

**2024 No. 103**

**COMPETITION**

**The Public Interest Merger Reference (Telegraph Media Group Limited) (Pre-emptive Action) Order 2024**

*Made* - - - - 8.30 a.m. on 30th January 2024

*Coming into force* - - 11.00 a.m. on 30th January 2024

*Laid before Parliament* 4.00 p.m. on 30th January 2024

The Secretary of State has reasonable grounds for suspecting that it is or may be the case that as a result of the proposed acquisition of Telegraph Media Group Limited by RedBird IMI Media Joint Venture LLC, arrangements are in progress or in contemplation which, if carried into effect, will result in two or more enterprises ceasing to be distinct. An intervention notice in respect of the relevant merger situation concerned, given by the Secretary of State on 30th November 2023 under section 42 of the Enterprise Act 2002(a), is in force.

The Secretary of State also has reasonable grounds for suspecting that it is or may be the case that as a result of the proposed acquisition of Telegraph Media Group Limited, Telegraph Media Group Holdings Limited or the business or assets (including any shares in subsidiary undertakings) of Telegraph Media Group Limited or Telegraph Media Group Holdings Limited by RB Investco Limited, including by any of its parent undertakings, subsidiary undertakings or interconnected undertakings (including RB IMI AIV Limited Partnership) or any of its assignees, transferees or successors in title, arrangements are in progress or in contemplation which, if carried into effect, will result in two or more enterprises ceasing to be distinct. An intervention notice in respect of this relevant merger situation, given by the Secretary of State on 26th January 2024 under section 42 of the Enterprise Act 2002, is also in force.

In the opinion of the Secretary of State, the exercise of the powers as set out in this Order is required for the purpose of preventing action which might prejudice a reference of either matter to the Competition and Markets Authority under section 45 of the Enterprise Act 2002(b) or impede the taking of any action under Part 3 of that Act which may be justified by the Secretary of State's decisions on either reference.

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(a) 2002 c. 40; section 42 was amended by paragraph 82 of Schedule 5, and paragraph 21 of Schedule 15 to the Enterprise and Regulatory Reform Act 2013 (c. 24) and S.I. 2019/93; there are other amendments to section 42 which are not relevant to this Order.

(b) Section 45 was amended by paragraph 9 of Schedule 16 to the Communications Act 2003 (c.21), and paragraph 85 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013.

The Secretary of State, for the purpose of preventing pre-emptive action(a), in exercise of the powers conferred by section 124(2)(b) of, and paragraph 2(2) of Schedule 7 to, the Enterprise Act 2002(b), makes the following Order:

### **Citation, commencement and extent**

1.—(1) This Order may be cited as the Public Interest Merger Reference (Telegraph Media Group Limited) (Pre-emptive Action) Order 2024 and comes into force at 11.00 a.m. on 30th January 2024.

(2) This Order extends to England and Wales, Scotland and Northern Ireland.

### **Interpretation**

2. In this Order—

“the Acquiring Entities” means—

- (a) RB Investco Group;
- (b) RB Investco;
- (c) RB IMI AIV Limited Partnership;
- (d) RedBird Capital Partners Alternative Holdings LLC, a Delaware corporation (file number 5614058);
- (e) IMI JV Aggregator LLC, a Delaware corporation (file number 7421509);
- (f) RedBird IMI JV Aggregator LP;
- (g) RB AIV GP;
- (h) RedBird Capital Partners Fund IV GenPar LLC, a Delaware corporation (file number 6516238);
- (i) any other persons or bodies corporate which control RB Investco;
- (j) any bodies corporate which RB Investco controls,

and for these purposes a person or group of persons able, directly or indirectly, to control or materially to influence the policy of a body corporate but without having a controlling interest in that body corporate, may be treated as having control of it;

“the Acquiring Entities’ business” means any enterprises carried on by any of the Acquiring Entities;

“the Act” means the Enterprise Act 2002;

“first intervention notice” means the intervention notice issued on 30th November 2023 by the Secretary of State under section 42 of the Act in relation to the proposed acquisition of Telegraph Media Group by RedBird IMI Media Joint Venture LLC(c);

“key staff” means—

- (a) staff in a position of executive or managerial responsibility within the Telegraph Media Group business; or
- (b) staff who exercise editorial control over “the Telegraph” or “the Sunday Telegraph” newspapers;

“PAL” means Press Acquisitions Limited, a company incorporated in England and Wales (registered number 05098596);

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(a) “Pre-emptive action” is defined in paragraph 2(12) of Schedule 7 to the Enterprise Act 2002. Paragraph 2(12) was inserted into Schedule 7 by paragraphs 1 and 4 of Schedule 7 to the Enterprise and Regulatory Reform Act 2013.

