Case No: **CR-2024-004918**

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
INSOLVENCY AND COMPANIES LIST (ChD)

Rolls Building, 7 Rolls Buildings,
Fetter Lane, London, EC4A 1NL

Date: **28 August 2024**

Before :

Mr Justice Edwin Johnson

- -

Between :

In the Matter of Cine-UK Limited, Cineworld Cinemas Limited, Cineworld Cinema Properties Limited, Cineworld Estates Limited
- and -
In the Matter of the Companies Act 2006

- -
- -

Tom Smith KC, Henry Phillips and Annabelle Wang (instructed by **Kirkland & Ellis International LLP**) for the **Claimant**
No other parties were represented or sought to appear

Hearing date: **28th August 2024**

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APPROVED JUDGMENT

Mr Justice Edwin Johnson **Wednesday, 28 August 2024**

Judgment by **MR JUSTICE EDWIN JOHNSON**

Introduction

1. This is the hearing of the applications of four companies in the same group of companies for an order pursuant to s.901C of the Companies Act 2006, convening meetings of certain of their creditors for the purposes of considering and, if thought fit, approving proposed Restructuring Plans between each of the companies and the relevant creditors. I will refer to these applications by the single definition, "t**he Convening Application**." As I understand the position, there are technically four separate applications, but it is convenient to refer to them collectively as the Convening Application. The four applicant companies are Cine-UK Limited, Cineworld Cinemas Limited, Cineworld Cinema Properties Limited and Cineworld Estates Limited. I will refer to these four applicant companies as "t**he Plan Companies**" and to the relevant creditors of the Plan Companies as "t**he Plan Creditors**". I will use initials to identify the Plan Companies individually, so that "**CUKL**" refers to Cine-UK Limited, and so on. I will refer to the proposed Restructuring Plans as the "**Restructuring Plans**". References to "the **Act**" in this judgment mean the Companies Act 2006. References to **"the Practice Statement"** mean the Practice Statement (Companies: Schemes of Arrangement) [2020] 1 WLR 4493.

2. By way of general introduction, the Plan Companies are part of a group of companies (**"the Group**"), which is described as a leading and global cinema group operating in 10 countries which include the United States and the United Kingdom. The Group's UK cinemas are operated under the Cineworld brand and the Picturehouse brand. I will refer to the UK Group, or the UK part of the group, as "t**he UK Group**". The Restructuring Plans only concern what is referred to as the Cineworld Group, which I take to be a reference to the UK Group so far as it operates under the

Cineworld brand, but I understand that there are two leases which are Picturehouse branded and which are also intended to be compromised under the Restructuring Plans.

3. The Group has experienced financial difficulties. The evidence is that its business was severely adversely impacted by the COVID-19 pandemic and government restrictions. That resulted in the Group undertaking a reorganisation under Chapter 11 of the US Bankruptcy Code in 2023, but the problem with the Chapter 11 plan was that, while it did provide what is described as *"much-needed liquidity and headroom"* in relation to the Group's financial indebtedness, it did not address the particular problem of the UK Group's liabilities under various leases in respect of its cinema sites. The Plan Companies' position is that a significant number of the UK Group's leases are over-rented. By that expression, what is meant is that the contractual rent is said to be in excess of the market rent and, alongside difficult trading conditions arising from the screen actors" and writers' strikes in 2023, this has resulted in the UK Group continuing to suffer severe financial difficulties.

4. If the Restructuring Plans are not sanctioned, the evidence is that the Plan Companies will not have sufficient funds to meet their payment obligations to creditors, and that includes – and I assume this is the most material element of this – the quarterly rent, service charge, and insurance payments amounting to some £19.1 million, which will be due on the September quarter day in 2024; that is 29 September 2024. In that event, the evidence is that the Plan Companies' directors will be likely to have no choice but to file for administration. The evidence is that if that was to occur, then the valuable business and assets of the UK Group would most likely be sold by way of a prepackaged sale to the US Group or, alternatively, to the Group's secured lenders in the event that no competing and deliverable offer could be achieved through an accelerated marketing process. The evidence is that that would result in a worse outcome for the Plan Creditors, and that outcome is what is said to constitute the relevant alternative in the present case.

5. Just by way of general introduction to the Restructuring Plans, they are described as having five basic features in counsel's skeleton argument for this hearing. First, compromising and releasing the Plan Companies' secured loan obligations to the US Group in exchange for warrants for shares in the Plan Companies and releasing the Plan Companies' unsecured intercompany liabilities. Second, recapitalising the UK Group through £16 million of new equity funding from the Plan Companies' indirect parent company to fund the UK Group's immediate liquidity needs, with further funding of up to £35 million available to fund capital expenditure. Third, amending and extending time for payment in respect to the Plan Companies' obligations to their secondary secured lenders. Fourth, restructuring the Plan Companies' portfolio of leases. Fifth, compromising and releasing the Plan Companies' unsecured property and business rates liabilities.

6. The Restructuring Plans include the following categories of Plan Creditors. First, there is the Intercompany Lender, as described in the evidence. Second, there are the term loan lenders, as described in the evidence. Third, there are six classes of landlord creditors. Fourth, there are five classes of landlord guaranteed creditors, as they are referred to. I should explain at this point that *"landlord guaranteed creditors"* refers to landlords who have the benefit in respect to the relevant lease or leases of a guarantor of the tenant's obligations. Fifth, there are what are described as general property creditors, and sixth and last, there are business rates creditors.

7. In the light of what are said to be differences between the legal rights of these various categories of Plan Creditors, what is proposed is that each group should vote on the relevant Restructuring Plan at a separate plan meeting. The consequence of that, given that there are six classes of landlord creditors and five classes of landlord guarantee creditors, is that, in the case of each of the Plan

Companies, there will be quite a substantial number of classes and quite a substantial number of plan meetings.

8. The Restructuring Plans are proposed pursuant to the powers of the court under Part 26A of the Act. The Plan Companies have commenced the proceedings for the convening order which is sought on this hearing, and ultimately for sanction of the Restructuring Plans, by claim forms issued by each of the Plan Companies on 19 August 2024. As I understand the position, there have been four claim forms issued, one for each of the Plan Companies, but I have been told that the proceedings have all been merged into one set of proceedings. In any event, whether there has been any formal consolidation of the four sets of proceedings or not, all four are before me today and all of the applications are before me today, which applications I am referring to, collectively, as the Convening Application.

Representation

9. So far as the Plan Companies are concerned, they are represented by Mr Tom Smith KC and Henry Phillips, counsel. I should also mention Ms Annabelle Wang of counsel, because the extremely helpful skeleton argument which was prepared for this hearing was, I note, prepared by Mr Smith, Mr Phillips and Ms Wang. It is important to point out at this stage that Plan Creditors have been notified of this hearing by a letter which was issued by the Plan Companies on 26 July 2024 pursuant to the Practice Statement. I have seen a copy of that letter, which is included in the hearing bundle for this hearing. It is a lengthy and detailed letter which explains the Restructuring Plans and what is sought in the proceedings.

