



DETERMINATION OF MERGER NOTIFICATION M/10/025 - OAKTREE/STOLBERG/BELUGA

Section 21 of the Competition Act 2002

Proposed acquisition by Oaktree Management L.P. and Mr. Niels Stolberg of joint control of Beluga Group GmbH

Dated 23 August 2010

Introduction

1. On 4 August 2010, in accordance with section 18 of the Competition Act 2002, the Competition Authority (the "Authority") received a notification of a proposed acquisition whereby Oaktree Management L.P. ("Oaktree") and Mr. Niels Stolberg ("Mr. Stolberg") would acquire joint control of Beluga Group GmbH ("Beluga"). Beluga is currently controlled by Mr. Stolberg.
2. As a result of the proposed acquisition, Oaktree will acquire [...] % of the total share capital of Beluga, with the option of later acquiring an additional [...] % of the total share capital of Beluga based on a step-in call option. Mr. Stolberg will own [...] % of the total share capital of Beluga. Following completion of the proposed acquisition, Oaktree and Mr. Stolberg will be the sole shareholders of Beluga exercising joint control over the company.

The Undertakings Involved

Oaktree

3. Oaktree is an investment management firm whose core activity focuses on investments in specialised private equity, distressed debt, high yield and convertible bonds, emerging market and Japanese securities, real estate, and mezzanine finance. Oaktree's investments are in a variety of industries including packaging, manufacturing, healthcare, clothing, travel, real estate, exploration and mining, food, telecommunications, media and entertainment. Eight of Oaktree's portfolio companies are active in the State.¹
4. Oaktree's worldwide turnover for the financial year ending 31 March 2009 was €[...]. Oaktree's turnover in the State for the financial year ending 31 March 2009 was €[...].

¹ The eight portfolio companies are engaged in the following activities: the manufacture of flexible packaging; the production of ice cream; the supply of cartons, labels and leaflets; the manufacture and distribution of products used in concrete construction and masonry construction; the design, manufacture and marketing of three commercial carpet brands; the design, manufacture, distribution, marketing and installation of complete lines of consoles, enclosures and furniture for data centers, control rooms, and network operation centers; the production and sale of aluminum rolled and extruded products, recycled aluminum, and specification alloys; and, the manufacture of packaging and tubing products serving primarily the food, healthcare and consumer markets.

Mr. Stolberg

5. Mr. Stolberg currently controls Beluga. Mr. Stolberg also controls a number of other companies involved in various business activities based in Germany.²

Beluga

6. Beluga is active in the project and heavy-lift shipping industry. Beluga's core activity lies in creating tailored service packages for the worldwide shipment of sensitive and bulky cargo. In particular, Beluga is active in the oil and gas industry, the offshore wind energy sector, the expansion of port infrastructure, and the construction and modernisation of power plants. Beluga's vessel fleet currently comprises 70 multipurpose heavy-lift cargo carriers. Beluga does not have a physical presence in the State. Beluga uses its global offices and agents as well as brokers to approach customers in the State.
7. Beluga's worldwide turnover for the financial year ending 31 March 2009 was €403 million. Beluga's turnover in the State for the financial year ending 31 March 2009 was €[...].

Third Party Submissions

8. No submissions were received.

Analysis

9. There is no horizontal overlap between Oaktree (and its portfolio companies) and Beluga in the State. Neither Oaktree nor any of its portfolio companies are active, either directly or indirectly, in the project and heavy-lift shipping industry. Furthermore, none of the companies controlled by Mr. Stolberg compete with Oaktree or any of its portfolio companies in the State. The proposed acquisition does not raise any vertical competition issues. The Authority therefore considers that the proposed acquisition will not raise any competition concerns in the State.

Ancillary Restraints

10. The Shareholders Agreement and the Share Transfer Agreement include non-compete obligations which the parties state are directly related and necessary to the proposed acquisition. In the case of the acquirer, [...].
11. The Authority considers these restrictions to be directly related and necessary to the implementation of the proposed acquisition.

² These activities include the development, implementation and operation of restaurants and events; the planning of ship development projects; and, the construction, sale and operation of cruise liners.

DETERMINATION

The Competition Authority, in accordance with section 21(2)(a) of the Competition Act, 2002, has determined that, in its opinion, the result of the proposed acquisition by Oaktree Management L.P. and Mr. Niels Stolberg of joint control of Beluga Group GmbH will not be to substantially lessen competition in markets for goods or services in the State, and accordingly, that the acquisition may be put into effect.

For the Competition Authority

Dr. Stanley Wong

Member of the Competition Authority