

Competition and Markets Authority

Acquisition by Motor Fuel Limited of 228 petrol stations from Murco Petroleum Limited

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 Motor Fuel Limited and Murco Petroleum Limited 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:

- Scimitar Top Co Limited (Scimitar);
- Motor Fuel Group Limited (MFG);
- Motor Fuel Limited (MFL);

- St Albans Operating Company Limited (SAOCL); and
- St Albans Dealership Co Limited (SADCL)

Commencement, application and scope

1. This Order commences on the commencement date: 30 September 2014
2. This Order applies to:
 - Scimitar;
 - MFG;
 - MFL;
 - SAOCL and
 - SADCL
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 Scimitar, MFG, MFL, SAOCL or SADCL 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 business of Scimitar Top Co Limited; Motor Fuel Group Limited; Motor Fuel Limited; St Albans Operating Company Limited and St Albans Dealership Co Limited and their subsidiaries carried on at the commencement date (the Scimitar business) and the Target businesses carried on at the commencement date (the Target business) until determination of proceedings

4. Except with the prior written consent of the CMA, Scimitar, MFG, MFL, SAOCL and SADCL 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 Target business with the Scimitar business
 - (b) transfer the ownership or control of the Scimitar business or the Target business or any of their subsidiaries, or

- (c) otherwise impair the ability of the Target business or the Scimitar 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, Scimitar, MFG, MFL, SAOCL and SADCL shall at all times during the specified period procure that, except with the prior written consent of the CMA:
- (a) the Target business is carried on separately from the Scimitar business and the Target business's separate sales or brand identity is maintained
 - (b) the Target business and the Scimitar business are maintained as a going concern and sufficient resources are made available for the development of the Target business and the Scimitar 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 Target business or the Scimitar business
 - (d) the nature, description, range and quality of goods and/or 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 Target business and the Scimitar business are maintained and preserved, including facilities and goodwill
 - (ii) none of the assets of the Target business or the Scimitar business are disposed of, and
 - (iii) no interest in the assets of the Target business or the Scimitar business is created or disposed of
 - (f) there is no integration of the information technology of the Target or Scimitar businesses, and the software and hardware platforms of the Target 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 Target business will be carried out by the Target business alone and for the avoidance of doubt the Scimitar business will not negotiate on behalf of the Target business (and vice versa) or enter into any joint agreements with the Scimitar business (and vice versa)
- (h) all existing contracts of the Target business and the Scimitar business continue to be serviced by the business to which they were awarded
- (i) no changes are made to key staff of the Target business or Scimitar business
- (j) no key staff are transferred between the Target business and the Scimitar business
- (k) all reasonable steps are taken to encourage all key staff to remain with the Target business and the Scimitar 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 the Target business (or any of its employees, directors, agents or affiliates) to the Scimitar business (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. Scimitar, MFG, MFL, SAOCL or SADCL shall procure that each of their subsidiaries complies with this Order as if the Order had been issued to each of them.
- 7. Scimitar, MFG, MFL, SAOCL or SADCL 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 Scimitar, MFG, MFL, SAOCL or

SADCL and their subsidiaries with this Order. In particular, on Monday 20 October 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 Scimitar, MFG, MFL, SAOCL or SADCL or other persons of Scimitar, MFG, MFL, SAOCL or SADCL as agreed with the CMA shall, on behalf of Scimitar, MFG, MFL, SAOCL or SADCL, provide a statement to the CMA in the form set out in Annex B to this Order confirming compliance with this Order.

8. At all times, Scimitar, MFG, MFL, SAOCL or SADCL shall, or shall procure that the target business shall, actively keep the CMA informed of any material developments relating to the target business or the Scimitar business, which includes but is not limited to:
 - (a) details of key staff who leave or join the Target business or the Scimitar business
 - (b) any interruption of the Target business or Scimitar 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 Target business or Scimitar business including any substantial changes in customers' demand, and
 - (d) substantial changes in the Target business or Scimitar business's contractual arrangements or relationships with key suppliers.
9. If Scimitar, MFG, MFL, SAOCL or SADCL has any reason to suspect that this Order might have been breached it shall immediately notify the CMA and any monitoring trustee that Scimitar, MFG, MFL, SAOCL or SADCL 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. Scimitar, MFG, MFL, SAOCL or SADCL shall comply in so far as they are 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 30 September 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

'MFL' means Motor Fuel Limited

'MFG' means Motor Fuel Group Limited

'the ordinary course of business' means matters connected to the day-to-day supply of [goods and/or services] by the Target business or Scimitar business and does not include matters involving significant changes to the organisational structure or related to the post-merger integration of the Target business and the Scimitar business