10. So far as I am aware, Plan Creditors have been notified of this hearing, but I was told by Mr Smith, at the outset of the hearing, that no other party is seeking to be heard at this hearing and, as I

understand the position, no other party is represented. The only exception to that of which I am aware is that I have been handed a letter from Addleshaw Goddard dated 27 August 2024, that is to say, yesterday, to the solicitors who I believe act for the Plan Companies, concerning their client and concerning a guarantee which is said to be governed by Irish law, but beyond that, and so far as I am aware, there is no other objection or representation which I am required to consider in this hearing from any other party.

The evidence

11. There is quite a substantial body of evidence for this hearing. In particular, the following witness statements have been prepared. The first and principal witness statement is a witness statement of Mr Roei Kaufman, which is dated 20 August 2024. This witness statement is lengthy and detailed. Mr Kaufman is a director of the Plan Companies, and I note that he has been employed at the Group since 2015. The second witness statement, by reference to the order in which they appear in the hearing bundle, is a witness statement of Katie Lacey, Senior Transaction Manager at GLAS Specialist Services Limited, whose services are retained as information agent by the Plan Companies in order to distribute announcements, information, and documentation relating to the Restructuring Plans to the Plan Creditors. That witness statement is also dated 20 August 2024.

12. The next witness statement is slightly unusual, in this sense. It is a witness statement of a Mr Ben Browne, who is a partner and managing director of AlixPartners LLP. It is dated 20 August 2024. What has happened is that AlixPartners has been retained by Crown UK HoldCo Limited, part of the Group, for and on behalf of itself and its affiliates, to prepare an independent expert report relating to the Restructuring Plans and in particular to report on the relevant alternative if the Restructuring Plans are not approved. Within AlixPartners, Mr Browne is the author of that report. That report is, of course, as it has to be, an expert report. In those circumstances, I was initially

rather surprised to find that there was a witness statement from Mr Browne, but as I understand the position, the way his evidence works is this: the witness statement effectively serves to introduce the relevant alternative report as it is described. Elsewhere in the bundle one can find and I have read the relevant alternative report, which I note does follow the format of an expert report.

13. Moving on, there is a witness statement of John Curry, which is dated 20 August 2024. Mr Curry is a director of Regal Cinemas Inc, a Delaware corporation, which gives certain evidence in relation to Regal's involvement in this matter. There is then a witness statement of James Watson, also dated 20 August 2024. Mr Watson is a partner at Simpson Thatcher Bartlett LLP, which is legal adviser to a steering committee which has been formed by certain lenders in in relation to a term loan which comprises part of the indebtedness, or part of the credit arrangements, which are the subject of the Restructuring Plans.

14. Then in terms of witness statements, and I believe finally, there is a witness statement of a Mr Simon Granger dated 20 August 2024. Mr Granger is a partner in GoldenTree Asset Management LP, an investment advisor and manager for certain investment funds and accounts that hold equity in the parent company of the Group and debt under what is described as the term loan credit agreement. There are also three expert reports which are contained in the first part of the bundle for this hearing.

15. There is an expert report of The Honorable James Peck, a former United States bankruptcy judge, dated 19 August 2024, which addresses the question of whether, and if so to what extent, the Restructuring Plans, if approved, will be recognised in the United States under Chapter 15 of the United States Bankruptcy Code.

16. There is then a report of Mr Donald, also dated 19 August 2024, which addresses the question of what effect, if any, the Restructuring Plans will have in relation to the obligations of a guarantor of liabilities and obligations of an Irish incorporated affiliate, pursuant to an Irish lease. The essential question here is whether the Irish guarantee will be affected by the Restructuring Plans if they are approved.

17. Then there is an expert opinion letter, as it is described, from a Ms Susan Ower KC, which addresses the question of recognition of the Restructuring Plans in Scotland. As Ms Ower records, Scotland is a key jurisdiction for the Plan Companies because, in terms of the Restructuring Plans, seven leases in respect of sites located in Scotland which are governed by Scottish law are proposed to be compromised under the Restructuring Plans. It therefore follows that the English court will need to consider the question of whether an order, a sanctioning order, if it is made, will have any substantial effect so far as its recognition by a Scottish court is concerned.

18. Beyond that, I note that there is also the report on the relevant alternative report, as I have described it, prepared by Mr Browne, and there is also a valuation report that has been prepared by Grant Thornton. I also note that valuation advice has also been taken from CBRE.

19. So, the above is just a summary of the substantial quantity of evidence which is before the court on this hearing.

20. It is fair to say, as I have already indicated, that the key evidence in support of the convening application is that contained in the witness statement of Mr Kaufman. Mr Kaufman's witness statement is lengthy and contains the detail of the background to these proceedings, the detail of the Restructuring Plans and the detail of what the Plan Companies seek to achieve by the Restructuring Plans. I refer generally to Mr Kaufman's witness statement and the exhibit thereto for the detail of

matters to which I make reference, in what are necessarily rather more abbreviated terms, in this judgment.

<u>The Plan Companies and the Group</u>

21. I should give a very brief description of the Group. The ultimate parent company of the Group is Cineworld Parent Limited, a private limited company incorporated in the Cayman Islands. The Plan Companies themselves are each operational companies incorporated in England and Wales, and are the primary tenant entities within the Cineworld Group. The Cineworld Group itself operates 1,082 screens and 101 theatres in the United Kingdom under the Cineworld brand, and it employs 4,401 persons who are employed by CWCL. CWCL is the main operating company within the Cineworld Group, but each of the Plan Companies are tenants in respect of leases within the UK Group's portfolio.

22. Looking outside the UK, the Group also operates a substantial number of cinemas in the United States under the Regal Cinemas brand. I will refer to the US part of the Group as **"the US Group**." The UK Group has been reliant on the US Group for liquidity since at least July 2023, as the UK Group has been unable to meet its obligations from its own operations, but the US Group is now unwilling to continue to support the UK Group in the light of its poor financial position.

23. The Plan Companies are in the position of guarantors of the Group's principal financing arrangements following emergence from the Chapter 11 plan mentioned earlier. The principal elements of this are a revolving credit facility of $250 million, the principal borrowers of which are Crown UK Holdco Ltd and Crown Finance US, Inc, but it is important to record that the revolving credit facility will not itself be compromised under the Restructuring Plans, because the creditors would be anticipated to recover in full by virtue of their security over the assets of the wider Group

in the event of an administration.

