



DETERMINATION OF MERGER NOTIFICATION M/16/044 – INM/CMNL

Section 21 of the Competition Act 2002

Proposed acquisition by Independent News & Media Holdings (Ireland) Limited of the entire issued share capital of CMNL Limited

Decision Date: 10 November 2016

Introduction

1. On 5 September 2016, in accordance with section 18(1) 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 Independent News & Media Holdings (Ireland) Limited (“INM Holdings”), a wholly-owned subsidiary of INM plc (“INM”), would acquire the entire issued share capital of CMNL Limited (“CMNL”).
2. Given that both INM Holdings and CMNL 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.

The Proposed Transaction

3. The proposed transaction is to be implemented pursuant to a share and purchase agreement (“SPA”) between CMNL’s shareholders and INM Holdings dated 2 September 2016, whereby INM Holdings would acquire the entire issued share capital of CMNL.
4. Following the implementation of the proposed transaction, CMNL will become a wholly-owned subsidiary of INM. Post-transaction, INM will own an additional seven regional



newspapers (five paid-for newspapers and two free newspapers) which are distributed in the Cavan, Meath, Westmeath, Mayo and Offaly areas in the State.¹

The Undertakings Involved

INM

5. INM Holdings is a wholly-owned subsidiary of INM. INM is a public limited company incorporated in the State and is listed on the Irish and London Stock Exchanges. INM is a newspaper and media group which operates on the island of Ireland. In the State, its primary business activities are:
 - Publishing newspapers and on-line news services;
 - Newspaper contract printing;
 - Wholesaling and distributing newspapers and magazines.
6. INM publishes national daily, evening and Sunday newspapers (e.g., Irish Independent, Sunday Independent, Sunday World, The Herald, Irish Daily Star, Star on Sunday), two weekly magazines (Fit Magazine² and Ireland's own³) and 12 paid-for weekly regional newspapers in counties Cork, Kerry, Dublin, Louth, Wexford, Wicklow and Sligo.⁴ INM also operates a number of websites which support its national and regional newspapers as well as operating as a news portal.
7. INM owns Newsread Limited ("Newsread"), which distributes and wholesales INM and third party newspapers in the State (excluding Donegal). INM publishes two newspapers in Northern Ireland – namely, the Belfast Telegraph and Sunday Life.
8. For the financial year ended 31 December 2015, INM's worldwide turnover was approximately €321.2 million, of which approximately €[...] million was generated in the State.

The Target- CMNL

¹CMNL also operates online versions of each regional newspaper with separate websites for each online version.

² Issued every Monday with the Irish Independent newspaper.

³ Full colour weekly magazine.

⁴ The newspaper titles are: The Argus, Bray People, The Corkman, The Drogheda Independent, Enniscorthy Guardian, Gorey Guardian, Fingal Independent, Kerryman, New Ross Standard, the Sligo Champion, Wexford People and Wicklow People.



9. CMNL was incorporated in the State on 12 July 2016 for the purpose of the proposed transaction, and is owned by a group of private shareholders⁵. This same group of private shareholders also own Celtic Media Limited which owns the entire issued share capital of each of Celtic Media Print Limited (which in turn owns a print plant in Navan and currently prints CMNL's newspapers) and Celtic Media Property Limited⁶.
10. CMNL's principal activity is the publication of seven regional/local newspapers in the State⁷, namely, Anglo Celt, Meath Chronicle, Forum, Westmeath Examiner, Westmeath Independent, Connaught Telegraph and Offaly Independent.
11. CMNL is also involved in the supply of prepress services⁸ to third party newspapers. Its prepress customers include the Tuam Herald, the Nenagh Guardian, Cork Independent, Galway Independent and the Dublin People Group.
12. For the financial year ended 31 December 2015, CMNL's worldwide turnover was €[...] million⁹, all of which was generated in the State.

Rationale for the Proposed Transaction

13. The parties state in the notification:

"The Proposed Transaction will provide INM's regional business with new geographic markets and customers that are not currently targeted by INM's regional newspapers.

*CMNL wishes to harness the benefits of INM's expertise and digital resources, which will allow it to enhance its business."*¹⁰

The Procedure

⁵ The three largest shareholders in CMNL are board directors, Frank Mulrennan (37.89%), Frank Long (27.37%) and Jonathan Wood (13.68%). The remaining 21.06% shareholding in CMNL is held by ten other individual shareholders.

⁶ For the financial year ended 31 December 2015, Celtic Media Limited's turnover was approximately € [...] million all of which was generated in the State. Following the implementation of the proposed transaction, Celtic Media Limited will continue to own Celtic Media Print Limited.

⁷ The seven regional/local newspapers owned by CMNL were transferred to CMNL by Anglo Celt Limited ("ACL") pursuant to a business transfer agreement dated 25 August 2016.

⁸ The parties submit that prepress services include graphic and page layout design for newspapers (e.g. the location of news copy and advertising prior to printing).

⁹ This figure is the 2015 turnover of ACL. The parties provided this figure for CMNL's turnover, on the basis that [...].

¹⁰ Page 5, section 2.7 of the notification.



