

OFFICE FOR COMPETITION

3 September 2019

COMP-MCCAA/08/2019 – Acquisition of FirstUnited Insurance Brokers Ltd by Argus Group Holdings Ltd

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

The Office for Competition,

Having considered the notification filed on 26 June 2019 pursuant to Regulation 5 of the Control of Concentrations Regulations,

Having considered the provisions of the Control of Concentrations Regulations,

Having considered EU and other foreign jurisprudence

1. Facts

1. On the 26 June 2019, Argus Group Holdings Limited (hereinafter referred to as “the Notifying Party”) notified the Office for Competition (hereinafter referred to as “the Office”) whereby, pursuant to a Share Sale & Purchase Agreement (hereinafter referred to as “the Agreement”) the Notifying Party will be purchasing all the shares of FirstUnited Insurance Brokers Limited (hereinafter referred to as “Acquired Party”).
2. The notification was accepted as a complete notification on 5 July 2019. It was notified to the public through a notice that appeared in a daily newspaper and on the Malta Competition and Consumer Affairs Authority’s website on 4 July 2019 and a notice that appeared in the Government Gazette No. 20,226 on 5 July 2019.

2. Parties

3. The Notifying Party, Argus Group Holdings Limited, having its registered address at The Argus Building, 14 Wesley Street, Hamilton HM 11, Bermuda, is a limited liability holding company that is publicly traded on the Bermuda Stock Exchange. It does not have any trading activity of its own. Together with its subsidiaries, they operate predominantly in Bermuda, Gibraltar and Malta and

are involved in underwriting life, health and property and casualty insurance, amongst other services. The group is actively involved in insurance brokerage in Malta through Island Insurance Brokers Limited (hereinafter referred to as "IIB").

4. IIB, having its registered address at Insurance House, Psaila Street, Birkirkara BKR 9078, Malta, is a limited liability company incorporated under the laws of Malta. IIB is an insurance broker in all classes of insurance in terms of the Insurance Distribution Act, 2018. It is 100% owned by the Notifying Party.
5. The Acquired Party, FirstUnited Insurance Brokers Limited, having its registered address at Number 25, Villa Eden, Princess Elizabeth Street, Ta' Xbiex, Malta, is a limited company incorporated under the laws of Malta. It is enrolled as an insurance broker under the Insurance Distribution Act, 2018.

3. Transaction

6. Pursuant to Share Sale & Purchase Agreement, the Notifying Party will acquire sole control over the Acquired Party. It will do so by acquiring all shares.
7. It is the intent of the notifying party that the Acquired Party remains an independent entity trading under its own name and brand within the group structure for at least two years with back-room support provided within the group. The Notifying Party will also maintain its separation from the Acquired Party in the same manner as IIB.

4. Notifiable Concentration

8. In terms of Regulation 2 of the Control of Concentrations 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 other undertakings.
9. The proposed transaction brings about the acquisition of sole control of the Acquired Party as mentioned in paragraph 6 by the Notifying Party, in the form of shares.
10. Therefore, the proposed concentration constitutes a concentration within the meaning of Regulation 2 of the Regulations.

5. Threshold for Notification

11. 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.
12. The notified concentration, therefore, meets the notification threshold as set out in Regulation 2 of the Regulations.

6. Third Party Objections

13. Apart from informing the general public about the notified concentration, the Office contacted the main players operating within the insurance services market to invite them to submit any observations and concerns about this notification.
14. The Office did not receive any third-party objections.
15. The Office held a meeting with the Malta Financial Services Authority (hereinafter referred to as “the MFSA”). The regulator of the insurance sector did not raise any competition concerns regarding this acquisition.

7. Relevant Market

7.1. Insurance Distribution

16. The Commission has considered that a downstream market for insurance distribution involves the procurement of insurance cover for individual and corporate customers through different distribution channels, whether comprised of direct writers, tied agents or intermediaries such as banks and brokers. It is vertically related to the downstream market of insurance provision.¹
17. An insurance company often referred to as the Principal is the entity which underwrites and assumes the risk, and which will be ultimately responsible to settle claims. The principals operate directly through their head offices, online portals and branch network. The principals also solicit business through their

¹ M6053 – CVC/Apollo/Brit Insurance para 16

appointed intermediaries which can take the form of an agency or a tied insurance intermediary. There are forty-eight insurance companies registered with the MFSA².

