

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

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 6 August 2020

Acquisition by Ardonagh Group Limited of Bennetts Motorcycling Services Limited (the Merger)

We refer to your submissions of 17 July, 29 July and 6 August 2020 requesting that the CMA consents to a derogation to the Initial Enforcement Order of 6 August 2020 (the '**Initial Order**'). Unless otherwise stated, 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, Ardonagh Group Limited (**Ardonagh**), Ardonagh Midco 2 plc (**Ardonagh UK**) and Atlanta Investments Holdings C Limited (**Atlanta**) and their subsidiaries are required to hold separate the Ardonagh business from the business of Bennetts Motorcycling Services Limited (**Bennetts**) 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 a derogation from the Initial Order, based on the information received from you and in the particular circumstances of this case, the CMA consents to Ardonagh, Ardonagh UK and Atlanta carrying out the following actions, in respect of the specific paragraphs:

1. Paragraphs 5(a), 6(a), 6(e)(iii) 6(g), 6(h) and 6(l) of the Initial Order - Property management guarantees

Ardonagh submits that the leasehold for Bennetts' premises in [X] is due to expire in [X]. As Bennetts has only been [X] which were previously provided by Saga Plc (the **Seller**) to the landlord of the [X]. Upon closing of the Merger, Bennetts will therefore require parental guarantees from Ardonagh for the [X] to ensure that it is able to continue to operate as a going concern.

Ardonagh is therefore seeking CMA consent to: (i) act as a guarantor in respect of any future lease arrangements connected with the [X], and (ii) receive information from Bennetts in order to provide the necessary parental guarantees.

The CMA consents to a derogation from paragraphs 5(a), 6(a), 6(e)(iii), 6(g), 6(h) and 6(l) of the Initial Order for Ardonagh to act as a parent guarantor in this respect, strictly on the basis that:

- (i) Bennetts' information provided to Ardonagh will be limited to that which is strictly necessary for Ardonagh to arrange for and enter into the parental guarantees in respect of the agreements;
- (ii) Information will only be provided to [X] and [X] (the **Authorised Individuals**) for whom it is strictly necessary to see Bennetts' information to arrange for and enter into the parental guarantees. For the avoidance of doubt, no commercially sensitive information of Bennetts will be provided to [X];
- (iii) As a director of Ardonagh, [X] shall be given delegated authority to enter into relevant parent guarantees in respect of Bennetts' lease arrangements and [X] shall prepare and finalise the form of such guarantees;
- (iv) The Authorised Individuals shall enter into NDAs in a form approved by the CMA;
- (v) Firewalls and/or other ring-fencing measures will be put in place to prevent any unauthorised individuals within Ardonagh, Ardonagh UK and Atlanta from accessing the information shared the Authorised Individuals for the purposes of this derogation;
- (vi) No changes to the Authorised Individuals are permitted without the prior written consent of the CMA (including via email);
- (vii) For the avoidance of doubt, Bennetts remains the legal owner of the lease of the [X] and all decisions regarding the lease shall be taken solely by Bennetts;
- (viii) This derogation shall not prevent any remedial action which the CMA may need to take regarding the Merger; and
- (ix) Should the merger be prohibited, Ardonagh, Ardonagh UK and Atlanta will ensure that any confidential information received from Bennetts for the purposes of this derogation will be returned to the Bennetts business and any copies destroyed, except to the extent that record retention is required by law or regulation.

2. Paragraphs 5(a), 6(a), 6(e)(iii) 6(g), 6(h) and 6(l) of the Initial Order - Parent company guarantees

Ardonagh submits that a number of agreements entered into by Bennetts are subject to parent company guarantees, including for example [X]. Pursuant to [X] (the **SPA**), Ardonagh is required to release the Seller from such guarantees. Ardonagh will therefore be required to substitute itself for the Seller in order to ensure that Bennetts is to be able to continue to benefit from the agreements in question, and to continue to operate as a going concern.

Ardonagh is therefore seeking CMA consent to act as a parent guarantor to allow Bennetts to continue to trade as a going concern in the same manner as it did pre-Merger, and to ensure that the assets of the Bennetts business are maintained and preserved.

The CMA consents to a derogation from paragraphs 5(a), 6(a), 6(e)(iii) 6(g), 6(h) and 6(l) of the Initial Order for: (i) Ardonagh to act as a parent guarantor and (ii) Ardonagh to receive information from Bennetts in order to provide the necessary parental guarantees, strictly on the basis that:

- (i) Bennetts' information provided to Ardonagh will be limited to that which is strictly necessary for Ardonagh to arrange for and enter into the parental guarantees in respect of the agreements;
- (ii) Information will only be provided to [X] and [X] (the **Authorised Individuals**) for whom it is strictly necessary to see Bennetts' information to arrange for and enter into the parental guarantees. For the avoidance of doubt, no commercially sensitive information of Bennetts will be provided to [X];
- (iii) As a director of Ardonagh, [X] shall be given delegated authority to enter into relevant parent guarantees and [X] shall prepare and finalise the form of such guarantees;
- (iv) The Authorised Individuals shall enter into NDAs in a form approved by the CMA;
- (v) Firewalls and/or other ring-fencing measures will be put in place to prevent any unauthorised individuals within Ardonagh, Ardonagh UK and Atlanta from accessing the information shared the Authorised Individuals for the purposes of this derogation;
- (vi) No changes to the Authorised Individuals are permitted without the prior written consent of the CMA (including via email);

- (vii) This derogation shall not prevent any remedial action which the CMA may need to take regarding the Merger; and
- (viii) Should the merger be prohibited, Ardonagh, Ardonagh UK and Atlanta will ensure that any confidential information received from Bennetts for the purposes of this derogation will be returned to the Bennetts business and any copies destroyed, except to the extent that record retention is required by law or regulation.

