



DETERMINATION OF MERGER NOTIFICATION M/20/038 - DCC ENERGY/ CAMPUSOIL

Section 21 of the Competition Act 2002

Proposed acquisition by DCC Energy Limited of sole control of Campus Oil Limited.

Dated 2 February 2021

Introduction

1. On 22 December 2020, 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 DCC Energy Limited (“DCC Energy”), a wholly-owned subsidiary of DCC Public Limited Company (“DCC”) would acquire sole control of Campus Oil Limited (“COL”) and its subsidiaries (the “Proposed Transaction”).

The Proposed Transaction

2. The Proposed Transaction is to be implemented pursuant to a share purchase agreement between Campus Oil Holdings Limited (“COHL”), DCC Energy, Stafford Holdings Limited (“Stafford Holdings”) and various members of the Stafford family¹, dated 17 December 2020 (the “SPA”). Pursuant to the terms of the SPA, DCC Energy will acquire the entire issued share capital of COL together with its subsidiaries.
3. Following completion of the Proposed Transaction, DCC Energy will have sole control of COL.

The Undertakings Involved

¹ Stafford family members are [...] (hereafter referred to as “the Stafford Family Members”).



The Acquirer – DCC

4. DCC is a public limited company registered in the State and is listed on the London Stock Exchange. DCC is the parent company of an international sales, marketing and support services group of companies which is organised and managed in four separate business divisions: DCC LPG, DCC Retail & Oil, DCC Healthcare and DCC Technology, each of which is focused on its specific market sectors.² Each of these business divisions is active in the State.

DCC Energy/ Emo Oil

5. DCC Energy is a private company limited by shares registered in the State. It is a wholly-owned indirect subsidiary of DCC and forms part of DCC's Retail & Oil business division. This business division operates in eight European countries, including Austria, Denmark, France, United Kingdom, Germany, Ireland, Norway and Sweden.
6. DCC Energy's key oil/fuel distribution company in the State is Emo Oil Limited ("Emo Oil"). DCC Energy/Emo Oil has operational depots in Greenhills, Tallaght (Dublin 24), Trim (Co. Meath), Kilkenny, Clew Bay (Co. Mayo), Ballyhaunis (Co. Mayo), Limerick, Carlow and Kilcullen (Co. Kildare). It also has a dry depot in Kinsealy, Co. Dublin.
7. In the State DCC Energy/ Emo Oil are involved in the following activities:
 - a) the wholesale distribution of fuel to both independent re-sellers/retailers, who operate under their own respective trading names, and authorised distributors who re-sell to distributors and commercial and retail customers under the *Emo* brand;
 - b) occasional trading in one-off transactions (e.g. one such transaction per annum) for large volumes of fuel for use in generators that support windfarm operations;
 - c) the direct distribution/resale of bulk fuel to domestic, agricultural and commercial customers;
 - d) the operation of an oil retail website, www.supersaveroil.ie;

² See <https://www.dcc.ie/about-us>.

- e) the retail sale of fuel at 34 *Certa*-branded company owned, company operated ("CoCo") filling stations, plus 8 CoCo filling stations (6 *Emo*- and 2 *Great Gas*-branded) in addition to the operation of 6 'dealer owned, company operated' filling stations;
 - f) the wholesale supply of motor fuels to 83 dealer owned, dealer operated ("DoDo") filling stations, some of which are branded *Emo*; and
 - g) the provision of a fuel card to commercial and domestic customers.
8. For the financial year ended 31 March 2020, DCC's worldwide turnover was approximately €14.6 billion, of which approximately €[...] million was generated in the State.

The Target – COL

9. COL is a private company limited by shares registered in the State. It is currently a wholly-owned subsidiary of COHL. It is involved in the following activities in the State:
- a) the wholesale distribution of fuel to both independent re-sellers and authorised distributors (which re-sell to domestic, agricultural and commercial end-users under the *Campus* brand);
 - b) the direct distribution/resale of fuel to domestic, agricultural and commercial end-users;
 - c) the wholesale supply of motor fuels to [...] filling stations; and
 - d) the provision of fuel cards to commercial customers.³
10. COL has operational depots in Dunleer (Co. Louth), Blessington (Co. Wicklow), Kiltarnan (Co. Dublin), Ringsend (a dry depot in Dublin⁴), Carlow (Co. Carlow) and Gorey (Co. Wexford).