14. The proposed transaction was notified to the Commission on 5 September 2016. On 23 September, the Commission issued a formal requirement for further information (“RFI”) to each of the parties, pursuant to section 20(2) of the Act. The “appropriate date” (as defined in section 19(6)(b) of the Act) subsequently became 30 September 2016, after both of the parties responded to the RFI on that date¹¹. Following a review of the additional information provided on foot of the RFI, the Commission issued further questionnaires to the parties¹², to which the parties responded on 17 October 2016.
15. On 11 and 12 October 2016, the Commission issued questionnaires to the parties’ potential competitors¹³ and existing advertising customers¹⁴. The Commission’s questionnaires to third parties focused on the proposed transaction’s potential effects on regional/local newspaper publishing and advertising. Approximately 40% of the potential competitors who received the questionnaire responded to it. These responses provided mixed views on the proposed transaction, which will be discussed later in this determination. Approximately 30% of the advertising customers who received the questionnaire responded to it. None of the advertisers who responded to the Commission’s questionnaire expressed concerns regarding the proposed transaction.

Third Party Submissions

16. There were six third party submissions to the Commission. The main concerns expressed in these submissions were that the proposed transaction:
 - will reinforce INM’s dominant position in media generally;
 - threatens employment, editorial diversity and media plurality;
 - strengthens INM’s and Mediaforce Ireland Limited’s control over government advertising¹⁵;
 - may negatively affect prepress services, i.e., the merged entity may cease to provide prepress services to some of CMNL’s current customers who are also competitors of INM’s regional newspapers.

¹¹ The “appropriate date” is the date from which the time limits for the Commission to make Phase 1 and, if appropriate, Phase 2 determinations in relation to a merger or acquisition notified to it.

¹² The questions addressed to the parties at this point were typical RFI questions.

¹³ Questionnaires were issued to around 20 potential competing regional/local newspapers.

¹⁴ Questionnaires were issued to around 20 advertising agencies and customers in total, the details for which were provided to the Commission by the parties.

¹⁵ Please see paragraph 47 below for information regarding Mediaforce Ireland Limited.



17. The Commission, as part of its review of the proposed transaction, has taken account of the points raised in all of the third party submissions, in particular with respect to the concerns raised about INM's market position in relation to regional/local newspaper publishing and advertising. However, assessing concerns regarding employment, editorial diversity and media plurality is not within the Commission's remit and therefore such concerns have not been taken into account as part of the Commission's assessment of the competitive effects of the proposed transaction.¹⁶

Market Definition

18. The Commission identified four potential product markets in which the competitive effects of the proposed transaction needed to be assessed:
- Newspaper publishing (based on readership and supply of advertising space) of local/regional titles;
 - Supply of prepress services to publishers of local/regional newspaper titles;
 - Supply of printing services to publishers;
 - Distribution of local/regional titles.

Newspaper Publishing

19. Newspapers seek to satisfy the needs of both readers and advertisers. As such, an assessment of the nature of competition in newspaper markets requires a consideration of the interaction between advertisers and readers. This type of assessment is carried out typically in the context of a two-sided market analysis. In this instance, newspapers wish to attract advertisers on one side and readers on the other side of the market to form an audience for these advertisers. An advertiser's demand for advertising space in a particular newspaper therefore depends on a number of variables including circulation and the readership demographic.
20. The Commission has previously held that newspapers may be categorised as national, regional, local or imports. While the Commission defines markets to the extent

¹⁶ The Commission's remit is to review mergers on competition-related grounds, i.e., to determine whether the transaction will result in a substantial lessening of competition in the affected market(s).



necessary depending on the particular circumstances of a given case, it has concluded in its previous determinations that:

- Local newspapers do not compete in the same advertising market as national daily/weekly free and/or paid-for newspapers;
- Regional newspapers sold in different regions are not generally close competitors;¹⁷
- Radio advertising competes in a different market to press advertising;¹⁸
- Alternative print media, for example, magazines, leaflets and directories, are not substitutable for newspaper advertising;¹⁹
- The relevant product market in a previous case was advertising in local (i.e. non-national) paid-for and freesheet newspapers.²⁰

21. Although the Commission has not reached a definitive view on the precise scope of the relevant product and geographic markets in the newspaper publishing sector (based on readership and supply of advertising space) in its previous determinations, it has consistently held that:

- For newspaper readership - local/regional newspapers can be treated as a distinct market from national daily/evening newspapers.²¹
- For newspaper advertising - the supply of advertising space in local/regional newspapers can be treated as a distinct market from the supply of advertising space in national daily/evening newspapers.
- Newspaper advertising constitutes a separate market from radio advertising.²²
- The geographic scope of the market for the publication of local/regional newspaper titles is the distribution area for the relevant newspaper title.

22. The Commission does not see any reason to divert from its previous decisions in relation to local/regional newspaper publishing in this instance. Therefore, to determine

¹⁷ M/08/038 – *Alpha/The Herald*. Please see <http://ccpc.ie/enforcement/mergers/merger-notices/m08038-alpha-herald>

¹⁸ Paragraph 19, M/07/022- Thomas Crosbie Holdings/South East Broadcasting: <http://ccpc.ie/enforcement/mergers/merger-notices/m07022-thomas-crosbie-holdings-south-east-broadcasting>

¹⁹ Paragraph 28, M/07/064- Johnston Press/Clonnad. <http://ccpc.ie/enforcement/mergers/merger-notices/m07064-johnston-press-clonnad>

²⁰ M/07/064 - Johnston Press/Clonnad. <http://ccpc.ie/enforcement/mergers/merger-notices/m07064-johnston-press-clonnad>

²¹ M/14/017. Anglo-Celt/Connaught Telegraph, please see file:///C:/Users/nieh/Downloads/M-14-017%20Anglo%20Celt%20-%20Connaught%20Telegraph%20(2).pdf and M/08/038 – *Alpha/The Herald*. Please see <http://ccpc.ie/enforcement/mergers/merger-notices/m08038-alpha-herald>

²² M/07/022- Thomas Crosbie Holdings/South East Broadcasting, please see <http://ccpc.ie/enforcement/mergers/merger-notices/m07022-thomas-crosbie-holdings-south-east-broadcasting>



whether the proposed transaction might result in a substantial lessening of competition, the Commission assessed its impact on competition by reference to a potential market for publishing (based on readership and supply of advertising space) of local/regional newspaper titles in the distribution area for each of CMNL's newspaper titles.

