakings (operating in Pakistan) in relation to the Transaction, is as follows:
 - A. Descon Oxychem Limited (DOL): according to the Applicant, the estimated share of DOL is and its main competitor is Sitara Peroxide Limited in Pakistan. It operates in the market of hydrogen peroxide, allied products and related engineering services.
 - B. Altern Energy Limited (AEL): according to the Applicant, the estimated market share of AEL including its subsidiary Rouch Pakistan Power Limited is in the market for power generation Pakistan. The main competitor in the energy sector includes Lalpir Limited, Pak Gen. Private Limited, Japan Power Generation Private Limited, Kohinoor Energy Limited and all other IPPs operating in Pakistan.
18. The proposed Transaction pertains to the reorganization, demerger, and amalgamation of various entities of the entire Descon Group with the Transferor Co., as the flagship undertaking. Post-transaction, the company's assets, and undertakings, among others, shall stand divested into the four Transferee Cos., business as well as management-wise as is noted above.
19. Furthermore, the ultimate ownership of the companies would remain the same as all the companies will remain within the Descon group, leading to no change in market share post transaction.
20. The proposed Transaction is not likely to result in increase or decrease of the market share of the merging parties and does not meet the presumption of dominant position of 40% as is determined under Section 2(1)(q) read with Section 3 of the Act.



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V. CONCLUSION

21. In conclusion, the proposed Transaction is unlikely to substantially lessen competition through the creation or strengthening of dominant position of the merging parties in the relevant market. Therefore, the proposed Transaction is hereby authorized under Section 31(1)(d)(i) of the Act.

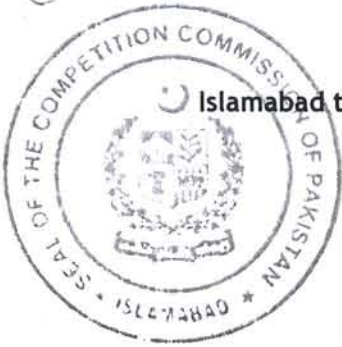
22. It is so ordered.

Vadiya S. Khalil

Vadiyya S. Khalil
Chairperson

Ikram Ul Haque Qureshi

Ikram Ul Haque Qureshi
Member



Islamabad the August 28 2017