

This is a review of the transactions notified to the Competition and Consumer Protection Commission (CCPC) in 2016 and an analysis of Irish merger control trends by comparison with previous years.

Background to Irish merger control in 2016

The remit of the CCPC is to determine whether a transaction notified to it under the Competition Act 2002 (as amended) would “substantially lessen competition” (the SLC test) in any market for goods or services in Ireland.

2016 saw a decrease of over 14% in the number of transactions notified to the CCPC compared to 2015. The fall in merger notifications (from 78 in 2015 to 67 in 2016) may be indicative of a number of factors (including a possible reluctance on the part of certain businesses to engage in M&A activity at this stage following the decision of the UK to leave the EU).

A similar trend is evident in the context of media mergers, which must be notified to both the CCPC and the Minister for Communications, Climate Action and Environment (**Minister**). The number of media mergers which were notified to the CCPC decreased from 7 in 2015 to 5 in 2016.

Consistent with the approach it has taken in the vast majority of all notified transactions to the CCPC since 2003, the CCPC did not prohibit any transaction in 2016. Only two acquisitions (Independent News & Media Holdings Ireland Ltd/CMNL Ltd and Bon Secours Health System/Barringtons Hospital) were the subject of an extended Phase 1 assessment, while only one transaction (PandaGreen/Greenstar) was the subject of a Phase 2 investigation. This compares with five transactions which were the subject of an extended Phase 1 assessment in 2015 and two transactions which were the subject of a Phase 2 investigation in 2015.

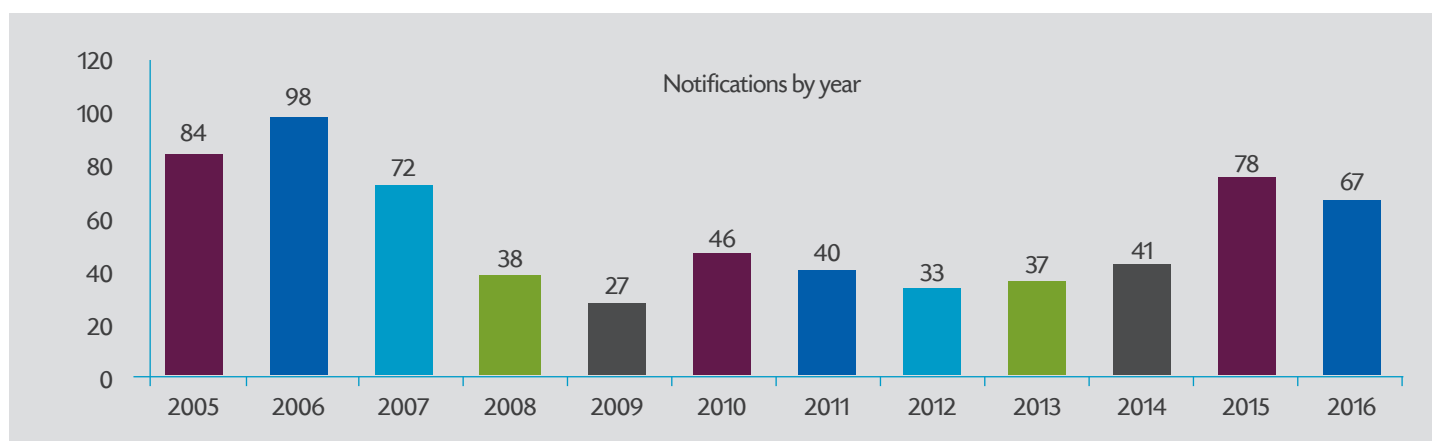
In 2016, the notifications submitted to the CCPC suggest that the most active sectors for M&A deals have been the commercial property, hotel and food and beverage sectors. Conversely, there has been a slight reduction in the number of transactions notified to the CCPC in the financial services, betting, energy/oil/fuel and healthcare/pharma/pharmacy/medical device industries.

Trends in Irish merger control during 2016

Notifications to and Determinations of the CCPC

- There were 67 notifications made to the CCPC in 2016, 11 fewer than were made to the CCPC in 2015 (i.e. 78). This represents a decrease of 14.1% in the number of notifications made to the CCPC in 2016 compared to 2015;
- The CCPC approved 59 of the transactions which were notified to it in 2016, compared with 67 in 2015 (1 notification was withdrawn and the balance of the notifications were carried over into 2017 for on-going assessment). Accordingly, 88% of the transactions which were notified to the CCPC in 2016 were approved compared to 85.9% in 2015;
- The CCPC started into 2017 with 7 notifications awaiting determination. By comparison, the CCPC started 2016 with 11 notifications awaiting determination. This represents a decrease of 36.36% in the number of notifications awaiting determination at the start of 2017 compared to 2016;
- There were fewer Phase 1 (or extended Phase 1) clearances in 2016 (58 compared with 65 in 2015, representing a decrease of 10.77%) and fewer Phase 2 clearances (1 compared with 2 in 2015, representing a decrease of 50%).

