



COMPETITION APPEAL TRIBUNAL

SUMMARY OF APPLICATION UNDER SECTION 120 OF THE ENTERPRISE ACT 2002

Case No: 1328/4/12/19

Pursuant to rules 14 and 26 of the Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648) (the “Rules”), the Registrar gives notice of the receipt on 5 July 2019 of an application under section 120 of the Enterprise Act 2002 (the “Act”) by Lebedev Holdings Limited (“LHL”) and Independent Digital News and Media Limited (“IDNM”) (together the “Applicants”) for review of the Public Interest Intervention Notice given by the Secretary of State for Digital, Culture, Media and Sport (the “Secretary of State”) on 27 June 2019 pursuant to section 42(2) of the Act (the “PIIN”). The Applicants are represented by Bristows LLP, 100 Victoria Embankment, London, EC4Y 0DH (ref: Stephen Smith).

LHL is a holding company and the majority shareholder in Evening Standard Limited, the company which *inter alia* publishes the *Evening Standard* printed newspaper and the *Evening Standard* news website.

IDNM is a digital consumer media business delivering news and entertainment content through its websites *independent.co.uk* and *indy100.com* and its digital mobile application *The Independent Digital Edition*.

According to the application, the PIIN was given in relation to the sale of 30% of the share capital in LHL to International Media Company and 30% of the share capital in IDNM to Scalable Inc (the “Acquisitions”). The PIIN stated that the Secretary of State has reasonable grounds for suspecting that, as a result of the Acquisitions, it was or might be the case that a relevant merger situation had been created as defined in section 23 of the Act.

The PIIN further expressed the Secretary of State’s belief that it was or might be the case that certain public interest considerations specified in section 58(2A) of the Act were relevant to a consideration of the relevant merger situation, namely the need for accurate presentation of the news and free expression of opinion in newspapers. Under and in accordance with sections 44 and 44A of the Act, the Secretary of State required the Competition and Markets Authority (“the CMA”) and Ofcom to investigate and report by midnight at the end of 23 August 2019.

In summary, the Applicants advance two grounds of review:

1. The PIIN was given outside the four-month time limit in section 24 of the Act and so is unlawful; and/or
2. In any event, the four-month time limit in section 24 of the Act applies to the Secretary of State’s power to make a reference to the CMA under section 45 of the Act and expired on 1 July 2019 at the latest. The Secretary of State’s requirement that the CMA and Ofcom investigate and report by midnight at the end of 23 August 2019 is consequently unlawful since it purports to set down a timetable for a public interest intervention process culminating at a time when a reference may no longer lawfully be made.

The Applicants seek the following relief:

1. That the Tribunal quash the PIIN;
2. The costs of making the application.

Any person who considers that he has sufficient interest in the outcome of the proceedings may make a request for permission to intervene in the proceedings, in accordance with rule 16 of the Rules. Pursuant to the Order of the President of the Tribunal abridging time for applying for permission to intervene (made on 9 July 2019), any request for permission to intervene should be sent to the Registrar, The Competition

Appeal Tribunal, Victoria House, Bloomsbury Place, London, WC1A 2EB, so that it is received no later than **4pm on 12 July 2019**.

Further details concerning the procedures of the Competition Appeal Tribunal can be found on its website at www.catribunal.org.uk. Alternatively, the Tribunal Registry can be contacted by post at the above address or by telephone (020 7979 7979) or email (registry@catribunal.org.uk). Please quote the case number mentioned above in all communications.

Charles Dhanowa OBE, QC (Hon)
Registrar

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