



DETERMINATION OF MERGER NOTIFICATION M/16/042 - MOLEX/PHILLIPS-MEDISIZE

Section 21 of the Competition Act 2002

Proposed acquisition by Molex, LLC of sole control of Pantheon TopCo, Inc.

Dated 3 October 2016

Introduction

1. On 30 August 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 Panama Merger Sub, LLC (“Panama”), an indirect wholly-owned subsidiary of Molex, LLC (“Molex”), would acquire sole control of Pantheon TopCo, Inc. (“Pantheon”), a holding company that wholly owns Phillips-Medisize Corporation (“Phillips-Medisize”). Molex is indirectly controlled¹ by Koch Industries, Inc. (“Koch”).
2. The proposed transaction is to be implemented pursuant to an agreement and plan of merger (the “Agreement”) dated 16 August 2016 between Pantheon, Molex Medical Holdings, LLC, Panama and Molex.² Following implementation of the proposed transaction, Phillips-Medisize will become an indirect, wholly-owned subsidiary of Molex.³

The Undertakings Involved

Koch

3. Koch is a privately held corporation which is based in the United States. Koch is active worldwide, through a number of portfolio entities controlled by Koch, in refined products, chemicals (polymers and fibers), biofuels, pulp, paper and lumber products, forest and consumer products, crude oil services, mineral services, energy services, capital services, road and construction materials, fertilisers, electronic components, process and pollution control equipment and technologies, chemical technology, commodity trading, ranching, glass and other investments.
4. In addition to Molex, the following portfolio companies controlled⁴ by Koch generated sales in the State in 2015:

¹ As set out in Section 16(2) of the Act.

² Molex directly owns [...] % of Molex Medical Holdings, LLC and indirectly owns the remaining [...] % through its [...] % ownership of Molex Medical Holdings Member, LLC.

³ In the notification, the parties state that it is intended that Panama, which is a transaction vehicle, will merge with and into Pantheon and that, post-transaction, Pantheon will continue as the surviving corporation.

⁴ As set out in Section 16(2) of the Act.



- Koch Chemical Technology Group, LLC – specialises in process and pollution control equipment;
 - Koch Ag & Energy Solutions, LLC – global provider of value-added solutions for the agriculture, turf and ornamental, energy and chemical markets;
 - Flint Hills Resources, LLC – active in chemical refining, primarily in the United States;
 - Georgia-Pacific, LLC – manufacturer of bath tissue, paper towels and napkins, tableware, paper-based packaging, office papers, cellulose, specialty fibres, non-woven fabrics, building products and related chemicals;
 - INVISTA B.V. – producer of chemical intermediaries, polymers and fibers; and
 - Koch Supply and Trading, L.P. – trades crude oil, refined petroleum products, gas liquids, natural gas, liquefied natural gas, power, renewables, emissions and metals.
5. For the financial year ending 31 December 2015, Koch’s worldwide turnover was approximately €[...], of which approximately €[...] was generated in the State.

Molex

6. Molex, which is based in the United States, manufactures and supplies, on a worldwide basis, electronic components and solutions including terminals, connectors, cable assemblies, interconnection systems, sockets, antennas, integrated products and switches for use by original equipment manufacturers (“OEMs”). Molex supplies to a number of industries, including the telecommunications, industrial, medical, automotive, aerospace and defence industries. In the State, Molex has a physical presence in Shannon, Co. Clare.
7. In May 2015, Molex acquired ProTek Medical Ltd (“ProTek”) which is headquartered in Finisklin Business Park, Co. Sligo. ProTek is a medical component manufacturer which supplies custom solutions for medical and pharmaceutical device manufacturers. ProTek specialises in injection moulding and partners with customers from pre-submission phases through to production. Medical applications for ProTek’s products and components include vascular, drug delivery, cardiology, respiratory, endoscopy, wound care, diabetes care, general surgical, infusion disposable devices, pre-natal care, orthopaedics and biotech applications.
8. For the financial year ending 31 December 2015, Molex’s turnover in the State was approximately €[...].

