

Observations by the National Union of Journalists

M/16/044 – INM/CMNL

Notification Date: Monday September 5, 2016

Economic sector: Media

Proposed acquisition by Independent News and Media Holdings Limited of CMNL Limited

Introduction:

1. Independent News and Media Holdings and CMNL Limited notified the Consumer and Competition Protection Commission of the proposed acquisition by Independent News and Media Holdings Ltd (INM) of CMNL Limited (Celtic Media Group) on 5/09/2016.
2. The proposed acquisition is a media merger within the meaning of Section 23 of the Act.
3. The National Union of Journalists (NUJ) is the trade union representing journalists engaged by CMNL and by Independent News and Media Holdings Limited. The NUJ represents editorial workers including writers, editors, production journalists, photographers and designers working in the print, broadcasting and online/digital sectors and has a direct interest in the proposed acquisition, having in membership a significant number of employees in the media organisations owned and controlled by both parties to the proposed acquisition.
4. The National Union of Journalists strongly opposes further acquisitions by Independent News and Media Plc in this sector and believes the current application, if granted, will have negative consequences on the media industry on the island of Ireland, serving to re-enforce the dominant position of Independent News & Media

Plc on the Irish media market and granting to the majority shareholder an excessive degree of control and influence on the print, broadcasting and online media in Ireland to such an extent that it is deleterious to the market, undermining competition, damaging employment and crucially acts against the public interest.

5. The acquisition of the titles held by the Celtic Media Group would lead to a substantial lessening of competition within the media publishing and production sector in Ireland.

6. In applying the substantial lessening of competition test (SLC) the Commission must consider the fact that all regional newspaper titles within Independent News & Media Plc operate under the control and direction of INM Regionals.

7. Under the proposed agreement between the applicants the current Chief Executive Officer of CMG Frank Mulrennan would become Managing Director, INM Regionals, with effect from January 2017. There is no pretence that the regional newspapers operate other than as a conglomerate within the regional media sector, with a common management structure.

8. INM regional currently comprises thirteen paid-for weekly regional newspapers published in counties Cork, Kerry, Dublin, Louth, Wexford, Wicklow, Carlow and Sligo. (source: <http://www.inmplc.com/operations/ireland>).

9. If the application is successful there would be 28 regional titles in the group, with additional reach into Westmeath, Cavan, Meath, Mayo and Offaly.

10. It is noted that in the past the Competition Authority has upheld applications from Independent News & Media for the acquisition of newspaper titles on the basis that the company did not have a regional title targeted at the same distribution area (See M/08/003, Acquisition by Independent News and Media Holdings (Ireland) Limited of Champion Publications and Champion Printing Limited, trading as Sligo Champion). The Competition must conduct a thorough investigation and must not allow this determination to act as a precedent.

11. The Commission must take into account the role and function of INM Regional and the aggregated power to sell advertising across titles, placing smaller competition regional groups and smaller newspaper regional newspaper companies at a severe disadvantage.

12. The Commission must give due consideration to the business model operated by Independent News and Media Plc and the emphasis on consolidation and operating synergies. The restructuring of the business model allows cross-selling of advertising between titles within the national newspaper sector. The Commission must have regard for the potential of such developments across the regional newspaper sector and the potential of cross-advertising incentives. Such developments would seriously deplete the revenue streams of smaller media organisations and their existence at risk.

13. The consequences of this business model are best illustrated by INM reproduction rights policy (copyright) under which the company reserves the right to use images and copies to one title across all titles and digital platforms. Thus a photographer who supplies a picture for the Irish Independent may find the photograph supplied

by that newspaper to any other title within the group or elsewhere, without extra payment. In a similar fashion writers can have material supplied for one title, used throughout other group publications without additional payment. This abuse of the dominant position within the market has had grave implications for freelance photographers, in particular and an extension of the “reach” of INM can only worsen the situation.

14. It is noted that the proposed Managing Director of Independent Regionals will retain his involvement in the publishing division of CMG. Thus INM Regionals, through the Managing Director of that division may continue to undertake consultancy work for the Mayo News, Tuam Herald, Cork Independent, Southern Star, Nenagh Guardian, Dundalk Leader, the Galway Independent and the Dublin People Group, as well as the Mirror and the Racing Post. The Commission must consider if this involvement places INM Regionals at a competitive advantage in seeking to acquire further titles and contracts within the regional sector.

