



DETERMINATION OF MERGER NOTIFICATION M/16/051– SAICA/RIDGMONT/AMERICK

Section 21 of the Competition Act 2002

Proposed acquisition by Sociedad Anónima Industrias Celulosa Aragonesa of Ridgmont Limited and Americk (NI) Limited

Dated 22 November 2016

Introduction

1. On 14 October 2016, in accordance with section 18(1) of the Competition Act 2002, as amended (the “Act”), the Competition and Consumer Protection Commission (the “CCPC”) received a notification of a proposed transaction whereby Sociedad Anónima Industrias Celulosa Aragonesa (“SAICA”) will acquire, through SAICA Pack UK Limited, sole control of each of Ridgmont Limited (“Ridgmont”) and Americk (NI) Limited (“Americk NI”) (together, “Americk”).

The Proposed Transaction

2. The proposed transaction is to be implemented pursuant to a share and purchase agreement (“SPA”) between Ryhall Limited (the “Seller”), SAICA Pack UK Limited (the “Acquirer”) and Pat Doran dated 13 October 2016.
3. The Seller is a private limited company incorporated in the State¹. It is ultimately owned by Pat Doran and Karen Doran, and wholly owns each of Americk NI and Ridgmont.
4. The Acquirer is a private limited company incorporated in England and Wales², which is wholly-owned by SAICA.

¹ With its principal place of business c/o Marchmount Packaging Limited Clover Hill Industrial Park, Clondalkin, Dublin 22.

² With its registered office at 144 Manchester Road, Carrington, Manchester, N31 4QN.



5. Following the implementation of the proposed transaction, Ridgmont and Americk NI will each become wholly-owned subsidiaries of the Acquirer and thus indirect wholly-owned subsidiaries of SAICA.

The Undertakings Involved

SAICA

6. SAICA is a family-owned company which is headquartered in Zaragoza, Spain. It owns, directly and indirectly, over 50 companies which are involved in producing sustainable solutions for paper and board packaging in Europe (namely in Spain, France, Italy, Portugal, the United Kingdom, the State and Turkey). SAICA has three major lines of business, namely:

- the recovery of recyclable materials (SAICA Natur),³
- the production of recycled paper for corrugated cardboard (SAICA Paper),⁴
- producing corrugated containers, corrugated sheet and corrugated cases (SAICA Pack).⁵

Following two business acquisitions in June 2015 and July 2016, SAICA has diversified into the flexible packaging business⁶. SAICA's Flexible Packaging Division (FLEX) has 3 plants which are located in Spain, Italy and Luxembourg.

7. In the State, SAICA Pack Ireland Unlimited Company, which is wholly-owned by SAICA, is involved in the manufacture and supply of corrugated boxes/cases to businesses in the State.⁷ SAICA Pack Ireland Unlimited Company's main customers are active in the food and beverage sector, e.g., [...].

³ SAICA Natur, the integrated waste management division of SAICA, has 49 paper collection/recycling sites, which are located in Spain, Portugal, France and the United Kingdom.

⁴ SAICA Paper, the paper division of SAICA, has four mills in Spain, France and the United Kingdom housing 7 paper machines.

⁵ SAICA Pack, the packaging division of SAICA, has 47 corrugating plants, in Spain, France, Portugal, Italy, the State, the U.K and Turkey.

⁶ SAICA completed the purchase of a Spanish flexible packaging group, Polibol/Bolfor Group, in June 2015 and of the Italian group Centroplast, a flexible packaging manufacturer, in July 2016.

⁷ With its plant located at Ashbourne, Co. Meath.



8. The Acquirer also supplies corrugated cases/boxes and containerboard⁸ to customers based in the State. SAICA also provides recycling services to businesses in the State through its integrated waste management division, SAICA Natur.
9. For the financial year ended 31 December 2015, SAICA's worldwide turnover was approximately €3.162 billion, of which approximately €[...] million was generated in the State.⁹

The Target- Ridgmont and Americk NI

10. Each of Ridgmont and Americk NI are wholly-owned by the Seller and are part of the Americk group of companies. Americk NI has six UK subsidiaries and Ridgmont has one direct subsidiary and one indirect subsidiary, both of which are incorporated in the State. The Americk group of companies comprises seven distinct packaging businesses operating in the State, Northern Ireland and Great Britain. The group is also referred to as "Americk Packaging".
11. Americk Packaging supplies:
 - a. flexible packaging, such as plastic punnets, paper bags, seal-printed film;
 - b. cartons, such as window cartons, carton sleeves, printed cartons;
 - c. labels packaging, such as reel fed labels, in-mould labels, peel and reseal labels.
12. Americk Packaging's products are used by a variety of sectors, such as food, beverage and healthcare. Americk Packaging's customers in the State include [...]. Americk Packaging also provides artwork and distribution operations.
13. Americk Packaging has seven plants, of which two (Clondalkin, Dublin 2 and Enniskillen, Co. Fermanagh) are located on the island of Ireland. In the State, Ridgmont's indirectly owned subsidiary, Marchmont Packaging Limited, produces printed cartons and sleeves

⁸Also known as corrugated case material ("CCM").

