The Competition Authority
An tÚdarás Iomaíochta

DETERMINATION OF MERGER NOTIFICATION M/06/028 – DOUGHTY HANSON/TV3

Section 21 of the Competition Act 2002

Proposed acquisition by Doughty Hanson & Co Limited of CanWest Granada Media Holdings Limited and CanWest Ireland Sales Limited

Dated 14/06/06

Introduction

1. On 23rd May 2006 the Competition Authority, in accordance with Section 18 (1) of the Competition Act, 2002 ("the Act") was notified, on a mandatory basis, of a proposal whereby Doughty Hanson & Co Limited ("Doughty Hanson") through a newly incorporated subsidiary Tullamore Beta Limited, would acquire sole control of CanWest Granada Media Holdings Limited ("CGMH") and CanWest Ireland Sales Limited ("CISL") from CanWest Irish Holdings (Barbados) Inc. ("CanWest"), which owns a 45% shareholding; Granada Media Group Limited ("Granada"), which also owns a 45% shareholding; and a consortium of Irish investors ("the Consortium"), which owns the remaining 10%.

The conclusion of an agreement

2. The notification was made to the Authority on foot of a share purchase agreement ("SPA") made between Tullamore Beta Limited (a subsidiary of Doughty Hanson), certain companies in the CanWest group, including CanWest ("the CanWest companies") and the Consortium. Since one of the vendors, Granada, who, together with CanWest has joint voting rights in CGMH, was not a signatory to the SPA, the question arose as to whether an agreement within the meaning of the Act had been concluded.

3. The SPA is interlinked with a Subscription and Shareholders Agreement entered into in 2001 ("SSA"), which provides that if either CanWest or Granada agrees to sell its shares to a third party, the non-selling shareholder has a period of 90 days from the date of an Offer Notice being issued to it, to notify the selling shareholder that it will buy the shares on the same terms. If the pre-emption rights are not exercised within the specified period the SSA allows the selling shareholder – in this instance CanWest - to require the non-selling shareholder to sell the same proportion of shares to the third party buyer.

4. Where, as in this case, CanWest agrees to sell all its shares, either of two results is possible: (a) either Granada will exercise its pre-emption rights of purchase, in which case the SPA would cease to be legally binding as respects Doughty Hanson and an agreement to purchase the shares by Granada would then become effective (and would, of course, have to be the subject of a new notification) or (b) Granada

will not exercise its pre-emption rights, in which case it will have no option but to sell and sign the SPA which will be enforceable as it stands. In those circumstances, it appears to the Authority that the SPA is a concluded agreement within the meaning of the Act, subject to the usual condition of regulatory clearance and to the non-exercise by Granada of its pre-emption rights.

Media merger

5. Once the Authority was satisfied that a concluded agreement existed, it forwarded a copy of the notification to the Minister and notified the undertakings involved that it considers the merger to be a media merger, as required by Section 23(1) of the Act.

The Undertakings Involved

6. Doughty Hanson is a private equity fund manager that directly or through its subsidiaries organises and administers a number of private equity investment funds on behalf of institutional and private investors. It currently manages six funds:

   (i) Two are real estate funds, which acquire properties principally in Europe: Doughty Hanson & Co European Real Estate Fund and Doughty Hanson & Co European Real Estate Fund II;

   (ii) One is a technology fund, which invests primarily in high tech businesses: Doughty Hanson Technology; and,

   (iii) Three are general private equity funds, which are involved in a variety of activities including solutions for electrical and communications networks, metal cans and aerosols, rotor blades for wind turbines and floor coverings: Doughty Hanson & Co II, Doughty Hanson & Co III and Doughty Hanson & Co IV.

7. CGMH is incorporated in the State. It has two subsidiaries: (i) TV3 Television Network Limited ("TV3") and (ii) TV3 Ireland Productions Limited. TV3 is licensed by the Broadcasting Commission of Ireland to provide a free-to-air national commercial television network in Ireland. TV3 Ireland Productions Limited is a shelf company, which it is proposed to shortly wind up.

8. CISL undertakes the media sales function of TV3. It has the exclusive right to sell TV3's commercial airtime. CISL effectively operates as an integrated division of TV3, sharing TV3 premises, IT, management and other services.

Analysis

9. Neither Doughty Hanson nor its portfolio companies are engaged in any activities that overlap with that of CGMH or CISL in the State. Therefore, the proposed transaction does not give rise to competition concerns.

Determination

The Competition Authority, in accordance with Section 21(2) of the Competition Act, 2002, has determined that, in its opinion, the result of the proposed acquisition by Doughty Hanson & Co Limited of CanWest Granada Media Holdings limited and CanWest Ireland Sales 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 Section 23(9)(a) of the Act.

For the Competition Authority

Dr. Paul K. Gorecki
Member of the Competition Authority