

## **OFFICE FOR COMPETITION**

6 March 2014

### **COMP-MCCAA/06/14 – M&Z (Marketing) Limited /Poultry Products 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 of 13 February, 2014 pursuant to regulation 5 of the Control of Concentrations Regulations,**

**Having considered the provisions of the Control of Concentrations Regulations,**

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

#### **Facts**

1. On the 13 February, 2014, the Office for Competition received a notification of a proposed concentration pursuant to regulation 5 of the Control of Concentrations Regulations (hereinafter referred to as “the Regulations”) whereby, pursuant to a Sale of Business Agreement dated 17 January, 2014 (hereinafter referred to as “Agreement”), M&Z (Marketing) Limited (hereinafter referred to as “Notifying Party”), will acquire sole control of part of the business of Poultry Products Limited (hereinafter referred to as “PPL”).
2. The notification was filed and accepted on the 13 February, 2014 and was notified to the public through a notice that appeared in a newspaper on the 17 February 2014 and a public notice in the Government Gazette number 19,210 on the 18 February 2014.

#### **Parties**

3. The Notifying Party with registered office at 31, Old Bakery Street, Valletta, is a company specialising in the importation, distribution and marketing of products for the retail and catering industry. It is owned by M&Z Group Limited, Vadalà Holdings Limited and Alf Mizzi & Sons Limited, although the latter company has no voting rights in the Notifying Party. Its portfolio comprises of ambient, chilled and frozen food products as well as cleaning products concerning the home and personal care sector.

4. PPL with registered office at The Refinery, Mgieret Road, Marsa, is part of the group of companies of The Edible Oil Refining Company Limited which also includes Food Industries Limited, Margarine Manufacturing Co. Limited and Sun Chemicals Limited. PPL, amongst others, imports, stores and sells branded ice creams and frozen and chilled food products.

#### **Transaction**

5. Pursuant to the Agreement, it is proposed that the Notifying Party acquires from PPL that part of the business concerning the importation, storage and sale of ice creams, including the entire Unilever ice cream product range, and the frozen and chilled products, largely consisting of frozen vegetables, rabbits, chicken parts and bread. PPL's Holland and Barrett retail operations, its margarine, locally produced poultry products and cheese branded "Brazzale" are excluded from this transaction.
6. Further to a request by the Notifying Party for a derogation from the suspension obligation laid down in regulation 7(1) of the Regulations, the Director General of the Office for Competition granted on the 4 February 2014 a derogation from the suspension obligation as laid down in regulation 7(3) of the same Regulations on condition that the concentration is notified pursuant to regulation 5 of the Regulations.

#### **Notifiable Concentration**

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

#### **Threshold for Notification**

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

### **Simplified Procedure**

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

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

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

### **Conclusion**

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

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

**Sylvann Aquilina Zahra**  
Director General