



**BEFORE THE
COMPETITION COMMISSION OF PAKISTAN**

IN THE MATTER OF

FIRST PHASE REVIEW

**ACQUISITION OF AT LEAST SHARES OF
CLOVER PAKISTAN LIMITED BY FOSSIL ENERGY
(PRIVATE) LIMITED
CASE: 909/Merger-CCP/17**

Commission

Ms. Vadiyya Khalil
Chairperson



Mr. Ikram Ul Haque Qureshi
Member

ORDER

I Background

- 1 On 28th July 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 Fossil Energy (Private) Limited (the **Acquirer** “or the “**Applicant**”) intend to acquire at least _____ shares of M/s Clover Pakistan Limited (“**Clover Pakistan**”) by way of share purchase.

II Acquirers

- 2 Fossil Energy was incorporated in Pakistan as a private limited company in 2012. The Acquirer is engaged in the business of marketing and /or selling of petroleum products that are produced locally and/or internationally. The Acquirer has strategic investments in the Oil and Gas sector and also maintains short term investment portfolio.
- 3 The value of total assets of Fossil Energy as on 30th June 2016 were PKR _____ million its turnover for the above mentioned period remained nil. However, other income generated by the Acquirer through its short term investment portfolio amounted to PKR _____

III Target

- 3 Clover Pakistan was incorporated in Pakistan in 1986 as a public limited company. The principal business of the Target was manufacture and sale of food and plastic products as well as trading in food and consumer durables.
- 4 Clover Pakistan has discontinued its business activities since 2012 and has not been involved in the manufacturing and sale of food and plastic products since then. However, in 2013 the Target had a distribution contract with Titan Industries Limited, India to sell and distribute Titan products in Pakistan. The said contract expired in 2015 however, Titan Industries Limited India requested the Target to keep on selling Titan products until a suitable distributor was selected by it. The Target has sold stock of Titan watches to distributors and customers and the value of its turnover as contained in its Annual Report 2016 reflects those sales.

The value of total assets of Clover Pakistan as on 3th June 2016 were PKR _____ while its turnover for 2016 remained at PKR _____



Note 18 of Annual Audited Accounts of Fossil Energy (Private) Limited for the year ended 30th June 2016.

V&C #

III Transaction

- 5 In the proposed transaction Fossil Energy intends to acquire at least [redacted] shares of Clover Pakistan from SIZA (Private) Limited, SIZA Services (Private) Limited, SIZA Commodities (Private) Limited and Premier Fashions (Private) Limited. The transaction consist of two parts. Part 1 is taking place pursuant to the Share Purchase Agreement (SPA) dated June 13, 2017 whereby the Acquirer is acquiring [redacted] shares of the Target from the Sellers. The Sellers are the beneficial owner of [redacted] ordinary shares [redacted] of the Target. They are collectively selling [redacted] ordinary shares out of total [redacted] ordinary shares, referred as "Sale Shares" in the SPA comprising of [redacted] of total issued and paid up capital of the Target.
- 6 The transaction value of these Sale Shares is PKR : [redacted] . Post transaction [redacted] shares will remain with the Sellers.
- 7 In the 2nd Part of the transaction the Acquirer will acquire through a mandatory public offer under the Securities Act, 2015 and Listed Companies (Substantial Acquisition of Voting Shares and Takeovers) Regulations, 2008. Modalities of this part of acquisition would be settled afterwards. However, for the purpose of the proposed transaction we are only concerned with Part 1 of the transaction.
- 8 The transaction meets the notification thresholds prescribed in Regulation 4(2) (a) (b) (c) & (d) 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 and percentage of shares to be acquired exceeds 10% of the total shareholding of the Target.

IV Relevant Market

- 9 The Relevant Product Market in this case is "manufacture and sale of food and plastic products" which is the market for the Target. The Acquirer along with its subsidiaries and group companies is not a participant of the relevant product market while the Target is inoperative in the relevant market thus having nil market share.
- 10 The conditions of competition remain sufficiently homogenous throughout the country, hence the Relevant Geographic Market is identified as the whole of Pakistan.

V Competition Assessment

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



[Handwritten signature]

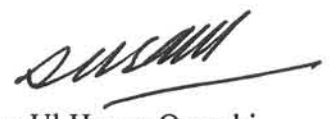
- i. The proposed transaction is an acquisition of at least 100 shares of the Target (Clover Pakistan) by the Acquirer (Fossil Fuel). The Target and the Acquirer operate in unrelated markets creating a conglomerate relationship between the two.
- ii. Post-merger there will be no change in the market structure of the relevant market as the Acquirer along with its subsidiaries and group companies have no presence therein. Even otherwise the Target has no presence or market share at it is inoperative in the relevant market since 2012. Therefore, the proposed transaction will not result in elimination of any competitor and the market dynamics of the relevant market will remain unchanged.
- iii. 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").

VI Conclusion

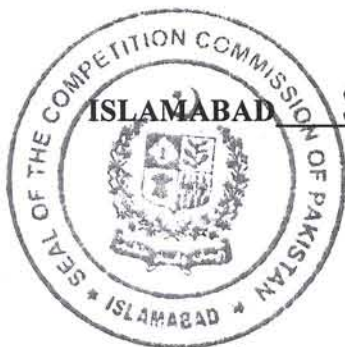
- 10 In conclusion, the proposed transaction is unlikely to substantially lessen competition through the creation or strengthening of a dominant position in the relevant market. The proposed transaction is hereby authorized under Section 31(1)(d)(i) of the Act.
- 11 It is so ordered.



Vadiyya S. Khalil
(Chairperson)



Ikram Ul Haque Qureshi
(Member)



ISLAMABAD

Sep 26, 2017