

***Case No COMP/M.4066 -  
CVC/SLEC***

Only the English text is available and authentic.

**REGULATION (EC) No 139/2004  
MERGER PROCEDURE**

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Article 6(2) NON-OPPOSITION  
Date: 20/03/2006

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 20.03.2006

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PUBLIC VERSION

MERGER PROCEDURE  
ARTICLE 6(1)(b) DECISION

To the notifying party

Dear Sirs,

**Subject: Case No COMP/M.4066 – CVC/SLEC  
Notification of 31 January 2006 pursuant to Article 4 of Council  
Regulation No 139/2004<sup>1</sup>**

1. On 31 January 2006, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 by which the investment funds CVC Capital Partners Group Sarl (CVC, Luxembourg) acquire within the meaning of Article 3(1)(b) of Council Regulation (EC) No 139/2004 sole control of the whole of the undertaking Speed Investments Limited (“Speed”, Jersey) by means of purchase of shares. Through its control of Speed, CVC will gain control over SLEC Holdings Limited (SLEC), which is the holding company of the Formula One group of companies.

**I. THE PARTIES**

2. The CVC group consists of privately owned entities whose activity is to provide investment advice to, and/or to manage investments on behalf of, investment funds. The CVC Funds hold controlling interests in a number of companies in various industries including chemicals, automotive, motor sport promotion, utilities, manufacturing, retailing and distribution, primarily in Europe and the Asia-Pacific region.

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<sup>1</sup> OJ L 24, 29.1.2004 p. 1.

3. Speed is a pure holding company which holds 75% of the shares in SLEC. SLEC is the holding company of the Formula One Group. The Formula One Group is responsible for the promotion of the FIA Formula One World Championship and for the exploitation of the commercial rights related to the Championship.

## **II. THE OPERATION**

4. CVC Fund IV, advised and managed by CVC (hereafter jointly referred to as CVC) will purchase 100% of the shares in Speed. These 100% consists of 62,2% held by Bayerische Landesbank, 18,9% held by JP Morgan and the remaining 18,9% held by Lehman Commercial Papers Inc (Lehman).
5. Speed owns 75% of the shares of SLEC. The remaining shares in SLEC are held by Bambino. Bambino is the family trust of [...]. CVC will simultaneously purchase the remaining shares in SLEC held by Bambino.
6. CVC will implement both transactions via two newly created companies, i.e. Alpha Prema UK Limited, a 100% subsidiary of Alpha Topco Limited (Topco). CVC owns [...] of the shares of Topco, whereas the remainder is held by Bambino and the management of the Formula One Group.

## **III. CONCENTRATION**

7. CVC's purchase of the shares in the holding company Speed combined with the purchase of the remaining shares in SLEC held by Bambino - both via its ownership of [...] of the shares in Topco - provides it with sole control over SLEC within the meaning of Article 3(1)(b) of Council Regulation (EC) No 139/2004.
8. It follows from the investment and shareholders agreement of 9 January 2006, that the remaining shareholders in Topco, i.e. Bambino and the management of the Formula One Group do not obtain any veto rights which might provide them with joint control over Topco and/or SLEC.

## **IV. COMMUNITY DIMENSION**

9. The combined aggregate worldwide turnover of the undertakings concerned is more than €5 billion (CVC [...], SLEC [...]). The aggregate Community-wide turnover of each of the undertakings concerned is more than € 250 million (CVC [...], SLEC [...]). Neither CVC nor SLEC achieved more than two-thirds of its Community-wide turnover in one and the same Member State. The operation has therefore a Community dimension.

## **V. RELEVANT MARKETS**

### A. Introduction

10. The activities of CVC and SLEC overlap in the promotion of motor sport activities. In this respect "motor sport" is understood to include both motorcycle related sports and motorcar related sports.
11. SLEC is active in motor sport via the Formula One Group. It promotes the FIA (Fédération Internationale de l'Automobile) Formula One World Championship and exploits the related commercial rights. Formula One is an international (open) car

racing series that is held at outdoor circuits. The Formula One Group holds all of FIA's commercial rights in the Formula One World Championships pursuant to a Commercial Agreement between the FIA and FOA. Following the expiry of the current contract in 2010, a new 100 year licensing agreement already signed will enter into force between the parties.

12. CVC is active in motor sport via its Spanish subsidiary Dorna Promoción del Deporte SA. (Dorna). Dorna organises and manages the commercial rights associated with several motorcycle race series, namely the FIM (Fédération Internationale de Motocyclisme) Motorcycle Road Racing World Championship ("Moto GP"), the FIM Supercross World Championship ("Supercross"), the Spanish Road Racing Championship ("CEV") and the British Superbike Championship. The promotion of Moto GP is Dorna's main activity and accounts for [...] of Dorna's revenue. Dorna holds a concession from the FIM to manage Moto GP until 2026.

#### B. Relevant product and geographic markets

13. Promoters of international motor sport series ("overall promoters") like the Formula One Group and Dorna deal with a range of different market participants. According to the parties, each type of market participant has a particular parameter of demand, and therefore the relationships with each of those participants are in separate product markets. A hypothetical market for overall promotion therefore would not provide a basis for a meaningful analysis. The most significant competitive interactions that can be distinguished are those of the overall promoter with, respectively, the motor sport regulator, the teams/manufacturers, the advertisers, the circuit owners/local promoters, and the television broadcasters. This approach has been confirmed by the market investigation.

#### Markets with no overlap

##### *Motor sport regulators*

14. The two main worldwide official regulators of motor sports events are FIM for motorcycle sports and FIA for motorcar sports. Since FIM and FIA, and their respective national federations, focus on different parts of motor sport only (i.e. either motorcycle sports or motorcar sports), they are to be considered as active on separate markets, each regulating the motor sports activities for which it is competent.

##### *Advertisers*

15. Track-side and other types of advertising are sold to companies wishing to promote their products in relation with motor sports events promoted by Dorna and Formula One. It appears from the market investigation that there is no overlap between the activities of the parties with respect to advertising.
16. Dorna holds the rights to trackside hoardings, as well as to title sponsorship and hospitality services for the Moto GP series. With respect to Formula One, the rights to trackside advertising and to hospitality rights rest with each individual local promoter/circuit owner. Individual local promoters/circuit owners have licensed these rights partly, or fully, to Allsopp Parker & Marsh (APM) in return for a fee and/or share of the revenues. The remainder of the advertising/sponsorship rights rest with the

Formula One Group, which, has also licensed its rights to APM for a fixed amount for a 12 year period, to be renewed in 2010.<sup>2</sup>

*Motor sport teams / manufacturers*

17. As with sporting regulators, teams and manufacturers tend to focus on either motorcycle sports or motorcar sports. In Moto GP, 44 teams are currently participating in one or more of the three racing series. Most teams are linked to motorcycle manufacturers such as Ducati, Honda, Suzuki and Yamaha, with each manufacturer supporting several teams. In 2005, ten teams participated in Formula One, including Ferrari, Honda, Toyota, Mercedes, BMW and Renault.
18. The parties submit that on the basis of the differences in technical standards defined by the Regulators (i.e. FIM and FIA), the involvement in motorcar racing is separate from that of participation in motorcycle racing.
19. This is confirmed by the results of the market investigation. It appears that teams and manufacturers do not generally consider motorcar sports to be a realistic alternative to motorcycle sports and vice versa. A car manufacturer like Renault would not gain any significant commercial advantage from participating in motorcycle sports. Whereas its Formula One title of 2006 directly increased its car sales, as potential clients can associate Renault's successes in motorcar racing with its car models, this would be much less the case with a Renault Moto GP prototype motorcycle. This also applies to manufacturers which are active in both markets, and even for products that are much less differentiated between the two markets, such as tires.
20. There are additional reasons to consider that motorcycle racing and motorcar racing are not substitutes for teams/manufacturers. First, the technological knowledge obtained in developing prototypes for Moto GP racing will benefit the development of production motorcycles, but only very marginally that of motorcars. Second, budget-wise participation in the Formula One exceeds by far the costs involved in the participation in the most advanced motorcycle competition, i.e. Moto GP.

