

## COMPETITION COMMISSION OF INDIA (CCI) INVITES COMMENTS FROM PUBLIC IN RESPECT OF PROPOSED COMBINATION BETWEEN LINDE AKTIENGESELLSCHAFT AND PRAXAIR, INC<sup>1</sup>

On 11th January, 2018, the Competition Commission of India (CCI) received a notice filed by Linde Aktiengesellschaft (Linde) and Praxair, Inc. (Praxair) (together Parties) in relation to the merger of Linde and Praxair under a newly incorporated holding company Linde Plc. Linde, headquartered in Munich, Germany is primarily active in industrial gases and medical gases, specialty gases, helium and the related engineering and services sectors. Praxair, headquartered in Danbury, Connecticut, USA, is an international industrial gases company. Praxair also has a surface technologies business that supplies high-performance surface coatings and equipment.

The Commission is of the *prima facie* opinion that the proposed merger is likely to have an appreciable adverse effect on competition and, accordingly, has directed the Parties, in terms of Section 29(2) of the Competition Act, 2002, to publish details of the merger for bringing the same to the knowledge or information of the public and persons affected or likely to be affected by such merger.

The Parties have already published the details of the proposed merger in all India editions of four newspapers *viz.*, The Business Standard, The Financial Express, The Indian Express and The Hindustan Times on 26th May, 2018 and the same is also hosted on the respective websites of the parties. The said details are also available on the website of the Commission at [www.cci.gov.in](http://www.cci.gov.in).

As per the provisions of Section 29 (3) of the Act, the Commission invites comments/objections/suggestions in writing, from any person (s) adversely affected or likely to be affected by the proposed merger. The same may be addressed to the **Secretary, Competition Commission of India, Hindustan Times House, 7th Floor, 18-20, Kasturba Gandhi Marg, New Delhi – 110001** or through **email: [secy@cci.gov.in](mailto:secy@cci.gov.in)**, within fifteen working days from the date of publication of details of the proposed combination.

The Commission is not likely to consider unsubstantiated objections.

## THE INSOLVENCY AND BANKRUPTCY OF INDIA ORGANISES THE 2ND IP CONCLAVE IN MUMBAI<sup>2</sup>

1. The Insolvency and Bankruptcy Board of India (IBBI), in association with the three Insolvency Professional Agencies, namely, the Indian Institute of Insolvency Professionals of ICAI, the ICSI Institute of Insolvency Professionals, and the Insolvency Professional Agency of Institute of Cost Accountants of India, organised a Conclave of Insolvency Professionals on May 26, 2018 in Mumbai.

Over 250 insolvency professionals (IPs) participated in the conclave. It was second such Conclave, the first one was organised on February 10, 2018 at New Delhi.

2. Dr. M. S. Sahoo, Chairperson, IBBI in his address on “Building the Institution of Insolvency Professionals” emphasized that profession is a key institution of a market economy and the

<sup>1</sup> Available at: <http://www.pib.nic.in/PressReleaseDetail.aspx?PRID=1533579>

<sup>2</sup> Available at: [http://ibbi.gov.in/webadmin/pdf/whatsnew/2018/May/IP%20Conclave%20Press%20Release\\_2018-05-27%2011:01:18.pdf](http://ibbi.gov.in/webadmin/pdf/whatsnew/2018/May/IP%20Conclave%20Press%20Release_2018-05-27%2011:01:18.pdf)

profession of IPs is a key institution of the insolvency and bankruptcy regime. For him, IPs are intellectual properties of the insolvency and bankruptcy regime and it is the endeavour of the IBBI to create, preserve and enhance the intellectual property of the regime. While appreciating the performance and conduct of IPs in general, he urged the IPs to collectively build and preserve the reputation of the fledgling institution and not allow a few undesirable elements to tarnish its reputation, as it is difficult to mend the reputation once it is lost. He believed that if the institution conducts well, its role and relevance would increase over time. The reverse can also happen. He stated that the institution of IPs needs to be robust and efficient to inspire the confidence of stakeholders. Given that the insolvency and bankruptcy reforms, which serves a very important cause of the nation, rests on the shoulders of the institution of IPs, the IPs need to have unwavering passion for their duty.

3. Hon'ble Justice Mr. M. M. Kumar, President, National Company Law Tribunal, in his address on "Duties of Resolution Professional under the Code & Best Practices" highlighted the paradigm shift in law that segregates commercial aspects of insolvency resolution from judicial aspects and empowers the stakeholders and the adjudicating authority to decide matters within their respective domain expeditiously. The IPs act as the bridge between the adjudicating authority and the stakeholders and urged the IPs to guide the Committee of Creditors (CoC) in complying with the provisions of the Code, and to bring it up before the adjudicating authority wherever the CoC behaves contrary to the provisions of the Code. He advised the IPs not to introduce avoidable practices such as invitation of Expression of Interest which adds to cost and time without corresponding gains. He emphasized that the intent of the law is to resolve the insolvency of a corporate debtor and the liquidation must be the last resort only after efforts to resolve has failed. He underlined that the assets of the corporate debtor undergoing resolution are assets of the nations and must continue to be used for creating value for the nation. He cited recent examples of successful resolutions that should motivate the IPs to realise the objectives of the Code. He urged the IPs to seize the opportunity under the Code to let them be used for the nation. He ended with a quote from George Bernard Shaw: *"I am of the opinion that my life belongs to the community, and as long as I live, it is my privilege to do for it whatever I can. I want to be thoroughly used up when I die, for the harder I work, the more I live. Life is no 'brief candle' to me. It is a sort of splendid torch which I have got hold of for a moment, and I want to make it burn as brightly as possible before handing it on to the future generations."*
4. Mr. Rashesh Shah, President, FICCI and Chairman, Edelweiss Group, in his address on 'Insolvency Professional as Key Facilitator for Value Creation' dwelled on the insolvency reforms in developed nations and believed that this reform would result in democratisation of credit in India that would fuel its growth further. He stated that in the first five years, the USA had witnessed 500 changes in law. He appreciated that Indian authorities are changing the law with alacrity to meet the emerging needs. He felt that this reform, along with other ongoing positive measures, would catapult the Indian economy to a \$5 trillion economy by 2025, making it the third largest economy in the World, next only to the USA and China. This growth will provide a rare opportunity for IPs. He identified five pillars of an IP: transparency, knowledge, fairness, execution capability, and ability to balance the stakeholders. He ended his talk with a quote from European Bank for Reconstruction and Development: "Insolvency process cannot be imagined without the involvement of an IP who in many respects is the lynchpin of the process; the link between the court, creditors, and the debtor."
5. Mr. B. S. V. Kumar, Hon'ble Judicial Member, NCLT; Mr. M. K. Shrivastava, Hon'ble Judicial Member, NCLT; and Dr. Navrang Saini, Whole Time Member, IBBI addressed at the Conclave.
6. The Conclave ended with the vote of thanks.

### **Team ICSI**

*Disclaimer : The information in the Info Capsules is developed according to the information available in public domain and for academic purposes only. Any person wishing to act on the basis of this document should do so only after cross checking with the original source.*