



# DETERMINATION OF MERGER NOTIFICATION M/24/055 – BAIN CAPITAL/FIDUCIA HEALTHCARE

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## Section 21 of the Competition Act 2002

### Proposed acquisition by Cpl Resources Limited of sole control of Fiducia Healthcare Limited

Dated 30 September 2024

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1. On 13 September 2024, in accordance with s18(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 Cpl Resources Limited<sup>1</sup> (“Cpl”), a wholly owned subsidiary of Bain Capital Investors LLC (“Bain Capital”) would acquire sole control of Fiducia Healthcare Limited (“Fiducia”) which trades as Irish HomeCare (the “Proposed Transaction”).
2. The Proposed Transaction is to be implemented pursuant to a share purchase agreement (“SPA”) dated 11 September 2024 between the shareholders of Fiducia and Cpl.<sup>2</sup> Following the implementation of the Proposed Transaction, Cpl will acquire sole control of Fiducia.
3. The parties are involved in the following business activities:

#### *Bain Capital*

- Bain Capital is a private equity investment firm, incorporated in the United States of America. Bain Capital invests in companies across Europe, the Americas, and the Asia-Pacific region in several industries, including information technology, healthcare, retail and consumer products, communications, financial services, and industrial/manufacturing. Bain Capital

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<sup>1</sup> Cpl Resources is a wholly owned subsidiary of Outsourcing Talent Ireland Limited, which is a wholly owned subsidiary of Outsourcing, Inc, a Japanese company active in the provision of human resource services. Outsourcing, Inc is a wholly owned subsidiary of Bain Capital.

<sup>2</sup> The shareholders of Fiducia are divided into two groups – “Investor Sellers” and “Management Sellers”. The Investor Sellers include members of the MML funds group and individual investors, and the Management Sellers include individuals, and associated companies, in management positions within Fiducia.



is the ultimate partner of numerous private equity funds, each of which is a separate limited partnership that has investments in companies. The primary business activities of Bain Capital are providing investment advice and investment fund management.

- Bain Capital's portfolio companies which are active in the State are in a range of different sectors including: pharmaceuticals, market research, clothing and retail and software development.

#### *Cpl*

- Cpl, is a private limited company, incorporated in the State and headquartered in Dublin. Cpl is part of Outsourcing Inc., a Japanese company which is owned by Bain Capital. Cpl provides services including specialist recruitment services, managed services and strategic talent advisory services globally and within the State. Cpl's principal activities cover the areas of technology, accounting and finance, sales, engineering, light industrial, healthcare, pharmaceutical and office administration.
- Cpl is active in the supply of home care service on a national basis in the State through its two subsidiaries, PHC Care Management Limited which trades as Private HomeCare, and Servisource Limited which trades as Myhomecare.

#### *Fiducia Healthcare Limited*

- Fiducia is ultimately owned and controlled by the MML funds.<sup>3</sup> The MML funds are private equity funds that provide growth capital to private businesses on the island of Ireland.
- Fiducia, which trades as Irish HomeCare, is a homecare provider active across the State in providing care to older persons and persons with a disability. Fiducia is a HSE approved service provider. Fiducia has a team of over [...] carers who currently provide [...] hours of care to clients each week. Fiducia also operates

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<sup>3</sup> The particular funds in this group are MML Growth Capital Partners Ireland Fund II LP, MML Ireland II Coinvest LPC, and MML Finance Company Ireland DAC.



an in-house training centre, with additional employees based across operations, client service support, clinical governance, quality and training, recruitment, HR, marketing, IT, and finance.

4. After examination of the notification, the Commission has concluded that the Proposed Transaction falls within the scope of paragraph 2.1 of the Simplified Merger Notification Procedure Guidelines for assessing certain notifiable mergers or acquisitions under section 18(1)(a) of the Act since:

- The Parties are active in the same potential product and geographic markets and have a combined share that is less than 15% in each of these markets.

5. In the light of this, the Commission considers that the Proposed Transaction will not substantially lessen competition in any market for goods or services in the State.

#### **Ancillary Restraints**

6. Clause 10.1.1 of the SPA contains a non-compete obligation on the Management Sellers<sup>4</sup>, and Clause 10.2.1 of the SPA contains a non-solicitation obligation on the Investor Sellers.<sup>5</sup> The duration and scope of these obligations does not exceed the maximum acceptable to the Commission.<sup>6</sup> The Commission considers these obligations to be directly related to and necessary for the implementation of the Proposed Transaction insofar as they relate to the State.

#### **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 Cpl Resources Limited, a wholly owned subsidiary of Bain Capital Investors LLC, would acquire sole control of Fiducia Healthcare 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.

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<sup>4</sup> The Management Sellers are defined in the SPA as [...].

<sup>5</sup> The Investor Sellers are defined in the SPA as MML Growth Capital Partners Ireland Fund II LP; MML Ireland II Coinvest LP; [...].

<sup>6</sup> In this respect, the Commission follows the approach adopted by the European Commission in paragraphs 20 and 26 of its Notice on restrictions directly related and necessary to concentrations OJ (2005) C56/03, available at [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005XC0305\(02\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005XC0305(02)&from=EN).



For the Competition and Consumer Protection Commission

**Ibrahim Bah**

**Director**

**Competition Enforcement and Mergers Division**