

ACQUISITION BY DINING CLUB GROUP LIMITED OF HI-LIFE DINERS CLUB 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 Bridgepoint Group Limited, through affiliated entities the Dining Club Group Limited and State Bidco Limited, and Hi-Life Diners Club Limited (Hi-Life Diners Club) 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 Bridgepoint Group Limited, Dining Club Group Limited and State Bidco Limited (Order).

Commencement, application and scope

1. This Order commences on the commencement date: 8 August 2016.

2. This Order applies to Bridgepoint Group Limited, Dining Club Group Limited and State Bidco Limited.
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 Bridgepoint Group Limited, Dining Club Group Limited or State Bidco Limited 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 Dining Club and Hi-Life Diners Club businesses until determination of proceedings

4. Except with the prior written consent of the CMA, Bridgepoint Group Limited, Dining Club Group Limited and State Bidco Limited 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 Hi-Life Diners Club business with the Dining Club business;
 - (b) transfer the ownership or control of the Dining Club business or the Hi-Life Diners Club business or any of their subsidiaries; or
 - (c) otherwise impair the ability of the Hi-Life Diners Club business or the Dining Club 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, Bridgepoint Group Limited, Dining Club Group Limited and State Bidco Limited shall at all times during the specified period procure that, except with the prior written consent of the CMA:
 - (a) the Hi-Life Diners Club business is carried on separately from the Dining Club business and the Hi-Life Diners Club business's separate sales or brand identity is maintained;
 - (b) the Hi-Life Diners Club business and the Dining Club business are maintained as a going concern and sufficient resources are made available for the development of the Hi-Life Diners Club business and the Dining Club 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 Hi-Life Diners Club business or the Dining Club 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 Hi-Life Diners Club business and the Dining Club business are maintained and preserved, including facilities and goodwill;
 - (ii) none of the assets of the Hi-Life Diners Club business or the Dining Club business are disposed of; and
 - (iii) no interest in the assets of the Hi-Life Diners Club business or the Dining Club business is created or disposed of;
- (f) there is no integration of the information technology of the Hi-Life Diners Club or Dining Club businesses, and the software and hardware platforms of the Hi-Life Diners Club 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 Hi-Life Diners Club business will be carried out by the Hi-Life Diners Club business alone and for the avoidance of doubt the Dining Club business will not negotiate on behalf of the Hi-Life Diners Club business (and vice versa) or enter into any joint agreements with the Hi-Life Diners Club business (and vice versa);
- (h) all existing contracts of the Hi-Life Diners Club business and the Dining Club business continue to be serviced by the business to which they were awarded;
- (i) no changes are made to key staff of the Hi-Life Diners Club business or Dining Club business;
- (j) no key staff are transferred between the Hi-Life Diners Club business and the Dining Club business;

- (k) all reasonable steps are taken to encourage all key staff to remain with the Hi-Life Diners Club business and the Dining Club 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 Hi-Life Diners Club business (or any of its employees, directors, agents or affiliates) to the Dining Club 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 transaction 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. Bridgepoint Group Limited, Dining Club Group Limited and State Bidco Limited shall procure that each of their subsidiaries complies with this Order as if the Order had been issued to each of them.
- 7. Bridgepoint Group Limited, Dining Club Group Limited and State Bidco Limited 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 Bridgepoint Group Limited, Dining Club Group Limited and State Bidco Limited and their subsidiaries with this Order. In particular, on 22 August 2016 and subsequently every two weeks (or, where this does not fall on a working day, the first working day thereafter) the Chief Executive Officers of Bridgepoint Group Limited, Dining Club Group Limited and State Bidco Limited or other persons of Bridgepoint Group Limited, Dining Club Group Limited and State Bidco Limited as agreed with the CMA shall, on behalf of Bridgepoint Group Limited, Dining Club Group Limited and State Bidco Limited, 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, Bridgepoint Group Limited, Dining Club Group Limited and State Bidco Limited shall, or shall procure that Hi-Life Diners Club shall, actively keep the CMA informed of any material developments relating to the Hi-Life Diners Club business or the Dining Club business, which includes but is not limited to:
 - (a) details of key staff who leave or join the Hi-Life Diners Club business or the Dining Club business;

- (b) any interruption of the Hi-Life Diners Club or Dining Club 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 Hi-Life Diners Club or Dining Club business including any substantial changes in customers' demand; and
 - (d) substantial changes in the Hi-Life Diners Club or Dining Club business's contractual arrangements or relationships with key suppliers.
9. If Bridgepoint Group Limited, Dining Club Group Limited and State Bidco Limited has any reason to suspect that this Order might have been breached it shall immediately notify the CMA and any monitoring trustee that Bridgepoint Group Limited, Dining Club Group Limited and State Bidco Limited 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. Bridgepoint Group Limited, Dining Club Group Limited and State Bidco Limited 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;

