



DETERMINATION OF MERGER NOTIFICATION M/17/071 MACQUARIE & COVANTA HOLDING / COVANTA EUROPE ASSETS (DWTE POOLBEG)

Section 21 of the Competition Act 2002

Proposed acquisition of joint control of Covanta Europe Assets Limited (Dublin Waste To Energy Poolbeg) by Macquarie Group Limited and Covanta Holding Corporation

Dated 30 January 2018

Introduction

1. On 20 December 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 (“the Proposed Transaction”) whereby Macquarie Group Limited (“Macquarie”), through its indirect wholly-owned subsidiary, Dalmatia WTE EUR Holdings Limited (“Dalmatia WTE EUR”)¹, and Covanta Holding Corporation (“Covanta Holding”), through its direct wholly owned subsidiary, Covanta Holding 3 UK Limited (“CH3UK”), would acquire joint control of Covanta Europe Assets Limited (“CEAL”). CEAL currently holds the right to manage and operate the Dublin Waste to Energy facility located at Poolbeg in Dublin (“DWTE Poolbeg”).

The Proposed Transaction

2. The Proposed Transaction is to be implemented by way of a subscription agreement for shares dated 15 December 2017 between CEAL, Dalmatia WTE EUR, CH3UK, Covanta Holding and Macquarie.
3. CEAL is currently controlled by Covanta Holding which indirectly holds 100% of the issued share capital in CEAL. The Proposed Transaction involves a subscription by

¹ Dalmatia WTE EUR is part of the Macquarie’s Green Investment Group Limited (GIG).



Dalmatia WTE EUR for subscription shares issued by CEAL, following which Macquarie will hold a 50% interest in CEAL, through Dalmatia WTE EUR. Covanta Holding will retain the remaining 50% interest in CEAL, through CH3UK. Following implementation of the Proposed Transaction, Macquarie and Covanta Holding will have joint control of CEAL.

The Undertakings Involved

Macquarie

4. Macquarie, headquartered in Australia, is listed on the Sydney-based Australian Securities Exchange. Macquarie's areas of expertise globally include infrastructure, utilities and renewables, real estate, telecommunications, media, entertainment and technology, resources, industrials, and financial institutions. Macquarie comprises corporate advisory, equity, debt and private capital markets businesses, and undertakes investment activities under the following operating groups:
 - Asset management;
 - Capital;
 - Corporate and Asset Finance;
 - Banking and Financial Services; and
 - Commodities and Global Markets.
5. Macquarie's largest business activity in the State is an aircraft leasing services business conducted by its Corporate and Asset Finance operating group. This business includes ownership, purchase, sale, leasing, financing and remarketing of commercial aircraft, helicopters and other aviation related assets. Macquarie, through its Corporate and Asset Finance operating group, also conducts an equipment finance business for business and corporate customers in the State and in various countries across Europe.²
6. Macquarie is also active in corporate advisory, equity and debt capital markets, and fund management in the State, and undertakes principal investing activities through its

² The parties informed the Commission that Macquarie's GIG (formerly Green Investment Bank plc) previously invested in assets in the energy and waste sectors in Northern Ireland but that all such investments have been sold and that GIG does not currently have majority or controlling interests in any assets, investments or business lines in the energy or waste sectors in the State or in Northern Ireland.



Capital operating group. Macquarie has provided loans to corporate borrowers in the State, including funding of real estate assets and [...]³.

7. [...].

8. For the financial year ending 31 March 2017, Macquarie generated worldwide operating income of approximately €8.7 billion, of which approximately €[...] was generated in the State.⁴

Covanta Holding

9. Covanta Holding is listed on the New York Stock Exchange and is a global corporate group primarily involved in the waste disposal and energy sectors. Covanta Holding's core business involves owning and operating energy-from-waste ("EfW") infrastructure, which takes solid waste and burns it to produce electricity.⁵ Covanta Holding operates or has ownership positions in 43 EfW facilities worldwide, most of which are located in North America⁶. DWTE Poolbeg in Dublin is one such EfW facility and is Covanta Holding's only activity in the State.⁷

³ [...] = Confidential to Macquarie.

⁴ The parties state in the notification that this figure has been calculated using the European Commission's approach to allocating turnover of financial institutions, i.e., where the branch or division is located. However, Macquarie confirms that, applying the Commission's preferred methodology based on customer location, Macquarie's turnover in the State in the financial year ended 31 March 2017 exceeded €[...].