24. There is then a loan of US $1,622,222,222.22 which is referred to as **"the term loan"**. I will adopt the same expression. That loan was made pursuant to a New York law governed term loan credit agreement, the principal borrower of which is Crown UK Holdco Ltd with the lenders under the term loan credit agreement being referred to as the term loan lenders. Again, I will adopt the same expression. The term loan credit agreement will be subject to amendments under the Restructuring Plans. The Plan Companies are also party to a New York law governed Intercreditor Agreement, ("t**he Intercreditor Agreement**") dated 31 July 2023 between a number of parties. The Intercreditor Agreement regulates the enforcement of security over the charged property as defined therein and the ranking and priority of those claims subject to the Intercreditor Agreement, including the revolving credit facility and the term loan. No amendments are proposed to be made to the Intercreditor Agreement pursuant to the Plans.

Financial difficulties

25. Returning to the Group and the Plan Companies' financial difficulties, the Group was, as I have said, heavily adversely affected by the pandemic and the government restrictions. There was the Chapter 11 plan, which seems to have had a substantial effect in reducing the Group's financial indebtedness, but that does not appear to have assisted the UK Group. The UK Group and the Plan Companies' businesses continued to suffer, as a result, as I have said, of difficult trading conditions, including the screenwriters and actors strike in 2023, and, and this appears to be the principal problem, its substantially over-rented, so it is said, lease portfolio which was not addressed by the Chapter 11 plan.

26. I understand that the UK Group was profitable in the financial year ending in 2019, but it has

generated a negative EBITDA from 2020 onwards, most recently of a negative £8 million in the financial year ending 2022 and a £10 million deficit in the financial year ending 2023. So the position is that the UK Group continues to be reliant on the US Group for liquidity. Up to 30 June 2024, the UK Group managed to meet its obligations without further external funding but that, as I understand it, was because the US Group was prepared to provide the necessary funding. Without that funding, so it is said, the UK Group would have been insolvent on a cash flow basis.

27. In April 2024, the UK Group engaged CBRE, as I have mentioned, as commercial property advisors to conduct an analysis of its lease portfolio. The outcome of that is that CBRE has identified that 75 out of 105 of the UK Group sites which they reviewed are, in their view, over-rented, so that the contractual rent is said to be significantly higher than what is referred to as the ERV, that is to say the present estimated rental values. That is relevant because a key purpose of the Restructuring Plans is to reduce the rent at a certain number of these sites in order to try to return the UK Group to profitability. I mentioned the Grant Thornton report; they have been engaged to undertake a valuation on a going concern debt-free, cash-free basis of the business and assets of the Plan Companies and their subsidiaries and also to provide valuation assessments in relation to the relevant alternative.

28. The Group has also considered a sale of the shares in the UK Group to a new investor, AlixPartners UK LLP was engaged to conduct a marketing process, but as matters stand, there have been no bids received and there are no ongoing discussions with interested parties. So, the outcome of all of this is that the Plan Companies still face significant financial difficulties. It is in those circumstances that the Restructuring Plans have been put together, which I have summarised earlier in this judgment. If all goes to plan, it is anticipated that the material cost savings generated through the plans, alongside new equity funding of £16 million and further funding of up to £35 million

committed by Crown Holdco UK will be sufficient to enable the Plan Companies and the wider UK Group to continue operating as a going concern.

29. My attention has been drawn specifically to what is described as the June 2024 liquidity crisis. Essentially, what happened was that the Plan Companies did not have sufficient liquidity from their own operations to pay their quarterly rent, and I assume other quarterly obligations, of £19 million odd, which fell due on the June quarter day, 25 June 2024. Advice was sought from AlixPartners, but ultimately what happened was that the US Group offered to provide the requisite funding to the Plan Companies to meet their June 2024 obligations, but that funding was provided on conditions: namely (1) that the funding was secured over all or substantially all of the UK Group's assets; turnover, and (2) that ring-fencing arrangements were put in place such that the intercompany lender would be entitled to first ranking priority in respect of recoveries from collateral granted by the UK Group; and the term loan lenders and the revolving credit facility lenders would be entitled to second and third ranking priority, and (3) that certain collateral would be protected from enforcement by the term loan lenders and the revolving credit facility lenders upon an event of default, and (4) that the Plan Companies were required to pursue a holistic operational restructuring.

30. The respective boards of the Plan Companies decided that they had no option but to accept this offer because, otherwise, they would have been insolvent on a cash-flow basis and thus it was that on 27 June 2024, the Plan Companies borrowed $19 million from Regal Cinema, Inc. ("t**he Intercompany Lender**") pursuant to an English law governed intercompany loan agreement **("the New Intercompany Loan")**.

31. The New Intercompany Loan matures on 1 October 2024, and its terms require that the Plan Companies pursue the Restructuring Plans. If the plans are not implemented, an event of default

will occur under the New Intercompany Loan, which will also trigger a cross-default under the term loan credit agreement. I should also mention that the group has, in recent years, engaged in attempts to negotiate consensual rent solutions with particular landlords, including landlords of the Plan Companies. Those negotiations have resulted in certain deals being reached but, while it is not necessary to go into the details of all of those negotiations, it is clear that they have come nowhere near resolving the problems which the Restructuring Plans seek to address.

The relevant alternative

32. I have already substantially set out the position but, if the Restructuring Plans fail, to repeat, the position is that the Plan Companies, on the evidence, will be unable to meet their outstanding payment obligations, including materially, and it appears principally their quarterly obligations in relation to rent, service charge, and insurance payments due on the September quarter day in the sum of £19.1 million. The support of the US Group is not available in relation to the September quarter day, and if the obligations cannot be met, the result would appear to be an insolvency, and if the Restructuring Plans are not sanctioned, an event of default, as I have explained, will occur.

33. If one considers the alternative, if the Restructuring Plans are not approved, the position, as I have said, is that the boards of the Plan Companies consider that the most likely outcome is a pre-packaged administration in which the business and assets of the Plan Companies would be sold, and they would then be sold to the US Group, which would acquire the assets by way of what is described as a partial credit bid of the new inter-company loan liabilities with additional cash payments. If that was not feasible, then it is anticipated that term loan lenders would acquire the assets of the Plan Companies by way of a credit bid of the term loan liabilities.

34. I have been provided with a table which sets out the estimated returns for the different categories of

Plan Creditors in the event of the relevant alternative. Looking through that table, the important point is that the outcome is better in relation to each category of Plan Creditor if the Restructuring Plans are approved, than would be the case if the relevant alternative applies. That better outcome is primarily achieved by paying Plan Creditors 150 per cent of their estimated insolvency return, and thus it is that Plan Creditors receive more under the Restructuring Plans than they would receive in the event of the relevant alternative.

