



DETERMINATION OF MERGER NOTIFICATION M/11/009 - BH Acquisitions/Northern Foods

Section 21 of the Competition Act 2002

Proposed acquisition by BH Acquisitions Limited of Northern Foods plc

Dated 06 April 2011

Introduction

1. On 7 March 2011, in accordance with section 18 of the Competition Act 2002 (the "Act"), the Competition Authority (the "Authority") received a notification of a proposed transaction whereby BH Acquisitions Limited ("BH Acquisitions") would acquire control of Northern Foods plc ("Northern Foods").

The Undertakings Involved

BH Acquisitions

2. BH Acquisitions, a wholly-owned subsidiary of Boparan Holdings Limited ("Boparan"), was specifically incorporated for the purpose of acquiring Northern Foods.
3. Boparan, through its wholly-owned subsidiary Five Star Fish ("FSF"), has a service arrangement with Northern Foods to supply it with coated and breaded frozen fish products which are then sold by Northern Foods to retailers in the State under the *Donegal Catch* brand.
4. Boparan, through another wholly-owned subsidiary, 2 Sisters Food Group ("2SFG"), supplies both primary and processed chicken food products in the State. (Primary chicken products are fresh or unprocessed products while processed products include coated, cooked and roast chicken products.) 2SFG supplies fresh, coated, cooked, and roast chicken to retailers, food service companies and other industrial processors.
5. 2SFG supplies Northern Foods with primary chicken products, which the latter uses as an ingredient in its range of chilled ready meals ("CRM"), pizzas, sandwich fillers, and salads.
6. For the year ending 31 July 2009, Boparan's worldwide turnover was £857 million (€960 million)¹. Boparan's turnover in the State for the same period was £[...] (€[...]).

Northern Foods

¹ Based on average annual exchange rate of £1 sterling = €1.12 euro for 2009.

7. Northern Foods has three divisions: Chilled, Frozen, and Bakery. The *Chilled* division manufactures own-label "Food to Go" and CRM products which it sells to some of the United Kingdom's largest retailers and, by extension, to those retailers in the State. The product ranges sold in the State by Northern Foods reflect the selections made by retailers in the United Kingdom (e.g., [...]).
8. The *Frozen* division manufactures a range of frozen branded products including frozen fish (*Donegal Catch*), pizzas (*Goodfellas*, *San Marco*, *Green Isle*), pies (*Hollands and McDougalls*), and vegetables (*Green Isle*). All these brands are owned by Northern Foods which sells the products under the brands to some of the United Kingdom's largest retailers and, by extension, to those retailers in the State. The *Donegal Catch* brand includes frozen fish CRM products, frozen fish fillets, frozen coated fish, and frozen fish fingers.
9. The *Bakery* division manufactures biscuits (*Fox's*) and Christmas puddings (*Matthew Walker*). Both brands are owned by Northern Foods which sells the products under the brands to some of the United Kingdom's largest retailers and, by extension, to those retailers in the State.
10. For the year ending 3 April 2010, Northern Foods' worldwide turnover was £977 million (€1,172 million)². Northern Foods' turnover in the State for the same period was £[...] (€[...]).

Rationale for the Proposed Transaction

11. Boparan states that the proposed transaction will provide it with a platform to improve its offering in the United Kingdom and to support the expansion of its existing customer base. Boparan states that the proposed transaction will create a combined group that will be diversified across a number of food markets and will have strong relationships with the United Kingdom's leading retailers.
12. Boparan further states that it intends to continue to develop existing Northern Foods' brands and establish complementary brands in the existing Boparan range.
13. Boparan also states that the proposed transaction will bring about synergies in administration, sales, and purchasing, leading to cost savings.

Third Party Submissions

14. No submissions were received.

Analysis

15. There is no horizontal overlap between the activities of Boparan and Northern Foods in the State.

Vertical Overlap

16. There is a vertical contractual relationship between Boparan and Northern Foods concerning the supply of secondary processed fish. In

² Based on average annual exchange rate of £1 sterling = €1.2 euro for 2010.

addition, there is a vertical overlap between the parties concerning the supply of primary chicken products.

Supply of Secondary Processed Fish

17. Both Boparan and Northern Foods expressed the view to the Authority that there are different levels in the supply chain for fish. Primary fish processing involves the filleting, skinning, de-boning and cutting of fish that has been caught from the sea. Primary processed fish is then sent for secondary processing where the fish is coated in batter, bread, or a sauce.
18. Boparan produces secondary processed fish for Northern Foods who then sell this product to retailers in the State [...]. Boparan does not process secondary processed fish on behalf of any other parties in the State.
19. The Authority considers that the proposed acquisition does not raise any competition concerns in the State in respect of the supply of secondary processed fish, since:
 - Boparan does not currently process secondary processed fish on behalf competitors of Northern foods and this will not change as a result of the proposed acquisition; and
 - Rivals of Northern Foods (such as Iglo, Birds Eye, Foodvest/Young's Seafood, Thistle Seafood, and Coldwater Seafoods) all process (i.e., bread or coat) their own secondary processed fish.
20. The proposed transaction would therefore not result in Boparan having the ability, post-acquisition, to foreclose competitors of Northern Foods from supplying secondary processed fish to retailers in the State.

Supply of Primary Chicken

21. Boparan's subsidiary, 2SFG, supplies primary chicken products to Northern Foods. This chicken is used as an ingredient in Northern Foods' products such as CRM, pizzas, sandwiches, and meal salads. Northern Foods does not purchase processed chicken products from Boparan.
22. Boparan estimates that its share of the primary chicken food market in the State is less than [0-10]%. Boparan states that its main competitors are international suppliers such as Moy Park, Vion/Grampian, Faccenda, and Cargill. Boparan states that many processors such as Moy Park, Vion/Grampian, and Faccenda are vertically integrated, thereby able to source their own poultry internally as well as to purchase poultry from third party suppliers.
23. Northern Foods states that the limited vertical overlap in the supply of primary chicken products is unlikely to raise foreclosure concerns.
24. For the following reasons, the Authority agrees with the parties that the proposed transaction does not raise any vertical competition concerns in respect of the supply of primary chicken in the State:

- Rivals of Northern Foods can purchase primary chicken products from suppliers such as Moy Park, Vion/Grampian, Faccenda, and Cargill; and,
 - Boparan accounts for a minimal share of the market for the supply of primary chicken in the State.
25. Consequently, there is no risk of supplier or customer foreclosure since the proposed acquisition will not affect the ability of primary chicken processors to sell their products to other manufacturers of CRM, pizzas, sandwiches, and meal salads in the State.

Conclusion

22. In the light of the above, the Authority considers that the proposed transaction does not raise any competition concerns in any market for goods or services in the State.

DETERMINATION

The Competition Authority, in accordance with section 21(2)(a) of the Competition Act, 2002, has determined that, in its opinion, the result of the proposed acquisition by BH Acquisitions Limited of Northern Foods plc will not be to substantially lessen competition in markets for goods or services in the State, and accordingly, that the acquisition may be put into effect.

For the Competition Authority

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Member of the Competition Authority

Director, Mergers Division