



DETERMINATION OF MERGER NOTIFICATION M/14/039 - CVC/SKY BET

Section 21 of the Competition Act 2002

Proposed acquisition by CVC Capital Partners SICAV-FIS S.A. of sole control of Sky Bet

Dated 22 January 2015

Introduction

1. On 16 December 2014, in accordance with section 18(1) of the Competition Act 2002, as amended¹ (“the Act”), the Competition and Consumer Protection Commission (“Commission”) received a notification of a proposed transaction whereby CVC Capital Partners Limited SICAV-FIS S.A. (together with its affiliates “CVC”) would acquire sole control of Sky Bet, a division of British Sky Broadcasting Limited (“Sky”).

The Undertakings Involved

CVC

2. CVC consists of privately owned advisory entities whose activity is providing investment advice to and/or managing investments on behalf of investment funds. It specialises in leveraged buyouts. CVC controls a number of companies in various industries including chemicals, utilities, manufacturing, retailing and distribution. These companies are located primarily in Europe, the United States and the Asia-Pacific region.
3. One portfolio company owned by CVC funds is Skrill Limited (“Skrill”), a digital payments company that operates digital payments networks for local and cross-border transactions and money transfers. Skrill is a global e-commerce business that provides a broad range of end-to-end payment products which target both consumers and merchants and are built on a fully integrated global technology platform. For individual users, the Skrill payment system offers an online cash account (e-wallet) and an internet-based alternative to traditional money transfer methods such as cheques, money orders and wire transfers. Skrill also enables approximately 156,000 merchant customers to accept online payments via major payment cards, Skrill’s own online accounts and other local payment methods. Skrill provides online payment services to several gambling providers in the United Kingdom and in the State.

¹ It should be noted that the Competition and Consumer Protection Act 2014 made a number of important amendments to the merger review regime set out in the Competition Act 2002.



4. For the financial year ending 31 December 2013, CVC's worldwide turnover was €[...]. CVC's turnover in the State for the same period was €[...].

Sky Bet

5. Sky Bet is a division of Sky, which is a subsidiary of Sky plc. Sky Bet consists of a number of wholly-owned subsidiaries of Sky (Bonne Terre Limited, Hestview Limited, New Blue Limited) and certain other assets owned by Sky.
6. Sky Bet conducts a range of betting and gaming activities, including a fixed odds betting service. Sky Bet's services are available across multiple platforms, including the internet, mobile, and by landline telephone, in addition to Sky's direct to home television service. Sky Bet does not operate any licensed betting offices.
7. Sky Bet offers betting and gaming services primarily through four brands:
- Sky Bet is an online and mobile sports betting service;
 - Sky Poker is an online and mobile poker room²;
 - Sky Vegas is an online and mobile casino offering; and,
 - Sky Bingo is an online and mobile bingo room.
8. While these brands are offered primarily through online and mobile services, it is also possible for customers to use these services through their television or over landline telephones. Sky Bet also owns and operates an online betting odds comparison site, Oddschecker, and a sports reporting and betting website, sportinglife.com. Sky Bet also operates a free-to-enter football prediction game (Soccer Saturday Super 6) and Sky Sports Fantasy Football.
9. Sky Bet is primarily active in the United Kingdom but it also has customers in the State.
10. For the financial year ending 30 June 2014, Sky Bet's worldwide turnover was €[...]. Sky Bet's turnover in the State for the same period was €[...]³.

Rationale for the Proposed Transaction

11. The parties state in the notification:

“CVC specialises in leveraged buyouts and constantly seeks new investment opportunities. The principal part of its business is advising and managing investment funds which participate in, and finance, other companies with a view to developing the acquired company. The proposed transaction is an acquisition made by [CVC funds] as part of CVC's investment strategy.”

² There is a Sky Poker TV channel that is not part of the proposed transaction.

³ This is Sky Bet's turnover on the basis of amounts staked (i.e., the amount of money bookmakers receive from customers at the time a bet is placed).