Market with minor overlap

*Circuits owners / local promoters*

21. The parties submit that for local promoters and circuit owners (often one and the same legal entity) the events promoted by Dorna and the Formula One Group are not substitutable and do not belong to the same product market. According to the parties, different requirements in terms of track lay-out and the run-off areas severely limit switching between both types of events.
22. In the last decade, hosting both Moto GP and Formula One has become much more complex and costly. The main reason for this is the increase in the respective safety requirements of both regulators, the FIM and the FIA. This has imposed a number of successive changes/upgrades to the design and equipment of the tracks. With respect to motorcycle racing, additional safety requirements to those decided by the FIM are agreed with the Moto GP's drivers' association. As a point of reference, the cost to

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<sup>2</sup> [...].

build a new modern and safe circuit for Formula One in Istanbul was 150 million euros, and in Shanghai 180 million euros. The Hockenheim circuit reportedly spent 60 million euros over the past few years<sup>3</sup> to meet the standards set to host a Formula One race.

23. The safety requirements of Moto GP and Formula One differ significantly. Those differences relate to the different characteristics of motorcycles and cars in terms of driver protection, and road abilities. Because of this, an increase in security standards often broadens the differences between the type of investments required for adapting and/or upgrading a circuit meant to receive Moto GP competitions, and those for circuits meant to host Formula One events. Certain safety enhancing requirements imposed by the FIA with respect to Formula One<sup>4</sup> actually decrease safety standards for motor cycle races and for Moto GP in particular, and vice versa.
24. Out of the main 37 circuits within the EU, there are currently only two examples of circuits which host events promoted by Dorna and Formula One. The circuit in Catalonia in Spain holds Formula One, Moto GP and a race of the Spanish CEV<sup>5</sup>, whereas Silverstone in the UK holds both Formula One and a race of the British Superbike Championship. The example of the circuit in Catalonia shows however the difficulties and the significant costs that can be incurred in order for a circuit to be able to host both Formula One and Moto GP. The Catalonia circuit has been specially designed with two separate track lay outs in order to accommodate the requirements from both Formula One and Moto GP. The market investigation confirmed that the investments involved to adapt a circuit to host both events, or to switch from one event to another, are significant and often of a prohibitive nature.
25. According to the parties, there are also a number of hurdles of an administrative nature to adjusting a circuit, including planning requirements and environmental issues.
26. All of the above circumstances will thus make switching very difficult for a local promoter/circuit owner. In this respect, the uncertainty of achieving a return on investment also plays an important role.
27. However, for the purposes of this decision it can remain open whether from a circuit owner/local promoter's perspective there are separate markets for circuits suitable for Moto GP and Formula One, as, on the basis of all alternative market definitions considered, the proposed transaction will not significantly impede effective competition in the common market or a substantial part of it.
28. Geographically, the parties submit that this market is at least EU-wide since the circuit owners/local promoters will promote both national and international series and events. This has been confirmed by the market investigation.

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<sup>3</sup> "Dramatic tracks lose out to the bland in unseemly rush for cash", Maurice Hamilton, the Observer, 12 February 2006

<sup>4</sup> Although most circuits can and do host a combination of other motorcar and motorcycle events, the safety requirements do play a particular role in relation to the top motorcycle and motorcar events such as Formula One and Moto GP where top speeds are reached and safety risks are highest.

<sup>5</sup> Actually the Catalonia circuit has been designed with two track layouts (One for Formula One and One for Moto GP).

## Markets with significant horizontal overlap

### *Market for TV rights to major regular free-to-air sports events in Italy and Spain*

29. Major sports events are generally recognised as a vital input for the main TV broadcasters. In the free-to-air environment, sports is a key instrument of differentiation between channels given its unique branding abilities and its appeal to advertisers<sup>6</sup>. For pay TV, top sports are one of two main subscription drivers, along with the first screening of major, often American, movies.
30. In relation to market delineation, existing Commission case law as well as answers to the market investigation suggest that in the present case the relevant product market either consists of i) TV rights for major motor sports events, or, if it were wider, would consist of ii) TV rights for major regular free-to-air sports events, both in Italy and Spain.

#### *i) Free-to-air TV / Pay TV*

31. In past decisions, the Commission has consistently distinguished downstream markets for the broadcasting for free-to-air TV and pay-TV<sup>7</sup>. It has also identified upstream a market for the acquisition of TV rights for free-to-air broadcasting as separate from pay TV with regard to certain broadcasting rights<sup>8</sup>. This distinction with regard to the upstream market is clearly relevant in the present case, given the business model of Moto GP and Formula One is built around their presence on free-to-air TV. Indeed, the involvement of manufacturers and sponsors is directly proportionate to the TV exposure they can achieve with the events. As free-to-air TV reaches incomparably more viewers than pay-TV, the focus should be on the sports events that would be alternatives to Moto GP and Formula One for free-to-air broadcasters.
32. This distinction has been confirmed in the present case by the market investigation. The importance of free-to-air broadcasting to Moto GP and Formula One was acknowledged by the parties and also confirmed by the market investigation. Teams and manufacturers, advertisers and broadcasters responding to the market investigation all indicated that for Moto GP and Formula One free-to-air broadcasting is essential and irreplaceable. [...].

#### *ii) Major irregular sports events / Major regular sports events*

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<sup>6</sup> Commission Decision in case 32.150 Eurovision, OJ L 151/18 of 24 June 2000

<sup>7</sup> Cases M. 993 Bertelsmann / Kirch / Premiere and M. 2876 Newscorp/Telepiu. See also Commission Decision in case 36.237 TPS, OJ L 90/6 of 2 April 1999.

<sup>8</sup> See in particular Commission Decision in case 38.287 Telenor/Canal +/Canal Digital of 29 December 2003, Case/M.2876 Newscorp/Telepiu §53 and 54.

33. Prior decisions have stressed the distinction between major regular and irregular sports events<sup>9</sup>. This distinction has been confirmed in the present case by the market investigation.
34. From a broadcasting perspective, the Olympics, the FIFA World Cup, and the UEFA European Football Championship are held only once every four years, as opposed to Moto GP and Formula One which are held on average once every two weeks. As those aforementioned major irregular events are always held on even years, this implies that on odd years, there can be in any case no competition between these events and regular throughout the year events for broadcasters and TV advertisers.
35. Additionally, those irregular events will imply massive coverage over a short period of time, whereas Formula One and Moto GP provide continuity to broadcasters in terms of schedule, advertising revenue, and viewer attention<sup>10</sup>. In France, for the Athens 2004 games, more than 100 hours of coverage were offered in prime time over the 17 days of competition. In Germany, ARD and ZDF showed more than 16 hours of daily coverage. Television viewers in Great Britain consumed an average of more than 13 hours of Athens 2004 coverage. Moto GP and Formula One only require limited coverage at one particular point in the week schedule of a broadcaster.
36. Finally, the major irregular events referred to attract greater attention from TV sponsors, and generally carry higher peak audiences. In the year 2004, the European Football Championship achieved a number of the very highest sports ratings in most EU countries, and rated higher than Moto GP and Formula One. Sponsoring revenues to broadcasters for major irregular events also exceed by far those brought in by regular motor sports events.
37. In view hereof, regular events are considered to be part of a separate market from irregular events.

*iii) Regular throughout the year football / other major regular sports events*

38. The market to be considered does not include regular throughout the year football. This has been established consistently in previous cases since the UEFA Champions League decision<sup>11</sup>. This conclusion is based on the very specific and massive appeal that football is able to achieve; this results in specific branding abilities for TV broadcasters as well as extremely high prices compared to other major sports.
39. In the course of the market investigation, it was confirmed that football constituted by far the most attractive content for broadcasters. As an example, out of the top 100 Spanish sports ratings for 2005, two thirds went to football; the concentration is even higher with regard to the very top ratings, with 17 out of 20. In Italy, out of the top 50 ratings, football represents as much as all other sports combined.