Prepress services

23. In general, prepress services involve sub-editorial activities, such as the graphic design and makeup of pages by combining both editorial content and advertising content and exporting completed pages in a format acceptable to a print plant. Prepress services are generally provided to small newspapers active in the island of Ireland who wish to outsource their prepress activities. The right to supply a prepress service to third party newspapers is generally put out to tender every few years.
24. The Commission has not examined prepress services in its previous determinations and considers that the precise product and geographic market definition for the supply of prepress services can be left open in this instance since it will not significantly alter the Commission's views on the competitive effects of the proposed transaction in the area of prepress services. In order, however, to determine whether the proposed transaction might result in a substantial lessening of competition, the Commission assessed its impact on competition by reference to a potential market for the supply of prepress services to publishers of local/regional newspaper titles in the State.

Printing

25. Local/regional newspapers are printed on cold set presses. In recent years, due to a decline in the volume of newspapers being sold, the number of print plants operating in the State has decreased. The parties submit that there are seven main print plants in the State²³ and there are a number of smaller plants where owner-managed titles continue to print their own titles.

²³ Located at Navan, Co. Meath; Newry, Co. Down; Citywest Dublin; Kells, Co.Kildare; Mahon, Cork; Enniscorthy, Co.Wexford. There are two different print plants at Citywest.



26. In previous determinations²⁴, the Commission has left open the market definition for the supply of printing services. The Commission does not see any reason to divert from its previous decisions in relation to the supply of printing services to publishers in this instance. In order, however, to determine whether the proposed transaction might result in a substantial lessening of competition, the Commission assessed its impact on competition by reference to a potential market for the supply of printing services to publishers of local/regional newspaper titles in the State.

Distribution

27. Newspapers generally outsource the distribution of their titles to third parties. A small proportion of titles self-distribute directly to newsagents and other retailers.
28. In its *Eason/Menzies/EM News Distribution* merger determination²⁵, the Commission's predecessor, the Competition Authority, examined the competitive position of the distribution of newspapers and magazines²⁶ in the State. The Commission considers that the precise product and geographic market definition for the distribution of newspaper titles can be left open in this instance as it will not significantly alter the Commission's views on the competitive effects of the proposed transaction in the area of newspaper and/or magazine distribution.

Competitive Analysis

Horizontal Overlap

Local/Regional Newspaper Publishing - Readership

29. Although both of INM and CMNL are involved in publishing local/regional newspapers within the State, the parties submit that there is no overlap between their activities on the basis that "*although CMNL is active in the regional newspaper readership and*

²⁴ M/05/065 - Johnston Press/Leinster Leader, please see <http://ccpc.ie/enforcement/mergers/merger-notices/m05065-johnston-press-leinster-leader>.

²⁵ M/07/002 Eason/MENZIES/EM NEWS DISTRIBUTION, please see <http://ccpc.ie/enforcement/mergers/merger-notices/m07002-eason-menzies-e-m-news-distribution>.

²⁶ M/07/002 EASON/MENZIES/EM NEWS DISTRIBUTION, please see <http://ccpc.ie/enforcement/mergers/merger-notices/m07002-eason-menzies-e-m-news-distribution>



*advertising markets in Cavan, Meath, Westmeath, Offaly and Mayo areas, INM's regional newspapers are not targeted at these areas."*²⁷

30. As discussed in paragraph 21 above, the Commission is of the view that the relevant geographic scope of the market for the publication of local/regional newspaper titles is the distribution area for the relevant newspaper title. Since local/regional newspapers typically focus on a local audience and local advertisers, local/regional newspapers that are sold in different areas are not considered direct or close competitors to each other. For example, INM's Wicklow People does not compete with CMNL's Connaught Telegraph for audience and/or advertisers in Mayo. Thus, INM's Wicklow People and CMNL's Connaught Telegraph are not competing in the same market.
31. Section 20(1) of the Act states that, in respect of a notification received by it, the Commission:

"shall form a view as to whether the result of the merger or acquisition would be to substantially lessen competition in markets for goods or services in the State". (emphasis added)

None of the local/regional newspapers published by either CMNL or INM are sold in the same local/regional areas. On this basis, the Commission considers that CMNL's and INM's local/regional newspaper titles are not circulated within the same market.

32. One of the responses to the Commission's questionnaire to potential competitors of the parties claimed that the proposed transaction would confer market dominance on the merged entity, and that the merged entity will be dominant in every county along the east coast of the State.
33. The Commission recognises that INM's overall footprint of local/regional titles would increase significantly as a result of the proposed transaction in the State. However, the proposed transaction does not increase the merged entity's footprint in each of the relevant local/regional areas in which its newspaper titles will be distributed. Therefore, it is unlikely that the proposed transaction would lead to a substantial lessening of

²⁷ Page 26 of the notification.



competition (“SLC”) in the market for the publication of local/regional newspapers in any of these local/regional areas based on readership.

