

## **ACQUISITION BY ARDONAGH GROUP LIMITED OF BENNETTS MOTORCYCLING SERVICES LIMITED**

### **Initial Enforcement Order made by the Competition and Markets Authority pursuant to section 72(2) of the Enterprise Act 2002 (the Act)**

Whereas:

- (a) the Competition and Markets Authority (**CMA**) has reasonable grounds for suspecting that it is or may be the case that arrangements are in progress or in contemplation which, if carried into effect, will result in Ardonagh Group Limited (including its subsidiaries Ardonagh Midco 2 plc and Atlanta Investments Holdings C Limited) and Bennetts Motorcycling Services Limited ceasing to be distinct;
- (b) the CMA is considering whether to make a reference under section 22 or 33 of the Act;
- (c) the CMA wishes to ensure that no action is taken pending final determination of any reference under sections 22 or 33 of the Act which might prejudice that reference or impede the taking of any action by the CMA under Part 3 of the Act which might be justified by the CMA's decisions on the reference; and
- (d) the circumstances set out in section 72(6) of the Act do not apply and the reference has not been finally determined in accordance with section 79(1) of the Act.

Now for the purposes of preventing pre-emptive action in accordance with section 72(2) of the Act the CMA makes the following order addressed to the Ardonagh Group Limited (**Ardonagh**), Ardonagh Midco 2 plc (**Ardonagh UK**) and Atlanta Investments Holdings C Limited (**Atlanta**) (**Order**).

#### **Commencement, application and scope**

1. This Order commences on the commencement date: being the date of completion of the transaction.
2. This Order applies to Ardonagh, Ardonagh UK and Atlanta.

3. Notwithstanding any other provision of this Order, no act or omission shall constitute a breach of this Order, and nothing in this Order shall oblige Ardonagh, Ardonagh UK or Atlanta to reverse any act or omission, in each case to the extent that it occurred or was completed prior to the commencement date.
4. This Order does not prohibit the completion of the transaction provided that Ardonagh, Ardonagh UK and Atlanta observe the restrictions set out below.

### **Management of the Ardonagh and Bennetts businesses until determination of proceedings**

5. Except with the prior written consent of the CMA, Ardonagh, Ardonagh UK and Atlanta shall not, during the specified period, take any action which might prejudice a reference of the transaction under section 22 or 33 of the Act or impede the taking of any action under the Act by the CMA which may be justified by the CMA's decisions on such a reference, including any action which might:
  - (a) lead to the integration of the Bennetts business with the Ardonagh business;
  - (b) transfer the ownership or control of the Ardonagh business or the Bennetts business or any of their subsidiaries; or
  - (c) otherwise impair the ability of the Bennetts business or the Ardonagh business to compete independently in any of the markets affected by the transaction.
6. Further and without prejudice to the generality of paragraph 5 and subject to paragraph 3 and 4, Ardonagh, Ardonagh UK and Atlanta shall at all times during the specified period procure that, except with the prior written consent of the CMA:
  - (a) the Bennetts business is carried on separately from the Ardonagh business and the Bennetts business's separate sales or brand identity is maintained;
  - (b) the Bennetts business and the Ardonagh business are maintained as a going concern and sufficient resources are made available for the development of the Bennetts business and the Ardonagh business, on the basis of their respective pre-merger business plans;

- (c) except in the ordinary course of business, no substantive changes are made to the organisational structure of, or the management responsibilities within, the Bennetts business or the Ardonagh business;
- (d) the nature, description, range and quality of goods and/or services supplied in the UK by each of the two businesses are maintained and preserved;
- (e) except in the ordinary course of business for the separate operation of the two businesses:
  - (i) all of the assets of the Bennetts business and the Ardonagh business are maintained and preserved, including facilities and goodwill;
  - (ii) none of the assets of the Bennetts business or the Ardonagh business are disposed of; and
  - (iii) no interest in the assets of the Bennetts business or the Ardonagh business is created or disposed of;
- (f) there is no integration of the information technology of the Bennetts or Ardonagh businesses, and the software and hardware platforms of the Bennetts business shall remain essentially unchanged, except for routine changes and maintenance;
- (g) the customer and supplier lists of the two businesses shall be operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the Bennetts business will be carried out by the Bennetts business alone and for the avoidance of doubt the Ardonagh business will not negotiate on behalf of the Bennetts business (and vice versa) or enter into any joint agreements with the Bennetts business (and vice versa);
- (h) all existing contracts of the Bennetts business and the Ardonagh business continue to be serviced by the business to which they were awarded;
- (i) no changes are made to key staff of the Bennetts business or Ardonagh business;
- (j) no key staff are transferred between the Bennetts business and the Ardonagh business;
- (k) all reasonable steps are taken to encourage all key staff to remain with the Bennetts business and the Ardonagh business; and