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<sup>9</sup> Commission decision of 23 July 2003 UEFA, OJ 291/25 of 23 July 2003

<sup>10</sup> Case M. 2483 Group Canal + / RTL / GJCD /JV

<sup>11</sup> Commission Decision of 23 July 2003, OJ L 291/25 of 8 November 2003, see also Case M. 2483 Group Canal + / RTL / GJCD /JV



40. Also, the market investigation showed that broadcasters must pay particularly high prices for TV rights for regular throughout the year football. In Spain, two clubs derived more than 80 million euros each for broadcasting revenue, and three clubs in Italy made more than 100 million each in 2004-2005<sup>12</sup>. [...].
41. For the reasons set out above, it may be concluded that due to branding, popularity, and price characteristics, football is not in the same market as other major events with regard to Italy and Spain. In any case, and also on the basis of different scheduling constraints as outlined in paragraph 49, football will not be considered by a TV broadcaster as a viable alternative to Moto GP or Formula One.

*iv) Formula One and Moto GP major sports events in Italy and Spain*

42. It appears from the market investigation and from the submissions by the parties that in Italy and Spain, both Formula One and Moto GP are without doubt major sport events, and belong to the same market for major regular free-to-air sport events, featuring very high in the TV audience tables of those countries.
43. In Spain, in 2005, Formula One was present 15 times in the top 50 TV ratings, with Moto GP being present 6 times. Though figures for Moto GP are currently lower than Formula One, Moto GP has consistently been a major property in Spain, to such extent that Spain is the only country that hosts three Moto GP Grand Prix in a given season. Furthermore, the live average TV audiences for both Moto GP and Formula One are very high: in 2004 nearly 2 million viewers for Moto GP and around 3,5 million viewers for Formula One. The relative distance to audience rates for other motor sports disciplines is striking (e.g. World Rally Championship: 400.000 viewers). Lastly, the relative popularity and status as major event of both Formula One and Moto GP is also demonstrated by the sheer size of the fees for the TV rights, which amounted to [...] in 2004 for Moto GP and [...] for Formula One<sup>13</sup>.
44. In Italy, in 2005, Formula One and Moto GP made up half of the top 50 TV ratings, with 15 and 11 top ratings respectively. In Italy as well both Moto GP and Formula One generate significant TV audiences: in 2004 nearly 5 million viewers for Moto GP and close to 9 million viewers for Formula One. In Italy, Moto GP and Formula One also achieve far higher prices than other top sports besides football.
45. In other Member States besides Italy and Spain, the appeal for Moto GP is generally much smaller than for Formula One and Moto GP would therefore not fall within the same product market as Formula One. For instance, in 13 Member States, Moto GP is not even broadcast by a national free-to-air channel. The difference in popularity between Formula One and Moto GP in Member States besides Italy and Spain is further evidenced by the differences in prices for TV rights and the differences in cumulated live TV audiences.
46. As an illustration, it appears from the data submitted by the parties that in those Member States where both events are broadcast on free-to-air TV on average prices for TV rights achieved by Formula One are at least [...] than those reached by Moto GP.

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<sup>12</sup> See Deloitte, *Football Money League 2005*

<sup>13</sup> Spain is the only country in the EU where the fees for the TV rights for Moto GP [...].

The overviews of average and cumulated audiences for live TV broadcasts submitted by the parties confirm a similar disparity with regard to popularity.

*v) Formula One and Moto GP each others' closest substitute in Spain and Italy*

47. Formula One and Moto GP do not only belong to the same product market in Italy and Spain, they are also each others closest substitute on such markets.
48. Given their particular characteristics, both Formula One and Moto GP are of high interest to broadcasters and advertisers in Italy and Spain as they are able to attract the most sought-after viewers: men between the ages of 16 and 35. The particular value of Moto GP and Formula One to reach a young / predominantly male target was fully confirmed by the market investigation. More than half of the Moto GP audience in Italy and Spain is aged between 22 and 37, and more than 70% are male.
49. As a further consideration, and contrary to other major regular free-to-air sport events in Italy and Spain (e.g. volleyball, tennis, cycling, and basketball), Formula One and Moto GP are held on Sunday afternoon, which is traditionally in all countries a low point in terms of audience. Additionally, most alternative programs on free to air are family oriented, and therefore intrinsically of lesser interest from an advertising point of view. In fact, there are very few programmes, if any, in particular sporting ones, which are shown during the daytime and are capable of generating receipts which come close to those achieved by Formula One and Moto GP in those two countries on a Sunday afternoon. Thus, there is a very particular and specific appeal of those motor sports in Spain and Italy, for scheduling considerations.
50. Moto GP and Formula One also distinguish themselves from other major sports events present in Spain and Italy, because they are organized throughout the year, and attract a loyal following. This is due in part to the fact that they are championships, where the ultimate result depends on all the events, and the winner is generally only known towards the end of the season. On the one hand, this creates consumer loyalty within a typically hard-to-reach audience. Secondly, as a by-product, this will create loyalty on the part of advertisers, which will have a reliable source of attractive viewer profiles.

*Market for TV rights to major motor sports events in Spain and Italy*

51. Alternatively, in Italy and Spain, a narrower market of TV rights for major motor sports events, consisting of Moto GP and Formula One, could be defined.
52. Indeed, other sport events currently do not remotely achieve the same levels of viewer attention in Italy and Spain. This is due in part to the fact that for most other sports, there are a limited number of events which are of high interest, and those do not span the whole year, thus not delivering overall high audience and advertiser attention throughout the year. In Spain, in 2005, there is no other sport in the top 50 TV ratings, and all other sports (e.g. basketball, tennis, cycling and volleyball) make up only 7 out of the top 100 TV ratings, comparable to the position of Moto GP alone, Moto GP having a greater cumulated audience. As for Italy, in 2005, there is only one top TV rating (i.e. volleyball) out of 50 which is not for Moto GP, Formula One or Football.
53. The market for major motor sport events in Italy and Spain does not include other motor sports than Formula One and Moto GP. The closest competing motor sport events in both countries, i.e. the World Rally Championship and World Superbike are significantly less popular. In 2005, neither of them appears in the top 50 TV ratings for

these countries. Further, while Formula One and Moto GP attract in Italy an average live TV audience in 2004 of respectively around 9 and 5 million viewers, World Rally Championship and World Superbike attract respectively around 1,4 million and 450.000 viewers. A similar picture emerges in Spain where in 2004 Formula One and Moto GP attract an average live TV audience of respectively around 3,5 million and 2 million viewers. World Rally Championship and World Superbike only attract an average live TV audience of respectively around 400.000 and 100.000 viewers.

54. The level of the broadcasting fees charged for the motor sport events in Italy and Spain confirm the distinction between Formula One and Moto GP on the one hand and the other motor sport events on the other hand. Whereas the fees for Formula One and Moto GP amount to [...] in Italy and Spain per year, the fees for their closest substitutes, the World Rally Championship and World Superbike are significantly lower ([...]).
55. In any case, the analysis of the competitive situation does not depend on either definition, since under either market delineation competition concerns would be likely to occur.

#### *Geographic market*

56. The majority of free-to-air broadcasters are domestic businesses with a focus on national programming, e.g. ITV in the UK, RAI in Italy and TF1 in France. Although the actual signal transmitted by such broadcasters is sometimes received in countries other than that of the originating broadcaster, the rights to broadcast an event are purchased on a country-by-country basis. This is due to the characteristics of distribution, which is national as a result of national regulatory regimes, language barriers, and cultural factors<sup>14</sup>. Moreover, other than for a few global exceptions such as the FIFA World Cup and the Olympics which have universal appeal, what is to be considered as a “major” sport event is decided on the basis of the value attributed nationally to the broadcasting rights. This in turn depends on the particular interests of sports fans in that country.

