

**DEROGATION LETTER
IN RESPECT OF INITIAL ENFORCEMENT ORDERS ISSUED PURSUANT TO
SECTION 72(2) ENTERPRISE ACT 2002
COMPLETED ACQUISITION**

Please note that [X] indicates figures or text which have been deleted at the request of the parties for reasons of commercial confidentiality.

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 2019

Completed acquisition by DMG Media Limited of JPIMedia Publications Limited

We refer to your email and accompanying notes dated 12, 19 and 20 December 2019 requesting that the CMA consents to derogations to the Initial Enforcement Order of 5 December 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, Daily Mail and General Trust plc (**DMGT**) and DMG Media Limited (**DMG Media**) are required to hold separate the JPIMedia Publications Limited (**JPIMedia Publications**) business from the DMGT 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, DMGT and JPIMedia Publications may carry out the following actions, in respect of the specific paragraphs:

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

DMGT submits that JPIMedia Limited (the **Seller**) is providing a number of services to the JPIMedia Publications business for a transitional period [X].

DMGT as the owner of the JPIMedia Publications business is requesting consent to [X].

As part of this process, [X].

So that the JPIMedia Publications business can [X], the CMA consents to the above: (i) on a temporary basis until the JPIMedia Publications business [X], and (ii) provided that:

- (a) Any financial information relating to the JPIMedia Publications business shared with DMGT for these purposes is limited to that which is strictly necessary for [X] is in a template form as agreed with the CMA;
- (b) The information will only be provided to [X] for whom it is strictly necessary to receive the information for this permitted purpose;
- (c) [X] shall enter into a confidentiality undertaking in the form approved by the CMA;

- (d) No further changes to the DMGT personnel covered by this derogation are permitted without written consent from the CMA (including via email);
- (e) Firewalls will be put in place to prevent any unauthorised DMGT personnel from accessing the information provided by the JPIMedia Publications business for the permitted purpose;
- (f) DMGT will maintain lists of individuals who have been authorised to receive confidential information for a permitted purpose by the CMA and are subject to NDAs, including the relevant permitted purpose(s) for which each individual may receive confidential information;
- (g) Should the transaction be prohibited, DMGT will ensure that the confidential information exchanged for the purposes of this derogation will be returned to the business to which it relates and any copies destroyed, except to the extent record retention is required by law or regulation; and
- (h) No actions will be taken which would be difficult or costly to reverse.

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

In order to ensure that the JPIMedia Publications business is maintained as a going concern, DMGT has requested that the JPIMedia Publications business be required to seek approval from a designated individual within DMGT to proceed with certain courses of action. The requirement to seek such approval from DMGT is strictly limited to the matters listed in Annex 1.

The CMA consents to a derogation from paragraphs 5(a), (c) and (l) of the Initial Order, strictly on the basis that:

- (a) Requests shall only be communicated to [X] who will have authority to take a decision on each matter and does not hold a commercial or strategic role within DMGT;
- (b) Requests may only be accompanied by information which does not contain any commercially-sensitive information and is no more than strictly necessary to allow DMGT to take a decision on the request;
- (c) [X] must not consult with any other individual at DMGT in taking decisions on the specific matters listed in Annex 1;
- (d) [X] will enter into a confidentiality undertaking in a form approved by the CMA;
- (e) The CMA will be notified of any requests made by the JPIMedia Publications business to DMGT and the CMA will be provided with a summary of the JPIMedia Publications business information shared with DMGT in order to allow [X] to reach a decision on the request at hand;
- (f) The CMA is notified of any proposed veto by DMGT and the reasons for this in advance of any such veto being exercised;
- (g) Firewalls will be put in place to prevent any unauthorised individuals within DMGT from accessing the information shared with [X] for the purposes of this derogation;
- (h) DMGT will maintain lists of individuals who have been authorised to receive confidential information for a permitted purpose by the CMA and are subject to NDAs, including the relevant permitted purpose(s) for which each individual may receive confidential information;
- (i) Should the transaction be prohibited, DMGT will ensure that any confidential information exchanged with DMGT for the purposes of this derogation will be returned to the JPIMedia Publications business and any copies destroyed, except to the extent that record retention is required by law or regulation;
- (j) JPIMedia Publications will notify the CMA if the limits in Annex 1 do not allow the JPIMedia Publications business to carry out its day-to-day functions without the interference of DMGT; and

- (k) The limits in Annex 1 will be subject to CMA review and the CMA may revise the thresholds in writing (including via email) if it deems necessary for the JPIMedia Publications business to conduct its day-to-day business independently of DMGT.

