CCPC Mergers & Acquisitions Report 2017

Details of the mergers and acquisitions in Ireland examined by the CCPC.

Coimisiún um Iomaíocht agus Cosaint Tomhaltóirí
Competition and Consumer Protection Commission

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1. Introduction

1.1 The Competition and Consumer Protection Commission (CCPC) is responsible for reviewing proposed mergers and acquisitions which are notified under Part 3 of the Competition Act 2002, as amended ("the Act").

1.2 The role of the CCPC in the merger review process is to assess notified mergers to ensure that, if approved, there are no negative implications for consumers through the substantial lessening of competition.

1.3 Businesses involved in a proposed merger or acquisition transaction, where they meet certain financial thresholds[1], are required to notify the CCPC. All media mergers must be notified separately to both the CCPC and the Minister for the Department of Communications, Climate Action and Environment (the Minister). A mandatorily notified proposed merger or acquisition cannot be implemented until a Determination clearing the proposed merger or acquisition has been made by the CCPC, and separately also from the Minister in respect of media mergers.

1.4 In 2014, Ireland enacted the Competition and Consumer Protection Act 2014 which introduced changes to the financial thresholds for mandatory merger notification and the time periods for review. For example, the number of days for merger review changed from calendar days to working days, bringing the Irish merger regime more in line with that elsewhere in the EU.

1.5 The CCPC has established procedures for the review of notified mergers and has published guidelines outlining how it assesses notified mergers which follow best international practice. All current procedures and guidelines are published on https://www.ccpc.ie/business/mergers.

1.6 In 2017, the Department of Business, Enterprise and Innovation (DBEI) opened a consultation on whether further amendments of certain aspects of the merger

[1] A combined turnover of €50 million or more and where each of two of such businesses generate a turnover of over €3million in the State

review regime are required. The DBEI has requested the views of the public on whether: (i) the financial thresholds for mandatory notification of mergers should be adjusted upwards and (ii) the time periods for review of notified mergers are appropriate.

1.7 In 2017, the CCPC received 72 merger notifications, involving businesses which generated an estimated aggregate turnover of €56 billion within the State[2], and issued 68 merger determinations. During 2017 the CCPC also increased its monitoring of merger activities in the State in order to establish whether businesses are complying with the merger notifications requirements under the law.

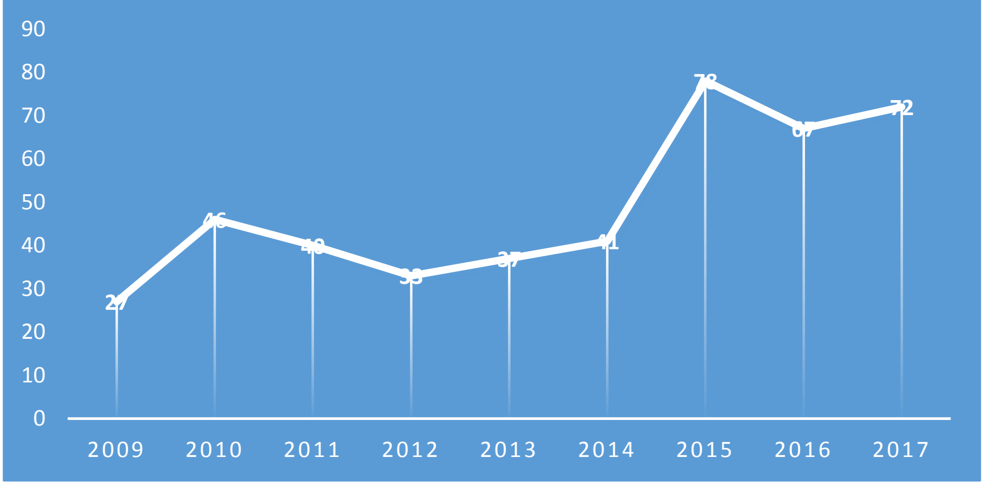
[2] Individual turnovers ranges from between just over €3 million and over €3 billion.

