



EUROPEAN COMMISSION  
DG Competition

***Case M.9196 - MARSH  
& MCLENNAN  
COMPANIES /  
JARDINE LLOYD  
THOMPSON GROUP***

Only the English text is available and authentic.

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

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Decision on the implementation of the commitments -  
Purchaser approval  
20.05.2019



Brussels, 20.05.2019  
C(2019) 3893 final

## PUBLIC VERSION

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus [...]. Where possible the information omitted has been replaced by ranges of figures or a general description.

### To the notifying party

Dear Sir/Madam,

**Subject: Case M.9196 – MARSH & MCLENNAN COMPANIES / JARDINE LLOYD THOMPSON GROUP  
Approval of Arthur J. Gallagher & Co. as purchaser of the Divestment Business**

### I. FACTS AND PROCEDURE

1. By decision of 22 March 2019 ('the Decision') based on Article 6(1)(b) in conjunction with Article 6(2) of Council Regulation (EC) No 139/2004<sup>1</sup>, the Commission declared the operation by which Marsh & McLennan Companies, Inc. ('MMC' or 'the Notifying Party', USA) acquired sole control over the whole Jardine Lloyd Thompson Group plc ("JLT", UK) compatible with the internal market following modification by the MMC, subject to conditions and obligations ('the Commitments'). MMC and JLT together are referred to as 'the Parties'.
2. The Commitments provide that MMC will divest JLT's Aerospace practice, which encompasses JLT's insurance broking activities in the markets of Aircraft Operators, Aerospace Manufacturing and Space (the 'Divestment Business').

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<sup>1</sup> OJ L 24, 29.1.2004, p. 1 (the "Merger Regulation").

3. By Reasoned Submission of 8 March 2019, the Notifying Party proposed Arthur J. Gallagher & Co. ('Gallagher', US) for approval by the Commission as purchaser of the Divestment Business.<sup>2</sup> Gallagher is one of the world's largest insurance brokers. It operates in 35 countries, servicing customers globally. Gallagher has a limited presence in the Aircraft Operators, Aerospace Manufacturing and Space markets.
4. The Notifying Party submitted to the Commission the proposed Transaction Agreements, consisting of the *Business Purchase Agreement*, the *Disclosure Letter* and the *Trademark Assignment Agreement* dated 8 March 2019.

## **II. MAZARS LLP ACTING AS MONITORING TRUSTEE ('THE TRUSTEE') HAS PROVIDED ON 2 MAY 2019 A REASONED OPINION ASSESSING THE PROPOSED AGREEMENTS WHERE IT CONSIDERS THAT THEY COMPLY WITH THE REQUIREMENTS OF THE COMMITMENTS ASSESSMENT OF THE PROPOSAL**

5. According to paragraph 16 of the Commitments, in its assessment of the Proposed Agreements, the Commission has to verify that the purchaser fulfils the Purchaser Criteria and that the Divestment Business is being sold in a manner consistent with the Commitments including their objective to bring about a lasting structural change in the market.

### II.1 Assessment of the purchaser criteria

6. As set out in recital (165) of the Decision and paragraph 15 of the Commitments, the purchaser of the Divestment Business must fulfil the following criteria:
  - a. be independent of and unconnected to the Parties and their Affiliated Undertakings (this being assessed having regard to the situation following the divestiture);
  - b. have the financial resources, proven expertise and incentive to maintain and develop the Divestment Business as a viable and active competitive force in competition with the Parties and other competitors;
  - c. neither be likely to create, in light of the information available to the Commission, *prima facie* competition concerns nor give rise to a risk that the implementation of the Commitments will be delayed. In particular, the Purchaser must reasonably be expected to obtain all necessary approvals from the relevant regulatory authorities for the acquisition of the Divestment Business;
  - d. have an existing commercial non-life insurance broking business with a proven track record in serving large customers for complex risks and the geographic reach to integrate and run competitively the Divestment Business.

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<sup>2</sup> Gallagher has agreed to acquire the Divestment Business for a total of: (i) an initial consideration of [...], plus (ii) a deferred consideration of [...]. Gallagher will therefore make a payment of up to GBP 190m.

