Coimisiún um Iomaíocht agus Cosaint Tomhaltóirí | Competition and Consumer Protection Commission

DETERMINATION OF MERGER NOTIFICATION M/25/010 – KAES RECYCLING /BORD NA MÓNA RECYCLING

Section 21 of the Competition Act 2002

Proposed acquisition by KWD Group, through Kaes Recycling Holdings Limited, of Bord na Móna Recycling Limited

Dated 10 April 2025

Introduction

1. On 7 February 2025, in accordance with section 18(1)(a) of the Competition Act 2002, as amended (the "Act"), the Competition and Consumer Protection Commission (the "Commission") received a notification of a proposed acquisition whereby Kaes Recycling Holdings Limited ("Kaes Recycling"), part of the KWD Group ("KWD Group"), would acquire the entire issued share capital, and thus sole control, of Bord na Móna Recycling Limited ("BnaM Recycling"), an indirect wholly-owned subsidiary of Bord na Móna plc ("BnaM") (the "Proposed Transaction").[1]

The Proposed Transaction

2. The Proposed Transaction is to be implemented by way of a share purchase agreement, dated 7 January 2025, between Kaes Recycling and Killarney Waste Disposal Unlimited Company ("KWD Recycling") and BnaM (the "SPA"). Pursuant to the SPA, Kaes Recycling will acquire the entire issued share capital, and thus sole control, of BnaM Recycling.

The Undertakings Involved

The Acquirer – KWD Group

[1] KWD Group and BnaM Recycling are collectively referred to as the "Parties" hereafter.

3. KWD Group is a group of businesses owned and controlled by entrepreneur Sean Murphy and his family.[2] KWD Group comprises a number of companies and businesses that are active in the collection and processing of waste, including KWD Recycling, a waste collector and processor; and two waste processing companies, namely Forge Hill Recycling Unlimited Company ("FHR") and Limerick Polymers Production Unlimited Company ("LPP"). KWD Group collects waste under the following trading names: *KWD Recycling*, *Clean Ireland Recycling*, *Ryan Brothers Environmental Services*, *Recycle Right*, and *South West Bins*.

4. KWD Group, through the business names mentioned above, provides waste collection services to domestic, and commercial and industrial ("C&I") customers in Counties Kerry, Cork, Tipperary, Clare, Offaly, Laois and Limerick. KWD Group also collects construction and demolition ("C&D") waste from customers in Counties Kerry, Cork, Tipperary, Clare, Offaly, Limerick and Kilkenny. It collects all types of non-hazardous waste including general waste, dry recycling, food waste and, in some cases, glass. KWD Group provides waste collection and recycling services to all types of businesses including retailers, factories, hotels, public houses, schools, local authorities, as well as households.

5. KWD Group is active in the processing of waste on behalf of its own waste collection businesses as well as third party waste collectors. Its waste processing facilities are located in Counties Kerry, Clare, Meath, Tipperary, Cork and Limerick. Its waste processing facilities include transfer stations, sorting facilities, material recovery facilities ("MRFs") and plastic recovery facilities ("PRFs"). The businesses in the group that undertake waste processing are KWD Recycling plus two other waste processors, FHR and LPP.

6. FHR is a subsidiary of Feusa Holdings Unlimited Company within KWD Group and operates a MRF in County Cork. This facility takes in over 90,000 tonnes of mixed recyclables per annum and sorts the material before it is shipped elsewhere for

[2] KWD Group comprises a group of companies and businesses that is ultimately owned and controlled by Sean Murphy, and his family through Feusa LP, which owns Killarney Waste Disposal Holdings and Feusa Holdings Unlimited Company and, in turn, a number of subsidiaries, including Kaes Recycling, all of which are active in the waste sector. This group of companies and its subsidiaries collectively comprises and is referred to as KWD Group.

recycling. FHR receives mixed recycling from KWD Group entities as well as from third party waste collectors. The majority of FHR's customers are based outside of the State.[3]

7. LPP is a subsidiary of Limerick Polymers Production Holdings Unlimited Company, itself a subsidiary of Feusa Holdings Unlimited Company, within KWD Group. LPP operates a Limerick-based PRF designed to take in and refine mixed plastic from MRFs (including FHR) based on the island of Ireland and in Great Britain. LPP sorts the plastic by colour and polymer type and then exports the plastic to be recycled. Additionally, LPP carries out collection and sorting for Re-turn, the State's new Deposit Return Scheme for cans and plastic bottles. LPP's PRF is the only such "refinery of plastic" on the island of Ireland.

8. KWD Group does not operate a landfill site, but it does own and operate a civic amenity site in County Limerick.

9. For the financial year ending 31 December 2023, KWD Group's worldwide turnover was approximately €[redacted], of which €[redacted] was generated in the State.

The Target – BnaM Recycling

10. BnaM Recycling is an indirectly wholly-owned subsidiary of BnaM and operates a vertically integrated waste management business that previously traded under the Advanced Environmental Solutions ("AES") brand name.[4] BnaM Recycling collects and processes more than 340,000 tonnes of waste from over 133,000 customers annually. It provides waste collection services to domestic and C&I customers located in Counties Dublin, Kildare, Wicklow, Carlow, Wexford, Louth, Meath, Cavan, Westmeath, Offaly, Laois, Roscommon, Tipperary, Clare and Limerick. It also collects

[3] For further information on FHR, please see https://www.fhr.ie.

[4] BnaM acquired Advanced Environmental Solutions (Ireland) Limited in 2007; please see the link to the Competition Authority's determination in relation to that the merger here: M/07/12 – Bord na Móna/AES. Advanced Environmental Solutions (Ireland) Limited changed its company name to Bord Na Móna Recycling Limited on 30 April 2021. BnaM Recycling ceased use of "AES" trademarks/branding in 2021.

waste from C&D customers in counties in Leinster, Munster, Ulster[5], and parts of Connacht.

11. BnaM Recycling operates seven transfer stations and/or waste processing/sorting facilities, all of which are Environmental Protection Agency ("EPA")-licensed. These are located in Counties Dublin, Meath, Tipperary, Laois, Wexford, Kildare, and Offaly. The Tipperary facility is also a civic amenity site and is privately-owned and operated by BnaM Recycling. BnaM Recycling also operates three further civic amenity sites, two on behalf of Kildare County Council and one on behalf of Laois County Council.

12. BnaM Recycling operated a MRF at its facility located in Tullamore, County Offaly. Following a fire at the facility in February 2024, BnaM Recycling has not been active in the processing of non-glass recyclables at that site, and therefore its activities in the supply for sale of non-glass recyclables from this site have declined significantly.

13. The vendor, BnaM, is an Irish semi-state renewable energy company, focussed on climate solutions. BnaM's principal (and controlling) shareholder is the Minister for the Environment, Climate and Communications. BnaM's solutions cover renewable energy, waste management, recycling, peatlands rehabilitation, carbon sequestration and biodiversity conservation.[6]

14. For the financial year ending 27 March 2024, BnaM Recycling's worldwide turnover was approximately €[redacted], all of which was generated in the State.

Rationale for the Proposed Transaction

15. The notification form, received by the Commission on 7 February 2025 (the "Merger Notification Form"), states the following from the perspective of KWD Group:

> "*The Proposed Transaction is part of KWD Group's strategic growth strategy in the collection of domestic and C&I waste which has both organic and*

[5] BnaM Recycling collects waste from C&D customers in County Cavan.
[6] For further information on BnaM, please see https://www.bordnamona.ie/ .

acquisitive aspects. The Proposed Transaction would allow KWD Group to extend its geographic footprint into areas of the State where it currently has no or a limited presence. Specifically, BnaM Recycling is a complementary fit for KWD Group's business in that its current area of operations adjoins KWD Group's existing business activities in Munster."[7]

16. The Merger Notification Form states the following from the perspective of BnaM Recycling:

"BnaM's strategy is to focus on its renewable energy business and it is committed to helping the State achieve its green energy target by 2030 and carbon neutrality by 2050. BnaM's ambition is to be the leading renewable energy company in the State and is accelerating the development and delivery of its 5GW renewable energy infrastructure pipeline.

[redacted]

Therefore, BnaM believes that the Proposed Transaction is the best course of action for its shareholder while also ensuring the future success of BnaM Recycling."[8]

Third Party Submissions

[7] Section 2.6 of the Merger Notification Form.
[8] Section 2.6 of the Merger Notification Form.

17. Two third party submissions were received by the Commission. These submissions were fully considered by the Commission insofar as they related to potential competition concerns arising from the Proposed Transaction.

Contacts with the Undertakings Involved

18. During the Phase 1 investigation, the Commission requested and received further information and clarifications from the Parties on an ongoing basis.

19. On 7 February 2025, in addition to the Merger Notification Form, an economic report by Frontier Economics Limited ("Frontier"), entitled "Project Circle: Domestic and C&I Waste Collection", and commissioned on behalf of the Parties, was submitted to the Commission (the "Economic Report").

20. The Economic Report identified areas of material overlap between the Parties in the State and analysed potential competitive effects in those areas. The Economic Report identified potential divestment remedies to alleviate competition concerns relating to domestic and C&I waste collection services.

21. On 17 February 2025, KWD Group formally submitted proposals to the Commission in accordance with section 20(3) of the Act (the "Proposals"). The submission of the proposals extended the deadline by which the Commission was required to make its determination on the Proposed Transaction at Phase 1. The extension added 15 working days to the Phase 1 period, bringing the total review period to 45 working days, in accordance with section 21(4) of the Act.

22. During the Phase 1 investigation, the Commission engaged with KWD Group and its legal advisors to discuss whether the Proposals would ameliorate the potential competition concerns identified by the Commission (outlined from paragraphs 127 to 184 of this determination). The Proposals were revised to take into account feedback from the Commission. A final version of the Proposals was agreed and signed by Kaes Recycling and Seán Murphy and submitted to the Commission on 10 April 2025.

Market Enquiries

23. During its review of the Proposed Transaction, the Commission circulated questionnaires to third parties, including competitors of the Parties and individual C&I waste customers of KWD Group and BnaM Recycling.

24. The Commission received a response from the majority of the third parties to whom it sent a questionnaire, and, in some cases, the Commission also contacted those third parties by telephone and/or e-mail to seek further details regarding their responses.

Industry Background

25. The Parties are both active in the collection, processing and disposal of non-hazardous waste. In this section, the Commission outlines the services which both Parties supply to provide context for its competitive assessment of the Proposed Transaction.

26. This section provides an overview of non-hazardous waste management in the State, with a specific focus on:

- Production of waste at domestic and C&I premises;
- Collection of waste from domestic and C&I premises;
- Transfer, sorting and/or processing of waste;
- End disposal, recycling and exporting of waste;
- Waste regulation in the State; and
- The Commission's previous reviews of the non-hazardous waste management sector.

Waste Production

27. Waste, by its very nature, is an undesirable by-product of another activity in either a domestic or commercial setting. Consequently, while some waste may be stored

or relocated at an adjacent location (e.g., composting organic material), most waste is removed from domestic, commercial or industrial premises by way of a pre-arranged waste collection service.

Waste Collection

28. The function of waste collection is to collect waste and transport it from one place – the domestic or commercial setting in which the waste has been produced – to another (e.g., a transfer station, processing facility, or incinerator/landfill). Waste collection involves two key elements: a collection receptacle (e.g., bags, wheelie bins or skips) and transport (e.g., vans or trucks).

29. Domestic waste collection is provided to individual domestic households (including detached houses, semi-detached houses, terraced houses, bedsits and apartments in converted houses or commercial buildings, but excluding purpose-built apartment complexes). Domestic waste collection usually occurs weekly or fortnightly on scheduled pick-ups through the collection of waste in wheelie bins or bags containing household waste (i.e., non-recyclable or "black bin" waste, organic compostable waste and mixed recyclable waste). Domestic waste collection also includes the removal of skips from domestic customers which may contain demolition and construction waste. Domestic customers who reside in buildings where there is not adequate space for them to keep or store wheelie bins (for example, terraced houses located on narrow streets) may have their household waste collected in domestic waste bags rather than wheelie bins.

30. C&I waste collection generally includes a similar sort of waste to household waste, so the processing and disposal options are comparable as between domestic and C&I waste. However, C&I customers usually require more frequent collections than domestic customers and often require comprehensive reporting on the volume and composition of their waste. C&I wheelie bins may be larger than the typical domestic wheelie bin. C&I customers are referred to as either "single-site" or "multi-site" customers. Single-site (also known as "individual") C&I customers are those which have one business location from which their waste is collected. Multi-site C&I

customers are those which have their waste collected from more than one location (for example, a retail chain which has stores in various locations). Purpose-built apartment complexes are considered C&I customers.

31. Some providers of waste management services only collect waste from customers and do not process waste. These operators typically contract with waste processors for the provision of waste processing services. Some providers of waste management services both collect waste from customers and process the waste in their own waste processing facilities.

Waste transfer, sorting and/or processing

32. Following the waste being collected from a customer's premises, it is then transported to a different location for processing. Waste processing involves: (i) the transfer of waste from the waste collector's truck to a transfer station or processing facility; and (ii) the sorting and categorising of waste at the processing facility prior to subsequent recycling or disposal. For example, at a MRF, mixed recyclables are brought for segregation into cardboard, paper, plastic bottles, steel/aluminium cans and residual waste, and various types of waste are separated out and prepared for later disposal or recycling. The transfer and processing of waste may occur at the same location or, alternatively, waste may be bulked up at a transfer station prior to being transported to a further location for further processing.

End disposal, recycling and exporting of waste

33. Waste that cannot be recycled/composted (also called "residual waste") is either disposed of at a landfill, or recovered at a landfill (i.e., used as landfill cover or for engineering purposes such as road building), or sent to cement kilns, or sent for incineration at a waste-to-energy facility, either in the State or abroad.

34. The two waste-to-energy facilities in the State are the Indaver Waste-to-Energy facility, located in Duleek, County Meath; and the Dublin Waste-to-Energy facility, which is operated by Encyclis, and located in Poolbeg, County Dublin. Both waste-

to-energy facilities accept residual waste, and such waste does not need to be sorted or processed before being sent to the facility.

35. Most non-glass recyclable waste (e.g. paper, plastics, metals) is exported. Waste operators either export the material directly or sell to brokers who arrange for its export and resale on the international market.

Waste Regulation

36. Waste collection and processing within the State is subject to regulation by the EPA, the National Waste Collection Permitting Office (the "NWCPO"), and local authorities (including three nominated waste enforcement regional lead authorities).[9] The EPA is responsible, under Irish and European legislation, for the licensing of waste facilities such as landfills, incinerators, cement kilns and waste transfer/processing facilities. As part of its regulatory role, the EPA sets maximum capacity thresholds for waste facilities.

37. The NWPCO is responsible, under the Waste Management (Collection Permit) Regulations 2007, as amended, for the licensing of waste collection operators. The NWCPO issues licences on behalf of local authorities who have responsibility for the enforcement of licence conditions. No individual or firm can collect waste, for gain or profit, without first obtaining a licence from the NWCPO.

The Commission's Previous Reviews of the Non-Hazardous Waste Management Sector

38. The Commission has examined the non-hazardous waste management sector in the State in various recent merger determinations, including *M/22/067 – Thorntons/Carducci*;[10] *M/21/016 – Pandagreen/Exomex*;[11] *M/18/053 –*

[9] The three waste enforcement regional lead authorities for the Southern, Eastern and Midlands, and Connacht/Ulster regions are Cork County Council, Dublin County Council, and Leitrim and Donegal County Councils (combined), respectively.
[10] The Commission's public determination is available at: M.22.067-Phase-2-Determination-PUBLIC.pdf
[11] The Commission's public determination is available at: https://www.ccpc.ie/business/wp-content/uploads/sites/3/2021/04/M.21.016-Pandagreen-Exomex-Public-Determination.pdf

Pandagreen/Knockharley Landfill and Natureford; [12] *M/18/005 – Thorntons/A Plus;* [13] and *M/16/008 – PandaGreen/Greenstar*.[14]

39. In addition, the Commission produced a market study entitled "The Operation of the Household Waste Collection Market" in 2018 (the "2018 Market Study").[15] The Commission's previous merger reviews and the 2018 Market Study have informed its understanding of the sector and assisted in analysing the likely competitive impact of the Proposed Transaction.

Competitive Analysis

Horizontal overlap

40. There is a horizontal overlap between the activities of the Parties in the State in the following business activities:

- The supply of domestic waste collection services: KWD Group supplies domestic waste collection services in Counties Kerry, Cork, Tipperary, Clare, Offaly, Laois and Limerick. BnaM Recycling supplies these services to customers in Counties Dublin, Kildare, Wicklow, Carlow, Wexford, Louth, Meath, Cavan, Westmeath, Offaly, Laois, Roscommon, Tipperary, Clare and Limerick;

- The supply of waste collection services to single-site C&I customers: Both KWD Group and BnaM Recycling supply these services to customers in the same counties in which they provide domestic waste collection services;

- The supply of waste collection services to multi-site C&I customers: KWD Group is active in the supply of waste collection services to multi-site C&I

[12] The Commission's public determination is available at: Public-M-18-053-Pandagreen-Knockharley-Landfill-and-Natureford-Public-Determination.pdf
[13] The Commission's public determination is available at: M-18-005-Thorntons-A-Plus-Public-1.pdf
[14] The Commission's public determination is available at: https://www.ccpc.ie/business/wp-content/uploads/sites/3/2016/02/M_16_008-PandaGreen_Greenstar-Phase-2-Public-Determination.pdf
[15] The 2018 Market Study is available at: https://www.ccpc.ie/business/wp-content/uploads/sites/3/2018/10/The-Operation-of-the-Household-Waste-Collection-Market.pdf

customers in Counties Clare, Galway, Limerick, Kilkenny, and Tipperary. BnaM Recycling supplies these services in Counties Carlow, Cavan, Dublin, Kildare, Kilkenny, Laois, Limerick, Longford, Louth, Meath, Offaly, Tipperary, Waterford, Westmeath, Wexford and Wicklow;

- The processing of waste/non-glass recyclable material collected from domestic and C&I customers: KWD Group operates seven waste facilities located across the State and BnaM Recycling operates seven waste facilities located in the midlands and east of the State. These KWD Group and BnaM Recycling facilities are either transfer facilities and/or sorting facilities;

- The supply of waste collection services to C&D customers: KWD Group collects C&D waste from customers in the same counties from which it collects domestic waste, with one exception.[16] It brings this C&D waste to various KWD Group facilities for transferring/processing. BnaM Recycling supplies this service across Leinster, Munster and parts of Connaught and Ulster.[17] These services are provided by trucks from depots located at BnaM Recycling's facilities in Navan, Lusk, Portlaoise, Nenagh, Siliot Hill and Rosslare;

- The management of civic amenity sites: KWD Group owns and manages a single civic amenity site in County Limerick. BnaM Recycling owns and operates one civic amenity site in Nenagh, County Tipperary. BnaM Recycling operates a further three civic amenity sites on behalf of local authorities i.e. two located in Kildare which it operates on behalf of Kildare County Council, and one located in Portarlington which it operates on behalf of Laois County Council; and

- The supply (for sale) of non-glass recyclables: Both KWD Group and BnaM are active in the sale of non-glass recyclables in the State, although BnaM's

[16] KWD Group collects domestic waste in Co. Laois, but not C&D waste.
[17] In particular, Bord na Móna supplies waste collection services to C&D customers in Counties Carlow, Cavan, Dublin, Galway, Kildare, Kilkenny, Laois, Leitrim, Limerick, Longford, Louth, Meath, Offaly, Sligo, Tipperary, Waterford, Westmeath, Wexford and Wicklow.

activities in this have decreased since a fire occurred at its MRF facility in Tullamore in February 2024.