³ This fuel card business also involves the operation of fuel card sites at Lifford (Co. Donegal), Carrickcarnon and Dunleer (Co. Louth), Blessington (Co. Wicklow), Navan (Co. Meath) and Graiguecullen (Co. Carlow), where holders of the Campus fuel card can purchase diesel (primarily used by trucks and haulage companies). In addition, DCC Energy/Emo Oil will obtain a licence to use sites at both Rathnew (Co. Wicklow) and New Ross (Co. Wexford) post transaction.

⁴ A wet depot has large tanks to store bulk fuel whereas a dry depot is where fuel transportation vehicles are stationed.



11. COL's sister company, Campus Oil Retail Limited (which owns three service stations (plus forecourts) and two depots), was recently acquired by Lissan Coal Company (Ireland) Limited ("LCC"). [...]
12. For the financial year ended 30 September 2019, COL's turnover was €[...] million⁶, the majority of which was generated in the State.

The Vendor – COHL

13. COHL is a private company limited by shares registered in the State. It is owned by the Stafford family and Stafford Holdings. The Proposed Transaction involves the exit of COL's ultimate shareholders (the Stafford family) from the oil distribution business in Ireland. While another company owned by the Stafford family owns an oil terminal in New Ross, Co. Wexford, this terminal is currently dormant and, according to the parties, it would require very significant further investment to re-activate same. [...]

Rationale for the Proposed Transaction

14. The parties state the following in the notification:

"DCC Energy/Emo Oil wishes to expand its customer base and geographic coverage by acquiring a well-established Irish fuel distributor/reseller. The Proposed Transaction will allow DCC Energy/Emo Oil to compete more effectively and

⁵ For further information on this decision see <https://www.ccpc.ie/business/mergers-acquisitions/merger-notifications/m-20-030-campus-oil-lcc/>

⁶ These are COL's most recently audited figures.



efficiently in this sector, as it will result in routing efficiencies and expand DCC Energy/Emo Oil's operations in regions/counties on the Eastern seaboard where it currently has no or minimal presence. [...]”.

Third Party Submissions

15. No submission was received.

Competitive Analysis

Horizontal Overlap

16. Refined oil (fuel) products are either imported into the State through sea fed fuel terminals or refined at the country's only refinery, the Whitegate Refinery. There are currently five terminals importing refined fuel products in the State. Neither DCC/DCC Energy nor COL has an ownership stake in any of the five fuel terminals or in the Whitegate Refinery. Instead DCC/DCC Energy and COL source fuel from either the refinery or the various terminals.
17. COL does not own or operate any retail filling stations, therefore the retail sale of fuels from filling stations does not present a horizontal overlap.
18. There are horizontal overlaps between the parties' activities in the State by virtue of DCC Energy and COL's involvement in the following business activities:
- The wholesale (or non-retail) supply of refined fuel products⁷ (including gasoline, diesel, gas oil (10ppm and 1000ppm) and kerosene); and
 - The provision of fuel cards.

Wholesale (or non-retail) supply of refined fuel products

⁷ This includes direct distribution to commercial and domestic customers

Market Definition

19. The Commission, in its determination in [M/18/075 – Irving / Tedcastles](#), conducted the competitive assessment of a merger relating to the wholesale supply of refined fuel products without coming to a definitive view on the precise product market definition.⁸ For the purpose of conducting its competitive assessment in that case, the Commission analysed the impact of the merger by reference to the following potential product markets: (i) wholesale supply of gasoline (including biofuel); (ii) wholesale supply of motor diesel (including biofuel); (iii) wholesale supply of gas oil (10ppm); and (iv) wholesale supply of gas oil (1000ppm). The Commission also considered a potential market for the wholesale supply of all types of refined fuel products.
20. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case. In this case, it is not necessary for the Commission to conclude on the relevant product markets in respect of the wholesale supply of refined fuel products because, regardless of whether the potential product market is defined narrowly, (i.e., wholesale supply of refined fuel product by fuel type),⁹ or more broadly, (i.e., the wholesale supply of all types of refined fuel products), the Proposed Transaction is unlikely to raise any competition concerns.
21. For the purpose of assessing whether the Proposed Transaction might result in a substantial lessening of competition, the Commission has analysed its impact by reference to the potential market for the wholesale supply of all types of refined fuel products. The Commission has also analysed the impact on competition of the

⁸ Please see paragraph 38 [M/18/075 – Irving / Tedcastles](#).

