

GREYHOUND BOARD OF GREAT BRITAIN ("GBGB")

RESPONSE TO THE COMPETITION AND MARKET AUTHORITY'S ("CMA'S") PROVISIONAL FINDINGS REPORT ("THE REPORT") IN THE ANTICIPATED MERGER BETWEEN LADBROKES PLC AND CERTAIN BUSINESSES OF GALA CORAL GROUP LIMITED

1. Overview

- 1.1 The Report provisionally finds that the acquisition of the Gala Coral Group Limited ("**Coral**") by Ladbrokes plc ("**Ladbrokes**") (the "**Transaction**") may not be expected to result in a substantial lessening of competition ("**SLC**") in the national market for the sale of greyhound media rights.
- 1.2 GBGB considers that the CMA's assessment of the impact of the Transaction on competition for the sale of media rights for greyhound events is flawed. In particular, GBGB considers that the CMA has failed to give due weight in its assessment to several important aspects of the greyhound racing product. GBGB considers that a proper assessment of these factors will lead the CMA to conclude that the Transaction will give rise to an SLC in the national market for the sale of greyhound media rights.
- 1.3 Furthermore, GBGB considers that the CMA's assessment of whether the anticipated combined entity (the "**Merged Entity**") would be able to influence the decisions of the media rights purchasers in which they hold interests is flawed. GBGB considers that the increased influence of Ladbrokes and Coral within those entities, particularly within BAGS, which will arise as a result of the Transaction, will provide the Merged Entity with the ability to influence decisions on the number, allocation and pricing of meetings to the detriment of other greyhound track operators.
- 1.4 GBGB is disappointed that it was not called to provide evidence at a hearing with the inquiry group given the competition issues relating to the concentration of supply of greyhound racing media rights into the British LBO market, in addition to the considerable buyer power of the Merged Entity.

2. Provisional Findings on the impact of the Transaction on greyhound media rights

- 2.1 In paragraphs 10.15 to 10.45 of the Report, the CMA sets out its analysis of the impact of the Transaction on media rights in relation to greyhound racing. The Report states that the CMA examined in particular whether post-Transaction the Parties would have the ability to increase the price charged for media rights for their greyhound racing and whether they could increase the share of broadcast meetings held at their racetracks to the detriment of other operators.
- 2.2 The CMA notes at paragraph 10.31 that:
- 2.2.1 the Parties have a relatively small share of the overall market, there are several alternative 'quality' tracks and other tracks have the ability to improve their quality if necessary, in response to a price increase by the Parties; and

- 2.2.2 there is capacity to broadcast additional races from other greyhound tracks in the short term and to develop additional capacity in the medium term.
- 2.3 As a result, the CMA provisionally found that the Transaction may not be expected to result in an SLC in the sale of media rights for greyhound events.
- 2.4 In addition, the CMA examined whether, as a result of the Transaction, the Merged Entity would be able to influence the decisions of the media rights purchasers in which they hold interests (namely, BAGS, SIS and Greyhound TV). The CMA's provisional view on this matter is that the Merged Entity is unlikely to be able to increase its allocation of broadcast races to the detriment of other operators because the Parties are unlikely to have the ability to influence the decisions of the relevant media rights purchasers to the detriment of other track operators.
3. **Reasons why these provisional findings in respect of greyhound media rights should not become final**

Important aspects of the greyhound racing product must be taken into account

- 3.1 GBGB has concerns relating to the CMA's provisional findings on the impact of the Transaction on competition for the sale of media rights for greyhound events. GBGB considers that the CMA has failed to give due weight to several important aspects of the greyhound racing product in assessing the Merged Entity's ability to adversely impact competition in the market for the sale of greyhound racing media rights.
- 3.2 In GBGB's response to the CMA's questions provided on 5th February 2016, we noted that Ladbrokes and Coral had a combined share of approximately 29.1% (Ladbrokes 15.3%, Coral 13.8%) in the number of greyhound races broadcast into LBOs in 2015. However, in the schedule for 2016, this is due to rise to 32.4% (Ladbrokes 16.8%, Coral 15.6%) of fixtures appearing on the BAGS services. In light of these figures, the CMA appears not to have properly evaluated the economic significance of the Ladbrokes and Coral fixtures to LBOs which, due to the time slots allocated to the fixtures, is far greater than this share indicates.
- 3.3 SIS explained in its hearing on 16 February 2016 that the Ladbrokes and Coral greyhound meetings are an integral part of the SIS product offering to LBOs¹. It was explained that these meetings are considered to be of good quality and are more attractive to bookmakers. However, GBGB submits that it is the positioning of the meetings within the schedule that is the most important factor. SIS is the entity which makes the ultimate decision on what fixtures are shown in LBOs.
- 3.4 Moreover, the Ladbrokes and Coral fixtures are predominantly afternoon and Saturday morning fixtures, with Saturday morning being a particularly lucrative timeslot providing enhanced turnover for bookmakers (this can be verified by the parties and by BAGS). BAGS explained in its hearing of 4 February 2016 that Saturday morning greyhound

¹ Summary of hearing with SIS on 16 February 2016, paragraph 20.

meetings are an important time for bookmakers because, as many punters visit an LBO to place bets in the morning for horse races in the afternoon, bookmakers want to have high-class greyhound races to attract customers on Saturday morning². However, GBGB contends that LBO operators are largely ambivalent to the quality of racing, particularly as the races staged at both tracks for the Saturday morning timeslot are generally at the lower level of graded racing available at each venue. GBGB believes that the allocation is largely historic and other racecourses on the BAGS schedule would be able to fulfil the requirements. It is believed that the Saturday timeslot is the one which attracts the highest media rights payments, with evening and Sunday meetings being smaller. BAGS will be able to provide figures regarding the payments made for all the different time slots.

