



DETERMINATION OF MERGER NOTIFICATION M/15/016 - PRL/MFS

Section 21 of the Competition Act 2002

Proposed acquisition by PRL Group of sole control of Moran Freight Services Limited and Moran Freight Services (UK) Limited

Dated 11 May 2015

Introduction

1. On 30 March 2015, in accordance with section 18(3) of the Competition Act 2002, as amended¹ (“the Act”), the Competition and Consumer Protection Commission (the “Commission”) received a voluntary notification of a proposed transaction whereby PRL Group (“PRL”) would acquire sole control of Moran Freight Services Limited and Moran Freight Services (UK) Limited (together “MFS”). The proposed transaction also involves the acquisition by PRL of sole control of the distribution facility from which Moran Freight Services Limited currently operates at Greenogue Business Park, Rathcoole, Co Dublin.

The Undertakings Involved

PRL

2. PRL, an unlimited company incorporated in the State and owned by Michael Brannigan and Jack O’Riordan, provides logistics and retail sales solutions to customers in the State and worldwide in the following sectors:
 - Ambient food and beverages;
 - Chilled and frozen food; and,
 - Pharmaceutical and healthcare products.
3. The logistics solutions business involves the provision of the following services to customers: bonded alcohol solutions; multi-temperature warehousing; multi-temperature nationwide distribution; storage for medicinal products²; medicinal product repacking under HPRA guidelines; product repacking and co-packing; quality management and regulatory approvals; and inventory management.

¹ It should be noted that the Competition and Consumer Protection Act 2014 made a number of important amendments to the merger review regime set out in the Competition Act 2002.

² This is authorised by the Health Products Regulatory Authority (“HPRA”).



4. The retail sales solutions business involves acting as an agent or distributor on behalf of clients and providing the following services: order capture; credit control; field sales management; van selling; taking title of product; merchandising of product in-store; infield audit and planogram maintenance; and financial management.
5. PRL acts as a distributor of Unilever Ireland's HB ice cream products along the eastern seaboard in the State ranging from County Louth to County Cork. PRL purchases the HB products from Unilever Ireland and resells them to the retail sector and to other customers. PRL also takes title of Birds Eye frozen food products and a limited range of frozen pizzas and chips and distributes these products along the eastern seaboard in the State.
6. PRL is headquartered in Dublin and operates four distribution facilities in the State. Two of these distribution facilities are located in close proximity to each other in Rathcoole, Co. Dublin, one of which PRL owns and the other of which is leased to PRL. The other two distribution facilities operated by PRL are located in Cork (which PRL leases) and Kilkenny.³ In addition, PRL has three partner-operated distribution facilities located in counties Sligo, Limerick and Donegal.
7. For the financial year ending 31 December 2014, PRL's worldwide turnover was approximately €[...], all of which was generated in the State.

MFS

8. Moran Freight Services Limited is a limited company incorporated in the State while Moran Freight Services (UK) Limited is a limited company incorporated in England and Wales. Both companies are owned by Michael Moran and Vincent Moran. Moran Freight Services Limited and Moran Freight Services (UK) Limited operate in the State and the United Kingdom, respectively.
9. MFS's core focus is the provision of logistics services to the electronics, plastics, automotive, pharmaceutical, healthcare, and chemicals sectors. MFS specialises in providing temperature-controlled solutions for the pharmaceutical and healthcare sectors.
10. MFS is also involved in the provision of international freight forwarding services (which consists of arranging for the transport and delivery of goods) in the State, the United Kingdom, and Europe, with a small presence in the United States. Freight forwarding services provided by MFS include international and domestic transport services, bonded warehousing and customs clearance, contract logistics, and retail distribution.
11. In the State, Moran Freight Services Limited operates one purpose built distribution facility located in Greenogue Business Park, Rathcoole, Co Dublin. This distribution facility is currently owned by Heatra Limited ("Heatra"), a holding company owned by Michael Moran and Vincent Moran. Moran Freight Services Limited currently leases

³ PRL does not own or lease the distribution facility in Kilkenny. This facility is owned and operated by Michael Brannigan & Sons Limited, the owner of which (Michael Brannigan) is a shareholder in and director of PRL. Michael Brannigan & Sons Limited provides warehousing and handling services to PRL in the distribution facility in Kilkenny.



this facility from Heatra. As part of the proposed transaction, PRL will acquire sole control of this distribution facility from Heatra.

12. Moran Freight Services (UK) Limited operates two distribution facilities in the United Kingdom located in Antrim, Northern Ireland and Rugby, England (both of which are leased). Moran Freight Services (UK) Limited also has eleven partner-operated facilities located throughout the United Kingdom. Moran Freight Services (UK) Limited does not own, lease or manage any of these eleven partner-operated distribution facilities. MFS also has fifteen partner-operated depots located throughout mainland Europe.
13. For the financial year ending 30 June 2014, Moran Freight Services Limited's worldwide turnover was approximately €[...], of which approximately €[...] was generated in the State. For the financial year ending 30 June 2014, Moran Freight Services (UK) Limited's worldwide turnover was approximately €[...], of which approximately €[...] was generated in the State.