15. The context for these concerns is the historic concern at the concentration of ownership within the regional newspaper sector by a small group of owners. It is worth noting that the MERGERS, TAKE-OVERS AND MONOPOLIES (NEWSPAPERS) ORDER, 1979 was introduced by Mr Desmond O’Malley, Minister for Industry, Commerce and Energy in response to the expansion of Independent Newspapers into the regional newspaper market.

16. Speaking in Dáil Eireann on 16 February 1995 Deputy O’Malley expressed concern at the influence of Independent Newspapers on the media landscape in Ireland.

He said: "It is patently undesirable that in this country such dominance should be allowed in the major organs of printed public opinion and in news gathering. The concentration or dominance is not just confined to editorial power, it also extends to the commercial power that can be wielded through special advertising deals that put the few remaining competitors of the Independent Group at an enormous disadvantage." He added "The dangers inherent in concentration of ownership in newspapers was recognised by me as far back as 1978 when, after the passing of the Mergers, Take-overs and Monopolies (Control) Act of that year, I made an order under the appropriate section applying the provisions of the Act to all transactions in newspapers and magazines in Ireland, [830] even if they fell below the threshold that was appropriate for notification. I felt it necessary to do this because of my particular concern about the provincial market where in that year the Independent Group owned 16 titles, apart from its national titles. The order prevented it from acquiring any other provincial titles. If it had not been made, I have no doubt that Independent Newspapers would now own most of the provincial newspapers and would have closed many of them."

17. The Commission on the Newspaper Industry (CNI, 1996) chaired by Mr Justice Thomas Finlay, was established to review the media industry after the collapse of the Irish Press group in May 1995. The Commission reported that it was "satisfied that there is in the industry generally a sufficient plurality of ownership and of title to maintain an adequate diversity of editorial viewpoint and of cultural content." However it warned that "any further reduction of titles or increase in concentration or ownership in the indigenous newspaper industry could severely curtail the diversity requisite to maintain a vigorous democracy." (CNI; 30).

18. It is worth noting that The Competition Authority (1992) advised against Independent Newspapers increasing its shareholding in the Tribune Group from 29.99% to a possible 53.09%. It also advised in 1995 against the purchase by Independent Newspapers of a 24.9% shareholding in the Irish Press plus a loan of £2m because of the anticompetitive aspects of both the 1992 and 1995 transactions.

19. In considering this significant proposed diminution in the diversity of the regional newspaper sector and the consequent strengthening of INM's hold on the Irish media market the Commission should not limit itself to an examination of the regional landscape and must have due regard to the historic concerns, in our view concerns wrongly ignored by the Competition Authority and indeed the Broadcasting Authority of Ireland in the past 10 years.

20. Due regard must be given to the changed nature of the media industry. Online platforms do not recognise geographical borders and the combined digital reach of INM and CMG must be given consideration. Newspaper circulation figures and revenue derived from print advertising alone cannot be used as the sole basis for assessing the competitive consequences of the application. Examination of market share should include readership, listenership, viewership, page impression hits and an indication of the likely corresponding information post-merger and, as noted (22) should capture media organisations owned by the majority shareholder of INM.

21. In applying the substantial lessening of competition test (SLC) the Commission must consider the holdings of Independent News and Media Holdings Limited and have regard to the specific interest

of Mr Denis O'Brien, the owner of Communicorp who has a shareholding of 29pc in Independent News & Media Plc, and who exercises dominant control of the independent commercial radio sector.

22. Details of Mr O'Brien's R1 Notification of Major Interest in Shares may be found on <http://www.inmplc.com>.

23. An objective analysis of the media market in Ireland shows that INM is the dominant player in the media in Ireland, across print and online media in the regional and national newspaper sector.

24. Mr O'Brien exercises dominant control in the independent commercial radio sector and in an examination of the implications for market concentration of the proposed acquisition the Commission must take into consideration the elements of cross ownership, having regard to Communicorp's share of the broadcasting market.

25. The Commission cannot view the application through the narrow prism of regional newspaper ownership but must take into account the entire media landscape.

