



# DETERMINATION OF MERGER NOTIFICATION M/17/043 SHS/STANDARD BRANDS

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## Section 21 of the Competition Act 2002

### Proposed acquisition by SHS Group Limited of sole control of Standard Brands (UK) Limited.

Dated 24 August 2017

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#### Introduction

1. On 26 July 2017, in accordance with section 18(1)(a) of the Competition Act 2002, as amended (“the Act”), the Competition and Consumer Protection Commission (“the Commission”) received a notification of a proposed transaction whereby SHS Group Limited (“SHS”) would acquire sole control of Standard Brands (UK) Limited (“Standard Brands”) (the “Proposed Transaction”).

#### The Proposed Transaction

2. The Proposed Transaction is to be implemented by way of a sale and purchase agreement (“the Agreement”)<sup>1</sup> dated 21 July 2017.

#### The Undertakings Involved

##### SHS

3. SHS, a private limited company incorporated in Northern Ireland, is involved in a wide range of activities, including the provision of manufacturing and logistics services. SHS’s business can be broadly divided into four divisions, namely:

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<sup>1</sup> The Agreement is between the institutional sellers of Standard Brands (namely, ICG Enterprise Trust PLC, ICG Enterprise Trust Limited Partnership, ICG Enterprise Trust (2) Limited Partnership and Graphite CPV ROV LP), the management sellers of Standard Brands (namely, Terry Coates, Denis McCourt, Richard Harris, Mark Irving Escolme, Michael John Boxford, George McDonnell, Deborah Tracey Hallgren, Peter Lewin, Stuart McCready and Patrick Kiernan), SHS and SHS S.B. Limited.



- condiments and sauces;
- drinks;
- sales and marketing UK; and
- sales and marketing Ireland.

#### *Condiments and Sauces*

4. The condiments and sauces division of SHS trades through its wholly-owned subsidiary BPS Holdings Limited and is based in Northampton in the United Kingdom. It specialises in the processing, packing and marketing of herbs, spices, seasonings and wet condiments, including the marketing and distribution of such products under the *British Pepper and Spice* brand in the State.

#### *Drinks*

5. The drinks division of SHS is based in Gloucester in the United Kingdom and manufactures and supplies ready-to-drink beverages under the following brands: *WKD, Shloer, Bottlegreen* and *Merrydown Cider*. These products are marketed and distributed in the State by SHS's sales and marketing Ireland division or through third party distributors.

#### *Sales and Marketing UK*

6. The sales and marketing UK division of SHS, based in Gloucester in the United Kingdom, is engaged in the provision of sales, logistics, customer service, finance and customer marketing services. The division supplies own-label products as well as representing brands in the grocery, healthcare, household, drinks and confectionery sectors. These brands include: *Mars Consumer Drinks, Finish, Douwe Egberts, Chewits, Nivea* and *Nurofen*.
7. This division distributes Standard Brands' fire ignition products, including block firelighters, charcoal, instant light BBQ grill trays, liquid firelighters, natural firelighters and wrapped firelighters, in the United Kingdom (excluding Northern Ireland). SHS does



not directly sell Standard Brands' products in Northern Ireland, although SHS does sell Standard Brands' products, such as *Sunny Jim*-branded firelighters and *Zip*-branded firelogs, to [...] who in turn sells these products through its stores in the United Kingdom, including stores located in Northern Ireland. In addition, SHS sells *Sunny Jim*-branded firelighters to [...] who supplies these products to independent retailers in the United Kingdom, including independent retailers located in Northern Ireland.

#### *Sales and Marketing Ireland*

8. The sales and marketing Ireland division of SHS is active in the State through offices located in Dublin and Belfast, Northern Ireland. This division provides similar services in the State to those provided in the United Kingdom by SHS's sales and marketing UK division. However, this division does not currently distribute Standard Brands' fire ignition products in the State (please see further paragraph 13 below). This division represents brands in the grocery, healthcare, household, drinks and confectionery sectors including the following brands: *WKD*, *Shloer*, *Tunnocks Teacakes*, *Colgate*, *Savlon*, *Finish*, *Cricket Lighters*, *Burton's Biscuits* and *Maguire & Paterson matches*.
9. For the financial year ending 31 December 2016, SHS's worldwide turnover was approximately €[...], of which approximately €[...] was generated in the State.

#### Standard Brands

10. Standard Brands, a private limited company incorporated and based in the United Kingdom, is involved in the manufacture and supply of fire ignition products. Standard Brands supplies fire ignition products globally to the United States, Canada, Europe, Asia, Brazil, South Africa, Middle East and Australia.
11. Standard Brands is active in the State through its subsidiaries Standard Brands (Ireland) Limited and Standard Brands (Trading) Ireland Limited. Standard Brands owns two manufacturing sites in the State, which are located in Castlebellingham, Co. Louth and Annagassan, Co. Louth, respectively.
12. Standard Brands manufactures and supplies a range of fire ignition products in the State, including kerosene block firelighters, kerosene individually-wrapped firelighters,



firelogs and liquid firelighters. Standards Brands manufactures and supplies both own-label and branded (*Zip, Drummer, Bestflame* and *Sunny Jim*) fire ignition products in the State. Standards Brands also sources a number of fire ignition products and ancillary products from third party manufacturing companies outside the State, such as natural firelighters, BBQ charcoal trays, charcoal briquettes, soot reducer powder and grate polish, and supplies these products in the State.

