



DETERMINATION OF MERGER NOTIFICATION M/11/007 -

OAKTREE/BELUGA

Section 21 of the Competition Act 2002

Proposed acquisition by Oaktree Management L.P. of sole control of Beluga Group

Dated 11 March 2011

Introduction

1. On 1 March 2011, in accordance with section 18 of the Competition Act 2002, the Competition Authority (the "Authority") received a notification of a proposed acquisition whereby Oaktree Management L.P. ("Oaktree") would acquire sole control of Beluga Group ("Beluga"). Beluga is currently jointly controlled by Oaktree and Mr. Niels Stolberg.¹
2. As a result of the proposed acquisition, Oaktree will acquire [...] % of the total share capital of Beluga. Mr. Stolberg will own the remaining [...] % of the total share capital of Beluga. Following completion of the proposed acquisition, Oaktree will solely control Beluga.

The Undertakings Involved

Oaktree

3. Oaktree is an investment management firm whose core activity focuses on investments in specialised private equity, distressed debt, high yield and convertible bonds, emerging market and Japanese securities, real estate, and mezzanine finance. Oaktree's investments are in a variety of industries including packaging, manufacturing, healthcare, clothing, travel, real estate, exploration and mining, food, telecommunications, media and entertainment. Eight of Oaktree's portfolio companies are active in the State.²
4. Oaktree's worldwide turnover for the financial year ending 31 March 2009 was €[...]. Oaktree's turnover in the State for the financial year ending 31 March 2009 was €[...].

Beluga

¹ The Authority approved the proposed acquisition by Oaktree and Mr. Stolberg of joint control of Beluga on 23 August 2010 (M/10/025).

² The eight portfolio companies are engaged in the following activities: the manufacture of flexible packaging; the production of ice cream; the supply of cartons, labels and leaflets; the manufacture and distribution of products used in concrete construction and masonry construction; the design, manufacture and marketing of three commercial carpet brands; the design, manufacture, distribution, marketing and installation of complete lines of consoles, enclosures and furniture for data centers, control rooms, and network operation centers; the production and sale of aluminum rolled and extruded products, recycled aluminum, and specification alloys; and, the manufacture of packaging and tubing products serving primarily the food, healthcare and consumer markets.

5. Beluga is active in the project and heavy-lift shipping industry. Beluga's core activity lies in creating tailored service packages for the worldwide shipment of sensitive and bulky cargo. In particular, Beluga is active in the oil and gas industry, the offshore wind energy sector, the expansion of port infrastructure, and the construction and modernisation of power plants. Beluga's vessel fleet currently comprises 70 multipurpose heavy-lift cargo carriers. Beluga does not have a physical presence in the State. Beluga uses its global offices and agents as well as brokers to approach customers in the State.
6. Beluga's worldwide turnover for the financial year ending 31 March 2009 was €403 million. Beluga's turnover in the State for the financial year ending 31 March 2009 was €[...].

Waiving Third Party Submission Deadline

7. Under section 20 of the Act, the Authority is required to publish a notice within 7 days of the date of receipt of a merger notification. The practice of the Authority, as set out in its *Merger Procedures*, is to give third parties 10 days from the date of the notice to make their submission. The Authority can, however, change this time limit if circumstances so require.³
8. In the notification, the parties requested that the Authority shorten the period for third party comments to five days in order to get an expedited decision from the Authority. The parties submitted that Beluga is currently facing a severe liquidity crisis. The parties submitted that Oaktree has decided to provide financial assistance which, if implemented quickly, should preserve Beluga as a going concern. The parties also submitted that the proposed acquisition raises no competition concerns in any market in the State.
9. The Authority considers that the specific circumstances of the notified transaction justify a reduction in the period required for third party submissions. The Authority therefore reduced to 7 days the period required for third party submissions.

Third party Submissions

10. No submissions were received.

Analysis

11. There is no horizontal overlap between Oaktree (and its portfolio companies) and Beluga in the State. Neither Oaktree nor any of its portfolio companies are active, either directly or indirectly, in the project and heavy-lift shipping industry. The proposed acquisition does not raise any vertical competition issues. The Authority therefore considers that the proposed acquisition will not raise any competition concerns in the State.

Ancillary Restraints

³ See Competition Authority's *Mergers and Acquisitions Procedure*, paragraph 2.6, available at: <http://www.tca.ie/MergersAcquisitions/MergersAcquisitions.aspx>

12. The Shareholders Agreement includes non-compete obligations which the parties state are directly related and necessary to the proposed acquisition. [...].
13. The Authority considers these restrictions to be directly related and necessary to the implementation of the proposed acquisition.

DETERMINATION

The Competition Authority, in accordance with section 21(2)(a) of the Competition Act, 2002, has determined that, in its opinion, the result of the proposed acquisition by Oaktree Management L.P. of sole control of Beluga Group 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 Authority

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