



# DETERMINATION OF MERGER NOTIFICATION M/18/097 – UNIPHAR / CERTAIN PHARMACIES OF INISCHEM DAC

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## Section 21 of the Competition Act 2002

### Proposed acquisition by Uniphar plc of sole control of 15 community pharmacies

Dated 01 February 2019

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#### Introduction

1. On 20 December 2018, 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 Trennamally Limited (“Trennamally”), a wholly owned subsidiary of Uniphar plc (“Uniphar”), would acquire sole control of 15 companies (the “Target Companies”)<sup>1</sup>, each operating a community pharmacy, from Inischem Designated Activity Company (“Inischem”) and thereby, sole control of 15 community pharmacies, all trading under the *Allcare Pharmacy* brand (the “Target Pharmacies”) (the “Proposed Transaction”).

#### The Proposed Transaction

2. The Proposed Transaction is to be implemented pursuant to 14<sup>2</sup> share purchase agreements, each dated 19 December 2018 between: Trennamally and the relevant seller(s)<sup>3</sup> (together, the “SPAs”).
3. Uniphar currently has a 19.9% (non-controlling) holding in the Target Companies. Following implementation of the Proposed Transaction, Uniphar will acquire the

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<sup>1</sup> The Target Companies are as follows: WS Black Pharmacy Limited (trading as Black's Allcare Pharmacy); Moycullen Pharmacy Limited (trading as O'Connor's Allcare Pharmacy); Tony Walsh (Rathfarnham) Limited (trading as Tony Walsh's Allcare Pharmacy); CGH Pharmacy Limited (trading as CGH Allcare Pharmacy); O'Carroll's Pharmacy Limited (trading as O'Carroll's Allcare Pharmacy); Colman O'Flynn Limited (trading as O'Flynn's Allcare Pharmacy); Erncroft Limited (trading as Clearwater Allcare Pharmacy); E. & D. O'Reilly (Pharmacy) Limited (trading as O'Reilly's Allcare Pharmacy); Nadroj Limited (trading as Kerins Allcare Pharmacy); G.J. Cross (Chemist) Limited (trading as Cross Allcare Pharmacy); Kenure Limited (trading as Perrystown Allcare Pharmacy); Odlanor Limited (trading as Kellys Allcare Pharmacy); Ballychem Limited (trading as Allcare Pharmacy); Roscare Chemists Limited (trading as Roches Allcare Pharmacy); and, Pharmacy Merrion Centre Limited (trading as Tony Walsh's Allcare Pharmacy).

<sup>2</sup> The Commission notes that there are 14 share purchase agreements rather than 15 as one of the Target Companies to be acquired by Trennamally, i.e., Pharmacy Merrion Centre Limited, is a wholly-owned subsidiary of another company, Tony Walsh (Rathfarnham) Limited, which Trennamally will acquire under one of the share purchase agreements.

<sup>3</sup> The Commission notes that the shares in each of the Target Companies are owned by separate holding companies and these shares (in all the Target Companies) will be acquired by Uniphar through Trennamally pursuant to the SPAs.



remaining issued share capital in each of the Target Companies and thereby sole control of the Target Pharmacies.

## The Undertakings Involved

### *Uniphar*

4. Uniphar, a public limited company registered in the State, is active in two main business divisions: Uniphar Wholesale Limited (“Uniphar Wholesale”); and All-Phar Services Limited (“Allphar”), both wholly-owned subsidiaries of Uniphar.
5. Uniphar Wholesale is a full-line wholesaler of pharmaceutical<sup>4</sup>, healthcare, medical and veterinary products to pharmacies, hospitals and veterinary surgeons in the State. Uniphar Wholesale purchases a wide range of products from manufacturers and re-sells them to pharmacies, hospitals and veterinary surgeons. Uniphar Wholesale does not sell to customers outside the State.
6. Uniphar Wholesale’s activities encompass the following four product categories:
  - The wholesale supply of pharmacy-only human pharmaceutical drugs including both prescription medicines and over-the-counter medicines;
  - The wholesale supply of front-of-counter and non-pharmacy-only products. This includes health and beauty products and human pharmaceutical drugs (such as paracetamol), the sale of which are not confined to pharmacies;
  - The wholesale supply of medical products, diagnostic equipment and therapeutic medical equipment in a wide range of medical fields including cardiology, general surgery, radiology, dentistry and urology<sup>5</sup>; and,
  - The wholesale supply of veterinary drugs to veterinary wholesalers, surgeons and pharmacies.
7. Uniphar also acts as a logistics service provider (“LSP”) via Allphar in respect of pharmaceutical products, healthcare products, veterinary products and healthcare equipment.<sup>6</sup>

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<sup>4</sup> Uniphar is one of only two full-line wholesalers of pharmacy-only human pharmaceutical drugs in the State. The other full-line wholesaler of pharmacy-only human pharmaceutical drugs in the State is *United Drug*.

<sup>5</sup> Please see the Commission’s decision in M/18/031 – Uniphar / SISK Healthcare which is accessible at <https://www.ccpc.ie/business/mergers-acquisitions/merger-notifications/m18031-uniphar-sisk-healthcare/>

<sup>6</sup> The parties provide the following description of Uniphar’s role as an LSP: “*Uniphar also acts as an LSP through Uniphar LSP, delivering products on behalf of manufacturers directly to other wholesalers, community pharmacies and hospitals. LSPs act as the link between pharmaceutical manufacturers and pharmaceutical wholesalers, and, with increasing frequency, may also supply the products for which they are appointed directly to community pharmacies/hospitals. LSPs are generally used as a purely logistical/delivery method for the manufacturer to supply products directly to wholesalers, pharmacies and hospitals. In some cases, additional value-added services, such as the provision of marketing activities, may be provided by the LSP to the manufacturer. In the limited number of cases where such value-added services are provided, Uniphar LSP may be said to perform a more traditional "pre-wholesale" role.*”



8. In addition, Uniphar has a number of structural links and purchasing arrangements with certain retail pharmacies in the State, i.e.:
  - i. Uniphar is the sole shareholder in 42 pharmacies held by Lindchem Designated Activity Company and Trennamally, both wholly-owned subsidiaries of Uniphar;<sup>7</sup>
  - ii. Uniphar has a joint shareholding in one further pharmacy in the State, namely *Collis Pharmacies Limited*;<sup>8</sup>
  - iii. Uniphar jointly owns the *Life Pharmacy* brand through the company Independent Life Pharmacy Public Limited Company. There are currently 73 pharmacies<sup>9</sup> operating under the *Life Pharmacy* brand in the State;<sup>10</sup>
  - iv. Uniphar owns and controls Allcare Management Services Limited (“Allcare”).<sup>11</sup> Allcare provides a suite of professional management services<sup>12</sup> to community pharmacies in the State via franchise agreements. Allcare has entered into franchise arrangements with 80 pharmacies in the State;<sup>13</sup>
  - v. Uniphar also has arrangements with 43 pharmacies which participate in a buying group, [...];<sup>14</sup> and,
  - vi. Uniphar entered into an agreement with Axiom Buying Group (“Axiom”) in December 2015 for an initial term of five years. This agreement provides for rebates to Axiom in respect of the bulk purchasing of certain products from Uniphar by Axiom on behalf of its 250 community pharmacy members.<sup>15</sup>

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<sup>7</sup> The Commission notes that 23 of these pharmacies are *Allcare*-branded and the remaining 19 pharmacies operate under the *Bradley's* brand. The parties note the following in the merger notification form in respect of these pharmacies, [“...”].

