

ANTICIPATED ACQUISITION BY GB OILS LIMITED OF PACE FUEL CARE LIMITED

UNDERTAKINGS TO BE GIVEN BY DCC PLC AND GB OILS LIMITED TO THE OFFICE OF FAIR TRADING PURSUANT TO SECTION 73 OF THE ENTERPRISE ACT 2002

WHEREAS:

- (a) GB Oils proposes to acquire Pace Fuelcare by way of share purchase agreement that the parties entered into on 16 February 2011.
- (b) The OFT believes that it is or may be the case that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.
- (c) The OFT has a duty to refer an anticipated merger to the CC for further investigation where it believes that it is or may be the case that the merger may be expected to result in a substantial lessening of competition within a market or markets in the United Kingdom.
- (d) Under section 73 of the Act the OFT may, instead of making such a reference and for the purpose of remedying, mitigating or preventing the substantial lessening of competition concerned or any adverse effect which may be expected to result from it, accept undertakings to take such action as it considers appropriate, from such of the parties concerned as it considers appropriate, in particular having regard to the need to achieve as comprehensive a solution as is reasonable and practicable to the substantial lessening of competition and any adverse effects resulting from it.
- (e) The OFT considers that, in the absence of appropriate undertakings, it would be under a duty to refer the Anticipated Acquisition to the CC.
- (f) The OFT further considers that the undertakings given below by DCC and GB Oils are appropriate to remedy, mitigate or prevent the substantial lessening of competition, or any adverse effect which

may result from it, or may be expected to result from it, as identified in the OFT's Decision.

NOW THEREFORE DCC and GB Oils hereby give to the OFT the following undertakings for the purpose of remedying, mitigating or preventing the substantial lessening of competition, or any adverse effect which may result from it or may be expected to result from it.

Effective date of the undertakings

- 1.1 These undertakings shall take effect from the date that, having been signed by DCC and GB Oils, they are accepted by the OFT.

Non-acquisition of the Retained Business

- 2 DCC and GB Oils agree to exclude from the Anticipated Acquisition the whole and any part of the Retained Business.

Continued Separation

- 3 DCC and GB Oils agree, except with the prior written consent of the OFT, that they or any member of the Groups of Interconnected Bodies Corporate to which each of them belongs:
- (a) shall not, directly or indirectly, hold, acquire, or use:
 - (i) any Interest in the Retained Business;
 - (ii) any Interest in any company carrying on or having Control of that Retained Business (other than any investments made in the ordinary course of the operation of any of the employee benefit and pension schemes of DCC or GB Oils or of any members of the Group of Interconnected Bodies Corporate to which DCC or GB Oils belongs of not more than three per cent in aggregate of the issued equity share capital in any such company, whose shares are listed or dealt with on any recognised investment exchange, which carries no more than three per cent of the voting rights exercisable at meetings of such company); or

- (iii) other than in the ordinary course of business, any of the assets of that Retained Business;
- (b) shall procure that no current employee or director of DCC or GB Oils or of any members of the Group of Interconnected Bodies Corporate to which DCC or GB Oils belongs holds or is nominated to any directorship or managerial position in that Retained Business or any directorship or managerial position in any company or other undertaking carrying on or having Control of that Retained Business without the OFT's prior written consent;
- (c) shall not participate in the formulation of, or (other than in the ordinary course of business) influence or attempt to influence, the policy of that Retained Business or of any company or other undertaking carrying on or having Control of that Retained Business; and
- (d) shall not enter into or carry out any agreement or arrangement with any person, if the carrying out of the agreement or arrangement is intended to result or will result in any Associated Person or Affiliate of DCC or GB Oils or of any member of the Group of Interconnected Bodies Corporate to which GB Oils belongs directly or indirectly acquiring that Retained Business or doing any of the things listed in sub-paragraphs (a), (b) and (c) above.

Compliance

- 4.1 DCC and GB Oils shall comply promptly with such written directions as the OFT may from time to time give:
- (a) to take such steps as may be specified or described in the directions for the purpose of carrying out or securing compliance with these undertakings; or
 - (b) to do or refrain from doing anything so specified or described which DCC or GB Oils might be required by these undertakings to do or to refrain from doing.

- 4.2 DCC and GB Oils shall procure that any member of the same Group of Interconnected Bodies Corporate as DCC or GB Oils complies with these undertakings as if such member had given them and actions and omissions of the members of the same Group of Interconnected Bodies Corporate to which DCC or GB Oils belongs shall be attributed to DCC or GB Oils respectively for the purposes of these undertakings.
- 4.3 Where any Affiliate of DCC or GB Oils is not a member of the same Group of Interconnected Bodies Corporate as DCC or GB Oils, DCC and GB Oils shall use their best endeavours to procure that any such Affiliate shall comply with these undertakings as if it had given them.

