



# DETERMINATION OF MERGER NOTIFICATION M/21/060 – GIVAUDAN/DDW

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## Section 21 of the Competition Act 2002

### Proposed acquisition of sole control of DDW, Inc. by Givaudan S.A and Givaudan Flavors Corporation.

Dated 26 November 2021

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#### Introduction

1. On 19 October 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 Givaudan S.A., through its wholly-owned subsidiary Givaudan Flavors Corporation, would acquire sole control of DDW, Inc. (“DDW”) and its subsidiaries (the “Proposed Transaction”).

#### The Proposed Transaction

2. The Proposed Transaction will be implemented pursuant to a stock and asset purchase agreement dated 11 October 2021 (the “Agreement”) between DDW; The Williamson Group, Inc.<sup>1</sup>; DDW Global Holdings, LLC; Nirowell, LLC; DDW Holdings, Inc.; Theodore H. Nixon<sup>2</sup>; Givaudan International S.A. Givaudan S.A.; Givaudan Flavors Corporation; and the company shareholders.<sup>3</sup>

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<sup>1</sup> The Williamson Group, Inc., DDW Global Holdings, LLC, Nirowell, LLC, and DDW Holdings, Inc. are identified in the Agreement, together with the company shareholders listed in Schedule A of the Agreement, as the sellers of DDW.

<sup>2</sup> Theodore H. Nixon is the appointed representative of all of the Selling Parties.

<sup>3</sup> The company shareholders as listed in Schedule A of the Agreement are as follows: [...].



3. Following implementation of the Proposed Transaction, DDW will be solely owned and controlled by Givaudan S.A. (“Givaudan”) through its wholly-owned subsidiary Givaudan Flavors Corporation.

### **The Undertakings Involved**

#### *The Acquirer – Givaudan*

4. Givaudan is headquartered in Switzerland and is the parent company of the wider Givaudan group of companies. Givaudan is listed on the Swiss Stock Exchange and it is a manufacturer and supplier of flavour and fragrance products for the food, beverage and consumer goods industries.
5. Givaudan also produces aroma chemicals which can be used as ingredients in the production of flavour or fragrance compounds. Givaudan has approximately 16,000 employees and is active worldwide with 181 production, creation and application sites. Givaudan does not have any physical presence or employees located in the State. Givaudan’s customers active in the State include [...].
6. For the financial year ending 31 December 2020, the worldwide turnover of Givaudan was approximately €5,906 million, of which [...] was generated in the State.

#### *The Target Company – DDW*

7. DDW is a family-owned manufacturer and supplier of caramel colour, burnt sugar and natural food colourings for the food and beverage sector. It is headquartered in Kentucky, the United States and has 12 manufacturing facilities worldwide, including one in Co. Cork that produces caramel colouring. DDW’s customers in the State include [...].
8. For the financial year ending 31 December 2020, DDW’s worldwide turnover was approximately [...], of which [...] was generated in the State.

### **Rationale for the Proposed Transaction**

9. The parties state in the notification:



*“The Proposed Transaction reflects Givaudan’s strategy to expand the portfolio of its global Taste & Wellbeing business, enhancing its ability to create ‘Feel Good’ Food Experiences through its extensive portfolio of taste and sense solutions.”*

### Third Party Submissions

10. No submission was received.

### Competitive Analysis

#### *Horizontal Overlap*

11. Globally, both parties are involved in the production of flavours and functional/nutrition food ingredients, including food colour ingredients. DDW produces only food colour ingredients. In the State, the activities of the parties overlap in respect of the sale of food colour ingredients.

#### *Relevant Product Market*

12. The European Commission has previously considered the relevant product market for the production of flavours products. In COMP/M.3845 – PAI/CHR Hansen,<sup>4</sup> the European Commission considered the following product types, before leaving the product market definition open: (i) cultures for food production; (ii) colour ingredients for food production; (iii) flavour ingredients for food production; and (iv) animal health and nutrition ingredients. The European Commission has considered flavours as a potential product market in other decisions while, ultimately, leaving open the precise product market definition.<sup>5</sup>
13. Similarly, in M/18/029 – Givaudan S.A./Naturex S.A., the Commission left open the precise relevant product market definition, but assessed the likely competitive impact

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<sup>4</sup> See COMP/M.3845 PAI/CHR – Hansen, available at: [https://ec.europa.eu/competition/mergers/cases/decisions/m3845\\_20050718\\_20310\\_en.pdf](https://ec.europa.eu/competition/mergers/cases/decisions/m3845_20050718_20310_en.pdf).

