

ACQUISITION BY MRH (GB) LIMITED OF 78 PETROL STATIONS FROM ESSO PETROLEUM COMPANY 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 MRH (GB) Limited (**MRH**), through its subsidiaries Malthurst South East Limited (**MSE**) and Malthurst Anglia Limited (**MA**), ceasing to be distinct from the 78 petrol stations respectively listed in Annex A to this Order;
- (b) while the 78 petrol stations are acquired pursuant to separate agreements for sale in respect of the sites in Anglia and the South East of England, the agreements contemplate a separate completion in relation to each petrol station or group of petrol stations;
- (c) the CMA is considering, whether it is or may be the case that:
 - (i) pursuant to section 33 of the Act, arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation, or
 - (ii) pursuant to section 22 of the Act, in relation to each site a relevant merger situation is created on completion,and the creation of the situation in (c) (i) and (ii) of this Order has or may be expected to result in a substantial lessening of competition in any market or markets in the United Kingdom (UK);
- (d) the CMA wishes to ensure that no action is taken pending final determination of any reference 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

- (e) 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 MRH, MSE and MA (Order).

Commencement, application and scope

1. This Order commences on the commencement date: 10 September 2015.
2. This Order applies to MRH, MSE and MA.
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 MRH, MSE and MA to reverse any act or omission, in each case to the extent that it occurred or was completed prior to the commencement date.

Management of the MRH business and the Target business until determination of proceedings

4. Except with the prior written consent of the CMA, MRH, MSE and MA 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 Target business with the MRH business;
 - (b) transfer the ownership or control of the MRH business or the Target business or any of their subsidiaries; or
 - (c) otherwise impair the ability of the Target business or the MRH business to compete independently in any of the markets affected by the transaction.
5. Further and without prejudice to the generality of paragraph 4 and subject to paragraph 3, the MRH business shall at all times during the specified period procure that, except with the prior written consent of the CMA:
 - (a) the Target business is carried on separately from the MRH business and the Target business's separate sales or brand identity is maintained;
 - (b) the Target business and the MRH business are maintained as a going concern and sufficient resources are made available for the development

of the Target business and the MRH 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 Target business or the MRH 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 Target business and the MRH business are maintained and preserved, including facilities and goodwill;
 - (ii) none of the assets of the Target business or the MRH business are disposed of; and
 - (iii) no interest in the assets of the Target business or the MRH business is created or disposed of;
- (f) there is no integration of the information technology of the Target or MRH businesses, and the software and hardware platforms of the Target 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 Target business will be carried out by the Target business alone and for the avoidance of doubt the business will not negotiate on behalf of the Target business (and vice versa) or enter into any joint agreements with the Target business (and vice versa);
- (h) all existing contracts of the Target business and the MRH business continue to be serviced by the business to which they were awarded;
- (i) no changes are made to key staff of the Target business or MRH business;
- (j) no key staff are transferred between the Target business and the MRH business;

- (k) all reasonable steps are taken to encourage all key staff to remain with the Target business and the MRH 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 Target business (or any of its employees, directors, agents or affiliates) to the MRH business (or any of its employees, directors, agents or affiliates), or vice versa, except where strictly necessary in the ordinary course of business (for example, where required for compliance with external regulatory and/or accounting obligations) 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

- 6. MRH, MSE and MA shall procure that each of their subsidiaries complies with this Order as if the Order had been issued to each of them.
- 7. MRH, MSE and MA 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 MRH, MSE and MA and their subsidiaries with this Order. In particular, on 24 September 2015 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 MRH, MSE and MA or other persons of MRH, MSE and MA as agreed with the CMA shall, on behalf of MRH, MSE and MA, provide a statement to the CMA in the form set out in the Annex to this Order confirming compliance with this Order.
- 8. At all times, MRH, MSE and MA shall, or shall procure that the Target business shall, actively keep the CMA informed of any material developments relating to the Target business or the MRH, MSE and MA business, which includes but is not limited to:
 - (a) details of key staff who leave or join the Target business or the MRH business;
 - (b) any interruption of the Target or MRH, MSE and MA 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 Target or the MRH, MSE and MA business including any substantial changes in customers' demand; and
 - (d) substantial changes in the Target or the MRH, MSE and MA business' contractual arrangements or relationships with key suppliers.
- 9. If MRH, MSE or MA has any reason to suspect that this Order might have been breached it shall immediately notify the CMA and any monitoring trustee that MRH, MSE and MA may be directed to appoint under paragraph 10.
- 10. 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.
- 11. MRH, MSE and MA shall comply in so far as they are 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

