



DETERMINATION OF MERGER NOTIFICATION M/16/048 - IRISH PROPERTY QIAIF/THREE HOTELS

Section 21 of the Competition Act 2002

Proposed acquisition by Irish Property QIAIF plc of certain assets of Allengage Developments Limited and of sole control of each of Aston Quay Property Limited, Riverfront Hotels Limited and Okinawa Limited

Dated 3 November 2016

Introduction

1. On 30 September 2016, 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 Irish Property QIAIF plc (“Irish Property”), an Irish-domiciled fund which is wholly-owned by Irish Holdings II LLC (“Irish Holdings”), would acquire the following:
 - Property assets of Allengage Developments Limited;
 - The entire issued share capital, and thus sole control, of Aston Quay Property Limited;
 - The entire issued share capital, and thus sole control, of Riverfront Hotels Limited; and
 - The entire issued share capital, and thus sole control, of Okinawa Limited.
2. The proposed transaction is to be implemented pursuant to a master sale and purchase agreement,¹ three share purchase agreements² and an asset purchase agreement³, all of which are dated 28 September 2016.⁴

¹ The master sale and purchase agreement was entered into by Paul Fitzpatrick, Rory Duggan, Allengage Developments Limited, Davy Investment Fund Services (in its capacity as manager of the Riverfront Investment Fund), Patron Riverfront S.A.R.L., Irish Property and Fitzpatrick Hospitality Management Limited on 28 September 2016.

² The transfer of the entire issued share capital of Aston Quay Property Limited to Irish Property was agreed by way of a share purchase agreement between Allengage Developments Limited, Paul Fitzpatrick and Irish Property dated 28 September 2016. The transfer of the entire issued share capital of Riverfront Hotels Limited to Irish Property was agreed by way of a share purchase agreement between Davy Investment Fund Services (in its capacity as manager of the Riverfront Investment Fund), Patron Riverfront S.A.R.L. and Irish Property dated 28 September 2016. The transfer of the entire issued share capital of Okinawa Limited to Irish Property was agreed by way of a share purchase agreement between Paul Fitzpatrick, Rory Duggan and Irish Property dated 28 September 2016.

³ The transfer of the property assets of Allengage Developments Limited to Irish Property was agreed by way of an asset purchase agreement between Allengage Developments Limited and Irish Property dated 28 September 2016.

⁴ The parties state in the notification that they consider that “the proposed transaction should be treated as a single transaction for the purposes of the Act because it comprises interdependent transactions resulting in a single purchaser acquiring control.” The



The Undertakings Involved

Irish Holdings

3. Irish Holdings, the sole shareholder in Irish Property, is wholly-owned and controlled by John Malone and Leslie Malone. Irish Holdings currently controls the following five hotels in the State:
 - The Strand Hotel, which offers 184 rooms in Limerick city and is classified as a 4 star hotel by Fáilte Ireland;
 - The Trinity City Hotel, which offers 198 rooms in Dublin city centre and is classified as a 4 star hotel by Fáilte Ireland;
 - The Hilton Hotel, which offers 193 rooms in Charlemont Place, Dublin 2 and is classified as a 4 star hotel by Fáilte Ireland;
 - The InterContinental Hotel, which offers 197 rooms in Dublin 4 and is classified as a 5 star hotel by Fáilte Ireland; and
 - The Westin Hotel, which offers 172 rooms in Dublin city centre and is classified as a 5 star hotel by Fáilte Ireland.
4. Each of the five hotels controlled by Irish Property is operated by a partnership⁵ and minority interests in each hotel are held by Paul Higgins, Propvur Limited and Dovas Property & Investment Limited. Irish Holdings has no other interests or investments.
5. For the financial year ending 31 December 2015, Irish Holdings had a worldwide turnover of €[...], all of which was generated in the State.

The Target Hotels

6. The proposed transaction involves the acquisition by Irish Holdings of assets and undertakings (described in paragraph 1 above) which operate as the following three hotels (collectively referred to hereafter as the “Target Hotels”):
 - **The Morgan Hotel**, which offers 129 rooms in Dublin city centre and is classified as a 4 star hotel by Fáilte Ireland. The Morgan Hotel is currently owned by Allengage Developments Limited, a property company registered in the State. Aston Quay Property Limited, an operating company registered in the State, operates and manages the Morgan Hotel. Each of Allengage Developments Limited and Aston Quay Property Limited is wholly-owned and controlled by Paul Fitzpatrick;
 - **The Spencer Hotel**, which offers 169 rooms in Dublin city centre and is classified as a 4 star hotel by Fáilte Ireland. It is currently owned, managed and operated by Riverfront Hotels Limited, a private limited company registered in the State.

Commission has considered the transactions described in the notification as a single transaction for the purposes of its analysis of competitive effects of the proposed transaction.

⁵ Each partnership comprises [...].