<sup>8</sup> The parties provided the following information in respect of this pharmacy, *Collis Pharmacies Limited* is “...located at 350 North Circular Road, Phibsboro, Dublin 7. Uniphar has a shareholding of [...]. This stake is for investment purposes only and Uniphar does not exercise any operational control over this outlet, which is independent in terms of its individual purchasing choices.”

<sup>9</sup> The parties state the following in the merger notification form: “*Uniphar supports its customers with the operation of a symbol group under the name Life Pharmacy. The customers own 100% of their pharmacy businesses and Uniphar has no equity in these pharmacies*”.

<sup>10</sup> The parties provided the following information in relation to the supply arrangement between Uniphar and these pharmacies: “*There are currently 73 pharmacies in the Life Pharmacy symbol group and [...]*”.

<sup>11</sup> Please see Commission decision M/15/027 Uniphar/Allcare which is accessible at <https://www.ccpic.ie/business/mergers-acquisitions/merger-notifications/m15027-uniphar-allcare/>.

<sup>12</sup> The services provided by Allcare include the following: clinical support, development of new services and product ranges, procurement of goods and services from pharmaceutical wholesalers, category and planning management, property management, human resource management, information technology management and development, operational and financial controls, and marketing assistance.

<sup>13</sup> The parties state the following in the notification: “*The pharmacies to which Allcare provide services purchase the bulk of their requirements of human pharmaceuticals from Uniphar.*”

<sup>14</sup> Uniphar entered into an agreement with [...] in [...] to encourage [...] to co-ordinate the individual pharmacies within the buying group to buy from Uniphar. The parties also state the following in the merger notification form: “*There is no binding obligation on the pharmacies to buy from Uniphar however and no penalty if they elect not to. Furthermore, each pharmacy individually negotiates its own terms and conditions directly with Uniphar*”.

<sup>15</sup> The parties provided the following information in respect of these pharmacies: “*There is no binding obligation on the pharmacies within the Axiom buying group (or on Axiom) to purchase from Uniphar and no penalty if they elect not to do so. Indeed, many of these 250 community pharmacies will continue to use United Drug as their primary full-line wholesaler.*”



9. For the financial year ending 31 December 2017, Uniphar's worldwide turnover was approximately €1.27 billion, of which approximately €[...] was generated in the State.

#### **The Target Pharmacies**

10. The Target Companies and as such, the Target Pharmacies are ultimately controlled by Inischem.

11. The Target Pharmacies comprise 15 retail pharmacies – all of which currently operate under the *Allcare* brand<sup>16</sup> from the following addresses:

- *Kelly's Allcare Pharmacy*, 9 The Mall, Tralee, Co. Kerry;
- *O'Carroll's Allcare Pharmacy*, Tralee, 106 Rock Street, Tralee, Co. Kerry;
- *O'Reilly's Allcare Pharmacy*, 17 Pearse Square, Fermoy, Co. Cork;
- *Cross Allcare Pharmacy*, The Square, Castletownbere, Co. Cork;
- *Kerins Allcare Pharmacy*, 32 Castle Street, Dalkey, Co. Dublin;
- *Allcare Pharmacy*, Unit 5, Lower O'Connell Street, Dublin 1;
- *Tony Walsh's Allcare Pharmacy*, Merrion Shopping Centre, Merrion Road, Dublin 4;
- *Clearwater Allcare Pharmacy*, Unit 6A, Clearwater Shopping Centre, Finglas, Dublin 11;
- *Perrystown Allcare Pharmacy*, 182 Whitehall Road West, Perrystown, Dublin 12;
- *Tony Walsh's Allcare Pharmacy*, Rathfarnham Shopping Centre, Rathfarnham, Dublin 14;
- *O'Flynn's Allcare Pharmacy*, Castle Street, Ardee, Co. Louth;
- *CGH Allcare Pharmacy*, Unit 1 & 2, Banagher Town Centre, Banagher, Co. Offaly;
- *Roches Allcare Pharmacy*, Blacklion, Greystones, Co. Wicklow;
- *O'Connor's Allcare Pharmacy*, Crossroads, Moycullen, Co. Galway; and
- *Black's Allcare Pharmacy*, 24 Mill Street, Church Square, Monaghan Town, Co. Monaghan.

12. The Target Pharmacies supply prescription medicines, pharmacy-only over-the-counter medicines, non-medicinal products (e.g., cosmetics, toiletries, baby products, vitamins) and other products.

13. For the financial year ending 31 December 2017, Inischem's worldwide turnover was approximately €[...], all of which was generated in the State.

#### **Rationale for the Proposed Transaction**

14. The parties state in the notification:

*"The Targets will constitute an investment holding of Uniphar."*

15. The parties also informed the Commission of the following:

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<sup>16</sup> Following an informal information request from the Commission, the parties noted the following: *"The Target Pharmacies will remain Allcare-branded following completion/implementation of the Proposed Transaction."*



*“By purchasing the Target Pharmacies, Uniphar believes it can improve the competitive offering of each pharmacy as part of its strategy of growing and developing its retail network.”*

### Third Party Submissions

16. No submission was received.

### Competitive Analysis

#### Potential Relevant Market Discussion

17. There is a horizontal overlap between the parties’ business activities in the State as both Uniphar and the Target Companies are active in the operation of retail pharmacies in the State. In addition, there are currently three vertical relationships between Uniphar and the Target Companies in the State in relation to: (i) the wholesale supply of human pharmaceuticals; (ii) the supply of common branding/management services to pharmacies; and (iii) the supply of logistics services.

#### *The Operation of Retail Pharmacies*

18. The Commission has previously examined transactions involving the operation of retail pharmacies.<sup>17</sup> In the Commission’s determination in M/18/024 – Lloyds Pharmacy/McSweeney Group, the Commission assessed the competitive impact of the proposed acquisition by reference to the narrowest potential relevant market (being the potential market for the supply of prescription and non-prescription medicines in retail pharmacies in each of the geographic areas in which the target pharmacies were located). The Commission analysed each such local geographic area by reference to a “*geographic market comprising a catchment area of within a radius of 2km*” from the pharmacy to be acquired.<sup>18</sup>
19. The Commission has not, in the course of its assessment of the competitive effects of the Proposed Transaction, found reasons to depart from the approach previously adopted by the Commission in relation to the operation of retail pharmacies.

#### *The Wholesale Supply of Human Pharmaceuticals*

20. The Commission’s predecessor, the Competition Authority (the “Authority”), previously examined the wholesale supply of human pharmaceuticals in M/12/027 – Uniphar/CMR.<sup>19</sup> In M/12/027 – Uniphar/CMR, the Authority concluded that the narrowest possible product market affected by the relevant transaction concerned “*the market for the full-line wholesale supply of pharmacy-only human pharmaceutical*

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<sup>17</sup> For example, please see M/18/024 – Lloyds Pharmacy/McSweeney Group which can be accessed at: [https://www.ccpc.ie/business/M.18.024- Lloyds-Pharmacy.McSweeney-Group\\_public-determination.pdf](https://www.ccpc.ie/business/M.18.024- Lloyds-Pharmacy.McSweeney-Group_public-determination.pdf);

<sup>18</sup> Please see paragraph 22 in merger determination M/18/024 – Lloyds Pharmacy/McSweeney Group which can be accessed at: [https://www.ccpc.ie/business/M.18.024- Lloyds-Pharmacy.McSweeney-Group\\_public-determination.pdf](https://www.ccpc.ie/business/M.18.024- Lloyds-Pharmacy.McSweeney-Group_public-determination.pdf).