- 12. The Interpretation Act 1978 shall apply to this Order as it does to Acts of Parliament.
- 13. 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;

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

'commencement date' means 10 September 2015 and the expected completion date referred to in Annex A to this Order;

‘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 section 35 of the Act;

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

‘MA’ means Malthurst Anglia Limited

‘MRH’ means MRH (GB) Limited

‘MSE’ means Malthurst South East Limited

‘the ordinary course of business’ means matters connected to the day-to-day supply of goods and/or services by the Target business or MRH, MSE and MA and does not include matters involving significant changes to the organisational structure or related to the post-merger integration of the Target business and MRH, MSE and MA;

‘the MRH business’ means the business of MRH (GB) Limited, Malthurst Anglia Limited and Malthurst South East Limited, and their subsidiaries carried on at the commencement date;

‘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 Target business’ means the petrol station sites of Esso Petroleum Company Limited that at any given time have been acquired by MRH pursuant to the transaction;

‘the transaction’ means the transaction between MRH, MSE and MA, Esso Petroleum Company Limited and ROC UK Limited by which MRH, MSE and MA and the Target business have ceased to be distinct or will cease to be distinct within the meaning of section 23 of the Act;

‘the two businesses’ means the MRH, MSE and MA business and the Target business;

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

Target Esso Sites

Site Name	Address	Completion Date	Acquiring subsidiary
AUTOHALT	Arterial Road, Rayleigh, Essex SS6 7TU	20/10/2015	MA
BARTON MILLS	Fiveways Roundabout, Barton Mills, Suffolk IP28 6AE	19/10/2015	MA
BEAM	23 New Road, Rainham, Essex RM13 8DP	22/10/2015	MA
BEECH	Stoke Road, Stoke Road, Stoke D'Abernon, Cobham, Surrey KT11 3AS	20/07/2015	MSE
BELLBROOK	Bell Lane, Uckfield, East Sussex TN22 1BA	22/07/2015	MSE
BLACKHEATH	37A Shooters Hill Road, Blackheath, London SE3 7HS	21/10/2015	MA
BOXLEY	127 Boxley Road, Maidstone, Kent ME14 2T	22/07/2015	MSE
BRACKEN HILL	Maidstone Road, Borough Green, Sevenoaks, Kent TN15 8HG	23/07/2015	MSE
BROADWAY	246 The Broadway, Bexleyheath, Greater London DA6 8AS	22/10/2015	MA
BUSH HILL	Great Cambridge Road, Enfield, Greater London EN1 1JD	21/10/2015	MA
CHAFFORD	Hogg Lane, Grays, Essex RM17 5QT	22/10/2015	MA
CHAMPION	Station Road, Edenbridge, Kent TN8 6HL	23/07/2015	MSE

CITY	Histon Road, Cambridge, Essex CB4 3JD	19/10/2015	MA
COBHAM	A2 Trunk Road, Gravesend, Kent DA12 3BH	23/07/2015	MSE
COCKFOSTERS	347 Cockfosters Road, Barnet, Greater, London EN4 0JY	20/10/2015	MA
COLLIER ROW	140 - 148 Collier Row Road, Romford, Essex RM5 2BD	22/10/2015	MA
CUCKFIELD	Whitemans Green, Cuckfield, Haywards Heath, West Sussex RH17 5DA	22/07/2015	MSE
EASTBRIDGE	Bridge Road East, Welwyn Garden City, Hertfordshire AL7 1LE	20/10/2015	MA
EASTWOOD	Ipswich Road, Colchester, Essex CO4 OEU	19/10/2015	MA
EDEN PARK	Links Way, Beckenham, Greater London BR3 3DG	23/07/2015	MSE
ELVA	Sedlescombe Road North, St Leonards on Sea Hastings, East Sussex TN37 7PB	21/07/2015	MSE
FIELD ROAD	Field Road, Mildenhall, Suffolk IP28 7AL	02/12/2015	MA
FOXBERRY	242 Brockley Road, Brockley, London SE4 2SU	21/10/2015	MA
FRINTON	Frinton Road, Frinton on Sea, Essex CO13 0PA	19/10/2015	MA
GAINSBOROUGH	Northern Road, Sudbury, Suffolk CO10 0PX	19/10/2015	MA
GATE	A2 Dunkirk, Faversham, Kent ME13 9LN	22/07/2015	MSE

