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The Turkish Competition Board  
clears interrelated transactions estab-  
lishing joint control over a pharma-  
ceutical and consumer health compa-  
ny (*ICG / Uriach / Ineldea*)

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This case summary aims to offer insight into Uriach/ ICG <sup>1</sup> (“**Decision**”) of the Turkish Competition Board (“**Board**”). In the Decision, the Board evaluated two closely related transactions. The first transaction concerns establishment of joint control by Intermediate Capital Group plc (“**ICG**”) over Grupo J. Uriach, S.L.U. (“**Uriach**”) through the approval of transfer of shares and capital increase (“**Uriach Transaction**”). The second transaction concerns acquisition of control by Uriach over PAM Invest-Ineldea Santé SAS (“**Ineldea**”) through another transfer of shares, following the previous transaction (“**Ineldea Transaction**”). As a result of these two closely related transactions, ultimately, ICG and Corporación J. Uriach, S.A. (“**Uriach Holding**”) will establish joint control over Uriach and Ineldea. Upon its examination, the Board cleared the transaction by evaluating Uriach Transaction and Ineldea Transaction as a single concentration for the purposes of the merger control filing.

## Parties to the Transaction

In terms of the parties’ activities, the Board noted that Uriach operates in the sale of over-the-counter finished dose form pharmaceuticals and in the development and sale of consumer health products such as food supplement, medical devices and cosmetics. The Board noted that, although Uriach does not actively carry out marketing activities in Turkiye, its subsidiary, Amcore Balance, S.L.U. (“**Naturitas**”) generated turnover in Turkiye, in 2023 and that this turnover relates to consumer products such as sunscreen, baby food, personal care and hygiene products, food supplements and beverages, which do not have any purpose of medical use.

On the other hand, the Board highlighted that, as a result of the transaction concerning acquisition of Pascoe <sup>2</sup>, an undertaking active in high-dose vitamin C infusions and injections, homeopathic medicines,

phytopharmaceuticals, dietary supplements and natural cosmetics, by Uriach, Uriach became engaged in the development, production, marketing and distribution of the said products and therefore, Uriach consequently became active in the health technologies Whereas in terms of Ineldea, the Board observed that Ineldea provides services in the development and sales of natural food supplements, cosmetics and skin care products. in many EU member states, primarily in France. The Board also remarked that Ineldea, through its Italian subsidiary Anfatis S.p.A. (“**Anfatis**”), is engaged in the wholesale distribution of finished dosage form medicines, natural food supplements, skin care and cosmetics. With regards to Turkiye, the Board acknowledged that Ineldea provides food supplements to its customer Mamsel İlaç Sanayi ve Ticaret AŞ (“**Mamsel**”), which then markets the relevant products under its own brand and moreover, Ineldea started its distribution activities of food supplements, which provides children with the necessary nutrients and a balanced diet, through its distributor Pedia Natura, in 2023.

The Board clarified that, although ICG is a global asset manager which provides structured and private equity, debt, real estate and credit services, with operations in Europe, Asia, the Pacific and the US and there are many portfolio companies controlled by ICG, none of ICG’s portfolio companies has similar activities to Uriach and Ineldea. In terms of Uriach Holding the Board noted that Uriach Holding is a holding company and does not have any activities other than the activities of Uriach.

## The Assessment Concerning Interrelated Transactions

The Board first delved into the assessment of the Uriach and Ineldea Transactions. It was stated that within the scope of the Uriach Transaction ICG and Uriach Holding concluded an Investment and Shareholders’ Agreement (“**Uriach SPA Agreement**”) through which ICG accepted to acquire a part

1. Decision of the Board dated 09.05.2024 and numbered 24-22/515-216

2. Board’s decision dated 18.04.2024 and numbered 24-19/427-176.

of Uriach’s issued capital. Moreover, it was also acknowledged that Uriach Holding will approve the cash capital increase of Uriach, and following the capital increase, the shares and capital generated and issues as a result of the cash capital increase will be acquired and paid by ICG, as a result of the Investment and Shareholders Agreement (“ **Uriach SHA Agreement** ”) concluded between Uriach and ICH. As indicated above, it was indicated that, as a result of Uriach Transaction ICG will be able to execute joint control over Uriach, together with Uriach Holding.