2. 2017 Merger Notifications & Determinations

Notifications

2.1 For the calendar year 2017, the CCPC received 72 merger notifications, which represents an increase of approximately 7.5% of the number of mergers notified in 2016. Figure 1 presents the trend in the number of merger notifications to the CCPC and formerly, the Competition Authority, for the years 2009 through to 2017.

FIGURE 1: TOTAL ANNUAL MERGER NOTIFICATIONS RECEIVED: 2009-2017



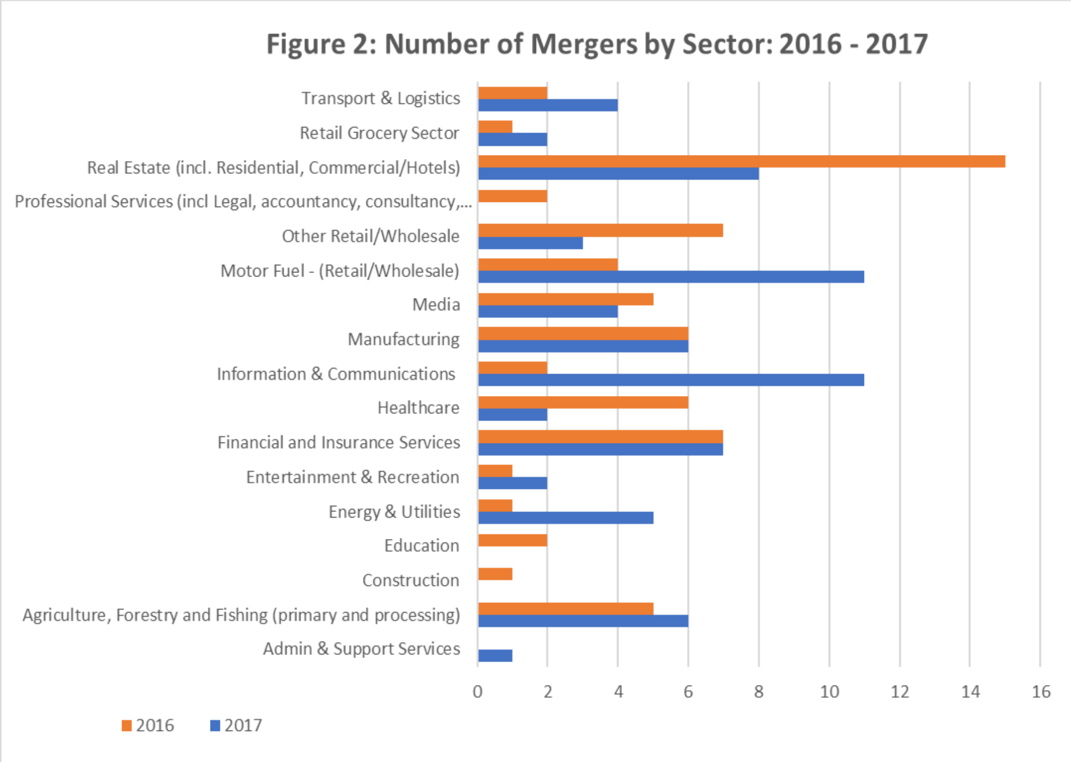
2.2 Of the 72 notifications received in 2017, nine (12.5% of cases) required an extended Phase 1 investigation. One proposed transaction, M/17/055 – Siris Capital Group (US) LLC / Synchronoss Technologies INC (US), was subsequently withdrawn after the parties reported that they did not meet the financial thresholds for mandatory notification.

Sectoral Breakdown of Notified Mergers

2.3 The sectoral[3] breakdown of mergers received in 2016 and 2017 are presented in Figure 2 below. In 2016, the most prominent sector was real estate followed by

[3] Sector description adapted from the CSO based on NACE classifications

financial and insurance services. In 2017, while real estate still featured strongly, the most prominent sectors were motor fuel (retail/wholesale) and information and communications. Mergers in financial and insurance services remained strong.



Determinations

2.4 During the course of 2017, the CCPC issued 68 Determinations, 61 of which were issued in respect of proposed transactions notified during 2017 and the remaining seven were in respect of proposed transactions notified towards the end of 2016.

