



DETERMINATION OF MERGER NOTIFICATION M/21/034 – ARACHAS/HOOPER DOLAN

Section 21 of the Competition Act 2002

Proposed acquisition by Arachas Bidco Designated Activity Company of sole control of certain companies in the Hooper Dolan Group

Dated: 23 August 2021

Introduction

1. On 13 July 2021, 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 Arachas Bidco Designated Activity Company (“Arachas”) would acquire sole control of County Hooper Dolan Insurance Limited (“CHDIL”), McCormack Hooper Dolan Insurances Limited (“McCormack HD Insurance”), Cavanagh Hooper Dolan Insurances Limited (“Cavanagh HD Insurance”), O’Donoghue Hooper Dolan Insurances Limited (“O’Donoghue HD Insurances”), Gorman Hooper Dolan Insurances Limited (“Gorman HD Insurance”), Bermingham Hooper Dolan Insurances Limited (Bermingham HD Insurances”), Galway Hooper Dolan Insurances Limited (“Galway HD Insurance”), Starlingspell Limited (“Starlingspell”) (collectively “Target Companies”) (the “Proposed Transaction”).

The Proposed Transaction

2. The Proposed Transaction is to be implemented pursuant to an umbrella agreement, dated 29 June 2021, between Arachas and the individual shareholders of the Target Companies, as listed in Table 1 (collectively the “Sellers”) (the “Umbrella Agreement”). The Umbrella Agreement provides for conditions applicable to all the acquisitions which together form the Proposed Transaction.¹

Table 1: Details of the Sellers of the Target Companies

Target Companies	Sellers
CHDIL	[...];
McCormack HD Insurance	[...];
Cavanagh HD Insurance	[...];
O’Donoghue HD Insurances	[...];
Gorman HD Insurance	[...];
Bermingham HD Insurances	[...];
Galway HD Insurance	[...];
Starlingspell	[...];

Source: The parties’ submissions

¹ [...];.



3. Since the Sellers consist of different shareholders, the Proposed Transaction is also to be implemented pursuant to eight separate share purchase agreements all dated 29 June 2021 between Arachas and each of the respective Sellers of the Target Companies (collectively "SPAs"). Pursuant to the SPAs Arachas will acquire the entire share capital of the Target Companies and thus sole control of the Target Companies.²

The Undertakings Involved

The Acquirer – Arachas

4. Arachas is a wholly owned subsidiary of Arachas Midco Designated Activity Company, which is in turn wholly owned by Arachas Topco Limited, a private company limited by shares registered in England and Wales.
5. Arachas distributes commercial and personal non-life insurance products through its retail³ and wholesale channels⁴ predominantly to customers located in the State. Arachas wholesale distribution include the following non-life insurance products:
 - i. Construction liability;
 - ii. Tradespersons liability;
 - iii. Property;
 - iv. Professional indemnity;
 - v. Home (owner occupied and non-owner occupied);
 - vi. Mobile home & caravan;
 - vii. Commercial vehicle;
 - viii. Childcare providers;
 - ix. Sports liability; and,
 - x. Security, cleaning & recruitment agencies.
6. For the financial year ending 31 December 2020, Arachas worldwide turnover was €[...];, of which approximately €[...]; was generated in the State.

The Target Companies– Hooper Dolan

7. The Target Companies comprise of a number of entities with 13 offices located in various locations in the State, all of which trade under the Hooper Dolan brand.⁵ The Target Companies provide intermediary services for personal insurance lines that include: car insurance; home insurance, travel insurance; health insurance; home care insurance and

² Pursuant to Clause 2.4.2 of each of the SPAs, Arachas is not obliged to complete the purchase of the shares of the relevant Target Companies unless each of the Sellers comply with their prescribed completion obligations under all of the SPAs.

³ Arachas has six retail office locations in Dublin, Cork, Waterford, Galway, Kildare and Ballina, Co. Mayo.

⁴ Arachas has one wholesale office in Dublin.

⁵ Starlingspell and its subsidiary, HDIL operates from offices in Waterford town; Gorman HDIL operates from offices in Birr and Tullamore, both in County Offaly; CHDIL operates from an office in Newtown Mount Kennedy, County Wicklow; McCormack HDIL operates from offices in Clane, County Kildare and Tullow, county Carlow; Galway HDIL operates from offices in Galway town; O'Donoghue HDIL operates from an office in Tipperary town; Birmingham HDIL operates from an office in Limerick city; and Cavanagh HDIL operates from offices in Letterkenny, County Donegal and Sligo town.



