



## **DETERMINATION OF MERGER NOTIFICATION M/06/019 – MARS MAV/S&M NUTECH**

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Section 21 of the Competition Act 2002

Proposed acquisition by MAV Corp. of S&M Nutech L.L.C.

DATED 26/04/06

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### **Introduction**

1. On 31 March 2006 the Competition Authority, in accordance with Section 18 (1) of the Competition Act, 2002 (“the Act”) was notified, on a mandatory basis, of a proposal whereby MAV Corp (“MAV”) would acquire all membership units of S&M NuTech LLC (“S&M Nutech”) from Mr. Joseph C. Roethelli and Ms. Judy Roethelli (“vendors”) (“the transaction”)

### **The Undertakings Involved**

2. MAV, the acquirer, is a wholly-owned subsidiary of Mars Incorporated (“Mars”). Mars is a privately-owned company, head-quartered in Virginia in the United States and is active in the manufacture of snack-foods, ice-creams, human food, pet foods and other products.
3. In the State, Mars supplies snack foods and main meal food to grocery outlets and impulse outlets. Its main operations are located in Dublin. In respect of pet foods, Mars manufactures a range of products outside the State in its European manufacturing facilities in the UK and in Hungary.
4. S&M Nutech, the target, is owned by the vendors and is head-quartered in Missouri in the United States. S&M Nutech develops, manufactures and markets innovative and premium snacks and food for pets, in particular, for dogs.
5. The target is mainly active in the United States. It supplies its customers based outside the United States from its production facilities within the United States. In the State, the target has minimal activities.

### **Analysis**

8. The activities of the undertakings involved overlap in the supply and sale of dog snacks and treats in the State. Neither the target nor the acquirer manufacture their overlapping products in the State and

supply their respective customers from facilities based in the United States and in the EU respectively.

9. On the basis of submissions from the undertakings involved, the value of the market for dog snacks and treats in Ireland is estimated at less than US[ ] (approximately €[ ]<sup>1</sup>). Mars has submitted that its products account for approximately [ ] % of the market for dog snacks and treats, while the target's sales of its products account for less than €[ ] representing a small percentage of the value of the dog snack and treats sector. Of the remaining [ ]% of the market, several other suppliers of dog snacks and treats supply customers in Ireland including Nestle-Purina, Mackle Petfoods, C&D Petfoods and Irish Dog foods.
10. The Authority has concluded that while the activities of the undertakings involved overlap in the State in respect of the supply and sale of snacks and treats for dogs, the overlap is minimal and dog snacks and treats customers in the State have several other suppliers from which to choose. The proposed transaction does not represent a substantial lessening of competition in the supply and sale of dog snacks and treats in the State.

#### **Ancillary Restraints**

11. The Authority considered ancillary restraints entered into by the undertakings involved.
12. The Authority does not deem it necessary to express a view on the appropriateness of the ancillary restraints to the proposed transaction as it considers that the proposed transaction does not raise competition concerns.

#### **Determination**

The Competition Authority, in accordance with Section 21(2) of the Competition Act, 2002, has determined that, in its opinion, the result of the proposed acquisition by MAV Corp. of S&M NuTech L.L.C. will not be to substantially lessen competition in markets for goods and services in the State and, accordingly, that the acquisition may be put into effect.

#### **For the Competition Authority**

Dr. Paul K. Gorecki  
Member of the Competition Authority

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<sup>1</sup> Based on a conversion rate of €1 = US\$ 1.2252 on 18/04/2006. Source: <http://www.ecb.org>.