



OFFICE FOR COMPETITION

18 August 2014

COMP-MCCAA/20/14 – Vernon’s Food Manufacturing & Trading Ltd /Zammit & Cachia Trading Co. Ltd

Decision on acquisition in terms of regulations 6 (1) (ii) and 12(4) of the Control of Concentrations Regulations (LN 294 of 2002 as subsequently amended)

The Office for Competition,

Having considered the notification of the 25th July, 2014 pursuant to regulation 5 of the Control of Concentrations Regulations,

Having considered the provisions of the Control of Concentrations Regulations,

Having considered Commission Notice on a simplified procedure for treatment of certain concentrations under Council Regulation (EC) No. 139/2004

Facts

1. On the 9th July, 2014, the Office for Competition received a notification of a proposed concentration pursuant to regulation 5 of the Control of Concentrations Regulations (hereinafter referred to as “the Regulations”) whereby, pursuant to a Preliminary Agreement dated 18th December, 2013 and a Supplementary Agreement dated 19th February, 2014, Vernon’s Food Manufacturing & Trading Limited (hereinafter referred to as “Notifying Party”), will acquire sole control of the foodstuff business of Zammit & Cachia Trading Co. Ltd (hereinafter referred to as “Z&C”).
2. The notification was filed and accepted on the 25th July, 2014 and was notified to the public through a notice that appeared in a newspaper on Tuesday the 29th July and a public notice in the Government Gazette number 19,289 on the same date.

Parties

3. The Notifying Party with registered office at Dragonara Store, Mriehel Industrial Estate, Mriehel, Birkirkara, is a company active in the preserving and manufacturing, as well as the importation, of foodstuff. The company also pre-packs food products for some retail

customers. The Notifying Party sells its foodstuffs through a related company, namely, Royal Products Limited, which is active in the canning and distribution of foods.

4. Z&C, with registered office at Cachia Buildings, Cannon Road, Qormi is a company having as its principal activity the importation and distribution of food products. Z&C Also imports and sells other products, including jute bags, sailboards, kites, and carpets, however, these products fall outside the scope of the proposed transaction.

Transaction

5. The Notifying Party intends to acquire parts of Z&C, namely, its foodstuff business. The proposed transaction is essentially structured as an asset sale. In particular, the Notifying Party will acquire the warehouse stock held at the Z&C's warehouse, its machinery and equipment.
6. The Notifying Party will be authorised to use the trade names "Zammit and Cachia Trading" and "Zammit and Cachia" in future operations pertaining to Vernon's Food food products retail trade.

Notifiable Concentration

7. In terms of regulation 2 of the Regulations, a concentration refers to the acquisition by one or more undertakings or by one or more persons already controlling at least one undertaking, whether by purchase of securities or assets, by contract or by any other means, of direct or indirect control of the whole or parts of one or more undertakings.
8. The proposed transaction brings about a permanent change of control over the assets transferred from Z&C to the Notifying Party. The assets to be transferred constitute a business to which a market turnover can be attributed.
9. Therefore the proposed transaction constitutes a concentration within the meaning of regulation 2 of the Regulations.

Threshold for Notification

10. The aggregate turnover of the undertakings concerned in the preceding financial year exceeds €2,329,373.40 and each of the parties concerned had a turnover in Malta equivalent to at least 10% of the combined aggregate turnover of the undertakings concerned.
11. The notified concentration, therefore, meets the notification threshold as set out in regulation 2 of the Regulations.

Simplified Procedure

12. Following the examination of the notification, it is considered that the notified concentration falls within the scope of regulation 12(1)(iii) of the Regulations, whereby it is provided that:

"The simplified procedure will apply to the following categories of concentrations that are deemed not to raise serious doubts as to their legality in terms of the provisions of these regulations..."

(iii) two or more undertakings merge, or one or more undertakings acquire sole or joint control of another undertaking and two or more of the parties to the concentration are engaged in business activities either in the same product and geographical market and their combined market share is less than 15%..."

Conclusion

For the above mentioned reasons and in terms of regulations 6 (1) (ii) and 12(4) of the Regulations, it is decided:

- (1) that the Concentration falls within the scope of the Regulations on Control of Concentrations;
- (2) that the Concentration does not raise serious doubts as to its lawfulness;
- (3) not to oppose the notified Concentration and to declare it a lawful Concentration.



Marcel Pizzuto
Acting Director General