'SADCL' means St Albans Dealership Co Limited

'SAOCL' means St Albans Operating Company Limited

'Scimitar' means Scimitar Top Co Limited

'the Scimitar business' means the business of Scimitar Top Co Limited; Motor Fuel Group Limited; Motor Fuel Limited; St Albans Operating Company Limited and St Albans Dealership Co Limited and their subsidiaries carried on 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 Target business' means the petrol station businesses of Murco Petroleum identified at Annex A to this Notice carried on at the commencement date

'the transaction' means the transaction by which MFG and the Target have ceased to be distinct within the meaning of section 23 of the Act

'the two businesses' means the Scimitar business and the Target business

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

Tim Geer

Assistant Director, Mergers

Annex A

The Target Business

In relation to the Initial Enforcement Order, 'The Target business' means the petrol station businesses of Murco Petroleum carried on at the commencement date from the following sites:

Murco Station	Location
Murco Adwick le Street Service Station	Land lying to the North East of Great North Road, Adwick Le Street, DN6 7BX
Murco Andoversford Service Station	Colnbrook Service Station, Shipton Oliffe, GL54 4HS
Murco Bearwood Service Station	Bearwood Service Station, Sandon Road, Bearwood, Birmingham, B66 4AB
Murco Bexhill Service Station	30, 32 and 32A Station Road, Bexhill, TN40 1QF
Murco Bilston Service Station	Bilston Service Station, Willenhall Road, Bilston WV14 6NP
Murco Bloxwich Service Station	Land on the South East side of Cresswell Crescent, WS3 2TZ
Murco Brandhall Service Station	Brandhall Service Station, 453 Wolverhampton Road, Oldbury B68 8DD
Murco Broadside Service Station	Broadside Filling Station, 174 Aylsham Road, Norwich, NR3 2HJ
Murco Chadwell Heath Service Station	Chadwell Heath Filling Station, 287 High Road, Chadwell Heath, RM6 6AU
Murco Coventry Service Station	Land on the South West side of Black Prince Avenue, CV3 5JE
Murco Crondall Service Station	Land at Mill Lane, Crondall, GU10 5RP
Murco Derby Service Station	Land and buildings on the south side of Mansfield Road, Derby, DE2 4BE
Murco Derry Service Station	Derry Service Station, Londonderry Road, Oldbury B68 9NB

Murco Station

Murco Doncaster Service Station

Murco Downside Service Station

Murco East Stour Service Station

Murco Elton Service Station

Murco Eve Hill Service Station

Murco Farnham Service Station

Murco Gospel Oak Service Station

Murco Handsworth Service Station

Murco Hastings Service Station

Murco Hornchurch Service Station

Murco Hythe Service Station

Murco Kingfisher Service Station

Murco Knowle Service Station

Murco New John Street Service Station

Murco Newton Le Willows Service Station

Location

West Park Service Station, Balby Road, Balby, Doncaster, DN4 0JL
Station Road, Gomshall, Guildford, GU5 9LQ

Hythe Road, Ashford, TN24 8AH

Elton Corner Garage, Elton Road, Elton, Newnham GL14 1JQ

Eve Hill Service Station,
Wolverhampton Street and land lying to the south west of Wolverhampton Street, DY1 3AW

Land and buildings on the east side of Hale Road, Farnham, GU9 9RD

Gospel Oak Service Station, Gospel Oak Road, Tipton, DY4 0DS

Land and buildings on the south west side of Holyhead Road, Handsworth, B21 0LA

Combe Haven Garage, Bexhill Road, Hastings, TN38 8BE

Murco Service Station, Upper Rainham Road, Hornchurch, RM12 4BZ

Seapoint Filling Station, Seabrook Road, Hythe and Land adjoining Seapoint filling station, Seabrook Road, Hythe and Land adjoining Seapoint Filling Station, Princes Parade, Hythe, CT21 5RL

218-226 Lincoln Road, Peterborough, PE1 2NE

Knowle Filling Station, Kenilworth Road, Knowle, Solihull, B93 0JD

Land and buildings lying on the south side of New John Street West, B19 3TZ

Three Ways Garage, Market Street, Newton-le-Willows, WA12 9DG

Murco Station

Murco Newton Service Station

Murco Olton Service Station

Murco Oyster Lane Service Station

Murco Parkside Service Station

Murco Radford Service Station

Murco Shirley Service Station

Murco Slough Service Station

Murco Southbourne Service Station

Murco St Benedicts Service Station

Murco Stamford Hill Service Station

Murco Swan Service Station

Murco Teddington Hands Service Station

Murco Tipton Service Station

Murco Traffic Service Station

Murco Walton Service Station

Location

Newton Filling Station, Newton,
Winchburgh, Broxburn, EH52 6QE

10/24 Warwick Road, Olton, Solihull,
B92 7HS

Oyster Lane Filling Station, 102
Oyster Lane, Byfleet, KT14 7JH

140 Icknield Port Road, Birmingham
B16 0BJ

Radford Service Station, Jubilee
Crescent, Coventry CV6 3ET

Land at Guildford Road, Little
Bookham, Surrey, KT23 4HB

Murco Filling Station, at the Junction
of High Street and Turton Way,
Slough, SL1 2TW