18. An insurance agent is licenced to conduct business on behalf of an insurance company. An agent represents the insurer in the insurance process and usually operates under the terms of a binding authority agreement with the insurer. The agent is delegated by the insurance company, the Principal, to underwrite risks and settle claims on its behalf. Currently, there are twenty companies that are licenced to act as insurance agent³.
19. A tied insurance intermediary is licenced to act as intermediary between the Insurance company, the Principal, and the Policyholder. The Tied Insurance Intermediary does not have the authority to accept or settle claims but instead is there to promote the product, help the prospective client to complete a proposal and pass the necessary documentation to the Agency or Principal for underwriting and acceptance. They cannot enter into insurance commitments with customers and may collect premiums intended for Insurance company. There are eighty-nine companies⁴ and three hundred and twenty-four⁵ individuals registered as tied insurance intermediaries with the relevant authority.
20. Insurance broker works for the policyholder in the insurance process and is required to act independently in relation to insurers. A broker assists clients in the choice of their insurance by presenting them with alternatives in terms of insurers and products. Acting on behalf of the buyer, a broker usually works with multiple companies to place coverage for their clients. Brokers obtain quotes from various insurers and guide clients in determining the adequate policy from a range of products. There are thirty-one companies that have been approved to act as insurance brokers⁶.

² <https://www.mfsa.mt/financial-services-register/?fsr=&cat=3&subCat=14&country=&years=>
accessed on 10 August 2019

³ <https://www.mfsa.mt/financial-services-register/?fsr=&cat=3&subCat=18&country=&years=>
accessed on 10 August 2019

⁴ <https://www.mfsa.mt/financial-services-register/?fsr=&cat=3&subCat=24&country=&years=>
accessed on 10 August 2019

⁵ <https://www.mfsa.mt/financial-services-register/?fsr=&cat=3&subCat=25&country=&years=>
accessed on 10 August 2019

⁶ <https://www.mfsa.mt/financial-services-register/?fsr=&cat=3&subCat=20&country=&years=>
accessed on 10 August 2019

7.2. Relevant Product Market

21. The European Commission, has in its decisions, distinguished between three broad categories of insurance products: life insurance, non-life insurance and re-insurance.⁷
22. Reinsurance consists in providing insurance cover to another party (the insurer) for part or all of the liability assumed by the latter party under a policy or policies of insurance which it has issued. It is a means of risk management, to transfer risk from the insurer to the reinsurer.
23. Non-life insurance, from a demand-side perspective, can be divided into many different product markets depending on the risks covered. The insurance against a given risk is not generally substitutable with insurance against another risk from the consumer's perspective⁸. The European Commission distinguished between the different groups of classes of risk:
 - (i) accident and health
 - (ii) motor vehicle
 - (iii) property
 - (iv) liability
 - (v) marine, aviation and transport
 - (vi) travel
 - (vii) credit and suretyship
24. However, the Commission has also recognised that from a supply-side perspective the conditions for insurance of different types of risk are quite similar and most large companies are active in several types of risk. This suggests that different types of non-life insurance could be included in the same product market⁹.

⁷ M.9056 - Generali CEE / AS (2018) para 10 / M7233-Allianz/Going Concern of Unipolstai Assicurazioni para 9

⁸ M.9056 - GENERALI CEE / AS (2018) para 11

⁹ M6957 IF P&C / Topdanmark para 22

7.3. Relevant Geographic market

25. The Notifying Parties submitted that the relevant geographic market is national in scope and any cover for person travelling abroad from Malta.
26. As customers normally procure broking services in the country that they are active, the Office agrees with the notifying party's submissions that the relevant geographic market comprises the Maltese Islands and any insurance covering persons travelling abroad from Malta.

8. Competitive Assessment

8.1. Brokerage Market

27. The involved parties in the concentration are active in the market as insurance brokers.
28. There is a horizontal overlap in the activity of IIB and the acquired party as they provide life and non-life insurance brokerage services. Both companies, act as intermediaries between the client and the insurer. They do not underwrite any insurance themselves.
29. The combined market share of the parties for life insurance and for each group of class of non-life insurance in the brokerage market based on the gross written premiums for risks situated in Malta are as follows:

Gross Written Premiums in Malta through Brokers			
	IIB	FUIB	Combined
Insurance			
Life	[15 - 25%]	[10 - 20%]	[25 - 35 %]
Non-Life Insurance			
Accident & Health	[25 - 35%]	[10 - 20%]	[35 - 45%]
Motor	[5 - 15%]	[5 - 15%]	[10 - 20%]
Marine, Transport & Aviation	[10 - 20%]	[5 - 15%]	[15 - 25%]
Fire	[15 - 25%]	[5 - 15%]	[20 - 30%]
Liability	[15 - 25%]	[5 - 15%]	[20 - 30%]
General	[0 - 10%]	[0 - 10%]	[0 - 10%]
Total Non-Life	[15 - 25%]	[5 - 15%]	[20 - 30%]
Total Insurance	[15 - 25%]	[5 - 15%]	[20 - 30%]

30. IIB and the acquired party are the second and third largest brokers in Malta respectively in terms of gross premiums placed where the risk is situated in Malta. Their combined market share will amount to [20-30%] and will be the leading broker in the market. This level of market share is arrived at by assuming, in line with the Commission's Guidelines on Horizontal Mergers, that post-merger, combined market shares are the sum of the pre-merger company's individual market shares. The merged entity would continue to face competition in the brokerage market from another player with a market share of [15-25%] of the gross written premiums in Malta in the brokerage market and another two insurance brokers with a market share of [5-15%]. The merged entity will also face competition from other small companies which have a combined market share of [35-45%].

