

COMPETITION AND MARKETS AUTHORITY

ACQUISITION BY OASIS DENTAL CARE (CENTRAL) LIMITED (OASIS) OF JDH HOLDINGS LIMITED (SMILES)

Initial Enforcement Order made by the Competition and Markets Authority pursuant to section 72(2) of the Enterprise Act 2002 (the Act)

Whereas:

- (a) the Competition and Markets Authority (CMA) has reasonable grounds for suspecting that it is or may be the case that Oasis Dental Care (Central) Limited and JDH Holding Limited (Smiles) have ceased to be distinct
- (b) the CMA is considering, pursuant to section 22 of the Act, whether it is or may be the case that a relevant merger situation has been created and whether the creation of that situation has resulted or may be expected to result in a substantial lessening of competition in any market or markets in the United Kingdom (UK)
- (c) the CMA wishes to ensure that no action is taken pending final determination of any reference under section 22 of the Act which might prejudice that reference or impede the taking of any action by the CMA under Part 3 of the Act which might be justified by the CMA's decisions on the reference, and
- (d) the circumstances set out in section 72(6) of the Act do not apply and the reference has not been finally determined in accordance with section 79(1) of the Act.

Now for the purposes of preventing pre-emptive action in accordance with section 72(2) of the Act the CMA makes the following order addressed to The Oasis Healthcare Group Limited (Oasis Healthcare) and Oasis Dental Care (Central) Limited (Oasis Dental) (Order).

Title, commencement, application and scope

1. This Order commences on the commencement date: 19 May 2014.
2. This Order applies to Oasis Healthcare and Oasis Dental.
3. Notwithstanding any other provision of this Order, no act or omission shall constitute a breach of this Order, and nothing in this Order shall oblige Oasis Healthcare or Oasis Dental to reverse any act or omission, in each case to the extent that it occurred or was completed prior to the commencement date.

Management of the Oasis and Smiles business until determination of proceedings

4. Except with the prior written consent of the CMA, Oasis Healthcare and Oasis Dental shall not, during the specified period, take any action which might prejudice a reference of the transaction under section 22 of the Act or impede the taking of any action under the Act by the CMA which may be justified by the CMA's decisions on such a reference, including any action which might:
 - (a) lead to the integration of the Smiles business with the Oasis business
 - (b) transfer the ownership or control of the Oasis business or the Smiles business or any of its subsidiaries, or
 - (c) otherwise impair the ability of the Smiles business or the Oasis business to compete independently in any of the markets affected by the transaction.
5. Further and without prejudice to the generality of paragraph 4 and subject to paragraph 3, Oasis Healthcare and Oasis Dental shall at all times during the specified period procure that, except with the prior written consent of the CMA:
 - (a) the Smiles business is carried on separately from the Oasis business and Smile's separate sales or brand identity is maintained
 - (b) the Smiles business and the Oasis business are maintained as a going concern and sufficient resources are made available for the development of the Smiles business and the Oasis business, on the basis of their respective pre-merger business plans
 - (c) except in the ordinary course of business, no substantive changes are made to the organisational structure of, or the management

responsibilities within, the Smiles business or the Oasis business

- (d) the nature, description, range and quality of goods and services supplied in the UK by each of the two businesses are maintained and preserved
- (e) except in the ordinary course of business for the separate operation of the two businesses:
 - (i) all of the assets of the Smiles business and the Oasis business are maintained and preserved, including facilities and goodwill
 - (ii) none of the assets of the Smiles business or the Oasis business are disposed of, and
 - (iii) no interest in the assets of the Smiles business or the Oasis business is created or disposed of
- (f) there is no integration of the information technology of the Smiles or Oasis businesses, and the software and hardware platforms of the Smiles business shall remain essentially unchanged, except for routine changes and maintenance
- (g) the customer and supplier lists of the two businesses shall be operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the Smiles business will be carried out by the Smiles business alone and for the avoidance of doubt Oasis will not negotiate on behalf of the Smiles business (and vice versa) or enter into any joint agreements with the Smiles business (and vice versa)
- (h) all existing contracts of the Smiles business and the Oasis business continue to be serviced by the business to which they were awarded
- (i) no changes are made to key staff of the Smiles business or Oasis business
- (j) no key staff are transferred between the Smiles business and the Oasis business
- (k) all reasonable steps are taken to encourage all key staff to remain with the Smiles business and the Oasis business, and
- (l) no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or

proprietary nature relating to either of the two businesses shall pass, directly or indirectly, from Smiles (or any of its employees, directors, agents or affiliates) to Oasis (or any of its employees, directors, agents or affiliates), or vice versa, except where strictly necessary in the ordinary course of business (for example, where required for compliance with external regulatory and/or accounting obligations) and on the basis that, should the merger be prohibited, any records or copies (electronic or otherwise) of such information that have passed, wherever they may be held, will be returned to the business to which they relate and any copies destroyed.

