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Merger between Celtic Media Newspapers Ltd (CMNL) and Independent News and Media Holdings Ireland Ltd

Submission to the Broadcasting Authority of Ireland



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14 February 2017

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Biographical note

Tom Felle is a lecturer in print and digital journalism at City, University of London. He was previously a lecturer and Head of Journalism at the University of Limerick between 2010 and 2013. He has extensive experience as an academic, media commentator and consultant specialising in 'newsonomics' and digital transition within the newspaper industry. Previously, he was a career journalist and worked for a decade as a reporter covering politics and as a regional correspondent at the Independent (Dublin); as Bureau Chief of the Leb News Agency (Beirut); and as Deputy Editor of the Irish Echo (Sydney). He is co-editor of three books on journalism and media issues and has written more than a dozen peer reviewed journal articles and books chapters on topics including on local newspapers; press regulation; digital journalism; open government, freedom of information and accountable democracy. He was appointed by the Irish Government to sit on a committee examining the Freedom of Information Act in Ireland in 2013; and gave evidence in the House of Commons to a Freedom of Information inquiry in 2015. He holds degrees from the University of Dublin (Trinity College); the University of Limerick and City, University of London.

***The Department of Journalism at City, University of London** is regarded as one of the world's top journalism schools, and is considered the 'Harvard' of journalism schools in the UK. City has been training journalists since the mid-1970s, and has a 5,000-strong alumni network of journalist and editors working worldwide – from editors of many news and current affairs programmes at the BBC, to senior correspondents and editors in national news companies in the UK and worldwide. Graduates of City journalism programmes work at major international news organisations CNN, The Economist, the Guardian, Bloomberg, the Daily Mail and Mail Online, Buzzfeed, ITN, Reuters, AFP, and the BBC among others. City academics are involved in cutting-edge research and innovation into journalism practice and media related matters, and regularly contribute submissions to media issues globally as experts on journalism.*

Introduction

On 5 September 2016, the Competition and Consumer Protection Commission was notified of a proposed media merger between CMNL and Independent News and Media Holdings (Ireland) Limited. The Competition and Consumer Protection Commission is required under the Competition Act 2002 to examine whether the transaction would result in a “substantial lessening of competition”. Both companies operate in four distinct product markets – newspaper publishing (an editorial function – both in print and online - as well as advertising); prepress production (some editorial functions); printing; and distribution. Following an investigation, the CCPC found on 10 November 2016 that there was “very limited overlap” between the activities of the two companies. The CCPC ruled that the transaction “would not lead to a substantial lessening of competition in any of the product markets mentioned above”.

Following the CCPC’s determination, the Minister for Communications was separately required to assess the merger in relation to media plurality. Section 28D(1)(C) of the Competition and Consumer Protection Act 2014 grants the power to the Minister for Communications to refer any proposed media merger to the Broadcasting Authority of Ireland to carry out an examination under Section 28(E) if he or she is concerned that the proposed merger may be “contrary to the public interest in protecting plurality of the media in the State”. On 10 January 2017, the Minister made a determination under Section 28D(1)(C) that the proposed merger *may* be contrary to the public interest and referred the matter for a full media merger examination by the Broadcasting Authority of Ireland. The BAI is tasked with preparing a report to the Minister for Communications recommending under Section 28E(5) whether the merger should be put into effect with or without conditions, or whether the merger should not be put into effect. The determination is made under several criteria, among them consideration of the protection of a “diversity of content” and a “diversity of ownership”. Section 28A(1) defines “diversity of content” – as the “extent to which a broad diversity of views (including a diversity of views on news and current affairs) and diversity of cultural interest prevalent in Irish society is reflected through the activities of media businesses in the State, including their editorial ethos, content and sources.” Secondly, a “diversity of ownership” is defined as the “spread of ownership and control of media

businesses in the State linked to the market share of those businesses as measured by listenership, readership, reach or other appropriate measures”.

In addressing these issues, the BAI has asked that submissions follow the structure outlined in the document ‘Guidelines on Media Mergers’ dated May 2015, addressing eight criteria, namely: 1) ownership and control; 2) market share; 3) governance and editorial management; 4) content; 5) financial; 6) the scale and reach of RTE and TG4; 7) ‘part 6’ issues; and 8) proposed commitments.

This submission to the Broadcasting Authority of Ireland is intended to assist the media merger examination process being conducted by the BAI pursuant to Section 28E of the Competition Authority 2002. It addresses the proposed acquisition of CMNL Ltd (Celtic Media Newspapers) by Independent News and Media Holdings Ireland Ltd – chiefly addressing whether the acquisition is contrary to the public interest. It addresses some of the points in detail, in some cases collectively, and offers recommendations that the BAI may find useful in coming to a determination.

