

REDBIRD IMI – TMG

**A report to the Secretary of State for
Culture, Media and Sport on the
acquisition by RedBird IMI of Telegraph
Media Group**

11 March 2024

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Anticipated acquisition by RedBird IMI of Telegraph Media Group

Report to the Secretary of State for Culture, Media and Sport on the relevant merger situation and substantial lessening of competition

ME/7082/23

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SUMMARY

1. This advice to the Secretary of State for Culture, Media and Sport (the **Secretary of State**) is in relation to the sale of Telegraph Media Group Limited (**TMG**). TMG produces the national newspapers, The Daily Telegraph and The Sunday Telegraph (and related digital content including websites, apps, podcasts, newsletters and liveblogs). The transaction also involves the acquisition of The Chelsea Magazine Company, which publishes a variety of lifestyle and sporting magazines, and The Spectator (1828) Limited, which publishes the Spectator Magazine. TMG, The Chelsea Magazine Company Limited and The Spectator (1828) Limited are together referred to as the **Target Companies**. This report relates to the proposed acquisition of the Target Companies by RedBird IMI Media Joint Venture LLC (**RedBird IMI**), a joint venture entity established by RedBird Capital Partners [REDACTED] (**RBC**) and International Media Investments Holdings Limited (**IMI**) (the **Merger**).
2. The Competition and Markets Authority (**CMA**) has responsibility for reviewing applicable mergers under the merger control provisions of the Enterprise Act 2002 (**the Act**). In reviewing mergers, the CMA decides whether the merger has caused or may cause a substantial lessening of competition (**SLC**). However, the Act also allows for the Secretary of State to assume responsibility for determining whether or not to refer a merger to the CMA when defined public interest considerations are potentially relevant by issuing a public interest intervention notice. The need for accurate presentation of news and free expression of opinion in newspapers are defined public interest considerations. In these cases, the Secretary of State also takes the final decision on whether the merger operates or may be expected to operate against the public interest, and on any remedies for identified public interest concerns.
3. When the Secretary of State issues a public interest intervention notice, the CMA has certain statutory obligations – it is required to provide advice to the Secretary of State on jurisdictional and competition issues (which must be accepted). The CMA is also required to pass to the Secretary of State a summary of any representations it has received that relate to the public interest matters. Ofcom too has certain statutory obligations – it will advise the Secretary of State on the public interest aspects of the case under section 44A of the Act.
4. On 30 November 2023, the Secretary of State issued a public interest intervention notice of (the **November PIIN**) requiring the CMA and Ofcom to report on the proposed acquisition of TMG by Redbird IMI. In January 2024, the acquiring companies involved made changes to the corporate structure of the potential acquiring entities of the Telegraph Media Group. Following these changes, the Secretary of State extended the CMA's deadline to report from 26 January 2024 to

11 March 2024. The Secretary of State also issued a second public interest intervention notice on 26 January 2024 (the **January PIIN**).

CMA's advice on jurisdiction and competition issues

5. The CMA advises the Secretary of State that the CMA:
 - (a) believes that arrangements as described in the November PIIN are no longer in progress or in contemplation as of the date of this report (ie 11 March 2024); and
 - (b) believes it is not necessary to decide whether that situation has resulted, or may be expected to result, in an SLC within a market or markets in the United Kingdom for goods or services.
6. Ofcom will advise the Secretary of State separately on any public interest aspects of the case.
7. The following summarises the CMA's reasoning in coming to this advice.