<sup>19</sup> Please see merger determination M/12/027 – Uniphar/CMR which can be accessed at <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2017/04/M-12-027-Uniphar-CMR-Determination-Public.pdf>



drugs”.<sup>20</sup> While the Authority did not come to a definite view on the relevant geographic market, the Authority examined the full-line wholesale supply of pharmacy-only human pharmaceutical drugs with respect to the State.<sup>21</sup>

21. The Commission has not, in the course of its assessment of the competitive effects of the Proposed Transaction, found reasons to depart from the approach previously adopted by the Authority in relation to the wholesale supply of human pharmaceuticals.

#### *The Supply of Common Management/Branding Services to Pharmacies*

22. The Commission previously examined the supply of common management/branding services to pharmacies in the State in M/18/085 Uniphar/Bradleys. In M/18/085 Uniphar/Bradleys, the Commission considered the supply of common management/branding services to retail pharmacies in the State.
23. In the merger notification form, the parties provided the following view in respect of the possible potential market:

*“The common branding and management services provided by Allcare comprise a range of services. These could be viewed as collectively forming a distinct market for the provision of comprehensive franchise/management services to pharmacies, or may be considered as a number of individual services each forming part of a broader market, for example in the following sectors: procurement services; accounting services; property management; marketing services etc”.*

24. The Commission has not, in the course of its assessment of the competitive effects of the Proposed Transaction, found reasons to depart from the approach previously adopted by the Commission in relation to the supply of common management/branding services to retail pharmacies in the State.

#### *The Supply of Logistics Services*

25. The Authority previously considered the pre-wholesale supply of pharmacy-only human pharmaceutical drugs.<sup>22</sup> The Authority ultimately left open the question as to whether this potential market would also include the provision of logistics services (referred to as DTP – Direct to Pharmacy<sup>23</sup>):

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<sup>20</sup> Please see paragraph 3.23 in merger determination M/12/027 – Uniphar/CMR which can be accessed at <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2017/04/M-12-027-Uniphar-CMR-Determination-Public.pdf>

<sup>21</sup> Please see paragraphs 3.39 to 3.40 in merger determination M/12/027 – Uniphar/CMR which can be accessed at <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2017/04/M-12-027-Uniphar-CMR-Determination-Public.pdf>

<sup>22</sup> Please see in merger determination M/12/027 – Uniphar/CMR which can be accessed at <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2017/04/M-12-027-Uniphar-CMR-Determination-Public.pdf>

<sup>23</sup> The Authority provided the following description of DTP, “Another alternative model of distribution is direct-to-pharmacy (“DTP”) whereby a pharmaceutical manufacturer uses a LSP [Logistics Service Provider], which may be a full-line wholesaler, to distribute its products directly to a pharmacy.” Please see paragraph 2.13 in merger determination M/12/027 – Uniphar/CMR which can be accessed at <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2017/04/M-12-027-Uniphar-CMR-Determination-Public.pdf>



*“The Authority, however, does not need to come to a definitive view on the precise relevant product market because its conclusions concerning the competitive impact of the proposed transaction, outlined below, would be unaffected whether the relevant product market is narrow (i.e., pre-wholesaling) or broader to encompass other distribution methods such as DTP.”<sup>24</sup>*

26. The European Commission previously considered the pre-wholesale supply/provision of logistics services in respect of pharmacy-only human pharmaceutical drugs in *M.6044 – Alliance Boots/Andrae-Noris Zahn* – ultimately, the European Commission did not conclude on the definite product market definition<sup>25</sup>:

*“Pre-wholesaling is the provision of logistical services to pharmaceutical manufacturers, mainly consisting in the warehousing and transportation of pharmaceutical products from the manufacturer to wholesalers, hospitals and, in some instances, to pharmacies. The suppliers of pre-wholesale services do not take title to the pharmaceutical products they are storing and ownership remains with the manufacturer until delivery. Pre-wholesalers do not have a customer relationship with the intended recipient of the products but with the manufacturers who pay a fee or commission for the service.”<sup>26</sup>*

27. For the purposes of its competitive assessment, the Commission will examine the Proposed Transaction on the basis of the narrowest potential market, i.e., the supply of logistics services in respect of pharmacy-only human pharmaceutical drugs in the State.

#### *Conclusion on market definition*

28. For the purposes of its horizontal competitive analysis, the Commission has assessed the competitive impact of the Proposed Transaction in the following potential markets: (i) the supply of prescription and non-prescription medicines in retail pharmacies within a catchment area of 2km from each of the Target Pharmacies; and (ii) the supply of prescription and non-prescription medicines in retail pharmacies in the State.
29. In addition, for the purposes of its vertical competitive analysis, the Commission has assessed the competitive impact of the Proposed Transaction in the following potential markets: (i) the full-line wholesale supply of pharmacy-only human pharmaceutical drugs in the State; (ii) the supply of common management/branding services to retail pharmacies in the State; and (iii) the supply of logistics services in respect of pharmacy-only human pharmaceutical drugs in the State.

#### *Horizontal Competition Assessment*

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<sup>24</sup> Paragraph 3.13 in merger determination M/12/027 – Uniphar/CMR which can be accessed at <https://www.cccp.ie/business/wp-content/uploads/sites/3/2017/04/M-12-027-Uniphar-CMR-Determination-Public.pdf>

<sup>25</sup> Please see paragraph 9 in European Commission decision in M.6044 – Alliance Boots/Andrae-Noris Zahn which is accessible at [http://ec.europa.eu/competition/mergers/cases/decisions/m6044\\_20101216\\_20310\\_1743609\\_EN.pdf](http://ec.europa.eu/competition/mergers/cases/decisions/m6044_20101216_20310_1743609_EN.pdf)

<sup>26</sup> Please see paragraph 6 in the European Commission decision in M.6044 – Alliance Boots/Andrae-Noris Zahn in which is accessible at: [http://ec.europa.eu/competition/mergers/cases/decisions/m6044\\_20101216\\_20310\\_1743609\\_EN.pdf](http://ec.europa.eu/competition/mergers/cases/decisions/m6044_20101216_20310_1743609_EN.pdf)



- (i) *The supply of prescription and non-prescription medicines in retail pharmacies within a catchment area of 2km from each of the Target Pharmacies*<sup>27</sup>

*9 The Mall, Tralee, Co. Kerry*

30. Odlanor Limited (i.e., one of the Target Companies) currently operates a pharmacy in Tralee which trades as *Kelly's Allcare Pharmacy*. The nearest Uniphar pharmacy to *Kelly's Allcare Pharmacy* in Tralee is *Bradley's Pharmacy* located at New Street, Killarney, Co. Kerry, a distance of approximately 28.6 km.<sup>28</sup> Thus, on the basis of a geographic market comprising a 2km radius from *Kelly's Allcare Pharmacy* in Tralee, there is no geographic overlap between the parties.

