

**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, 14 and 18 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 6(i) and 6(l) of the Initial Order – appointment of Data Protection Officer**

Ardonagh submits that, prior to completion of the Merger, Bennetts relied on Saga Plc (the **Seller**) for its data protection officer ("**DPO**") function and that such service shall not be provided by the Seller post-completion.

In order to ensure the continuity and viability of Bennetts' business, Ardonagh is seeking CMA consent:

- (i) to provide a DPO function to Bennetts during the course of the CMA's Merger investigation in order to ensure that Bennetts operates in compliance with all relevant data protection obligations. Such DPO support function shall include, but will not be limited to, ensuring Bennetts

has adequate and appropriate data protection policies and measures in place, advising Bennetts in respect of any breach of the data protection rules and the provision of any other such guidance and support as is necessary to ensure compliance in all data protection matters; and

- (ii) for Bennetts to provide Ardonagh with information as is strictly necessary in order for Ardonagh to provide the DPO function to Bennetts.

The CMA consents to a derogation from paragraphs 6(i) and 6(l) of the Initial Order for Ardonagh to provide such a DPO function to Bennetts, strictly on the basis that:

- (a) Bennetts' information provided to Ardonagh will be limited to that which is strictly necessary for Ardonagh to provide the DPO function to Bennetts and ensure that Bennetts is fully compliant with all its data protection obligations;
- (b) Information will only be provided to [✂] (the **Authorised Individual**) for whom it is strictly necessary to see Bennetts' information to provide the necessary DPO function to Bennetts;
- (c) In his role as Bennetts' DPO, the Authorised Individual will not ordinarily require access to commercially-sensitive information of Bennetts. However, in the event of a breach of a Data Protection Act, the Authorised Individual may require access to commercially sensitive information of Bennetts in order to provide guidance and support as required in respect of such a breach. In such circumstances, Ardonagh will:
  - notify the CMA in parallel that such a breach has occurred;
  - ensure that communication of any Bennetts' commercially-sensitive information is strictly-limited to what is necessary for the Authorised Individual to understand the nature of the breach, Bennetts' response to the breach, and to form a view on the necessary action required; and
  - provide the CMA with a copy of the information shared with the Authorised Individual.
- (d) The Authorised Individual does not have any responsibility for the commercial or strategic operations of Ardonagh, Ardonagh UK or Atlanta and shall not use any information provided by Bennetts in any way to intervene in the management or operation of Bennetts;
- (e) The Authorised Individual will not report to the board of Ardonagh, Ardonagh UK or Atlanta;
- (f) The Authorised Individual shall enter into an NDA in a form approved by the CMA;

- (g) 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 with the Authorised Individual for the purposes of this derogation;
- (h) [X] shall remain the only Authorised Individual. No additions or changes to the individuals performing a DPO role for Bennetts shall be made without the prior written consent of the CMA (including via email);
- (i) This derogation shall not prevent any remedial action which the CMA may need to take regarding the Merger; and
- (j) 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 6(a), 6(c) and 6(l) of the Initial Order – Non-standard expenditure**

Ardonagh submits that for the purposes of overseeing that the Bennetts business is operating effectively in the ordinary course of business and is maintained as a going concern, Ardonagh requires oversight of Bennetts in relation to certain expenditures which could expose Ardonagh to significant liability.

As such, Ardonagh is requesting CMA consent for: (i) Bennetts to escalate and discuss unbudgeted expenditure with Atlanta with an annual value of [X] or more as described in Annex 1 (**Non-Standard Expenditure**) and (ii) to share limited commercially-sensitive information with Atlanta (as also described in Annex 1) in order for Atlanta to take an informed decision on any Non-Standard Expenditure proposed by Bennetts.

The CMA consents to a derogation from paragraphs 6(a), 6(c) and 6(l) of the Initial Order to permit Atlanta to exercise oversight of any Non-Standard Expenditure proposed by Bennetts, strictly on the basis that:

- (a) Bennetts' information is shared with Atlanta only where it specifically relates to requests for approval by Atlanta under one of the matters listed in Annex 1;
- (b) The information which Atlanta requires access to will be limited to that which is strictly necessary (as described in Annex 1) to allow Atlanta to reach a view on the specific matter at hand, and will not include any other commercially-sensitive information beyond that enumerated in Annex 1;
- (c) Requests will be raised by Bennetts with, and information provided to [X]

(the **Authorised Individual**) who does not have any responsibility for the commercial or strategic operations of Ardonagh, Ardonagh UK or Atlanta and shall not use any information provided by Bennetts in any way to intervene in the management or operation of Bennetts;