Number of Notifications (2005 – 2016):



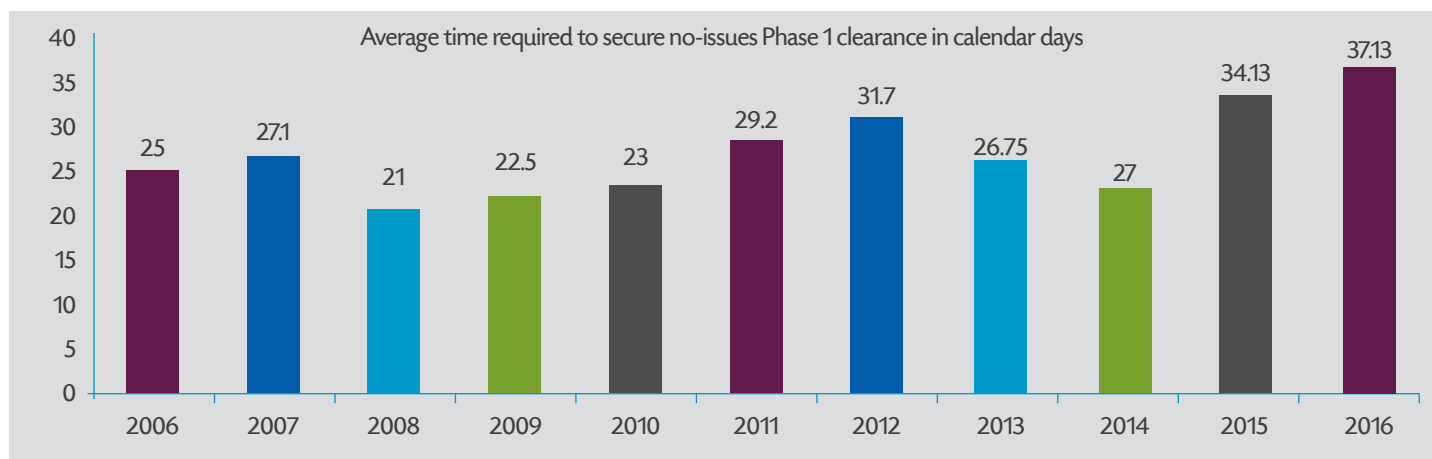
Note: The figure for 2014 represents the total number of notifications made in the 2014 calendar year to the Competition Authority (which existed until 31 October 2014) and the 10 notifications made to the CCPC under the new regime (which commenced operation on 31 October 2014).

- No notification was prohibited in 2016 (the same as in 2015);
- There was a decrease in the number of extended Phase 1 assessments carried out in respect of transactions notified in 2016 (2 compared with 5 in 2015);
- There was one Phase 1 clearance with commitments accepted by the CCPC in 2016 (compared to none in 2015);
- There was one Phase 2 clearance with commitments given by the notifying parties (PandaGreen/Greenstar) (the same as in 2015);
- There were no Phase 2 clearances with conditions imposed by the CCPC in 2016 (the same as in 2015);
- The CCPC made 3 Requests for Further Information in respect of transactions notified in 2016 (PandaGreen/Greenstar, Bon Secours Health System/Barringtons Hospital and Independent News & Media Holdings Ireland Ltd/CMNL Ltd) (compared to 7 in 2015);
- There were no voluntary notifications to the CCPC in 2016 (compared to one in 2015);
- One notification was made and then withdrawn before determination in 2016 (Joint Venture: Marino Point Port Company, Port of Cork et al) (compared to none in 2015).

Key time periods

- The average duration of a no-issues Phase 1 determination in 2016 in calendar days was 37.13, compared with 34.13 calendar days in 2015 (the average length of time in working days was 25.98 in 2016 compared to 23.77 in 2015);
- The average duration of an extended Phase 1 determination in calendar days in 2016 was 93.5 compared to 93.33 in 2015 (the average length of time in working days was 66.5 in 2016 compared to 64.67 in 2015);
- The average duration of a Phase 2 determination in calendar days was 190 compared to 160 in 2015 (the average length of time in working days was 131 (compared to 113 in 2015));
- The quickest Phase 1 approval in 2016 was given in 17 calendar days (12 working days) compared to 11 calendar days (7 working days) in 2015;
- The slowest no-issues Phase 1 approval in 2016 took 30 working days (i.e. the statutory time limit), as was also the case in 2015.

