



DETERMINATION OF MERGER NOTIFICATION M/20/009 – PORTLON (PARMA)/HERMITAGE

Section 21 of the Competition Act 2002

Proposed acquisition of sole control by the Portlon Trust of Hermitage Clinic Limited, Hermitage Medical Limited and Torcross Limited.

Dated 29 July 2020

Introduction

1. On 19 March 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 acquisition, whereby the Portlon Trust, through its subsidiary Parma Investments Limited (“Parma”), would acquire the entire issued share capital, and thus sole control, of Torcross Limited (“Torcross”), Hermitage Clinic Limited (“HCL”) and Hermitage Medical Developments Limited (“HMDL”) from Xroon Limited (“Xroon”) and Ballymore Ireland Group Limited (“Ballymore”) (the “Proposed Transaction”).

The Proposed Transaction

2. The parties informed the Commission that the Proposed Transaction is to be implemented pursuant to: (i) a draft share purchase agreement between Parma and Ballymore; and (ii) a draft share purchase agreement between Parma and Xroon (together the “Draft SPAs”). Currently, Parma holds [...] % of the entire issued share capital of each of Torcross, HCL and of HMDL. The parties informed the Commission that none of the shareholders of HCL – including the Portlon Trust/Parma – has the right to cast a majority of votes at meetings of the board of directors of HCL and so ultimately there is floating control by the board of directors of HCL.
3. Pursuant to the Draft SPAs, Parma would acquire the entire issued share capital, and thus sole control, of Torcross, HCL and HMDL from Ballymore and Xroon. On the basis of the Draft SPAs, which the parties submitted to the Commission during its investigation, the Commission considers that the undertakings involved have



demonstrated to the Commission a good faith intention to conclude an agreement for the purpose of section 18(1A)(b)(ii) of the Act.

The Undertakings Involved

The Acquirer - the Portlon Trust & Parma

4. The Portlon Trust is a private trust that [...]. The Portlon Trust primarily focuses on making investments in the beef and lamb procurement and processing sectors worldwide, and also has investments in business areas such as real estate, agriculture, renewable energy and private healthcare services.
5. Parma is ultimately owned and controlled by the Portlon Trust. Parma holds and acquires assets as a nominee shareholder for the Portlon Trust and/or its subsidiaries. The parties submitted to the Commission the following list of companies owned and controlled (directly and indirectly) by the Portlon Trust, which generated turnover in the State in 2018 and 2019 (the “Portlon Trust Portfolio Companies”):

Table 1: Portlon Trust Portfolio Companies	
Portfolio Company	Business Activity
[...]	Beef processing and supply, renewable energy and manufacture and supply of pet food.
[...]	Investment holding company. The company holds an investment in Blackrock Hospital Limited (“BHL”) and HCL and derives dividend income from this investment.
[...]	Provision of agricultural project management and administrative services. The company also holds an investment in BHL and derives dividend income from this investment.
[...]	Rental income from investment property held.
[...]	Rental income from investment properties held.
[...]	Provision of hangar and air transportation services.
[...]	Trading in quoted stocks and securities.
[...]	Rental income from investment properties held.
[...]	Construction and sale of residential properties.
[...]	The company holds investments in Marpole Limited (“Marpole”) and HCL.
[...]	The company holds an investment in Marpole.
[...]	The company holds an investment in HCL.

Source: the parties



6. The Portlon Trust owns Marpole, which is responsible for the operation and management of Galway Clinic, Doughiska, County Galway (the “Galway Clinic”). The Galway Clinic is a private healthcare provider active in the provision of a range of private healthcare services, including in-patient, day-care and out-patient healthcare services, and pathology and laboratory testing services. The Galway Clinic has 146 beds and 8 operating theatres located at its main premises in Doughiska, County Galway. It also operates an ‘outreach’ clinic in Raheen, County Limerick which comprises consultant suites and radiology services, including MRI scanning, and is used by consultants attached to the Galway Clinic to hold consultations with patients based in the Limerick area. The treatment of these patient takes place at the main Galway Clinic, however.
7. Currently, the Portlon Trust, through Parma, also holds [...] % of the issued share capital of BHL.¹ BHL is the parent company of, and holds [...] % of the shares in, Blackrock Clinic Limited (“BCL”), which is the operating entity of the Blackrock Clinic, a 168-bed private clinic in South County Dublin located at Rock Road, Blackrock, County Dublin (the “Blackrock Clinic”). The Blackrock Clinic is active in the provision of a broad range of private hospital services, which include in-patient, day-care and out-patient healthcare services, and pathology and laboratory testing services. The parties state in the notification that the Portlon Trust’s current shareholding in BHL does not enable it to exercise either sole or joint control of BHL for the purpose of section 16 of the Act.
8. The Portlon Trust, through Parma, currently holds [...] % of the issued share capital of Torcross, HMDL and HCL. HCL is responsible for the operation and management of Hermitage Medical Clinic located at Old Lucan Road, Fonthill, Dublin (the “Hermitage Clinic”). Torcross is the entity that holds the interests in the land on which Hermitage Clinic was constructed and is the holding company for a group of companies that includes HCL and HMDL. HMDL was incorporated as the entity responsible for overseeing the construction of the Hermitage Clinic. Neither Torcross nor HMDL generate any separate group turnover, other than the turnover that is generated from HCL. The parties state in the notification that the Portlon Trust’s current shareholdings

¹ Portlon’s shareholding in BHL has increased from [...] % to [...] % since notification of the Proposed Transaction to the Commission. The parties informed the Commission that Parma (through its affiliate Breccia Unlimited Company) acquired a shareholding of [...] % from Dornway Limited (“Dornway”) on 3 April 2020. The parties informed the Commission that the acquisition of Dornway’s shareholding did not result in a change of control in BHL ([...]).



in HCL does not enable it to exercise either sole or joint control of those entities for the purpose of section 16 of the Act.

9. Table 2 below sets out the Portlon Trust's shareholdings in companies providing healthcare services in the State.

Company Name	Portlon Trust's Shareholding	Location
BHL	[...]%	Dublin
HCL	[...]%	Dublin
Marpole	100% ²	Galway
Source: the parties		

10. Separate to this notification, in accordance with section 18(1)(a) of the Act, the Commission received two separate notifications in respect of the following proposed acquisitions by the Portlon Trust:

- the proposed acquisition from [...], of Dr Joseph Sheehan's [...]% shareholding in, and thus sole control of, BHL³; and,
- the proposed acquisition of the shareholdings of each of Tullycorbett Limited and Xroon Limited in BHL, and thus sole control of BHL⁴ (together the "Proposed BHL Transactions").