34. The Commission further recognises that some of INM’s local/regional newspaper titles have significant market positions within their respective distribution areas, such as, for example, in County [...] and County [...]. However, the proposed transaction itself does not enhance INM’s market position in County [...] or County [...], or in any of the distribution areas for INM’s other local/regional newspaper titles, and therefore INM’s market position in those areas is not specifically related to the proposed transaction. Similarly, CMNL has a strong market presence in other regions in which INM is not present (with the exception of ‘spillover’ sales – see paragraph 35 below), for example in County Meath where the combined share of readership held by its Meath Chronicle and Forum titles is estimated to be around [40-55%]. Therefore, the Commission considers that the proposed transaction is unlikely to increase directly the presence of the merged entity in any particular local/regional area within the State.
35. In previous merger reviews involving local/regional newspaper publishing, the Commission considered potential ‘spillover’ effects where different regional titles have distribution areas which are distinct but lie in close proximity to each other.²⁸ While the distribution areas for each of INM’s and CMNL’s local/regional newspaper titles are generally distinct, the distribution areas of a number of their respective newspaper titles lie in close proximity to each other. Therefore, the Commission has identified three areas where, as a result of the proximity between the distribution areas of INM’s and CMNL’s local/regional newspaper titles, there may be potential spillover effects between the parties’ local/regional newspaper titles, namely:
- Between County Sligo and County Mayo, on the basis that CMNL’s Connaught Telegraph title is distributed in County Mayo and INM’s The Sligo Champion title is distributed in County Sligo (as shown in Figure 1);
 - Between County Louth, County Meath and North County Dublin, on the basis that CMNL’s Meath Chronicle and Forum titles are distributed in County Meath, INM’s The Argus and Drogheda Independent titles are distributed in County

²⁸ M/05/065 *Johnston Press / Leinster Leader*; M/05/062 *Johnston Press / Local Press*



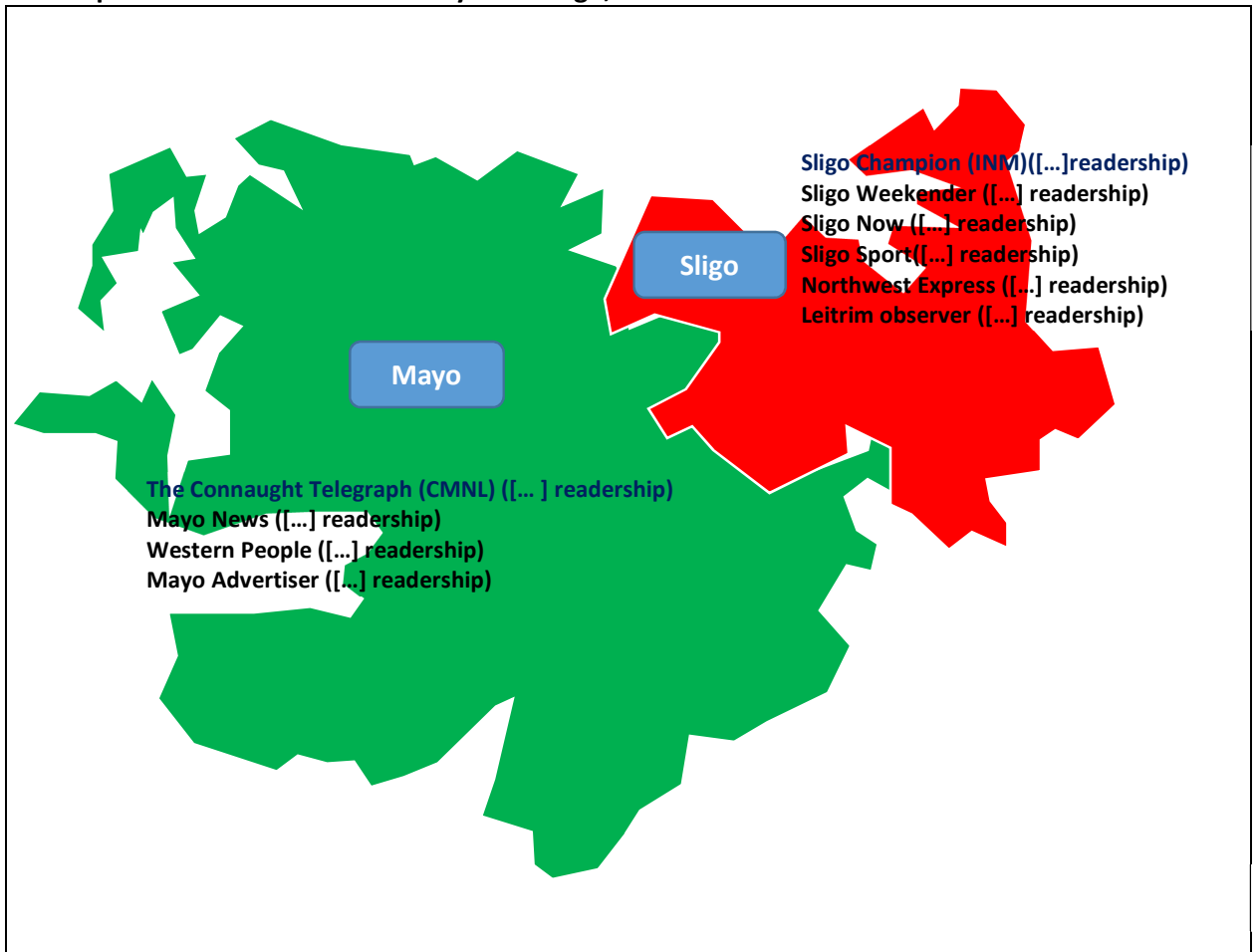
Louth, and INM's Fingal Independent title is distributed in North County Dublin (as shown in Figure 2);²⁹ and,

- Between County Meath, County Louth and County Monaghan, on the basis that both CMNL's The Anglo Celt title (Cavan) and INM's The Argus title (Louth) make sales into County Monaghan (as shown in Figure 2).