13. Standard Brands supplies branded and own-label fire ignition products to grocery and convenience retailers in the State through a third party distributor, Tennant & Ruttle Distribution Limited (“Tennant & Ruttle”). Standard Brands’ key customers in the State include Tesco Ireland Limited, BWG Foods Unlimited Company (which owns the *Spar, Mace, Londis* and *Eurospar* brands), Dunnes Stores Ireland Company Unlimited Company, [...], [...], the Musgrave Group Public Limited Company (which owns the *Supervalu* and *Centra* brands) and [...]. Tennant & Ruttle also distributes approximately [...] % of Standard Brands’ products in Northern Ireland, with the remainder being sold through [...], [...] and [...].
14. For the financial year ending 31 December 2016, Standard Brands’ worldwide turnover was approximately €[...], of which approximately €[...] was generated in the State.

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

15. The parties state the following in the notification:

*“The Purchaser is seeking to acquire the Target to drive growth domestically and internationally with the use of the latter’s premium branded products and strong innovation pipelines.”*

#### **Third Party Submissions**

16. No submission was received.



## Competitive Analysis

### *Horizontal Overlap*

17. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case. In this instance, it is not necessary for the Commission to define precise relevant product and geographic markets since there is no horizontal overlap between the business activities of Standard Brands and SHS in the State. SHS neither manufactures nor supplies fire ignition products in the State. Similarly, Standard Brands is not involved in any of the activities which SHS carries out in the State. Therefore, the Commission considers that the Proposed Transaction does not raise any horizontal competition concerns in the State.

### *Vertical Relationship*

18. There is currently no supply arrangement between the parties in the State<sup>2</sup>. Following completion of the Proposed Transaction, there is potential for a vertical relationship between the parties if SHS were to decide to distribute Standard Brands' fire ignition products in the State itself.

19. In the notification, SHS provided the following description to the Commission of the potential vertical relationship which may exist between the parties in the State following completion of the Proposed Transaction:

*"[...]...At present, [SHS] does not have any plans to change the current distribution arrangements. In any event, the Parties submit that, even if that vertical overlap were to materialise in the future, [SHS] would not have the ability nor the incentive to foreclose third parties".*

20. In response to queries raised by the Commission, Standard Brands informed the Commission that, *"any distributor could potentially ship products as long as they comply with transportation laws in relation to shipping hazardous goods, using Dangerous Goods Notes and with proper storage of the products."*<sup>3</sup>

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<sup>2</sup> There is a vertical relationship between the parties outside of the State as set out in paragraph 7 above.

<sup>3</sup> Correspondence received by the Commission from Standard Brands dated 1 August 2017.



21. A competitor of Standard Brands informed the Commission that, “*no specialised distribution system is required to deliver ignition products*” and that they provide in-house distribution services for their fire ignition products in the State<sup>4</sup>.
22. The Commission considers that there will remain a sufficient number of competitors and customers following completion of the Proposed Transaction in all markets in which both Standard Brands and SHS currently compete and, as such, the Proposed Transaction does not give rise to any vertical foreclosure concerns in the State for the following reasons:
- Any logistics services provider can potentially distribute fire ignition products, charcoal products and fire logs in the State. There are a large number of competing logistics services providers currently active in the State, including Valeo Foods, Primeline Logistics Unlimited Company, Allegro Limited, Stafford Lynch Limited and Johnston Logistics Limited;
  - There are a number of competitors of Standard Brands currently active in the manufacture and supply of fire ignition products and the manufacture and supply of fire logs in the State, such as Mitchell's Eco Fuels Limited and Bord Na Mona Public Limited Company;
  - There are a number of competing brands currently active in the retail supply of fire ignition products, charcoal products and fire logs in the State, such as *Fibraflame, Spar, Mace, Londis, Fuel Express, Firebloc* and *Bord na Mona*.
23. For these reasons, the Commission considers that the Proposed Transaction does not raise any vertical foreclosure concerns in the State.

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<sup>4</sup> During the Commission’s assessment of the competitive effects of the Proposed Transaction, the Commission contacted a number of third parties, including competitors of the parties, in order to obtain their views concerning the Proposed Transaction.



## Conclusion

24. 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.

## Ancillary Restraints

25. The Agreement contains a number of restrictive obligations on Standard Brands. These include non-compete and non-solicitation clauses. The duration of these non-compete and non-solicitation clauses does not exceed the maximum duration acceptable to the Commission<sup>5</sup>. The Commission considers these non-compete and non-solicitation clauses to be directly related to and necessary for the implementation of the Proposed Transaction.

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<sup>5</sup> In this respect, the Commission 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” (2005). For more information see [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005XC0305\(02\)&from=EN](http://eur-lex.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, as amended, has determined that, in its opinion, the result of the proposed acquisition, whereby SHS Group Limited would acquire sole control of Standard Brands (UK) 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**  
**Member**  
**Competition and Consumer Protection Commission**