

**DETERMINATION OF MERGER
NOTIFICATION M/18/016 -**

Trinity Mirror/Northern & Shell

Dated 12 September 2018



1. INTRODUCTION

Introduction

- 1.1 On 9 February 2018, in accordance with section 18(1)(a) and 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 Reach Plc (formerly Trinity Mirror Plc) (“Reach”) would acquire sole control of Northern & Shell Network Limited (“N&S”) and International Distribution 2018 Limited (“IDL”) and joint control of Independent Star Limited (“ISL”) (collectively, the “Target”) (the “Proposed Transaction”).
- 1.2 Given that each of Reach, N&S and ISL carry on a “media business” within the State (as defined in section 28A(1) of the Act), the Proposed Transaction constitutes a “media merger” for the purposes of Part 3A of the Act.
- 1.3 The Proposed Transaction is to be implemented pursuant to a share purchase agreement dated 9 February 2018 between Northern & Shell Media Group Limited (“N&S Group”) and Reach.

The Undertakings Involved

The Acquirer – Reach

- 1.4 Reach is a public limited company headquartered in the United Kingdom. Reach publishes national, regional and local newspapers in the United Kingdom. In the State, Reach publishes the Irish Daily Mirror, the Irish Sunday Mirror, the Sunday People – all of which are national newspapers – and RSVP magazine. Reach also operates the following websites in the State: www.irishmirror.ie, www.dublinlive.ie and www.rsvplive.ie. Reach does not publish any regional or local newspapers in the State.
- 1.5 For the financial year ended 31 December 2016, Reach’s worldwide turnover was approximately €870 million, approximately €[...] million of which was generated within the State.¹

The Vendor – N&S Group

- 1.6 N&S Group is the ultimate holding company of the Northern & Shell group of companies. N&S Group currently owns 100% of the issued share capital of each of N&S and IDL and 50% of the issued share capital of ISL.

The Target

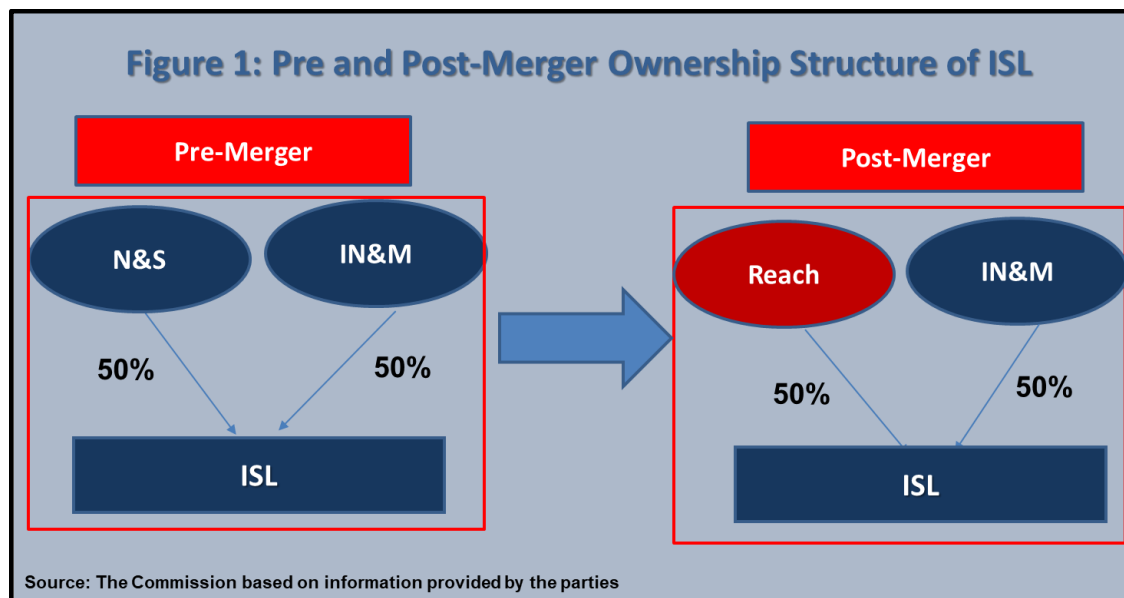
- 1.7 N&S publishes national newspapers in the United Kingdom. In the State, N&S publishes the *Daily Express*, the *Sunday Express*, the *Daily Star Sunday* – all of which are national newspapers – and the magazines *OK!*, *New!*, and *Star*.

¹ This is based on the ECB euro/sterling average exchange rate 2016 of GBP1= EUR 1.22.

- 1.8 ISL publishes the *Irish Daily Star*, a daily (Monday to Saturday) national newspaper, in the State.
- 1.9 IDL is a UK-incorporated company which holds all of the Target's Irish businesses, except its 50% shareholding in Independent Star Limited.
- 1.10 For the financial year ended 31 December 2017, the Target's worldwide turnover was €[...] million, €[...] million of which was generated within the State.

ISL Shareholders

- 1.11 As illustrated in Figure 1 below, N&S and Independent News & Media PLC ("IN&M") currently each hold 50% of the issued share capital of ISL (together the "ISL Shareholders"). Following completion of the Proposed Transaction, Reach and IN&M would each hold 50% of the issued share capital of ISL.



- 1.12 In essence, the Proposed Transaction would create a structural link between Reach and IN&M, two major newspaper publishers in the State.

Rationale for the Proposed Transaction

- 1.13 The parties state the following in the notification:

"Through the acquisition, Trinity Mirror intends to create synergies in its businesses in the UK. These synergies include creating a more resilient revenue mix, enhancing Trinity Mirror's digital reach and delivering cost synergies. Please note that these synergies are proposed for the UK and not in the State."