## **VI. ASSESSMENT**

### Market with minor overlap

#### *Local promoters/circuit owners*

57. The overlap concerning the relationship between circuit owners/local promoters is of a limited nature only. While most of the main 37 circuits in the EU are capable of hosting motorcar and motorcycle events, there is only one circuit in the EU that currently hosts both a Formula One and a Moto GP Grand Prix (i.e. Catalonia in Spain).
58. The potential anti-competitive effects which may arise from the transaction are therefore limited. The switching costs involved in adapting a circuit to Formula One

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<sup>14</sup> Commission Decision of 23 July 2003, Joint selling of the commercial rights of the UEFA Champions League, OJ L291/25 of 8 November 2003

standards, or Moto GP standards amount to several million Euros. Such costs would have to be added to the normal upgrade costs borne to comply with the ever tighter safety requirements. These investments are all depreciated over a long term, which further decreases the incentives for a circuit to switch from Moto GP to Formula One. This explains why over the last 15 years (1990-2005) there have been relatively few changes in the circuits within the EU which have hosted a Formula One or Moto GP event: eight circuits have staged a Formula One event fifteen out of the sixteen last seasons. For Moto GP, six circuits have staged a race fourteen Moto GP events out of the last 16 seasons.

59. The market investigation confirms that circuits which currently host Moto GP or Formula One generally do not intend to host both series. Moreover, circuits which currently neither organise a Moto GP nor a Formula One seem quite content with that situation. The explanation is twofold: for many circuits the necessary investments exceed their budget by far, while at the same time the net revenue to be expected is limited. A report by the UK Competition Commission shows that many circuits do not have to rely on the organisation of a Moto GP or Formula One event for their viability, as most of them have a wide range of alternative sources of income which include the possibility of hosting other motor sport series, both national and international, and track hire for participatory events for individuals and motor sport clubs<sup>15</sup>. This was generally confirmed by the market investigation.
60. The situation with respect to circuits/local promoters is not fundamentally different for promoters of competing motor sport series. For the majority of them the transaction does not raise significant competition concerns, as it appears that within the EU there are sufficient circuits available to host their motor sports events. Market foreclosure therefore seems unlikely. Within the EU there at least 37 circuits capable of hosting motor sport events. About half of those (around 20) is used by Moto GP and Formula One. Considering that a Moto GP or Formula One event normally takes up to a maximum of three weeks track time, there remain sufficient time slots available for the organisation of other motor sports events.
61. Consequently, regarding the relationship with circuit owners/local promoters the concentration does not raise serious doubts as to its compatibility with the common market and the functioning of the EEA agreement.

#### Markets with significant horizontal overlap

*TV rights for major motor sport events – TV rights for major regular free-to-air sports events*

##### *Creation or strengthening of a dominant position*

62. With respect to TV rights there appears to be an overlap in the activities of the parties in Italy and Spain on the market for major motor sport events, or alternatively on the market for the TV rights for all regular major sports events shown on free-to-air television.

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<sup>15</sup> UK Competition Commission Report, Octagon Motor sports Limited and British Racing Drivers Club Limited, September 2001.

63. It follows from the market investigation that there are serious doubts that the proposed transaction would significantly impede effective competition in either of these markets in Italy and Spain.
64. On a market for the TV rights for major motor sport events the parties would have a combined market share of [90-100%]. According to the parties, all Member States where Formula One and Moto GP are both broadcast, they would, depending on the Member State, represent between [60-70%] and [90-100%] of all TV rights for motor sport events (i.e. on a hypothetical market which would include both major and non major motor sport events).
65. On a market for major regular free-to-air sport events in Spain and Italy Moto GP and Formula One have a similar strong joint market position. Although they are in principle competing with other sports, such as cycling, basketball, tennis and volleyball in Spain and with volleyball in Italy, they experience for the reasons set out above in paragraphs 47 to 50 the strongest competitive constraints from each other, being each others closest substitute<sup>16</sup>.
66. The joint ownership of the TV rights to Formula One and Moto GP will strengthen CVC's bargaining position vis-à-vis TV channels in Italy and Spain and may lead to an increase of the prices for the TV rights concerned. CVC will in particular be able to tailor the respective timing of the rights' sale for both series, the duration of both contracts, or the packaging thereof to improve its selling position. These concerns have been confirmed by a number of major Spanish and Italian broadcasters.
67. The main effect of the increased bargaining position will manifest itself during the time when rights are up for negotiations. This occurs every three to five years for each set of rights. Given the timing of the current contracts, the potential effects are immediate with regard to Spain, and delayed with regard to Italy.
68. In Spain, Dorna's contract with TVE for the Moto GP TV rights expires in [...], while the contract for Formula one expires in [...]. This puts CVC in a position of strengthened bargaining power to extract higher prices for the Moto GP rights starting in [...] or for Formula One starting in [...], knowing that the TV rights to both championships are currently open for negotiations. In Italy the contracts for the TV rights for both Moto GP and Formula One have recently been renewed and expire only in [...] and [...]. Therefore, the effects on the Italian market will be delayed for some years, until the next round of negotiations for the period starting from [...].

### *Bundling*

69. In relation to the national markets where Moto GP is not considered as a "major" event a significant number of broadcasters as well as a competing promoter of motor sport events expressed strong fears that CVC would adopt a bundling strategy, linking the sale of the TV rights to the popular Formula One series to the acquisition of the TV rights to the less popular Moto GP series.

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<sup>16</sup> See in this respect § 28 to the Guidelines on the assessment of horizontal mergers under the Council Regulation on the control of concentrations between undertakings, OJ C31/5 of 5 February 2004

70. This bundling could take different forms. It could either consist of offering a package of the combined live TV rights for Formula One and Moto GP, or by offering packages with different content. For example, one option would be to bundle the sale of the live TV rights for Formula One with the rights for a 20 minutes “highlights” of the Moto GP event. Another option would be to oblige the purchaser of the Formula One TV rights to at least broadcast a minimum number of Moto GP events (e.g. the one organised in that Member State).
71. The market investigation confirmed that it is not uncommon for the Formula One Group to bundle its products. In the course of a recent bout of negotiations a broadcaster reportedly was required to commit to trials and highlights broadcasting to gain access to the live rights to the race. In most Member States, the broadcasters showing Formula One also show the trials, despite very substantially lower audience figures.
72. However, though there are strong indications that the parties would have the ability to bundle, it is less clear that they would also have the incentives to do so. This is in particular the case in view of the fact that in many Member States CVC would maximise its revenues by selling the rights to Formula One and Moto GP separately, rather than bundled. In addition, Moto GP relies on the widest possible coverage of its whole series to maximize its value in the long run, and therefore has an incentive to secure deals with smaller broadcasters, not showing Formula One, as this is more likely to translate into longer hours, and more promotional commitment of the part of the broadcaster.
73. For the purpose of this decision it can be left open, whether the parties would not only have the ability, but also have the incentive to bundle, as the submitted commitments take away any potential competition concern in this respect.

## **VII. COMMITMENTS SUBMITTED BY THE PARTIES**

### Description of the commitments

74. In order to remove the serious doubts identified in this decision, CVC has submitted on 28 February 2006 commitments pursuant to Article 6(2) of Council Regulation (EC) No 139/2004. The commitments are attached to this decision and form an integral part thereof.
75. As a remedy to the identified concerns CVC proposes to fully divest by [...] its subsidiary Dorna which holds all rights to the promotion of Moto GP, British Superbikes, the FIM Supercross Championship and the Spanish national motorcycle championship. In addition, CVC would commit not to sell the Spanish TV rights for Moto GP (expiring in [...]) and Formula One (expiring in [...]) before the sale of Dorna.

### Suitability to remove the competition concerns

76. Given the fact that the proposed package of commitments is clear cut, structural, and involves full divestiture of Dorna by CVC, the Commission considers that the remedies offered will entirely remove the existing overlaps between the parties on the relevant Spanish and Italian TV rights markets, as well as remove any concern regarding bundling on any of the other national markets. The commitments offered actually remove any possible concern, even in the markets where the parties were

informed that no serious doubts were identified. Given the scope of the package, it has therefore been considered that there is no need for a market test.