2.5 Determinations were made in respect of seven out of the nine extended Phase 1 investigations within a time period ranging from 50 to 85 working days, while the remaining two were still under consideration at the end of 2017. Table 1 below presents a list of mergers which required an extended Phase 1 investigation.

Table 1: - Extended Phase 1 Investigations

M/17/005 – VHI Investments/VHI Switftcare Clinics

M/17/012 – Kantar Media/Newsaccess

M/17/021 – Applegreen/50% of Joint Fuels Terminal

M/17/027 – Dalata/Clarion Liffey Valley/Clayton Cardiff Lane

M/17/035 – Dawn Meats/Dunbia

M/17/036 – Sean Loughnane/Crinkle Fine Foods

M/17/040 – Independent Newspapers/Caltray

***M/17/056 – Bay Broadcasting/ Classic Rock Broadcasting**

***M/17/064 – Tetrarch/Citywest**

*Ongoing investigations carried over to 2018

2.6 While the CCPC did not prohibit any mergers during 2017, formal commitments to alleviate competition concerns were required and obtained from parties in respect of the cases presented in Table 2 (approximately 6% of all notified mergers).

Table 2: - Mergers Cleared with commitments - 2017

M/17/012 – Kantar Media/Newsaccess

M/17/021 – Applegreen/50% of Joint Fuels Terminal

M/17/027 – Dalata/ Clarion Liffey Valley/Clayton Cardiff Lane

M/17/036 – Sean Loughnane/Crinkle Fine Foods.

Timeframes

2.7 The CCPC aims at all times to make sure that it completes its merger review process in an efficient and effective manner so that mergers which do not raise competition concerns are not unduly delayed.

2.8 For mergers notified between 1 January 2017 and 31 December 2017, the CCPC took an average of 24 working days to issue a Phase 1 decision compared with 26 working days in 2016. The timelines in individual cases that did not raise serious concerns varied from 12 to 29 working days depending, for example, on the complexity of the transaction and the nature of the competition issues involved.[4]

2.9 Since our role is to actively protect the interests of consumers and businesses, there are some notified transactions which may require more intensive scrutiny and an extended review period to enable the CCPC to issue the correct Determination in phase 1.

[4] This excludes those merger reviews which required an extended Phase 1 Investigation.

3. Extended Phase 1 Investigations

M/17/005 – Vhi Investments/Vhi Switftcare Clinics

3.1 The proposed transaction whereby Vhi Investments DAC, an indirectly wholly-owned subsidiary of the Voluntary Health Insurance Board ("Vhi"), would acquire sole control of Aras Slainte Limited was notified to the CCPC on 1 February 2017. Both Vhi Investments DAC and Aras Slainte Limited, a subsidiary of Centric Health and ultimately owned by Jellia Holdings Limited, are active in the provision of primary care services in the State through a 50% interest each in three Vhi SwiftCare clinics located at the following addresses in the State:

- Rockfield Medical Campus, Balally, Dundrum, Dublin 14;
- Columba House, Airside Retail Park, Swords, Co. Dublin; and,
- City Gate, Mahon, Co. Cork.

3.2 Following completion of the proposed transaction, Vhi, through Vhi Investment DAC, would acquire sole control of three Vhi SwiftCare clinics.

3.3 The Act requires the CCPC to determine whether the proposed transaction would result in a "substantial lessening of competition". During the extended investigation, the CCPC requested and received, on an on-going basis, further information and clarifications from the notifying parties and third parties. The CCPC's analysis of the proposed transaction involved an in-depth economic assessment of the affected relevant markets, being the potential downstream market for the provision of private health insurance in the State and the potential upstream market for the provision of primary care services (including primary care provided by hospitals, clinics and individual medical professionals) in each of the following three geographic areas:

- The geographic area within a radius of 10 miles (16kms) from the Vhi SwiftCare clinic in Balally, Dundrum, Dublin 14 (limited to south of the River Liffey);

- The geographic area within a radius of 10 miles (16kms) from the Vhi SwiftCare clinic in Airside Retail Park, Swords, Co. Dublin (limited to the north of the River Liffey); and,

- The geographic area within a radius of 15 miles (25kms) from the Vhi SwiftCare clinic in City Gate, Mahon, Co. Cork.

