



DETERMINATION OF MERGER NOTIFICATION M/11/011 -

Duke Street/Hutton Collins/Lion-Katsu

Section 21 of the Competition Act 2002

Proposed acquisition by Duke Street and Hutton Collins of Lion-Katsu

Dated 14 April 2011

Introduction

1. On 24 March 2011, in accordance with section 18 of the Competition Act 2002 (the "Act"), the Competition Authority (the "Authority") received a notification of a proposed transaction whereby Duke Street General Partner Limited and Duke Street Gestion S.à.r.l. together with Hutton Collins Capital Partners III Limited Partnership would acquire joint control of Lion/Katsu Investments S.à.r.l. ("Lion/Katsu"), by way of a joint venture through a newly incorporated company, Mabel Bidco Limited ("MBL").¹

The Undertakings Involved

Duke Street

2. Duke Street General Partner Limited and Duke Street Gestion S.à.r.l. are wholly owned subsidiaries of Duke Street Private Equity Limited ("Duke Street"). Duke Street is a private equity company, with offices in the UK and France, which invests primarily into four sectors: consumer services, (including food services); business services; healthcare; and financial services.²
3. Four of Duke Street's portfolio of companies generate turnover in the State, namely, (i) 2e2 - an IT services company providing strategic implementation and management services; (ii) Deloro - a specialist engineering group; (iii) Biomnis - a provider of specialist medical diagnostics; and, (iv) Payzone - a provider of ATMs and consumer payment services.
4. The worldwide turnover of the Duke Street portfolio companies for the most recent financial year ended 31 August 2010³ was approximately €[...] million, of which approximately €[...] million was generated in the State.

¹ After the completion of the transaction the relevant shareholdings will be: Duke Street [...], Hutton Collins [...], and Lion/Katsu Management [...]. Duke Street and Hutton Collins will [...] exercise joint control of Mabel Bidco, and hence Lion/Katsu.

² For more information on Duke Street see www.dukestreet.com.

³ The parties submit that these figures represent the aggregate turnover for the year ended 31 August 2010 of Duke Street portfolio companies, which have different financial year ends for reporting purposes, ranging from September 2009 to August 2010.

Hutton Collins Partners LLP

5. Hutton Collins Partners LLP ("Hutton Collins"), manages investment funds, including Hutton Collins Capital Partners III Limited Partnership, across Western Europe typically investing in mezzanine capital, preferred capital and minority equity capital.⁴ Hutton Collins invests in various sectors including: Information Technology ("IT"); coffee shops; textiles; satellite services; marketing; and health care.
6. Within the State, Hutton Collins is active in health care through Healthcare at Home ("HAH"), a provider of high-tech home healthcare services.
7. For the year ended 31 October 2010, Hutton Collins worldwide turnover, for those companies in which it has a controlling interest, was approximately €[...] million,⁵ of which approximately €[...] was generated in the State.

Lion/Katsu

8. Lion/Katsu is involved worldwide in operating Japanese-style noodle bars and licensing third parties to operate Japanese-style noodle bars all under the name "Wagamama". Established in 1992, the Wagamama chain now has over 120 restaurants in various countries including the UK, USA, Europe, the Middle East and Australasia.
9. Within the State Lion/Katsu has one "Wagamama" franchisee operating two restaurants in Dublin and one in Cork.
10. For the year ended 30 April 2010, Lion/Katsu's worldwide turnover was approximately €123 million,⁶ of which approximately €[...] was generated within the State.

Third Party Submissions

11. No submissions were received.

Rationale for Proposed Transaction

12. The parties submit that the commercial objectives of the transaction are to provide the capital and management expertise required for the expansion and development of the Lion/Katsu business, including expanding the international presence of the Wagamama brand.⁷

Analysis

⁴ Hutton Collins also has a controlling interest in Healthcare At Home which is active in health care services, Billington Cartmell which is active in marketing services in the UK, and two sister companies Elettra Produzione S.r.l. and Elettra Sviluppo S.r.l. active in power generation in Italy.

⁵ This figure is calculated on the basis of the turnover of the entities in which Hutton Collins Partners LLP has a controlling interest (i.e. HEH, Billington Cartmell and Elettra Energia) and the turnover for the year ended 31 March 2010 of Hutton Collins Partners LLP.

⁶ Average annual exchange rate of £1 = €1.131.

⁷ See also <http://www.dukestreet.com/media-centre/latest-news/duke-street-announces-acquisition-of-wagamama-from-lion-capital.html>.

13. Within the State there are no horizontal overlaps in the activities of any or all of MBL, Duke Street, and Hutton Collins. None of the above mentioned Duke Street portfolio companies (i.e., 2e2, Deloro, Biomnis or Payzone), are active in the restaurant sector in the State. Hutton Collins' business in the State, HAH, is also not active in the restaurant sector.
14. The proposed transaction does not raise any vertical issues within the State.
15. In light of the above, the Authority considers that the proposed transaction will not raise competition concerns in any market for goods or services in the State.

Ancillary Restraints

16. As part of the proposed transaction some of the shareholders of the vendor have entered into non-compete and non-solicitation covenants, to apply for a duration of two years. The Authority considers these restrictions to be directly related and necessary to the implementation of the proposed transaction.

DETERMINATION

The Competition Authority, in accordance with section 21(2)(a) of the Competition Act 2002, has determined that, in its opinion, the result of the proposed transaction whereby Duke Street General Partner Limited and Duke Street Gestion S.à.r.l. together with Hutton Collins Capital Partners III Limited Partnership would acquire joint control of Lion/Katsu Investments S.à.r.l. will not be to substantially lessen competition in any market for goods or services in the State and, accordingly, the acquisition may be put into effect.

For the Competition Authority

Gerald FitzGerald
Member of the Competition Authority
Director, Mergers Division