



NEWS RELEASE

5th February 2004

The Competition Authority attaches conditions to the purchase of FM 104 by Scottish Radio Holdings

The Competition Authority has today, 5th February, announced its determination that the proposed acquisition of Capital Radio Productions (trading as FM 104) by Scottish Radio Holdings may be put into effect subject to a number of conditions.

As this is a media merger under the Competition Act 2002, the matter is now referred to the Minister for Enterprise, Trade & Employment for independent review. While the Competition Authority must make its determination based on competition issues the Minister may make independent findings based on separate, non-competition, criteria. If the Minister makes no order within 30 days the determination of the Authority is final.

Determination of The Competition Authority (5th February 2004)

The Authority, in accordance with Section 22(3)(c) of the Competition Act, 2002, has determined that the result of the proposed acquisition will not substantially lessen competition in markets for goods and services in the State and may be put into effect subject to the Parties complying with the following conditions:

1. Following completion of the transaction the Parties:
 - (a) shall divest all ownership interests in Newstalk 106 FM to a buyer agreeable to The Competition Authority before 31st December 2004
 - (b) shall not participate on the board of News 106 Limited
 - (c) shall not vote in respect of or participate in the operations of the business of Newstalk 106; and
 - (d) if the ownership interests in Newstalk 106 are not divested by 31st December 2004 ownership interests shall be transferred to a trustee nominated by the parties and subject to the approval of the Authority
2. FM 104 will not renew the current sales agency contract with Beat FM
3. FM 104 will cease any participation in advertising sales as part of Independent Radio Sales (IRS)
4. The Parties shall inform the Authority in writing within ten days of the completion of each of the conditions
5. The acquisition must be put into effect within 12 months from the date of this determination

The Parties involved in the transaction

Scottish Radio Holdings (SRH) is a media group whose activities, through its subsidiaries, include radio broadcasting and publishing in the United Kingdom and the Republic of Ireland. SRH owns and controls Radio Ireland Limited which trades as **Today FM**, the only independent national radio station in Ireland.

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Capital Radio Productions Limited (CRPL) trades as **FM 104**, an independent local station which broadcasts in Dublin.

Both Today FM and FM 104 operate under licences issued by the Broadcasting Commission of Ireland (BCI). The BCI has already cleared this transaction.

Assessment of Mergers and Acquisitions by The Competition Authority

Under the Competition Act 2002 the Authority has been given responsibility for assessing mergers and acquisitions. Before 1st January 2003 this responsibility rested with the Department of Enterprise, Trade & Employment.

Phase 1 (Assessment): On 23rd October 2003 the Competition Authority was notified, on a mandatory basis, of a proposal whereby Scottish Radio Holdings plc (SRH) would acquire the entire issued capital of Capital Radio Productions Limited (CRPL). The Authority advised the Parties and the Minister that it considered the acquisition to be a media merger within the meaning of the Act.

The Authority had one month to make an initial assessment to either:

- (a) allow the transaction be put into effect (because it will not "substantially lessen competition"); or
- (b) carry out a full investigation

Phase 2 (Full Investigation): On 20th November 2003, the Competition Authority determined to carry out a full investigation of the proposed acquisition under Section 22 of the Competition Act 2002.

The Authority had up to 23rd February 2004 to carry out a full investigation into whether the proposed acquisition will or will not "substantially lessen competition".

Determination: Following a full investigation the Competition Authority is required to determine that the merger or acquisition:

- may be put into effect
- may not be put into effect
- may be put into effect subject to conditions specified by the Authority

Role of the Minister: Once the Competition Authority has made its determination the matter is referred to the Minister for Enterprise, Trade & Employment for independent review. Utilising separate, non-competition, criteria the Minister has the authority to order that the merger:

- may be put into effect
- may not be put into effect
- may be put into effect subject to conditions

If the Minister makes no order within 30 days the determination of the Authority is final.

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