Preliminary Investigation ("Phase 1")



Contacts with the Undertakings Involved

- 1.14 On 21 March 2018, the Commission served a Requirement for Further Information (“RFI”) on Reach and N&S Group, pursuant to section 20(2) of the Act. This automatically suspended the procedure for the Commission’s Phase 1 assessment.
- 1.15 Each of Reach and N&S Group responded to the RFI on 20 April 2018 and 4 May 2018, respectively. The issuing of the RFIs adjusted the deadline within which the Commission had to conclude its assessment of the proposed transaction in Phase 1. Upon receipt of all of the responses to the RFI, the “appropriate date” (within the meaning of section 19(6)(b)(i) of the Act) became 4 May 2018.²
- 1.16 During the Phase 1 investigation, the Commission identified a potential competition concern in relation to the potential for Reach to access competitively sensitive information of its competitors, IN&M and/or ISL, arising from its proposed acquisition of 50% of the issued share capital of ISL. The Commission communicated with Reach and its legal advisors to discuss this concern in February 2018.
- 1.17 On 8 June 2018, Reach submitted proposals to the Commission regarding measures to be taken to ameliorate any effects of the proposed transaction on competition in accordance with section 20(3) of the Act. The submission of these proposals by Reach extended the Commission’s Phase 1 review period from 30 working days to 45 working days in accordance with section 21(4) of the Act.
- 1.18 The Commission engaged with Reach and its legal advisors to discuss whether the proposals submitted by Reach would ameliorate the competition concern identified by the Commission.

Third Party Submissions

- 1.19 No third party submission was received by the Commission during the Phase 1 investigation.

Phase 1 Determination

- 1.20 Following detailed consideration of all the available information in its possession at the time, the Commission was unable to form the view at the conclusion of the Phase 1 investigation that the result of the Proposed Transaction would not be to substantially lessen competition in any market for goods or services in the State.
- 1.21 Consequently, on 6 July 2018, the Commission determined, in accordance with section 21(2)(b) of the Act, to carry out a full investigation in relation to the Proposed Transaction under section 22 of the Act.

Full Investigation (“Phase 2”)

² The “appropriate date” is the date from which the time limits for making both Phase 1 and Phase 2 determinations begin to run.



- 1.22 The Commission's Phase 2 investigation involved ongoing engagement with the notifying parties, and the sending of questionnaires to customers, competitors and other third parties.

Contacts with the Undertakings Involved

- 1.23 During the Phase 2 investigation, the Commission requested and received, on an on-going basis, further information and clarifications from the notifying parties.
- 1.24 On 2 August 2018, the Commission served an RFI on N&S, pursuant to section 20(2) of the Act. The Commission received a full response from N&S in respect of the RFI on 8 August 2018. In accordance with section 22(4A) of the Act, the time period for the phase 2 investigation was suspended on 2 August 2018 and resumed on 8 August 2018.

Third Party Submissions

- 1.25 No third party submission was received by the Commission during the Phase 2 investigation.

Market Enquiries

- 1.26 On 2 August 2018, the Commission also issued a voluntary request for information to IN&M. IN&M responded to the Commission's request in full.
- 1.27 During the Phase 2 investigation, the Commission circulated questionnaires to various other third parties, including:
- the Institute of Advertising Practitioners in Ireland ("IAPI"), the representative organisation for the marketing and communications sector in the State;
 - 15 advertising customers of Reach and N&S;³ and
 - 3 competitors of Reach and N&S currently active in the publication and sale of daily national newspapers and the sale of daily national newspaper advertising in the State.
- 1.28 The Commission received a full response from the majority of the third parties to whom it sent a questionnaire. None of the entities contacted by the Commission raised serious competition concerns about the Proposed Transaction. One entity informed the Commission that the Proposed Transaction will not have a significant impact on its business "*...on the assumption that the change of ownership will not result in any significant change in the advertising sales structure of the Irish Daily Star*".
- 1.29 One competitor stated in its response to the Commission's questionnaire that "it would have concerns were the conclusion of the transaction to result in Independent

³ This comprises 10 direct advertisers and 5 advertising agencies.



News and Media incorporating the Irish Daily Star's sales house and media inventory in its own advertising sales house, thereby increasing its already significant market power in the newspaper publishing marketplace. And those concerns would be significantly increased were the joint ownership of the Irish Daily Star by Independent News and Media and Trinity Mirror to lead to the combining of the advertising sales houses of both entities in Ireland thereby creating a dominant position in the marketplace."



2. RELEVANT PRODUCT AND GEOGRAPHIC MARKETS

Horizontal Overlap

- 2.1 There is a horizontal overlap between Reach and N&S in the State with respect to the following business activities:
- The publication and sale of daily (Monday to Saturday) national newspapers ;
 - The sale of advertising in daily (Monday to Saturday) national newspapers;
 - The publication and sale of Sunday national newspapers;
 - The publication and sale of weekly women's magazines;⁴ and
 - The sale of online advertising.⁵
- 2.2 There is no horizontal overlap between Reach and the Target in the State with respect to the sale of advertising in Sunday national newspapers since the two Sunday national newspapers published by N&S in the State - the *Sunday Express* and the *Daily Star Sunday* – do not sell advertising to customers in the State.

Relevant Product and Geographic Markets

Views of the Parties

- 2.3 The parties state the following in the notification:

“The parties consider that each newspaper title is best assessed as not competing with other newspapers (at least as regards the Trinity Mirror titles and the Target titles), for both advertising and readership, and that it is important to take into account the constraints from a wide range of other media, and especially the internet. As discussed in detail in Section 5.3.3 below, the parties' national newspaper titles are highly differentiated and not interchangeable, which means that readers and advertisers make their purchase decisions for each title on the basis of that title, and not by comparison to other titles. This is particularly the case for readers who base their decisions on the contents and cover price of the relevant title; and advertisers follow those readers. This means that the next best alternative for a given title is often a different medium, not a different newspaper”.

Views of the Commission

⁴ This is the phrase used by the parties in the notification.

⁵ Please note that N&S is not currently active in the markets for the sale of advertising in weekly women's magazines in the State.