35. There is, as I understand the position, a potential problem in relation to those Plan Creditors who could expect to get nothing in the relevant alternative situation but in order to address that problem and to ensure that Plan Creditors who were in that category do get something if the Restructuring Plans are approved, a floor, as it is described, of £1,000 has been introduced for payments to Plan Creditors in respect of their unsecured claims, which would be compromised under the Restructuring Plans. So, that operates to ensure that unsecured Plan Creditors of the relevant Plan Companies – CCPL and CWEL – will receive more than a de minimis payment, and that in turn ensures that there is an arrangement for the purposes of the Restructuring Plans between CCPL, CWEL, and their respective unsecured Plan Creditors under the plans.

The Restructuring Plans

36. I have already described the five basic features of the Restructuring Plans, which I will repeat for ease of reference. First, compromising and releasing the Plan Companies' secured loan obligations to the US Group in exchange for warrants for shares in the Plan Companies and releasing the Plan Companies' unsecured and inter-company liabilities; second, recapitalising the UK Group through £16 million of new equity funding from the Plan Companies' indirect parent company to fund the UK Group's immediate equity needs with further funding of up to £35 million available to fund capital expenditure; third, amending and extending time for payment in respect to the Plan

Companies' obligations to their secondary secured lenders; fourth, restructuring the Plan Companies' portfolio of leases; and fifth, compromising and releasing the Plan Companies' unsecured property and business rates liabilities. The Restructuring Plans are inter-conditional so that if one restructuring plan does not become effective, no restructuring plan will become effective.

(i) Intercompany loans

37. The New Intercompany Loan ranks senior to the term loan and the revolving credit facility in relation to the assets of the Plan Companies. That priority was required by the US Group in exchange for providing funding to meet the June quarter day obligations. What is proposed under the Restructuring Plans is that the Plan Companies' secured liabilities under the New Intercompany Loan will be released in full in exchange for warrants for shares in the Plan Companies, which will entitle the Intercompany Lender to subscribe for shares in each Plan Company from what is referred as the restructuring effective time until the date falling one year from that time. The other inter-company loans will be released in full in exchange for payment of the higher of 150 per cent of the estimated insolvency return or £1,000 in respect of those liabilities, although I understand that the Intercompany Lender has agreed to waive this entitlement.

(ii) Term loan

38. Pursuant to the Restructuring Plans, the term loan will be amended in various ways to extend the PIK election under the term loan agreement by six months to 31 July 2025 and to extend the maturity of the term loan by six months to 31 January 2029. In return for the term loan lenders agreeing to the amendments of the term loan, the Plan Companies have agreed to extend the existing call protection for a period of four months. The call protection ensures that if there is prepayment, early repayment or an acceleration of the term loan, the lenders will receive an amount equal to the interest payments which would otherwise have been due in respect to the prepaid, repaid or

accelerated loan until the end of the call protection period. The purpose of the amendments to the term loan credit agreement is to provide the Plan Companies with some additional breathing space and to assist in easing liquidity pressures.

(iii) Leases

39. All of the leases concern sites leased by Plan Companies in the UK. I will refer to these leases as **"the leases."** The leases are all unsecured and almost all are governed by English law. There are eight sites in Scotland where the leases are governed by Scots Law. There is one site in Belfast whose lease is governed by Northern Irish Law, but it is what referred to as a Class A lease and will not be compromised under the Restructuring Plans, and there is one site in Dublin whose lease is governed by Irish Law, which I will come back to.

40. The leases have been divided into four categories. There are Class A leases. These are leases which are commercially viable on current lease terms. The Class A leases are not included in the Restructuring Plans, as no amendments are necessary or required by the Plan Companies. There are 38 Class A leases. Second, there are the Class B leases, which are uneconomic on current terms and are over-rented relative to market rates but which it is intended would be rendered viable by bringing their rent in line with the estimated rental value. There are 33 Class B leases. Third, there are the Class C leases, which are uneconomic on current terms and require an even more substantial rent reduction in order to place the sites on a viable footing. The Class C leases are further subdivided into two classes, comprising 10 Class C1 leases, which will have a rent amended to turnover rent, and six Class C2 leases, which will have rent amended to zero. Then, finally, there are the Class D leases, which are commercially unviable and pursuant to which the Plan Companies will be released from all liabilities under the Restructuring Plans. The Class D leases have also been subdivided into three classes, comprising six Class D1 leases, which will be exited under the

Restructuring Plans, three Class D2 leases, which relate to non-trading vacant sites in respect of which the Plan Companies will be released from all liabilities under the Restructuring Plans, and two Class D3 leases which relate to sites which CUKL has let to subtenants, in respect of which CUKL will be released from all liabilities under the CUKL Restructuring Plan. So, those are the Leases.

(iv) Treatment of the leases under the plans

41. There are, as I have indicated, six classes of landlord creditors: Classes B, C1, C2, D1, D2, and D3. They are treated differently as between these various classes, but there are a number of common themes in their treatment, which it is rather lengthy to go through, and in which respect I refer to the evidence of Mr Kaufman and the skeleton argument, both of which helpfully summarise a number of principles which apply to one or more of the categories of lease.

(v) Other unsecured Plan Creditors

42. The Restructuring Plans will also compromise the claims of other unsecured Plan Creditors against the Plan Companies. There are two categories here in relation to other unsecured Plan Creditors. First, there are general property creditors. These are creditors with a claim against the Plan Companies in respect of general, unsecured property liabilities. In respect of those liabilities, the Plan Companies will be released from their obligations in exchange for a payment of the higher of 150 per cent of their estimated insolvency return or the floor, which I have mentioned, of £1,000.

43. There are then, in a separate category, the business rates creditors. These are the local authorities with business rates claims against the Plan Companies. In respect to these creditors, business rate arrears in respect of all leases to be compromised by the Restructuring Plans will be released in full. Business rates for the current ratings year in respect to the premises rented, pursuant to the Class C

leases and the Class D leases, will be released in full, in each case in exchange for payment of a higher of 150 per cent of their estimated insolvency return or the floor of £1,000, together with a payment to the business rates creditors in respect of premises under the Class C1 leases, the Class C2 leases and Class D1 leases of an amount equal to the relevant Plan Companies' liability for business rates for a period of 30 days, commencing on what is referred to as the Restructuring Effective Date. This is to reflect the fact that in the relevant alternative, the administrators would likely remain in occupation of the premises for a 30-day period to undertake strip-out works and would remain liable for business rates for that period.

(vi) The proposed classes

44. This brings me to the separate classes, and the proposed class composition, which is as follows:

(a) the Intercompany Lender;

(b) term loan lenders;

(c) Class B landlords;

(d) Class B guaranteed landlords;

(e) the Class C1 landlord creditors;

(f) the Class C1 guaranteed landlord creditors;

(g) the Class C2 landlord creditors;

(h) the Class C2 guaranteed landlord creditors;

(i) the Class D1 landlord creditors.

