



# DETERMINATION OF MERGER NOTIFICATION M/16/014 - FRANK KEANE (HOLDINGS) / MSL GRANGE MOTORS, MSL BALLSBRIDGE MOTORS AND MSL SERVICE CENTRE (SOUTH DUBLIN) - VOLKSWAGEN

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## Section 21 of the Competition Act 2002

### Proposed acquisition by Frank Keane (Holdings) of MSL Grange Motors, MSL Ballsbridge Motors and MSL Service Centre (South Dublin) - Volkswagen

Dated 25 April 2016

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#### Introduction

1. On 16 March 2016, 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 transaction whereby Frank Keane (Holdings), through its wholly-owned subsidiary, Frank Keane (South Dublin) Limited (collectively “Frank Keane Group”), would acquire, from Motor Services Limited, sole control of the authorised Volkswagen motor vehicle dealership for South Dublin, which currently trades as MSL Grange Motors, MSL Ballsbridge Motors and MSL Service Centre (South Dublin)(“the Target Business”).

#### *The Transaction*

2. On 16 March 2016, Motor Services Limited entered into a business transfer agreement with Frank Keane Group pursuant to which it is proposed that the Target Business will be acquired by Frank Keane Group. As part of the proposed transaction, the Target Business will be acquired as a going concern which will involve the acquisition by Frank Keane Group from Motor Services Limited of assets including the databases of customers (both sales and service customers), the current staff and employment records.
3. The proposed transaction follows a competitive tender process on foot of which Volkswagen Group Ireland Limited (“Volkswagen Ireland”) awarded Frank Keane Group the right to operate the Volkswagen passenger car and commercial vehicle dealership in South Dublin with effect from 01 May 2016.<sup>1</sup> Frank Keane Group will initially operate the dealership from the Target Business’s existing premises in Dean’s Grange Road, until

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<sup>1</sup> The current agreement between Volkswagen Ireland and Motor Services Limited for the operation of a Volkswagen dealership in South Dublin is set to expire on 30 April 2016 and Motor Services Limited’s right to operate a business selling new Volkswagen passenger cars and light commercial vehicles will cease at that time.



a new South Dublin Volkswagen dealer showroom is constructed and opened.<sup>2</sup> Frank Keane Group will accordingly enter into a 5-year lease agreement with Motor Services Limited for the lease of its premises at 5 Dean's Grange Road, Deansgrange, County Dublin.<sup>3</sup>

## The Undertakings Involved

### *The Acquirer – Frank Keane Group*

4. Frank Keane Group is a group of companies in which the ultimate parent company is [...] a private unlimited company<sup>4</sup>, incorporated in the State, with its registered office at John F. Kennedy Drive, Naas Road, Dublin 12.<sup>5</sup>
5. Frank Keane Group has four wholly-owned subsidiaries<sup>6</sup> active in the sale of branded new and demonstration motor vehicles and in the provision of aftersales services and the sale of parts and accessories for the following brands:<sup>7</sup>
  - i. MMC Commercials, Dublin - Mitsubishi Motor vehicles and Fuso trucks;
  - ii. Frank Keane Blackrock Limited, Dublin - BMW;
  - iii. Motor Import t/a Frank Keane (Naas Road), Dublin – BMW and MINI; and
  - iv. Ventside Limited t/a Frank Keane Volkswagen, Dublin – Volkswagen.
6. Frank Keane Group also offers intermediary finance and insurance services and sells various makes of pre-owned motor vehicles.
7. Frank Keane Group's turnover for the financial year ended 31 December 2015 was approximately €[...], the entirety of which was generated in the State.

### *The Target Business*

8. The Target Business is currently the authorised Volkswagen dealership for South Dublin, selling new and demonstration Volkswagen-branded passenger cars and light commercial vehicles ("LCVs") and providing aftersales services and selling parts and accessories for Volkswagen motor vehicles through the following trading entities:
  - a. MSL Grange Motors (Volkswagen) situated at 5 Dean's Grange Road, Deansgrange, County Dublin<sup>8</sup>;

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<sup>2</sup> In accordance with Volkswagen Ireland's network strategy and corporate identity for a 'Metro' dealership. Dublin and Cork are classed as Metros by Volkswagen Ireland and the aim is to have three Metro Volkswagen dealers in Dublin (North, South and West) and a fourth 'semi-urban' dealership in Swords, Co. Dublin.

<sup>3</sup> Frank Keane Group will also, pursuant to a licence to be entered into with Motor Services Limited, make use of additional temporary offsite car storage in Pottery Road.

<sup>4</sup> The individual shareholders and their respective shareholdings [...].