²⁹ Forum is a free title.



Figure 1: Top five local/regional competing titles and their estimated market shares* in the spillover areas in counties Mayo and Sligo, 2016

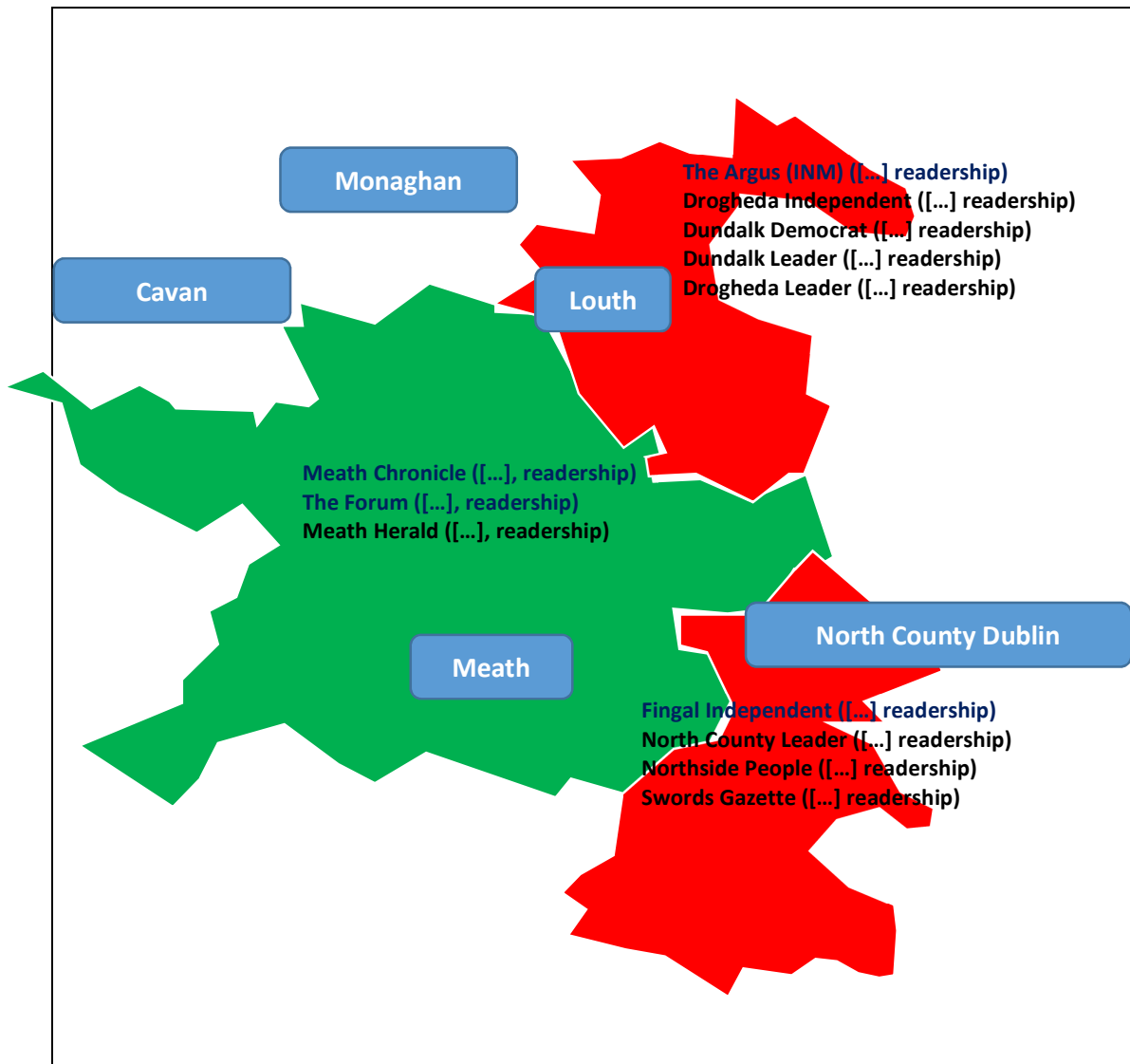


Source: The parties

*The above estimated market shares are estimated market shares in the relevant spillover areas and are not to be confused with each title's market share in their catchment areas.



Figure 2: Top five local/regional competing titles and their estimated market shares in the spillover areas* in Counties Meath, Louth, and North County Dublin, 2016



Source: The parties

*The above estimated market shares are estimated market shares in the relevant spillover areas and are not to be confused with each title's market share in their catchment areas.



Coimisiún um
Iomáiocht agus
Cosaint Tomhaltóirí

Competition and
Consumer Protection
Commission



Spillover effects between County Sligo and County Mayo

36. The parties argue that INM's The Sligo Champion title is mainly focused on the northwest of County Sligo, while CMNL's Connaught Telegraph title is primarily focused on County Mayo. [...] copies of the Connaught Telegraph were sold in County Sligo on 7 September 2016 and [...] copies of The Sligo Champion were sold in County Mayo on 6 September 2016³⁰, which is insignificant compared to the [...] copies of The Sligo Champion sold in County Sligo during the same week.
37. Given the presence of other local/regional newspaper titles in County Mayo and County Sligo which will continue to compete with the merged entity for both readership and sources of advertising, such as Mayo News, Western People, Mayo Advertiser, Sligo Weekender and Sligo Now (see Figure 1), and the relatively small number of copies of The Sligo Champion and Connaught Telegraph which are sold in each other's distribution area, the Commission considers that the spillover effect from the sale of INM's Sligo Champion and CMNL's Connaught Telegraph titles in County Sligo and County Mayo is minor.