- personal accident insurance.⁶ In addition, each of the Target Companies provides intermediary services in relation to the following commercial lines:
- i. Professional indemnity insurance;
 - ii. Fleet insurance;
 - iii. Commercial property insurance;
 - iv. Marine Insurance (including cover for fishing vessels, workboats, hull & machinery, crew cover, passenger vessels, ferries, chartered angling, pleasure craft, employer and public liability insurance and business packages);
 - v. Farm insurance (including cover for farm property and agricultural vehicles, livestock, farm homes, business interruption, farm liability & personal accident and legal protection);
 - vi. Commercial insurance;
 - vii. Tradesman insurance (including legal liability, public liability and employer liability);
 - viii. Small business policy (including cover for fire, flood, storm, theft, business interruption, public liability, employer liability, personal accident assault for staff and cash on premises in transit).
8. The Target Companies also provide wholesale brokering for the distribution of non-life insurance products through Hooper Dolan Insurances Limited ("HDIL"), a subsidiary of Starlingspell. HDIL acts as a wholesale broker, through a division called Broker Support Services, providing non-life insurance policies to other brokers in the State. The wholesale business comprises mainly of property, liability, commercial combined and professional indemnity risks, as set out in further detail below:
- i. Leisure risks (e.g. hotels, pubs, nightclubs);
 - ii. Professional indemnity, directors and officers;
 - iii. Property insurance (including property owners, unoccupied properties, waste/recycling risks and entertainment industry risks);
 - iv. Events/markets (including one-off events, cancellation, abandonment, liability, concerts and events); and,
 - v. Liability insurance (including unusual occupations, risks with poor claim experience, demolition risks and asbestos risks);
 - vi. Holiday home scheme; and,
 - vii. Marine insurance.
9. For the financial year ending 31 October 2020, the Target Companies' worldwide turnover was €[...];⁷ of which approximately €[...]; was generated in the State.

Rationale for the Proposed Transaction

10. The parties state the following in the notification:

"The Proposed Transaction allows [Arachas] to take advantage of the Target [Companies'] strategic locations. The Proposed Transaction will allow

⁶ The parties submit that Cavanagh HDIL provides a small amount of intermediary services to customers based in the UK (including Northern Ireland).

⁷ [...];



[Arachas] to have a complementary geographical footprint providing both overlap with existing offices and new locations which are not currently covered by [Arachas]. The Proposed Transaction will provide a strong personal lines offering to [Arachas]. [Arachas] plans to integrate the Target [Companies'] personal lines offering with its digital insurance distribution platform, to deliver a range of high quality, competitively priced insurance products to Irish consumers via an easy to use digital platform. The Proposed Transaction also allows for a cultural fit. The Target [Companies'] management team are well known to the [Arachas'] management team, and are well respected by the team and the wider industry.

From the Target [Companies'] perspective, the Proposed Transaction presents an opportunity for the sellers to realise their investment in the Target Group entities."

Market Enquiries

11. During its investigation, the Commission conducted market enquiries which included engagement with the Central Bank of Ireland. The Central Bank did not raise any concerns with the Proposed Transaction.⁸

Third Party Submissions

12. No third party submission was received.

Industry background: Wholesale insurance broker and retail broker

13. The parties operate as intermediaries for the distribution of non-life insurance products. They do not produce insurance products but rather distribute insurance products to end-users. HDIL⁹ and Arachas also acts as a wholesale distributors of non-life insurance products. Wholesale brokers have agreements with insurance providers/producers to distribute insurance products to other brokers. In the agreements the insurance providers/producers authorises the wholesaler to set the price (within set parameters) of insurance to brokers who then sell the products to end-users. The wholesaler does not become the insurer and does not accept risk.
14. The wholesale brokers then in turn conclude agreements with retail brokers (known as sub-brokering agreements) to distribute insurance products. In the State wholesale brokers include managing general agents,¹⁰ underwriting agents and other insurance brokers with divisions dedicated to wholesale brokering.

⁸ Submission dated 17 August 2021.

⁹ Cavanagh HD undertakes some wholesaling of marine insurance, this is a very insignificant part of its business. The activity relates solely to insurance for boats rather than general marine insurance and Cavanagh HD does not advertise or promote this activity. Outside of the Hooper Dolan Group, Cavanagh HD have only provided wholesaling of marine insurance to one other broker and it related to a single client needing insurance for 4 passenger vessels (boats).