⁹ Please see *COMP/M.3291 – Preem/Skandinaviska Raffinaderi (2003)*; *COMP/M.3375 – Statoil/SDS (2004)*; *COMP/M.3543 – PKN Orlen/Unipetrol (2005)*; *COMP/M.3516 – Repsol/Shell Portugal (2004)*; *COMP/M.4208 – Petroplus/European Petroleum Holdings (2006)*; *COMP/M.4545 – Statoil/Hydro (2007)*; *COMP/M.5005 – Galp Energia/Exxonmobil Iberia (2008)*; *COMP/M.5169 – Galp Energia Espana/Agip Espana (2008)*; *COMP/M.6261 – North Sea Group / Argos Groep / JV*. The European Commission previously examined the market for the wholesale supply of refined fuel products consisting of the wholesale supply to independent resellers or retailers, not integrated upstream (e.g. unbranded service station operators such as hypermarkets), as well as to large industrial and commercial end-customers (hospitals, car rental fleets, factories, etc.) and that this market constituted a distinct relevant product market. For further information please see cases *COMP/M.4545 Statoil / Hydro (2007)*; *COMP/M.5005 Galp Energia / Exxonmobil Iberia (2008)*; and *COMP/M.5169 Galp Energia Espana / Agip Espana (2008)*.



Proposed Transaction by reference to the following narrower potential product markets i.e., (i) wholesale supply of gasoline (including biofuel); (ii) wholesale supply of motor diesel (including biofuel); (iii) wholesale supply of gas oil (both 10ppm and 1000ppm); (iv) kerosene; and (v) fuel oil.

Geographic Market Definition

22. The European Commission has previously considered the geographic scope of the markets for wholesale supply of refined fuel products to be at least national.¹⁰ The Commission has previously examined this market on both regional and national geographic bases.¹¹ In previous determinations, the Commission has left open the precise geographic market while recognising the possibility of regional markets, i.e. 50-80km from an individual depot.¹²
23. The parties state in the notification that DCC Energy and COL supply their customers either directly from terminals or, where necessary, from their respective depots. Domestic, agricultural and smaller commercial end-users can typically be serviced within a radius of approximately [...] km of Dublin Port, while larger commercial end-users can be serviced within a radius of [...] km or more from sea-fed terminals where COL and DCC Energy source their oil products, namely Dublin Port, Foynes and Cork (Whitegate refinery). As regards sales from depots, the notification states that each party's sales are made predominately within a radius of around 50km from each of their depots.
24. In this case, it is not necessary for the Commission to conclude on the relevant geographic market in respect of the wholesale supply of refined fuel products. The Commission notes that regardless of whether the potential geographic market of the wholesale supply of refined fuel products is defined narrowly, (i.e., regional or local),

¹⁰ Please see COMP/M.4532 – Lukoil / ConocoPhillips (2007); COMP/M.3291 – Preem/Skandinaviska Raffinaderi (2003).

¹¹ Please see paragraph 43 [M/18/075 – Irving / Tedcastles](#).

¹² Please see for example M/15/020 – Topaz / Esso and M/18/075 – Irving / Tedcastles



or more broadly (i.e., national), the Proposed Transaction is unlikely to raise any competition concerns.

25. For the purpose of assessing whether the Proposed Transaction might result in a substantial lessening of competition, the Commission has analysed its impact by reference to both potentially regional and local geographic markets. For the sake of completeness, the Commission has also analysed the impact of the Proposed Transaction by reference to the State.

Competitive Analysis

The wholesale supply of all refined fuel products

National

26. As shown in Table 1 below, the parties estimate, based on their sectoral knowledge, that DCC Energy currently holds an [5-10]% share in the wholesale supply of all refined fuel products in the State, while COL held a [0-5]% share in the State for the 12 months ending 31 October 2020.¹³ Thus, following implementation of the Proposed Transaction, DCC Energy will hold an estimated [5-15]% share of the wholesale supply of all refined fuel products in the State. The Commission notes that DCC Energy and COL currently face a competitive constraint from other wholesale competitors, e.g., Irving Oil Limited (“Irving”), Circle K Ireland Energy Group Limited (“Circle K”), Valero Energy (Ireland) Limited (“Valero”), Applegreen Public Limited Company (“Applegreen”), and Inver Energy Limited (“Inver”). These competitors will continue to exert a competitive