77. The commitment not to sell the Spanish TV rights for Moto GP and Formula One before the effective divestiture of Dorna ensures that prior to such divestiture, CVC will not be in a position to use its temporary joint ownership of both Formula One and Moto GP to benefit from the particular situation on the Spanish market, where the TV rights for Moto GP and Formula One are expiring soon, by concluding new long term contracts.

#### Conclusion on the commitments

78. The proposed commitments can therefore be regarded as suitable to remedy the identified competition concerns

### **VIII. CONCLUSION**

79. For the above reasons, the Commission has decided not to oppose the notified operation and to declare it compatible with the common market and with the EEA Agreement, subject to the condition of full compliance with the commitments as described in paragraph 75 and the related text in the Commitments annexed to this decision and to the obligation of full compliance with the other sections of the said Commitments. This decision is adopted in application of Article 6(1)(b) and Article 6(2) of Council Regulation (EC) No 139/2004 and Article 57 of the EEA Agreement.

For the Commission, signed  
Neelie KROES  
Member of the Commission

## 80. COMMITMENTS TO THE EUROPEAN COMMISSION

Pursuant to Article 6(2) of Council Regulation (EC) No 139/2004 (the “*Merger Regulation*”), CVC Capital Partners Group S.à.r.l. (“*CVC*”) hereby provides the following commitments (the “*Commitments*”) in order to remove any serious doubts that the European Commission (the “*Commission*”) may have with regards to the compatibility of the Notified Concentration (as defined herein), thereby enabling the Commission to declare the Notified Concentration compatible with the common market and the functioning of the EEA Agreement by adopting a decision pursuant to Article 6(1)(b) of the Merger Regulation (the “*Decision*”).

These Commitments are given by CVC without prejudice to its position that the Notified Concentration does not significantly impede effective competition within the common market or a substantial part of it, whether by the creation or strengthening of a dominant position or otherwise, and is therefore compatible with the common market and the functioning of the EEA Agreement.

The Commitments shall take effect upon the date of adoption of the Decision.

Any term used in these Commitments shall be interpreted in the light of the Commission Notice on remedies acceptable under the Merger Regulation and under Commission Regulation (EC) No 802/2004.

### 80.1.1. Section A. Definitions

In these Commitments, the following expressions shall have the following meaning:

**Affiliated Undertakings:** undertakings controlled by CVC, whereby the notion of control shall be interpreted pursuant to Article 3 of the Merger Regulation and in light of the Commission Notice on the concept of concentration under the Merger Regulation.

**Assets:** all tangible and intangible assets (including intellectual property rights), which contribute to the current operation or are necessary to ensure the viability and competitiveness of the Divestment Business; all licences, permits and authorisations issued by any governmental organisation for the benefit of the Divestment Business; all existing contracts, leases, commitments and customer orders of the Divestment Business; and all customer, credit and other records of the Divestment Business.

**Closing:** the transfer of the legal title of the Divestment Business to the Purchaser.

**Completion Date:** the date of implementation of the Notified Concentration.

**CVC:** CVC Capital Partners Group S.à.r.l., a Luxembourg company, with its registered office at 5 place du Théâtre and registered with the Register of Commerce at Luxembourg under number B104817.

**CVC Fund II:** the following funds, each of which are managed and/or advised by CVC and its affiliates: CVC European Equity Partners II L.P., CVC European Equity Partners II (Jersey) L.P., Citicorp Capital Investors Europe Limited, and Capital Ventures Nominees Limited.

**CVC Funds:** funds managed or advised by CVC, its subsidiaries or affiliates.

**Divestment:** the disposal by CVC Fund II of its entire legal and beneficial interest in the Divestment Business by way of sale pursuant to a binding sale and purchase agreement; Divest, Divested and Divesting shall be interpreted accordingly.



**Divestment Business:** the business, as defined in Section B and the Schedule, of which CVC commits to procure the Divestment.

**Divestment Trustee:** one or more natural or legal person(s), independent from the Parties, who is approved by the Commission and appointed by CVC, and who has received from CVC the exclusive Mandate to sell the Divestment Business that has not been Divested by CVC Fund II during the First Divestment Period (including any extension thereto granted pursuant to paragraph 34) to a Purchaser at no minimum price.

**Dorna:** Dorna Sports, S.L., a limited liability company incorporated under the laws of Spain with registered number B-83497461 and with its registered office at Pinar, 7 (28006), Madrid, Spain, its subsidiaries and affiliates.

**Effective Date:** the date of adoption of the Decision.

**First Divestment Period:** the period [...] (including any extension thereto granted pursuant to paragraph 34).

**Formula One Group:** SLEC and its subsidiaries and affiliates.

**Hold Separate Manager:** a person appointed by CVC to manage the day-to-day business of the Divestment Business under the supervision of the Monitoring Trustee.

**Key Personnel:** all personnel of the Divestment Business necessary to maintain the viability and competitiveness of the Divestment Business, as listed in the Schedule.

**Mandate:** the trustee mandate (or mandates) to be entered into between CVC and the Trustee.

**MotoGP:** the FIM Motorcycle Road Racing World Championship.

**Monitoring Trustee:** one or more natural or legal person(s), independent from the Parties, approved by the Commission and appointed by CVC, and who has the duty to monitor CVC's compliance with these Commitments.

**Notified Concentration:** the proposed acquisition by the CVC Funds of SLEC, which was notified to the Commission on Form CO on 31 January 2006.

**Parties:** CVC and SLEC.

**Personnel:** all personnel currently employed by the Divestment Business, including Key Personnel.

**Purchaser:** an entity approved by the Commission as the acquirer of the Divestment Business in accordance with the criteria set out in Section D.

**SLEC:** SLEC Holdings Limited, a private limited liability company incorporated under the laws of Jersey with registered number 68316 and with its registered office at 22 Grenville Street, St Helier, Jersey, JE4 8PX.

**Trustee:** the Monitoring Trustee and/or the Divestment Trustee.

**Trustee Divestment Period:** the period of [...] from the end of the First Divestment Period (and any extension thereto granted pursuant to paragraph 34) within which the Divestment Trustee shall have an exclusive Mandate from CVC to sell the Divestment Business that has not been Divested by CVC Fund II during the First Divestment Period (including any extension thereto granted pursuant to paragraph 34).

### 80.1.2. Section B. The Divestment Business

#### **80.1.2.1. Commitment to Divest**

1. In order to restore effective competition, CVC commits to procure the Divestment of the Divestment Business by the end of the Trustee Divestment Period as a going concern to a Purchaser and on terms of sale approved by the Commission in accordance with the procedure described in paragraph 14. To carry out the Divestment, CVC commits to find a Purchaser and to procure the entry by CVC Fund II into a final binding sale and purchase agreement for the sale of the Divestment Business within the First Divestment Period. If CVC Fund II has not entered into such an agreement at the end of the First Divestment Period, CVC shall grant the Divestment Trustee an exclusive mandate to sell the Divestment Business in accordance with the procedure described in paragraph 24 in the Trustee Divestment Period.
2. CVC shall be deemed to have complied with this commitment if, by the end of the Trustee Divestment Period, CVC Fund II has entered into a final binding sale and purchase agreement, if the Commission approves the Purchaser and the terms in accordance with the procedure described in paragraph 14 and if the closing of the sale of the Divestment Business takes place within a period not exceeding [...] after the approval of the Purchaser and the terms of sale by the Commission.
3. In order to maintain the structural effect of these Commitments, CVC, the CVC Funds and SLEC shall, for a period of [...] after the Effective Date, not acquire direct or indirect influence over the whole or part of the Divestment Business without the prior consent of the Commission, which it shall give if the structure of the relevant markets has changed to such an extent that the absence of influence by CVC, the CVC Funds and SLEC over the Divestment Business is no longer necessary to render the Notified Concentration compatible with the common market.

