



## DETERMINATION OF MERGER NOTIFICATION M/21/054 – ZEUS PACKAGING/LIMERICK PACKAGING

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### Section 21 of the Competition Act 2002

### Proposed acquisition by Zeus Packaging Group Limited of sole control of Mikcon Limited trading as Limerick Packaging

Dated 16 December 2021

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#### Introduction

1. On 1 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 transaction whereby Zeus Packaging Group Limited (“Zeus”) intends to acquire sole control over Mikcon Limited trading as Limerick Packaging (“Limerick Packaging”) (the “Proposed Transaction”).

#### The Proposed Transaction

2. The Proposed Transaction is to be implemented by way of a share purchase agreement dated 30 September 2021, between Michael Boland, Connie Ryan and Martina Humphreys (“the Sellers”) and Zeus (the “SPA”).
3. Following the completion of the Proposed Transaction Zeus will acquire the entire issued share capital of Limerick Packaging. Limerick Packaging will become part of the Zeus group of companies ultimately controlled by Brian O’Sullivan.

#### The Undertakings Involved

##### *Acquirer – Zeus*

4. Zeus is incorporated in the State, with company registration number 432818. Zeus operates in the packaging and hygiene markets in the State and other European countries, the UK and worldwide through a number of divisions, namely;



- ZeusPack (Industrial) – produces product packaging (including corrugated cardboard), adhesive tape, pallet wrapping, cardboard boxes (including boxes made from corrugated cardboard), other protective packaging solutions as well as labelling.
  - Zeus Food (Food and Beverage) – produces Food-Service presentation products, consumables, cleaning and personal protection supplies.
  - Zeus Hygiene (Janitorial) - supplies janitorial and professional cleaning supplies to factories, supermarkets, manufacturers, professional kitchens, facilities management companies, hotels and professional cleaning companies.
  - Zeus Russell Will (Hospitality) - supplies products e.g. guest amenities, toilet paper, soap and handwash - to hotels, restaurants, bars, catering and medical businesses.
  - Zeus Epicrop (Agricultural Packaging) – provides packaging products to the agricultural sectors, in particular baling twine and;
  - Zeus Style (Fashion Packaging) – provides shopping bags along with other packaging to the retail sector.
5. In 2019 Zeus bought the Irish hygiene supplies company, Essential Supplies (Ireland) Limited and in 2018 it bought Aldar Tissues Limited which is also incorporated in the State. In the UK Zeus owns (i) Smith and Bateson Limited, a paper and polythene distributor; (ii) Van der Windt a food packaging business and (iii) the VaioPak Group, which is involved in take away food and drink packaging. Recently Zeus completed an acquisition of Petruzalek Gesellschaft m.b.H, an Austrian -based food packaging business<sup>1</sup>.
6. For the financial year ending 31 December 2020, the worldwide turnover of Zeus was €206,491,159 of which €83,955,013 was generated in the State.

#### *The Target – Limerick Packaging*

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<sup>1</sup> The parties informed the Commission that with the exception of the acquisition by Zeus of Petruzalek GmbH there was no requirement to notify these acquisitions in Ireland or any other jurisdiction as relevant thresholds were not exceeded. The acquisition of Petruzalek GmbH was notified to the competition authority in the Ukraine.



7. Limerick Packaging is a private company limited by shares incorporated in the State with company registration number 356237. Limerick Packaging was formed in 2002 and primarily provides corrugated packaging products to industrial manufacturing companies throughout the State. Limerick Packaging's primary customers are food manufacturing companies and medical/pharmaceutical companies to whom Limerick Packaging supplies corrugated cardboard boxes. Limerick Packaging to a much limited extent is also involved in the sale of other packaging related products, described by the parties as ancillary products. These include industrial polyethylene bags, sleeves and sheets, bubble-wrap, rolls and bubble bags, pallet edge guards; and pallet wrap, strapping, strapping accessories, tapes, litho-printed cartons and litho-laminated outers, retail ready packs, protective foams, suspension packs and solid-board leak proof bases and lids.
8. For the financial year ending 31 May 2021, Limerick Packaging's worldwide turnover was €[...] the majority of which was generated in the State.

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

9. The parties state the following in the merger notification:

"...".

#### **Third Party Submissions**

10. No submission was received.

#### **Competitive Analysis**

##### *Horizontal Overlap*

##### Product Market

11. There is a horizontal overlap in the business activities of the parties in the State in so far as both parties are active in the supply of packaging products.
12. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case.
13. In a number of previous decisions the European Commission has found that the European packaging industry does not constitute one market but is divided into several



markets based on a combination of the packaging material and the use made of the packaging product.<sup>2</sup> The Commission has also conducted competitive assessments of mergers relating to specific product categories without coming to a definitive view on the precise product market definition.<sup>3</sup>

14. In M.8915 DS Smith / Europac, the European Commission has considered there to be a distinct product market for the production of “corrugated cases”. The European Commission has defined “corrugated cases” as “finished packaging products manufactured from sheets of corrugated board”.<sup>4</sup> In the current case, both parties are involved in the sale of corrugated cardboard boxes, which the Commission considers to come within the definition of corrugated cases. Over 98% of Limerick Packaging’s turnover comes from the sale of corrugated cases.
15. In relation to the sale of corrugated cases, in this instance the Commission does not need to come to a definitive view as to whether the sale of corrugated cases is a separate product market, as its conclusion on the horizontal competitive impact of the Proposed Transaction will be unaffected whether the precise relevant product is narrow or broad.
16. The parties’ activities also overlap in the sale of the following products; (i) bubble-wrap, rolls and bubble bags, (ii) industrial polyethylene bags, sleeves and sheets (iii) pallet wrap/strapping, strapping accessories, tapes and (iv) pallet edge guards. As shown in Table 1 below Limerick Packaging’s turnover in respect of the sale of products (i) – (iii) is very small when contrasted with the turnover amount of the products sold by Zeus. Following implementation of the Proposed Transaction Zeus would see an increment of less than 0.03% across all three products. In product (iv) (pallet edge guards) the turnover of Zeus is very low when compared with the turnover of Limerick Packaging in