*106 Rock Street, Tralee, Co. Kerry*

31. O'Carroll's Pharmacy Limited (i.e., one of the Target Companies) currently operates a pharmacy in Tralee which trades as *O'Carroll's Allcare Pharmacy Tralee*. The nearest Uniphar pharmacy to *O'Carroll's Allcare Pharmacy Tralee* is *Bradley's Pharmacy* located at New Street, Killarney, Co. Kerry, a distance of approximately 28.9 km.<sup>29</sup> Thus, on the basis of a geographic market comprising a 2km radius from *O'Carroll's Allcare Pharmacy Tralee* in Tralee, there is no geographic overlap between the parties.

*17 Pearse Square, Fermoy, Co. Cork*

32. E. & D. O'Reilly (Pharmacy) Limited (i.e., one of the Target Companies) currently operates a pharmacy in Fermoy which trades as *O'Reilly's Allcare Pharmacy*. The nearest Uniphar pharmacy to *O'Reilly's Allcare Pharmacy* in Fermoy is *O'Carroll's Allcare Pharmacy* located at, Orchard Court, Blackpool, Cork, a distance of approximately 32.3 km.<sup>30</sup> Thus, on the basis of a geographic market comprising a 2km radius from *O'Reilly's Allcare Pharmacy* in Fermoy, there is no geographic overlap between the parties.

*The Square, Castletownbere, Co. Cork*

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<sup>27</sup> The Commission notes that two of the Target Pharmacies, i.e., *Kelly's Allcare Pharmacy* located at 9 The Mall, Tralee, Co. Kerry and *O'Carroll's Allcare Pharmacy Tralee* located at 106 Rock Street, Tralee, Co. Kerry are located within a 2km radius of each other. The closest Uniphar pharmacy to *Kelly's Allcare Pharmacy* and *O'Carroll's Allcare Pharmacy* is *Bradley's Pharmacy* located at New Street, Killarney, Co. Kerry and is located approximately 28.6km and 28.9km away from the respective Allcare branded pharmacies. In addition, the Commission notes that there are a number of additional pharmacies located within a 2km radius of the *Kelly's Allcare Pharmacy* and the *O'Carroll's Allcare Pharmacy*, e.g., *Boots pharmacy*; *Costello Pharmacy*; *CH Chemists*; *Ashe Street Late Night Pharmacy*; *Ashe Street Late Night Pharmacy*; *Kennellys Pharmacy*; *O'Donoghue's Pharmacy*, among others.

<sup>28</sup> In addition, the Commission notes that the closest pharmacies to the *Kelly's Allcare Pharmacy* in Tralee include the following: *CH Chemists* (0.04km away); *Kennellys Pharmacy*, (0.092km away); and, *Costello Pharmacy*, (0.21km away). These pharmacies will act as a competitive constraint on Uniphar following implementation of the Proposed Transaction.

<sup>29</sup> In addition, the Commission notes that the closest pharmacies to the *O'Carroll's Allcare Pharmacy* in Tralee include the following: *CH Chemists*, (0.25km away); *Ashe Street Late Night Pharmacy*, (0.40km away); and *Kennellys Pharmacy*, (0.4km away). These pharmacies will act as a competitive constraint on Uniphar following implementation of the Proposed Transaction.

<sup>30</sup> In addition, the Commission notes that the closest pharmacies to the *O'Reilly's Allcare Pharmacy* in Fermoy include the following: *Stack's Allcare Pharmacy* (0.084 km away); *Walsh's Pharmacy*, (0.11km away); *Mellerick's Pharmacy*, (0.12km away); and, *Lyons Family Pharmacy*, (0.21km away). These pharmacies will act as a competitive constraint on Uniphar following implementation of the Proposed Transaction.





33. G.J. Cross (Chemist) Limited (i.e., one of the Target Companies) currently operates a pharmacy in Castletownbere which trades as *Cross Allcare Pharmacy*. The nearest Uniphar pharmacy to the *Cross Allcare Pharmacy* is *Bradley's Pharmacy* located on New Street, Killarney, Co. Kerry, a distance of approximately 72 km.<sup>31</sup> Thus, on the basis of a geographic market comprising a 2km radius from *Cross Allcare Pharmacy* in Castletownbere, there is no geographic overlap between the parties.

*Unit 5, Lower O'Connell Street, Dublin 1*

34. Ballychem Limited (i.e., one of the Target Companies) currently operates a pharmacy in Dublin City Centre which trades as *Allcare Pharmacy* ("Allcare O'Connell St"). Uniphar currently owns two pharmacies within a 2km radius of Allcare O'Connell St, i.e., *Bradley's Pharmacy* located at 50 Dorset Street Lower, Dublin 1 and *Cahill's Allcare Pharmacy* located at 36 Lower Camden Street, Dublin 2.<sup>32</sup> Thus, on the basis of a geographic market comprising a catchment area of within a radius of 2km from Allcare O'Connell St, there is a horizontal overlap between the parties. Following completion of the Proposed Transaction, there will remain at least 10 other fascia of retail pharmacies active within a radius of 2km from Allcare O'Connell St which will continue to exert a competitive constraint on Uniphar in relation to the supply of prescription and non-prescription medicines in retail pharmacies. Therefore, the Commission considers that the Proposed Transaction will not substantially lessen competition in the supply of prescription and non-prescription medicines in retail pharmacies in the potential local market comprising a catchment area of within a radius of 2km from Allcare O'Connell St.

Table 1: A sample of pharmacies which are located within a radius of 2km of Allcare O'Connell St

| Brand                            | Pharmacy location                         | Distance from Allcare O'Connell St <sup>33</sup> |
|----------------------------------|---|--|
| <i>Allcare Pharmacy</i>          | Unit 5, Lower O'Connell Street, Dublin 1  | -  |
| <i>Bradley's Pharmacy</i>        | 50 Dorset Street Lower, Dublin 1          | 1km  |
| <i>Cahill's Allcare Pharmacy</i> | 36 Lower Camden Street, Dublin 2          | 1.7km  |
| <i>Boots Pharmacy</i>            | 20 Henry St, North City, Dublin, D01 CD63 | 0.35km   |

<sup>31</sup> In addition, the Commission notes that the closest pharmacy to the *Cross Allcare Pharmacy* in Castletownbere, is *Berehaven Pharmacy*, (0.24km away). This pharmacy will act as a competitive constraint on Uniphar following implementation of the Proposed Transaction.

<sup>32</sup> For completeness, the Commission notes that Uniphar also owns a discount store located at 100 Talbot Street, Dublin 1 a distance of approximately 0.7km from the *Allcare O'Connell Street Pharmacy*. The parties provided the following description of this outlet, "For completeness ... a Uniphar subsidiary, *Bannockview Limited*, has recently opened a 'pop-up' shop located at 100 Talbot Street, Dublin 1. This outlet, trading as "Discount & Deals", is intended to be operational for a short-term period of six months. "Discount & Deals" is not a community pharmacy, but rather a vehicle to sell surplus/slow-moving non-pharmaceutical products typically sold in community pharmacies in the gift, beauty and toiletries categories."

