



DETERMINATION OF MERGER NOTIFICATION M/21/005 – EIR/EVROS

Section 21 of the Competition Act 2002

Proposed acquisition by Eircom Limited of sole control of Evros Technology Group.

Dated 19 February 2021

Introduction

1. On 13 January 2021, in accordance with section 18(1)(a) of the Competition Act 2002, as amended (the “Act”), the Competition and Consumer Protection Commission (the “Commission”) received a notification of a proposed acquisition whereby Eircom Limited, a wholly-owned subsidiary of Eircom Holdings (Ireland) Limited, would acquire sole control of Hibernia Services Limited, the parent company of Evros Technology Group (“Evros”) (the “Proposed Transaction”).

The Proposed Transaction

2. Evros is currently owned and controlled by the following entities: Auldbean Investments Unlimited Company, Eidolon Investments Unlimited Company, Iverna Investments Unlimited Company, and Realt na Mara Investments Unlimited Company (collectively, the “Sellers”).¹
3. The Proposed Transaction is to be implemented pursuant to a share purchase agreement dated 24 December 2020 between Eircom Limited, the Sellers, Brian Larkin, Robert Murray, John Kennedy and Pamela Farrell (the “SPA”). Pursuant to the SPA, Eircom Limited will acquire the entire issued share capital of Hibernia Services Limited and, thus, sole control of Hibernia Services Limited and Evros.

The Undertakings Involved

The Acquirer – Eircom Limited

4. Eircom Limited is a private limited company which provides fixed-line and mobile communications services in the State. Eircom Limited provides a range of voice, data, broadband and TV services to residential, small business, enterprise and public sector

¹ The notification states that: Auldbean Investments Unlimited Company is owned and controlled by Brian Larkin; Eidolon Investments Unlimited Company is owned and controlled by Robert Murray and Georgina Owen; Iverna Investments Unlimited Company is owned and controlled by John Kennedy; and Realt na Mara Investments Unlimited Company is owned and controlled by Pamela Farrell.



customers. Eircom Limited is a wholly-owned subsidiary of Eircom Holdings (Ireland) Limited, which is, in turn, part of the eir group of companies (“Eir”).

5. Eir has three main business divisions:
 - *Eir retail* – Eir’s retail consumer division offers fixed and mobile telephone services to over 1.5 million customers in the State. It also offers standalone and bundled voice, high speed broadband, TV, sports content and mobile services;
 - *Eir Business* – Eir’s business division generates revenues through the provision of integrated connectivity services² to small, medium, and large private sector enterprises and public sector bodies in the State. Eir Business also provides integrated connectivity services to public sector customers in Northern Ireland, and to Irish companies with subsidiaries or branches in the United Kingdom. Eir Business holds a non-controlling stake of 56% in Tetra Ireland Communications Limited, a company that provides nationwide digital radio services to major emergency and security agencies in the State such as police, prisons, the revenue commissioners and the ambulance service. Eir Business also sells [...];
 - *Open Eir* – Eir’s wholesale division provides wholesale access to Eir’s nationwide fixed network. It offers a range of wholesale services, including interconnect services, bitstream, infrastructure access, local loop unbundling and wholesale leased lines and managed services.
6. Eir, through Eir Business, provides datacentre colocation services in the State, primarily comprising physical infrastructure connectivity services. Eir holds a license for [...] kilowatts (kW) of capacity at a datacentre owned by [...] in [...] Co. Dublin.³ Eir also owns two datacentres in Citywest, Dublin 24 and Crown Alley, Dublin 22, where Eir provides [...] kW and [...] kW of capacity, respectively.
7. For the financial year ending 30 June 2020, Eir’s worldwide turnover was approximately €1.22 billion, of which the vast majority was generated in the State.

The Target – Evros

8. Evros is a group of companies active in the provision of information technology (“IT”) services which is headquartered in the State and has offices in New Zealand. It offers support to its customers in the design, supply, implementation and running of their IT infrastructure. Evros also delivers colocation services and managed and cloud platforms from data centres in Dublin, the United Kingdom and the United States of America.⁴
9. In the State, Evros is active in hardware and software sales, reselling products from vendors such as Dell Technologies, Hewlett Packard Enterprise Ireland Limited, Cisco Systems Inc. and Citrix Systems Inc., to its own customers. Hardware and software sales accounts for approximately [...] % of Evros’ worldwide turnover. Evros provides outsourced IT services, including on-site staff to customers in order to assist in

² These services include fixed-line and mobile telecommunications services.