3.4 Vhi is engaged downstream in the provision of private health insurance in the State while Aras Slainte Limited, through its 50% interest in the *Vhi SwiftCare clinics*, is involved upstream in the provision of primary care services. Therefore, the proposed transaction was not a simple joint-to-sole control acquisition. It was also a vertical merger and the CCPC conducted an extensive assessment to establish whether the proposed transaction raised any substantial lessening of competition concerns any of the potentially affected markets identified. Upon completion of its review, on 10 May 2017, the CCPC issued an unconditional clearance Determination to the parties.

M/17/012 – Kantar Media/Newsaccess

3.5 On 2 February 2017, through our market surveillance, the CCPC became aware of the proposed transaction whereby Mediawatch Limited, trading as Kantar Media ("Kantar Media"), a wholly owned subsidiary of WPP plc, would acquire sole control over Newsaccess Limited ("Newsaccess").

3.6 Both Kantar Media and Newsaccess provide media monitoring services (multichannel media monitoring and media analysis services) in the State. The media channels monitored as such include: print media,[5] broadcast media,[6] on-line/digital media,[7] social media[8] and international media and contacted the merging parties enquiring whether the transaction would be notified. The parties informed the CCPC that the proposed transaction fell below the financial thresholds for mandatory notification. Following a preliminary assessment of

[5] National, regional newspapers, business and consumer press.
[6] TV and radio.
[7] E.g., Online news portals.
[8] E.g., Twitter, Facebook and YouTube

information in its possession, the CCPC was concerned that the proposed merger would result in Kantar Media removing its closest and most substantial competitor from the market. The CCPC therefore informed the parties that they should make a voluntary notification[9] of the proposed merger.

3.7 On 9 March 2017, the proposed acquisition by Kantar Media of Newsaccess was notified under section 18(3) of the Act. Following an extended preliminary (Phase 1) investigation, which included Requirements for Information from the parties and consultation with a number of organisations, including competitors, industry bodies and customers, the CCPC, on 11 July 2017, cleared the proposed transaction with binding commitments.

3.8 During the investigation, the CCPC identified competition concerns arising from the proposed merger in the potential market for media monitoring services (print and broadcast) within the State. To address these concerns and facilitate replacement of the competition that would have been lost as a result of the proposed transaction, the CCPC required Kantar Media to submit proposals, which included a divestment of fixed assets and the release of a number of contracted customers from the remaining term of their fixed-term contracts. Some of the other proposals related to the operation of certain aspects of the Newsaccess business for a specific period after the implementation of the proposed transaction. Kantar Media was required to divest the fixed assets and commit to releasing a number of contracted customers from the remaining term of their fixed term contracts before the CCPC cleared the proposed merger.

3.9 The CCPC formed the view that the proposals obtained from Kantar Media, which the CCPC took into account and formed part of the basis of its determination, and therefore pursuant to section 20(3) of the Act became binding commitments, were appropriate and effective in addressing the competition concerns.

[9] Pursuant to section 18(3) of the Act, in the case of a proposed merger or acquisition that is not required to be notified under section 18(1) of the Act (i.e., not a mandatory notifiable merger), any of the undertakings involved in the merger or acquisition may, before putting the proposed transaction into effect, notify the CCPC in writing, providing full details of the proposal to put the merger or acquisition into effect (i.e. notify the CCPC on a voluntary basis).

3.10 At the time, Isolde Goggin, Commission Chair, commented, “Our role in reviewing mergers and acquisitions is to ensure that they do not substantially lessen competition in any market for goods or services in the State. We are satisfied following our extensive investigation, and in light of the binding commitments which we have sought and secured, that we have safeguarded competition in this sector. It is important for companies and their advisors to take note that even where turnovers fall below the required financial thresholds for mandatory notification, they still have a duty to ensure that any mergers or acquisitions they propose or undertake do not substantially lessen competition in their relevant market. The CCPC will use its powers to ensure that mergers that do not meet the required financial thresholds for mandatory notification, but that are likely to result in a substantial lessening of competition, do not go unchecked.”

