



DETERMINATION OF MERGER NOTIFICATION M/18/072 - PETROGAS / GLENVIEW MOTORS

Section 21 of the Competition Act 2002

Proposed acquisition by Applegreen plc, through Petrogas Group Limited, of sole control of a retail motor fuel service station located at Killarney Road, Macroom, Co. Cork.

Dated 02 October 2018

Introduction

1. On 28 August 2018, 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 acquisition whereby Applegreen plc (“Applegreen”), through its wholly-owned indirect subsidiary, Petrogas Group Limited (“Petrogas”), would acquire sole control of certain assets comprising a retail service station located at Killarney Road, Macroom, Co. Cork (the “Target”) from Mr. Michael McCarthy and Ms. Nora McCarthy (the “Proposed Transaction”).

The Proposed Transaction

2. The Target is currently owned and operated by Mr. Michael McCarthy and Ms. Nora McCarthy.
3. The Proposed Transaction involves the acquisition by Petrogas of a long-term leasehold interest¹ in a retail motor fuel service station (comprising a petrol filling station, a carwash, a forecourt, a convenience store, an off-licence, stores and restaurants, collectively known as *Glenview Motors* at Killarney Road, Macroom, Co.

¹ The parties have informed the Commission that the lease granted to Petrogas is for a term of [...] from the “Term Commencement Date” as defined in the agreement for lease.



Cork) pursuant to an agreement for lease (the “Agreement”) dated 30 July 2018. The Agreement is between Michael and Nora McCarthy, and Petrogas.

4. Following completion of the Proposed Transaction, Applegreen, through Petrogas, will acquire sole control of the Target.

The Undertakings Involved

Petrogas

5. Petrogas is a private limited company registered in the State and is a wholly-owned indirect subsidiary of Applegreen. Petrogas’ main activity in the State is the operation of a network of retail motor fuel service stations and associated forecourt convenience stores, predominantly under the *Applegreen* brand.

Applegreen

6. Applegreen is a public limited company registered in the State. In addition to operating retail motor fuel service stations in the State, Applegreen and its subsidiaries also operate retail motor fuel service stations in the United Kingdom and in the United States, which predominantly trade under the *Applegreen* brand.
7. The parties have informed the Commission that as of 31 December 2017, Applegreen had a network of 177² retail motor fuel service stations in the State, which can be divided into three categories:
 - a. 87 company-owned and company-operated (“CoCo”) sites, which sell retail motor fuel along with a forecourt convenience store and one or more food offerings;

² This number has increased since 31 December 2017, i.e., as of June 2018, Applegreen had a total of 184 sites in the State. In response to an informal information request by the Commission, Applegreen noted the following in relation to this increase: “Between January and June 2018, Applegreen added [...] dealer-owned, dealer-operated sites and [...] company-owned, company-operated sites to its network, while [...] stations closed or left the network in that period, giving a net increase of [...] locations.” The Commission notes that on 29 March 2018, the Commission approved the acquisition by Applegreen of sole control of certain assets of a retail motor fuel service station and associated forecourt convenience store at Carranstown, Duleek, Co. Meath. Please see M/18/023 – Petrogas (Applegreen)/Service Station at Carranstown, Duleek which is accessible at <https://www.cpc.ie/business/mergers-acquisitions/merger-notifications/m18023-petrogas-applegreen-service-station-carranstown-duleek/>



- b. 30 CoCo service area sites, which are larger than normal retail motor fuel service stations and located in areas where there is heavy traffic or in urban areas. These service sites include a large area with ample parking along with a forecourt convenience store and three or four food offerings. In addition to retail fuel for cars, they also have filling stations for trucks and other large vehicles; and
 - c. 60 dealer-owned and dealer-operated (“DoDo”) retail motor fuel service stations, whereby Applegreen supplies motor fuel to the independent dealers under solus supply agreements between Applegreen and the relevant dealer. At these stations, the *Applegreen* brand is used on the pumps and forecourt canopy, whilst the forecourt convenience store offering and revenue remain under the control of the dealer.
8. Applegreen is also active in the retail sale of grocery goods, coffee and hot food in the State via its forecourt convenience stores located adjacent to Applegreen service stations. Applegreen has a number of strategic partnerships with international food and beverage brands, notably *Burger King*, *Costa Coffee*, *Lavazza*, *Freshii*, *7-Eleven*, *Greggs*, *Chopstix* and *Subway*, which operate on a franchise basis at Applegreen service stations.
9. Applegreen is also active in the wholesale supply of refined petroleum fuels in the State. Furthermore, Applegreen owns a 50% interest³ in the joint fuels terminal, a sea-fed fuel terminal located in the Port of Dublin.⁴

³ In June 2017, the CCPC cleared such acquisition by Applegreen from Topaz Investments Ltd. For more information, please see Case M/17/021 Applegreen/JFT which can be accessed at: <https://www.ccpc.ie/business/mergers-acquisitions/merger-notifications/m17021-applegreenjft/>

⁴ In response to an informal information request by the Commission, Applegreen noted the following in relation to their activities in the supply of fuel terminalling services in the State: “[...]”.



