



DETERMINATION OF MERGER NOTIFICATION M/07/001 – MOTOROLA/NETOPIA

Section 21 of the Competition Act 2002

Proposed acquisition by Motorola Inc. of Netopia Inc.

DATED 29/01/07

Introduction

1. On 4 January 2007, the Competition Authority (“the Authority”), in accordance with Section 18 (1) of the Competition Act, 2002 (“the Act”) was notified, on a mandatory basis, of a proposal whereby Motorola Inc. (“Motorola”) would acquire all of the issued and to be issued shares in Netopia Inc. (“Netopia”).

The Undertakings Involved

2. Motorola, the acquirer, is a publicly traded company which is quoted on several stock exchanges including the New York Stock Exchange.
3. The acquirer is active in the provision of a broad range of wireless broadband and automotive communications technologies and in embedded electronic products.
4. Its activities may be divided into several business segments:
 - Design, manufacture, sale and service of mobile devices: e.g. wireless handsets (“Mobile Devices”);
 - Provision of wireless communication systems and devices and electronic and telematics systems (“Government and Enterprise Mobility Solutions”);
 - Design, manufacture, sale, installation and servicing of cellular infrastructure systems, Fibre-to-the-premise (“FTTP”) and fibre-to-the-node (“FTTN”) transmission systems; and,
 - Design, manufacture and sale of a wide variety of broadband products¹.
5. In the State, Motorola Ireland is active in two main business areas²:
 - software development for the networks using GSM, cdma and iDEN technologies; and,
 - software solutions development for the Motorola Softswitch product³.

¹ e.g. Digital systems and set-top boxes for cable television, Internet Protocol (“IP”) video and broadcast networks, cable modems and termination systems, digital satellite program distribution systems and direct-to-home (“DTH”) satellite networks and private networks for business communications.

² In the State, the acquirer also has a small team which is active in the management of sales, marketing and service of mobile devices in Ireland.

³ Softswitch is a software system that routes telephone calls. It is used in Motorola wireless networks.

6. The acquirer sells a limited range of broadband products in the State. For the calendar year 2005, the acquirer sold the following broadband related products in the State:
 - cable broadband equipment - cable modems [...] with a value of [...];
 - wireless broadband equipment - approximately [...] of wireless broadband equipment sold⁴; and,
 - sales of Canopy Wireless Broadband product - approximately [...] in sales [...].
7. Netopia, the target, is a publicly traded company which is quoted on the NASDAQ Stock Exchange and is the ultimate parent of the Netopia Group.
8. The target's primary activity is the provision of wireline (DSL) broadband access equipment for the provision of internet access to companies and consumers. The target's customers are mainly telecommunication service providers. It carries on limited activities in this regard in the retail market. The target does not provide internet access.
9. In addition to its primary activity, the target also provides remote management software⁵ and broadband enabled services⁶.
10. In the financial year ended 30 September 2005, the target derived turnover of US\$[...] (approximately €[...]) from the sale of its DSL broadband access equipment in the State. [...].
11. For the financial year ended 30 September 2005, the target did not have sales of any of its remote management software or its broadband enabled services in the State or in Europe.

Analysis

12. Both the target and the acquirer are active in the provision of broadband access equipment in the State. Both undertakings involved provide their individual ranges of broadband access equipment products mainly to Irish telecom operators.
13. The acquirer provides broadband access equipment in the State for cable and wireless networks only. It is not active in the provision of equipment for fixed-line telecommunications networks. The target provides broadband access equipment in the State which, on the other hand, is designed for DSL networks only (i.e. broadband through the fixed-line telecommunications network). The target is not active in the provision of broadband access equipment for cable and wireless systems.

⁴ These products were sold by the acquirer via its subsidiary NextNet Wireless Inc ("NextNet"). These sales were achieved by NextNet through an affiliated company, Clearwire Corporation. Clearwire supplied NextNet in late 2005 with wireless broadband access equipment. In 2005, NextNet had a total world-wide consolidated turnover of [...] the vast majority of which was achieved through sales of its products to its parent company Clearwire Corporation Inc.

⁵ This enables remote support and management of installed broadband gateways as well as remote control of PCs.

⁶ Broadband enabled services include a website, remote control hosting, a helpdesk and parental control service.

14. While the undertakings involved have submitted that they both supply broadband access equipment, their respective product offerings are not considered substitutable for each other at this time, since the broadband access products are designed to allow access for broadband on different technology platforms.
15. The undertakings involved have submitted that even if the broadband access equipment products of the acquirer and the target were to be considered to be substitutable, the proposed transaction does not give rise to competition concerns.
16. Based on third party market information and the undertakings' involved own internal estimates, the value of wireline broadband equipment sales in Europe, the Middle East and Asian ("EMEA") geographic region in 2005 was approximately US\$[...] (approximately €[...]⁷).
17. The acquirer's sales of cable broadband access products in this region for the period stated represents approximately [...] of all sales, while the target's sales of DSL broadband access products represent [...].
18. The undertakings involved have submitted that the proposed transaction will not lead to competition concerns in this respect given the combination of their small, combined shares of sales and the large number of bigger providers in the region concerned such as Cisco, Siemens, Safran, Thomson Multimedia and ZyXEL.
19. On the basis of its investigation and on the submissions of the undertakings involved, the Authority's investigation has, therefore, concluded that the proposed transaction does not raise competition concerns in the State.

Determination

The Competition Authority, in accordance with Section 21(2)(a) of the Competition Act, 2002, has determined that, in its opinion, the result of the proposed acquisition by Motorola Inc. of Netopia Inc. 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.

For the Competition Authority

Dr. Paul K. Gorecki
Member of the Competition Authority

⁷ Source of foreign currency conversion rate: European Central Bank based on Euro foreign exchange reference rates as at 26 January 2007. Available at <http://www.ecb.int/stats/exchange/eurofxref/html/index.en.html>.