The Proposed Acquisition of Freesports Limited and Premier Media Broadcasting Limited by Viaplay Group UK Limited

Phase 1 Assessment

M_2022_5

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1. Background

1.1 The Proposed Transaction involves the acquisition of FreeSports Limited ("FSL") & Premier Media Broadcasting Limited ("PMBL") (together the "**Target Companies"** and each separately referred to as a **"Target Company"**) by Viaplay Group UK Limited (the "**Purchaser"**) (together the "**Parties"**) (the "**Proposed Transaction"**).[1]

1.2 The Parties are making a joint notification.[2]

The Purchaser:

1.3 The Purchaser is a private limited company incorporated and registered in England and Wales.[3]

1.4 For the purposes of this assessment, Viaplay Group UK Limited (formerly Nordic Entertainment Group UK Limited) shall be considered as the Purchaser and will be referred to as such.[4]

1.5 The structure of the Purchaser is set out in Annex 6 which confirms Viaplay Group AB is the ultimate parent of Viaplay Group UK limited.[5] As the Purchaser is ultimately wholly owned by Viaplay AB, they will not be considered separately in this assessment.

1.6 The Purchaser is a Swedish based entertainment company that provides broadcast television and streaming services in Scandinavia through TV channels and video-streaming services, free TV channels and subscription platforms.[6]

1.7 The Purchaser also acquires and distributes content rights to broadcasters, streamers and distributors. It operates production companies in Europe and sells content to customers worldwide.

[1] M_2022_5 Media Merger Notification Form p.1
[2] M_2022_5 Media Merger Notification Form p.7

[4] M_2022_5 Media Merger Notification Form p.2
[5] Annex 6 – Structure Chart – Viaplay Group
[6] M_2022_5 Media Merger Notification Form p.2

1.8 The Purchaser is not active in any media sector in the State.

The Target (together the **"Target Companies"):**

1.9 PMBL is a private company limited by shares incorporated and registered in Ireland and is owned by the sellers, Setanta Sports Broadcasting Limited (SSBL), Arthur Blake, Richard Sweeney, Richard Webb, Handymain Limited and Patrick Hand.[7]

1.10 PMBL is the sole owner of the entire issued share capital of Premier Media Broadcasting (UK) Limited, a private limited company incorporated and registered in England and Wales ("PMBL UK").[8]

1.11 FSL is a private limited company incorporated and registered in England and Wales.[9] It is owned by the sellers SSBL, Arthur Blake, Richard Sweeney, Richard Webb, Handymain Limited and Patrick Hand.[10]

1.12 The Target Companies are active in the broadcasting sector with five TV channels and over-the-top media offerings, the main focus being local football and rugby. The primary partners of the Target Companies are Sky and Virgin Media, which offer PMBL's Premier Sports channels and Boxnation channel and FSL's FreeSports channel.[11]

1.13 One of the Target Companies, PMBL, is active in the State through the operation of the Boxnation sports channel which had a turnover in the State of c. [redacted] in 2021.[12]

Media Sector

1.14 Media Mergers, as defined in s. 28A of the Competition Act 2002 (as amended) (the **Competition Act**), refers to those undertakings which "*carry on a media business*" in the State. A "*media business*" is defined in the Competition Act as follows:

[7] Annex 7 – Structure Chart - PMBL
[8] M_2022_5 Media Merger Notification Form p.3
[9] M_2022_5 Media Merger Notification Form p.3
[10] Annex 7 – Structure Chart - PMBL
[11] M_2022_5 Media Merger Notification Form p.4
[12] M_2022_5 Media Merger Notification Form p.4

'media business' means the business (whether all or part of an undertaking's business) of—

- the publication of newspapers or periodicals consisting substantially of news and comment on current affairs, including the publication of such newspapers or periodicals on the internet,
- transmitting, re-transmitting or relaying a broadcasting service,
- providing any programme material consisting substantially of news and comment on current affairs to a broadcasting service, or
- making available on an electronic communications network any written, audiovisual or photographic material, consisting substantially of news and comment on current affairs, that is under the editorial control of the undertaking making available such material;

1.15 Furthermore, the current Guidelines on Media Mergers (**the Guidelines**) provide the following supplementary definition of a "*media sector*":

'media sector' means one of the following (and 'media sectors' means one or more of the following collectively):

- Publishing – publication of newspapers or periodicals consisting substantially of news and comment on current affairs and the production of content for same.
- Broadcasting – transmitting, re-transmitting or relaying a broadcast service including radio or television and the production of content for same.
- Internet Media – making available on an electronic communications network any written, audio-visual or photographic material consisting substantially of news and comment on current affairs.

