



## DETERMINATION OF MERGER NOTIFICATION M/21/074 – PELICAN BIDCO/CRUINN DIAGNOSTICS

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### Section 21 of the Competition Act 2002

#### Proposed acquisition by Pelican Bidco Limited of Cruinn Diagnostics Limited.

Dated: 30 December 2021

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1. On 14 December 2021, in accordance with section 18(1)(a) of the Competition Act 2002, as amended (the “Act”), the Competition and Consumer Protection Commission received a notification of a proposed acquisition whereby Pelican Bidco Limited (“Pelican”), ultimately controlled by the MML Funds managed by the MML Growth Capital Partners Ireland II Limited (“MML Capital”), intends to acquire sole control of Cruinn Diagnostics Limited (“Cruinn”) (together with Pelican, the “Parties”) (the “Proposed Transaction”).
2. Cruinn is currently owned and controlled by Mr Jack Nolan, Mr Peter Hussey, Mr Vincent Foley, and Sean McGeown (the “Sellers”).
3. The Proposed Transaction is to be implemented by way of a share purchase agreement dated 10 December 2021 between Pelican, the Sellers [...].
4. The business activities of the undertakings involved are as follows:

**Pelican:** Pelican is a private limited company incorporated in the State for the purposes of the Proposed Transaction, and is ultimately controlled by the MML Funds managed by the MML Growth Capital Partners Ireland II Limited (“MML Capital”).

**MML Capital:** The MML Funds are private equity funds which invest in private businesses on the island of Ireland. The MML Funds comprise:

- MML Growth Capital Partners Ireland Fund II Limited Partnership;
- MML Ireland II Coinvest Limited Partnership; and
- MML Finance Company Ireland II Designated Activity Company (“MML Finance”).

The investors in the MML Funds include [...].



Table 1 below lists the companies owned and controlled by the MML Funds that are active in the State.

**Table 1: Companies owned and controlled by the MML Funds in the State in 2021.**

Company name	Description of activity
[...]	[...]
[...]	[...]
[...]	[...]
[...]	[...]
[...]	[...]
[...]	[...]
[...]	[...]
[...]	[...]
[...]	[...]

**Source:** Information provided in the notification.

[...].

**Cruinn:** Cruinn is incorporated in the State under company registration number 288123. Cruinn is a distributor and supplier of laboratory diagnostic instruments and consumables to customers in the medical and pharmaceutical sectors, independent laboratories and universities. Cruinn also undertakes associated services such as maintenance, calibration and some limited laboratory testing. Cruinn is active in the biochemistry, microbiology, haematology and histopathology segments. Cruinn has customers in both the private and public sectors. Cruinn operates from its base in Dublin.

5. After examination of the notification, the Commission has considered that the Proposed Transaction falls within the scope of paragraph 2.1 of the Simplified Merger Notification Procedure Guidelines for assessing certain notifiable mergers or acquisitions under section 18(1)(a) of the Act since the Proposed Transaction does not give rise to any horizontal overlaps or vertical relationships in the State.
6. In light of this, the Commission considers that the Proposed Transaction will not substantially lessen competition in any market for goods or services in the State.

#### **Ancillary Restraints**



7. The Parties state in the notification that Clause 10 of the Investment Agreement contains a number of restrictive covenants which the Parties consider to be necessary and directly related to the Proposed Transaction.
8. The Commission notes that Clauses 10.2.1, 10.2.2, 10.2.5 and 10.2.7 of the Investment Agreement contain a number of non-compete, non-solicitation, and confidentiality restrictions upon [...]. The Commission notes that these restrictions are limited in scope, and do not exceed the maximum duration acceptable to the Commission.<sup>1</sup> The Commission considers these non-solicitation, non-compete, and confidentiality obligations to be directly related to and necessary for the implementation of the Proposed Transaction insofar as they relate to the State.
9. The Commission notes that Clause 10.2.3 of the Investment Agreement contains an obligation [...]. The Commission notes that this [...] clause is not restricted to [...]. The Commission considers that Clause 10.2.3 of the Investment Agreement contains a restrictive obligation which is not directly related and necessary to the Proposed Transaction.

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<sup>1</sup> 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 (the “European Commission Notice”). For more information, see [https://eur-lex.europa.eu/legalcontent/EN/TXT/PDF/?uri=CELEX:52005XC0305\(02\)&from=EN](https://eur-lex.europa.eu/legalcontent/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 Pelican Bidco Limited, ultimately controlled by the MML Funds managed by the MML Growth Capital Partners Ireland II Limited, will acquire the entire issued share capital of Cruinn Diagnostics 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

**Ibrahim Bah**

**Director**

**Competition Enforcement and Mergers**