



DETERMINATION OF MERGER NOTIFICATION M/15/055 - BRAIT / ICELAND

Section 21 of the Competition Act 2002

Proposed acquisition of Iceland TopCo Limited by Brait CM 1 Limited

Dated 13 November 2015

Introduction

1. On 7 October 2015, in accordance with section 18(1) of the Competition Act 2002, as amended¹ (“the 2002 Act”), the Competition and Consumer Protection Commission (“the Commission”) received a notification of a proposed transaction whereby Brait CM 1 Limited (“Brait CM1”), a wholly-owned indirect subsidiary of Brait Societas Europaea (“Brait SE”), would acquire sole control of Iceland TopCo Limited (“Iceland”).

The Proposed Transaction

2. The proposed transaction is pursuant to a sale and purchase agreement (“SPA”), dated 2 October 2015 and relating to the shares in Iceland, between Brait CM1 and some of the other existing Iceland shareholders.² The effect of the SPA would be to increase Brait CM1’s shareholding in Iceland from approximately 19% to approximately 57% with Brait CM1 thereby acquiring sole control of Iceland. The remaining 43% shareholding in Iceland would continue to be held by Iceland managers.³

The Undertakings Involved

Brait SE and Brait CM1

3. Brait SE, the ultimate acquirer,⁴ is an investment holding company headquartered in San Gwann, Malta. It is a public company listed on the Euro MTF Market of the Luxembourg Stock Exchange and also on the Johannesburg Stock Exchange. Specifically with respect to the Commission’s analysis of the proposed transaction,

¹ It should be noted that the Competition and Consumer Protection Act 2014 made a number of important amendments to the merger review regime set out in the Competition Act 2002.

² The shares to be acquired comprise the shareholdings of Lord Graham Kirkham (approximately 19%), the Landmark Group (approximately 19%) and others (approximately 1%).

³ This comprises four individual shareholdings: Malcolm Walker (approximately 20%), Tarsem Dhaliwal (approximately 14%), Nicholas Canning (approximately 5%) and Nigel Broadhurst (approximately 5%).

⁴ Brait CM1 is a wholly-owned subsidiary of Brait Mauritius Limited (“Brait Mauritius”), both headquartered in Port Louis, Mauritius. Brait Mauritius is a wholly-owned subsidiary of Brait Malta Limited which in turn is a wholly-owned subsidiary of Brait SE.



Brait SE makes equity investments in unlisted companies in various sectors, including food, fashion, leisure and fitness, and in various countries including in Europe, southern Africa, south-east Asia and Australia.⁵

4. Within the State, Brait SE generates turnover from the following three portfolio companies:
 - (a) New Look Group Ltd - a UK-based clothing retailer.⁶
 - (b) DGB Proprietary Ltd - a South African based exporter of wine and spirits.⁷
 - (c) Premier Foods (Pty) Ltd - a South African based manufacturer and supplier of bread and bakery products and also home and personal care products.⁸
5. For the financial year ended 31 March 2015, Brait SE's worldwide turnover was approximately €[...] billion, of which approximately €[...] million was generated in the State.⁹

Iceland

6. Iceland, headquartered in Deeside, United Kingdom, is a private company involved primarily in the retail sale of frozen food products. Iceland is active primarily in the UK where it owns and operates over 850 stores, and elsewhere in Europe.¹⁰
7. Within the State, Iceland owns and operates eight stores: four in Dublin and one in each of Carlow, Longford, Midleton, and Waterford.¹¹
8. For the financial year ended 27 March 2015¹², Iceland's worldwide turnover was approximately €3.363 billion, of which €[...] million was generated within the State.

Rationale for the Proposed Acquisition

9. Brait states

“[...]”¹³

Third Party Submissions

10. No submission was received.

⁵ For information on Brait SE see <www.brait.com>.

⁶ See <<http://www.newlookgroup.com/who-are-we>>.

⁷ See <<http://www.dgb.co.za>>.

⁸ See <<http://www.premierfmcg.com>>. [...]

⁹ These figures do not include turnover of Iceland given that, prior to the proposed transaction, Brait SE's interest in Iceland is a minority interest.

¹⁰ Iceland owns and operates 3 stores in the Czech Republic and 2 stores in Iceland. Iceland also operates as a franchisor for 23 franchised stores in Spain (12), the Channel Islands (7), the Isle of Man (3) and Portugal (1).

¹¹ For more information on Iceland see <www.iceland.co.uk> and <www.iceland.ie>.

¹² Iceland's financial statements submitted as part of the Notification documents are for the 52 week period ended Friday 27 March 2015.

¹³ Notification page 6.



Competitive Analysis

11. There is no horizontal overlap between the parties within the State. Neither Brait SE, nor any of its subsidiaries or portfolio companies, is involved in the food retail sector within the State (other than through its existing minority shareholding in Iceland). Iceland is involved only in the food retail sector within the State.
12. The proposed transaction does not involve any parties other than Iceland's other existing shareholders and will have no effect on Iceland's market share in the retail food sector within the State.
13. The proposed transaction does not raise vertical competition concerns.
14. In light of the above, the Commission considers that the proposed acquisition will not substantially lessen competition in any market for goods or services in the State.



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 Brait CM 1 Limited would acquire sole control of Iceland TopCo Limited 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

Gerald FitzGerald
Member
Competition and Consumer Protection Commission