In terms of Ineldea Transaction, which was planned to be realized following the Uriach Transaction, it was stated that Uriach and other beneficial owners entered into an Purchase Option Agreement, simultaneously with Uriach SPA Agreement and Uriach SHA Agreement, pursuant to which Uriach was granted with an option to purchase a number of shares of Ineldea’s share capital, in accordance with Purchase Option agreement and other relevant agreements (“ **Ineldea Agreement** ”). Within this scope, the Ineldea Agreement regulates the transfer of shares of the remaining share capital of Ineldea, therefore, as a result of the Ineldea Transaction, Uriach will acquire a part of the share capital of Ineldea, and the income generated from Uriach Transaction will be used to execute Ineldea Transaction.

The Board evaluated that these two transactions should be evaluated as a single concentration as the relevant transactions are interrelated both legally and economically. In that context, the Board referred to the Article 5(4) of the Communiqué Concerning the Mergers and Acquisitions Calling for the Authorization of the Competition Board (“ **Communiqué No. 2010/4** ”) providing that “*Closely related transactions which are tied to conditions or which are realized rapidly through securities within a short period of time shall be considered as single transactions under the scope of this Article*”. Following its examination, the Board highlighted that, Ineldea Transaction cannot be finalized before Uriach Transaction is executed as the income generated from Uriach Transaction will be used to execute Ineldea Transaction and rendered that these two transactions should be evaluated as a single concentration.

## Acquisition of Joint Control and Full-Functionality

In this regard, the Board assessed that as per Uriach SHA ICG will have a decisive influence on the Board of Directors in relation to the strategic decisions noted as Reserved Matters, and in this framework, Uriach will be jointly controlled by ICG and Uriach Holding. Ineldea will also be indirectly controlled by ICG and Uriach Holding, as it will become a partially owned subsidiary of Uriach.

In the filing, it was noted that, before the transaction, Uriach and Ineldea are undertakings that operate in the relevant markets with their resources, and there is no aim to change their self-sufficiency with the proposed transaction. Additionally, it was also highlighted that Ineldea and Uriach currently carry out their activities and with the transaction subject to filing, their competencies will not be restricted, and their independence will be preserved. On the other hand, it was also emphasized that the duration of the joint venture will not be limited by Uriach Holding and ICG. In light of the relevant information, the Board assessed that the transaction concerns the establishment of a fully functional joint venture.

## Assessments on the Turnover Thresholds

As per turnover information provided within the scope of the file, the Board assessed that only ICG’s turnover exceeds the threshold set forth under Article 7(b) of the Communiqué No. 2010/4. On the other hand, the Board noted that as a result of the transaction concerning the acquisition of sole control over Pascoe by Uriach’s subsidiary Sidroga, Uriach holds sole control over an undertaking active in the health technology sector. Therefore, the Board evaluated that the acquisition of Uriach and Ineldea, which was considered as a single transaction, falls within the scope of the exemption regulated under Article 7(2) of the Communiqué No. 2010/4 and the Board concluded that the “*TRY 250 million Turkish*

*turnover thresholds*” would not be sought. Therefore, it was resolved that the transaction is subject to mandatory merger control notification in Türkiye.

## Assessment on the Horizontal Overlap

In an effort to determine the horizontal overlaps arising as a result of the transaction, the Board examined the activities of Uriach’s subsidiary, Naturitas and activities of Ineldea. The Board noted that in Türkiye, the product portfolio of Uriach’s subsidiary Naturitas include consumer products such as sunscreen, baby food, personal care and hygiene products, food supplements and beverages whereas Ineldea’s operations include sales of food supplement to its customer Mamsel in Türkiye. In that context, the Board determined that the transaction would result in a horizontal overlap between the activities of Uriach, through its subsidiary Naturitas, and Ineldea in the food supplements market.

Following its above assessment, the Board concluded that the horizontal overlap between the parties’ activities in Türkiye is quite limited in terms of turnover and market share and that no competitive concerns will arise due to the said overlap. Therefore,

the Board decided that the transaction will not result in a significant lessening of effective competition in the relevant market, particularly in the form of creating or strengthening a dominant position. Consequently, no competitive issues arising in terms of the horizontally affected market are anticipated within the scope of the relevant transaction.

## Conclusion

The Decision provides a thorough analysis of the clearance provided for the Transaction. It offers an up-to-date perspective on the assessments on turnover thresholds within the scope of the exemption rule, even in the scenario that only one party to the transaction exceeds the turnover thresholds, while the other party has a subsidiary operating in the technology sector. Most importantly, the relevant decision provides an approach on how interrelated transactions, involving multiple acquisitions, can be evaluated as a single concentration. These approaches underscore the Board’s dedication to promoting competition while considering the nuanced intricacies of the concept of “technology undertaking” and interrelated transactions.

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