

PRESS RELEASE

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The Belgian Competition Authority unconditionally approves the merger of the Ambroise Paré Hospital and the Jolimont Hospital

On 21 December 2023, the Belgian Competition Authority ("BCA") approved the concentration between the Centre Hospitalier Universitaire et psychiatrique de Mons Borinage SCRL ("CHUPMB"), also known as Hôpital Ambroise Paré ("HAP"), and the Pôle Hospitalier Jolimont ASBL ("PHJ") within a new legal structure, ASBL CHU HELORA. This decision follows the interim decision of 28 June 2023 by which the BCA had already partially lifted the *standstill* obligation in order to allow the transaction to be completed. It is the first time that the BCA adopts a fully reasoned decision in relation to a hospital merger.

HAP is a public general hospital with a university status, organised in the form of an intermunicipal association, which operates one hospital site located in Mons. PHJ is a private general hospital organised in the form of a non-profit association, which operates six hospital sites spread across the provinces of Hainaut and Walloon Brabant. By means of the concentration, the parties will merge their general hospital activities, excluding the psychiatric activities of HAP (CHP Chêne aux Haies).

Given the respective and combined turnover of HAP and PHJ, the concentration was subject to prior control of the BCA. A methodology specific to the hospital sector was developed by the BCA in view of the current consolidation wave, while the assessment also took into account the specificities of the merger in question (in line with press release no. 44/2023 of 18 October 2023). In particular, the BCA investigated whether the concentration was likely to generate benefits for patients that outweighed any risks associated with a reduction of independent facilities in the relevant care areas. The assessment also took into account the relevant legal framework, in close collaboration with the competent sectoral authorities and all the relevant stakeholders.

For the purposes of the analysis, the BCA identified two distinct product markets, namely (i) the market for hospitalisations (excluding hospitalisations in psychiatric hospitals), and (ii) the market for specialised ambulatory care. These two markets, which are local in scope, correspond to care areas established on the basis of actual patient flows (real footprint) and located mainly in the Mons area.

In the present case, the investigation has shown that other general hospitals and care providers are active in the affected care areas, both on the hospitalisations and specialised ambulatory care markets. In turn, a degradation of the healthcare supply in terms of capacity, diversity and accessibility appears unlikely. The BCA was also able to rule out any risk related to price effects, particularly with regard to additional fees (fee and individual hospital room supplements), assuming that the applicable regulatory framework would remain constant. Finally, the analysis of the internal documents of HAP and PHJ revealed that their merger should allow to maintain and improve working conditions for the hospital workforce in a context of a labour shortage.

At the end of a preliminary analysis ("phase 1") by the Investigation and Prosecution Service, the Competition College endorsed the specific assessment framework developed for hospital mergers, which will now be applied systematically in all pending and future cases, and concluded that there are no serious doubts of a significant impediment to effective competition on the analysed markets and that the notified concentration can be authorised without conditions.

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The Belgian Competition Authority (BCA) is an independent administrative authority that contributes to the definition and implementation of competition policy in Belgium. Concretely, the BCA pursues anti-competitive practices, such as cartels and abuses of a dominant position, and reviews the main merger operations. The BCA cooperates with the other competition authorities of the member states of the European Union and the European Commission within the European Competition Network (ECN)