8.2. Insurance Market

31. In order to determine, however, whether the proposed transaction might result in a substantial lessening of competition in the provision of life and non-life insurance, the Office has analysed its impact by reference to the whole market of the insurance distribution. Insurance brokerage cannot be considered in isolation as it forms part of the distribution of insurance services in general which comprises all the distribution by direct insurance writers, tied agents of insurers and intermediaries such as banks and brokers.¹⁰

32. The Office focused on two specific classes of insurances where the combined market share of the merging parties is relatively high if the brokerage market was taken on its own. In the brokerage market the parties have a market share of [25-35%] and [35-45%] in the classes of the provision of life insurance and Accident and Health respectively.

33. On the overall distribution market for the provision of life insurance products, the penetration rate of the broker channel as opposed to the other channels of distribution of insurance products is very low. The Parties post transaction would hold only a combined market share of less than [0-5%].

34. As regards to the provision of non-life insurance, there is a stronger penetration rate of brokers [30-40%] as opposed to direct underwriters and other forms of insurance distribution. The parties' combined share of the whole insurance market is relatively low [5-15%]. The Office considered further the particular class of insurance where the merged party will have a

¹⁰ COMP/M.5568 - Volkswagen/ Fleet Investments/ Leaseplan Corporation JV Para 21

considerably high combined share in the brokerage market alone, i.e. the Accident and Health class where it has [35-45%] share. However, as part of the whole distribution market, the share of the merging parties is modest and represents only [10-20%]. Thus, the concentration does not lead to a substantial lessening of competition.

35. Furthermore, a significant market share in the brokerage market does not enable the parties to act independently of its competitors as the parties will continue to face competition from the service providers in the distribution chain in view that the end consumer are ready to switch in the non-life insurance products between different types of provider where they believe they get better value for money and service.¹¹

8.3. Ease of Customer Switching

36. Customers can select alternative insurance providers and that switching is relatively easy in all market segments of the non-life insurance market, that is, in the market where the merged parties enjoy a relatively moderate market power. Customers may switch from one provider to the other easily without incurring any or significant costs.

37. Thus, since there are no meaningful capacity constraints on the supply-side, customers can easily switch to a different insurance company in response to increased premiums or reduced services by their existing insurer.

8.4. Barriers to entry

38. There are no significant barriers to entry in the insurance broker market. The only regulatory requirement for an undertaking to provide brokerage insurance service is to obtain an authorisation from the MFSA. There are thirty-one insurance brokers licenced with the MFSA. The market investigation revealed that five operators entered the market during the last four years indicating that entry barriers are low.

¹¹ M.1307 March & Mc Lennan/Segwick para 11

8.5. Efficiency Gains

39. The Notifying party submitted that through the proposed concentration, the acquired party will be aligned to its internal audit and compliance standards such as improvements in the IT security standards. Back office administrative activities will be integrated thus providing the acquired party's staff with additional capacity to focus on and improve client facing activities, thus providing a better service to its customers.
40. The notifying party contended that the efficiencies brought about by this acquisition will result in operating efficiencies and decrease in costs, allowing such savings to be possibly passed on to the clients through lower prices.

8.6. Conclusion

41. The Office considers that post transaction, the merged entity's market share will rise with a limited increment [0 – 5%]. The merged entity's market share is relatively low and will continue to face strong competition from a large number of insurance services providers thus preventing it from causing any serious concerns for customers and competitors. This ensures a competitive balance in the supply of insurance services in Malta.
42. The transaction will have a moderate effect on the non-life insurance distribution where customers can easily switch their supplier in response to competitive offers in the relative market.
43. Therefore, the Office considers that proposed transaction will not lead to a substantial lessening of competition in the market for the provision of insurance.

9. Decision

44. For the abovementioned reasons and in terms of regulation 6 (1) (ii) of the Control of Concentrations Regulations, it is therefore decided:

- (1) that the Concentration falls within the scope of the Control of Concentrations Regulations;
- (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.



Mr Godwin Mangion

Director General (Competition)