



## DETERMINATION OF MERGER NOTIFICATION M/16/015 - UNIPHAR/RIVERCHEM

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### Section 21 of the Competition Act 2002

### Proposed acquisition by Uniphar plc of 15 community pharmacies from Riverchem Limited

Dated 26 April 2016

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#### Introduction

1. On 18 March 2016, 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 Uniphar plc (“Uniphar”) would acquire the entire issued share capital and, thus, sole control of 15 trading companies from Riverchem Limited (“Riverchem”), each of which operates one community pharmacy (the “Target Pharmacies”).
2. The proposed transaction is to be implemented pursuant to 15 separate share purchase agreements, each of which is dated [...] and was entered into between Trennamally Limited, a wholly-owned subsidiary of Uniphar, and one trading company which is ultimately owned and controlled by Riverchem.<sup>1</sup> Each of the 15 trading companies to be acquired pursuant to the proposed transaction operates one community pharmacy in the State. Uniphar currently holds [...] % of Riverchem’s issued share capital with the remainder held by various shareholders. Following implementation of the proposed transaction, there will be no change of control in Riverchem but the 15 trading companies owned and controlled by Riverchem (and, thus, the Target Pharmacies) will be solely owned and controlled by Uniphar.<sup>2</sup>

#### The Undertakings Involved

##### *Uniphar*

3. Uniphar, a public limited company headquartered in Dublin, has two main business divisions: Uniphar Wholesale and Allphar Services Limited (“Allphar”), a wholly-owned subsidiary of Uniphar.

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<sup>1</sup> The names of these 15 trading companies are as follows: Ballincollig Pharmacy Limited, G.P. Breen Limited, Byrne’s Pharmacy Limited, Cahills Pharmacy (Camden Street) Limited, Edmond Hassett Limited, Bannockview Limited, Caunter Developments Limited, Kinirons Pharmacy Limited, McHugh’s Pharmacy Limited, Nortonway Limited, O’Rourke’s Pharmacy Limited, Rush Pharmacy Limited, C.P. Roche & Company Limited, Atelabaz Limited, O’Malley’s Pharmacy Limited.

<sup>2</sup> In the notification, the parties state that, as the sole shareholder in each of the trading companies operating the Target Pharmacies is either Riverchem or a subsidiary of Riverchem, they consider the various acquisitions to be linked and interdependent such that they constitute one single concentration.



4. Uniphar Wholesale is a full-line wholesaler of pharmaceutical, 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 community pharmacies and hospitals. Uniphar Wholesale does not sell to customers outside the State. Uniphar operates four storage and distribution depots in Dublin, Cork, Sligo and Limerick.
5. Uniphar Wholesale's activities encompass the following four product categories:
  - The wholesale supply of pharmacy-only human pharmaceutical drugs including both prescription medicines and pharmacy-only, 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 is not confined to pharmacies;
  - The wholesale supply of medical products (e.g., urology and ostomy-related products, diagnostic kits, enteral feeding tubes, etc); and
  - The wholesale supply of veterinary drugs.
6. Allphar is a pre-wholesale logistics service provider in respect of pharmaceutical products, healthcare products, veterinary products and healthcare equipment and acts for that purpose as a sole agent and distributor in the State on behalf of manufacturers. Allphar's core function is to warehouse and distribute pharmaceutical, healthcare and veterinary products on behalf of its client companies. It also provides additional services including marketing and administrative support. Allphar mainly supplies to full-line pharmaceutical wholesalers, pharmacies and hospitals. Allphar is also involved to a limited extent in the direct supply of pharmaceutical products to pharmacies on behalf of manufacturers.
7. On 29 January 2016, the Commission cleared Uniphar's acquisition of sole control of Lindchem Limited, which, at the time of the notification of the proposed acquisition to the Commission, owned 28 community pharmacies in the State.<sup>3</sup>
8. On 23 March 2016, the Commission cleared Uniphar's acquisition of sole control of the ostomy and urinary wholesale business of Murray's Medical Equipment Limited.<sup>4</sup>
9. For the financial year ending 31 December 2015, Uniphar's worldwide turnover was approximately €[...], of which €[...] was generated in the State.

#### *The Target Pharmacies*

10. The Target Pharmacies comprise 15 community pharmacies located in the State, all of which are owned and controlled by Riverchem and operate under the "Allcare" brand.

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<sup>3</sup> See merger determination *M/15/076 – Uniphar/Lindchem* which can be accessed at <http://ccpc.ie/enforcement/mergers/merger-notices/m15076-uniphar-lindchem>

<sup>4</sup> See merger determination *M/15/077 – Uniphar/Murray's Medical* which can be accessed at <http://ccpc.ie/enforcement/mergers/merger-notices/m15077-uniphar-murray-medical>



They supply a full range of prescription medicines, non-prescription medicines and non-medicinal products and services in the State.

