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PUBLIC VERSION

MERGER PROCEDURE

To the notifying party:

Dear Sir/Madam,

**Subject: Case M.8010 – IRISH LIFE / AVIVA HEALTH / GLOHEALTH
Commission decision pursuant to Article 6(1)(b) of Council Regulation No 139/2004¹ and Article 57 of the Agreement on the European Economic Area²**

- (1) On 28 April 2016, the European Commission received notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which the undertaking Irish Life Group Limited (“Irish Life”, Ireland), a wholly owned indirect subsidiary of Great-West Lifeco Inc. (“Great-West Lifeco”, Canada), acquires within the meaning of Article 3(1)(b) of the Merger Regulation sole control of the whole of the undertakings GloHealth Financial Services Limited (“GloHealth”, Ireland) and Aviva Health Insurance Ireland Limited (“Aviva Health”, Ireland) by way of purchase of shares.³ Irish Life, GloHealth and Aviva Health are designated hereinafter as the “Parties”.

¹ OJ L 24, 29.1.2004, p. 1 (the 'Merger Regulation'). With effect from 1 December 2009, the Treaty on the Functioning of the European Union ('TFEU') has introduced certain changes, such as the replacement of 'Community' by 'Union' and 'common market' by 'internal market'. The terminology of the TFEU will be used throughout this decision.

² OJ L 1, 3.1.1994, p. 3 (the 'EEA Agreement').

³ Publication in the Official Journal of the European Union No C 164, 05.05.2016, p. 6.

1. THE PARTIES

- (2) **Great-West Lifeco** is an international financial services holding company with interests in life insurance, health insurance, retirement and investment services, asset management, and reinsurance businesses in Canada, the United States, Europe and Asia. Great-West Lifeco is part of the Power Corporation of Canada.
- (3) **Irish Life** is a provider of life insurance, pensions, retirement savings and asset management services in Ireland.
- (4) **GloHealth** is active in the provision of health insurance products to both consumer and business customers in Ireland. Irish Life currently holds a 49.3% stake in GloHealth and controls the company jointly with the founders and managers of GloHealth.
- (5) **Aviva Health** is active in the provision of health insurance products to both consumer and business customers in Ireland.

2. THE OPERATION AND THE CONCENTRATION

- (6) The Proposed Concentration will be implemented by means of two Share Purchase Agreements ("SPAs") entered into by Irish Life on the same day, 9 March 2016. [...] On this basis, it can be concluded that the two transactions are inter-related and unitary in nature.
- (7) Therefore, the Proposed Concentration consisting in the acquisition by Irish Life of the entire issued share capital of Aviva Health and sole control of GloHealth constitutes a single concentration for the purposes of Article 3 of the Merger Regulation.

3. EU DIMENSION

- (8) The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million⁴ [Great-West Lifeco (including Irish Life): EUR [...], Aviva Health: EUR [...], GloHealth: EUR [...]]. Two of the undertakings concerned have an EU-wide turnover in excess of EUR 250 million [Great-West Lifeco: EUR [...], Aviva Health: EUR [...]]. Aviva Health and GloHealth achieve more than two thirds of their turnover in Ireland, but Great-West Lifeco does not. The notified operation therefore has an EU dimension.

4. COMPETITIVE ASSESSMENT

- (9) The activities of GloHealth and Aviva Health overlap in the market for provision of health insurance to consumer and business customers in Ireland. Irish Life active in health insurance only through GloHealth. The transaction gives rise to a possible affected market for the provision of health insurance to consumer and business customers in Ireland, if market shares are measured by customer numbers ([20-30]%).

⁴ Turnover calculated in accordance with Article 5 of the Merger Regulation.