The parties

8. RBC is a US-based private investment company with a portfolio of companies across a number of industrial sectors (eg the energy sector, financial services and sports).
9. IMI is a United Arab Emirates (**UAE**) based private investment company and focuses on investing in media assets around the world. The CMA understands that IMI's ultimate owner is Sheikh Mansour bin Zayed bin Sultan Al Nahyan who is also a deputy prime minister of the UAE.
10. In 2022, RBC and IMI established a joint venture company, RedBird IMI, [REDACTED]
[REDACTED]
[REDACTED]
RedBird IMI undertakes various investments in the media, entertainment and sports industries.
11. RB Investco Limited (**RBI**) is the legal entity that will acquire the shares of the Target Companies. When the November PIIN was issued on 30 November 2023, RedBird IMI held the shares in RBI.
12. As above, TMG, The Chelsea Magazine Company Limited and The Spectator (1828) Limited are together referred to as the Target Companies.
13. The Target Companies are indirect subsidiaries of Penultimate Investment Holdings Limited (PIHL) and Ultimate Investment Holdings Limited, which are

entities ultimately owned by the Barclay family. The Barclay family and PIHL are collectively referred to as the **Sellers**.

The Merger

14. The Merger involved the acquisition of the Target Companies by RedBird IMI, through RBI. In January 2024, RBC and IMI submitted that they intended to transfer all shares held by RedBird IMI in RBI to a new entity, [REDACTED] (the **Limited Partnership**).
15. Consequently, RedBird IMI, the specified legal entity that was identified in the November PIIN as the acquirer, no longer occupies this role and the CMA has not found it necessary to assess the levels of control over RedBird IMI of RBC and IMI for the purposes of this report.

Report in relation to the January PIIN

16. Following the changes to the corporate structure of the acquiring entities, the Secretary of State issued the January PIIN. The CMA has submitted a separate report in relation to the January PIIN, which assesses the jurisdictional and competition issues in relation to the restructured transaction.
17. While, as explained above, the CMA considers that the arrangements that were the subject of the November PIIN are no longer in progress, if the CMA had considered that the Acquirer's transfer of shares in RBI from RedBird IMI to the Limited Partnership was an extension or progression of the arrangements presented in the November PIIN (as opposed to new arrangements), the conclusions and findings in the CMA's report in relation to the January PIIN would apply to the Merger.

ASSESSMENT

THE PUBLIC INTEREST INTERVENTION NOTICE AND THE CMA'S ROLE

18. On 30 November 2023, the Secretary of State issued the November PIIN, which stated that the Secretary of State has reasonable grounds to suspect that: the Merger would result in a relevant merger situation as defined in section 23 of the Act because two or more enterprises would cease to be distinct, and the turnover test was met. The November PIIN further stated that that it may be relevant to consider the need for the accurate presentation of news and free expression of opinion in newspapers, when investigating the Merger.¹ The November PIIN required the CMA and Ofcom to investigate and report by midnight on 26 January 2024. Following the structural changes instigated by RBC and IMI, as detailed in paragraphs 38 to 45 below the Secretary of State wrote to the CMA extending the reporting deadline to 11 March 2024.²
19. The CMA is required to report to the Secretary of State on whether arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation, and whether the creation of that situation has resulted, or may be expected to result, in a substantial lessening of competition within any market or markets in the UK for goods or services.
20. This report therefore assesses both the jurisdiction question and the effect on competition.

THE PARTIES

21. Until the structural changes occurred, the acquirers were comprised of RBC and IMI and their subsidiaries, including RedBird IMI and RBI.
22. RBC is a US-based private investment company. RBC's portfolio companies and investments include online news sources, such as YES Network.³
23. IMI is a UAE based private investment company and focuses on investing in media assets globally. IMI's portfolio companies and investments include online news sources, such as The National, which supplies online news including in the UK.⁴ IMI's ultimate owner is Sheikh Mansour bin Zayed bin Sultan Al Nahyan who is also a deputy prime minister of the UAE.

¹ [Public Interest Intervention Notice](#), 30 November 2024.

