



## **Investigation and Outcome Report -**

A report detailing outcome of the  
CCPC's investigation into suspected  
anti-competitive practices by Chairs  
Limited, trading as Coach House.

***13 September 2021***



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# 1. Overview

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- 1.1 In April 2019, the Competition and Consumer Protection Commission (CCPC) opened an investigation into suspected anti-competitive practices by Chairs Limited, trading as Coach House (“Coach House”) in relation to the supply of household furniture products in the State, contrary to section 4(1) of the Competition Act 2002 (the “2002 Act”) and/or Article 101(1) of the Treaty for the Functioning of the European Union (“TFEU”).
- 1.2 The investigation involved an assessment of whether the manner in which Coach House’s then suggested selling prices were applied by Coach House to certain resellers in the State could constitute resale price maintenance (RPM), contrary to section 4(1) of the 2002 Act and/or Article 101(1) TFEU.
- 1.3 On 1 May 2020, the CCPC issued a letter to Coach House which formally set out the CCPC’s preliminary findings and identified competition law concerns (the “Preliminary Findings”). In particular, the CCPC formed the preliminary view that Coach House may have engaged in RPM during the period from March 2013 to August 2017 by enforcing its then suggested selling prices on four resellers of its household furniture products in the State, contrary to section 4(1) of the 2002 Act and/or Article 101(1) TFEU. The CCPC offered Coach House an opportunity to address this competition law concern by means of an offer of adequate remedies.
- 1.4 Coach House did not agree with the CCPC’s Preliminary Findings, and denied that it had infringed section 4 of the 2002 Act and/or Article 101(1) TFEU. Coach House did however engage cooperatively with the CCPC throughout its investigation to find a way to address the CCPC’s competition law concern that was acceptable to both parties.
- 1.5 Following a period of engagement, on 15 April 2021, Coach House and the CCPC entered into a legally binding agreement in which Coach House agreed to give a commitment not to engage in RPM conduct and, in particular: (a) not to impose or agree any terms and conditions that place obligations on its resellers to adhere to Coach House’s suggested, minimum or fixed resale prices for household furniture products; and, (b) not to restrict the ability of resellers to independently determine the resale price of household furniture products (the “Commitment Agreement”).

- 1.6 On 14 May 2021, the CCPC applied to the High Court, with Coach House's consent, to have the Commitment Agreement made an order of court under section 14B of the 2002 Act. The order was granted and came into effect on Tuesday 29 June 2021.

## 2. Background

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- 3.11 In February 2019, the CCPC received a complaint which alleged that Coach House had put pressure on a number of resellers of Coach House furniture to fix the minimum retail price of Coach House household furniture products sold online.
- 3.12 The CCPC conducted a preliminary assessment of the complaint and, after considering all the information gathered and all the facts of the complaint, the CCPC was of the view that there was sufficient information to suspect that a breach of section 4 of the 2002 Act and/or Article 101 TFEU had occurred or may have been occurring.
- 3.13 In April 2019, the CCPC initiated an Investigation under section 10 of the Competition and Consumer Protection Act of 2014 (the “2014 Act”) into suspected breaches of section 4 (1) of the 2002 Act and/or Article 101(1) TFEU by Coach House.