Therefore, the Commission's analysis of the competitive effects of the Proposed Transaction takes into account the possibility that the Portlon Trust would exercise sole control of BHL as a result of the implementation of one or more of the Proposed BHL Transactions.⁵

² The acquisition by Portlon of the remaining 25% shareholding in Marpole was notified separately to the Commission M-19/042 Portlon (Parma)/Galway Clinic. [A determination](#) was issued on 24 April 2020 by the Commission.

³ M/20/010 – Portlon (Parma)/ Blackrock was notified to the Commission on 19 March 2020.

⁴ M/20/015 – Portlon/ Blackrock (Tullycorbett/Xroon) was notified to the Commission on 14 April 2020.

⁵ In the particular circumstances of the Proposed Transaction and the Proposed BHL Transactions, the Commission did not consider it necessary to apply a priority principle whereby the first notified transaction (the Proposed Transaction) would be reviewed independently of the transactions which were notified subsequently (the Proposed BHL Transactions). The European Commission has previously applied a priority principle in reviewing notified mergers (e.g., M.6214 *Seagate Technology/The HDD Business of Samsung Electronics* (19 October 2011) and M.6203 *Western Digital Ireland/Viviti Technologies* (23 November 2011)).



11. For the financial year ending 31 March 2019, the Portlton Trust's worldwide turnover (including Parma's turnover) was approximately €[...] billion, of which approximately €[...] billion was generated in the State.

The Targets – HCL, HMDL and Torcross

12. Torcross is the entity that holds the interests in the land on which the Hermitage Clinic was constructed and currently operates as the holding company for a group of companies that includes HMDL and HCL. Neither Torcross nor HMDL generate any separate group turnover, other than the turnover that is generated from HCL.
13. HCL is active in the provision of a range of private healthcare services in the State including in-patient, day-care and out-patient healthcare services. The current shareholders of HCL are Parma [...], Ballymore [...], Xroon [...] and Torcross [...].
14. HCL is the entity responsible for the management and operation of the Hermitage Clinic. The Hermitage Clinic is a private hospital with 112 beds, 39 consultant suites, 8-bed intensive care unit/high dependency unit, and theatre suite of 7 operating rooms. The Hermitage Clinic provides privately-funded in-patient, day-care and out-patient healthcare services and pathology and laboratory testing services. It provides medical and surgical care across a range of specialities, including surgery, medicine, endoscopy, oncology and interventional diagnostics.
15. For the financial year ending 31 December 2019, HCL's worldwide turnover was approximately €[...] million, all of which was generated in the State.

Rationale for the Proposed Transaction

16. The parties state:

“The commercial objectives of the Portlton/Parma Group in relation to the Proposed Transaction is to increase its shareholding in private hospitals in which it has an existing investment with a view to investing in such hospitals to improve their service offerings.”



Contact with the Undertakings Involved

17. On 29 April 2020, the Commission served Requirements for Further Information (“RFIs”) on the Portlon Trust/Parma and HCL, pursuant to section 20(2) of the Act. On 26 May 2020, the Commission served an additional RFI on the Portlon Trust/Parma. The service of these RFIs adjusted the deadline within which the Commission had to conclude its assessment of the Proposed Transaction in Phase 1.
18. Upon receipt of full responses to all the RFIs from the Portlon Trust, Parma and HCL on 19 June 2020 (the “RFI Responses”), the “appropriate date” (as defined in section 19(6)(b)(i) of the Act) became 19 June 2020.⁶
19. During its investigation, the Commission requested and received, on an on-going basis, further information and clarifications from the undertakings involved in the Proposed Transaction.

Market Enquiries

20. During its investigation, the Commission conducted market enquiries which included issuing questionnaires to various parties active in the private healthcare services sector (including private hospitals and private health insurers) and engaging with government agencies such as the Health Service Executive (“HSE”). The Commission also engaged with the United Kingdom’s Competition and Markets Authority and the Netherlands Authority for Consumers and Markets in respect of their experience in the private healthcare sector.
21. The Commission received full responses from the majority of the parties it contacted and undertook a series of follow-up phone calls with the respondents.
22. During the Commission’s market enquiries, a potential concern was raised that following the implementation of the Proposed Transaction and one or both of the Proposed BHL Transactions, the Portlon Trust could be in a position to negotiate its contracts with private health insurers on a bundled hospital basis which could potentially lead to higher overall reimbursement rates and affect consumers’ health

⁶ The “appropriate date” is the date from which the time limits for making Phase 1 or Phase 2 determinations begin to run.



insurance premiums⁷. This potential concern is considered further in the competitive analysis of the Proposed Transaction below.

Third Party Submissions

23. No third party submission was received.

Competitive Analysis

Horizontal Overlap

24. There is a horizontal overlap between the parties' activities in the provision of private healthcare services in the State. Both the Portlón Trust and HCL directly or indirectly manage and operate private clinics in the State, i.e., the Galway Clinic and the Hermitage Clinic respectively.

25. The Commission considered the competitive effects of the Proposed Transaction by taking into account that the Portlón Trust may acquire sole control of BHL following implementation of one or both of the Proposed BHL Transactions.

Market Definition

Product Market Definition

26. In previous determinations, the Commission did not come to a definitive view on the precise relevant product market in respect of the provision of private healthcare services. In its determination in *M/16/055 – UPMC & Bon Secours / Druid Stone JV*,⁸ the Commission made reference to a potential market for the provision of radiotherapy services. In its determination in *M/19/042 – Portlón (Parma)/Galway Clinic*,⁹ the Commission made reference to a potential market for the provision of private

⁷ According to an ex-post analysis of private hospital mergers conducted by the Netherlands Authority for Consumers and Markets, there was an increase in prices paid by private health insurers to merged hospitals when compared to the prices of healthcare services provided by non-merged hospitals. (See: [Report on Price and volume effects of hospital mergers, investigation into effects of hospital mergers 2007-2014, published by the Netherlands Authority for Consumers and Markets, 8 December 2017.](#))

⁸ Determination *M/16/055 – UPMC & Bon Secours / Druid Stone JV*, available at: <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2017/04/M-16-055-Determination-UPMC-Bon-Secours-JV.pdf>.

⁹ Determination *M/19/042 – Portlón (Parma)/Galway Clinic*, available at: <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2019/12/M-19-042-Portlón-Parma-Galway-Clinic-public-determination.pdf>.



healthcare services and also considered whether the relevant product market could be defined more narrowly by defining separate potential markets for the provision of individual speciality healthcare services. In both cases, it was not necessary for the Commission to come to a definitive view on the relevant product market.