¹³ Share of supply estimates are based on the total volume of refined fuel products sold by DCC Energy and COL at the wholesale level in the State as a percentage of the total annual oil consumption in the State. The Commission notes the approximate [...] million litres of fuel sold annually by DCC energy breaks down as follows, **Wholesale:** [...] million litres (Authorised distributors, Independent resellers and DoDos), **Direct:** [...] million litres (Domestic and Commercial End Users) **Fuelcard:** [...] million litres. If the total volumes of all refined fuel products supplied by DCC Energy in the State, including DCC Energy’s supply to relevant filling stations/CoCos were included [...]), DCC’s total volume of fuel product sold would be [...]million litres, still approximately [5-10]%. The [...] million litres of fuel sold annually by COL breaks down as **Wholesals** [...] million litres, Direct [...] million litres and Fuelcard, [...] million litres.



constraint on DCC Energy in the State, following the implementation of the Proposed Transaction.

Table 1: Wholesale supply of all refined fuel products in the State 2020¹⁴

Name	Volume of Fuel Product (Litre)	Share of Supply
DCC Energy/Emo Oil	[...] million	[5-10%]
Campus Oil	[...] million	[0-5%]
(Combined DCC Energy/Emo Oil and Campus Oil)	[...] million	[5-15%]
Others (including Irving, Circle K, Valero and Applegreen)	[...] billion	[85-95%]
TOTAL	6.246 billion	100%

Source: The parties' estimates

Regional

27. DCC Energy and COL's wholesale businesses are primarily based in Munster and Leinster. In relation to the Munster region, the parties estimate that DCC Energy currently holds a [5-10%] share of the wholesale supply of all refined fuel products in the Munster region, while COL holds a [0-5%] share in the Munster region.¹⁵ Thus, following implementation of the Proposed Transaction, DCC Energy will hold an estimated [5-15%] share of the wholesale supply of all refined fuel products in the Munster region.
28. In relation to the Leinster region, the parties estimate that DCC Energy currently holds a [5-15%] share of the wholesale supply of all refined fuel products in the Leinster region, while COL holds a [0-5%] share in the Leinster region.¹⁶ Thus, following implementation of the Proposed Transaction, DCC Energy will hold an estimated [5-15%] share in the wholesale supply of all refined fuel products in the Leinster region.

¹⁴ For the 12 months ending 31 October 2020, based on the parties best estimates.

¹⁵ The Commission notes that these market share estimates are based on the parties' information.

¹⁶ The Commission notes that these market share estimates are based on the parties' information.



29. In relation to the Connacht region, the parties estimate that DCC Energy currently holds a [5-10%] share of the wholesale supply of all refined fuel products in the Connacht region while COL holds a [0-5%] share in the Connacht region.¹⁷ Thus, following the implementation of the Proposed Transaction DCC energy will hold an estimated [5-10%] share in the wholesale supply of all refined fuel products in the Connacht region.
30. In relation to the Ulster counties in the State, namely Cavan, Monaghan and Donegal the parties estimate that DCC Energy currently holds a [10-15%] share of the wholesale supply of all refined fuel products in these counties while COL holds a [0-5%] share.¹⁸ Thus, following the implementation of the Proposed Transaction DCC Energy will hold an estimated [15-20%] share of the wholesale supply of all refined fuel products in Cavan, Monaghan and Donegal.

The local level

31. At the local level, the parties have adjacent depots in the following counties;
- Dublin (City and County) – DCC Energy currently has a wet depot in Tallaght and a dry depot in Kinsealy. COL has a wet depot in Kilternan (approx. 17 km from DCC Energy's depot in Tallaght) and a dry depot in Ringsend.
 - Co. Meath – DCC Energy has an oil depot in Trim. COL has a depot in Navan (approx. 15 km from DCC Energy's depot in Trim), while it will continue to operate the Dunshaughlin depot (located approx. 20 km from DCC Energy's Trim depot) until 7 June 2021.
 - West Wicklow/North Kildare – DCC Energy has an oil depot in Kilcullen, Co. Kildare. COL has a depot in Blessington, Co. Wicklow, roughly 20 km away from DCC Energy's depot in Kilcullen. COL also has a depot in Rathnew Co. Wicklow, [...] and is in any event located around 60 km from Kilcullen.