### 3. CCPC Investigation

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- 3.1 The investigation addressed conduct on the part of Coach House during the period of January 2013 to May 2020. The scope of the investigation was limited to household furniture products, excluding other products such as lighting and decorative accessories, sold by Coach House to resellers in the State.
- 3.2 During the investigation, the CCPC gathered information and evidence from Coach House and four of its resellers in the State.
- 3.3 As Coach House is based in the UK, the CCPC sought assistance from the UK Competition and Markets Authority (“CMA”). In particular, the CCPC used Article 22(1) of Regulation 1/2003<sup>1</sup> to request the CMA to issue a formal requirement for information (“RFI”) to Coach House, on behalf of the CCPC. The CMA accepted the CCPC’s Article 22(1) request, and on 2 July 2019 served an RFI on Coach House, pursuant to section 65E of the UK Competition Act 1998. Coach House complied with the RFI and continued to cooperate fully with the CCPC’s investigation.
- 3.4 The CCPC also used its powers under section 18 of the 2014 Act to gather information and evidence. The CCPC issued informal RFIs to a number of resellers of Coach House household furniture products in the State pursuant to section 18(1)(d) of the 2014 Act. The CCPC also received voluntary witness statements from a reseller of Coach House furniture products, and oral and written submissions from Coach House.
- 3.5 In addition, the CCPC sought information from, and engaged with, a wide range of other relevant sources, including the German Federal Cartel Office (Bundeskartellamt), the Finnish Competition and Consumer Authority, and the European Commission.

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<sup>1</sup> Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules of competition laid down in Articles 81 and 82 of the Treaty (2003) OJ L1/1.

## 4. Preliminary Findings

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- 4.1 Section 4(1) of the 2002 Act prohibits agreements between undertakings, decisions by associations of undertakings and concerted practices which have as their object or effect the prevention, restriction or distortion of competition in trade in any goods or services in the State or in any part of the State.
- 4.2 Article 101(1) TFEU prohibits all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the internal market. Agreements or concerted practices having as their direct or indirect object the establishment of a fixed or minimum resale price or a fixed or minimum price level to be observed by the buyer (i.e., RPM) constitute conduct prohibited under section 4(1) of the Act and/or Article 101(1) TFEU.

### **Coach House is ‘an undertaking’**

- 4.3 Coach House is a wholesale and trade-only supplier of household furniture products and accessories, to resellers located in the State, with a warehouse and show room in the UK. Coach House is a private company limited by shares, incorporated under the laws of England and Wales, and has its registered office at Metcalf Drive, Altham Industrial Estate Altham, Accrington, BB5 5TU, United Kingdom.
- 4.4 The CCPC formed the preliminary view that Coach House is an undertaking for the purposes of applying the 2002 Act and Article 101 TFEU. This is because: (i) Coach House is engaged in the sale of goods within the meaning of section 3 of the 2002 Act; and, (ii) Coach House is engaged in an economic activity as defined by the case law of the Court of Justice of the European Union. For the same reasons, the CCPC also considers that furniture resellers are undertakings for the purposes of the 2002 Act and Article 101 TFEU.

### **Agreement between undertakings**

- 4.5 Evidence gathered by the CCPC during the investigation showed that the relationship between Coach House and its resellers is governed by the standard Coach House Terms & Conditions (“T&Cs”) that are published on Couch House’s website. The Coach House T&Cs are applicable to all resellers, and are regarded as binding by resellers and Coach House. On this basis, the

CCPC formed the preliminary view that, during the period under investigation, an agreement or agreements existed between undertakings, namely Coach House and resellers of Coach House household furniture products in the State.

#### **Trade between Member States**

- 4.6 Coach House supplies furniture products to customers located in the UK and in the State. The CCPC therefore preliminarily considered that, for the purposes of Article 101 TFEU, trade between Member States had been affected (or was capable of being affected) by the conduct identified in the Preliminary Findings.

#### **Evaluation of Findings**

- 4.7 The evidence gathered by the CCPC indicated that, during the period from March 2013 to August 2017 Coach House may have engaged in RPM conduct. In particular, the CCPC found evidence that Coach House may have engaged with four of its resellers to enforce its then suggested selling prices in respect of household furniture products. The CCPC did not find any evidence of the suggested selling prices enforcement by Coach House beyond August 2017 and thus formed the preliminary view that the alleged RPM conduct by Coach House likely ceased in August 2017.
- 4.8 In light of the above, the CCPC formed the preliminary view that the enforcement by Coach House of its then suggested selling price on four resellers between 2013 and 2017 may have contravened section 4(1) of the 2002 Act and/or Article 101(1) TFEU. Coach House denies that there had been a breach of section 4(1) of the 2002 Act or Article 101(1) TFEU. However, in the interests of ensuring that the investigation could be concluded in a way that was acceptable to both parties and following engagement with the CCPC, Coach House agreed to undertake not to engage in RPM conduct in the future on the terms provided in the Commitment Agreement.