4.1. Relevant product market

- (10) In previous decisions relating to the insurance sector, the Commission has distinguished between three large categories of insurance product markets: life insurance, non-life insurance and reinsurance.⁵ The Commission has also identified product markets for insurance distribution and insurance underwriting, which are ancillary to the provision of insurance.⁶
- (11) Regarding non-life insurance products, the Commission has generally considered a distinction between the following segments: (i) accident and sickness; (ii) motor vehicle; (iii) property; (iv) marine, aviation and transport ("MAT"); (v) liability; (vi) credit and suretyship; and (vii) travel.⁷
- (12) Both accident and sickness insurance as referred to in previous Commission decisions, and health insurance as described in the present transaction, fit within the same classification under the EU Non-Life Insurances Directives,⁸ namely: "Classes I and II (accident and sickness)". The Parties submit that the Irish health insurance market presents distinct characteristics because it is subject to a specific regulatory framework (which is governed by the Health Insurance Act)⁹ that applies in addition to the regulatory framework for Classes I and II.
- (13) The Central Bank of Ireland is responsible for the approval of non-life insurance companies in Ireland. In order to carry out the business of health insurance in Ireland, under Health Insurance Act¹⁰ it is also necessary for insurers to be registered with the Health Insurance Authority ("HIA"), a statutory regulator of the private health insurance market in Ireland. Furthermore, at the level of the trade association of insurers, Insurance Ireland, there is a specific council for health insurance companies that comprises the CEOs of all four private health insurance companies operating in the domestic Irish market.
- (14) The existence of regulatory obligations that influence health insurance product design implies that the making and marketing of health insurance products is a specialised activity from a supply side perspective.

5 See cases M.7233 - *Allianz/Going Concern of Unipolsai Assicurazioni*, M.6957 - *IF P&C/TOPDANMARK*, M.6217 - *Baloise Holding/Nateus/Nateus Life*, M.6053 - *CVC/Apollo/Brit Insurance*, M.4284 - *AXA/Winterthur*.

6 See cases M.7233 - *Allianz/Going Concern of Unipolsai Assicurazioni*, M.6957 - *IF P&C/TOPDANMARK*, M.3035 - *Berkshire Hathaway/Converium/Gaum/JV*, M.6053 - *CVC/Apollo/Brit Insurance*, M.6649 - *Allianz/Insurance Portfolio And Brokerage Services Of Gan Eurocourtage*.

7 See cases M.6521 - *Talanx International/Meiji Yasuda Life Insurance/Warta*, M.4284 - *AXA/Winterthur*; M.4701 - *Generali/PPF Insurance Business*.

8 Directives 73/239/EEC (First Non-Life Directive), 88/357/EEC (Second Non-Life Directive), Directive 92/49/EEC (Third Non-Life Directive).

9 Health Insurance Act no. 16, dated 30th June, 1994, as amended.

10 See Health Insurance Authority web page www.hia.ie and European Commission decision in State Aid case N 46/2003 - Ireland.

- (15) From a demand side perspective, no other insurance product is an effective substitute for health insurance because the latter provides a distinct type of insurance cover.¹¹
- (16) Accordingly, health insurance does not compete with other types of non-life insurance in Ireland because it is not substitutable from a demand or supply side perspective.
- (17) Taking into account all of the above, it seems reasonable to treat, for the purpose of this case, health insurance market in Ireland as a distinct market.¹² This type of insurance covers products whose principal purpose is to provide cover for the actual cost of medical services including, but not limited to, the following:
- a. Inpatient treatments received in public hospitals, voluntary hospitals, private hospitals and private treatment centres in Ireland.
 - b. Treatments received outside of Ireland, either in the case of an accident or emergency or in situations where the customer has been referred overseas on an elective basis.
 - c. Outpatient / non-hospital / day-to-day treatments received in public, voluntary and private hospitals and private treatment centres, including general practitioner services and physiotherapy services.
- (18) According to the Parties, certain health-related products offered by insurers, such as: (i) insurance products sometimes known as “critical illness policies” that offer cash payments on the occurrence of specified illnesses or accidents (e.g. “cancer cover” or “personal accident” cover), and (ii) services offered to manage the risks associated with people being unable to work due to ill health (e.g. “medical case management services”), fall outside the definition of a “health insurance contract” as described in the Health Insurance Act. These products do not provide indemnity cover in respect of actual charges for medical services, often they are not offered as stand-alone products and, as they are not interchangeable with health insurance, it is not unusual for individuals to hold both types of products simultaneously.
- (19) The question whether certain health-related products should be included in the market for health insurance, can be left open for the purpose of this case as the transaction does not give rise to competition concerns under any plausible market definition.
- (20) The Parties submit that it would be inappropriate to further segment the health insurance market by customer type (i.e. consumer versus corporate), as supply-side substitutability exists: (i) the same competitor set offers services to all customer types, and (ii) insurers rely on the same resources (e.g. IT systems and personnel) in order to service all customer types.¹³ The Parties further explain that the market