¹⁷ The Commission notes that these market share estimates are based on the parties' information

¹⁸ The Commission notes that these market share estimates are based on the parties' information



- Co. Carlow – Both DCC Energy and COL have depots in Carlow Town.
 - Co. Louth – COL has a depot in Dunleer whereas DCC Energy is a joint venture partner in a 'bunker site'¹⁹ in Dundalk. No deliveries are made from the Dundalk site. It consists of an unmanned pump from which fuel card customers can draw fuel.
32. The parties state that it is very difficult to estimate shares of supply accurately on a county-by-county basis, particularly given the widespread cross-county border trade. The parties supplied the Commission with the names of all local suppliers in these areas, which indicate that, following implementation of the Proposed Transaction, the combined entity would face competition from a number of other suppliers, including a mix of large oil companies and smaller, local suppliers as follows:
- Dublin City and County: Inver, Top Oil, Valero/Texoil, Capital Oil Supplies Ltd (“Capitol Oil”), Glen Fuels Services Limited (“Glen Fuels”), Ultima Oil Distributors Limited, Liffey Oil Ltd (“Liffey Oil”), Burke Lubricants, Airside Oil, M50 Oil Limited, Butterly Fuels Limited, McLoughlin Oil Limited, A1 Direct Oil, HPH Fuels Limited (“HPH Fuels”), and O’Neills Oil;
 - North Kildare/West Wicklow: Top Oil, Jones Oil Distribution Limited (“Jones oil”), Valero/Texoil, Capital Oil, Liffey Oil, Airside Oil, Tommy Dowd Oil Distributors Ltd, HPH Fuels, Keatings Oil, Cill Dara Oil, Mr Oil, Glen Fuels, Perry Oil, O’Neills Oil and Burke Oil;
 - Co. Meath: Top Oil, Jones Oil, Valero/Texoil, Liffey Oil, Airside Oil, M50 Oil, Flynn Fuels, Roe Oils Limited, Whelan Oil, Gibneys Oil, Donadea Oil Limited, Newline Oil Company Limited and Tommy Dowd Oil Distributors;
 - Co. Carlow: Jones Oil, Super Saver Oil, Top Oil, East Cork Oil Company Unlimited Company (“East Cork Oil”), Circle K and Glenfuels;

¹⁹ Under the ‘bunkering’ model, the cardholder buys fuel direct from a refinery or fuel wholesaler. The card issuer arranges for the fuel to be transported from the refinery and delivered to its network of bunkering sites, which are usually truck stops and other forecourts with facilities suitable for larger vehicles, such as HGVs. The cardholder pays a handling fee to the card issuer, who will pass some of this fee to the participating bunkering site operator.



- Co. Louth: Jones Oil, E.K. Fuels Limited, Dundalk Oil Products Limited, Tiger Oil Company Ltd, McDonald's Oil Limited and Oriel Oil Ltd (Circle K authorised distributor).

33. In light of the above, the Commission considers that, if the potential relevant product market is defined as including all refined fuel products, the Proposed Transaction is unlikely to raise any horizontal competition concerns regardless of whether the geographic market is defined as national, regional or local.

The wholesale supply of refined fuel products by fuel type

National

34. The parties submitted market share estimates in relation to the wholesale supply²⁰ of refined fuel products - by fuel type - on the basis of the National Oil Reserves Agency ("NORA") statistics for annual oil consumption²¹ and their own estimates in the State for the year 2020.²² Table 2 shows that DCC Energy's market share by type of motor fuel product will range from approximately 4% to 17% following implementation of the Proposed Transaction.

Table 2: Estimated Market Share of DCC Energy and COL in relation to the wholesale supply of refined fuel products (by fuel type) in the State in 2020²³

Refined petroleum type/category	NORA total Annual consumption (Million Litres)	DCC Energy/Emo Oil volumes sold (Million Litres)	Campus Oil sold volumes (Million Litres)	DCC Energy/Emo Oil/ Campus Oil Combined Totals (Million Litres)
Petrol/Gasoline (incl. Biofuel)	814.371	[...] [0-5%]	[...] [0-5%]	[...] [0-5%]

²⁰ Market share estimates are based on the total volume of refined fuel products sold by DCC Energy and COL in the State and NORA's total annual oil consumption in the State. Thus, the market share estimates in relation to the wholesale supply of refined fuel products are a best estimate of market shares in relation to the wholesale supply of refined fuel products in the State.

²¹ For more information concerning the volume of oil consumption which is subject to the NORA levy, please see <http://www.nora.ie/statistics.312.html>.