Provision of Information

5. DCC and GB Oils shall furnish promptly to the OFT such information as the OFT considers necessary in relation to or in connection with the implementation and/or enforcement of and/or the compliance with these undertakings, including for the avoidance of doubt, any Confidential Information.

Interpretation

- 6.1 The Interpretation Act 1978 shall apply to these undertakings as it does to Acts of Parliament.
- 6.2 References in these undertakings to any English law term for any legal status, interest, concept or thing shall in respect of any jurisdiction other than England and Wales be deemed to include what most nearly approximates in that jurisdiction to the English law term.
- 6.3 In these undertakings the word "including" shall mean including without limitation or prejudice to the generality of any description, definition, term or phrase preceding that word and the word "include" and its derivatives shall be construed accordingly.

6.4 For the purposes of these undertakings:

“Act” means the Enterprise Act 2002;

“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 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;

“Anticipated Acquisition” means the anticipated purchase by GB Oils of 100 per cent of the issued share capital of Pace Fuelcare pursuant to a share and purchase agreement dated 16 February 2011;

“Associated Person” means a person or persons associated with GB Oils within the meaning of section 127(4) of the Act and includes any Subsidiary of such a person or persons;

“business” has the meaning given by section 129(1) and (3) of the Act;

“CC” means the Competition Commission;

“Confidential Information” means any business secrets, know-how, commercially sensitive information, intellectual property or any other information of a confidential or proprietary nature;

“Control” shall be construed in accordance with section 26 of the Act, and in the case of a body corporate, a person shall be deemed to Control it if he holds, or has an interest in, shares of that body corporate amounting to 10 per cent or more of its issued share capital or carrying an entitlement to vote at meetings of that body corporate of 10 per cent or more of the total number of votes which may be cast at such meetings;

“Cowes terminal” means the ship-fed oil storage terminal located in Cowes on the Isle of Wight operated by Pace Fuelcare;

"DCC" means DCC Plc, the ultimate parent company of GB Oils Limited;

"Decision" means the OFT's decision on reference under section 33 of the Act in connection with the Acquisition given on 24 June 2011;

"GB Oils" means GB Oils Limited;

"Group of Interconnected Bodies Corporate" has the meaning given in section 129(2) of the Act; references to a Group of Interconnected Bodies Corporate shall be to the Group of Interconnected Bodies Corporate as constituted from time to time;

"Interest" includes shares, an interest in shares and any other interest carrying an entitlement to vote at shareholders' meetings; and for this purpose "an interest in shares" includes an entitlement by a person other than the registered holder, to exercise any right conferred by the holding of these shares or an entitlement to Control the exercise of such right;

"Pace Fuelcare" means Pace Fuelcare Limited;

"Retained Business" means the entirety of:

- (i) the oil distribution business on the Isle of Wight carried on by Pace Fuelcare at the time of the Acquisition; and
- (ii) the Cowes Terminal on the Isle of Wight operated by Pace Fuelcare,

comprising the whole or substantially the whole of the rights, assets, interests and obligations of or associated with that business and the terminal as operated immediately prior to the date of the Anticipated Acquisition, including without prejudice to the foregoing, save as required or permitted by the OFT:

- (a) all tangible and intangible assets which contribute to the current operation or are necessary to ensure the viability or

competitiveness of the oil distribution business and the terminal;

- (b) all licences, permits, consents and authorisations issued by any governmental or regulatory organisation for the benefit of the oil distribution business and the terminal;
- (c) all contracts, leases, commitments and customer orders of or associated with the oil distribution business and the terminal;
- (d) all employees of the oil distribution business and the terminal at the time of the Anticipated Acquisition, whose performance materially affects the viability of the business and the terminal;

"OFT" means the Office of Fair Trading;

"Subsidiary" shall be construed in accordance with section 736 of the Companies Act 1985 (as amended), unless otherwise stated;

"UK" means the United Kingdom of Great Britain and Northern Ireland; and

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

FOR AND ON BEHALF OF DCC PLC

.....Signature

.....Name

.....Title

.....Date

Authorised Signatory

FOR AND ON BEHALF OF GB OILS LIMITED

.....Signature

.....Name

.....Title

.....Date

Authorised Signatory