Vertical Relationship

41. Potential vertical relationships exist between the Parties in the State in the following business activities:

- Potential vertical relationship 1: The supply of domestic waste collection services and the processing of that waste: Both KWD Group and BnaM Recycling provide domestic waste collection services and both are active in the provision of waste processing services for waste collected by themselves as well as by third party waste operators;

- Potential vertical relationship 2: The supply of waste collection services to C&I customers and the processing of that waste: Both KWD Group and BnaM Recycling provide C&I waste collection services and both are active in the provision of waste processing services for waste collected by themselves as well as by third party waste operators;

- Potential vertical relationship 3: The supply of waste collection services to C&D customers and the processing of that waste: Both KWD Group and BnaM Recycling provide C&D waste collection services and both are active in the provision of waste processing services for waste collected by themselves as well as by third party waste operators;

- Potential vertical relationship 4: The management of civic amenity sites and the processing of waste from civic amenity sites: As detailed above, both KWD Group and BnaM Recycling own and/or operate civic amenity sites and can process waste collected from these civic amenity sites; and

- Potential vertical relationship 5: The processing of waste collected from domestic and C&I customers and the supply (for sale) of non-glass recyclables: Both KWD Group and BnaM Recycling are active in the

processing of waste collected from domestic and C&I customers. KWD Group collects non-glass recyclables from other waste operators and prepares them for export.

Market Definition

Relevant Product Market

Views of the Parties

42. The Parties state the following in the Merger Notification Form:

> *"…based on the current understanding of the overlaps between the Parties' respective business activities, the Parties believe that the product markets relevant to the Proposed Transaction are likely to be:*
>
> *i. The supply of domestic waste collection services;*
>
> *ii. The supply of waste collection services to C&I customers;*
>
> *iii. The processing of waste/non-glass recyclable material collected from domestic and C&I customers;*
>
> *iv. The supply of waste collection services to C&D customers;*
>
> *v. The management of civic amenity sites; and*
>
> *vi. The supply for sale of non-glass recyclables."*[18]

Previous Commission Decisions

[18] Merger Notification Form, page 28.

43. In *M/16/008 – PandaGreen/Greenstar*[19] and *M/18/005 – Thorntons/A Plus*,[20] the Commission analysed the competitive impact of the relevant transactions in the following potential product markets:

a) the supply of domestic waste collection services;

b) the supply of waste collection services to individual C&I customers;

c) the processing of waste collected from domestic and C&I customers; and

d) the supply (for sale) of non-glass recyclable materials.

44. In *M/21/016 – Pandagreen/Exomex*, the Commission analysed the competitive impact of the proposed transaction in the above-listed potential product markets as well as the potential product market for the management of local authority civic amenity sites.[21] More recently in *M/22/067 – Thorntons Recycling/Carducci Holdings (The City Bin Co)*, the Commission followed the approach in the above merger determinations and assessed the competitive impact of the transaction by reference to the following potential product markets:

a) the supply of domestic waste collection services;

b) the supply of waste collection services to single-site C&I customers;

c) the supply of waste collection services to multi-site C&I customers; and

d) the processing of waste collected from domestic and C&I customers.[22]

45. Furthermore, in *M/16/008 – PandaGreen/Greenstar*, the Commission considered that "*the market for the provision of waste management services to individual C&I*

[19] See paragraphs 3.5-3.8 of merger determination *M/16/008 – Pandagreen/Greenstar* which can be accessed at: https://www.ccpc.ie/business/wp-content/uploads/sites/3/2016/02/M_16_008-PandaGreen_Greenstar-Phase-2-Public-Determination.pdf

[20] See paragraphs 18-19 of merger determination *M/18/005 – Thorntons/A Plus* which can be accessed at: https://www.ccpc.ie/business/wp-content/uploads/sites/3/2018/01/M-18-005-Thorntons-A-Plus-Public-1.pdf

[21] See paragraph 81 of the merger determination *M/21/016 – Pandagreen/Exomex* which can be accessed at: M.21.016-Pandagreen-Exomex-Public-Determination.pdf

[22] See paragraph 3.39 of the merger determination *M/22/067 – Thorntons Recycling/Carducci Holdings (The City Bin Co)* which can be accessed at: M.22.067-Phase-2-Determination-PUBLIC.pdf

customers in this context includes collections from C&I customers, collections from construction and demolition ("C&D") customers, collections from apartment complexes and domestic skip collections."[23]

Views of the Commission

46. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case.

47. The Commission notes that in *M/16/008 – PandaGreen/Greenstar* the Commission considered that the collection of waste from C&D customers was included within the potential market for the collection of waste from individual C&I customers. However, in this case the Commission considers that the market for the collection of waste from C&D customers could potentially constitute its own product market. The collection of waste from C&D customers differs from the collection of waste from C&I customers in that it is carried out on an ad-hoc basis rather than by way of scheduled recurring collections. Moreover, for C&D customers, the type of waste (e.g., concrete, metal, wood) and volume of waste (depending on whether the customer is involved in demolition or construction) tend to differ significantly from that collected from C&I customers. Furthermore, the Commission considers that the processing of C&D waste should be considered in the same potential market as the collection of C&D waste due to the Commission's understanding that these services are supplied together.

48. In this instance, it is not necessary for the Commission to define the precise relevant product markets because – regardless of whether the potential product market is defined broadly (i.e., considering C&I and C&D waste collection together) or more narrowly (i.e., considering C&I and C&D waste collection services separately) – doing so will not alter the Commission's conclusion regarding the competitive effects of the Proposed Transaction. Therefore, for the purpose of analysing the competitive effects of the Proposed Transaction, the Commission has assessed the likely

[23] See footnote 18 of merger determination *M/16/008 – Pandagreen/Greenstar* which can be accessed at: https://www.ccpc.ie/business/wp-content/uploads/sites/3/2016/02/M_16_008-PandaGreen_Greenstar-Phase-2-Public-Determination.pdf

competitive effects of the Proposed Transaction by reference to the potential product markets for each of the supply of C&I waste collection services and the supply of C&D waste collection services.

49. In relation to the remaining potential product markets, the Commission sees no reason to depart from its previous approach.

50. Therefore, for the purposes of its competitive analysis of the horizontal overlaps between the Parties, the Commission has assessed the competitive impact of the Proposed Transaction in the following potential product markets:

a) The supply of domestic waste collection services;

b) The supply of waste collection services to single-site C&I customers;

c) The supply of waste collection services to multi-site C&I customers;

d) The supply of waste collection services to C&D customers and the processing of that waste;

e) The processing of waste collected from domestic and C&I customers;

f) The management of civic amenity sites; and

g) The supply (for sale) of non-glass recyclables.

51. For the purposes of its competitive analysis of the vertical relationships between the Parties, the Commission has assessed the competitive impact of the Proposed Transaction in the following potential product markets:

a) In relation to potential vertical relationship 1: The (downstream) supply of domestic waste collection services and the (upstream) processing of that waste;

b) In relation to potential vertical relationship 2: The (downstream) supply of waste collection services to (single-site and multi-site) C&I customers and the (upstream) processing of that waste;

c) In relation to potential vertical relationship 3: The (downstream) supply of waste collection services to C&D customers and the (upstream) processing of that waste;

d) In relation to potential vertical relationship 4: The (downstream) management of civic amenity sites and the (upstream) processing of waste from civic amenity sites; and

e) In relation to potential vertical relationship 5: The (upstream) processing of waste collected from domestic and C&I customers and the (downstream) supply (for sale) of non-glass recyclables.

Relevant Geographic Market

The supply of domestic waste collection services

Views of the Parties

52. With respect to the relevant geographical market for the supply of domestic waste collection services, the Parties state the following in the Merger Notification Form:

> "*Consistent with prior practice of the CCPC, the Parties consider that the relevant geographic areas are the relevant LEAs* [local electoral areas].[24] *That was the approach taken by the CCPC in …* [M/16/008 *PandaGreen/Greenstar*]. *The use of LEAs is consistent with the traditional geographic segmentation of the sector.*
>
> *That said, in the interests of completeness only, Chapter 4 of the Frontier Report addresses conditions of competition in relevant overlapping small areas ("SAs") i.e. much narrower than LEA level*."[25]

53. The Economic Report assesses the competitive effects in the potential market for "*domestic waste collection at the county and LEA level*", but also states the following:

[24] "LEA" boundaries and "local authority areas" are identical, and the terms can be used interchangeably. The Commission refers to them as LEAs throughout this determination.
[25] Merger Notification Form, page 28.

> "*For domestic waste collections, a sensitivity analysis has been undertaken based on very narrow local geographic areas (i.e. Small Area ("SA"), as defined by the* [Central Statistics Office] *and described in section 4.1.2). While such narrow areas are too small to be plausibly considered a relevant market for domestic waste collection, the analysis does not result in a significant difference in the overlaps identified*."[26]

54. The sensitivity analysis carried out by Frontier is based on SAs, which are sub-divisions of the LEA boundaries. SAs were created by the Central Statistics Office (the "CSO") with data pertaining to SAs collected in the census.[27] The Economic Report states that:

> "*[t]he SA analysis involves very small geographic areas of between 50 and 200 dwellings. In our view, such a unit of analysis is too small to be considered a relevant geographic market. This is because suppliers from an adjoining SA could readily supply an SA should prices increase*."[28]

Previous Commission Decisions

55. The Commission defined the relevant geographic market for the supply of domestic waste collection services as follows in its determination in *M/16/008 – PandaGreen/Greenstar*:

> "*[B]ased on the Commission's analysis, submissions from third parties, market enquiries and the information supplied by the parties (in particular the responses to certain RFI questions), the Commission concludes that each of the local authority areas within the* [Greater Dublin Area] *constitutes a*

[26] Economic Report, page 14.
[27] See Census 2022 Small Area Population Statistics - CSO - Central Statistics Office.
[28] Economic Report, page 21.

relevant geographic market for the supply of domestic waste collection services." [29]

56. In its determination in *M/21/016 – Pandagreen/Exomex,* which concerned the supply of domestic waste collection services in Counties Meath, Monaghan and Louth, the Commission reached the following conclusion:

> "*In this instance, the Commission considers that it is not necessary to define precise relevant geographic markets. For the purposes of analysing the likely competitive impact of the Proposed Transaction, the Commission has focused on the areas in Co. Louth where the Parties are both active in the supply of domestic waste collection services in the State, i.e., the Overlapping Area*."[30]

57. In its determination in *M/22/067 – Thorntons Recycling/Carducci Holdings*, which concerned the supply of domestic waste collection services in County Dublin, the Commission considered that:

> "*… the relevant geographic market for the supply of domestic waste collection services may be geographically smaller than each of the local authority areas in* the [Greater Dublin Area] *taken separately … The Commission, however, does not need to come to a definitive view on the precise boundaries of the relevant geographic market in this case since its conclusions on the likely competitive impact of the Proposed Transaction would be unaffected whether the geographic market was defined on a narrower basis (e.g., by reference to very limited local geographic markets) or a broader basis (e.g., by reference to each of the Overlapping Areas or, more broadly again, by reference to each of the three relevant local authority areas in the* [Greater Dublin Area] *taken separately).*

[29] See paragraph 3.24 of merger determination *M/16/008 – Pandagreen/Greenstar* which can be accessed at: https://www.ccpc.ie/business/wp-content/uploads/sites/3/2016/02/M_16_008-PandaGreen_Greenstar-Phase-2-Public-Determination.pdf

[30] See paragraph 61 of the merger determination *M/21/016 – Pandagreen/Exomex* which can be accessed at: M.21.016-Pandagreen-Exomex-Public-Determination.pdf

… [T]he Commission has analysed the likely competitive impact of the Proposed Transaction in the supply of domestic waste collection services in each of the Overlapping Areas".[31]

Views of the Commission

58. As noted in paragraph 2.19 of the Commission's *Guidelines for Merger Analysis* (the "Commission's Merger Guidelines"), "*The relevant geographic market is usually defined in terms of the location of suppliers and it includes those suppliers that customers consider to be feasible substitutes. The relevant geographic market may be local, regional, national or wider*."[32]

59. The Commission notes that the Parties consider that the relevant geographic market for the supply of domestic waste collection services is the relevant LEA. The Economic Report identifies the LEAs in which the Parties materially overlap in 2024. The main overlaps between the Parties exists in nine LEAs across four counties and are as follows:

Table 1: LEAs in which the Parties materially overlap

County	LEA
Laois	Borris-in-Ossory – Mountmellick
Limerick	Limerick City East
	Limerick City West
	Limerick City North
Offaly	Birr
Tipperary	Thurles
	Roscrea-Templemore
	Newport

[31] See paragraphs 3.34-5 of the merger determination *M/22/067 – Thorntons Recycling/Carducci Holdings (The City Bin Co)* which can be accessed at: M.22.067-Phase-2-Determination-PUBLIC.pdf

[32] Competition and Consumer Protection Commission (2014) Guidelines for Merger Analysis, dated 31 October 2014 (the "Commission's Merger Guidelines"). Available at: https://www.ccpc.ie/business/wp-content/uploads/sites/3/2017/04/CCPC-Merger-Guidelines-1.pdf.

	Nenagh

60. The Economic Report identifies a "material overlap" between the Parties in those LEAs where each Party has a minimum share of supply of 5% and their combined share of supply exceeds 25%. These overlaps have been verified by the Commission through its own calculation of the Parties' market shares in the LEAs listed in Table 1, and by confirming that the increment in customer numbers in each of the other overlapping LEAs is minimal.

61. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case. In this instance, for the reasons set out below, the Commission considers that it is not necessary to define precise relevant geographic markets. For the purposes of analysing the likely competitive impact of the Proposed Transaction, the Commission has focused on the areas in which the Parties materially overlap in the State, i.e., the nine LEAs outlined in Table 1 above.

62. This follows the Commission's approach to geographic market definition as described in its merger determinations in each of *M/22/067 – Thorntons Recycling/Carducci Holdings (The City Bin Co)*; *M/21/016 – Pandagreen/Exomex*; and *M/16/008 – PandaGreen/Greenstar*. In each of those determinations, the Commission analysed the competitive impact of the relevant transaction in the geographic areas where the merging parties both supplied domestic waste collection services.

63. As noted above, in *M/22/067 – Thorntons Recycling/Carducci Holdings (The City Bin Co)*, the Commission stated the following in relation to the geographic market definition: "*For the purposes of analysing the likely competitive impact of the Proposed Transaction, the Commission has focused on the areas in Co. Dublin where the Parties are both active in the supply of domestic waste collection services, i.e., the Overlapping Areas)*."[33]

[33] See paragraph 3.29 of the merger determination *M/22/067 – Thorntons Recycling/Carducci Holdings (The City Bin Co.)* which can be accessed at: M.22.067-Phase-2-Determination-PUBLIC.pdf

64. Similarly, as noted above, in *M/21/016 – Pandagreen/Exomex*, the Commission analysed the competitive effects of that transaction by reference to the supply of domestic waste collection services in the areas in which the parties were both active.[34]

65. Furthermore, in its determination in *M/16/008 – PandaGreen/Greenstar*, the Commission analysed the competitive impact of that transaction in the local authority areas within the Greater Dublin Area (the "GDA", i.e., County Dublin and the surrounding counties of Meath, Kildare and Wicklow) where both Pandagreen and Greenstar provided domestic waste collection services, namely Fingal County Council and Dun Laoghaire-Rathdown County Council. As noted by the Commission in paragraph 4.14 of that determination: "*the only local authority areas within the GDA in which there is a significant overlap between the parties for the supply of domestic waste collection services are the Dun Laoghaire-Rathdown and Fingal local authority areas*".[35]

66. As mentioned in paragraph 51 above, the Economic Report, as part of a sensitivity test, considers the narrower potential geographic market of SAs. Approximately 85% of the SAs in which the Parties overlap is located within the borders of the LEAs identified in Table 1 above. Furthermore, in the remaining 15% of the SAs which are not located within the borders of these nine LEAs, the Parties overlap minimally. In 45% of these SAs not located within the nine LEAs, at least one of the Parties has less than [redacted] customers. Additionally, within 93% of these SAs, at least one of the Parties has less than [redacted] customers. The Commission considers, in this instance, there

[34] See paragraph 61 of the merger determination *M/21/016 – Pandagreen/Exomex* which can be accessed at: M.21.016-Pandagreen-Exomex-Public-Determination.pdf

[35] This was because the local authorities in County Dublin, which had provided domestic waste collection services in each LEA prior to 2006, withdrew from providing public domestic waste collection services and sold their entire customer bases to private companies. As such, the operational footprints of certain waste operators which are active in domestic waste collection in County Dublin resemble or correspond to the entirety of a LEA. See paragraphs 4.14 of merger determination *M/16/008 – PandaGreen/Greenstar* which can be accessed at: https://www.ccpc.ie/business/wp-content/uploads/sites/3/2016/02/M_16_008-PandaGreen_Greenstar-Phase-2-Public-Determination.pdf

is no need to consider the market on a narrower basis (i.e., by SA), as the LEAs identified adequately capture the geographical areas in which the Parties overlap.

67. In conclusion, without reaching a definitive view on the precise boundaries of the relevant geographic market,[36] taking into account previous merger determinations by the Commission, and all the evidence and information in its possession, the Commission has analysed the likely competitive impact of the Proposed Transaction in the supply of domestic waste collection services in each of nine LEAs in which the Parties materially overlap (together, the "Overlapping LEAs"), namely:

- Borris-in-Ossory-Mountmellick;
- Limerick City East;
- Limerick City West;
- Limerick City North;
- Birr;
- Thurles;
- Roscrea-Templemore;
- Newport; and
- Nenagh.