²² While the wholesale activities of DCC Energy and COL are predominantly located in Munster and Leinster, respectively, NORA's figures do not segment oil consumption on a regional basis.

²³ 12 months ending 31 October 2020



Motor Diesel/Diesel Energy Road Vehicle ("DERV") (incl. Biofuel)	3,190.576	[...] [5-10%]	[...] [0-5%]	[...] [5-10%]
Gas Oil (Both 10 ppm and 1000 ppm)*	932.739	[...] [5-10%]	[...] [5-10%]	[...] [10-15%]
Kerosene	1,265.493	[...] [10-15%]	[...] [0-5%]	[...] [15-20%]
Fuel Oil	35.238	[...] [0-5%]	0	[...] [0-5%]
Total	6,238.417	[...] [5-10%]	[...] [0-5%]	[...] [10-15%]

* DCC Energy/Emo Oil sell both types of gas oil.

Source: The parties and NORA statistics.

Regional/ Local

35. Estimated market share information related to each type of refined fuel product at a regional/local level was not available to the Commission. NORA's figures do not segment oil consumption on a regional basis. While there are overlaps between the parties in relation to the local areas outlined in paragraph 31, the Commission considers that, following the implementation of the Proposed Transaction, the combined entity will continue to face strong competition in the wholesale supply of refined fuel products from a number of large national suppliers of refined oil products such as Circle K, Irving/*Top Oil*, Valero/*Texoil*, East Cork Oil as well as from smaller regional suppliers as listed in paragraph 32 of this determination. The parties also noted that the competitive significance of depots is diminishing as a very significant number of customers (particularly wholesale customers and large commercial customers) are supplied with product directly

²⁴ The approximate [...] million litres of fuel sold annually by DCC Energy breaks down as follows - **Wholesale:** [...] litres (Authorised distributors, Independent resellers and DoDos), **Direct:** [...] litres ([...] litres (Domestic and Commercial End Users) plus [...] (relevant filling stations/CoCos), **Fuelcard:** [...] litres

from terminal /port locations. Customers do not face high switching costs in this market. According to the parties, long-term contracts are not a feature of either wholesale or direct sales, and suppliers compete for uncontracted volumes largely on the basis of price

36. The Commission also notes that many suppliers sell via freely available transactional websites, making price comparison across multiple suppliers quick and transparent. Transactional websites such as www.irvingoil.com <https://www.capitaloil.com/> and www.applegreenstores.com enable greater switching and competition for customers. There are also independent comparison websites such as www.cheaperoil.ie which allow consumers and end users to compare heating oil prices across the State.
37. On the basis of the information available to it, the Commission considers the Proposed Transaction is unlikely to raise any horizontal competition concerns in respect of the wholesale supply of refined fuel products by type regardless of whether the geographic market is defined as national, regional or local.

The Provision of Fuel Cards

Market definition

38. This section of the determination concerns the provision of fuel cards to commercial fuel customers. Fuel cards are provided by independent operators, supermarkets and fuel companies. They are used by commercial fleet operators to acquire fuel on account and are accepted at oil companies' fuel stations. Fuel card issuers may be able to negotiate a lower price with fuel companies which means they can offer some customers prices lower than the price at the pump. Fuel cards also offer a convenient payment mechanism for customers as well as making budgeting and spend of fuel more manageable for some fleet operators.



39. In previous merger determinations related to the supply of fuel cards²⁵, the Commission has left open the market definition. In M/14/013²⁶, the Commission considered the impact of the relevant transaction on competition for the sale of fuel cards in the State, without coming to a definitive conclusion on the product or geographic market.
40. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case. With respect to the relevant product and geographic market, it is not necessary for the Commission to define precise relevant markets in this instance because the product market definition and the geographic market definition adopted will not materially alter the Commission's assessment of the competitive impact of the Proposed Transaction. However, for the purpose of its competitive analysis, the Commission assessed the potential effects on competition of the Proposed Transaction in relation to the potential market for the provision of fuel card services in the State.

Competitive Analysis

41. The parties estimate that DCC Energy currently holds a [5-10%] share of fuel card sales in the State, while COL held a [0-5%] share in the State for the 12 months ending 30 September 2020.²⁷ Thus, following implementation of the Proposed Transaction, DCC Energy will hold an estimated [5-10%] share in the potential market for fuel card sales in the State. The Commission notes that, following implementation of the Proposed Transaction, DCC Energy will continue to face competition from other fuel card suppliers (e.g. Diesel Card Ireland, part of Radius Payments Solutions and Circle K), and that barriers to entry in the supply of fuel cards appears to be low²⁸.

