

ALLEN & OVERY



PRELIMINARY ROUND PROPOSITION 2

MADE IN MAVEN

2ND ALLEN & OVERY - NLU JODHPUR
INTERNATIONAL DEAL
NEGOTIATION COMPETITION
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BACKGROUND INFORMATION

Hampden PLC

Hampden PLC is a multinational fashion conglomerate that was established in the 1970s by Francis Bennett, a fashion designer, and his wife, the supermodel Judy Macaulay. Hampden's first women's ready-to-wear collection, released in 1971, was credited with popularising bell-bottoms. In the decades that followed, Hampden expanded their collection beyond clothing to fragrances and luxury goods, with Francis' timeless designs and Judy's enduring appeal with women ensuring that Hampden remained a defining force in the fashion and luxury goods market.

Today, under the control of the Bennett children, the twins Charles and Camilla, Hampden is listed on the London Stock Exchange and has grown into one of the largest fashion groups in the world, ranking seventh by market capitalisation with its \$96 billion valuation. Hampden owns several prestigious brands – mainly luxury but including a few mass-market – across various sectors including apparel, footwear, wines and spirits, perfumes and leather goods.

Charles serves as Creative Director while Camilla serves as CEO. Under their leadership, Hampden has been aggressively promoted on social media as an ethical and sustainable fashion house. As signatories to the UN Fashion Industry Charter for Climate

Action, as well as co-chairs for the Steering Committee, they pledged to reach net zero by 2050.

To work towards this goal, Hampden began divesting from its fast-fashion subsidiaries, bringing down the number of companies in the Hampden Group from 54 to the present 43, with further divestments planned in the future. In addition to making its business more sustainable, the decision was taken to allow Hampden to focus on its core luxury businesses. Netizens lauded the company's efforts.

In late 2023, Hampden decided to divest from its fast-fashion subsidiary, Bunny, a company that had come under considerable fire for its unsustainable practices and alleged exploitation of workers. Charles and Camilla sought bids for Bunny, but a few weeks into the auction process, the Global Labour Initiative (“GLI”), a reputed and widely followed non-government organisation, released a scathing report detailing the pitiable state of workers in Bunny's supplier factories in Bangladesh and China. The report had spillover effects on the Hampden Group, with calls for a boycott of their goods growing louder. Hampden's hopes of a smooth sale for Bunny dwindled after most potential buyers withdrew.

Grace Maven & Company

Grace Maven is a clothing company based out of New York City, widely popular among environmentally-conscious youngsters for its sustainable and stylish clothing. The company is very successful although it is relatively new, having been founded by actress-turned-designer Grace Maven in 2011. Grace, drawing upon her passion for sustainability, focused on creating clothing from sustainable fibres like organic hemp and organic linen. The company was an instant hit among customers willing to accept a slightly higher price tag for clothing that was eco-friendly. Today, the company has over ninety stores across cities in the United States and Canada (with 17 stores planned to be opened in the 2024-25 financial year), with a valuation of approximately \$5 billion.

A factor lending to Grace Maven's wide appeal, particularly among Gen-Z, is its strategy of pursuing brand collaborations. The collaborations, often with luxury brands that are otherwise inaccessible and unaffordable to the masses, aim to create

limited-edition collections combining the designs and '*old-money aesthetic*' of a luxury brand, along with the sustainability tag of Grace Maven. Recent collaborations have included sustainable tote bags, hemp-based jackets and jeans, with leading luxury brands – these collections were eagerly anticipated months in advance owing to extensive social media campaigns and sold out within minutes of launching.

Following the unexpected demise of Grace in 2020, her long-term business partner Julian Winter took over as CEO. Under Julian, Grace Maven has aggressively expanded, and in 2023, Julian decided to expand to the United Kingdom – which represents one of the largest apparel and footwear markets worldwide. Bunny's distribution network has attracted the attention of Julian, who believes that acquiring the company would simplify and streamline the entry into a foreign market for fashion. He is also eager to explore the opportunity of a brand collaboration with the Hampden Group as a part of the acquisition.

GENERAL INFORMATION

Hampden had sought bids for Bunny through a controlled auction process in October 2023, with the hope to reach a deal as soon as practicable. They shortlisted seven potential buyers based on preliminary bids and communicated dates on which these potential buyers would be granted access to a virtual data room to kickstart the due diligence process.

However, the release of the GLI Report on worker conditions in Bunny's supplier factories across Asia was extremely damaging to Bunny's auction, as well as the larger Hampden Group. The report detailed the pittance that was paid by the company to factory workers (below the minimum wage, and certainly below the living wage that Hampden had pledged to pay its workers and employees), along with complaints of abuse and harassment faced by women workers who were forced to put in long hours to make daily targets.