1.16 Furthermore, the Guidelines also note a number of sectors, these being *television, radio, print media, internet, [and] other media interests*, on the basis of which cross-media interests can be considered.

1.17 The Guidelines provide a working method of grouping media business, as defined in the Competition Act, in order to facilitate the examination of notified media mergers. The guidance provided by the Guidelines in this area is not exhaustive and does not preclude the examination of sub-sectors of the media sectors identified or other relevant groupings of media businesses.

The Purchaser:

1.18 As previously stated (par. 1.3) the Purchaser is a company incorporated and registered in England and Wales.

1.19 The Purchaser does not carry on any media business in the State.

1.20 The structure of the Purchaser is set out in Annex 6 to the notification which confirms Viaplay Group AB is the ultimate parent of Viaplay Group UK limited.

The Target:

1.21 As previously stated the Target Companies are owned by the sellers set out in paragraphs 1.9 & 1.11.[13]

1.22 One of the Target Companies, PMBL, carries on a media business in the state.

As stated in the notification form –

"PMBL is incorporated and headquartered in Ireland and has generated turnover in Ireland in its most recent financial year ended 31 of December 2021 of c. [redacted] *from customers living in Ireland who subscribe to one of its sports channels, Boxnation*".

1.23 FSL does not carry on any media business in the state.

[13] M_2022_5 Media Merger Notification Form p.3

2. Application of the Relevant Criteria & s. 28D (2) of the Competition Act

Significant Interests

2.1 In accordance with Section 28L of the Competition Act, the Guidelines provide a characterisation of what constitutes a significant interest in a media business – which it states means "*[h]as sufficient voting, financial or ownership strength within the relevant media business or media businesses to influence directly or indirectly, to an appreciable extent, the direction or policy of the media business or media businesses with regard in particular to news, current affairs or cultural content. This includes sourcing, production, supply or delivery of such content*". This characterisation further includes indicative thresholds as to what constitutes a significant interest in entities that carry on media businesses in the State, including that:

- A holding or voting strength of between 10% and 19% (directly or indirectly) may constitute a significant interest.
- A holding or voting strength of more than 20% (directly or indirectly) will generally constitute a significant interest.

2.2 The definition of "*plurality of the media*" is provided in the Competition Act and includes both diversity of ownership and diversity of content, both of which are also defined in the Act, as reproduced below:

- Diversity of content – "means the extent to which the broad diversity of views (including diversity of views on news and current affairs) and diversity of cultural interests prevalent in Irish society is reflected through the activities of media businesses in the State including their editorial ethos, content and sources".
- Diversity of ownership – "means the spread of ownership and control of media businesses in the State linked to the market share of those media

businesses as measured by listenership, readership, reach or other appropriate measures".

The Purchaser:

2.3 The Purchaser is as previously stated (par. 1.3) a company incorporated and registered in England and Wales.

2.4 The structure of the Purchaser is set out in Annex 6 to the notification form which confirms Viaplay Group AB, formerly known as Nordic Entertainment Group AB, is the ultimate parent of Viaplay Group UK limited. [14]

2.5 Viaplay Group AB is public limited company listed on the Nasdaq Stockholm stock exchange. Viaplay Group AB is an entertainment company headquartered in Stockholm that provides broadcast television and streaming services in Scandinavia through TV channels and video streaming services, free TV channels and subscription platforms.[15]

2.6 The directors of Viaplay Group UK are as follows:

- Adrian Howard Dicker
- Matthew Rufus Hooper
- Kevin Edward White
- Anders Ytrup Jensen[16]

2.7 Viaplay Group AB, as a public limited company, has a vast amount of shareholders, none of which exceed a voting right of greater than 9.2% which would indicate none of the shareholders have a significant interest in accordance with section 28L of the Competition Act.[17]

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[14] Annex 6 – Structure Chart – Viaplay Group
[15] Annex 16 –Financial Report
[16] M_2022_5 Media Merger Notification Form p.9
[17] Viaplay Largest Shareholders