7. For the reasons set out below the Commission considers that Gallagher fulfils these criteria.

**(a) Independence from the Parties**

8. Gallagher is a publicly listed company with its common stock listed on the New York Stock Exchange and is neither owned nor controlled by the Parties or any of their affiliates.<sup>3</sup> No director of any of the Parties serves on the board of Gallagher or any of its affiliates and *vice versa*.<sup>4</sup> MMC, JLT and Gallagher do not participate in any Joint Venture together and there do not appear to be entities in which they both hold a material interest.<sup>5</sup>

9. Only limited business relations exist between the Parties and Gallagher. Certain co-broking, wholesale broking and other arrangements are in place between the Parties. Such arrangements are not ‘commercial agreements’ per se, but a feature of the insurance broking industry.<sup>6</sup>

10. The Trustee has reviewed the existing co-broking, wholesale broking and other arrangements between MMC and Gallagher, and JLT and Gallagher and concluded that they appear to be immaterial to Gallagher in view of their overall size in terms of Gross Written Premiums and revenue and do not create a commercial dependency.<sup>7</sup>

11. MMC and Gallagher have common shareholders that hold more than 5% of their respective total outstanding shares, namely BlackRock, Inc<sup>8</sup> and the Vanguard Group, Inc.<sup>9</sup> However, these shareholdings do not confer special rights and do not constitute a situation of control within the meaning of Article 3 of the Merger Regulation. Therefore, and for the purpose of this Decision, the Commission concludes that these shareholdings do not impede the independence of Gallagher.

12. In light of the above, the Commission concludes that Gallagher fulfils the purchaser criterion of being independent of and unconnected to the Parties and their affiliated undertakings.

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<sup>3</sup> Monitoring Trustee Reasoned Opinion on the Proposed Purchaser Arthur J. Gallagher & Co. of 2 May 2019, Section 4.1.3.

<sup>4</sup> Monitoring Trustee Reasoned Opinion on the Proposed Purchaser Arthur J. Gallagher & Co. of 2 May 2019, Section 4.3.

<sup>5</sup> Monitoring Trustee Reasoned Opinion on the Proposed Purchaser Arthur J. Gallagher & Co. of 2 May 2019, Section 4.2.

<sup>6</sup> Monitoring Trustee Reasoned Opinion on the Proposed Purchaser Arthur J. Gallagher & Co. of 2 May 2019, Section 4.4.

<sup>7</sup> Monitoring Trustee Reasoned Opinion on the Proposed Purchaser Arthur J. Gallagher & Co. of 2 May 2019, Sections 4.4 and 4.5.

<sup>8</sup> BlackRock Inc hold ~8% of the total shares of MMC and ~11% of the total shares of Gallagher.

<sup>9</sup> The Vanguard Group, Inc hold ~7% of the total shares of MC and ~11% of the total shares of Gallagher.

**(b) Financial resources, proven expertise serving large customers, global reach, and incentive to maintain and develop the Divested Business as a viable and active competitor**

*Financial resources*

13. Gallagher is one of the world's largest insurance brokerage, risk management and consulting firms. Gallagher has a market capitalisation of USD 13.6 billion, with annual revenues of circa USD 5 billion. Gallagher is present across 35 countries and has over 30 000 employees.<sup>10</sup>
14. Gallagher will finance the acquisition of the Divestment Business [...] <sup>11</sup>. Gallagher will acquire the Divestment Business for an initial consideration of [...] and a deferred consideration of [...] <sup>12</sup>, which are small amounts in comparison to Gallagher's current market capitalisation of approximately USD 13 600 million (~GBP 10 400 million).
15. The Trustee has reviewed the historical trading results of Gallagher, the financial results detailed in Gallagher's annual reports for the financial years ending 31 December 2015 through 2017, and Gallagher's unaudited Form 10K for the year ending 31 December 2018.<sup>13</sup> It has concluded that Gallagher has sufficient financial resources to acquire and develop the Divestment Business, taking into account that Gallagher's operating cash flow in 2018 represents a multiple of [...] of the maximum purchase price payable for the Divestment Business.<sup>14</sup>.
16. Considering the financial situation of Gallagher and taking into account the size of the acquisition in relation to Gallagher's revenues and market capitalisation, the Commission concludes that Gallagher fulfils the criterion of having the financial resources to maintain and develop the Divestment Business as a viable and active competitive force in competition with the Parties and other competitors.

