



# DETERMINATION OF MERGER NOTIFICATION M/15/018 - SOUTHBANK MEDIA LIMITED / N-VISION B.V.

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## Section 21 of the Competition Act 2002

### Proposed acquisition by Southbank Media Limited of sole control of N-Vision B.V.

Dated 15 May 2015

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#### Introduction

1. On 7 April 2015, in accordance with sections 18(1)(b) and 18(5) of the Competition Act 2002, as amended<sup>1</sup> (“the Act”), the Competition and Consumer Protection Commission (“Commission”) received a notification of a proposed transaction whereby Scripps Networks Interactive Inc. (“Scripps”), through its wholly owned subsidiary Southbank Media Limited (“Southbank”), would acquire sole control of TVN S.A. (“TVN”) (a Polish media group) through its acquisition of sole control of N-Vision B.V. (“N-Vision”).
2. Since Scripps (i.e. the purchaser), carries on a “media business” within the State (as defined in section 28A(1) of the Act) and the target (i.e. “N-Vision”) will carry on a “media business” elsewhere prior to completion of the transaction (i.e. through its controlling stake in TVN) the proposed transaction constitutes a “media merger” for the purposes of Part 3A of the Act.

#### The Undertakings Involved

##### *Southbank*

3. Southbank<sup>2</sup> is a wholly-owned subsidiary of Scripps, which is a US headquartered provider of television channels and online content. Scripps’ television channels are primarily broadcast in the US and include HGTV, DIY Network, Food Network, Cooking Channel, Travel Channel and Great American Country.
4. In 2011 Scripps acquired a 50 per cent stake in UKTV<sup>3</sup> which is engaged in the development and broadcast of television channels, websites and on-demand services.<sup>4</sup> As a consequence Scripps is active in the broadcasting of non-premium television channels in the State given that a number of the UKTV channels are available to pay-TV subscribers in the State through Sky and UPC.<sup>5</sup>

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<sup>1</sup> It should be noted that the Competition and Consumer Protection Act 2014 made a number of important amendments to the merger review regime set out in the Competition Act 2002.

<sup>2</sup> In 2012 the Competition Authority cleared the acquisition of Travel Channel International by Southbank Media Limited.

<sup>3</sup> The remaining 50 per cent is held by BBC Worldwide Limited, a wholly owned subsidiary of the British Broadcasting Corporation.

<sup>4</sup> UKTV’s channels include: GOLD, Dave, Watch, Alibi, Home, Good Food, Really, Eden, Blighty and Yesterday.

<sup>5</sup> The Food Network UK channel and the Travel Channel are available in the State to Sky subscribers and via free-to-air satellite, while the Travel Channel is also carried by cable platform Magnet Networks Limited.



5. For the financial year ending 31 December 2013, Scripps' worldwide turnover was €2 billion. Scripps' turnover in the State for the same period was €[...].

#### **N-Vision**

6. N-Vision is a private limited company incorporated under the laws of the Netherlands whose only purpose, in the context of the proposed transaction, is to act as a holding company for TVN pending completion of the transaction. N-Vision is currently owned and jointly controlled by ITI Media Group Limited and Groupe Canal+ S.A. The ITI Media Group is a leading Polish media and entertainment group, active in television broadcasting and online. Groupe Canal+ S.A. is a leading pay-TV company in France providing premium-content and themed TV channels. In addition to its activities in France it has pay-TV operations in Africa, Poland and Vietnam and through its subsidiary STUDIOCANAL, is involved in motion picture and TV series production and distribution.
7. Prior to the completion of the proposed transaction, N-Vision will directly and indirectly hold a 52.7 per cent controlling stake in TVN. TVN is a Polish media company, with a portfolio of free-to-air and pay TV channels<sup>6</sup>. TVN's channels are not carried on any Irish retail TV platform (i.e. either pay-TV or free-to-air platforms) and it does not carry advertising targeted at an Irish audience.<sup>7</sup>
8. For the financial year ending 31 December 2014, TVN's worldwide turnover was €381 million. TVN generated €[...]<sup>8</sup> in the State for the same period.