<sup>5</sup> See COMP.M/2926 – EQT/H&R/Dragoco, available at: [https://ec.europa.eu/competition/mergers/cases/decisions/m2926\\_en.pdf](https://ec.europa.eu/competition/mergers/cases/decisions/m2926_en.pdf); and COMP.M/4507 Givaudan/Quest International, available at: [https://ec.europa.eu/competition/mergers/cases/decisions/m4507\\_20070221\\_20310\\_en.pdf](https://ec.europa.eu/competition/mergers/cases/decisions/m4507_20070221_20310_en.pdf).



of the transaction by reference to the narrowest potential product markets for which the parties' activities overlapped, namely separate markets for the sale of (i) phytoactive ingredients; (ii) fruit, vegetable and taste ingredients; and (iii) colours.<sup>6</sup>

14. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case. It is not necessary for the Commission to define the precise relevant product market or markets in this instance because the product market definition adopted will not alter the Commission's assessment of the competitive impact of the Proposed Transaction, whether the product market is defined as a broad market (i.e. comprising all raw materials for the production of flavour and fragrance products) or a narrow market (i.e. segmented according to the product which each raw material is used to manufacture).
15. For the purposes of carrying out its competitive assessment of whether the Proposed Transaction might result in a substantial lessening of competition from a horizontal perspective, the Commission analysed its impact by reference to the narrowest potential product market for which there is an overlap between the parties' activities in the State, that is the product market for the sale of colour ingredients for food production.

#### *Relevant Geographic Market*

16. The parties submitted in the notification that the relevant geographic market is at least European Economic Area ("EEA")-wide, following the approach of previous European Commission decisions. In both COMP/M.3845 – PAI/CHR Hansen<sup>7</sup> and COMP/M.4507 – Givaudan/Quest,<sup>8</sup> the European Commission assessed the competitive impact of each transaction in respect of an EEA-wide market, but left open whether the relevant geographic market should be defined as EEA-wide or worldwide.

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<sup>6</sup> See M/18/029 – *Givaudan S.A/Naturex S.A.*, available at: <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2018/04/M-18-029-Determination-Givaudan-Naturex.pdf>.

<sup>7</sup> See COMP/M.3845 *PAI/CHR – Hansen*, available at: [https://ec.europa.eu/competition/mergers/cases/decisions/m3845\\_20050718\\_20310\\_en.pdf](https://ec.europa.eu/competition/mergers/cases/decisions/m3845_20050718_20310_en.pdf).

<sup>8</sup> See COMP/M.4507 – *Givaudan/Quest*, available at: [https://ec.europa.eu/competition/mergers/cases/decisions/m4507\\_20070221\\_20310\\_en.pdf](https://ec.europa.eu/competition/mergers/cases/decisions/m4507_20070221_20310_en.pdf).



17. In *M/18/029 – Givaudan S.A/Naturex S.A.*, the Commission left open the precise relevant geographic market definition, but assessed the likely competitive impact of the transaction by reference to potential markets for the sale in the EEA of (i) phytoactive ingredients; (ii) fruit, vegetable and taste ingredients; and (iii) colours.<sup>9</sup>
18. Following a similar approach, the Commission assessed the likely competitive impact of the Proposed Transaction by reference to the sale in the EEA of colour ingredients for food production.

#### *Competitive Analysis*

19. In the potential market for the sale of colour ingredients for food production in the EEA, Givaudan and DDW account for market shares of [0-5]% and [0-5]%, respectively.<sup>10</sup> Therefore, following implementation of the Proposed Transaction, the merged entity will account for a [5-10]% share of the potential market for the sale of colour ingredients for food production in the EEA. In addition, the Commission considers that there are and will continue to be significant competitors to Givaudan, such as Oterra Operations APS, GNT Group B.V., Kerry Group Plc., and BASF Ireland Limited, following implementation of the Proposed Transaction.
20. For completeness, in the potential market for the sale of colour ingredients for food production worldwide, Givaudan and DDW account for market shares of [5-10]% and [0-5]%, respectively.<sup>11</sup> Therefore, following implementation of the Proposed Transaction, the merged entity will account for a [5-10]% share of the potential market for the sale of colour ingredients for food production worldwide.
21. In light of the above, the Commission considers that the Proposed Transaction does not raise any horizontal competition concerns in relation to the supply to customers located in the State of colour ingredients for food production.

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<sup>9</sup> See *M/18/029 – Givaudan S.A/Naturex S.A.*, available at: <https://www.cccpc.ie/business/wp-content/uploads/sites/3/2018/04/M-18-029-Determination-Givaudan-Naturex.pdf>.

<sup>10</sup> Givaudan's estimates, using revenue figures and based on Allied Market Research Food Color Market research, available at: <https://www.alliedmarketresearch.com/food-color-market>.

<sup>11</sup> Givaudan's estimates, using revenue figures and based on Allied Market Research Food Color Market research, available at: <https://www.alliedmarketresearch.com/food-color-market>.



### *Vertical Relationship*

22. There is no vertical relationship between the parties within the State. There is a vertical relationship between the parties on a worldwide basis as Givaudan purchases food colour ingredients from DDW, which Givaudan uses as inputs in the production of ingredient solutions for its customers. In 2020, DDW's sales to Givaudan were approximately [...] on a worldwide basis, representing approximately [...] of DDW's total sales. Furthermore, in the event that DDW were to restrict its supply to Givaudan's competitors post-merger, there are many other potential large suppliers of food colour ingredients operating in the EEA, such as Dina Foods Limited, DSM Nutritional Products AG. and Cybercolours Limited, as well as the competitors referred to in paragraph 19 above.
23. On this basis, the Commission considers that the Proposed Transaction does not raise any vertical competition concerns in the State.

### **Conclusion**

24. 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**

25. 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 Givaudan S.A, through its wholly-owned subsidiary Givaudan Flavors Corporation, would acquire sole control of DDW, Inc., 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**