- (l) no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to either of the two businesses shall pass, directly or indirectly, from the Bennetts business (or any of its employees, directors, agents or affiliates) to the Ardonagh business (or any of its employees, directors, agents or affiliates), or vice versa, except where strictly necessary in the ordinary course of business (including for example, where required for compliance with external regulatory and/or accounting obligations or for due diligence, integration planning or the completion of any merger control proceedings relating to the transaction) and on the basis that, should the transaction be prohibited, any records or copies (electronic or otherwise) of such information that have passed, wherever they may be held, will be returned to the business to which they relate and any copies destroyed.

## **Compliance**

7. Ardonagh, Ardonagh UK and Atlanta shall procure that each of its subsidiaries complies with this Order as if the Order had been issued to each of them.
8. Ardonagh, Ardonagh UK and Atlanta shall provide to the CMA such information or statement of compliance as it may from time to time require for the purposes of monitoring compliance by Ardonagh, Ardonagh UK and Atlanta and their subsidiaries with this Order. In particular, two weeks after the commencement date and subsequently every two weeks (or, where this does not fall on a working day, the first working day thereafter) the Chief Executive Officer of Ardonagh, Ardonagh UK and Atlanta or other persons of Ardonagh, Ardonagh UK and Atlanta as agreed with the CMA shall, on behalf of each of Ardonagh, Ardonagh UK and Atlanta, provide a statement to the CMA in the form set out in the Annexes to this Order confirming compliance with this Order.
9. Ardonagh, Ardonagh UK and Atlanta shall ensure that two weeks after the commencement date and subsequently every two weeks (or, where this does not fall on a working day, the first working day thereafter) the person responsible for the management of Bennetts or other persons of Bennetts as agreed with the CMA shall, on behalf of Bennetts, provide a statement to the CMA in the form set out in the Annex to this Order confirming compliance with this Order.
10. At all times, Ardonagh, Ardonagh UK and Atlanta shall, or shall procure that Bennetts shall, each actively keep the CMA informed of any material developments relating to the Bennetts business or the Ardonagh business, which includes but is not limited to:

- (a) details of key staff who leave or join the Bennetts business or the Ardonagh business;
  - (b) any interruption of the Bennetts or Ardonagh business (including without limitation its procurement, production, logistics, sales and employee relations arrangements) that has prevented it from operating in the ordinary course of business for more than 24 hours;
  - (c) all substantial customer volumes won or lost or substantial changes to the customer contracts for the Bennetts or Ardonagh business including any substantial changes in customers' demand; and
  - (d) substantial changes in the Bennetts or Ardonagh business's contractual arrangements or relationships with key suppliers.
11. If Ardonagh, Ardonagh UK and Atlanta has any reason to suspect that this Order might have been breached it shall immediately notify the CMA and any monitoring trustee that Ardonagh or Ardonagh UK may be directed to appoint under paragraph 12.
12. The CMA may give directions to a specified person or to a holder of a specified office in any body of persons (corporate or unincorporated) to take specified steps for the purpose of carrying out, or ensuring compliance with, this Order, or do or refrain from doing any specified action in order to ensure compliance with the Order. The CMA may vary or revoke any directions so given.
13. Ardonagh, Ardonagh UK and Atlanta shall comply in so far as it is able with such directions as the CMA may from time to time give to take such steps as may be specified or described in the directions for the purpose of carrying out or securing compliance with this Order.