¹¹ See “Competition in the Private Health Insurance Market Report”, dated January 2007, by the Competition and Consumer Protection Commission in Ireland.

¹² The decision of the Irish Competition Authority in case M/08/013 – Hibernian / Vivas held that health insurance occupies a separate product market to other non-life insurance products.

¹³ See UK Competition Authority practice: Anticipated acquisition by AXA PPP healthcare Limited of the private medical insurance business of Simplyhealth Limited (2015) (ME/6531/15), Completed

conditions in Ireland are such that a differentiation by customer type is not relevant: first, the regulatory regime means that every health insurance product is available for purchase by any customer (consumer or corporate), regardless of whether that product was designed for or targeted at a particular customer type; second, there is no example of an Irish health insurance provider that has attempted to specialise in servicing either consumer or corporate customers alone (notwithstanding the regulatory restrictions on doing so); third, the HIA's detailed market analyses have not recognised separate product markets for consumer and corporate customers.

- (21) Taking into account all of the above, it seems reasonable to consider, for the purpose of this case, that health insurance market in Ireland should not be further segmented by customer type.
- (22) The Parties further submit that Restricted Membership Undertakings (“RMUs”),¹⁴ which offer health insurance to their employees only and account for 4% of the market, are part of the health insurance market as the Parties face competition from RMUs for customers who are qualified to purchase their health insurance products. For example, an employee of the national police force is a potential customer of GloHealth / Aviva Health and of a RMU such that there is competition in the market for this business.
- (23) Although the employees of RMUs can choose from both types of insurers, this is not valid for all categories of customers. Customers not employed by RMUs do not have access to the services offered by these. As a consequence, the RMUs and the products they offer do not pose a competitive constraint to the Parties across the health insurance market. For the purpose of this case, RMUs will not be considered as part of the health insurance market.

4.2. Relevant geographic market

- (24) The Parties submit that the geographic scope of the market for health insurance is national, which is in line with the Commission's past decisions. The Commission has generally considered the geographic scope of non-life insurance market and its various sub-segments as national,¹⁵ with the exception (i) of large commercial risks, such as the insurance of aerospace risks, which is most likely to be at least EEA-wide in scope¹⁶ and, (ii) with respect to MAT insurance,¹⁷ which are likely to be wider than national for large/multinational corporate customers and large risks respectively.

acquisition by BUPA Finance plc of Clinovia Group Limited (2007) and British United Provident Association Limited and Community Hospitals Group Plc: A report on the proposed merger (2000). The Parties submit that the market conditions are similar in Ireland.

¹⁴ Two major Restricted Membership Undertakings are (i) the ESB Medical Provident Fund (related to the State-owned energy group ESB), and (ii) the Garda Medical Aid Society (related to the Irish national police force, AnGarda Síochána).

¹⁵ See case M.4284 - *AXA/Winterthur*.

¹⁶ See case M.5010 - *Berkshire Hathaway/Munich RE/GAUM*.

¹⁷ See cases M.2676 - *Sampo/Varma Sampo/IF Holding/JV*; M.4284 - *AXA/Winterthur*; M.1082 - *Allianz/AGF*; M.3556 - *FORTIS/BCP*; M.5010 - *Berkshire Hathaway/ Munich RE/GAUM*.