The supply of waste collection services to single-site C&I customers and the supply of waste collection services to multi-site C&I customers

Views of the Parties

68. The Parties state the following in the Merger Notification Form in relation the geographic market for the supply of waste collection services to C&I customers:

> "*The Parties consider that the appropriate geographic market for C&I waste collection is likely broader than LEA-wide, given the distances which operators are willing to travel to collect such refuse*."[37]

[36] The Commission has not reached a definitive view because, in this case, its conclusions on the likely competitive impact of the Proposed Transaction would be unaffected regardless of whether the geographic market was defined on a narrower basis (e.g., by reference to SAs) or a broader basis (e.g., by reference to the LEAs in which the Parties materially overlap).

[37] Merger Notification Form, page 29.

69. The Economics Report states the following in relation to the geographic market for the supply of waste collection services to C&I customers:

> *"Likewise, suppliers are often willing to travel further for C&I customers with larger loads, as the longer travel time can be compensated to some extent by the larger loads and hence, larger revenues. This fact is reflected in previous decisions where the CCPC has assessed the competitive impact for both single-site and multi-site commercial customers on the basis of the Greater Dublin Area ("GDA"). The GDA is larger than most counties and has a land area of 6,989 km^2 with a population of approximately 2 million. Given this, it is reasonable, for the purpose of this analysis, to consider a C&I waste collection market at least at the county level, although, in reality, the market is probably often wider."*[38]

Previous Commission Decisions

70. In both *M/16/008 – PandaGreen/Greenstar* and *M/22/067 – Thorntons Recycling/Carducci Holdings (The City Bin Co),* the Commission analysed the competitive effects of those transactions by reference to the potential geographic market for the supply of waste collection services to single-site C&I customers in the GDA.[39] In *M/16/008 – PandaGreen/Greenstar*, the Commission stated the following in relation to the supply of waste collection services to single-site and multi-site customers: "*third party submissions, market enquiries and information supplied by the parties suggest that the geographic scope of the relevant markets may be the GDA or possibly larger than the GDA*."[40]

[38] Economic Report, pages 14 and 15.

[39] See paragraph 3.25 of merger determination *M/16/008 – Pandagreen/Greenstar* which can be accessed at: https://www.ccpc.ie/business/wp-content/uploads/sites/3/2016/02/M_16_008-PandaGreen_Greenstar-Phase-2-Public-Determination.pdf. See paragraph 3.36 of the merger determination *M/22/067 – Thorntons Recycling/Carducci Holdings (The City Bin Co)* which can be accessed at: M.22.067-Phase-2-Determination-PUBLIC.pdf.

[40] See paragraph 3.25 of merger determination *M/16/008 – Pandagreen/Greenstar* which can be accessed at: https://www.ccpc.ie/business/wp-content/uploads/sites/3/2016/02/M_16_008-PandaGreen_Greenstar-Phase-2-Public-Determination.pdf.

71. In *M/21/016 – Pandagreen/Exomex*, the Commission stated the following in relation to the potential geographic market for the supply of waste collection services to single-site C&I customers:

> "*In this instance, the Commission considers that it is not necessary to define precise relevant geographic markets. However, for the purposes of analysing the likely competitive impact of the Proposed Transaction, the Commission has focused on the areas in Co. Louth where the Parties overlap in the supply of individual C&I waste collection services i.e., the Overlapping Towns*."[41]

Views of the Commission

72. The Economic Report identifies three counties in which the Parties materially overlap in the supply of waste collection services to C&I customers (both single-site and multi-site together) in 2024, namely Counties Tipperary, Laois, and Offaly. The Economics Report considers that a "material overlap" between the Parties exists in these counties, where each Party has a minimum share of supply of at least 5% and the combined share of supply is larger than 25%.

73. The Commission has conducted its own calculation of the Parties' market shares in these counties, and the Commission has verified that either there are no other counties in which the Parties overlap, or any existing overlap is minimal. As the Commission is assessing the supply of waste collection services to single-site and multi-site customers separately, its analysis has confirmed that the Parties overlap materially in the supply of waste collection services to single-site customers in Counties Offaly, Laois and Tipperary. The Commission has confirmed that the Parties materially overlap in the supply of waste collection services to multi-site customers in Counties Limerick and Tipperary.[42]

74. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case. In line with the Commission's previous

[41] See paragraph 68 of the merger determination *M/21/016 – Pandagreen/Exomex* which can be accessed at: M.21.016-Pandagreen-Exomex-Public-Determination.pdf

[42] KWD Group does not supply waste collection services to [redacted].

decisions, the Commission considers that in this instance, the potential relevant geographic market is wider than LEAs. The Commission, however, does not need to come to a definitive view on the precise relevant geographic market in this case since its conclusions on the likely competitive impact of the Proposed Transaction would be unaffected whether the geographic market was defined on a narrower basis (e.g., on a county-wide basis) or a broader basis (e.g., by taking a number of counties or a province together). For the purposes of analysing the likely competitive impact of the Proposed Transaction, the Commission has focused on the areas in which the Parties materially overlap in the State and has analysed the following potential markets:

- The supply of waste collection services to single-site C&I customers in each of Counties Laois, Offaly and Tipperary; and
- The supply of waste collection services to multi-site C&I customers in Counties Limerick and Tipperary.

The supply of waste collection services to C&D customers

Views of the Parties

75. With respect to the relevant geographical market for the supply of waste collection services to C&D customers, the Parties provide an analysis of this market for the State, and for completeness they have also provided this analysis for (i) Munster; and (ii) Leinster.

Views of the Commission

76. The Commission has not previously defined a relevant geographic market for the supply of waste collection services to C&D customers.

77. KWD Group supplies waste collection services to C&D customers in Counties Cork, Clare, Kerry, Kilkenny, Limerick, Offaly and Tipperary. BnaM Recycling supplies waste collection services to C&D customers in Counties Carlow, Cavan, Clare, Dublin, Galway, Kildare, Kilkenny, Laois, Leitrim, Limerick, Longford, Louth, Meath, Offaly, Sligo, Tipperary, Waterford, Westmeath, Wexford and Wicklow. The main area of

overlap of the Parties' activities in the supply of waste collection services to C&D customers exists in areas of Munster and Leinster.

78. The Parties state in the Merger Notification Form that "*supply of waste collection services* [to C&D customers] *is carried out on an ad-hoc basis, usually where a particularly large-scale construction or infrastructure project requires the removal of large amounts of waste (for example, after the demolition of a building)*."[43] Due to the nature of the waste being collected from C&D customers (e.g., high volume), waste operators may be willing to travel further to collect such waste.

79. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case. The Commission considers that it does not need to come to a definitive view on the precise relevant geographic market in this instance, since its conclusion on the competitive impact of the Proposed Transaction will be unaffected whether the relevant geographic market is defined on a narrow basis (i.e., the collection of waste from C&D customers in a particular county, or province (Leinster or Munster)) or more broadly (i.e., on a State-wide basis). For the purposes of assessing whether the Proposed Transaction might result in a substantial lessening of competition, the Commission has analysed the likely competitive impact of the Proposed Transaction in the potential market for the collection of waste from C&D customers in each of (i) Munster; and (ii) Leinster.

The processing of waste collected from domestic and C&I customers

Views of the Parties

80. With respect to the relevant geographical market for the processing of waste collected from domestic and C&I customers, the Parties state the following in the Merger Notification Form:

> "*The Parties note that in previous CCPC cases, the relevant geographic market for the processing of waste collected from domestic and C&I customers has been left open. That being said, the Parties submit that the* [M/21/016 –

[43] Merger Notification Form, page 38.

Pandagreen/Exomex] *Determination should be followed regarding the Proposed Transaction, namely, that the processing of waste collected from domestic and C&I customers should be assessed on, at least, a multi-county basis*."[44]

Previous Commission Decisions

81. In its determinations in *M/22/067 – Thorntons Recycling/Carducci Holdings (The City Bin Co)* and *M/16/008 – PandaGreen/Greenstar*, the Commission assessed the competitive effects of those transactions in the potential market for the processing of waste from domestic and C&I customers in the GDA.[45]

82. In *M/21/016 – Pandagreen/Exomex*, the Commission assessed the competitive effects of that transaction in the potential market for the processing of waste from domestic and C&I customers in Counties Louth, Meath and Monaghan. These were the counties in which the parties to that transaction operated waste processing facilities and/or transfer facilities, although the Commission noted the parties' submissions that a significant proportion of the waste processed at those facilities may have been collected from adjoining counties.[46]

Views of the Commission

83. As detailed in paragraph 38 above, the Parties own and operate a number of transfer stations and/or waste processing facilities in the State. In particular, the Parties both operate transfer stations in Counties Tipperary and Meath, where they process domestic and C&I waste. The Parties process their own domestic and C&I waste at these facilities, as well as waste on behalf of third party waste operators. The waste processed at these sites may have been collected by the Parties and/or third parties within these counties (Tipperary and Meath) as well as from adjacent counties.

[44] Merger Notification Form, page 29.

[45] See paragraph 3.25 of merger determination *M/16/008 – PandaGreen/Greenstar* which can be accessed at: https://www.ccpc.ie/business/wp-content/uploads/sites/3/2016/02/M_16_008-PandaGreen_Greenstar-Phase-2-Public-Determination.pdf. See paragraph 3.38 of the merger determination *M/22/067 – Thorntons Recycling/Carducci Holdings (The City Bin Co)* which can be accessed at: M.22.067-Phase-2-Determination-PUBLIC.pdf.

[46] See paragraph 72 of the merger determination *M/21/016 – Pandagreen/Exomex* which can be accessed at: M.21.016-Pandagreen-Exomex-Public-Determination.pdf

84. The Commission considers that, in this instance, it is not necessary to define a precise relevant geographic market. The Commission sees no reason to depart from the approach adopted in previous decisions and as such, for the purposes of analysing the likely competitive impact of the Proposed Transaction, the Commission has considered the potential market for the processing of waste from domestic and C&I customers in (i) County Meath and its surrounding counties[47]; and (ii) County Tipperary and its surrounding counties.[48]

The management of civic amenity sites

Views of the Parties

85. The Parties provided information relating to the management of civic amenity sites on a State basis in the Merger Notification Form.

Previous Commission Decisions

86. In its determination in *M/21/016 – Pandagreen/Exomex*, the Commission stated the following in relation to the geographic market for the management of local authority civic amenity sites:

> *"The firms which manage local authority civic amenity sites are both national waste operators (such as, for example, Pandagreen, Oxigen, Bord na Mona Recycling Limited ("BnM") and Thorntons) and regional waste operators (such as, for example, Exomex, Barna Waste Disposal and KWD Recycling). Therefore, the Commission considers that, in this instance, the relevant geographic market for assessing the potential market for the management of local authority civic amenity sites is the State."*[49]

Views of the Commission

[47] Counties Cavan, Dublin, Kildare, Louth, Monaghan, Offaly and Westmeath.
[48] Counties Clare, Cork, Galway, Kilkenny, Laois, Limerick, Offaly and Waterford.
[49] See paragraph 80 of the merger determination *M/21/016 – Pandagreen/Exomex* which can be accessed at: M.21.016-Pandagreen-Exomex-Public-Determination.pdf

87. Taking into account the evidence and information in its possession, the Commission sees no reason to depart from its prior approach to geographic market definition as set out in its merger determination in *M/21/016 – Pandagreen/Exomex*. The Commission has therefore, without coming to a definitive view on the precise relevant geographic market, assessed the likely competitive impact of the Proposed Transaction in the following potential geographic market: the management of civic amenity sites in the State.

The supply (for sale) of non-glass recyclables

Views of the Parties

88. The Parties state the following in the Merger Notification Form in relation the geographic market for the supply (for sale) of non-glass recyclables:

> *"The Parties note that the* [M/21/016 – Pandagreen/Exomex] *Determination provides that all recycled waste materials were sold abroad. Therefore, the relevant geographic market is broader than the State."*[50]

Previous Commission Decisions

89. In *M/21/016 – Pandagreen/Exomex*, the Commission considered that its review of that transaction would be unaffected whether the geographic market was defined as the State, or broader to consider the supply (for sale) of non-glass recyclable material in the European Union.[51] For the purposes of its assessment, the Commission analysed the likely competitive impact of that transaction by reference to the narrowest potential geographic market i.e. the State.

Views of the Commission

90. Taking into account the evidence and information in its possession, the Commission sees no reason to depart from its prior approach to geographic market definition as

[50] Merger Notification Form, page 29.
[51] See paragraph 75 of the merger determination *M/21/016 – Pandagreen/Exomex* which can be accessed at: M.21.016-Pandagreen-Exomex-Public-Determination.pdf

set out in its merger determination in *M/21/016 – Pandagreen/Exomex*. The Commission has therefore, without coming to a definitive view on the precise relevant geographic market, assessed the likely competitive impact of the Proposed Transaction in the following potential geographic market: the supply (for sale) of non-glass recyclables in the State.

Commission's Conclusion on Relevant Markets

91. For the purposes of its competitive analysis of the horizontal overlaps that exist between the Parties, the Commission has assessed the competitive impact of the Proposed Transaction in the following potential markets (together the "Potential Relevant Markets"):

- The supply of domestic waste collection services in each of the following LEAs: (i) Borris-in-Ossory – Mountmellick; (ii) Limerick City East; (iii) Limerick City West; (iv) Limerick City North; (v) Birr; (vi) Thurles; (vii) Roscrea-Templemore; (viii) Newport; and (ix) Nenagh;
- The supply of waste collection services to single-site C&I customers in each of Counties (i) Laois; (ii) Offaly; and (iii) Tipperary;
- The supply of waste collection services to multi-site C&I customers in each of Counties (i) Limerick; and (ii) Tipperary;
- The supply of waste collection services to C&D customers in each of (i) Leinster; and (ii) Munster and the processing of that waste;
- The processing of waste collected from domestic and C&I customers in each of (i) County Meath and its surrounding counties; and (ii) County Tipperary and its surrounding counties;
- The management of civic amenity sites in the State; and
- The supply (for sale) of non-glass recyclables in the State.

92. For the purposes of its competitive analysis of the potential vertical relationships that exist between the Parties, the Commission has assessed the competitive impact of the Proposed Transaction in the following potential markets:

- In relation to potential vertical relationship 1, the Commission will assess the (downstream) supply of domestic waste collection services in each of Overlapping LEAs. The Commission will assess the (upstream) processing of domestic waste in the counties in which both Parties operate transfer stations and process waste from domestic customers, i.e. Counties Meath and Tipperary;

- In relation to potential vertical relationship 2, the Commission will assess the (downstream) supply of waste collection services to C&I customers in each of Counties Limerick, Laois, Offaly, Tipperary. The Commission will assess the (upstream) processing of waste collected from C&I customers in the counties in which both Parties operate transfer stations and process waste from C&I customers, i.e. Counties Meath and Tipperary;

- In relation to potential vertical relationship 3, the Commission will assess the (downstream) supply of waste collection services to C&D customers in each of Leinster and Munster. The Commission will assess the (upstream) processing of waste collected from C&D customers in the counties in which both Parties operate transfer stations and process waste from C&D customers, i.e. Counties Meath and Tipperary;

- In relation to potential vertical relationship 4, the Commission will assess the (downstream) management of civic amenity sites in the State. The Commission will assess the (upstream) processing of waste collected from civic amenity sites in the counties in which both Parties operate transfer stations, i.e. Counties Meath and Tipperary; and

- In relation to potential vertical relationship 5, the Commission will assess the (upstream) processing of waste collected from domestic and C&I customers in the counties in which both Parties operate transfer stations,

i.e. Counties Meath and Tipperary. The Commission will assess the (downstream) supply (for sale) of non-glass recyclables in the State.

Competitive Effects Analysis – Horizontal Overlap

Introduction

93. In this section, the Commission sets out its assessment of the competitive impact of the Proposed Transaction in each of the Relevant Potential Markets identified in paragraph 89 above.

94. Unilateral effects, as explained in paragraph 4.8 of the Commission's Merger Guidelines, occur when *"a merger results in the merged entity having the ability and the incentive to raise prices at its own initiative and without coordinating with its competitors".*

95. In addition, the European Commission's Guidelines on the assessment of horizontal mergers state the following in respect of *"Non-coordinated effects"*:

> "*A merger may significantly impede effective competition in a market by removing important competitive constraints on one or more sellers, who consequently have increased market power. The most direct effect of the merger will be the loss of competition between the merging firms. For example, if prior to the merger one of the merging firms had raised its price, it would have lost some sales to the other merging firm. The merger removes this particular constraint. Non-merging firms in the same market can also benefit from the reduction of competitive pressure that results from the merger, since the merging firms' price increase may switch some demand to the rival firms, which, in turn, may find it profitable to increase their prices. The reduction in these competitive constraints could lead to significant price increases in the relevant market*."[52]

[52] Guidelines on the assessment of horizontal mergers under the Council Regulation on the control of concentrations between undertakings (2004) OJ C 31, p 5–18, paragraph 24 (available here).

Potential Relevant Markets in which the Proposed Transaction raises no competition concerns

96. For the reasons set out below, the Commission has concluded that the Proposed Transaction raises no competition concerns in six of the Potential Relevant Markets identified in paragraph 89 above. These Potential Relevant Markets are:

(a) the processing of waste collected from domestic and C&I customers in County Meath and its surrounding counties;
(b) the processing of waste collected from domestic and C&I customers in County Tipperary and its surrounding counties;
(c) the supply of waste collection services to C&D customers in Munster, and the processing of that waste;
(d) the supply of waste collection services to C&D customers in Leinster, and the processing of that waste;
(e) the management of civic amenity sites in the State; and
(f) the supply (for sale) of non-glass recyclables in the State.

The processing of waste collected from domestic and C&I customers in County Meath and its surrounding counties

Structure of potential market

97. Table 2 below details the Parties' share estimates in the potential market for the processing of waste collected from domestic and C&I customers in County Meath and its surrounding counties.[53]

Table 2: Estimated Shares of Processing of Waste collected from customers in County Meath and its surrounding counties

Competitor	Market Share Estimates

[53] The Parties' share estimates presented in Table 2 cover County Meath and the following neighbouring counties: Cavan, Dublin, Kildare, Louth, Monaghan, Offaly, and Westmeath. The Parties state in the Merger Notification Form that "calculating *shares on a multi-county basis recognises that operators do not necessarily process waste in the county in which they collect that waste*".

