



# DETERMINATION OF MERGER NOTIFICATION M/22/062 – AHL / NHL

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## Section 21 of the Competition Act 2002

### Proposed merger of the businesses of Associated Hardware Public Limited Company and National Hardware Designated Activity Company into United Hardware Designated Activity Company

Dated 18 May 2023

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#### Introduction

1. On 7 April 2023, in accordance with section 18(12)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 concerning the proposed merger of the businesses of two hardware buying groups, Associated Hardware Public Limited Company (“AHL”) and National Hardware Designated Activity Company (“NHL”) (together, the “Parties”) into the joint venture, United Hardware Designated Activity Company (“UHL”) (the “Proposed Transaction”).

#### Contextual Background

2. The Parties had previously notified the Commission on 22 November 2022 of a proposed transaction involving the proposed merger of the businesses of the Parties into UHL. The Parties purported to notify this transaction pursuant to section 18(1)(a) of the Act (the “2022 Notification”).
3. During the Commission’s initial assessment of the 2022 Notification, the Commission became aware that AHL and NHL may have already merged into UHL without notifying the Commission. Without prejudice to the Parties’ position in



this regard, and at the suggestion of the Commission, the Parties voluntarily withdrew the 2022 Notification and, on a precautionary basis, re-notified the Proposed Transaction to the Commission on 7 April 2023 under section 18(12A) of the Act.

4. The Commission has not reached any final view in relation to the possible prior implementation of a merger of AHL and NHL into UHL, and reserves its right to make further enquiries in respect of this matter. For the purposes of this determination, the Commission has confined its review to assessing whether the result of the Proposed Transaction would be to substantially lessen competition in markets for goods or services in the State. Accordingly, there will be no further discussion of any matter relating to the potential prior formation of UHL by the Parties in this determination.

#### **The Proposed Transaction**

5. The Proposed Transaction involves the merger of the businesses of two hardware buying groups, namely, AHL and NHL, each of which represents various independent builders merchants and hardware/DIY retailer members (the “Members”) throughout the State into the joint venture, UHL.
6. More specifically, the Parties state the following in the merger notification regarding the Proposed Transaction:
  - i) UHL would become the single buying group for all existing Members of AHL and NHL;
  - ii) [...];
  - iii) the Members will each remain legally separate and independent undertakings following the Proposed Transaction;



iv) [...];

v) [...]; and

vi) [...]¹.

### The Undertakings Involved

#### **AHL**

7. AHL is a co-operative buying group which represents independent builders merchants and hardware/DIY retailers throughout the State. Since its establishment in 1972, AHL offers support services such as marketing and store operations to the Members.
8. For the financial year ending 31 December 2021, AHL generated turnover of €[...], all of which was generated in the state.

#### **NHL**

9. NHL is a co-operative buying group which represents independent builders merchants and hardware/DIY retailers throughout the State. Since its incorporation in 1965, NHL offers support services such as marketing and store operations to the Members.
10. For the financial year ending 31 December 2021, NHL generated turnover of €[...], all of which was generated in the state.

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¹ [...]



## **UHL**

11. UHL is a joint venture buying operation to be owned, pursuant to the terms of the Proposed Transaction, by AHL, NHL and the individual Members of AHL and NHL, [...].

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

12. In regards to the rationale for the Proposed Transaction, the Parties state in the merger notification that:

“[...]”

- [...]
- [...]

### **Contact with the Undertakings Involved**

13. On 30 December 2022 while reviewing the 2022 Notification, the Commission served a Requirement for Further Information (“RFI”) on each of AHL and NHL pursuant to section 20(2) of the Act. The Commission also issued an Information Request to UHL on 24 January 2023. .
14. During its assessment of the Proposed Transaction and 2022 Notification, the Commission requested and received, on an on-going basis, further information and clarifications from the Parties.

### **Market Enquiries**

15. During its assessment of the Proposed Transaction and 2022 Notification, the Commission conducted market enquiries which included contacting a number of competitors and some of the Members of each of AHL and NHL. The Commission



received responses from all competitors contacted, and 19 responses were received from Members of AHL and NHL.

### Third Party Submissions

16. No submission was received.

### Competitive Analysis

#### Horizontal overlap

17. There is a horizontal overlap between the activities of the Parties as both AHL and NHL are active in the distribution of building materials in the State.

#### Relevant Product Market

18. 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 the precise relevant product market or markets because doing so will not affect the Commission's assessment of the competitive impact of the Proposed Transaction.
19. The Commission has considered similar product markets in previous determinations. In *M/21/080 – Grafton Group (Chadwicks) / Sitetech*<sup>2</sup>, the Commission analysed the impact of that transaction in both the broader and narrower potential product markets in which both parties in that notification were active, namely: (i) the distribution of building materials, and (ii) the distribution of construction accessories. In *M/20/040 Chadwicks/Haylen*<sup>3</sup>, the Commission found that it was not necessary to reach a definitive view on the precise relevant product market, and assessed the competitive impact of that

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<sup>2</sup> <https://www.cpc.ie/business/mergers-acquisitions/merger-notifications/m-21-080-grafton-group-chadwicks-sitotech/>

<sup>3</sup> <https://www.cpc.ie/business/mergers-acquisitions/merger-notifications/m-20-040-chadwicks-haylen/>



transaction by reference to the narrowest potential product market, i.e., the supply of architectural hardware products.

