

DETERMINATION OF MERGER NOTIFICATION M/22/041 – FORESIGHT GROUP/ETAG FIXINGS

Section 21 of the Competition Act 2002

Proposed acquisition by funds managed and controlled by the Foresight Group LLP of sole control of Etag Fixings Limited and Etag Fixings UK Limited.

Dated 22 August 2022

1. On 8 August 2022, in accordance with s18(3) 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 Foresight Regional Development II LP and AIB Foresight SME Impact LP, which are funds managed and controlled by Foresight Group LLP, would acquire 70.8% of the issued share capital and, therefore, sole control of Etag Fixings Limited (“Etag Ireland”) and Etag Fixings Limited UK (“Etag UK”) (Etag Ireland and Etag UK, together the “Etag Group”) (the “Proposed Transaction”).
2. The Proposed Transaction was agreed by way of a letter of offer sent by the Foresight Group LLP to the shareholders of Etag Ireland and Etag UK, dated 11 March 2022 (“LOI”). The Proposed Transaction is to be implemented pursuant to a Share Purchase Agreement (“SPA”)¹ between Etag Fixings Holdco Limited (“Etag Holdco”) and the Vendors.²
3. Following implementation of the Proposed Transaction, Etag Fixings Holdco Limited (“Etag Holdco”) will acquire the entire issued share capital of Etag Ireland and Etag UK. Etag Holdco is a newly established entity for the purposes of the Proposed Transaction.
4. The Parties are involved in the following business activities:
 - The Foresight Group, of which Foresight Group LLP is a top holding entity, is a sustainability led alternative assets and SME investment manager. The Foresight

¹ The SPA has been agreed but is yet to be executed.

² As listed in Schedule 1 to the SPA, being Damien Lynch, Paul Bonner, Shaun Bonner and Shirley Bowman.

Group LLP is authorised as a Full-Scope Alternative Investment Fund Manager with the Financial Conduct Authority in the UK and the US Securities and Exchange Commission and acts as an Alternative Investment Fund Manager and Investment Advisor to various funds across the group's Infrastructure and Private Equity divisions. The Foresight Group LLP also acts as an Investment Manager to the Foresight Group's open ended, UCITS³ investment management division, Foresight Capital Management.⁴ The Foresight Group has interests in over 200 portfolio companies worldwide.

- The portfolio companies which the Foresight Group has an interest in and which generated turnover in the State in the most recent financial year are shown in Table 1 below.

Table 1: The Foresight Group's portfolio companies which generated turnover in the State in the most recent financial year.

Company Name	Sector	Turnover in the State (€)
Hospital Services Group Limited*	Medical supplies distributor	[...]
Kingsbridge Healthcare	Private hospital group	[...]
Biotherapy Services Limited	Pharmaceutical biotechnology developer	[...]
Usheru	Movie data analysis and marketing	[...]
RGM Vent Limited*	Industrial components design and manufacture	[...]
Aquasium Technology Limited	Welding Technology Developer	[...]
MR Machine Knives*	Knife and blade manufacturer	[...]
Supply Pilot	Supply chain management software	[...]
AMT Limited	Additive manufacturing technology developer	[...]
Company Cards (Swype)	Company ID card printing	[...]
EkkoSense	Data centre optimisation software	[...]

³ UCITS refers to Undertaking for the Collective Investment in Transferable Securities.

⁴ The Buyer is the top holding entity of the Foresight Group.

* Companies in which Foresight has a controlling interest.

Inovo Robotics	Robotics design	[...]
Substantive Research	Financial investment research	[...]
Clubspark Limited	Sport club management software	[...]
Camloc*	Industrial components design and manufacture	[...]
Ture Lens Services*	Camera lens repair and testing	[...]
Geospatial Insight	Data analytics software	[...]
iMIST Limited*	Fire protection systems	[...]
Steamforged Games Limited*	Board game retailer	[...]
AppInstitute	Online app building software	[...]
Open Bionics	Prosthetics design and manufacture	[...]

- Etag Ireland and Etag UK are active in the market for the supply of building materials and fittings to the construction/ building sector in Ireland and the UK. The Etag Group has dedicated product divisions for Fixings, Mechanical & Electrical, Insulation, Drywall, and General Building Supplies.

5. After examination of the notification, the Commission has concluded 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 between the Foresight Group's portfolio companies and the Etag Group's activities 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 [9] of the SPA contains a non-compete obligation which is directly related to and necessary for the implementation of the Proposed Transaction.
8. The Commission notes that Clauses 9.1 to 9.5 of the SPA contains obligations on the Vendors, including a number of non-compete and non-solicitation provisions. The duration of these obligations does not exceed the maximum duration acceptable to the Commission.⁶ The Commission considers the restrictive obligations contained in Clauses 9.1 to 9.5 are directly related and necessary for the implementation of the Proposed Transaction in so far as they relate to the State.

⁶ 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. 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 Foresight Regional Development II LP and AIB Foresight SME Impact LP, which are funds managed and controlled by Foresight Group LLP, would acquire sole control of Etag Fixings Limited and Etag Fixings Limited UK 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