



DETERMINATION OF MERGER NOTIFICATION M/14/029 - CREGANNA-TACTX/PRECISION WIRE

Section 21 of the Competition Act 2002

Proposed acquisition by Creganna-Tactx Medical of sole control of Precision Wire Components LLC

Dated 20 November 2014

Introduction

1. On 24 October 2014, in accordance with section 18(1)(a) of the Competition Act 2002 (“the Act”), the Competition Authority (“the Authority”) received a notification of a proposed acquisition whereby Creganna-Tactx Medical (“Creganna-Tactx”) would acquire sole control of Precision Wire Components (“PWC”).
2. On 31 October 2014, in accordance with sections 38 and 39 of the Competition and Consumer Protection Act 2014 (“the 2014 Act”), the Authority was dissolved and all of the functions vested in the Authority immediately before that date became vested in the Competition and Consumer Protection Commission (“the Commission”). Section 39(2) of the 2014 Act provides that references in any Act of the Oireachtas passed before 31 October 2014 to the Authority shall, on and after 31 October 2014, be construed as references to the Commission.
3. Section 6 of the 2014 Act provides that where a merger or acquisition was notified under Part 3 of the 2002 Act before the commencement of section 7(1)(b) and Parts 3 and 4 of the 2014 Act (i.e., before 31 October 2014), then, upon such commencement, the 2002 Act shall apply to the merger or acquisition as if the amendments effected by section 7(1) and Parts 3 and 4 of the 2014 Act had not been made.

The Undertakings Involved

Creganna-Tactx

4. Creganna-Tactx is solely controlled by Permira Holdings Limited (“Permira”). Permira is a private equity firm which makes long-term investments. Permira’s global portfolio includes controlling interests in companies in various sectors including clothing and fashion, financial services, healthcare, chemicals, travel services, media and telecommunications.



5. On the island of Ireland, Permira is active, through a number of its portfolio companies, in various sectors including clothing, insurance services, and frozen food retailing.¹
6. Creganna-Tactx specialises in minimally invasive delivery and access devices (such as catheter technologies, metal shafts, braided shafts, extruded shafts, medical balloons, injection moulding and speciality needles) and provides a range of services including product design and development, manufacturing, clinical and regulatory support and supply chain solutions. Creganna-Tactx's headquarters are in Co. Galway and it also has operations in California, Minnesota, Ohio, Singapore, Korea and China.
7. For the most recent financial year², Permira's worldwide turnover was €[...]. Permira's turnover in the State for the same period was €[...].

PWC

8. PWC is solely controlled by The Riverside Company, a global private equity firm. PWC offers services in the areas of assembly, grinding, coiling and wire processing as well as metallurgical consulting, R&D services, process and equipment validation, final packaging and labelling, and inventory programmes. PWC's headquarters are based in Oregon and it also has a facility in Costa Rica.
9. PWC sells a variety of components used in the production of medical device delivery systems and finished medical device products to customers located in the State. The majority of products sold in the State by PWC are ground wires used in the manufacture of delivery systems for devices used in cardiac surgery and neurosurgery. PWC also delivers to such customers tooling mandrels that are used for catheter forming.
10. For 2013, PWC's worldwide turnover was €[...]. PWC's turnover in the State for the same period was €[...].

Rationale for the Proposed Transaction

11. The parties state in the notification:

“The proposed transaction will strengthen Creganna's global footprint, enhance its technical capabilities and deepen its customer partnerships. PWC's manufacturing facilities in Oregon, U.S. and Heredia Costa Rica will expand Creganna's global footprint. PWC will add new capabilities for Creganna in wire component and coiling technologies to provide a broader portfolio for customers.”

Third Party Submissions

¹ These companies include: AA Ireland Limited, Ancestry.com, Freescale Semiconductor Inc., Hugo Boss AG, Iglo Foods Group Limited (through its *Birds Eye* brand) and New Look.

² The parties state in the notification that “the figures provided for turnover “for the latest financial year” are a current aggregation of the available turnovers of all [of Permira's] portfolio companies.”