³ Eir does not own or control [...]. Eir currently has a license agreement with [...] to use [...] kW of the total [...] kW capacity available in the latter’s datacentre in [...] Co. Dublin.

⁴ Cloud platforms manage virtual assets and data, whereas colocation services involve managing physical data.



delivering their IT requirements. Evros also provides a range of services to customers including managed services, cloud services, cyber security services, and managed print services.

10. Evros also provides a limited amount of datacentre colocation services within third party datacentres in the State. Evros provides approximately [...] kilowatt (“kW”) of capacity from datacentres owned by [...] and [...] which are located in [...] and [...], respectively.
11. For the financial year ending 31 December 2019, Evros’ worldwide turnover was approximately €79.3 million, of which €[...] million was generated in the State.

Rationale for the Proposed Transaction

12. The notifying parties state the following in the notification:

“From eir’s perspective, the Proposed Transaction [...]. From the perspective of Evros’s current shareholders, [...]”

Third Party Submissions

13. One third party submission was received by the Commission. The submission raised concerns relating to: (i) competition in the IT services sector in the State; and (ii) the business relationship between Evros and the Commission for Communications Regulation (“ComReg”).
14. The competition concerns raised in the third party submission have been assessed by the Commission as part of its review of the likely competitive impact of the Proposed Transaction. The concerns raised in the third party submission in relation to the business relationship between Evros and ComReg are not competition related, and therefore do not come within the remit of the Commission.⁵

Competitive Assessment

15. There is a horizontal overlap between the business activities of Eir and Evros in the State in relation to the provision of IT services specifically colocation services.
16. There is also a minimal horizontal overlap between Eir and Evros in relation to the provision of managed security services in the State. Eir Business provides a limited standalone security and firewall managed service and internet support services as part of its provision of managed services and enterprise solutions in the State. Eir’s turnover generated from the provision of managed security services in the State for the year ending 30 June 2020 was approximately €[...], which represents less than [...] % of Eir’s total turnover generated in the State during this time period. Evros began providing managed security services in the State in 2019. Evros’ turnover generated from the provision of managed security services in the State for the year ending 31 December

⁵ On 8 January 2021, ComReg published an information notice in relation to the business relationship between Evros and ComReg. This notice is available at: <https://www.comreg.ie/information-for-industry-about-it-services-supplied-to-comreg-by-evros-technology-group/>



2019 was approximately €[...], representing [...] % of Evros' total turnover generated in the State in 2019. In 2020, the estimated share of Eir in the potential market for the provision of managed security services in the State was [0-5]%, while Evros had an estimated share of [0-5]%.⁶ The Commission considers that the horizontal overlap that exists between Eir and Evros in the provision of managed security services in the State is minimal and would not give rise to any competition concerns. Accordingly, this horizontal overlap in relation to managed security services will not be discussed any further in this determination.

17. Finally, there is a potential vertical relationship between Eir and Evros in the State in relation to the provision of IT services.⁷

Horizontal Overlap - The provision of colocation services

Relevant Product Market

18. In previous decisions, the European Commission considered IT outsourcing to be a segment of the IT services market. The European Commission considered that IT outsourcing could be segmented further between, *inter alia*,: (i) public cloud computing services; (ii) infrastructure as a service; (iii) data centre services (including colocation services); and (iv) application outsourcing services. However, the European Commission ultimately left the precise product market definition open.⁸
19. In *M.7678 Equinix/Telecity*, the European Commission defined the relevant product market as the provision of colocation services provided by third party data centres and noted that colocation services constitute a distinct category.⁹ Colocation services include business access, power, cooling, connectivity and security services provided in data centres in which companies house and operate IT equipment that support their business.
20. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case. The Commission has not previously examined the provision of colocation services. In this instance, it is not necessary for the Commission to define the precise relevant product market since its conclusion on the competitive impact of the Proposed Transaction from a horizontal perspective will be unaffected whether the precise relevant product market is defined on a narrow basis (i.e., the market for the provision of colocation services) or broader (i.e., to encompass the market for the provision of all IT services). Therefore, for the purposes of its horizontal competitive assessment, the Commission examined the likely competitive impact of the

⁶ This figure was estimated by the notifying parties based on data published by Analysys Mason Limited.