The legal title to the shares in Riverfront Hotels Limited is held by Northern Trust Fiduciary Services for a unit trust called Riverfront Investments Fund, which is a sub-fund of Davy Opportunity Trust Fund, the units of which are held by Patron Riverfront S.A.R.L.; and

- **The Beacon Hotel**, which offers 88 rooms in Sandyford, Co. Dublin and is classified as a 4 star hotel by Fáilte Ireland. It is currently owned, managed and operated by Okinawa Limited, a private limited company registered in the State, which is owned by Rory Duggan and Paul Fitzpatrick, and which is controlled by Paul Fitzpatrick as the majority shareholder.
7. The Target Hotels operate as a portfolio of hotels under the Fitzpatrick Lifestyle Hotels Collection, a hotel management company which provides management and branding services to the Target Hotels under short-term agreements.⁶
 8. For the financial year ending 31 January 2016, the Morgan Hotel's worldwide turnover was €[...], all of which was generated in the State.
 9. For the financial year ending 31 December 2015, the Spencer Hotel's worldwide turnover was €[...], all of which was generated in the State.
 10. For the financial year ending 31 December 2015, the Beacon Hotel's worldwide turnover was €[...], all of which was generated in the State.

Rationale for the Proposed Transaction

11. The parties state in the notification:

"Irish Holdings' strategic rationale for the proposed transaction is to expand its property holdings in Ireland. The Target's commercial objective/rationale for the proposed transaction is the proposed retirement of Paul Fitzpatrick, the operational manager of the Targets and the majority shareholder in The Morgan and The Beacon. His decision to retire has prompted the shareholders in The Spencer to also seek an exit at this time in order to maximise the value of the assets."

Third Party Submissions

12. No submission was received.

Competitive Analysis

13. There is a horizontal overlap between the parties' activities in the State since both Irish Holdings and the Target Hotels are active in the supply of hotel accommodation.
14. 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 markets because the precise product market definition

⁶ The parties state in the notification that [...].



adopted will not materially alter the Commission's assessment of the competitive impact of the proposed transaction.

15. While there are differences in the quality and range of services supplied by different hotels and also differences in relationships between hotel owners and hotel operators, it is not clear in this instance that these differences necessarily imply separate product markets. In previous merger determinations in the hotel sector, the Commission has left the precise product market open while recognising the possibility of distinct markets for the supply of 3 star and 4 star hotel accommodation or, alternatively, a combined market for the supply of 3 and 4 star hotel accommodation.⁷ The Commission considers that there are no reasons to depart from that view in this instance. In order to determine whether the proposed transaction might result in a substantial lessening of competition, the Commission assessed its impact on competition by reference to the narrowest possible relevant product market, namely the supply of 4 star hotel accommodation, given that the Target Hotels are all 4 star hotels.⁸
16. With respect to the geographic boundaries of the relevant product market, in this instance the choice of geographic market will not materially alter the Commission's assessment of the competitive impact of the proposed transaction. Consequently, the Commission considers that the issue of the appropriate geographic market can be left open in this instance. In order to determine whether the proposed transaction might result in a substantial lessening of competition, the Commission assessed its impact on competition in the supply of 4 star hotel accommodation in County Dublin since this is where the Target Hotels are located.⁹
17. For the reasons set out below, the Commission considers that the proposed transaction raises no competition concerns in the potential market for the supply of 4 star hotel accommodation in County Dublin.
18. First, the increment in Irish Holdings' estimated market share in the supply of 4 star hotel accommodation in County Dublin as a result of the proposed transaction will not be significant. Irish Holdings currently has a market share (as measured by the number of rooms) of approximately [5-10]% in the potential market for the supply of 4 star hotel accommodation in County Dublin. This will increase to [5-10]% following the proposed transaction.
19. Second, Irish Holdings will continue to face a competitive constraint post-transaction from a large number of competing providers of 4 star hotel accommodation in County Dublin, including Dalata Hotel Group p.l.c., Tifco Hotel Group, Rezidor Hotel Group and Tetrarch Capital Limited. Post-transaction, in addition to the five 4 star hotels in County Dublin that will be controlled by Irish Holdings (which account for [...] rooms), there will be approximately 8,500 bedrooms in 4 star hotels available in County Dublin.

⁷ See, for example, the Commission's merger determination in *M/16/006-Dalata/Cavernford/Vizmol* which can be accessed at <http://ccpc.ie/enforcement/mergers/merger-notices/m16006-dalata-cavernford-vizmol>.

⁸ In previous merger determinations, the Commission has also recognised the possibility of a distinct market for the supply of 5 star hotel accommodation. In this instance, the proposed transaction does not give rise to any overlap in relation to the supply of 5 star hotel accommodation given that none of the Target Hotels are classified as a 5 star hotel.

⁹ The parties state in the notification that they "*do not consider the relevant geographic market to be narrower than County Dublin (e.g., Dublin city centre)*". Without necessarily agreeing with that approach to defining the relevant geographic market, the Commission considers that it is not necessary to reach a definitive view on geographic market definition in the present case.



20. The proposed transaction does not raise any vertical competition concerns.
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. No ancillary restraints were notified.



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 Irish Property QIAIF plc would acquire certain assets of Allengage Developments Limited and sole control of each of Aston Quay Property Limited, Riverfront Hotels Limited and Okinawa 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

Fergal O'Leary
Member
Competition and Consumer Protection Commission