#### **Rationale for the Proposed Transaction**

9. The parties state in the notification:

“The Proposed Transaction accelerates the Purchaser's international expansion and provides it with a footprint in Poland, an important, growing European market where the Purchaser currently has a minimal presence.

For TVN, the Purchaser's experience of developing TV for upscale audiences will help it to further optimize its offering to consumers and advertisers.”

#### **Third Party Submissions**

10. No submission was received.

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<sup>6</sup> These include TVN, TVN 7, TVN Style, TTV, TVN Turbo as well as 24 hour news channel, TVN24, and business news channel TVN24 Biznes i Swiat.

<sup>7</sup> It should be noted however that TVN sells online display advertising on its Polish websites through [...] and it is possible that some of those sales were to Irish companies seeking to reach a Polish audience. However the revenues associated with this activity are [...] amounting to, approximately, [...] in 2014.

<sup>8</sup> As noted in footnote 7 above it is possible that some of the sales made through [...] were to Irish companies seeking to reach a Polish audience. However since TVN does not have the customer information to confirm or exclude this possibility, it has, for the purpose of this merger notification and out of an abundance of caution, allocated all of the revenues associated with the contract with [...] to the State.



### Competitive Analysis

11. Both Scripps and TVN are primarily active in the wholesale supply of TV channels. While a number of Scripps' TV channels are available on Irish retail pay-TV platforms, the TVN channels are not carried on any Irish retail TV platform (whether pay-TV or free-to-air platforms). As such there is no horizontal or vertical overlap between the parties in the State with respect to the wholesale supply of TV channels.
12. Both Scripps and TVN are active online, each operating a number of websites. These websites sell advertising space to customers based both within and outside the State.<sup>9</sup> There is accordingly a horizontal overlap between the parties with respect to online advertising in the State. However given the low volume of their respective sales of online advertising to customers based within the State and the very large number of entities offering online advertising space, this overlap does not raise competition concerns.
13. The Commission therefore considers that the proposed transaction will not substantially lessen competition in any market for goods or services in the State.

### Ancillary Restraints

14. The Share Purchase Agreement between the parties to the proposed transaction contains a number of restrictive obligations. These include non-compete and non-solicitation clauses. None of these restrictive obligations exceeds eighteen months in duration.<sup>10</sup> The Commission considers these restrictions to be directly related and necessary to the implementation of the proposed transaction.

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<sup>9</sup> See footnote 7 above in relation to online advertising sales by TVN to customers in the State. In 2014, Scripps did not have any online advertising customers based in the State. Nor does Scripps have any websites that are aimed at consumers in the State. Scripps has a [...] contract with [...] and the associated revenues amounted to [...] in 2014. . UKTV gets a small amount of pay-per-click revenues from [...] from sponsored links on its websites through a service [...] (revenues in 2014 amounted to approximately €[...]).

<sup>10</sup> The duration of these ancillary restraints does not exceed the maximum duration acceptable to the Commission. In this respect the Commission follows the approach adopted by the EU Commission in paragraph 20 of its "Notice on restrictions directly related and necessary to concentrations" (2005).

See [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005XC0305\(02\)&from=E](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005XC0305(02)&from=E).



## Determination

The Competition and Consumer Protection Commission, in accordance with section 21(2)(a) of the Competition Act 2002, has determined that, in its opinion, the result of the proposed transaction whereby Scripps Networks Interactive Inc. through its wholly owned subsidiary Southbank Media Limited would acquire control of TVN S.A. through its acquisition of sole control of N-Vision B.V. will not be to substantially lessen competition in any market for goods or services in the State, and accordingly, that the acquisition may be put into effect subject to the provisions of section 28C(1)<sup>11</sup> of the Competition Act 2002.

For the Competition and Consumer Protection Commission

Isolde Goggin  
Chairperson  
Competition and Consumer Protection Commission

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<sup>11</sup> Section 28C(1) of the Competition Act 2002, as inserted by section 74 of the Competition and Consumer Protection Act 2014.