27. In relation to product market definition, the parties' Economist Report¹⁰ provided that *"the basic product is private healthcare services (covering inpatient, day-patient and outpatient) and the major providers include private hospitals, public hospitals and private healthcare clinics."*
28. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case. The Commission does not need to come to a definitive view on the precise relevant product market in this instance since its conclusion on the likely competitive impact of the Proposed Transaction will be unaffected whether the precise relevant product market is defined narrowly (e.g., separate potential markets for the provision of each speciality healthcare service) or more broadly (e.g., to encompass the provision of private healthcare services).
29. For the purposes of this determination, however, the Commission has followed the approach it took in its determination in *M/19/042 – Portlon (Parma)/Galway Clinic*¹¹ and assessed the likely competitive impact of the Proposed Transaction in both broad and narrow potential markets, namely: (i) the provision of private healthcare services¹²; and (ii) the provision of individual speciality healthcare services.

Geographic Market Definition

30. In its previous determination in *M/19/042 – Portlon (Parma)/Galway Clinic*¹³, the Commission examined the competitive impact of the relevant transaction by reference to potential regional and national geographic markets. The Commission does not need to come to a definitive view on the precise relevant geographic market in this instance, since its conclusion on the competitive impact of the Proposed Transaction will be

¹⁰ The parties submitted as part of the notification a report entitled "Parma's Proposed Acquisition(s) of Galway, Blackrock and Hermitage: An Economics of Competition Policy report" prepared by Professor Francis O'Toole dated 19 March 2020 (the "Economist Report").

¹¹ See footnote 9.

¹² Note, the Commission does not need to take a definitive view on whether the provision of private healthcare services includes private provision in public hospitals and sports clinics for the purposes of this determination, see paragraph 38 below.

¹³ See footnote 9.



unaffected whether the relevant geographic market is defined as regional or national. Accordingly, for the purpose of its competitive assessment of the Proposed Transaction, the Commission has followed the approach taken in its determination in *M/19/042 – Portlon (Parma)/Galway Clinic*¹⁴ with respect to the potential geographic market.

31. Each of the Hermitage Clinic, the Galway Clinic and the Blackrock Clinic (the “Merging Clinics”)¹⁵ provides private healthcare services to patients in the State. The majority of the turnover of each of the Merging Clinics is generated in the State.
32. The parties’ Economist Report¹⁶ provided *“if the CCPC decide to view the market on a regional geographic basis, the author notes that the only geographic overlap in the Parties’ activities would arise in the Dublin/Leinster region, since Galway would be regarded as being active only in the West/North region and it seems most unlikely that the reach of Hermitage would extend in any significant manner into the West/North region.”*
33. Information provided by the parties in response to the RFI served to Portlon/Parma in respect of *M/19/042 - Portlon (Parma)/Galway Clinic*¹⁷ indicates that [...] % of the Galway Clinic’s patients come from the West Region¹⁸ and over [...] % of the Hermitage Clinic’s patients come from the Dublin/Leinster Region.¹⁹ Information provided by the parties in response to the RFI served on BHL in respect of *M/20/010 – Portlon (Parma)/Blackrock*, indicates that [...] % of the Blackrock Clinic’s patients come from the Dublin/Leinster Region. As such, the Commission considers that there is a minimal potential overlap between the patients served by: (i) the Galway Clinic and the Hermitage Clinic; and (ii) the Galway Clinic and the Blackrock Clinic. Accordingly, the Commission does not consider it appropriate to examine the potential effects of the Proposed Transaction in the markets identified in paragraph 29 in the West Region.

¹⁴ See footnote 9.

¹⁵ As noted at paragraphs 10 and 25 above, the Commission has taken into account that the Portlon Trust may acquire sole control of BHL following implementation of one or both of the Proposed BHL Transactions.

¹⁶ See footnote 10.

¹⁷ See footnote 9.

¹⁸ The West Region comprises the territory of Galway City, the regional capital, as well as the counties of Galway, Mayo and Roscommon.

¹⁹ The Dublin/Leinster Region comprises the counties of Carlow, Dublin, Kildare, Kilkenny, Laois, Longford, Louth, Meath, Offaly, Westmeath, Wexford and Wicklow.



34. Furthermore, patients may be required to travel a longer distance to avail of appropriate speciality treatment, as not all hospitals offer all complex procedures. Therefore, with regard to the potential geographic market for the provision of private speciality healthcare services, the Commission understands that the more complex the treatment and/or procedure, the wider the geographic area from which a hospital is likely to draw patients. Information provided by the parties is consistent with this view. In addition, a patient's choice of private hospital in respect of a speciality healthcare service is strongly influenced by the decision taken by a patient's GP to refer the patient to a particular consultant. However, consistent with the approach taken in its determination in *M/19/042 – Portlón (Parma)/Galway Clinic*²⁰ which did not come to a definitive view in respect of the geographic market for the provision of private speciality healthcare services, the Commission has analysed the competitive effects of the Proposed Transaction in the provision of private speciality healthcare services in: (i) the State; and (ii) the Dublin/Leinster Region.
35. Accordingly, for the purposes of its review of the competitive effects of the Proposed Transaction, the Commission has examined the Proposed Transaction by reference to the potential markets identified in paragraph 29 above in each of: (i) the State; and (ii) the Dublin/Leinster Region.

The Provision of Private Healthcare Services

Private Healthcare Services in the State

36. Paragraph 3.1 of the Commission's Merger Guidelines²¹ states that "*A central element in assessing the competitive impact of a merger is identifying its effect on market structure.*" Market structure can be characterised by the number, size and distribution of firms in a market. A merger or acquisition will have an impact on market structure as the merging parties which were two firms pre-acquisition become one firm post-acquisition.
37. Table 3 below shows that the Merging Clinics' combined estimated share of revenue generated from the provision of private healthcare services in the State was

²⁰ See footnote 9.

²¹ Guidelines for Merger Analysis, adopted by the Commission on 31 October 2014 (the "Commission's Merger Guidelines").



approximately [...] % in 2019, if private healthcare services provided by public hospitals in the State are taken into account. This figure rises to [...] % if private healthcare services provided by public hospitals in the State are excluded.

38. For the purposes of this determination, the Commission does not need to take a definitive view on whether or not the potential market for the provision of private healthcare services in the State includes private healthcare services provided by public hospitals. This is because, regardless of whether private healthcare services provided by public hospitals are included or excluded from the total potential market for the provision of private healthcare services in the State, the Merging Clinics' combined estimated market share would not significantly exceed the market share of their nearest competitor.

