

## **COMPLETED ACQUISITION BY SONOCO PRODUCTS COMPANY OF WEIDENHAMMER PACKAGING GROUP GMBH**

### **Directions issued pursuant to paragraph 10 of the Initial Enforcement Order made by the Competition and Markets Authority on Sonoco Products Company and Sonoco Holdings UK Limited on 5 November 2014**

On 27 January 2015, the Competition and Markets Authority (CMA) made a reference to its chair for the constitution of a Group of CMA Panel Members (the Inquiry Group) under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 in accordance with section 22 of the Enterprise Act 2002 (the Act), regarding the completed acquisition by Sonoco Products Company (Sonoco) of Weidenhammer Packaging Group GmbH (Weidenhammer).

The reference has not been finally determined.

On 5 November 2014, the CMA made an Initial Enforcement Order under section 72(2) of the Act addressed to Sonoco and Sonoco Holdings UK Limited (Sonoco UK) for the purposes of preventing pre-emptive action (the Order).

The Order is still in force.

The CMA now issues written Directions under paragraph 10 of the Order that, for the purpose of securing compliance with the Order, Sonoco and Sonoco UK must appoint a monitoring trustee (MT) in accordance with the terms provided for in the Annex and must comply with the obligations set out in the Annex.

Martin Cave  
Group Chairman  
16 February 2015

## ANNEX

### Directions to appoint a monitoring trustee

#### *Interpretation*

1. In these Directions:

The '**Act**' means the Enterprise Act 2002.

'**CMA**' means the Competition and Markets Authority.

'**Derogations**' means each of the derogations granted by the CMA since 5 November 2014 and by which the parties may undertake certain actions that derogate from the Order.

'**MT**' means the monitoring trustee appointed in accordance with paragraphs 2 and 7 below.

'**Order**' means the Initial Enforcement Order made by the CMA on Sonoco and Sonoco UK on 5 November 2014, together with any associated Derogations, and terms and expressions defined in the Order have the same meaning in these Directions, unless the context requires otherwise.

'**Sonoco**' means Sonoco Products Company.

'**Sonoco UK**' means Sonoco Holdings UK Limited, a subsidiary of Sonoco in the UK.

'**Weidenhammer**' means Weidenhammer Packaging Group GmbH.

'**the Weidenhammer business**' means the UK related business of Weidenhammer carried on as at the commencement date, ie 5 November 2014.

#### *Appointment*

2. Sonoco and Sonoco UK must appoint an MT in order to:
  - (a) support the CMA taking any remedial action which may be required to maintain the Weidenhammer business as a viable business; and
  - (b) monitor compliance by Sonoco and Sonoco UK with the Order.
3. The MT must act on behalf of the CMA and be under an obligation to the CMA to carry out his or her functions to the best of his or her abilities.

4. Sonoco and Sonoco UK must cooperate fully with the MT, in particular as set out below, and must ensure that the terms and conditions of appointment of the MT reflect and give effect to the functions and obligations of the MT and the obligations of Sonoco and Sonoco UK as set out in these Directions.

### **General**

5. The MT must possess appropriate qualifications and experience to carry out his or her functions.
6. The MT must neither have nor become exposed to a conflict of interest that impairs the MT's objectivity and independence in discharging his or her duties under these Directions, unless it can be resolved in a manner and within a timeframe acceptable to the CMA.
7. Sonoco and Sonoco UK shall remunerate and reimburse the MT for all reasonable costs properly incurred in accordance with the terms and conditions of the appointment and in such a way so as not to impede the MT's independence or ability to carry out his or her functions effectively and properly.
8. Sonoco and Sonoco UK must nominate the MT as soon as is reasonably practicable and in any event by 1pm on 16 February 2015, and appoint the MT by 5pm on 18 February 2015. The MT will continue to act until the CMA has finally determined the reference (within the meaning of section 79 of the Act).
9. The appointment of an MT by Sonoco and Sonoco UK must be subject to the approval of the CMA as to the identity of the MT and his or her terms and conditions of appointment in their entirety.
10. Sonoco and Sonoco UK must inform the CMA as soon as is reasonably practicable and in any event by [three days before date above] of the identity of the MT that Sonoco and Sonoco UK propose to appoint and provide the CMA with draft terms and conditions of appointment. If Sonoco and Sonoco UK fail to so inform the CMA, the CMA will notify Sonoco and Sonoco UK of the identity of the MT that Sonoco and Sonoco UK must appoint.
11. Once the MT has been approved by the CMA and appointed, Sonoco and Sonoco UK must provide the CMA with a copy of the agreed terms and conditions of appointment.

## **Functions**

12. The functions of the MT will be to:
- (a) ascertain the current level of integration of the Weidenhammer business with Sonoco and Sonoco UK and the current level of compliance by Sonoco and Sonoco UK with the Order, including the communications within and between Sonoco, Sonoco UK and the Weidenhammer business, such as written and electronic communications, telephone conversations and meetings; and
  - (b) assess the arrangements made by Sonoco and Sonoco UK for compliance with the Order, what changes to those arrangements, if any, are necessary to preserve the possibility of the CMA taking any remedial action, if required, and the possible need to appoint a hold separate manager to preserve the possibility of the CMA taking remedial action.