## 5. Outcome: Commitment Agreement & Section 14(b) Court Order

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- 5.1 Section 14B of the 2002 Act provides a mechanism whereby undertakings under investigation by the CCPC may avoid the institution of proceedings, under section 14A of the 2002 Act, by entering into an agreement with the CCPC to provide commitments addressing competition law concern and their future behaviour. The CCPC may apply to the High Court to have such an agreement made an order of court in accordance with section 14B of the 2002 Act. Failure to comply with such an order of court would constitute contempt of court.
- 5.2 Entering into the Commitment Agreement in response to the CCPC's Preliminary Findings does not imply recognition on the part of Coach House that it had acted in violation of the competition law prohibitions contained in the 2002 Act and/or the TFEU.
- 5.3 On 19 January 2020, Coach House submitted a final version of the Commitment Agreement which the CCPC considered sufficient to address the competition law concern. The CCPC accepted on a preliminary basis to enter into the Commitment Agreement with Coach House, subject to notification to the European Commission as required under Article 11(4) of the Regulation ("Article 11(4) Consultation).
- 5.4 Following completion of the Article 11(4) Consultation, the CCPC signed the Commitment Agreement on 15 April 2021. The Commitment Agreement took effect on the same day. The Commitment Agreement is published on the CCPC's website [here](#), and is provided at Appendix A of this report.
- 5.5 On 14 May 2021, the CCPC applied, with Coach House's consent, to the High Court under section 14B of the 2002 Act to have the Commitment Agreement made an order of court. The CCPC applied to the High Court for an order in the terms of the Commitment Agreement and this was granted on 14 May 2021 (the "Section 14B Order"). The Section 14B order is provided at Appendix B to this report. In accordance with section 14B(4) of the 2002 Act, the Section 14B Order came into effect on 29 June 2021. Accordingly, the CCPC decided to close the investigation.



## A. Appendix A – Commitment Agreement

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**AGREEMENT BETWEEN THE COMPETITION AND CONSUMER PROTECTION COMMISSION  
and  
CHAIRS LIMITED**

AGREEMENT and UNDERTAKINGS dated 15/4/2021, between,

1. **The Competition and Consumer Protection Commission**
- and
2. **Chairs Limited.**

**WHEREAS:**

- A. The Competition and Consumer Protection Commission (the “Commission”) is a statutory body and one of its functions pursuant to the Competition and Consumer Protection Act 2014 is to enforce the Competition Act 2002, as amended (the “Act”) and Articles 101 and 102 of the Treaty on the Functioning of the European Union (“TFEU”). Section 4 of the Act and Article 101 TFEU prohibit anti-competitive arrangements between undertakings;
- B. The Commission’s role is to investigate suspected breaches of provisions of the Act and/or Articles 101 or 102 TFEU and to take appropriate enforcement action to deter such breaches and encourage on-going compliance with the provisions of the Act and/or Articles 101 and 102 TFEU;
- C. Section 4(1) of the Act prohibits agreements between undertakings, decisions by associations of undertakings and concerted practices which have as their object or effect the prevention, restriction or distortion of competition in trade in any goods or services in the State or in any part of the State. Article 101(1) TFEU prohibits all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the internal market;
- D. Agreements or concerted practices having as their direct or indirect object the establishment of a fixed or minimum resale price or a fixed or minimum price level to be observed by the buyer (“resale price maintenance”, “RPM”) constitute conduct prohibited under section 4(1) of the Act and/or Article 101(1) TFEU;
- E. Chairs Limited is a wholesale and trade-only supplier of Household Furniture Products and accessories (including giftware, floral, Christmas and lighting products) with a warehouse and show room in Accrington, Lancashire, UK and imports its Household Furniture Products in the State where it trades under the name “Coach House” (“Coach House”). It supplies Household Furniture Products to customers located in the State;

