



FAIR TRADING COMMISSION

Summary Report

TITLE: Acquisition of Lambou Investments Limited (Collins Limited and Carlisle Laboratories Limited) by Agostini Limited [*Collins/Agostini*]: Analysis and Decision

DATE: September 12 /2022

DETERMINATION OF MERGER APPLICATION

Lambou Investments Limited and Agostini Limited

Section 20 of the Fair Competition Act, CAP.326C of the Laws of Barbados

Dated September 21, 2022

Introduction

1. The Fair Trading Commission (hereafter, the “Commission”) considered the Application, filed on June 30, 2022¹ by Agostini Limited (hereafter “Agostini” or “the Purchaser”) and Lambou Investments Limited (which comprises Collins Limited and Carlisle Laboratories Limited) – hereafter “Lambou”, “LIL”, or “the Seller”. Collectively, Agostini Limited and Collins Limited are referred to as the “Applicants” or the “Parties”.
2. The Application sought approval for Agostini to control Collins Limited and Carlisle Laboratories Limited through the purchase of 100% of the issued shares in Lambou Investments Limited. The transaction is executed through a Sale and Purchase Agreement (SPA), which has been negotiated by all parties involved.

The Undertakings Involved

3. The following describes the main players in the proposed transaction, as determined by the Commission.

The Purchaser: Agostini Limited

¹ Both parties submitted their respective Merger Applications between June 29 2022 and July 1, 2022. The official start date of the review was July 4, 2022.

4. **Agostini** is a publicly traded company listed on the Trinidad and Tobago Stock Exchange. Agostini Limited is a group of companies whose operations include the manufacturing and distribution of pharmaceutical and personal care products, distribution of food & beverages and household products as well as the distribution of commercial lighting and building materials throughout the region to mention a few of their portfolios.
5. **Caribbean Distribution Partners Limited (CDPL)** is a 50/50 joint venture between Agostini Limited and Goddard Enterprises Limited which was approved by the Commission in July 2015. This resulted in the transfer of six fast moving consumer goods ("FMCG") distribution companies into two groups owned by CDPL.
6. **Hanschell Inniss Limited** is a distributor of FMCG in Barbados and was one of the companies associated with the CDPL joint venture. The major products distributed include food (specifically processed meats), alcoholic and non-alcoholic beverages.

Target: Lambou Investments

7. **Lambou Investments ("Lambou")** is a limited liability company incorporated under the Company Act CAP 308 of the Laws of Barbados. Lambou owns 61.69% of the outstanding shares in Collins.
8. **Collins Limited ("Collins")** is a company incorporated under the Company Act CAP 308 of the Laws of Barbados. Collins' core business includes pharmaceuticals, cosmetics and toiletries as well as hospital supplies. It operates a retail pharmacy in Barbados and distributes products primarily in Barbados, with smaller flows to St. Maarten.

9. **Carlisle Laboratories Limited** (“**Carlisle Laboratories**”) which is wholly owned by Collins, manufactures pharmaceutical products which are sold in Barbados and the English-speaking Caribbean including Belize, Bahamas, Bermuda, Guyana and Dutch speaking countries such as Curacao, Aruba, St. Maarten and Suriname.
10. **Coem Limited** is a wholly owned subsidiary of Collins. Its sole activity involves the employment of various human resources and the provision of services to the associated companies, Collins and Carlisle Laboratories.

The Proposed Transaction

11. Agostini proposes to purchase 100% shareholding in Collins Limited. This will be achieved by purchasing 100% shareholding in Lambou (which has a 61.69% shareholding Collins), and by purchasing the remaining 38.31% of the issue shares from eleven other shareholders..

Rationale for the Merger

12. The Parties have submitted that there are a number of benefits to the proposed transaction. The connection between Agostini and Collins will increase the strength of the companies in the healthcare industry while expanding regional distribution and representation in the Caribbean. The Parties further assert that in addition to increasing productivity, the transaction provides an opportunity to expand the retail pharmaceutical business with Collins pharmacy being the largest pharmacy in Barbados.

