



DETERMINATION OF MERGER NOTIFICATION M/07/034 – AXA IMPEE/THE DIANA GROUP

Section 21 of the Competition Act 2002

Proposed acquisition by AXA Investment Managers Private Equity Europe SA of The Diana Group

Dated 16/07/07

Introduction

1. On 21st June 2007 the Competition Authority (“the Authority”), in accordance with Section 18 (1) of the Competition Act, 2002 (“the Act”) was notified, on a mandatory basis, of a proposal whereby AXA Investment Managers Private Equity Europe SA (“AXA IMPEE”) together with the current senior management and other vendors of Diana Ingredients SAS, its parent company Irus SAS and its subsidiaries (collectively “The Diana Group”) would acquire 100% of the share capital of The Diana Group. The acquisition will be undertaken by a newly incorporated French company Kerisper SAS (“NewCo”).
2. Post acquisition AXA IMPEE will exercise sole control through NewCo, over The Diana Group.

The Undertakings Involved

3. AXA IMPEE is a wholly owned subsidiary of the AXA Group¹ which generated a worldwide turnover of €77.7 billion in 2006 of which, €[] million was generated in the State. The AXA Group is mainly active in insurance and asset management and provides insurance services in the State through its subsidiary AXA Insurance Ltd.
4. AXA IMPEE specialises in investments in both unlisted companies and in other funds. AXA IMPEE will exercise sole control over NewCo through the operation of the following funds:
 - AXA LBO Fund III;
 - AXA LBO Fund III B;
 - AXA LBO Fund IV; and,
 - AXA LBO Fund IV Supplementary.
5. The Diana Group, the target, is currently controlled by Cognetas SA, a private equity investment firm. The Diana Group is active, worldwide in the manufacture, marketing and distribution of natural extracts, flavours and functional ingredients to specific sectors of both the pet food and human food and drinks industries.

¹ The parties submit that under French regulations which require investment companies to implement internal organisational rules to avoid or minimise potential conflicts of interest between shareholders AXA IMPEE is not controlled by any other company within the AXA Group.

6. Specifically The Diana Group is active in three sectors:
 - Pet food palatability enhancers – ingredients added to pet foods to improve taste and attractiveness;
 - Culinary ingredients – including sauces for the food service industry, recomposed products and bards; and,
 - Food ingredients for human consumption – ingredients which are added to enhance food flavour, colour, nutritional benefit and shelf life.
7. In 2006 The Diana Group achieved worldwide turnover of €[] million and turnover in the State of approximately €[] million through the supply of natural extracts, flavours and functional ingredients to specific sectors of both the pet food and human food and drinks industries.

Analysis

8. The activities of the undertakings involved do not overlap either horizontally or vertically in the State. In the State² none of the AXA IMPEE portfolio of companies nor any entity controlled by the AXA Group is currently active in the manufacture, marketing and distribution of natural extracts, flavours and functional ingredients or in related upstream or downstream markets.
9. The proposed transaction does not, therefore, give rise to competition concerns.

Ancillary Restraints

10. The Authority also reviewed restrictive arrangements agreed by the Parties contained in their Sales and Purchase Agreement (“SPA”). The SPA contains non-compete and non-solicitation clauses.
11. The Authority considers that these arrangements are in line with its approach in respect of ancillary restraints in mergers and are directly related and necessary to ensure the implementation of the proposed acquisition.

² AXA IMPEE controls a company, Benedicta, which is active in the manufacture mayonnaise, salad dressings and other cold sauces and which purchases food ingredients from competitors of The Diana Group. However Benedicta does not make sales into Ireland.

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 by AXA Investment Managers Private Equity Europe SA of The Diana Group will not be to substantially lessen competition in markets for goods and services in the State and, accordingly, that the acquisition may be put into effect.

For the Competition Authority

Dr. Paul K Gorecki
Member of the Competition Authority