KWD Group	0-5%
BnaM Recycling	15-20%
Parties Combined	**15-20%**
Pandagreen Limited ("Panda")	25-30%
Key Waste Management Limited ("Keywaste")	15-20%
Padraig Thornton Waste Disposal Limited ("Thorntons")	5-10%
Oxigen	5-10%
Mulleadys Limited ("Mulleadys")	0-5%
Wilton Waste Recycling Limited	0-5%
Allied Metal Recycling (Ireland) Limited	0-5%
Blue Dolphin Environmental Limited	0-5%
Express Mini Mix and Skip Hire Limited	0-5%
Chris Lynch Waste Management Limited	0-5%
M50 Skip Hire & Recycling Limited	0-5%
Barna Recycling	0-5%
Athcast Limited	0-5%
Everyday Waste and Skip Hire Limited	0-5%
OMD Waste Recycling Limited	0-5%
Orange Skip Hire Limited	0-5%
Others	0-5%

Source: The Parties.[54]

Views of the Parties

98. The Parties stated the following in the Merger Notification Form in relation to the processing of waste collected from domestic and C&I customers in County Meath and its surrounding counties (and County Tipperary and its surrounding counties):

> "*The Parties compete with several operators who have processing facilities in these counties and adjacent areas, including Thorntons (counties Meath and*

[54] These market shares have been calculated based on tonnes of Municipal Solid Waste ("MSW") processed and the processing capacity of each entity. The MSW capacity volumes are taken from a report prepared for the Irish Waste Management Association ("IWMA"), dated 1 November 2022.

Dublin), Mulleady's (county Westmeath), Ray Whelan (county Carlow), Tipperary County Council (county Tipperary), QRL/Wiser (also in county Tipperary), Mr Binman (county Limerick) and Panda (counties Limerick and Dublin). ... most waste collection operators have their own facilities to process the collected waste ... post-completion, COOs [collector only operators] *will have the option to use various other waste processors, other than the enlarged KWD Group..."*[55]

Views of the Commission

99. The Commission considers that the Proposed Transaction is unlikely to give rise to unilateral effects in the potential market for the processing of waste collected from domestic and C&I customers in County Meath and its surrounding counties for the reasons set out below.

100. First, following the implementation of the Proposed Transaction, KWD Group's share of the potential market for the processing of waste collected from domestic and C&I customers in County Meath and its surrounding counties will be approximately 15-20%.

101. Second, as illustrated in Table 2 above, KWD Group will continue to face a competitive constraint from many other processors of waste collected from domestic and C&I customers in County Meath and its surrounding counties. These include Panda (25-30%), Keywaste (15-20%), Thorntons (5-10%) and Oxigen (5-10%).

Conclusion

102. In light of the above, the Commission considers that the Proposed Transaction does not raise any horizontal competition concerns in the potential market for the processing of waste collected from domestic and C&I customers in County Meath and its surrounding counties.

The processing of waste collected from domestic and C&I customers in County Tipperary and surrounding counties

[55] Merger Notification Form, page 34.

Structure of potential market

103. Table 3 below details the Parties' share estimates in the potential market for the processing of waste collected from domestic and C&I customers in County Tipperary and its surrounding counties.[56]

Table 3: Estimated Shares of Processing of Waste collected from customers in County Tipperary and its surrounding counties.

Competitor	Market Share Estimates
KWD Group	5-10%
BnaM Recycling	5-10%
Parties Combined	**15-20%**
Panda	20-25%
Glanway Limited ("Glanway")	10-15%
Barna Recycling	5-10%
The City Bin Co Unlimited Company ("The City Bin Co")	5-10%
Country Clean Recycling Unlimited Company ("Country Clean")	5-10%
Ray Whelan Limited ("Ray Whelan")	0-5%
Ashgrove Recycling Limited	0-5%
Walsh Waste Limited	0-5%
Clonmel Waste Disposal Limited ("Clonmel Waste")	0-5%
Quality Recycling Limited and Wiser Limited (Together "Quality Recycling (Wiser) – QRL")[57]	0-5%
Cork Recycling Company Limited	0-5%
CND Recycling Limited	0-5%
Ted O'Donoghue & Sons Limited	0-5%
WM Skip Hire Limited ("Fitzgerald Skip Hire")	0-5%
Tipperary County Council	0-5%
Midleton Skip Hire Limited	0-5%
Bantry Skip Hire Limited	0-5%
Doheny Wheelie Bins and Recycling	0-5%
Derry White Skip Hire ("Whites Skip Hire")	0-5%

[56]The Parties' share estimates presented in Table 3 cover County Tipperary and the following neighbouring counties: Clare, Cork, Galway, Kilkenny, Laois, Limerick, Offaly and Waterford.
[57] These companies are owned by the same family.

Clare Waste and Recycling Company Limited ("Clare Waste")	0-5%
Friend of The Earth (Skip Hire & Fuels) Limited	0-5%
Waterford County Council Dungarvan	0-5%
Phelan Skip Hire & Waste Management Limited	0-5%
Others	0-5%

Source: The Parties.[58]

Views of the Parties

104. The Parties' views on the likely competitive impact of the Proposed Transaction in the potential market for the processing of waste collected from domestic and C&I customers in County Tipperary and its surrounding counties are set out in paragraph 96 above.

Views of the Commission

105. The Commission considers that the Proposed Transaction is unlikely to give rise to unilateral effects in the potential market for the processing of waste collected from domestic and C&I customers in County Tipperary and its surrounding counties for the reasons set out below.

106. First, following the implementation of the Proposed Transaction, KWD Group's share in the potential market for the processing of waste collected from domestic and C&I customers in County Tipperary and its surrounding counties will be approximately [15-20]%, with KWD Group's share increasing by between 5 and 10 percentage points.

107. Second, as illustrated in Table 3 above, KWD Group will continue to face a competitive constraint from many other processors of waste collected from domestic and C&I customers in County Tipperary and its surrounding counties.

[58] These market shares have been calculated based on tonnes of and treating MSW transfer/processing capacity. The MSW capacity volumes are taken from a report prepared for the IWMA, dated 1 November 2022.

These include Panda (20-25%), Glanway (10-15%), Barna Recycling (5-10%), The City Bin Co, (5-10%), and Country Clean (5-10%).

Conclusion

108. In light of the above, the Commission considers that the Proposed Transaction does not raise any horizontal competition concerns in the potential market for the processing of waste collected from domestic and C&I customers in County Tipperary and its surrounding counties.

The supply of waste collection services to C&D customers in Munster and the processing of that waste

Structure of potential market

109. Table 4 below details the Parties' share estimates in the potential market for the supply of waste collection services to C&D customers in Munster.

Table 4: Estimated Shares of Collection of C&D Waste from customers in Munster.

Competitor	Munster
KWD Group	5-10%
BnaM Recycling	0-5%
Parties Combined	**10-15%**
Mr Binman	5-10%
Panda	25-30%
Fitzgerald Skip Hire	5-10%
Whites Skip Hire	5-10%
Clare Waste	5-10%
Country Clean	5-10%
Barna Recycling	0-5%
Quality Recycling (Wiser) - QRL	5-10%
Clonmel Waste	5-10%
Dillon Waste Unlimited Company	5-10%
Higgins Waste and Recycling Services Limited	0-5%
Others	10-15%

Source: The Parties.[59]

Views of the Parties

110. The Parties stated the following in the Merger Notification Form in relation to the supply of waste collection services to C&D customers in Munster (and in Leinster):

> "*KWD Group and BnaM Recycling largely overlap in the provision of C&D waste collection services in Munster and Leinster/Midlands. The IWMA's website lists several members active in these regions such as Panda, Mr Binman, Thorntons, Oxigen, QRL/Wiser, Clonmel Waste, Fitzgerald Skip Hire, Whites Skip Hire and Clare Waste. Moreover, in instances of medium to large C&D projects, it is common for providers of such services to travel long distances from their respective nearest depot, such that KWD Group faces, and will continue to face following completion of the Proposed Transaction, competition from operators throughout the State to those where the overlap occurs."*[60]

Views of the Commission

111. The Commission considers that the Proposed Transaction is unlikely to give rise to unilateral effects in the potential market for the supply of waste collection services to C&D customers in Munster, and the processing of that waste for the reasons set out below.

112. First, following the implementation of the Proposed Transaction, KWD Group's share of the potential market for the supply of waste collection services to C&D customers in Munster, and the processing of that waste, will be 15-20%, a maximum increment of 0-5 percentage points compared to its pre-merger position.

[59] The Parties' market shares are based on their estimated C&D volumes collected in 2024, and the volume of C&D waste generated in the State in 2022 (as estimated by the EPA - 2022 is the most recent year for which data is available). See https://www.epa.ie/our-services/monitoring--assessment/waste/national-waste-statistics/construction--demolition/).
[60] Merger Notification Form, page 38.

113. Second, as illustrated in Table 4 above, KWD Group will continue to face a competitive constraint from many other suppliers of waste collection services to C&D customers in Munster. These include Panda (25-30%), Mr Binman (5-10%), Fitzgerald Skip Hire (5-10%), White Skip Hire, (5-10%), Clare Waste (5-10%), and Country Clean (5-10%).

Conclusion

114. In light of the above, the Commission considers that the Proposed Transaction does not raise any horizontal competition concerns in the potential market for the supply of waste collection services to C&D customers in Munster, and the processing of that waste.

The supply of waste collection services to C&D customers in Leinster and the processing of that waste

Structure of potential market

115. Table 5 below details the Parties' share estimates in the potential market for the supply of waste collection services to C&D customers in Leinster.

Table 5: Estimated Shares of Collection of C&D Waste from customers in Leinster, 2024.

Competitor	Leinster
KWD Group	0-5%
BnaM Recycling	5-10%
Parties Combined	**10-15%**
Mr Binman	0-5%
Panda	20-25%
Thorntons	20-25%
Oxigen	10-15%
Ray Whelan	0-5%
Allied Waste	0-5%
Mulleadys	0-5%
Greyhound Recycling (Distributors) Unlimited Company("Greyhound")	10-15%
Others	10-15%

Source: The Parties.[61]

Views of the Parties

116. The Parties' views on the likely competitive impact of the Proposed Transaction in the potential market for the supply of waste collection services to C&D customers in Leinster are set out in paragraph 108 above.

Views of the Commission

117. The Commission considers that the Proposed Transaction is unlikely to give rise to unilateral effects in the potential market for the supply of waste collection services to C&D customers in Leinster and the processing of that waste for the reasons set out below.

118. First, following the implementation of the Proposed Transaction, KWD Group's share in the potential market for the supply of waste collection services to C&D customers in Leinster will be 10-15%, an increment of 5-10 percentage points (or 0-5 percentage points relative to BnaM's existing share) compared to its pre-merger position.

119. Second, as illustrated in Table 5 above, KWD Group will continue to face a competitive constraint from many other suppliers of waste collection services to C&D customers in Leinster. These include Panda (20-25%), Thorntons (20-25%), Oxigen (10-15%), Greyhound (10-15%), and Mr Binman (0-5%).

Conclusion

120. In light of the above, the Commission considers that the Proposed Transaction does not raise any horizontal competition concerns in the potential market for the supply of waste collection services to C&D customers in Leinster, and the processing of that waste.

[61] The Parties' market shares are based on their estimated C&D volumes collected in 2024, and the volume of C&D waste generated in the State in 2022 (as estimated by the EPA - 2022 is the most recent year for which data is available). See https://www.epa.ie/our-services/monitoring--assessment/waste/national-waste-statistics/construction--demolition/).

The management of civic amenity sites in the State

Views of the Parties

121. The Parties stated the following in the Merger Notification Form in relation to the management of civic amenity sites in the State:

> *"While KWD Group has won a tender to remove waste from civic amenity sites in County Clare,* [redacted]*. On the other hand, BnaM Recycling submitted a number of tenders to run civic amenity sites in each of Counties Offaly and Tipperary over the last four years.* [redacted]*. All told, this shows that the Parties are not close competitors in the management of civic amenity sites plus there is clearly ample competition from third parties.*
>
> *The Proposed Transaction will not lead to a SLC in the market for the management of civic amenity sites because (i) the increment is minimal since KWD Group currently operates a single site; (ii) the right to manage is often subject to EU/Irish public procurement rules; and (iii) the market is highly competitive with competition both for and in the market.*
>
> *There are over 100 civic amenity sites located throughout the State. Over half of these (approximately 60 sites) are operated by local authorities, with the management of the remainder split between several private undertakings. As BnaM Recycling currently operates four facilities and KWD Group currently operates one facility in the State, post-completion of the Proposed Transaction, KWD Group will operate five facilities in the State. This is only approximately 5% of the civic amenity sites located throughout the State.*
>
> *There are a wide number of national waste operators active in the management of local authority civic amenity sites in the State, including Panda (11 sites) and Oxigen (7 sites). There are also regional and local waste operators active in the management of such sites, for example Bryson*

Recycling (6 sites), Barna Waste Disposal Limited (5 sites) and V&W Recycling (2 sites).

KWD Group does not manage any local authority civic amenity sites, its only contract with a local authority civic amenity site is to remove waste from the sites run by Clare County Council. As a result of the Proposed Transaction, it will hold the licences to manage the three sites currently operated by BnaM Recycling at Athy, Silliot Hill and Portarlington on behalf of local authorities. BnaM Recycling was awarded the rights to operate these sites on the basis of a competitive public tender…

In relation to privately owned sites, KWD Group manages one privately-owned site in County Limerick. It will, as a result of the Proposed Transaction, gain one further privately-owned site at Nenagh, County Tipperary."[62]

Views of the Commission

122. The Commission considers that the Proposed Transaction is unlikely to give rise to unilateral effects in the potential market for the management of civic amenity sites in the State for the reasons set out below.

123. First, KWD Group has a minimal presence in the management of civic amenity sites in the State. As noted above, KWD Group does not manage any local authority civic amenity sites in the State while it currently manages one privately-owned site in County Limerick. Following completion of the Proposed Transaction, KWD Group will manage three local authority civic amenity sites currently operated by BnaM Recycling at Athy, Silliot Hill and Portarlington, and two privately-owned sites in County Limerick and Nenagh, County Tipperary. These five sites which KWD Group will manage following the implementation of the Proposed Transaction represent approximately 5% of the civic amenity sites located in the State.

[62] Merger Notification Form, pages 39 and 40.

124. Second, KWD Group will continue to face a competitive constraint from several other firms active in the management of civic amenity sites in the State following completion of the Proposed Transaction, including Panda (which manages 11 civic amenity sites) and Oxigen (which manages 7 civic amenity sites). The Parties also state in the Merger Notification Form that "*in the Limerick/North Tipperary region, there are at least 8 civic amenity sites operated by third parties. Therefore, customers in this region will have ample alternatives to the civic amenity sites operated by the merged entity*".[63]

Conclusion

125. In light of the above, the Commission considers that the Proposed Transaction does not raise any horizontal competition concerns in the potential market for the management of civic amenity sites in the State.

The supply (for sale) of non-glass recyclables in the State

Views of the Parties

126. The Parties stated the following in the Merger Notification Form in relation to the supply (for sale) of non-glass recyclables in the State:

> *"The Proposed Transaction will not lead to a SLC in the market for the supply for sale of non-glass recyclables…. The IWMA lists over 30 member companies engaged in the recycling business throughout the State, including large operators such as QRL/Wiser."*[64]

Views of the Commission

127. The Commission considers that the Proposed Transaction raises no competition concerns in the potential market for the supply (for sale) of non-glass recyclable materials in the State. There are a large number of firms currently active in the supply (for sale) of non-glass recyclable materials in the State, including Panda,

[63] Merger Notification Form, page 40.
[64] Merger Notification Form, page 40.

Quality Recycling (Wiser) – QRL, Thorntons and Barna Recycling. KWD Group will continue to export non-glass recyclable materials outside of the State following implementation of the Proposed Transaction and it will not have market power to influence export prices.

Conclusion

128. In light of the above, the Commission considers that the Proposed Transaction does not raise any horizontal competition concerns in the potential market for the supply (for sale) of non-glass recyclables in the State.

Potential Relevant Markets in which the Commission has identified potential competition concerns arising from the Proposed Transaction

129. The Commission identified potential competition concerns in the potential markets for the supply of domestic waste collection services in each of the Overlapping LEAs, namely:

- Borris-In-Ossory-Mountmellick;
- Limerick City East;
- Limerick City West;
- Limerick City North;
- Birr;
- Thurles;
- Roscrea-Templemore;
- Newport; and
- Nenagh.

130. As the Commission's competition concerns are the same for each potential market for the supply of domestic waste collection services in each of the Overlapping LEAs, these potential markets are discussed together below.

131. The Commission also identified potential competition concerns in the potential markets for the supply of single-site C&I waste collection services in each of the following three counties:

- Offaly;
- Laois; and
- Tipperary.

132. As the Commission's competition concerns are the same for each potential market for the supply of single-site C&I waste collection services in each of the three relevant counties, these potential markets are discussed together below.

133. Finally, the Commission identified potential competition concerns in the potential market for the supply of multi-site C&I waste collection services in each of Counties Limerick and Tipperary. These potential markets are discussed together below.

The supply of domestic waste collection services in the Overlapping LEAs

Structure of potential markets

134. Based on information provided by the Parties, and its contact with third parties, the Commission has estimated market shares in the potential markets for domestic waste collection services in each of the Overlapping LEAs. Table 6 below shows these estimates.

135. In order to calculate these market share estimates, the Commission requested the customer numbers of all domestic waste collection operators identified by the Parties as competitors in the Merger Notification Form.[65] The Commission aggregated the number of customers of each domestic waste collection operator active in each LEA. It then cross-checked the total number of customers with the total number of houses in these LEAs according to the CSO.[66] In the LEAs of Borris-

[65] The Commission did not contact any skip hire companies as it does not consider that the provision of skips on a one-off basis is substitutable for the provision of domestic waste collection services. The Commission received a response from all domestic waste collection operators which it contacted.

[66] CSO Census 2022. Houses include all detached houses, semi-detached houses, terraced houses as detailed in the Census 2022.

in-Ossory-Mountmellick, Birr, Nenagh and Newport, the total number of houses according to the CSO exceeded the total market size aggregated by the Commission through its third party engagement. The Commission considered that the discrepancy may be accounted for by competitors who had not been identified and/or by households which do not have a domestic waste collection service (such as, for example, those houses which use a civic amenity site). This gap is characterised as "other" in the table below.