I make this submission for two reasons: firstly, as my brief biography outlines, I have the relevant experience and expertise in these matters to comment with some authority on issues that are directly relevant to the matter at hand. Secondly, because I note with some alarm the continued use by RTE of Dublin-based commentators on almost every issue. This capital city bias has the effect of crystallising a Dublin-based prevailing view in media commentary, and it is extremely unhealthy for democracy. I further note that all the academics who gave evidence to the Oireachtas Committee on Communications on this issue were from Dublin-based media schools. There is a danger that the BAI may be influenced in its decision by a Dublin-centric media and an Oireachtas Committee that took advice from Dublin-centric group of academics. The failure to take account of the views of people from regional Ireland on issues of direct importance to them is unwise. In this submission, I try to take an impartial look at the real issues at state in this merger, and I make recommendations in what I believe are the best interests of the public.

Ownership and control; Market Share

Newspapers

The Irish regional newspaper market was once a plethora of family owned titles, though many owners sold their holdings in the late 1990s and first half of the 2000s in a series of high priced consolidations. Apart from INM and CMNL, other significant owners in the Irish market include Landmark Media (Crosbie family); Iconic Newspapers (Malcolm Denmark), formerly owned by Johnston Press; the Alpha group (Baron Kilclooney); and a plethora of smaller companies and holdings. There are approximately 75 local newspapers published weekly in the State, including paid for and free titles. Of these, INM owns 13, and CMNL owns seven titles. INM's ownership is spread across a number of counties including a number in the South East, In Cork-Kerry, local 'Independent' in titles in North Dublin and Louth, and in Sligo. INM also owns the Irish Independent, the Irish Daily Star, the Sunday World and the Sunday Independent. CMNL own six titles in Cavan, Mayo, Meath and in the Midlands (Offaly and Westmeath) with significant content sharing in the Midlands titles. INM does not own any regional titles in competing regions to CMNL. There is, as the Competition and Consumer Protection Commission has already ruled, no crossover that would impact on economic competition. CMNL owns the following newspapers:

Newspaper	Geographic area covered	Circulation*
Anglo Celt	Cavan	11,911
Connaught Telegraph	Mayo	13,506**
Forum	South Meath – commuter belt towns including Ashbourne, Ratoath, Dunshaughlin and Dunboyne	No circulation available. Title claims reach of 18,000
Meath Chronicle	Co Meath	10,373
Offaly Independent	Co Offaly	Free newspaper. Claims 43,957 distribution monthly.
Westmeath Independent	Westmeath – concentrated in Athlone and some spill into Co Galway and Roscommon	No circulation figure available.
Westmeath Examiner	Westmeath – concentrated in Mullingar.	5,799

**Figures quoted for circulation are taken from the Audit Bureau of Circulation audited results for July to December 2012. Since 2012 a significant number of regional Irish titles are no longer audited by the ABC. While it is impossible to be definitive it is likely that circulation figures for 2017 are between 10 and 15 per cent below the 2012 figures, based on general downward trajectory of print circulation in the Republic of Ireland.*

*** The Connaught Telegraph was not owned by CMNL in 2012 and not subject to ABC. The figure quoted is a Publisher's Statement.*

Independent News and Media Holdings Ireland Ltd is a subsidiary of INM plc, where Denis O'Brien is the largest shareholder, holding circa 29 per cent shareholder interest. As defined by the BAI's guidelines, this gives Mr O'Brien a "significant interest" in INM. In effect, therefore, were the merger to proceed Mr O'Brien would have a "significant interest" in the formerly owned CMNL titles as well. It would also have the effect of increasing the market share of the regional newspaper market owned by INM by approximately 3 per cent.

Radio ownership and control and market share

Communicorp owns significant radio interests in the Republic of Ireland at both local and national level, though none in the specific franchise areas that crossover circulation areas of CMNL titles. The radio stations listed below operate in areas where CMNL publishes titles. Each are all independently owned and operate under licence from the BAI. These stations operate in specific franchise areas within the State, as defined by the BAI, loosely around counties, or multiple counties. While there is significant 'spill' from other stations (Galway Bay FM in South Mayo, and all the Dublin stations in Meath, for example) the stations have significant listenership within their franchise areas. The following stations own licences from the BAI to broadcast in franchise areas that crossover with the proposed merger:

Station	Listenership	% market share (Q4 2106)	Ownership
iRadio (North West)	117,000	21%	-iRadio North East & Midlands Limited
iRadio (North East)	87,000	13%	
Radio Nova (Dublin Commute)	62,000	5%	Bay Broadcasting Ltd, Vienna Investments, Des Whelan, Pat McDonagh
LMFM (Meath)	69,000	29%	News UK
Mid West Radio (Mayo)	59,000	61%	County Mayo Radio Ltd
Midlands 103 (Laois Offaly and Westmeath)	64,000	33%	Tindle Radio Group UK
Northern Sound (Cavan)	49,000	49%	Radio Kerry Holdings