- (d) The Authorised Individual must not consult with any other individual at Ardonagh, Ardonagh UK or Atlanta in taking decisions on the specific matters listed in Annex 1;
- (e) The CMA will be notified each time the threshold of [X] is met and of any proposed veto by Atlanta, and the reasons for this in advance of any such veto being exercised;
- (f) The CMA can amend the limit of [X] at any time in writing (including via email) if it subsequently reaches a view that this threshold is impacting upon the independent operation of the Bennetts business;
- (g) The Authorised Individual shall enter into an NDA in a form approved by the CMA;
- (h) 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 with the Authorised Individual for the purposes of this derogation;
- (i) [X] shall remain the only Authorised Individual. No additions or changes to the individuals providing Non-Standard Expenditure oversight of Bennetts shall be made under this derogation without the prior written consent of the CMA (including via email);
- (j) This derogation shall not prevent any remedial action which the CMA may need to take regarding the Merger; and
- (k) 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. Paragraph 6(l) of the Initial Order – Financial reporting obligations**

Ardonagh submits that, in order to ensure that Ardonagh complies with its regulatory, financial and accounting requirements (including its obligations to prepare its accounts in compliance with IFRS rules), Ardonagh requires access to certain Bennetts' financial information.

Ardonagh is therefore seeking CMA consent for Bennetts to provide certain monthly financial information, including monthly profit & loss data, monthly cash flow and weekly cash flow forecasts, monthly balance sheets and monthly operating reports to Ardonagh for these purposes.

The CMA consents to a derogation from paragraph 6(l) of the Initial Order for this specific purpose, strictly on the basis that:

- (a) Bennetts' financial information provided to Ardonagh will be limited to that which is strictly necessary for Ardonagh to comply with its regulatory, financial and accounting requirements, in template form as agreed with the CMA in Annex 2;
- (b) No management commentary will be provided by Bennetts to Ardonagh alongside the information described in Annex 2;
- (c) Information for this strict purpose will only be provided to the following individuals (the **Authorised Individuals**) for whom it is strictly necessary to see Bennetts' information;
  - a. [REDACTED];
  - b. [REDACTED];
  - c. [REDACTED]; and
  - d. [REDACTED].
- (d) The Authorised Individuals do not have any responsibility for the commercial or strategic operations of Ardonagh, Ardonagh UK or Atlanta and shall not use any information provided by Bennetts in any way to intervene in the management or operation of Bennetts;
- (e) The Authorised Individuals shall each enter into NDAs in a form approved by the CMA;
- (f) This derogation only relates to information sharing and does not allow any integration of the Ardonagh and Bennetts businesses or any changes to the operation or functioning of the Ardonagh and Bennetts businesses;
- (g) No changes to the Authorised Individuals are permitted without the prior written consent of the CMA (including via email);
- (h) Ardonagh will keep a record of all information shared by Bennetts in accordance with this derogation which will be made available to the CMA on request;
- (i) 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 with the Authorised Individuals for the purposes of this derogation;

- (j) This derogation shall not prevent any remedial action which the CMA may need to take regarding the Merger; and
- (k) 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. Paragraph 6(l) of the Initial Order – oversight of the viability of Bennetts**

Ardonagh submits that, in order to ensure that it maintains sufficient oversight to determine the financial viability of the Bennetts business so it is able to continue its business effectively and to protect the value of Ardonagh's investment, Ardonagh requires access to certain financial information of Bennetts.

Ardonagh is therefore seeking CMA consent for Bennetts to provide certain high-level financial information to Ardonagh for these purposes.

The CMA consents to a derogation from paragraph 6(l) of the Initial Order for this specific purpose, strictly on the basis that:

- (a) Bennetts' financial information provided to Ardonagh will be limited to that which is strictly necessary for Ardonagh to maintain oversight of the viability of the Bennetts business, in template form as agreed with the CMA in Annex 3;
- (b) No management commentary will be provided by Bennetts to Ardonagh alongside the information described in Annex 3;
- (c) Information for this strict purpose will only be provided to the following individuals (the **Authorised Individuals**) for whom it is strictly necessary to see Bennetts' information;
  - a. [✂]; and
  - b. [✂].
- (d) The Authorised Individuals do not have any responsibility for the commercial or strategic operations of Ardonagh, Ardonagh UK or Atlanta and shall not use any information provided by Bennetts in any way to intervene in the management or operation of Bennetts;
- (e) This derogation only relates to information sharing and does not allow any

integration of the Ardonagh and Bennetts businesses or any changes to the operation or functioning of the Ardonagh and Bennetts businesses;

- (f) The Authorised Individuals shall enter into NDAs in a form approved by the CMA;
- (g) No changes to the Authorised Individuals are permitted without the prior written consent of the CMA (including via email);
- (h) Ardonagh will keep a record of all information shared by Bennetts in accordance with this derogation which will be made available to the CMA on request;
- (i) 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 with the Authorised Individuals for the purposes of this derogation;
- (j) This derogation shall not prevent any remedial action which the CMA may need to take regarding the Merger; and
- (k) 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.

Yours sincerely,

Alex Knight

Assistant Director, Remedies Business and Financial Analysis

24 August 2020

**Annex 1 – Non-Standard Expenditure requiring escalation to Atlanta and associated information requirements**



**Annex 2 – financial information template for the purposes of Ardonagh’s financial reporting**

**Annex 3 – financial information template for the purposes of oversight by  
Ardonagh of Bennetts**