



**BEFORE THE  
COMPETITION COMMISSION OF PAKISTAN**

**IN THE MATTER OF**

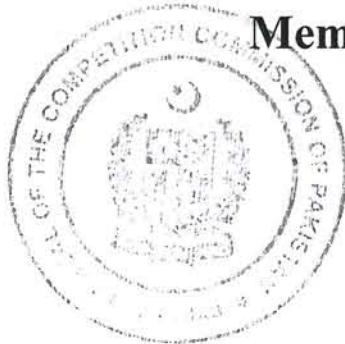
**FIRST PHASE REVIEW**

**ACQUISITION OF \_\_\_\_\_ SHARES OF FATIMA  
FERTILIZER COMPANY LIMITED BY ARIF HABIB  
EQUITY (PRIVATE) LIMITED.  
CASE: 920/Merger-CCP/17**

Commission

Ms. Vadiyya Khalil  
Chairperson

Dr. Muhammad Saleem  
Member



# ORDER

## I Background

1 On 19<sup>th</sup> October, 2017, **Arif Habib Equity Private Limited** (“**AEHPL**”) (or the “**Applicant**”) submitted a pre-merger application (the “**Application**”) to the Competition Commission of Pakistan (the “**Commission**”), for the acquisition of 2.59% shares of **Fatima Fertilizer Company Limited** (“**FFCL**”) (the “**Target**”) by AEHPL (the “**Acquirer**”) , along with the necessary information and processing fee applicable under Regulation 5(6) of the Competition (Merger Control) Regulations, 2016 (the “**Regulations**”).

The case is examined as under:

## II Merger Parties

### Acquirer

2 AHEPL was incorporated in Pakistan as a private limited company in 2004. The principal activity of the Acquirer is to act as a holding company by way of acquiring interest in group and non-group companies and to acquire and hold shares, modarba certificates, musharka certificates, term finance certificates, bonds, obligations and securities of its subsidiaries, companies or corporate bodies whether in Pakistan or elsewhere and to invest in industrial and commercial ventures. The Acquirer is part of Arif Habib Group.

3 The value of total assets of the Acquirer as on 30th June 2016 were \_\_\_\_\_ its turnover for the above mentioned period remained nil.

### Target

4 FFCL was incorporated in Pakistan in 2003 as a public limited company. The principal activity of the company is manufacturing, producing, buying, selling, importing and exporting fertilizers and chemicals. FFCL has a wholly owned subsidiary i.e. Fatimafert Limited.

5 The value of total assets of FFCL as on 31<sup>st</sup> December, 2016 were \_\_\_\_\_ million while its turnover for 2016 remained at \_\_\_\_\_ million.

## III Transaction

6 The transaction was consummated pursuant to the Scheme of Arrangement dated 4th April 2016. AHEPL acquired \_\_\_\_\_ shares of FFCL. The consideration for the acquisition was paid through proceeds of “Demerged assets” of International Complex Project Limited.<sup>1</sup> Arif Habib group

<sup>1</sup> The Commission’s Order dated 17<sup>th</sup> October, 2017 in the matter of “Merger of demerged assets of International Complex Project Limited valuing PKR 6.539 billion with and into Arif Habib Equity (Private) Limited” directed the merger parties to file three separate pre-merger applications for the acquisition of shares of Javedan Corporation Limited, Power Cement Limited and Fatima Fertilizer Company Limited by AHEPL.



collectively holds ... shares in FFCL. The transaction value of the consummated transaction is PKR 1,902 million.

- 7 The transaction meets the notification thresholds prescribed in Regulation 4(2) (a) (b) & (c) of the Merger Regulations, by having undertakings assets valuing more than PKR 300 million and combined assets being more than PKR 1 billion and turnover of undertaking being more than PKR 500 million. The transaction value also exceeds PKR 100 million.

#### IV Relevant Market:

- 8 The relevant product market in this case is “manufacturing and sale of fertilizers and chemicals” which is the market for the Target. Fertilizers are a source of essential plant nutrients, used to meet the nutrient requirement of the crops and soil.
- 9 The Target principally produces Urea, Calcium Ammonium Nitrate (CAN) and Nitro Phosphate (NP). Urea is the most concentrated source of Nitrogen nutrient and is widely used in agriculture sector. CAN is granulated Nitrogenous fertilizer it improves resistance against diseases, crop lodging and also improves Potassium uptake in alkaline soil conditions. NP is a granulated fertilizer with equal amounts of Phosphorous & Nitrogen and is best suited for soils that have a high PH level and are alkaline in nature.<sup>2</sup>
- 10 Fatimafert Limited is a wholly owned subsidiary of the Target and is a participant of the same relevant product market. The Acquirer and its group companies collectively holds ... shares in Pak Arab Fertilizer Limited that is a participant of the relevant market as well. As per the submission of the Merger parties The Target is the sole producer of CAN and NP in the country.
- 11 The conditions of competition remain sufficiently homogenous throughout the country, hence the Relevant Geographic Market is identified as the whole of Pakistan.

#### V Findings of the Phase I investigation on the competition assessment

The competition assessment in Phase I have resulted in the following findings:

- i. The consummated transaction is an acquisition of ... shares of the Target (FFCL) by the Acquirer (AHEPL). The Acquirer through its group companies collectively holds ... shares in the Target. The Target and the Acquirer operate in the same relevant product and geographic market through associated undertakings creating a horizontal relationship between the two.
- ii. The Target is involved in production of Urea, Calcium Ammonium Nitrate (CAN) and Nitro Phosphate (NP). In the product market of Urea the Target has a market share of ... while the Acquirer



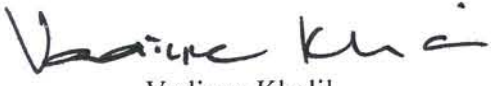
<sup>2</sup> Annual Report 2016, Fatima Fertilizer Company Limited.

through its group i.e Arif Habib group has a collective market share of . . . which is much below the prescribed threshold of . . . The Target is the sole producer of CAN and NP in the country.

- iii. Post-merger there will be no change in the market structure of the relevant products and geographic markets of Urea, CAN and NP.
- iv. The transaction is not likely to result in creation or strengthening of 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 Competition Act 2010 ("the Act").

## V Conclusion

- 12 In conclusion, there is no evidence suggesting that the proposed transaction is likely 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.
- 13 It is so ordered.



Vadiyya Khalil  
(Chairperson)

  
M. Saleem  
22/12/17

Dr. Muhammad Saleem  
(Member)

Islamabad 22<sup>nd</sup> December, 2017