The Newstalk News Network owned by Communicorp offers news and current affairs services to commercial stations in several counties nationwide, including to iRadio, Nova, Mid-West Radio, Northern Sound and Midlands 103. LMFM is serviced by an internal News UK operated service for its Irish-owned radio stations. The use of these services varies during the day, and the week, from copy and actuality, to full bulletins. However, in all cases, the news provided is national news only – such as serious national crime, national politics and public policy, and foreign news. This makes up a small fraction of local news bulletins, which are by their nature dominated by local news.

The national commercial services (Today FM and Newstalk) operated by Communicorp also have market share in these counties. The latest JNLR figures (Q42016) suggest that nationally Today FM and Newstalk have 11 per cent and 10 per cent market share respectively. While it is impossible to say definitively that both stations have this market share in each franchise area, it is rational to posit that these figures are reasonable estimates.

Prepress, distribution and printing

Both companies operate prepress and printing services, though the INM prepress is for the internal use of its own titles, rather than to third parties. There may also be different publishing systems in both companies. Regardless of such technical barriers, there is likely to be consolidation in this business post-merger. This does not, in my view, impact negatively on any editorial function. Neither does it have a negative impact on media diversity (or content or ownership) of media. I will not offer significant commentary on this issue beyond saying that while there has been significant consolidation of printing in the Irish market in recent years, there remains competition for printing with four major printing plants offering printing services to newspapers in Ireland, and prepress serviced offered by at least six competitors. As the print newspaper market declines, market forces may erode competition as less profitable operations inevitably close, but that is inevitable.

Governance and Editorial Management; Content

The governance and editorial management of the titles currently in the CMNL stable rests with senior management, and senior editorial management of CMNL, based on statements made to the Oireachtas Committee on Communications. Day to day management of the titles rests with individual editors. In the event of a merger with INM, it is reasonable to assume that the commercial management of the titles would be centralised by INM. Editorial day to day management would still rest with individual editors. It is likely that already there is some sharing of existing editorial content within the CMNL group, for example around features and specialist articles. It is likely that if a merger were to proceed further sharing of this content would be explored. However as local newspapers have found, there is a limited appetite for generic content, and even when, for example, a feature on topic X is produced centrally it needs to be given a local angle for it to have relevance for a local audience. Issues such as sports content, local government, local notes and local politics will have no crossover appeal and will need to be produced separately by each title.

There is, therefore, limited scope for the sharing of editorial content beyond what might be considered “light” features, entertainment, what many local newspapers called ‘section 2’ content (i.e. gardening features, motoring etc.). This is perfectly normal practice in newspaper groups worldwide and will not impact in any way on the governance or editorial management, or content of the newspapers concerned.

The main issue concerning governance of the title surrounds the coverage of political issues; and opinion article (op eds). Some submissions I suspect will suggest that a diversity of ownership best protects a diversity of news and opinion. Such submissions may fail to understand the true function of a local newspaper: to serve its readers. No editor can afford to alienate significant portions of its readership on any issue, in particular with political coverage. Any local newspaper will, on a weekly basis, receive a stream of correspondence surrounding the coverage of events, in some cases attempts may be made to keep the reporting of court cases from the headlines – in particular drink driving cases, and the coverage of local politics. Local newspaper editors are scrupulously fair when it comes to coverage of issues, and are at all times biased only on the side of their readership. If the readership has a right to know, then the local editor will tell them. It would be a mistake of

titanic gravity for any owner to interfere with the editorial coverage of a local newspaper. The best way to ensure a diversity of views in local newspapers is to ensure the survival of local newspapers. A diversity of content and views can best be protected if a diversity of titles is preserved. In terms of governance, the preservation of local titles should be accompanied by the preservation of local reporters in regional towns, and local editors at the tiller of each local title. The consolidation of back office functions, and sharing of light feature content does not impact negatively on governance. In fact, such consolidation is absolutely necessary, and one that is completely essential to ensure survival of the titles (I expand on this point considerably under 'finance' below so I do not intend to discuss it at length here).

