



## **DETERMINATION OF MERGER NOTIFICATION M/13/026 -**

### **Kepak/McCarren**

---

#### **Section 21 of the Competition Act 2002**

#### **Proposed acquisition by Razzle Concepts Limited of sole control of McCarren 2000 Limited**

**Dated 23 October 2013**

---

#### **Introduction**

1. On 26 September 2013, in accordance with section 18 of the Competition Act 2002 ("the Act"), the Competition Authority ("the Authority") received a notification of a proposed acquisition whereby Razzle Concepts Limited ("Razzle") would acquire sole control of McCarren 2000 Limited ("McCarren"). Razzle, a company incorporated and registered in the State and established for the purpose of the proposed transaction, is jointly controlled by four members of the Keating family, the ultimate shareholders of the Kepak Group ("Kepak").<sup>1</sup> Post-transaction, Razzle will hold [60-65]% of the shares in McCarren, Ulster Bank will hold [15-20]% and the McCarren family will retain [20-25]% of the shares. Thus, post-transaction, McCarren will ultimately be controlled by the Keating family.

#### ***Kepak***

2. Kepak is a company incorporated and registered in the State, with its head office in Clonee, Co. Meath. Kepak's main business is the primary processing of beef and lamb through nine manufacturing facilities located across the State and the United Kingdom. Kepak has three business divisions: (a) Meat, (b) Convenience Foods, and (c) AgraKepak.
3. Kepak's meat division processes beef and lamb and has five beef slaughter lines, four beef boning halls, three lamb slaughter lines and two lamb boning halls. It also has burger processing and packaging plants in Cork and Monaghan. Kepak does not currently slaughter

---

<sup>1</sup> The parties informed the Authority that none of the four members of the Keating family own or control any undertakings other than the Kepak Group.

pigs. Kepak's meat division is also a tertiary processor of convenience foods made from beef, lamb, pork and poultry products. Kepak's meat division supplies frozen beef burgers to Irish consumers through multiple retail and foodservice outlets.

4. Kepak's meat division has limited dealings with pork products. The meat division produces substantial quantities of pre-cooked pork ribs. The vast majority of Kepak's pork ribs are purchased internationally and processed and cooked in Cork, and sold as a convenience food product (by Kepak's meat division) primarily to large retailers for sale as own-label products in their convenience food range. A small amount of pre-cooked ribs are sold under two Kepak convenience food brands: Hungry Hogs and Big Al's.
5. Finally, Kepak's meat division supplies and retail packs all the beef and lamb supplied to the Musgrave Group from its plant in Cork. As part of this contract, Kepak also slices and packs primary cuts of pork into retail packaging for the Musgrave Group. Kepak purchases primary cuts of pork from a number of Irish processors approved by the Musgrave Group. The primary cuts of pork are then sliced into pork chops of various sizes and various packaging styles as instructed by the Musgrave Group. [...]
6. Kepak's convenience foods division has its manufacturing base in the United Kingdom. It sells a wide range of convenience foods containing beef, burger, and poultry products to large customers in the State, the United Kingdom and the European Union.
7. The convenience foods division has limited dealings with pork products. Kepak purchases pork raw materials from Irish primary pork processors for further processing in its convenience food plant in the United Kingdom. These pork products are sold by Kepak as a reformed rib-burger product. Kepak markets these rib-burgers primarily to supermarkets and independent retailers for sale under the Rustlers brand.
8. Kepak convenience foods also purchases pork trimmings (also known as VL/Manufacturing meat) which are added to other pork convenience food products. These products include foods in which pork is an ingredient such as ready made pasta dishes. Kepak does not purchase

pork VL/Manufacturing meat from McCarren. The parties informed the Authority that Kepak's purchases of pork trimmings accounted for approximately 5% of the total volume of pork trimmings produced in the State in 2012.

9. Kepak's third business division, AgraKepak, is located in Dublin and involved in the international trade of meat and food products, supplying importers in various countries worldwide. Agra Kepak sells primary cuts of pork and buys a variety of pork products depending on pork supply prices in the State and the international market. Pork products accounted for approximately [...]% of AgraKepak's total business in 2012. AgraKepak buys pork from a variety of Irish and international primary pork processors including McCarren. In 2012, the agency relationship between AgraKepak and McCarren amounted to a purchase value of approximately €[...] on the international market. AgraKepak's total sales by value in 2012 were approximately €[...]. AgraKepak does not sell pork products into the Irish market.
10. For the year ending 31 December 2012, Kepak's worldwide turnover was €[...]. Kepak's turnover in the State for the same period was €[...].