11. For the financial year ending 31 December 2015, the Target Pharmacies' worldwide turnover was approximately €[...], all of which was generated in the State.

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

12. The parties state in the notification:

*"The Target Pharmacies will constitute investment holdings of Uniphar."*

#### **Third Party Submissions**

13. No submission was received.

#### **Competitive Analysis**

14. There is both a horizontal and vertical overlap between the parties' activities in the State.

##### *Horizontal Overlap*

15. There is a horizontal overlap between the parties' activities with respect to the operation of community pharmacies in the State. The Target Pharmacies comprise 15 community pharmacies in the State. As noted in paragraph 7 above, Uniphar currently owns and controls 28 community pharmacies in the State and it also holds a majority shareholding in another five community pharmacies.

16. There is a horizontal overlap between the parties' activities with respect to the operation of community pharmacies in the following geographic areas in the State:

- Co. Cork;
- Dublin 7;
- Dublin 2 and Dublin 6;
- North County Dublin;
- Co. Kildare; and
- Limerick City.

17. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case. The Commission does not need to come to a definitive view on the precise relevant product market in this instance since its conclusion on the competitive impact of the proposed transaction will be unaffected whether the precise relevant product market is defined narrowly (e.g., the supply of prescription medicines in community pharmacies) or more broadly to encompass the supply of prescription



medicines, non-prescription medicines and non-medicinal products and services in community pharmacies.

18. Similarly, the Commission does not need to come to a definitive view on the precise relevant geographic market in this instance since its conclusion on the competitive impact of the proposed transaction will be unaffected whether the relevant geographic market is defined as local, regional or national. In order, however, to determine whether the proposed transaction might result in a substantial lessening of competition, the Commission assessed its impact by reference to the narrowest possible relevant markets, namely the market for the supply of prescription medicines in community pharmacies in the geographic areas in which both Uniphar and Riverchem own community pharmacies (which are set out in paragraph 16 above).

#### The Supply of Prescription Medicines in Co. Cork

19. Riverchem owns Ballincollig Allcare Pharmacy located in Ballincollig, Co. Cork, while Uniphar owns nine community pharmacies in Co. Cork. The nearest Uniphar community pharmacy to Ballincollig Allcare Pharmacy is Wilton Late Night Allcare Pharmacy located in Wilton, Co. Cork, which is a distance of approximately 8km from Ballincollig Allcare Pharmacy. There are a number of community pharmacies in Ballincollig that currently compete with the target pharmacy and will continue to do so following implementation of the proposed transaction, namely: Kelleher's Pharmacy, Harrington's Pharmacy and Hickey's Pharmacy. The Commission therefore considers that the proposed transaction will not substantially lessen competition in the potential market for the supply of prescription medicines in Co. Cork.

#### The Supply of Prescription Medicines in Dublin 7

20. Each of Uniphar and Riverchem own one community pharmacy located in Dublin 7. Uniphar owns Collis Pharmacy, located at 350 North Circular Road in Phibsboro, while Riverchem owns Byrne's Allcare Pharmacy, located on Oxmantown Road in Stoneybatter, which is a distance of approximately 1.6km away.
21. There are 21 community pharmacies currently operating in Dublin 7. Byrne's Allcare Pharmacy competes with community pharmacies in Stoneybatter, such as Manor Pharmacy, McFadden's Pharmacy and Park Pharmacy. All of these three community pharmacies will continue to act as a competitive constraint on Uniphar post-transaction. The Commission therefore considers that the proposed transaction will not substantially lessen competition in the potential market for the supply of prescription medicines in Dublin 7.

#### The Supply of Prescription Medicines in Dublin 2 and Dublin 6

22. Riverchem owns Cahill's Allcare Pharmacy in Camden Street, Dublin 2 which is located approximately 1.2km from Bourke's Allcare Pharmacy in Rathmines, Dublin 6 and 1.9km from Dunville Pharmacy in Ranelagh, Dublin 6, both of which are owned by Uniphar. There are 41 community pharmacies in Dublin 2 and Dublin 6 which act as a competitive constraint on Uniphar and will continue to do so post-transaction. The Commission therefore considers that the proposed transaction will not substantially lessen



competition in the potential market for the supply of prescription medicines in Dublin 2 and Dublin 6.

#### The Supply of Prescription Medicines in North County Dublin

23. Uniphar owns Balbriggan Allcare Pharmacy in Balbriggan, Co. Dublin which is located approximately 8km from Skerries Allcare Pharmacy in Skerries, Co. Dublin and 13km from Rush Allcare Pharmacy in Rush, Co. Dublin, both of which are owned by Riverchem. Given the distance between the pharmacies and the presence of competing community pharmacies in Balbriggan (e.g., Adrian Dunne Pharmacy and O'Regan Pharmacy), Skerries (e.g., McMeel's Pharmacy and Strand Street Pharmacy) and Rush (e.g., Hickey's Pharmacy), the Commission considers that the proposed transaction will not substantially lessen competition in the potential market for the supply of prescription medicines in North County Dublin.