Financial

In this section I propose to discuss the pressures faced by the provincial press holistically, though my comments are directly relevant to the merger. I also, firstly, offer some context by way of a brief overview of the UK market

A note on UK regional consolidation

In the context of this submission it is relevant to take an overview look at the UK regional newspaper market. The UK regional newspaper market, once a myriad of locally owned businesses, has seen significant consolidation in the past two decades. Less than 20 publishers now account for 90 per cent of the UK regional market, with the biggest publishers including Trinity Mirror (more than 150 titles) Johnston Press (more than 160 titles) and Newsquest (more than 300 titles) and Archant (circa 100 titles) accounting for the bulk of the market. Regional newspapers in the UK, because of the size and scale of the market, account for both local dailies and evening titles (such as the Birmingham Mail and the Manchester Evening News) as well as about 1,000 local weeklies. Almost all local dailies serving bigger regional cities have recorded significant circulation declines in the past decade, as have the smaller weeklies serving towns and rural communities. Digitally, titles within the larger groups have been able to implement some successful growth strategies online, delivering mass audiences across a range of titles and sharing back end services. However, for all, digital revenues remain elusive.

Technological advances, the consequences of changing consumer habits, as well as a move away from traditional 'print' news in the past decade have had devastating consequences for local journalism in the UK, with titles closing across the country. Skeleton staffs now operate many local newsrooms, with little time or money to produce public service journalism, or accountability journalism. A number of initiatives are attempting to address the problem including philanthropic funding for hyper-local projects; Google Digital Innovation Fund grants for projects including one on local storytelling using data; among other initiatives. Cognisant of the public service role of regional newsrooms, the BBC have begun to fund 'local democracy' reporters across the UK from its licence fee revenue. The initiative, costing £8m

annually, will see 150 reporters employed by local news organisations, but paid for by the BBC.

A 2010 report from the Commons Culture Media and Sport Committee recommended, *inter alia*, that local journalism (and local newspapers) were worthy of saving because of their important role in local democracy; and because of the fact that printed newspapers provided news and information not provided for elsewhere, either in local radio or via the internet.

The only 'regional' title to buck the trend in the UK has been London's Evening Standard. A failing evening newspaper less than a decade ago, the evening freesheet is now a must-read for commuters on the London Underground, with more than 800,000 circulation recorded in 2016, which has more than doubled since 2004.

Local newspapers in Ireland

Traditionally local newspapers in Ireland have worked on a fairly simple economic model of advertising and circulation to fund themselves. Readers bought newspapers for a variety of reasons, but in the main to be informed, educated and entertained, and the cost of production was in part paid for by the cover price. Running a newspaper was, then, a relatively simple business. Papers made their money from selling ads, and from circulation sales. Journalists produced strong content that readers wanted to read, held local public bodies to account, reported on important issues like courts, as well as entertaining people with fashion, features and tales of Titans battling on the hurling and football fields.

Not so any more, however. Local newspapers in Ireland are in crisis. A perfect storm of changing consumer habits, pressures from digital media and a declining advertising market means that without significant investment, a number of them are in danger of closing within a decade. If local newspapers cannot sustain themselves the consequences for local democracy in Ireland are significant – the accountability role that local newspapers play in local democracy will be lost forever. National newspapers, RTE and local radio do not come close to replicating the sort of accountability role that local newspapers play.

Put plainly, local newspapers have to find a way to pay for themselves in the digital era, but a sustainable economic model has yet to be found. In my view half of all local newspaper titles in Ireland will close within a decade unless a way is found to sustain them. Significantly, what happens to local communities when their local newspapers disappear?

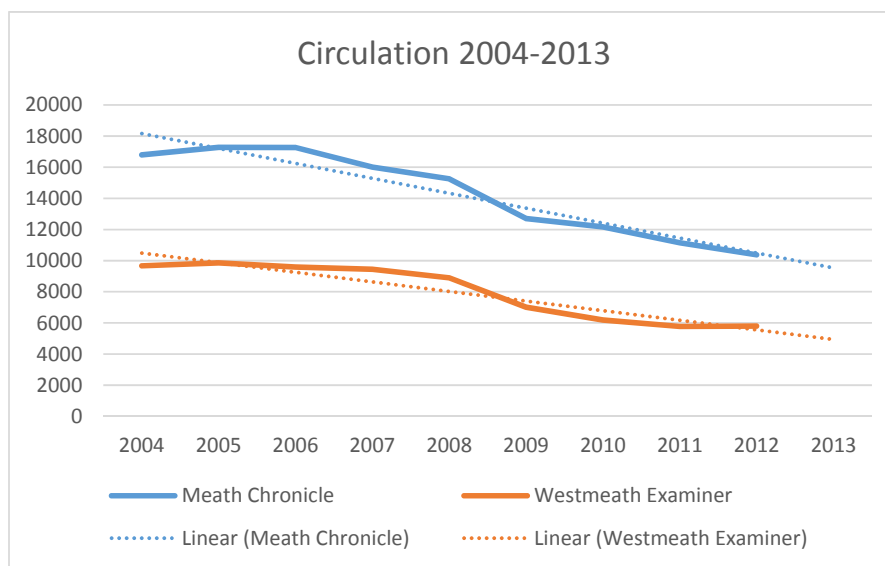
Ireland's provincial press, once owned by a collection of wealthy merchant families, went through a period of significant consolidation in the early 2000s. New printing techniques saw first the proliferation of colour, and later the merging of presses. Ireland's Celtic Tiger economic boom led to the sale of a number of titles for multi-million euro sums, and the consolidation of up to three quarters of the market by major players including Thomas Crosbie Holdings, Dunfermline Press (later called Celtic Media) and Johnston Press. Independent News and Media was largely a non-participant in this consolidation and has only made one local title purchase (Sligo Champion in 2007) in the past four decades. The landscape has changed considerably in the decade since 2007, however. The economic tsunami that hit the Irish economy was felt deeply in regional newspapers, many of whom had failed to modernise. Since 2007 closures and further consolidation has taken place, in particular around printing and distribution, prepress and back office functions. Most regional newspapers in Ireland now operate on tiny editorial and advertising staff, with all other functions either outsourced or consolidated within groups.