Table 3: Private Health Services Providers' Estimated Market Share by revenue in the State in 2019		
Private Healthcare Provider	Estimated Market Share (including private provision in Public hospitals)	Estimated Market Share (excluding private provision in Public hospitals)
Bon Secours Health System	[10-20]%	[15-25]%
Mater Private Group	[10-20]%	[15-15]%
St. Vincent's Private Hospital	[0-10]%	[5-15]%
Beacon Hospital	[0-10]%	[0-10]%
Blackrock Clinic	[0-10]%	[0-10]%
Galway Clinic	[0-10]%	[0-10]%
Hermitage Clinic	[0-10]%	[0-10]%
Sports Surgery	[0-10]%	[0-10]%
Other private hospitals/clinics	[0-10]%	[5-15]%
Total	100.0%	100.0%
Merging Clinics Combined	[10-20]%	[15-25]%
Pre-merger HHI²²	711	1299
Post-merger HHI²³	883	1726
Change in HHIs	172	427

Source: based on information provided by the parties

39. Market concentration refers to the degree to which production/supply in a particular market is concentrated in the hands of a few large firms. The most commonly used measure of concentration is the Herfindahl-Hirschman Index ("HHI"), which is defined

²² Before implementation of the Proposed Transaction and the Proposed BHL Transactions.

²³ After implementation of the Proposed Transaction and one or both of the Proposed BHL Transactions.



as the sum of the squares of the market shares of all firms participating in the market. According to the Commission's Merger Guidelines²⁴, any market with a post-merger HHI greater than 1,000 may be regarded as concentrated and any market with a post-merger HHI greater than 2,000 may be regarded as highly concentrated. In a concentrated market, a change in the pre-merger HHI compared to the post-merger HHI of less than 250 is "*unlikely to cause concern*". In a highly concentrated market, a change in the pre-merger HHI compared to the post-merger HHI of less than 150 is "*unlikely to cause concern*". Therefore, if the post-merger HHI is above 2,000 and the change in the HHI is greater than 150, this indicates that firms in that market may be able to exercise market power.

40. Based on the market share estimates set out in Table 3 above, the Commission is of the view that, when the provision of private healthcare services in public hospitals is included, the market for the provision of private healthcare services in the State is not concentrated with a pre-transaction HHI of just over 700. Following implementation of the Proposed Transaction and one or both of the Proposed BHL Transactions, the HHI would remain below 900 and the change in the HHI would be less than 200. Pursuant to the Commission's Merger Guidelines, such HHI levels indicated that the Proposed Transaction was unlikely to raise competition concerns on this basis.
41. However, if the provision of private healthcare services in public hospitals is excluded, the pre-transaction HHI is just below 1400 which suggests that the market is concentrated. In addition, following implementation of the Proposed Transaction and one or both of the Proposed BHL Transactions, the HHI would increase to 1750 and the change in the HHI would be more than 250. Pursuant to the Commission's Merger Guidelines, such HHI levels indicated that the Proposed Transaction, in combination with one or both of the Proposed BHL Transactions, could raise competition concerns and an intensification of the analysis of the likely impact of the three transactions was required.
42. However, the Commission's analysis found that, even on the basis of a market for the provision of private healthcare services which excludes the provision of private healthcare services in public hospitals, there are a number of competitors of the

²⁴ Commission's Merger Guidelines, paragraph 3.10.



Merging Clinics, offering a range of private healthcare services, which have a strong incentive to compete with the Merging Clinics. Such competitors include Bon Secours Health System, Mater Private Group, St. Vincent's Private Hospital and the Beacon Hospital.

43. The Commission considers that these competing private hospitals currently exert a competitive constraint on the Merging Clinics in respect of the provision of private healthcare services in the State. In particular, Mater Private Group and Bon Secours Health System are private hospital groups which operate at a national level. As set out in Table 3 above, in 2019, the shares of revenue generated by these private hospital groups in the State were of a similar level to the combined share of the Merging Clinics (Mater Private Group at [10-20]% and Bon Secours Health System at [10-20]%). The Commission considers that these individual private hospitals and private hospital groups would continue to exert a competitive constraint on the Merging Clinics following the implementation of the Proposed Transaction and one or both of the Proposed BHL Transactions.
44. Furthermore, the Commission's market enquiries indicated that the private healthcare sector in the State is not running at full capacity in respect to bed occupancy and operating theatre utilisation.²⁵ There appears to be some evidence that competitors of the Merging Clinics have an element of spare capacity and have the ability to continue to exert a competitive constraint on the Merging Clinics in the provision of private healthcare services in the State following the implementation of the Proposed Transaction and either or both of the Proposed BHL Transactions.²⁶
45. In light of the above, the Commission considers that the Proposed Transaction is unlikely to raise any horizontal competition concerns in relation to the provision of private healthcare services in the State.

²⁵ [...]. Information provided by the parties suggested that the Galway Clinic, Blackrock Clinic and Hermitage Clinic's bed occupancies are between [...] and theatre utilisation is around [...].

²⁶ As part of its competitive assessment, the Commission has taken into account the fact that, although some private hospitals need to reduce bed capacity slightly to comply with the HSE's current COVID-19 social distancing guidelines, most private hospitals' total capacity has largely remained unchanged. In this regard, the parties have indicated to the Commission that any reductions in bed capacity that have been required to comply with social distancing guidelines have not exceeded [...]% of the total bed capacity. As of the date of this determination, theatre activity at the private hospitals has resumed and is expected to remain largely unaffected by the HSE's social distancing guidelines.



Impact on the Merging Clinics' negotiating position with private health insurers

46. As set out in paragraph 22 above, during the Commission's market enquiries, a concern was raised in relation to the potential impact of the Proposed Transaction and one or both of the Proposed BHL Transactions on the Merging Clinics' negotiation position with private health insurers. Therefore, the Commission has examined whether following implementation of the Proposed Transaction and one or both of the Proposed BHL Transactions, the Merging Clinics' ability to negotiate on a collective basis with private health insurers could result in an increase to reimbursement rates for the Galway Clinic and the Hermitage Clinic with such increases being passed on to consumers in the form of higher private health insurance premiums.
47. In the State, the cost of over 90% of all private healthcare services are covered by patients' private health insurance, with three private health insurers (VHI, Laya and Irish Life) providing around 90% of cover.
48. The Commission understands that reimbursement rates are currently negotiated between private health insurers and individual private hospitals on a procedure-by-procedure basis. Most routine procedures carry a fixed reimbursement rate, which covers, for example, technical input, nursing, the majority of medication and a fixed number of nights' stay. Most of the main providers of private healthcare services in the State provide a full range of routine procedures. Routine procedures represent the vast majority of procedures reimbursed under private health insurance in the State.
49. Private health insurers differentiate between different categories of private hospital depending on the complexity of the services offered by the individual hospital. This differentiation is reflected in the levels of private health insurance purchased by consumers. For example, a consumer may pay a higher premium in order to access the full range of private hospitals available, including those hospitals which offer the most complex care.
50. The Commission understands that the Blackrock Clinic, Mater Private Dublin and the Beacon Hospital are considered as high tech private hospitals which have the ability to provide a range of high-intensity, complex procedures which other private hospitals do not provide. In general, procedures performed in these hospitals command the highest reimbursement rates. The Hermitage Clinic and the Galway Clinic are categorised



alongside the Mater Private Cork and Bon Secours hospitals and these hospitals generally command a lower reimbursement rate.