(j) the Class D1 guaranteed landlord creditors;

(k) the class D2 landlord creditors;

(l) the class D3 landlord creditors;

(m) the general property creditors;

(n) the business rates creditors.

(vii) Liabilities not included in the Restructuring Plans

45. There are some liabilities which are excluded from the Restructuring Plans. In summary, they are (1) the revolving credit facility, the Class A leases, (2) what are referred to as the Aviva compromise leases, where a consensual rent compromise has already been negotiated with one landlord, namely Aviva, in respect of three sites, (3) the head office lease, which is the lease of the Cineworld Group's head office building; it has not been included in the Restructuring Plans, as it does not relate to a cinema site, and the evidence is that it is of central importance to the continued operation of the business of the Cineworld Group. Also excluded are (4) liabilities owed to trade creditors for the obvious reason that the continued supply of goods and services by trade creditors is critical to the continued day-to-day operation of the business of the Cineworld Group. Also excluded are (5) liabilities to customers, again for the obvious reason that compromising such liabilities would cause considerable damage to the brand and business of the Cineworld Group and indeed the Group. Also excluded are (6) liabilities to employees and tax liabilities owed to HMRC, although I am told that the Plan Companies do not have any material outstanding liabilities to HMRC.

(viii) Allocation of the equity

46. If the Restructuring Plans are implemented, the existing shareholders of the group will remain the shareholders in the group, but the shareholders' interests in the Plan Companies may be partially diluted at a later date by the exercise of the warrants for shares in the Plan Companies, which are to be issued to the inter-company lender in exchange for the release of the new inter-company loan. In exchange, the indirect parent of the planned companies, Crown UK Holdco, will recapitalise the UK Group by providing the funds which I have previously mentioned.

<u>The purpose of this hearing</u>

47. The Restructuring Plans, as I said, are proposed under Part 26A of the Act. This, however, is not the hearing to consider whether to sanction the Restructuring Plans. It is the hearing at which I have to decide whether to make the order for the convening of the plan meetings. The jurisdiction to do so is contained in s.901C(1) of the Act which provides:

> *"The court may, on an application under this subsection, order a meeting of the creditors or class of creditors, or the members of the company or class of members (as the case may be), to be summoned in such manner as the court directs."*

48. The practice statement sets out the procedure to be followed on an application to convene meetings of creditors, and there are various obligations which have to be observed by reference to the practice statement, including the distribution of the practice statement letter to the Plan Creditors, which has to be done:

> *"... in sufficient time to enable them to consider what is proposed to take appropriate advice and, if so advised, to attend the convening hearing. What is adequate notice will depend on all the circumstances, the evidence that the convening hearing should explain the steps which have been taken to give the notification, and what, if any, response the applicant has had to the notification."*

49. It is not my function at this hearing to consider the merits or fairness of the Restructuring Plans. That will arise for consideration at the further sanction hearing, if the scheme is approved by the statutory majority of creditors, see Trower J in Re *Smile Telecoms Holdings Ltd* [2021] BCC 587 at [18]. So far as the matters to be considered at the convening hearing are concerned, they were explained by Trower J *Re DeepOcean 1 UK Ltd* [2020] EWHC 3549 (Ch) [2021] Bus LR 632 at [29]. Those matters are as follows:

(a) jurisdictional requirements;

(b) conditions A and B;

(c) class composition;

(d) any other issues not going to merits or fairness which might cause the court to refuse to sanction the Restructuring Plans;

(e) practical issues regarding the adequacy of notice, documentation and proposals for meetings of the creditors.

50. I should explain at this point that condition A refers to the condition in s.901A(2) of the Act, which provides as follows:

> *"Condition A is that the company has encountered or is likely to encounter financial difficulties that are affecting or will or may affect its ability to carry on business as a going concern."*

51. Condition B refers to the condition in s.901A(3) of the Act:

> *"Condition B is that—*
>
> *(a) a compromise or arrangement is proposed between the company and—*
>
> *(i) its creditors or any class of them, or*
>
> *(ii) its members or any class of them, and*
>
> *(b) the purpose of the compromise or arrangement is to eliminate, reduce, or prevent or mitigate the effect of any of the financial difficulties mentioned in (2)."*

<u>Has appropriate notice of this hearing being given?</u>

52. There is no fixed time which constitutes adequate notice. The question of what constitutes adequate

notice is a fact-sensitive one, see Miles J in *Re CB&I UK Limited* [2023] EWHC 2497 (Ch) at [49]. There are authorities in which it has been said that notice of around 21 days is often given. A period of three weeks or so is commonplace. It may therefore be said that there is at least what I would describe as an informal tariff of 21 days. But in the present case, the practice statement letter, which I have mentioned earlier in this judgment, was sent out on 26 July 2024, and the evidence from Ms Lacey is that it was distributed to Plan Creditors on that date (in the late evening(. So, on the assumption that Plan Creditors received the practice statement letter on or shortly after 26 July 2024, that would mean that the Plan Creditors would have had 32 days or so, or slightly less, notice of this hearing.

53. There is also evidence that the Plan Companies have provided certain further information to certain landlord creditors in response to requests made in advance of the convening hearing, subject to non-disclosure agreements. In any event, applying the relevant authorities, and, by reference to the evidence before me, I am satisfied that appropriate notice of the convening hearing has been given to Plan Creditors.

The jurisdictional requirements

54. Dealing with what may be described as jurisdictional threshold requirements, counsel have identified three topics which fall to be considered at this hearing. The first is the question of whether each of the Plan Companies is a company, as defined in Part 26A of the Act. The second topic is the question of whether conditions A and B, as I have just identified them, are satisfied. The third topic is the question of whether there are any jurisdictional roadblocks which would prevent the court from exercising its discretion to sanction the plans. As I have said, it is not the function of the Court at this hearing to decide the question of whether the Restructuring Plans should or should not be sanctioned. In relation to jurisdictional roadblocks, what that means is

whether there is an obvious obstacle to the ability of the court to sanction the Restructuring Plans.

55. I will deal with roadblocks separately, but so far as the other topics are concerned, it is quite clear that the Plan Companies are companies as defined in Part 26A. The Plan Companies are incorporated in England and Wales, and they are therefore liable to be wound up under the Insolvency Act 1986. As such, each of the Plan Companies is company within the meaning of s.901A(4)(b) of the Act. There is no difficulty in relation to connection to this jurisdiction because the Plan Companies are incorporated in England and Wales.

56. That leads me on to condition A, which is the company has encountered or is likely to encounter financial difficulties that are or will or may affect its ability to carry on business as a going concern. On the evidence, it is quite clear that the Plan Companies have encountered financial difficulties which are affecting, or will or may affect, its ability to carry on business as a going concern. I am therefore satisfied that condition A is quite clearly met in the present case.