¹⁰ The parties state in the notification that managing general agents are a specialised type of insurance agent or broker that has been granted underwriting authority by an insurer and can administer programs and negotiate contracts for an insurer.



Competitive Analysis

15. There is a horizontal overlap between the business activities of the parties in the distribution of non-life insurance products in the State.
16. The Parties state in the notification that there is a vertical relationship between their activities in the State as Arachas is a wholesale distributor of non-life insurance products to the Target Companies.

Relevant Product and Geographic Markets

17. The Commission defines the markets to the extent necessary depending on the particular circumstances of a given case. In this instance, however, the Commission does not need to come to a definitive view on the precise relevant product and geographic markets as its views on the likely competitive impact of the Proposed Transaction are unaffected regardless of the precise relevant markets adopted. For the purposes of its assessment of the likely competitive impact of the Proposed Transaction, the Commission has considered the potential product and geographic markets described below.
18. The European Commission (the “EC”) has in its determinations made a distinction between the distribution of life and non-life insurance products.¹¹ The EC also considered whether it is appropriate to sub-divide non-life and life insurance further on the basis of business sectors or the type of risk insured. The EC did not definitively conclude as to whether these segments constitute distinct product markets. However, the EC noted that from a supply-side, substitutability exists as, (i) the same competitor set offers services to all customer types, and (ii) insurers rely on the same resources (e.g. IT systems and personnel) in order to service all customer types. The Commission in *M/17/010 - Liberty/Ironshore* followed the EC’s approach by separating the distribution of life and non-life insurance products and segmenting non-life insurance products by the insured risk.¹² The Commission also further considered segmenting the market by customers (i.e. commercial customers and private individual customers). The Commission however, did not definitively conclude on the precise market definition.
19. The Commission considers that it is not necessary to come to a definitive view on the relevant product markets because the Proposed Transaction is unlikely to raise any competition concerns regardless of whether the potential product market is defined narrowly (e.g. by segmenting by risk insured and type of customer) or more broadly (e.g. provision of all non-life insurance products to all customers). However, for the purpose of its assessment, the Commission has assessed the likely competitive impact of the Proposed Transaction with reference to both the broad (i.e. the provision of all non-life

¹¹See paragraph 10 of Case No COMP/M.8010 Irish Life/Aviva Health/Glohealth, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016M8010> paragraphs 8 and 19 of IV/M.1307 -Marsh&McLennan/Segwick https://ec.europa.eu/competition/mergers/cases/decisions/m1307_en.pdf and paragraph 11 of *M.8257- NN Group/Delta Lloyd* https://ec.europa.eu/competition/mergers/cases/decisions/m8257_1125_3.pdf.

¹² See paragraph 12 to 15, <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2017/04/M-17-010-Liberty-Ironshore-Public.pdf>.



insurance products to all customers) and narrow (i.e. segmenting by risk insured and type of customers) markets.

20. With respect to the relevant geographic market definition, the Commission¹³ and EC¹⁴ left the precise geographic market open in previous decisions but analysed the relevant transactions on a national basis. The Commission has not found any reason to deviate from this approach and has analysed the Proposed Transaction by reference to the State.

Conclusion on relevant product and geographic market

21. For the purposes of its competitive analysis of the horizontal overlaps that exist between the parties, the Commission has assessed the competitive impact of the Proposed Transaction in the following potential product and geographic markets:
- a) the wholesale distribution of non-life insurance products in the State;
 - b) the distribution of non-life insurance products in the state (intermediary services); and,
 - c) the distribution of non-insurance products by risk insured (i.e. property, employers' liability, public liability, private car & van) and type of customers (i.e. commercial and private individual) in the state.
22. For the purpose of its competitive analysis of the vertical overlaps that exist between the parties, the Commission has assessed the competitive impact of the Proposed Transaction in the potential upstream market for the wholesale distribution of non-life insurance products in the State and the downstream market for the distribution of non-life insurance products in the State.

Competitive Assessment

Potential market for the wholesale distribution of non-life insurance products

23. On the basis of the information available to the Commission during its review of the Proposed Transaction, the Commission considers that the Proposed Transaction raises no horizontal competition concerns in the potential market for the wholesale distribution of non-life insurance products in the State, for reasons set out below.
24. Firstly, the parties submit¹⁵ that Arachas has an estimated market share of [5-15%] in the wholesale distribution of non-life insurance products.¹⁶ The Target Companies¹⁷ have [0-5%] market share in the wholesale distribution of non-life insurance products in the State.¹⁸ The Proposed Transaction therefore results in minimal market share accretion

¹³See paragraph 16 of <https://www.ccpic.ie/business/wp-content/uploads/sites/3/2017/04/M-17-010-Liberty-Ironshore-Public.pdf>.