M/17/021 – Applegreen/50% of Joint Fuels Terminal

3.11 On 30 June 2017, the CCPC cleared the proposed acquisition by Applegreen Public Limited Company (“Applegreen”) of 50% interest in the Joint Fuels Terminal (“JFT”) in Dublin subject to binding commitments received from Applegreen. The 50% interest in the JFT being acquired by Applegreen was previously held by Esso Ireland Limited (“Esso Ireland”) and divested by Topaz Investments Limited (“Topaz”) pursuant to the CCPC’s Determination in M/15/020. The remaining 50% of the JFT remains under the control of Valero Energy (Ireland) Limited (“Valero”).

3.12 Applegreen is a public limited company registered within the State, originally established in 1992 and through its subsidiary, Petrogas Group Limited, Applegreen is active in the retail sale of motor fuels through a network of mainly *Applegreen*-branded retail fuel service stations within the State. In addition, Applegreen’s service stations have convenience retail stores offering grocery goods, coffee and hot food. These include franchises operated by Applegreen at larger sites, including: Burger King, Costa Coffee, Greggs, Chopstix and Subway. Applegreen and its subsidiaries also operate a network of motor fuel forecourts outside the State, also trading mainly under the Applegreen brand. Applegreen is also involved in the issuing of own brand fuel cards.

3.13 The JFT in Alexandra Road, Dublin is an unincorporated joint venture (historically jointly controlled by Esso Ireland and Valero) which operates as a sea-fed fuel terminal in Dublin Port. A Joint Operating Agreement between the parties to the joint venture, governs the relationship between them. Valero is currently the operator of the JFT.

3.14 The analysis of the proposed transaction identified a number of potential competition concerns. Subsequent to discussions with the parties, the CCPC required the parties to submit proposals pursuant to section 20(3) of the Act which became binding commitments. These commitments were aimed at ensuring that Applegreen fully replaced Esso Ireland in the JFT and restores the competition that would have been lost as a result of the acquisition of Esso by Topaz. As a result of the commitments, Applegreen will import and supply refined fuel products, including aviation fuel (Jet A1), through the JFT.

3.15 Taking the commitments by Applegreen into account (which formed part of the basis of the CCPC's Determination), the CCPC formed the view that the proposed transaction would not substantially lessen competition in any market for goods or services in the State.

M/17/027 – Dalata/Clarion Liffey Valley/Clayton Cardiff Lane

3.16 On 17 May 2017, the proposed transaction whereby Dalata Hotel Group p.l.c. ("Dalata") would acquire the business and certain parts of the Clarion Hotel, Liffey Valley, Dublin 22 and certain parts of the Clayton Hotel, Cardiff Lane, Dublin 2, was notified to the CCPC under section 18(1)(a) of the Act.

3.17 The CCPC, on 29 August 2017, cleared the proposed transaction subject to binding commitments. The clearance decision was reached following an extended preliminary (Phase 1) investigation by the CCPC, which included a Requirement for Further Information served on Dalata. During its investigation, the CCPC identified a potential competition concern arising from Dalata's management of hotels on behalf of third parties in the State, namely the potential that such management arrangements may provide Dalata (and the hotels that it currently owns, controls and leases) with access to competitively sensitive information (e.g., room rates) relating to the hotels that Dalata manages. The CCPC also identified a competition concern regarding the potential that such management agreements enable Dalata to exercise control, within the meaning of section 16 of the Act, over the hotels that it manages in the State.