Changing readership habits has impacted on both circulation and advertising. Industry figures suggest that print advertising revenue has dropped by almost two thirds (65 per cent) since its height in 2007, and it is continuing to drop. In reality it will never recover. The same industry figures suggest that print circulation has declined by 35 per cent in the same period. This is likely to be an optimistic figure, print circulation is falling and will continue to do so.

In December 2007, weekly circulation of the 46 local paid-for titles in the Republic totalled 475,000 according to Audited Bureau of Circulations data (ABC, 2007). The drop in circulation since then has varied somewhat between titles but on average regional newspaper sales had fallen by about 30% up to December 2012. The worst hit have had circulation drops of more than 50 per cent. No figures are available for regional newspaper circulation since 2012, as

almost all Irish regional newspapers have stopped having their titles' circulation audited by ABC. (While figures for readership are available and are often quoted, readership figures are at best a guesstimate, and wholly unreliable). It is reasonable to suggest that circulation is probably dropping in most local newspapers at a rate of between 3 per cent and 5 per cent per year, with a similar drop in advertising revenue.

The following graph charts the circulation of two CMNL titles, the Westmeath Examiner and Meath Chronicle, between 2004 and 2012, with a linear regression forecast for likely circulation after 2012.



Source: Audit Bureau of Circulation

So, where have readers gone? And where has advertising revenue (to support the production of newspapers) gone? Increasingly both are going online – to Google, Facebook and other large multinational social media brands. Changing readership habits mean that readers are ‘snacking’ rather than reading, and taking news and information from a variety of sources. Readers now expect to get news for free, oblivious to the fact that verified, trusted and balanced news reporting, accountability, public service and investigative journalism costs money to produce. Major ‘elite’ news brands such as News UK and the Financial Times have managed to make paywalls work but for most other brands, paywalls have failed. Local newspapers operating alone cannot offer the scale required to make digital advertising

models financially viable. Advertising agencies and SMEs advertising digitally are focussing on Facebook, Google and other internet giants to promote brands and grow businesses. Smaller advertisers (classified ads) are on Done Deal, eBay or similar sites.

A strong digital strategy is the only hope of sustainable economic survival for any local newspaper. However as regional newspapers have been forced to pair back editorial staff to cut costs, there are less journalists available to produce digital content. And digital innovation requires investment – money these newspapers don't have. In many cases, there is also a significant dearth of skillset, in particular around multimedia reporting; SEO and analytics; social video; and data driven journalism. But the biggest hurdle, even if all other issues were solved, is scale. Local news brands simply do not have the scale on their own to make digital pay enough to fund the production of quality, reliable, trusted, verified and *local* news.

Since 2014, other sectors of the economy have recovered, but local newspapers have not. The hard reality is that local newspapers are now caught between a rock and a hard place. Circulation is in decline; advertising revenue is in serious decline; newsrooms are run with skeleton staff and journalists do not have the skillset required to work in the digital era. These problems are not unique to Ireland, almost all countries are facing similar existential crises in local press, as I discussed above with the UK.

In truth, it is difficult to see how any economic model can sustain local newspapers in a digital era. While global media giants can count on mass scale to fund reporting, by its very nature, the editorial value of local news is its 'localness'. Unlike the widget factory, local news cannot be seen in terms of unit costs, it cannot be scaled up or scaled down. Local news is not a scalable model, but rather it is a public good. It is vital, therefore, that solutions are found to save local newspapers. The consequences for local communities if their local newspapers disappear are profound: less local news will be reported, few courts will be covered, and local government will not be scrutinised. Fundamentally the role of the local reporter and the local newspaper as the watchdog for democracy will disappear.