10. For the financial year ended 31 December 2017, Applegreen's worldwide turnover was approximately €1.428 billion, of which approximately €778.7 million was generated in the State.

The Target

11. The Target consists of a single retail motor fuel service station (comprising a petrol filling station, a carwash, a forecourt, a convenience store, an off-licence, stores and restaurants, collectively known as *Glenview Motors*) located at Killarney Road, Macroom, Co. Cork. The Target's retail motor fuel forecourt is currently operated under the *Topaz/Circle K* brand. As noted above, the Proposed Transaction involves the acquisition by Applegreen, through Petrogas, of a long-term leasehold interest in the Target.
12. The parties have informed the Commission that Applegreen proposes to operate the Target on a CoCo basis following completion of the Proposed Transaction.
13. For the financial year ended 31 December 2016, the Target's turnover was approximately €[...], all of which was generated in the State.

Rationale for the Proposed Transaction

14. Applegreen states the following in the notification

"The commercial rationale for the Proposed Transaction is to extend Applegreen's network of retail service stations in line with Applegreen's growth strategy, while continuing to implement Applegreen's strategy of offering customers a clear value proposition in three key areas: "Low Fuel Prices Always" in fuel, "Better Value Always" in shop and "Quality Food and Beverages". Following completion of the Proposed Transaction, Applegreen intends to bring the Target retail service station under the Applegreen brand."

Third Party Submissions

15. No submission was received.

Competitive Analysis



Horizontal Overlap

16. There is a horizontal overlap between the activities of the parties with respect to the retail sale of motor fuels (diesel (DERV), petrol and automotive lubricants) and the operation of forecourt convenience stores in the State. For the reasons set out below, the Commission considers that the Proposed Transaction will not substantially lessen competition for the retail sale of motor fuels and the operation of forecourt convenience stores in the State.
17. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case. In this case, the Commission considers that there are no strong reasons to depart from its previous approach to market definition in relation to the retail sale of motor fuels and the operation of forecourt convenience stores for the purpose of assessing the competitive effects of the Proposed Transaction.⁵
18. In previous determinations, the Commission has followed the approach to geographic market definition adopted by its predecessor, the Competition Authority (the “Authority”), which previously found that there are potential local markets in relation to the retail sale of motor fuels. The Authority analysed local markets, which vary in size depending on whether the retail motor fuel service station is located in an urban or a rural location (i.e., a radius of 3.2km from a retail motor fuel service station in an urban location and a radius of 8km in a rural location). For the purposes of assessing the Proposed Transaction, the Commission has followed the same approach in its subsequent decisions and used isochrone analysis as a screening method to identify potential competition concerns.⁶

⁵ In relation to the operation of forecourt convenience stores, the Commission has on a number of occasions considered the retail grocery sector, which is comprised of a wide spectrum of outlets. There is a large and varied (in size) number of competitors in the retail sector whose presence will constrain the activities of Applegreen as an operator of forecourt convenience stores. (See, for example, M/17/011 – Maxol/Melia’s Harold’s Cross available at: <http://ccpc.ie/enforcement/mergers/merger-notices/m17011-maxolmelias-harolds-cross>). The Commission therefore decided not to focus further on this potential market in this determination.

⁶ See, for example, M/18/023 – Petrogas (Applegreen)/Service Station at Carranstown, Duleek available at <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2018/02/Determination-M-18-023-Petrogas-Carranstown-Service-Station-1.pdf>