Table 6: Estimated market shares for the supply of domestic waste collection services, 2024.[67]

	LEA								
Competitor	**Borris-In-Ossory-Mountmellick**	**Limerick City East**	**Limerick City West**	**Limerick City North**	**Birr**	**Thurles**	**Roscrea-Templemore**	**Newport**	**Nenagh**
KWD Group	[30-35]%	[35-40]%	[50-55]%	[35-40]%	[20-25]%	[85-90]%	[60-65]%	[20-25]%	[35-40]%
BnaM Recycling	[35-40]%	[15-20]%	[10-15]%	[10-15]%	[30-35]%	[10-15]%	[30-35]%	[60-65]%	[50-55]%
Parties' Combined	**[65-70]%**	**[50-55]%**	**[65-70]%**	**[45-50]%**	**[55-60]%**	**[95-100]%**	**[95-100]%**	**[85-90]%**	**[90-95]%**
Barna Recycling	0%	0%	0%	0%	[0-5]%	0%	0%	[0-5]%	[0-5]%
Mr Binman	[0-5]%	[45-50]%	[30-35]%	[50-55]%	0%	[0-5]%	[0-5]%	[5-10]%	[5-10]%
Oxigen	[0-5]%	0%	0%	0%	[15-20]%	0%	[0-5]%	0%	0%
Quality Recycling (Wiser) - QRL	0%	0%	0%	0%	0%	[0-5]%	0%	0%	0%

[67] As these estimated market shares are rounded to one decimal place, the total market shares may not add up exactly to 100% in some markets.

Other	[25-30]%	0%	0%	0%	[25-30]%	0%	0%	[5-10]%	[0-5]%
Total	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**

Source: The Commission, based on information provided by the Parties and third parties.

Borris-In-Ossory-Mountmellick

136. Other than the Parties, which have a combined share of [65-70]%, Oxigen and Mr Binman are the only other domestic waste collection service providers active in Borris-In-Ossory-Mountmellick. Furthermore, following the implementation of the Proposed Transaction, the Herfindahl-Hirschman Index ("HHI")[68] would increase from approximately 3,085 to 5,428, representing a delta of 2,342. According to the Commission's Merger Guidelines, this HHI and delta is indicative of a market that is highly concentrated.[69]

Limerick City East

137. Other than the Parties, which have a combined share of [50-55]%, Mr Binman is the only other domestic waste collection service provider active in Limerick City East. Furthermore, following the implementation of the Proposed Transaction, the HHI would increase from approximately 3,844 to 5,048, representing a delta of 1,204. According to the Commission's Merger Guidelines, this HHI and delta is indicative of a market that is highly concentrated.[70]

Limerick City West

138. Other than the Parties, which have a combined share of [65-70]%, Mr Binman is the only other domestic waste collection service provider active in Limerick City West. Furthermore, following the implementation of the Proposed Transaction, the HHI

[68] The HHI is a measure of market concentration that takes account of the differences in sizes of firms in the market.
[69] Competition and Consumer Protection Commission (2014) Guidelines for Merger Analysis, adopted 31 October 2014 "Commission's Merger Guidelines"), paragraphs 3.9-3.13. Available https://www.ccpc.ie/business/wp-content/uploads/sites/3/2017/04/CCPC-Merger-Guidelines-1.pdf
[70] *Ibid.*

would increase from approximately 4,079 to 5,578, representing a delta of 1,500. According to the Commission's Merger Guidelines, this HHI and delta is indicative of a market that is highly concentrated.[71]

Limerick City North

139. Other than the Parties, which have a combined share of [45-50]%, Mr Binman is the only other domestic waste collection service provider active in Limerick City North. Furthermore, following the implementation of the Proposed Transaction, the HHI would increase from approximately 4,285 to 5,034, representing a delta of 748. According to the Commission's Merger Guidelines, this HHI and delta is indicative of a market that is highly concentrated.[72]

Birr

140. Other than the Parties, which have a combined share of [55-60]%, Oxigen and, to a very limited extent, Barna Recycling are the only other domestic waste collection service providers active in Birr. Furthermore, following the implementation of the Proposed Transaction, the HHI would increase from approximately 2,569 to 4,146, representing a delta of 1,577. According to the Commission's Merger Guidelines, this HHI and delta is indicative of a market that is highly concentrated.[73]

Thurles

141. Other than the Parties, which have a combined share of [95-100]%, Mr Binman is the only other domestic waste collection service provider active in Thurles. Furthermore, following the implementation of the Proposed Transaction, the HHI would increase from approximately 7,683 to 9,920, representing a delta of 2,237. According to the Commission's Merger Guidelines, this HHI and delta is indicative of a market that is highly concentrated.[74]

[71] *Ibid.*
[72] *Ibid.*
[73] *Ibid.*
[74] *Ibid.*

Roscrea-Templemore

142. Other than the Parties, which have a combined share of [95-100]%, Mr Binman and, to a very limited extent, Oxigen are the only other domestic waste collection service providers active in Roscrea-Templemore. Furthermore, following the implementation of the Proposed Transaction, the HHI would increase from approximately 5,112 to 9,195, representing a delta of 4,083. According to the Commission's Merger Guidelines, this HHI and delta is indicative of a market that is highly concentrated.[75]

Newport

143. Other than the Parties, which have a combined share of [85-90]%, Mr Binman and, to a very limited extent, Barna Recycling are the only other domestic waste collection service providers active in Newport. Furthermore, following the implementation of the Proposed Transaction, the HHI would increase from approximately 4,723 to 7557, representing a delta of 2,834. According to the Commission's Merger Guidelines, this HHI and delta is indicative of a market that is highly concentrated.[76]

Nenagh

144. Other than the Parties, which have a combined share of [90-95]%, Mr Binman and, to a very limited extent, Barna Recycling are the only other domestic waste collection service providers active in Nenagh. Furthermore, following the implementation of the Proposed Transaction, the HHI would increase from approximately 4,330 to 8,398 representing a delta of 4,068. According to the Commission's Merger Guidelines, this HHI and delta is indicative of a market that is highly concentrated.[77]

Views of the Parties

[75] *Ibid.*
[76] *Ibid.*
[77] *Ibid.*

145. The Parties stated the following in the Merger Notification Form in relation to the supply of waste collection services to domestic customers:

> "*[S]ince the overlaps are local in nature, any risks to competition could be addressed via targeted divestment of customers to ensure that the combined share of supply of the merged entity remains below a reasonable level.*"[78]

Views of the Commission

146. In the course of its analysis of the Proposed Transaction, the Commission identified the following potential competition concerns. The Proposed Transaction could weaken competition in each of the Overlapping LEAs. The Proposed Transaction would lead to a reduction in the number of domestic waste collection service providers in each of these areas. In three of the Overlapping LEAs (Thurles, Roscrea-Templemore and Nenagh), the Proposed Transaction would lead to KWD Group having a share greater than 90% in the supply of domestic waste collection services. In the other six LEAs (Borris-in-Ossory-Mountmellick, Limerick City East, Limerick City West, Limerick City North, Birr and Newport), KWD Group would have a share in the supply of domestic waste collection services ranging from [45-50]% - [85-90]% following the implementation of the Proposed Transaction. This reduced competition could lead to increased prices and/or lower levels of service.

147. As discussed in the 2018 Market Study referenced in the Industry Background section of this determination, for a new entrant, both fixed costs and the cost of acquiring new customers are high. The pattern across all domestic waste collection markets in the State has been one of consolidation. For these reasons, the Commission does not consider it likely that there will be new entry or expansion—such that it would be timely and sufficient to prevent a potential SLC—in the potential markets for the supply of domestic waste collection services in each of the Overlapping LEAs.

[78] Merger Notification Form, page 32.

Proposals Submitted by the Parties

148. As noted above, KWD Group submitted the Proposals to the Commission on 17 February 2025 with a view to addressing any potential competition concerns identified by the Commission at the earliest possible stage in the Commission's investigation. As set out in detail above, the Commission engaged with the Parties and third parties in conducting its analysis and calculating estimated market shares in the provision of domestic waste collection services in the State in order to verify the LEAs which may be impacted by the implementation of the Proposed Transaction.

149. Engagement with KWD Group included the submission on 2 April 2025 of an additional economic report by Frontier, which took into account the Commission's analysis of market shares. Taking into account the Commission's feedback, KWD Group submitted a final version of the Proposals to the Commission on 10 April 2025 (the "Final Proposals"). The Final Proposals included a commitment by KWD Group to divest a specific number of domestic customers in each of the Overlapping LEAs to a suitable purchaser.

150. The Commission notes that the Final Proposals result in KWD Group divesting the entire increment resulting from the Proposed Transaction in six of the nine Overlapping LEAs. This is consistent with the CCPC's previous decisional practice in similar cases. In the remaining three Overlapping LEAs (Borris-in-Ossory-Mountmellick, Limerick City East, and Birr), the Commission accepted a divestment which was slightly less than the entire increment.

151. The number of customers KWD Group has committed to divest is set out in Table 7 below.

Table 7: The number of customers KWD Group committed to divest in each Overlapping LEA.

LEA	Number of Divestment Customers
Borris-in-Ossory-Mountmellick	[redacted]
Limerick City East	[redacted]

Limerick City West	[redacted]
Limerick City North	[redacted]
Birr	[redacted]
Newport	[redacted]
Thurles	[redacted]
Nenagh	[redacted]
Roscrea-Templemore	[redacted]
Total	[redacted]

Source: The Final Proposals

152. The Final Proposals are set out below as Annex A to this determination. They describe the divestment package in full and set out the process for appointing a Monitoring Trustee and selecting a suitable purchaser for the divestment package. The Final Proposals also detail the information which KWD Group should communicate to the divested customers in order to ensure a smooth transition to the suitable purchaser.

The Commission's analysis of the Final Proposals

153. The Commission considers that the domestic customer divestments included in the divestment package return the conditions of competition in the Overlapping LEAs to a comparable level to that in place pre-Proposed Transaction. In assessing proposals submitted to the Commission pursuant to section 20(3) of the Act, the Commission takes into account the analytical framework set out in the European Commission's Notice on remedies acceptable under Council Regulation (EC) No 139/2004 and under Commission Regulation (EC) No 802/2004 ("EC Remedies Notice").[79] As part of this evaluation and having regard to the analytical framework set out in the EC Remedies Notice, the Commission considers three key criteria when assessing proposals:

a) Are the proposals comprehensive and effective?;
b) Are the proposals capable of being implemented effectively and within a short period of time?; and

[79] Available at: c_26720081022en00010027.pdf.

c) Do the proposals eliminate the competition concerns entirely?

154. The Commission, having regard to the above three criteria, sets out its reasoning in assessing the Final Proposals below.

155. First, the Commission considers that the Final Proposals are comprehensive and effective, introducing a new competitor into the Overlapping LEAs and restoring the level of choice of domestic waste collection providers to that prior to the implementation of the Proposed Transaction. The divestment package involves a large-scale divestment of domestic waste customers, along with the associated operation elements including: bins; relevant books, records and correspondence relating to each divestment customer; all balances; and any other assets necessary to provide domestic waste collection services to the divestment customers.

156. Second, the Commission considers that the divestment of domestic waste customers is capable of being implemented effectively and within a short period of time. The Final Proposals state that the divestment of domestic waste collection customers shall be implemented within [redacted] of the date a determination is issued. [redacted]. Furthermore, remedies of this nature have been successfully implemented within an agreed period of time in *M/16/008 – Pandagreen/Greenstar*, *M/21/016 – Pandagreen/Exomex*, and *M/22/067 – Thorntons Recycling/Carducci Holdings (The City Bin Co.)*.

157. Third, the Final Proposals eliminate the Commission's competition concerns in the potential market for the supply of domestic waste collection services in each of the Overlapping LEAs. As noted above, the Final Proposals result in KWD Group divesting the entire increment resulting from the Proposed Transaction in six of the nine Overlapping LEAs which is consistent with the CCPC's previous decisional practice in similar cases. In the remaining three Overlapping LEAs (Borris-in-Ossory-Mountmellick, Limerick City East, and Birr), the Commission accepted a divestment which was slightly less than the entire increment. In the Commission's view, the Final

Proposals constitute the transfer of a coherent and operationally viable business of scale, allowing a prospective purchaser to replicate the competitive constraint lost as a result of the Proposed Transaction.

Conclusion

158. The Commission is of the view that the Final Proposals are sufficient to address the competition concerns identified by the Commission in the potential markets for the supply of domestic waste collection services in each of the Overlapping LEAs. This is because the Final Proposals replace the competition lost within each of the Overlapping LEAs. In light of the Final Proposals, it is not necessary for the Commission to come to a final conclusion on the competitive effects of the Proposed Transaction in the absence of the Final Proposals. The Commission has taken the Final Proposals into account and they form part of the basis of this determination. In accordance with section 20(3), section 21(2)(a), section 26(1) and section 26(4) of the Act, the Final Proposals have become commitments binding upon the Parties.

The supply of single-site C&I waste collection services in each of Counties Laois, Offaly and Tipperary

Structure of potential markets

159. Based on information provided by the Parties, and its contact with third parties, the Commission has estimated shares of single-site C&I waste collection services in each of Counties Offaly and Tipperary. These estimated shares are based on the revenue generated by single-site waste collection service providers, as there tends to be a large variance in the revenue generated by service providers from each C&I customer. Table 8 below shows these estimates.

Table 8: Estimated market shares for the supply of waste collection services to single-site C&I customers, 2024.[80]

	County

[80] As these estimated market shares are rounded to one decimal place, the total market shares may not add up exactly to 100% in some markets.

Competitor	Offaly	Tipperary
KWD Group	[5-10]%	[40-45]%
BnaM Recycling	[40-45]%	[15-20]%
Parties Combined	**[45-50]%**	**[55-60]%**
Barna Recycling	-	[0-5]%
Country Clean	-	[0-5]%
Oxigen	[50-55]%	-
Mr Binman	[0-5]%	[15-20]%
Panda	[0-5]%	[0-5]%
Quality Recycling (Wiser) - QRL	-	[15-20]%
Ray Whelan	-	-
Thorntons	[0-5]%	[0-5]%
Total	**100%**	**100%**

Source: The Commission, based on information provided by the Parties and third parties.

County Offaly

160. In addition to the Parties, which have a combined share of [45-50]%, Oxigen, Mr Binman, Panda and Thorntons are the other single-site C&I waste collection service providers active in Co. Offaly. Furthermore, following the implementation of the Proposed Transaction, the HHI would increase from approximately 4,296 to 4,786, representing a delta of 490. According to the Commission's Merger Guidelines, this HHI and delta is indicative of a market that is highly concentrated.[81]

County Tipperary

161. In addition to the Parties, which have a combined share of [55-60]%, Barna Recycling, Country Clean, Mr Binman, Panda, Quality Recycling (Wiser) – QLR and Thorntons are the other single-site C&I waste collection service providers active in County Tipperary. Furthermore, following the implementation of the Proposed Transaction, the HHI would increase from approximately 2,606 to 3,991, representing a delta of 1,385. According to the Commission's Merger Guidelines, this HHI and delta is indicative of a market that is highly concentrated.[82]

[81] Commission's Merger Guidelines, paragraphs 3.9-3.13. Available https://www.ccpc.ie/business/wp-content/uploads/sites/3/2017/04/CCPC-Merger-Guidelines-1.pdf

[82] *Ibid.*

County Laois

162. The Commission was unable to verify estimated market shares of the Parties and their competitors in Co. Laois for the supply of single-site C&I waste collection and multi-site C&I waste collection separately. The Commission, however, is aware from its third party engagement that within County Laois, Oxigen, Panda, Quality Recycling (Wiser) – QRL, and Ray Whelan are the other active single-site C&I waste collection service providers. In County Laois, KWD Group's estimated market share in the supply of C&I waste collection services (both single-site and multi-site) was [5-10]%, with BnaM having an estimated share of [40-45]%.[83]

Views of the Parties

163. The Parties stated the following in the Merger Notification Form in relation to the supply of C&I waste collection services:

> "*There are several alternative suppliers in these counties* [Laois, Offaly, and Tipperary]*, many of whom have large operations including Panda, Mr Binman and* [Country Clean] *(albeit in South Tipperary only), as well as smaller local operators."*[84]

Views of the Commission

164. In the course of its analysis of the Proposed Transaction, the Commission identified that the Proposed Transaction could weaken competition in each of Counties Offaly, Tipperary and Laois. The Proposed Transaction would lead to a reduction in the number of single-site C&I waste collection service providers in each of these areas. In Counties Offaly and Tipperary, the Proposed Transaction would lead to KWD Group having shares of [45-50]% and [55-60]% respectively in the supply of single-site C&I waste collection services, and in County Laois, KWD Group would have an estimated market share of [45-50]% in the supply of C&I waste collection (both

[83] The Economics Report, based on information provided by the Parties and company websites.
[84] Merger Notification Form, page 33.

single-site and multi-site combined). The Commission considered, at a preliminary level, that this reduced competition could lead to increased prices and/or lower levels of service.

Proposals Submitted by the Parties

165. As set out above[85], KWD Group submitted the Proposals to the Commission on 17 February 2025 with a view to addressing any potential competition concerns identified by the Commission at the earliest possible stage in the Commission's investigation. Following its analysis of the impact of the Proposed Transaction, set out in detail above, the Commission further engaged with KWD Group on its calculation of its estimated market shares in the supply of waste collection services to single-site C&I customers in Counties Laois, Offaly and Tipperary. The Final Proposals, submitted by KWD Group on 10 April 2025 took into account the Commission's feedback.

166. The Final Proposals included a commitment by KWD Group to divest a volume of waste collection business in each of Counties Laois, Offaly and Tipperary to a suitable purchaser. In this particular case, the Commission considered that divesting by reference to a specified value of contracts was more appropriate than divesting a number of customers. This is because, unlike with domestic customers, there is considerable variation in the revenue accrued from C&I customers, and so specifying a value ensures that an appropriate portion of the business will be divested. The Final Proposals require the divestment of a number of customers equivalent to the smaller of the Parties' respective revenues from C&I waste collection in 2024 in each county.[86] This is equivalent to the divestment of the smallest increment associated with the Proposed Transaction.

167. As noted above[87], the Final Proposals describe the divestment package in full and set out the process for appointing a Monitoring Trustee and selecting a suitable

[85] See paragraphs 22 and 146.
[86] This results in the divestment a number of customers equivalent to KWD Group's 2024 revenue from C&I customers in both Counties Laois and Offaly, as well as a number of customers equivalent to BnM's 2024 revenue from C&I customers in County Tipperary.
[87] See paragraph 150.

purchaser for the divestment package. The Final Proposals also detail the information which KWD Group should communicate to the divested customers to ensure a smooth transition to the suitable purchaser.

The Commission's analysis of the Final Proposals

168. The Commission considers that the single-site customer divestments included in the divestment package return the conditions of competition in the relevant areas to a comparable level to that in place pre-Proposed Transaction. The Commission, having regard to the three criteria from the EC Remedies Notice outlined in paragraph 152 above, sets out its reasoning in assessing the Final Proposals below.

169. First, the Commission considers that the Final Proposals are comprehensive and effective, introducing a new competitor in Counties Laois, Offaly and Tipperary and restoring the level of choice of single-site waste collection providers to that prior to the implementation of the Proposed Transaction. The divestment package involves a large-scale divestment of single-site waste customers, along with the associated operation elements including: bins; relevant books, records and correspondence relating to each divestment customer; all balances; and any other assets necessary to provide single-site C&I waste collection services to the divestment customers.

