



DETERMINATION OF MERGER NOTIFICATION M/19/036 – IBRC/SLIEVE RUSSELL & QFHU

Section 21 of the Competition Act 2002

Proposed acquisition by Irish Bank Resolution Corporation Limited (in Special Liquidation) of sole control of Slieve Russell Hotel Limited and Quinn Finance Holding Unlimited Company

Dated 13 December 2019

Introduction

1. On 18 November 2019, 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 acquisition whereby Irish Bank Resolution Corporation Limited (in Special Liquidation) (“IBRC”) would acquire sole control of Slieve Russell Hotel Limited (“SRHL”) and Quinn Finance Holding Unlimited Company (“QFHU”) (together the “Target Companies”) (the “Proposed Transaction”). Both SRHL and QFHU are currently part of the Quinn International Property Group.

The Proposed Transaction

2. The Proposed Transaction is to be implemented pursuant to two agreements, as follows:
 - a share transfer agreement dated 6 November 2019 between IBRC, Kieran Wallace (in his capacity as joint special liquidator to IBRC¹) and Brenda Quinn whereby IBRC will acquire the entire issued share capital, and thus sole control, of SRHL; and
 - a share transfer agreement dated 6 November 2019 between IBRC, Kieran Wallace (in his capacity as joint special liquidator to IBRC²) and each of Aoife Quinn, Brenda Quinn, Colette Quinn, Ciara Quinn and Sean Quinn Junior (collectively the “Quinn

¹ Kieran Wallace was appointed as joint special liquidator to IBRC pursuant to an Order of the Minister for Finance made on 7 February 2013 under the terms of the Irish Bank Resolution Corporation Act 2013.

² Please see footnote 1 above.



Children”) whereby IBRC will acquire the entire issued share capital, and thus sole control, of QFHU.

3. Following implementation of the Proposed Transaction, IBRC will exercise sole control over the business and property of SRHL and QFHU.
4. In the notification, the parties provided the following explanation as to why the proposed acquisition by IBRC of SRHL and QFHU was notified to the Commission as a single transaction:

“The transfers of the shares in SRHL and QFHU, while involving separate transaction documents, are unitary in nature and are therefore being notified as one transaction... the vendors across both transactions overlap, the buyer in both cases is the same entity, the transaction documents have been prepared and executed in tandem and, while not explicitly expressed to be conditional on each other, the transfers form part of a single transaction, being the transfer to IBRC of Irish assets held by the Quinn IPG [Quinn International Property Group], that would not be completed otherwise than as a whole. [...]”

The Undertakings Involved

The Acquirer – IBRC

5. IBRC was constituted following the nationalisation of Anglo Irish Bank Corporation Limited (“Anglo”) and Irish Nationwide Building Society (“INBS”). In 2009, all of the shares in Anglo were transferred to the Minister for Finance (the “Minister”) pursuant to section 5 of the Anglo Irish Bank Corporation Act 2009. On 1 July 2011, the High Court made a transfer order pursuant to section 34 of the Credit Institutions (Stabilisation) Act 2010, whereby the assets and liabilities of INBS were transferred to Anglo. In October 2011, Anglo changed its name to Irish Bank Resolution Corporation Limited.
6. In 2013, the Irish Bank Resolution Corporation Act 2013 was enacted, which provides for the winding up of IBRC. The Minister signed the Irish Bank Resolution Corporation (Special Liquidation) Order 2013 (S.I. No. 36 of 2013) on 7 February 2013, which appointed Kieran Wallace and Eamonn Richardson of KPMG as joint special liquidators of IBRC. IBRC’s principal activity consists of managing the assets and liabilities of Anglo and INBS. IBRC does not actively offer financial services to customers.



7. For the financial year ended 31 January 2019, the total turnover of IBRC was approximately [...], all of which was generated in the State.

The Target Companies – SRHL & QFHU

SRHL

8. SRHL, a private limited company incorporated in the State in 1995, is currently wholly owned by Brenda Quinn. SRHL is a holding company. It has no business or assets, other than its 100% shareholding in Slieve Russell Hotel Property Limited (“SRHPL”). SRHPL is the owner and operator of the Slieve Russell Hotel.
9. The Slieve Russell Hotel is a four-star hotel and country club located in Ballyconnell, Co. Cavan. The hotel includes 222 bedrooms, a spa and leisure centre, an 18-hole championship golf-course, and a 9-hole academy course.
10. For the financial year ended 31 December 2018, the total turnover of SRHL, (which emanates from the activities of SRHPL), was approximately [...], all of which was generated in the State.
11. Brenda Quinn, who currently wholly owns SRHL, charged her shares in SRHL in favour of Anglo, pursuant to a share charge dated 10 March 2009 (the “SRHL Share Charge”), as security for loan facilities advanced to SRHPL by Anglo. Following SRHPL’s failure to repay the loans advanced to it by Anglo, Anglo exercised its right to appoint a receiver over the shares in SRHL pursuant to the SRHL Share Charge. On 15 April 2011, Kieran Wallace was appointed receiver over the shares in SRHL by Anglo.