The Target:

2.8 As previously stated the Target Companies are owned by the sellers set out in paragraph 1.9.[18]

2.9 PMBL has 6 shareholders beneficially owning the following percentage shares:

- Arthur Blake (2.5%)
- Richard Sweeney (3%)
- SSBL Limited (76.1%)
- Richard Walsh (4.3%)
- Handymain Limited (12.1%)
- Patrick Hand (2%)[19]

2.10 FSL has 6 shareholders beneficially owning the following percentage shares:

- Arthur Blake (2.5%)
- Richard Sweeney (3%)
- SSBL Limited (76.1%)
- Richard Walsh (4.3%)
- Handymain Limited (12.1%)
- Patrick Hand (2%)[20]

Impact:

2.11 None of the shareholders are deemed to have a significant interest in the Purchaser in accordance with Section 28L of the Competition Act.

[18] M_2022_5 Media Merger Notification Form p.3
[19] Annex 7 – Structure Chart - PMBL
[20] Annex 8 – Structure Chart - FSL

2.12 As can be seen above, SSBL can be said to hold a significant interest in both Target Companies:

(i) Target 1: PMBL - SSBL (76.1%)[21]

(ii) Target 2: FSL - SSBL (76.1%)[22]

and Handymain Limited may be said to hold a significant interest in both Target Companies:

(i) Target 1: PMBL - Handymain (12.1%)[23]

(ii) Target 2: FSL – Handymain (12.1%)[24]

2.13 However, as the pre-merger significant interests in the Target Companies will be extinguished should the Proposed Transaction be put into effect, they will not be considered further in the examination.

2.14 Should the transaction proceed the Purchaser will gain a significant interest in the Target Companies.

2.15 The information above does not, in itself, give rise to concerns regarding issues of significant interest in regard to the Proposed Transaction. It should be noted that significant interest within a media business or a range of media businesses does not necessarily constitute a significant interest in a media sector or across media sectors. While the Guidelines provide a definition of what constitutes a significant interest in a media business, the relevant criteria in the Competition Act specifies the consideration of significant interests in and across media sectors. Therefore, there are two separate concepts of significant interests considered in media merger examinations and in this examination, those in media businesses and those in media sectors.

2.16 Therefore, whether the Purchaser acquiring a significant interest in the Target Companies will be contrary to the public interest in protecting plurality of media in the State will be assessed in accordance with the

[21] Annex 7 – Structure Chart - PMBL
[22] Annex 8 – Structure Chart - FSL
[23] Annex 7 – Structure Chart - PMBL
[24] Annex 8 – Structure Chart - FSL

relevant provisions of the Competition Act and the Guidelines, in terms of the remainder of the indicators in this examination, particularly Relevant Media Assets, Ownership and Control, Market Share, Governance and Editorial Management and the Views of the CCPC

Relevant Media Assets

2.17 A relevant media asset is defined by the Guidelines as "*holdings which constitute a significant interest in an undertaking (other than an undertaking party to the merger) that carries on a media business in a media sector(s) in the State, and which are held either by an undertaking party to the merger or by a natural or legal person with a significant interest in an undertaking party to the merger*".

The Purchaser:

2.18 The Purchaser is not involved any media sector in the State.

The Target:

2.19 As previously stated (par 1.22) one of the Target Companies (PMBL) operates a relevant media asset in the State:

- Boxnation

2.20 At present PMBL is controlled by a number of shareholders. SSBL can be said to hold a significant interest in a relevant media asset in the State. [25]

Impact:

2.21 The Purchaser can be said to have no interest in any media business that operates in the State.

As per the notification form, the parties state that "*the Proposed Transaction does not give rise to any prospect of a lessening of plurality of the media in Ireland on any plausible basis since neither the Buyer nor any company in the Buyer's group carries on any business in Ireland.*" [26]

[25] M_2022_5 Media Merger Notification Form p.8
[26] M_2022_5 Media Merger Notification Form p.9

2.22 Should the Proposed Transaction proceed, the Purchaser will gain a significant interest in the relevant media asset, identified above, of PMBL.

Ownership and Control

Relevant Media Asset:

2.23 SSBL has been identified as the significant interest holder in the relevant media asset of PMBL. Should the Proposed Transaction proceed PMBL will become a subsidiary of the Purchaser, and the significant interest held by the seller will be extinguished.

