



DETERMINATION OF MERGER NOTIFICATION M/18/016 - TRINITY MIRROR /NORTHERN & SHELL

Section 22 of the Competition Act 2002

Proposed acquisition by Reach Plc (formerly Trinity Mirror Plc) of sole control of Northern & Shell Network Limited and International Distribution 2018 Limited and joint control of Independent Star Limited.

Dated 12 September 2018

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)¹ of the Act.

For the Competition and Consumer Protection Commission

Isolde Goggin
Chairperson
Competition and Consumer Protection Commission

¹ 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) [...] 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, [...] 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]