Spillover effects between County Louth, County Meath and North County Dublin

38. The parties submit that the primary focus of CMNL's Meath Chronicle title is County Meath (approximately [80-90%] of its readership is based in County Meath)³¹. In contrast, INM's Fingal Independent is focused on Balbriggan and Rush and the Drogheda Independent is targeted at the southern part of County Louth, while INM's regional title The Argus is targeted at the northern parts of County Louth, such as Dundalk.
39. Table 2 below provides a sample of circulation numbers for the Meath Chronicle in each of Laytown/Bettystown in Co. Meath and Drogheda in Co. Louth on 7 September 2016. This sample indicates that:
- The extent of the Meath Chronicle's circulation in Laytown/Bettystown, which are areas adjacent to North County Dublin and South County Louth, is very limited ([...] copies only).

³⁰ Provided by the parties.

³¹ Provided by the parties.



- The extent of the Meath Chronicle’s circulation in County Louth is limited, for example, [...] copies in Drogheda on the sample date³².

On this basis, the Commission considers that the spillover effect from the sale of CMNL’s Meath Chronicle title in County Louth and North County Dublin is minor.

Table 2 Sales of CMNL’s Meath Chronicle in the spillover areas – within County Meath, County Louth

Overlap Area	INM Titles in the area	CMNL Title in the area	Copies of CMNL Title sold in the overlap area ³³
Laytown/Bettystown, Co. Meath	Fingal Independent	Meath Chronicle	[...]
	Drogheda Independent		
Drogheda, Co. Louth	The Argus	Meath Chronicle	[...]
	Drogheda Independent		

Source: The parties

40. INM’s Drogheda Independent title is focused on the southern parts of County Louth, specifically on the town of Drogheda and surrounding areas within approximately a 15km radius of central Drogheda ([80-90%] of its readership live within 20 minutes of Drogheda).³⁴ INM’s The Argus title is targeted at the northern parts of County Louth, in particular the town of Dundalk ([90-100%] of The Argus’ readership is located in County Louth). Furthermore, the presence of the competing title, the Meath Herald, will act as a competitive constraint on the merged entity in County Meath. On this basis, the Commission considers that the spillover effect from the sale of INM’s titles to County Meath is unlikely to raise significant competition concerns.

Spillover effects between County Meath, County Louth and County Monaghan

41. While neither of the parties has a strong presence in County Monaghan, each of INM’s The Argus title and CMNL’s The Anglo Celt title make sales in County Monaghan. INM’s The Argus title sold [...] copies and CMNL’s The Anglo Celt title sold approximately [...] copies in County Monaghan on 7 September 2016. Given the presence of the competing title, the Northern Standard, in County Monaghan, the presence of a number of

³² Provided by the parties.

³³ Sales information is a sample taken on 7 September 2016, provided by the parties.

³⁴ Provided by Mediaforce Ireland Limited.



regional/local newspapers from Northern Ireland (for example, Ulster Gazette and Armagh Standard) and the minimal circulation of the parties' titles to County Monaghan, the Commission considers that the spillover effect from the sale of the parties' titles to County Monaghan is unlikely to raise significant competition concerns.

Conclusion on Local/Regional Newspaper Publishing – Readership

42. In light of the above, and with the exception of some spillover areas, the Commission considers that the proposed transaction does not give rise to horizontal overlaps in different local/regional areas for the publication of local/regional newspapers based on readership. Furthermore, for those areas in which spillover effects occur, the Commission is of the view that the levels of spillover sales are minor and the proposed transaction does not raise competition concerns with respect to the publication of local/regional newspapers based on readership.

Local/Regional Newspaper Publishing - Advertising

43. Advertising revenue is vitally important for all forms of media. It accounts for between one-third to two-thirds of total revenue for paid-for newspapers and is particularly critical for free newspapers since it accounts for 100% of earned revenue. Advertisers place advertising with a specific newspaper title on the basis of several factors, including:
- The circulation and readership figures for the newspaper title;
 - The geographic area in which the newspaper title is circulated; and
 - The demographic makeup of the newspaper title's readership.
44. The parties argue that the proposed transaction does not raise competition concerns with regard to the placement of advertising in local/regional newspaper titles, on the basis that there is no horizontal overlap between the parties' local/regional newspaper titles.



45. The parties further submit that approximately [80-90%] of local/regional titles' advertising comes from local advertisers, while the other [10-20%] comes directly from national or sub-national companies or via large nationally-based advertising agencies.³⁵

Local/Regional advertising campaigns

46. For the most part, local/regional advertising is targeted at newspaper readers within the specific distribution area of a particular newspaper title, since it is those readers who will be interested in the local/regional content carried by the newspaper in question (e.g. local restaurant advertising and family notices/announcements, etc.). Following the same logic outlined above with regard to readership, the Commission considers that there is no horizontal overlap between the parties' activities in relation to the supply of space in their newspaper titles for local/regional advertising campaigns on the basis that none of CMNL's and INM's local/regional newspapers titles have the same distribution areas and that any 'spillover' sales by the parties into the distribution areas of each other's newspaper titles are minimal.