The MT will also be required to:

- (c) identify (and supervise if necessary) the arrangements made by Sonoco and Sonoco UK for ensuring compliance with the Order;
  - (d) monitor compliance by Sonoco and Sonoco UK with the Order; and
  - (e) without prejudice to the right of Sonoco and Sonoco UK to contact the CMA, respond to any questions which Sonoco and Sonoco UK may have in relation to compliance with the Order, in consultation with the CMA.
13. The MT must take such steps as he or she reasonably considers necessary in order to carry out his or her functions effectively, including the monitoring of communications within and between the Weidenhammer business and Sonoco or Sonoco UK, such as written and electronic communications, telephone conversations and meetings.
14. The MT must comply with any requests made by the CMA for the purpose of ensuring the full and effective compliance by Sonoco and Sonoco UK with the Order.

## **Obligations of Sonoco and Sonoco UK**

15. Sonoco, Sonoco UK, their subsidiaries and their employees, officers, directors, advisers and consultants must cooperate fully with the MT, in particular by providing the MT with all cooperation, assistance and information

as the MT may reasonably require in order to discharge his or her functions, including but not limited to:

- (a) the provision of full and complete access to all personnel, books, records, documents, facilities and information of Sonoco, Sonoco UK and the Weidenhammer business as the MT may reasonably require; and
  - (b) the provision of such office and supporting facilities as the MT may reasonably require.
16. If Sonoco, Sonoco UK or any of their subsidiaries is in any doubt as to whether any action or communication would infringe the Order, it is permitted to contact the MT for clarification.
17. If Sonoco, Sonoco UK or any of their subsidiaries has any reason to suspect that the Order may have been breached, it must notify the MT and the CMA immediately.

### ***Reporting functions***

18. The MT is required to provide an initial report to the CMA no later than two weeks following the date of his or her appointment giving details of any arrangements which have been, or should be, put in place to ensure compliance with the Order, and/or to preserve the possibility of the CMA taking any remedial action, if required, and including, among other things:
- (a) details of the current extent of compliance with the Order including the extent of communications and information transfer between Sonoco, Sonoco UK and Weidenhammer;
  - (b) a description of the current arrangements made for the independent management and operation of the Weidenhammer business, for the preservation of the assets required, and the retention (or appointment where necessary) of appropriate staff to operate the Weidenhammer business;
  - (c) recommendations as to what changes to those arrangements, if any, or other actions are necessary to preserve the possibility of the CMA taking any remedial action, if required;
  - (d) details of the arrangements concerning Sonoco UK's ~~☒~~ in the context where ~~☒~~ in compliance with the Order, including recommendations as to what changes to those arrangements, if any, or other actions are necessary to preserve the possibility of the CMA taking any remedial action, if required; and

- (e) details of Sonoco's ~~sc~~ including recommendations as to what changes to those arrangements, if any, or other actions are necessary to preserve the possibility of the CMA taking any remedial action, if required.
19. In addition to providing the initial report referred to in paragraph 18 above, the MT must report once per month thereafter (or otherwise as required by the CMA) a statement to the CMA stating whether or not, in his or her view, Sonoco and Sonoco UK have complied with the Order. At the same time, the MT must provide the CMA with a report setting out the following:
- (a) the basis for the MT's view that the Order has or has not, as the case may be, been complied with, and in particular whether:
    - (i) anything has caused him or her to be concerned as to whether Sonoco and Sonoco UK have complied with the Order, and if it has, whether those concerns have been resolved and why;
    - (ii) he or she has any remaining doubts or uncertainties as to whether Sonoco and Sonoco UK have complied with the Order; and
    - (iii) anything causes him or her to be concerned about a possible future breach of the Order (whether deliberate or inadvertent).
  - (b) details of the performance of the Weidenhammer business and, separately, Sonoco UK's Chesterfield and Manchester plants, and supporting business activities including any factors that might indicate asset deterioration or the depletion of staff or impairment to bid for new contracts;
  - (c) whether appropriate steps are being taken to maintain the Weidenhammer business, together with Sonoco UK's Chesterfield and Manchester plants and supporting business activities each as going concerns; and
  - (d) necessary information required to assist the Group to consider derogation requests effectively.

Where necessary the MT may also be required as part of this assessment to consider and report on:

- (e) the extent to which Sonoco and Sonoco UK have cooperated with the MT in his or her task of monitoring its compliance with the Order, and details of any aspects of the cooperation of Sonoco and Sonoco UK that he or she considers could be improved;

- (f) the extent to which the MT considers that he or she is in an appropriate position to monitor the compliance with the Order and if there is anything that the MT considers would assist him or her in monitoring compliance;
  - (g) any current or anticipated requests for consent to grant any further derogation from the Order;
  - (h) any information which causes him or her to be concerned that the possibility of the CMA taking any remedial action, if required, is or may be put at risk, with an explanation of any such concern; and
  - (i) the information he or she used to compile the report.
- 20. When reporting to the CMA, the MT must ensure that he or she does not disclose any information or documents to the CMA which Sonoco and Sonoco UK would be entitled to withhold from the CMA on the grounds of legal privilege.
- 21. The MT must immediately notify the CMA in writing if he or she forms a reasonable suspicion that the Order has been breached, or if he or she considers that he or she is no longer in a position to carry out his or her functions effectively. In that situation, the MT must give reasons for this view, including any supporting evidence available (unless doing so would infringe the obligations referred to in paragraph 20 above).
- 22. All communications between the MT and the CMA (including the statements and reports referred to in paragraph 18 and 19 above) are confidential and should not be disclosed to Sonoco and Sonoco UK, save with the prior written consent of the CMA. The MT shall not disclose such communications to third parties.
- 23. The MT will report each month to the CMA the fees that he or she has charged to Sonoco and Sonoco UK for his or her services.