GIBRALTAR	New Road, Chatham, Kent ME4 4RY	23/07/2015	MSE
GLYNE GAP	Hastings Road, Bexhill on Sea, East Sussex TN40 2JU	21/07/2015	MSE
GOODMAYES	647 High Road, Ilford, Essex IG3 8RU	21/10/2015	MA
HAROLD PARK	Colchester Road, Romford, Essex RM3 0AG	22/10/2015	MA
HAYLING DOWN	628-630 Brighton Road, Purley, Greater London CR8 2BA	20/07/2015	MSE
HERTFORD	133 Hertingfordbury Road, Hertford, Hertfordshire SG14 1NL	20/10/2015	MA
HIGHFIELDS	700 Green Lane's, London N21 3RL	21/10/2015	MA
HORLEY	Brighton Road, Horley, Surrey RH6 7HH	23/07/2015	MSE
HOTHFIELD	Maidstone Road A20, Ashford, Kent TN26 1AP	22/07/2015	MSE
HOUNSLOW	336-342 Staines Road, Hounslow, Greater London TW4 5BD	21/07/2015	MSE
HOVE	Station Approach, Hove, Brighton, East Sussex BN3 3TJ	21/07/2015	MSE
HUTTON MOUNT	Rayleigh Road Hutton, Brentwood, Essex CM13 1AB	20/10/2015	MA
ILFORD	Studley Drive, Ilford, Essex IG4 5AH	21/10/2015	MA
INGRAVE	Brentwood Road, Brentwood, Essex CM13 3NY	22/10/2015	MA

ISENHURST	Mayfield Road, Cross in Hand, Heathfield, East Sussex TN21 0UE	22/07/2015	MSE
KENT ELMS	Arterial Road, Eastwood, Essex SS9 4DA	20/10/2015	MA
KINGSTON	Shannon Corner, New Malden, Greater London KT3 6HF	20/07/2015	MSE
LAKEDALE	190-214 Plumstead High Street, London SE18 1JH	22/10/2015	MA
LAKE SIDE	Sturry Road, Canterbury, Kent CT1 1DS	22/07/2015	MSE
LANGNEY	Langney Rise, Eastbourne, East Sussex BN23 7PW	21/07/2015	MSE
LEITH HILL	A24 Horsham Road, Dorking, Surrey RH5 4QU	23/07/2015	MSE
MAIDSTONE (MSA)	Roadchef, J8 M20 Motorway, Hollingbourne, Maidstone, Kent ME17 1SS	27/07/2015	MSE
MALLING	96-106 Malling Street, Lewes, East Sussex BN7 2RJ	21/07/2015	MSE
MEADS	Arterial Road, Purfleet, Essex, RM19 1TS	22/10/2015	MA
MOLE SIDE	3-5 Esher Road, Hersham, Surrey KT12 4JZ	21/07/2015	MSE
MOUSEHOLD	Mousehold Lane, Norwich, Norfolk NR7 8HA	19/10/2015	MA
OAKLANDS	Princes Road, Chelmsford, Essex CM2 9DF	20/10/2015	MA
PADDOCK WOOD	147 Maidstone Road, Paddock Wood,	22/07/2015	MSE

	Tonbridge, Kent TN12 6DP		
PALACE	Hampton Court Road, East Molesey, Greater London KT8 9BW	20/07/2015	MSE
PATCHAM	Patcham By-Pass, Brighton, East Sussex BN1 8YB	02/10/2015	MSE
PEVENSEY	Bexhill Road, Pevensey, East Sussex BN24 5JW	21/07/2015	MSE
RAINHAM ROAD	Rainham Road South, Dagenham, Essex RM10 8Y	22/10/2015	MA
RHODE HOUSE	London Road, Sittingbourne, Kent ME10 1QB	22/07/2015	MSE
RING	Mile Cross Lane, Norwich, Norfolk NR6 6SH	19/10/2015	MA
ROBIN HOOD NORTH	325 Robin Hood Way, Raynes Park, London SW20 0AB	20/07/2015	MSE
SHEPPERTON	Walton Bridge, Shepperton, Surrey TW17 8NE	20/07/2015	MSE
SHORTLANDS	202 Bromley Road, Beckenham, Greater London, BR3 6PG	23/07/2015	MSE
STAINES ROAD	110 Staines Road, Twickenham, Greater London TW2 5AW	20/07/2015	MSE
STAMFORD HILL	2 High Road, Stamford Hill, London N15 6LS	21/10/2015	MA
START HILL	Start Hill, Bishop's Stortford, Hertfordshire CM22 7TA	20/10/2015	MA
STOWMARKET	Coombe Ford, Stowmarket, Suffolk IP14 2AP	19/10/2015	MA