Regulatory Oversight:

Proposed Changes:

2.24 The Parties have not proposed any changes to the regulatory oversight of the relevant media asset.

Impact:

2.25 The information above does not in itself give rise to concerns regarding issues of ownership and control in regard to the Proposed Transaction. The ownership of the relevant media asset identified above, by the significant interest holder identified above, must be assessed in terms of the market share that the relevant media asset possesses in its respective sector.

Market Share

2.26 The parties state that the Boxnation channel has generated a turnover at year end 2021 of approx. [redacted][27] The parties did not provide a breakdown of the Boxnation channel's market share but, from the turnover figure advised in 2021, it can be concluded that the market share of the Boxnation channel in the State is minimal.

[27] M_2022_5 Media Merger Notification Form p.9

The Views of the Parties:

2.27 The Parties state the following, in relation to market share:

- *"The Proposed Transaction does not give rise to any prospect of a lessening of plurality of the media in Ireland on any plausible basis since neither the Buyer nor any company in the Buyer's group carries on any business in Ireland."*

- *"Furthermore, neither of the Target Companies carry on any business in Ireland, other than PMBL is incorporated and headquartered in Ireland and has generated turnover in Ireland in its most recent financial year ended 31 December 2021 of c.* [redacted] *from customers living in Ireland who subscribe to one of its sports channels, Boxnation[28]."*

Impact:

2.28 Should the Proposed Transaction proceed the interest held by the Purchaser will acquire an interest in the broadcasting sector in the State. However the impact of this acquisition will be minor due to the minimal market share of the relevant media asset. The information above does not raise concerns regarding the issue of market share in regard to the Proposed Transaction as there will be no change in the market share breakdown within any media sector in the State as a result of the Proposed Transaction.

Governance and Editorial Management

2.29 The Board of Directors for PMBL consists of Michael O'Rourke and Gemma O'Rourke, both Irish nationals.

2.30 The Board of Directors for FSL consists of Michael O'Rourke and Richard Sweeney, both Irish nationals.

2.31 The Board of Directors of the Purchaser consists of Adrian Howard Dicker, Matthew Rufus Hooper, Kevin Edward White (all British nationals) and Anders Ytrup Jensen (Swedish national).

[28] M_2022_5 Media Merger Notification Form p.9

Compliance and Ethics:

2.32 The parties did not provide any information regarding compliance and ethics.

Editorial Ethos:

2.33 The parties did not provide any information regarding editorial ethos.

Impact

2.34 The information above does not raise concerns in regard to the Proposed Transaction, as the relevant media asset of the Target Company (PMBL) is not engaged in the provision of news and current affairs content.

Content – Diversity

The Purchaser:

2.35 The Purchaser does not provide any content in the State.

The Target:

2.36 One of the Target Companies (PMBL), operates the Boxnation channel, which is a dedicated boxing subscription television channel. The parties have not indicated that any change to the diversity of content will occur if the Proposed Transaction is put into effect.

The Views of the Parties:

2.37 The parties deem this "Not Applicable" as per their notification form.

Impact

2.38 As Boxnation is a dedicated boxing subscription television channel, and due to the fact that the parties have not indicated that there will be any alteration to the diversity of content provided on that channel, the information above does not raise concerns regarding diversity of content, particularly news and current affairs, in relation to the Proposed Transaction.

Financial

Proposed Transaction Structure:

2.39 The Transaction involves the Purchaser acquiring the entire issued share capital and sole control of the Target Companies via share purchase agreement dated 8 July 2022.[29]

2.40 As consideration for the shares the Purchaser will pay GBP30,000,000. This consideration is subject to adjustment for completion variations in the Target Companies' Cash, Debt and Working Capital. [30]

The Purchaser:

2.41 The Transaction is being funded in cash from the Purchaser's and its ultimate parent's reserves.[31]

2.42 The Purchaser has provided annual accounts for the following:

> "For the financial year ended 31 December 2021, Viaplay Group AB's worldwide turnover was SEK 12,661 million, approximately €1.248 billion."[32]

The Target Companies:

2.43 The Parties have provided the most recent available financial statements for the Target Companies which are for the year ended 31 December 2021.[33]

2.44 The turnover of FreeSports in its most recent financial year ended 31 December 2021 was €1,139,000.

2.45 The turnover of PMBL and its UK subsidiary in its most recent financial year ended 31 December 2021 was €30,005,000.