#### The Supply of Prescription Medicines in Co. Kildare

24. Uniphar owns two community pharmacies in Co. Kildare: Blake's Allcare Pharmacy in Celbridge and Kill Allcare Pharmacy in Kill. Riverchem owns three community pharmacies in Co. Kildare: McHugh's Allcare Pharmacy in Athy, O'Rourke's Allcare Pharmacy in Monasterevin and Gaffney's Allcare Pharmacy in Leixlip. Riverchem also owns Kiniron's Allcare Pharmacy in Lucan which is located close to Co. Kildare.
25. Riverchem's community pharmacies in Athy and Monasterevin are located over 35km from both of Uniphar's community pharmacies in Co. Kildare. Riverchem's community pharmacies in Leixlip and Lucan are located over 20km from Uniphar's community pharmacy in Kill and approximately 7km from Uniphar's community pharmacy in Celbridge. Gaffney's Allcare Pharmacy faces competition from third party community pharmacies in Leixlip (e.g., Feerick's Pharmacy, Glen Easton Pharmacy and Griffin's Pharmacy) and will continue to do so post-transaction. Kiniron's Allcare Pharmacy faces competition from third party community pharmacies in Lucan (e.g., Adrian Dunne Pharmacy and Foley's Pharmacy) and will continue to do so post-transaction.
26. The Commission therefore considers that the proposed transaction will not substantially lessen competition in the potential market for the supply of prescription medicines in Co. Kildare.

#### The Supply of Prescription Medicines in Limerick City

27. Riverchem owns one community pharmacy in Limerick city, McKenna's Allcare Pharmacy which is located at 38 William Street. The closest Uniphar pharmacy to Riverchem's community pharmacy is Dempsey's Allcare Pharmacy which is located at 47 Parnell Street in Limerick city, a distance of approximately 400 metres from McKenna's Allcare Pharmacy. Both community pharmacies compete with a number of third party community pharmacies located in close proximity to them in Limerick city, including:
- Boots (4-5 William Street) which is located within 600 metres of both community pharmacies;



- Station Pharmacy (33 Davis Street) which is located within 450 metres of both community pharmacies; and
  - Cecil Street Pharmacy (37 Cecil Street) which is located within 400 metres of both community pharmacies.
28. The Commission therefore considers that the proposed transaction will not substantially lessen competition in the potential market for the supply of prescription medicines in Limerick city.

#### *Vertical Relationship*

29. There is a vertical relationship between the parties in the State since Uniphar currently supplies various products (including human pharmaceutical drugs) to the Target Pharmacies.
30. In its assessment of the proposed transaction, the Commission considered the likelihood that the proposed transaction would provide Uniphar with the ability and incentive to foreclose its rival full-line wholesaler of human pharmaceutical drugs, United Drug plc, by, for example, restricting its ability to supply products to community pharmacies in the State.
31. The parties state in the notification that the Target Pharmacies already purchase the bulk of their requirements of products (including human pharmaceutical drugs) from Uniphar and will continue to do so post-transaction. The Target Pharmacies, however, represent less than 1% of the total number of community pharmacies (which amounts to 1,789 community pharmacies<sup>5</sup>) currently operating in the State.
32. Uniphar also has short-term exclusive purchasing arrangements (typically covering [...]% of each community pharmacy's total purchases) with [...] other community pharmacies, representing around [...]% of the total number of community pharmacies currently operating in the State.
33. Uniphar will therefore not have the ability post-transaction to foreclose United Drug from supplying products to the vast majority (in excess of [...]%) of community pharmacies currently operating in the State.
34. The Commission also considers that Uniphar will not have the incentive to foreclose rival community pharmacies by, for example, raising its wholesale prices for human pharmaceutical drugs. The vast majority of the €[...] revenue generated by Uniphar in 2015 came from the full-line wholesaling of various products to community pharmacies throughout the State. In contrast, the Target Pharmacies generated turnover of €[...] in 2015. Any attempt by Uniphar to foreclose rival community pharmacies will lead to such pharmacies switching their purchases of human pharmaceutical drugs (and other products) to Uniphar's main rival, United Drug. The increase in sales revenue in the Target Pharmacies (and in the other pharmacies in which Uniphar holds a majority shareholding) would not compensate Uniphar for the loss of sales revenue in the full-

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<sup>5</sup> The figure for total community pharmacies in the State was sourced by the parties from the Pharmaceutical Society of Ireland's database.



line wholesale of human pharmaceutical drugs (and other products) to community pharmacies in the State.

35. 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**

36. No ancillary restraints were notified.



### **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 transaction whereby Uniphar plc would acquire the entire issued share capital and, thus, sole control of 15 trading companies from Riverchem Limited, each of which operates one community pharmacy, 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**