⁵ The EfW process takes post-recycled municipal solid waste (including household rubbish) and burns it at a high temperature to reduce its weight and volume, and to produce heat and/or generate electricity. EfW earns revenue from both the disposal of waste and the generation of energy, generally under long-term contracts, as well as from the sale of metals recovered during the EfW process.

⁶ Outside of its investments in North America, Covanta Holding has a minority interest in an EfW project in Italy, an equity interest in an infrastructure business in China that is engaged in EfW operations and has two EfW facilities in development in England.

⁷ In 2014, Covanta Holding entered into agreements with Dublin City Council to build, own and operate DWTE Poolbeg. The facility is a 61 MW nett nominal electrical capacity EfW plant capable of processing approximately 600,000 tonnes of waste per annum. It will also produce electricity, which will be sold into the local electricity grid. The facility has been developed under a public private partnership and is supported by a 45-year concession from Dublin City Council, acting as contracting authority on behalf of the four Dublin area local authorities (i.e., Fingal County Council, South Dublin County Council, Dun Laoghaire-Rathdown County Council and Dublin City Council itself). At the end of the concession period, the project will be handed back to Dublin City Council as an operational facility or, at the discretion of Dublin City Council, decommissioned and the site returned to Dublin City Council in its original "brown-field" condition. The agreement includes a 15-year contingent revenue support from Dublin City Council. The facility has been operating at full capacity since November 2017.



10. For the financial year ending 31 December 2016, Covanta Holding generated worldwide revenues of approximately €1.4 billion, of which approximately €[...]⁸ was generated in the State.

CEAL

11. CEAL is currently controlled by Covanta Holding which indirectly holds 100% of the issued share capital in CEAL. CEAL currently holds the right to manage and operate DWTE Poolbeg⁹. Following implementation of the Proposed Transaction, CEAL (including DWTE Poolbeg) will be jointly controlled by Macquarie and Covanta Holding.

Rationale for the Proposed Transaction

12. The parties informed the Commission as follows:

“The broad rationale for the Proposed Transaction is to create a common platform through which the notifying parties can co-invest in, own and operate waste to energy and related businesses in Ireland, and potentially other countries in Europe. In particular, GIG, through Dalmatia WTE EUR Holdings Limited, will acquire a 50% interest in DWTE. By the Proposed Transaction, the parties will leverage their complementary capabilities, with GIG being one of the leading investors in green infrastructure in the UK and Europe and Covanta a global leader in operating EfW facilities.”

Third Party Submissions

13. No submission was received.

Competitive Analysis

Horizontal Overlap

14. There is no actual horizontal overlap between the business activities of the parties in the State. DWTE Poolbeg in Dublin is Covanta Holding’s only activity in the State. None of Macquarie’s businesses and/or operating groups, with activities that generate turnover in the State, are currently involved in any of the activities in which CEAL is involved in the State. However, there could be a potential horizontal overlap between

⁸ [...] = Confidential to Covanta Holding.

⁹ Following an internal re-structuring within Covanta Holding in preparation for the Proposed Transaction, DWTE Poolbeg is held by CEAL.



Macquarie and CEAL in relation to the generation of electricity on the island of Ireland. Macquarie [...].

15. The Commission considers, even if [...] the combined installed generation capacity of CEAL (61 MW) and [...]. The Commission considers that this resulting generation capacity will not raise competition concerns in relation the potential market for the generation and wholesale supply of electricity into the SEM/I-SEM.¹⁰
16. Therefore, the Commission is of the view that the Proposed Transaction does not raise any horizontal competition concerns in the State.

Vertical Relationship

17. The parties have stated in the notification that there is no vertical relationship between the parties in the State. Therefore, the Proposed Transaction does not raise any vertical competition concerns in the State.

Conclusion

18. 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

19. No ancillary restraints were notified.

¹⁰ Total installed generation capacity on the island of Ireland is 10,372 MW at the end of 2017: http://www.eirgridgroup.com/site-files/library/EirGrid/Generation_Capacity_Statement_20162025_FINAL.pdf



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 Macquarie Group Limited (through an indirect wholly-owned subsidiary, Dalmatia WTE EUR Holdings Limited) and Covanta Holding Corporation (through a direct wholly owned subsidiary, Covanta Holding 3 UK Limited) would acquire joint control of Covanta Europe Assets Limited (including the Dublin Waste to Energy facility located at Poolbeg in Dublin), 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

Brian McHugh
Member
Competition and Consumer Protection Commission