### **McCarren**

11. McCarren, based in Cavan town, is a primary processor of pork and bacon products which are sold in the State and internationally. McCarren purchases 90% of its pigs within 20km of Cavan town and processes between 4,000-5,000 pigs per week. McCarren delivers to secondary processors, wholesale buyers and traders within 24 hours of slaughter. McCarren also trades some frozen pork products on international markets through a variety of international traders including AgraKepak. In 2012, [...]% of McCarren's total output was exported ([...]% to the UK and [...]% on the wider international market) with [...]% being sold in the State.
12. McCarren is vertically integrated, operating at the procurement, slaughter and primary processing levels of production. The only additional (secondary) processing in which McCarren is involved is bacon curing, which accounts for around 6% of its total business. McCarren's bacon is sold to wholesale customers frequently in

combination with other pork products. The parties informed the Authority that McCarren does not sell direct to any retailers or foodservice customers.

13. McCarren also operates a retail business on site at its plant in Cavan which sells a small volume of pork. The retail business also sells a broad offering of other proteins, vegetables, preserves, and cereals in a “farmer’s market” type offering. In 2012, the revenue generated by the retail business represented around [...]% of McCarren’s total turnover.
14. For the year ending 31 March 2013, McCarren’s worldwide turnover was €46 million. McCarren’s turnover in the State for the same period was around €[...].

### **Rationale for the Proposed Acquisition**

15. The parties state in the notification:

“McCarren 2000 Ltd is insolvent, and is relying on temporary support from its bank and it therefore requires an urgent injection of capital. From Kepak’s perspective, the proposed transaction represents a combination of two complementary businesses. Kepak considers that the acquisition of the McCarren pork slaughter and primary processing capacity will yield commercial benefits through combining its existing sales and commercial resources while leveraging the extensive technical expertise of the Group to repair the McCarren business and facilities. Kepak has no pork processing capacity at present. Kepak expects that the proposed transaction will deliver economies of scale and allow Kepak to manage its pork business in a similar manner to its existing beef business. The proposed transaction will also achieve cost savings and synergies through rationalisation of administrative and support functions.”

### **Third Party Submissions**

16. No submission was received.

## **Competitive Analysis**

17. As described above, McCarren is involved in the primary processing of pork while Kepak is involved in the primary (and secondary) processing of beef and lamb. The Authority understands that the primary processing of pork involves the slaughter and initial butchering of live pigs. Kepak is not involved in the primary processing of pork. Thus, there is no horizontal overlap between the parties in the primary processing of pork in the State.
18. Both parties, however, are involved in the secondary processing of pork. The parties informed the Authority that this involves the transformation of fresh pork into different types of processed pork products (such as ham, bacon and cooked meats) which are then sold retail and food services customers.
19. McCarren is involved in only one type of secondary pork processing, namely bacon curing which accounts for approximately 6% of its entire business. Kepak, however, does not produce or process any bacon. With respect to secondary pork processing, Kepak produces cooked ribs and burger rib products which it sells to retail and food services customers. Kepak also slices and packs primary cuts of pork into retail packaging for the Musgrave Group. McCarren, however, does not produce or process cooked ribs and burger rib products. McCarren does not produce any convenience foods. Furthermore, as noted above, McCarren does not sell direct to any retailers or foodservice customers.
20. Thus, while both parties are involved in the secondary processing of pork, there is no direct horizontal overlap between the parties in the State since they are active in different types of secondary pork processing. Nor, given McCarren's relatively small size (according to estimates provided by the parties, McCarren is the fourth largest primary pork processor in the State with an 8% share of the sector), does the Authority have concerns about potential competition.

## **Vertical Overlap – The Supply of Uncooked Ribs**

21. There is a vertical overlap between the parties in the State. Kepak's convenience foods division buys (and McCarren sells) uncooked pork ribs in order to produce cooked ribs. In 2012, Kepak purchased [...] tonnes of uncooked ribs in total, of which [...]% was purchased in the State. Kepak's purchases from McCarren amounted to only 2% of Kepak's total purchases of uncooked ribs in 2012.
22. In assessing the vertical effects of a merger, the key question is whether any of the undertakings involved have market power in any of the vertically related markets in which they operate. Such market power is necessary but is not in itself a sufficient pre-requisite for competitive harm from foreclosure. Two separate types of foreclosure are examined below: input foreclosure and customer foreclosure.