- 2.4 In its merger determination in *M/09/013 – Metro/Herald AM* (the “2009 Decision”),⁶ the Commission’s predecessor, the Competition Authority (the “Authority”), reached the following conclusions in relation to the relevant product market:
- There are separate markets for readers and advertisers given the two-sided nature of the newspaper industry (see paragraphs 3.5 and 3.6 of the 2009 Decision);
 - Local newspapers do not compete in the same advertising market as daily newspapers (see paragraphs 3.29-3.33 of the 2009 Decision);
 - Sunday newspapers do not compete in the same advertising market as daily (Monday to Saturday) newspapers (see paragraphs 3.35-3.40 of the 2009 Decision); and
 - Newspaper advertising is a separate product market from other media advertising platforms (see paragraphs 3.47-3.72 of the 2009 Decision).
- 2.5 The 2009 Decision included ‘quality’ daily national newspapers in the same advertising market as ‘tabloid’ daily national newspapers. In its merger determination in *M/17/068 – Irish Times/Sappho (the Examiner)*, the Commission followed the 2009 Decision and examined the likely competitive impact of that transaction in the following markets: the publication and sale of daily (Monday to Saturday) national newspapers in the State; the sale of advertising in daily (Monday to Saturday) national newspapers in the State; and the sale of online advertising in the State.
- 2.6 During the investigation, the Commission found evidence to indicate that news content can be found in a wide range of online outlets (e.g., the websites of large media broadcasters such as RTÉ, BBC, The Guardian, etc.) and social media websites such as Facebook, Twitter, Instagram, and Snapchat. Newspaper circulation and advertising have declined significantly in the State in the past decade, primarily as a result of the increasing consumption of news content online.
- 2.7 In light of the decisional practice of the Commission and the absence of any strong evidence to the contrary in the Commission’s market investigation, the Commission considers that there is no reason to depart from its previous view on the relevant product market for the purposes of assessing the Proposed Transaction.
- 2.8 With respect to the relevant geographic market, given that daily national newspapers are circulated throughout the State, and there is no regional or localised specification with respect to either content or advertising, the Commission, therefore, considers that the relevant geographic market is the State.

⁶ This determination can be accessed at <https://www.cpc.ie/business/wp-content/uploads/sites/3/2017/05/M-09-013-Phase-2-Determination.public.pdf>



- 2.9 Thus, in order to determine whether the Proposed Transaction is likely to result in a substantial lessening of competition, the Commission has analysed its competitive impact by reference to the following product and geographic markets:
- the publication and sale of daily (Monday to Saturday) national newspapers in the State;
 - the sale of advertising in daily (Monday to Saturday) national newspapers in the State;
 - the publication and sale of Sunday national newspapers in the State;
 - the publication and sale of weekly women's magazines in the State; and
 - the sale of online advertising in the State.
- 2.10 For the reasons set out below, the Commission considers that the Proposed Transaction raises no competition concerns in the State with respect to the publication and sale of weekly women's magazines and the sale of online advertising.

The publication and sale of weekly women's magazines in the State

- 2.11 For the following reasons, the Commission considers that the Proposed Transaction raises no competition concerns in the market for the sale of weekly women's magazines in the State.
- 2.12 Reach publishes *RSVP* magazine in the State while N&S publishes the following three magazines in the State: *OK!*, *New!* and *Star*. Based on ABC circulation data, *RSVP* had a market share of 9.8% in the publication and sale of weekly women's magazines in the State in 2016 while *OK!*, *New!* and *Star* had market shares of 2.2%, 1.6% and 0.4%, respectively. Following completion of the Proposed Transaction, Reach will have a market share of approximately 14% in the publication and sale of weekly women's magazines in the State.
- 2.13 The increase in Reach's share of the publication and sale of weekly women's magazines in the State will be relatively small (4.2%). Following completion of the Proposed Transaction, Reach will continue to face a competitive constraint from a large number of weekly women's magazines in the State, including *VIP*, *Irish Country*, *U*, *Social & Personal*, *Image*, and *Take a Break*.
- 2.14 The Commission, therefore, will not consider the horizontal overlap in respect of the publication and sale of weekly women's magazines in the State any further in this determination.

The Sale of Online Advertising in the State

- 2.15 For the following reasons, the Commission considers that the Proposed Transaction raises no competition concerns in the market for the sale of online advertising in the State.



- 2.16 Reach sells online advertising space through its digital website *www.irishmirror.ie*, *www.dublinlive.ie* and *www.rsvplive.ie*. N&S does not have any Irish-based websites for its titles and no digital operation in the State, however it owns 50% share of ISL, which operates *www.star.ie* and *www.Buzz.ie*.
- 2.17 The parties state in the notification that “*Trinity Mirror and the Target have a minimal presence in the market for the sale of online advertising space in the State.*” The parties state in the notification that in 2016 the advertising revenue generated by Reach through *www.irishmirror.ie* and *www.dublinlive.ie* was approximately €[...] in the State and N&S generated approximately €2,296 of online advertising revenue in the State in the same year.
- 2.18 Reach informed the Commission that Reach generated approximately €[...] million from the sale of online advertising on its newspaper titles (*www.Irishmirror.ie*) in 2017. N&S informed the Commission that N&S generated turnover of approximately €57,221 from the sale of online advertising on its newspaper titles (*www.express.co.uk* and *www.dailystar.co.uk*) in the State in 2017 and €[...] from the sale of online advertising on ISL’s websites (*www.star.ie* and *www.Buzz.ie*). A study carried out by AB PwC Online Adspend found that total online advertising spend was approximately €491 million in the State in 2017.⁷ Thus, following completion of the Proposed Transaction, Reach will account for less than 1% of the total level of online advertising in the State. Therefore, the Commission considers that the overlap between Reach and N&S with respect to the sale of online advertising in the State is *de minimis*.
- 2.19 The Commission notes that following completion of the Proposed Transaction, Reach will face competition from a number of alternative suppliers of online advertising space in the State, including Google, Facebook, Distilled Media Group Limited, IN&M, The Irish Times Designated Activity Company and RTÉ. The Commission considers that these alternative suppliers of online advertising space will continue to exert a competitive constraint on Reach following completion of the Proposed Transaction.
- 2.20 Therefore, the Commission will not discuss this aspect of the Proposed Transaction any further in this determination.

Market Structure

- 2.21 In this section, the Commission assesses the market structure in the following three markets:
- The publication and sale of daily national newspapers in the State;
 - The sale of advertising in daily national newspapers; and,
 - The publication and sale of Sunday national newspapers in the State.

⁷ Please see <https://iabireland.ie/iab-pwc-online-adspend-fy-2017-infographic/>



- 2.22 Paragraph 3.1 of the Commission’s “Guidelines for Merger Analysis” states that “A central element in assessing the competitive impact of a merger is identifying its effect on market structure.”⁸ Market structure can be characterised by the number, size, and distribution of firms in a market. A merger or acquisition will have an impact on market structure as the merging parties which were two firms pre-acquisition become one firm post-acquisition.