¹⁴See paragraphs 24 and 25 of Case No COMP/M.8010 Irish Life/Aviva Health/Glohealth, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016M8010> and paragraph 21 of IV/M.1307 - Marsh&McLennan/Segwick https://ec.europa.eu/competition/mergers/cases/decisions/m1307_en.pdf.

¹⁵ See email to the Commission dated 05/08/2021.

¹⁶ The parties submit in the notification that Arachas wholesale business is [...].

¹⁷Specifically, HDIL is the wholesale broker division of the Target Companies. See footnote 8.

¹⁸ [...].



- and the parties will have less than [10-25%] combined market share in the potential market for the wholesale distribution of non-life insurance products in the State.
25. Lastly, there are a number of wholesale distributors of non-life insurance products to customers currently active in the State which will act as a competitive constraint on the parties post-transaction. These competitors include, [...].
26. In light of the above the Commission is of the view that the Proposed Transaction is unlikely to raise concerns in the potential market for the wholesale distribution of non-life insurance in the State.

Potential market for the distribution of non-life insurance products (on both a broad and a narrow basis)

27. On the basis of the information available to the Commission during its review of the Proposed Transaction, the Commission considers that the Proposed Transaction raises no horizontal competition concerns either on the broad (i.e. distribution of all non-life insurance products to all customers) or narrow (i.e. based on risk insured and customers) potential markets for the distribution of non-insurance products in the State for the reasons set out below.
28. Firstly, Table 2 below shows the estimated market share of the parties based on [...].¹⁹

Table 2: Estimated market shares of the parties in the broad (i.e. all non-life insurance products to all customers) and narrow (i.e. based on risk insured and customers) potential markets for the distribution of non-life insurance products for 2020

Class of Business Analysis	Pre-merger		Post-merger Market Share	Competitors	Total
	Arachas Group (including BJP)	Target Companies			
Combined non-life insurance products	[0-10]%	[0-10]%	[0-10]%	[80-95]%	100%
Breakdown according to insured asset and customer					
Combined Commercial Lines (insurance according to risk insured to commercial customers)	[10-20]%	[0-10]%	[10-20]%	[80-90]%	100%
Property	[10-20]%	[0-10]%	[10-20]%	[80-90]%	100%
Employers' Liability	[10-20]%	[0-10]%	[10-20]%	[80-90]%	100%
Public Liability	[10-20]%	[0-10]%	[10-20]%	[80-90]%	100%
Motor	[0-10]%	[0-10]%	[10-20]%	[80-90]	100%
Professional Indemnity	[10-20]%	[0-10]%	[10-20]%	[80-90]%	100%
Marine, Aviation and Transit	[0-10]%	[0-10]%	[10-20]% ²⁰	[80-90]%	100%

¹⁹ [...].

²⁰ [...].



Credit & Surety	[0-10]%	[0-10]%	[0-10]%	[80-90]%	100%
Combined personal lines (insurance according to risk insured to private individual customers)	[0-10]%	[0-10]%	[0-10]%	[85-95]%	100%
Home	[0-10]%	[0-10]%	[0-10]%	[85-95]%	100%
Private Car & Van	[0-10]%	[0-10]%	[0-10]%	[85-95]%	100%
Other Personal Lines	[0-10]%	[0-10]%	[0-10]%	[85-95]%	100%