## **Interpretation**

14. The Interpretation Act 1978 shall apply to this Order as it does to Acts of Parliament.
15. For the purposes of this Order:

**'the Act'** means the Enterprise Act 2002;

**'an affiliate'** of a person is another person who satisfies the following condition, namely that any enterprise (which, in this context, has the meaning given in section 129(1) of the Act) that the first person carries on from time to time and any enterprise that the second person carries on from time to time

would be regarded as being under common control for the purposes of section 26 of the Act;

**'Ardonagh'** means Ardonagh Group Limited, registered at 3<sup>rd</sup> Floor, 44 Esplanade St Helier, Jersey, JE4 9WG with company number 117710;

**'the Ardonagh business'** means the business of Ardonagh and its subsidiaries, but not including Bennetts, carried on as at the commencement date;

**'Ardonagh UK'** means Ardonagh Midco 2 Plc registered at 1 Minster Court, London, UK, ST6 2BA with company number 10679958;

**'Atlanta'** means Atlanta Investments Holdings C Limited with registered address at Autonet Insurance, Nile Street, Burslem, UK, ST6 2BA and company number 12371381;

**'Bennetts'** means Bennetts Motorcycling Services Limited with registered address at Worldwide House, Thorpe Wood, Peterborough, UK, PE3 6SB and registered number 11453343;

**'the Bennetts business'** means the business of Bennetts and its subsidiaries carried on as at the commencement date;

**'business'** has the meaning given by section 129(1) and (3) of the Act;

**'commencement date'** means the date of completion of the transaction;

**'control'** includes the ability directly or indirectly to control or materially to influence the policy of a body corporate or the policy of any person in carrying on an enterprise;

**'the decisions'** means the decisions of the CMA on the questions which it is required to answer by virtue of sections 35 or 36 of the Act;

**'key staff'** means staff in positions of executive or managerial responsibility and/or whose performance affects the viability of the business;

**'the ordinary course of business'** means matters connected to the day-to-day supply of goods and/or services by Bennetts or Ardonagh and does not include matters involving significant changes to the organisational structure or related to the post-merger integration of Bennetts and Ardonagh;

**'specified period'** means the period beginning on the commencement date and terminating in accordance with section 72(6) of the Act;

**'subsidiary'**, unless otherwise stated, has the meaning given by section 1159 of the Companies Act 2006;

**'the transaction'** means the transaction by which Ardonagh (via its wholly owned and indirectly controlled subsidiary Atlanta) and Bennetts will cease to be distinct within the meaning of section 23 of the Act;

**'the two businesses'** means the Ardonagh business and the Bennetts business;

unless the context requires otherwise, the singular shall include the plural and vice versa.

Lasse Burmester  
Assistant Director, Mergers

## Compliance statement for [Ardonagh/Ardonagh UK/Atlanta]

I [insert name] confirm on behalf of [Ardonagh/Ardonagh UK/Atlanta] that:

### Compliance in the Relevant Period

1. In the period from [insert date] to [insert date] (the Relevant Period):
  - (a) [Ardonagh/Ardonah UK/Atlanta] has complied with the Order made by the CMA in relation to the transaction on 6 August 2020 (the Order).
  - (b) [Ardonagh/Ardonagh UK/Atlanta]'s subsidiaries have also complied with this Order.
2. Subject to paragraph 3 and 4 of the Order, and except with the prior written consent of the CMA:
  - (a) No action has been taken by [Ardonagh/Ardonagh UK/Atlanta] that might prejudice a reference of the transaction under section 22 or 33 of the Act or impede the taking of any action by the CMA which may be justified by its decision on such a reference, including any action which might:
    - (i) lead to the integration of the Bennetts business with the Ardonagh business;
    - (ii) transfer the ownership or control of the Ardonagh business or the Bennetts business or any of their subsidiaries; or
    - (iii) otherwise impair the ability of the Bennetts business or the Ardonagh business to compete independently in any of the markets affected by the transaction.
  - (b) The Bennetts business has been carried on separately from the Ardonagh business and the Bennetts business's separate sales or brand identity has been maintained.
  - (c) The Bennetts business and the Ardonagh business have been maintained as a going concern and sufficient resources have been made available for the development of the Bennetts business and the Ardonagh business, on the basis of their respective pre-merger business plans.
  - (d) No substantive changes have been made to the organisational structure of, or the management responsibilities within, the Bennetts business or the Ardonagh business, except in the ordinary course of business.