20. For its assessment of the Proposed Transaction, the Commission considered whether there was a separate product market for buying groups within the broader potential product market for the distribution of building materials. However, it was not deemed necessary to reach a definitive view on this issue, as it would not affect the Commission's analysis of the competitive impact of the Proposed Transaction.
21. The Commission has, in the course of its analysis of the Proposed Transaction, found no reason to depart from the approach taken in the previous determinations detailed above, and has, accordingly, assessed the horizontal competitive impact of the Proposed Transaction by reference to the potential market for the distribution of building materials.<sup>4</sup>

#### Relevant Geographic Market

22. In this instance, it is not necessary for the Commission to define the precise relevant geographic market because doing so will not alter the Commission's assessment of the competitive impact of the Proposed Transaction.
23. In *M/20/040 – Chadwicks/Haylen* and *M/21/080 – Grafton Group (Chadwicks) / Sitetech*, the Commission, without forming a definitive view as to the precise relevant geographic market, conducted a competitive analysis of the distribution of building materials on a national basis.
24. The Commission has, in the course of its analysis of the Proposed Transaction, found no reason to depart from the approach taken in the previous determinations detailed above, and has, accordingly, assessed the competitive impact of the Proposed Transaction on a national basis.

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<sup>4</sup> The Proposed Transaction does not impact the downstream potential product market for the retail supply of building materials since the ownership and control of each of the Members is unaffected by the Proposed Transaction.



### Conclusion on relevant markets

25. For the purposes of carrying out its horizontal competitive assessment of the Proposed Transaction, the Commission has analysed its impact by reference to the following potential market: the distribution of building materials in the State.

### Competitive Analysis – Horizontal

26. The Commission considers that the Proposed Transaction does not raise horizontal competition concerns in the potential market for the distribution of building materials in the State for the reasons set out below.

27. First, based on information provided by the Parties, the Parties have relatively small shares in the distribution of building materials in the State. The estimated market shares provided by the Parties on competitor shares were confirmed by the competitors the Commission engaged with. The Parties in the notification provided market share estimates for the distribution of building materials in the State in 2021. Based on these market share estimates, AHL had an estimated share of [5-10]%, while NHL had an estimated share of [1-5]%. Therefore, based on the estimates provided by the Parties, the Proposed Transaction would result in UHL having an estimated share of [10-15]% in the distribution of building materials in the State. This is in comparison to the other largest competitors who operate in the distribution of building materials, where the Parties have estimated that Grafton Group has an estimated share of [30-35]%, Amalgamated Hardware has an estimated share of [10-15]%, and Allied Merchants Buying Association has an estimated share of [5-10]%.

28. Second, the vast majority of Members of each of AHL and NHL, and competitors contacted by the Commission, expressed no competition concerns about the Proposed Transaction. In addition, most Members expressed the view to the Commission that, in the event of not being a member of AHL or NHL, they would purchase independently from suppliers or join another buying group, such as Amalgamated Hardware or Allied Merchants Buying Association, indicating that



there would be viable options available to Members following the implementation of the Proposed Transaction.

29. In light of the above, the Commission considers that the Proposed Transaction does not raise any horizontal competition concerns in the potential market for the distribution of building materials in the State.

### Vertical relationship

30. While the Parties state in the notification that there is no vertical relationship resulting from the Proposed Transaction, the Commission notes the following vertical restraints cited in the notification and Memorandum of Association of UHL<sup>5</sup>:

“[...]”

31. The Parties state in the notification that currently neither UHL or AHL has any [...].
32. During its review of the Proposed Transaction, the Commission sought the views of Members [...].
33. In the light of the above, the Commission considers that the Proposed Transaction does not raise any vertical competition concerns in the State.

### Conclusion of Competitive Analysis

34. 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.

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<sup>5</sup> See page 13, Section 7(e)(iii)





### **Ancillary Restraints**

35. No ancillary restraints were notified to the Commission.



### **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 Transaction, concerning the proposed merger of the business of two hardware buying groups, Associated Hardware Public Limited Company and National Hardware Designated Activity Company into the joint venture, United Hardware Designated Activity Company will not be to substantially lessen competition in any market for goods or services in the State and, accordingly, that the merger may be put into effect.

For the Competition and Consumer Protection Commission

**Brian McHugh**  
**Member**  
**Competition and Consumer Protection Commission**