[29] Annex 16 – Viaplay – FSL PMBL Merger Financial Report p.1
[30] Annex 16 – Viaplay – FSL PMBL Merger Financial Report p.2
[31] Annex 16 – Viaplay – FSL PMBL Merger Financial Report p.2
[32] Annex 16 – Viaplay – FSL PMBL Merger Financial Report p.1
[33] Annex 13 Buyer's Financial Statements

The Views of the Parties:

2.46 The Parties state the following

"The acquisition and the future operations are to be funded by the Buyer and the Buyer's parent through their own resources.

Each of the Target Companies will continue as separate entities. No changes in management or control are currently proposed."[34]

Impact:

2.47 The information above does not appear to raise concerns regarding the finance in relation to the Proposed Transaction as the Proposed Transaction meets the requirements in respect of the financial sustainability of the post-merger business and the transaction is being funded from existing reserves.

Impact on the Irish Language

2.48 There will be no change to the provision of Irish language content in the State.

Impact:

2.49 The information above does not raise concerns regarding the impact on the Irish language in relation to the Proposed Transaction.

[34] Annex 16 – Financial Report p.2

The scale and reach of RTÉ and TG4

2.50 RTÉ is active in the broadcasting and internet media sectors through the provision of the following media assets[35]:

- RTÉ One
- RTÉ2
- RTÉ News Now
- RTÉ Radio 1
- RTÉ 2fm
- RTÉ Lyric fm
- RTÉ Raidió na Gaeltachta
- Digital Radio
- RTÉ Radio Player (on-demand radio service)
- RTÉ.ie
- RTÉ Player
- RTÉ News Now App

2.51 According to RTÉ's 2020 annual report[36], RTÉ's weekly radio listeners were over 2m,the RTÉ player had 67.5m streams, and RTÉ One and RTÉ2 maintained a 20.7% and 4.7% all-day channel share respectively.

2.52 According to the Reuters Report, when asked for a traditional source of news used on more than three days the previous week 20% of respondents gave RTÉ radio news.

2.53 According to the Reuters Report, when asked for an online source of news used on more than three days the previous week 21% of respondents gave RTÉ news online.

2.54 TG4 is active in the broadcasting sector through the provison of its television channel and in the internet media sector through the provision of its website www.TG4.ie.

2.55 According to TG4's 2020 annual report[37] TG4's player views and social media engagement grew 60% and 158% respectively. There was also an increase of 164% in video views on Bloc, TG4's social media platform for younger

[35] RTÉ.ie
[36] https://www.rte.ie/annual-report-2020/business-review/the-year-in-numbers.html
[37] https://d10g0s8nlbd0hm.cloudfront.net/tg4-redesign-2015/wp-content/uploads/2021/10/TG4-Tuarascail-20-B.pdf

audiences and an increase in streams of 34% on Cúla 4 player, TG4's player for children's audiences.

Impact:

2.56 The information above does not raise concerns regarding any detrimental impact to the pluralistic nature of RTÉ or TG4 in relation to the Proposed Transaction. Therefore, it is unlikely that the Proposed Transaction will, in this regard, have an adverse impact on the plurality of the media in the State in terms of the scale and reach of RTÉ and TG4 and therefore the adequacy of the public service broadcasters is not affected by the Proposed Transaction.

The Views of the Competition and Consumer Protection Commission (CCPC)

2.57 The Proposed Transaction was notified to the CCPC on Wednesday, August 10, 2022 and was cleared by the Commission on Thursday, September 1, 2022.[38]

2.58 The CCPC determination, dated 1 September 2022, states that *"The Competition and Consumer Protection Commission has today cleared the proposed transaction whereby Viaplay Group UK Limited would acquire sole control of FreeSports Limited and Premier Broadcasting Limited. The proposed transaction was notified under the Competition Act 2002, as amended, on 10 August 2022.*

The Commission has formed the view that the proposed transaction will not substantially lessen competition in any market for goods or services in the State. The Commission will publish the reasons for its determination on its website no later than 60 working days after the date of the determination and after allowing the parties the opportunity to request that confidential information be removed from the published version."[39]

The Views of the Parties:

2.59 The Parties note the CCPC's determination and included the relevant determination document as an annex to the notification form.