The publication and sale of daily national newspapers in the State

- 2.23 Reach publishes one daily national newspaper in the State: the *Irish Daily Mirror*. N&S publishes the *Daily Express* in the State and currently owns a 50% share in ISL which publishes the *Irish Daily Star* in the State. In addition to its 50% share in ISL, IN&M publishes one daily national newspaper in the State: the *Irish Independent*. Following completion of the Proposed Transaction, Reach and IN&M would each hold 50% of the issued share capital of ISL.
- 2.24 Table 1 below lists estimated shares in the market for the publication and sale of daily national newspapers in the State over the period January-June 2018.

Table 1: Daily National Newspaper Circulation in the State, January-June 2018

Newspaper	Average Circulation	Market Share (%)
<i>Irish Independent</i>	87,673	24.9
<i>The Irish Times</i>	58,678	16.6
<i>Irish Sun</i>	56,206	16
<i>Irish Daily Star</i>	46,808	13.3
<i>Irish Daily Mail</i>	31,710	9
<i>Irish Daily Mirror</i>	30,024	8.5
<i>Irish Examiner</i>	26,085	7.4
<i>The Times</i>	6,993	2
<i>Daily Express</i>	2,306	0.7
<i>Financial Times</i>	2,132	0.6
<i>The Guardian</i>	2,016	0.6
<i>The Daily Telegraph</i>	2,041	0.6
Total	352,672	100

Source: The Commission, based on ABC circulation data.⁹

- 2.25 Following completion of the Proposed Transaction, the *Irish Daily Star*¹⁰, the *Irish Daily Mirror* and the *Daily Express* will together account for approximately 22.5% of the market for the publication and sale of daily national newspapers in the State.

⁸ The Commission’s “Guidelines for Merger Analysis” can be accessed at <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2017/04/CCPC-Merger-Guidelines-1.pdf>

⁹ This data can be accessed at <http://www.ilevel.ie/media-blog/print/102984-irish-abc-newspaper-circulation-january-june-2018>

¹⁰ Following completion of the Proposed Transaction, Trinity Mirror will hold a 50% interest in the *Irish Daily Star*.



The *Irish Independent* will remain the largest daily national newspaper in the State with a circulation share of approximately 24.9%.

- 2.26 Table 2 below lists estimated shares for each newspaper publisher in the market for the publication and sale of daily national newspapers in the State over the period January-June 2018.

Table 2: Daily National Newspaper Circulation by Newspaper Publisher in the State, January-June 2018

Newspaper Publisher	Average Circulation	Market Share (%)
IN&M¹¹	111,077	31.5
Irish Times Designated Company ¹²	84,763	24
News Corporation ¹³	63,199	18
Daily Mail Group ¹⁴	31,710	9
Reach¹⁵	30,024	8.5
N&S¹⁶	25,710	7.3
Nikkei ¹⁷	2,132	0.6
Guardian Media Group ¹⁸	2,016	0.6
Telegraph Media Group ¹⁹	2,041	0.6
Total	352,672	100

Source: The Commission, based on ABC circulation data.

- 2.27 Table 2 illustrates that IN&M is the largest publisher of daily national newspapers in the State with a market share of approximately 31.5% in the publication and sale of daily national newspapers in the State. Following completion of the Proposed Transaction, Reach will become the fourth-largest daily national newspaper publisher in the State with a market share of approximately 15.8%.

The sale of advertising in daily national newspapers;

¹¹ IN&M publishes the *Irish Independent* and currently owns a 50% share in ISL which publishes the *Irish Daily Star* in the State.

¹² Irish Times Designated Company publishes *The Irish Times* in the State.

¹³ News Corporation publishes the *Irish Sun* and *The Times* in the State.

¹⁴ Daily Mail Group publishes the *Irish Daily Mail* in the State.

¹⁵ Trinity Mirror plc publishes the *Irish Daily Mirror* in the State.

¹⁶ Northern & Shell publishes the *Daily Express* and currently owns a 50% share in Independent Star Limited which publishes the *Irish Daily Star* in the State. The proposed acquisition by Trinity Mirror plc of Northern & Shell Network Limited, International Distribution 2018 Limited and a 50% share of Independent Star Limited was notified to the Commission on 9 February 2018. For more information, please see

<https://www.cpc.ie/business/mergers-acquisitions/merger-notifications/m18016-trinity-mirror-northern-shell/>

¹⁷ Nikkei publishes *The Financial Times* in the State.

¹⁸ Guardian Media Group publishes *The Guardian* in the State.

¹⁹ Telegraph Media Group publishes *The Daily Telegraph* in the State.



- 2.28 Table 2 shows that there are many players, such as, IN&M, DMGT, Irish Times, News UK, which are active in the market for the sale of advertising in daily national newspaper in the State. Parties indicated that the combined post-Proposed Transaction share figures of IN&M, Reach and N&S would be “...[...] % for the sale of display advertising slots in daily national newspapers in the State.”²⁰
- 2.29 In its *M/17/068 Irish Times/ Sappho (examiner)* determination²¹, the Commission considered the sale of advertising in daily national newspapers and recognised that newspaper publishers face competitive constraints from both within the market as well as from external sources. For instance, the existence of a wide variety of options in terms of print and digital means that advertisers and advertising agencies for daily newspapers, have at their disposal multiple avenues to place their advertisements in, both print and online.
- 2.30 Reach further submitted²² that “...(e) the advertising business of the Reach group and the Target Group in the Republic of Ireland differ significantly. The Irish Daily Mirror has negligible direct advertising business with advertisers. The Irish Daily Star has a considerable direct advertising business. Most of the Irish Daily Mirror’s advertising customers are advertising agencies. (f) The Irish Daily Star carries classified advertisements, while the Mirror has no classified advertisements. (g) The Target Group is not active in the market for the sale.”