51. Information provided by the parties indicated that “[...]”
52. The Commission considers that: (i) the Merging Clinics’ combined market share at a national level is not sufficient for a collective negotiation to be successful in raising the prices charged to insurers. Negotiations between private health insurers and private hospitals take account of a number of factors including, for example, market rates across each of its private hospital contracts, inflation, location of the hospital, patient profile, proportion of high intensity procedures, any hospital specific accreditations or certifications, and national pay awards; and (ii) given the availability of excess capacity and range of competitors in the provision of private healthcare in the State, the Commission does not consider that an attempt to increase reimbursement rates is likely to be successful.
53. Furthermore, the Commission understands from its market enquiries that for certain private hospital groups operating in the State, private health insurers can and do negotiate separate agreements with different categories of private hospital within the same parent hospital group. This indicates that the main private health insurers currently have a certain level of negotiating power in their negotiations with private hospital groups.
54. In light of the above, the Commission considers that the Proposed Transaction (and the Proposed BHL Transactions) are unlikely to raise any horizontal competition concerns in respect of the Portlon Trust’s ability to unilaterally increase insurance reimbursement rates in respect of the provision of private healthcare services in the Dublin/Leinster Region and in the State.

Provision of Private Healthcare Services in the Dublin/Leinster Region

55. Following the implementation of the Proposed Transaction and either or both of the Proposed BHL Transactions, the Portlon Trust would exercise sole control over both the Hermitage Clinic and the Blackrock Clinic which are both located in the Dublin/Leinster Region. Accordingly, the Commission has assessed the competitive effects of the Proposed Transaction on the provision of private healthcare services in the



Dublin/Leinster Region, with the assumption that the Portlón Trust will also acquire sole control of the Blackrock Clinic pursuant to one or more of the Proposed BHL Transactions.

56. Table 4 below shows that the Blackrock Clinic and Hermitage Clinic's combined estimated share by revenue generated from the provision of private healthcare services in the Dublin/Leinster Region was approximately [15-25]% in 2019, if private healthcare services provided by public hospitals are taken into account. This figure rises to [20-30]% if private healthcare services provided by public hospitals are excluded.

Table 4: Private Health Services Providers' Estimated Market Share by revenue in Dublin/Leinster in 2019		
Private Healthcare Provider	Estimated Market Share (Including private provision in public hospitals)	Estimated Market Share (Excluding private provision in public hospitals)
Bon Secours (Glasnevin)	[0-10]%	[0-8]%
Mater Private Group	[10-20]%	[10-20]%
St. Vincent's Private Hospital	[10-20]%	[10-20]%
Beacon Hospital	[10-20]%	[10-20]%
Blackrock Clinic	[10-20]%	[10-20]%
Hermitage Clinic	[0-10]%	[0-10]%
Sports Surgery	[0-10]%	[0-10]%
Other Private Hospitals/Clinics	[0-10]%	[0-10]%
Total	100.0%	100.0%
Blackrock Clinic and Hermitage Clinic Combined	[15-15]%	[20-30]%
Pre-merger²⁷	945	1448
Post-merger²⁸	1143	1747
Change in HHIs	198	299

Source: Based on information provided by parties

57. Based on the market share estimates set out in Table 4 above, the Commission is of the view that, where the provision of private healthcare services in public hospitals is included, the market for the provision of private healthcare services in the Dublin/Leinster Region is not concentrated with a pre-transaction HHI of below 1000. Following implementation of the Proposed Transaction and one or both of the Proposed BHL Transactions, the HHI would increase to just over 1100 but the change in the HHI would be less than 250. Pursuant to the Commission's Merger Guidelines, such HHI

²⁷ Before implementation of the Proposed Transaction and the Proposed BHL Transactions.

²⁸ After implementation of the Proposed Transaction and one or both of the Proposed BHL Transactions.



levels indicated that the Proposed Transaction, together with the Proposed BHL Transactions, was unlikely to raise competition concerns.

58. However, if the provision of private healthcare services in public hospitals is excluded, the pre-transaction HHI is just over 1400 which suggests that the market is concentrated on this basis. In addition, following implementation of the Proposed Transaction and one or both of the Proposed BHL Transactions, the HHI would increase to just below 1800 and the change in the HHI would be more than 250. Pursuant to the Commission's Merger Guidelines, such HHI levels indicated that the Proposed Transaction, in combination with one or both of the Proposed BHL Transactions, could raise competition concerns and an intensification of the analysis of the likely impact of the Proposed Transaction in the Dublin/Leinster Region was required.
59. However, the Commission's analysis found that, even on the basis of a market for the provision of private healthcare services which excludes the provision of private healthcare services in public hospitals, there are a number of competitors operating in the Dublin/Leinster Region which have a strong incentive to continue to compete with the Hermitage Clinic and the Blackrock Clinic. Such competitors, which offer a range of private healthcare services similar to the Hermitage Clinic and Blackrock Clinic, include Bon Secours (Glasnevin), Mater Private Group, St. Vincent's Private Hospital and the Beacon Hospital. These private hospitals generated revenue shares in the Dublin/Leinster Region, which were comparable to the Hermitage Clinic and Blackrock Clinic's combined share (Mater Private Group at [10-20]%, St Vincent's Private Hospital at [10-20]%, the Beacon Hospital at [10-20]% and Bon Secours (Glasnevin) at [0-10]%). The Commission considers that these private healthcare providers will continue to exert a competitive constraint on the Hermitage Clinic and the Blackrock Clinic following the implementation of the Proposed Transaction and either or both of the Proposed BHL Transactions in the Dublin/Leinster Region.
60. Therefore, the Commission considers that the Proposed Transaction is unlikely to raise any horizontal competition concerns in respect of the provision of private healthcare services in the Dublin/Leinster Region.

The Provision of Private Speciality Healthcare Services

Private Speciality Healthcare Services in the State



61. The Merging Clinics provide a broad range of other speciality healthcare services, such as, cardiology, general surgery, oncology, radiology, surgical urology, rheumatology/GI infusions, medical and surgical endoscopy, and radiotherapy services. This broad range of services indicates that while each clinic may have a focus on one or more speciality



healthcare service, generally speaking, the activities of the Merging Clinics are not highly specialised in one area of speciality healthcare.

62. Tables 5 and 6 below provide the Merging Clinics' top five speciality healthcare services according to their estimated combined market shares in the State in 2018²⁹ including and excluding private provision in public hospitals, respectively.

