



DETERMINATION OF MERGER NOTIFICATION M/22/015 – EAST CORK OIL/MISTY LANE

Section 21 of the Competition Act 2002

Proposed acquisition by East Cork Oil Company Unlimited Company of sole control of Misty Lane Holdings Limited

Dated: 26 July 2022

Introduction

1. On 30 March 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 East Cork Oil Company Unlimited Company (“East Cork Oil”) would acquire sole control of Misty Lane Holdings Limited (“Misty Lane”) and its subsidiaries (the “Proposed Transaction”).

The Proposed Transaction

2. The Proposed Transaction is to be implemented pursuant to a share purchase agreement between two private individuals, namely [...] and [...], and East Cork Oil dated 14 March 2022 (the “SPA”). Under the terms of the SPA, East Cork Oil will acquire the entire issued share capital, and thus sole control, of Misty Lane.

The Undertakings Involved

The Acquirer – East Cork Oil

3. East Cork Oil is a private unlimited company registered and headquartered in the State.
4. East Cork Oil is wholly owned by Carrigacotta LLP. Carrigacotta LLP is ultimately owned by Carrigacotta Holding Company Unlimited Company,¹ which in turn is ultimately owned by [...], and controlled by two private individuals, [...] and [...].

¹ Carrigacotta LLP is 99.99% owned by Pecanview Unlimited Company and 0.01% owned by Carrigacotta Holding Company Unlimited Company. Pecanview Unlimited Company is 100% owned by Carrigacotta Holding Company Unlimited Company.



5. The principal activity of East Cork Oil is the distribution of refined fuel products in Munster, Leinster and Connacht (although its predominant area of operation is in Munster) through a network of 32 company-owned depots² and eight service stations.³ East Cork Oil's refined fuel product range includes: home heating oil; agricultural diesel; marine diesel; auto diesel; and unleaded petrol. Customers of East Cork Oil include: domestic customers; farmers; agricultural contractors; haulage companies; large industrial users; and service stations.
6. East Cork Oil and Inver Energy Limited ("Inver") each hold a 50% shareholding in Atlantic Fuel Supply Company Limited ("AFSC"), which is the ultimate owner of the oil terminal at Foynes, Co. Limerick ("the Foynes Terminal"). The Foynes Terminal is supplied by product from Inver.
7. For the financial year ending 31 October 2021, East Cork Oil's worldwide turnover was [...], all of which was generated in the State.

The Target – Misty Lane

8. Misty Lane is a private limited company registered and headquartered in the State.
9. Misty Lane is owned by two private individuals, namely [...]and [...]. Misty Lane is the parent company of Arch Avenue Holdings Limited ("Arch"), the latter being the holding company of the trading entities Atlantic Oils (Ireland) Limited ("Atlantic"), and Geaney Oils Limited ("Geaney") (together with Misty Lane and Arch, the "Target Group").⁴ Atlantic and Geaney operate throughout Co. Kerry through a network of three depots. Atlantic operates from its primary depot in Ardfert, Co. Kerry, and Geaney operates

² The 32 company-owned depots are based in the following locations: Broomfield West, Midleton, Co. Cork; Aglish, Cappoquin, Co. Waterford; Dungarvan Bus Park, Dungarvan, Co. Waterford; Kildorrey, Co. Cork; Bansha, Co. Tipperary; Newmarket, Co. Cork; Macroom Road, Millstreet, Co. Cork; Dock Road, Limerick; Main Street, Foynes, Co. Limerick; Cashelmore, Enniskeane, Co. Cork; Farranes, Co. Cork; Inchiniapoagh, Brosna, Co. Kerry; Dock Road, Limerick; Tiermaclane, Ennis, Co. Clare; Edenvale, Inch Beg, Ennis, Co. Clare; Marina Comm. Park, Centre Park Road, Cork; Abbeyleix, Co. Laois; Cork Road, Waterford, Waterford; West Court Bus. Park, Callan, Co. Kilkenny; Blackstoops, Enniscorthy, Co. Wexford; Dublin Road, Moate, Co. Westmeath; Upper Lissivigeen, Killarney, Co. Kerry; Underhill, Dunmanway, Co. Cork; Railway Road, Charleville; Co. Cork; Clash Industrial Estate, Tralee, Co. Kerry; Western Road, Clonakilty, Co. Cork; Cork Road, Skibbereen, Co. Cork; Tullow Road, Carlow, Co. Carlow; Thomas Street, Clonmel, Co. Tipperary; Castlemeadows, Thurles, Co. Tipperary; Hebron Road Industrial Estate, Kilkenny, Co. Kilkenny; and, Rosbercon, New Ross, Co. Wexford.