#### **80.1.2.2. Structure and definition of the Divestment Business**

4. The Divestment Business consists of the Assets, business and Personnel of Dorna. The present legal and functional structure of the Divestment Business as operated to date is described in the Schedule. The Divestment Business is a standalone entity and will be Divested as a going concern and, as described in more detail in the Schedule, includes:
  - (a) all tangible and intangible assets (including intellectual property rights), which contribute to the current operation or are necessary to ensure the viability and competitiveness of the Divestment Business;
  - (b) all licences, permits and authorisations issued by any governmental organisation for the benefit of the Divestment Business;
  - (c) all contracts, leases, commitments and customer orders of the Divestment Business; all customer, credit and other records of the Divestment Business (items referred to under (a)-(c) hereinafter collectively referred to as "*Assets*"); and
  - (d) the Personnel.

### 80.1.3. Section C. Related commitments

#### **80.1.3.1. Preservation of Viability, Marketability and Competitiveness**

5. From the Effective Date until Closing, CVC shall preserve the economic viability, marketability and competitiveness of the Divestment Business, in accordance with good business practice, and shall minimise as far as possible any risk of loss of competitive potential of the Divestment Business. In particular CVC undertakes:

- (a) not to carry out any act upon its own authority that might have a significant adverse impact on the value, management or competitiveness of the Divestment Business or that might alter the nature and scope of activity, or the industrial or commercial strategy or the investment policy of the Divestment Business;
- (b) to make available sufficient resources for the development of the Divestment Business, on the basis and continuation of the existing business plans;
- (c) to take all reasonable steps, including appropriate incentive schemes (based on industry practice), to encourage all Key Personnel to remain with the Divestment Business.

#### **80.1.3.2.Hold-separate obligations**

6. CVC commits, from the Effective Date until Closing, to keep the relevant Divestment Business separate from the businesses it is retaining and to ensure that Key Personnel of the Divestment Business – including the Hold Separate Manager – have no involvement in any business retained and vice versa. CVC shall also ensure that the Personnel do not report to any individual outside the Divestment Business.

7. CVC shall, from the Effective Date until Closing, assist the Monitoring Trustee during the term of its Mandate in ensuring that the Divestment Business is managed as a distinct and saleable entity separate from the businesses retained by the Parties. CVC shall appoint a Hold Separate Manager who shall be responsible for the management of the Divestment Business, under the supervision of the Monitoring Trustee. The Hold Separate Manager shall manage the Divestment Business independently and in the best interest of the business with a view to ensuring its continued economic viability, marketability and competitiveness and its independence from the businesses retained by CVC.

#### **80.1.3.3.Ring-fencing**

8. CVC shall implement all necessary measures to ensure that it does not after the Effective Date obtain any business secrets, know-how, commercial information, or any other information of a confidential or proprietary nature relating to the Divestment Business. In particular, the participation of the Divestment Business in a central information technology network shall be severed to the extent possible, without compromising the viability of the Divestment Business. Notwithstanding the foregoing, CVC may obtain confidential or proprietary business secrets or commercial or similar information relating to the Divestment Business if it is reasonably necessary for it to do so for the purposes of fulfilling the conditions and obligations in these Commitments, or if disclosure to CVC is necessary in order to comply with any statutory, legal or similar obligations, or if disclosure to CVC is necessary in order to comply with any reporting requirements to investors pursuant to the constitutional documents of the CVC Funds.

#### **80.1.3.4.Non-solicitation clause**

9. The Parties undertake, subject to customary limitations, not to solicit, and to procure that Affiliated Undertakings do not solicit, the Key Personnel transferred with the Divestment Business for a period of [...] after the Closing.

#### **80.1.3.5.Due Diligence**

10. In order to enable potential purchasers to carry out a reasonable due diligence of the Divestment Business, CVC shall, subject to customary confidentiality assurances and dependent on the stage of the divestment process, procure that the following is provided to potential purchasers:

- (a) sufficient information as regards the Divestment Business;

- (b) sufficient information relating to the Key Personnel of the Divestment Business and reasonable access to such Key Personnel.

#### **80.1.3.6.Reporting**

11. CVC shall submit written reports in English on potential purchasers of the Divestment Business and developments in the negotiations with such potential purchasers to the Commission and the Monitoring Trustee no later than 10 days after the end of every calendar month following the Effective Date (or otherwise at the Commission's request).

12. CVC shall inform the Commission and the Monitoring Trustee on the preparation of the data room documentation (if any) and the due diligence procedure (if any) in respect of the Divestment Business. If CVC produces an information memorandum or similar document in respect of the Divestment Business to provide to potential purchasers and other third parties, it shall submit a copy of this to the Commission and the Monitoring Trustee before sending the memorandum out to potential purchasers.

#### *80.1.4. Section D. The Purchaser*

13. In order to ensure the immediate restoration of effective competition, the Purchaser, in order to be approved by the Commission, must:

- (a) be independent of and unconnected to the Parties;
- (b) have the financial resources, proven expertise and incentive to maintain and develop the Divestment Business as a viable and active competitive force in competition with any relevant retained business of the Parties and other competitors;
- (c) neither be likely to create, in the light of the information available to the Commission, *prima facie* competition concerns nor give rise to a risk that the implementation of the Commitments will be delayed, and, in particular, the Purchaser must reasonably be expected to obtain all necessary approvals from the relevant competition and other regulatory authorities for the acquisition of the Divestment Business (the before-mentioned criteria for the Purchaser(s) hereafter the "**Purchaser Requirements**").

14. The final binding sale and purchase agreement shall be conditional on the Commission's approval. When CVC Fund II has entered into or is about to enter into, a definitive agreement with respect to the Divestment, CVC shall submit to the Commission and the Monitoring Trustee a fully documented and reasoned proposal, including a copy of the final sale and purchase agreement (the **Proposal**). CVC must be able to demonstrate to the Commission that the Purchaser of the Divestment Business meets the Purchaser Requirements and that the Divestment Business is being sold in a manner consistent with these Commitments. For the approval, the Commission shall verify that the Purchaser fulfils the Purchaser Requirements and that the Divestment Business is being sold in a manner consistent with these Commitments. The Commission may approve the sale of the Divestment Business without one or more of the Assets and/or without some or all of the Personnel, if this does not affect the viability and competitiveness of the Divestment Business after Closing, taking account of the proposed purchaser.

#### *80.1.5. Section E. Spanish Broadcasting Rights*

15. From the Effective Date until Closing, CVC commits to procure that:

- (a) Dorna will not enter into a binding contract to license the rights to live television broadcasting in Spain of MotoGP; and
- (b) the Formula One Group will not enter into a binding contract to license the rights to live free-to-air television broadcasting in Spain of the FIA Formula One World Championship.

**80.1.6.1.I. Appointment Procedure**

16. CVC shall appoint a Monitoring Trustee to carry out the functions specified in these Commitments for a Monitoring Trustee. If CVC Fund II has not entered into a binding sale and purchase agreement one month before the end of the First Divestment Period (including any extension thereto pursuant to paragraph 34), or if the Commission has rejected a purchaser proposed by CVC at that time or thereafter, CVC shall appoint a Divestment Trustee to carry out the functions specified in the Commitments for a Divestment Trustee. The appointment of the Divestment Trustee shall take effect upon the commencement of the Trustee Divestment Period.

17. The Trustee shall be independent of the Parties, possess the necessary qualifications to carry out its Mandate, for example as an investment bank or consultant or auditor, and shall neither have nor become exposed to a conflict of interest. The Trustee shall be remunerated by CVC in a way that does not impede the independent and effective fulfilment of its Mandate. In particular, where the remuneration package of a Divestment Trustee includes a success premium linked to the final sale value of the Divestment Business, the fee should also be linked to a divestment within the Trustee Divestment Period.