170. Second, the Commission considers that the divestment of single-site C&I waste customers is capable of being implemented effectively and within a short period of time, for the same reasons as outlined in paragraph 155 above.

171. Third, the Final Proposals eliminate the Commission's competition concerns in the potential market for the supply of single-site C&I waste collection services in each of Counties Laois, Offaly and Tipperary. The Final Proposals include a commitment by KWD Group to divest a volume of C&I waste collection business which is equal to the smaller of either KWD Group or BnaM Recycling in each of Counties Laois, Offaly and Tipperary to a suitable purchaser. This divestment of single-site C&I customers represents the equivalent to the divestment of the smallest increment associated with the Proposed Transaction in each of the relevant areas.

Conclusion

172. The Commission is of the view that the Final Proposals are sufficient to address the competition concerns identified by the Commission in the potential markets for the supply of single-site C&I waste collection services in each of Counties Laois, Offaly, and Tipperary. This is because the Final Proposals replace the competition lost as a result of the Proposed Transaction within each of the three counties. In light of the Final Proposals, it is not necessary for the Commission to come to a conclusion on the competitive effects of the Proposed Transaction in the absence of the Final Proposals. The Commission has taken the Final Proposals into account and they form part of the basis of this determination. In accordance with section 20(3), section 21(2)(a), section 26(1) and section 26(4) of the Act, the Final Proposals have become commitments binding upon the Parties.

The supply of multi-site C&I waste collection services in Counties Limerick and Tipperary

Structure of potential market

173. Based on information provided by the Parties, and its contact with third parties, the Commission has estimated shares of multi-site C&I waste collection services in each of Counties Limerick and Tipperary. These estimated shares are based on the revenue generated by multi-site C&I waste collection service providers, as there tends to be a large variance in the revenue generated by service providers from each customer. Table 9 below shows these estimates.

Table 9: Estimated market shares for the supply of waste collection services to multi-site C&I customers, 2024.[88]

	County	
	Tipperary	**Limerick**
KWD Group	[20-25]%	[55-60]%
BnaM Recycling	[25-30]%	[0-5]%
Parties' Combined	**[50-55]%**	**[60-65]%**

[88] As these estimated market shares are rounded to one decimal place, the total market shares may not add up exactly to 100% in some markets.

Barna	-	[0-5]%
Country Clean	[0-5]%	-
Mr Binman	[10-15]%	[30-35]%
Panda	[5-10]%	[5-10]%
Quality Recycling (Wiser) - QRL	[20-25]%	-
Thorntons	[0-5]%	[0-5]%
Total	**100%**	**100%**

Source: The Commission, based on information provided by the Parties and third parties.

County Tipperary

174. In addition to the Parties, which have a combined share of [50-55]%, Country Clean, Mr Binman, Panda, Quality Recycling (Wiser) – QRL and Thorntons are the other multi-site C&I waste collection service providers active in County Tipperary. Furthermore, following the implementation of the Proposed Transaction, the HHI would increase from approximately 2,270 to 3,668 representing a delta of 1397. According to the Commission's Merger Guidelines, this HHI and delta is indicative of a market that is highly concentrated.[89]

County Limerick

175. In addition to the Parties, which have a combined share of [60-65]%, Barna, Mr Binman, Panda and Thorntons are the other multi-site C&I waste collection service providers active in County Limerick. Furthermore, following the implementation of the Proposed Transaction, the HHI would increase from approximately 4,272 to 4,857, representing a delta of 586. According to the Commission's Merger Guidelines, this HHI and delta is indicative of a market that is highly concentrated.[90]

Views of the Parties

176. The Parties' views in relation to the supply of C&I waste collection services are set out in paragraph 161 above.

[89] Competition and Consumer Protection Commission (2014) Guidelines for Merger Analysis, adopted 31 October 2014 "Commission's Merger Guidelines"), paragraphs 3.9-3.13. Available https://www.ccpc.ie/business/wp-content/uploads/sites/3/2017/04/CCPC-Merger-Guidelines-1.pdf

[90] *Ibid.*

Views of the Commission

177. In the course of its analysis of the Proposed Transaction, the Commission identified that the Proposed Transaction could weaken competition in each of Counties Tipperary and Limerick by reducing the number of multi-site C&I waste collection service providers. The Proposed Transaction would lead to KWD Group having a [50-55]% share in the supply of multi-site C&I waste collection services in County Tipperary and a [60-65]% share in County Limerick. This reduced competition could lead to increased prices and/or lower levels of service.

Proposals Submitted by the Parties

178. As set out above,[91] KWD Group submitted the first draft Proposals to the Commission on 17 February 2025 with a view to addressing any potential competition concerns identified by the Commission at the earliest possible stage in the Commission's investigation. Following its analysis of the impact of the Proposed Transaction, set out in detail above, the Commission further engaged with KWD Group in relation to the estimated market shares in the supply of waste collection services to multi-site C&I customers in the State. The Final Proposals, submitted by KWD Group on 10 April 2025, took into account the Commission's feedback.

179. The Final Proposals included a commitment by KWD Group to divest a volume of C&I waste collection business in each of Counties Limerick and Tipperary to a suitable purchaser. In this particular case, the Commission decided that a divestment by reference to a specified value of contracts was more appropriate than divesting a number of customers. This is because, unlike with domestic customers, there is considerable variation in the revenue accrued from C&I customers, so specifying a value ensures that an appropriate portion of the business will be divested. The Final Proposals require the divestment of an amount equivalent to BnaM Recycling's 2024 revenue from multi-site C&I customers in County Limerick. This is equivalent to the divestment of the increment associated with the Proposed Transaction. In County Tipperary, the Commission accepted a proposed divestment which was slightly less

[91] See paragraphs 22 and 146.

than the entire increment. The Commission considers that the customer divestments included in the divestment package return the conditions of competition to the level in place pre-Proposed Transaction.

180. As explained above, the Final Proposals described the divestment package and set out the process for appointing a Monitoring Trustee and selecting a suitable purchaser for the divestment package. The Final Proposals also detailed the information which KWD Group should communicate to the divested customers to ensure a smooth transition to the suitable purchaser.

The Commission's analysis of the Final Proposals

181. The Commission considers that the multi-site C&I customer divestments included in the divestment package return the conditions of competition in the relevant areas to a comparable level to that in place pre-Proposed Transaction. The Commission, having regard to the three criteria from the EC Remedies Notice outlined in paragraph 152 above, sets out its reasoning in assessing the Final Proposals below.

182. First, the Commission considers that the Final Proposals are comprehensive and effective, introducing a new competitor in Counties Limerick and Tipperary and restoring the level of choice of multi-site C&I waste collection providers to that prior to the implementation of the Proposed Transaction. The divestment package involves a large-scale divestment of multi-site C&I waste customers, along with the associated operation elements including: bins; relevant books, records and correspondence relating to each divestment customer; all balances; and any other assets necessary to provide multi-site C&I waste collection services to the divestment customers.

183. Second, the Commission considers that the divestment of multi-site C&I waste customers is capable of being implemented effectively and within a short period of time, for the same reasons as outlined in paragraph 155 above.

184. Third, the Final Proposals eliminate the Commission's competition concerns in the potential market for the supply of multi-site C&I waste collection services in each of Counties Limerick and Tipperary. The Final Proposals included a commitment by KWD Group to divest a volume of multi-site C&I waste collection business equivalent to the entire increment associated with the Proposed Transaction in County Limerick. In County Tipperary, the Commission accepted a proposed divestment which was slightly less than the entire increment. The Final Proposals constitute the transfer of a coherent and operationally viable business of scale, allowing a prospective purchaser to replicate the competitive constraint lost as a result of the Proposed Transaction.

Conclusion

185. The Commission is of the view that the Final Proposals are sufficient to address the competition concerns identified by the Commission in the potential market for the supply of multi-site C&I waste collection services in each of Counties Limerick and Tipperary. This is because the Final Proposals replace the competition lost within these counties. In light of the Final Proposals, it is not necessary for the Commission to come to a conclusion on the competitive effects of the Proposed Transaction in the absence of the Final Proposals. The Commission has taken the Final Proposals into account and they form part of the basis of this determination. In accordance with section 20(3), section 21(2)(a), section 26(1) and section 26(4) of the Act, the Final Proposals have become commitments binding upon the Parties.

186. In light of the above, and having taken the Final Proposals into account, the Commission considers that the Proposed Transaction will not raise any horizontal competition concerns in the Potential Relevant Markets.

Competitive Effects Analysis – Vertical Relationship

Potential vertical relationships 1, 2 and 3: The (downstream) supply of domestic, C&I and C&D waste collection services and the (upstream) processing of that waste in each of Counties Meath and Tipperary.

187. The Commission has assessed the effects of potential vertical relationships 1, 2 and 3, as set out in paragraph 92 above, together as the analysis for each of these potential vertical relationships is the same. As explained above, both KWD Group and BnaM Recycling collect waste from domestic, C&I and C&D customers and provide waste processing services in their facilities to third party waste operators. However, neither party has any domestic, C&I or C&D waste processed for it by the other party. For the reasons explained below, the Commission considers that the Proposed Transaction does not give rise to any vertical foreclosure concerns in relation to the processing of waste collected from domestic, C&I and C&D customers.

188. The Commission considers that KWD Group would have neither the ability nor the incentive to foreclose third party waste collectors active in Counties Meath and Tipperary.

189. Most waste collectors (domestic, C&I, or C&D) currently active in Counties Meath and Tipperary operate their own transfer station and/or waste processing facility.[92] This means that most waste collectors can process the domestic and individual C&I waste that they collect in Counties Meath and Tipperary and are not reliant on the Parties' processing facilities. Further, for those operators that collect waste but do not operate their own processing facilities, there are several alternative waste processors (e.g., Oxigen, Panda, and Thorntons in County Meath; and Mr Binman, Quality Recycling (Wiser) – QRL, and Country Clean in County Tipperary) to which they could switch if the merged entity were to increase prices or decrease the quality of service. As the Parties do not currently have waste processed for them by other operators, they do not have the ability to engage in the customer foreclosure of other waste processors.

[92] The Parties state the following in the merger notification: "*In County Meath, there are four other domestic and/or C&I waste collection operators, in addition to KWD Group and BnaM Recycling. Of these, Panda, Allied and Thorntons own and operate processing facilities located within County Meath, while Oxigen owns and operates facilities in adjoining County Dublin. ... In County Tipperary, in addition to BnaM Recycling and KWD Group, there are four other operators active in both domestic and C&I waste collections (Mr Binman, QRL/Wiser, CCR and Clonmel Waste). One additional operator is active in the C&I waste collection space only (Panda). All five operators own and operate a facility in either County Tipperary or in an adjacent county.*"

190. The Parties further stated in the Merger Notification Form that they "[redacted] *of third-party operators' waste at their transfer/sorting facilities. This can be seen by the fact that* [redacted]".[93] In addition to this, as mentioned above, neither party currently [redacted].

Conclusion

191. In light of the above, the Commission considers that the Proposed Transaction does not raise any vertical competition concerns in relation to the (downstream) supply of domestic, C&I and C&D waste collection services and the (upstream) processing of that waste in each of Counties Meath and Tipperary.

Potential vertical relationship 4: The (downstream) management of civic amenity sites in the State and the (upstream) processing of that waste in each of Counties Meath and Tipperary.

192. As mentioned above, both Parties are active in the management of civic amenity sites in the State, with KWD Group managing a civic amenity site in County Limerick, and BnaM Recycling managing civic amenity sites in three local authority-owned, and one privately-owned, sites located in Counties Laois, Kildare and Tipperary. The privately-owned site is located in Nenagh, County Tipperary. Both Parties also have the ability to process the waste collected at civic amenity sites (either their own sites or that of third party civic amenity site operators) at their respective transfer stations/waste processing facilities.

193. In the Merger Notification Form the Parties state that this potential vertical relationship would not result in any vertical competition concerns for the following reasons: *"Third party operators of civic amenity sites will have ample choice of waste processors other than the combined entity. Indeed, many of these operators have*

[93] Merger Notification Form, page 42.

their own processing facilities. Furthermore, the enlarged KWD Group would only operate 5-6% of the civic amenity sites in the State. Therefore, third party processors would have more than ample choice of potential civic amenity sites not managed by KWD Group to which they can offer their services".[94]

194. Following the implementation of the Proposed Transaction, the merged entity will not have the ability or incentive to engage in customer foreclosure due to its minimal presence (*circa* 5%) in the management of civic amenity sites in the State. Furthermore, the merged entity will not have the ability or incentive to engage in the input foreclosure of other civic amenity sites, as there will remain several alternative waste processors (e.g., Oxigen, Panda, and Thorntons in County Meath; and Mr Binman, Quality Recycling (Wiser) – QRL, and Country Clean in County Tipperary) for civic amenity sites to choose.

Conclusion

195. In light of the above, the Commission considers that the Proposed Transaction does not raise any vertical competition concerns in relation to the (downstream) management of civic amenity sites in the State and the (upstream) processing of waste from those sites

Potential vertical relationship 5: The (upstream) processing of waste collected from domestic and C&I customers in Counties Meath and Tipperary and the (downstream) supply (for sale) of non-glass recyclables.

196. There is a potential vertical relationship between the Parties in the supply (for sale) of non-glass recyclables in the State. KWD Group collects dry recyclable waste materials from other waste operators active throughout the State which it prepares for export. BnaM Recycling is active in the processing of waste collected from domestic and C&I customers and can potentially provide such material to KWD Group for export.

197. The Commission considers that the Proposed Transaction does not give rise to any vertical foreclosure concerns in relation to the supply (for sale) of non-glass

[94] Merger Notification Form, page 43.

recyclables. The merged entity would not have the ability or incentive to engage in input foreclosure as following the implementation of the Proposed Transaction, there will remain a large number of waste operators in the State who are active in the supply (for sale) of non-glass recyclable materials for export, including Panda, Quality Recycling (Wiser) – QRL, Thorntons and Barna Recycling. Furthermore, there will also remain a large number of companies active in the recycling business throughout the State who can supply recyclable material to those active in the supply (for sale) of non-glass recyclables for export, and as such the merged entity would not have the incentive or ability to engage in input foreclosure. According to the IWMA, there are over 30 member companies active in the recycling business in the State.[95]

Conclusion

198. In light of the above, the Commission considers that the Proposed Transaction will not lead to any vertical foreclosure concerns in the (upstream) processing of waste collected from domestic and C&I customers and the (downstream) supply (for sale) of non-glass recyclables.

Conclusion of Competitive Analysis

199. In light of the above, and having taken the Final Proposals into account (which form the basis or part of the basis for its determination), the Commission considers that the Proposed Transaction will not substantially lessen competition in any market for goods or services in the State.

Ancillary Restraints

200. The Parties state in the Merger Notification Form that Clause 13.1 of the SPA contains ancillary restraints which are directly related and necessary to the implementation of the Proposed Transaction. Clause 13.1(a) of the SPA contains a non-compete obligation on BnaM (the "Seller"). The duration of this non-compete obligation does not exceed the maximum duration acceptable to the Commission.

[95] For more information see: List of IWMA members – IWMA.

Therefore, the Commission considers this restriction to be directly related to and necessary for the implementation of the Proposed Transaction, insofar as it relates to the areas of operation of BnaM Recycling.[96]

201. Clause 13.1(b) and (c) of the SPA contains non-solicitation obligations on the Seller. The duration and scope of the non-solicitation obligations does not exceed the maximum duration and scope acceptable to the Commission. Therefore, the Commission considers these restrictions to be directly related to and necessary for the implementation of the Proposed Transaction, insofar as they relate to the State.[97]

[96] In this respect, the Commission follows the approach adopted by the European Commission in paragraph 20 of its "Commission Notice on restrictions directly related and necessary to concentrations" [2005] OJ C 56/24, available at EUR-Lex - 52005XC0305(02) - EN - EUR-Lex.

[97] In this respect, the Commission follows the approach adopted by the European Commission in paragraph 20 of its "Commission Notice on restrictions directly related and necessary to concentrations" [2005] OJ C 56/24, available at EUR-Lex - 52005XC0305(02) - EN - EUR-Lex,

Determination

Pursuant to section 20(3) of the Competition Act 2002, as amended ("the Act"), Kaes Recycling Holdings Limited and Seán Murphy have submitted to the Competition and Consumer Protection Commission ("the Commission") the proposals which are appended to this determination and relate to the proposed acquisition by Kaes Recycling Holdings Limited, part of the KWD Group, which is ultimately solely owned and controlled by Seán Murphy (and his family), of the entire issued share capital, and thus sole control, of Bord na Móna Recycling Limited, an indirect wholly-owned subsidiary of Bord na Móna plc, for the purpose of ameliorating any effects of the proposed acquisition on competition in markets for goods or services in the State, with a view to the proposals becoming binding on Kaes Recycling Holdings Limited, Seán Murphy and the KWD Group.

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 Kaes Recycling Holdings Limited, part of the KWD Group, would acquire the entire issued share capital, and thus sole control, of Bord na Móna Recycling Limited, an indirect wholly-owned subsidiary of Bord na Móna plc, will not be to substantially lessen competition in any markets for goods or services in the State and, accordingly, that the acquisition may be put into effect.

For the Competition and Consumer Protection Commission

Úna Butler

Member

Competition and Consumer Protection Commission

Merger Notification M/25/010 – KAES Recycling Holdings Limited/Bord na Móna Recycling Limited

Proposals submitted by both Kaes Recycling Holdings Limited and Seán Murphy to the CCPC dated 10 April 2025

Recitals

a. On 7 February 2025, the proposed acquisition of sole control of BnaM Recycling by Kaes Recycling (part of KWD Group) was notified to the CCPC under Section 18(1)(a) of the Act.

b. KWD Group and BnaM Recycling are both active in the provision of Domestic Waste Collection Services and C&I Waste Collection Services in the State.

c. Pursuant to Section 20(3) of the Act, Kaes Recycling, part of the KWD Group, and Seán Murphy hereby submit the following Proposals to the CCPC for the purpose of ameliorating any effects of the Proposed Transaction on competition in markets for goods or services in the State, with a view to the Proposals becoming binding on Kaes Recycling, Seán Murphy and the KWD Group on the date of the Determination.

d. Under these Proposals, Kaes Recycling, part of the KWD Group, and Seán Murphy agree with the CCPC to commit to sell the Divestment Package to a Suitable Purchaser in accordance with the terms and procedures contained herein.