<sup>5</sup> There is no trading activity above the Frank Keane Group and as such no requirement to prepare consolidated financial accounts for [...].

<sup>6</sup> See <http://www.frankkeane.ie/web/aboutus/>.

<sup>7</sup> Four other subsidiaries of Frank Keane Group are active in property investments and/or offer investment and management support services to the group internally, namely Bavarian Import, Prospective Properties Limited, Elpenino and Naas Road Management Services.

<sup>8</sup> <http://www.msl.ie/msl-group/locations/msl-grange>.



- b. MSL Ballsbridge Motors (Volkswagen) situated at 162 Shelbourne Road, Ballsbridge, Dublin 4<sup>9</sup>; and
  - c. MSL Service Centre (South Dublin) situated at Pottery Road, Dun Laoghaire, County Dublin<sup>10</sup>.
9. The Target Business also sells various makes of pre-owned motor vehicles and offers finance services through Volkswagen Bank.
  10. The Target Business's turnover for the financial year ended 31 December 2015 was approximately €[...], the entirety of which was generated in the State.

#### ***The Vendor – Motor Services Limited***

11. The vendor is Motor Services Limited, a wholly-owned subsidiary of MML Holdings Limited, which is a private company limited by shares, incorporated in the State.
12. Following implementation of the proposed transaction, Motor Services Limited will retain the following branded motor dealerships other than the Target Business:
  - i. Ballsbridge, Dublin 4 - Mercedes-Benz;
  - ii. Deansgrange, County Dublin - Mercedes-Benz and Hyundai;
  - iii. Navan Road, Dublin 7 - Mercedes-Benz, Hyundai, Mazda and Skoda;
  - iv. Little Island, Cork - Mercedes-Benz; and
  - v. North Circular Road, Dublin 7 - MLS Service Centre (North Dublin), for Mercedes-Benz, Hyundai, Mazda, Skoda and Volkswagen.

#### **Rationale for the Proposed Acquisition**

13. The notification states:

*“The Target Business has operated as a Volkswagen dealership and sales and services provider for more than 40 years pursuant to various agreements with Volkswagen Group Ireland Limited. The current agreement between the Seller and Volkswagen Group Ireland Limited is set to expire on 30th April 2016 and the Seller’s right to operate a business selling new Volkswagen motor cars will cease at that time.*

*The Buyer has secured the consent of Volkswagen Group Ireland Limited to operate a Volkswagen passenger car and commercial vehicle dealership sales and services provider in South Dublin with effect from 1st May 2016.*

*The commercial objective sought to be achieved by the Seller by the Proposed Transaction is the continuity of the Target Business as a going concern at the*

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<sup>9</sup> <http://www.msl.ie/volkswagen/locations/msl-ballsbridge-volkswagen>.

<sup>10</sup> <http://www.msl.ie/msl-group/locations/msl-service-centre/>.



*premises owned by the Seller and occupied by the Target Business at the Property and for the protection of the jobs of the staff of the Target Business.*

*The commercial objective sought to be achieved by the Buyer by the proposed transaction is the continuation of the growth strategy of [Frank Keane Group] as a motor sales retailer and aftersales service provider.”*

### **Third Party Submissions**

14. No submission was received.

### **Competitive Analysis**

15. Frank Keane Group owns retail dealerships that sell and service the following brands of new and demonstration motor vehicles: BMW, MINI and Volkswagen. It also sells pre-owned motor vehicles, branded parts and accessories and offers intermediary finance and insurance services.
16. The Target Business is the current Volkswagen dealership for South Dublin, selling new and demonstration Volkswagen passenger cars and LCVs, offering finance services through Volkswagen Bank and providing aftersales services and selling parts and accessories for the Volkswagen brand of motor vehicles. The Target Business also sells Volkswagen and other brands of pre-owned motor vehicles.
17. Consequently, there are two areas of horizontal overlap in the activities of the parties within the State:
- i. the sale of new and demonstration Volkswagen passenger cars and LCVs, including finance services through Volkswagen Bank, aftersales and repair services and the sales of parts and accessories for Volkswagen branded motor vehicles (“Volkswagen overlap”); and
  - ii. the sale of pre-owned motor vehicles.
18. While the Commission defines markets to the extent necessary depending on the particular circumstances of a given case, in this instance it is not necessary to define precise relevant markets since the Commission’s review of the competitive effects of the proposed transaction would be the same regardless of the precise product or geographic market definition adopted. However, in order to examine the competitive impact of the proposed transaction, the Commission has analysed its impact by reference to the two potential product/service markets outlined in paragraph 17 above. The Commission has also examined the competitive impact of the proposed transaction by reference to the geographic areas in which the parties’ respective dealerships are located using the methodology described in previous merger determinations involving Volkswagen dealerships<sup>11</sup>, namely a catchment area with a radius of approximately 90 kilometres (“km”) or an hour’s journey time (i.e. in this instance, the Greater Dublin Area and its immediate hinterlands).