26. There exists a direct link between Independent News and Media Holdings Limited and Communicorp through the involvement of Mr O'Brien and the role he plays within both companies as principal shareholder.

27. In considering the application the Commission should take into account the ownership of the following by the majority shareholder of INM: **98FM, Newstalk, Today FM, Communicor 1, TXFM, Spin FM**

and **Spin South West**. Due regard should be given to the strength of these multi-media platforms.

28. It should also be noted that as a result of acquisitions in the regional newspaper sector INM has acquired influence in independent commercial radio stations eg the company has nominated a director to **KCLR**.

29. It is worth noting that INM has a significant presence on the island of Ireland and is a significant company in Northern Ireland.

30. In Northern Ireland, the Group owns the *Belfast Telegraph* group. It has two main titles, **The Belfast Telegraph** and **Sunday Life**, and is also the dominant contract printer in Ireland. The group also operates **BelfastTelegraph.co.uk** and what is described as the 'island of Ireland' recruitment portal niJobfinder.co.uk.

31. In considering the application the Commission should take into account:

(a) The business practices of both INM and Communicorp, including the merging of editorial and operational functions.

(b) The creation of an editorial super structure and the creation of an Editor in Chief position at INM with editorial supervisory functions across titles previously autonomous.

There is a fear among regional staff that autonomy will be similarly undermined.

Employment practices and the decision in August 2016 to outsource editorial production operations for the Sunday World, Irish Independent, Herald and Sunday Independent to the United Kingdom cannot be viewed in isolation from this application. News

copy for these titles will be edited by an external agency, PA in Yorkshire, with a loss of employment in the Republic of Ireland. If the application is granted there is a possibility that competition in the sector will be further undermined by an extension of these policies.

32. In examining application in other sectors the Commission is empowered to and does consider the impact on product diversity. The issue of editorial diversity and independence are not separate from the issue of competition and the absence of editorial diversity, through the sharing of editorial resources and the potential merger of offices in the Midland and East, have a direct relevance to staff and to consumers.

33. **Celtic Media Holdings:** The National Union of Journalists welcomed the acquisition of the CMG titles and the safeguarding of 125 jobs at the Celtic Media Group by the Irish management team in June 2012.

The NUJ has co-operated with management in achieving efficiencies within the operation and staff have accepted pay cuts, embraced changes in work practices and are currently in negotiations with management on a collective agreement covering the group.

The proposed acquisition is not necessary to ensure the viability of CMG. The adverse consequences of subsuming this indigenous Irish group into a global conglomerate far outweigh any perceived advantage.

34. The acquisition of CMG by Independent News and Media Holdings, as presently constituted, poses a serious threat to competition within a shrinking market. The ability of small companies to survive would be greatly undermined and the

possibility of new entrants to the print, broadcasting or online sub sectors of the Irish media market rendered even more remote.

35. In view of the foregoing, the NUJ believes that the current application should not be accepted by the Consumer Protection and Competition Commission or the Minister for Communications, Climate Change and Environment.

Séamus Dooley
Irish Secretary
National Union of Journalists
Spencer House
Spencer Row
Dublin 1
16th September 2016

Appendix

- (a) Titles within INM regional structure.
- (b) Titles within Celtic Media Group.
Mapping change: illustrated ownership.
 - (i) Respective group ownership.
 - (ii) Impact of proposed merger.
 - (iii) Combined all island reach of INM Plc
and majority shareholder Denis
O'Brien, Communicorp.
- (c) INM Copyrights Policy



