



# DETERMINATION OF MERGER NOTIFICATION M/15/020 - TOPAZ INVESTMENTS LIMITED/ESSO IRELAND LIMITED

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## Section 21 of the Competition Act 2002

### Proposed acquisition by Topaz Investments Limited of sole control of Esso Ireland Limited

Dated 12 August 2015

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#### Introduction

1. On 14 April 2015, in accordance with section 18(1) 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 Topaz Investments Limited (“Topaz”) would acquire the entire issued share capital and thus sole control of Esso Ireland Limited (“Esso Ireland”).

#### The Undertakings Involved

##### *The Acquirer*

2. Topaz, previously known as Kendrick Investments Limited, is a company incorporated in the Isle of Man and which is wholly owned by Mr. Denis O’Brien. Topaz Energy Group Limited (“Topaz”) is a wholly owned subsidiary of Topaz Investments and is an Irish oil company active in the retail and non-retail sales of petroleum products in the State.
3. Topaz also leases import and logistics assets in the State connected with the marketing and distribution of fuels and petroleum products, including two sea-fed terminals located in Galway and Dublin. Topaz is also active in the marketing of aviation fuels in the State, where it is involved in a joint venture with Royal Dutch Shell plc in [Shell and Topaz Aviation Ireland Limited].

##### *The Vendor*

4. The Vendor is Esso Holding Company UK Inc., which is a wholly owned subsidiary of Exxon Mobil Corporation, an international oil company.
5. An agreement for the Sale and Purchase of the entire issued share capital of Esso Ireland was signed on 12 December 2014.



### **The Target**

6. Esso Ireland is an Irish oil company active in the non-retail sale and retail sale of petroleum products in the State. One of Esso Ireland's wholly-owned subsidiaries, Ireland ROC Limited, operates thirty-eight (38) services stations (which are owned by Esso Ireland) in the State. These service stations are commonly referred to as "CoCo's" (company owned and operated service stations)<sup>1</sup>.
7. Esso Ireland owns and leases import and logistics assets in the State connected with the marketing and distribution of fuels and petroleum products, including a sea-fed terminal located in Dublin. Esso Ireland purchases the majority of its petroleum product requirements from an affiliated company, and imports such products into the State. Esso Ireland makes bulk sales of petroleum products from both its own import facility in Dublin and from other third party terminals throughout the State. In addition, Esso Ireland sells directly to retail customers via Esso Ireland's network of CoCo stations. Ancillary to their retail sales activities in respect of motor fuels, Esso Ireland's CoCo stations operate convenience stores adjacent to the forecourts from which motor fuels are sold.
8. Esso Ireland also supplies its petroleum products to a network of 65 DoDo (dealer-owned and dealer-operated) fuel retail service stations throughout the State.

### **Investigation**

9. On 22 May 2015, the Commission served a Requirement for Further Information on each of Topaz and Esso Ireland pursuant to section 20(2) of the Act. This automatically suspended the procedure for the Commission's Phase 1 assessment.
10. [Both Topaz and Esso Ireland responded to the Requirements for Further Information on 12 June 2015, which date then became the "appropriate date" (as defined in section 19(6) of the Act), with the deadline for a Phase 1 Determination 30 days later, being 23 July 2015.<sup>2</sup>]
11. During the Phase 1 investigation, the Commission requested and received, on an on-going basis, further information and clarifications from the notifying parties. During the Phase 1 investigation, the Commission contacted customers and competitors of the merging parties.
12. On 21 July 2015, the parties submitted proposals under section 20(3) of the Act. On foot of the submission of these proposals, the time period as specified under Section 21(4) applies and the new Phase 1 deadline became 14 August 2015.

### **Analysis**

13. The Commission is unable, at this stage, to reach a determination that the proposed acquisition will not lead to a substantial lessening of competition in any market for

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<sup>1</sup> Service stations owned and operated by a supplier of petroleum products that also operates upstream of the retail site

<sup>2</sup> The "appropriate date" is the date from which the time limits for making both Phase 1 and Phase 2 determinations begin to run.



goods or services in the State. Accordingly, it intends to carry out a full investigation under section 22 of the Act.



## **Determination**

The Competition and Consumer Protection Commission, in accordance with section 21(2)(b) of the Competition Act 2002, as amended (“the Act”), has determined that it intends to carry out a full investigation under section 22 of the Act in relation to the proposed transaction whereby Topaz Investments Limited will acquire the entire issued share capital and thus sole control of Esso Ireland Limited.

For the Competition and Consumer Protection Commission

Gerald FitzGerald  
Member  
Competition and Consumer Protection Commission