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<sup>2</sup> See for example para 8 of the IV/M.1400 - REXAM / PLM available [https://ec.europa.eu/competition/mergers/cases/decisions/m1400\\_en.pdf](https://ec.europa.eu/competition/mergers/cases/decisions/m1400_en.pdf) . Also see IV/M.1400 Huhtamaki OYJ/Packaging Industries Van Leer available [https://ec.europa.eu/competition/mergers/cases/decisions/m1656\\_en.pdf](https://ec.europa.eu/competition/mergers/cases/decisions/m1656_en.pdf)

<sup>3</sup> See for example M/16/051 SAICA/Ridgmont/Americ, M/14/034 ESNT (Essentra)/Blue NewCo 1 (Clondalkin) and M/11/008 Clondalkin Group/Catalent

<sup>4</sup> For further information see Case M.8915 - DS SMITH [https://ec.europa.eu/competition/mergers/cases/decisions/m8915\\_1440\\_3.pdf](https://ec.europa.eu/competition/mergers/cases/decisions/m8915_1440_3.pdf)



respect of the same product. Following implementation of the Proposed Transaction Zeus will have a potential market share of [0-5%] with an increment of 3.2%.

17. The Commission did not conduct further assessment in relation to these products as it considered that the Proposed Transaction was not likely to raise any horizontal competition concerns regardless of how the product markets relating to the products in Table 1 below could be defined.

**Table 1 Turnover in non-corrugated packaging product sales**

Product Type	Turnover of Zeus (% market share)	Turnover of Limerick Packaging  (%market share)	Estimated Overall Sales in the State	Estimated Market Share post Proposed Transaction
Industrial polyethylene bags, sleeves and sheets	[...][0-5%]	[...][0-5%]	€ [...]	[0-5%]
Bubble-wrap, rolls and bubble bags	[...][0-5%]	[...][0-5%]	€ [...]	[0-5%]
Pallet wrap/strapping accessories/tapes	[...][5-10%]	[...][0-5%]	€ [...]	[5-10%]
Pallet Edge Guards	[...][0-5%]	[...][0-5%]	€ [...]	[0-5%]

**Source: Estimate provided to the Commission by the parties.**

18. When examining the likely effects of the Proposed Transaction, the Commission focused on the potential market for the supply of corrugated cases.

#### *Geographic Market*

19. In terms of the relevant geographic market in respect of corrugated cases, the European Commission has in previous decisions considered the geographic market to: (i) be national, or (ii) comprise a 200-300km radius around the production facilities concerned.<sup>5</sup> In either of these circumstances, the geographic scope of the potential product market for corrugated cases would be the State.

#### *Competitive Analysis*

20. The parties estimate that the overall market in the State for the sale of corrugated cases is approximately €[...] but could be as high as €[...] with increased online purchasing.

<sup>5</sup> Case M.8915 DS Smith, paragraph 68



Limerick Packaging's sale of corrugated cases in the State for the year ended March 2021 was €[...], or [5-10]% of the overall market. Zeus sales of corrugated cases for the year ended December 2020 was €[...] comprising approximately [0-5]% of the market. Following implementation of the Proposed Transaction Zeus will therefore have a market share of approximately [5-10]% of the potential market for the sale of corrugated cases in the State.

21. In addition, there are a number of other firms active in the supply of corrugated cases in the State, including Smurfit Ireland Limited, with an estimated market share of 50%; Sociedad Anónima Industrias Celulosa Aragonesa ("SAICA"), with an estimated market share of 15%; VPK Group with an estimated market share of 6%; and Cavan Box Packaging Limited with an estimated market share of 5%<sup>6</sup>. These firms will continue to compete with Zeus in respect of the supply of corrugated cases in the State following implementation of the Proposed Transaction.
22. In light of the above, the Commission considers that the Proposed Transaction will not give rise to horizontal competition concerns in the potential market for the sale of corrugated cases in the State.

#### *Vertical Relationship*

23. The parties state in the merger notification that there is no vertical relationship between the parties in the State<sup>7</sup>. The Commission has not identified any vertical relationships between the parties in the State.
24. In light of the above, the Commission considers that the Proposed Transaction does not raise any vertical competition concerns in the State.

#### *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**

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<sup>6</sup> The parties state market share was estimated based on published turnover of competitors in respect of the relevant product and fair estimation of remaining market.

<sup>7</sup> [...].



26. The parties submit that standard ancillary restrictive covenants to be imposed on the sellers of shares in Limerick Packaging for the protection of goodwill are contained in clause 12 of the SPA.
27. The Commission notes that clause 12.2 of the SPA contains restrictive obligations on each of the Sellers, including non-compete and non-solicitation obligations. The duration of these non-compete and non-solicitation obligations does not exceed the maximum duration acceptable to the Commission.<sup>8</sup> The Commission considers these non-compete and non-solicitation obligations to be directly related to and necessary for the implementation of the Proposed Transaction insofar as they relate to the State.

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<sup>8</sup> In this respect the CCPC 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).



## **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, Zeus Packaging Group Limited would acquire sole control over Mikcon Limited trading as Limerick Packaging 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**