Compliance

6. Oasis Healthcare and Oasis Dental shall procure that each of their subsidiaries complies with this Order as if the Order had been issued to each of them.
7. Oasis Healthcare and Oasis Dental shall provide to the CMA such information or statement of compliance as it may from time to time require for the purposes of monitoring compliance by Oasis Healthcare and its subsidiaries with this Order. In particular, on 2 June 2014 and subsequently every two weeks (or, where this does not fall on a working day, the first working day thereafter) the Chief Executive Officer of Oasis Healthcare and Oasis Dental or other persons of Oasis Healthcare and Oasis Dental as agreed with the CMA shall, on behalf of Oasis Healthcare and Oasis Dental, provide a statement to the CMA in the form set out in the Annex to this Order confirming compliance with this Order.
8. At all times, Oasis Healthcare and Oasis Dental shall, or shall procure that Smiles shall, actively keep the CMA informed of any material developments relating to the Smiles business or the Oasis business, which includes but is not limited to:
 - (a) details of staff who leave or join the Smiles business or the Oasis business
 - (b) any interruption of the Smiles or Oasis business (including without limitation its procurement, production, logistics, sales and employee relations arrangements) that has prevented it from operating in the ordinary course of business for more than 24 hours
 - (c) all substantial customer volumes won or lost or substantial changes to the customer contracts for the Smiles or Oasis business including any substantial changes in customers' demand, and

- (d) substantial changes in the Smiles or Oasis businesses' contractual arrangements or relationships with key suppliers.
9. If Oasis Healthcare or Oasis Dental has any reason to suspect that this Order might have been breached it shall immediately notify the CMA and any monitoring trustee that Oasis Healthcare and/or Oasis Dental may be directed to appoint under paragraph 10.
10. The CMA may give directions to a specified person or to a holder of a specified office in any body of persons (corporate or unincorporated) to take specified steps for the purpose of carrying out, or ensuring compliance with, this Order, or do or refrain from doing any specified action in order to ensure compliance with the Order. The CMA may vary or revoke any directions so given.
11. Oasis Healthcare and Oasis Dental shall comply in so far as it is able with such directions as the CMA may from time to time give to take such steps as may be specified or described in the directions for the purpose of carrying out or securing compliance with this Order.

Interpretation

12. The Interpretation Act 1978 shall apply to this Order as it does to Acts of Parliament.
13. For the purposes of this Order:

'the Act' means the Enterprise Act 2002

'an affiliate' of a person is another person who satisfies the following condition, namely that any enterprise (which, in this context, has the meaning given in section 129(1) of the Act) that the first person carries on from time to time and any enterprise that the second person carries on from time to time would be regarded as being under common control for the purposes of section 26 of the Act

'business' has the meaning given by section 129(1) and (3) of the Act

'commencement date' means 19 May 2014

'control' includes the ability directly or indirectly to control or materially to influence the policy of a body corporate or the policy of any person in carrying on an enterprise

'the decisions' means the decisions of the CMA on the questions which it is required to answer by virtue of section 35 of the Act

'key staff' means staff in positions of executive or managerial responsibility and/or whose performance affects the viability of the business

'Oasis Dental' means Oasis Dental Care (Central) Limited

'Oasis Healthcare' means The Oasis Healthcare Group Limited

'the Oasis business' means the business of The Oasis Healthcare Group Limited and its subsidiaries carried on as at the commencement date

'the ordinary course of business' means matters connected to the day-to-day supply of goods and services by Smiles or Oasis Healthcare and does not include matters involving significant changes to the organisational structure or related to the post-merger integration of Smiles and Oasis Healthcare

'Smiles' means JDH Holdings Limited

'the Smiles business' means the business of JDH Holdings Limited and its subsidiaries carried on as at the commencement date

'specified period' means the period beginning on the commencement date and terminating in accordance with section 72(6) of the Act

'subsidiary', unless otherwise stated, has the meaning given by section 1159 of the Companies Act 2006

'the transaction' means the transaction by which Oasis Dental and Smiles have ceased to be distinct within the meaning of section 23 of the Act

'the two businesses' means the Oasis business and the Smiles business, and

unless the context requires otherwise, the singular shall include the plural and vice versa.