Other commentators have suggested that the State should fund local newspapers. This is in my view a non-starter. Leaving aside for a moment the tremendous pressures on the public finances already, no newspaper could claim to have credibility if it were to accept funding

directly from government, no matter how altruistic the motives. However, there is merit in the consideration of an independent fund to pay for local public service journalism, along the lines of what the BBC has done in the UK. The issue of reduced or zero VAT rate on local newspapers is worthy of consideration. These are partial solutions, but do not solve the fundamental problem.

Philanthropy has also been suggested – indeed some local newspaper proprietors might suggest somewhat tongue-in-cheek that this model is already in place, as losses mount annually. The difficulty with philanthropic (or crowd sourcing) models are that they are unreliable. It may be a solution for a small minority of local newspapers, but not all.

Other models such as an ‘internet tax’ or a levy on internet giants like Google and Facebook have also been mooted. Charging people to access the internet is fraught with free speech issues, and after the water charges debacle I doubt any government would have the stomach for it. It is also a poorly thought out idea, so I would dismiss it completely. That is not to say that companies such as Google and Facebook could not pay more. In France, for example, Google has established a fund to directly contribute to the survival of local journalism. The establishment of such a fund in Ireland, administered independently but supported by the multinational tech and social media companies, has merit and should be considered.

To a certain extent, however, all of those issues are, at best, papering over the cracks. The best way to protect local newspapers is through consolidation.

The scale and reach of RTE and TG4

RTE is Ireland's national public service broadcaster and is state owned. It is unusual among State owned public service broadcasters worldwide in that it is funded both from a licence fee, and from commercial advertising revenue. RTE is the market leader in both radio and television, with about 34 per cent of the national audience on radio listening to an RTE station (24 per cent RTE Radio One). In the local radio market, listenership figures fluctuate greatly depending on the franchise area, through RTE stations still feature strongly in all franchise areas.

RTE operates in a commercial environment, with competition for viewers on its television stations from the commercial broadcaster TV3; as well as international competition from the retransmission of UK television via satellite and other means. Improvements in technology have meant that companies such as Sky can target Irish audiences with Ireland opt-outs to advertising. This has a significant impact on all Irish television stations in terms of their ability to generate revenue.

All Irish media companies compete for a slice of the advertising pie, and there is only so much to go around. There have been repeated calls from bodies representing the newspaper industry that RTE's ability to generate revenue from advertising should be curbed, so as to benefit other domestic media producers. These calls have been loudest in relation to RTE's digital operations. This is in my view a simplistic analysis and a flawed suggestion. A potential solution for the newspaper industry is no solution if in turn this damaged the ability of the State's public service broadcaster to carry out its role, and to operate effectively. To do so, RTE must also be financially viable so I do not believe that the blunt instrument of curbing RTE's ability to generate revenue is a sensible one. Furthermore, it may benefit providers of television services and other digital media outside the state more than it would necessarily benefit the newspaper industry. I do not believe this would be in any way helpful to protect local journalism.

As I previously mentioned moves by the BBC to invest in the protection of local journalism are interesting and relevant. The BBC is funding 150 local newspaper "public service" reporters. These reporters will work for local newspapers on public service journalism but

their salaries will be paid for by the broadcaster, who have set aside STG£8m to fund the initiative. This practical solution could provide a model for Ireland. Some resource sharing has already taken place, with RTE, for example, making video clips available for use on others' websites. Further resource sharing could in my view also assist the local newspaper market, and local democracy. RTE may also be in a position to offer digital and multimedia skills training, and to fund such training in schools of journalism in the regions, so as to narrow the digital skills gap for local journalists and help them compete digitally. In the interests of protecting a revenue base for public service journalism, revenue sharing models between RTE and local newspapers could also be explored.

‘Part 6’ issues; Proposed commitments

In relation to item 7, “Part 6” issues, I have no comment on this section as I do not believe it is relevant to my submission.

In relation to proposed commitments from INM regarding the merger, I have not had direct sight of a document outlining commitments proposed by INM, but I understand from Oireachtas Committee hearings, and from media reports, that the following is, in brief, a selected précis of what INM propose:

- Commitments to a separate management structure for INM regionals
- Commitments to retain titles in publication
- Commitments to editorial independence
- Commitments to digital investment for INM regional titles

I do not propose to discuss these issues at length here, as these are commitments by INM. I welcome the commitments, and I expand further of some of these issues in my own conclusions and recommendations below.

General commentary and recommendations

Fundamentally the BAI must consider whether the concentration of ownership (and control) of CMNL titles, if they merged with INM, would be detrimental to the public interest. While the merger, if allowed, would increase market share of the regional newspaper market owned by INM, and by extension, Mr O'Brien, there is no reason to believe that this in and of itself would impact negatively on the public interest. Each regional title operates in its own market, and while collectively INM's market share would increase by virtue of ownership and control of the former CMNL titles, circulation or readership within the markets would be unlikely to increase significantly as a result of the merger.

