



DETERMINATION OF MERGER NOTIFICATION M/17/014 - ELEMENT (CAPVEST)/KARRO

Section 21 of the Competition Act 2002

Proposed acquisition by CapVest Partners LLP through Element UK Bidco Limited of sole control of Karro Food Group Limited

Dated 24 April 2017

Introduction

1. On 23 March 2017, in accordance with section 18(1)(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 whereby Element UK Bidco Limited (“Element Bidco”) would acquire sole control of Karro Food Group Limited [“Karro Food Group”]. Element Bidco is indirectly majority-owned and controlled by [...], which comprise an investment fund which is advised by CapVest Partners LLP (“CapVest”).

The Proposed Transaction

2. The proposed transaction is to be implemented pursuant to a share purchase agreement (“SPA”) dated 23 March 2017 between Element Bidco and the existing shareholders of Karro Food Group, whereby Element Bidco will purchase the entire issued share capital of Karro Food Group. Following the completion of the proposed transaction, CapVest will ultimately control Karro Food Group.

The Undertakings Involved

Element Bidco

3. Element Bidco, a private limited company incorporated in England and Wales, is indirectly controlled by CapVest. CapVest currently indirectly owns the majority shareholding in Element Bidco, while the remaining shares in Element Bidco are owned by a number of individual shareholders.¹

CapVest

4. CapVest, a limited liability partnership established in England and Wales, principally makes private equity investments and focuses primarily on mid-market buyouts.

¹ [...].



CapVest's businesses in the State include Mater Private Healthcare Unlimited Company ("Mater Private Healthcare")² and Valeo Foods Unlimited Company ("Valeo Foods").³

5. Mater Private Healthcare is active in the provision of private healthcare services in the State. It operates two hospitals located in Dublin and Cork, one advanced cancer centre in Limerick and a number of out-patient clinics in various locations throughout the State. Mater Private Healthcare also operates an advanced cancer centre in Liverpool in the United Kingdom.
6. Valeo Foods, an unlimited company incorporated in the State and headquartered in Dublin, is a producer and distributor of shelf-stable/ambient food products. Valeo Foods' brands include Rowse (honey), Robert Roberts (tea and coffee), Odlums (flour), Batchelors (tinned beans and peas), Jacobs (biscuits), Roma (pasta and sauces), Chef (sauce), Shamrock (dried fruit), Erin (soup), and Kelkin (wholesome cereals, calorie controlled snacks). Valeo Foods also owns the Findlater Wine & Spirit Group. It operates four in-house manufacturing facilities located in the State and in the United Kingdom for the production of its products. It also operates a central distribution centre in each of Belfast and Oxfordshire in the United Kingdom.
7. For the financial year ending 31 December 2015, CapVest's worldwide turnover was approximately €[...] million, of which approximately €[...] million was generated in the State.

Karro Food Group

8. Karro Food Group, a private limited company incorporated in England and Wales and headquartered in Yorkshire in the United Kingdom, is active at different levels of the meat processing supply chain. Karro Food Group breeds pigs in its farm in Brydock, Scotland, where it also processes bacon, gammon, fresh pork, frozen sausage, ham and cooked meats for supply to retail, food service and manufacturing customers located across the State and in the United Kingdom.
9. Karro Food Group has one processing plant in the State, located at Castleblayney, Co. Monaghan, and one slaughtering and processing plant, located at Cookstown, County Tyrone. Karro Food Group processes pork and other meat products for sale to predominantly [...] in Northern Ireland.⁴ Most of Karro Food Group's sales in the State are made through its Cookstown plant to retailers, such as [...], and are "business-to-business" sales of fresh and processed products.

² On 25 May 2007, the Commission's predecessor, the Competition Authority, approved the acquisition by CapVest Fund Partners II, LP of sole control of Mater Private Healthcare. The Competition Authority's merger Determination in M/07/017- Pula/Mater Private Hospital can be assessed at <http://www.cpc.ie/enforcement/mergers/merger-notices/m07017-fulsamater-private-healthcare>

³ On 18 November 2010, the Commission's predecessor, the Competition Authority, approved the acquisition by CapVest Equity Partners II, L.P. of sole control of Valeo Foods Group Limited. The Competition Authority's Merger Determination in M/10/031-CapVest/Origin Foods/ Maiden can be assessed at <http://www.cpc.ie/enforcement/mergers/merger-notices/m10031-capvest-origin-foods-maiden>

⁴ Karro Food Group also makes a small number of sales of pre-packed meat products to customers in the State, primarily to [...].



10. For the financial year ending 31 December 2015, Karro Food Group's worldwide turnover was approximately €[...] million, of which approximately €[...] million was generated in the State.⁵

Rationale for the Proposed Transaction

11. The parties state in the notification:

"From CapVest's perspective, the acquisition of Karro is an extension of its existing investment strategy and represents an opportunity to invest [...]."

"From the perspective of Karro's current shareholders, the Proposed Transaction represents an opportunity for the shareholder funds managed by Endless LLP to exit the business via a sale to an experienced and well-resourced professional investor. Certain existing management shareholders will continue to have an (indirect) equity interest in Karro following completion of the Proposed Transaction."

Third Party Submissions

12. No submission was received.

Competitive Analysis

13. 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 precise relevant product and geographic markets since there is neither a horizontal overlap nor a vertical relationship between the activities of the parties in the State.
14. None of the portfolio companies currently controlled by CapVest that generated turnover in the State in 2015 are active in the meat processing sector within the State. Therefore, the proposed transaction does not raise any horizontal or vertical competition concerns with the State.
15. 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

16. Clause 15 of the SPA contains restrictive covenants on the current shareholders of Karro Food Group, in particular non-compete and non-solicitation obligations. The duration of these restrictive covenants does not exceed the maximum duration acceptable to the

⁵ These figures are converted from information provided by the parties by using ECB euro reference exchange rate, i.e., 2015 average exchange rate from STG to Euro is approximately 1.3785. The parties state that Karro Food Group's worldwide turnover was approximately STG €[...] million, of which approximately STG €[...] million was generated in the State.



Commission and the Commission considers that these restraints are directly related and necessary to the implementation of the proposed transaction.⁶

⁶In this respect, the CCPC 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” (2002). 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, has determined that, in its opinion, the result of the proposed transaction, whereby Element UK Bidco Limited would acquire sole control of Karro Food Group 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

Patrick Kenny
Member
Competition and Consumer Protection Commission