National advertising campaigns

47. National advertising campaigns are usually placed in local/regional newspaper titles through an advertising agency. These agencies represent national advertisers such as large banks, telecommunication companies, central and local government, etc. Government notices are the single largest advertising customer for local/regional newspaper titles in the State. Advertising agencies can place national advertising on behalf of their clients through Mediaforce Ireland Limited³⁶ ("Mediaforce") or directly with local/regional newspaper titles.
48. In response to the Commission's questionnaire to third parties, some newspaper titles that potentially compete with the parties, raised the following concerns regarding advertising in local/regional newspaper titles:

³⁵ INM submits that around [80-90%] of the parties' sales of regional/local newspaper advertising are to local advertisers carrying on business in the local areas served by the newspapers. CMNL submitted that approximately [80-90%] of CMNL's regional/local newspaper advertising sales are to local advertisers carrying on business in the local areas served by the newspapers.

³⁶ Mediaforce is a central booking facility for the placement of advertising by national advertisers (through advertising agencies) in local/regional titles.



- The proposed transaction will give INM total dominance regarding access by national advertisers to local newspapers. It will enable INM to further increase the already exorbitant rates charged to public bodies for statutory notices.
 - Competing titles will not be able to match the cross-selling of advertising and “special deals” that the merged entity will be able to provide and this will give INM complete control of newspaper advertising, in particular access to advertising agencies.
49. In response to the above concerns raised by third parties, the parties argued that the proposed transaction would not enhance INM’s ability to bundle advertising on different local/regional titles together and/or advertising on national titles with local titles, and thereby trigger a change to INM’s conduct. The parties argue that INM’s theoretical ability to leverage its position will not change materially on the basis that:
- The increase in the total readership which INM can offer as a result of this transaction is moderate;
 - CMNL titles are not a ‘must have’ from a national advertiser’s perspective.
50. The Commission conducted a series of in-depth interviews with market players (such as Mediaforce and a number of the larger advertising agencies) to enquire about the potential effect of the proposed transaction in relation to national advertising placement in local/regional newspaper titles.
51. Those interviews confirmed the Commission’s preliminary view that, where the national advertiser’s target demographic is local or regional, it is not cost-effective for that advertiser to place the advertisement in a national newspaper title. Therefore, it does not appear to be economic to bundle national titles with regional titles when taking out national advertisements. There is, according to advertisers, too much “wastage”. For example, if a large supermarket chain wants to advertise a regional promotion or the opening of a new local branch, it will have no incentive to advertise this information outside the catchment area of that promotion/branch. Thus, the supermarket chain will not have any incentive to place an advertisement in a national newspaper which will not attract sufficient additional footfall compared to placing an advertisement in the local/regional newspaper titles circulated in that catchment area.



52. The Commission understands that, although it may be possible in theory to bundle national advertising across a number of local/regional newspaper titles (if they are under common ownership), it does not arise in practice, because the national advertiser usually only wants to hit a targeted local/regional demographic. Thus, for example, if a supermarket chain decides to promote its stores in Kerry by placing advertisements in INM's Kerry-based local/regional newspaper titles, it is not likely to also purchase advertising in INM's Wexford newspaper titles. INM argues that it does not have sufficient market power to force the supermarket chain to place the advertisements in both its Kerry and its Wexford titles. The Commission understands that this is because the market for advertising is demand-driven, with the negotiating power resting with the advertisers, for the following reasons:

- Advertising agencies and/or central booking agents such as Mediaforce provide their clients with options that allow their client to reach the required target audience within the budget prescribed by the client. Central booking agencies and/or advertising agencies do not set either the budget or the target audience for the advertisement in question.
- The most important factor when considering whether to place advertising in a local/regional newspaper title is the circulation and the demographic of the readers of the newspaper; the owner of the local/regional newspaper titles is not a relevant factor for advertisers.

Conclusion on Local/Regional Newspaper Publishing - Readership

53. In light of the above, the Commission considers that the proposed transaction is unlikely to give rise to an SLC in the market for publishing local/regional newspapers based on supply of advertising space and access to advertisers in the State.

Prepress services to local/regional publishers

54. The parties submit that there is no horizontal overlap in the area of the supply of prepress services, on the basis that INM has never and, post-transaction, will not provide prepress services to third parties.



55. CMNL currently provides prepress services to its local/regional newspapers and to certain third party titles. While INM has the ability to prepress editorial content in-house, it has never provided prepress services to third parties.³⁷ Furthermore, INM has confirmed [...].
56. The Commission considers that, while there is a potential overlap in this market, it is unlikely there will be any actual overlap in practice given that INM does not, and submits that following the implementation of the proposed transaction it will not, supply prepress services to third parties.
57. Furthermore, the Commission understands that entry into the prepress market and/or expansion by current providers of prepress services is relatively easy. Prepress services to local/regional newspapers are predominantly offered by small design teams or individual graphic designers. These services can be provided remotely and there are numerous international suppliers.
58. In light of the above, the Commission considers that the proposed transaction is unlikely to give rise to an SLC in the market for the supply of prepress services to local/regional newspapers in the State.

Newspaper printing to local/regional publishers

59. The notification states that *“CMNL is not active in the printing of newspapers in the island of Ireland, and as a result cannot be said to be a competitor of INM’s printing operations and has no market share”*.³⁸
60. Celtic Media Print Limited currently prints CMNL’s newspapers and other third party titles. As mentioned in paragraph 9, although Celtic Media Limited has transferred its local/regional titles and prepress services into CMNL for the purpose of the proposed transaction, its shareholders also continue to own Celtic Media Limited which directly owns Celtic Media Print Limited³⁹.