- 3.5 By virtue of their disproportionate share of the most lucrative fixture slots, GBGB estimates that Ladbrokes and Coral fixtures broadcast in LBOs have a combined share of 40% of greyhound betting turnover generated in LBOs, a share of the market which has the potential to provide the Merged Entity with the ability to exercise market power over its customers (in this case, purchasers of greyhound media rights) in addition to providing much closer control over the racing and on course market which ultimately provides the starting price into all LBOs.
- 3.6 The Merged Entity will also have market power in the downstream acquisition market and will represent SIS's largest single customer for the broadcast of greyhound fixtures. As a result, SIS is very likely to be incentivised to favour the Merged Entity's fixtures in the service ultimately provided to LBOs. Indeed, GBGB considers, for reasons outlined above, that the Merged Entity is likely to have the power to place SIS under significant pressure to show a greater number of the Merged Entity's fixtures and there is evidence of this influence already being exerted when comparing the proposed 2016 LBO fixture list with the number of races broadcast in 2015. GBGB considers this to be the case even taking account of SIS's corporate governance structure. The 1998 MMC Report into the completed acquisition by Hilton Group plc of the Coral betting business from Bass plc commented, '*... in view of Ladbroke's (post merger) vertical links from track ownership through BAGS membership to the operation of LBOs, combined with its influence over SIS..., we consider it undesirable that Ladbroke's involvement in track ownership should increase significantly...*'³ [ⓧ]
- 3.7 Moreover, GBGB submits that the CMA has overstated the ability of other greyhound tracks to increase their offering in response to an attempted future price increase by the Merged Entity. In fact, GBGB considers that the Merged Entity will be in a position to increase its own capacity, offering greyhound racing on additional days and acquiring additional fixture slots. In doing so, the Merged Entity will have the ability to squeeze other greyhound tracks out of the market given that the sale of media rights represents the majority of (or only) income for tracks offering morning and afternoon fixtures. Indeed, this appears to be happening already with the number of races included in the 2016 LBO schedule which will

² Summary of hearing with BAGS on 4 February 2016, paragraph 10(c).

³ A Report by the Monopolies and Mergers Commission on the merger situation involving Ladbroke Group plc and the Coral betting business, CM4030, September 1998, (the "**1998 MMC Report**") Paragraph 2.176.

be provided by a Ladbrokes or Coral track due to increase by over 1,200 races. This represents a 14.3% increase on the number of races provided in 2015 and takes their combined share of the overall greyhound racing programme available in LBOs from 29.1% to 32.4%.

- 3.8 GBGB's view is that the Transaction will give rise to an SLC in the market for greyhound media rights as a result of the Merged Entity's share of the most lucrative greyhound fixtures combined with its enhanced position in the LBO market which will enable it to exert increased pressure on SIS to the detriment of other greyhound track operators.

Governance arrangements of the purchasers of media rights

- 3.9 GBGB does not agree with the CMA's conclusions as regards the ability of the Merged Entity to influence the decisions of the relevant media rights purchasers to the detriment of other track operators. The Merged Entity will have a very significant presence in the greyhound racing sector, through a combination of its very large share of LBOs, its representation on the board of BAGS, its shareholding and board representation in SIS and its representation in a number of other industry bodies. Given the extent of unrivalled this presence, there can be no doubt that the Merged Entity will have the ability to influence decisions in respect of greyhound media rights.

- 3.10 By way of example, Ladbrokes and Coral both provide representative directors on the BAGS Board, which is responsible for the allocation of fixtures, the price paid to the majority of track operators (those which contract directly with BAGS) and the issuing of agreements regarding the purchase of media rights for greyhound racing. Since GBGB made its initial submission to the panel, Ladbrokes has joined Coral in contracting directly with SIS for the provision of media rights. The Ladbrokes representative on the BAGS Board also sits on the Board of SIS meaning that, notwithstanding governance arrangements, Ladbrokes is in a position to influence the decision making process of both these competing media rights companies.

- 3.11 In addition, both Ladbrokes and Coral provide representatives to the Association of British Bookmakers (ABB) Council (Board of Directors) and the Board of Directors of the British Greyhound Racing Fund (BGRF). This gives them significant influence over the supply of greyhound racing product and the allocation of expenditure to the wider industry from the voluntary 'levy' generated by greyhound racing and administered by the BGRF. In the case of Ladbrokes the same individual sits on the Boards of BAGS, SIS, ABB and BGRF.

4. Suggested remedies

- 4.1 [X] The 1998 MMC report into the Ladbroke PLC and the Coral Betting Business commented, "*the increased market dominance which Ladbrokes has acquired as a result of the merger in the operation and financing of BAGS, combined with the ownership of four greyhound tracks, would have adverse public interest effect*". As a result "*Ladbrokes said that it was willing to undertake to make further disposals in order to remedy adverse effects which we might conclude would flow from the merger*". [X]

- 4.2 [X]

Greyhound Board of Great Britain

13 June 2016