*Proven expertise serving large customers for complex risks and geographic reach*

17. The purchaser criteria specify that a suitable buyer of the Divestment Business must have proven expertise, in particular in the form of an existing commercial insurance broking business with a proven track record in serving large customers for complex risks, and that it should have the geographic reach to integrate and run the Divestment Business competitively.

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<sup>10</sup> Monitoring Trustee Reasoned Opinion on the Proposed Purchaser Arthur J. Gallagher & Co. of 2 May 2019, Section 1.3.2.

<sup>11</sup> Business Purchase Agreement by and between Jardine Lloyd Thompson Group PLC, Marsh & McLennan Companies, Inc. and Gallagher Holdings (UK) Limited, dated 4 March 2019, as amended by amendment agreements dated 21 March 2019 and 3 May 2019, section 5.1.

<sup>12</sup> Business Purchase Agreement by and between Jardine Lloyd Thompson Group PLC, Marsh & McLennan Companies, Inc. and Gallagher Holdings (UK) Limited, dated 4 March 2019, as amended by amendment agreements dated 21 March 2019 and 3 May 2019, Schedule 6.

<sup>13</sup> Monitoring Trustee Reasoned Opinion on the Proposed Purchaser Arthur J. Gallagher & Co. of 2 May 2019, Section 5.

<sup>14</sup> Monitoring Trustee Reasoned Opinion on the Proposed Purchaser Arthur J. Gallagher & Co. of 2 May 2019, Section 5.2.2.

18. Gallagher operates across three key divisions, (i) brokerage, (ii) risk management, and corporate. Gallagher submits that as a broker of complex multi-class insurance (such as e.g. marine, aviation and energy sectors), it has the appropriate systems, controls, resource and expertise necessary to acquire the Divestment Business. Furthermore, Gallagher believes that the integration of the current employees of the Divestment Business will strengthen its sector expertise to run effectively the business in competition with the Parties.<sup>15</sup>
19. In its Reasoned Opinion, the Trustee notes that Gallagher is a long-established and globally recognised commercial non-life specialty insurance broker. It has a proven track record in serving large customers with complex risks, including in the Aviation sector.<sup>16</sup>
20. The Divestment Business will be integrated into Gallagher's UK subsidiary, Arthur J. Gallagher (UK) Limited and its appointed representative, Alesco Risk Management Services Limited, which are internally grouped together as one division and referred to as 'Alesco'. Through Alesco, Gallagher operates a 'Speciality Risks Division', which includes aviation brokerage. [...] <sup>17</sup> [...] <sup>18</sup>
21. On this point, the Trustee noted that at least [...] % of the transaction value has been allocated to an incentive scheme for Key Personnel providing JLT employees with the motivation to move across to Gallagher. The Trustee concluded that, given that the senior management team are being incentivised to move to Gallagher on Closing, Gallagher would have the available expertise capable of competitively running the Divestment Business in competition with the Parties segment.<sup>19</sup>
22. Gallagher is also experienced in integrating newly acquired businesses and teams of brokers into its business, having acquired 48 businesses in [...]\*, 39 businesses in 2017 and 37 business in 2016.<sup>20</sup> The Trustee assessed that Gallagher had demonstrated its ability to integrate a number of companies across its insurance brokerage business, most pertinently in the Aviation sector, and that it was ideally placed and suitably experienced to integrate the Divestment Business into its existing Aviation practice.<sup>21</sup>
23. Gallagher is one of the world's largest insurance brokers. It has approximately 30 400 employees, 590 sales and service offices throughout the US and 277 sales and service offices in 35 countries, and currently serves customers in over

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\* Should read 2018.

<sup>15</sup> Monitoring Trustee Reasoned Opinion on the Proposed Purchaser Arthur J. Gallagher & Co. of 2 May 2019, Section 6.1.1.

<sup>16</sup> Monitoring Trustee Reasoned Opinion on the Proposed Purchaser Arthur J. Gallagher & Co. of 2 May 2019, Section 1.3.2.