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<sup>11</sup> M/14/041 – JDM Automotive / Commons Road Cars and M/15/071 – JDM Automotive / Karmann Auto.



19. Information supplied by Motor Services Limited suggests that 80% of annual sales of the Target Business takes place within a radius of approximately 20-25 km of each of its locations.<sup>12</sup>

#### Volkswagen overlap

20. Although the analysis below examines a potential market for the sale of Volkswagen motor vehicles it should be noted that nationally, for the 2015 calendar year, Volkswagen held a market share of new vehicle registrations, including private imports, of 12.3% for passenger cars and 14.21% for LCVs.<sup>13</sup>
21. Frank Keane Group currently owns the Volkswagen dealership in West Dublin, (i.e., Frank Keane Volkswagen<sup>14</sup>, located in Liffey Valley Motor Mall, Dublin 22), which is approximately 25 km from South Dublin, where the Target Business' premises are located.
22. Post-transaction, the Volkswagen dealerships owned by Frank Keane Group will hold an estimated combined market share for the supply of Volkswagen motor vehicles and aftersales services and parts and accessories for Volkswagen motor vehicles in the State as follows:<sup>15</sup>
- Volkswagen passenger cars – [10-15]%;
  - Volkswagen LCVs – [5-10]%; and
  - Volkswagen aftersales service and parts and accessories – [0-5]%.
23. In addition, within an hour's journey time (approximately 90 kilometres) from the Target Business there are 10 other Volkswagen dealerships selling passenger cars, 4 other Volkswagen dealerships selling LCVs and 8 other Volkswagen dealerships offering aftersales services and selling parts and accessories for Volkswagen motor vehicles.<sup>16</sup>
24. Therefore, the Commission considers that there is a sufficient number of competing Volkswagen dealerships that act as a competitive constraint on the notifying parties and will continue to do so following implementation of the proposed transaction.

#### Sale of pre-owned motor vehicles

25. Both Frank Keane Group and the Target Business are involved in the sale of pre-owned motor vehicles, which activity accounted for approximately [40-45]% and [35-40]%, respectively, of their motor vehicle sales in the last financial year. They are also both involved in the sale of pre-owned LCVs, which activity accounted for approximately [5-10]% and [0-5]%, respectively, of the total motor vehicle sales by Frank Keane Group and the Target Business in the last financial year. The Commission notes that most, if not all, motor dealerships in the State sell pre-owned motor vehicles and that other dealerships will act as a competitive constraint on the merged entity following

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<sup>12</sup> Response to Request for Further Information by the Commission, dated 29 March 2016.

<sup>13</sup> Society of the Irish Motor Industry (SIMI) statistics: <http://www.simi.ie/Statistics/National+Vehicle+Statistics.html>

<sup>14</sup> Frank Keane Volkswagen accounts for approximately [...] % of Frank Keane Group's annual turnover.

<sup>15</sup> Estimated market shares provided by the parties.

<sup>16</sup> <http://app.volkswagen.ie/dcc/en/dealers.html#id=00840>



implementation of the proposed transaction. (A service offered by the Society of the Irish Motor Industry (SIMI), in association with its Used Car Website ([www.beebbeeep.ie](http://www.beebbeeep.ie)), lists 281 dealers in the State offering pre-owned motor vehicles for sale, 80 of which are in the Dublin area.)<sup>17</sup>

26. The Commission therefore considers that there is a sufficient number of competing dealerships selling pre-owned motor vehicles that act as a competitive constraint on the Target Business and will continue to do so in relation to Frank Keane Group following implementation of the proposed transaction.

#### **Vertical Issues**

27. There is no vertical overlap in the activities of the parties and the proposed transaction does not give rise to vertical competition concerns.

#### **Conclusion**

28. 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.

#### **Ancillary Restraints**

29. No ancillary restraints were notified.

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<sup>17</sup> <http://www.beebbeeep.ie/dealers.html>



## **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 acquisition whereby Frank Keane (Holdings), through its wholly-owned subsidiary, Frank Keane (South Dublin) Limited, would acquire from Motor Services Limited, sole control over the business of the authorised Volkswagen dealership for South Dublin, which currently trades as MSL Grange Motors, MSL Ballsbridge Motors and MSL Service Centre (South Dublin), 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**