### ***Input Foreclosure***

23. Input foreclosure occurs where the integrated firm has market power in the upstream market and the proposed transaction is likely to raise the costs of downstream rivals. In the instant case, the question is whether Kepak will have the ability and incentive post-transaction to foreclose rival cooked ribs suppliers (by, for example, raising the price of uncooked ribs or limiting access to uncooked ribs).
24. The Authority considers that Kepak will not have the ability to foreclose rival suppliers of cooked ribs post-transaction. Post-transaction, manufacturers of cooked ribs will be able to purchase uncooked ribs from suppliers located in both the State and Europe. For example, in addition to McCarren, there are currently four other primary processors of uncooked ribs active in the State - Rosderra, Dawn Meats, Stauntons, and Green Pasture. In addition, Kepak informed the Authority that since pork is sourced from a wide range of countries and resold in the State, there are a number of secondary suppliers and traders active in the State who also supply uncooked ribs. These include Callan Bacon, Irish Bacon Slicers, DK Meats, Dunbia, and Garbally Meats.
25. There is currently only one other manufacturer of cooked ribs active in the State, Ribworld. Ribworld, based in Co. Tipperary, informed the Authority that it currently sources the vast majority of its supplies of uncooked ribs from suppliers located in various European countries

(such as, for example, Germany, France, Spain, and Poland). Ribworld does not purchase uncooked ribs from McCarren. Furthermore, Ribworld informed the Authority that a significant proportion of uncooked ribs processed in the State do not meet the specifications required by retail customers who purchase cooked ribs to sell under their own-label brand.

### ***Customer Foreclosure***

26. Customer foreclosure occurs where the integrated firm is an important customer in the downstream market and the merger is likely to foreclose upstream rivals by restricting their access to a sufficient customer base.
27. The Authority considers that Kepak will not have the ability to foreclose upstream rival processors of uncooked ribs (Rosderra, Dawn Meats, Stauntons, and Green Pasture) by restricting their access to a sufficient customer base post-transaction. As noted above, uncooked ribs are traded in various European countries and rival processors of uncooked ribs active in the State will have the ability post-transaction to sell their ribs to cooked ribs manufacturers located in Europe. Also, as noted above, there is only one other manufacturer of cooked ribs active in the State (i.e., Ribworld) and this manufacturer sources the vast majority of its supplies of uncooked ribs from suppliers located in Europe. Finally, McCarren, according to estimates provided by the parties, has a relatively small share (8%) in the primary processing of pork in the State.

### **Vertical Overlap – The Provision of Agency Services by AgraKepak to McCarren**

28. As noted above, McCarren trades frozen pork products on international markets through a variety of international traders including AgraKepak, a business division of Kepak. In 2012, [...]% of McCarren's total output of pork was sold on international markets (i.e., outside the State and the United Kingdom). Approximately [...]% of such international sales by McCarren were made through AgraKepak.
29. A question arises as to whether Kepak (through AgraKepak) will have the ability and incentive post-transaction to foreclose rival international traders of pork (by, for example, raising the price of pork products or

limiting access to pork). The Authority considers that Kepak will not have the ability to foreclose rival international traders post-transaction. McCarren does not have market power in the primary processing of pork in the State. Based on national kill figures provided by the Department of Agriculture, the parties estimate that the five primary processors of pork currently active in the State have the following market shares: Rosderra (52%), Dawn Meats (20%), Stauntons (12%), Green Pasture (8%), and McCarren (8%).

30. Thus, post-transaction, international traders of pork active in the State will be able to purchase pork products from processors such as Rosderra, Dawn Meats, Stauntons, and Green Pasture.
31. The Authority also considers that Kepak will not have the ability to foreclose upstream processors of pork by restricting their access to a sufficient customer base of international traders post-transaction. There are many rival international traders of pork currently active in the State including Dawn International limited and Irish Casing Company. McCarren informed the Authority that it currently sells pork to over twenty five international traders.
32. In light of the above, the Authority considers that the proposed transaction will not raise any competition concerns in the State.



## **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 acquisition whereby Razzle Concepts Limited would acquire sole control of McCarren 2000 Limited will not be to substantially lessen competition in markets for goods or services in the State, and, accordingly, that the acquisition may be put into effect.

**For the Competition Authority**

**Stephen Calkins**  
**Member of the Competition Authority**  
**Director, Mergers Division**