3.18 To address these concerns, the CCPC required Dalata to submit proposals, which included confidentiality and merger notification commitments. The confidentiality commitment is intended to prevent the exchange of competitively sensitive information between any hotel which Dalata is appointed to manage in the future and any hotel owned, controlled, leased or operated by Dalata in the State which competes with such hotel, which would constitute a breach of section 4(1) of the Act. The merger notification commitment requires Dalata to inform the CCPC of any proposal by Dalata to begin operating a hotel in the State on behalf of a third party, where this would not otherwise be notifiable compulsorily to the CCPC. Furthermore, the CCPC may require the voluntary notification of any such proposal (constituting a merger or acquisition under Part 3 of the Act), even if such proposal would not otherwise be notifiable to the CCPC or to the European Commission.

3.19 The CCPC is of the view that the proposals obtained from Dalata are appropriate and effective in addressing its competition concerns. The CCPC has taken these proposals into account and they form part of the basis of its determination. As a result, the proposals have become binding commitments upon Dalata.

M/17/035 – Dawn Meats/Dunbia

3.20 On 16 June 2017, the CCPC received a notification of a proposed transaction whereby Dawn Meats Ireland Unlimited Company would acquire sole control of each of Dunbia (Ireland) Limited and Dunbia (Slane) and the establishment by Dawn Holdings Limited and Mr. Jim Dobson of a joint venture company which will acquire the beef and lamb businesses in the United Kingdom ("the UK") of the Dunbia group of companies ("Dunbia") and of the Dawn Meats group of companies ("Dawn Meats").

3.21 In the course of an extended Phase 1 investigation, the CCPC consulted with a number of third parties, including competitors, customers, industry representative bodies and the Department of Agriculture, Food and the Marine. In addition, the CCPC carried out a detailed econometric analysis of the trend in the prices paid by slaughterhouses to farmers for live cattle for slaughter in the State over the period January 2011-September 2017. The CCPC also served a Requirement for Further Information on both Dawn Meats and Dunbia. Following this detailed assessment, the CCPC formed the view that the proposed transaction will not substantially lessen competition in any market for goods or services in the State.

3.22 In reaching this determination, the CCPC analysed the likely competitive impact of the proposed transaction in the following potential markets:

- The purchase of live cattle for slaughter within a 100km radius of Dunbia’s slaughtering facility in Slane, Co. Meath;
- The purchase of live cattle for slaughter in the State;
- The sale of fresh beef meat to grocery retailers in the State;
- The sale of fresh beef meat to industrial processors in the State;
- The purchase of live lambs and live sheep for slaughter in the island of Ireland; and
- The sale of fresh lamb meat to grocery retailers in the State.

3.23 The econometric analysis suggested no evidence of coordinated behaviour in the potential market for the purchase of live cattle for slaughter in the State. No third party provided evidence to suggest the existence of any form of coordination of prices for the purchase of live cattle for slaughter between competing beef processors in the State.

3.24 The CCPC’s analysis concluded that the proposed transaction will not, in itself, make it more likely that Dawn Meats and its competitors will engage in coordinated behaviour in the potential market for the purchase of live cattle for slaughter in the State.

3.25 The CCPC’s econometric analysis of prices paid by slaughterhouses to farmers for live cattle showed two central findings: (1) there is a seasonal variation in the prices paid by slaughterhouses for live cattle in the State with prices typically peaking in July and falling in the autumn months; and (2) the prices paid by slaughterhouses for live cattle in the State did not decline over the period January 2011-September 2017. There is no consistent identifiable trend in the prices paid by slaughterhouses for live cattle in the State over this time period.

3.26 In the course of its analysis, the CCPC also assessed whether the proposed transaction will, post-transaction, give Dawn Meats the ability and incentive to lower the prices it pays to farmers for live cattle for slaughter (or otherwise harm competition) in the State. The CCPC found that post- transaction, the increase in Dawn Meat's market share will be relatively small, and will not in itself result in Dawn Meats having the ability and incentive to unilaterally lower the prices it will pay to farmers for live cattle for slaughter in the State. Additionally, the CCPC found no evidence to suggest that Dawn Meats and Dunbia are each other's closest competitor in the purchase of live cattle for slaughter in the State. The CCPC found that, post-transaction, Dawn Meats will continue to face competition from three multi-abattoir beef processors (ABP Food Group, Kepak Group Unlimited Company and Liffey Meats Unlimited Company) and a number of single-abattoir beef processors (e.g., Kildare Chilling Company, Moyvalley Meats, Foyle Food Group, etc.) currently active in the State. The CCPC found that all of these competing beef processors have existing spare capacity for slaughtering live cattle and processing beef in their facilities. The CCPC also found that farmers have the ability to switch easily between slaughterhouses.

