



DETERMINATION OF MERGER NOTIFICATION M/19/029– MASCO / BCD GROUP

Section 21 of the Competition Act 2002

Proposed acquisition by Masco Group S.R.L. of BCD Group through the acquisition of sole control of BearnA A Do Limited.

Dated 20 November 2019

Introduction

1. On 10 October 2019, in accordance with section 18(1) of the Competition Act 2002, as amended (“the Act”), the Competition and Consumer Protection Commission (“the Commission”) received a notification of a proposed acquisition, whereby Masco Group S.R.L.¹ (“Masco Group”) (the “Purchaser”) would acquire sole control of BearnA A Do Limited (“BearnA A Do”) and its subsidiaries (“BCD group”) (the “Proposed Transaction”).

The Proposed Transaction

2. The Proposed Transaction is to be implemented pursuant to a Share Purchase Agreement between Mr Kieran Kavanagh, Mr Thomas Walsh and Mr Richard Keays (the “Vendors”)² and Masco Group, dated 3 October 2019 (the “SPA”). Pursuant to the SPA, Masco Group shall acquire from the Vendors 80% of the issued share capital of BearnA A Do and thus, sole control of BCD Group.

The Undertakings Involved

The Purchaser

3. Masco Group is a private limited company incorporated in Italy and it is controlled by RSBG SE. RSBG SE is part of the RAG Group, which comprises RAG-Stiftung and its

¹ [...].

² [...].



subsidiaries: RAG Aktiengesellschaft (“RAG AG”),³ Evonik Industries AG,⁴ Vivawest GmbH,⁵ and RSBG SE.⁶ RAG-Stiftung is a German foundation established to manage the former mining activities of the Ruhr region.

4. The parties submitted to the Commission that “[...]”⁷
5. Table 1 below outlined undertakings that are owned both directly and/or indirectly by the RAG Group and that generated turnover in the State in 2018:

Table 1: RAG Group Companies which generated turnover in the State in 2018

[...]	[...]
[...] ⁸	[...]
[...]	[...]
[...]	[...]
[...]	[...]
[...]	[...]
[...]	[...]
[...]	[...]y

Source: the Parties

³ RAG AG’s primary business activity was mining before the closure of its last two mines, and currently its primary business activity is the processing of residual pollution and perpetual obligations from mining.

⁴ Evonik Industries AG is the holding company of Evonik Group, focusing on speciality chemicals.

⁵ Vivawest is a housing provider in Germany.

⁶ RSBG SE’s primary business activity is to acquire companies in specialised, medium-sized engineering, automation and industrial service companies.

⁷ [...].

⁸ [...].



6. Masco Group wholly owns three companies, Olsa S.p.A (“Olsa”), Stilmas and Doc S.r.l., all of which are also incorporated in Italy. Masco Group and its subsidiaries specialise in pure water systems, including complete solutions for liquid production pharmaceutical plants and product preparation areas. Olsa is involved in the manufacture of process systems and process vessels to the pharmaceutical, biotechnology, food & beverage and chemical industries. [...].
7. For the financial year ending 31 December 2018, RAG Group’s worldwide turnover was approximately €18.4 billion, of which approximately €[...] million was generated in the State.
8. For the financial year ending 31 October 2018, Masco Group’s worldwide turnover was approximately €[...] million, of which approximately €[...] million was generated in the State.

The Target – BCD Group

9. BCD Group comprises Bearna A Do, and its subsidiaries Brewery Chemical & Dairy Engineering (Holdings) Limited, Brewery Chemical & Dairy Engineering Limited (“BCDE”) and BCD Engineering (U.K.) Limited. BCD Engineering (U.K.) Limited is incorporated in the United Kingdom and carries out service and maintenance agreements for BCD Group customers in the United Kingdom. [...].
10. BCDE, incorporated in the State, is an engineering company which specialises in the design and manufacture of process systems and process vessels to the pharmaceutical, biotechnology, food & beverage and chemical industries. The products and systems supplied by BCDE comprise:
 - pharma and bio process vessels for a wide range of applications in the Pharmaceutical, Chemical and Biotech industries including buffer/ media vessels, pure water, mobiles, formulation and chemical reactors;
 - food and beverage vessels including brewing fermenters, milk silos, baghouse filters, and spray driers; and,
 - the following skids and modules:
 - CIP/SIP systems;



- temperature control;
 - biological effluent treatment;
 - biotech modules (such as buffer preparation and hold modules, media preparation and hold modules, harvest hold modules, bioreactor modules, purification skids, chromatography skids, CIP and rinse modules); and
 - clean utility systems for the production of clean water and pure steam.
11. All of these products or systems can be provided either as modules or entire process systems delivered through a turnkey and/or design build service. Examples include:
- Turnkey Water System Installations with distribution loops;
 - Site built CIP installations including complex ring-mains;
 - Tank Farm installations including Vessels, Piping, Platforms, Automation and Electrical; and,
 - Solution Preparation Suites assembled on site.
12. For the financial year ending 31 August 2018, BCD Group's worldwide turnover was approximately €[...] million, of which approximately €[...] million was generated in the State.