In relation to radio interests, the BAI guidelines on media mergers states that "the more sectors in which an individual or entitle has a significant interest, the lower threshold for it to be considered to have an adverse effect on plurality". Communicorp and by extension Mr O'Brien does not own any of the licenced local broadcasters that operate in this franchise areas. Two Communicorp owned national radio stations – Today FM and Newstalk - broadcast nationally, including to counties where CMNL publish titles. As a common shareholder, therefore, Mr O'Brien can be considered to have interest in the radio market in these franchise areas, though it is not "significant".

Additionally, Newstalk's news service is as previously stated used by a number of these radio stations in the production of news and current affairs programming. Today FM commands 11 per cent of the national market share according to JNLR figures for Q4 2016, while Newstalk's share of the market is 10 per cent. RTE's dominance of the market continues at national level. The proposed merger would increase the readership of INM titles by 3%, according to INM's CEO. However, measuring market share of regional newspapers is somewhat pointless, as they operate as 'islands of excellence' within their own defined markets.

Ownership and control; market share

The issue of ownership of the CMNL group is a central question in this merger. In effect, the question of ownership has been centralised as the most important issue the BAI must consider by virtue of the fact that ownership is a key measure of editorial influence. In this case, INM, a news company that has a significant footprint in the Irish media landscape would own and have the potential to influence editorial policy at the former CMNL titles if the merger proceeds. However, while INM is a market leader in the national newspaper market, they have a much smaller market share in regional news media. I would argue also that viewing the regional newspaper market as one market is a flawed analysis, each county (or area) is its own market. One could not claim, for example, that the *Kerryman's* sales has any impact on *Connacht Tribune* circulation.

The BAI is asked to consider how the public interest is best served, in ensuring a diversity of ownership, and a diversity of content. Essentially, it is asked to decide whether a diversity of ownership safeguards a diversity of content and a diversity of views. I would argue that this is a flawed assumption, and in fact a fundamental misunderstanding of how local newspapers in Ireland operate. Local newspapers operate as islands of excellence and as champions of the "local". Editors cannot risk readership alienation, and any attempt at political bias or the use of newspapers to influence policy at a local level would have calamitous consequences for the title concerned. Editors must be the champion of their readerships, and hold local powerful elites and institutions to account. As the 19th Century writer Finley Peter Dunne wrote, editors must "comfort the afflicted and afflict the comforted". That is a fundamental role of the Irish provincial press, and is worthy of protection.

What needs to be considered is how best to safeguard a diversity of titles, and the protection and survival of local journalism. That local journalism is best protected by local editors working in local newspapers. Consolidation is essential to ensure the survival of local journalism in Ireland. That local journalism is the greatest safeguard against Himalayan incompetence by public bodies and corrupt politicians. Local newspapers champion advocacy on behalf of ordinary citizens and provide a safe space for debate on key issues. Local radio, while important, cannot carry out the same key democratic accountability function.

RECOMMENDATION 1: Allowing the merger is the best way to protect the public interest and ensure a diversity of content in local newspapers.

Quite frankly, local newspapers such as those owned by CMNL may face closure without investment. That would, ironically, have the effect of decreasing diversity of content. If a diversity of titles is not protected, then local newspapers will close down. The section on finance above, which I do intend to repeat here, makes clear that local newspapers are in an existential crisis. Without consolidation and investment in digital, they cannot survive. The public interest in my view is best served by protecting local journalism and ensuring a diversity of titles.

Governance and editorial management; content

In terms of governance, I would suggest that safeguards to assure a diversity of content could be put in place to protect local journalism and the public interest. These safeguards could include the requirement of commitments from INM. I recommend:

RECOMMENDATION 2: INM commit to the continued publication of all paid-for newspapers in the CMNL group, which are important local institutions

RECOMMENDATION 3: INM commit to keep separate editors for each title for a period of years, so as to safeguard a diversity of views

RECOMMENDATION 4: INM commit to keep editorial staff (reporters) in each title in place for a period of years (with some sensible flexibility for restructuring allowable, for example, in the areas of digital redeployment, or the use of shared content)

RECOMMENDATION 5: INM agree to fund the appointment of an external, independent expert to act as an ‘ombudsman’ or referee in the case of allegations against INM for editorial bias.

In relation to recommendation 5 above, I am not suggesting that this person be a full-time appointment; or that it take the place of the Press Ombudsman. Legal issues or factual inaccuracies that fall under scope of the Press Council or the civil courts would not be within the purview of this role. Rather the role would be limited to investigating issues such as complaints of political bias on local issues so as to assure the public interest is served; and a diversity of views and content is protected. I would suggest that a journalism academic from any of the Irish universities might be a suitable candidate to fill the part-time role.

