



## DETERMINATION OF MERGER NOTIFICATION M/15/010 - IIF CCD / CCD HOTEL / SDDC / SD HOTEL

---

### Section 21 of the Competition Act 2002

### Proposed acquisition by IIF CCD Limited and CCD Hotel Licence Limited of sole control of companies and assets of Spencer Dock National Convention Centre Hotel Limited (in receivership and liquidation) and Spencer Dock National Convention Centre Hotel Limited (in receivership and liquidation)

Dated 17 April 2015

---

#### Introduction

1. On 6 March 2015, in accordance with section 18(1) of the Competition Act 2002, as amended<sup>1</sup> (“the Act”), the Competition and Consumer Protection Commission (“Commission”) received a notification of a proposed transaction whereby IIF CCD Limited (“IIF CCD”) and CCD Hotel Licence Limited (“CCD Hotel”), both of which are ultimately controlled by the Irish Infrastructure Fund, would acquire sole control of companies and assets (collectively the “the Target Assets”)<sup>2</sup> from Spencer Dock Development Company Limited (in Receivership and in Liquidation) (“SDDC”) and Spencer Dock National Convention Centre Hotel Limited (in Receivership and In Liquidation) (“SD Hotel”).
2. The proposed transaction is pursuant to a Transaction Agreement between SDDC, SD Hotel, Paul McCann and Michael McAteer (as joint official liquidators of the SDDC and SD Hotel), IIF CCD, CCD Hotel and Summit Asset Managers Limited (“Summit”), dated 10 February 2015.<sup>3</sup> As described further in paragraph 10 below, the Target Assets relate primarily to the rights to operate the National Convention Centre Dublin, located at Spencer Dock, Dublin, and the rights to develop the site adjacent to the National Convention Centre Dublin which is earmarked for hotel development.

---

<sup>1</sup> It should be noted that the Competition and Consumer Protection Act 2014 made a number of important amendments to the merger review regime set out in the Competition Act 2002.

<sup>2</sup> The proposed transaction would result in the sale of (a) the entire issued share capital of each of Spencer Dock International Convention Centre Limited (“SDICC”), Pearlbay Limited and Spencer Dock Convention Centre Dublin (No. 2) Limited (“O&M Co”) and the shares in the capital of PPPCo held by SDDC; and (b) the assets of SDDC and SD Hotel relating to the development of the hotel site adjacent to the National Convention Centre Dublin. SDICC, is 99% owned by SDDC. Pearlbay Limited and O&M Co are wholly owned subsidiaries of SDDC. Notification page 6 and Annex 2.

<sup>3</sup> The Transaction Agreement states that Summit is a party solely in its capacity as manager of the Irish Infrastructure Fund.



## The Undertakings Involved

### *The Acquirer – Irish Infrastructure Trust and Irish Infrastructure Fund*

3. The Irish Infrastructure Trust is a unit trust established in October 2011. The Irish Infrastructure Trust is organised in the form of an umbrella fund with each sub-fund, such as the Irish Infrastructure Fund, having a portfolio of investments.<sup>4</sup>
4. The Irish Infrastructure Fund, at present the only sub-fund of the Irish Infrastructure Trust, invests in publicly and privately owned infrastructure in Ireland. This involves debt and equity investment in privately owned assets and debt investment in publicly owned assets.<sup>5</sup> Both IIF CCD and CCD Hotel, the special purpose vehicles involved in the proposed transaction, are wholly owned subsidiaries of the Irish Infrastructure Fund.
5. Summit, a wholly owned subsidiary of Irish Life Investment Managers (“ILIM”), is ultimately responsible for (i) managing the investments of the Irish Infrastructure Fund, (ii) general administration and (iii) the distribution of the Irish Infrastructure Fund.<sup>6</sup>
6. Summit has appointed ILIM to manage the assets and investments of the Irish Infrastructure Fund, in accordance with Irish Infrastructure Fund’s investment objectives and policies.<sup>7</sup>
7. Summit has also appointed AMP Capital Investors (UK) Limited (“AMP”) to provide certain investment management services to the Irish Infrastructure Fund. These services include identifying and evaluating potential acquisitions for the fund, managing the acquisition process, monitoring infrastructure assets held by the fund and proposing asset disposals if appropriate.<sup>8</sup>
8. To date, the Irish Infrastructure Fund, though various wholly owned subsidiaries, currently has controlling interests in the following businesses in the State:
  - The “Cyclone Wind Portfolio” of assets which comprises various wind farms located throughout the State generating approximately 53 Megawatts of electricity (acquired in 2012).<sup>9</sup>

---

<sup>4</sup> The notifying parties state that the Irish Infrastructure Trust is “a unit trust established as an open-ended, limited liquidity, umbrella fund, “constituted by the Trust Deed and authorised by the Central Bank of Ireland on 17 October 2011, pursuant to the provisions of the Unit Trusts Act, 1990. .... Each sub-fund will have a distinct portfolio of investments. Separate books and records will be maintained for each sub-fund. The assets of each sub-fund will be separate from one other and will be invested in accordance with the investment objectives and policies applicable to each sub-fund.” Notification page 4. For more information about the Irish Infrastructure Trust see

<[http://registers.centralbank.ie/\(S\(atb1s1eysq1bdt45cyzep0nm\)\)/FundRegisterDataPage.aspx?fundReferenceNumber=C89502&register=4&AspxAutoDetectCookieSupport=1](http://registers.centralbank.ie/(S(atb1s1eysq1bdt45cyzep0nm))/FundRegisterDataPage.aspx?fundReferenceNumber=C89502&register=4&AspxAutoDetectCookieSupport=1)>.