STUDLEY GRANGE	167 Boston Road, London W7 3QJ	21/07/2015	MSE
THURROCK (MSA)	West Thurrock, Grays, Essex RM16 3BG	19/10/2015	MA
TOWNEND	36 Town End, Caterham, Surrey CR3 5UG	23/07/2015	MSE
WARLEY	A127 Southend Arterial Road, Little Warley, Brentwood, Essex CM13 3ES	22/10/2015	MA
WELLINGTON	513 Archway Road, Highgate, London, N6 4HX	21/10/2015	MA
WEST END	Rainsford Road, Chelmsford, Essex CM1 2QL	20/10/2015	MA
WEST WINCH	West Winch, King's Lynn, Norfolk PE33 0NB	19/10/2015	MA
WHETSTONE	1182-1202 High Road, London N20 0LH	20/10/2015	MA
WHITEFIELDS	610 Barking Road, London E13 9JY	21/10/2015	MA
WHITGIFT	87 Brighton Road, South Croydon, Greater London CR2 6EE	20/07/2015	MSE
WOODFORD BRIDGE	357 Chigwell Road, Woodford Green, Essex IG8 8PE	21/10/2015	MA

Compliance statement for MRH, MSE and MA

I [insert name] confirm on behalf of MRH, MSE and MA that:

Compliance in the Relevant Period

1. In the period from [insert date] to [insert date] (the Relevant Period):
 - (a) MRH, MSE and MA have complied with the Order made by the CMA in relation to the transaction on 10 September 2015 (the Order).
 - (b) MRH, MSE and MA's subsidiaries have also complied with this Order.
2. Subject to paragraph 3 of the Order, and except with the prior written consent of the CMA:
 - (a) No action has been taken by MRH, MSE and MA that might prejudice a reference of the transaction under section 22 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 Target business with the MRH business;
 - (ii) transfer the ownership or control of the MRH business or the Target business or any of their subsidiaries; or
 - (iii) otherwise impair the ability of the Target business or the MRH business to compete independently in any of the markets affected by the transaction.
 - (b) The Target business has been carried on separately from the MRH business and the Target business's separate sales or brand identity has been maintained.
 - (c) The Target business and the MRH business have been maintained as a going concern and sufficient resources have been made available for the development of the Target business and the MRH 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 Target business or the MRH 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 Target business and the MRH 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 Target business and the MRH 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 Target business or the MRH business have been disposed of; and
 - (iii) no interest in the assets of the Target business or the MRH business has been created or disposed of.
- (g) There has been no integration of the information technology of the Target or MRH businesses, and the software and hardware platforms of the Target 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 Target business have been carried out by the Target business alone and, for the avoidance of doubt, the MRH business has not negotiated on behalf of the Target business (and vice versa) or entered into any joint agreements with the Target business (and vice versa).
- (i) All existing contracts of the Target business and the MRH 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 Target business or the MRH business.
- (k) No key staff have been transferred between the Target business and the MRH business.
- (l) All reasonable steps have been taken to encourage all key staff to remain with the Target business and the MRH 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 Target business (or any of its employees, directors, agents or affiliates) to the MRH 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 Target business or the MRH business;
- (ii) interruptions of the Target business or the MRH 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 Target business or the MRH business; or
- (iv) substantial changes in the Target or MRH business's contractual arrangements or relationships with key suppliers.

(o) *[list of material developments]*

3. MRH, MSE and MA and their subsidiaries remain in full compliance with the Order and will, or will procure that the Target Business, continue actively to keep the CMA informed of any material developments relating to the Target Business or the MRH business in accordance with paragraph 8 of the Order.

Interpretation

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

FOR AND ON BEHALF OF MRH, MSE and MA

Signature

Name

Title

Date