Third Party Submissions

12. No submission was received.

Competitive Analysis

13. There is no horizontal overlap between the parties in the State since none of the portfolio companies currently controlled by CVC are engaged in the same business as Sky Bet.

Vertical Overlap

14. There is, however, a vertical relationship between the parties since a portfolio company controlled by CVC, namely Skrill, provides digital wallet and online payment services to Sky Bet. Skrill customers can deposit and withdraw money to and from a Sky Bet gaming account. In other words, Sky Bet is one of Skrill's 156,000 merchant customers. Skrill is one of many payment systems currently used by Sky Bet, including debit or credit cards, pre-paid cards, PayPal, and Neteller. In the notification, Sky Bet estimates that Skrill payments make up around [0-10]% of Sky Bet's successful transactions.
15. In general, non-horizontal mergers do not raise the same competition concerns as horizontal mergers. Non-horizontal mergers do not entail the loss of direct competition between merging firms and vertical integration can provide significant opportunities for the achievement of efficiencies.⁴
16. However, non-horizontal mergers such as the proposed transaction can potentially lessen competition through the integration of a production chain. For instance, a non-horizontal merger may increase entry barriers and thus lessen competition.
17. In its assessment of the proposed transaction, the Commission considered the likelihood that the proposed transaction would raise the costs of Sky Bet's rivals by restricting their access to the online payments system currently offered by Skrill. This theory of harm is referred to as input foreclosure.
18. For input foreclosure to be a concern, the vertically integrated firm resulting from the proposed acquisition must have a significant degree of market power in the upstream market.⁵ There is no evidence to indicate that Skrill has market power in the upstream market. The parties state in the notification that Skrill's market share is [0-10]% on any market definition in the State. Furthermore, there are a number of alternative online payment methods available (e.g., PayPal, Neteller, Click & Buy, and Visa)⁶ and Sky Bet

⁴ See paragraph 5.5 of the Commission's Guidelines for Merger Analysis (Adopted by the Commission on 31 October 2014).

⁵ Op. cit. paragraph 5.10.

⁶ In the notification, the parties describe Smart Voucher Limited (trading as Ukash) as a competitor of Skrill in the United Kingdom and in the State. The parties, however, provided the following information to the Commission in writing on 7 January 2015: "On 26 November 2014, [Skrill] entered into an agreement to acquire the entire shareholding in Smart Voucher Limited (trading as Ukash). The proposed acquisition of Ukash by Skrill is not notifiable in the State under the Irish merger control rules. Ukash had a turnover in Ireland of €[...] for the financial year ended 31 May 2014. Ukash does not provide any services to Sky Bet and is not accepted as a means for customers to make payments to Sky Bet. Skrill's market share [in the State] remains materially below [0-10]% on any market definition when Ukash revenues are incorporated." The parties expressed the view to the Commission that "this deal will not change the competitive analysis outlined in section 5.3 of the CVC/Sky Bet merger notification."



estimates that Skrill payments make up only around [0-10]% of Sky Bet's transactions. The Commission considers that, post-transaction, any attempt by Skrill to harm Sky Bet's rivals by raising prices or refusing to supply them would fail due to Skrill's lack of market power.

19. The Commission also considers that, post-transaction, Sky Bet will continue to have an incentive to facilitate online payment systems other than Skrill. Any attempt to foreclose Skrill's competitors is likely to result only in lost sales for Sky Bet by limiting their customers' ability to pay. There is an incentive for Sky Bet to enable its customers to use a variety of online payment methods.
20. The Commission therefore considers that the proposed transaction will not raise vertical competition concerns in the State.

Conclusion

21. 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.



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 acquisition whereby CVC Capital Partners Limited SICAV-FIS S.A. would acquire sole control of Sky Bet 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.

For the Competition and Consumer Protection Commission

Gerald FitzGerald
Member
Competition and Consumer Protection Commission