



DETERMINATION OF MERGER NOTIFICATION M/17/009 - IRISH POST/IRISH TV

Section 21 of the Competition Act 2002

Proposed acquisition by The Color Company (TM) Limited (trading as *The Irish Post*) of certain assets of *Irish TV*

Dated 8 March 2017

Introduction

1. On 14 February 2017, in accordance with section 18(1)(b) of the Competition Act 2002, as amended (“the Act”), the Competition and Consumer Protection Commission (the “Commission”) received a notification of a proposed transaction whereby The Color Company (TM) Limited (“Color”) would acquire certain assets of *Irish TV*, comprising the business name, website domains, computer systems, fixtures and fittings, records, social media and video content library (the “Target Assets”), from Teilifís Mhaigh Eo Teoranta (the “Vendor”).
2. Given that the Vendor carries on a “media business” within the State (as defined in section 28A(1) of the Act) and Color carries on a media business in the United Kingdom, the proposed transaction constitutes a “media merger” for the purposes of Part 3A of the Act.
3. The Vendor is currently in liquidation and is acting through its liquidator, Mr. Michael McAteer of Grant Thornton (the “Liquidator”).
4. The proposed transaction is to be implemented pursuant to an asset purchase agreement dated 2 February 2017 between the Vendor, the Liquidator and Color. Following completion of the proposed transaction, the Vendor will cease to operate any media business and will be dissolved once the liquidation process is complete.

The Undertakings Involved

Color

5. Color, a private limited company incorporated in England and Wales, is engaged in the following business activities:
 - the printing, publishing and distribution of *The Irish Post*, a weekly Irish newspaper whose target readership is the Irish community in the United Kingdom;



- operating and generating content for the following three websites: www.irishpost.co.uk, www.loaded.co.uk¹ and www.loot.com²;
 - the sale of advertising space in *The Irish Post* and on each of its three websites; and
 - the operation of a reprographics business in the United States.³
6. Other than a small number of copies of *The Irish Post* that are circulated in the island of Ireland (of which there were approximately [...] in 2016), Color does not currently carry on any media business in the State.
7. For the year ending 31 December 2016, Color's worldwide turnover was approximately €[...], of which approximately €[...] was generated in the State.

The Vendor

8. The Vendor, a private limited company incorporated in the State, owns and operates *Irish TV*, an international television channel offering local Irish content to a global audience, primarily targeting Irish people and people of Irish descent living overseas. *Irish TV* can be viewed in the United Kingdom and across Europe on channel 191 on Sky, channel 400 on Freesat and online at www.irishtv.ie. The Vendor is not currently engaged in any other business activities.
9. *Irish TV* provides the following services:
- the sale of television advertising, sponsorships and product placements;
 - an online digital video on demand service at www.irishtv.ie, creating an online advertising platform for customers;
 - the creation and production of television programmes and advertisements; and
 - the quarterly⁴ publication of a magazine informing audiences what programmes will be broadcast on *Irish TV* and the sale of advertising space in that magazine.
10. On 20 December 2016, following a period of examinership under Part 10 of the Companies Act 2014, the High Court ordered the Vendor to be wound up and a liquidator be appointed. As noted above, the Vendor will be dissolved following completion of the proposed transaction and of the liquidation process.
11. For the year ending 31 December 2016, the Vendor's worldwide turnover was approximately €489,000, all of which was generated in the State.⁵

¹ This website is targeted at males between 25 and 44 in the United Kingdom and United States.

² This is a classified advertising website targeted at people in the United Kingdom who wish to buy and/or sell second-hand items.

³ Reprographics is the graphic reproduction of text and images for printing.

⁴ However, only two editions (spring and summer) were published in 2016 due to the Vendor's financial difficulties.

⁵ The Vendor informed the Commission that while the target audience of *Irish TV* is located worldwide, all advertising customers of *Irish TV* in 2016 were located in the State.



The Target Assets

12. The Target Assets comprise the following business assets of *Irish TV*: the business name, website domains, computer systems, fixtures and fittings, records, social media and video content library.

Rationale for the Proposed Transaction

13. The parties state in the notification:

“The objective of Color is to re-launch the Irish TV brand and business with a view to offering Irish themed online content primarily to Irish people and those of Irish descent based overseas.”