3. Paragraphs 5(a), 5(c) and 5(l) of the Initial Order

DMGT requests consent for a DMGT employee, [X], to continue in her role as Company Secretary of JPIMedia Publications. DMGT submits that prior to completion, company secretarial support was provided by [X], Company Secretary of the Seller, who resigned from this position immediately prior to completion.

The CMA understands that in her role as Company Secretary, [X] will be focused on corporate governance and related company administrative matters and will view the contents of JPIMedia Publications board minutes.

The CMA consents to [X] continuing in her role as Company Secretary for JPIMedia Publications, strictly on the basis that:

- (a) [X] does not hold a commercial or strategic role within DMGT;
- (b) Disclosure of JPIMedia Publications financial information to [X] will be limited to that which is strictly necessary for the purpose of fulfilling the role as Company Secretary and will be agreed with the CMA prior to being shared with [X];
- (c) [X] will enter into a confidentiality undertaking in a form approved by the CMA;
- (d) [X] will not attend board meetings of JPIMedia Publications;
- (e) Minutes of all JPIMedia Publications board meetings (whether in person/by teleconference or otherwise) will be shared with the CMA in parallel to being shared with [X];
- (f) Firewalls will be put in place to prevent any unauthorised individuals within DMGT from accessing any JPIMedia Publications information shared with [X] in her role as Company Secretary;
- (g) DMGT will maintain lists of individuals who have been authorised to receive confidential information for a permitted purpose by the CMA and are subject to NDAs, including the relevant permitted purpose(s) for which each individual may receive confidential information; and
- (h) Should the transaction be prohibited, DMGT will ensure that any confidential information exchanged with DMGT for the purposes of this derogation will be returned to the JPIMedia Publications business and any copies destroyed, except to the extent that record retention is required by law or regulation.

4. Paragraph 5(l) of the Initial Order

The CMA understands that the JPIMedia Publications business is currently being supported by the Seller [X].

DMGT wishes to commence planning for the integration of the JPIMedia Publications business in respect of HR admin, payroll and IT if approval for the transaction is obtained.

DMGT has therefore requested the CMA's consent to a derogation from the Initial Order to receive access to certain confidential information of the JPIMedia Publications business in order to facilitate such integration planning activities (as listed in Annex 2). The CMA consents to this request subject to the following conditions:

- (a) Disclosure of the confidential JPIMedia Publications business information listed at Annex 2 will be limited to that which is strictly necessary for the purposes of integration planning and will only be disclosed to the specific authorised DMGT individuals listed in Annex 2, for the specific integration planning purpose listed at Annex 2 in respect of each such authorised DMGT individual);
- (b) No commercially sensitive information of the JPIMedia Publications business will be provided to DMGT for the purposes of IT integration planning;
- (c) All authorised DMGT individuals listed in Annex 2 will enter into a confidentiality undertaking in a form approved by the CMA;
- (d) Firewalls will be put in place to prevent any unauthorised individuals within DMGT from accessing any of the JPIMedia Publications business information shared with the authorised DGMT individuals listed in Annex 2 for the purposes of this derogation;
- (e) DMGT will maintain lists of individuals who have been authorised to receive confidential information for a permitted purpose by the CMA and are subject to NDAs, including the relevant permitted purpose(s) for which each individual may receive confidential information;
- (f) Should the transaction be prohibited, DMGT will ensure that any confidential information exchanged with DMGT for the purposes of this derogation will be returned to the JPIMedia Publications business and any copies destroyed, except to the extent that record retention is required by law or regulation;
- (g) Minutes of integration planning meetings will be provided to the CMA at its request; and
- (h) No actual integration of the DMGT business and JPIMedia Publications business will take place.

5. Paragraph 5(a) of the Initial Order

The CMA understands that a [REDACTED] agreement is in place between JPIMedia Publications and [REDACTED] (the [REDACTED] **Agreement**). Under this agreement, JPIMedia Publications has rights to access [REDACTED]. JPIMedia Publications' obligations under the [REDACTED] Agreement are currently guaranteed by the Seller.

[REDACTED].

DMGT therefore requests the CMA's consent to replace the Seller as guarantor for JPIMedia Publications' obligations under the [REDACTED] Agreement by way of a deed of novation in order to: (i) [REDACTED]; and (ii) secure the ongoing provision of the services included in the [REDACTED] Agreement to JPIMedia Publications.

The CMA consents to a derogation from the Initial Order for DMGT to replace the Seller as guarantor for JPIMedia Publications' obligations under the [REDACTED] Agreement on the basis that:

- (a) No commercially-sensitive or confidential information will flow between the JPIMedia Publications business and the DMGT business in order to effect the release of the Seller and the replacement of the Seller with DMGT as guarantor under the [REDACTED] Agreement; and
- (b) such action would not be difficult or costly to unwind, if required.