***80.1.6.2.Proposal by CVC***

18. No later than one week after the Effective Date, CVC shall submit a list of one or more persons whom it proposes to appoint as the Monitoring Trustee to the Commission for approval. Should the circumstances set forth in paragraph 16 be applicable, no later than one month before the end of the First Divestment Period (including any extension thereto pursuant to paragraph 34), CVC shall submit a list of one or more persons whom it proposes to appoint as Divestment Trustee to the Commission for approval. The proposal shall contain sufficient information for the Commission to verify that the proposed Trustee fulfils the requirements set out in paragraph 17 and shall include:

- (a) the full terms of the proposed Mandate, which shall include all provisions necessary to enable the Trustee to fulfil its duties under these Commitments;
- (b) the outline of a work plan which describes how the Trustee intends to carry out its assigned tasks; and
- (c) an indication whether the proposed Trustee is to act as both Monitoring Trustee and Divestment Trustee or whether different persons are being proposed for the two functions.

***80.1.6.3.Approval or rejection by the Commission***

19. The Commission shall have the discretion to approve or reject the proposed Trustee(s) and to approve the proposed Mandate subject to any modifications it deems necessary for the Trustee to fulfil its obligations. If only one proposed Trustee is approved, CVC shall appoint or cause to be appointed, the individual or institution concerned as Trustee, in accordance with the Mandate approved by the Commission. If more than one proposed Trustee is approved, CVC shall be free to choose the Trustee to be appointed from among the individuals or institutions approved. The Trustee shall be appointed within one week of the Commission's approval, in accordance with the draft Mandate approved by the Commission.

***80.1.6.4.New proposal by CVC***

20. If all the proposed Trustees are rejected, CVC shall submit the names of at least two more individuals or institutions within one week of being informed of the rejection, in accordance with the requirements and the procedure set out in paragraphs 16 and 19.

*80.1.6.5.Trustee nominated by the Commission*

21. If all further proposed Trustees are rejected by the Commission, the Commission shall nominate a Trustee, whom CVC shall appoint, or cause to be appointed, in accordance with a Mandate approved by the Commission.

**80.1.6.6.II. Functions of the Trustee**

22. The Trustee shall assume its specified duties in order to ensure compliance with the Commitments. The Commission may, on its own initiative or at the request of the Trustee or CVC, give any orders or instructions to the Trustee in order to ensure compliance with these Commitments.

*80.1.6.7.Duties and obligations of the Monitoring Trustee*

23. The Monitoring Trustee shall:

- (a) propose in its first report to the Commission a detailed work plan describing how it intends to monitor compliance with these Commitments;
- (b) oversee the on-going management of the Divestment Business with a view to ensuring its continued economic viability, marketability and competitiveness and monitor compliance by CVC with these Commitments. To that end the Monitoring Trustee shall:
  - (i) monitor the preservation of the economic viability, marketability and competitiveness of the Divestment Business, and the keeping separate of the Divestment Business from the businesses retained by CVC, in accordance with paragraphs 5 and 6 of the Commitments;
  - (ii) supervise the management of the Divestment Business as a distinct and saleable entity, in accordance with paragraph 7 of the Commitments;
  - (iii) (A) in consultation with CVC, determine all necessary measures to ensure that CVC does not after the Effective Date obtain any business secrets, know-how, commercial information, or any other information of a confidential or proprietary nature relating to the Divestment Business, and in particular strive for the severing of the Divestment Business' participation in a central information technology network to the extent possible, without compromising the viability of the Divestment Business and (B) decide whether such information may be disclosed to CVC, if this is reasonably necessary for the purposes of fulfilling the conditions and obligations in these Commitments, or if disclosure to CVC is necessary in order to enable it to comply with any statutory, legal or similar obligation, or if disclosure to CVC is necessary in order to comply with any reporting requirements to investors pursuant to the constitutional documents of the CVC Funds; and
  - (iv) to the extent required, monitor the splitting of Assets and the allocation of Personnel between the Divestment Business and CVC or Affiliated Undertakings;
- (c) assume the other functions assigned to the Monitoring Trustee under these Commitments;
- (d) propose to CVC such measures as the Monitoring Trustee considers necessary to ensure CVC's compliance with these Commitments, in particular the maintenance of the full economic viability, marketability or competitiveness of the Divestment Business, the holding separate of the Divestment Business and the non-disclosure of competitively sensitive information;
- (e) review and assess potential purchasers as well as the progress of the Divestment process and verify that, dependent on the stage of the Divestment process, (i) potential purchasers

receive sufficient information relating to the Divestment Business and the Personnel in particular by reviewing, if available, the data room documentation, the information memorandum and the due diligence process, and (ii) potential purchasers are granted reasonable access to the Personnel.

- (f) provide to the Commission, sending CVC a non-confidential copy at the same time, a written report within 15 days after the end of every calendar month. The report shall cover the monitoring of the operation and management of the Divestment Business so that the Commission can assess whether the Divestment Business is being held in a manner consistent with the Commitments and the progress of the divestment process as well as potential purchasers. In addition to these reports, the Monitoring Trustee shall promptly report in writing to the Commission sending CVC a non-confidential copy at the same time, if it concludes on reasonable grounds that CVC is failing to comply with these Commitments;
- (g) within one week after receipt of the Proposal submitted by CVC pursuant to paragraph 14, submit to the Commission a reasoned opinion as to the suitability and independence of the proposed purchaser(s) and the viability of the Divestment Business after the Divestment and as to whether the Divestment Business is Divested in a manner consistent with the conditions and obligations attached to the Decision, in particular, if relevant, whether the sale of the Divestment Business without one or more Assets or not all of the Personnel affects the viability of the Divestment Business after the sale, taking account of the proposed purchaser.

#### ***80.1.6.8. Duties and obligations of the Divestment Trustee***

24. Within the Trustee Divestment Period, the Divestment Trustee shall sell at no minimum price the Divestment Business, provided that the Commission has approved both the Purchaser and the final binding sale and purchase agreement in accordance with the procedure laid down in paragraph 14. The Divestment Trustee shall include in the sale and purchase agreement such terms and conditions as it considers appropriate for an expedient sale in the Trustee Divestment Period. In particular, the Divestment Trustee may include in the sale and purchase agreement such representations and warranties and indemnities as are customary in the context of a Divestment by a private equity seller and are reasonably required to effect the Divestment. The Divestment Trustee shall protect the legitimate financial interests of CVC, and in particular shall take all reasonable steps to avoid any unnecessary loss of value for CVC, subject to CVC's unconditional obligation to divest at no minimum price in the Trustee Divestment Period.

25. In the Trustee Divestment Period (or otherwise at the Commission's request), the Divestment Trustee shall provide the Commission with a comprehensive monthly report written in English on the progress of the Divestment process. Such reports shall be submitted within 15 days after the end of every calendar month with a simultaneous copy to the Monitoring Trustee and a simultaneous non-confidential copy to CVC.

#### **80.1.6.9.III. Duties and obligations of CVC**

26. CVC shall provide and shall cause its advisers to provide the Trustee with all such cooperation, assistance and information as the Trustee may reasonably require to perform its duties under its Mandate. The Trustee shall have full and complete access to any of the books, records, documents, management or other personnel, facilities, sites and technical information of the Divestment Business where this is necessary for fulfilling its duties under its Mandate. CVC and the Divestment Business shall provide the Trustee upon request with copies of any document where this is necessary for fulfilling the Trustee's duty under its Mandate. CVC and the Divestment Business shall make available to the Trustee one or more offices on their premises and shall be available for meetings with the Trustee in order to provide the Trustee with all information necessary for the performance of its tasks under its Mandate.

27. CVC shall provide the Monitoring Trustee with all managerial and administrative support that it may reasonably request on behalf of the management of the Divestment Business. This shall include all administrative support functions relating to the Divestment Business which are currently carried out at headquarters level. CVC shall procure that it and its advisors provide the Monitoring Trustee, on request, with the information submitted to potential purchasers, in particular the data room documentation (if any) and all other information granted to potential purchasers in the due diligence procedure (if any). CVC shall inform the Monitoring Trustee of possible purchasers, submit to it a list of potential purchasers, and keep the Monitoring Trustee informed of all developments in the Divestment process.