Phillips-Medisize

9. Phillips-Medisize, which is headquartered in the United States, is a global outsource provider of design and manufacturing services to the medical and drug delivery device and specialty commercial sectors. Phillips-Medisize’s business is divided into two segments:



- Medical – Phillips-Medisize manufactures and supplies medical components and services to medical OEMs worldwide serving the healthcare industry across multiple applications such as drug delivery (e.g., inhalers and nebulisers, auto-injectors), consumable diagnostics (e.g., lancing devices, biopsy tools) and medical devices (e.g., slitting tools, steerable catheters); and
 - Specialty Commercial – Phillips-Medisize serves customer requirements in the consumer products, defence and automotive industries. Examples of products supplied by Phillips-Medisize include in-cabin automotive products (e.g., backlit buttons and switches) and HVAC controls.
10. In the State, Phillips-Medisize has a manufacturing facility in Co. Donegal where it produces medical components.
11. For the financial year ending 31 December 2015, Phillips-Medisize’s worldwide turnover was approximately €[...], of which approximately €[...] was generated in the State.

Rationale for the Proposed Transaction

12. The parties state in the notification:

“Through the proposed acquisition, Molex intends to utilise its existing capabilities to develop connected health/medical solutions that ultimately enhance patient outcomes, increase adherence, reduce longer-term costs and support trends towards better data-driven decisions.”

Third Party Submissions

13. No submission was received.

Competitive Analysis

14. There is a horizontal overlap between the parties’ activities in the State since both Molex (through its subsidiary ProTek) and Phillips-Medisize are medical component manufacturers (or contract manufacturing organisations, “CMOs”, in the medical device sector) that supply to OEM customers components which are used in the manufacture of vascular medical devices. CMOs provide outsourced manufacturing services that allow OEMs to generate efficiencies and benefit from greater focus and specialisation.
15. ProTek supplies medical components to the following [...] customers in the State:
- [...]
16. Phillips-Medisize supplies the following medical components to [...] in the State: [...].
17. The parties state in the notification that ProTek and Phillips-Medisize do not supply the same components to [...]. [...] a sole single supplier for each of the relevant components used in [...] vascular medical devices.



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 for the Commission to define precise relevant product or geographic markets since the Commission's assessment of the competitive impact of the notified transaction would be the same regardless of the precise product or geographic market definition adopted. For the purposes of its competitive analysis, the Commission has reviewed the competitive impact of the proposed transaction in a potential market for the supply of components to OEM customers in the State for use in the manufacture of vascular medical devices.
19. For the reasons set out below, the Commission considers that the proposed transaction raises no competition concerns in the potential market for the supply of components to OEM customers in the State for use in the manufacture of vascular medical devices.
20. First, the parties' current and potential future customers have numerous alternative CMOs to whom they can switch for supplies of components for use in the manufacture of vascular medical devices. In the notification, the parties provided the following examples of CMOs that currently compete with both ProTek and Phillips-Medisize: Integer Holdings Corporation, Nypro Limited, SMC Corporation (Ireland) Limited, Flextronics International Ireland Limited, Nolato AB, Tech Group Europe Limited, Gerresheimer AG, Creganna Medical, Harmac Medical Products, Vention Medical Ireland Limited and Trend Technologies Ireland Limited. These CMOs will continue to act as a competitive constraint on ProTek and Phillips-Medisize post-transaction.
21. Second, OEMs have the equipment and capability to make their own components for vascular medical devices and, thus, they compete directly with CMOs, including ProTek and Phillips-Medisize. The parties state in the notification, by way of example, that [...].
22. Third, the estimated market shares of ProTek and Phillips-Medisize in the CMO sector in the State are small and the increment in market share following the proposed transaction will be small. Phillips-Medisize estimates that its share of supply in the CMO sector in the State is less than [0-5]%, whether considered on a worldwide, European Union or Republic of Ireland basis, while ProTek estimates that its share of supply in the CMO sector in the State is less than [0-5]%.
23. The proposed transaction does not raise any vertical competition concerns.
24. 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

25. In the notification, the parties provided a copy of the Agreement, which contains a number of non-solicitation obligations on Pantheon Investors, LP.⁵ The parties state in the notification that the non-solicitation obligations are directly related and necessary to protect the value of the goodwill and know how being transferred to Molex.

⁵ Pantheon Investors, LP is the sole stockholder of Pantheon.



26. The Commission considers that these restrictive obligations do not exceed the maximum duration acceptable to the Commission and that they are directly related to and necessary for the implementation of the proposed transaction.⁶

⁶ In this respect, the Commission follows the approach adopted by the EU Commission in paragraphs 20 and 26 of its “Commission Notice on restrictions directly related and necessary to concentrations” (2005). For more information see [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005XC0305\(02\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005XC0305(02)&from=EN)



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 Panama Merger Sub, LLC, an indirect wholly-owned subsidiary of Molex, LLC, would acquire sole control of Pantheon TopCo, Inc. 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