- (e) The nature, description, range and quality of goods and/or services supplied in the UK by the Bennetts business and the Ardonagh business have been maintained and preserved.
- (f) Except in the ordinary course of business for the separate operation of the two businesses:
  - (i) all of the assets of the Bennetts business and the Ardonagh business, including facilities and goodwill, have been maintained and preserved as at the start of the Relevant Period;
  - (ii) none of the assets of the Bennetts business or the Ardonagh business have been disposed of; and
  - (iii) no interest in the assets of the Bennetts business or the Ardonagh business has been created or disposed of.
- (g) There has been no integration of the information technology of the Bennetts or Ardonagh businesses, and the software and hardware platforms of the Bennetts business have remained essentially unchanged, except for routine changes and maintenance.
- (h) Subject to integration which had occurred prior to the commencement date, the customer and supplier lists of the two businesses have been operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the Bennetts business have been carried out by the Bennetts business alone and, for the avoidance of doubt, the Ardonagh business has not negotiated on behalf of the Bennetts business (and vice versa) or entered into any joint agreements with the Bennetts business (and vice versa).
- (i) All existing contracts of the Bennetts business and the Ardonagh business have been serviced by the business to which they were awarded, except to the extent novated, assigned or subcontracted prior to the commencement date.
- (j) No changes have been made to key staff of the Bennetts business or the Ardonagh business.
- (k) No key staff have been transferred between the Bennetts business and the Ardonagh business.
- (l) All reasonable steps have been taken to encourage all key staff to remain with the Bennetts business and the Ardonagh business.

(m) Except as permitted by the Order, no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to either of the two businesses, has passed, directly or indirectly, from the Bennetts business (or any of its employees, directors, agents or affiliates) to the Ardonagh business (or any of its employees, directors, agents or affiliates), or vice versa.

(n) Except as listed in paragraph (o) below, there have been no:

- (i) key staff that have left or joined the Bennetts business or the Ardonagh business;
- (ii) interruptions of the Bennetts business or the Ardonagh business (including without limitation procurement, production, logistics, sales and employee relations arrangements) that have prevented it from operating in the ordinary course of business for more than 24 hours;
- (iii) substantial customer volumes won or lost or substantial changes to the customer contracts for the Bennetts business or the Ardonagh business; or
- (iv) substantial changes in the Bennetts or Ardonagh business's contractual arrangements or relationships with key suppliers.

(o) *[list of material developments]*

3. [Ardonagh/Ardonagh UK/Atlanta] and its subsidiaries remain in full compliance with the Order and will continue actively to keep the CMA informed of any material developments relating to the Bennetts or the Ardonagh business in accordance with paragraph 10 of the Order.

### **Interpretation**

4. Terms defined in the Order have the same meaning in this compliance statement.

### **I understand that:**

it is a criminal offence under section 117 of the Enterprise Act 2002 for a person recklessly or knowingly to supply to the CMA information which is false or misleading in any material respect. Breach of this provision can result in **fines, imprisonment for a term not exceeding two years, or both.** (Section 117 of the Enterprise Act 2002.)

Failure to comply with this order without reasonable excuse may result in the CMA imposing a **penalty of up to 5% of the total value of the turnover** (both in and outside the United Kingdom) of the enterprises owned or controlled by the person on whom the penalty is imposed. (Section 94A of the Enterprise Act 2002.)

FOR AND ON BEHALF OF [ARDONAGH/ARDONAGH UK/ATLANTA]

Signature .....

Name .....

Title .....

Date .....