Third Party Submissions

14. No submission was received.

Competitive Analysis

15. The principal activity of Color is the printing, publication and distribution of *The Irish Post* in the United Kingdom and the sale of advertising space in *The Irish Post*. The principal activity of *Irish TV* is the production of television content and the sale of advertising time on *Irish TV*. The Commission’s predecessor, the Competition Authority, has concluded in previous merger determinations that newspaper advertising competes in a different product market to other media advertising platforms (e.g., television, radio and online).⁶ The Commission sees no reason to depart from this view for the purpose of assessing the likely competitive impact of the proposed transaction in the State. Thus, the Commission considers that the sale of advertising space in *The Irish Post* by Color does not compete in the same product market as the sale of advertising time on *Irish TV*.
16. However, even if newspaper advertising and television advertising were considered to be in the same product market, the proposed transaction raises no competition concerns in the State since Color generates minimal turnover from the sale of advertising space in *The Irish Post* to customers located in the State. This is unsurprising since *The Irish Post* is targeted at customers located in the United Kingdom and, as noted in paragraph 6 above, only a very small number of copies are circulated in the island of Ireland (approximately [...] copies in 2016). Furthermore, and more significantly, there are a large number of competing newspapers and television channels currently selling advertising space/time to customers in the State that will act as a competitive constraint on Color post-transaction.

Horizontal Overlaps

17. There is a minor horizontal overlap between Color and the Target Assets in the State with respect to (a) the printing, publication and distribution of newspapers and magazines, and (b) the sale of newspaper and magazine advertising. As described

⁶ See, for example, paragraphs 3.47-3.72 of the Competition Authority’s merger Determination in *M/09/013 – Metro/Herald AM* which can be accessed at <http://ccpc.ie/enforcement/mergers/merger-notices/m09013-metro-herald-am>.



above, Color publishes *The Irish Post* and sells advertising space in this newspaper. *Irish TV* publishes a quarterly magazine informing audiences what programmes will be broadcast on *Irish TV* and sells advertising space in this magazine.

18. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case. In this instance, the Commission does not need to come to a definitive view as to whether newspaper advertising competes in the same product market as magazine advertising since its conclusion on the competitive impact of the proposed transaction will be unaffected whether the precise relevant product market is either narrow (e.g., the sale of newspaper advertising) or broader to include the sale of newspaper and magazine advertising. If newspaper advertising were to be considered in a separate product market to magazine advertising, there would be no horizontal overlap between the parties since *Irish TV*, unlike Color, does not publish a newspaper or sell newspaper advertising in the State.
19. Even if newspaper advertising and magazine advertising were considered to be in the same product market, the proposed transaction raises no competition concerns in the State. As noted in paragraphs 6 and 16 above, a very small number of copies of *The Irish Post* are circulated in the island of Ireland, while *Irish TV's* magazine had a circulation of 10,000 copies in the State in 2016, 7,000 of which were distributed for free. Color generated approximately €[...] from the sale of advertising space in *The Irish Post* to customers located in the State in 2016. The Vendor informed the Commission that it generated a minimal amount of revenue from the sale of advertising space in its magazine to customers located in the State in 2016.⁷ Furthermore, and more significantly, there are a large number of competing newspapers and magazines currently selling advertising space to customers in the State that will act as a competitive constraint on Color post-transaction. The Commission therefore considers that this minor horizontal overlap between Color and the Target Assets in the State with respect to the printing, publication and distribution of newspapers and magazines and the sale of newspaper and magazine advertising raises no competition concerns in the State.
20. There is also a minor horizontal overlap between Color and the Target Assets with respect to the supply of online advertising space in the State. As noted above in paragraph 5, Color sells advertising space on each of its three websites, while *Irish TV* supplies advertising space on www.irishtv.ie. Color, however, made no sales of online advertising space to customers located in the State in 2016. This is unsurprising since the websites owned and operated by Color are all targeted at customers located in the United Kingdom. *Irish TV* currently generates no turnover from the sale of online advertising space since it does not charge customers for advertising on www.irishtv.ie. The Commission therefore considers that the minor horizontal overlap that exists between Color and the Target Assets with respect to the supply of online advertising space in the State raises no competition concerns.
21. The proposed transaction does not raise any vertical competition concerns.

⁷ The Vendor was unable to provide a precise figure to the Commission because “The accounting records do not provide any segregation of revenue per customer that allocates advertising between the TV Channel [Irish TV], the website or the magazine. It would be reasonable to assume that the substantial majority of the advertising revenue is attributable to the TV channel.”



22. In light of the above, the Commission considers that the proposed transaction will not substantially lessen competition in any market for goods or services in the State.

Ancillary Restraints

23. No ancillary restraints were notified.



Determination

The Competition and Consumer Protection Commission, in accordance with section 21(2)(a) of the Competition Act 2002, has determined that, in its opinion, the result of the proposed transaction whereby The Color Company (TM) Limited would acquire certain assets of *Irish TV* from Teilifís Mhaigh Eo Teoranta will not be to substantially lessen competition in any market for goods or services in the State, and, accordingly, that the acquisition may be put into effect subject to the provisions of section 28C(1)⁸ of the Competition Act 2002.

For the Competition and Consumer Protection Commission

Patrick Kenny
Member
Competition and Consumer Protection Commission

⁸ Section 28C(1) of the Competition Act 2002, as inserted by section 74 of the Competition and Consumer Protection Act 2014.