

# DETERMINATION OF MERGER NOTIFICATION M/20/040 – CHADWICKS / HAYLEN

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## Section 21 of the Competition Act 2002

### Proposed acquisition by Chadwicks Holdings Limited of sole control of Haylen Investments Limited and its subsidiary Jarsen Distribution Limited

Dated 4 February 2021

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#### Introduction

1. On 23 December 2020, 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 Chadwicks Holdings Limited (“Chadwicks”), a wholly-owned subsidiary of Grafton Group plc (“Grafton”), would acquire the entire issued share capital, and thus sole control, of Haylen Investments Limited (“Haylen”) and its wholly-owned subsidiary Jarsen Distribution Limited (“Jarsen Distribution”), trading as Proline Architectural Hardware (the “Proposed Transaction”).

#### The Proposed Transaction

2. The Proposed Transaction is to be implemented through a share sale and purchase agreement dated 21 December 2020 between Jarlath Lennon and Haylen Lewin (together the “Sellers”),<sup>1</sup> and Chadwicks (the “SPA”). Pursuant to the SPA, Chadwicks will acquire the entire issued share capital of Haylen and, therefore, sole control of Haylen and its wholly-owned subsidiary Jarsen Distribution following implementation of the Proposed Transaction.

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<sup>1</sup> Jarlath Lennon and Haylen Lewin currently hold, respectively, 75% and 25% of the shares in Haylen.

## The Undertakings Involved

### *The Acquirer – Grafton*

3. Grafton, a publicly listed company headquartered in the State, with a primary listing of shares on the London Stock Exchange, is an international distributor of building materials to trade customers who are primarily engaged in residential renovation, modernisation and improvement (“RMI”) projects and house building. Grafton is also active in the DIY retail sector in the State and is the largest manufacturer of dry mortar in the UK. Grafton trades from approximately 530 branches worldwide.
4. In the State, Grafton is active in the following business activities:
  - a. General merchanting (i.e. the distribution of building materials to trade customers who are primarily engaged in RMI projects and house building). Grafton operates its general merchanting activities from 51 locations in the State, which are primarily trade based, business-to-business, outlets, with some retail customers. [...].
  - b. Grafton operates a DIY home and garden retail business in the State under the *Woodie’s* brand with 35 stores offering an extensive range of DIY products, paints, lighting, home-style, homeware, bathroom products and fitted kitchens. *Woodie’s* also sells seasonal product categories including gardening and Christmas products.
  - c. Grafton, through MFP Sales Limited, manufactures PVC drainage and roofline products which it supplies mainly to Grafton group companies in the island of Ireland and the United Kingdom.<sup>2</sup>
5. For the financial year ending 31 December 2019, Grafton’s worldwide turnover was approximately €3.328 billion, of which approximately €769 million was generated in the State.

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<sup>2</sup> MFP Sales Limited is a wholly owned subsidiary of Grafton.

### *The Target – Jarsen Distribution*

6. Jarsen Distribution is a private limited company registered in the State and is a wholly-owned subsidiary of Haylen. Haylen, a private limited company registered in the State, is the holding company for Jarsen Distribution and is currently owned by the Vendors Jarlath Lennon and Haylen Lewin.
7. Jarsen Distribution supplies specialist architectural hardware products including ironmongery products used in the functioning of doors such as locks, hinges and door handles, as well as non-door related products and related advisory services in the island of Ireland. Jarsen Distribution operates from a premises located at 10 Jamestown Industrial Centre, Jamestown Road, Inchicore, Dublin 8, where it has a showroom and a trade counter. Retail sales are by appointment only.
8. For the financial year ending 31 December 2019, Jarsen Distribution’s worldwide turnover was €[...] million, of which €[...] million was generated in the State.

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

9. The notifying parties state the following in the notification:

*“Jarsen Distribution is a successful and profitable business with the potential for further organic growth. It complements the Chadwicks business by extending its expertise, product range and customer base into a specialist segment of the merchanting market.*

*Jarsen Distribution will bring a new and innovative solutions-led, value added proposition to Chadwicks in the ironmongery sector of the market.*

*The acquisition is also in line with Grafton’s development strategy and is consistent with the recent acquisition of the StairBox stairs manufacturing business in the UK which extended Grafton’s marketing coverage into a new segment of the RMI market. The Jarsen Distribution business operates in a sector where Grafton has limited business and possesses technical knowledge, expertise and a range of products which are not offered by Grafton in the sector.*

