

OFFICE FOR COMPETITION

03 July 2023

COMP-MCCAA/09/2023- Acquisition of a number of entities from the Thomas Smith Group of companies by PB Group Limited

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 filed on 13 June 2023 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 Regulation (EC) No 139/2004

Facts

1. On 13 June 2023, the Office for Competition (hereinafter referred to as ‘the Office’) received a notification of a proposed acquisition pursuant to Regulation 5 of the Control of Concentrations Regulations (hereinafter referred to as ‘the Regulations’), whereby PB Group Limited (hereinafter referred to as ‘the Notifying Party’) will acquire a number of entities from the Thomas Smith Group of companies; being Thomas Smith & Co Limited, TS Container Agencies Ltd, TC Smith Agencies Ltd, Thomas Smith Insurance Agency Ltd and Thomas Smith Insurance Brokers Ltd (hereinafter referred to as ‘the Targets’).
2. A notice of the proposed acquisition was issued to the public on 20 June 2023 in a daily newspaper, on the Malta Competition and Consumer Affairs Authority’s website¹ and in the Government Gazette No.21,072². No third-party objections were received.

¹ <https://mccaa.org.mt/section/content?contentId=8877> last accessed on 28 June 2023

² <https://www.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2023/06/Government%20Gazette%20-%2020th%20June.pdf> last accessed on 28 June 2023

Parties

3. The Notifying Party, PB Group Limited, having company registration number C82807, at registered address PB Group Business Centre, Mdina Road, Qormi, QRM 9019, is a holding company and its portfolio of companies are involved in a wide variety of sectors including, water and energy, freight and logistics and property development.
4. Thomas Smith & Co Limited (C860), TS Container Agencies Ltd (C47639), TC Smith Agencies Ltd (C8590), Thomas Smith Insurance Agency Ltd (C5637) at registered address, War Victims Square, Luqa, LQA 1010 and Thomas Smith Insurance Brokers Ltd having company registration company C40721 at registered address, 2 Triq Guzeppi Ellul, Luqa, LQA 1154 collectively are the Targets. Thomas Smith & Co Ltd is a freight forwarder involved in all modes of transport that is, air freight, sea freight, road freight and courier. Furthermore, it is a customs clearance agent and local deliverers, port agent and a distributor of nautical charts & publications, while TC Smith Agencies Ltd is a freight forwarder involved in sea freight only. TS Container Agencies Ltd is a container liner and ship agent. Thomas Smith Insurance Agency Ltd & Thomas Smith Insurance Brokers Ltd are involved in business of insurance agency and brokerage business, respectively.
5. PB Global Limited is the sole company within the Notifying Party that is involved in freight forwarding and thus, horizontally overlaps with Thomas Smith & Co Ltd and TC Smith Agencies Ltd.

Transaction

6. Pursuant to a Share Purchase Agreement signed on 5 June 2023, the proposed transaction involves the acquisition of the whole companies indicated as the Targets, by the Notifying Party.
7. At completion, the Notifying Party will acquire 100% of the shares in the Targets.

Notifiable Concentration

8. In terms of Regulation 2 of the Control of Concentrations Regulations, a concentration, *inter alia*, 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 other means, of direct or indirect control of the whole or parts of one or more undertakings.
9. The proposed transaction brings about the acquisition of sole control by the Notifying Party of the Targets.
10. Therefore, the proposed transaction constitutes a concentration within the meaning of Regulation 2 of the Control of Concentrations Regulations.

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 had a turnover in Malta equivalent to at least 10% of the combined aggregate turnover in Malta of the undertakings concerned.
12. The notified concentration, therefore, meets the notification threshold as set out in Regulation 2 of the Regulations.

Simplified Procedure

13. Following the examination of the notification, it is considered that the notified concentration falls within the scope of Regulation 12(1) 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% or in a product market which is upstream or downstream of a product market in which any other party to the concentration is engaged and their combined market share is less than 25%.”

Conclusion

14. In view of the above and in terms of Regulations 6 (1) (ii) and 12 (4) of the Regulations, it is therefore 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.


Godwin Mangion
Director General