- (25) Further arguments in favour of the national scope of the market in the case at hand are the existence of a national regulatory framework and national central authority for the health insurance.¹⁸

4.3. Competitive assessment

- (26) In line with the market definitions set out above, there is a horizontal overlap between the activities of Aviva Health and GloHealth in the market for provision of health insurance to consumer and business customers in Ireland. The Parties' combined share in this market is [10-20]% (Aviva Health [10-20]%, GloHealth [0-5]%, with an HHI delta of [>150]), based on revenue, and [20-30]% (Aviva Health [10-20]%; GloHealth [5-10]%, with an HHI delta of [150-250]), based on the number of customers.¹⁹ The HHI delta stemming from the transaction will be limited.
- (27) The merged entity would face strong competition from two large players: (i) the former monopolist Voluntary Health Insurance ("VHI") whose 2015 market share is around [50-60]% (based on revenue), and (ii) Laya Healthcare whose 2015 market share is around [10-20]% (based on revenue) and who was acquired in 2015 by the global insurance business American International Group Inc. ("AIG").
- (28) Laya's market share has grown in recent years and has the potential to grow in strength due to the additional resources that are available from its new parent company, AIG.
- (29) According to the Parties, GloHealth holds an insignificant market position [...]. Aviva Health's market share has experienced a steady decline since 2011. Both companies have been trailing behind the market leader VHI and second player Laya in recent years.
- (30) According to a 2016 customer survey (the "HIA survey")²⁰, the Parties focus on different demographic groups, with GloHealth serving relatively more young families. There are also differences in brand positioning and product design.
- (31) According to the HIA survey, 24% of the customers have switched their health insurer at some stage in the past. This trend has increased since 2013. The main reason for switching is cost and secondly, improved levels of cover. Nevertheless, among those that have never switched, there is a strong loyalty.²¹
- (32) The market investigation indicated that currently the Parties are indeed number three and four in the Irish health insurance market, where historical incumbent VHI

¹⁸ See Health Insurance Authority web page www.hia.ie, European Commission decision in State Aid case N 46/2003 – Ireland.

¹⁹ These market shares include sales of the Parties' health insurance products made through brokers. Also, if RMUs were considered as part of the market, the Parties' combined share would be [10-20]% (based on revenue) or [10-20]% (based on customer number).

²⁰ See HIA Survey 2016, slide 21, dependent children percentage is higher for GloHealth and Laya in comparison with Aviva and VHI.

²¹ See HIA Survey 2016, slides 6 and 37 about "Switching and Discontinuation". In 2007 the Competition and Consumer Protection Commission in Ireland described the process of switching as simple and straightforward, with some consumers that had an incorrect perception that the process was difficult and cumbersome.

holds a strong position. Neither Party has been particularly successful, in terms of market penetration and profitability, in recent years, in part due to the impact of fixed costs on their operations. The market shares of the merged entity will remain limited, giving rise to an affected market only by customers numbers (combined share [20-30]%, with an HHI delta of [150-250]), but not by revenues (combined share [10-20]%, HHI delta of [>150]).

- (33) If health-related products as described in paragraph (16) were included in the health insurance market, the Parties' combined market share would remain below 20% both in terms of revenues and of customer numbers, as neither Aviva Health nor GloHealth offer health-related products.
- (34) The transaction does not give rise to vertically affected markets.²²
- (35) Taking into account the specificities of the Irish health insurance market, the Parties' combined low market shares,²³ the limited overlap and the presence of strong players in this market, no competition concerns arise as to the compatibility of the proposed Transaction with the internal market.

5. CONCLUSION

- (36) For the above reasons, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation and Article 57 of the EEA Agreement.

*For the Commission
(Signed)
Margrethe VESTAGER
Member of the Commission*

²² Although Great-West Lifeco is active in reinsurance, it does not provide reinsurance services to any health insurance provider in Ireland. Also, the Parties submit that they are not active in insurance distribution, but, if we were to consider the direct means of sale as part of the insurance distribution market, the Parties' market shares would remain under 30%.

²³ The transaction gives rise to an affected market only if market shares are measured by customers' number.