28. CVC shall grant or procure one of its Affiliated Undertakings to effect a comprehensive power of attorney, duly executed, to the Divestment Trustee for the Divestment of the relevant Divestment Business, and Closing, and all actions and declarations which the Divestment Trustee considers necessary or appropriate to achieve the Divestment and Closing, including the appointment of external professional advisors to assist with the Divestment process. Upon request of the Divestment Trustee, CVC shall cause the documents required for effecting the Divestment and Closing to be duly executed.

29. CVC shall indemnify the Trustee and its employees and agents (each an “*Indemnified Party*”) and hold each Indemnified Party harmless against, and hereby agrees that an Indemnified Party shall have no liability to CVC for any liabilities arising out of the performance of the Trustee’s duties under the Commitments, except to the extent that such liabilities result from the wilful default, recklessness, gross negligence or bad faith of the Trustee, its employees, agents or advisors.

30. At the expense of CVC, the Trustee may appoint advisors (in particular for corporate finance or legal advice), subject to CVC’s approval (this approval not to be unreasonably withheld or delayed) if the Trustee considers the appointment of such advisors necessary or appropriate for the performance of its duties and obligations under the Mandate, provided that any fees and other expenses incurred by the Trustee are reasonable. Should CVC refuse to approve the advisors proposed by the Trustee the Commission may approve the appointment of such advisors instead, after having heard CVC. Only the Trustee shall be entitled to issue instructions to the advisors. Paragraph 29 shall apply mutatis mutandis. In the Trustee Divestment Period, the Divestment Trustee may, subject to any conflict of interest or other applicable rule or obligation that would prevent this, use advisors who served CVC during the Divestment Period if the Divestment Trustee considers this in the best interest of an expedient Divestment.

#### **80.1.6.10.IV. Replacement, discharge and reappointment of the Trustee**

31. If the Trustee ceases to perform its functions under the Commitments or for any other good cause, including the exposure of the Trustee to a conflict of interest:

- (a) the Commission may, after hearing the Trustee, require CVC to replace the Trustee; or
- (b) CVC, with the prior approval of the Commission, may replace the Trustee.

32. If the Trustee is removed according to paragraph 31, the Trustee may be required to continue in its function until a new Trustee has been appointed in accordance with the procedure referred to in paragraphs 16 to 21, to whom the outgoing Trustee has effected a full delivery of all relevant information.

33. Beside the removal according to paragraph 31, the Trustee shall cease to act as Trustee only after the Commission has discharged it from its duties after all the Commitments with which the Trustee has been entrusted have been implemented. However, the Commission may at any time require the reappointment of the Monitoring Trustee if it subsequently appears that the relevant remedies might not have been fully and properly implemented.



*80.1.7. Section G. The Review Clause*

34. The Commission may, where appropriate, in response to a request from CVC showing good cause and accompanied by a report from the Monitoring Trustee:

- (a) grant an extension of the time periods foreseen in the Commitments; or
- (b) waive, modify or substitute, in exceptional circumstances, one or more of the undertakings in these Commitments.

Where CVC seeks an extension of a time period, it shall submit a request to the Commission no later than one month before the expiry of that period, showing good cause. Only in exceptional circumstances shall CVC be entitled to request an extension within the last month of any period.

.....  
Jonathan Kaye  
Director, CVC Capital Partners Limited  
duly authorised for and on behalf of  
CVC Capital Partners Group S.à.r.l.

.....  
Date

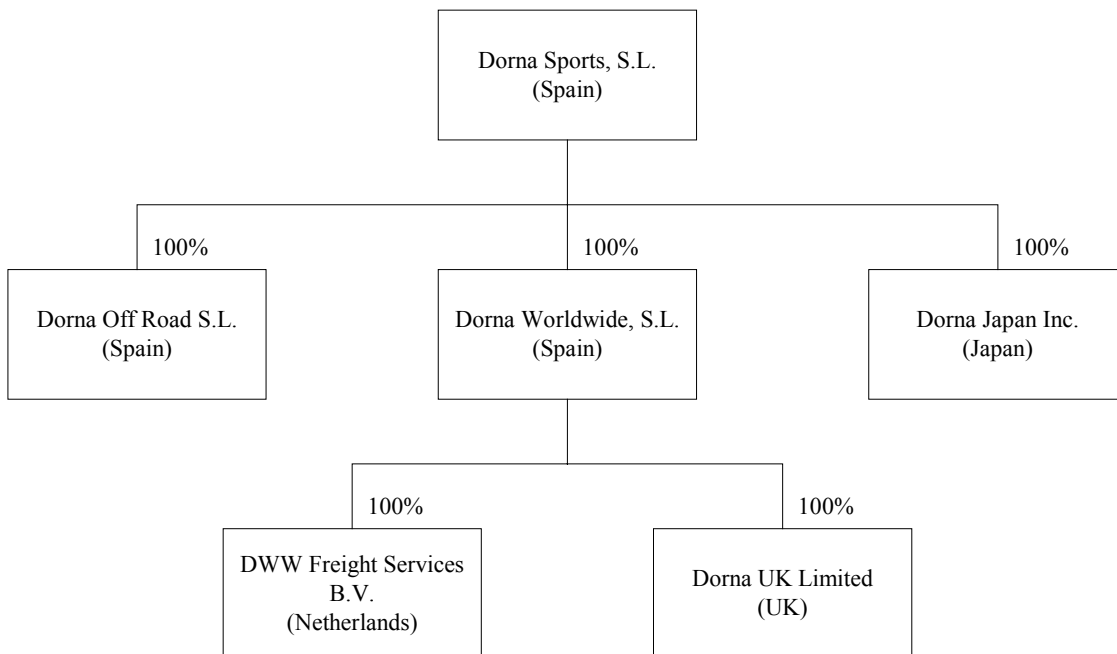
## SCHEDULE

1. The Divestment Business consists of all the Assets, business and Personnel of Dorna. Dorna is a Spanish-based sports marketing and management company. It manages the commercial rights to several motorcycle racing series, namely the FIM Motorcycle Road Racing World Championship (**MotoGP**), the FIM Supercross World Championship (jointly with Clear Channel Entertainment), the Spanish Road Racing Championship and the British Superbike Championship.

2. Dorna holds a concession from the Fédération Internationale de Motocyclisme (the **FIM**) to manage MotoGP until 2026. Under this concession the FIM grants rights to manage, organise and exploit worldwide all of the commercial rights associated with MotoGP, including television rights, static advertising, sponsorship, hospitality and merchandising rights. Dorna's activities involve co-ordinating, organising and maintaining relationships with all of the parties involved in MotoGP, proposing the racing calendar, producing and licensing the MotoGP television content, providing timing for the races and generating all race data, and providing logistics and transportation for the events outside Europe.

3. The structure of Dorna is as follows:

### **Dorna Structure**



4. An organigram of Dorna is included in the Annex to this Schedule. The management structure and Key Personnel have not changed in the last six months.

5. Following paragraph 4 of these Commitments, the Divestment business includes, but is not limited to:

(a) the following main tangible assets:

- computers;
- TV cameras and TV equipment; and
- Ad Time modules;

- (b) the following main intangible assets:
- leases for offices in Madrid, Barcelona, Tokyo and London;
  - goodwill on consolidation;
  - the MotoGP brand, as well as the CEV, SX, VIP Village, MotoGP Legend and Dorna brands; and
  - the Ad time patent;
- (c) the following main contracts:
- an agreement with the FIM;
  - an agreement with the International Road Racing Teams Association; and
  - agreements with local promoters, broadcasters and advertiser and sponsors;
- (d) the following Personnel:
- approximately 113 employees split as follows:
    - Commercial (14);
    - Operations and Events (12);
    - TV Production (11);
    - Timing of Information Technology (11);
    - Ad Time (19) (10 in Japan);
    - Administration & Legal & Financial (25);
    - Marketing (7);
    - Communication (8);
    - Web Management (6); and
- (d) the following Key Personnel:
- Carmelo Ezpeleta (CEO);
  - Enrique Aldama (COO/CFO);
  - Manel Arroyo (Media Managing Director);
  - Pau Serracanta (Comercial Managing Director); and
  - Javier Alonso (Events Managing Director).

ANNEX