<sup>33</sup> Distances were calculated on a walking-distance basis and sourced from Google Maps.



|   |  |          |
|---|--|----------|
|   | Unit 9, Jervis Shopping Centre, Henry Street, North City, Dublin 1 | 0.65km   |
|   | Unit 20, Central Mall, Ilac Centre, Dublin 1                       | 0.55km   |
|   | 12 Grafton Street, Dublin 2  | 0.65km   |
|   | King Street South, Dublin 2  | 1km      |
| <i>Hickeys Pharmacy</i>                     | 55 O'Connell Street Lower, North City, Dublin 1                    | 0.052 km |
|   | 6 Henry St, North City, Dublin 1                                   | 0.3km    |
|   | 21 Grafton Street, Dublin 2  | 0.7km    |
| <i>Active Life Pharmacy</i>                 | 5, Irish Life Mall, Talbot St, North City, Dublin 1                | 0.5km    |
| <i>Tracey's Pharmacy</i>                    | Tracey's Pharmacy, 18 Eden Quay, North City, Dublin                | 0.17km   |
| <i>Hilton's Pharmacy</i>                    | Greeg Court, Parnell St, North City, Dublin 1                      | 0.65km   |
| <i>Hogan's Life Pharmacy Parnell Street</i> | 41 Parnell St, North City, Dublin                                  | 0.65km   |
| <i>Foley's Chemist</i>                      | 136 Parnell St, Rotunda, Dublin 1                                  | 0.75km   |
| <i>Capel Street Pharmacy</i>                | Capel Street Pharmacy, 138 Capel St, North City, Dublin 1          | 0.85km   |
| <i>City Pharmacy Ltd</i>                    | 14 Dame Street, Dublin 2   | 0.75km   |
| <i>Medipharm</i>                            | 16 South Great George's St, Dublin 2                               | 0.8km    |

Source: Based on Commission information and information provided by the parties.

### *32 Castle Street, Dalkey, Co. Dublin*

35. Nadroj Limited (i.e., one of the Target Companies) currently operates a pharmacy in Dalkey which trades as *Kerins Allcare Pharmacy*. The nearest Uniphar pharmacy to *Kerins Allcare Pharmacy* in Dalkey is *Hilton's Allcare Pharmacy* located at Unit 109, Dún Laoghaire Shopping Centre, Dún Laoghaire, Co. Dublin, a distance of approximately 3km.<sup>34</sup> Thus, on the basis of a geographic market comprising a 2km radius from *Kerins Allcare Pharmacy* in Dalkey, there is no geographic overlap between the parties.

### *Merrion Shopping Centre, Merrion Road, Dublin 4*

36. Pharmacy Merrion Centre Limited (i.e., one of the Target Companies) currently operates a pharmacy in Ballsbridge which trades as *Tony Walsh's Allcare Pharmacy* ("the Tony Walsh Allcare Pharmacy Merrion"). The nearest Uniphar pharmacy to the Tony Walsh Allcare Pharmacy Merrion is *Bradley's Pharmacy* located at 6 Thorncastle Street,

<sup>34</sup> In addition, the Commission notes that the closest pharmacies to the *Kerins Allcare Pharmacy* in Dalkey include the following: *Maxwell Pharmacy*, (0.023km away); and, *Dalkey Pharmacy*, (0.073km away). These pharmacies will act as a competitive constraint on Uniphar following implementation of the Proposed Transaction.



Ringsend, Dublin 4, a distance of approximately 3.2km.<sup>35</sup> Thus, on the basis of a geographic market comprising a 2km radius from the Tony Walsh Allcare Pharmacy Merrion, there is no geographic overlap between the parties.

*Unit 6A, Clearwater Shopping Centre, Finglas, Dublin 11*

37. Erncroft Limited (i.e., one of the Target Companies) currently operates a pharmacy in Finglas which trades as *Clearwater Allcare Pharmacy*. The nearest Uniphar pharmacy to the *Clearwater Allcare Pharmacy* in Finglas is *Bradley's Pharmacy* which is located at 50 Dorset Street Lower, Dublin 1, a distance of approximately 4.6km.<sup>36</sup> Thus, on the basis of a geographic market comprising a 2km radius from the *Clearwater Allcare Pharmacy* in Finglas, there is no geographic overlap between the parties.

*182 Whitehall Road West, Perrystown, Dublin 12*

38. Kenure Limited (i.e., one of the Target Companies) currently operates a pharmacy in Perrystown, which trades as *Perrystown Allcare Pharmacy*. Uniphar currently owns one pharmacy within a 2km radius of the *Perrystown Allcare Pharmacy* in Perrystown, i.e., *Bradley's Pharmacy* which is located at 2 Fortfield Road, Kimmage. Thus, on the basis of a geographic market comprising a catchment area of within a radius of 2km from *Perrystown Allcare Pharmacy* in Perrystown, there is a horizontal overlap between the parties. Following completion of the Proposed Transaction, there will remain at least 7 other fascia of retail pharmacies active within a radius of 2km from the *Perrystown Allcare Pharmacy* in Perrystown which will continue to exert a competitive constraint on Uniphar in relation to the supply of prescription and non-prescription medicines in retail pharmacies. Therefore, the Commission considers that the Proposed Transaction will not substantially lessen competition in the supply of prescription and non-prescription medicines in retail pharmacies in the potential local market comprising a catchment area of within a radius of 2km from the *Perrystown Allcare Pharmacy* in Perrystown.

Table 2: A sample of pharmacies which are located within a radius of 2km of the *Perrystown Allcare Pharmacy* in Perrystown

| Brand                              | Pharmacy location                   | Distance from Perrystown Allcare Pharmacy <sup>37</sup> |
|------------------------------------|-------------------------------------|---|
| <i>Perrystown Allcare Pharmacy</i> | 182 Whitehall Road West, Perrystown | -   |
| <i>Bradley's Pharmacy</i>          | 2 Fortfield Road, Kimmage           | 1.6km   |

<sup>35</sup> In addition, the Commission notes that the closest pharmacies to the *Tony Walsh Allcare Pharmacy* in Ballsbridge include the following: *Life Pharmacy Ballsbridge* (1.6km away); *Murray's Pharmacy* (1.7km away); and, *Woodbine Pharmacy* (1.8km away). These pharmacies will act as a competitive constraint on Uniphar following implementation of the Proposed Transaction.

<sup>36</sup> In addition, the Commission notes that the closest pharmacies to the *Clearwater Allcare Pharmacy* in Finglas include the following: *Flanagan's Instore Pharmacy* (0.071km away); *Lloyds Pharmacy* (1.4km away); and, *Hickey's Pharmacy* (1.4km away). These pharmacies will act as a competitive constraint on Uniphar following implementation of the Proposed Transaction.

<sup>37</sup> Distances were calculated on a walking-distance basis and sourced from Google Maps.



|                                 |   |        |
|---------------------------------|---|--------|
| <i>Pure Pharmacy</i>            | 1A Whitehall Cl, Terenure                               | 0.13km |
|                                 | 66 St Agnes Rd, Crumlin                                 | 1.1km  |
| <i>Saint Patrick's Pharmacy</i> | 127 Street Patrick's Road, Whitehall                    | 0.7km  |
| <i>Greenhills Pharmacy</i>      | 133 St Peter's Road, Walkinstown                        | 0.8m   |
| <i>Lloyds Pharmacy</i>          | Ashleaf S.C., Crumlin Cross                             | 1.1km  |
| <i>Maxwell's Pharmacy</i>       | Unit 6, Orwell Shopping Centre, Orwell Park, Templeogue | 1.3km  |
| <i>O'Sullivan's Pharmacy</i>    | 308-548 Ballymount Road Lower, Dublin 12                | 1.6km  |
| <i>Greenlea Pharmacy</i>        | 116 Greenlea Rd, Terenure                               | 2km    |

Source: Based on Commission information and information provided by the parties.

