[IE] New media merger guidelines

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Following the publication of draft media merger guidelines in December 2014 (see IRIS 2015-2/24), the Minister for Communications, Energy and Natural Resources has now published the final version of the Guidelines on Media Mergers. The guidelines are made under the Competition and Consumer Protection Act 2014, which significantly reforms the law on media mergers in Ireland, and provides that the communications minister may publish guidelines on the operation of the Act (see IRIS 2015-2/23).

The final guidelines "broadly reflect" the draft guidelines, but with a number of significant amendments, including: first, a pre-notification process, where the minister's department facilitates "Pre-notification Meetings", which allows "parties to explore the nature of the transaction, identify what, if any, issues may arise in relation to media plurality as a result of the proposed merger and seek any flexibility around information requirements that may be appropriate given the circumstances".

Second, the guidelines now include a requirement in relation to the Irish language, in that the minister "will also have regard to any impact of the proposed merger on the Irish language; therefore evidence of Irish language content and measures to protect its continuation or plans to introduce more lingual diversity will be considered".

Third, in relation to the advisory panel of experts which may issue an opinion on proposed mergers, the guidelines now provide that these experts must have certain expertise, including that "individuals will be appointed by the Minister on the basis of the applicability of their expertise to the media merger at hand. Any imbalance of expertise with regard to the examination of any particular media merger will be addressed through appointments to the Advisory Panel so that parties to a media merger can be assured of an expert examination of their proposed merger regardless of their individual circumstances".

Finally, a new provision allowing parties to seek "flexibility" in terms of information requirements is introduced, "where there is no demonstrable impairment of the plurality of the media in the State". This is to ensure that the media merger regime "is not an exercise in information gathering", and that "where the public interest can be secured with fewer burdens on the parties involved, it should be".

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"Guidelines on Media Mergers", Department of Communications, Energy and Natural Resources, May 2015

http://www.dcenr.gov.ie/communications/Lists/Publications%20Documents/Finalised%20Guidelines%20on%20Media%20Mergers.pdf

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