- F. On 11 April 2019 the Commission commenced an investigation into suspected anti-competitive practices by Coach House in the supply of Household Furniture Products in the State;
- G. The Investigation involved an assessment of whether there was conduct which could constitute RPM, contrary to Section 4 Of the Act and/or Article 101 TFEU, in the manner in which Coach House's suggested selling prices ("SSPs") were applied in the resale of Coach House's Household Furniture Products in the State;
- H. Coach House has cooperated fully at all times with the Investigation;
- I. Following its Investigation, the Commission made preliminary findings that Coach House may have engaged in RPM conduct between March 2013 and August 2017 and may thereby have infringed section 4 of the Act and Article 101 TFEU;
- J. Coach House does not accept, and makes no admission regarding, the preliminary findings and, for the avoidance of doubt, denies that there was a breach of section 4 of the Act or Article 101 TFEU. The entry into this Agreement and Undertakings is not and should not be taken as implying or suggesting any such acceptance or admission by Coach House;
- K. The Commission confirms that this Agreement and Undertaking resolves any and all competition law concerns which arose during the course of the Investigation regarding Coach House's conduct;
- L. It is the intention of the Commission to apply to the High Court under section 14B of the Act for an order in the terms of this Agreement and Undertakings. Coach House consents to the High Court making an order in the terms of this Agreement and Undertakings pursuant to section 14B of the Act and has obtained legal advice before so consenting.

#### DEFINITIONS

1. In this Agreement and Undertakings, the following terms shall have the following meanings:

<b>"Act"-</b>	means the Competition Act 2002, as amended;
<b>"Coach House"-</b>	means Chairs Limited trading as Coach House, a private company limited by share capital incorporated in England and Wales with Company Registration Number 02714841 and registered office at Metcalf Drive, Altham Industrial Estate, Accrington, BB5 5TU, United Kingdom, and all undertakings directly or indirectly controlled by Coach House whereby the notion of control shall be interpreted pursuant to section 16 of the Act;
<b>"Commission" -</b>	means the Competition and Consumer Protection Commission and its successors;

<b>"Customer"-</b>	means an undertaking that purchases Coach House Household Furniture Products for resale and/or is subject to the Coach House terms and conditions as published on the website of Coach House;
<b>"Household Furniture Products"-</b>	means furniture products supplied by Coach House and intended for household, excluding other products such as lighting and decorative accessories;
<b>"Investigation"-</b>	means the investigation commenced by the Commission on 11 April 2019 into suspected anti-competitive practices in relation to the supply of Household Furniture Products by Coach House in the State contrary to section 4 of the Act and/or Article 101 TFEU;
<b>"Parties" -</b>	means the Commission and Coach House;
<b>"RPM" -</b>	means resale price maintenance, namely agreements or concerted practices having as their direct or indirect object the establishment of a fixed or minimum resale price;
<b>"State" –</b>	means the Republic of Ireland; and,
<b>"Term"</b>	means a period of seven (7) years beginning from the date of execution of the Agreement and Undertakings by both Parties.

**NOW THE COMMISSION AND COACH HOUSE HEREBY AGREE AS FOLLOWS:**

**Coach House's undertakings**

2. Coach House undertakes not to engage in RPM conduct, and, in particular:
  - a. to refrain from imposing or agreeing any terms and conditions that place obligations on its Customers to adhere to Coach House's suggested, minimum or fixed resale prices for the Household Furniture Products; and
  - b. to refrain from restricting the ability of Customers to determine the resale price of Household Furniture Products independently.

**Commission's undertaking**

3. In consideration of Coach House entering into this Agreement and Undertakings, the Commission undertakes that it shall conclude the Investigation and shall refrain from instituting proceedings pursuant to section 14A of the Act against Coach House in respect of any matter to which the

Investigation relates for so long as Coach House remains in compliance with the Agreement and Undertakings.