3.27 With respect to the other four potential markets examined by the CCPC (i.e., the sale of fresh beef meat to grocery retailers in the State; the sale of fresh beef meat to industrial processors in the State; the purchase of live lambs and live sheep for slaughter in the island of Ireland; and the sale of fresh lamb meat to grocery retailers in the State) the CCPC has concluded that the proposed transaction will not substantially lessen competition in any of these four potential markets. In each of these four potential markets, there is a negligible horizontal overlap between Dawn Meats and Dunbia and, post-transaction, Dawn Meats will continue to face competition from a number of competitors currently active in the State.

3.28 The part of the proposed transaction pertaining to the establishment by Dawn Holdings Limited and Mr. Jim Dobson of a joint venture company which will acquire the beef and lamb businesses in the UK was notified to the UK Competition and Markets Authority ("CMA") on 10 August 2017. Separately, the proposed transaction whereby ABP Food Group and Fane Valley Co-operative Society Limited would acquire joint control of the Linden Food Group was notified to the European Commission on 25 August 2017. Linden Food Group is a meat processor located in Northern Ireland. During the extended Phase 1 investigation, the CCPC discussed, with both the CMA and the European Commission, possible theories of consumer harm resulting from the proposed transactions for the purchase of live cattle and live lambs and sheep for slaughter in the State and the sale of fresh beef meat and lamb meat in the State. The outcome of both the CMA's and European Commission's investigations did not affect the conclusions of the CCPC.

3.29 Following the detailed assessment, the CCPC formed the view that the proposed transaction will not substantially lessen competition in any market for goods or services in the State and on 29 September 2017, the CCPC issued an unconditional clearance Determination to the parties.

M/17/036 – Sean Loughnane/Crinkle Fine Foods

3.30 The proposed transaction whereby Sean Loughnane (Galway) Limited ("Sean Loughnane") would acquire certain business assets of Crinkle Fine Foods Unlimited Company ("Crinkle Foods") was notified to the CCPC on 29 June 2017.

3.31 Sean Loughnane operates a meat processing site located in Galway City and produces processed pork products, such as branded and own label sausages and breakfast puddings, which it supplies to wholesalers, retailers and foodservices providers in the State and the UK.

3.32 Crinkle Foods is a wholly-owned subsidiary of Goldreed Holdings Unlimited Company and operates a meat processing site located in Birr, Co, Offaly. Crinkle Foods is involved in the production and supply of processed meats, such as sausages, rashers and breakfast puddings, which it supplies to wholesalers retailers and foodservices providers in the State.

3.33 The CCPC conducted an extended preliminary (Phase 1) investigation, which included a Requirement for Further Information served on both Sean Loughnane and Crinkle Foods. During said investigation, the CCPC identified a potential anti-competitive clause in the asset purchase agreement ("the Agreement") between Sean Loughnane and Crinkle Foods which would prevent Sean Loughnane from engaging in business activities which compete with a third company for 24 months from the completion of the proposed transaction.

3.34 To address the potential competition concern identified, the CCPC required Sean Loughnane and Crinkle Foods to submit proposals in accordance with section 20(3) of the Act. In this regard Crinkle Foods and Sean Loughnane submitted binding commitments which allowed them to vary the terms of the Agreement by deleting the relevant clause of the Agreement in its entirety, effective from 29 September 2017. In addition, both Sean Loughnane and Crinkle Foods committed not to put into effect any arrangements that would have the same or similar effect to the said clause.