#### *Rathfarnham Shopping Centre, Rathfarnham, Dublin 14*

39. Tony Walsh (Rathfarnham) Limited (i.e., one of the Target Companies) currently operates a pharmacy in Rathfarnham which trades as *Tony Walsh Allcare Pharmacy* (“the Tony Walsh Allcare Pharmacy Rathfarnham”). Uniphar currently owns one pharmacy within a 2km radius of the Tony Walsh Pharmacy Rathfarnham, i.e., *Bradley's Pharmacy* which is located at 4 Landscape Rd, Newtown Little.<sup>38</sup> Thus, on the basis of a geographic market comprising a catchment area of within a radius of 2km from the Tony Walsh Allcare Pharmacy Rathfarnham, there is a horizontal overlap between the parties. Following completion of the Proposed Transaction, there will remain at least 5 other fascia of retail pharmacies active within a radius of 2km from the Tony Walsh Allcare Pharmacy Rathfarnham which will continue to exert a competitive constraint on Uniphar in relation to the supply of prescription and non-prescription medicines in retail pharmacies. Therefore, the Commission considers that the Proposed Transaction will not substantially lessen competition in the supply of prescription and non-prescription medicines in retail pharmacies in the potential local market comprising a catchment area of within a radius of 2km from the Tony Walsh Allcare Pharmacy Rathfarnham.

Table 3: A sample of pharmacies which are located within a radius of 2km of the Tony Walsh Pharmacy Rathfarnham

| <b>Brand</b> | <b>Pharmacy location</b> | <b>Distance from the Tony Walsh Pharmacy Rathfarnham<sup>39</sup></b> |
|--------------|--------------------------|---|
|--------------|--------------------------|---|

<sup>38</sup> Uniphar noted the following in relation to *Bradley's Pharmacy* in Churchtown, “However, as the CCPC is already aware, the latter pharmacy is due shortly to close and therefore does not form part of the present analysis”. For completeness, the CCPC has assessed the competitive effects of the Proposed Transaction within a 2km radius from *Tony Walsh Allcare Pharmacy* in Rathfarnham. The Commission notes that the second nearest Uniphar pharmacy to the *Tony Walsh Allcare Pharmacy* in Rathfarnham is *Bradleys Pharmacy* which is located at 4 Landscape Rd, 2 Fortfield Road, Kimmage, Dublin 6W, a distance of approximately 4km.

<sup>39</sup> Distances were calculated on a walking-distance basis and sourced from Google Maps.



|  |   |         |
|--|---|---------|
| <i>Tony Walsh Allcare Pharmacy</i>           | Nutgrove Shopping Centre, Rathfarnham                     | -       |
| <i>Bradley's Pharmacy</i>                    | 4 Landscape Rd, Newtown Little                            | 1.2km   |
| <i>Boots</i>                                 | Nutgrove Shopping Centre, Rathfarnham                     | 0.065km |
| <i>Lloyds Pharmacy</i>                       | 14 Nutgrove Avenue, Nutgrove Shopping Centre, Rathfarnham | 0.026km |
|  | 11B Braemor Road, Churchtown                              | 1.1km   |
| <i>Andrew Buckley's Totalhealth Pharmacy</i> | 5 St. Enda's Drive, Rathfarnham                           | 1.7km   |
| <i>Haven Pharmacy Greene's</i>               | 36 Main Street, Rathfarnham                               | 1.7km   |
| <i>Hilton's Pharmacy</i>                     | 11 Main Street, Rathfarnham                               | 1.9km   |

Source: Based on Commission information and information provided by the parties.

#### *Castle Street, Ardee, Co. Louth*

40. Colman O'Flynn Limited (i.e., one of the Target Companies) currently operates a pharmacy in Ardee, which trades as *O'Flynn's Allcare Pharmacy*. Uniphar currently owns one pharmacy within a 2km radius of the *O'Flynn's Allcare Pharmacy* in Ardee, i.e., *Bradley's Pharmacy* which is located at Market Street, Ardee. Thus, on the basis of a geographic market comprising a catchment area of within a radius of 2km from *O'Flynn's Allcare Pharmacy* in Ardee, there is a horizontal overlap between the parties. Following completion of the Proposed Transaction, there will remain at least 4 other fascia of retail pharmacies active within a radius of 2km from *O'Flynn's Allcare Pharmacy* in Ardee which will continue to exert a competitive constraint on Uniphar in relation to the supply of prescription and non-prescription medicines in retail pharmacies. Therefore, the Commission considers that the Proposed Transaction will not substantially lessen competition in the supply of prescription and non-prescription medicines in retail pharmacies in the potential local market comprising a catchment area of within a radius of 2km from the *O'Flynn's Allcare Pharmacy* in Ardee.

Table 4: Overview of the pharmacies which are located within a radius of 2km of the *O'Flynn's Allcare Pharmacy* in Ardee

| <b>Brand</b>                               | <b>Pharmacy location</b>                        | <b>Distance from O'Flynn's Allcare Pharmacy</b> |
|--|---|---|
| <i>O'Flynn's Allcare Pharmacy</i>          | Castle Street, Ardee, Co. Louth                 | -   |
| <i>Bradley's Pharmacy</i>                  | Market Street, Ardee                            | 0.17km  |
| <i>Colman &amp; Ann O'Flynn's Pharmacy</i> | Old McCabe, Castle Street, Cappocksgreen, Ardee | 0.006km   |



|  |                                       |         |
|--|---------------------------------------|---------|
| <i>Donal McGoey Pharmacy</i>           | 66 Market St,<br>Cappocksgreen, Ardee | 0.047km |
| <i>Ardee Pharmacy and<br/>Giftware</i> | 27 Market St,<br>Cappocksgreen, Ardee | 0.12km  |
| <i>Pharmacy McGoey</i>                 | 8 John St, Mulladrillen,<br>Ardee     | 0.45km  |

Source: The Commission based on Commission information and information provided by the parties.

*Unit 1 & 2, Banagher Town Centre, Banagher, Co. Offaly*

41. CGH Pharmacy Limited (i.e., one of the Target Companies) currently operates a pharmacy in Banagher which trades as *CGH Allcare Pharmacy*. The nearest Uniphar pharmacy to the *CGH Allcare Pharmacy* in Banagher is *Pettit's Pharmacy* which is located at The Square, Clara, Co. Offaly, a distance of approximately 31.9 km.<sup>40</sup> Thus, on the basis of a geographic market comprising a 2km radius from the *CGH Allcare Pharmacy* in Banagher, there is no geographic overlap between the parties.

*Blacklion, Greystones, Co. Wicklow*

42. Roscare Chemists Limited (i.e., one of the Target Companies) currently operates a pharmacy in Greystones which trades as *Roches Allcare Pharmacy*. The nearest Uniphar pharmacy to the *Roches Allcare Pharmacy* in Greystones is *Bradleys Pharmacy* which is located at 63 Lower Mounttown Road, Stillorgan, Dublin, a distance of approximately 16.9 km.<sup>41</sup> Thus, on the basis of a geographic market comprising a 2km radius from the *Roches Allcare Pharmacy* in Greystones, there is no geographic overlap between the parties.

*Crossroads, Moycullen, Co. Galway*

43. Moycullen Pharmacy Limited (i.e., one of the Target Companies) currently operates a pharmacy in Moycullen which trades as *O'Connor's Allcare Pharmacy*. The nearest Uniphar pharmacy to the *O'Connor's Allcare Pharmacy* in Moycullen is Normoyle's Allcare Pharmacy which is located at 47 O'Connell Street, Shannon, Co. Clare, a distance of approximately 75.7 km.<sup>42</sup> Thus, on the basis of a geographic market comprising a 2km radius from the *O'Connor's Allcare Pharmacy* in Moycullen, there is no geographic overlap between the parties.

