

## Completed acquisition by JD Sports Fashion plc of Footasylum plc<sup>1</sup>

### Notice of Acceptance of Final Undertakings pursuant to section 82 of the Enterprise Act 2002

#### Background

1. On 1 October 2019, the Competition and Markets Authority ('**CMA**'), in exercise of its duty under section 22(1) of the Enterprise Act 2002 (the '**Act**'), referred the completed merger between JD Sports Fashion plc ('**JD Sports**') and Footasylum plc ('**Footasylum**') (the '**Merger**') to determine, pursuant to section 35 of the Act (the '**Reference**'):
  - (a) whether a relevant merger situation has been created; and
  - (b) if so, whether the creation of that situation has resulted, or may be expected to result, in a substantial lessening of competition ('**SLC**') in any market or markets in the United Kingdom ('**UK**') for goods or services.
2. On 17 May 2019, the **CMA** made an initial enforcement order ('**IEO**') pursuant to section 72(2) of the Act for the purpose of preventing pre-emptive action in accordance with that section. On 7 October 2019, the CMA issued directions under the IEO for the appointment of a monitoring trustee (the '**Monitoring Trustee**') in order to monitor and ensure compliance with the IEO.
3. On 26 November 2019, the CMA imposed an Interim Order for the purpose of preventing pre-emptive action in accordance with section 81 of the Act. The IEO consequently ceased to be in force under section 72(6) of the Act. The appointment and work of the Monitoring Trustee under the IEO was extended under the Interim Order to monitor and ensure compliance with the Interim Order.
4. On 6 May 2020, pursuant to section 38 of the Act, the CMA published a report (the '**Final Report**') concluding that:

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<sup>1</sup> On 19 September 2019, Footasylum plc became Footasylum Limited. References to Footasylum should be interpreted to mean both Footasylum plc (in the period prior to 20 September 2019) and Footasylum Limited (in the period since 20 September 2019).

- (a) the Merger has resulted in the creation of a relevant merger situation;
  - (b) the creation of that situation has resulted in, or may be expected to result, in SLCs in relation to the supply of sports-inspired casual footwear and apparel both in-store and online in the UK;
  - (c) the CMA should take action to remedy the SLCs and the adverse effects likely to arise from them; and
  - (d) the CMA considers that the divestiture of Footasylum by JD Sports to a purchaser approved by the CMA would be an effective and proportionate remedy to the SLCs and the adverse effects likely to arise from it; and
  - (e) undertakings should be given to the CMA or, where undertakings are not agreed, an order should be made to give effect to the remedy identified by the CMA in chapter 13 of the Final Report, namely, the divestiture of Footasylum.
5. The CMA has reached agreement with JD Sports, Footasylum and Pentland Group Limited (Jersey) and Pentland Group Limited (together, the '**Parties**') as to the terms of Final Undertakings for the purpose of remedying, mitigating or preventing the SLCs it has identified and any adverse effects arising from them.
  6. On 17 June 2020, JD Sports made an application to the Competition Appeal Tribunal pursuant to section 120 of the Act for a review of the CMA's decision in the Report.
  7. On 18 June 2020, the CMA gave notice of a proposal to accept Final Undertakings on its website. The CMA received 1 response to its notice which was considered carefully and no modifications made.
  8. On 13 July 2020, the Parties gave the CMA Final Undertakings, giving effect to the CMA's decisions as published in its Final Report and which are on the same terms as those consulted on.
  9. The CMA, under section 82 of the Act, now accepts those Final Undertakings as given by the Parties. A copy of the Final Undertakings is attached. The Final Undertakings now come into force and the reference is finally determined. In accordance with section 81(8) of the Act, the Interim Order ceases to be in force.
  10. The Final Undertakings may be varied, superseded or released by the CMA under section 82(2) of the Act.

11. This Notice and a non-confidential version of the Final Undertakings will be published on the CMA website. The CMA has excluded from the non-confidential version of the Final Undertakings information which it considers should be excluded, having regard to the considerations set out in section 244 of the Act. These omissions are indicated by [✂].

Signed by authority of the CMA

KIP MEEK

Group Chairman

13 July 2020