# A practical perspective on the Pakistani merger regime

by Shabbir Harianawala

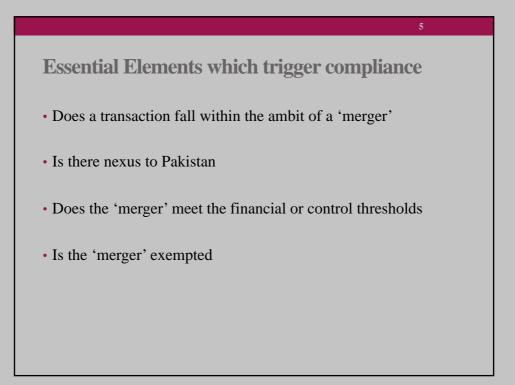
November 06, 2018

## Contents

- Introduction: Competition Commission of Pakistan
- Practical highlights of the competition regime in general
- Essential elements that trigger compliance
- Insights to some practical issues and recommendations

!"#\$#!%

н



## Isit a 'merger'?

Merger is defined in the Act as follows:

"Merger means the merger, acquisition, amalgamation, combination or joining of <u>two or more undertakings</u> or part thereof into an existing <u>undertaking</u> or to form a new <u>undertaking</u>..."

Undertaking includes *inter alia* legal person, natural person, local entity, foreign entity, body corporate, regulatory authority, trust and so forth

### Does it meet the financial or control thresholds?

• Financial and control thresholds of transactions (**Merger Thresholds**) are contained in Regulation 4 of the Competition (Merger Control) Regulations, 2016 (**Merger Regulations**). Either of the following will trigger the Merger Thresholds

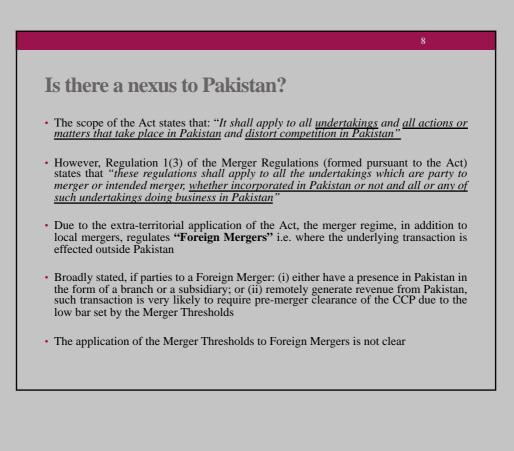
#### **Financial Thresholds:**

- Turnover of Acquirer: ! US\$ 8,000,000/-
- Gross Assets of Acquirer: ! US\$ 8,000,000/-
- Transaction Value: ! US\$ 800,000/-

#### **Control Threshold:**

- \*Turnover of Acquirer: ! US\$ 8,000,000/-
- \*Gross Assets of Acquirer: ! US\$ 8,000,000/-
- Ownership of shares (including existing) ! 10 %

The Merger Thresholds are very low by international standards and almost evert mid-size deal will potentially be captured



- Exemptions for pre-merger clearance under the Merger Regulations in-principle cover the same type of transactions as other competition regimes. However, the narrowly worded provisions can yield absurd scenarios.
- By way of example, while transactions between holding companies and subsidiaries are exempted, the following transactions do not fall within the same exemption:
  - (i) transaction inter se companies wholly owned by the same natural person;(ii) transactions inter se companies with identical shareholding patterns; and(iii) transactions inter se companies with identical shareholding patterns.
- Capital market

