

**COMPLETED ACQUISITION BY THE GAME GROUP PLC OF  
GAMES STATION LIMITED AND ITS WHOLLY OWNED SUBSIDIARY  
GAMESTATION LIMITED**

**Undertakings given by The Game Group Plc and Games Station Limited to the Competition Commission pursuant to section 71 of the Enterprise Act 2002**

Whereas, on 9 August 2007, the Office of Fair Trading (OFT) made a reference to the Competition Commission (CC) under section 22 of the Act concerning the completed acquisition by The Game Group plc ("Game") of Games Station Limited ("Games Station") and its wholly owned subsidiary Gamestation Limited;

And whereas the CC wishes to ensure that no action is taken pending final determination of the reference which might prejudice that reference or impede the taking of any action by the CC under Part 3 of the Act which might be justified by the CC's decisions on the reference;

And whereas the reference has not been finally determined in accordance with section 79(1) of the Act;

And whereas, on 14 August 2007, the CC adopted the Interim Undertakings which Game gave to the OFT on 12 June 2007, pursuant to 71 of the Act, and the Interim Undertakings are still in force;

Now **The Game Group Plc** and **Games Station Limited** hereby give to the CC the following undertakings pursuant to section 80 of the Act for the purpose of preventing pre-emptive action.

**Management of the parties' respective businesses until final determination of proceedings**

1. Except with the prior written consent of the CC, Game and Games Station undertake that they will not during the specified period take any action which might prejudice the reference concerned or impede the taking of any action under the Act by the CC or other party which may be justified by the CC's decisions on the reference, including any action which might:
  - (a) lead to the integration of Games Station's business (including any business of its subsidiary) with Game's business;
  - (b) transfer the ownership or control of Games Station's business; or
  - (c) otherwise impair the ability of Games Station's business to compete independently in any of the markets affected by the acquisition.

2. Further and without prejudice to the generality of paragraph 1, Game and Games Station will at all times during the specified period, procure that except with the prior written consent of the CC:
- (a) Games Station's business is carried on separately and under a separate brand identity from the businesses of Game, and that separate sales by Games Station's business are maintained;
  - (b) Games Station's business is maintained as a going concern separate from the business of Game, and sufficient resources are made available for the development of Games Station's business, on the basis of Games Station's business plans existing before the acquisition by Game, including (but not limited to) the opening of new Games Station retail stores;
  - (c) except in the ordinary course of business, no substantive changes are made to the key staff or organizational structure of Games Station's business, or to the management responsibilities within Games Station's business;
  - (d) except in the ordinary course of business, for the separate operation of Games Station's business:
    - (i) the assets of Games Station's business are maintained and preserved, including facilities and goodwill;
    - (ii) none of the assets of Games Station's business are disposed of; and
    - (iii) no interest in the assets of Games Station's business is created or disposed of;
  - (e) the nature, description, range and quality of goods and/or services currently supplied in the United Kingdom by Game and Games Station are maintained and preserved;
  - (f) Game shall exercise scrutiny over capital expenditure of Games Station only in respect of any single proposal for expenditure exceeding £50,000 or any proposal to open a new Games Station store and if Game is minded not to approve any such proposal it shall, within 3 working days of receiving notification from Games Station submit to the CC a copy of the relevant proposal as received from Games Station together with a written explanation of its reasons for not approving the same;
  - (g) there is no integration of the information technology of Games Station's business with the information technology of the Game business, and the software and hardware platforms of Games Station's business shall remain unchanged, except for routine changes and maintenance (which shall be carried out by a contractor selected and appointed by Games Station without any involvement by, or on behalf of, Game);
  - (h) for the avoidance of any doubt, Cap Gemini shall with immediate effect cease all planning, testing and analytical work associated with the project to integrate the IT systems used by Game and Games Station, and any documentation concerning Games Station's Information Technology

systems or integration proposals which is held by Game shall be destroyed at the earliest opportunity;

- (i) the customer and supplier lists of Game's business and Games Station's business, including customer information retained as part of loyalty programmes, shall be operated and updated separately and any negotiations with Games Station's customers and suppliers in relation to Games Station's business will be carried out by Games Station's business alone and for the avoidance of doubt Game will not negotiate on behalf of Games Station or enter into any joint agreements with Games Station;
- (j) as between Game's business and Games Station's business, all existing contracts continue to be serviced by the business to which they were awarded;
- (k) no key staff are transferred between Game's business and Games Station's business;
- (l) all reasonable steps are taken to encourage all key staff of Games Station's business, and Game's business to remain with the business in relation to which they were employed prior to the merger, and to recruit suitable replacements for any key positions in Games Station's business which become vacant; and
- (m) further to, and without prejudice to the generality of paragraphs (c) and (k) above and paragraphs (n) to (r) below:
  - (i) Martyn Gibbs will continue to fulfil his current responsibilities as joint Managing Director of Games Station and will continue to fulfil that role without a formal reporting line to Game (or any of its directors, employees, agents or affiliates) until final determination of the reference;
  - (ii) Jeremy Gerken will continue to fulfil his current responsibilities as joint Managing Director of Games Station and will continue to fulfil that role without a formal reporting line to Game (or any of its directors, employees, agents or affiliates) until final determination of the reference;
  - (iii) Philip Ellis will retain his current financial responsibilities as an employee of Games Station until 30 September 2007, on which date he will act as Director of Finance of Games Station, with a formal reporting line to Martyn Gibbs of Games Station until final determination of the reference; and
- (n) For the avoidance of any doubt, Games Station shall not be managed by, or with any reference to, an Executive Committee which includes any director, employee, agent or affiliate of Game; and
- (o) In order to enhance further the protective effect of the restrictions in paragraphs (p) and (q) below, until final determination of the reference, effective Confidentiality Agreements are entered into by, and remain in place with the persons named in Appendix I to these undertakings; and