3.35 The CCPC subsequently cleared the proposed transaction, subject to binding commitments on 3 October 2017.

M/17/040 – Independent Newspapers/Caltray

3.36 The CCPC, on 11 October 2017, cleared the proposed transaction whereby Independent News & Media Plc ("IN&M"), through its wholly-owned subsidiary Independent Newspapers (Ireland) Limited ("INI"), and Caltray Limited ("Caltray") would acquire joint control of Offscript Studios Limited ("Offscript Studios"). The proposed transaction was notified to the CCPC on 10 July 2017.

3.37 IN&M is a public limited company incorporated in the State and listed on the Irish and London Stock Exchanges and operates a newspaper and media group on the island of Ireland.

3.38 Caltray is a holding company and one of its shareholders owns ShinAwil Limited, which is involved in the production of television shows such as The Apprentice, Dragon's Den, MasterChef Ireland and the Voice of Ireland.

3.39 The parties submitted that following completion of the proposed transaction, Offscript Studios will be involved in the production, marketing, licensing and sale of online digital video content for branded advertising.

3.40 The proposed transaction involves a vertical merger whereby IN&M subcontracted the production of two video advertising campaigns to ShinAwiL and IN&M is involved in distribution/disclosure of such video contents on its online platform. Also, IN&M could use the JV Company to produce digital video content for IN&M's advertising clients.

3.41 In its review of the proposed transaction, the Commission assessed whether, post-transaction, IN&M will have the ability and incentive to foreclose its competitors by requiring brands and advertising agencies to only use the JV Company and IN&M online platform in the market for the production, sale/licensing and distribution/disclosure of digital video content for branded advertising in the State.

3.42 The CCPC's clearance decision followed an extended preliminary (phase 1) investigation of the proposed transaction. The investigation included a Requirement for Further Information served on INI, IN&M and Caltray. The CCPC found that there will remain sufficient and large competitors in the market post-transaction. The CCPC, therefore, formed the view that the proposed transaction will not substantially lessen competition in any market for goods or services in the State.

4. Media & International Mergers

Media Mergers[10]

4.1 Under section 18(1)(b) of the Act (as amended by section 55(a) of the 2014 Act) and 18(5) of the Act, where a proposed merger or acquisition falls within a class of merger or acquisition specified in an order made by the Minister for Business, Enterprise and Innovation, it must be notified to the CCPC irrespective of the turnover of the undertakings involved. One such class of mergers that has been specified relates to media mergers.[11]

4.2 Over the period from 1 January 2017 to 31 December 2017 the CCPC received four (4) media merger notifications. Table 3 presents the list of media mergers notified in 2017. The CCPC has issued unconditional Determinations in respect of two and the remaining two, namely M/17/056 – Bay Broadcasting/Classic Rock Broadcasting and M/17/068 - Irish Times/Irish Examiner, are currently under investigation.

Table 3: - Media mergers notified - 2017

M/17/009	The Color Company TM/Certain assets of Irish TV
M/17/017	Landmark Digital/BenchWarmers
M/17/056	Bay Broadcasting/ Classic Rock Broadcasting t/a Radio Nova
M/17/068	Irish Times/Irish Examiner

[10] Part 3A of the Competition Act 2002, as amended, introduced substantial changes to the review of media mergers in the State. In addition to the mandatory requirement to the CCPC media mergers are also required to be notified to the Minister for Communications, Climate Action and Environment in order that assess the impact of the merger on the plurality of the media in the State.

[11] A media merger a merger or acquisition where (i) two or more of the undertakings involved carry on a media business in the State; one or more of the undertakings involved carries on a media business in the State and one or more of the undertakings involved carries on a media business elsewhere.

International Mergers

4.3 The CCPC is required to monitor EU merger activity and when it considers there is a significant interest to Ireland can attend and participate in EU merger advisory committees. Over the period 1 January 2017 to 31 December 2017, the CCPC closely followed the European Commission's investigations into a number of proposed mergers including the following:

- M.8084 – Bayer/Monsanto
- M.8354 – 21st Century Fox/Sky M.7421 – Orange/Jazztel
- M.8601 – Greenergy/Inver
- M.8228 – Facebook/WhatsApp
- M.8306 - Qualcomm / NXP Semiconductors

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