² [Letter to CMA from Secretary of State, 26 January 2024](#)

³ <https://redbirdcap.com/companies/>

⁴ <https://internationalmediainvestments.com/about-us/>

24. RedBird IMI is a joint venture between companies [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
25. RBC and IMI submitted that RedBird IMI's primary focus is to invest in, develop, operate, and expand large scale media and entertainment entities on a global basis. The CMA understands that RedBird IMI has made five investments since its establishment and is currently in the process of acquiring a sixth investment.⁵
- (a) XFL, a professional American football league and entertainment property.
 - (b) Hidden Pigeon, a multiplatform kids and family content company, including television, film, digital, gaming, publishing, and consumer products.
 - (c) EverWonder Studio, a production studio focused on financing, producing, and distributing non-fiction documentary features, series, and new global formats.
 - (d) Media Res, a television studio and motion picture production company that develops, produces, and finances content for global markets in partnership with artists, networks, and streaming services.
 - (e) Front Office Sports, a digital media organisation with an online provider of news on the business of sports (with newsletters and podcasts) including in the UK. It does not provide general news content.
 - (f) The anticipated acquisition of All3Media from Warner Brothers and Liberty Global which is expected to complete in the second half of 2024 subject to regulatory approval(s).

The Target Companies and the Sellers

26. The Target Companies are comprised of TMG, The Chelsea Magazine Company and The Spectator (1828) Limited.
- (a) TMG is a British-based media company. It publishes the national news titles The Daily Telegraph as well as The Sunday Telegraph in print and also digitally via related websites, apps, newsletters, liveblogs, podcasts, videos, and social media outlets.⁶ The turnover of TMG in FY2023 was approximately £175.5 million in the UK.⁷

⁵ RBC and IMI's response to Ofcom's Issues Letter, 16 January 2024, paragraph 49 and response to the CMA's section 109 request of 16 February 2024, page 3.

⁶ RBC and IMI's response to question 11 of s109 Notice dated 1 December 2023.

⁷ Ultimate Investment Holdings Limited's response to CMA's questions dated 7 December 2023.

- (b) The Chelsea Magazine Company has brand offerings in travel, lifestyle, education, and sport (such as English Home, English Garden, Cruise & Travel, and The London Magazine).⁸
 - (c) The Spectator Magazine is a weekly news magazine focused on politics, culture, and current affairs.
27. The Target Companies are indirect subsidiaries of PIHL and Ultimate Holdings Limited, which are entitles ultimately owned by the Barclay family.

THE TRANSACTION

28. The transaction to acquire the Target Companies was interrelated with the repayment of debt owed by the Target Companies' parent company by corporate entities owned by RBC and IMI. The details of the steps involved were as follows.
29. Shortly before the transaction, PIHL held outstanding loans of approximately [REDACTED] from the Lloyds Banking Group via the Bank of Scotland. In June 2023, the Bank of Scotland appointed receivers in an attempt to recover the debt owed by PIHL. In August 2023, the Bank of Scotland filed an application in the Eastern Caribbean Supreme Court for the appointment of joint liquidators to PIHL. To raise money to repay the debt, in October 2023, PIHL instigated a sales process of the Target Companies that included an auction which was to run throughout November 2023.
30. However, in November 2023, before any non-binding bids were received, the Bank of Scotland, PIHL and entities owned by RBC and IMI agreed to refinance amounts owed by PIHL under the Bank Loan Agreement (the debt).⁹ The auction process was therefore stopped. The details of the steps pertaining to the repayment of the loan and the sale of the Target Companies are set out below.
31. In the four days between 1 December 2023 and 4 December 2023 inclusive, various steps were taken to repay the loan and to agree the sale of the Target Companies.
32. On 1 December 2023, entities including PIHL, Bank of Scotland, [REDACTED] (which RBC and IMI submitted is being funded by IMI),¹⁰ and RBI entered into an Implementation Deed. The Implementation Deed sets out the terms on which RBI and [REDACTED] would provide funding to facilitate repayment of the loans owed by PIHL to the Bank of Scotland and describes the various arrangements and processes to be followed as the **Transaction Steps**. In summary, the Transaction Steps include the dismissal of the liquidation application in relation to

⁸ RBC and IMI's response to question 11 of s109 Notice dated 1 December 2023.