⁷ There is no current vertical relationship between Eir and Evros in the State in relation to the provision of IT services.

⁸ See paragraph 16 of merger decision *M.7458 IBM/INF Business of Deutsche Lufthansa* which is available at: https://ec.europa.eu/competition/mergers/cases/decisions/m7458_20141215_20310_4043465_EN.pdf

Also, see paragraph 12 of merger decision *M.6921 – IBM Italia/UBIS* which is available at: https://ec.europa.eu/competition/mergers/cases/decisions/m6921_304_2.pdf

⁹ See paragraph 26 of merger decision *M.7578 – Equinix/Telecity* which is available at: https://ec.europa.eu/competition/mergers/cases/decisions/m7678_1392_5.pdf



Proposed Transaction in the narrowest potential product market, being the market for the provision of colocation services.

Relevant Geographical Market

21. In *M.7678 Equinix/Telecity*, the European Commission considered the relevant geographic market for the provision of colocation services to be a metropolitan (“metro”) area which corresponds to a radius of around 50 kilometres from the city centre.¹⁰ The European Commission based its decision on the fact that, from a demand perspective, customers of datacentre colocation services seek very specific metropolitan areas for locating these services and do not consider one metropolitan area to be substitutable with another. Following a market investigation, the European Commission concluded that customers who source data centre services within a metropolitan area typically do so within a radius of no more than 50 kilometres from the city centre.
22. As noted above, Eir and Evros both own or operate datacentres in Dublin only.
23. The Commission does not need to come to a definitive view about the precise relevant geographic market in this instance since its conclusion on the competitive impact of the Proposed Transaction from a horizontal perspective will be unaffected whether the relevant geographic market is defined narrowly (i.e., Dublin only, comprising data centres in the local authorities of South Dublin County Council, Dublin City Council, Fingal County Council, and Dún Laoghaire-Rathdown County Council)¹¹ (the “Dublin local authority areas”) or more broadly (i.e., the State). For the purposes of assessing whether the Proposed Transaction will result in a substantial lessening of competition, the Commission has analysed the horizontal competitive impact of the Proposed Transaction by reference to the narrowest potential geographic market, i.e., the Dublin local authority areas.

Vertical Relationship - The provision of IT services

Relevant product market

24. Recent merger decisions and determinations by the European Commission and the Commission have assessed the potential market for the provision of IT services. In its decision in *M.5301 - CAP GEMINI/ Bas*, the European Commission did not reach a conclusion on the precise relevant product markets and assessed both broader markets (the provision of all IT services) and narrower markets (including the provision of IT

¹⁰ See paragraph 37 of merger decision *M.7578 – Equinix/Telecity* which is available at: https://ec.europa.eu/competition/mergers/cases/decisions/m7678_1392_5.pdf

¹¹ The Commission notes that a hypothetical Dublin metro area could potentially also consist of the areas of Wicklow County Council, Kildare County Council, and Meath County Council in addition to South Dublin County Council, Dublin City Council, Fingal County Council and Dún Laoghaire-Rathdown County Council as these county council areas are all contained within a radius of approximately 50km from Dublin city centre, in line with the decision made by the European Commission in *M.7578 – Equinix/Telecity*. However, the notifying parties informed the Commission that they own or control datacentres in Dublin only and that there are no datacentres located in the area of Wicklow County Council and that no share estimates are available in relation to datacentres located in the area of Kildare County Council.



consulting and the provision of IT management (now referred to as “IT outsourcing”)) in its competitive assessment of that transaction.¹²

25. In *M/19/043 – Arkphire/Trilogy*, the Commission considered that there was a horizontal overlap between the notifying parties in the State in: (a) the provision of IT consultancy services; (b) the provision of IT outsourcing services; and (c) the provision of IT hardware products.
26. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case. In this instance, it is not necessary for the Commission to define the precise relevant product market since its conclusion on the competitive impact of the Proposed Transaction from a vertical perspective will be unaffected whether the relevant market is defined narrowly (i.e., the provision of IT consultancy services, the provision of IT outsourcing services and the provision of IT hardware products) or more broadly (i.e., the provision of all types of IT services).
27. As noted above, there is a potential vertical relationship between Eir and Evros in the State in relation to the provision of IT services. Therefore, for the purposes of assessing whether the Proposed Transaction raises any vertical foreclosure concerns in the State, the Commission examined the competitive impact of the Proposed Transaction in the broad potential market for the provision of IT services.

