

***Case No COMP/M.4047 -  
AVIVA / ARK LIFE***

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**REGULATION (EC) No 139/2004  
MERGER PROCEDURE**

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Article 6(1)(b) NON-OPPOSITION  
Date: 20/01/2006

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 20.01.2006  
SG-Greffe(2006) D/200242

PUBLIC VERSION

MERGER PROCEDURE  
ARTICLE 6(1)(b) DECISION

To the notifying party

Dear Sir/Madam,

**Subject: Case No COMP/M.4047 – AVIVA / ARK LIFE  
Notification of 08.12.2005 pursuant to Article 4 of Council Regulation  
No 139/2004<sup>1</sup>**

1. On 08/12/2005, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 by which the undertaking Hibernian Life Holdings belonging to Aviva plc (“Aviva”, United Kingdom) acquires within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of Ark Life Assurance Company Limited (“Ark Life”, Ireland) by way of purchase of shares.
2. After examination of the notification, the Commission has concluded that the operation falls within the scope of Council Regulation (EC) No 139/2004 and does not raise serious doubts as to its compatibility with the common market and the EEA agreement.

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<sup>1</sup> OJ L 24, 29.1.2004 p. 1.

## **I. THE PARTIES**

3. **Aviva**, a UK registered company, is involved in the provision of all classes of insurance products, as well as savings products and fund management services in Europe, North America, Asia and Australia. An Irish subsidiary of Aviva – Hibernian Life & Pensions Limited is involved in the underwriting and marketing of a range of life insurance products including protection products, pensions and savings and investment products. It distributes its products primarily through independent brokers with some sales through banks and a direct sales force.
4. **Ark Life** is a life insurance company operating in Ireland. It is a wholly owned bancassurance subsidiary of Allied Irish Banks (AIB). AIB currently is a tied agent of Ark Life, i.e. the only life insurance products sold by AIB are Ark Life products.

## **II. THE OPERATION**

5. The notified operation consists of Hibernian Life Holdings, the new entity, acquiring the entire issued share capital of Ark Life from AIB pursuant to a Share Purchase and Subscription Agreement signed on 22 November 2005. Regarding the acquisition of Ark Life, it is proposed that (i) shares will be issued in Hibernian Life Holdings and (ii) Aviva on behalf of Hibernian Life Holdings will make a cash payment to AIB. On completion, AIB will hold 24.99% of the share capital of Hibernian Life Holdings while Aviva will hold the remaining 75.01%.

## **III. CONCENTRATION**

6. The operation consists in the acquisition of sole control of Ark Life by Aviva within the meaning of Article 3(1)(b) of the EC Merger Regulation. The shares of Hibernian Life Holdings to be issued to AIB do not amount to a controlling interest such as to give AIB joint control of Hibernian Life Holdings.

## **IV. COMMUNITY DIMENSION**

7. The combined aggregate worldwide turnover of the undertakings concerned is more than €5 billion (Aviva € 48.7 billion, Ark Life € 668 million). The aggregate Community-wide turnover of each of the undertakings concerned is more than € 250 million (Aviva € 44.5 billion, Ark Life € 668 million). Whilst Ark Life achieved more than two-thirds of its Community-wide turnover in Ireland in 2004, Aviva does not achieve more than two-thirds of its Community-wide turnover in one Member State. The operation has therefore a Community dimension.

## **V. COMPETITIVE ASSESSMENT**

### **5.1. Relevant markets**

#### *Relevant product markets*

8. Aviva's and Ark Life's operations encompass the production and distribution of life insurance products. In previous decisions, the Commission has distinguished between three large categories of insurances: life, non-life insurance and

reinsurance<sup>2</sup>. Although the Commission has not definitively concluded on the matter, it has suggested that life and non-life insurance can be divided into as many product markets as there are different kinds of risks covered, given that their characteristics, premiums and purposes are distinct and that there is typically no substitutability from the consumer's perspective between certain different risks insured, e.g. life-individual, life-group and unit linked for life insurance; motor, fire, transport, health, property, general civil liability, casualty, litigation, working accidents etc. for non-life insurance<sup>3</sup>.