(b) Paragraph 2(2) of Schedule 7 to the Enterprise Act 2002 was amended by paragraph 160 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013.

(c) <https://www.gov.uk/government/publications/public-interest-intervention-notice-proposed-loan-repayment-agreement-for-telegraph-media-group>

“PIHL” means Penultimate Investment Holdings Limited, a company incorporated in the British Virgin Islands (registered number 1044811);

“PIHL Group” means PIHL, UIHL and any other body corporate interconnected with PIHL and UIHL and references to “members of the PIHL group” are to be construed accordingly;

“RB Investco” means RB Investco Limited, a company incorporated in England and Wales (registered number 15001650);

“RB Investco Group” means RB Investco and any other body corporate interconnected with RB Investco and references to “members of the RB Investco group” are to be construed accordingly;

“second intervention notice” means the intervention notice issued on 26th January 2024 by the Secretary of State under section 42 of the Act in relation to the proposed acquisition of Telegraph Media Group by RB Investco(a);

“specified period” means the period beginning with the date and time this Order comes into force and ending when both the first intervention notice and the second intervention notice have ceased to be in force;

“Telegraph Media Group” means Telegraph Media Group Limited, a company incorporated in England and Wales (registered number 00451593);

“Telegraph Media Group business” means PAL, Telegraph Media Group, Telegraph Media Group Holdings and the business or assets (including any shares in subsidiary undertakings) of Telegraph Media Group or Telegraph Media Group Holdings;

“Telegraph Media Group Holdings” means Telegraph Media Group Holdings Limited, a company incorporated in England and Wales (registered number 14551860);

“UIHL” means United Investment Holdings Limited, a company incorporated in the British Virgin Islands (registered number 34501).

### **Interim provisions**

**3.** Except with the prior written consent of the Secretary of State, the PIHL Group and the Acquiring Entities must not, during the specified period, take any action which might prejudice a reference or possible reference of the proposed acquisition under section 45 of the Act or impede the taking of any action under Part 3 of the Act by the Secretary of State which may be justified by the Secretary of State’s decisions on such a reference including any action which might—

- (a) change or transfer the ownership or control of Telegraph Media Group, Telegraph Media Group Holdings or their subsidiary undertakings; or
- (b) transfer the ownership of the business or assets (including any shares in subsidiary undertakings) of Telegraph Media Group or Telegraph Media Group Holdings.

**4.** During the specified period, except with the prior written consent of the Secretary of State, the PIHL Group and the Acquiring Entities must ensure that—

- (a) no step is taken to integrate the Telegraph Media Group business with any other enterprise;
- (b) no significant changes are made to—
  - (i) the organisational structure of, or the management responsibilities within, the Telegraph Media Group business;
  - (ii) the composition of the boards of the companies within the Telegraph Media Group business or the RB Investco Group as they exist at the start of the specified period.

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(a) <https://www.gov.uk/government/publications/public-interest-intervention-notice-issued-by-secretary-of-state-lucy-frazer-on-the-anticipated-acquisition-of-telegraph-media-group-limited-by-rb-inv>

5. During the specified period, except with the prior written consent of the Secretary of State, the Acquiring Entities must ensure that no step is taken to change the corporate structure of the RB Investco Group as it exists at the start of the specified period.

6. The PIHL Group and the Acquiring Entities must take all reasonable steps to encourage key staff to remain within the Telegraph Media Group business during the specified period.

7. Except with the prior written consent of the Secretary of State, so far as it is within their respective powers to do so, the PIHL Group and the Acquiring Entities must ensure that during the specified period—

- (a) no key staff are removed from their positions within the Telegraph Media Group business;
- (b) no key staff are transferred between the Telegraph Media Group business and the Acquiring Entities' business.

### **Compliance**

8. The PIHL Group and the Acquiring Entities must provide to the Secretary of State such information or statement of compliance as the Secretary of State may from time to time require for the purposes of monitoring compliance with this Order.

9. A compliance statement must be signed by the chief executive officer or a director of the PIHL Group or the Acquiring Entities as the case may be.