*24 Mill Street, Church Square, Monaghan Town, Co. Monaghan*

<sup>40</sup> In addition, the Commission notes that the closest pharmacy to the *CGH Allcare Pharmacy* in Banagher is *Banagher Pharmacy*, (0.35 km away). These pharmacies will act as a competitive constraint on Uniphar following implementation of the Proposed Transaction.

<sup>41</sup> In addition, the Commission notes that the closest pharmacies to the *Roches Allcare Pharmacy* in Greystones include the following: *Fahy's Pharmacy* (0.75km away); *Lloyds Pharmacy*, (0.8 km away); and, *Boots* (1.3km away). These pharmacies will act as a competitive constraint on Uniphar following implementation of the Proposed Transaction.

<sup>42</sup> In addition, the Commission notes that the closest pharmacies to the *O'Connor's Allcare Pharmacy* in Moycullen include the following: *Matt O'Flaherty Chemist*, (0.16km); and, *Howard's Pharmacy*, (0.21km away). These pharmacies will act as a competitive constraint on Uniphar following implementation of the Proposed Transaction.



44. WS Black Pharmacy Limited (i.e., one of the Target Companies) currently operates a pharmacy in Monaghan Town which trades as *Black's Allcare Pharmacy*. The nearest Uniphar pharmacy to *Black's Allcare Pharmacy* in Monaghan Town is *Bradley's Pharmacy* which is located at Main Street, Carrickmacross, Co. Monaghan, a distance of approximately 36.9 km.<sup>43</sup> Thus, on the basis of a geographic market comprising a 2km radius from *Black's Allcare Pharmacy* in Monaghan Town, there is no geographic overlap between the parties.

#### *Conclusion on Local Market Analysis*

45. For the reasons set out above, the Commission considers that the Proposed Transaction will not substantially lessen competition in the supply of prescription and non-prescription medicines in retail pharmacies within a 2km radius from the Target Pharmacies in the State.

#### *(ii) The supply of prescription and non-prescription medicines in retail pharmacies in the State*

46. On a national level, the Proposed Transaction raises no competition concerns in the potential market for supply of prescription and non-prescription medicines in retail pharmacies. Information provided by the parties estimated that Uniphar held an estimated 2.27%<sup>44</sup> share of the total number of retail pharmacies in the State in 2018 and that the Target Pharmacies held an estimated 0.81%.<sup>45</sup> Thus, on a national level, Uniphar's increased share of the total number of retail pharmacies in the State as a result of the Proposed Transaction will be minimal.

#### Vertical Relationship

47. There are currently three vertical relationships between Uniphar and the Target Pharmacies in the State in relation to: (i) the full-line wholesale supply of pharmacy-only human pharmaceutical drugs in the State; (ii) the supply of common management/branding services to pharmacies in the State; and, (iii) the supply of logistics services in respect of pharmacy-only human pharmaceutical drugs in the State.

#### *(i) The full-line wholesale supply of pharmacy-only human pharmaceuticals drugs in the State*

48. Uniphar currently operates as the Target Pharmacies' primary full-line wholesaler of pharmacy-only human pharmaceutical drugs in the State.<sup>46</sup> The parties informed the Commission that the Target Pharmacies also obtain pharmacy-only human

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<sup>43</sup> In addition, the Commission notes that the closest pharmacies to *Black's Allcare Pharmacy* in Monaghan Town include the following: *Connolly's Chemist* (0.058km); *Ward's Pharmacy*, (0.086km away); and, *Boots*, (0.15km away). These pharmacies will act as a competitive constraint on Uniphar following implementation of the Proposed Transaction.

<sup>44</sup> This market share estimate accounts for the number of retail pharmacies which Uniphar currently solely controls in the State.

<sup>45</sup> Market share estimates were provided by the parties and based on the number of pharmacies as reported by the Pharmaceutical Society of Ireland. Please see the Register of Pharmacies (published by the Pharmaceutical Society of Ireland) which reported that as of 2 October 2018 there were approximately 1,850 community pharmacies in the State: <https://www.thepsi.ie/gns/Search-the-Registers.aspx>

<sup>46</sup> For completion, the Commission notes that each of the Target Pharmacies currently has a purchase agreement in place with Uniphar and Inischem, e.g., the parties note the following in relation to such purchase agreements, ["..."].



pharmaceutical drugs, from *United Drug*, short-line wholesalers and via direct supply from manufacturers. Uniphar informed the Commission that, following implementation of the Proposed Transaction, it is intended that the Target Pharmacies will purchase the majority (given the minimum purchasing obligation and exclusive purchasing obligation) of their pharmacy-only human pharmaceutical drugs from Uniphar.

49. The Commission considers that the Proposed Transaction does not give rise to any vertical foreclosure concerns in the State in relation to the wholesale supply of pharmacy-only human pharmaceuticals for the following reasons:
- i. Customer foreclosure: On the basis of the Register of Pharmacies (published by the Pharmaceutical Society of Ireland), the Target Pharmacies account for approximately 0.81% of the total number of pharmacies in the State.<sup>47</sup> As previously mentioned, Uniphar currently operates as the Target Pharmacies' primary full-line wholesaler of pharmacy-only human pharmaceutical drugs in the State. As such, the Proposed Transaction will internalise and possibly increase<sup>48</sup> the existing supply arrangements between Uniphar and the Target Pharmacies. This may potentially lead to a series of long-term contracts on similar terms between Uniphar and the Target Pharmacies<sup>49</sup>, however, as previously mentioned, the Target Pharmacies only account for 0.81% of the total number of retail pharmacies in the State and as such, the Proposed Transaction is unlikely to significantly affect Uniphar's share in the full-line wholesale supply of pharmacy-only human pharmaceutical drugs in the State. In addition, there will remain alternative pharmacies and hospitals to which the other full-line wholesaler of pharmacy-only human pharmaceuticals in the State, i.e., *United Drug*, can supply full-line wholesale services
  - ii. Input foreclosure: information provided by Uniphar noted that it currently holds an estimated [45-50]% share in the full-line wholesale supply of pharmacy-only human pharmaceuticals in the State.<sup>50</sup> As previously mentioned, there is just one other full-line wholesaler of pharmacy-only human pharmaceutical drugs in the State, i.e., *United Drug*. *United Drug* holds an estimated [50-55]% share in the full-line wholesale supply of pharmacy-only human pharmaceuticals in the State.<sup>51</sup> There are also a number of short-line wholesalers/parallel importers (e.g., *PCO Manufacturing*, *iMED Healthcare*, *Eurodrug* and *Lexon*) which will exert a competitive constraint on Uniphar, following implementation of the Proposed Transaction. In addition, Uniphar provided the Commission with the following reasons as to why it would not have an incentive to reduce supplies to third-party community pharmacies competing with the Target Pharmacies (and/or the 42 community pharmacies controlled by Uniphar) in order to

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<sup>47</sup> Please see footnote 45 for market share estimate description.

