



DETERMINATION OF MERGER NOTIFICATION M/22/005 – AIB/AUTOLEASE FLEET MANAGEMENT (JV)

Section 21 of the Competition Act 2002

Proposed acquisition by Allied Irish Banks, plc of joint control of Autolease Fleet Management Limited

Dated 16 March 2022

Introduction

1. On 4 February 2022, 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 Allied Irish Banks, plc. (“AIB”) would acquire joint control of Autolease Fleet Management Limited (“AFML”) (the “Proposed Transaction”).

The Proposed Transaction

2. The Proposed Transaction will be implemented pursuant to a Share Subscription and Shareholders Agreement dated 15 December 2021 between AIB, Nissan Ireland Limited (“Nissan Ireland”) and AFML (“the Agreement”). Under the terms of the Agreement, AIB will acquire a 50% shareholding in AFML from Nissan Ireland, and therefore joint control of AFML with Nissan Ireland.

The Undertakings Involved

The Acquirer - AIB

3. AIB is a public limited company registered in the State, with a registered office at 10 Molesworth Street, Dublin 2, Ireland. AIB is a direct subsidiary of AIB Group P.L.C (“AIB Public”). AIB Public and its subsidiaries (together the “AIB Group”) mainly operate in the State and the United Kingdom. The AIB Group provides a range of financial products and services to personal, business and corporate customers. AIB is listed on the Irish Stock Exchange and London Stock Exchange.



4. In the State, the AIB Group offers two types of banking products and services:
 - a) *Retail Banking*, which includes mortgages, consumer lending, small and medium-sized enterprise lending, asset-backed lending, wealth management, daily banking and general insurance. The AIB Group also offers private banking services and advice to high net worth customers; and
 - b) *Corporate, Institutional and Business Banking*, which includes traditional corporate and business banking services, specialised finance, commercial finance, syndicated finance and corporate finance advisory services.
5. The AIB Group also participates in international syndicated finance transactions via teams based in New York and Dublin.
6. For the financial year ending 31 December 2020, AIB's worldwide turnover was [...], of which [...] was generated in the State.

The Target – AFML

7. AFML is a private limited company registered in the State, with a registered office at Unit 13, Joyce Way, Park West Business Park, Dublin 12, Ireland. AFML is ultimately owned by Nissan Ireland and trades as 'NiftiBusiness'. AFML provides commercial fleet leasing and fleet management services to business customers. AFML provides vehicles to its customers for an agreed lease term for a monthly fee, which may also include ongoing maintenance and repair of the vehicle.
8. AFML, through its subsidiary Autolease Personal Leasing Limited ("APLL"), trading as 'Nifti Personal Leasing', offers personal vehicle leasing services to customers for a monthly fee. Leases to personal customers are typically of 3 years duration; at the expiration of the lease the vehicle is returned to APLL. APLL also offers certain maintenance services to its personal leasing customers.
9. For the financial year ending 31 December 2020, AFML's worldwide turnover was [...], [...] of which was generated in the State.



The Vendor – Nissan Ireland

10. Nissan Ireland is the distributor of *Nissan* motor vehicles in the State, supplying Nissan products to motor dealers and retailers nationwide. Nissan Ireland is the parent company of Windsor Motors Unlimited Company (“Windsor Motors”), [...]. Windsor Motors operates 18 car dealerships across Dublin and Galway. The company retails new *Nissan, Opel, Peugeot, Renault, Mazda, Citroën* and *Dacia* cars. Through Windsor Motors, Nissan Ireland currently has sole control of AFML¹.

Rationale for the Proposed Transaction

11. The parties state in the notification:

“[...]”

Third Party Submissions

12. No submission was received.

Market enquiries

13. During its review of the Proposed Transaction, the Commission undertook market enquiries and contacted various third parties by telephone, including customers of AIB and competitors of AFML.

Competition Analysis

Horizontal Overlap

14. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case. In this instance, it is not necessary for the Commission to define precise relevant product and geographic markets since there is no horizontal overlap between the activities of the parties in the State. AIB is active in the financial services sector while AFML is active in the vehicle leasing and fleet management sector. Similarly, there is

¹ Nissan Ireland acquired sole control of AFML in 2020. This acquisition of sole control was approved by the Commission on 27 October 2021. See the Commission’s determination in M/21/049 *Nissan/Autolease Fleet Management*, available at <https://www.ccpc.ie/business/mergers-acquisitions/merger-notifications/m-21-049-nissan-autolease-fleet-management/>



no horizontal overlap between the activities of AIB and Nissan Ireland as AIB is not active in the sale of vehicles in the State.

15. In light of the above, the Commission considers that the Proposed Transaction does not raise any horizontal competition concerns in the State.

Vertical Relationship

16. There is an existing vertical relationship between the activities of the parties. AFML currently receives the following corporate financing services from AIB:

- Day-to-day banking, such as overdraft facilities; and
- Asset finance, such as hire-purchase facilities and residual guarantee facilities.

17. AFML also engages with a number of other financial institutions, including [...], and BMW Financial Services (Ireland) Limited (“BMW Financial Services”)², in relation to corporate financing services, such as asset finance.