QFHU

12. QFHU is a private unlimited company incorporated in the State in 2006 and is currently owned by the Quinn Children (each of whom owns 20% of the shares in QFHU). QFHU owns 100% of the shares in Quinn Hospitality Ireland Limited (“QHIL”), which in turn owns 100% of the shares in the following Irish companies with interests in the State:

- Quinn Hospitality Ireland Operations 1 Limited (“QHIO1L”)
QHIO1L is the owner of Buswell’s Hotel, a three-star 67-bedroom hotel located at 23-27 Molesworth Street, Dublin 2. In 2018, QHIO1L had turnover in the State of approximately [...].
- Quinn Hospitality Ireland Operations 2 Limited (“QHIO2L”)



QHIO2L is the owner of Quinn's Pub, a public house located at 42 Lower Drumcondra Road, Drumcondra, Dublin 9. In 2018, QHIO2L had turnover in the State of [...]. The parties have informed the Commission that QHIO2L has agreed to sell Quinn's Pub, although this sale has not yet completed.

- Quinn Hospitality Ireland Operations 3 Limited ("QHIO3L")

QHIO3L is the owner of The Barge, a public house located at 42 Charlemont Street, Saint Kevin's, Dublin 2. In 2018, QHIO3L had turnover in the State of approximately [...].

- Quinn Hospitality Ireland Operations 4 Limited ("QHIO4L")

QHIO4L previously owned The Cat & Cage, a public house located at 74 Upper Drumcondra Road, Drumcondra, Dublin 9. On 21 October 2019, QHIO4L completed the sale of The Cat & Cage. QHIO4L has no remaining assets in the State. In 2018, QHIO4L had turnover in the State of [...].

- Quinn Hospitality Ireland Operations 5 Limited ("QHIO5L")

QHIO5L is the owner of JW Sweetman, a public house located at 1-2 Burgh Quay, Dublin 2. In 2018, QHIO5L had turnover in the State of [...].

13. QFHU also owns 100% of the shares in Quinn Finance Holdings (Jersey) Limited. Quinn Finance Holdings (Jersey) Limited owns 99.9% of the shares in Quinn Finance Unlimited Company³, which in turn holds 10% of the equity shares and 52.35% of the voting rights in Quinn Investments Sweden AB⁴ ("QIS"). QIS is a Swedish holding company which holds direct and indirect interests in assets located in Russia, Ukraine, and India.

14. On 5 July 2011, QIS was placed into bankruptcy. The parties have informed the Commission that, under Swedish law, the bankruptcy receiver takes control over the bankrupt company. On this basis, the parties have assured the Commission that, while QFHU is a shareholder in QIS, under Swedish law it does not control the business of QIS.

³ The remaining 0.1% of the shares in Quinn Finance Unlimited Company are owned by Quinn Finance (Jersey) Unlimited

⁴ The remainder of the equity and voting shares in Quinn Investments Sweden AB are held by companies within the Quinn International Property Group which are indirectly owned by the Quinn children, but which has since been placed into liquidation in Sweden.



15. Since March 2019, QFU has been the sole shareholder in Mack Soft Tech Private Limited, an Indian registered company, which sits within the Quinn International Property Group structure and holds a commercial property and office block known as “Q City” in Hyderabad, India, having converted certain debentures into shares.
16. Anglo advanced various loan facilities to Quinn Finance Unlimited Company, which were secured by, *inter alia*, a charge over the shares in QFHU dated 19 December 2008 (the “QFHU Share Charge”). Following the failure by the subsidiaries of QFHU to repay the loans advanced to Quinn Finance Unlimited Company by Anglo, Anglo exercised its rights under the QFHU Share Charge and appointed Kieran Wallace as receiver over the entire issued share capital of QFHU on 14 April 2011.
17. For the financial year ended 31 December 2017, the consolidated turnover of QFHU and its subsidiaries was approximately [...], of which [...] related to turnover generated in the State while the remaining [...] was generated from the provision of property management services outside of the State.

Rationale for the Proposed Transaction

18. The parties state the following in the notification:

“... the transfer of the shares in the Target Companies is related to a confidential commercial settlement between IBRC and the shareholders of the Target Companies (the “Settlement Agreement”) in order to resolve and conclude a series of legal proceedings, including proceedings issued by those shareholders against, inter alios, IBRC. [...].”

Third party Submissions

19. No submission was received.

Competitive Analysis

Horizontal Overlap

20. 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 no horizontal



overlap between the business activities of IBRC and the Target Companies in the State. SRHL indirectly owns a four-star hotel in County Cavan and QFHU indirectly owns a three-star hotel and three public houses in Dublin. IBRC does not currently hold any interests in public houses or hotels in the State.

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

Vertical Relationship

22. The parties have stated in the notification that there is no vertical relationship between IBRC and the Target Companies in the context of the supply or provision of goods or services in the State. The sole pre-existing relationship between the parties is that IBRC inherited from Anglo the loans which were secured by share charges over the Target Companies, and appointed a receiver under those share charges. Other than this relationship the Commission has not identified any other vertical relationship between the parties. On this basis, the Commission considers that the Proposed Transaction does not raise any vertical competition concerns in the State.

Conclusion

23. 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

24. No ancillary restraints were notified.



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 Irish Bank Resolution Corporation Limited (In Special Liquidation) would acquire sole control of Slieve Russell Hotel Limited and Quinn Finance Holding Unlimited Company, 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