[38] M/22/043 – Viaplay/ FreeSports & Premier Media
[39] M.22.043-Merger-Announcement.pdf (ccpc.ie)

The Overall Views of the Undertakings Involved

2.60 The Parties state the following:

> *"The Proposed Transaction will not adversely affect the plurality of media in the State as neither the Buyer nor any company in the Buyer's group carries on any business in Ireland.*
>
> *Furthermore, neither of the Target Companies carry on any business in Ireland, other than PMBL is incorporated and headquartered in Ireland and has generated turnover in Ireland in its most recent financial year ended 31 December 2021 of c.* [redacted] *from customers living in Ireland who subscribe to one of its sports channels, Boxnation."*[40]

[40] M_2022_5 Media Merger Notification Form p.16

3. Summary of the Application of the Relevant Criteria & s. 28D (2) of the Competition Act

3.1 This examination, in accordance with s. 28D(2) of Part 3A of the Competition Act, was conducted with regard to the following:

- The "*relevant criteria*" as set out in s. 28A of the Competition Act.
- The Guidelines on Media Mergers issued in accordance with s. 28L of the Competition Act.
- The Notification Form and other information provided by the Parties to the proposed media merger.
- The Views of the CCPC in relation to the proposed media merger.
- Relevant research conducted by the BAI under s. 28M of the Competition Act.

3.2 Furthermore, this examination considered the following indicators in the application of the "*relevant criteria*" and with regard to s. 28D(2):

Significant Interest – The information in this section does not appear to raise concerns regarding the issue of significant interests in regard to the Proposed Transaction as the Purchaser is not active in the state.

- **Relevant Media Asset –** The relevant media asset to be considered in this examination is identified in this section. The information in this section does not raise concerns regarding the issue of relevant media assets in regard to the Proposed Transaction.
- **Ownership and Control –** The ownership and control arrangements of the relevant media asset are examined in this section, as are the regulatory regimes in place regarding the relevant media asset.

The information in this section does not in itself give rise to concerns regarding issues of ownership and control in regard to the Proposed Transaction.

- **Market Share –**

  The information in this section does not raise concerns regarding market share in relation to the Proposed Transaction.

- **Governance & Editorial Management –**

  The information in this section does not raise concerns regarding governance and editorial management in relation to the Proposed Transaction.

- **Content – Diversity –** The information in this section does not raise concerns regarding diversity of content available in the State.

- **Financial –** The financial structure of the Proposed Transaction and the financial standings of the Parties are examined. The information in this section does not raise concerns regarding finance in relation to the Proposed Transaction as the Proposed Transaction meets the requirements in respect of the financial sustainability of the post-merger business and the transaction is being funded from existing reserves.

- **Impact on the Irish Language –** The information in this section does not raise concerns regarding Irish language content in relation to the Proposed Transaction.

- **The Scale and Reach of RTÉ and TG4 –**The information in this section does not raise concerns regarding the impact on the adequacy of the public service broadcasters in ensuring the plurality of the media in the State.

- **Views of the CCPC –** The views of the CCPC regarding the competition element of the Proposed Transaction are noted.

- **Views of the Parties –** The views of the Parties are noted and considered throughout this assessment, generally, and specifically in the relevant sections, and where appropriate, responses are provided.

4. Conclusion

4.1 In light of the notification, and other materials supplied by the Parties to the Proposed Transaction as considered with regard to the matters the Minister shall have regard to under s. 28D of the Competition Act, including the '*relevant criteria*' as set out in Part 3A of the Competition Act, the Guidelines published by the Minister under s. 28L of the same Act, as considered by the Department in this assessment, it is recommended that the Proposed Transaction should be permitted to be put into effect.

4.2 The following are the major factors informing the recommendation:

- Should the Proposed Transaction proceed the Purchaser will acquire an interest in the broadcasting sector in the State. However, as the Purchaser is not currently active in any media sector in the State, the Proposed Transaction would not result in a reduction in the diversity of ownership in any media sector in the State.

- The Proposed Transaction meets the requirements in respect of the financial sustainability of the post-merger business and the Purchaser will fund the transaction from its existing reserves.

4.3 In light of the above, it is considered that, on balance, the Proposed Transaction is not contrary to the public interest in protecting media plurality in the State and may be permitted to be put into effect.