- (p) no Confidential Information (as defined in paragraph (q) below) regarding Games Station's business will be solicited, or otherwise procured from, Martyn Gibbs, Jeremy Gerken, John Whitworth or Philip Ellis or any person employed by or on behalf of Games Station, except as permitted in paragraph (r) below;
- (q) except as provided in paragraph (r) below, no business secrets, know-how, commercially sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to Games Station's business ('Confidential Information') shall pass, directly or indirectly, from Games Station's business (or any of its employees, directors, agents or affiliates) to Game (or any of its employees, directors, agents or affiliates) or vice versa, except where strictly necessary in the ordinary course of business and on the basis that, should the merger be prohibited, any records or copies (electronic or otherwise) of such information wherever they may be held will be returned to the relevant business and any copies destroyed other than as may be required for the purposes of regulatory compliance under applicable law; and
- (r) notwithstanding the undertaking set out in paragraph (q) above, and subject to Confidentiality Agreements being entered into and remaining in place, the flow of Confidential Information from Games Station's business (or any of its employees, directors, agents or affiliates) to Game (or any of its employees, directors, agents or affiliates) is permitted in the circumstances specified in Appendix II;

## **Compliance**

3. Game and Games Station shall each procure that any subsidiary complies with these undertakings as if it had given them.
4. Game shall forthwith provide to the CC such information or statement of compliance as the CC may from time to time require for the purposes of monitoring compliance by Game with these undertakings. In particular, on the 15 October 2007 and subsequently on the first and fourteenth day of each month, (or, where the first or fourteenth day does not fall on a working day, the first working day thereafter) Lisa Morgan, David Thomas and Ben White of Game shall each compile, sign and submit a fortnightly statement directly to the CC on behalf of Game confirming compliance with these undertakings in the form set out in Appendix III to these Undertakings.
5. Games Station shall forthwith provide to the CC such information or statement of compliance as the CC may from time to time require for the purposes of monitoring compliance by Games Station and its subsidiary with these undertakings. In particular, on the 15 October 2007 and subsequently on the first and fourteenth day of each month, (or, where the first or fourteenth day does not fall on a working day, the first working day thereafter) Martyn Gibbs, Jeremy Gerken and Philip Ellis of Games Station shall each compile, sign and submit a fortnightly statement directly to the CC on behalf of Games Station confirming compliance with these undertakings in the form set out in Appendix IV to these Undertakings.

6. Game, Games Station and any subsidiaries shall comply insofar as each is able with such written directions as the CC 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 these undertakings.

## **Interpretation**

7. The Interpretation Act 1978 shall apply to these undertakings as it does to Acts of Parliament.

8. For the purposes of these undertakings:

**'the acquisition'** means the acquisition by Game of Games Station, completed on 2 May 2007;

**'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 the 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;

**'the CC'** means the Competition Commission;

**'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 but without having a controlling interest in that body corporate or in that enterprise, and in the case of a body corporate, a person shall for the purposes of these undertakings be deemed to control it if he holds, or has an interest in, shares of that body corporate which amount to 10 per cent or more of its issued share capital or which carry an entitlement to vote at meetings of that body corporate of 10 per cent or more of the total number of votes which may be cast at such meetings;

**'the decisions'** means the decisions of the CC on the questions which it is required to answer by virtue of section 35 of the Act;

**'Game'** means THE GAME GROUP plc;

**'Game's business'** means the business of Game (and any subsidiaries) carried on as at 2 May 2007;

**'Games Station'** means Games Station Limited;;

**'Games Station's business'** means the business of Games Station and its subsidiary carried on as at 2 May 2007;

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

**'the OFT'** means the Office of Fair Trading;

**'the ordinary course of business'** means matters connected to the day to day supply of goods and/or services by Games Station and does not include matters involving significant changes to the organizational structure or related to the post-merger integration of Games Station;

**'the specified period'** means the period beginning on the date of these undertakings and terminating when the reference is finally determined in accordance with sections 79(1) and (2) of the Act;

**'subsidiary'**, unless otherwise stated, has the meaning given by section 736 of the Companies Act 1985 (as amended);

and

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

FOR AND ON BEHALF OF **GAME GROUP plc**

.....	Signature	.....	Signature
.....	Name	.....	Name
.....	Title	.....	Title
.....	Date	.....	Date

FOR AND ON BEHALF OF **GAMES STATION limited**

.....	Signature	.....	Signature
.....	Name	.....	Name
.....	Title	.....	Title
.....	Date	.....	Date