57. That leads on to condition B. Counsel, in their skeleton argument, have helpfully identified that condition B has two limbs. The first limb is the requirement that the proposal be a compromise or arrangement. In relation to this, what the authorities establish is that the concept of a compromise or an arrangement is the same concept as the concept of compromise or arrangement in relation to schemes of arrangement under Part 26 of the Act, and that *"arrangement"* should be construed in a very broad manner. As Hildyard J explained in *Re Lehman Brothers International (Europe)* [2018] EWHC 1980 (Ch) [2019] Bus LR 1012 at [64], I quote:

> *"All that is really required is sequence of steps involving some element of give and take rather than merely surrender or forfeiture."*

58. On the evidence in this case, and looking at the detail of the Restructuring Plans, I am satisfied that the Restructuring Plans do clearly involve the required element of give and take.

59. There is then the second limb of condition B, which is that the purpose of the compromise or arrangement is to eliminate, reduce, or prevent or mitigate the effect of any of the financial difficulties. Again, this is broad language which is intended to be expansively construed, see Trower J in *Re Virgin Atlantic Airways Limited* [2020] EWHC 2191 (Ch) [2020] BCC 997 at [39]. Again, it is clear from the evidence, and I am satisfied that the purpose of the Restructuring Plans is to eliminate, reduce, or prevent or mitigate the effect of the financial difficulties facing the Plan Companies, including, perhaps most importantly, putting the lease portfolio onto a sustainable footing so that the Plan Companies can continue to trade as a going concern. So, in summary, I am satisfied that those jurisdictional requirements are satisfied and are met in the present case.

Are there any roadblocks to the court sanctioning the Restructuring Plans?

60. In this respect, four matters have been raised for my consideration in the skeleton argument, and elaborated upon most helpfully by Mr Smith in his oral submissions. The first matter is the point that, in relation to the classes, one of the classes will have only a single member; namely the Intercompany Lender. An instinctive reaction to this might be that one cannot have a single member of a class attending a meeting because the word *"meeting"* implies that two or more people are actually having a meeting, but my attention has been drawn to *Re Altitude Scaffolding Limited* [2006] EWHC 1401 (Ch) [2006] BCC 904. This was a decision of David Richards, J., (as he then was). In that judgment, David Richards J analysed in some detail what was meant by a *"meeting"* in the context of a scheme, and it is clear from what the judge said in that case that, at least in this context, it is perfectly possible to have a meeting which is attended by a single member of a class. Accordingly, while conceivably this could be the subject of complaint at the sanction

hearing, it does not seem to me that there is a jurisdictional issue raised by having one of the proposed classes containing only a single member.

61. The second matter which has been raised in this context is the fact that the Intercompany Lender and the term loan lenders holding greater than 75 per cent of the term loan by value have signed the restructuring support agreement and thereby agreed to support the Restructuring Plans. As such, the position might be said to be objectionable because what this effectively means is that there will be at least two classes which are committed to supporting the Restructuring Plans and whose approval of the Restructuring Plans will ensure that the sanction hearing goes ahead.

62. This is a question which has been considered by Snowden J (as he then was) in *Re Virgin Atlantic Airways Limited* [2020] EWHC 2376 (Ch) [2020] BCC 997 at [49] to [50]. In that case, Snowden J left open the question of whether the power to cram down a dissenting class under s.901G of the Act can be activated by including within a plan a class of creditors who would otherwise all have been prepared to enter into consensual arrangement to give effect to the restructuring of their rights.

63. The issue was then revisited by Zacaroli J in *Re Houst* [2022] EWHC 1941 (Ch) [2022] BCC 1143 at [20]. Zacaroli J held, (having invited submissions on the point) that the mere fact that 100 per cent of a class is prepared to support a plan is not reason to prevent the cross-class cram down power being exercised:

> *"Clearly, attempts artificially to create an in-the-money class for the purposes of providing the anchor to activate the cross-class cram down power should be resisted, particularly where such a class is not impaired by the plan. Where, as here, however, the in-the-money class of creditors is undoubtedly affected by the company's insolvency and is substantially impaired under the plan, then I do not think that the mere fact that 100 per cent of that class*

is prepared to support the plan is a reason to prevent the cross-class cram down power being exercised. I do not think there is a relevant distinction between a case where all but a small minority of the class are in favour and one where the merits of the plan have persuaded the whole of the class to support the plan. Nor do I think it makes a difference, as a matter of jurisdiction to exercise the cross-class cram down power, that there is only one creditor within the class."

64. In the present case, what is submitted by Mr Smith is that there is no artificiality in relation to the classes. This is not a case, he submits, where the Plan Companies have deliberately set out to create a class containing the Intercompany Lender and a class containing term lenders which have been created solely for the purposes of ensuring that the Restructuring Plans are approved. He submits that the classes have been created by reference to the relevant rights and interests of the various groups of Plan Creditors, and there is nothing to suggest any device to try to ensure approval of the Restructuring Plans. I accept those submissions. It seems to me quite clear in the present case that there is not artificiality. If the overall result is said to be unfair, then it seems to me that that is a matter for the sanction hearing but, as matters stand, it does not seem to me that there is some element of artificiality which should cause me to think that there is, as it were, a roadblock to the court exercising its cross-class cram down powers should it be required to do so. I agree with counsel for the Plan Companies that the question of whether the court ought to exercise that power is a matter to be considered at the sanction hearing itself. Accordingly, I conclude that there is no roadblock in this respect.

65. The third matter is that two of the Plan Companies, CWCL and CUKL, have entered into agreements in respect of certain sites with the Crown Estate in their capacity as landlords and with UK Commercial Property, again, I assume, in respect of their capacity as landlords. That raises the

question of whether those particular rights are capable of being compromised under the plan jurisdiction in Part 26A. Beyond that, it seems to me it is a question that is also capable of going to the question of class composition, but so far as the position of the Crown Estate and UK Commercial Property is concerned, I have seen the terms of the agreements which have been entered into with these parties, which include an obligation not to seek to compromise further the relevant leases. Mr Smith does however make the point, which I accept, that there would not be or at least would not necessarily be any breach of these agreements if the position was that the relevant Plan Companies were to go into administration.

66. In the relevant alternative, I can see the argument that these agreements would not necessarily be relevant and that there would not necessarily, at the least, be a breach of either agreement in that event. I can also see the point that these agreements do not really affect the position if the Restructuring Plans are approved, because, as it seems to me, the Restructuring Plans are capable of affecting these particular agreements. So, in these circumstances, it does not seem to me that there is any roadblock which is created in relation to the position of these particular parties.