<sup>48</sup> As previously mentioned in paragraph 46, although Uniphar is currently the Target Pharmacies full-line pharmacy-only human pharmaceutical drugs in the State, the Target Pharmacies also obtain pharmacy-only human pharmaceutical drugs from *United Drug*, short line wholesalers and via direct supply from manufacturers. Post-transaction, it is intended that the Target Pharmacies will purchase the majority (...) of their pharmacy-only human pharmaceutical drugs from Uniphar.

<sup>49</sup> As previously mentioned, each of the Target Pharmacies currently has a purchase agreement in place with Uniphar and Inischem, e.g., the parties note the following in relation to such purchase agreements, "[...]".

<sup>50</sup> Market share estimates were provided by Uniphar and based on data (dated December 2018) provided by *IQVIA* (formerly *IMS Health*) a provider of data on sales of medicinal/pharmaceutical products.

<sup>51</sup> Please see footnote 50 for a description of market share estimates.





strengthen the position of Uniphar-owned community pharmacies in the State/in certain local areas:

*“there would be no incentive for Uniphar to do so and this would never be a rational course of action for Uniphar. Uniphar’s primary business is full-line wholesaling. It derives the majority of its annual global EUR 1.267 billion turnover from this activity. By contrast, the Targets form a very minor part of the community pharmacy sector in the State, with total annual turnover of approximately EUR [...], and with low market shares even on narrow local markets. Third-party pharmacies could readily obtain supplies from United Drug (and short-line wholesalers/LSPs) if Uniphar withheld supplies; such a strategy would thus not benefit Uniphar. In any event, any increase in Uniphar’s sales via its owned community pharmacies would never compensate for the loss of revenue at wholesale level from such a strategy (which would have to involve withholding supplies from many third-party community pharmacies in order to benefit a small number of Uniphar-owned pharmacies).”*

- iii. The Commission considers that the Proposed Transaction will not significantly alter the market structure in respect of the full-line wholesale supply of pharmacy-only human pharmaceuticals in the State due to the minimal market share increment post-transaction.
50. In light of the above, the Commission considers that, following implementation of the Proposed Transaction, the parties will neither have the ability nor the incentive to: (i) foreclose any full-line wholesalers (and/or short-line wholesalers/logistics service providers) in the State from supplying pharmacies with pharmacy-only human pharmaceutical drugs; and, (ii) foreclose any pharmacies from obtaining pharmacy-only human pharmaceutical drugs from alternative full-line wholesalers (and/or short-line wholesalers/logistic service providers). Accordingly, the Commission considers that the Proposed Transaction is not likely to lead to any vertical foreclosure concerns in the State in relation to the full-line wholesale supply of pharmacy-only human pharmaceutical drugs in the State.

*(ii) The supply of common management/branding services to retail pharmacies in the State*

51. There is currently a vertical relationship between the Target Pharmacies and Uniphar as Allcare currently provides common management/branding services to the Target Pharmacies via a services agreement (the “Services Agreement”). As previously mentioned, Allcare (a wholly-owned subsidiary of Uniphar) provides a suite of professional management services<sup>52</sup> to community pharmacies (including the Target Pharmacies) in the State via a services agreement or a franchise agreement.
52. The Commission considers that the Proposed Transaction does not give rise to any vertical foreclosure concerns in the State in relation to the supply of common

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<sup>52</sup> As previously mentioned, the services provided by Allcare include the following: clinical support, development of new services and product ranges, procurement of goods and services from pharmaceutical wholesalers, category and planning management, property management, human resource management, information technology management and development, operational and financial controls, and marketing assistance.



management/branding services to retail pharmacies in the State for the following reasons:

- i. Customer foreclosure: On the basis of the Register of Pharmacies (published by the Pharmaceutical Society of Ireland), the Target Pharmacies account for approximately 0.81% of the total number of retail pharmacies in the State.<sup>53</sup> Following an informal request for information, Uniphar informed the Commission that Uniphar will continue to provide the relevant support services to the Target Pharmacies following implementation of the Proposed Transaction. As such, the Proposed Transaction will internalise the existing Services Agreement. This may lead to a series of long-term contracts on similar terms between Uniphar and the Target Pharmacies, however, as previously mentioned, the Target Pharmacies only account for 0.81% of the total number of retail pharmacies in the State and as such, the Proposed Transaction is unlikely to significantly affect Uniphar's share in the supply of common management/branding services to retail pharmacies in the State. In addition, there will remain a significant number of alternative retail pharmacies in the State to which alternative suppliers of common management/branding services can supply such services;
  - ii. Input foreclosure: there are a number of providers of common management/branding services (similar to those offered Uniphar) to pharmacies in the State, e.g., *Haven buying group*; *Total Health buying group*; *Care Plus buying group*; *Pharma Le Chéile*; and *Lloyd's Pharmacy*. In addition, retail pharmacies can also self-provide the services which Allcare offers or they may use individual providers of the various services offered by Allcare, e.g., accountancy firms, recruitment firms, marketing, etc. Uniphar also noted that following implementation of the Proposed Transaction, Uniphar would not have an incentive to withhold common management/branding services from retail pharmacies in the State for the following reasons:  
  
*"Similarly, Allcare is a minor provider of management services in the State – it would be neither rational nor profitable for it to withhold such services from other pharmacies outside of the Targets, nor would it have any adverse impact on competitive conditions in the State if it did so given the many competitors of Allcare in the State and the ability of pharmacies to "self-provide" the services supplied by Allcare."*
  - iii. The Commission considers that there will remain a sufficient number of competitors and customers following completion of the Proposed Transaction in relation to the supply of common management/branding services to retail pharmacies in the State.
53. In light of the above, the Commission considers that, following implementation of the Proposed Transaction, the parties will neither have the ability nor the incentive to: (i) foreclose any providers of common management/branding services to retail pharmacies in the State; and, (ii) foreclose any retail pharmacies from obtaining common management/branding services from alternative service providers in the State. Accordingly, the Commission considers that the Proposed Transaction is not likely to lead to any vertical foreclosure concerns in the State in relation to the supply of common management/branding services to retail pharmacies in the State.

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<sup>53</sup> Please see footnote 45 for market share estimate description.



*(iii) The supply of logistics services in respect of pharmacy-only human pharmaceutical drugs in the State*

54. There is a potential vertical relationship between Uniphar and the Target Pharmacies in respect of the supply of logistics services in respect of pharmacy-only human pharmaceutical drugs in the State.
55. In its capacity as a logistics service provider, Uniphar's contractual relationship is with the relevant manufacturer and not the consignee (e.g., the retail pharmacy), i.e., "*Uniphar LSP acts at the direction of manufacturers and thus has less control over supplies to community pharmacies than Uniphar Wholesale*".<sup>54</sup> In other words, Uniphar does not provide logistics services in respect of pharmacy-only human pharmaceutical drugs to community pharmacies. The relevant services are provided to manufacturers and delivery of the pharmacy-only human pharmaceutical drugs to community pharmacies forms part of this service. As such, the Proposed Transaction will not directly affect Uniphar's share in the provision of logistics services in respect of pharmacy-only human pharmaceutical products. As a result, the Commission will not consider this potential vertical relationship any further in its assessment.

**Conclusion**

56. 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**

57. No ancillary restraints were notified.

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<sup>54</sup> Information provided by Uniphar in the merger notification form.



### **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 Trennamally Limited, a wholly owned subsidiary of Uniphar plc, would acquire sole control of 15 companies, each operating a community pharmacy, from Inischem Designated Activity Company and thereby, sole control of 15 community pharmacies, all trading under the *Allcare Pharmacy* brand, 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**