The publication and sale of Sunday national newspapers in the State

- 2.31 Reach publishes two Sunday national newspapers in the State: the *Irish Sunday Mirror* and the *Sunday People*. N&S publishes two Sunday national newspapers in the State: the *Sunday Express* and the *Daily Star Sunday*. IN&M publishes two Sunday national newspapers in the State: the *Sunday Independent* and the *Sunday World*.
- 2.32 Table 3 below lists estimated shares in the market for the publication and sale of Sunday national newspapers in the State over the period January-June 2018.

Table 3: Sunday National Newspaper Circulation in the State, January-June 2018

Newspaper	Average Circulation	Market Share (%)
<i>Sunday Independent</i>	176,580	30.6
<i>Sunday World</i>	130,083	22.5
<i>The Sunday Times</i>	75,138	13
<i>The Irish Mail on Sunday</i>	62,725	10.9
<i>The Sun on Sunday</i>	52,647	9.1
<i>The Sunday Business Post</i>	28,701	5

²⁰ In a submission made by Reach dated 3 August 2018 to the Commission and this figure has not been verified by the Commission.

²¹ The Commission’s *M/17/068- Irish Times/Sappho (Examiner)* can be accessed at <https://www.cccpc.ie/business/wp-content/uploads/sites/3/2017/12/M-17-068-Irish-Times-Sappho-Phase-2-DET-Public-Version-1.pdf>

²² A submission made by Reach dated 3 August 2018 to the Commission.



<i>Irish Sunday Mirror</i>	21,181	3.7
<i>Daily Star Sunday</i>	14,611	2.5
<i>Sunday People</i>	7,753	1.3
<i>The Observer</i>	4,174	0.7
<i>Sunday Express</i>	2,739	0.5
<i>The Sunday Telegraph</i>	1,605	0.3
Total	577,937	100

Source: The Commission, based on ABC circulation data.²³

- 2.33 The *Irish Sunday Mirror*, *Daily Star Sunday*, *Sunday People* and *Sunday Express* have market shares of approximately 3.66%, 2.53%, 1.34% and 0.47%, respectively, in the market for the publication and sale of Sunday national newspapers in the State. Following completion of the Proposed Transaction, the *Irish Sunday Mirror*, the *Sunday People*, and the *Sunday Express* will together account for approximately 18.9% of the market for the publication and sale of Sunday national newspapers in the State.
- 2.34 Table 4 below lists estimated shares for each newspaper publisher in the market for the publication and sale of Sunday national newspapers in the State over the period January-June 2018.

Table 4: Sunday National Newspaper Circulation by Newspaper Publisher in the State, January-June 2018

Newspaper Publisher	Average Circulation	Market Share (%)
IN&M²⁴	306,663	53.1
News Corporation ²⁵	127,785	22.1
Daily Mail Group ²⁶	62,725	10.9
Reach²⁷	28,934	5
Sunrise Media Limited ²⁸	28,701	5
N&S²⁹	17,350	3
Guardian Media Group ³⁰	4,174	0.7
Telegraph Media Group ³¹	1,605	0.3
Total	599,795	100

Source: The Commission, based on ABC circulation data.

²³ This data can be accessed at www.ilevel.ie/media-blog/print/102984-irish-abc-newspaper-circulation-january-june-2018

²⁴ IN&M publishes the *Sunday Independent* and the *Sunday World* in the State.

²⁵ News Corporation publishes *The Sunday Times* and *The Sun on Sunday* in the State.

²⁶ Daily Mail Group publishes *The Irish Mail on Sunday* in the State.

²⁷ Trinity Mirror plc publishes the *Irish Sunday Mirror* and the *Sunday People* in the State.

²⁸ Sunrise Media Limited publishes *The Sunday Business Post* in the State.

²⁹ N&S publishes the *Daily Star Sunday* and the *Sunday Express* in the State.

³⁰ Guardian Media Group publishes *The Observer* in the State.

³¹ Telegraph Media Group publishes *The Sunday Telegraph* in the State.



- 2.35 Table 4 illustrates that IN&M is the largest publisher of Sunday national newspapers in the State with a market share of approximately 53.1% in the publication and sale of Sunday national newspapers in the State. Following completion of the Proposed Transaction, Reach will remain the fourth-largest Sunday national newspaper publisher in the State with a market share of 8% increased from 5%.
- 2.36 Table 1, Table 2, Table 3 and Table 4 illustrate that ISL, IN&M and Reach are major competitors in the publication and sale of daily national newspapers in the State and IN&M and Reach are competing in the publication and sale of Sunday national newspapers in the State. Consequently, IN&M, ISL and Reach are also major competitors in the sale of advertising in daily national newspapers in the State and IN&M and Reach are also competing in the sale of advertising in Sunday national newspapers in the State.



3. COMPETITIVE ASSESSEMENT

- 3.1 The Commission considers that the Proposed Transaction will create a structural link, as illustrated in Figure 1 above, between Reach and IN&M as ISL Shareholders. This structural link could potentially result in the direct or indirect exchange of competitively sensitive information that may result in an adverse effect on competition in each of the following four markets in the State where there is either a horizontal overlap between the ISL Shareholders or between ISL and Reach:
- the publication and sale of daily national newspapers;
 - the sale of advertising in daily national newspapers;
 - the publication and sale of Sunday national newspapers; and
 - the sale of advertising in Sunday national newspapers.
- 3.2 Both Reach and IN&M are active in the publishing and sale of Sunday national newspapers in the State, and therefore the sale of advertising in Sunday national newspapers in the State. The Commission considers that Reach is a potential competitor of IN&M and following completion of the Proposed Transaction, Reach could sell advertising in the relevant Sunday national newspapers in the State. Therefore, the Commission also considers the structural link could potentially result in the direct or indirect exchange of competitively sensitive information that may result in an adverse effect on competition in the sale of advertising in Sunday national newspapers.

