




**BEFORE THE  
COMPETITION COMMISSION OF PAKISTAN**

**IN THE MATTER OF  
FIRST PHASE REVIEW**

**ACQUISITION OF        SHARES OF NORDEX SE BY  
ACCIONA, S.A  
CASE: 772/Merger-CCP/15**

Commission

Ms. Vadiyya Khalil  
Chairperson 

Mr. Shazad Ansar  
Member 

Mr. Ikram Ul Haque Qureshi  
Member 



# ORDER

## I Background

- 1 On 14<sup>th</sup> December 2015, Acciona, S.A ("Acciona"/ the "Acquirer") submitted a pre-merger application to the Competition Commission of Pakistan, for the intended acquisition of \_\_\_\_\_ shares of Nordex SE ("Nordex"/ the "Target"), along with all necessary information.

## II Merger Parties

### 2 Acquirer

Acciona and its subsidiaries make up the Acciona Group. The Group is based in Spain and is listed on selective Ibex-35 Stock Exchange. The Acciona Group companies comprise of a highly diversified multinational conglomerate that operate in several sectors of economic activity including, Acciona Energy, Acciona Infrastructure Construction, Acciona Water, Acciona Services and other activities. Acciona Energy deals with various industrial and commercial activities of the electricity business, ranging from construction of wind farms to generation, distribution and retailing of various energy sources. The Acciona Group has no business interest in Pakistan.

- 3 The total assets of Acciona Group on 31<sup>st</sup> December 2014 were EUR \_\_\_\_\_ (PKR \_\_\_\_\_). Its turnover for the above mentioned period remained at EUR \_\_\_\_\_ (PKR \_\_\_\_\_).

### Target

- 4 Nordex, a listed Societas Europea, and its subsidiaries develop, manufacture and distribute wind power systems, particularly large megawatt-class turbines worldwide. It is domiciled in Rostock, Germany and is listed on the Frankfurt Stock Exchange. Nordex operates in Pakistan through its wholly owned subsidiary Nordex Pakistan (Private) Limited ("Nordex Pakistan"). Nordex Pakistan does not have any manufacturing activities in Pakistan and its activity relates to the supply of wind turbines to Independent Power Producers (IPPs) through imports.

- 5 The total assets of Nordex on 31<sup>st</sup> December 2014 were EUR \_\_\_\_\_ (PKR \_\_\_\_\_) its turnover for the above mentioned period remained at EUR \_\_\_\_\_ (PKR \_\_\_\_\_).

## III Transaction

- 6 The proposed transaction is taking place in two stages which are contingent upon each other:

### Stage: 1

Nordex will acquire \_\_\_\_\_ shares of one of the subsidiaries of Acciona i.e. Corporacion Acciona Windpower, SL ("AWP"). In consideration, the Acciona Group



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will receive 16.6% newly issued shares of Nordex and a cash amount of EUR

The transaction is valued at EUR

- 7 Stage 2:  
Acciona will acquire \_\_\_\_\_ shares of Nordex from two of its existing shareholders namely, Momentum-Capital VERMOGENSVERWALTUNGSGESELLSCHAFT MBH and Ventus Venture Fund GMBH & CO. BETEILIGUNGS KG in exchange for a cash consideration of \_\_\_\_\_
- 8 The transaction meets the notification thresholds prescribed in Regulation 4(2) (a), (b), (c) & (d) of the Competition (Merger Control) Regulations 2007, with the Acquirer's assets valuing more than PKR 300 Million, the combined assets being more than PKR 1 Billion, the turnover of the Acquirer being more than PKR 500 Million and combined turnover being more than PKR 1 Billion. 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 the "wind turbine manufacturing & supply" market. A wind turbine is a rotating machine which converts the kinetic energy of wind into mechanical energy. The mechanical energy is then converted into electricity. Wind turbines are installed and used in wind farms for electricity generation.
- 10 At present, the country has an installed capacity of 25,555 MW of electricity generation through different means of thermal, hydel, nuclear and renewable energy including wind power. Currently, the total installed capacity of wind power in the country is estimated at 256 MW<sup>1</sup>. The Target has since 2010 supplied and installed 100 MV of wind energy. Therefore, the Target has an approximate market share of \_\_\_\_\_ in the relevant product market.
- 11 The relevant geographic market is Pakistan.
- 12 The market position in the relevant market in Pakistan is as under:

Companies	Market Share (approx.)	Installed Capacity of wind energy supplied to IPPs in Pakistan (Accu.2014)
Nordex		
Vestas		
Gold Wind		
General Electric		



This represents \_\_\_\_\_ of the total installed capacity of electricity generation. However, there are more than 25 Wind Power Projects in the pipeline. This scenario represents an evolving relevant market for the supply of wind turbines.

AS 2

VE

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

13 The competition assessment in Phase I has resulted in the following finding:

- The proposed transaction involves the acquisition of \_\_\_\_\_ shares of Nordex by Acciona. Nordex operates in the relevant market through its subsidiary Nordex Pakistan which has an existing market share of approximately \_\_\_\_\_ while Acciona does not operate in the relevant geographic market and thus has nil market share. Upon conclusion of the transaction Acciona, with the highest shareholding in Nordex, will have de facto sole control over Nordex including its subsidiary Nordex Pakistan. However, post-merger there will be no change in the market power or market share of the Target within Pakistan. The transaction is not likely to result in the creation or strengthening of a dominant position. 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**

14 In conclusion, there is no evidence that suggests a substantial lessening of competition by creating 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.

15 It is so ordered.

  
(Shahzad Ansar)  
Member

  
(Ikram Ul Haque Qureshi)  
Member

  
(Vadiyya Khalil)  
Chairperson



Islamabad, February 2<sup>nd</sup>, 2016