Average time-periods for decision-making by the CCPC (2006 – 2016):



Notifications by sector

- Commercial property – 8 notifications in 2016 (the same as in 2015);
- Hotels – 7 notifications in 2016 compared to 8 in 2015;
- Sport/betting – 1 notification in 2016 compared to 4 in 2015;
- Food/Drink – 9 notifications in 2016 (the same as in 2015);
- Energy/Oil/Fuel – 4 notifications compared to 6 in 2015;
- Healthcare/Pharmacy/Pharma/Medical Devices – 7 notifications compared to 9 in 2015;
- Financial services (including insurance, accountancy and funds) – 2 in 2016 compared to 4 in 2015;
- Media/telecoms/broadcasting – 6 in 2016 compared to 8 in 2015;
- Others in 2016 (including asset management, education, aircraft leasing, agri-business, distribution and re-selling of IT products, paper and packaging, advertising, taxi services, outsourcing, waste management, water and waste water treatment, motor sales and service, furniture, building materials and equipment manufacturing) – 23 notifications in 2016 compared to 18 in 2015.

Transactions Notified to the European Commission relating to Ireland

- A number of transactions involving Ireland as an important jurisdiction for analysis were notified to the European Commission in 2016 including: M.7930 ABP Group / Fane Valley Group / Slaney Foods; M.8010 Irish Life / Aviva Health / GloHealth; M.7905 Hammerson / Allianz Group / Dundrum Town Centre; M.8229 Hammerson / Irish Life / ILAC Shopping Centre; M.7986 Sysco / Brakes; M.7746 Teva / Allergan Generics; M.7818

McKesson / UDG Healthcare (Pharmaceutical Wholesale and Associated Businesses); M.7919 Sanofi / Boehringer Ingelheim Consumer Healthcare Business; and M.7975 Mylan / Meda. All of the above transactions were cleared, either conditionally or unconditionally.

- No transactions falling within the jurisdiction of the European Commission were referred back to the CCPC for assessment in 2016. Nor were any cases referred by the CCPC to the European Commission for review in 2016.

Media mergers

A look at the CCPC determinations in 2016 for media mergers compared to the determinations by the CCPC in the 12 months to 31 December 2015 shows the following trends:

- There was a decrease in the number of media mergers notified in 2016 with 5 media mergers notified to the CCPC in 2016 (compared to 7 in 2015);
- There were 4 Phase 1 approval determinations by the CCPC in respect of media mergers notified in 2016 (compared to 5 in 2015);
- There was the same number of extended Phase 1 assessments (1 in 2016 – Independent News & Media Holdings Ireland Ltd/CMNL Ltd) as in 2015;
- There were no Phase 1 clearances with commitments given by the notifying parties in media mergers (the same as in 2015);
- There were no Phase 2 determinations in respect of media mergers in 2016 (the same as in 2015);
- There was 1 Request for Further Information in a media merger (Independent News & Media Holdings Ireland Ltd/CMNL Ltd) (the same as in 2015);
- The average duration of a Phase 1 no-issues media merger determination by the CCPC in calendar days was 35.67 (up from 29.7 in 2015) (in working days 24.33 compared to 21.5 in 2015);
- The average duration of an extended Phase 1 media merger determination by the CCPC in calendar days was 67 compared to 74 in 2015 (in working days 48 compared to 53 in 2015);
- The quickest Phase 1 approval by the CCPC for a media merger was 32 calendar days (22 working days) compared to 15 calendar days (11 working days) in 2015;
- The slowest no-issues Phase 1 approval by the CCPC for a media merger was 41 calendar days (28 working days) compared to 39 calendar days (28 working days) in 2015.

The Minister and media mergers in 2016 - list of notifications determined by the Minister in 2016

There have been 6 media merger determinations by the Minister in 2016 (including Trinity Mirror/Local World Holdings, which was notified to the Minister in 2015); and

The Minister took on average 39.4 calendar days (28 working days) in 2016 to issue an approval determination compared to 38.75 calendar days (26.5 working days) in 2015.