Relevant Markets

13. The FCA requires at Section 20 (7) that in the conduct of an investigation into a proposed merger the Commission shall take into account:

- *The structure of the markets likely to be affected by the proposed merger;*
- *The degree of control exercised by the enterprises concerned in the proposed merger in the market and particularly the economic and financial power of the enterprises;*
- *The availability of alternatives to the services or goods provided by the enterprises concerned in the merger;*
- *The actual or potential competition from other enterprises and the likelihood of detriment to competition; and*
- *The likely effect of the proposed merger on consumers and the economy.*

14. It follows that for the Commission to analyse the structure of the market under consideration, or the intensity of competition therein, it is necessary to first define the relevant market(s) concerned in the merger. Generally, a market can be described as the area over which a hypothetical monopolist could exercise a significant degree of market power. The products concerned in the relevant market include those goods and services supplied by the merging firms and their competitors, and the goods and services that could plausibly serve as their substitutes. The geographic market is the physical area where the product is traded.

The Commission's View of the Market

15. The Commission has defined the relevant product markets as follows:
- i. Distribution and Retail of Non-alcoholic Beverages;**
 - ii. Distribution and Retail of Alcoholic Beverages (All Spirits);**
 - iii. Distribution and Retail of Daily Consumer Goods;**
 - iv. Production and Distribution of Processed Meats;**
 - v. Production and Distribution of Bone-in Ham;**
 - vi. Distribution of Over-the-Counter ("OTC") Pharmaceuticals;**

- vii. **Distribution of Prescription Pharmaceuticals;**
- viii. **Distribution of Veterinary Products;**
- ix. **Distribution of Vaccines; and**
- x. **Distribution of Hospital and Surgical Supplies.**

16. Similarly, the geographic market is defined as the area in which (i) persons find it feasible to source an alternative product; and (ii) suppliers find it viable to supply the product or service in that particular area. For the aforementioned product markets, the products are mainly imported and distributed in Barbados or manufactured for local and regional distribution. The Commission therefore concludes that the **geographic market is Barbados.**

Competitive Assessment

17. The Commission considered the impact the proposed transaction is likely to have on the product markets and competition in Barbados, in accordance with the prescriptions articulated in Section 20(7)(d) and (e) of the FCA². The Commission's assessment was also guided by the fact that the local market structure is central in determining the likely effects of the proposed transaction on competition and consumer welfare. Therefore, the Commission assessed the probable effects of the proposed transaction with respect to possible abuse of significant market power gained post-merger, and whether the merger was likely to create conditions conducive for collusion due to market concentration.

Major Players in the Identified Market(s)

18. The Commission observed that for FMCG and the sub-markets that were identified, the market structure is characterised by at least 110

² Section 20(7) requires the Commission to give consideration to the effect the transaction can have on the consumer and the economy, as well as the actual and potential competition from other enterprises and the possible detriment to competition.

wholesalers/distributors that operate upstream by supplying imported products and locally manufactured goods to retail companies. At the retail level, the Commission notes that Agostini and Collins would compete individually with entities such as grocery retailers, including pharmacies, minimarts, supermarkets, and corner shops.

19. An exception occurs for the bone-in ham products³, as well as the markets for vaccines, pharmaceuticals, hospital and surgical supplies and veterinary products—Agostini does not currently operate in these markets. The Commission has determined that the pre-merger conditions will not change and therefore it is not foreseen that there would be any changes to the competitive landscape.

The Commission's View of Competition in the Market

Distribution and Retail of Non-alcoholic Beverages

20. Before consummation of the merger, both parties operated in the distribution and retail of non-alcoholic beverages with estimated market shares of [0 – 5] % for Agostini and [0 – 5] % for Collins Limited. Collins distributes brands such as Lucozade and Ribena while Agostini distributes and retails brands such as JuC, Pepsi and Cool Fruit juices. The Commission is of the opinion that consumer choice will not be affected by the transaction as this market is highly competitive among distributors and retailers across the island. In addition, it is not foreseen that there would be any anticompetitive effects post-merger.

Distribution and Retail of Alcoholic Beverages (Spirits)

³ This specialised product is seasonal and anecdotal evidence indicate that Barbadian consumers prefer the locally manufactured product exclusively produced by Hanschell Inniss.

