

**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 1 March 2019**

**Completed acquisition by Bauer Radio of certain assets of the Celador business**

We refer to your email dated 21 March 2019 and your previous note of 7 March 2019 requesting that the CMA consents to derogations to the Initial Enforcement Order of 1 March 2019 (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, Bauer Radio and HBV are required to hold separate the HBV business from the Celador 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, HBV and Bauer Radio may carry out the following actions, in respect of the specific paragraphs:

**1. Paragraphs 5(g) and 5(l) of the Initial Order**

The CMA understands, on the basis of information provided by Bauer Radio, that upon completion of the Celador transaction, Bauer Radio made necessary arrangements to provide the acquired Celador business with certain essential services that had previously been provided by other parts of the Celador business which Bauer did not purchase. One of these essential services was insurance cover through group policies.

To ensure the effective operation of the acquired Celador business, the CMA consents to a derogation from paragraphs 5(g) and 5(l) strictly limited to the purpose of allowing the acquired Celador business to benefit from insurance cover organised and administered by Bauer Corporate Services (**BCS**), part of Bauer Radio. This includes public liability insurance, car insurance, directors and officers liability insurance, and employment insurance. The CMA consents to this derogation on the understanding that:

- Information disclosed to BCS for the purpose of processing a claim or providing associated advice to employees of the acquired Celador business will be made accessible only to Debbie Floyde (Group Fleet Manager at BCS) and Debbie Housley-Stott (Fleet Coordinator at BCS). These individuals are responsible for organising and administering the BCS group's insurance cover.
- Information disclosed to Debbie Floyde and Debbie Housley-Stott for the purposes of making or processing an insurance claim or providing associated advice will not be circulated more widely within BCS or Bauer Radio more generally.
- Accordingly, Debbie Floyde and Debbie Housley-Stott will both sign non-disclosure agreements approved by the CMA, including appropriate safeguards on the use, treatment and storage of confidential information.
- Decisions relating to insurance claims will be made by Celador personnel, as opposed to BCS personnel on their behalf.

## **2. Paragraphs 5(l) of the Initial Order**

Bauer Radio submits that, prior to completion, VAT returns were made on behalf of the acquired Celador business by other parts of the Celador business not purchased by Bauer Radio. On completion, the acquired Celador business was consolidated into the Bauer Radio VAT group. Bauer Radio has therefore assumed responsibility for making VAT returns on behalf of the acquired Celador business. To complete mandatory VAT returns, it will be necessary for the acquired Celador business to send relevant financial information to BCS's shared finance team so that complete and accurate VAT returns may be prepared and submitted.

To ensure the effective operation of the acquired Celador business, the CMA consents to a derogation from paragraph 5(l) to permit relevant Celador employees to provide required financial information, in a format agreed upon with the CMA, to three members of the BCS accounts team (namely Alison Bennett (Senior Financial Accountant), Debbie Thulbourn (Financial Accounting Manager), and Sally Williams (Financial Accountant)) for the purpose of preparing and submitting complete and accurate VAT returns. The CMA consents to this derogation on the understanding that:

- The financial information to be provided to Alison Bennett, Debbie Thulbourn and Sally Williams is confidential and cannot be shared more widely within Bauer Radio or used for any purpose other than preparation and submission of VAT returns.

- Accordingly, Alison Bennett, Debbie Thulbourn and Sally Williams will each sign non-disclosure agreements approved by the CMA, including appropriate safeguards on the use, treatment and storage of confidential financial information.

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

Bauer Radio submits that there is a potential need for Bauer Radio to provide additional cash funding to the Celador business during the period of the Initial Order to maintain the Celador business a going concern and to ensure the Celador business is able to execute its pre-merger business plans.

To provide any additional cash funding, Bauer Radio submits that it will be necessary for Celador to provide phased monthly cash-flow forecasts to Bauer Radio. These financial forecasts will be provided solely to Mr Giles Cooper, BCS Finance Director, in an aggregated format agreed upon with the CMA. This information will provide Mr Cooper with a basis to make recommendations concerning future funding requirements to Sarah Vickery, Bauer Radio's UK Chief Financial Officer.

The CMA consents to a derogation from paragraph 5(l) to permit relevant Celador employees to provide financial forecasts, in a format agreed upon with the CMA, and related information to Bauer Radio so that it can provide appropriate funding support to Celador. The CMA consents to this derogation on the condition that:

- Celador provides the financial forecasts to Mr Cooper only.
- Mr Cooper will sign a non-disclosure agreement obliging him not to share any commercially sensitive information relating to the Celador business with any employee of Bauer Radio or HBV, in a form agreed in advance with the CMA.

These derogations should not prevent any remedial action that the CMA may need to take regarding this merger.