



DETERMINATION OF MERGER NOTIFICATION M/23/016 – BELBYFORD LIMITED / THE IMPERIAL HOTEL (CORK) LIMITED

Section 21 of the Competition Act 2002

Proposed acquisition of sole control of The Imperial Hotel (Cork) Limited by Belbyford Limited.

Dated 30 May 2023

1. On 15 May 2023 in accordance with s18(1)(a) of the Competition Act 2002, as amended (the “**Act**”), the Competition and Consumer Protection Commission received a notification of proposed transaction whereby Belbyford Limited (“**Belbyford**”), a private company limited by shares which is owned and controlled by Louis Fitzgerald and Helen Fitzgerald, majority shareholders of Cregagh Investment Company UC (“**Cregagh**”) - the holding company of the Fitzgerald Group, acquires the entire issued share capital and control of The Imperial Hotel (Cork) Limited (the “**Target**”), which is a wholly owned subsidiary of Epsomar Limited (“**Epsomar**”), a private company limited by shares which is owned and controlled by Allen Flynn and John Flynn (the “**Proposed Transaction**”).
2. The Proposed Transaction is to be implemented pursuant to a Share Purchase Agreement (“**SPA**”), dated 12 May 2023, between Epsomar, Allen Flynn, John Flynn and Belbyford. Pursuant to the SPA, Belbyford would acquire the entire issued share capital and control of the Target.
3. The business activities of the undertakings involved are:

Belbyford Limited

- a. Belbyford is a private company limited by shares, incorporated in Ireland (registered number 709063) and with its registered office at Palmerstown House, Palmerstown, Dublin 20. It is not trading and has no operations.
- b. Belbyford is a holding company of a wholly owned subsidiary, Tatuape Limited (“**Tatuape**”). Tatuape commenced trading in the hospitality sector in May 2023 with a bar in Galway City and has operations in Ireland only. Belbyford and Tatuape form part of the “**Belbyford Group**”.



- c. Belbyford is owned and controlled by Louis Fitzgerald and Helen Fitzgerald, who are majority shareholders in Cregagh Investment Company UC, a private unlimited company have a share capital, incorporated in Ireland (registered number 86590) and with its registered office at Palmerstown House, Palmerstown, Dublin (“**Cregagh**”).
- d. Cregagh is the holding company of a group of companies which own and operate a number of business, primarily in the hospitality industry, with various pubs, hotels and hospitality related services, restaurants and investment properties. Cregagh has a number of direct and indirect subsidiaries in the State which form part of the “**Fitzgerald Group**”.
- e. The companies comprised in the Fitzgerald Group that operate a business in the State operate those businesses in Dublin, Galway or Kildare. The Fitzgerald Group does not operate a business in a location that is geographically near the business operated by the Target.
- f. The Fitzgerald Group is active in the provision of hotel and hospitality related services in The Arlington Hotel and The Louise Fitzgerald Hotel. These businesses are not geographically located near the business operated by the Target.

The Imperial Hotel (Cork) Limited

- a. The Target is a private company limited by shares, incorporated in Ireland (registered number 45339) with its registered office at South Mall, Cork City, Co. Cork, T12 A2YT.
- b. The Target operates a hotel and hospitality related services business in Cork city.
- c. The Target is a wholly owned subsidiary of Epsomar Limited, a private company limited by shares, incorporated in Ireland (registered number 128618) with its registered office at Old Ground Hotel, O’Connell Street, Ennis, Clare, V95 WDZ2 (“**Epsomar**”).
- d. Epsomar Limited is owned and controlled by Allen Flynn and John Flynn.
- e. The Target only has operations in Ireland and is in the business of operating the hotel and hospitality related services known as The Imperial Hotel Cork.

Reasons for the relevant recommendation



4. 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 as Belbyford and The Imperial Hotel (Cork) Limited have no horizontal or vertical overlap in the potential relevant market in the State.
5. In the 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

6. The parties state in the notification that Clause 11.1.1 – 11.1.4 of the SPA contain non-compete, non-solicitation, non-interference, non-recruitment obligations on each Covenantors¹ for a period of two years after the completion of the Proposed Transaction. The Commission notes that these obligations are limited in scope and do not exceed the maximum duration acceptable to the Commission. The Commission considers these obligations to be directly related and necessary to the implementation of the Proposed Transaction.
7. Clause 11.1.5 – 11.1.7 places certain copyright restrictions as well as prohibiting the disclosure of Commercial Information which is confidential to the Target on the Covenantors any time after the signing of the SPA.

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 the proposed acquisition by Belbyford Limited of the entire issued share capital of The Imperial Hotel (Cork) 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.

¹ The SPA defines “Covenantors” as each or any of the Seller and/or the Shareholders.



For the Competition and Consumer Protection Commission

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