⁹ Of the €[...] million generated in the State, approximately €[...] million is generated from the manufacture of containerboard, approximately €[...]million is generated from the manufacture of corrugated cases, approximately €[...] million is generated from the manufacture of corrugated sheet and approximately €[...] is generated from recycling.



in its Dublin facility and produces labels, including “reel fed wrap-around labels” for the soft drink sector, in its Enniskillen plant.

14. For the financial year ended 31 December 2015, Americk Packaging’s worldwide turnover was approximately €[...] million, of which approximately €[...] million was generated in the State.

Rationale for the Proposed Transaction

15. The parties state in the notification:

“Through its acquisition of Ridgmont and Americk NI, SAICA intends to expand its footprint in both the State and in the UK. In particular, the Proposed Transaction will provide SAICA with an opportunity to continue its diversification into the flexible packaging, light cardboard boxes/printed folding cartons and labels channels. This diversification into these sectors, which SAICA considers to be 'brand new', is at a very preliminary stage.”¹⁰

Third Party Submissions

16. No submission was received.

Competitive Analysis

Horizontal Overlap

17. There is a minor horizontal overlap between the activities of the parties in the sale of light cardboard boxes, which are also referred to as printed folding cartons. For the reasons given below, the CCPC considers that the horizontal overlap is not significant and that, post-transaction, SAICA will continue to face competition for the supply of light cardboard boxes/printed folding cartons in the State.

Product and Geographic Market Definition

18. The CCPC defines markets to the extent necessary depending on the particular circumstances of a given case. Previously, the CCPC has not come to a definitive view as to the precise product market definition in the packaging sector¹¹.

¹⁰ Page 7, section 2.7 of the notification.

¹¹ M/14/034 ESN International Limited/Blue NewCo 1 B.V. paragraphs 15 and 17.



19. However, the CCPC notes that in case COMP/M.3935 *Jefferson Smurfit/Kappa*, the European Commission examined the packaging sector and concluded that there are several separate product markets for: recovered paper, corrugated case materials (CCM), bag-in-box, carton board, folding cartons, corrugated sheets, corrugated cases, solid board sheets, solid board cases, graphic board and partitions.
20. Using this approach to product market definition, the CCPC has: (i) set out in Table 1 below the extent of the horizontal overlaps between the activities of the parties; and (ii) examined the potential competitive effects of the transaction. Table 1 shows that the parties overlap in the production of: (i) flexible packaging; and (ii) light cardboard boxes/printed folding cartons.

Table 1: Overlap in the Business Activities of SAICA and Americk

Business Activities	SAICA	Americk	Overlap
Recovery of recyclable materials	Yes	No	No
Production of recycled paper for corrugated cardboard	Yes	No	No
Production of corrugated containers, corrugated sheet and corrugated cases (and labelling and packaging solution)	Yes	Yes (only in light cardboard boxes/printed folding cartons)	Yes
Production of flexible packaging	Yes	Yes	Yes
Artwork and distribution operations	No	Yes	No

Source: The Parties

(i) Flexible packaging

21. Both Americk and SAICA are involved in the supply of flexible packaging. Flexible packaging involves the conversion and printing of plastic and cellulose films, aluminium



foils and papers, which are used separately or in combination, to produce primary and secondary packaging products for a wide variety of end-uses. However, in this instance, on the basis that SAICA's newly acquired flexible packaging business made no sales to customers located in the island of Ireland in 2015, there is no horizontal overlap between Americk and SAICA in the State in the supply of flexible packaging.

(ii) Light cardboard boxes/printed folding cartons

22. Both Americk and SAICA are involved in producing light cardboard boxes/printed folding cartons. Light cardboard boxes/printed folding cartons are multi-layered paperboard cartons which are printed/coated and cut into carton blanks. The carton blanks also incorporate a crease, which enables the carton to be formed for packaging the customer's product. Folding carton packaging is sold to producers of food and non-food consumer products to be used to pack a wide range of products, from cosmetics and tobacco to cereals, pharmaceuticals and chocolates.
23. While the European Commission has in its previous decisions identified some distinct product segments within folding carton packaging (e.g. tobacco¹² and medical/pharmaceutical packaging¹³ where switching is more restricted, as specifications are more strict than for other types of goods) the CCPC considers that in this instance it is not necessary to consider whether there may be any specific sub-markets based on end-use within a possible overall market for the supply of light cardboard boxes/printed folding cartons, on the basis that this would not materially alter the CCPC's assessment of the competitive impact of the proposed transaction.
24. The CCPC considers that the proposed transaction does not raise competition concerns on any reasonable geographic market, therefore the precise geographic market definition can be left open in this instance.¹⁴ However, for the purposes of reviewing

¹² In COMP/M.5599-AMCOR/ALCAN, although the European Commission left the exact product market definition open in relation to folding carton packaging, it indicated that the production and sale of folding carton packaging for tobacco is a distinct product market.