67. Beyond that however, but beyond that, there is this what might be described as a *"backstop point"*. As Mr Smith explained to me, if, ultimately, it is considered that Crown Estate or UK Commercial Property do have materially different *"rights in"*, as they are called, as a result of these agreements which have been made, they can be placed into a separate class or classes to vote on the plans, but beyond that, if it is concluded that the rights are not capable of being compromised under the Restructuring Plans, then the plans can be modified to exclude the Crown Estate and/or UK Commercial Property from their scope, and as I understand the position, that is not a step which has to be taken at this stage. It is a step which could, in the final analysis, be taken if it was ultimately to turn out that the rights of the Crown Estate and UK Commercial Property simply could not be

compromised under the Restructuring Plans. So, in that respect, as I have said, I am satisfied that there is no actual roadblock to proceeding with the plan meetings and, if approval is secured, to a sanction hearing.

68. The fourth matter is that, at the sanction hearing, the court will need to be satisfied that the Restructuring Plans will be effective in the key jurisdictions in which it is necessary that they should have effect; see David Richards J (as he then was) in *Re Magyar Telecom BV* [2014] BCC 448 at [16]. That is not a problem in relation to the vast majority of the leases and related liabilities to be compromised under the Restructuring Plans, because they are governed by English law and relate to properties situated in England, but as I have mentioned earlier in this judgment, one of the lease guarantees to be compromised under the Restructuring Plans relates to property situated in the Republic of Ireland and is governed by Irish law, and eight of the leases relate to properties situated in Scotland which are governed by Scots law.

69. As I have said, these are properly matters for the sanction hearing, not the convening hearing, but it is worth making the point that the Plan Companies have obtained the expert opinion of Ms Susan Ower KC on Scottish law, and the opinion of Ms Ower is that the restructuring plans would be likely to have substantial effect as a matter of Scottish law. There is, as I mentioned, a lease in Northern Ireland, but it is a Class A lease and is excluded from the restructuring plans. That then leaves the single lease in Ireland. In that respect, there is the report of Mr Donald which, in executive summary says this, and I think that it is easiest to quote:

> *"For the reasons that follow, I am of the opinion that there is uncertainty as to whether the Relevant Compromise or the CWCL Restructuring Plan would be recognised by the Courts of Ireland (if such recognition were to be sought) and given effect under the laws of Ireland. There has been no case to date post-Brexit in which recognition by the Courts of Ireland of*

a restructuring plan under Part 26A has been tested. Notwithstanding this, I conclude that the CWCL Restructuring Plan, and the Relevant Compromise, would nevertheless have a real prospect of having substantial effect in Ireland."

70. So, the advice of Mr Donald is that there is a real prospect of the relevant restructuring plan having substantial effect in Ireland. As I mentioned earlier in this judgment, I have been handed, in the course of this hearing, a letter from Addleshaw Goddard dated yesterday, 27 August 2024, and written on behalf of their client, GLA Ireland No.1 SAAL. As I understand that letter, Addleshaw Goddard have been informed of the content of the opinion provided by Mr Donald, but the position which they state, in clear and trenchant terms, in the letter is that their client does not accept that the relevant restructuring plan can purport to release CWCL from its obligations under the Irish guarantee. It is said that that offends their client's proprietary rights under Irish law, and they also say that their client does not accept that the relevant restructuring plan would be recognised and enforceable in Ireland.

71. It is, therefore, quite clear that there is a dispute, something of an acute dispute, over whether the relevant restructuring plan would be recognised in Ireland and whether it would be capable of affecting the relevant guarantee governed by Irish law. But again, it seems to me that that is not a matter which constitutes a roadblock to the applications for sanction proceeding. It seems to me that this is a matter which can be re-addressed, if necessary, at the sanction hearing. I should also mention in this context that the term loan credit agreement is governed by New York law. The Plan Companies do not have any assets in the US and do not intend to apply for recognition of the restructuring plans in New York, but there is the advice of Hon. James Peck, the former United States bankruptcy judge, who has advised that the Restructuring Plans would be likely to have substantial effect as a matter of New York law. Those, as I have said, are the matters which have

been raised by way of potential roadblocks to the court sanctioning the restructuring plans, and I am satisfied, for the reasons which I have set out, that there are no roadblocks, to use that expression, which can be identified at this stage.

Class composition

72. In relation to class composition, I am in a slightly different position here because I am setting the classes by reference to which the plan meetings will take place. It therefore follows that it is at this stage that the substantive question of class composition falls to be considered. That is subject to this exception. It is perfectly possible for a plan creditor to object at the sanction hearing to the restructuring plans being sanctioned on the basis that the class compositions were wrongly and/or unfairly set. But in that context, it needs to be borne in mind that, as a general rule, a creditor would be expected to make an objection to the question of class composition at the hearing of the application for the convening order. So, in those circumstances, the relevant creditor would need to be able to explain why the objection had not been raised at this stage rather than at the sanction hearing.

73. So far as the principles of class composition are concerned, they have been helpfully set out by Snowden LJ in *Re AGPS Bondco PLC* [2024[EWCA Civ 24 at [109] to [114]:

"[109] The basic principle in relation to class composition under Part 26 is that a class 'must be confined to those persons whose rights are not so dissimilar as to make it impossible for them to consult together with a view to their common interest': see Sovereign Life Assurance v Dodd [1892] 2 QB 573 at 583 per Bowen LJ. As David Richards J indicated in his convening judgment in Telewest Communications plc (No.1) [2004] EWHC 924 (Ch), [2005] 1 BCLC 752 at [37], the application of this test requires an exercise of judgment on the facts of

each case. The authorities show that a broad Judgment Approved by the court for handing down. AGPS Bondco plc approach is taken, and that the differences in rights may be material, certainly more than de minimis, without leading to separate classes.

[110] In the Court of Appeal in Hawk Insurance Co Ltd [2001] EWCA Civ 241, [2001] 2 BCLC 480 ("Hawk") at [30] and [34], Chadwick LJ explained how the dissimilarity of rights test is to be applied,

> *'In each case the answer to that question will depend upon analysis (i) of the rights which are to be released or varied under the scheme and (ii) of the new rights (if any) which the scheme gives, by way of compromise or arrangement, to those whose rights are to be released or varied.'*

[111] It is also clear that where a scheme of arrangement is proposed as an alternative to a formal insolvency procedure, the application of the first limb of the 'similarity of rights' test requires the court to identify the rights that the creditors would have in that insolvency proceeding, rather than the rights that they would have if the company were to carry on its business in the ordinary course. That appears clearly from the decision in Hawk, in which Chadwick LJ explained, at [42],

> *'It is, to my mind, essential to have regard to the fact that the scheme is proposed as an alternative to a winding-up. There is no doubt that the company is insolvent. It has presented a petition for winding up and the court has appointed provisional liquidators. The right approach in those circumstances, as it seems to me, is to consider the position on the basis that the relevant rights are those which creditors would have in a winding up.'*