Rationale for the Proposed Transaction

14. The parties state in the notification:

“PRL has identified a commercial need to expand by offering more services, including expansion and development of its lean stock operating model (freight forwarding), similar to that currently operated by MFS, so that PRL can provide import and export services to its customers. PRL is not currently engaged in international freight forwarding. Certain of the shareholders of MFS are of retirement age and, together with the remaining shareholders, are seeking to dispose of their shareholding interest in MFS with an intention to remain with the business operations on a contract basis for a certain period post-completion.”

Third Party Submissions

15. No submission was received.

Competitive Analysis

16. There is no vertical relationship between the parties. There is no horizontal overlap between the parties with respect to the provision of international freight forwarding services since PRL is not currently engaged in this business. There is also no horizontal overlap between the parties with respect to the provision of retail sales solutions since MFS is not currently engaged in this business.
17. There is, however, a horizontal overlap between the parties with respect to the provision of logistics services in the State. In particular, both PRL and MFS provide logistics services to customers in the following three industries:
 - Ambient food and beverages;
 - Chilled and frozen food; and,



- Pharmaceutical and healthcare.
18. The narrowest product market affected by the proposed transaction is the provision of logistics services to customers in each of the three sectors listed in paragraph 17 above. The Commission, however, does not need to come to a definitive view on the precise relevant product market since its conclusion on the competitive impact of the proposed transaction will be unaffected whether the precise relevant product market is narrow (e.g., the provision of logistics services to customers in the ambient food and beverages sector) or broader to encompass the provision of logistics services across a range of products and sectors.
 19. The narrowest geographic market affected by the proposed transaction is the provision of logistics services in the State. For the same reason outlined in paragraph 18 above, the Commission does not need to come to a definitive view on the precise relevant geographic market.
 20. Moran Freight Services Limited has a small presence in the State in the provision of logistics services in each of the three sectors listed in paragraph 17 above. In 2014, Moran Freight Services Limited generated turnover in the State of €[...] in the provision of logistics services to customers in the ambient food and beverages sector; no turnover in the State in the chilled and frozen food sector; and €[...] in the pharmaceutical and healthcare sector in the State. The combined turnover of €[...] generated by Moran Freight Services Limited across all three industries in the State represents only [...] % of Moran Freight Services Limited's total turnover generated in the State in 2014. In contrast, PRL generated turnover of approximately €[...] through the provision of logistics services to customers across all three sectors in the State in 2014.⁴ The proposed acquisition of MFS by PRL will therefore have minimal impact on PRL's share in the provision of logistics services to customers in each of these three industries in the State.
 21. Information provided to the Commission by PRL indicates that the parties are not close competitors in the provision of logistics services in the State. PRL and MFS currently have no common customers in the State. Furthermore, PRL informed the Commission that it has never lost a customer to MFS or gained a customer from MFS in the State.
 22. Finally, post-transaction, PRL will continue to face competition from around 50 logistics service providers currently active in the State.⁵
 23. 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.

Ancillary Restraints

24. The Share Purchase Agreements between the parties to the proposed transaction contain a number of restrictive obligations on Michael Moran and Vincent Moran (i.e.

⁴ An economic report prepared by Compecon Limited on behalf of PRL that was submitted to the Commission with the notification on 30 March 2015 contains the following statement: "A March 2012 briefing note prepared for PRL by IBI [Corporate Finance] noted that the logistics market was fragmented and that the top 5 undertakings in the road freight market controlled less than 10% of that market."

⁵ This information was provided in the economic report prepared by Compecon Limited on behalf of PRL that was submitted to the Commission with the notification.



the vendors). These include non-compete and non-solicitation clauses. None of these restrictive obligations exceeds the maximum duration acceptable to the Commission.⁶ The Commission considers these restrictions to be directly related and necessary to the implementation of the proposed transaction.

⁶ In this respect, the Commission follows the approach adopted by the EU Commission in paragraphs 20 and 26 of its “Commission Notice on restrictions directly related and necessary to concentrations” (2005). For more information see [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005XC0305\(02\)&from=EN](http://eur-lex.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, has determined that, in its opinion, the result of the proposed transaction whereby PRL Group would acquire sole control of Moran Freight Services Limited (including the distribution facility from which Moran Freight Services Limited currently operates at Greenogue Business Park, Rathcoole, Co Dublin) and Moran Freight Services (UK) 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.

For the Competition and Consumer Protection Commission

Isolde Goggin
Chairperson
Competition and Consumer Protection Commission