⁹ The Target Companies' response to s.109 Notice dated 12 February 2024.

¹⁰ RBC and IMI's letter to DCMS 11 December 2023, which describes [REDACTED] as being funded by IMI.

PIHL, the establishment of new loan facilities, the end of the receivership, and the reinstatement of the constitutional documents relating to the Barclay family companies.

33. On 2 December 2023, TMG, PIHL and May Corporation¹¹ entered into an agreement (**Option Agreement**) with RBI that gave RBI the option to acquire the entire issued share capital of the Target Companies (**the Call Option**) for a consideration of [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
34. RBI exercised the Call Option on the same day (2 December 2023). Completion of the acquisition under the Call Option is subject to approvals, including approval of the transaction by the CMA and the Secretary of State. If approval is not obtained before 22 May 2026, the Option Agreement will automatically and immediately terminate.
35. The Option Agreement requires that all of the Transaction Steps under the Implementation Deed have been completed for the terms of the Call Option to be met.¹²
36. Further to the Implementation Deed and Option Agreement, on 4 December 2023, PIHL entered into a new facility agreement with RedBird IMI as lender, which comprises two tranches: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
37. Consequently, the auction and liquidation proceedings were terminated, receivership ended, and the Barclay family-controlled companies are now capable

¹¹ May Corporation is a subsidiary of PIHL that held the shares in the Spectator before the company hive down set out in paragraph 33 above.

¹² [REDACTED]

of entering into terms with RBC and IMI. This has occurred through the Option Agreement and the exercise of the Call Option.

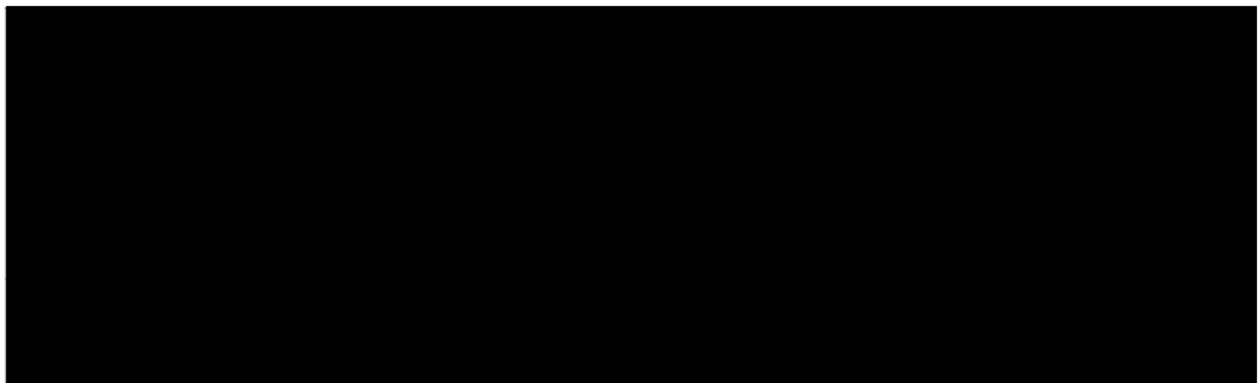
Amended structure of the transaction

38. The above steps relating to the transaction took place between October 2023 and December 2023. It was initially envisaged by RBC and IMI that RedBird IMI, which owns RBC and IMI's other joint media investments would acquire the share capital of the Target Companies. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]¹³

