

COMPLETED ACQUISITION BY KEY PUBLISHING LIMITED OF KELSEY PUBLISHING'S AVIATION AND MILITARY HISTORY PORTFOLIO

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 Key Publishing and the business carried on by means of certain assets of Kelsey Publishing 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 Mr. Repro Limited (Mr. Repro) and Key Publishing Limited (Key Publishing) (Order).

Commencement, application and scope

1. This Order commences on the commencement date: 30 October 2014.
2. This Order applies to Mr. Repro and Key Publishing.

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 Mr. Repro or Key Publishing 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 Key Publishing and Kelsey Publishing businesses until determination of proceedings

4. Except with the prior written consent of the CMA, Mr. Repro and Key Publishing 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 Kelsey Publishing business with the Mr. Repro business
 - (b) transfer the ownership or control of the Mr. Repro business or the Kelsey Publishing business or any of their subsidiaries, or
 - (c) otherwise impair the ability of the Kelsey Publishing business or the Mr. Repro 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, Mr. Repro and Key Publishing shall at all times during the specified period procure that, except with the prior written consent of the CMA:
 - (a) the Kelsey Publishing business is carried on separately from the Mr. Repro business and the Kelsey Publishing business's separate sales or brand identity is maintained
 - (b) the Kelsey Publishing business and the Mr. Repro business are maintained as a going concern and sufficient resources are made available for the development of the Kelsey Publishing business and the Mr. Repro 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 Kelsey Publishing business or the Mr. Repro 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 Kelsey Publishing business and the Mr. Repro business are maintained and preserved, including facilities and goodwill
 - (ii) none of the assets of the Kelsey Publishing business or the Mr. Repro business are disposed of, and
 - (iii) no interest in the assets of the Kelsey Publishing business or the Mr. Repro business is created or disposed of
- (f) there is no integration of the information technology of the Kelsey Publishing or Mr. Repro businesses, and the software and hardware platforms of the Kelsey Publishing 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 Kelsey Publishing business will be carried out by the Kelsey Publishing business alone and for the avoidance of doubt the Mr. Repro business will not negotiate on behalf of the Kelsey Publishing business (and vice versa) or enter into any joint agreements with the Kelsey Publishing business (and vice versa)
- (h) all existing contracts of the Kelsey Publishing business and the Mr. Repro business continue to be serviced by the business to which they were awarded
- (i) no changes are made to key staff of the Kelsey Publishing business or Mr. Repro business
- (j) no key staff are transferred between the Kelsey Publishing business and the Mr. Repro business
- (k) all reasonable steps are taken to encourage all key staff to remain with the Kelsey Publishing business and the Mr. Repro 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 Kelsey Publishing business (or any of its employees, directors, agents or affiliates) to the Mr. Repro 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. Mr. Repro and Key Publishing shall procure that each of their subsidiaries complies with this Order as if the Order had been issued to each of them.
7. Mr. Repro and Key Publishing 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 Mr. Repro and Key Publishing and their subsidiaries with this Order. In particular, on 12 November 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 Mr. Repro and Key Publishing or other persons of Mr. Repro and Key Publishing as agreed with the CMA shall, on behalf of Mr. Repro and Key Publishing, provide a statement to the CMA in the form set out in the Annex 1 to this Order confirming compliance with this Order.
8. At all times, Mr. Repro and Key Publishing shall actively keep the CMA informed of any material developments relating to the Kelsey Publishing business or the Mr. Repro business, which includes but is not limited to:
 - (a) details of key staff who leave or join the Kelsey Publishing business or the Mr. Repro business
 - (b) any interruption of the Kelsey Publishing or Mr. Repro 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 Kelsey Publishing or Mr. Repro business including any substantial changes in customers' demand, and
 - (d) substantial changes in the Kelsey Publishing or Mr. Repro business's contractual arrangements or relationships with key suppliers.

9. If Mr. Repro or Key Publishing has any reason to suspect that this Order might have been breached it shall immediately notify the CMA and any monitoring trustee that Mr. Repro and/or Key Publishing 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. Mr. Repro and Key Publishing 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

'Asset Purchase Agreement' means the asset purchase agreement between Kelsey Publishing Limited and Rutland Media Limited dated 17 September 2014

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

'commencement date' means 30 October 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

‘the Kelsey Publishing business’ means the business carried on as at the commencement date by means of the assets listed in the Annex 2 to this order.