Definitions

"**Act**" – means the Competition Act 2002, as amended;

"**BnaM**" – means Bord na Móna plc, an Irish semi-state body whose controlling/principal shareholder is the Minister for Climate, Environment and Energy;

"**BnaM Recycling**" – means Bord na Móna Recycling Limited, a private company limited by shares incorporated in the State (registered number 224173), whose registered office is Bord Na Móna Offices, Main Street, Newbridge, County Kildare;

"**CCPC**" – means the Competition and Consumer Protection Commission;

"**Completion**" – means completion of the Proposed Transaction in accordance with the terms of the Share Purchase Agreement;

"**C&I Waste Collection Services**" – means non-hazardous waste collection services provided to all categories of commercial and industrial customers including purpose-built apartment complexes;

"**Determination**" – means the determination of the CCPC pursuant to Section 21(2)(a) of the Act that the Proposed Transaction may be put into effect;

"**Divestment Customers**"–- means, subject to paragraphs 14 to 15, such customers, as described in Appendix A, as shall be selected by KWD Group, in consultation with and with the consent of the purchaser of the Divestment Package, from the customers within the Overlapping Areas to whom KWD Group and/or BnaM Recycling provide Domestic Waste Collection Services or C&I Waste Collection Services on the date of the Determination, and "Divestment Customer" shall be construed accordingly;

"**Divestment Package**" – means the business consisting of the Divestment Customers and the Related Assets described in Appendix A;

"**Domestic Waste Collection Services**" – means non-hazardous waste collection services provided to individual domestic households, including without limitation to detached houses, semi-detached houses, terraced houses, bedsits and apartments in converted houses or commercial buildings, but excluding waste collection services provided to purpose-built apartment complexes;

"**Kaes Recycling**" – means Kaes Recycling Holdings Limited, a limited company incorporated in the State (registered number 778165), whose registered office is at Aughacureen, Killarney, County Kerry;

"**KWD Group**" – means the entire group of companies and businesses, that is ultimately solely owned and controlled by a County Kerry-based businessman, Seán Murphy (and his family) through KWD Holdings and Feusa Holdings UC, including KWD Recycling and Kaes Recycling, and which are active in the non-hazardous waste industry under various trading names. For the purposes of this definition, "control" and its variants have the meaning ascribed by Section 16(2) of the Act;

"**KWD Recycling**" – means Killarney Waste Disposal Unlimited Company, an unlimited company incorporated in the State (registered number 126626), whose registered office is at Aughacureen, Killarney, County Kerry;

"**KWD Holdings**" – means Killarney Waste Disposal Holdings Unlimited Company, an unlimited company incorporated in the State (registered number 513521), whose registered office is at Aughacureen, Killarney, County Kerry;

"**Mandate**" – means a mandate agreement to be entered into by Kaes Recycling/KWD Group and the Trustee in accordance with paragraph 27 of these Proposals, the terms of which have been agreed with the CCPC;

"**Material Change**" – means a change whereby a purchaser of the Divestment Package no longer fulfils each of the criteria required to be a Suitable Purchaser, as defined below;

"**Merger Notification Form**" – means the merger notification form relating to the Proposed Transaction, as submitted to the CCPC on 7 February 2025;

"**Overlapping Areas**" – means the coloured areas as shown in the maps in Appendix B in which both KWD Group and BnaM Recycling provide Domestic Waste Collection Services or C&I Waste Collection Services and where it is proposed to divest certain customer contracts to the purchaser of the Divestment Package;

"**Proposed Transaction**" – means the proposed acquisition by Kaes Recycling of BnaM Recycling as notified to the CCPC on 7 February 2025;

"**Related Assets**" – means those assets specified in Appendix A, paragraph 4;

"**Share Purchase Agreement**" – means the agreement dated 7 January 2025 between Kaes Recycling, KWD Recycling and BnaM regarding the purchase of BnaM Recycling, a copy of which was provided to the CCPC with the Merger Notification Form;

"**Suitable Purchaser**" – means a single purchaser that, in the CCPC's view, meets all of the following criteria:

a. the acquisition by the purchaser of the Divestment Package would not be likely to create *prima facie* competition concerns;

b. the acquisition by the purchaser of the Divestment Package would be on terms and conditions which would not be likely to create *prima facie* competition concerns;

c. the purchaser is unconnected to, and independent of, KWD Group (including Seán Murphy/his family), BnaM Recycling and [redacted] (or any related or connected companies);

d. the purchaser is able to continue to operate the Divestment Package on a financially viable basis, including by providing Domestic Waste Collection Services or C&I Waste Collection Services (as applicable) to the Divestment Customers;

e. the purchaser is reasonably likely to obtain all permits or access to assets required to provide Domestic Waste Collection Services or C&I Waste Collection Services to the Divestment Customers; and

f. the purchaser will commit to maintain, at a minimum, the terms and conditions (including as regards price) under which Divestment Customers are served at the date of the Determination at least until the expiry of their current respective contracts.

"**The State**" – means the Republic of Ireland;

"**Trustee**" – means a trustee approved, or deemed to be approved, by the CCPC with whom Kaes Recycling shall enter into the Mandate in accordance with paragraph 27 of these Proposals; and

"**Working Day**" – means a day where the retail banks are normally open for business in the State.

A. <u>The Proposal to Sell the Divestment Package</u>

1. Kaes Recycling/KWD Group undertakes, to affect the sale of the Divestment Package within [redacted] of the date of the Determination (or such longer period as may be allowed by the CCPC, acting reasonably) to a Suitable Purchaser approved by the CCPC (whose approval shall not be unreasonably withheld).

2. Kaes Recycling/KWD Group agrees with the CCPC that the sale of the Divestment Package shall be upon such conditions as the CCPC may reasonably consider proper and that a prospective purchaser must meet all of the criteria of a Suitable Purchaser.

3. Kaes Recycling/KWD Group shall be deemed to have complied with paragraph 1 of these Proposals if within [redacted] from the date of the Determination (or such longer period as may be allowed by the CCPC acting reasonably), it has entered into a binding contract for the sale of the Divestment Package to a Suitable Purchaser (subject to due diligence, regulatory permits and any other necessary conditions not within the control of Kaes Recycling/KWD Group or a Suitable Purchaser) provided that such sale is completed within [redacted] from the date of the relevant contract (or such longer period as may be allowed by the CCPC acting reasonably).

4. Kaes Recycling/KWD Group shall:

    a. promptly inform the CCPC and the Trustee in writing, with a fully documented and reasoned proposal, of any prospective purchaser who indicates a serious desire to purchase the Divestment Package, and to whom Kaes Recycling/KWD Group is seriously considering the sale of the Divestment Package, in order to enable the Trustee and the CCPC to verify the suitability of the prospective purchaser; and

b. when the parties have entered into a binding contract for the sale of the Divestment Package, submit a fully documented and reasoned report to both the CCPC and the Trustee regarding the sale (including a copy of the binding contract) in order to enable both the CCPC and the Trustee to verify that the conditions laid down in these Proposals are fulfilled and that there has been no Material Change since the CCPC assessed that purchaser's suitability under paragraph 4(a), subject to the CCPC agreeing to keep confidential all such information received.

5. Within 5 (five) Working Days of receipt of a fully documented and reasoned proposal from Kaes Recycling/KWD Group in accordance with paragraph 4(a), the Trustee shall provide a written report to the CCPC verifying the suitability of the prospective purchaser. The CCPC shall communicate in writing its approval or non-approval of a prospective purchaser within ten (10) Working Days of receipt of a fully documented and reasoned proposal identifying a prospective purchaser in accordance with paragraph 4(a).

6. Within five (5) Working Days of receipt of a copy of the binding contract and accompanying fully documented and reasoned report from Kaes Recycling/KWD Group in accordance with paragraph 4(b), the Trustee shall provide a written report to the CCPC verifying whether the requirements contained in these Proposals have been fulfilled and as to whether there has been any Material Change as provided for in paragraph 4(b). Within ten (10) Working Days of receipt of a copy of a fully documented and reasoned report (including a copy of the binding contract) in accordance with paragraph 4(b), the CCPC shall communicate in writing its view as to whether there has been any Material Change in the status of the prospective purchaser and, whether the conditions laid down in these Proposals have been fulfilled as provided for in paragraph 4(b).

7. Failure of the CCPC to communicate its approval or non-approval of a prospective purchaser within ten (10) Working Days of the receipt by the CCPC and the Trustee of a fully documented and reasoned proposal and/or report in accordance with paragraph 4(a) or paragraph 4(b) shall in each case suspend the running of the nine (9) month period established in paragraph 1 until the CCPC communicates its approval or non-approval. If the CCPC does not communicate its approval or non-approval within twenty (20) Working Days of receipt as aforesaid, such approval shall be deemed to have been given unconditionally.

8. Kaes Recycling/KWD Group recognises that for a prospective purchaser to meet the CCPC's approval as a Suitable Purchaser, such purchaser shall be unconnected to and independent of, both KWD Group (including Seán Murphy/his family) and BnaM. Kaes Recycling/KWD Group further recognises that [redacted] (or any related or connected companies) shall not be considered a Suitable Purchaser.

9. Kaes Recycling/KWD Group recognises that, if at any time prior to the completion of the sale of the Divestment Package to a Suitable Purchaser, the CCPC reasonably considers on the basis of information available to it that there has been a Material Change, the CCPC may withdraw its approval of a prospective purchaser as a Suitable Purchaser of the Divestment Package.

10. Kaes Recycling/KWD Group and the CCPC shall act at all times in a reasonable manner with a view to achieving the effective and efficient implementation of these Proposals.

B. <u>Divestment Package</u>

11. Kaes Recycling/KWD Group undertakes to dispose of the entirety of the Divestment Package as it is described in Appendix A. Kaes Recycling/KWD Group shall take all

necessary actions, including procuring any necessary actions by BnaM Recycling, to ensure the disposal of the entirety of the Divestment Package.

12. Kaes Recycling/KWD Group further undertakes that, for a period of twenty-four (24) months from the date of completion of the sale of the Divestment Package in accordance with paragraph 1 of these Proposals, Kaes Recycling/KWD Group (including following completion of the Proposed Transaction, BnaM Recycling) will not actively canvass or solicit or conduct marketing activities targeted at any Divestment Customer in relation to the provision of Domestic Waste Collection Services or C&I Waste Collection Services, such as by way of (without limitation) direct mail (including the sending of unsolicited emails), telephone sales, or promotions targeted at the Divestment Customers. For the avoidance of doubt, this does not preclude Kaes Recycling/KWD Group from responding to an unsolicited request from a Divestment Customer to provide Domestic Waste Collection Services or C&I Waste Collection Services or from conducting general marketing activities which are not specifically targeted at the Divestment Customers. During the relevant twenty-four (24) month period referred to in this paragraph 12 of these Proposals (the "**Non-solicitation Period**"):

    a. in the event that a Divestment Customer submits an unsolicited request to Kaes Recycling/KWD Group for a quotation for the provision of Domestic Waste Collection Services or C&I Waste Collection Services by KWD Group, Kaes Recycling/KWD Group shall respond in writing in a timely manner (the "**Offer**"). Kaes Recycling/KWD Group shall not, during the Non-solicitation Period, subsequently amend the price or terms and conditions for the provision of Domestic Waste Collection Services or C&I Waste Collection Services contained in the Offer, although Kaes Recycling/KWD Group may provide clarifications on the Offer, which must also be in writing, in response to a specific query received from that same Divestment Customer. Kaes Recycling/KWD Group shall not comment on the prices or terms and conditions offered by a competing supplier of Domestic Waste Collection Services or C&I Waste Collection Services if asked to do so by a Divestment Customer. Kaes Recycling/KWD Group shall retain copies of the Offer and written responses for a period of twenty-four (24) months after communication to the relevant Divestment Customer and must provide copies of the Offer and written responses to the CCPC upon the request of the CCPC;

    b. Kaes Recycling/KWD Group shall submit to the CCPC within six (6) months after the date of the Determination a written report (the "**First Report**") demonstrating Kaes Recycling/KWD Group's compliance with its obligations set out in paragraph 12(a) of these Proposals since the date of the Determination. Kaes Recycling/KWD Group shall submit to the CCPC within six (6) months after the date of submission of the First Report and at intervals of six (6) months thereafter, a written report (each, a "**Compliance Report**") demonstrating Kaes Recycling/KWD Group's continued compliance with its obligations contained in paragraph 12(a) of these Proposals until the expiry of six (6) months after the Non-solicitation Period. The First Report and each subsequent Compliance Report shall include the following: (i) the total number of unsolicited requests for a quotation for the provision of Domestic Waste Collection Services or C&I Waste Collection Services received by Kaes Recycling/KWD Group from Divestment Customers during the preceding six (6) month period; (ii) how Kaes Recycling/KWD Group dealt with each such unsolicited request received from a Divestment Customer during the preceding six (6) month period, including the price and terms and conditions for the provision of Domestic Waste Collection Services or C&I Waste Collection Services contained in any Offer made by Kaes Recycling/KWD Group to a Divestment Customer and clarifications on any Offer made by Kaes Recycling/KWD Group; (iii) the total number of Divestment Customers who, as a result of an unsolicited request to Kaes Recycling/KWD Group, commenced

receiving Domestic Waste Collection Services or C&I Waste Collection Services from Kaes Recycling/KWD Group during the preceding six (6) month period.

13. Kaes Recycling/KWD Group confirms that it will not impose, as a condition of sale of the Divestment Package, unless required by applicable laws, an obligation on the purchaser to acquire any associated assets or staff from Kaes Recycling/KWD Group (except where such assets or staff are requested by the purchaser to be included and agreed by Kaes Recycling/KWD Group).

Interim Position of the Divestment Package

14. Following the Determination and pending the sale of the Divestment Package to a Suitable Purchaser, Kaes Recycling/KWD Group undertakes to continue to provide, and/or, if applicable, to procure the continued provision by BnaM Recycling, of Domestic Waste Collection Services or C&I Waste Collection Services to the Divestment Customers and to preserve the economic viability, marketability, and competitiveness of the Divestment Package until the date of the completion of the sale of the Divestment Package in accordance with good commercial practice.

15. Kaes Recycling/KWD Group undertakes to (and/or, if applicable, to procure that BnaM Recycling will) protect the value of the Divestment Package during the period from the date of the Determination until the date of the completion of the sale of the Divestment Package, including by, during that period, maintaining (and/or, if applicable, procuring the maintenance by BnaM Recycling of) the nature, description, range and standard of the Domestic Waste Collection Services and C&I Waste Collection Services provided to the Divestment Customers and, more specifically:

    a. to continue to operate the collection routes that service the Divestment Customers at the date of the Determination;

    b. to provide an equivalent standard of service (including the frequency of collection) to the Divestment Customers as provided by KWD Group and/or BnaM Recycling at the date of the Determination;

    c. to provide Domestic Waste Collection Services or C&I Waste Collection Services to the Divestment Customers on terms (including price and the nature and range of services provided) equivalent to those provided to the Divestment Customers by KWD Group and/or BnaM Recycling at the date of the Determination, except where otherwise required by law;

    d. to communicate changes in the branding of the Domestic Waste Collection Services or C&I Waste Collection Services, including as regards branding of invoices and customer communications, to the Divestment Customers clearly and promptly, and in accordance with applicable terms and conditions;

    e. to provide customer services, help and assistance to the Divestment Customers via one or more dedicated telephone numbers;

    f. to maintain all permits required to provide Domestic Waste Collection Services or C&I Waste Collection Services to the Divestment Customers;

    g. to commit to repair or replace any assets (including trucks and bins) necessary for the provision of Domestic Waste Collection Services or C&I Waste Collection Services to the Divestment Customers in the event that such assets become damaged or lost or fall into disrepair prior to the date of sale of the Divestment Package; and

h. to refrain from terminating any contracts with any of the Divestment Customers (other than for breach of a term or terms of the relevant contract giving rise to a termination right thereunder).

16. Every reference to the Divestment Customers in paragraphs 14, 15 and 17 includes a reference to any person or entity who it is reasonably foreseeable may become a Divestment Customer. For the avoidance of doubt, the obligations in paragraphs 14, 15 and 17 shall cease immediately on the completion of the sale of the Divestment Package or (where relevant and appropriate) at such later time as may be agreed between Kaes Recycling/KWD Group and the purchaser of the Divestment Package.

17. Without prejudice to paragraphs 15 (d) and (e), in advance of the completion of the sale of the Divestment Package, Kaes Recycling/KWD Group shall, with the agreement of the Trustee, issue a communication to all Divestment Customers informing them of the proposed divestment, which shall include the following:

    a. a brief factual explanation of why the customer is being transferred to the purchaser of the Divestment Package, including that Kaes Recycling/KWD Group has acquired BnaM Recycling and that Kaes Recycling/KWD Group agreed with the CCPC that a certain number of customers would be transferred to the purchaser of the Divestment Package to maintain competition in the marketplace;

    b. a point of contact (including his/her e-mail address) at the purchaser of the Divestment Package who will be able to address any of the customer's questions, including in relation to changes to the relevant terms and conditions; and

    c. that if he/she/it is not satisfied with the service provided by the purchaser of the Divestment Package, there is no restriction on him/her/it seeking an alternative provider which may include Kaes Recycling/KWD Group.

18. Kaes Recycling/KWD Group shall provide the CCPC with a draft of its initial communication to the Divestment Customers, which shall include the requirements listed in paragraph 17 (a) to (c), in advance of issuing any initial communication to the Divestment Customers. The CCPC shall confirm whether it considers the draft initial communication to be in compliance with paragraph 17 (a) to (c) within 3 Working Days of receipt of the draft initial communication. If the CCPC considers (acting reasonably) that the draft initial communication is not in compliance with paragraph 17 (a) to (c), Kaes Recycling/KWD Group shall make appropriate amendments, which shall be agreed with the CCPC in advance of issuing its initial communication to the Divestment Customers. Furthermore, the CCPC reserves the right to review and if necessary, amend future communications by Kaes Recycling/KWD Group with Divestment Customers.

19. For the avoidance of doubt, paragraph 17 shall not preclude Kaes Recycling/KWD Group from issuing other communications to Divestment Customers provided such communications do not contradict the requirements set out in that paragraph.

20. Kaes Recycling/KWD Group (which for the avoidance of doubt will include, following completion of the Proposed Transaction, BnaM Recycling) undertakes not to carry out any act upon its own authority which may reasonably be expected to have a significant adverse impact on the economic value, the management, or the competitiveness of the Divestment Package until the date of completion of the sale of the Divestment Package. Further, Kaes Recycling/KWD Group (which for the avoidance of doubt will include, following completion of the Proposed Transaction, BnaM Recycling) undertakes not to carry out upon its own authority any act which may be of such a nature as to alter the nature or the scope of activity, or the industrial or commercial strategy, or the investment policy of the Divestment Package.