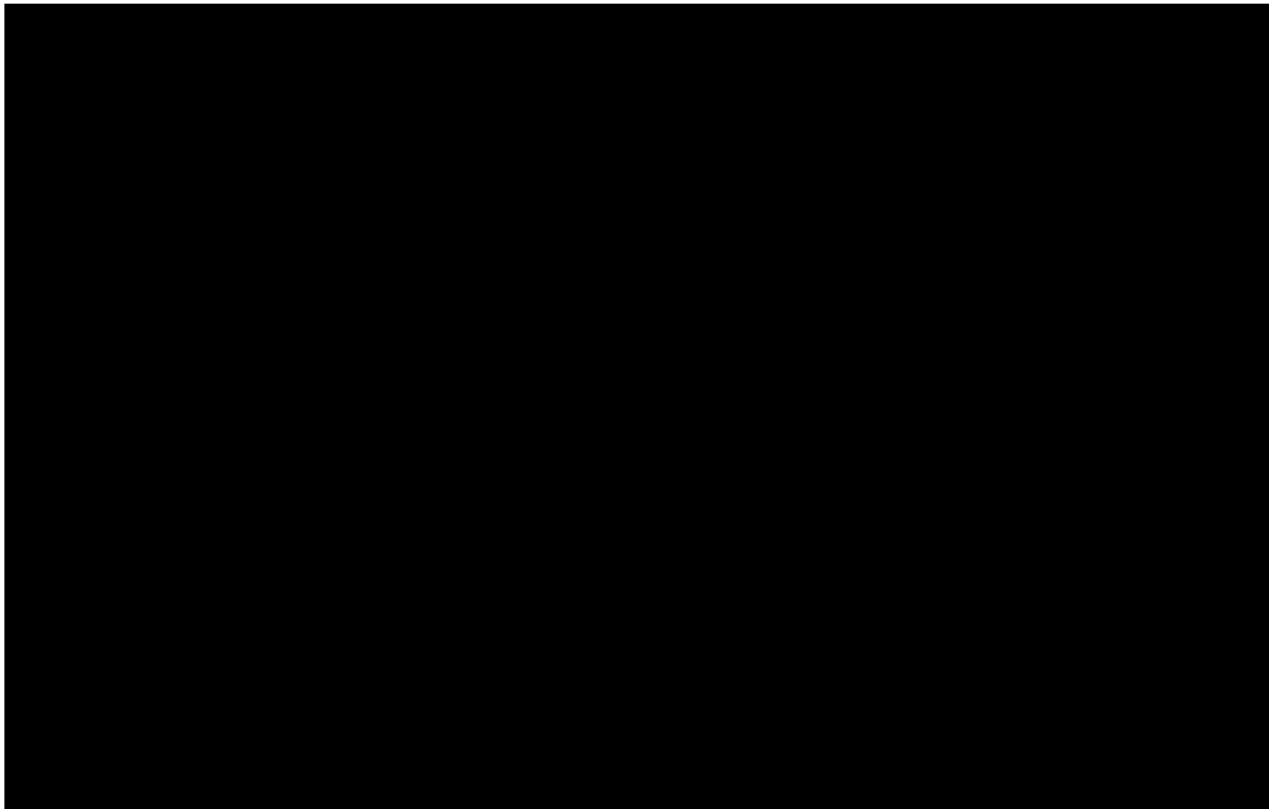
39. On 23 January 2024, [REDACTED]
[REDACTED]
[REDACTED] entered into a limited partnership agreement to establish the Limited Partnership (the **Limited Partnership Agreement**).

40. Pictorially, RBC and IMI set out the proposed structure of the transaction as follows. RBC and IMI form the Limited Partnership that acquires the Target Companies [REDACTED]



41. The limited partners to the Limited Partnership are owned and controlled by either IMI [REDACTED] or RBC [REDACTED]
[REDACTED], or jointly by both RBC and IMI [REDACTED]
[REDACTED]. Moreover, the General Partner [REDACTED] is owned and controlled by funds managed by RBC.

¹³ [REDACTED]
[REDACTED]



42. [REDACTED]
[REDACTED]
[REDACTED]¹⁴ [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

43. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]¹⁵

44. The CMA requested all agreements and transaction documents that are relevant to the new corporate structure. RBC and IMI responded providing the following documents to evidence the new structure:¹⁶

¹⁴ [REDACTED]

¹⁵ [REDACTED]

¹⁶ RBC and IMI's response to question 1 of s109 notice dated 12 February 2024.