View of the Notifying Parties

- 3.3 Reach submitted the following views to the Commission on 3 August 2018:

“It submitted that the existence of the joint venture (ISL) and the continued role of IN&M in ISL does not give rise to a risk of coordination on prices between (i) IN&M and Reach as parents of ISL; and between (ii) ISL and each of the parents. The Proposed Transaction does not give rise to any conditions conducive to coordinated behaviour. Below we examine various factors that confirm the absence of conditions conducive to coordinated behaviour:

- *the markets are characterised by a large number of firms, making it difficult to coordinate behaviour;*
- *the players in the markets are not homogeneous;*
- *the products in these markets are not homogenous;*
- *there is strong countervailing buyer power; and*
- *ISL is an entity that operates independently on a day-to-day basis, without interference from its parents, N&S and IN&M.”*



Views of the Commission

- 3.4 The parties' submission does not address the Commission's competition concern that the Proposed Transaction could potentially result in the direct or indirect exchange of competitively sensitive information by the ISL Shareholders or ISL in the relevant markets mentioned in paragraph 3.1 above. The Commission is of the view that the Proposed Transaction is likely to result in:
- the potential for direct or indirect exchange of competitively sensitive information between the ISL Shareholders (i.e., Reach and IN&M); and,
 - the potential for direct or indirect exchange of competitively sensitive information between the ISL Shareholders and ISL.

The potential for any direct or indirect exchange of competitively sensitive information between the ISL Shareholders

- 3.5 The Commission is of the view that the Proposed Transaction may potentially enable direct or indirect exchange of competitively sensitive information relating to the individual ISL Shareholders between the ISL Shareholders (and/or any director or personnel appointed by the ISL Shareholders to the board of directors of ISL). Competitively sensitive information includes both price (e.g., cover prices of daily and Sunday national newspapers, actual newspaper advertising rates and discounts, etc.) and non-price information (e.g., costs, advertising customer strategies, terms and conditions of sales to advertising customers, promotions, current and future marketing plans, etc.).

The potential for any direct or indirect exchange of competitively sensitive information between ISL and the ISL Shareholders

- 3.6 The Commission is also of the view that the Proposed Transaction may potentially enable direct or indirect exchange of competitively sensitive information relating to either the ISL Shareholders or ISL between the ISL Shareholders and ISL. This potential for exchanging competitively sensitive information between ISL and the ISL Shareholders will, in the Commission's view, enhance the ability for coordination between ISL and the ISL Shareholders following completion of the Proposed Transaction.

Incentive to Access and Share Competitively Sensitive Information

- 3.7 The Proposed Transaction takes place in a newspaper publishing and advertising industry that has been subject to significant changes in recent years. As noted by Reach in a submission to the Commission, newspaper circulation has declined significantly in the State in the past decade. This decline appears to be primarily as a result of the increasing consumption of news online, including through social media websites such as Facebook, Twitter, Instagram, and Snapchat. Competitors in declining industries have a greater incentive to explore the possibility of engaging in tacit or overt collusive behaviour.



- 3.8 The ISL Shareholders are large competitors in the State in each of the four markets listed in paragraph 3.1 above. As illustrated in Table 2 above, the ISL Shareholders will together account for 47.3% of the market for the publication and sale of daily national newspapers in the State following completion of the Proposed Transaction. As illustrated in Table 4 above, the ISL Shareholders will together account for 61.1% of the market for the publication and sale of Sunday national newspapers in the State. It is therefore clear that the ISL Shareholders are big players in the State in each of the four markets listed in paragraph 3.1 above.
- 3.9 Given the large market shares of the ISL Shareholders in each of four markets listed in paragraph 3.1 above, there is an incentive for both parties to engage in coordinated behaviour through the exchange of competitively sensitive information. The Proposed Transaction significantly increases the likelihood of the ISL Shareholders seeking to engage in collusive behaviour through the exchange of competitively sensitive information.

Proposals Submitted by Reach

- 3.10 In February 2018, the Commission informed the parties of its competition concerns regarding the exchange of competitively sensitive information following completion of the Proposed Transaction. Throughout its full (Phase 2) investigation the Commission continued to engage with the parties, particularly in relation to the proposals submitted by Reach to the Commission on 8 June 2018.
- 3.11 During the Phase 2 investigation, following further engagements with Reach, on 6 September 2018, Reach submitted new proposals to the Commission in accordance with section 20(3) of the Act with a view to ameliorating the potential competition concerns identified by the Commission with respect to the potential exchange of competitively sensitive information.³²
- 3.12 The Commission engaged further with Reach and its legal advisors to formulate the proposals to ameliorate the competition concern identified by the Commission.
- 3.13 On 12 September 2018, Reach submitted final proposals which are intended to prevent:
- the potential for the indirect or direct exchange of competitive sensitive information between the ISL Shareholders (i.e., Reach and IN&M); and,
 - the potential [for] the indirect or direct exchange of competitive sensitive information between the Reach and ISL.
- 3.14 The Commission has taken the Proposals into account and, in light of the said Proposals (which form part of the basis of its determination), is of the view that following implementation of the Proposed Transaction, the parties will not exchange

³² The submission of these proposals by Reach extended the deadline within which the Commission was required to conclude its assessment of the competitive effects of the Proposed Transaction in Phase 2 by 15 working days to 135 working days in accordance with section 21(4) of the Act.



competitively sensitive information that will result in a substantial lessening of competition in respect any of the following markets in the State:

- the publication and sale of daily national newspapers;
- the sale of advertising in daily national newspapers;
- the publication and sale of Sunday national newspapers; and,
- the sale of advertising in Sunday national newspapers.



4. VERTICAL RELATIONSHIP

- 4.1 The parties state in the notification that there is no existing vertical relationship between Reach and N&S in the State. Reach is not vertically integrated and uses independent third parties to both print and distributes its newspaper titles. Furthermore, Reach's key advertising customers are independent advertising agencies.
- 4.2 In light of the above, Commission considers that the Proposed Transaction raises no vertical foreclosure concerns in the State.



5. CONCLUSION

- 5.1 In light of its analysis as set out in this determination and having taken the Proposals into account, the Commission has determined that the Proposed Transaction will not substantially lessen competition in any market for goods or services in the State.



6. ANCILLARY RESTRAINTS

6.1 No ancillary restraints were notified to the Commission.



7. DETERMINATION

Determination

Pursuant to section 20(3) of the Competition Act 2002, as amended (the “Act”), Reach Plc (formerly Trinity Mirror Plc) (“Reach”) has submitted to the Competition and Consumer Protection Commission (the “Commission”) the proposals set out below regarding measures to be taken to ameliorate any effects of the proposed acquisition on competition in markets for goods or services, with a view to the said proposals becoming binding on Reach.