³ The eight company-owned service stations are based in the following locations: Burgess, Killeagh, Co. Cork; Roundhill, Bandon, Co. Cork; Bunratty, Co. Clare; Old Cork Road, Mallow, Co. Cork; Convent Street, Tallow, Co. Waterford; Dublin Road, Moate, Co. Westmeath; Bansha, Co. Tipperary; and, Bridgeland East, Rathcormac, Co. Cork.

⁴ Geaney is 100% owned by Atlantic, which in turn is 100% owned by Arch, which in turn is 100% owned by Misty Lane.



from a further two depots: one in Dingle, Co. Kerry and another in Castlemaine, Co. Kerry.

10. Atlantic and Geaney are involved in the following activities in the State:

- The distribution of refined fuel products, including home heating oil (kerosene), auto diesel, sulphur free gas oil, and unleaded petrol. Customers of Atlantic and Geaney include: domestic, commercial; agricultural and retail forecourts; contractors; haulage companies; and, marine companies;
- The distribution of lubricants and oil storage tanks; and,
- The supply of fuel cards. The fuel cards issued to customers are operated by Circle K Ireland Fuels Limited (“Circle K”) and can be used at all Circle K stations throughout the State.

11. For the financial year ending 30 June 2021, the total worldwide consolidated turnover of the Target Group was approximately [...], all of which was generated in the State.

Rationale for the Proposed Transaction

12. The parties state the following in the notification:

[...]

Third Party Submissions

13. No third party submissions were received.

Investigation

14. On 11 May 2022, the Commission served a Requirement for Further Information (“RFI”) on each of East Cork Oil and Misty Lane (the “Parties”) pursuant to section 20(2) of the Act. The service of these RFIs adjusted the deadline within which the Commission had to conclude its assessment of the Proposed Transaction in Phase 1.



15. Upon receipt of a full response to each of the RFIs issued to each of East Cork Oil and Misty Lane, respectively, the “appropriate date” (as defined in section 19(6)(b)(i) of the Act) became 16 June 2022.⁵
16. During the Phase 1 investigation, the Commission requested and received further information and clarifications from the Parties.
17. The Commission also engaged with third parties in relation to its review of the likely competitive effects of the Proposed Transaction. This third party engagement consisted of market enquiries, including the issuing of questionnaires to competitors and customers of the Parties.

Analysis

18. The Commission is unable, at this stage, to make a determination that the result of the Proposed Transaction will not be to substantially lessen competition in markets for goods or services in the State. Accordingly, it intends to carry out a full investigation under section 22 of the Act.

⁵ The “appropriate date” is the date from which the time limits for making both Phase 1 and Phase 2 determinations begin to run.



Determination

The Competition and Consumer Protection Commission, in accordance with section 21(2)(b) of the Competition Act 2002, as amended (the “Act”), has determined that it intends to carry out a full investigation under section 22 of the Act in relation to the proposed acquisition by East Cork Oil Unlimited Company of sole control of Misty Lane Holdings Limited and its subsidiaries.

For the Competition and Consumer Protection Commission

Brian McHugh

Member

Competition and Consumer Protection Commission