Rationale for the Proposed Transaction

13. The parties state in the notification that:

“[...]”

Third Party Submissions

14. No submission was received.

Competitive Analysis

Horizontal Overlap

15. There is no horizontal overlap in the State between the activities of the parties. As described above, BCD Group is active in design and manufacture of process systems and process vessels to the pharmaceutical, biotechnology, food & beverage and chemical



industries in the State. Following enquiries, the Commission confirmed that none of companies in the RAG Group (including Masco Group and its subsidiaries) that currently generate turnover in the State are engaged in the same business activities as the BCD Group in the State.⁹

16. In light of the above, the Commission considers that the Proposed Transaction does not raise any horizontal competition concerns in the State.

Vertical Relationship

17. The parties state in the notification that there is no vertical relationship in the State between BCD Group and the companies in the RAG Group which generated turnover in the State in 2018. The Commission has not identified any existing vertical relationship between the parties.

18. The parties state in the notification that there exists a potential vertical relationship between the parties in the following areas:

- the manufacture and supply of process vessels by BCD Group for use in water treatment systems marketed by Stilmas in the State;
- the manufacture and supply of water treatment systems by Stilmas for use in the turn-key clean utilities systems marketed and supplied by BCD Group.

19. The Commission considers that this potential vertical relationship will not give rise to any vertical foreclosure concerns in the State for the following reasons:

- There are a number of companies competing with BCD Group for the manufacture and supply of process vessels, such as Tecinox S.r.l., Pierre Guerin SAS, Abec Technologies Europe Limited, Brinox inženiring d.o.o. and 3C France SAS. The parties state in the notification that BCD Group's estimated market share for the manufacture and supply of process vessels for pharma and biotech applications is less than 10% in the EEA and less than 10% in the State. [...].

⁹The parties confirmed that Olsa (which is a wholly-owned subsidiary of Masco Group) is involved in the manufacture of process systems and process vessels to the pharmaceutical, biotechnology, food & beverage and chemical industries. However, as noted at paragraph 6 above,[...].



Therefore, the Commission considers that there would not be input foreclosure following implementation of the Proposed Transaction, as competitors of Stilmas and Olsa would continue to have a choice between a number of companies for the manufacture and supply of process vessels.

- Following implementation of the Proposed Transaction, there will remain a number of companies which manufacture and supply water treatment systems, such as BWT AG, Mechanical Equipment Corp., Robert Bosch GmbH, Tecnox S.p.A. and Bram-Cor S.p.A.. The parties state in the notification that Stilmas's estimated market share for the supply of water treatment systems is 5% in the EEA and 20% in the State.¹⁰ Furthermore, in 2018, BCD Group did not purchase any water treatment systems in the State. Therefore, the Commission considers that there would be no input foreclosure following implementation of the Proposed Transaction, as competitors of BCD Group would continue to have a choice between a number of companies for the manufacture and supply of water treatment systems for use in the turn-key Clean Utilities Systems.

20. Therefore, the Commission considers that the Proposed Transaction does not raise any vertical competition concerns in the State.

Conclusion

21. 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

22. Clause 10 of the SPA contains non-compete and non-solicitation obligations on the Vendors. The duration of these restrictive covenants does not exceed the maximum duration acceptable to the Commission.¹¹ The Commission considers these restrictions to be directly related to and necessary for the implementation of the Proposed Transaction, insofar as they relate to the State.

¹⁰The parties' estimation is based on the assumption a market size of €[...] million calculated on a per capita basis.

¹¹In this respect, the CCPC follows the approach adopted by the European Commission in paragraphs 20 and 26 of its *Notice on restrictions directly related and necessary to concentrations* [2005] OJ C56/03 (<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52005XC0305%2802%29>).



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 Masco Group S.R.L. would acquire sole control of Bearná A Do Limited and its subsidiaries (“BCD group”), 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

Brian McHugh
Member
Competition and Consumer Protection Commission