<sup>17</sup> Monitoring Trustee Reasoned Opinion on the Proposed Purchaser Arthur J. Gallagher & Co. of 2 May 2019, Section 6.1.2.

<sup>18</sup> Monitoring Trustee Reasoned Opinion on the Proposed Purchaser Arthur J. Gallagher & Co. of 2 May 2019, Section 6.1.3.

<sup>19</sup> Monitoring Trustee Reasoned Opinion on the Proposed Purchaser Arthur J. Gallagher & Co. of 2 May 2019, Section 6.1.3.

<sup>20</sup> Monitoring Trustee Reasoned Opinion on the Proposed Purchaser Arthur J. Gallagher & Co. of 2 May 2019, Section 6.1.4.

<sup>21</sup> Monitoring Trustee Reasoned Opinion on the Proposed Purchaser Arthur J. Gallagher & Co. of 2 May 2019, Section 6.1.6.

150 countries globally. Gallagher therefore believes that it has sufficient geographic reach to integrate and run the Divestment Business competitively, which has less than 260 personnel across 16 countries globally.<sup>22</sup>

24. Gallagher is active in the key regions (Americas, Asia-Pacific and Europe) where the Divestment Business is active. [...] <sup>23</sup>
25. The Trustee's assessment is that Gallagher has a global presence with an established footprint and therefore has sufficient geographic reach and infrastructure needed in order to ensure the integration of the Divestment Business post-Closing.<sup>24</sup>
26. In light of the above, the Commission concludes that Gallagher has proven expertise serving large customers for complex risks, and the geographic reach to integrate and develop the Divestment Business as a competitive force in competition with the Parties and other market participants.

*Incentive to maintain and develop the Divestment Business as a viable and active competitive force*

27. Gallagher has committed to pay a price of approximately GBP 190 million to JLT for the acquisition of the Divestment Business,<sup>25</sup> showing a genuine economic interest in maintaining and developing it.
28. The Trustee assessed Gallagher's currently available business plans for the Divestment Business, as well as other available documents, such as impact plans for a variety of Brexit scenarios.<sup>26</sup> The Trustee concluded that Gallagher has a clear commitment to developing a strong aviation practice, having recently made two other acquisitions in this segment. It also stressed the fact that organic growth in this sector can be a slow process and the acquisition of the Divestment Business significantly enhanced Gallagher's presence in the Aerospace Manufacturing and Aircraft Operator segments, and [...] <sup>\*</sup> its current presence in the specialities market.<sup>27</sup> Gallagher's intentions to grow the business can also be evidenced by the small market shares it holds in these markets, particularly in Europe<sup>28</sup>.

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<sup>\*</sup> Should read *complements*.

<sup>22</sup> Monitoring Trustee Reasoned Opinion on the Proposed Purchaser Arthur J. Gallagher & Co. of 2 May 2019, Section 6.1.3.

<sup>23</sup> Monitoring Trustee Reasoned Opinion on the Proposed Purchaser Arthur J. Gallagher & Co. of 2 May 2019, Section 6.1.3.

<sup>24</sup> Monitoring Trustee Reasoned Opinion on the Proposed Purchaser Arthur J. Gallagher & Co. of 2 May 2019, Section 1.3.2.

<sup>25</sup> Business Purchase Agreement by and between Jardine Lloyd Thompson Group PLC, Marsh & McLennan Companies, Inc. and Gallagher Holdings (UK) Limited, dated dated 4 March 2019, as amended by amendment agreements dated 21 March 2019 and 3 May 2019, Schedule 6.

<sup>26</sup> Monitoring Trustee Reasoned Opinion on the Proposed Purchaser Arthur J. Gallagher & Co. of 2 May 2019, Section 6.2.2.

<sup>27</sup> Monitoring Trustee Reasoned Opinion on the Proposed Purchaser Arthur J. Gallagher & Co. of 2 May 2019, Section 6.3.

<sup>28</sup> For more information on market shares, see section c) below.