18. With regard to the vertical relationship between the parties concerning the provision of corporate financing services, the Commission considers that the Proposed Transaction does not give rise to vertical foreclosure concerns in the State for the following reasons:

- Input foreclosure: Information gathered during the Commission’s market enquiries suggested that providers of vehicle leasing and fleet management services in the State source corporate financing services from a number of financial institutions. In addition, certain vehicle leasing providers utilise their own capital rather than sourcing asset finance from third parties. Following the implementation of the Proposed Transaction, competitors of AFML will continue to be able to source corporate financing services from a number of financial institutions, such as Bank of Ireland Group P.L.C, Permanent TSB P.L.C, Finance Ireland Limited, First Citizen Finance DAC, BMW Financial Services, Renault Finance Ireland, Volkswagen Financial Services Ireland, RCI Financial Services Limited and international banks. Therefore, the Commission considers that,

² The Commission previously considered AFML’s relationship with BMW Financial Services in M/21/049 *Nissan/Autolease Fleet Management*, available at <https://www.cccp.ie/business/mergers-acquisitions/merger-notifications/m-21-049-nissan-autolease-fleet-management/>



following implementation of the Proposed Transaction, input foreclosure is unlikely.

- Customer foreclosure: AFML has an approximately [5-10%] share in the downstream vehicle leasing market³ and will have no foreclosure ability. Following the implementation of the Proposed Transaction, competitors of AIB will continue to have access to a number of vehicle leasing providers, such as LeasePlan Limited, Merrion Fleet Management Limited (trading as ALD Automotive Ireland), Hertz Fleet Limited, Avis Fleet Services, Johnson & Perrott Fleet Limited and HB Dennis Leasing Limited, who will continue to seek corporate financial services, such as asset finance. Therefore, the Commission considers that, following implementation of the Proposed Transaction, customer foreclosure is unlikely.

19. Additionally, there is an existing vertical relationship between AIB and Nissan Ireland, as AIB provide corporate financing services to Nissan Ireland. As this relationship is not impacted by the Proposed Transaction it is not considered during the remainder of this Determination.

The Commission's potential competition concerns regarding information sharing

20. During its assessment of the Proposed Transaction, the Commission considered potential competition concerns regarding access to, and the potential sharing of, confidential and commercially sensitive third-party information by AIB with AFML. As noted above, AIB is active in the provision of corporate financing services, and in particular asset finance, to vehicle leasing providers in the State. Through the provision of such services, AIB obtains confidential information regarding the customers of these vehicle leasing providers. The Commission's potential competition concerns focused on the possibility that, following implementation of the Proposed Transaction, AIB may potentially share this confidential and commercially sensitive third party information with AFML.

³ While carrying out its market enquiry, the Commission was informed by certain stakeholders in the vehicle leasing sector that, given AFML's relatively small share of the supply of vehicle leasing services in the State, they considered that the implementation of the Proposed Transaction would increase competition within the sector by providing a small competitor with growth opportunities.



21. The Commission engaged with the parties in relation to the Commission's potential competition concerns regarding confidential and commercially sensitive third party information. To address this potential competition concern, the parties provided additional information to the Commission and confirmed that:

“AIB staff have no knowledge or access to underlying commercial arrangements of Fleet Management programs offered by AFM⁴ competitors, so are absolutely not able to share those with AFM. In addition, all AIB staff are contractually obligated to preserve the confidentiality of confidential information received from asset finance customers including fleet management companies and accordingly restrict the flow of any such confidential information.”

22. Furthermore, [...]. Consequently, the AIB-appointed board members do not ordinarily have access, and are not otherwise exposed, to detailed information in relation to asset finance customers, including vehicle leasing and fleet management customers.
23. Given the above mentioned operational and contractual barriers preventing the sharing of confidential and commercially sensitive third party information from AIB to AFML, the Commission considers that it is unlikely that AIB will share confidential or commercially sensitive third party information with AFML.
24. In light of the above, the Commission considers that the Proposed Transaction does not raise vertical competition concerns.

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

26. The parties state in the notification that Clause 18.1 of the Agreement contains “standard restrictive covenants” that are directly related and necessary to the implementation of the Proposed Transaction.

⁴ The parties use the abbreviation ‘AFM’ to denote both AFML and APPL.



27. The Commission notes that Clause 18.1.1 and 18.1.2 of the Agreement contains non-compete obligations on both Nissan Ireland and AIB, respectively. The Commission notes that these restrictions are limited in scope, and do not exceed the maximum duration acceptable to the Commission. The Commission considers these non-compete obligations to be directly related to and necessary for the implementation of the Proposed Transaction.

28. The Commission notes that Clause 18.1.3 of the Agreement contains non-solicitation obligations on both Nissan Ireland and AIB, respectively. These non-solicitation obligations apply for as long as AIB and Nissan Ireland remain shareholders in AFML and for a limited period thereafter. The duration of these restrictions does not exceed the maximum duration acceptable to the Commission and, given the particular nature of the Proposed Transaction, the Commission considers these non-solicitation obligations to be directly related to and necessary for the implementation of the Proposed Transaction.



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 Allied Irish Banks, plc. would acquire joint control of Autolease Fleet Management 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