'Bridgepoint' means Bridgepoint Group Limited (company number 09303968);

'the Dining Club business' means the business of Bridgepoint Group Limited, Dining Club Group Limited and State Bidco Limited and their subsidiaries carried on as at the commencement date;

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

'commencement date' means 8 August 2016;

'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;

'Hi-Life Diners Club' means Hi-Life Diners Club Limited (company number 03940640);

'the Hi-Life Diners Club business' means the business of Hi-Life Diners Club 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;

'the ordinary course of business' means matters connected to the day-to-day supply of goods and/or services by Hi-Life Diners Club or Bridgepoint or State Bidco and does not include matters involving significant changes to the organisational structure or related to the post-merger integration of Hi-Life Diners Club and Bridgepoint or State Bidco;

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

'State Bidco' means State Bidco Limited (company number 09578541)

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

'the transaction' means the transaction by which Bridgepoint Group Limited, through affiliated entities the Dining Club Group Limited and State Bidco

Limited, and Hi-Life Diners Club Limited have ceased to be distinct within the meaning of section 23 of the Act;

'the two businesses' means the Bridgepoint business and the Hi-Life Diners Club business;

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

Cleo Alliston
Assistant Director, Mergers

Compliance statement for Bridgepoint Group Limited/Dining Club Group Limited/State Bidco Limited

I [insert name] confirm on behalf of Bridgepoint Group Limited/Dining Club Group Limited/State Bidco Limited that:

Compliance in the Relevant Period

1. In the period from [insert date] to [insert date] (the Relevant Period):
 - (a) Bridgepoint Group Limited/Dining Club Group Limited/State Bidco Limited has complied with the Order made by the CMA in relation to the transaction on 8 August 2016 (the Order).
 - (b) Bridgepoint Group Limited/Dining Club Group Limited/State Bidco 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 Bridgepoint Group Limited/Dining Club Group Limited/State Bidco 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 Hi-Life Diners Club business with the Dining Club business;
 - (ii) transfer the ownership or control of the Dining Club business or the Hi-Life Diners Club business or any of their subsidiaries; or
 - (iii) otherwise impair the ability of the Hi-Life Diners Club business or the Dining Club business to compete independently in any of the markets affected by the transaction.
 - (b) The Hi-Life Diners Club business has been carried on separately from the Dining Club business and the Hi-Life Diners Club business's separate sales or brand identity has been maintained.
 - (c) The Hi-Life Diners Club business and the Dining Club business have been maintained as a going concern and sufficient resources have been made available for the development of the Hi-Life Diners Club business

and the Dining Club 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 Hi-Life Diners Club business or the Dining Club 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 Hi-Life Diners Club business and the Dining Club 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 Hi-Life Diners Club business and the Dining Club 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 Hi-Life Diners Club business or the Dining Club business have been disposed of; and
 - (iii) no interest in the assets of the Hi-Life Diners Club business or the Dining Club business has been created or disposed of.
- (g) There has been no integration of the information technology of the Hi-Life Diners Club or Dining Club businesses, and the software and hardware platforms of the Hi-Life Diners Club 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 Hi-Life Diners Club business have been carried out by the Hi-Life Diners Club business alone and, for the avoidance of doubt, the Dining Club business has not negotiated on behalf of the Hi-Life Diners Club business (and vice versa) or entered into any joint agreements with the Hi-Life Diners Club business (and vice versa).
- (i) All existing contracts of the Hi-Life Diners Club business and the Dining Club 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 Hi-Life Diners Club business or the Dining Club business.
- (k) No key staff have been transferred between the Hi-Life Diners Club business and the Dining Club business.
- (l) All reasonable steps have been taken to encourage all key staff to remain with the Hi-Life Diners Club business and the Dining Club 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 Hi-Life Diners Club business (or any of its employees, directors, agents or affiliates) to the Dining Club 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 Hi-Life Diners Club business or the Dining Club business;
 - (ii) interruptions of the Hi-Life Diners Club business or the Dining Club 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 Hi-Life Diners Club business or the Dining Club business; or
 - (iv) substantial changes in the Hi-Life Diners Club or Dining Club business's contractual arrangements or relationships with key suppliers.
- (o) *[list of material developments]*

3. Bridgepoint Group Limited/Dining Club Group Limited/State Bidco Limited and its subsidiaries remain in full compliance with the Order and will, or will procure that Hi-Life Diners Club, continue actively to keep the CMA informed of any material developments relating to the Hi-Life Diners Club or the Dining Club 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 Bridgepoint Group Limited/Dining Club Group Limited/State Bidco Limited

Signature

Name

Title

Date