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 22(3)(a) of the Act that the result of the proposed acquisition, whereby Reach will acquire the entire issued share capital and thus sole control of Northern & Shell Network Limited and International Distribution 2018 Limited and joint control of Independent Star Limited, 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)³³ of the Act.

For the Competition and Consumer Protection Commission

Isolde Goggin
Chairperson
Competition and Consumer Protection Commission

³³ Section 28C(1) of the Competition Act 2002, as inserted by section 74 of the Competition and Consumer Protection Act 2014.



Proposals submitted by Reach Plc (Formerly, Trinity Mirror Plc) to the Competition and Consumer Protection Commission ("Proposals")

RECITALS

- A. On 9 February 2018, the proposed acquisition by Reach, of the entire issued share capital of N&S and of IDL and 50% of the issued share capital of ISL was notified to the Commission under Part 3 of the Act.
- B. Prior to Completion, N&S and IN&M each hold 50% of the issued share capital of ISL and each of N&S and IN&M have the right to appoint up to 4 directors to the board of directors of ISL.
- C. Pursuant to the Proposed Transaction, Reach will acquire 50% of the issued share capital of ISL. Following Completion, Reach will have the right to appoint up to 4 directors to the board of directors of ISL.
- D. Pursuant to section 20(3) of the Act, Reach has submitted to the Commission these Proposals relating to the Proposed Transaction for the purpose of ameliorating any possible effect of the Proposed Transaction on competition in markets for goods or services, with a view to the Proposals becoming binding on Reach.
- E. The Proposals submitted by Reach are intended to prevent any direct or indirect exchange of competitively sensitive information between: (i) Reach and IN&M; (ii) Reach and ISL; and (iii) ISL and IN&M following Completion (arising from the acquisition by Reach of 50% of the issued share capital of ISL) which would constitute a breach of section 4(1) of the Act to the extent more particularly described below.

Definitions

1 For the purpose of the Proposals, the following terms shall have the following meaning:

- "Act"** means the Competition Act 2002, as amended;
- "Commencement Date"** means the date of the Commission's Determination;
- "Commission"** means the Competition and Consumer Protection Commission and its successors;
- "Completion"** means completion of the Proposed Transaction;
- "Day To Day Running"** means the day to day management in relation to the following:
- setting of advertising rates and discounts offered to customers, advertising agencies and other agents; and
 - setting of cover price;
- "Determination"** means the Determination of the Commission pursuant to section 21(2)(a) of the Act that the Proposed Transaction may be put into effect;



“IDL”	means International Distribution 2018 Limited, a private limited company incorporated under the laws of England and Wales (Registration No. 11143017), which has a registered office at The Northern & Shell Building Number 10, Lower Thames Street, London, United Kingdom, EC3R 6EN;
“IN&M”	means Independent News & Media PLC, a public limited company incorporated under the laws of Ireland (Registration No. 2936), which has a registered office at Independent House, 27-32 Talbot Street, Dublin 1. For the avoidance of doubt, this definition of “IN&M” includes all its subsidiaries;
“IN&M Competitively Sensitive Information”	means any specific disaggregated information concerning IN&M where the disclosure of such information (in particular information relating to the current and future strategic intentions of IN&M, and information relating to planned IN&M advertising discounts, pricing and promotional activity for newspapers) would constitute a breach of section 4(1) of the Act. For the avoidance of doubt, information that is available in any form to the public by lawful means, other than as a result of a breach of the Proposals, shall not be considered to constitute “IN&M Competitively Sensitive Information”;
“IN&M Personnel”	means any director, officer, manager, employee, representative, agent, or person holding equivalent functions, of IN&M;
“ISL”	means Independent Star Limited, a private limited company incorporated under the laws of Ireland (Registration No. 122550), which has a registered office at Independent House, 27-32 Talbot Street, Dublin 1;
“ISL Competitively Sensitive Information”	means any specific disaggregated information concerning ISL where the disclosure of such information (in particular information relating to the current and future strategic intentions of ISL, and information relating to planned ISL advertising discounts, pricing and promotional activity for newspapers) would constitute a breach of section 4(1) of the Act. For the avoidance of doubt, information that is available in any form to the public by lawful means, other than as a result of a breach of the Proposals, shall not be considered to constitute “ISL Competitively Sensitive Information”;
“ISL Personnel”	means any director, officer, manager, employee, representative, agent, or person holding equivalent functions, of ISL;
“N&S”	means Northern & Shell Network Limited (now Reach Network Limited), a private limited company incorporated under the laws of England and Wales (Registration No. 04086475), which has a registered office at One Canada Square, Canary Wharf, London, United Kingdom, E14 5AP;
“Printing Agreement”	means the printing agreement between Reach Printing Limited (now Reach Printing Services Limited) and Independent Newspapers (Ireland)



	Limited dated [...] under which Independent Newspapers (Ireland) Limited engages Reach Printing Limited to print the Irish Independent and the Sunday Independent, and Reach Printing Limited provides certain printing, inserting, distribution and circulation services to Independent Newspapers (Ireland) Limited;
“Proposed Transaction”	means the proposed acquisition by Reach of the entire issued share capital of N&S and of IDL and 50% of the issued share capital of ISL as notified to the Commission on 9 February 2018;
“Reach”	means Reach Plc (formerly Trinity Mirror Plc), a public limited company incorporated under the laws of England and Wales (Registration No. 00082548), which has a registered office at One Canada Square, Canary Wharf, London, United Kingdom, E14 5AP. For the avoidance of doubt, this definition of “Reach” includes all its subsidiaries;
“Reach Competitively Sensitive Information”	means any specific disaggregated information concerning Reach where the disclosure of such information (in particular information relating to the current and future strategic intentions of Reach, and information relating to planned Reach advertising, discounts, pricing and promotional activity for newspapers) would constitute a breach of section 4(1) of the Act. For the avoidance of doubt, information that is available in any form to the public by lawful means, other than as a result of a breach of the Proposals, shall not be considered to constitute “Reach Competitively Sensitive Information”;
“Reach Personnel”	means any director, officer, manager, employee, representative, agent, or person holding equivalent functions, of Reach;
“[...] Printing Agreement”	means the printing agreement between Reach Printing Limited (now Reach Printing Services Limited) and [...];
“Term”	means the period beginning on the Commencement Date and ending on the Termination Date;
“Termination Date”	means the date on which (a) Reach disposes of its entire shareholding in ISL; or (b) Reach acquires the entire issued share capital of ISL subject to the receipt of prior Commission approval if required under the Act; or (c) Reach receives written confirmation from the Commission that these Proposals shall cease to apply; and
“Wholesale Agreement”	means the wholesale agreement between [...] (a subsidiary of Reach plc) and Newsprint Limited dated [...] under which Newsprint Limited distributes the Daily Mirror, Sunday Mirror, [...] in the Republic of Ireland.