List of transactions notified to and determined by the CCPC in 2016:

| | | | |
|-----------------|--|-----------------|---|
| M/16/001 | LAM / KLA | M/16/019 | NAC Turbo Ltd / Aldus Aviation Ltd |
| M/16/002 | Dunnes / Whelan / Tipperary | M/16/020 | Jaguar / Synexus |
| M/16/003 | Musgrave / C.J. O'Loughlin & Sons | M/16/021 | Maxol Ltd / certain assets of Topaz Bull Fuels & Retail |
| M/16/004 | Deka Immobilien (DekaBank) / The Whitewater Development | M/16/022 | HNA / Lenlyn Holdings |
| M/16/005 | Dalata / Clarion Sligo | M/16/023 | Murphy / AECOM Design Build Ireland Ltd |
| M/16/006 | Dalata / Cavernford / Vizmol | M/16/024 | Sedgwick (KKR) / OSG Outsource Services Group |
| M/16/007 | Ladbroskes / Gala Coral | M/16/025 | NAUS S.p.A. / Registro Italiano Navale - RINA S.p.A. |
| M/16/008 | PandaGreen / Greenstar | M/16/026 | Amundi Asset Management / Kleinwort Benson Investors Dublin |
| M/16/009 | Tedcastles Oil Products (TOP) / Sirio Retail & Property | M/16/027 | Maxol / Topaz Ballindine |
| M/16/010 | Halstonville / Diminuto | M/16/028 | Standard Life / Block B Elm Park |
| M/16/011 | Heineken / Comans | M/16/029 | ELQ Investors II (Goldman Sachs) / Bridgewater Shopping Centre and Brunel House |
| M/16/012 | HPC Management / Saint Gobain | M/16/030 | Blackstone Group / Blanchardstown Shopping Centre |
| M/16/013 | INM / Greer Publications | M/16/031 | Thermo Fisher / FEI |
| M/16/014 | Frank Keane Group / MSL Grange Motors & Ballsbridge Volkswagen and MSL Service Centre (South Dublin) | M/16/032 | DCU / SPD, MDI, CICE |
| M/16/015 | Uniphar / Riverchem | M/16/033 | News Corp / Wireless |
| M/16/016 | Allianz Global / Rogge Global | M/16/034 | Carlyle / AA Ireland |
| M/16/017 | Molson Coors / Miller | M/16/035 | Fence / Stradbrook |
| M/16/018 | Amber Real Estate / Grove Turkeys t/a Grove Farm | M/16/036 | Sun Capital / O&S Doors |

- M/16/037 mytaxi / Hailo
- M/16/038 Liberty Global / UTV Ireland
- M/16/039 Goldcrop / Croplink
- M/16/040 Bon Secours Health System / Barringtons Hospital
- M/16/042 Molex (Koch Industries) / Phillips-Medisize Corporation
- M/16/043 Petrogas (Applegreen) / certain assets of M.K.M.H. Ltd
- M/16/044 Independent News & Media Holdings Ireland Ltd / CMNL Ltd
- M/16/045 Mondelez International, Inc. / Speedy Assetco Ltd
- M/16/046 Deka Immobilien (DekaBank) / Assets: DoubleTree by Hilton Hotel Dublin-Burlington Road
- M/16/047 Dalata Hotel Group / Double Tree by Hilton Hotel Dublin Business
- M/16/048 Irish Property QIAIF / Three Hotels
- M/16/049 University College Cork / Irish Management Institute
- M/16/050 Freshgrass / Freshmills
- M/16/051 SAICA / Ridgmont / Americk
- M/16/052 Mollydale (Halstonville) / Smorgs (Travelodge)
- M/16/053 Anchorage Capital / Eircom
- M/16/054 Exertis (DCC) / T.O.S.
- M/16/055 Joint venture UPMC (Ireland) & Bon Secours Health System
- M/16/056 ESB Pension Fund / Ulysses Properties
- M/16/057 Universal Investment / Liffey Valley Shopping Centre
- M/16/058 OTPP & USS / Westerleigh Group
- M/16/059 Madison / Mubadala/Christie
- M/16/060 Kepak / John Kelly Meats

Notifications withdrawn before determination by the CCPC in 2016:

- M/16/041 Joint Venture: Marino Point Port Company, Port of Cork et al

Notifications yet to be determined by the CCPC (at 31 December 2016):

- M/16/061 IPUT plc / Wilton Park House
- M/16/062 Counterpoint / East Coast / Knockton
- M/16/063 Fannin Ltd (DCC plc) / Medisource Ireland Ltd
- M/16/064 BritBox Joint Venture BBC & ITV
- M/16/065 Ward & Burke / Response
- M/16/066 Kepcar (JV Kepak & Oliver Carty) / Green Farm Foods
- M/16/067 Fujifilm Corporation / Wako Pure Chemical Industries Ltd

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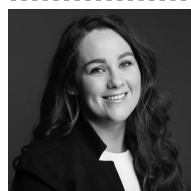
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