[IE] Media Mergers

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A report of an Advisory Group on media mergers was published on 2 January 2009. The Group was established in March 2008 by the Minister for Enterprise, Trade and Employment to review the current legislative framework regarding the public interest aspects of media mergers.

The Group was asked to examine the relevant provisions of the Competition Act 2002 and, in particular, the "relevant criteria" specified in the Act, by reference to which the Minister currently considers media mergers. The terms of reference of the Group were: to review and to consider the current levels of plurality and diversity in the media sector in Ireland; to examine and review the "relevant criteria" as currently defined in the Act; to examine and consider how the application of the "relevant criteria" should be given effect and by whom; to examine the role of the Minister in assessing the "relevant criteria" from a public interest perspective and the best mechanism to do so; to examine international best practice, including the applicability of models from other countries; and to make recommendations, as appropriate, on the above.

The Group made eleven recommendations. First, there should be a statutory definition of media plurality, referring both to ownership and content (Rec. 1). Secondly, the Competition Act should be amended to incorporate a statutory test to be applied by the Minister in the discharge of his or her function in relation to media mergers (Rec. 2). In addition, the current definition of the "relevant criteria" in Section 23(10) of the Competition Act should be replaced (Rec. 3), indicators on diversity of ownership in the media sector should be regularly collected and published (Rec. 4) and the Competition Authority should no longer have a role in relation to the application of the relevant criteria (Rec. 5). There should also be a separate system of notification of media mergers to the Minister for clearance (Rec. 6); an obligation on parties to a media merger to provide full information, with appropriate penalties for non-compliance (Rec. 7); and Guidelines should be published by the Minister (Rec. 8) on how s/he would generally apply the relevant criteria. The Advisory Group also proposed that in complex cases that require a detailed investigation, a Consultative Panel (three to five people) should be established to advise the Minister on the media merger, with the final decision being made by the Minister (Rec. 9). Finally, the term "media business" should be amended to include online publication of newspapers and periodicals and the broadcasting of certain audiovisual material over the Internet (Rec. 10); and the important role of the media in a democracy should be

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recognised by Statute (Rec. 11).

Section 23 of the Competition Act 2002, available at:

http://www.irishstatutebook.ie/2002/en/act/pub/0014/sec0023.html

Minister for Enterprise, Trade and Employment press release

http://www.entemp.ie/press/2009/20090102.htm

Report of the Advisory Group on Media Mergers

http://www.entemp.ie/publications/commerce/2008/advisorygrouponmediamergersreport2008.pdf

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