



## **DETERMINATION OF MERGER NOTIFICATION M/09/007 -**

### **MAX / IPC**

---

#### **Section 21 of the Competition Act 2002**

#### **Proposed merger of Max Capital Group Limited and IPC Holdings, Limited.**

**16 April 2009**

---

#### **Introduction**

1. On 27 March 2009, in accordance with section 18(1) of the Competition Act 2002 ("the Act"), the Competition Authority ("the Authority") received a notification of a proposed transaction whereby Max Capital Group Limited ("Max") would merge with IPC Holdings Limited ("IPC"). Both companies are active in the insurance and reinsurance business<sup>1</sup>.

#### **The Undertakings Involved**

##### *Max Capital Group Limited*

2. Max is a Bermuda-headquartered company whose shares are publicly traded on NASDAQ. Max is a provider of specialty insurance and reinsurance products for the property and casualty segment, with operations based in Bermuda, Ireland, United States and United Kingdom. Max, through its subsidiary Max at Lloyd's, is active in various Lloyd's syndicates<sup>2</sup>. Max also provides life and annuity reinsurance.
3. In the State, Max is predominantly active in the sale of life reinsurance and, to a limited extent, insurance to corporations, public entities and insurers.
4. The insurance and reinsurance business of Max is carried out in the State through its subsidiaries: Max Europe Holdings Limited, Max Re Europe Limited and Max Insurance Europe Limited. Max sells property and casualty insurance<sup>3</sup>, aviation insurance and professional liability insurance<sup>4</sup>. Max also offers life and annuity reinsurance<sup>5</sup> and, to a limited extent, workers compensation reinsurance<sup>6</sup>.

---

<sup>1</sup> A description of the main function of the insurance and reinsurance markets can be found in the Authority's Determination M/09/005 - *Munich-American Holding Corporation / HSB Group, Inc*, 5 March 2009. The Determination can be downloaded from the Authority's website at: [http://www.tca.ie/MergersAcquisitions/MergerNotifications.aspx?selected\\_item=438](http://www.tca.ie/MergersAcquisitions/MergerNotifications.aspx?selected_item=438)

<sup>2</sup> Lloyd's is an insurance brand. Lloyd's is not organised as an insurance company but as a society of members, both corporate and individual, who underwrite in syndicates on whose behalf professional underwriters accept risk.

<sup>3</sup> Casualty insurance is used to describe an area of insurance not particularly or directly concerned with life insurance, health insurance, or property insurance. It is mainly used to describe the liability coverage of an individual or organization's for negligent acts or omissions.

<sup>4</sup> Professional liability insurance covers professional practitioners such as architects, lawyers, physicians, and accountants against potential negligence claims made by their patients/clients.

### *IPC Holdings Limited*

5. IPC is a Bermuda-headquartered catastrophe reinsurer whose shares are publicly traded on the NASDAQ. IPC has operating centres in Bermuda and Dublin. Through its operating company, IPCRe Limited, IPC provide specialty property reinsurance with focus on natural catastrophic events. This cover includes damage to property from unpredictable events such as hurricanes, windstorms, earthquakes and floods but also, to a lesser extent, from sources as diverse as freezes, riots, industrial explosions and other man-made or natural disasters. To a limited extent, IPCRe Limited offers aviation reinsurance and other types of short-tail reinsurance<sup>7</sup>.
6. In the State, IPC is active through its subsidiary IPCRe Europe Limited and offers primarily property reinsurance.

### **The Proposed Transaction**

7. The merger of Max and IPC is effected through an amalgamation pursuant to an Agreement and Plan of Amalgamation dated 1 March 2009. Post transaction, the merged entity would be called Max Capital Group Limited.
8. The parties submitted that the merger of Max and IPC will enable the merged entity to provide a more diversified specialty insurance and reinsurance business across many dimensions (that is, by class, geography, customers and distribution) and a more balanced combination of short-tail versus long-tail lines of business<sup>8</sup>.

### **Third Party Submissions**

9. No third party submissions were received.

### **Analysis**

10. The parties submitted that there is no horizontal or vertical overlap in their activities. While both parties are involved in the reinsurance business in the State, their activities relate to entirely separate risks. Max primarily sells life reinsurance business while IPC is active in the sale of property reinsurance.

### *Reinsurance*

11. The parties submitted that there is no horizontal overlap in their activities because their reinsurance products are not substitutable and are provided to different types of customers in the State. In addition,

---

<sup>5</sup> An annuity contract is a financial contract between an insurer and a customer under which the insurer promises to make a series of periodic benefit payments to a named individual in exchange for the contract owner's payment of a premium or series of premiums to the insurer.