No changes to the DMGT personnel covered by the abovementioned derogations are permitted without written consent from the CMA (including via email).

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

Yours sincerely,

Sorcha O'Carroll
Director, Mergers
20 December 2019

Annex 1 – Delegation of authority¹

1. All contracts that involve expenditure in excess of £[X].
2. All contracts (irrespective of the level of expenditure) where any of the following apply:
 - a. Any liabilities (including indemnities) under the contract are not limited to a maximum of £[X].
 - b. JPIMedia Publications liability for indirect/consequential losses and loss of profit is not excluded.
 - c. The contract includes exclusivity provisions which limit JPIMedia Publications from entering into arrangements with other parties.
 - d. The contract involves an asset disposal by JPIMedia Publications in excess of £[X].
 - e. The contract is outside of JPIMedia Publications' ordinary and usual course of trading.
3. All invoices in excess of £[X] other than for newsprint and printing services.
4. Any employee with a total package (base, bonus, LTIP) of more than £[X] per annum.
5. Any bonus or long term incentive plan with a maximum potential payment in excess of £[X].
6. Any redundancy payment in excess of £[X].
7. All expenses in excess of £[X].
8. Any related party transactions with a director, an Investor or an Affiliate of a director or an Investor (other than on arm's length terms and for fair market value), save as expressly provided by the ISHA.
9. Any change to the JPIMedia Publications annual budget or proposal to approve or adopt any other annual budget.
10. The declaration of any dividend or distribution, or implementation of amendment of any dividend policy.
11. Initiation, engagement, settling or any material decision in relation to any material legal proceedings, the value or cost of which might reasonably be expected to exceed £[X] or which might have criminal liability for any party thereto, except in respect of debt collection in the ordinary course of business.
12. Except for the retention of title provision or otherwise in the ordinary course of trading, create, grant, issue or vary any encumbrance over its shares, assets or undertaking (otherwise than in accordance with finance document or any document to be entered into pursuant to the finance documents or any security created pursuant to them).
13. Any capital expenditure in excess of £[X] on any individual project unless (and to the extent that) such capital expenditure has been forecast in the annual budget in respect of the applicable financial year.
14. Enter into any lease, lease hire or hire purchase agreement for payment on deferred terms having an annual value exceeding £[X].
15. Enter into any joint venture, partnership or agreement or arrangement for the sharing of profits or assets having a value exceeding £[X].
16. Delegate any board authority to a committee.
17. Make any material changes to the accounting procedures, practices, policies or principles by reference to which its accounts are prepared or the basis of their application or its accounting reference date (save as may be necessary to comply with changes in statements of standard accounting practice).

¹ For the avoidance of doubt, any action that falls under the scope of the Initial Order will be dealt with in accordance with the requirements of the Initial Order, regardless of whether a delegation authority is in place.

18. Change its auditors unless they shall at their own insistence resign or not seek reappointment (in which event no new appointment shall be made without the approval of the Board).
19. Materially modify the terms of any insurance policies for which the JPIMedia Publications business and its employees have not been added to DMGT's own insurance policies under the first derogation from the Initial Order.
20. Make any political or charitable donations.
21. Enter into any material correspondence or discussions with any governmental or regulatory authority (except as in accordance with the merger approval process as agreed in the SPA).
22. Take any action that could be reasonably be expected to impact the JPIMedia Publication's regulatory authorisations, permits or consents.
23. Implement any new risk management, health and safety or environmental policy, except as required by Law.
24. Enter into any agreement or arrangement (whether in writing or otherwise) to do any of the foregoing or allow to permit any of the foregoing.

Annex 2 – Integration planning activities

	Integration planning to be undertaken by DMGT	Nature of the confidential information received from JPIMedia Publications	Names and roles of individuals required to access the confidential information
(a) HR integration planning			
1	[X]	[X]	[X]
2	[X]	[X]	[X]
3	[X] ² [X]	[X]	[X]
4	[X]	[X]	[X]
5	[X]	[X]	[X]
6	[X]	[X]	[X]
(ii) IT integration planning			
7	[X]	[X]	[X]
8	[X]	[X]	[X]
9	[X]	[X]	[X]
10	[X]	[X]	[X]
11	[X]	[X]	[X]
12	[X]	[X]	[X]
13	[X]	[X]	[X]
14	[X]	[X]	[X]
15	[X]	[X]	[X]
16	[X]	[X]	[X]

² [X].