¹³ COMP/M.1792-Ahlstrom/Capman/Folding Carton Partners and COMP/M.5599-AMCOR/ALCAN.

¹⁴ In previous decisions, the European Commission has left open the precise geographic market definition for light cardboard boxes/printed folding cartons, although it has acknowledged that folding cartons could not economically be transported more than 500km from the point of production: see COMP – see COMP/M.1792-Ahlstrom/Capman/Folding Carton Partners and COMP/M.3935 Jefferson Smurfit/Kappa.



the proposed transaction, the CCPC has assessed its impact by reference to the supply of light cardboard boxes/printed folding cartons in the State.

Competitive Effects

25. The parties estimate that their total production volumes and shares of supply of light cardboard boxes/printed folding cartons in 2015 in the State are:
 - (a) less than [...] tonnes per annum for SAICA, which accounts for less than [0-5]% of the estimated total supply of light cardboard boxes/printed folding cartons in the State;
 - (b) [...] tonnes per annum for Americk, which accounts for around [0-5] % of the estimated total supply of light cardboard boxes/printed folding cartons in the State.
26. Therefore, post-transaction the merged entity's share of supply in the State would be [0-5]%. Given the merged entity's low share of supply and the presence of other larger competitors in the State which would continue to compete with the merged entity post-transaction (e.g. Delta Print and Packaging Limited, Graphic Packaging Holding Company, Essentra plc, MSO Cleland Limited and Multi Packaging Solutions Limited), the CCPC considers that the proposed transaction is unlikely to raise competition concerns in the supply of light cardboard boxes/printed folding cartons in the State.
27. Furthermore, the CCPC considers, on the basis of information available to it, that customer preferences for light cardboard boxes/printed folding cartons are largely influenced by price and quality, rather than by brand loyalty. Contracts for supplying light cardboard boxes/printed folding cartons are negotiated annually or on a 6-monthly basis with customers. The switching costs for customers of light cardboard boxes/printed folding cartons is likely to be small.
28. In addition, the potential customers for light cardboard boxes/printed folding cartons are sophisticated buyers, including global food, health care and pharmaceutical companies. These are customers with considerable bargaining power. Given the switching costs for different suppliers are relatively low, the CCPC considers that post-transaction the merged entity will continue to face significant competition for the supply of light cardboard boxes/printed folding cartons in the State and suppliers active in the UK and wider EU, such as Smurfit Kappa, Essentra and Mayr Melnhof Group.



29. In light of the above, the CCPC considers that the proposed transaction does not give rise to any horizontal competition concerns.

Vertical relationship

30. There is a potential vertical relationship between the parties on the basis of SAICA's activities in the recycling sector and the parties' activities in the manufacture of light cardboard boxes/printed folding cartons and flexible plastics.
31. SAICA provides a small amount of recycling services, through its integrated waste management division, SAICA Natur, in the State. Packaging regulations¹⁵ impose obligations on all producers who, in the course of their business, supply packaging to businesses in the State to arrange for the recovery of used packaging, or to return the used packaging to the supplier, if applicable. Therefore, in theory, SAICA Natur could recycle packaging produced by Americk directly from end-users on behalf of Americk, or indirectly through a packaging compliance scheme from end-users on behalf of Americk. The CCPC considers this potential vertical overlap is not significant given the strong presence of other large operators in the recycling sector, including Repak Limited, Oxigen Environmental, Nurendale Limited trading as Panda and Greyhound Recycling and Recovery.
32. The proposed transaction does not give rise to any vertical competition concerns.

Conclusion

33. In light of the above, the CCPC considers that the proposed acquisition will not substantially lessen competition in any market for goods or services in the State.

¹⁵ The European Union (Packaging) Regulations 2014 promote the recovery of specified packaging waste.



Ancillary Restraints

34. The parties submit that the SPA contains a number of restrictive obligations on the Seller and Mr. Pat Doran, which include non-compete and non-solicitation clauses. The CCPC considers that these restraints are directly related and necessary to the implementation of the proposed transaction.¹⁶

¹⁶In this respect, the CCPC follows the approach adopted by the EU Commission in paragraphs 20 and 26 of its “Commission Notice on restrictions directly related and necessary to concentrations” (2002). For more information see [http://eurlex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005XC0305\(02\)&from=EN](http://eurlex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005XC0305(02)&from=EN)



Determination

The Competition and Consumer Protection Commission, 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 Sociedad Anónima Industrias Celulosa Aragonesa will acquire, through SAICA Pack UK Limited, sole control of each of Ridgmont Limited and Americk (NI) Limited will not be to substantially lessen competition in any market for goods or services in the State, and, accordingly, that the acquisition may be put into effect.

For the Competition and Consumer Protection Commission

Patrick Kenny
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Competition and Consumer Protection Commission