



DETERMINATION OF MERGER NOTIFICATION M/18/042 – OAKTREE/ALANIS CAPITAL/LIONCOR (JV)

Section 21 of the Competition Act 2002

Proposed acquisition by Oaktree Capital Group LLC and Alanis Capital Limited of joint control of Lioncor Developments Limited

Dated 12 September 2018

Determination

Pursuant to section 20(3) of the Competition Act 2002, as amended (the “Act”), Oaktree Capital Group LLC (“Oaktree”) and Alanis Capital Limited (“Alanis”) have submitted to the Competition and Consumer Protection Commission (the “Commission”) proposals, as set out below, relating to the proposed acquisition by Oaktree, through OCM Luxembourg Opps Xb S.à.r.l., of 50% of the issued share capital of Lioncor Developments Limited (“Lioncor”) from Alanis which will confer joint control of Lioncor on Oaktree and Alanis, for the purpose of ameliorating any effects of the proposed acquisition on competition in markets for goods or services, with a view to the proposals becoming binding on Oaktree and Alanis.

The Commission has taken the proposals into account and in light of the said proposals (which form part of the basis of its determination) has determined, in accordance with section 21(2)(a) of the Act, that the result of the proposed acquisition whereby Oaktree, through OCM Luxembourg Opps Xb S.à.r.l., would acquire 50% of the issued share capital of Lioncor from Alanis and which would thereby confer joint control of Lioncor on Oaktree and Alanis will not be to substantially lessen competition in any market for goods or services in the State, and, accordingly, that the acquisition may be put into effect.

For the Competition and Consumer Protection Commission

Brian McHugh
Member
Competition and Consumer Protection Commission



PROPOSALS BY OAKTREE CAPITAL GROUP LLC AND ALANIS CAPITAL LIMITED TO THE COMPETITION AND CONSUMER PROTECTION COMMISSION RELATING TO THE PROPOSED ACQUISITION BY OAKTREE CAPITAL GROUP LLC AND ALANIS CAPITAL LIMITED OF JOINT CONTROL OF LIONCOR DEVELOPMENTS LIMITED (“Proposals”)

RECITALS

- a) On 22 May 2018, the proposed acquisition by Oaktree and Alanis of Joint Control of Lioncor was notified to the Commission under Part 3 of the Act.
- b) Pursuant to section 20(3) of the Act, Oaktree and Alanis have submitted to the Commission these Proposals relating to the Proposed Transaction for the purpose of ameliorating any possible effect of the Proposed Transaction on competition in markets for goods or services, with a view to the Proposals becoming binding on each of Oaktree and Alanis.
- c) The Proposals submitted by Oaktree and Alanis are intended to strengthen existing measures to prevent the exchange between Lioncor and each of Oaktree and Alanis of Confidential Information of third party customers of Lioncor, which would constitute a breach of section 4(1) of the Act.

A. Definitions

1. For the purpose of the Proposals, the following terms shall have the following meaning:

“**Act**” means the Competition Act 2002, as amended;

“**Alanis**” means Alanis Capital Limited, a private limited company incorporated under the laws of Ireland (Registration 439156), which has its registered address at 61 Fitzwilliam Square, Dublin 2, D02 V099;

“**Alanis Termination Date**” means the date on which the shares in Lioncor acquired by Alanis are disposed of to a third party not owned or controlled by CIM Bluelight Finance Unlimited;

“**Commencement Date**” means the date of the Commission’s Determination;

“**Commission**” means the Competition and Consumer Protection Commission and its successors;

“**Determination**” means the Determination of the Commission pursuant to section 21(2)(a) of the Act that the Proposed Transaction may be put into effect;

“**Lioncor**” means Lioncor Developments Limited, a private limited company incorporated under the laws of Ireland (Registration 611037), which has its registered address at 61 Fitzwilliam Square North, Dublin 2, D02 V099;

“**Oaktree**” means Oaktree Capital Group LLC, a Delaware incorporated limited liability



company registered on the New York Stock Exchange;

“**Oaktree Investor**” means OCM Luxembourg Opps Xb S.a.r.l.;

“**Oaktree Termination Date**” means the date on which the shares in Lioncor acquired by the Oaktree Investor are disposed of to a third party not owned or controlled by Oaktree;

“**Proposed Transaction**” means the proposed acquisition by certain funds managed and advised by Oaktree Capital Group LLC, and Alanis Capital Limited of joint control of Lioncor Developments Limited as notified to the Commission on 22 May 2018; and

“**Term**” means the period beginning on the Commencement Date and ending for Oaktree on the Oaktree Termination Date and for Alanis on the Alanis Termination Date.

B. Undertaking by Oaktree and Alanis- Confidentiality Commitment

During the Term, each of the Oaktree Investor and Alanis undertake to procure that any development management agreement which Lioncor enters into with a third party customer will contain a confidentiality provision in the form below or in substantially similar form to the clause below.