Table 5: The Merging Clinics' top five specialities³⁰ by estimated combined market shares in the State in 2018 (including private provision in public hospitals)				
Specialty Services	Market shares in the State³¹			
	The Hermitage Clinic	The Blackrock Clinic	The Galway Clinic	Combined
Cardiothoracic Procedures ³²	0%	[20-30]%	[0-10]%	[25-35]%
Cardiology ³³	[0-10]%	[0-10]%	[5-15]5%	[20-30]%
General endoscopy procedures ³⁴	[0-10]%	[0-10]%	[0-10]%	[20-30]6%
Neuro/Spinal ³⁵	[10-20]%	[0-10]%	[0-5]%	[15-25]%
Orthopaedic ³⁶	[0-10]%	[0-10]%	[0-10]%	[15-25]%
Source: the parties' best estimates				
Table 6: The Merging Clinics' top five specialities by estimated combined market shares in the State in 2018 (excluding private provision in public hospitals)				
Specialty Services	Market shares in the State³⁷			
	The Hermitage Clinic	The Blackrock Clinic	The Galway Clinic	Combined
Cardiothoracic Procedures	0%	[30-40]%	[0-10]%	[35-45]%
Cardiology	[0-10]%	[5-15]%	[10-20]%	[25-35]%
General endoscopy procedures	[10-20]%	[10-20]%	[10-20]%	[35-45]%
Neuro/Spinal	[20-30]%	[0-10]%	[0-10]%	[25-35]2%
Orthopaedic	[0-10]%%	[0-10]%	[0-10]%	[15-25]%
Source: the parties' best estimates				

63. Tables 5 and 6 indicate that the top five speciality healthcare services of the Merging Clinics by estimated combined market shares are: cardiothoracic procedures,



cardiology, general endoscopy procedures, neuro/spinal procedures and orthopaedics. For the top five speciality healthcare services, each of the Merging Clinics' estimated market shares varies, for example, the Galway Clinic and the Hermitage Clinic's share in respect of neuro/spinal varies from [0-5]% to [20-30]% respectively, excluding private provision in public hospitals, and from [0-5]% to [10-20]% respectively if private provision in public hospitals is included. This demonstrates that the Galway Clinic is unlikely to compete closely with the Hermitage Clinic in respect of neuro/spinal services.

64. As demonstrated by Tables 5 and 6, the estimated combined market shares of the Merging Clinics in respect of their top five speciality healthcare services are above 30% in respect of the private provision of: (i) neuro/spinal procedures ([30-35]% excluding private neuro/spinal services provided by public hospitals); (ii) cardiology ([30-35]% excluding private cardiology service provided by public hospitals); (iii) cardiothoracic procedures ([30-35]% including private cardiothoracic procedures provided by public hospitals in the State and [35-45]% excluding private cardiothoracic procedures provided by public hospitals in the State); and (iv) general endoscopy procedures ([35-45]% excluding private endoscopy procedures provided by public hospitals in the State).

²⁹ The parties provide that only "guesstimates" from 2018 are feasible primarily because the "bottom up" methodology for estimating the total segment size heavily relies on the internal "guesstimates" for competitors in respect of that year and it is not possible to provide "guesstimates" for such competitors for multiple years.

³⁰ The provision of general emergency procedures ("ER") accounts for almost [...] of Galway Clinic's 2019 revenues. However, Blackrock Clinic does not categorise ER as one of its specialities. The Commission considers that as significant proportion of admissions to ER are unplanned, it is not appropriate to consider ER as a speciality for the purpose of this determination.

³¹ These estimates are provided by the parties on a best efforts basis in respect of 2018.

³² The estimated market share in respect of cardiac surgery is calculated based on the number of coronary artery bypass graftings in 2018.

³³ The estimated market share in respect of cardiology is calculated based on the number of angiograms/angioplasties in 2018.

³⁴ The estimated market share in respect of endoscopy procedures is calculated based on the number of endoscopy procedures in 2018.

³⁵ The estimated market share in respect of neurosurgery/spinal procedure is calculated based on the number of hip procedures in 2018.

³⁶ The estimated market share in respect of Orthopaedic is calculated based on the number of hip / knee replacements in 2018.

³⁷ As above, these estimates are provided by the parties on a best efforts basis in respect of 2018.



The Merging Clinics' activities in the State in respect of these four speciality healthcare services are discussed further in paragraphs 66 to 79 below.

65. The Commission has also examined the Merging Clinics' activities in the State in respect of the remaining speciality healthcare service set out in Tables 5 and 6 above, namely orthopaedic care. The Commission has found that in respect of this speciality healthcare service, there are a number of competitors which will continue to exert a competitive constraint on the Merging Clinics following the implementation of the Proposed Transaction and one or both of the Proposed BHL Transactions. Therefore, the Commission does not set out a detailed analysis of the Merging Clinics' activities in the State in respect of this speciality healthcare service.

Cardiothoracic Procedures³⁸

66. As set out in Tables 5 and 6 above, the combined estimated market share of the Merging Clinics in respect of private cardiothoracic procedures in the State was approximately [30-35]% in 2018 if private healthcare services provided by public hospitals in the State are taken into account. This figure rises to [40-45]% if private healthcare services provided by public hospitals in the State are excluded.
67. Both the Galway Clinic and the Blackrock Clinic provide private cardiothoracic procedures but the Hermitage Clinic does not. The Blackrock Clinic's estimated share in respect of cardiothoracic procedures in the State was [20-30]% for 2018, while the Galway Clinic's estimated share was [0-10]%.
68. Information provided by the parties indicates that there are a limited number of private hospitals providing private cardiothoracic procedures to patients, including the Mater Private Group (with an estimated share of around [20-30]%), the Beacon Hospital (with an estimated share of around [0-10]%) and St. Vincent's Private Hospital (with an estimated share of around [0-10]%)³⁹. Each of these private hospitals is located in the Dublin/Leinster Region and are considered to be closer competitors to the Blackrock Clinic in respect of private cardiothoracic procedures/ than the Galway Clinic which is located in the West Region.

³⁸ Cardiothoracic surgery involves the surgical treatment of diseases affecting organs inside the thorax-generally conditions of the heart and lungs.

³⁹ When private healthcare services provided by public hospitals are taken into account.