3. Paragraphs 5(a), 6(a), 6(e)(iii) 6(g), 6(h) and 6(l) of the Initial Order - Guarantor to Ardonagh's Group facilities

Ardonagh submits that it has recently engaged in a refinancing of its operations, comprising of a [REDACTED]. In particular, Ardonagh and Atlanta have entered into [REDACTED]. The lenders to such facilities require security to be taken over material and trading subsidiaries, [REDACTED].

[REDACTED].

Ardonagh is therefore seeking CMA consent to: (i) enable Bennetts to be included amongst the guarantors of the Ardonagh and Atlanta banking and financial facilities and (ii) receive certain information from Bennetts to arrange for this.

The CMA consents to a derogation from paragraphs 5(a), 6(a), 6(e)(iii) 6(g), 6(h) and 6(l) of the Initial Order for Bennetts to act as a guarantor of the Ardonagh and Atlanta banking and financial facilities, strictly on the basis that:

- (i) Bennetts' information provided to Ardonagh will be limited to that which is strictly necessary to arrange for Bennetts to act as a guarantor of the Ardonagh and Atlanta banking and financial facilities and for the avoidance of doubt, will not include any commercially-sensitive information of Bennetts;
- (ii) Information will only be provided to [REDACTED], [REDACTED] and [REDACTED] (together, the **Authorised Individuals**) for whom it is strictly necessary to see Bennetts' information for the permitted purpose;
- (iii) The Authorised Individuals shall enter into NDAs in a form approved by the CMA;
- (iv) Firewalls and/or other ring-fencing measures will be put in place to prevent any unauthorised individuals within Ardonagh, Ardonagh UK and Atlanta from accessing the information shared the Authorised Individuals for the purposes of this derogation;

- (v) No changes to the Authorised Individuals are permitted without the prior written consent of the CMA (including via email);
- (vi) In the event that remedies are required, Ardonagh commits to fully release Bennetts as a guarantor of the Ardonagh and Atlanta banking and financial facilities;
- (vii) This derogation shall not prevent any remedial action which the CMA may need to take regarding the Merger; and
- (viii) Should the merger be prohibited, Ardonagh, Ardonagh UK and Atlanta will ensure that any confidential information received from Bennetts for the purposes of this derogation will be returned to the Bennetts business and any copies destroyed, except to the extent that record retention is required by law or regulation.

4. Paragraphs 6(c) and 6(l) of the Initial Order – Appointment of company secretary

The CMA understands that on closing of the Merger, [X], resigned from her role as Bennetts' Company Secretary. Ardonagh submits that there is no provision for [X] to continue in her role as Bennetts' Company Secretary under the [X] between the Seller and Ardonagh, nor does [X].

In order to ensure the effective continuity and ongoing viability of Bennetts' business post-closing and to protect Ardonagh's investment in Bennetts, Ardonagh is requesting the CMA's consent for [X], the current [X], to be appointed as the Bennetts' Company Secretary in replacement of [X].

The CMA consents to a derogation from paragraphs 6(c) and 6(l) of the Initial Order for [X] to fulfil the role as Company Secretary of Bennetts and to receive information in respect of the Bennetts business in order to fulfil his role as Company Secretary of Bennetts.

The CMA's consent is provided strictly on the basis that:

- (i) [X] did not hold a managerial, strategic or commercial role within Bennetts and had no operational links to Bennetts. As such, her resignation will not impact the viability and operation of the Bennetts' business post-closing;
- (ii) In respect of [X] position as Company Secretary of Bennetts:
 - a. Disclosure of Bennetts' information to [X] will be limited to that which is strictly necessary for the purpose of fulfilling the role as

company secretary of Bennetts;

- b. [X] will enter into an NDA in a form approved by the CMA;
 - c. [X] will not attend meetings of the Bennetts Board (whether in person/by teleconference or otherwise) except with the prior written consent of the CMA (including via email);
 - d. [X] will not use any of the information obtained by virtue of his role as [X] in exercising his functions as Bennetts' Company Secretary;
 - e. [X] would not be involved in the day to day commercial or strategic operations of the Bennetts business in his role as Company Secretary of Bennetts;
- (iii) This derogation shall not prevent any remedial action which the CMA may need to take regarding the Merger.

Yours sincerely,

Alex Knight

Assistant Director, Remedies Business and Financial Analysis

19 August 2020