‘Key Publishing’ means Key Publishing Limited

‘the Key Publishing business’ means the business of Key Publishing and its subsidiaries carried on as at the commencement date

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

‘Mr. Repro’ means Mr. Repro Limited

‘the Mr. Repro business’ means the business of Mr. Repro and its subsidiaries carried on as at the commencement date, including, for the avoidance of doubt, the Key Publishing business

‘the ordinary course of business’ means matters connected to the day-to-day supply of goods and/or services by the Kelsey Publishing business or Mr. Repro business and does not include matters involving significant changes to the organisational structure or related to the post-merger integration of the Kelsey Publishing business and the Mr. Repro business

‘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 Key Publishing and Kelsey Publishing have ceased to be distinct within the meaning of section 23 of the Act

‘the two businesses’ means the Mr. Repro business and the Kelsey Publishing business, and

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

ANNEX 1

Compliance statement for Mr. Repro/Key Publishing

I [insert name] confirm on behalf of Mr. Repro/Key Publishing that:

Compliance in the Relevant Period

1. In the period from [insert date] to [insert date] (the Relevant Period):
 - (a) Mr. Repro/Key Publishing has complied with the Order made by the CMA in relation to the transaction on 29 October 2014 (the Order).
 - (b) Mr. Repro/Key Publishing'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 Mr. Repro/Key Publishing 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 Kelsey Publishing business with the Mr. Repro business
 - (ii) transfer the ownership or control of the Mr. Repro business or the Kelsey Publishing business or any of their subsidiaries, or
 - (iii) otherwise impair the ability of the Kelsey Publishing business or the Mr. Repro business to compete independently in any of the markets affected by the transaction.
 - (b) The Kelsey Publishing business has been carried on separately from the Mr. Repro business and the Kelsey Publishing business's separate sales or brand identity has been maintained.
 - (c) The Kelsey Publishing business and the Mr. Repro business have been maintained as a going concern and sufficient resources have been made available for the development of the Kelsey Publishing business and the Mr. Repro 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 Kelsey Publishing

business or the Mr. Repro 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 Kelsey Publishing business and the Mr. Repro 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 Kelsey Publishing business and the Mr. Repro 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 Kelsey Publishing business or the Mr. Repro business have been disposed of, and
 - (iii) no interest in the assets of the Kelsey Publishing business or the Mr. Repro business has been created or disposed of.
- (g) There has been no integration of the information technology of the Kelsey Publishing or Mr. Repro businesses, and the software and hardware platforms of the Kelsey Publishing 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 Kelsey Publishing business have been carried out by the Kelsey Publishing business alone and, for the avoidance of doubt, the Mr. Repro business has not negotiated on behalf of the Kelsey Publishing business (and vice versa) or entered into any joint agreements with the Kelsey Publishing business (and vice versa).
- (i) All existing contracts of the Kelsey Publishing business and the Mr. Repro 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 Kelsey Publishing business or the Mr. Repro business.
- (k) No key staff have been transferred between the Kelsey Publishing business and the Mr. Repro business.

- (l) All reasonable steps have been taken to encourage all key staff to remain with the Kelsey Publishing business and the Mr. Repro 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 Kelsey Publishing business (or any of its employees, directors, agents or affiliates) to the Mr. Repro 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 Kelsey Publishing business or the Mr. Repro business
 - (ii) interruptions of the Kelsey Publishing business or the Mr. Repro 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 Kelsey Publishing business or the Mr. Repro business, or
 - (iv) substantial changes in the Kelsey Publishing or Mr. Repro business's contractual arrangements or relationships with key suppliers.
 - (o) *list of material developments*
3. Mr. Repro/Key Publishing and its subsidiaries remain in full compliance with the Order and will, continue actively to keep the CMA informed of any material developments relating to the Kelsey Publishing business or the Mr. Repro 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 MR. REPRO/KEY PUBLISHING

Signature

Name

Title

Date

ANNEX 2

Kelsey Publishing business assets

The following titles in printed, digital and online format:

1. Aeroplane Monthly
2. Jets
3. Classic Military Vehicles
4. Aviation Archives
5. Aeroplane Icons
6. Aeroplane Company Profiles
7. Classic Airlines
8. The War Archives, and the three sub-series:
 - a. World War II
 - b. Images of War; and
 - c. Machinery of Conflict
9. War in the Air
10. Airliner News
11. The Aeroplane
12. Airlines of the World

The following assets in respect of the titles listed above:

- All goodwill relating to the titles
- All intellectual property relating to the titles
- All logos, trade marks (including UK registered trade mark 2135993) and copyrights in connection with the titles and associated activities
- All websites and any other social media assets relating to the titles including associated accounts

- All rights in internet domains in connection with the titles including:
 - airlinernews.co.uk
 - btnarchive.co.uk
 - btnarchive.com
 - cmvmag.co.uk
 - jetsmag.co.uk
 - jetsmag.com
 - jetsmonthly.co.uk
 - jetsmonthly.com
 - aeroplanemonthly.co.uk
 - aeroplanemonthly.com
 - aeroplanemonthlysubs.com
- All subscription details and all rights and obligations arising from subscriptions, save as otherwise provided in the Asset Purchase Agreement
- The commercial information relating to the titles
- All data relating to the titles
- All work in progress relating to future issues of the titles
- Back catalogue of editorial material for the titles
- The Archive Collection
- All design templates relating to the titles
- Stock including back issues of the titles and all books and other documents relating to the subject areas of aviation and military history (excluding military ship history)
- All marketing/promotional material relating to the titles
- Exclusive right to use these titles and the assets in the future
- Dedicated shelving units and scanners

- Binders
- Subscription gifts