



Determination No. M/03/034 of the Competition Authority, dated 19 November 2003, under Section 21 of the Competition Act, 2002

Notification No. M/03/034 – Proposed Acquisition of Boosey & Hawkes plc by Classic Copyright Limited

Introduction

1. On 24 October 2003 the Competition Authority, in accordance with Section 18 (1) of the Competition Act, 2002 (“the Act”) was notified, on a mandatory basis, of a proposal whereby Classic Copyright Limited (“Classic Copyright”) would acquire, by way of a public offer, a 100% interest in Boosey & Hawkes plc (“Boosey & Hawkes”).

The Parties

2. Boosey & Hawkes is principally involved in the field of classical music publishing, being the business of acquiring and exploiting the copyright to the composition of a piece of music. It derives some royalty income from Ireland. Until recently, Boosey & Hawkes also manufactured and sold musical instruments. That division was sold in 2003 and is not a part of this transaction.
3. Classic Copyright is a UK company established for the purpose of making the offer for Boosey & Hawkes. It is controlled by the HgCapital Group (“HgCapital”), a provider of private equity finance throughout Europe that has investment interests in a number of businesses within the State. HgCapital has an existing investment in Eagle Rock Entertainment Limited (“Eagle Rock”), a record label active principally in the rock/pop music genre which also produces documentaries for television and DVD. Generally, Eagle Rock does not own any copyright of the music it releases, with the exception of a small number of its artists.

Analysis

4. Boosey & Hawkes’ activities involve the acquisition of rights from a composer or a composer’s estate in order to exploit those rights in exchange for an advance and a share of the royalties generated. Exploitation is the global use of the music by the live performance industry, broadcasters, record companies, film and T.V. producers and printed sheet music publishers. Boosey & Hawkes is only involved in the acquisition or exploitation of copyright in relation to classical music. It is not involved in the acquisition or exploitation of copyright in relation to rock/pop music. HgCapital is involved in the music industry generally through its interest in Eagle Rock. However, Eagle Rock is not engaged in the business of classical music publishing, and only has a very small interest in exploitation of copyright for a small number of artists in the rock/pop genre. Accordingly, it was found that as there was no significant overlap in the competitive activities of the parties, common ownership between Boosey & Hawkes and Eagle Rock would not substantially lessen competition.



Determination of the Competition Authority

5. As it was found that the competitive overlap between the parties activities was not significant, irrespective of whether the relevant market was defined as a market for classical music publishing or music publishing generally, the Authority did not find it necessary to form a definitive view on the market definition in this case.

Determination

The Competition Authority, in accordance with Section 21(2) of the Competition Act, 2002, has determined that, in its opinion, the result of the proposed acquisition will not be to substantially lessen competition in markets for goods and services in the State and, accordingly, that the acquisition may be put into effect.

For the Competition Authority

Edward Henneberry
Member of the Competition Authority

19 November 2003