

*From the Chair*



**OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS**

Room G/8, 1 Horse Guards Road, London, SW1A 2HQ

Telephone: 020 7271 0839

Email: [acoba@acoba.gov.uk](mailto:acoba@acoba.gov.uk)

Website: <http://www.gov.uk/acoba>

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You approached the Committee about taking up an appointment as Non-Executive Director at Ardagh Group S.A.

The Committee's role and remit

It is the Committee's role to advise on the conditions that should apply to appointments or employment under the Government's Business Appointments Rules for Former Ministers (the Rules), which apply to former Ministers for two years after they leave office. The Rules seek to counter suspicion that:

- a) the decisions and statements of a serving Minister might be influenced by the hope or expectation of future employment with a particular firm or organisation; or
- b) an employer could make improper use of official information to which a former Minister has had access; or
- c) there may be cause for concern about the appointment in some other particular respect.

When the Committee considers applications, it must have in mind that Government has judged that it is in the public interest that former Ministers with experience in Government should be able to move into business or into other areas of public life, and to be able to start a new career or resume a former one. It is equally important that when a former Minister takes up a particular appointment or employment, there should be no cause for any suspicion of impropriety.

It is not the Committee's role to pass judgment on whether an appointment is appropriate or suitable in any other regard.

### Appointment Details

You seek to take up an appointment as Non-Executive Director at Ardagh Group S.A, a Luxembourg based company which has its headquarters in Dublin. The company (according to its website) is a supplier of value-added, infinitely-recyclable, metal and glass packaging solutions. This is a part-time, paid appointment with a work commitment of 7 days per year. You noted you obtained this role through an acquaintance after leaving office.

You informed the Committee you had no official dealings with Ardagh Group S.A during your last two years in office. Further, you are not aware of any relationship between HM Treasury and Ardagh Group S.A; had no dealings with its competitors or access to commercially sensitive information about competitors; and have had no involvement with the specific sector in which Ardagh Group S.A operates.

The Permanent Secretary at HM Treasury (HMT) was consulted and confirmed to the Committee: HMT has no relationship with Ardagh Group S.A; you had no official dealings with Ardagh Group S.A or its competitors while in ministerial office; you did not make any decisions specific to Ardagh Group S.A; and you have no access to commercially sensitive or unannounced departmental policy information which would give Ardagh Group S.A or its partners an unfair advantage. HMT has no concerns about you taking up this appointment.

### The Committee's consideration

When considering this application, the Committee<sup>1</sup> took into account this appointment has no direct connection with your ministerial role as Chancellor. It particularly noted you had no dealings with Ardagh Group S.A whilst in office. Whilst your decisions in office will have affected business, and likely the manufacturing industry, as a whole - HMT confirmed there was nothing specific to Ardagh Group S.A. Therefore, the Committee considered there is no objective reason it might be perceived this appointment is a reward for decisions made or actions taken from your time in office.

As former Chancellor, the Committee noted you have significant knowledge of fiscal and monetary policy, including taxation and trade policy. The Committee also recognised that as Chancellor, you played a significant role in preparing the UK's exit from the EU. Both factors may be perceived to offer Ardagh Group S.A an unfair advantage. However, whilst any company stands to gain from your profile, skills and experience in these matters, there are significant mitigating factors which reduce the scope for you to offer an unfair advantage to your new employer. The Committee recognises that Brexit negotiations are ongoing and policies continue to evolve. It is also significant that there has been a change in administration since you left office. It is therefore possible that any information you were privy to has already or will shortly be made public or will no longer be relevant. You are also subject to a 3- month waiting period to provide a gap between your access to sensitive information in your role as a Cabinet Minister, and taking up any outside appointment.

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<sup>1</sup> This application for advice was considered by Sir Alex Allan; Jonathan Baume; Baroness Angela Browning; Lord Michael German; Terence Jagger; Richard Thomas; Lord Larry Whitty and John Wood. Dr Susan Liautaud was unavailable.

However there remains the broad risk to any company operating internationally that you may offer your new employer insight unavailable to its competitors, such as insight into possible approaches to future trade agreements. The Committee would therefore draw your attention to the ban on using privileged information imposed below. The Committee considered that in this context you should specifically avoid giving your new employer privileged insight into the negotiating strategy of the UK Government deriving from his time as the senior official negotiator.

Given your seniority and profile as the former Chancellor of the Exchequer, there is a risk it could be perceived your network and influence might assist Ardagh Group S.A unfairly. Therefore, the Committee imposed the conditions below, to make it clear that any use of your contacts gained in Government/Whitehall to Ardagh Group S.A's unfair advantage would be inappropriate.

Taking into account these factors, in accordance with the Government's Business Appointment Rules, the Committee advises this appointment be subject to the following conditions:

- A waiting period of three months from your last day in Ministerial office;
- that you should not draw on (disclose or use for the benefit of yourself or the organisation to which this advice refers) any privileged information available to you from ministerial office. In the context of this general provision, the Committee considers you should specifically avoid giving Ardagh Group S.A, or its subsidiaries, partners or clients, privileged insight into the Brexit related issues, insofar as it as it pertains to the negotiating position of the UK Government prior to the date upon which you left ministerial office, whether generally or regarding fiscal matters; and
- for two years from your last day in Ministerial office, you should not become personally involved in lobbying the UK Government on behalf of Ardagh Group S.A, nor should you make use, directly or indirectly, of your government and/or Ministerial contacts to influence policy or secure funding on behalf of Ardagh Group S.A or its partners/clients.

By 'privileged information' we mean official information to which a Minister or Crown servant has had access as a consequence of his or her office or employment and which has not been made publicly available. Applicants are also reminded that they may be subject to other duties of confidentiality, whether under the Official Secrets Act, the Civil Service Code or otherwise.

The Business Appointment Rules explain that the restriction on lobbying means that the former Crown servant/Minister "*should not engage in communication with Government (Ministers, civil servants, including special advisers, and other relevant officials/public office holders) – wherever it takes place - with a view to influencing a Government decision, policy or contract award/grant in relation to their own interests or the interests of the organisation by which they are employed, or to whom they are contracted or with which they hold office.*"

The Committee also notes that in addition to the conditions imposed on this appointment, there are separate rules in place with regard to your role in the House of Commons.

I should be grateful if you would inform us as soon as you take up this role, or if it is announced that you will do so, either by returning the enclosed form or by emailing the office at the above address. We shall otherwise not be able to deal with any enquiries since we do not release information about appointments that have not been taken up or announced. This could lead to a false assumption being made about whether you had complied with the Rules and the Ministerial Code.

Please also inform us if you propose to extend or otherwise change the nature of your role as, depending on the circumstances, it may be necessary for you to make a fresh application.

Once the appointment has been publicly announced or taken up, we will publish this letter on the Committee's website, and where appropriate, refer to it in the relevant annual report.

The Baroness Browning

The Rt Hon Philip Hammond MP