For more information about the Irish Infrastructure Fund see

<<http://www.ampcapital.com/investing-with-us/infrastructure/irish-infrastructure-fund>>.

<sup>5</sup> Correspondence between the Commission and the Irish Infrastructure Fund dated 10 April 2015.

<sup>6</sup> Correspondence between the Commission and the Irish Infrastructure Fund dated 14 April 2015.

<sup>7</sup> The Irish Infrastructure Fund states, in correspondence dated 14 April 2015, that Summit has the authority, with the prior approval of the Central Bank, to delegate fund management functions.

<sup>8</sup> Correspondence between the Commission and the Irish Infrastructure Fund dated 14 April 2015.

<sup>9</sup> The Irish Infrastructure Fund also has interests in wind farms in Northern Ireland.



- Towercom Limited which owns telecommunications towers that provide infrastructure for mobile networks as well as wireless and fixed line operators within the State (acquired in 2013).
9. For the financial year ending 31 December 2013, the Irish Infrastructure Fund's world-wide turnover was approximately €[...] million of which approximately €[...] million was generated within the State.

### *The Target Assets*

10. The vendors in the proposed transaction are SDDC and SD Hotel. The assets to be acquired primarily concern (i) the operation of the National Convention Centre, Dublin and (ii) rights to develop the hotel site adjacent to the National Convention Centre, Dublin.<sup>10</sup>
11. For the financial year ending 28 February 2013, the turnover attributable to the Target Assets was approximately €[...] million, all of which was generated within the State.

### **Rationale for the Proposed Transaction**

12. The Irish Infrastructure Fund states that

*“AMP has carefully considered the Transaction which involves the acquisition of an Irish infrastructure asset and has concluded that it meets the investment objectives and policies of the Fund, which are to provide Unit Holders with a return generated from a combination of capital growth and income yield from its portfolio of assets.”<sup>11</sup>*

### **Third Party Submissions**

13. One submission was received which argued that the proposed transaction would be harmful to competition because
- The National Convention Centre, Dublin has expanded its role beyond attracting international business and conference tourists and has moved to focusing on smaller events such as exhibitions and graduations.
  - The proposed transaction could result in predatory pricing which could result in alternative venues to the National Convention Centre, Dublin exiting the market

---

<sup>10</sup> As a result of the proposed transaction IIF CCD would acquire from SDDC the rights to operate the National Convention Centre, by virtue of acquiring SDDC, O&M Co and shares in PPPCo which has contracts in place to do so. Dublin CCD Hotel Licence Limited would acquire from SD Hotel and SDDC the rights to develop the hotel site adjacent to the National Convention Centre, Dublin.

<sup>11</sup> Notification page 11. As stated by the notifying parties AMP provides investment management services and investment advice to the Irish Infrastructure Fund, which is ultimately managed by Summit Asset Managers Limited.



thereby reducing competition in the provision of event venues oriented towards national and local audiences.

- The National Convention Centre, Dublin is in receipt of public funding and this gives it an advantage over competitors that were not subsidised and thereby distorts competition.

14. The Commission, as part of its review of the proposed transaction, has taken account of the points raised in the third party submission. The Commission has concluded that two of the issues raised (i.e., the expanding role of the National Convention Centre and funding of the Convention Centre) are not merger-specific (i.e., do not arise as a direct consequence of the proposed transaction and would occur in the absence of the proposed transaction). Consequently, these two issues are not relevant to the Commission's review of the proposed transaction. The Commission did not find any evidence to support a theory of harm based on predatory pricing arising as a result of the proposed transaction.

### Competitive Analysis

15. There is no horizontal overlap within the State in the activities of the parties.
16. The Irish Infrastructure Fund is involved in the State in the energy sector, in particular wind farming, and in the provision of telecommunications towers. The Irish Infrastructure Fund is not involved in the hotel sector or the convention centre sectors.<sup>12</sup> The Target Assets are not involved in the energy or telecommunications sectors and are only involved in the hotel and the convention centre sectors.
17. The proposed transaction does not raise vertical competition concerns.

### Conclusion

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

---

<sup>12</sup> It is also the case that none of AMP, ILIM and Summit, (i.e., the companies associated with managing the Irish Infrastructure Fund), have a controlling interest in any hotels or convention centres in the State.



## 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 IIF CCD Limited and CCD Hotel Licence Limited would acquire sole control of companies and assets from Spencer Dock Development Company Limited (in Receivership and in Liquidation) and Spencer Dock National Convention Centre Hotel Limited (in Receivership and In Liquidation) 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

Gerald FitzGerald  
Member  
Competition and Consumer Protection Commission