³⁷ This information was provided to the Commission in a letter from INM to the Commission dated 28 September 2016.

³⁸ Page 9 of the notification.

³⁹ The parties are currently negotiating a separate “put and call option” agreement in respect of Celtic Media Print Limited.



61. Although, technically, there is no material horizontal overlap between the parties' activities in the area of newspaper printing, the Commission was concerned that the cross-ownership between CMNL and Celtic Media Print Limited may affect competition in the newspaper printing market. In particular, information provided in the notification shows that Mr Frank Mulrennan, who is the CEO of Celtic Print Limited, is also one of the major shareholders in each of Celtic Media and CMNL and is likely to acquire an executive position within INM post-transaction.
62. In light of the Commission's concerns, the parties provided reassurances to the Commission to the effect that:
- [...];
 - [...].
63. In light of the reassurances obtained from INM regarding Mr Mulrennan's future role, the Commission is satisfied that the cross-ownership between CMNL and Celtic Media Print Limited will not affect competition in the newspaper printing market in the State.

Distribution of local/regional titles

64. CMNL does not provide any distribution services. Therefore, there is no horizontal overlap between CMNL and INM in this market.

Vertical Relationship

Local/Regional Newspaper Publishing - Readership & Advertising

65. There is no vertical relationship between the parties in relation to the publication of INM and CMNL's local/regional newspaper titles.

Prepress services to local/regional publishers

66. The parties argue that there is no vertical relationship between the parties in relation to the supply of prepress activities. Although CMNL is active in the supply of prepress



services to third parties, INM cannot be considered a potential customer of CMNL as INM's prepress needs are met in-house at its Citywest facility.⁴⁰

67. However, on the basis of information provided in the notification, the Commission considers that there may be a potential vertical relationship between the parties in the area of prepress services, whereby the CMNL prepress team could provide prepress services to INM's local/regional newspaper titles.
68. In its response to the Commission's RFI, CMNL submits that "[...]". INM further submits [...]. Therefore, post transaction, the Commission considers that any potential vertical relationship between the parties is unlikely to materialise in the short-term.
69. One of the third party submissions received by the Commission suggests that the merged entity may cease to supply prepress services to some of CMNL's current customers who may also be competitors of INM's local/regional newspaper titles.
70. The Commission considers that the merged entity would not have the ability or incentive to foreclose customers in this manner (i.e., by refusing to provide prepress services to the merged entity's potentially competing titles) for the following reasons:
- Entry into the prepress market and/or expansion by current providers of prepress services is relatively easy.
 - Prepress services to local/regional newspapers are predominantly offered by small design teams or individual graphic designers and these services can be provided remotely.
71. Furthermore, CMNL currently provides prepress services to [...] third parties which include [...] regional/local titles and [...]. Internal documentation confirms that most of the CMNL's prepress service agreements with third parties do not expire until [...]⁴¹. Therefore, the Commission considers that it is unlikely that the proposed transaction will have a significant vertical effect in the medium term.

Newspaper printing to local/regional publishers

⁴⁰ Page 10 of the notification.

⁴¹ With the exception of: (i) [...]; (ii) [...].



72. There is no vertical relationship between the parties for printing local/regional newspaper titles. The parties note that there is an agreement between CMNL and Celtic Media Print Limited pursuant to which Celtic Media Print Limited will print CMNL's newspaper titles until [...] (the Commission understands that a three-year duration is industry-standard). Therefore, the proposed transaction would not change this existing vertical relationship between the parties.
73. Further information provided by the parties revealed that [...] printing contracts between Celtic Media Print and its existing clients do not expire until [...]; the remaining [...] clients' contracts are either under negotiation⁴² or rolling on a [...] ⁴³. Responses to the Commission's market enquiries (including questionnaire responses) indicate that the Celtic Media Print Limited's existing customers are not concerned about the proposed transaction.

Distribution of local/regional titles

74. Newsread has distributed CMNL's paid-for newspaper titles since [...]. As discussed in paragraph 7, Newsread is a wholly-owned subsidiary of INM. Newsread is the largest distributor of publications in the State, with Easons Menzies as its main competitor. The parties submit that the current agreement between CMNL and Newsread is for a period [...]. Therefore, the Commission considers that the proposed transaction would not affect Newsread's market position and would not alter the existing relationship between CMNL's titles and INM's Newsread.

Conclusion

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

Ancillary Restraints

76. The parties submit that section 8 of the SPA contains non-compete and non-solicitation restrictions in relation to the proposed transaction [...].

⁴² [...].

⁴³ [...].



77. The Commission considers that these restraints are directly related and necessary to the implementation of the proposed transaction.⁴⁴

⁴⁴In this respect, the CCPC follows the approach adopted by the EU Commission in paragraphs 20 and 26 of its “Commission Notice on restrictions directly related and necessary to concentrations” (2002). For more information see [http://eurlex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005XC0305\(02\)&from=EN](http://eurlex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005XC0305(02)&from=EN)



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 Independent News & Media Holdings (Ireland) Limited, a wholly-owned subsidiary of INM plc, would acquire the entire issued share capital of CMNL 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)⁴⁵ of the Competition Act 2002.

For the Competition and Consumer Protection Commission

Patrick Kenny
Member
Competition and Consumer Protection Commission

⁴⁵ Section 28C(1) of the Competition Act 2002, as inserted by section 74 of the Competition and Consumer Protection Act 2014.