## Compliance statement for Bennetts

I [insert name] confirm on behalf of Bennetts that:

### Compliance in the Relevant Period

1. In the period from [insert date] to [insert date] (the Relevant Period):
  - (a) Bennetts has complied with the Order made by the CMA in relation to the transaction on 6 August 2020 (the Order).
  - (b) Bennetts' subsidiaries have also complied with this Order.
2. Subject to paragraph 3 and 4 of the Order, and except with the prior written consent of the CMA:
  - (a) No action has been taken by Bennetts that might prejudice a reference of the transaction under section 22 or 33 of the Act or impede the taking of any action by the CMA which may be justified by its decision on such a reference, including any action which might:
    - (i) lead to the integration of the Bennetts business with the Ardonagh business;
    - (ii) transfer the ownership or control of the Ardonagh business or the Bennetts business or any of their subsidiaries; or
    - (iii) otherwise impair the ability of the Bennetts business or the Ardonagh business to compete independently in any of the markets affected by the transaction.
  - (b) The Bennetts business has been carried on separately from the Ardonagh business and the Bennetts business's separate sales or brand identity has been maintained.
  - (c) The Bennetts business and the Ardonagh business have been maintained as a going concern and sufficient resources have been made available for the development of the Bennetts business and the Ardonagh business, on the basis of their respective pre-merger business plans.
  - (d) No substantive changes have been made to the organisational structure of, or the management responsibilities within, the Bennetts business, except in the ordinary course of business.

- (e) The nature, description, range and quality of goods and/or services supplied in the UK by the Bennetts business have been maintained and preserved.
- (f) Except in the ordinary course of business for the separate operation of the two businesses:
  - (i) all of the assets of the Bennetts business, including facilities and goodwill, have been maintained and preserved as at the start of the Relevant Period;
  - (ii) none of the assets of the Bennetts business have been disposed of; and
  - (iii) no interest in the assets of the Bennetts business has been created or disposed of.
- (g) There has been no integration of the information technology of the Bennetts or Ardonagh businesses, and the software and hardware platforms of the Bennetts business have remained essentially unchanged, except for routine changes and maintenance.
- (h) Subject to integration which had occurred prior to the commencement date, the customer and supplier lists of the two businesses have been operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the Bennetts business have been carried out by the Bennetts business alone and, for the avoidance of doubt, the Ardonagh business has not negotiated on behalf of the Bennetts business (and vice versa) or entered into any joint agreements with the Bennetts business (and vice versa).
- (i) All existing contracts of the Bennetts business and the Ardonagh business have been serviced by the business to which they were awarded, except to the extent novated, assigned or subcontracted prior to the commencement date.
- (j) No changes have been made to key staff of the Bennetts business.
- (k) No key staff have been transferred between the Bennetts business and the Ardonagh business.
- (l) All reasonable steps have been taken to encourage all key staff to remain with the Bennetts business.
- (m) Except as permitted by the Order, no business secrets, know-how, commercially-sensitive information, intellectual property or any other

information of a confidential or proprietary nature relating to either of the two businesses, has passed, directly or indirectly, from the Bennetts business (or any of its employees, directors, agents or affiliates) to the Ardonagh business (or any of its employees, directors, agents or affiliates), or vice versa.

- (n) Except as listed in paragraph (o) below, there have been no:
- (i) key staff that have left or joined the Bennetts business;
  - (ii) interruptions of the Bennetts business (including without limitation procurement, production, logistics, sales and employee relations arrangements) that have prevented it from operating in the ordinary course of business for more than 24 hours;
  - (iii) substantial customer volumes won or lost or substantial changes to the customer contracts for the Bennetts business; or
  - (iv) substantial changes in the Bennetts business's contractual arrangements or relationships with key suppliers.

(o) *[list of material developments]*

3. Bennetts and its subsidiaries remain in full compliance with the Order and will continue actively to keep the CMA informed of any material developments relating to the Bennetts or the Ardonagh business in accordance with paragraph 10 of the Order.

### **Interpretation**

4. Terms defined in the Order have the same meaning in this compliance statement.

### **I understand that:**

it is a criminal offence under section 117 of the Enterprise Act 2002 for a person recklessly or knowingly to supply to the CMA information which is false or misleading in any material respect. Breach of this provision can result in **finances, imprisonment for a term not exceeding two years, or both.** (Section 117 of the Enterprise Act 2002.)

Failure to comply with this order without reasonable excuse may result in the CMA imposing a **penalty of up to 5% of the total value of the turnover** (both in and outside the United Kingdom) of the enterprises owned or

controlled by the person on whom the penalty is imposed. (Section 94A of the Enterprise Act 2002.)

FOR AND ON BEHALF OF BENNETTS

Signature .....

Name .....

Title .....

Date .....