



DETERMINATION OF MERGER NOTIFICATION M/15/025 - LLOYDS PHARMACY/DARGLE PHARMACIES

Section 21 of the Competition Act 2002

Proposed acquisition by Lloydspharmacy Ireland Limited of sole control of Dargle Pharmacies Holdings Limited

Dated 30 June 2015

Introduction

1. On 27 May 2015, in accordance with section 18(1) of the Competition Act 2002, as amended¹ (“the Act”), the Competition and Consumer Protection Commission (the “Commission”) received a notification of a proposed transaction whereby Lloydspharmacy Ireland Limited (“Lloyds”) would acquire the entire issued share capital and thus sole control of Dargle Pharmacies Holdings Limited (“Dargle”).

The Undertakings Involved

Lloyds

2. Lloyds, an Irish company incorporated in the State, is owned by Celesio Aktiengesellschaft (“Celesio”), an international pharmaceutical wholesaler and retailer and provider of logistics and services to the pharmaceutical and healthcare sectors. Celesio, which is headquartered in Germany, is part of the McKesson Corporation whose registered office is in the United States. McKesson Corporation is the ultimate holding company of McKesson Group which is active in pharmaceutical wholesaling, medical supplies and healthcare information technology.
3. Separately from its Celesio/Lloyds business, McKesson Group operates three divisions in the State:
 - McKesson Ireland is involved in the printing of manuals, the manufacture of software products, and the supply and installation of medical imaging systems;
 - Northstar Ireland contracts with manufacturing companies for the manufacture of generic pharmaceutical products on behalf of Northstar Ireland; and,
 - McKesson Medical Surgical International negotiates contracts with manufacturing companies for the manufacture of medical surgical products on behalf of McKesson Medical Surgical International.

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.



4. Lloyds owns and operates 83 retail pharmacies in the State which sell prescription medicines, non-prescription medicines (i.e., over-the-counter medicines) and non-medicinal products such as cosmetics, toiletries, baby products, vitamins and a wide range of sundry products.² Each Lloyds retail pharmacy outlet also provides a range of services including, but not limited to, photographic film developing, skin analysis and treatments, and health testing services (e.g., blood pressure check, BMI check, emergency contraception service, food intolerance testing, weight management, etc). The majority of these services are available in every Lloyds retail pharmacy outlet with some services available only in selected outlets.
5. For the financial year ending 31 December 2014, the McKesson Corporation's worldwide turnover was approximately €138 billion, of which €[...] was generated within the State. For the financial year ending 31 December 2014, Lloyds' worldwide turnover was approximately €[...], all of which was generated within the State.

Dargle

6. Dargle owns and operates two retail pharmacies in Bray, Co. Wicklow which supply a full range of prescription medicines, non-prescription medicines and non-medicinal products and services.
7. The entire issued share capital of Dargle is owned by Patrick Geoghegan, Mary Geoghegan, Paul John Geoghegan and Bernard Geoghegan.
8. For the financial year ending 31 October 2013, Dargle's worldwide turnover was €[...], all of which was generated in the State.

Rationale for the Proposed Transaction

9. The parties state in the notification:

“The commercial objective of the Buyer is to expand its network of retail pharmacy businesses in the State. Patrick and Mary Geoghegan, the principal shareholders of Dargle, who established the two retail pharmacy businesses owned by Dargle and who have been employed in the businesses, wish to retire and to realise the value of those businesses and, in the process, to dispose of the businesses to a reputable organisation which has proven expertise in the development of a chain of quality community pharmacies in Ireland.”

Third Party Submissions

10. No submission was received.

Competitive Analysis

² In addition to its 83 retail pharmacies, Lloyds recently acquired three retail pharmacies located in Co. Cork and one retail pharmacy located in Co. Tipperary. This transaction (M/15/021 – Lloyds Pharmacy/Walsh's and Friary Allcare Pharmacies) was cleared by the Commission on 21 May 2015. For further details, see www.ccpc.ie



11. There is no vertical relationship between the McKesson Corporation (or any of its subsidiaries, including Lloyds) and Dargle in the island of Ireland. There is, however, a horizontal overlap between Lloyds and Dargle with respect to the operation of retail pharmacies in the State. The proposed transaction involves the acquisition by Lloyds of two retail pharmacies located in Bray, Co. Wicklow.
12. The Commission 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 supply of prescription medicines in retail pharmacies) or broader to encompass the supply of prescription medicines, non-prescription medicines and non-medicinal products and services in retail pharmacies. Similarly, the Commission does not need to come to a definitive view on the precise relevant geographic market since its conclusion on the competitive impact of the proposed transaction will be unaffected whether the precise relevant geographic market is local, regional, or national. However, in order to determine whether the proposed transaction might result in a substantial lessening of competition, the Commission analysed its impact by reference to the narrowest possible relevant market (being the market for the supply of prescription medicines in retail pharmacies in Bray, Co. Wicklow).
13. The two retail pharmacies owned and operated by Dargle are located 450 metres apart in Bray, Co. Wicklow. Lloyds does not own or operate a retail pharmacy in Bray. The nearest Lloyds retail pharmacy to Bray is located in Shankhill, a distance of approximately 3km. In addition to Dargle's two retail pharmacies, there are currently eight retail pharmacies active in Bray.
14. 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

15. The Agreement between the parties in respect of the sale and purchase of Dargle contains a number of restrictive obligations on the sellers (i.e., Patrick Geoghegan, Mary Geoghegan, Paul John Geoghegan, and Bernard Geoghegan). These include non-compete and non-solicitation clauses. None of these restrictive obligations exceeds the maximum duration acceptable to the Commission.³ The Commission considers these restrictions to be directly related and necessary to the implementation of the proposed transaction.

³ 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 Lloydspharmacy Ireland Limited would acquire sole control of Dargle Pharmacies Holdings 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

Gerald FitzGerald
Member
Competition and Consumer Protection Commission