



DETERMINATION OF MERGER NOTIFICATION M/17/033 - KKR/HITACHI KOKUSAI

Section 21 of the Competition Act 2002

Proposed acquisition by KKR & Co. L.P. of indirect sole control of the thin film process solutions business of Hitachi Kokusai Electric, Inc.

Dated 5 July 2017

Introduction

1. On 6 June 2017, 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 HKE Holdings G.K. (“HKE Holdings”), an entity controlled by funds managed by affiliates of KKR & Co. L.P. (“KKR”)¹ would acquire indirect sole control of the thin film process solutions business of Hitachi Kokusai Electric, Inc. (“Hitachi Kokusai Electric”).

The Proposed Transaction

2. Hitachi Kokusai Electric is currently controlled by Hitachi, Ltd. (“Hitachi”), which holds 51.67% of Hitachi Kokusai Electric’s issued share capital.
3. Pursuant to a master agreement dated 26 April 2017 between Hitachi, HKE Holdings and HVJ Holdings Inc. (“HVJ Holdings”),² HKE Holdings will initially acquire the entire share capital and, thus, indirect sole control of Hitachi Kokusai Electric by way of the following two-stage process:
 - a tender offer for all of the shares in Hitachi Kokusai Electric not currently held by Hitachi; and,

¹ KKR is ultimately controlled by its general partner, KKR Management LLC.

² HVJ Holdings is indirectly solely controlled by Japan Industrial Partners, Inc. .



- a subsequent share buyback by Hitachi Kokusai Electric of Hitachi's 51.67% shareholding in Hitachi Kokusai Electric.
4. Hitachi Kokusai Electric will then immediately conduct a corporate split of its thin film process solutions business (the "Target"), which will move up the structure to merge with HKE Holdings. As a result of this corporate split by Hitachi Kokusai Electric, KKR, through HKE Holdings, will indirectly acquire sole control of the Target.
 5. The remaining business of Hitachi Kokusai Electric – the video and communication solutions business – will be jointly acquired by KKR, through HKE Holdings, and Japan Industrial Partners, Inc. ("JIP"). This transaction is the subject of a separate notification to the Commission.³

The Undertakings Involved

KKR

6. KKR, a limited partnership controlled by its general partner, KKR Management LLC, is a global investment firm offering a broad range of alternative asset funds and other investment products to investors. KKR's affiliated private equity funds invest in companies across a variety of sectors. Each KKR-affiliated portfolio company has its own board of directors, which generally includes at least one KKR representative, and is operated independently of other KKR-affiliated portfolio companies.
7. In the State, the following [...] KKR-controlled portfolio companies generated turnover in 2015⁴: [...].
8. For the year ending 31 December 2015, KKR's worldwide turnover was approximately €[...] billion, of which approximately €[...] million was generated in the State.

The Target

³ This transaction was notified to the Commission on 31 May 2017. For more information, please see <https://www.cpc.ie/business/mergers-acquisitions/merger-notifications/m1731-kr-jiphitachi-kokusai-electric/>

⁴ KKR informed the Commission that "it is in the process of collecting turnover information from its controlled portfolio companies for 2016."



9. Hitachi Kokusai Electric, based in Japan and listed on the Tokyo Stock Exchange, is solely controlled by Hitachi. Hitachi Kokusai Electric is active in two areas of business: (a) thin film process solutions (which is the target business subject to this notification); and (b) video and communication solutions. As noted in footnote 3 above, KKR and JIP's proposed acquisition of joint control of Hitachi Kokusai Electric's video and communication solutions business was notified to the Commission on 31 May 2017.
10. The Target manufactures and sells vertical thin-film equipment and single wafer equipment (also known as semiconductor manufacturing equipment) and provides support services, including the maintenance and alteration of equipment. The Target is active [...]. In the State, the Target is active in:
 - the supply of semiconductor manufacturing equipment and related components or parts; and
 - the provision of maintenance, conversion and installation services to customers,
11. For the financial year ending 31 March 2016, the Target's worldwide turnover was approximately €674 million, of which approximately €54 million was generated in State.

Rationale for the Proposed Transaction

12. The parties state in the notification:

"The Proposed Transaction represents an investment opportunity for KKR that is consistent with KKR's strategy of investing in attractive companies to increase the value of their businesses with a view to profiting from their eventual sale."

Third Party Submissions

13. No submission was received.

Competitive Analysis

14. There is no horizontal overlap between the activities of the parties in the State. The Target is active in the supply of semiconductor equipment in the State. The parties



informed the Commission and the Commission confirmed that none of the [...] portfolio companies controlled by KKR that generated turnover in the State in 2015 are engaged in the supply of semiconductor manufacturing equipment in the State.⁵

15. The proposed transaction does not raise any vertical competition concerns.
16. 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

17. No ancillary restraints were notified.

⁵ The Commission sought further clarification from KKR regarding the activities in the State of one of KKR's portfolio companies, [...]. KKR informed the Commission that [...]. Unlike the Target, [...] does not manufacture or supply semiconductor manufacturing equipment. The parties state in the notification that [...]’s products and the Target’s products do not compete with each other and are not interchangeable.



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 transaction whereby HKE Holdings G.K., an entity controlled by funds managed by affiliates of KKR & Co. L.P. would acquire indirect sole control of the thin film process solutions business of Hitachi Kokusai Electric, Inc. 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

Patrick Kenny
Member
Competition and Consumer Protection Commission