12. No submission was received.

Competitive Analysis

Horizontal Overlap

13. The parties state in the notification that due to the different specialisations of Creganna-Tactx and PWC, Creganna-Tactx and PWC do not produce or sell products that form part of the same product market on the basis of the market definitions adopted by the European Commission, for example, in its Johnson & Johnson/Guidant decision.³ The parties further state: “While Creganna-Tactx specialises in minimally invasive delivery and access devices, such as catheter technologies, metal shafts, braided shafts, extruded shafts, medical balloons, injection moulding and speciality needles, the focus of PWC's activities is on medical wire components.”
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.
15. In order to assess the likely competitive impact of the proposed transaction and to determine whether the merging parties overlap horizontally in the medical device industry, the Commission designed a questionnaire to be answered by Creganna-Tactx's five largest customers in the State. The questionnaire consisted of questions about the respondents' views on the proposed transaction and whether they consider Creganna-Tactx and PWC to be competitors in the medical device industry.
16. All five customers expressed no concerns about the impact of the proposed transaction. All five stated that for the specific products they currently purchase from Creganna-Tactx, they do not purchase the same products from PWC nor do they consider PWC to be a potential alternative supplier of these products. One customer stated that PWC “is not on our approved supplier list.” One customer stated that PWC “is not part of our sourcing strategy.” One customer stated that the products it purchases from Creganna-Tactx are not a “PWC core competency”.
17. The Commission therefore considers that there is no horizontal overlap between the parties in the State.

Vertical Overlap

18. There is, however, a vertical relationship between the parties since Creganna-Tactx purchases approximately €[...] in supplies globally from PWC and PWC purchases approximately €[...] in supplies globally from Creganna-Tactx. The parties state in the notification that “given the very large size of the markets and the parties' de minimis positions, the transaction can pose no material vertical concerns.”
19. In general, non-horizontal mergers do not raise the same competition concerns as horizontal mergers. Non-horizontal mergers do not entail the loss of direct competition

³ European Commission Decision of 25 August 2005 in Case COMP/M.3687 Johnson & Johnson / Guidant.



between merging firms and vertical integration can provide significant opportunities for the achievement of efficiencies.⁴

20. However, non-horizontal mergers such as the proposed transaction can lessen competition through the integration of a production chain. For instance, a non-horizontal merger may increase entry barriers and thus lessen competition.
21. In its assessment of the proposed transaction, the Commission considered the likelihood that the proposed transaction would raise the costs of Creganna-Tactx's rivals by restricting their access to key inputs produced by PWC. This theory of harm is referred to as input foreclosure.
22. For input foreclosure to be a concern, the vertically integrated firm resulting from the proposed acquisition must have a significant degree of market power in the upstream market.⁵ There is no evidence to indicate that PWC has market power in the upstream market.
23. As part of its assessment of the likelihood of input foreclosure arising post-transaction, the Commission contacted a number of Creganna-Tactx's competitors in the State. None of those contacted raised a concern with respect to input foreclosure post-transaction.
24. The Commission found that there are a number of alternative suppliers available such as Heraeus Medical Components, AdvancedCath, TruTech Solutions, Wytech, Accellent, EP-Flex and Tegra Medical which would be viable options for the supply of inputs post-transaction.
25. The Commission therefore considers that the proposed transaction will not raise vertical competition concerns in the medical device industry.

Conclusion

26. 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

27. The Stock Purchase Agreement between the relevant parties to the proposed transaction contains a number of restrictive obligations on the sellers. These include non-compete and non-solicitation clauses on behalf of the sellers. None of these restrictive obligations exceed [...] in duration. The Commission considers these restrictions to be directly related and necessary to the implementation of the proposed transaction.

⁴ See paragraph 5.5 of the Commission's Guidelines for Merger Analysis (Adopted by the Commission on 31 October 2014).

⁵ Op. cit. paragraph 5.10



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 acquisition whereby Creganna-Tactx Medical would acquire sole control of Precision Wire Components LLC 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 and Consumer Protection Commission

Gerald FitzGerald
Member
Competition and Consumer Protection Commission