ANNEX

Compliance statement for Oasis Healthcare and Oasis Dental

I [insert name] confirm on behalf of The Oasis Healthcare Group Limited (Oasis Healthcare) and Oasis Dental Care (Central) Limited (Oasis Dental) that:

Compliance in the Relevant Period

1. In the period from [insert date] to [insert date] (the Relevant Period):
 - (a) Oasis Healthcare and Oasis Dental have complied with the Order made by the CMA in relation to the transaction on 19 May 2014 (the Order).
 - (b) Oasis Healthcare and Oasis Dental's subsidiaries have also complied with this Order.
2. Subject to paragraph 3 of the Order, and except with the prior written consent of the CMA:
 - (a) No action has been taken by Oasis Healthcare or Oasis Dental that might prejudice a reference of the transaction under section 22 of the Act or impede the taking of any action by the CMA which may be justified by its decision on such a reference, including any action which might:
 - (i) lead to the integration of the Smiles business with the Oasis business
 - (ii) transfer the ownership or control of the Oasis business or the Smiles business or any of its subsidiaries, or
 - (iii) otherwise impair the ability of the Smiles business or the Oasis business to compete independently in any of the markets affected by the transaction.
 - (b) The Smiles business and the Oasis business have been maintained as a going concern and sufficient resources have been made available for the development of the Smiles business and the Oasis business, on the basis of their pre-merger business plans.
 - (c) No changes have been made to the organisational structure of, or the management responsibilities within, the Smiles business or the Oasis

business, except in the ordinary course of business.

- (d) The nature, description, range and quality of goods and services supplied in the UK by the Smiles business and the Oasis business have been maintained and preserved.
- (e) Except in the ordinary course of business for the separate operation of the two businesses:
 - (i) all of the assets of the Smiles business and the Oasis business, including facilities and goodwill, have been maintained and preserved as at the start of the Relevant Period
 - (ii) none of the assets of the Smiles business or the Oasis business have been disposed of, and
 - (iii) no interest in the assets of the Smiles business or the Oasis business has been created or disposed of
- (f) There has been no integration of the information technology of the Smiles or Oasis businesses, and the software and hardware platforms of the Smiles business have remained essentially unchanged, except for routine changes and maintenance.
- (g) Subject to integration which had occurred prior to the commencement date, the customer and supplier lists of the two businesses have been operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the Smiles business have been carried out by the Smiles business alone and, for the avoidance of doubt, Oasis Healthcare and Oasis Dental have not negotiated on behalf of Smiles (and vice versa) or entered into any joint agreements with Smiles (and vice versa).
- (h) All existing contracts of the Smiles business and the Oasis business have been serviced by the business to which they were awarded, except to the extent novated, assigned or subcontracted prior to the commencement date.
- (i) No changes have been made to key staff of the Smiles business or the Oasis business.
- (j) No key staff have been transferred between the Smiles business and the Oasis business.

- (k) All reasonable steps have been taken to encourage all key staff to remain with the Smiles business and the Oasis business.
- (l) Except as permitted by the Order, no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to either of the two businesses, has passed, directly or indirectly, from Smiles (or any of its employees, directors, agents or affiliates) to Oasis Healthcare and Oasis Dental (or any of its employees, directors, agents or affiliates), or vice versa.
- (m) Except as listed in paragraph (n) below, there have been no:
 - (i) key staff that have left or joined the Smiles business or the Oasis business
 - (ii) interruptions of Smiles business or the Oasis business (including without limitation procurement, production, logistics, sales and employee relations arrangements) that have prevented it from operating in the ordinary course of business for more than 24 hours
 - (iii) substantial customer volumes won or lost or substantial changes to the customer contracts for the Smiles business or the Oasis business, or
 - (iv) substantial changes in the Smiles or Oasis businesses' contractual arrangements or relationships with key suppliers
- (n) *[list of material developments]*

- 3. Oasis Healthcare and Oasis Dental and their subsidiaries remain in full compliance with the Order and will, or will procure that Smiles, continue actively to keep the CMA informed of any material developments relating to the Smiles or the Oasis business in accordance with paragraph 8 of the Order.

Interpretation

- 4. Terms defined in the Order have the same meaning in this compliance statement.

FOR AND ON BEHALF OF THE OASIS HEALTHCARE GROUP LIMITED

Signature

Name

Title

Date

FOR AND ON BEHALF OF OASIS DENTAL CARE (CENTRAL) LIMITED

Signature

Name

Title

Date