Share prices crashed, going from £782 to £691 overnight – a massive drop, especially for a company whose stock had otherwise remained relatively positive over the past few years. Social media turned against the company that it had once admired; *#HampdenHypocrisy* and *#GreenwashAlert* became trending hashtags within days. Charles and Camilla held a press conference attempting to quell growing dissatisfaction

with the company, but to no avail; Bunny's auction came to a grinding halt when many of the bidders backed out citing the negative press coverage on the company.

Julian, however did not withdraw Grace Maven's bid, since Bunny's utility to the company was simply to allow them entry into the UK market without any significant hurdles. On the other hand, Camilla, conscious of the benefit an association with a company known for its sustainability efforts could offer, decided to sign an exclusivity agreement with Grace Maven despite having two other interested buyers. Julian saw these negotiations as an opportunity to push for a collaboration with one of Hampden's subsidiaries, the luxury brand *Hampden Royal*. Camilla, although unwilling at first, eventually agreed as she didn't want to lose Grace Maven.

Negotiations commenced in parallel to Grace Maven's due diligence into Bunny in November 2023. The due diligence revealed that Bunny's leases within the UK and its supplier and manufacturing contracts contain non-assignment provisions that restrict Bunny's ability to transfer these contracts to another entity. Assignment requires prior written consent and payment of a hefty assignment fee.

On January 28, 2024, it was announced that a Competition and Markets Authority (“CMA”) inquiry against Bunny (among other fast-fashion brands) had been instituted on the basis of the GLI report. The CMA’s interim chief executive, Aria Taylor, said that the CMA “*won’t hesitate to take enforcement action*” if the brand was found to have been making misleading comments to consumers over their environmental credentials.

The parties have raised contentions about the following during their negotiations:

Transaction Structure

There is a considerable difference in position between Hampden and Grace Maven on the proposed deal structure. Hampden has consistently structured its fast-fashion brand divestments as share purchases, completely dissociating from all potential liabilities and reputational risks – and has conveyed to Grace Maven that it would not consider altering this strategy. Conversely, Julian has reiterated to Camilla that his interest in Bunny is limited to store leases and the distribution network within the UK and would therefore prefer the deal structured to cater to that requirement. He has also expressed his desire to avoid the risk of a legal tussle with the CMA as well as any liabilities that may arise from the GLI Report.

Warranties & Indemnities

Grace Maven is seeking: (1) full and comprehensive warranties and indemnities on the outcome of the CMA inquiry, covering all potential liabilities and penalties; and (2) warranties on an indemnity basis on Bunny’s books and records, potential environmental risks from Bunny’s unsustainable practices, product liability claims, claims from workers in Bunny’s supply chain and taxes. Grace Maven has proposed a sunset period for the warranties and indemnities of seven years and a liability cap equal to 1.5x the purchase price.

Hampden on its part has indicated that it would provide indemnities only on specific, identified risks, such as the CMA investigation. It wants to limit the sunset period to three years and its total liability to 50% of the purchase price.

Valuation

On the basis of the projected profits of Bunny over the next five years, Hampden has arrived at £300 million as their asking price for Bunny. Julian is resisting such a valuation. Julian believes that the projected profits are out of touch with reality as they do not reflect the impact of the GLI report. Further, the ‘Bunny’ brand holds no value to him.

Funding and Revenue Sharing

Considering that Grace Maven is to handle the sourcing of sustainable materials as well as the research and development for the social media campaigns to promote the collection, they are seeking a 30-70 division of costs with Hampden, with a 50-50 ratio for revenue sharing. Hampden, on the other

hand, proposed a 50-50 division of the costs and a 60-40 division of the revenue (in its favour), considering that their designs and brand name would drive a majority of the sales within the United Kingdom.

The next meeting between Julian and Camilla, accompanied by their legal counsels, is scheduled to be held in February 2024.

This problem is drafted by Ms. Revati Sohoni (Senior Member, Alternative Dispute Resolution Committee) in collaboration with Mr. Nabil Shadab (Senior Associate, Allen & Overy) and Ms. Aashna Agarwal (Associate, Allen & Overy). This problem is drafted purely for academic purposes and for use as a mock problem in the 2nd Allen & Overy – NLU Jodhpur International Deal Negotiation Competition 2024. The narrative adopted by the authors of the problem is purely personal and is not attributable to the organization. Resemblance to any person or organization is purely coincidental.