C. Continued Separation

21. Kaes Recycling/KWD Group undertakes not to acquire any interest in the purchaser of the Divestment Package for a period of twenty-four (24) months following the date of the completion of the sale of the Divestment Package to the purchaser pursuant to these Proposals.

22. Kaes Recycling/KWD Group undertakes that if it attempts, by entering into a legally binding agreement, during the period of twenty-four (24) months following the expiry of the twenty-four (24) month period referred to in paragraph 21, to acquire any interest in the purchaser of the Divestment Package, Kaes Recycling/KWD Group will inform the CCPC prior to doing so and will, if requested to do so by the CCPC, notify any such proposed acquisition in accordance with Section 18(3) of the Act (or its successor provision, if applicable) if such proposed acquisition is not required to be notified under Section 18(1) of the Act (or any other provision of the Act including successor provisions, if applicable).

D. Appointment of a Trustee

23. Within five (5) Working Days after the date of the Determination (or such longer period as may be allowed by the CCPC acting reasonably), Kaes Recycling/KWD Group will propose to the CCPC a trustee, who is independent of both Kaes Recycling/KWD Group (including Seán Murphy/his family) and BnaM (the "**Proposed Trustee**"). The appointment of the Proposed Trustee is subject to the approval of the CCPC. If the CCPC does not reject the Proposed Trustee by notice in writing within five (5) Working Days of receiving the proposal, the Proposed Trustee shall be deemed to have been approved.

24. If the Proposed Trustee is rejected by the CCPC, Kaes Recycling/KWD Group will propose the name of a new trustee, who is also independent of both Kaes Recycling/KWD Group (including Seán Murphy/his family) and BnaM (the "**New Trustee**"), within five (5) Working Days of being informed of the rejection. If the CCPC does not reject the New Trustee by notice in writing to Kaes Recycling/KWD Group within five (5) Working Days of the new proposal, the New Trustee shall be deemed to have been approved.

25. At the time of proposing the Proposed Trustee or the New Trustee to the CCPC, Kaes Recycling/KWD Group shall furnish to the CCPC sufficient information to enable the CCPC to assess the suitability of the person so proposed, including (without limitation) details of relevant experience.

26. If the New Trustee, proposed under paragraph 24, is rejected by the CCPC, the CCPC shall, acting reasonably, nominate a suitable trustee (the "**CCPC Trustee**") which Kaes Recycling/KWD Group will appoint or cause to be appointed.

E. Trustee's Mandate

27. Within ten (10) Working Days of the date on which the CCPC has approved or is deemed to have approved (or such longer period as may be allowed by the CCPC acting reasonably) either the Proposed Trustee, the New Trustee or the CCPC Trustee, Kaes Recycling/KWD Group shall enter into the Mandate with the Trustee, the terms of which shall have previously been agreed with the CCPC, which confers on the Trustee all the rights and powers necessary to permit the Trustee to carry out the Mandate.

28. Within five (5) Working Days of the date on which the CCPC has approved or is deemed to have approved the Trustee, Kaes Recycling/KWD Group shall submit to the CCPC a draft mandate agreement for approval by the CCPC, which approval shall not be unreasonably withheld. The terms of the draft mandate agreement shall be consistent with the terms of the Proposals. If the CCPC rejects the terms of the draft mandate agreement by notice in writing, the CCPC shall within five (5) Working Days thereof, propose an amended version of the draft mandate agreement, which shall be accepted by Kaes Recycling/KWD Group.

29. The Trustee shall be independent of Kaes Recycling/KWD Group (including Seán Murphy/his family) and BnaM, possess the necessary qualifications and experience to carry out its mandate, and shall neither have nor become exposed to a conflict of interest. The Mandate shall provide for a mechanism to resolve any conflicts of interest that may arise during the term of the Mandate (including, if necessary, the replacement of the Trustee).

30. Throughout the duration of the Trustee's appointment, the Trustee shall:

a. provide written reports ("**Trustee Reports**") to the CCPC on the progress of the discharge of its duties under the Mandate, identifying any respects in which the Trustee has been unable to discharge such duties. The Trustee Reports shall be provided at monthly intervals, commencing one month after the date of the appointment of the Trustee, or at such other times or time periods as the CCPC may specify and are notified in writing to Kaes Recycling/KWD Group. Kaes Recycling/KWD Group shall receive a non-confidential copy of such Trustee Reports.

b. monitor the development of the procedure for selecting a Suitable Purchaser of the Divestment Package and advise the CCPC as to the conduct of the negotiations;

c. monitor the maintenance of the nature, description, range and standard of the Domestic Waste Collection Services and C&I Waste Collection Services provided to the Divestment Customers by Kaes Recycling/KWD Group, and, where applicable, BnaM Recycling, until completion of the sale of the Divestment Package;

d. monitor the communications from Kaes Recycling/KWD Group and, where applicable, BnaM Recycling to Divestment Customers pursuant to paragraphs 15 and 17;

e. monitor and advise the CCPC as to the effectiveness of the process by which the Divestment Customers are transferred to the Suitable Purchaser;

f. monitor and advise the CCPC as to whether any prospective purchaser(s) with whom Kaes Recycling/KWD Group or the Trustee intends to negotiate are likely to be, and pending completion of the sale of the Divestment Package continue to be, a Suitable Purchaser, including providing a written report to the CCPC within five (5) Working Days of receipt of a fully documented and reasoned proposal from Kaes Recycling/KWD Group, pursuant to paragraph 4(a) of these Proposals, verifying the suitability of a prospective purchaser or purchasers;

g. provide a written report to the CCPC within five (5) Working Days of receipt of a fully documented and reasoned report from Kaes Recycling/KWD Group, pursuant to paragraph 4(b) of these Proposals, verifying whether the requirements set out in these Proposals have been fulfilled and that there has been no Material Change; and

h. monitor compliance by Kaes Recycling/KWD Group, and any successors in title, with its obligations under the Proposals and provide any ad hoc updates to the CCPC as

to such compliance or non-compliance as the Trustee may consider necessary.

31. The Trustee Report shall assess the compliance or otherwise of Kaes Recycling/KWD Group with the Proposals during the period since the date of the previous Trustee Report (or, in the case of the first Trustee Report, since the date of the Determination).

32. The Trustee's duties and functions as set out above shall not be extended or varied in any way by Kaes Recycling/KWD Group, save with the express written consent of the CCPC. Any instruction or request to the Trustee from Kaes Recycling/KWD Group which conflicts with the terms of the Mandate, and the duties and functions as set out above, will be considered null and void.

33. The CCPC may, on its own initiative or at the request of the Trustee, give any orders or instructions to the Trustee that are required in order to ensure compliance with the conditions and obligations attached to the Determination so long as Kaes Recycling/KWD Group is first given an opportunity to comment on any such orders or instructions in advance.

34. In the circumstances specified below, the Trustee shall be given an irrevocable mandate to negotiate and conclude arrangements for the sale of the Divestment Package to one prospective purchaser [redacted] for an expedient sale to a viable and independent third party (subject to the CCPC having both approved the purchaser as a Suitable Purchaser and following entry into a binding contract for the sale of the Divestment Package, the CCPC having verified that there has been no Material Change in the status of the purchaser, in accordance with paragraphs 4, 5, 6, and/or 7 of the Proposals):

    a. If [redacted] (or such longer period as may be agreed by the CCPC acting reasonably or as may result from the delays referred to in paragraph 7 of these Proposals) have elapsed after the date of the Determination without Kaes Recycling/KWD Group having entered into a binding contract for the disposal of the entirety of the Divestment Package; or

    b. if a sale pursuant to a binding contract referred to in paragraph 34 (a) above has not completed within a [redacted] period from the date of the relevant binding contract (or such longer period as may be allowed by the CCPC acting reasonably).

35. The Trustee shall have regard to the legitimate financial interests of Kaes Recycling/KWD Group in respect of such divestment, subject to Kaes Recycling's/KWD Group's unconditional obligation to divest the Divestment Package at no minimum price.

36. No provision of these Proposals shall act to delay completion of the Proposed Transaction.

F. Miscellaneous

37. Kaes Recycling/KWD Group will provide the Trustee with all reasonable assistance and will procure (so far as it is able) that all relevant third parties, including BnaM, provide such assistance as is required to ensure compliance with the Proposals. Kaes Recycling/KWD Group will provide or cause to be provided to the Trustee all such assistance and information, including copies of all relevant documents accessible by Kaes Recycling/KWD Group, and, if applicable, BnaM, as the Trustee may require in carrying out its Mandate, and will pay the Trustee reasonable remuneration for its services for the duration of the Mandate.

38. In addition, at the expense of Kaes Recycling/KWD Group, the Trustee may appoint advisors (in particular for corporate finance and/or legal advice), subject to Kaes Recycling's/KWD Group's approval, such approval not to be unreasonably withheld or delayed, if the Trustee considers the appointment of such advisors necessary or appropriate for the performance of its duties and obligations under the Mandate, provided that any fees and other expenses incurred by the Trustee are reasonable, necessary and appropriate. Should Kaes Recycling/KWD Group refuse to approve the advisors proposed by the Trustee, the CCPC may approve the appointment of such advisors instead, after first having received Kaes Recycling's/KWD Group's views in writing. Only the Trustee shall be entitled to issue instructions to the advisors.

39. Notwithstanding the Trustee's overall responsibility to discharge its functions and, in particular, notwithstanding the Trustee's position as an independent unrelated third party, the Trustee (who shall undertake in the Mandate to do so) shall have to the extent possible given the nature of its tasks due regard to the commercial interests of Kaes Recycling/KWD Group.

40. Kaes Recycling/KWD Group shall indemnify the Trustee and its employees and agents (each an "**Indemnified Party**") and hold each Indemnified Party harmless against, and hereby agrees that an Indemnified Party shall have no liability to Kaes Recycling/KWD Group for any liabilities arising out of the performance of the Trustee's duties under the Proposals and the Mandate, except to the extent that such liabilities result from the wilful default, recklessness, gross negligence or bad faith of the Trustee, its employees, agents or advisors.

41. The Mandate and the Proposals shall be deemed to be discharged and the Trustee's appointment shall be deemed to be terminated if Kaes Recycling/KWD Group and BnaM jointly notify the CCPC in writing, and provide sufficient supporting evidence to demonstrate, that the Proposed Transaction has been irrevocably abandoned.

42. The Trustee's and all other relevant third parties' powers of attorney and appointment shall be irrevocable.

G. Applicable Laws

43. Kaes Recycling/KWD Group undertakes to ensure that the divestment of the Divestment Package is conducted in a manner that complies with all applicable laws, including without limitation, data protection law, contract law, employment law and consumer protection law. Kaes Recycling/KWD Group shall procure that the purchaser of the Divestment Package takes all necessary steps to ensure that the sale of the Divestment Package is conducted in a manner that complies with all applicable laws, including without limitation data protection law, contract law, employment law and consumer protection law.

H. Review Clause

44. Above and beyond any time extensions specifically mentioned elsewhere in these Proposals, the CCPC may at its sole discretion, acting reasonably, extend any of the time periods provided for in these Proposals, on its own initiative or in response to a reasoned request from Kaes Recycling/KWD Group or the Trustee. The CCPC may further, at its sole discretion, waive, modify or substitute any provision in the Proposals in response to a reasoned request from Kaes Recycling/KWD Group, or the Trustee, showing good cause or in appropriate cases and following consultation with Kaes/KWD Group, on its own initiative acting reasonably.

I. Counterparts

45. These Proposals may be signed in counterpart and this has the same effect as if the signatures on the counterparts were on a single copy of the Proposals.

Appendix A: The Divestment Package

The Divestment Package comprises the following:

1. The Divestment Customers as set out in paragraphs (2) and (3), provided that:

    a. before entering into a contract for the sale of the Divestment Package under these Proposals, Kaes Recycling/KWD Group shall prepare a list (the "**List**") of all the customers proposed to be included among the Divestment Customers (in accordance with paragraphs (2) and (3) set out below);

    b. [redacted]

    c. [redacted].

2. The **Divestment Customers**, which, in relation to domestic customers, comprise the following numbers of customers in each of the Overlapping Areas 1 to 9 as listed in Table 1:

Table 1 – Domestic Customers

Overlapping Area	Local Electoral Area ("LEA")	Number of domestic customers to divest
1.	Borris-In-Ossory-Mountmellick, County Laois	[redacted]
2.	Limerick City East, County Limerick	[redacted]
3.	Limerick City West, County Limerick	[redacted]
4.	Limerick City North, County Limerick	[redacted]
5.	Birr, County Offaly	[redacted]
6.	Newport, County Tipperary	[redacted]
7.	Thurles, County Tipperary	[redacted]
8.	Nenagh, County Tipperary	[redacted]
9.	Roscrea-Templemore, County Tipperary	[redacted]

3. The Divestment Customers, which, in relation to C&I customers, comprise customers corresponding to the following:

    a. the share of value (in terms of 2024 revenue) of the C&I customers to be divested in County Laois must be at least equivalent to the 2024 revenue of KWD Group generated from C&I customers in this county;

    b. the total 2024 revenue, of KWD Group or BnaM Recycling as relevant, attributable to the single-site C&I customers to be divested in County Offaly, must be greater than or equal to KWD Group's total 2024 revenue attributable to single-site C&I customers in County Offaly;

    c. the total 2024 revenue, of KWD Group or BnaM Recycling as relevant, attributable to the single-site C&I customers to be divested in County Tipperary, must be greater than or equal to BnaM Recycling's total 2024 revenue attributable to single-site C&I customers in County Tipperary;

    d. the total 2024 revenue, of KWD Group or BnaM Recycling as relevant, attributable to the multi-site C&I customers to be divested in County Limerick must be greater than or equal to BnaM Recycling's total 2024 revenue attributable to multi-site C&I customers in County Limerick; and

    e. the total 2024 revenue, of KWD Group or BnaM Recycling as relevant, attributable to the multi-site C&I customers to be divested in County Tipperary, must be greater than or equal to €[redacted].

4. The **Related Assets**, which comprise:

    i. all relevant books, records and correspondence relating to the Divestment Customers, including the full name, address and contact details of each Divestment Customer and any other relevant information relating to each Divestment Customer (including but not limited to account number, number and type of bins, billing frequency, billing charges, billing date, payment method, debtor balance and prepaid calculation), which are maintained by Kaes Recycling/KWD Group and/or BnaM Recycling at the date of the Determination;

    ii. the rights, interest and obligations under all contracts between Kaes Recycling/KWD Group and/or BnaM Recycling and each of the Divestment Customers for the provision of Domestic Waste Collection Services or C&I Waste Collection Services which are in force at the date of the Determination;

    iii. all bins at the addresses of the Divestment Customers at the date of the Determination which have been provided by Kaes Recycling/KWD Group or BnaM Recycling;

    iv. all balances, including credits and debts, in respect of the Divestment Customers which are outstanding at the date of the completion of the sale of the Divestment Package to the purchaser; and

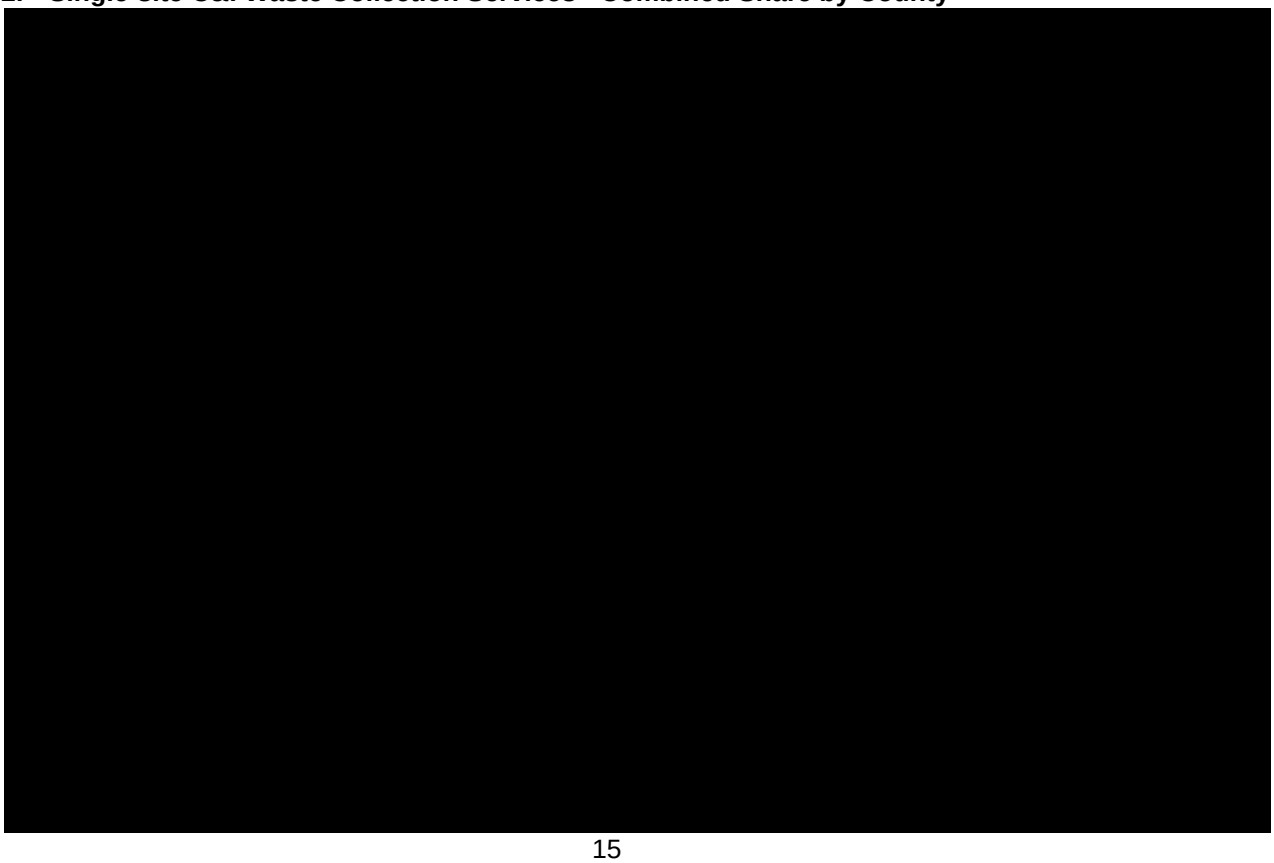
    v. all and any other assets necessary for the provision of Domestic Waste Collection Services and/or C&I Waste Collection Services to the Divestment Customers following the sale of the Divestment Package.

Appendix B: Maps of Overlapping Areas

1. Domestic Waste Collection Services - Combined share of supply by relevant LEA



2. Single-site C&I Waste Collection Services - Combined Share by County



3. Multi-site C&I Waste Collection Services - Combined Share by County