Conclusion

²⁵ See Commission decisions M/17/42 – Direct Fuels Limited/Diesel Card Ireland Limited and M/14/013 – Radius / DCI / NCS

²⁶ Please see paragraph 29 of M/14/013 <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2017/04/M-014-13-Radius-DCI-NCS.pdf>

²⁷ The Commission notes these estimates are prepared on the basis of DCC Energy's sectoral knowledge.

²⁸ In M/17/42 the CCPC noted that "[t]he technology used in payment card systems is widely available and the reduction in infrastructure and overhead costs means that there are no insurmountable barriers to entry in the



Coimisiún um
Iomaíocht agus
Cosaint Tomhaltóirí

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provision of fuel cards by retailers and oil companies"

42. In light of the above, the Commission considers that the Proposed Transaction is unlikely to raise any horizontal competition concerns in respect of the sale of fuel cards in the State.

Vertical relationship

43. The parties informed the Commission that there is a vertical relationship between the parties as a result of fuel card transactions.
44. DCC Energy's fuel card is accepted at two COL-supplied *Campus*-branded DoDo filling stations in New Ross, Co. Wexford. COL credits the dealers with the fuel drawn using the DCC Energy card along with an agreed handling fee. COL then invoices DCC Energy for the product drawn using the latter's card. The volume of fuel sold by COL to its customers that is invoiced back to DCC Energy through this arrangement is small - approximately [...] litres for the twelve months ending 30 September 2020.
45. In addition, the *Campus* fuel card is accepted at selected sites on DCC Energy's network. DCC Energy invoices COL for all relevant fuel drawings. The volume of fuel invoiced back to COL by DCC Energy is low - around [...] litres for the twelve months ending 30 September 2020.
46. Finally, for completeness, the parties informed the Commission that DCC Energy has a 'stand-alone' fuel card bunkering facility at a COL-supplied dealer site located at Slane, Co. Meath. COL supplies DCC Energy with DERV, while DCC Energy/Emo Oil pays the dealer a 'throughput fee' for the use of this site. The volume of fuel sold by COL to DCC Energy at the Slane site in the twelve months ending 30 September 2020 was [...] million litres.
47. The small scale of these transactions in comparison to the total fuel card sales in the State is very low.²⁹ The Commission therefore does not consider that DCC Energy will have the ability or incentive to cause input or customer foreclosure following implementation of the Proposed Transaction. Furthermore, DCC Energy will continue

²⁹ The parties estimate that total fuel card sales in State to be 745 million litres in 2020.

to face competition from other fuel card suppliers (e.g. DCI and Circle K) following implementation of the Proposed Transaction.

48. In light of the above, the Commission considers that the Proposed Transaction is unlikely to raise any vertical foreclosure concerns in the State.

Conclusion

49. 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

50. Clause 7.2.1 of the SPA contains non-compete and non-solicitation obligations on COHL, Stafford Holdings, and the Stafford Family Members. The duration of these non-compete and non-solicitation obligations does not exceed the maximum duration acceptable to the Commission.³⁰ The Commission considers these restrictions to be directly related to and necessary for the implementation of the Proposed Transaction, with the exception of clause 7.2.1 (d) of the SPA for the reasons given below.

51. [...]

52. The Commission is of the view that, when read in the context of clause 7.2 as a whole, clause 7.2.1(d) of the SPA appears to function as a 'non-disparagement' clause rather than a 'non-compete' clause. For this reason, the Commission has not reached a view as to whether or not clause 7.2.1(d) of the SPA is directly related and necessary to the implementation of the Proposed Transaction. Clause 7.2.1 of the SPA will not therefore benefit from the protections offered by sections 4(8) and 5(3) of the Act.



³⁰ In this respect, the Commission follows the approach adopted by the European Commission in paragraphs 20 and 26 of its “Commission Notice on restrictions directly related and necessary to concentrations” [2005] OJ C56/03. For more information see

[http://eurlex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005XC0305\(02\)&from=EN](http://eurlex.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 DCC Energy Limited, a wholly-owned subsidiary of DCC Public Limited Company would acquire sole control of Campus Oil Limited and its subsidiaries, 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