9. However, the Commission has also recognised that from a supply-side perspective the conditions for insurance of different risk types are quite similar and most large insurance companies are active in several risk types. This suggests that many different types of insurance could be included in the same product market.<sup>4</sup>
10. The Parties consider the life insurance market to be the relevant product market. However, the Parties note that products in this market can be broadly categorised into three categories, namely protection products, pension products and savings and investment products.
11. The market investigation conducted by the Commission appears to support the broad segmentation of life insurance market into three product groups: protection products, pension products, and savings and investment products. Many respondents pointed out that there is a clear distinction between these product groups, each of these segments satisfies a particular consumer need and no segment acts as a substitute for another. Moreover, some respondents indicated that further segmentation into individual and group pension and protection products may be appropriate. Distinction between unit-linked and non unit-linked life insurance products did not appear to be relevant for the majority of respondents.
12. As the transaction does not give rise to competition concerns on any of the alternative market definitions considered, the exact delineation of the product market may be left open.

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<sup>2</sup> See, e.g., Case No. IV/M.2676 – Sampo/Varma/If Holdings/JV. Case No COMP/M.2400, Dexia/Artesia decision, 14/06/2001; Case No. COMP/M.2225, Fortis/ASR Decision, 13/12/2000; Case No. COMP/M.1989, Winterthur/Colonial Decision, 09/06/2000; Case No COMP/M.1886, CGU/Norwich Union Decision, 13/04/2000; Case No COMP/M.1910, Meritanordbanken/Unidanmark Decision, 10/04/2000; Case No COMP/M.1816, Churchill Insurance Group/Hig Holdings Decision, 02/02/2000; Case No COMP/M.1777, CGU/Hibernian Decision, 18/01/2000.

<sup>3</sup> See, e.g., Case No. M.2676 Sampo/Vama/IF Holding/JV Decision 18/12/2001; Case No COMP/M.2400, Dexia/Artesia decision, 14/06/2001; Case no. IV/M.1453, AXA/GRE; Case COMP/M.2343, Toro Assicurazioni/Lloyd Italiico Decision, 15/03/2001; Case No. COMP/M.2225, Fortis/ASR Decision, 13/12/2000; Case No COMP/M.1886, CGU/Norwich Union Decision, 13/04/2000; Case COMP/M.1712, Generali/INA Decision, 12/01/2000.

<sup>4</sup> Case No COMP/M.2676, Sampo/Varma Sampo/IF Holding/JV Decision, 18/12/2001; Case no. IV/M.3556, Fortis/BCP; Case COMP/M.2491, Sampo Storebrand Decision 27/07/2001; Case No COMP/M.1989, Winterthur/Colonial Decision, 09/06/2000; Case No COMP/M.1886, CGU/Norwich Union Decision, 13/04/2000; Case COMP/M.1712, Generali/INA Decision, 12/01/2000.

### *Relevant geographic markets*

13. According to the Parties there are strong arguments that the affected market is EEA-wide. They do not consider that regulatory issues constitute a material barrier to international supply in the production of life insurance products. In addition, the Parties consider that given the presence of independent brokers, distribution does not represent a material barrier to entry. Nor is it likely that branding and reputation would be a significant hurdle for an experienced non-national insurer to overcome. This would be evidenced by the entry and presence of many non-national firms in national markets throughout the Member States of the EU/EEA.
14. On the other hand, the Commission in its previous decisions has defined the market for life insurance as being national in scope as a result of national distribution channels, the established market structures, fiscal constraints and differing regulatory systems.<sup>5</sup>
15. The market investigation appears to sustain the Commission's earlier findings that life insurance market is national in scope. All respondents indicated that this is the case, in particular in view of national distribution channels.
16. However, since the transaction does not give rise to competition concerns on any of the alternative market definitions considered, the exact delineation of the geographic market may be left open.

