



**BEFORE THE
COMPETITION COMMISSION OF PAKISTAN**

IN THE MATTER OF

FIRST PHASE REVIEW

**ACQUISITION OF MOVABLE & IMMOVABLE ASSETS
LOCATED AT INDUSTRIAL FACILITY AT TEHSIL, MIAN
CHANNU DISTRICT KHANEWAL OF IMPERIAL SUGAR
LIMITED BY JK SUGAR MILLS (PRIVATE) LIMITED**

CASE: 891/Merger-CCP/17

Commission

Ms. Vadiyya Khalil
Chairperson

Mr. Ikram Ul Haque Qureshi
Member



ORDER

I Background:

- 1 On 23 May 2017, JK Sugar Mills (Private) Limited ("JKSML" or the "Acquirer") and Imperial Sugar Limited ("ISL" or the "Seller"), (together the "Joint Applicants"), submitted a pre-merger application (the "Application") to the Competition Commission of Pakistan (the "Commission"), for the intended acquisition of Assets (movable and immovable) comprised in the industrial facility for the production of sugar situated at Tehsil MianChannu, District Khanewal by JKSML from ISL, under Regulation 6 of the Competition (Merger Control) Regulations, 2016 (the "Regulations") read with Section 11 of the Competition Act, 2010 (the "Act").

The case is examined as under:

II Merger Parties

Acquirer:

- 2 JKSML is a newly incorporated company (April, 2017), that will be engaged in the production and sale of sugar. JKSML is owned by JK Dairies (Pvt.) Limited (shareholding), Mr. Ali Khan Tareen (shareholding) and ATF Mango Farms (Pvt.) Limited (shareholding).
- 3 Mr. Ali Khan Tareen has shares in JDW Sugar Mills Limited. Deharki Sugar Mills Limited and Faruki Pulp Mills Limited are subsidiaries of JDW Sugar Mills Limited.
- 4 Total assets of JKSML as on 30 June, 2016 were PKR and its turnover for the above mentioned period remained at PKR. The Total Assets of ATF Mango Farms (Private) Limited as on 31 December 2016 were PKR while the Turnover for the above mentioned period remained at PKR. The Net wealth of Mr. Ali Khan Tareen is PKR.

Seller:

- 5 ISL was incorporated in Pakistan in 2007. The company's registered office is situated in Lahore. The Seller is engaged in the production and sale of white refined sugar, ethanol and by products. Its manufacturing facilities are located at Tehsil Phalia, District Mandi Bahauddin as well as in Tehsil MianChannu, District Khanewal (the Sugar Mill).
- 6 The Seller has not been operational in the year ended on 30 September, 2016. The Annual Accounts for the year ended 30 September 2016 have been prepared on book value and on the basis that the Company is not a going concern.



The Seller's Total Assets as on 30 September 2016 were PKR The Net Loss for the period mentioned above remained at PKR

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III Transaction:

- 8 According to the Special Resolution dated 31 January 2017 passed by the shareholders of the Seller and the bid advertisement dated 2 April 2017, in response whereof the Intended Acquirer submitted its bid on 10 April 2017, the Acquirer (JKSML) intends to acquire the Assets (movable & immovable) located at the at the Sugar Mill owned by the Seller (ISL). The Assets include land measuring approximately Acres Kanals and Marlas with all building, construction, plant and machinery etc. thereon as well as certain movable assets therein.
- 9 The transaction value of the proposed transaction is estimated to be PKR The transaction is proposed to be sponsored by the shareholders of the Acquirer i.e. JK Dairies (Pvt.) Limited, Mr. Ali Khan Tareen and ATF Mango Farms (Pvt.) Limited.
- 10 The proposed transaction meets the notification thresholds prescribed in Regulation 4(2)(a),(b) & (c) of the Regulations, with the value of the combined assets of the merger parties being more than PKR 1 billion and the combined turnover being more than PKR 1 billion. The transaction value also exceeds PKR 100 million.

IV Relevant Market:

- 11 The Relevant Product Market in this case is the "production of sugar". From both the demand side and supply side perspective, the sugar industry can be sub segmented into the market for industrial sugar sold to the industrial consumers and retail sugar to the end consumers. There is a certain degree of substitutability between the two sugar outputs especially when used for cooking or confectionary purposes, however, they are not completely substitutable from the demand or the supply side, pricing, product characteristics and intended use perspectives. Furthermore, in addition to refined sugar, ethanol and other by products are also produced at sugar mills and are part of the Relevant Product Market.
- 12 As there is no restriction on interprovincial sale of sugar and the conditions of competition remains sufficiently homogeneous throughout the country, hence the Relevant Geographic Market has been identified as the whole of Pakistan.

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

- 13 The competition assessment in Phase I has resulted in the following findings:
- a. In the proposed transaction, the Acquirer is acquiring Assets (movable & immovable) comprised in the Sugar Mill owned by the Seller. The Acquirer is a recently incorporated company that will operate in the market for the production of sugar. The Seller is also a participant of Relevant Market, hence creating a horizontal relationship between the two parties.
- b. The Relevant Market includes 90 sugar mills in Pakistan out of which 45 are in Punjab, 7 in Khyber Pakhtunkhwa and 38 in Sindh¹. According to the Pakistan Sugar Mills Association Annual Report 2016, the provincial governments set procurement prices for sugarcane, which is the major input

¹ Source: Pakistan Sugar Mills Association's Annual Report, 2016



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for the sugar mills, in consultation with representatives of both the sugar industry and farmers' organizations, based on recommendations from the Ministry of National Food Security and Research and the provincial ministries of agriculture, food, and industry.

- c. While the Acquirer being a recently incorporated company has no market share in the Relevant Market, the Director of Acquirer (Mr. Ali Khan Tareen) has shareholding in other companies operating in the Relevant Market. The combined market share of the associated companies of the Acquirer is However, the Seller is not operational since the last year and has no market share in the Relevant Market at present.
- d. Post-Merger there will be no change in the market share of the parties and the competitive dynamics of the Relevant Market will remain unchanged.
- e. The proposed transaction does not meet the presumption of dominance as provided under Section 2(1)(e) read with Section 3 of the Act and accordingly is not likely to result in the creation or strengthening of dominant position in the Relevant Market.

VI Conditions:

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VII Conclusion:

15 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.

16 It is so ordered.

Vadiyya Khalil

Vadiyya Khalil
(Chairperson)

Ikram Ul Haque Qureshi

Ikram Ul Haque Qureshi
(Member)



Islamabad 27 July, 2017