Relevant Geographical Market

28. The Commission and the European Commission have previously left the precise geographic market definition for the provision of IT services open but have considered geographic market definitions based on the European Economic Area, regional and national markets.¹³ Following the approaches taken by the European Commission and the Commission, respectively, the Commission has analysed the likely competitive impact of the Proposed Transaction from a vertical perspective by reference to the narrowest potential geographic market, i.e., the State.

Conclusion on Market Definition – Horizontal Overlap and Vertical Relationship

29. For the purposes of assessing the horizontal overlap that exists between Eir and Evros in the State, the Commission has assessed the competitive impact of the Proposed Transaction in the potential market for the provision of colocation services in the Dublin local authority areas.
30. In addition, for the purposes of assessing the potential vertical relationship between Eir and Evros, the Commission has assessed the competitive impact of the Proposed Transaction in the potential market for the provision of IT services in the State.

Horizontal Competitive Assessment

¹² See paragraph 16 of merger decision *M.5301 – CAP GEMINI/BAS* which is available at: https://ec.europa.eu/competition/mergers/cases/decisions/m5301_20081013_20310_en.pdf

¹³ See paragraph 28 of merger decision *M.9460 – Capgemini/Altran* which is available at: https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=2_M_9460 Also see paragraph 24 of *M/20/007 – Version 1/Singlepoint* which is available at: <https://www.cpc.ie/business/wp-content/uploads/sites/3/2020/03/M-20-007-Version1-Singlepoint-Determination.pdf>



31. Table 1 below lists the estimated shares of Eir and Evros in the provision of colocation services in the Dublin local authority areas in 2020.

Table 1: The Provision of Colocation Services, Dublin local authority areas, 2020

Supplier	By floor space (m ²)		By IT capacity (kW)	
	m ²	%	kW	%
Eir	[...]	[0-5]%	[...] ¹⁴	[0-5]%
Evros	[...]	[0-5]%	[...]	[0-5]%
Combined	[...]	[0-5]%	[...]	[0-5]%
Others	[...]	[95-100]%	[...]	[95-100]%
Total	90,756	100%	103,400	100%

Source: The Commission, based on information provided by the notifying parties.

32. On the basis of the information available to the Commission during its review of the Proposed Transaction, the Commission considers that the Proposed Transaction raises no horizontal competition concerns in the provision of colocation services in the Dublin local authority areas for the reasons set out below.
33. First, following implementation of the Proposed Transaction, Eir's share of the potential market for the provision of colocation services in the Dublin local authority areas will be less than [0-5]%. In 2020, there was approximately 103,400 kW of IT capacity or 90,756 square metres of floor space available for colocation services in the Dublin local authority areas.¹⁵ In 2020, the estimated share of Eir in the potential market for the provision of colocation services in the Dublin local authority areas was [0-5]% by both IT capacity and floor space, while Evros had an estimated share of [0-5]% by IT capacity and [0-5]% by floor space.
34. Second, Eir will continue to face a competitive constraint from a number of other providers of colocation services in the State following implementation of the Proposed Transaction. These include BT Communications Ireland Limited, Blacknight Internet Solutions Limited, Enet Telecommunications Networks Limited, Servecentric Limited, Three Ireland Limited and Vodafone Ireland Limited.
35. In light of the above, the Commission considers that the Proposed Transaction does not raise any horizontal competition concerns in the potential market for the provision of colocation services in the Dublin local authority areas.

¹⁴ This figure includes the capacity of the datacentres owned by Eir and the capacity used by Eir at the datacentre with which it has a licence agreement [...], as noted above in footnote 2.

