



DETERMINATION OF MERGER NOTIFICATION M/19/005 FRS/TURAS NUA

Section 21 of the Competition Act 2002

Proposed acquisition by National Co-Operative Farm Relief Services Limited, through FRS Business Services Co-Operative Society Limited of sole control of Turas Nua Limited.

Dated 12 April 2019

Introduction

1. On 15 March 2019, 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 National Co-Operative Farm Relief Services Limited (“NCFRS”), through FRS Business Services Co-Operative Society Limited (the “Purchaser”), would acquire sole control of Turas Nua Limited (the “Target Company”) and certain assets (the “Target Assets”) of Working Links (Employment) Limited (in administration) (the “Vendor”). The Target Assets comprise IT assets and software licences required for the operation of the business of the Target Company.
2. For the purposes of this determination NCFRS together with its subsidiaries: FRS Recruitment Society Limited (“FRS Recruitment”); FRS Training Society Limited (“FRS Training”); FRS Herdwatch Limited (“FRS Herdwatch”); and the Purchaser, are collectively referred to as “FRS Network”.

The Proposed Transaction

3. “FRS Recruitment” and the Vendor each currently hold 50% of the Target Company’s issued share capital. The Proposed Transaction is to be implemented by way of a share



purchase agreement and asset purchase agreement. At the date of notification, the parties had not executed those agreements. Nonetheless, the parties submitted to the Commission, together with the notification, a letter signed on behalf of the Purchaser dated 11 March 2019 setting out the principal terms and conditions on which the Proposed Transaction will take place. In the circumstances, the Commission considers that the undertakings involved have demonstrated a good faith intention to conclude an agreement for the purpose of section 18(1A)(b)(ii) of the Act.

4. Following completion of the Proposed Transaction, the Purchaser will hold the Target Assets and a 50% shareholding in the Target Company, resulting in the FRS Network acquiring sole control of the Target Company.

The Undertakings Involved

FRS Network

5. NCFRS is a farmer owned co-operative organisation established in 1980. NCFRS provides skilled people to meet customer requirements and trades under the business name “FRS Network”. The main business activities of NCFRS comprise the supply of:
 - (i) farm relief services;
 - (ii) fencing;
 - (iii) certified training across multiple sectors through FRS Training (a registered training provider for QQI, City and Guilds and Lantra);
 - (iv) recruitment solutions across all sectors of industry and all regions of Ireland, through FRS Recruitment; and
 - (v) a farm management software application known as “HerdWatch”, through FRS Herdwatch.
6. For the year ending 31 December 2018, FRS Network’s turnover was approximately [...], nearly all of which was generated in the State.



The Target Company

7. The Target Company is a joint venture, between FRS Recruitment and the Vendor. The Target delivers the JobPath scheme on behalf of the Department of Employment Affairs and Social Protection (“DEASP”)¹.
8. The Target Company is not engaged in activities beyond the operation of the JobPath Scheme, an employment activation scheme catering for people who are long-term unemployed (over 12 months).
9. For the year ending 31 December 2018 the target company’s turnover was [...], all of which was generated in the State.

The Purchaser

10. The Purchaser provides staff and facilities to the Target Company in connection with its delivery of the JobPath Scheme for the DEASP.
11. The Purchaser is not engaged in any activities beyond the supply of services to the Target Company.

The Vendor

12. The Vendor, a UK contractor, entered into administration in the United Kingdom on 15 February 2019. Prior to entering administration the Vendor provided IT managed services to the Target Company. The Vendor has no activities in the State beyond its involvement in Turas Nua.

Rationale for the Proposed Transaction

13. The parties state in the notification that:

¹ The Target Company was awarded a contract by the DEASP (the contract between the Target Company and the DEASP was entered into on 6 June 2015) to deliver the JobPath Scheme in the southern counties of Ireland. This area aligns with the divisional structure of the DEASP: Cork Central; South East; Mid-Leinster, Mid-West; South West; Midlands South.



“The commercial objective of the Proposed Transaction is to ensure the continued delivery of the JobPath Scheme for the DEASP by Turas Nua in circumstances where the other joint venture partner in Turas Nua, Working Links, has entered administration in the United Kingdom.”

Third Party Submissions

14. No submission was received.
15. The Commission did however contact the DEASP. The DEASP did not raise any concerns with respect to the Proposed Transaction.

Competitive Analysis

Horizontal Overlap

16. The Target Company’s sole activity is the operation of the JobPath Scheme, an employment activation scheme catering for people who are long-term unemployed (over 12 months). The JobPath Scheme commenced on 21 July 2015, assisting people who are long-term unemployed to secure and sustain full-time paid employment or self-employment. The DEASP selects jobseekers on a random basis for referral to JobPath. A jobseeker cannot apply directly to engage with the JobPath Scheme.
17. Selected jobseekers attend an information session with the Target Company where they will receive information on the services that will be available while on the JobPath Scheme. Following the information session, the selected jobseeker receives a one to one meeting with a personal advisor that examines the selected jobseeker’s work related skills, experience and employment preferences. From this is agreed a ‘Personal Progression Plan’, which is designed to help the selected jobseeker in their search for sustainable full-time employment.
18. [...]



19. FRS Network (through FRS Recruitment and FRS Training) is engaged in recruitment services and training across all sectors of industry and all regions of the State. However, the Commission considers that there is no horizontal overlap in the State as the services provided by the Target Company through the JobPath Scheme do not compete with those provided by FRS Network for the following reasons:
- (i) the recruitment and training activities performed by the Target Company are delivered as part of the JobPath Scheme exclusively for the benefit of unemployed persons selected for participation in the JobPath Scheme by DEASP;
 - (ii) the beneficiaries of these activities (employers and unemployed job-seekers) do not pay any fee to the Target Company;
 - (iii) jobseekers cannot apply directly to the Target Company for training or job-placement and are instead selected by the DEASP for participation in the scheme; and
 - (iv) in essence the service provided by the Target Company is the operation of the JobPath Scheme for the DEASP and the Target Company's sole customer is the DEASP.
20. The DEASP has also stated that as JobPath is targeted specifically at the long-term unemployed it "does not compete with the Department's Intreo service or the local employment service", which are "focused on short-term unemployed persons"².
21. As the services performed by the Target Company do not compete with those provided by FRS Network, the Commission considers that the Proposed Transaction does not raise any horizontal competition concerns.

Vertical overlap

² Mr. John McKeon, Secretary General of the DEASP before the Joint Committee on Employment Affairs and Social Protection debate, Tuesday, 8 May 2018.



22. There is a vertical overlap between the parties to the Proposed Transaction and the Target Company. The Purchaser currently provides staff and facilities to the Target Company, under a services agreement [...] between the Purchaser and the Target Company³. The Parties state that these services are provided exclusively to the Target Company to enable the Target Company to carry on its business. The Purchaser is not otherwise engaged in the provision of these services to third parties.
23. Outside of the parties to the Proposed Transaction, there are no suppliers to the Target Company other than of office consumables and minor supplies.
24. As the Parties to the Proposed Transaction provide services to the Target Company on an exclusive basis within the State, the Commission considers that the Proposed Transaction will not result in any vertical foreclosure concerns.

Conclusion

25. 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

26. No ancillary restraints were notified.

³ [...].



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 National Co-Operative Farm Relief Services Limited, through FRS Business Services Co-Operative Society Limited, would acquire sole control of Turas Nua Limited and certain assets of Working Links (Employment) 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

Brian McHugh
Member
Competition and Consumer Protection Commission