



DETERMINATION OF MERGER NOTIFICATION M/19/014 - SALERO (CARLYLE) / CITY BIN (CARDUCCI)

Section 21 of the Competition Act 2002

Proposed acquisition by The Carlyle Group L.P., through CCIF Salero S.À.R.L. of joint control of Carducci Holdings Designated Activity Company.

Dated 09 July 2019

Introduction

1. On 30 May 2019, 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 The Carlyle Group L.P. (“Carlyle”), through CCIF Salero S.À.R.L. (“Salero”), would acquire joint control of Carducci Holdings Designated Activity Company (“Carducci”) (the “Proposed Transaction”).

The Proposed Transaction

2. The Proposed Transaction is to be implemented pursuant to a Share Subscription and Purchase Agreement (the “SSPA”) dated 30 May 2019 between Salero, Carducci, the [...] ¹, the [...] ² and the [...] ³. Pursuant to the SSPA, Salero would acquire [...] of the voting shares of Carducci, and the [...], the [...], and the [...] would own the remaining [...].
3. Additionally, the [...], the [...], the [...], Salero and Carducci entered into a Shareholders’ Agreement (the “SHA”) dated 30 May 2019. Pursuant to the SHA, the consent of each of Salero and the Founders is required to take certain strategically significant decisions relating to Carducci’s business activities, for so long as they each continue to hold at least [...] of the voting shares of Carducci. Consequently, pursuant to the SSPA and the

¹ [...].

² [...].

³ [...].



SHA, Carlyle would acquire joint control of Carducci within the meaning of Section 16 (1)(b) the Act.

The Undertakings Involved

The Acquirer – Carlyle

4. Carlyle, headquartered in the United States, is a publicly traded limited partnership listed on the NASDAQ stock exchange. Carlyle is a global alternative asset manager, which manages funds that invest globally across the following four investment categories:
 - Corporate private equity (buyout and growth capital);
 - Real assets (real estate, infrastructure energy and renewable resources);
 - Global Credit (structured credit, mezzanine, distressed & special situations, hedge funds and middle market debt); and
 - Solutions (private equity fund and funds program and related co-investment and secondary activities).
5. Salero, a private limited liability company, incorporated under the laws of the Grand Duchy of Luxembourg, is ultimately controlled by Carlyle. Salero was established for the purposes of the Proposed Transaction on 17 May 2019.
6. The parties state in the notification that, as of 30 May 2019, [...] portfolio companies currently controlled by funds managed by affiliates of Carlyle generate turnover in the State. The parties state in the notification that *“none of the portfolio companies owned and controlled by funds managed by affiliates of Carlyle is currently active in the waste management sector”*.
7. For the financial year ending 31 December 2017, the worldwide turnover of portfolio companies controlled by funds managed by affiliates of Carlyle was approximately €[...] billion, of which approximately €[...] million was generated in the State.

The Founders, the Management Shareholders and the Individual Sellers



8. The parties informed the Commission that the [...], the [...] and the[...] do not control any other companies in the State, other than their investment in Carducci.

The Target – Carducci

9. Carducci, incorporated in the State, is the holding company of The City Bin Co. Unlimited Company (“City Bin”). [...].
10. City Bin, incorporated in the State, is active in the waste sector. City Bin provides waste collection services to domestic customers in County Galway and County Dublin. City Bin also provides waste collection services to commercial customers in County Galway, County Dublin and, to a limited degree, in other counties in the State. City Bin’s commercial customers include retailers, hotels, restaurants, professional services firms and property management companies, but do not include construction and demolition customers. City Bin also provides skip hire.
11. City Bin owns and operates a transfer station in Oranmore, County Galway. The transfer station receives waste and recyclables from City Bin’s own waste collections as well as from third parties. It consolidates and bulks up the waste for transport, disposal or processing by third parties.
12. For the financial year ending 31 December 2018, Carducci’s worldwide turnover was approximately €[...]million, all of which was generated in the State.

Rationale for the Proposed Transaction

13. The parties state the following in the notification:

“the Proposed Transaction reflects Carlyle’s affiliates’ strategies to invest in Irish companies with proven track records in their respective industries and stable prospects for mid-to-longer-term growth.”

Third Party Submissions

14. No submission was received.

Competitive Analysis

Horizontal Overlap



15. There is no horizontal overlap between the business activities of the parties in the State.
In particular:

- the [...], the [...] and the [...] are not engaged in the same business activities as any of the portfolio companies controlled by funds managed by affiliates of Carlyle, which generate turnover in the State;
- the [...], the [...] and the [...] do not control any other business in the State, except City Bin; and
- none of the [...] portfolio companies controlled by funds managed by affiliates of Carlyle, which generate turnover in the State, are engaged in the same business activities as City Bin, namely providing waste management services.

16. In light of the above, the Commission considers that the Proposed Transaction does not raise any horizontal competition concerns in the State.

Vertical Relationship

17. There is a vertical relationship between City Bin and some portfolio companies controlled by funds managed by affiliates of Carlyle in the State, whereby City Bin provides commercial waste collection services to those companies.

18. The Commission assessed whether this vertical relationship is likely to result in vertical foreclosure concerns. For the following reasons, the Commission considers that the Proposed Transaction is unlikely to result in vertical foreclosure:

- The Commission considers that following implementation of the Proposed Transaction, there will remain a significant number of competitors of City Bin, namely; Panda Waste, Greyhound Waste, Thorntons, and KeyWaste.
- The revenue generated by City Bin from providing waste services to portfolio companies controlled by funds managed by affiliates of Carlyle in the State is minimal. City Bin provides commercial waste collection services to the [...] and to [...], both of which are controlled by Carlyle Cardinal Ireland Fund L.P., which is owned by Carlyle. Information provided by the parties to the Commission



shows that revenue generated from these businesses accounted for [...]% of City Bin's annual turnover in 2018. Following implementation of the Proposed Transaction, a sufficient number of customers will remain available to competitors of City Bin in respect of commercial waste collection services.

19. In light of the above, the Commission considers that the Proposed Transaction does not raise any vertical competition concerns in the State.

Conclusion

20. 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

21. Clause 15.1 of the SHA contains non-compete and non-solicitation obligations on the [...], the [...] and the [...]. The Commission considers these restrictions to be directly related to and necessary for the implementation of the Proposed Transaction, insofar as they do not prevent [...], the [...] and the [...] from purchasing or holding shares in a competing company purely for financial investment purposes, without granting him/her, directly or indirectly, management functions or any material influence in the competing company.



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 The Carlyle Group L.P., through CCIF Salero S.À.R.L., would acquire joint control of Carducci Holdings Designated Activity Company, 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