

## **Completed acquisition by BCA Marketplace plc of SMA Vehicle Remarketing Limited**

### **Consent to certain actions for the purposes of the Initial Enforcement Order made by the Competition and Markets Authority (‘CMA’) on 22 June 2015**

We refer to your letters dated 20 July 2015 and 27 July 2015 requesting that the CMA consent to derogations to the Initial Enforcement Order of 22 June 2015 (the ‘Initial Order’). 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, BCA Marketplace plc and BCA Trading Limited (jointly referred to as BCA) are required to hold separate the SMA business from the BCA business 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 derogations from the Initial Order, based on the information received from you and in the particular circumstances of this case, BCA may carry out the following actions, in respect of the specific paragraphs:

#### **1. Paragraphs 5(c), 5(i) and 5(j) of the Initial Order**

During the Specified Period, in order to ensure the effective continuity and ongoing viability of the SMA business, and to protect BCA’s investment in a proportionate manner, BCA is permitted to appoint [X] as the Interim Chairperson of SMA Vehicle Remarketing Limited working on a part-time basis for two days per week. The CMA grants this derogation to the Initial Order on the basis of the following representations made by BCA:

- Necessity of appointing an independent Interim Chairperson –
  - BCA submitted that the appointment of an Interim Chairperson is necessary to maintain the ongoing viability of the SMA business following the exit of three non-executive shareholder directors of SMA Vehicle Remarketing Limited who were intimately and importantly involved in the running of the SMA business and on whom the SMA board relied for advice and oversight, in particular, in relation to the managed property aspects of the SMA business.

- The current senior directors of the SMA business have never operated in a public company and urgently require compliance guidance and support.
- In the absence of independent senior oversight, there is a material risk that decisions could be taken which would impair the SMA business's ability to compete independently and threaten its ongoing viability. This is evidenced by [X], and which would materially and adversely alter the financial risk profile of the SMA business.
- Independence of and appropriateness of [X] for the role –
  - [X] has worked for BCA on a part-time basis (three days per week) for one month solely for the purpose of carrying out [X] but has never held any role, had responsibility for or had any access to information in respect of the operational functioning of BCA's businesses which compete with, or are vertically related to, SMA (the "BCA business").
  - [X] has technical expertise and sector knowledge, including experience of working within public listed companies.
  - [X] will be able to undertake the acquisition accounting for the SMA business which is urgently required in connection with BCA's half year results (ending 30th September).
  - Notwithstanding [X] high degree of independence from BCA, there are significant challenges associated with appointing an alternative individual with absolutely no prior links to BCA, including the fact that the role is for an immediate start, it is for 2 days per week for an unknown duration and the requisite experience for this role in this industry is rare. Whereas [X] is available for an immediate start, is willing to work for the duration of the Specified Period and has industry experience.

The CMA grants this derogation subject to the following safeguards which will apply during the Specified Period:

- [X] will no longer have any role, interactions or access to information relating to the BCA business.
- [X] will sign a non-disclosure agreement, as approved by the CMA.
- [X] role will be undertaken entirely independently of BCA and no further reporting by [X] to BCA will be undertaken except as permitted by the existing derogations to the Initial Order, as granted at the date of this letter.

- All day-to-day operational and financial decisions will continue to be taken by the SMA board of directors with input from [X] and under the terms of SMA Vehicle Remarketing Limited's articles of association.
- The appointment of [X] will not prejudice any remedial action which may need to be taken by the CMA and, if required, BCA would undertake not to employ [X] in an operational role related to any part of the BCA business for a period of 12 months after any such remedies take effect.

**11 August 2015**