



Determination of the Competition Authority, dated 12th December 2005, under Section 21 of the Competition Act, 2002 in respect of Merger Notification No. M/05/072

Proposed acquisition of Joint Control of Setanta Sport Holdings Limited by Benchmark Europe II, L.P.

Introduction

1. On 18th November 2005, the Competition Authority, in accordance with Section 18(1) of the Competition Act, 2002 (“the Act”), was notified on a mandatory basis of the proposed acquisition by Benchmark Europe II, L.P. (“Benchmark II”) of approximately [] of the issued share capital of Setanta Sport Holdings Limited (“Setanta”). The proposed transaction involves a combination of: (a) a purchase of existing shares and (b) a subscription for new shares.
2. The Authority advised the Parties and the Minister that it considered the proposed transaction to be a “media merger” within the meaning of Section 23 of the Act.

The Parties

3. Benchmark II, the acquirer, is a Delaware limited partnership and a venture capital fund. It is managed by Benchmark Management (UK) LLP (“BMUK”), a company authorised and regulated by the UK Financial Services Authority. Benchmark II holds approximately 48.25% of NASN Limited (“NASN”). NASN is a joint venture between Benchmark II and Setanta Media Holdings Limited (“Setanta Media”), a wholly-owned subsidiary of Setanta.¹ It produces and operates a niche television channel dedicated to North American sports that is broadcast in the UK, Ireland and other European countries. Save for NASN, Benchmark II has no interests in any companies in Ireland or Northern Ireland, nor does it hold a controlling interest in any of its investee companies. Benchmark Europe I L.P., the other fund managed by BMUK, holds a controlling interest in the Irish registered company, Alphyra Limited, which provides electronic communications services.
4. Setanta, the target, is a company registered in Ireland that has a number of media interests. The main business of the Setanta group of companies is the broadcasting of televised sporting events, including GAA, soccer, rugby, wrestling and boxing to business and residential customers. Setanta transmits sporting events in Ireland, the UK and the US to commercial venues using a proprietary satellite network. It also operates sports channels over a number of platforms such as Sky Direct-To-Home satellite, the Ntl: and Chorus cable networks. In

¹ See Determination in notification M/05/030.



conjunction with Celtic Football Club and Rangers Football Club, it produces and operates two club TV channels; Celtic TV and Rangers TV.

The Transaction

5. The parties' rationale for the proposed transaction is that Benchmark's investment in Setanta would help grow the company and thereby increase its value.
6. On 11th November 2005, Michael O'Rourke, Leonard Ryan, Richard Brooke, Mark O'Meara,² GSEF Broadcasting Investments Limited, Indigo Holdings Limited, Benchmark II and Setanta entered into a Share Purchase, Subscription and Shareholder's Agreement whereby Benchmark II will invest in Setanta for the issue of new shares. Benchmark II will also acquire a small proportion of each of the existing shares of the shareholders shown in Table 1. This will result in Benchmark owning [] of the issued share capital of Setanta. The shareholdings in Setanta pre and post-transaction are presented in Table 1, below.

Table 1: Pre and Post-transaction Shareholdings in Setanta

Shareholders	Pre-transaction Shares (%)	Post-transaction Shares (%)
Michael O'Rourke	28.9	[]
Leonard Ryan	19.4	[]
Indigo Holdings Limited	6.8	[]
GSEF Broadcasting Investments Limited	32.1	[]
Employee Shareholders	12.8	[]
Benchmark II	-	[]

Source: The Parties' submission.

7. [REDACTED]

Analysis

8. As NASN is already jointly owned by Benchmark II and Setanta and none of Benchmark II's partners, investors, controlling entities or entities within its control is engaged in activities that overlap with those of Setanta's, the proposed transaction does not raise competition concerns.

² Richard Brooke and Mark O'Meara are employees of Setanta.



The Competition Authority
An tÚdarás Iomaíochta

Determination

The Competition Authority, in accordance with Section 21(2) of the Act, has determined that, in its opinion, the result of the proposed acquisition of joint control by Benchmark Europe II, L.P. of Setanta Sport Holdings Limited will not be to substantially lessen competition in markets for goods and services in the State and, accordingly, that the acquisition may be put into effect subject to the provisions of Section 23(9)(a) of the Act.

For the Competition Authority

Edward Henneberry

Member of the Competition Authority