¹⁵ This figure was estimated by the notifying parties based on information provided in a report published by Host in Ireland and Bitpower in November 2020 entitled "Ireland's Data Hosting Industry". This report can be accessed at: http://www.bitpower.ie/images/Reports/2020_H2_Report.pdf



Vertical Relationship

36. There is a potential vertical relationship between Eir and Evros in the State in relation to the provision of IT services in the State. Evros supplies a range of IT services to customers in the State, while Eir procures a number of different IT services,¹⁶ which could be supplied by Evros. While Evros currently does not supply IT services to Eir, the notifying parties informed the Commission of the following:

“Evros (as a reseller for [...]) was offered the opportunity to participate in a tender for official support and maintenance [to eir] to include [...] for existing licences alongside other IT service providers. Having considered the submitted tenders on the basis [of] its standard selection criteria, eir has chosen to proceed with Evros’s offer (as a reseller for [...]). The support to be provided by Evros (as a reseller for [...]) to eir will become effective as of [...] at a cost of approximately €[...] (which accounts for [...] of eir’s annual spend on IT services).”¹⁷

37. On the basis of the information available to the Commission during its review of the Proposed Transaction, the Commission considers that the Proposed Transaction raises no vertical competition concerns in the State for the reasons set out below.

Customer Foreclosure Analysis

38. First, the Commission considers that the Proposed Transaction would not give Eir the ability to foreclose providers of IT services in the State, by refusing to purchase IT services from other IT services providers. Given that Eir represents only [...] %¹⁸ of the overall demand for IT services in the State, there will remain a large number of customers in the State to whom competing suppliers of IT services can provide their services following implementation of the Proposed Transaction.

Input Foreclosure Analysis

39. Second, the Commission considers that the Proposed Transaction would not give Eir the ability or incentive to foreclose those who procure IT services in the State.
40. In 2019, Evros’ market share in the potential market for the provision of IT services in the State was [0-5] %.¹⁹ Given this small share, Eir will not have the ability to pursue any form of input foreclosure strategy following implementation of the Proposed Transaction. In addition, there will remain a significant number of competing providers of IT services in the State, including global IT companies (such as, for example, Atos IT Solutions and Services Limited, Capita Plc and DXC Technology), domestic IT service

¹⁶ A number of different companies currently supply Eir with [...].

¹⁷ [...] is a supplier of IT products and services in the State and has a partnership with Evros.

¹⁸ This figure was provided to the Commission by the notifying parties.

¹⁹ These estimates were provided to the Commission by the notifying parties.



providers (such as, for example, Arkphire Group Limited and Asytec Limited) and large consulting firms (such as, for example, Deloitte Unlimited Company).

41. In light of the above, the Commission considers that the Proposed Transaction does not raise any vertical competition concerns in the State.

Conclusion

42. In light of the above, the Commission considers that the Proposed Transaction will not substantially lessen competition in any market for goods or services in the State.

Ancillary Restraints

43. The SPA contains non-compete and non-solicitation obligations on the Sellers at clauses 16.1(a), (b), (c) and (e).²⁰ The duration of these restrictive covenants does not exceed the maximum duration acceptable to the Commission.²¹ The Commission considers these restrictions to be directly related and necessary to the implementation of the Proposed Transaction insofar as they relate to the State.
44. Although the parties did not claim in the notification that clause 16.1(d) of the SPA constitutes an ancillary restraint, the Commission notes that clause 16.1(e) of the SPA contains a reference to clause 16.1(d) of the SPA. For the avoidance of doubt, the Commission has not reached a view as to whether or not clause 16.1(d) of the SPA is directly related and necessary to the implementation of the Proposed Transaction. Clause 16.1(d) of the SPA will not therefore benefit from the protections offered by sections 4(8) and 5(3) of the Act.

²⁰ See clause 16.1(a)-(c) and (e) of the SPA.



Determination

The Competition and Consumer Protection Commission, in accordance with section 21(2)(a) of the Competition Act 2002, as amended, has determined that, in its opinion, the result of the proposed acquisition whereby Eircom Limited, a wholly-owned subsidiary of Eircom Holdings (Ireland) Limited, would acquire sole control of Hibernia Services Limited, the parent company of Evros Technology Group, 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.

For the Competition and Consumer Protection Commission

Brian McHugh
Member
Competition and Consumer Protection Commission