> [112] *In his convening judgment in Virgin Atlantic Airways Limited [2020] EWHC 2191 (Ch) at [41]-[48], Trower J explained why the same principles of class composition that apply to schemes under Part 26 should apply to restructuring plans under Part 26A. Zacaroli J agreed with that conclusion in the convening judgment in Gategroup Guarantee Limited [2021] EWHC 304 (Ch) ("Gategroup") at [181]-[182], and I took a similar approach in the convening judgment in Virgin Active Holdings Limited [2021] EWHC 814 (Ch) at [61]-[69].*
>
> [113] *Neither party to this appeal suggested that this approach was wrong or that any different principles from those developed under Part 26 should be applied in relation to class composition under Part 26A. Nor did they suggest that any different principles were, or should have been, applied by Sir Anthony Mann when he accepted the Plan Company's proposal for the composition of the voting classes of Plan Creditors in the instant case.*
>
> [114] *I therefore proceed on the basis that the same underlying concepts of class composition developed in relation to scheme cases should apply to cases under Part 26A. That is an important starting point for an understanding of the statutory process under Part 26A and for the remainder of the analysis in this case."*

74. There are a couple of further points that can be made by way of general principle. First, there may be material differences between members of a class, but they do not necessarily fracture the class. The rights of those included in a single class can be subject to material differences, provided that they are not so dissimilar as to make it impossible for them to consult together with a view to their common interest. This has been made clear in a number of cases; see for example, David Richards

J (as he then was) in *Re Telewest Communications PLC* [2004] EWHC 924 (Ch) [2004] BCC 342 at [37]-[40], and see also *Re Lehman Brothers International (Europe)* [2019] Bus. L.R. 1012, where Hildyard J said this, at [70]:

> *"A material difference in legal rights does not necessarily preclude their respective holders from being included in a single class, but the second part of the test enables that provided that they are not 'so dissimilar as to make it impossible for them to consult together with a view to their common interests.' That, unusually and perhaps confusingly, introduces into a jurisdictional issue a subjective assessment, which may account for changing judicial perceptions over the years as to class constitution in the light of the developing and prevailing inclination of judges to recognise the dangers of giving a veto to a minority group."*

75. Beyond this, it is important to avoid the unnecessary proliferation of classes. A number of authorities have highlighted that policy objective in relation to schemes, and it is clear that that applies to landlords just as much as to other persons making up classes.

76. Turning then to the proposed classes themselves, they are helpfully set out in a table which has been incorporated into counsel's skeleton argument for this hearing. The number of classes is not the same for each of the Plan Companies and, so far as I can see, it is CUKL which has, as it were, the maximum number of classes. For ease of reference I repeat the composition of the classes. In the case of CUKL, it is proposed that there should be the following classes:

    (a) The Intercompany Lender;

    (b) the term loan lenders;

    (c) Class B landlord creditors;

    (d) Class B guaranteed landlord creditors;

(e) Class C1 landlord creditors;

(f) Class C1 guaranteed landlord creditors;

(g) Class C2 landlord creditors;

(h) Class D1 landlord creditors;

(i) Class D2 landlord creditors;

(j) Class D3 landlord creditors;

(k) general property creditors; and

(l) business rates creditors.

77. In order to consider the composition of the classes, the starting point is to consider the existing rights of the planned creditors against the Plan Companies. Those are generally referred to as *"rights in"*, and then those rights in have got to be identified by reference to relevant alternative. It is then necessary to consider the rights conferred by the restructuring plans or the relevant restructuring plan, which are generally referred to as *"rights out"*. It is not necessary for me to go through the individual classes. That exercise has been carried out for me by counsel. It is sufficient for me to say that carrying out the exercise of comparing rights in with rights out, I am prepared to accept the class composition proposed by the Plan Companies. It seems to me that the proposed class composition represents a sensible way forward. It does not seem to me that further subdivision is desirable or possible, nor does it seem necessary or desirable to amalgamate any of the proposed classes.

78. As I have indicated earlier in this judgment, there is one class which comprises a single party, namely the Intercompany Lender. That did give me some pause for thought but, as I have explained, it is clear on the authorities that it is perfectly possible to have a class containing a single party, and I accept that it would not be sensible or feasible to try to shoehorn the Intercompany

Lender into a different class.

79. I should also return very briefly to the position of the Crown Estate and UK Commercial Property, with whom, as I have explained earlier in this judgment, specific compromise agreements have already been made. If one carries out the comparison of rights in with rights out, I am persuaded by Mr Smith that there is not actually a material difference, or at least a material difference sufficient to fracture the class, as between those two parties and the other members of their particular classes. In those circumstances, I am prepared to approve the class composition which is proposed by the Plan Companies.

The proposed directions for the plan meetings

80. I have been provided with a draft of the convening order which is sought. I will leave the detail of that order to consider after I have concluded giving this judgment, but just in general terms, in outline as it were, the proposed directions as to the summoning and conduct of the plan meetings as they are set out in the draft convening order and the timetable seem to me, in general terms, to be reasonable. I say the same in relation to the arrangements for the actual plan meetings themselves. So, in general terms, I am satisfied, subject to looking at the detail of the draft convening order, that the proposed directions are acceptable.

Confidentiality

81. There is a separate application which is made which relates to confidentiality, or perhaps more accurately, the giving of notice. What is sought is an order, pursuant to CPR Rule 5.4D(2), that 3 clear days' notice should be given to the Plan Companies of any application made by a person for permission under Rule 5.4C of the Civil Procedure Rules to obtain a copy of a document from the court records in this matter. This order is sought on the basis that certain financial information

contained in the explanatory statement and the evidence is commercially sensitive, and this is further explained by Mr Kaufman in his witness statement.

82. It seems to me that it is important in this context to note that the order which is sought does not actually prevent anyone from applying to inspect the documents on the court record. Instead, it simply requires notice to be given to the Plan Companies of an application for such an inspection facility. The effect of this order, if I make it, is not that someone is necessarily prevented from inspecting the court file, rather what it means is that the Plan Companies would have the opportunity to object if they wished to do so, and in that event, it would be up to the court to decide whether the relevant person should be allowed to inspect the court records.

83. If this was an order which prevented inspection of the court records, then it seems to me that it would be objectionable but, as is explained in the skeleton argument and by Mr Smith in his oral submissions, it is not an order of that kind. It simply ensures that the Plan Companies have the opportunity to object in the event of an application for inspection. I am aware that orders of this kind are made, I believe, fairly often in relation to schemes of arrangements and restructuring plans, and it seems reasonable to me in the present case, and given the sensitivities explained by Mr Kaufman, to make such an order in the present case. I am therefore in principle prepared to make such an order.

Conclusion

84. For the reasons which I have set out in this judgment, I am prepared, in principle, to accede to the convening application and to make the convening order which is sought. I reserve my decision on the precise terms of the convening order which I will make, on which I shall hear further from Mr Smith.

85. That concludes my judgment.