69. Information provided by the parties suggested that around [20-30]% of private cardiothoracic procedures are provided by public hospitals, therefore, private provision in public hospitals places a more important competitive constraint on the cardiothoracic procedures offered by private clinics/hospitals than on other specialities in the State, as the majority of private hospitals do not offer highly complex cardiothoracic procedures. These public hospitals will continue to exert a competitive constraint on the Merging Clinics in respect of private provision of cardiothoracic procedures. Therefore, the Commission considered the inclusion of private provision in public hospitals in the estimated combined market share of the Merging Clinics most relevant in respect of private cardiothoracic procedures/cardiac procedures.
70. In light of the above, the Commission considers that private hospitals such as, Mater Private Group, Beacon Hospital, St. Vincent's Private Hospital, and the private provision in public hospitals such as Beaumont Hospital, the Mater Public Dublin, St. James's Hospital, St. Vincent's Public will continue to exert a competitive constraint on the Merging Clinics in respect of private cardiothoracic procedures following the implementation of the Proposed Transaction and one or both of the Proposed BHL Transactions.

*Cardiology*⁴⁰

71. Based on information provided by the parties, the combined estimated market share of the Merging Clinics in respect of private cardiology services in the State was approximately [20-30]% in 2018 if private healthcare services provided by public hospitals in the State are taken into account. This figure rises to [30-35]% if private healthcare services provided by public hospitals in the State are excluded.
72. Information provided by the parties indicated that there are a number of private hospitals providing private cardiology services to patients in the State, such as, Mater Private Group (with an estimated share of around [20-30]%), Bon Secours Group Health System (with an estimated share of around [10-20]%), the Beacon Hospital (with an estimated share of around [0-10]%), St. Vincent's Private Hospital (with an estimated

⁴⁰Cardiology care involves a number of procedures, including cardiac catheterisation, coronary angioplasty.



share of around [0-10%]⁴¹. The Commission considers that these competitors will continue to exert a competitive constraint on the Merging Clinics in respect of private cardiology services following the implementation of the Proposed Transaction and one or both of the Proposed BHL Transactions.

General endoscopy procedures

73. The combined estimated market share of the Merging Clinics in respect of private endoscopy procedures in the State was approximately [20-30]% in 2018 if private healthcare services provided by public hospitals are taken into account. This figure rises to [40-45]% if private healthcare services provided by public hospitals are excluded.
74. Information provided by the parties indicated that there are a number of private hospitals providing private endoscopy procedures to patients, such as, Bon Secours Group Health System (with an estimated share of around [20-30]% excluding private provision in public hospitals), Mater Private Group (with an estimated share of around [5-15]% excluding private provision in public hospitals), the Beacon Hospital (with an estimated share of around [5-15]% excluding private provision in public hospitals), St. Vincent's Private Hospital (with an estimated share of around [5-15]% excluding private provision in public hospitals) in the State. The Commission considers that these competitors will continue to exert a competitive constraint on the Merging Clinics in respect of private endoscopy procedures services following the implementation of the Proposed Transaction and one or both of the Proposed BHL Transactions. In addition, almost all public hospitals provide private endoscopy procedures in the State. Information provided by the parties suggested that around [40-50]% of the private endoscopy procedures are provided by public hospitals. These public hospitals will continue to exert a competitive constraint on the Merging Clinics in respect of private endoscopy procedures.

Neuro/Spinal Procedures⁴²

⁴¹ When private healthcare services provided by public hospitals are taken into account. The estimated market shares for the Mater Private Group, Bon Secours Group Health System, the Beacon Hospital, and St. Vincent's Private Hospital are [20-30]%, [10-20]%, [5-15]% and [5-15]% respectively in respect of private cardiology services, when excluding private provision in public hospitals.

⁴² Neuro/Spinal procedures are primarily offered within the broader specialty category of spinal care. Spinal surgeries represent a significant proportion of spinal care and primarily consist of micro-discectomy, laminectomy, disc decompression and spinal fusion. Most of the Hermitage Clinic's spinal procedures are [...].



75. The combined estimated market share of the Merging Clinics in respect of private neuro/spinal procedures in the State was approximately [20-30]% in 2018 if private healthcare services provided by public hospitals in the State are taken into account. This figure rises to [30-35]% if private healthcare services provided by public hospitals are excluded.
76. The Hermitage Clinic and the Blackrock Clinic's estimated market shares in respect of private Neuro/Spinal procedures in the State are estimated at [10-20]% and [0-10]% respectively, when including private provision in the public hospitals and [20-30]% and [0-10]% respectively, if excluding private provision in public hospitals for 2018. These shares indicate that for neuro/spinal procedures, the Hermitage Clinic is unlikely to compete closely with the Blackrock Clinic or the Galway Clinic.
77. Furthermore, information provided to the Commission by the parties indicates that there are a number of private hospitals providing private neuro/spinal procedures to patients in the State. These hospitals include Mater Private Group (with an estimated share of around [10-20]%), Bon Secours Group Health System (with an estimated share of around [5-15]%), Beacon Hospital (with an estimated share of around [5-15]%), St. Vincent's Private Hospital (with an estimated share of around [0-5]%), and Sports Surgery Santry.⁴³
78. The Commission considers that Mater Private Group, Bon Secours Group Health System, the Beacon Hospital, St. Vincent's Private Hospital, and Sports Surgery Santry would continue to exert a competitive constraint on the Merging Clinics in respect of private neuro/spinal services following the implementation of the Proposed Transaction and one or both of the Proposed BHL Transactions.
79. In addition, the Commission understands that public hospitals may also exercise a constraint on private healthcare providers in the provision of complex neuro/spinal procedures. Beaumont Hospital in Dublin carries out the most complex neuro/spinal procedures in the State. These services will continue to be available to all patients

⁴³ When private healthcare services provided by public hospitals are taken into account. The estimated market shares for the Mater Private Group, Bon Secours Group Health System, the Beacon Hospital, and St. Vincent's Private Hospital are [20-30]%, [10-20]%, [5-15]%, and [0-10]% respectively when excluding private provision in public hospitals.



following the implementation of the Proposed Transaction and one or both of the Proposed BHL Transactions.

80. Therefore, the Commission considers that the Proposed Transaction is unlikely to raise any horizontal competition concerns in respect of any of the private speciality healthcare services offered by the Merging Clinics in the State.

Private Speciality Healthcare Services in the Dublin/Leinster Region

81. Tables 7 and 8 below provide the Merging Clinics' top five speciality healthcare services according to their estimated combined market shares in the Dublin/Leinster Region in 2018 including and excluding private provision in public hospitals, respectively. As indicated in paragraph 67, the Hermitage Clinic does not provide cardiothoracic procedures therefore, if the geographic market is the Dublin/Leinster Region, there is no horizontal overlap in the Dublin/Leinster Region in respect of the private provision of cardiothoracic procedures.