*Grafton is also aware and conscious of changing fire door regulations and customer requirements in architectural ironmongery products. The addition of Jarsen Distribution's product range and expertise will complement the sale of Grafton's fire doors and allow customers the option of referring to Jarsen Distribution for their commercial/ironmongery specialist requirements.*

*In these circumstances, and consistent with these considerations, Grafton intends to run Jarsen Distribution as a stand alone business within Grafton's Merchanting Business in Ireland. Grafton also values the unique experience of Directors Jarlath Lennon and Michelle Barret which is reflected in the provisions noted above in Section 2.6 on consideration that will incentivise them to continue to manage the Jarsen Distribution business for three years post-completion. The Jarsen Distribution business will benefit from Grafton's resources in back office functions, HR, H&S, finance, credit control, property, etc and will also have access to Grafton's branch network allowing it to increase its geographical reach in some areas where there may be demand for its specific products. These synergies will benefit both businesses and customers."*

### **Market Enquiries**

10. During its review of the Proposed Transaction, the Commission sent a questionnaire to the top five customers and top five competitors of Jarsen Distribution in the State. Of the five customers contacted by the Commission, two responded to the Commission's questionnaire. Of the five competitors contacted by the Commission, four responded to the Commission's questionnaire.

### **Third Party Submissions**

11. No third party submission was received.

## Competitive Analysis

### Horizontal Overlap

#### The Supply of Architectural Hardware Products

12. There is a horizontal overlap between the business activities of Grafton and Jarsen Distribution in the supply of architectural hardware products in the State.
13. The notifying parties state in the notification that architectural hardware products include all door-related architectural ironmongery products, such as door handles, door closers, locks, cylinder pulls and hinges. The notifying parties further state that architectural hardware products also include all architectural ironmongery products and other architectural hardware products which are not door-related, such as window fittings, cupboard fittings, iron railings, handrails, balustrades, switches and sockets.
14. As described above, Grafton supplies architectural hardware products in the State. *Chadwicks* supplies architectural hardware products to trade customers in the State as part of its general merchandising activities. *Woodie's* is active in the retail sale of architectural hardware products as part of its range of DIY products sold in the State.
15. As described above, Jarsen Distribution is active in the supply of architectural hardware products in the State. Jarsen Distribution supplies specialist architectural hardware products including ironmongery products used in the functioning of doors such as locks, hinges and door handles, as well as non-door related products and related advisory services in the island of Ireland.

### Market Definition

#### *Relevant Product Market*

16. The notifying parties state in the notification that the relevant product market could be defined broadly as the distribution of all types of building materials on the basis that the architectural hardware products supplied by Jarsen Distribution are part of such broader potential market.

17. 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 reach a definitive view on the precise relevant product market since, regardless of whether the potential product market is defined narrowly (i.e., the supply of architectural hardware products), or more broadly (i.e., the supply of all types of building materials), it does not alter the Commission's assessment of the likely competitive impact of the Proposed Transaction. For the purpose of assessing whether the Proposed Transaction will result in a substantial lessening of competition in the State, the Commission has analysed the likely competitive impact of the Proposed Transaction by reference to the narrowest potential product market, i.e., the supply of architectural hardware products.

#### *Relevant Geographic Market*

18. As set out in paragraph 7 above, Jarsen Distribution operates from a premises in Dublin. Grafton operates through 51 merchanting outlets in the State, with *Chadwicks* operating 37 of these branches.<sup>3</sup> Separately, Grafton operates 35 *Woodie's* retail stores in the State.
19. In *M/04/051 – Grafton Group plc/Heiton Group plc*, the Commission's predecessor, the Competition Authority (the "Authority"), concluded that there was a clear preference by customers (e.g., builders merchants) to source building materials locally.<sup>4</sup> The Authority further noted that "*Builders merchants operate in local catchment areas. Enquiries suggest that in the case of Dublin and Cork cities, the catchment area radius is about 5-10 miles, and that elsewhere the effective catchment area radius is about 20-25 miles.*"<sup>5</sup> The Commission has seen no evidence during the course of its review of the Proposed Transaction to justify departing from this view.
20. The notifying parties state in the notification that the relevant geographic market for the supply of architectural hardware products is local, but that the Proposed Transaction can also be reviewed on a national basis. Jarsen Distribution distributes architectural hardware

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<sup>3</sup> The 14 non-*Chadwicks* outlets were not included in the consolidation under the *Chadwicks* brand as Grafton believed they had strong local brands and should not be included in the brand consolidation process

<sup>4</sup> See para 7.7 of the Competition Authority's determination in [M/04/051 - Grafton Group plc/Heiton Group plc](#)

<sup>5</sup> See para 7.7 of the Competition Authority's determination in [M/04/051 - Grafton Group plc/Heiton Group plc](#)

products throughout the island of Ireland, albeit predominantly in the State, with same day delivery in the Greater Dublin Area (the “GDA”) and next day delivery outside of the GDA.

