

Dear Mr Warrington and Mr Snape

**Consent under section 72(3C) of the Enterprise Act 2002 to certain actions for the purposes of the Initial Enforcement Order made by the Competition and Markets Authority ('CMA') on 5 December 2018**

**Completed acquisition by Headlam Group and HFD Limited of certain assets of Garrod Bros (London) Ltd ('Garrod Bros').**

We refer to your emails dated 15 January, 22 and 23 January 2019 requesting that the CMA consents to derogations to the Initial Enforcement Order of 5 December 2018 (the 'Initial Order'). The terms defined in the Initial Order have the same meaning in this letter.

Under the Initial Order, save for written consent by the CMA, Headlam Group PLC ('Headlam') and HFD Limited ('HFD') are required to hold separate the Garrod Bros business from the Headlam business and HFD business and refrain from taking any action which might prejudice a reference under section 22 of the Act or impede the taking of any remedial action following such a reference.

After due consideration of your request for derogations from the Initial Order, based on the information received from you and in the particular circumstances of this case, Headlam, HFD and Garrod Bros may carry out the following actions, in respect of the specific paragraphs:

**1. Paragraph 5a, 5(g) and 5(l) of the Initial Order**

The CMA understands that there are certain capacity limitations with regards the ability of the Garrod Bros tele-sales representatives to answer calls from Garrod Bros customers. Headlam submitted that in order for the Garrod Bros business to be maintained as a going concern, it may be necessary from time to time for tele-sales representatives at Halls Flooring to answer sales calls from Garrod Bros customers when the Garrod Bros telesales representative is unavailable. Headlam stated that the Halls Flooring business and Garrod Bros business have limited overlaps and that Halls Flooring sells products principally to residential customers whilst Garrod Bros sells products principally to commercial customers.

The CMA consents to the current telephone arrangements remaining in place, subject to the following conditions:

- Halls Flooring tele-sales representatives will answer calls from Garrod Bros customers as the Garrod Bros business;
- Separate telephone numbers will be maintained for the Garrod Bros business;
- Halls Flooring tele-sales representatives will quote Garrod Bros pricing to the Garrod Bros customers;
- Halls Flooring tele-sales representatives commit not to solicit any Garrod Bros customers or otherwise seek to drive sales away from the Garrod Bros business to the Halls Flooring business or any other Headlam business; and
- The Garrod Bros tele-sales representative will not answer calls from Halls Flooring customers.

## 2. Paragraphs 5(a), 5(g) and 5(l) of the Initial Order

The CMA understands that the Garrod Bros tele-sales representatives and trade counter staff do not maintain any authority to set prices for Garrod Bros customers and that prior to the acquisition of Garrod Bros by Headlam, such decisions were taken by the owner-managers ([REDACTED]) who have left the Garrod Bros business. In responding to customer requests for quotations, the Garrod Bros tele-sales representatives and trade counter staff quote a price directly from an IT order system.

Headlam submitted that a degree of managerial oversight by Headlam and HFD of the Garrod Bros business is required to ensure that Garrod Bros is maintained as a going concern. This managerial oversight will be provided by [REDACTED] (Finance Manager, Headlam) and is strictly limited to the approval of ad hoc discounts for large Garrod Bros customer orders. Headlam stated that such requests for discounts do not arise regularly.

The CMA consents to [REDACTED] receiving certain commercially-sensitive information from Garrod Bros in order to be able to take decisions on Garrod Bros ad hoc customer discounts, subject to the following conditions:

- any Garrod Bros commercially-sensitive information shared with [REDACTED] will be limited to that strictly necessary to allow [REDACTED] to take a decision on the Garrod Bros customer discount in question and for the avoidance of doubt, will not include the customer name;
- Garrod Bros commercially-sensitive information will only be shared with [REDACTED] on an ad hoc basis when a request for a customer
- discount arises;

- [X] is not part of the Headlam or HFD management team and he does not have any strategic or commercial role within any Headlam business;
- [X] enters into a confidentiality agreement, the form of which will be agreed with the CMA;
- For the avoidance of doubt, during the CMA's investigation, [X] will not be provided with any information relating to customer discounts for Headlam and HFD, as per the confidentiality agreement referred to above;
- If the transaction is not unconditionally cleared at the end of the CMA's investigation, [X] will not, for a period of one year after the CMA's final decision, be responsible for approving customer discounts for the Headlam or HFD business;
- [X] will take decisions on Garrod Bros customer discounts on his own and without involvement from any other Headlam employee in the decision-making process; and

### **3. Paragraph 5(a) and 5(l) of the Initial Order**

In order to maintain oversight of the Garrod Bros business to ensure that it is being maintained as a going concern, the CMA understands that [X], Finance Manager, Headlam, requires access to certain commercially-sensitive information of Garrod Bros. Headlam proposed that a Garrod Bros sales report (the format of which has been agreed with the CMA) be sent to [X] on a weekly basis by the Garrod Bros business. Headlam submits that the weekly sales report includes the minimum information necessary to ensure business continuity of the Garrod Bros business.