Undertakings by Reach

2 During the Term, Reach undertakes that:



- 2.1 Reach shall ensure that any person nominated or appointed by Reach to serve on the board of directors of ISL (or any subcommittee thereof) (a “**Reach-appointed Director**”) has no responsibility for the Day to Day Running of any newspaper business of Reach active in the State;
- 2.2 Reach shall ensure that no Reach Personnel who are involved in Day to Day Running of any newspaper business of Reach active in the State will have access to any ISL Competitively Sensitive Information;
- 2.3 Reach shall not (and shall not permit any Reach Personnel or, to the extent that the Reach appointed Directors have access to any Reach Competitively Sensitive Information, any of the Reach-appointed Directors to) discuss with or pass on, directly or indirectly, to ISL or any ISL Personnel any Reach Competitively Sensitive Information;
- 2.4 Reach shall not (and shall not permit any Reach Personnel or, to the extent that the Reach-appointed Directors have access to any Reach Competitively Sensitive Information, any of the Reach-appointed Directors to) discuss with or provide to IN&M or any IN&M Personnel any Reach Competitively Sensitive Information;
- 2.5 Reach shall not (and shall not permit any Reach Personnel or the Reach appointed Directors to) discuss with or solicit, directly or indirectly, from IN&M or any IN&M Personnel any IN&M Competitively Sensitive Information; and
- 2.6 Reach shall not (and shall not permit the Reach-appointed Directors to) nominate for the position of company secretary of ISL any Reach Personnel who are involved in Day to Day Running of any newspaper business of Reach active in the State.
- 3 These Proposals shall not prevent the following:
 - 3.1 Disclosure by Reach to IN&M and/or disclosure by IN&M to Reach of any information pursuant to the Printing Agreement which is necessary to be provided to Reach or to IN&M in order to implement or operate the Printing Agreement and any information which is reasonably required by Reach or IN&M in order to assess the renewal or renegotiation of the Printing Agreement;
 - 3.2 Disclosure by Reach to IN&M and/or disclosure by IN&M to Reach of any information pursuant to the Wholesale Agreement which is necessary to be provided to Reach or to IN&M in order to implement or operate the Wholesale Agreement and any information which is reasonably required by Reach or IN&M in order to assess the renewal or renegotiation of the Wholesale Agreement;
 - 3.3 Disclosure by Reach to [...] and/or disclosure by [...] to Reach of any information pursuant to [...] [...] Printing Agreement which is necessary to be provided to Reach or to [...] in order to implement or operate [...] Printing Agreement and any information which is reasonably required by Reach or [...] in order to assess the renewal or renegotiation of [...] Printing Agreement; and
 - 3.4 Disclosure by Reach, IN&M or ISL of any information which is required to comply with any applicable law or regulation (including, without limitation, disclosure which may be made by any director and/or officer of Reach, IN&M and/or ISL in order to fulfil any statutory and/or fiduciary duty) or judicial or arbitral process of any competent



jurisdiction, or which is required to be disclosed by any competent authority or which is dealt with in accordance with Regulation (EU) No. 596/2014 on market abuse (Market Abuse Regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC or any national measures implementing same.

Compliance

- 4 Reach shall submit to the Commission within six (6) months of the Commencement Date, and, at intervals of one year thereafter during the Term, a written certificate in the form set out in the Schedule 1 hereto (a "Compliance Certificate"), signed by a director of Reach confirming that Reach has complied with its obligations set out in these Proposals in the preceding period, and setting out changes, if any, to the directors and/or the company secretary of ISL during the preceding period.
- 5 Reach shall inform the relevant Reach Personnel and the Reach-appointed Directors of their obligations and responsibilities under these Proposals and shall provide training to them in that regard. Reach shall notify ISL of these Proposals.
- 6 The Commission reserves the right to require Reach to provide to the Commission, at any time and on reasonable notice, such additional information as the Commission reasonably requires and which is necessary in order for the Commission to verify Reach's compliance with its obligations set out in these Proposals. Reach shall promptly provide to the Commission all such information in its possession.
- 7 These Proposals will come into effect on the Commencement Date and will remain in force during the Term. For the avoidance of doubt, the Proposals shall have no retrospective effect.



SCHEDULE 1 TO THE PROPOSALS

[Reach Headed Paper]

[date]

Ibrahim Bah
Competition Enforcement and Mergers Division
Competition and Consumer Protection Commission
Bloom House
Railway Street
Dublin 1

Merger Notification M/18/016 – Reach/Northern & Shell

Dear Mr. Bah,

I refer to Merger Notification M/18/016 – Reach/Northern & Shell in relation to the proposed acquisition by Reach Plc (“Reach”) of the entire issued share capital of Northern & Shell Network Limited and of International Distribution 2018 Limited and 50% of the issued share capital of Independent Star Limited (“ISL”) which was notified to the Competition and Consumer Protection Commission (“Commission”) on 9 February 2018 (“the Proposed Transaction”).

The Commission issued its Determination approving the Proposed Transaction on [] 2018.

In accordance with the terms of the proposals given by Reach to the Commission on [] in relation to the Proposed Transaction which, in accordance with section 20(3), section 26(1) and section 26(4) of the Competition Act 2002, as amended, have become commitments binding upon Reach (“the Commitments”), I hereby confirm Reach’s compliance with the terms of the Commitments during the period commencing on [the date of the Determination/date of the previous certificate issued by Reach] and ending on the date hereof.

[Since [date], there have been no changes to the directors or the company secretary of ISL/ Since [date], the following changes to the directors/company secretary of ISL have been made: []].

Yours faithfully,

[Name]
[Director Reach]