A second related issue is the fact that a key shareholder in INM is Mr Denis O’Brien. Mr O’Brien is also a key shareholder in Communicorp, the owner of Newstalk, and a provider of national news to some of the local stations in the franchise area. This issue deserves careful consideration by the BAI. The BAI must protect the public interest and a shareholder does have a ‘significant interest’ in a news service providing editorial content to local radio stations in the same franchise areas as local newspapers, owned by the CMNL group, which is the subject of a proposed merger by INM, where the same shareholder also holds a significant interest.

However, although there is a common shareholder between INM and the company that provides news to local stations, it is the local radio stations – owned by a range of other private limited companies – that exercises editorial control over the news bulletins, and other current affairs content. Furthermore, all of these radio stations as well as Newstalk’s news service, operate under licence and heavy regulation from the BAI. Additionally, as previously

stated the type of news service provided is national news, which makes up only a percentage of local news bulletins which are by their nature dominated by local news.

RECOMMENDATION 6: In order to protect the public interest, the BAI should consider whether limitations on the type of news content that the Newstalk news service is allowed to provide to radio stations in the franchise area need to be put in place. This might include, for example, the provision of ‘sound byte’ actuality and factual news bulletins but not commentary or other programming.

Finance

In relation to financial matters, while I have spoken significantly and at length about the myriad of issues that threaten the local press in Ireland, in terms of recommendations that are within the scope of the BAI’s investigation, I have relatively little to contribute other than to reiterate that the best way to protect local journalism is to ensure that local newspapers have a stable economic model from which to fund that journalism. In an era when fake news fills the digital sphere, there has never been a more important time to assure the survival of good quality public service and accountability journalism. At point 6, above, in relation to the dominant role played by RTE in the market, I make suggestions that may be worthy of discussion. I make the following recommendations cognisant of the fact that they do not directly relate to the proposed merger, but are nonetheless worthy of discussion in the wider context of supporting local journalism, and assuring it survives and thrives.

RECOMMENDATION 7: The BAI should consider, in discussions with RTE, the Minister for Communications and the Oireachtas Committee on Communications, setting up a fund from the television licence fee to support public service and local democracy in local newsrooms, along similar lines to the BBC initiative.

RECOMMENDATION 8: Cognisant of the key role that local newspapers play in supporting accountability and transparency and assuring local democracy, the BAI should consider, in discussions with RTE, the Minister for Communications and the Oireachtas Committee on Communications, inviting multinational technology and social media companies that make profits from mass circulation of editorial content produced by journalists such as Apple, Google and Facebook, to make contributions annually to a fund to support local journalism.

RECOMMENDATION 8: The BAI should consider, in discussions with RTE, the Minister for Communications and the Oireachtas Committee on Communications, asking RTE to meet with representative of the local newspaper industry to explore innovative ways of content and resource sharing; funding digital and multimedia training for staff; and discussing revenue sharing models to support local democracy.

Conclusion

The BAI is charged with making a recommendation to the Minister as to whether the proposed media merger between CMNL and INM would be contrary to the public interest in protecting the plurality of media. In coming to a determination, the BAI must weigh a great many factors. INM is a significant owner of media in the State. If the merger were to be allowed, a common shareholder, Mr Denis O'Brien, would own a company that produces local print newspapers and national newspapers for sale in the affected counties, though as I have argued local newspapers operate as 'islands of excellence', rather than as a homogenous market. Mr O'Brien is a significant shareholder in Communicorp, which owns or has a majority shareholding in national radio stations broadcasting to these same local communities, and produces newswire copy to independently-owned local radio stations licenced to broadcast in the same area. While on the face of it, this might raise concern, as I have argued it is the locally owned radio stations that exercises editorial control over what is broadcast.

Others have argued that the more concentrated the market is, the more exposed it is to the lack of variety and content. While this on the face of it is a valid argument, it ignores the harsh realities facing local journalism. I would argue that local journalism is worth saving, and the best way to save local journalism is to ensure a diversity of titles are available in the regions to report on issues of interest to local communities, and to assure the future of accountability in local democracy. Due to unstoppable digital transition, the only hope for survival for local newspapers is consolidation.

In conclusion, I believe the best way to protect local journalism is to ensure that local news brands have a sustainable economic model to fund good quality journalism that is produced locally. Therefore I believe that the best way to protect the public interest, in this case, is to allow the merger. However I would suggest that a number of conditions be attached so as to protect both the public interest and to ensure a diversity of content and views in the local press. I thank the BAI for the opportunity to make a submission and I hope that my commentary, and my recommendations, may prove useful.

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