Source: The Parties²¹

29. In respect of distribution of non-life insurance products in the State, Table 2 shows that Arachas and the Target Companies have [0-10]% and [0-10]%, estimated market share, respectively. Therefore, the Proposed Transaction results in minimal market share accretion in the broad market for the distribution of non-life insurance products in the State.
30. In respect to the narrow potential market for the distribution of non-life insurance products to commercial customers, Table 2 shows that, overall, the parties will have a combined market share of [10-20]%. From a narrow perspective, which is the distribution of non-life insurance by risk insured (i.e. (i) property insurance, (ii) employer's liability insurance, (iii) public liability insurance, (iv) motor insurance, (v) Professional indemnity, (vi) Marine, Aviation and Transit and Credit and Surety) Arachas has a market share of less than [10-20]% in each potential markets. The Target Companies have minimal market share of less than [0-10]% in the distribution of non-life insurance products by risk insured except in the provision of marine, aviation and transit insurance where the Target Companies have [0-10]% market share. However, Table 2 shows that the combined market share of the parties is [10-20]% in the provision of marine, aviation and transit insurance since Arachas has a [0-10]% market share pre-transaction. Overall the Proposed Transaction has minimal market share accretion when assessed on this narrower basis.
31. In respect to the narrow potential market for the distribution of non-life insurance products to individual customers, Table 2 shows that, overall, the parties will have a combined market share of [0-10]%. Even on the distribution of non-life insurance products by risk insured, namely, (i) home, (ii) private car and van and (iii) other personal lines, Table 2 shows that the parties' combined market share is less than [0-10]% in each narrow market. Overall the Proposed Transaction results in minimal market share accretion regardless of the potential market adopted.
32. Lastly, there are a number of insurance distributors which will continue to exert a competitive constraint on the merged entity following implementation of the Proposed Transaction, such as [...].²²
33. In light of the above, the Commission is of the view that the Proposed Transaction is unlikely to raise concerns in respect of the horizontal overlaps in the State.

²¹ [...].

²² [...].



Vertical overlap

34. There is an existing vertical relationship between the parties in the State as Arachas is a wholesale distributor of non-life insurance products to the Target Companies. On the basis of the information available to the Commission during its review of the Proposed Transaction, the Commission considers that the Proposed Transaction is unlikely to lead to input and/or customer foreclosure concerns for the reasons discussed below.
35. With regard to input foreclosure, as indicated in paragraph 24 the parties submit that Arachas' estimated market share is [5-15]% in the wholesale distribution of non-life insurance products in the State. Other wholesale brokers in the State includes managing general agents, underwriting agents and other insurance brokers. These competitors, listed in paragraph 25, include [...].²³ Following the Proposed Transaction, customers in the downstream market will continue to be able to source wholesale non-life insurance products from these competitors.
36. Concerning customer foreclosure, as shown in Table 2 above, the Target Companies have minimal market share in the potential market for the distribution of non-life insurance products in the State. Even on the basis of a narrow potential product market for the distribution of non-life insurance by risk insured and customers, the Target Companies have minimal market share of less than [0-10]% in each narrow potential market. The parties submit in the notification that the Target Companies account for less than [0-10]% of Arachas' total GWP. There are a number of alternative customers that include the companies listed in paragraph 32 who are likely to procure insurance products from the competitors of the parties following the Proposed Transaction.
37. In light of the above the Proposed Transaction is unlikely to raise any vertical foreclosure concerns in the State.

Conclusion on competitive analysis

38. In light of the above, the Commission considers that the Proposed Transaction is unlikely to substantially lessen competition in any market for goods or services in the State.

Ancillary Restraints

39. The parties state in the notification that Clause 12.1 of each of the SPAs contains non-compete and non-solicitation obligations on the Sellers. The parties state in the notification that these restrictions are necessary to the implementation of the Proposed Transaction and that their duration, geographical field of application, subject matter and the persons subject to them do not go beyond what is reasonably necessary.
40. The restraints in Clauses 12.1.1, 12.1.4 and 12.1.5 of the SPAs do not exceed the maximum scope and duration acceptable to the Commission.²⁴ The Commission considers

²³ See paragraph 25 of this determination for market shares in respect of each of these competitors.

²⁴ In this respect the Commission follows the approach adopted by the European Commission in paragraphs 20 and 26 of its 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).



these restrictions to be directly related and necessary to the implementation of the Proposed Transaction insofar as they relate to the State.

41. The Commission notes that the restrictions contained in Clauses 12.1.2 and 12.1.3 of the SPAs go beyond the scope acceptable to the Commission. The Commission is therefore of the view that Clauses 12.1.2 and 12.1.3 are not directly related and necessary to the implementation of the Proposed Transaction and will not benefit from the protections offered by sections 4(8) and 5(3) of the Act.



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 acquisition whereby Arachas Bidco Designated Activity Company would acquire sole control of County Hooper Dolan Insurance Limited, McCormack Hooper Dolan Insurances Limited, Cavanagh Hooper Dolan Insurances Limited, O'Donoghue Hooper Dolan Insurances Limited, Gorman Hooper Dolan Insurances Limited, Birmingham Hooper Dolan Insurances Limited, Galway Hooper Dolan Insurances Limited and Starlingspell 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