Table 7: The Blackrock Clinic and the Hermitage Clinic's top five specialities⁴⁴ by estimated combined market shares in the State in 2018 (including private provision in public hospitals)			
Specialty Services	Market shares in the State⁴⁵		
	The Hermitage Clinic	The Blackrock Clinic	Combined
Cardiology	[10-20]%	[0-10]%	[15-25]%
General endoscopy procedures	[5-15]%	[10-20]%	[20-30]%
Neuro/Spinal	[0-10]%	[15-25]%	[20-30]%
Orthopaedic	[5-15]%	[10-20]%	[20-30]%
General Medicine	[0-10]%	[0-10]%	[10-20]%

Source: the parties' best estimates

⁴⁴ The provision of general emergency procedures ("ER") accounts for almost [...] % of Galway Clinic's 2019 revenues. However, Blackrock Clinic does not categorise ER as one of its specialities. The Commission considers that as significant proportion of admissions to ER are unplanned, it is not appropriate to consider ER as a speciality for the purpose of this determination.

⁴⁵ These estimates are provided by the parties on a best efforts basis in respect of 2018.



Table 8: The Blackrock Clinic and the Hermitage Clinic's top five specialities by estimated combined market shares in the State in 2018 (excluding private provision in public hospitals)			
Specialty Services	Market shares in the State⁴⁶		
	The Hermitage Clinic	The Blackrock Clinic	Combined
Cardiology	[10-20]%	[0-10]%	[20-30]%
General endoscopy procedures	[20-30]%	[15-25]%	[40-45]%
Neuro/Spinal	[0-10]%	[20-30]%	[30-40]%
Orthopaedic	[10-20]%	[10-20]%	[20-30]%
General Medicine	[10-20]%	[15-25]%	[30-35]%

Source: the parties' best estimates

82. As demonstrated by Tables 7 and 8, the estimated combined market shares of the Blackrock Clinic and the Hermitage Clinic in respect of their top five speciality healthcare services are below 30% in the Dublin/Leinster Region, if private healthcare services provided by public hospitals in the Dublin/Leinster Region are included. If private healthcare services provided by public hospitals in the Dublin/Leinster Region are excluded then the combined market shares of the Blackrock Clinic and the Hermitage Clinic are above 30% for three specialty healthcare services: (i) neuro/spinal procedures ([30-40]%), (ii) general endoscopy procedures ([40-45]%), and (iii) general medicine ([30-35]%). The Blackrock Clinic and the Hermitage Clinic's activities in the State in respect of these three speciality healthcare services are discussed further in paragraphs 84 to 87 below.
83. The Commission has also examined the Merging Clinics' activities in the Dublin/Leinster Region in respect of the remaining speciality healthcare services set out in Table 8 above, namely orthopaedics and cardiology. The Commission has found that in respect of each of these speciality healthcare services, there are a number of competitors which will continue to exert a competitive constraint on the Blackrock Clinic and the Hermitage Clinics following the implementation of the Proposed Transaction and one or both of the Proposed BHL Transactions. Therefore, the Commission does not set out a detailed

⁴⁶ These estimates are provided by the parties on a best efforts basis in respect of 2018.



analysis of the Blackrock Clinic and the Hermitage Clinic's activities in the Dublin/Leinster Region in respect of these speciality healthcare services.

84. **Private general endoscopy procedures:** information provided by the parties indicates that there are a number of private hospitals providing private endoscopy procedures to patients in the Dublin/Leinster Region, such as, Bon Secours Glasnevin (with an estimated share of around [10-20]% excluding private services in public hospitals), Mater Private Dublin (with an estimated share of around [10-20]% excluding private services in public hospitals), the Beacon Hospital (with an estimated share of around [10-20]% excluding the private services in the public hospitals), and St. Vincent's Private Hospital (with an estimated share of around [10-20]% excluding private services in public hospitals). The Commission considers that these competitors will continue to exert a competitive constraint on the Hermitage Clinic and Blackrock Clinic in respect of private endoscopy procedures services following the implementation of the Proposed Transaction and one or both of the Proposed BHL Transactions in the Dublin/Leinster Region. In addition, almost all public hospitals provide private endoscopy procedures in the Dublin/Leinster Region.
85. **Neuro/spinal procedures:** the combined estimated market shares of the Hermitage Clinic and the Blackrock Clinic in respect of neuro/spinal procedures is [30-40]% when excluding private services in public hospitals. Beaumont Hospital in Dublin carries out the most complex neuro/spinal procedures in the State. These services will continue to be available to all patients following the implementation of the Proposed Transaction. Following the implementation of the Proposed Transaction and one or both of the Proposed BHL Transactions, private provision in Beaumont Hospital and the Mater Private in particular will continue to exert a competitive constraint on the Heritage Clinic and Blackrock Clinic in the provision of neuro/spinal services in the Dublin/Leinster Region.
86. As indicated in paragraphs 77 and 78 above, there are a number of competitors (including Bon Secours Glasnevin, Mater Private Dublin, St. Vincent's Private Hospital, Beacon Hospital and Sports Surgery Clinic and the private provision of neuro/spinal services by public hospital) which would continue to exert a competitive constraint on the Hermitage Clinic and the Blackrock Clinic for the provision of private neuro/spinal



procedures in the Dublin/Leinster Region following implementation of the Proposed Transaction and one or both of the Proposed BHL Transactions.

87. **General Medicine:** the combined estimated market shares of the Hermitage Clinic and the Blackrock Clinic in respect of general medicine is just below [30-35]% when excluding private services in public hospitals. The vast majority of private hospitals in the Dublin/Leinster Region provide private general surgical procedures services, such as, Bon Secours Glasnevin, Mater Private Dublin, St. Vincent's Private in the State. These services will continue to be available to all patients following the implementation of the Proposed Transaction and one or both of the Proposed BHL Transactions. Following implementation of the Proposed Transaction and one or both of the Proposed BHL Transactions, these hospitals will continue to exert a competitive constraint on the Hermitage Clinic and Blackrock Clinic in the provision of general medicine in the Dublin/Leinster Region.
88. Therefore, the Commission considers that the Proposed Transaction is unlikely to raise any horizontal competition concerns in respect of any of the private speciality healthcare services offered by the Blackrock Clinic and the Hermitage Clinic in the Dublin/Leinster Region
89. In light of the above, the Commission considers that the Proposed Transaction is unlikely to raise any horizontal competition concerns in respect of any of the private speciality healthcare services offered by the Merging Clinics in the Dublin/Leinster Region and the State.

Vertical Relationship

90. The parties stated in the notification that there are no active referrals between the Merging Clinics. The Commission has not identified any existing vertical relationship between the parties in the State. On this basis, the Commission considers that the Proposed Transaction does not raise any vertical competition concerns in the State.

Conclusion

91. 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

92. No ancillary restraints were notified.



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 Portlon Trust, through its subsidiary Parma Investments Limited, would acquire the entire issued share capital, and thus sole control, of Torcross Limited, Hermitage Clinic Limited and Hermitage Medical Developments from Xroon Limited and Ballymore Ireland Group Limited, 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