29. The Trustee further assessed Gallagher's integration plans and concluded that while specific plans need to be put in place, Gallagher appeared to be well positioned to conduct the integration process owing to its long track record of successful integration of broking teams.<sup>29</sup>
30. In light of the above, the Commission concludes that Gallagher has the incentive to maintain and further develop the Divestment Business as a viable and active force in competition with the Parties and other competitors.

**(c) Absence of *prima facie* competition problems**

31. The acquisition of the Divestment Business by Gallagher is *prima facie* not likely to give rise to competition concerns. Gallagher currently has a limited presence in the divested markets (i.e. broker services for Aircraft Operators, Aerospace Manufacturers and Space).
32. Gallagher's market presence in the EEA market for broker services for Aircraft Operators is minimal ([0-5]% market share in the EEA in 2017, and limited to [5-10]% globally). The acquisition by Gallagher of JLT's Aircraft Operators segment will increase Gallagher's foothold in the market to [20-30]% in the EEA and [20-30]% globally.<sup>30</sup> Post-acquisition, both the EEA and global brokerage markets for Aircraft Operators will be distributed predominantly amongst Gallagher, Willis Towers Watson and post-merger MMC. The number of large market players in the market thus remains four post-merger.
33. In the market for broker services to Aerospace Manufacturers, the Divestment Business' market share was moderate, with a [5-10]% share in the EEA market and [0-5]% on a global level in 2017. Gallagher's presence on this market has been minimal, leading to an increment of [0-5]% in the EEA and [0-5]% globally.<sup>31</sup> The acquisition of the Aerospace Manufacturers division by Gallagher will allow Gallagher to compete against MMC. Furthermore considering the incremental increase in the market the Trustee does not consider that the transaction raises any *prima facie* competition concerns in the market for Aerospace Manufacturers.
34. The Divestment Business includes JLT's complete Aerospace practice, including broking for Space. Gallagher has not been present in the market for broker services for Space and the Divestment Business' market shares in this segment are limited ([0-5]% in the EEA and [0-5]% globally in 2017). The acquisition of the Divestment Business by Gallagher would thus not lead to an increment in the market share of the Divestment Business. Given the low combined market shares of Gallagher and the Divestment Business and the absence of an increment, no *prima facie* competition concerns can arise as a result of the transaction.

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<sup>29</sup> Monitoring Trustee Reasoned Opinion on the Proposed Purchaser Arthur J. Gallagher & Co. of 2 May 2019, Section 6.4.4.

<sup>30</sup> Monitoring Trustee Reasoned Opinion on the Proposed Purchaser Arthur J. Gallagher & Co. of 2 May 2019, Tables 10, 11 and 12.

<sup>31</sup> Monitoring Trustee Reasoned Opinion on the Proposed Purchaser Arthur J. Gallagher & Co. of 2 May 2019 Tables 14 and 15.



35. Based on the above, the Commission considers, in line with the Trustee, that the acquisition of the Divestment Business by Gallagher does not give rise to *prima facie* competition concerns.

36. This *prima facie* assessment is based on the information available for the purpose of this buyer approval and does not prejudice the competition assessment of the acquisition of the Divestment Business by Gallagher by a competent competition authority under applicable merger control rules.

II.2 Divestment business is being sold in a manner consistent with the Commitments

37. In its Reasoned Opinion, the Trustee concludes that the proposed Agreements are aligned with the conditions set out in the Decision. In particular, the Trustee considers that:

- a. there are no indications that the Divestment Business would not be viable after the sale; and
- b. the Divestment Business would be sold in a manner consistent with the Commitments.

38. The Commission has reviewed the Proposed Agreements and concludes that that the Divestment Business is being sold in a manner consistent with the Commitments, and that Gallagher has the incentive to run the Divestment Business competitively in the future.

### III. CONCLUSION

39. Based on the above assessment, the Commission approves Gallagher as a suitable purchaser.

40. Based on the Proposed Agreements, the Commission further concludes that the Divestment Business is being sold in a manner consistent with the Commitments.

41. This Decision only constitutes approval of the proposed purchaser identified herein and of the Proposed Agreements. This decision does not constitute a confirmation that MMC has complied with its Commitments.

42. This Decision is based on Section D of the Commitments attached to the Decision.

*For the Commission*

*(Signed)*  
*Johannes LAITENBERGER*  
*Director-General*