21. The Commission does not need to come to a definitive view on the 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 broadly (i.e., the State) or more narrowly (i.e., within a catchment area of 5 miles from Jarsen Distribution’s premises in Inchicore, Co. Dublin). For the purposes of assessing whether the Proposed Transaction will result in a substantial lessening of competition, the Commission has analysed the competitive impact of the Proposed Transaction by reference to both the State and a narrow potential geographic market, i.e., within a catchment area of 5 miles from Jarsen Distribution’s premises in Inchicore, Co. Dublin.

#### *Conclusion on Market Definition*

22. For the purposes of its competitive analysis of the horizontal overlap that exists between Grafton and Jarsen Distribution, the Commission has assessed the competitive impact of the Proposed Transaction in the following potential markets: (a) the supply of architectural hardware products in the State; and (b) the supply of architectural hardware products within a catchment area of 5 miles from Jarsen Distribution’s premises in Inchicore, Co. Dublin.

#### *Horizontal Competitive Assessment*

##### *The Supply of Architectural Hardware Products in the State*

23. The notifying parties state in the notification that Grafton and the Target [...] held estimated market shares of [5 – 10]% in the supply of architectural hardware products in the State in 2020. The notifying parties also provided in the notification estimated market shares in the State in 2020 for each of their competitor’s: KCC Door Hardware and Security Solutions Limited [10 – 15]%, BW Hardware Limited [5 – 10]%, Locks and Hardware Limited [0 – 5]%,

Ecco Architectural Hardware Limited [0 – 5]%, and Mooney Architectural Ironmongery Limited [0 – 5]%.<sup>6</sup>

24. For the reasons set out below, the Commission considers that the Proposed Transaction will not give rise to any horizontal competition concerns in the potential market for the supply of architectural hardware products in the State.
25. First, Jarsen Distribution and Grafton are not close competitors in the supply of architectural hardware products in the State. Jarsen Distribution supplies specialist architectural hardware and architectural ironmongery products to customers in the State. In contrast, Grafton supplies standard ‘off the shelf’ architectural hardware products through *Chadwicks* and *Woodie’s*. Furthermore, Jarsen Distribution offers its customers an extensive level of support, both in terms of selecting products to meet particular design briefs and also to ensure regulatory compliance for specialist products such as fire doors which have a number of technical safety requirements. The Commission understands from the notification that Grafton does not offer these types of support services to customers who purchase architectural hardware products in *Chadwicks* or *Woodie’s*.
26. Second, market enquiries by the Commission indicated that customers of Jarsen Distribution consider customer support services to be a key factor in their decision to use Jarsen Distribution when purchasing architectural hardware products. Furthermore, all of the competitors of Jarsen Distribution who responded to the Commission’s questionnaire<sup>7</sup> expressed the view that they do not consider Grafton to be a close competitor in the supply of architectural hardware products in the State.
27. Following implementation of the Proposed Transaction, there is likely to remain a number of competitors which would continue to exert a competitive constraint on Jarsen Distribution in the potential market for the supply of architectural hardware products in the State. These

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<sup>6</sup> Market share estimates are based on the Target’s knowledge of the architectural hardware industry in the State, third party estimates and estimates by the Target and Grafton of the turnover of their competitors.

<sup>7</sup> Four out of the five competitors contacted by the Commission responded to the Commission’s questionnaire.

include: KCC Door Hardware and Security Solutions Limited,<sup>8</sup> BW Hardware Limited,<sup>9</sup> Locks and Hardware Limited,<sup>10</sup> Ecco Architectural Hardware Limited<sup>11</sup> and Mooney Architectural Ironmongery Limited.<sup>12</sup>

*The Supply of Architectural Hardware Products within a catchment area of 5 miles from Jarsen Distribution*

28. The notifying parties did not provide to the Commission any share estimates for the Supply of Architectural Hardware Products within a catchment area of 5 miles from Jarsen Distribution. The notifying parties, however, expressed the following view to the Commission as to why they consider it likely that market share estimates in the potential market for the supply of architectural hardware products locally within a catchment area of 5 miles from Jarsen Distribution are broadly similar to those for the State: *“all of the leading specialists in architectural hardware products and architectural ironmongery products in particular are based in the Greater Dublin Area and within 5 to 10 miles of Jarsen Distribution’s premises in Inchicore. In addition, many of the other categories of competitors in the market in architectural hardware have outlets in the Greater Dublin Area, including specialists in particular architectural ironmongery products, architectural hardware companies and generalists such as Grafton. ... 60% or more of activity in the construction market generally in Ireland takes place in the Greater Dublin Area which is likely to be reflected in related sectors such as architectural hardware. Consequently, the market share estimates provided by the Parties for the national market are also likely to reflect the market in the Greater Dublin Area.”*