21. Pre-merger, of the two merging parties, only Agostini distributes and retails alcoholic beverages which include wines, spirits and beer. Through Hanschell Inniss Limited, Agostini distributes brands such as Gordon's and Tanqueray Gin, GT beer, liqueurs such as Bailey's and Barefoot wine to name a few. Once again, consumers have multiple choices in terms of product as well as retail outlets from which to purchase. Lambou's subsidiaries in Barbados are not present in this market. The Commission therefore concludes that pre-merger conditions are not expected to change. Additionally, it is not anticipated that there would be any adverse effects on competition post-merger.

Distribution and Retail of Daily Consumer Goods

22. Both Parties have a presence in this product market. Agostini possesses [10 – 15] % market share whereas Lambou's subsidiary has a [0 – 5] % market share estimate. Post-merger, Agostini will gain [0 – 5] % market share to garner [10 – 15] % of the daily consumer goods market. However, this market is highly competitive given the presence of multiple players such as wholesale distributors, supermarkets, minimarts and corner shops.

23. Given the above, the Commission has determined that pre-merger conditions are unlikely to change significantly. This is not foreseen to result in anti-competitive effects on the product market post-merger.

Production and Distribution of Processed Meats

24. Of the two merging parties only Hanschell Inniss operates in the processed meats market. Its pre-merger market share is [30 – 40] %. Evidence suggests that there are several other competing products (and brands) which are sold by other rival retailers. In addition, rival distributors supply products which continue to be major competition for Hanschell Inniss. This pre-merger

condition is not expected to change. Hence, it is not foreseen that there would be any anti-competitive effects post-merger.

Production and Distribution of Bone-in Ham

25. Pre-merger, of the two merging parties, only Hanschell Inniss operates in the bone-in ham market with an estimated market share of [80 – 90] %. The pre-merger condition is not expected to change and therefore it is not foreseen that there would be any anti-competitive effects post-merger.

Pharmaceutical Group of Markets

26. The pharmaceutical group of markets includes:
- Distribution of OTC Pharmaceuticals;
 - Distribution of Prescription Pharmaceuticals;
 - Distribution of Veterinary Products;
 - Distribution of Vaccines; and
 - Distribution of Hospital and Surgical Supplies
27. Lambou/Collins/Carlisle Laboratories exist in all of the listed sub-markets, whereas Agostini has no presence. Entry into these markets is not easy, despite the assertions by the Parties, as entry would require capital investments, human resources and adherence to regulatory guidelines. However, it is evident that Agostini will simply be acquiring the current market structure of these markets.
28. In addition, it is likely for Agostini, having taken over the operations of Lambou Investments, to continue to experience the same competitive pressure post-merger. In terms of price increases, it is customary for pharmaceutical distributors to have exclusive arrangements with manufacturers or wholesale distributors. However due to generic brands being in existence, a price increase can precipitate a switch in demand to the rival firms' products.

29. To conclude, this market review did not reveal any concerns in relation to any of the product markets listed and explored above. The markets are competitive and the transaction does not raise competitive concerns.

Post - Merger Effects

30. Owing to the structure of the transaction and pre- and post-merger arrangements thereof, the Commission has determined that the transaction will not result in any major changes to the market structures given the takeover of shares by Agostini, a company not operating in the pharmaceutical group of markets in Barbados. Moreover, the other product markets are not concentrated and are highly competitive.

Conclusion

31. The Fair Trading Commission, pursuant to Section 20(5) of the Fair Competition Act CAP.326C has completed the analysis of the Merger Application submitted by Agostini and Lambou Investments.

32. In accordance with Section 20 (7) (a) to (e) of the FCA, the Commission considered the structure of the markets likely to be affected by the proposed transaction, the degree of control exercised by the enterprises, the likely effect of the proposed merger on consumers and the economy, the actual and potential competition from other enterprises, and the likelihood of detriment to competition.

33. The following findings regarding the proposed transaction were made:

- **Agostini does not operate in the major pharmaceutical markets in Barbados in which Lambou Investments and its subsidiaries are present.**

- **The proposed transaction will not result in any major changes in the identified product markets.**
- **The acquisition of the shares by Agostini would likely result in more competition, since Agostini's influence on the distribution arm of the business can lead to the introduction of new products/services for consumers in Barbados.**

34. In light of the foregoing, the Commission has resolved that the merger as currently structured and presented is permitted without conditions.