10. At all times, the PIHL Group and the Acquiring Entities must keep the Secretary of State informed of any material developments relating to the Telegraph Media Group business, which includes details of key staff who leave or join the Telegraph Media Group business.

11. If any member of the PIHL Group or any of the Acquiring Entities has any reason to believe this Order might have been contravened, it must immediately notify the Secretary of State.

### **Derogations**

12. For the purposes of paragraph 2(2C) of Schedule 7 to the Act<sup>(a)</sup>, the Secretary of State is not to be treated as having consented to the taking of action or action of a particular description which would otherwise constitute a contravention of this Order unless the consent is in writing.

### **Revocation**

13. The Public Interest Merger Reference (Telegraph Media Group Ltd) (Pre-emptive Action) Order 2023<sup>(b)</sup> is revoked.

At 8.30 a.m. on 30th January 2024

*Lucy Frazer*  
Secretary of State  
Department for Culture, Media and Sport

### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

On 26th January 2024, the Secretary of State gave the Competition and Markets Authority and Ofcom an intervention notice on public interest grounds under section 42 of the Enterprise Act 2002 (c. 40) (“the Act”) in respect of the anticipated acquisition of the Telegraph Media Group

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(a) Paragraph 2(2C) of Schedule 7 to the Enterprise Act 2002 was inserted by paragraph 4 of Schedule 7 to the Enterprise and Regulatory Reform Act 2013.

(b) S.I. 2023/1300.

Limited (“Telegraph Media Group”), Telegraph Media Group Holdings Limited (“Telegraph Media Group Holdings”), or the business or assets (including any shares in subsidiary undertakings) of Telegraph Media Group or Telegraph Media Group Holdings by RB Investco Limited, and/or any of its parent undertakings, subsidiary undertakings or interconnected undertakings or any of its assignees, transferees or successors in title (“the 2024 intervention notice”). An intervention notice on public interest grounds was also given to the Competition and Markets Authority and Ofcom on 30th November 2023, in respect of an associated merger, namely the anticipated acquisition of the Telegraph Media Group by RedBird IMI Media Joint Venture LLC (“the 2023 intervention notice”).

This Order is made for the purpose of preventing “pre-emptive action”, which is action which might prejudice a reference or a possible reference of either matter to the Competition and Markets Authority under section 45 of the Act or impede the taking of any remedial action under Part 3 of the Act which may be justified by the Secretary of State’s decisions on either reference.

The obligations in this Order apply for a specified period which begins when the Order comes into force and ends when both the 2023 intervention notice and the 2024 intervention notice have ceased to be in force. Article 3 of the Order prevents the PIHL Group, which owns, and is selling, Telegraph Media Group and Telegraph Media Group Holdings, and the prospective buyers of Telegraph Media Group (the “Acquiring Entities”) from taking any pre-emptive action including by changing or transferring ownership or control of the Telegraph Media Group and other related businesses and assets during the specified period. Article 4 requires the PIHL Group and the Acquiring Entities to ensure that no step is taken to integrate the Telegraph Media Group business with any other enterprise, and that, during the specified period, no significant changes are made to the organisational structure of, or the managerial responsibilities within, the Telegraph Media Group business or to board composition within the Telegraph Media Group business or the RB Investco Group, except with the Secretary of State’s prior written consent. Article 5 requires the Acquiring Entities to ensure no steps are taken to change the corporate structure of RB Investco Group as it exists at the start of the specified period. Articles 6 and 7 require the PIHL Group and the Acquiring Entities to take all reasonable steps to retain key staff within the Telegraph Media Group business and to ensure that no key staff are removed from their position or transferred to the Acquiring Entities’ business during the specified period, except with the Secretary of State’s prior written consent. Articles 8 to 11 impose reporting obligations and article 12 provides that the Secretary of State is not to be treated as having consented to any action in derogation of the requirements of this Order, unless she has consented in writing. Article 13 revokes the Public Interest Merger Reference (Telegraph Media Group Ltd) (Pre-emptive Action) Order 2023 (S.I. 2023/1300).

The provisions of this Order, unless previously revoked, will cease to have effect if the Secretary of State accepts an undertaking under paragraph 3 of Schedule 7 to the Enterprise Act 2002 instead of referring either merger to the Competition and Markets Authority under section 45 of the Act or when both the first intervention notice and the second intervention notice have otherwise ceased to be in force in accordance with section 43 of the Act.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen. An Explanatory Memorandum is available alongside the instrument on the UK legislation website, <http://www.legislation.gov.uk>.

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