### **5.2. Assessment**

17. In the narrowest possible geographic market, i.e. the Republic of Ireland, the transaction combines the third and fourth placed businesses in terms of market share competing in the life insurance market with a post merger market share of 19.4%<sup>6</sup> (i.e. Aviva with 10.7% and Ark Life with 8.7%). The first placed firm in terms of market share, Irish Life, has a market share of 25% and the second placed firm, Bank of Ireland Life/New Ireland, has a market share of 23.9%. There are a number of other important competitors, which are mainly owned by large international insurance groups.
18. On the basis of the narrowest hypothetical market definition indicated in the Commission's market investigation; i.e. individual protection, group protection, personal pensions, group pensions, savings, and investments the new entity would not have a 25% post-merger market share in any specific product category market, as shown in Table 1.

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<sup>5</sup> See Case COMP/M.2491, *Sampo Storebrand* Decision 27/07/2001; Case COMP/M.2343, *Toro Assicurazioni/Lloyd Italo* Decision, 15/03/2001; Case No COMP/M.2400, *Dexia/Artesia* decision, 14/06/2001; Case COMP/M.2225, *Fortis/ASR* Decision 13/12/2000.

<sup>6</sup> Market shares based on Annual Premium Equivalent (APE). Source: Life Strategies Market Share data 2004.

**Table 1** Market Share Information for Specific Product Categories in 2004

<b>Category</b>	<b>Ark Life</b>	<b>Hibernian L&amp;P</b>	<b><i>Combined</i></b>
Individual Protection	10.7%	13.4%	<b><i>24.1%</i></b>
Group Protection	0.2%	16.4%	<b><i>16.6%</i></b>
Personal Pensions	9.3%	13.3%	<b><i>22.6%</i></b>
Group Pensions	1.1%	12.3%	<b><i>13.4%</i></b>
Savings	9.5%	5.2%	<b><i>14.7%</i></b>
<i>Investments</i>	<b><i>15.4%</i></b>	<b><i>3.7%</i></b>	<b><i>19.1%</i></b>

Source: *Life Strategies, 2004*, calculated in terms of Annual Premium Equivalent (APE)

19. For all of these specific product categories there remain a number of important competitors and the merged entity will generally not become the market leader for these specific product categories.
20. Moreover, according to the parties, the market for the underwriting of life insurance products in Ireland is not very concentrated with a pre-merger HHI of 1578, which rises by 186 points to 1765 following the proposed merger.
21. The Commission has also looked at the possible impact of the proposed transaction with regard to the distribution of life-insurance products in Ireland given the fact that Ark Life uses AIB, the largest Irish commercial bank, as a tied agent. The new entity will also enter into an exclusive distribution agreement with AIB for the distribution of life insurance products through the AIB retail banking network in Ireland. Pursuant to the agreement, AIB will exclusively promote, market and sell products of the merged entity to AIB customers.
22. The exclusive access which the merged entity will have to the AIB distribution network does, however, does not foreclose the access of competitors to the market. For life insurance products the distribution via independent brokers is the main distribution channel bank in the Republic of Ireland, accounting for 60% in 2004<sup>7</sup>. The other important channels of distribution are: bank distribution of insurance products; tied agents and direct sales. The market investigation conducted by the Commission revealed that independent brokers are to remain the most important distribution channel in the future. Competitors also did not raise any issues concerning the exclusive access of the merged entity to the AIB distribution network. Therefore, it is not likely that competition at the distribution level will be impeded.
23. Considering the above, the transaction is not likely to impede effective competition in the life insurance sector in general or in any of the life insurance segments in the Republic of Ireland.

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<sup>7</sup> Source: Irish Insurance Federation.

## **VI. CONCLUSION**

24. For the above reasons, the Commission has decided not to oppose the notified operation and to declare it compatible with the common market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of Council Regulation (EC) No 139/2004.

For the Commission  
signed  
Neelie KROES  
Member of the Commission