The communication of this information will be subject to the following safeguards:

- (i) Disclosure of Garrod Bros financial information to [X] will be limited to that provided for in the template approved by the CMA;
- (ii) Headlam will put in place effective ring-fencing measures to ensure that no other Headlam employee has access to any commercially-sensitive information of the Garrod Bros business;
- (iii) [X] is not part of the Headlam or HFD management team and does not have any strategic or commercial role within any Headlam business; and
- (iv) [X] enters into a confidentiality agreement, the form of which will be agreed with the CMA.

### **4. Paragraph 5(l) of the Initial Order**

The CMA understands that Garrod Bros has been incorporated into HFD Limited. Headlam submitted that, in order to produce profit and loss and balance sheets for Garrod Bros, it is necessary for one back-office employee in the HFD Coleshill accounts team ([REDACTED], Financial Controller) to have access to the Garrod Bros sales, purchase and nominal ledgers.

The CMA consents to Garrod Bros sharing such financial information with Ian Roberts, subject to the following safeguards being place:

- The financial information shared with [REDACTED] will be in a template agreed with the CMA;
- The financial information shared with [REDACTED] will be limited to that which is strictly necessary for the purpose of preparing profit and loss and balance sheets for Garrod Bros;
- Headlam will put in place effective ring-fencing measures (at a minimum, to include password protection) to ensure that no other member of the Coleshill accounts team (or otherwise) has access to any commercially-sensitive information of the Garrod Bros business.
- [REDACTED] is a member of the Coleshill accounts team and is not part of the Headlam or HFD management team and does not have any strategic or commercial role within any Headlam business;
- [REDACTED] will enter into a confidentiality agreement, the form of which will be agreed with the CMA;

## **5. Paragraph 5(I) of the Initial Order**

The CMA understands that [REDACTED] (Finance Manager, Headlam) will require access to confidential financial information relating to the Garrod Bros business for the purposes of producing HFD and Headlam Group consolidated statutory accounts, in accordance with regulatory requirements. The CMA further understands that certain Garrod Bros financial information also needs to be shared with [REDACTED] of Headlam in order to prepare the Headlam Group consolidated accounts.

The CMA consents to Garrod Bros sharing such financial information with [REDACTED] subject to the following safeguards being place:

- The financial information shared with [REDACTED] will be in a template agreed with the CMA;
- The financial information shared with [REDACTED] will be limited to that which is strictly necessary for the purpose of preparing statutory accounts for HFD and Headlam Group consolidated accounts;

- [X] is not part of the Headlam or HFD management team and does not have any strategic or commercial role within any Headlam business;
- The financial information shared with [X] will be in a template agreed with the CMA;
- [X] and [X] will enter into a confidentiality agreement, the form of which will be agreed with the CMA;
- Headlam will put in place effective ring-fencing measures to ensure that no other Headlam employee has access to any commercially-sensitive information of the Garrod Bros business.
- any Garrod Bros financial information provided to the Headlam Board will be shared on a consolidated basis only and in a template agreed with the CMA and for the avoidance of doubt, will not contain any granular financial information of the Garrod Bros business.

## **6. Paragraph 5(a) and 5(g)**

The CMA understands that Headlam wishes to recruit an external sales consultant to support and drive sales for the Garrod Bros business. Headlam submitted that, due to the level of experience of the proposed candidate, the external sales consultant would require minimum managerial oversight by Headlam. The CMA consents to Headlam providing the candidate with an induction over a two-week period, subject to the following conditions:

- The external sales consultant would not be provided with access to any Headlam IT systems (other than as applicable to Garrod Bros) and applications which contain commercially-sensitive Headlam information;
- Headlam will not dictate the commercial strategy of the external sales consultant or the Garrod Bros business;
- Headlam will make clear at the induction that although the external sales consultant is legally employed by Headlam, they are to work solely for the Garrod Bros business;

The CMA further understands that as part of the induction process, the Garrod Bros external sales representative will need to shadow [X] (sales representative of Headlam covering Nottingham and Derbyshire) for two days. The CMA consents to such job shadowing arrangements on the basis that there is limited customer overlap between the Garrod Bros business and Headlam business in Nottingham and Derbyshire.

## **7. Paragraph 5(l) of the Initial Order**

The CMA understands that in order to facilitate the CMA's review of the acquisition by Headlam and HFD of Garrod Bros, it may be necessary for [X] (Finance Manager, Headlam) to receive access to information of the Garrod Bros business which is strictly necessary in order to comply with any requests for information issued by the CMA.

The CMA consents to a derogation the Initial Order subject to the following safeguards being in place:

- (i) Garrod Bros information will only be provided to [X] where strictly necessary to comply with the CMA's information requests and where such information cannot be provided directly to the CMA by the Garrod Bros business;
- (ii) Headlam will put in place effective ring-fencing measures to ensure that no other Headlam employee has access to any commercially-sensitive information of the Garrod Bros business;
- (iii) [X] is not part of the Headlam or HFD management team and does not have any strategic or commercial role within any Headlam business;
- (iv) [X] enters into a confidentiality agreement, the form of which will be agreed with the CMA.

Maria Duarte  
**Assistant Director, Mergers**  
30 January 2019