**Application under Section 14B of the Act**

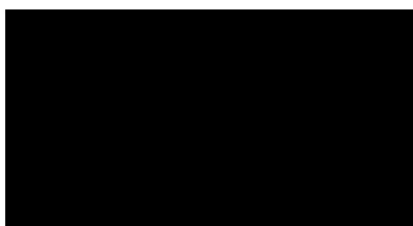
4. Coach House consents to the Commission making an application to the High Court pursuant to section 14B of the Act for an order in the terms of this Agreement and Undertakings and further consents to the High Court making an order in the terms of this Agreement and Undertakings. Coach House hereby acknowledges that it is aware that failure to comply with any order so made would constitute contempt of court.

**Final provisions**

5. This Agreement and Undertakings shall be, and is intended by the Parties to be, a binding and enforceable agreement which may be enforced by the Parties by an action in any court of competent jurisdiction in the State.
6. This Agreement and Undertakings shall take effect upon its execution by both parties and shall remain in force for the Term.

EXECUTED BY:

For and on behalf of the Competition and Consumer Protection Commission



EXECUTED BY:

For and on behalf of Coach House





**B. Appendix B – The Section 14B order**

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2021 № 102 MCA

Friday the 14th day of May 2021

BEFORE MR JUSTICE BARRETT

**BETWEEN**

**THE COMPETITION AND CONSUMER PROTECTION COMMISSION**

**APPLICANT**

**-AND-**

**CHAIRS LIMITED**

**RESPONDENT**

Upon the Motion of Counsel for the Applicant pursuant to Notice of Motion herein dated 15<sup>th</sup> day of April 2021 and on reading the said Notice of Motion the Pleadings herein and the documents adduced in evidence (including copy published notices herein) and the two affidavits of Ibrahim Bah filed on the 16<sup>th</sup> day of April 2021 and the 7<sup>th</sup> day of May 2021 and the documents and exhibits therein referred to.

And the Court being satisfied that these proceedings are competition proceedings within the meaning of Order 63B of the Rules of the Superior Courts



And Counsel for the Applicant informing the Court that the applicant has entered into agreement (thereafter called “the Agreement”) with the Respondent pursuant to Section 14B of the Competitions Acts 2002 to 2012

And upon reading the Terms of the said agreement (a copy of the said agreement being exhibited in the affidavit of Ibrahim Bah filed on the 16<sup>th</sup> day of April 2021 (the original agreement being retained by the Applicant)

And the Respondent by its Counsel confirming to the Court that it

- (I) Consents to the application being made unto the Court this day
- (II) Obtained legal advice prior to the said consent being committed
- (III) Understands that an infringement of the said agreement is a contempt of Court
- (IV) Consents to this Order being made

And the Court being satisfied that

1. The requirements of subsections (2) and ( 3) of section 14B are complied with in respect of the said agreement and the publication of this application
2. The restriction of subsection (6) does not apply
3. The said Agreement is capable of being complied with

**IT IS ORDERED** that these proceedings be entered in the Competition List for hearing and that all further applications and Motions be heard in said list

**AND IT IS ORDERED** pursuant to section 14B of the Competition Acts 2002- 2012 that the said copy Agreement be received and filed in Court and made a Rule of Court

And the Court noting the obligations undertaken by the Competition and Consumer Protection Commission the Applicant herein under the said Agreement

**AND IT IS ORDERED** that the Respondent do abide by the terms of the said Agreement

**AND IT IS FURTHER ORDERED** that this Order shall have effect subject to and in accordance with the provisions of subsections (4) and (8) of the said Section 14B

Liberty to either or both parties herein to apply

Yvonne Finnegan

REGISTRAR  
Perfected: 18th May 2021

Reddy Charlton LLP  
Solicitors for the Applicant



Coimisiún um  
Iomaíocht agus  
Cosaint Tomhaltóirí

Competition and  
Consumer Protection  
Commission

