



**Determination of the Competition Authority, dated 24 November 2005, under Section 21 of the Competition Act, 2002 in respect of Merger Notification Case No. M/05/069 - Proposed acquisition by Sky Broadband Services Limited of Easynet Group plc.**

**Introduction**

1. On 28<sup>th</sup> October 2005, 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 British Sky Broadcasting Group ("BSkyB"), through Sky Broadband Services Limited ("Sky Broadband"), would acquire the entire issued and to be issued share capital of Easynet Group plc ("Easynet"). It is proposed that after completion of the merger, Easynet will become a wholly-owned subsidiary of Sky Broadband.
2. The Authority advised the Parties and the Minister that it considered the transaction to be a "media merger", within the meaning of Section 23 of the Act.

**The Parties**

3. Sky Broadband, the acquirer, was incorporated on 6 October 2005 for the sole purpose of acquiring Easynet and has no business dealings other than in connection with the acquisition of Easynet. It is a wholly-owned subsidiary of BSKyB.
4. BSKyB is a broadcaster and retailer of television channels in the United Kingdom and Ireland with its headquarters in the United Kingdom.
5. Its main activities in the United Kingdom and in the State are:
  - The creation of television channels and their content;
  - The wholesale and retail distribution of television channels via Direct to Home ("DTH") and Digital Subscriber Line ("DSL");
  - The retail distribution of three of its wholly-owned channels (Sky News, Sky sports News and Sky Three) which are broadcast via Digital terrestrial television ("DTT") in the United Kingdom;
  - The provision of conditional access, access control, electronic programme guide and customer management services to broadcasters and interactive service providers on the DTH platform;
  - The sale of advertising time and sponsorship on BSKyB's wholly-owned channels and on behalf of certain joint venture channels and other channels owned by third parties;
  - The operation of interactive services on the DTH platform; and
  - The provision of fixed-odds betting services.



6. BSKyB also operates as a holding company of a number of BSKyB subsidiaries. BSKyB is listed on the New York and London Stock Exchanges. For the financial year ended 2005, BSKyB's worldwide turnover was in the region of €5-6 billion of which in the region of €170-190 million was derived from BSKyB's operations in Ireland.
7. Easynet, the target, is a pan-European broadband network company, with its headquarters in the United Kingdom. It provides business data communications services and a range of retail broadband and narrowband internet services to customers in the United Kingdom, France, Germany, Belgium, Italy, Switzerland and the Netherlands. Easynet is also listed on the London Stock Exchange. For the financial year ended 2004, Easynet's worldwide turnover was in the region of €200-212 million.
8. In the State and/or on the island of Ireland, Easynet provides only very limited business data communication services, specifically IP Virtual Private Networks (also known as "IP VPN" services). Easynet's business activities in the State and/or on the island of Ireland are made up of the provision of VPN services to less than ten United Kingdom-based customers who have offices in the State and to less than ten customers based in Belfast. For this reason, Easynet does not earn revenue from the provision of its services in the State.

### **The Transaction**

9. The rationale for the transaction is to (a) offer BSKyB's current and potential subscribers, of its pay-tv retail services in the UK, a high speed broadband internet access service and (b) to offer BSKyB's subscribers who already have broadband internet access and for those BSKyB subscribers who currently do not have broadband, an additional choice of broadband access supplier with BSKyB's expertise in marketing, customer management and customer service.
10. BSKyB will be able to benefit from Easynet's know-how and technical expertise in the provision of broadband access while avoiding the significant time delay that an independent start-up would entail.

### **Analysis**

11. The Parties' activities overlap only in the United Kingdom and, even to this extent, the overlap in activities is ancillary to the Parties' main activities – the operation of websites, the provision of website design, hosting and management activities and the sale of on-line advertising/sponsorship. The overlap of activities in question is minimal.
12. The Parties' activities do not overlap in the State. BSKyB is not active in the provision of business data communications services, such as



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VPN, or other retail broadband and narrowband internet services while Easynet does not provide any of the services, listed in paragraph 4 above, in the State. Further, Easynet's activities generally in the State are limited to the provision of services to less than ten customers, based in the United Kingdom, with offices located in the State.

13. The proposed transaction, therefore, 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 BSkyB through Sky Broadband of Easynet 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 the provisions of Section 23(9)(a) of the Act.

**For the Competition Authority**

**Edward Henneberry**

Member of the Competition Authority