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<sup>8</sup> KCC operates one retail outlet in the GDA, located in Ballymount, Dublin 24. For more information, see <https://thekccgroup.com/>

<sup>9</sup> BW Hardware operates one retail outlet in the GDA, located in Tallaght, Dublin 24. For more information, see <http://www.bwhardware.ie/>

<sup>10</sup> Locks and Hardware operates one retail outlet in the GDA, located in Fox and Geese, Dublin 12. For more information, see <https://locksandhardware.ie/>

<sup>11</sup> Ecco Hardware operates one retail outlet in the GDA, located in Ballymount, Dublin 24. For more information, see <http://eccohardware.com/>

<sup>12</sup> Mooney Architectural operates one retail outlet in the GDA, located in Ballycoolen, Dublin 15. For more information, see <https://mooneyai.ie/>

29. For the reasons set out below, the Commission considers that the Proposed Transaction will not give rise to any horizontal competition concerns in the potential market for the supply of architectural hardware products within a catchment area of 5 miles from Jarsen Distribution.
30. First, as described in paragraphs 26-27, Jarsen Distribution and Grafton are not close competitors in the supply of architectural hardware products locally within a catchment area of 5 miles from Jarsen Distribution. Second, following implementation of the Proposed Transaction, the competitors listed in paragraph 27 above will continue to exert a competitive constraint on Jarsen Distribution in the potential market for the supply of architectural hardware products within a catchment area of 5 miles from Jarsen Distribution.<sup>13</sup>

#### Vertical relationship

31. The parties submit that there is no vertical relationship between the notifying parties in the State. The Commission has not identified any vertical relationship between the parties in the State.
32. Therefore, the Commission considers that the Proposed Transaction does not raise any vertical competition concerns in the State.

#### **Conclusion**

33. 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**

34. The parties state in the notification that Clause 11 of the SPA contains certain post-transaction restrictions on the Sellers which the parties believe are directly related and necessary to the implementation of the Proposed Transaction.

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<sup>13</sup> Mooney Architectural located in Ballycoolen, Dublin 15 is slightly outside the 5 mile radius.

35. The Commission notes that the restrictions referred to by the parties are contained in Clause 11.2 of the SPA with the remaining sub-clauses of Clause 11 related to the interpretation and application of such restrictions.
36. The Commission notes that Clauses 11.2–11.2.5 (inclusive) of the SPA contain restrictive obligations on the Sellers, including a number of non-compete, non-solicitation and no-hire provisions. The duration of those non-compete, non-solicitation and no-hire obligations does not exceed the maximum duration acceptable to the Commission.<sup>14</sup> The Commission considers these non-compete, non-solicitation and no-hire obligations to be directly related to and necessary for the implementation of the Proposed Transaction insofar as they relate to the State.
37. The Commission notes that Clauses 11.2.6–11.2.8 of the SPA contain other restrictive obligations [...]. The Commission notes that, unlike the restrictions in Clauses 11.2–11.2.5 of the SPA, the restrictions contained in Clauses 11.2.6–11.2.8 of the SPA are not limited in time and apply at any time after completion of the Proposed Transaction. For these reasons, the Commission has not reached a view as to whether or not Clauses 11.2.6–11.2.8 of the SPA are directly related and necessary to the implementation of the Proposed Transaction. Clauses 11.2.6–11.2.8 of the SPA will not therefore benefit from the protections offered by sections 4(8) and 5(3) of the Act.

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<sup>14</sup> In this respect, the Commission follows the approach adopted by the European Commission in paragraphs 20 and 26 of its Notice on restrictions directly related and necessary to concentrations (2005) OJ C56/03 (the “European Commission Notice”). 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, as amended, has determined that, in its opinion, the result of the proposed acquisition whereby Chadwicks Holdings Limited, a wholly-owned subsidiary of Grafton Group plc, would acquire the entire issued share capital, and thus sole control, of Haylen Investments Limited and its wholly-owned subsidiary Jarsen Distribution Limited, trading as Proline Architectural Hardware, 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

**Brian McHugh**

**Member**

**Competition and Consumer Protection Commission**