The **ARGUS**

BRAY PEOPLE

The Corkman

Drogheda
Independent

Galway
GUARDIAN

FINGAL
INDEPENDENT

Enniscorthy
GUARDIAN

New Ross
STANDARD

The Sligo Champion

Wicklow
PEOPLE

Wexford
PEOPLE

The Kerryman

Herald.ie



The Anglo-Celt

Meath Chronicle

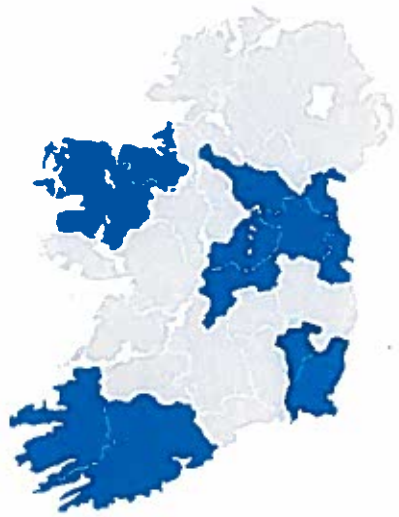
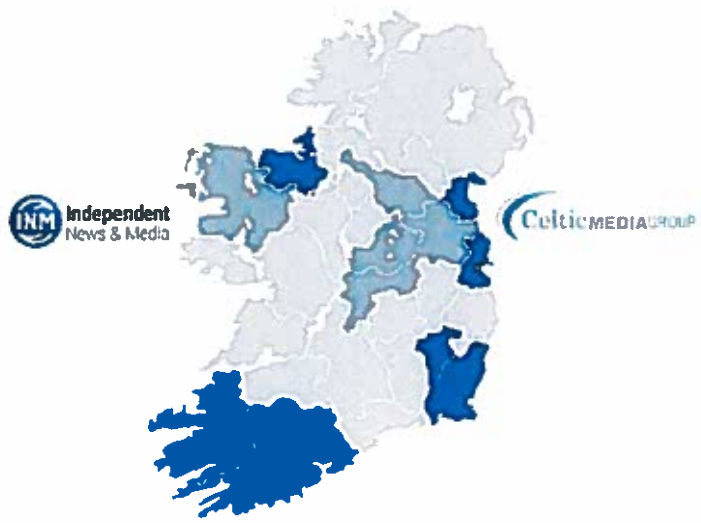
The Connaught
telegraph 

Westmeath
Independent

OFFALY INDEPENDENT

Westmeath Examiner







Belfast Telegraph • Sunday Life
www.belfasttelegraph.co.uk

Belfast Telegraph House, 33 Clarendon Road, Clarendon Dock, Belfast. BT1 3BG Telephone 028 9026 4000

INM NI reproduction ('repro') rights policy

INM NI operates a clear policy in regards to reproduction rights and it is important that all freelance writers, content agencies and submitters of User Generated Content to both our print and digital publications understand and accept this policy.

Copyright of material submitted to INM NI belongs to you as the originator of that content, whether commissioned or not. By submitting material to INM NI you give us the right to make further, licensed use of this content. This includes the right to publish material on other third party hosts, including mobile and tablet apps and websites, with which we have a commercial agreement.

By submitting content to INM for publication you also give us the right to authorise the Newspaper Licensing Agency to distribute or licence the distribution of your submitted content to its customers. You also give us the right to authorise similar reprographic rights to Reprographic Rights Organisations (RROs) anywhere in the world for use in licensed acts and purposes.

The submission of content to INM NI also grants INM NI the right to store your material in any database or archive in any present or future media format.

By submitting content to INM NI you agree to be legally bound by all of the above commitments. If you do not wish to be bound by these commitments, then you should not submit content to INM NI.

New Account Setup Form



Independent News & Media PLC

INIL

General Details	
Name:	
Address:	
Telephone Number:	
Mobile No.:	
Fax No.:	
E-Mail Address:	
Web Address:	
Editor's Contact Details:	
Editor's Name:	
Telephone Number:	
E-Mail Address:	
VAT Details:	
Are you VAT Registered?	
VAT No.:	
Bank Details	
Bank A/C Number:	
Bank Sort Code:	
Account Currency	
Financial Details – for Accounts Payable use only	
Bank detail checked by	
Currency	
Payment Terms:	
County Code	
Service Code	
Supplier Type	
Cost / Expense Code:	
VAT Registration checked by	
Default Tax Code	
Staff Contributor?	
Prepared By / Date:	
Approved By / Date:	
Supplier Code:	

TERMS & CONDITIONS

In addition to publication of the Contributor's material by its titles(s) Independent Newspapers (Ireland) Limited has the right to publish the Contributor's material on its website, in titles owned by Independent News and Media, or to make such material available for publication on an Internet site by such third parties and in such manner as the Company deems suitable. Apart from this exception, it is implicit that the Contributor at all times owns the copyright to the Contributor's copy.

I accept the terms and conditions

