



Determination No. M/04/014 of the Competition Authority, dated 7th April 2004, under Section 21 of the Competition Act, 2002

Notification No. M/04/014 – Kerry Group plc Proposed Acquisition of part of Imperial Chemical Industries plc’s Quest Foods Division

Introduction

1. On 8th March 2004, the Competition Authority, in accordance with Section 18 (1) of the Competition Act, 2002, (“the Act”) was notified, on a mandatory basis, of a proposal whereby Kerry Group plc (“Kerry”) would acquire the Food Ingredients Business (the “Business”) of Imperial Chemical Industries plc (“ICI”), which is part of the ICI Quest Foods Division (“Quest Foods”).

The Parties

2. Kerry is a public limited company incorporated in Ireland. Kerry is mainly active in the consumer foods sector in Ireland and the UK. Also, Kerry is active in the global food ingredients and flavour sectors, in which it is engaged in the production and sale of the following categories of food ingredients:
 - (i) Flour based crumb/batters/coatings;
 - (ii) Seasonings;
 - (iii) Savoury meat ingredients;
 - (iv) Dairy based ingredients;
 - (v) Cures and yield improvers;
 - (vi) Vegetable derived textured and functional proteins for use in ready meals, meat processing and pet foods;
 - (vii) Concentrates/improvers/soya flours; and
 - (viii) Fruit based ingredients.

Furthermore, Kerry is active in the production and distribution of certain proteins and hydrocolloids, which form part of its activities in (vi), above. Specifically, Kerry produces non-hydrolysed proteins, which are supplied to the dairy and nutrition industries. Kerry’s hydrocolloid products are derived from gum arabic and are largely produced for and supplied to the non-alcoholic carbonated soft drinks sector. Kerry’s protein and hydrocolloid products yield a combined turnover of [] in Ireland.

3. ICI is a public limited company incorporated in the United Kingdom. The Business forms part of Quest Foods, which is the foods division of ICI. The Business comprises of nine major sourcing units organised into four global regions: Europe, North America, Asia Pacific and International (mainly Latin America and Africa). Its sourcing unit in Ireland is located in Cork. The Business is active in the production and supply of the following product groups:
 - (i) Emulsifiers: Serve the bakery, dairy and confectionary sectors. They are used for bonding oil and water to create certain textures in products. This product group generates a turnover of [] in Ireland.
 - (ii) Proteins: These involve mostly the production of protein hydrolysates that are supplied to the pharmaceuticals sector. There are also protein texture products that are



- supplied to confectionery and bakery sectors. This product group generates a turnover of [€] in Ireland.
- (iii) Lactose: This is supplied mainly to the pharmaceuticals sector. This product group generates a turnover of [€] in Ireland.
 - (iv) Hydrocolloids: These are sourced from seaweed, fish and plants, and are supplied to the brewing, dairy, meat and bakery sectors. This product group generates a turnover of [€] in Ireland.
 - (v) Enzymes: These are supplied mainly to the brewing, bakery and fruit processing sectors. This product group generates a turnover of [€] in Ireland.
 - (vi) Yeast: This involves the production of two main products: (a) yeast extracts used as taste and flavour ingredients in the production of savoury flavours, and (b) distillery yeast used in Scottish whisky production. This product group generates a turnover of [€] in Ireland.
 - (vii) Cultures (Fermented Ingredients): These are divided into three product ranges: (a) active cultures used in meat and dairy to enhance taste and provide a certain texture, (b) shelf-life used in bakery and dairy to extend the shelf-life of products and prevent the growth of bacteria, and (c) fermented building blocks which provide texture and taste for a range of applications. This product group generates [€] revenue in Ireland.
4. Kerry does not have the capability to manufacture the products manufactured and supplied by the Business. The only areas where the business activities of Kerry and the Business would appear to overlap are in the production of proteins and hydrocolloids. However, these product groups are not close substitutes as they are supplied to different customers for use in different products and in different markets. Kerry produces and supplies non-hydrolysed proteins, which are used in the dairy and nutrition industries, whereas the Business produces hydrolysed proteins that are supplied for use in pharmaceutical applications, the confectionery and human nutrition industries. There is no evidence to suggest that Kerry is a potential competitor to the Business's activities.
5. Kerry has also confirmed that the proposed acquisition will not affect the existing contracts between the Business and its customers.

Analysis

6. As there is minimal or no competitive overlap between the activities of the parties within the State, the transaction will not have a significant impact on competition within the State.

Determination

The Competition Authority, in accordance with Section 21(2) of the Competition Act, 2002, has determined that, in its opinion, the result of the proposed acquisition will not be to substantially lessen competition in markets for goods and services in the State and, accordingly, that the transaction may be put into effect.



The Competition Authority
An tÚdarás Iomaíochta

For the Competition Authority

Edward Henneberry
Member of the Competition Authority

7th April 2004