



BEFORE THE
COMPETITION COMMISSION OF PAKISTAN

IN THE MATTER OF
FIRST PHASE REVIEW

ACQUISITION OF SHAREHOLDING IN TRICONBOSTON
CONSULTING CORPORATION PRIVATE LIMITED ("TBCCL") BY
M/S RENEW POWER PRIVATE LIMITED ("RPPL")

CASE: 884/Merger-CCP/17

Commission

Ms. Vadiyya S. Khalil
Chairperson

Mr. Ikram Ul Haque Qureshi
Member



Order

I Background

1 On 4th May 2017, M/s Renew Power Private Limited (“RPPL” or the “Acquirer”) submitted a pre-merger application (the “Application”), notifying the Competition Commission of Pakistan (the “Commission”) of the acquisition of shareholding in M/s TriconBoston Consulting Corporation Private Limited (“TBCCPL” or the “Target”). The Application was submitted in accordance with the provisions of the Competition Act, 2010 (the “Act”) and the Competition (Merger Control) Regulations, 2016 (the “Merger Regulations”). The Commission’s review of the proposed transaction is as under:

II Merger Parties

Acquirer

2 RPPL was incorporated on 6th February 2017 in the Republic of Mauritius. The company is owned by Baltoro Growth Fund (BGF) and was formed to make investments. Baltoro Capital is a Mauritius-based private equity fund which was set up as part of the Pakistan Private Investment Initiative (“PPII”) program inceptioned by USAID (The United States Agency for International Development). As per the management reports submitted by the Acquirer for the period ending 31st December 2016, the BGF’s assets were valued at USD _____ (approximately PKR _____ with revenue being nil.

Target

3 TBCCCL is a Special Purpose Vehicle (SPV) set up by, Sapphire Textile Mills Limited (“STML”), to develop, own and operate 3 x 50 MW wind farm as an Independent Power Producer in Sindh, Pakistan. The commercial operation of the wind farms is expected to commence in the second quarter of 2018. STML owned by the Sapphire Group. The group has ventured into building a portfolio of private power generation assets, where its first 225 MW plant was commissioned in 2010, and a 52.8 MW wind power project (Sapphire Wind Power Company Limited) commenced its operations in 2015. TBCCCL has total assets valued at PKR _____ while its income was PKR _____ as of 30th June 2016.

Transaction

On 25th April 2017, TBCCPL, STML, Bank Alfalah Limited (BAFL), BGF, and RPPL entered into a Joint Development Agreement (JDA). According to JDA, STML



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currently owns _____ of the issued and paid-up capital of TBCCPL. With the execution of JDA, TBCCPL shall divest up to _____ of its shares. Pursuant to JDA, the RPPL shall acquire _____ shares while BAFL shall acquire _____ shares in TBCCPL. The instant application pertains to the acquisition of _____ shares in TBCCPL.

5 The value of the transaction is USD _____ (approximately PKR _____ as of 15th May 2017). There is no financial support being received by the Acquirer for this transaction as is purchasing the shares from its own funds.

6 The transaction meets the notification thresholds as prescribed in Regulation 4(2)(a), (c) & (d) of the Merger Regulations, with the combined assets of the parties being more than PKR 1 billion. While the transaction value exceeds PKR 100 million and the percentage of voting shares to be acquired also exceeds 10% of the total shareholding of the Target.

IV Relevant Market:

7 The relevant product market, in this case, is the "Electricity Power Generation".

8 The relevant geographic market is Pakistan, excluding area served by K-Electric, as electricity generated by the Target will be passed on to the national grid and is made available to Pakistan, where the conditions of competition are sufficiently homogeneous. K- Electric has been excluded as it distributes electricity to Karachi, Dhabeji and Gharo in Sindh, and Hub, Uthal, Vindar and Bela in Balochistan only and not to the national grid. The conditions of competition in areas served by K-Electric therefore are appreciably different.

V Findings of the Phase I investigation on the competition assessment

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

9 The proposed transaction involves the acquisition of _____ shares of the Target by the Acquirer - currently having no presence in the relevant market.

10 TBCCCL is currently owned by STML, the locally listed flagship company of the Sapphire Group, who are also operating other power projects, namely Sapphire Electric Company Limited and Sapphire Wind Power Company Limited.

11 In the relevant product market the Target i.e. TBCCCL and its sister company, Sapphire Wind Power Company Limited, will have a combined projected market share of only _____ in terms of installed electricity generation capacity for the year 2018 while the combined current share for the year 2016 is estimated to be _____



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12 Post-acquisition, the market share of the Target being is likely to remain the same however, the Acquirer will gain a presence in the market owing to shareholding in the Target.

13 The proposed transaction relates to an acquisition and is not likely to result in the creation or strengthening of a dominant position in the relevant market. The intended merger does not meet the presumption of dominance as defined under Section (2) (1) (e) of the Act read with Section 3 of the Act.

VI Conclusion

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


(Vadiyya S. Khalil)
Chairperson


(Ikram Ul Haque Qureshi)
Member



Islamabad the 20th June, 2017.