- (a) [REDACTED]
[REDACTED]
- (b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- (c) [REDACTED]
[REDACTED]
- (d) [REDACTED]
 - (i) [REDACTED]
 - (ii) [REDACTED]
 - (iii) [REDACTED]
- (e) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- (f) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

45. The Limited Partnership was registered at Companies House on 5 February 2024 and the entire share capital of RedBird IMI in RBI was transferred to the Limited Partnership.

46. Following its assessment of the evidence on the deal re-structure, the CMA considers that:

- (a) [REDACTED]
[REDACTED]
- (b) [REDACTED]
[REDACTED]

- (c) [REDACTED]
- (d) [REDACTED]
- (e) [REDACTED]

RELEVANT MERGER SITUATION

47. In the context of an anticipated transaction, a relevant merger situation exists where the following conditions are satisfied:¹⁷
- (a) there must be arrangements in progress or in contemplation which, if carried into effect, will lead to enterprises ceasing to be distinct; and
 - (b) either:
 - (i) the UK turnover associated with the enterprise which is being acquired exceeds £70 million (this is referred to as ‘the turnover test’); or
 - (ii) the enterprises which cease to be distinct supply or acquire goods or services of any description and, after the merger, together supply or acquire at least 25% of all those particular goods or services of that kind supplied in the UK or in a substantial part of it. The merger must also result in an increment to the share of supply or acquisition (this is referred to as ‘the share of supply test’);
 - (c) the merger must not yet have taken place.

Do the arrangements described in the November PIIN remain in progress?

48. As noted, the November PIIN specified arrangements which included the proposed acquisition by RedBird IMI of TMG.

49. [REDACTED]

¹⁷ Section 23 of the Act.

[REDACTED]
[REDACTED]
[REDACTED]¹⁸

50. It is clear that the specified legal entity that was identified in the November PIIN as the acquirer, ie Redbird IMI, will no longer be acquiring the Target Companies.

51. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Conclusion

52. Accordingly, the CMA believes that the arrangements described in the November PIIN involving RedBird IMI are no longer in progress or in contemplation and accordingly those arrangements will not be carried into effect, nor result in the creation of a relevant merger situation for the purposes of section 44(4)(a) of the Act.
53. It is therefore not necessary for the CMA to decide whether the Merger would have given rise to a realistic prospect of an SLC.
54. The CMA notes that, had the CMA found that the Acquirer's transfer of shares in RBI from RedBird IMI to the Limited Partnership was an extension of the arrangements presented in the November PIIN (as opposed to new arrangements), the findings in the CMA's report in relation to the public interest intervention notice of 26 January 2024 would apply to the Merger discussed in this report.

PUBLIC INTEREST CONSIDERATIONS

55. A few third parties raised concerns on public interest aspects of the Merger to the CMA. The third parties informed the CMA that these submissions were also sent to Ofcom for its consideration.
56. In summary, third-party concerns focused on proposed acquisition of two important and influential titles, The Telegraph and The Spectator, by parties closely linked to a foreign government. The third parties raised concerns regarding the impact the Merger might have on the accurate representation of the news and freedom of expression in those publications.

¹⁸ [REDACTED]

ADVICE TO SECRETARY OF STATE

57. As regards each of the decisions that the CMA is required to include in its report, pursuant to sections 44(4) of the Act, for the reasons set out above, the CMA:
- (a) believes that arrangements as described in the November PIIN are no longer in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation and as of the date of this report (ie 26 January 2024); and
 - (b) believes it is not necessary to decide whether that situation has resulted, or may be expected to result, in an SLC within a market or markets in the United Kingdom for goods or services.
58. In view of these conclusions, it has also not been necessary to assess whether any of the exceptions to the duty to refer apply, or whether it would be appropriate to deal with competition concerns by way of undertakings in lieu of a reference.



Tim Geer
Director, Mergers
Competition and Markets Authority
11 March 2024