<sup>6</sup> This cover reinsures all workers' compensation insurers against medical care claims made by employees who are injured in the course of employment, in exchange for mandatory relinquishment of the employee's right to sue his or her employer for the tort of negligence.

<sup>7</sup> Reinsurance products can be categorized as 'short-tail' or 'long-tail'. In general terms, short-tail and long-tail refers to the length of time between the assumption of a risk and the payment of claims in respect of that risk. Casualty insurance tends to be long-tail while property insurance tends to be short-tail. See Slide 12 of the Max/IPC Merger Investor Presentation, April 2009, available at <http://www.maxcapgroup.com/home.asp>

<sup>8</sup> See Slides 11 and 12 of the Max/IPC Merger Investor Presentation, April 2009, available at <http://www.maxcapgroup.com/home.asp>

the parties submitted that the reinsurance market is global in which they collectively account for a minimal market share. They cited previous European Commission ("the Commission") decisions to support their claims. The parties noted the following:

- the Commission has so far left open whether reinsurance constitutes a single relevant product market or whether it should be further subdivided into life and non-life segments<sup>9</sup>. In addition, the Commission has also considered a further segmentation of the non-life reinsurance market according to the class of risk covered (e.g., liability, motor, property, etc.)<sup>10</sup>; and,
  - the Commission has previously found that the scope of the relevant geographic market is global due to the need to pool risks on a worldwide basis.<sup>11</sup>
12. The parties noted that even if the Authority considered life reinsurance and property reinsurance to be a single product market in the State, the proposed transaction would not give rise to competition concerns. In this regard, the parties submitted that the proposed merger would lead to a minimal increase in the market share of the merged entity. The parties estimated the value of the consolidated gross premiums written by Max and IPC from customers in the State in 2008 to be approximately €[...]m and €[...]m respectively. The parties estimated that IPC business represents less than [0-5]% of the reinsurance business in the State.
13. The Authority considers that it is not necessary to make a finding on the relevant product market(s) since the proposed merger is unlikely to give rise to any competition concerns in any markets in the State for the following reasons:
- If life reinsurance and property reinsurance are considered to be two separate markets, then there is no overlap in the activities of the parties.
  - If life reinsurance and property reinsurance are considered to be in a single market, then the combined market share of Max and IPC would be less than [0-5]% of the reinsurance market in the State<sup>12</sup>.
  - Whether or not there is a single reinsurance market or several reinsurance markets, the merged entity will continue to face competition from the presence of internationally active reinsurers (e.g., ACE, AXIS Capital, Hannover Re and Swiss Re) and

---

<sup>9</sup> See Case IV/M.1306 - Berkshire Hathaway / General Re, Case No. COMP/M.4059 - Swiss Re / General Electric Insurance Solutions, Case No COMP/M.5083 - Groupama/ OTP Garancia.

<sup>10</sup> See Case No. COMP/M.4059 - Swiss Re / General Electric Insurance Solutions.

<sup>11</sup> See Case No COMP/M.5083 - Groupama/ OTP Garancia.

<sup>12</sup> This market share estimate is based upon the 2007 industry totals provided by the Irish Financial Services Regulatory Authority. In 2007 the total gross written premiums amounted to approximately €14bn, of which €10bn was for life reinsurance and €4bn was for non-life reinsurance. These figures comprise the gross premiums written only by the reinsurance undertakings authorised in the State under the Statutory Instrument 380 of 2006 ("S.I. 380") which transposed into Irish law the Council Directive 2005/68/EC ("Reinsurance Directive") on 15 July 2006. These figures underestimate the total gross written premiums of the reinsurance market in the State since there are a number of reinsurers that do not fall under S.I. 380.

reinsurance brokers (e.g., AON Corporation, Guy Carpenter/Marsh and Willis)<sup>13</sup>.

### **Determination**

The Competition Authority, in accordance with section 21(2)(a) of the Competition Act 2002, has determined that, in its opinion, the result of the proposed merger of Max Capital Group Limited and IPC Holdings Limited will not be to substantially lessen competition in any market for goods or services in the State and, accordingly, the merger may be put into effect.

### **For the Competition Authority**

Dr Stanley Wong  
Member of the Competition Authority

---

<sup>13</sup> According to the Irish Financial Services Regulatory Authority, as of February 2009 there were 122 reinsurers authorised in the State. In addition, there are over 4,000 insurance/reinsurance intermediaries registered in the State. The full list of reinsurance companies can be downloaded from the website of the Financial Regulator: <http://registers.financialregulator.ie/>