60 Southbourne Grove, Southbourne,
BH6 3RB

St Benedicts Filling Station, 9
Dereham Road, Norwich, NR2 4HX

Stamford Hill Filling Station, 43-45
Stamford Hill, London, N16 5SR

1644 Coventry Road, Yardley,
Birmingham, B26 1AN

Teddington Hands Garage, Evesham
Road, Teddington GL20 8NE

Tipton Service Station, Bloomfield
Road, Tipton DY4 9EB

Traffic Street Service Station, Traffic
Street, Derby, DE1 2NL

Walton-Le-Dale Service Station,
Victoria Road, Walton-Le-Dale,
Preston, PR5 4BA

ANNEX B

Compliance statement for [Scimitar Top Co Limited / Motor Fuel Group Limited / Motor Fuel Limited / St Albans Operating Company Limited / St Albans Dealership Co Limited]*.

I [insert name] confirm on behalf of [Scimitar Top Co Limited / Motor Fuel Group Limited / Motor Fuel Limited / St Albans Operating Company Limited / St Albans Dealership Co Limited]* that:

Compliance in the Relevant Period

1. In the period from [insert date] to [insert date] (the Relevant Period):
 - (a) [Scimitar Top Co Limited / Motor Fuel Group Limited / Motor Fuel Limited / St Albans Operating Company Limited / St Albans Dealership Co Limited]* has complied with the Order made by the CMA in relation to the transaction on 30 September 2014 (the Order).
 - (b) [Scimitar Top Co Limited / Motor Fuel Group Limited / Motor Fuel Limited / St Albans Operating Company Limited / St Albans Dealership Co Limited]*'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 [Scimitar Top Co Limited / Motor Fuel Group Limited / Motor Fuel Limited / St Albans Operating Company Limited / St Albans Dealership Co Limited]* 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 Target business with the Scimitar business
 - (ii) transfer the ownership or control of the Scimitar business or the Target business or any of their subsidiaries, or
 - (iii) otherwise impair the ability of the Target business or the Scimitar business to compete independently in any of the markets affected by the transaction.

- (b) The Target business has been carried on separately from the Scimitar business and the Target business's separate sales or brand identity has been maintained.
- (c) The Target business and the Scimitar business have been maintained as a going concern and sufficient resources have been made available for the development of the Target business and the Scimitar business, on the basis of their respective pre-merger business plans.
- (d) No substantive changes have been made to the organisational structure of, or the management responsibilities within, the Target business or the Scimitar business, except in the ordinary course of business.
- (e) The nature, description, range and quality of goods and/or services supplied in the UK by the Target business and the Scimitar business have been maintained and preserved.
- (f) Except in the ordinary course of business for the separate operation of the two businesses:
 - (i) all of the assets of the Target business and the Scimitar 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 Target business or the Scimitar business have been disposed of, and
 - (iii) no interest in the assets of the Target business or the Scimitar business has been created or disposed of.
- (g) There has been no integration of the information technology of the Target or Scimitar businesses, and the software and hardware platforms of the Target business have remained essentially unchanged, except for routine changes and maintenance.
- (h) 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 Target business have been carried out by the Target business alone and, for the avoidance of doubt, the Scimitar business has not negotiated on behalf of the Target business (and vice versa) or entered into any joint agreements with the Target business (and vice versa).

- (i) All existing contracts of the Target business and the Scimitar 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.
- (j) No changes have been made to key staff of the Target business or the Scimitar business.
- (k) No key staff have been transferred between the Target business and the Scimitar business.
- (l) All reasonable steps have been taken to encourage all key staff to remain with the Target business and the Scimitar business.
- (m) 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 the Target business (or any of its employees, directors, agents or affiliates) to the Scimitar business (or any of its employees, directors, agents or affiliates), or vice versa.
- (n) Except as listed in paragraph (o) below, there have been no:
 - (i) key staff that have left or joined the Target business or the Scimitar business
 - (ii) interruptions of the Target business or the Scimitar 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 Target business or the Scimitar business, or
 - (iv) substantial changes in the Target or the Scimitar business's contractual arrangements or relationships with key suppliers.
- (o) *[list of material developments]*

3. [Scimitar Top Co Limited / Motor Fuel Group Limited / Motor Fuel Limited / St Albans Operating Company Limited / St Albans Dealership Co Limited]* and its subsidiaries remain in full compliance with the Order and will, or will procure that the Target business, continues actively to keep the CMA informed of any

material developments relating to the Target business or the Scimitar 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 [SCIMITAR TOP CO LIMITED / MOTOR FUEL GROUP LIMITED / MOTOR FUEL LIMITED / ST ALBANS OPERATING COMPANY LIMITED / ST ALBANS DEALERSHIP CO LIMITED]*

Signature

Name

Title

Date