Isochrone Analysis

19. The retail motor fuel service station located on Killarney Road, Macroom, Co. Cork (i.e. the Target) is in a rural setting. On this basis, the Commission has identified a potential local market comprising an 8km radius around the Target (the “Local Area”) for the purpose of analysing the likely competitive impact of the Proposed Transaction.
20. Applegreen does not currently own or operate a retail motor fuel service station and associated forecourt convenience store in the Local Area. The nearest retail motor fuel service station and associated forecourt convenience store owned or operated by Applegreen is located in Enniskeane, Cappeen, Co. Cork which is approximately 18.5 km driving distance from the Target.
21. Following implementation of the Proposed Transaction, Applegreen will face a competitive constraint from two retail motor fuel service stations and associated forecourt convenience stores currently active in the Local Area, i.e., a *Topaz/Circle K* retail motor fuel service station and associated forecourt convenience store located at Coolcour, Macroom, Co. Cork⁷ and an independent retail motor fuel service station and associated forecourt convenience store known as *M & J Kelleher* located at Clondrohid, Macroom, Co. Cork⁸. Therefore, following implementation of the Proposed Transaction, the Commission notes that there will be an increase in the number of different fascia operating in the Local Area, i.e., from two - *Topaz/Circle K* and an unbranded independent - to three - *Topaz/Circle K*, unbranded independent and *Applegreen*. The Commission considers that the introduction of a new brand, i.e., Applegreen, to the potential market for the retail sale of motor fuels and the operation of forecourt convenience stores in the Local Area is likely to have a pro-competitive effect and will not give rise to any substantial lessening of competition.

⁷ This retail motor fuel service station is located approximately 3.4 km (walking distance - generated from Google Maps) from the Target.

⁸ This retail motor fuel service station is located approximately 6.6 km (walking distance - generated from Google Maps) from the Target.



22. In light of the above, the Commission considers that the Proposed Transaction will not lead to a substantial lessening of competition in the potential market for the retail sale of motor fuels and operation of associated forecourt convenience stores in the Local Area.

National Analysis

23. The parties have indicated that there are currently an estimated [1750-1800] service stations operating in the State.⁹ As such, as of June 2018, Applegreen had a network of 184¹⁰ retail motor fuel service stations in the State and thereby, an estimated [10-15]%¹¹ share in the retail supply of motor fuel and operation of association forecourt convenience stores in the State, by number of sites. Following implementation of the Proposed Transaction, Applegreen's share in the supply of retail motor fuels in the State will increase by an estimated minimal [0-5]% to approximately [10-15]%.
24. In light of the above, the Commission considers that the Proposed Transaction will not lead to a substantial lessening of competition in the potential market for the retail sale of motor fuels and operation of associated forecourt convenience stores in the State.

Vertical Relationship

25. The Target is currently supplied with motor fuel products pursuant to a supply agreement with *Topaz/Circle K*.

Local Analysis

26. Following implementation of the Proposed Transaction, Applegreen will supply the Target with motor fuel products. Information provided by the parties to the Commission noted the following: "*Applegreen understands that Topaz supplies fuel to the Topaz station at Coolcour, Macroom.*" As such, following implementation of the Proposed Transaction, *Topaz/Circle K* will exert a competitive constraint on Applegreen in the wholesale supply of motor fuel products in the Local Area.

⁹ Source: Provided by the parties and based on Applegreen's own best estimate as of June 2018.

¹⁰ For more information, please see footnote 2, above.

¹¹ Source: Calculated by the Commission and based on Applegreen's own best estimate as of June 2018.



Additionally, the Commission notes that there will be an increase in the number of different fascia of suppliers active in the wholesale supply of motor fuel products in the Local Area, i.e., with the addition of Applegreen as a wholesale supplier of motor fuel products in the Local Area. The Commission therefore considers that Applegreen will not have the ability to foreclose wholesale suppliers of motor fuel products who will compete with Applegreen in the upstream potential market for the wholesale supply of motor fuels in the Local Area following completion of the Proposed Transaction.

27. In light of the above, the Commission considers that the Proposed Transaction does not raise any vertical competition concerns in the Local Area.

National Analysis

28. The parties have indicated that as of June 2018, Applegreen supplied motor fuels to approximately [10-15]% of the retail motor fuel service stations in the State.¹² Following implementation of the Proposed Transaction, Applegreen's share in the wholesale supply of motor fuels in the State will increase by an estimated minimal [0-5]% to approximately [10-15]%.
29. In addition, the Commission notes that there are a number of significant competitors of Applegreen, such as *TOP*, *Inver Energy*, *Valero* and *Circle K*, which are currently active in the supply of refined fuel products in the State. The Commission therefore considers that Applegreen will not have the ability to foreclose wholesale suppliers of refined fuel products who will compete with Applegreen in the upstream potential market for the wholesale supply of motor fuels in the State following implementation of the Proposed Transaction.
30. In light of the above, the Commission considers that the Proposed Transaction does not raise any vertical competition concerns in the State.

Conclusion

¹² Source: Provided by the parties and based on Applegreen's own best estimate as of June 2018.



31. 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

32. No ancillary restraints were notified.



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 Applegreen plc, through its wholly-owned indirect subsidiary Petrogas Group Limited, would acquire sole control of a retail service station located at Killarney Road, Macroom, Co. Cork from Mr. Michael McCarthy and Ms. Nora McCarthy 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