“1. Confidential Information

1.1 *The Development Manager [i.e. Lioncor Developments Limited] undertakes to the Owner [i.e. the owner of the site in respect of which Lioncor Developments Limited will be providing development management services] that all Confidential Information disclosed to the Development Manager by the Owner will:*

- (a) *be kept strictly confidential and not disclosed to any person by the Development Manager (save to its legal and professional advisors);*
- (b) *be securely retained such that the Development Manager shall not part with the possession, custody or control of Confidential Information provided to it; and*
- (c) *be afforded a level of protection and security against unauthorised access not less than that level of protection and security which the Development Manager affords to its own equivalent Confidential Information.*



1.2 *The Owner undertakes to the Development Manager that unless otherwise agreed to in writing, all Confidential Information disclosed to the Owner by the Development Manager will:*

- (a) *be kept strictly confidential and not disclosed to any person by the Owner (save to its legal and professional advisors);*
- (b) *be securely retained such that the Owner shall not part with the possession, custody or control of Confidential Information provided to it; and*
- (c) *be afforded a level of protection and security against unauthorised access not less than that level of protection and security which the Owner affords to its own equivalent Confidential Information.*

1.3 *The obligations set out in clause 1.1 and 1.2 will not apply:*

- (a) *to any information which at the time of disclosure or thereafter is generally available to or known by the public (other than as a result of its disclosure by the relevant party to this Agreement in breach of any obligation of confidentiality);*
- (b) *to any information which was or becomes available to the relevant party to this agreement on a non-confidential basis from a person, other than the other party (or any of its directors, employees, agents, consultants, representatives or advisers) and who is not bound by an obligation of confidentiality in respect of such information;*
- (c) *to any information which the other party agrees in writing is not Confidential Information; and*
- (d) *to any information which is required to be disclosed by judicial order or action or any applicable law, regulation or rule of any recognised investment exchange.*

1.4 *For the avoidance of doubt, Confidential Information shall not be deemed to be in the public domain merely because it is known to a limited number of third parties having experience in the relevant field. In addition, any combination of elements of the Confidential Information shall not be deemed to be within the foregoing exceptions merely because individual elements of the Confidential Information are in the public domain but only if the combination is in the public domain.*

1.5 *For the purposes of this clause 1, "Confidential Information" means all information which is used in or otherwise relates to the business, customers or financial or other affairs of a party including information relating to:*

- (a) *the marketing of goods or services by that party, including customer names and lists and other details of customers, sales targets, sales*



statistics, market share statistics, prices and advertising or other promotional materials; and

(b) future projects, business development or planning, commercial relationships and negotiations of that party.

1.6 The provisions of this clause 1 shall survive termination of the Development Manager's engagement pursuant to this agreement."

Dated: 11 September 2018

SIGNED for and on behalf of

Oaktree Capital Group LLC

by its duly authorised representative

By: _____

Name: _____

Title: _____

SIGNED for and on behalf of

Alanis Capital Limited

by its duly authorised representative

By: _____

Name: _____

Title: _____

SCHEDULE A
[Oaktree Headed Paper]

Ibrahim Bah
Director
Competition Enforcement and Mergers
Competition and Consumer Protection Commission
Bloom House
Railway Street
Dublin 1

BY EMAIL & BY POST

Date: 11 September 2018

M/18/042 – Oaktree/Alanis Capital/Lioncor JV

Dear Sirs

Pursuant to section 20(3) of the Competition Act 2002, as amended (“**Act**”), Oaktree Capital Group LLC (“**Oaktree**”) and Alanis Capital Limited (“**Alanis**”) hereby provide the following proposals (“**Proposals**”) in order to enable the Competition and Consumer Protection Commission (“**Commission**”) to determine that the acquisition by Oaktree and Alanis of joint control of Lioncor Developments Limited (“**Lioncor**”) (the “**Proposed Transaction**”) may be put into effect by a determination pursuant to section 21(2)(a) of the Act (“**Determination**”).

Consistent with section 20(3) and section 26(1) and section 26(4) of the Act, Oaktree and Alanis acknowledge that the Proposals shall become binding on both of them if the Commission takes the Proposals into account and states in writing that the Proposals form the basis or part of the basis of the Determination.

Yours faithfully,

Oaktree Capital Group LLC

SCHEDULE B
[Alanis Headed Paper]

Ibrahim Bah
Director
Competition Enforcement and Mergers
Competition and Consumer Protection Commission
Bloom House
Railway Street
Dublin 1

BY EMAIL & BY POST

Date: 11 September 2018

M/18/042 – Oaktree/Alanis Capital/Lioncor JV

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Yours faithfully,

Alanis Capital Limited