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Decision

Final statement: Bahrain Institute for Rights and Democracy (BIRD) complaint to

the UK NCP about HPower Group Limited (HPG)

Updated 8 December 2021

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This publication is available at <https://www.gov.uk/government/publications/bird-complaint-to-uk-ncp-about-hpower-group-limited-hpg-company-a-and-company-b/final-statement-bahrain-institute-for-rights-and-democracy-bird-complaint-to-the-uk-ncp-about-hpower-group-limited-hpg>

Background

OECD Guidelines for Multinational Enterprises

1) The Guidelines are voluntary principles for responsible business conduct in areas including employment, human rights and the environment. As an OECD member government, the UK is required to maintain a National Contact Point (NCP) to promote the Guidelines and to consider complaints that multinational enterprises based in the UK, or operating there, have breached the Guidelines.

2) The UK NCP is based in the Department for International Trade (DIT). It operates independently of Ministers, who have no role in UK NCP decision-making on complaints. A Steering Board including members from business, trade unions and civil society has general oversight of the UK NCP.

UK NCP complaint procedure

3) The UK NCP complaint procedure is divided into the following key stages:

I. An Initial Assessment to decide whether a complaint is accepted for further examination

II. An offer of mediation if a complaint is accepted

III. A further examination if mediation is refused or fails to produce an agreement between the parties

IV. A Final Statement reporting the outcome of mediation or further examination.

4) More details of the UK NCP's process and statements are available on the [NCP homepage](https://www.gov.uk/guidance/uk-ncp-complaint-handling-process). (<https://www.gov.uk/guidance/uk-ncp-complaint-handling-process>)

Complaint from Bahrain Institute for Rights and Democracy (BIRD) and response by HPower Group Limited (HPG)

5) The UK NCP received BIRD's complaint on 24 April 2018. It alleged that in the course of organising and/or sponsoring the Royal Windsor Horse Show (RWHS), that HPG and two other companies acted inconsistently with the General Policies (II) and Human Rights (IV) sections of the OECD Guidelines for Multinational Enterprises (the Guidelines) and are linked to human rights abuses by their business relationships with the Bahraini authorities. It was alleged that as a consequence of the above, the companies had failed to investigate and carry out adequate due diligence in relation to human rights.

6) The complainant requested the UK NCP's good offices to supervise a negotiated settlement of this complaint, the goal of which was to ensure the companies would put in place adequate human rights policies, a plan for the carrying out of effective due diligence and relevant stakeholder engagement in relation to future events.

7) HPG responded on 24 May 2018 and did not accept the allegations. In their response to the complaint, HPG stated that they should not be held responsible for events that take place outside of the RWHS itself. HPG stated that it is not a 'multinational enterprise' as intended within the

Guidelines. In its opinion, the Guidelines do not apply to HPG.

UK NCP process in this complaint

Initial Assessment

8) The UK NCP noted that HPG is a small company. The Guidelines indicate that human rights due diligence should be proportionate to a company's size, the nature and context of its operations, as well as the severity of the risks related to adverse human rights impacts.

9) The UK NCP rejected aspects of the complaint related to two other companies.

10) For more information, the Initial Assessment was published on 8 November 2018 see the [NCP case page \(https://www.gov.uk/government/publications/bird-complaint-to-uk-ncp-about-hpower-group-limited-hpg-company-a-and-company-b\)](https://www.gov.uk/government/publications/bird-complaint-to-uk-ncp-about-hpower-group-limited-hpg-company-a-and-company-b)

11) The UK NCP's Initial Assessment accepted for further examination issues under the following provisions of the Guidelines.

Chapter II – General Policies

Enterprises should take fully into account established policies in the countries in which they operate, and consider the views of other stakeholders. In this regard:

A Enterprises should:

2) Respect the internationally recognised human rights of those affected by their activities.

7) Develop and apply effective self-regulatory practices and management systems that foster a relationship of confidence and mutual trust between enterprises and the societies in which they operate.

10) Carry out risk-based due diligence, for example by incorporating it into their enterprise risk management systems, to identify, prevent and mitigate actual and potential adverse impacts as described in paragraphs 11 and 12, and account for how these impacts are addressed. The nature and extent of due diligence depend on the circumstances of a particular situation.

11) Avoid causing or contributing to adverse impacts on matters covered by the Guidelines, through their own activities, and address such impacts when they occur.

12) Seek to prevent or mitigate an adverse impact where they have not contributed to that impact, when the impact is nevertheless directly linked to their operations, products or services by a business relationship. This is not intended to shift responsibility from the entity causing an adverse impact to the enterprise with which it has a business relationship.

Chapter IV – Human Rights

2) within the context of their activities, avoid causing or contributing to adverse human rights

impacts and address such impacts when they occur.

3) Seek ways to prevent and mitigate adverse human rights impacts that are directly linked to their business operations, products or services by a business relationship, even if they do not contribute to those impacts.

4) Have a policy commitment to respect human rights.

5) Carry out human rights due diligence as appropriate to their size, the nature and context of operations and the severity of the risks of adverse human rights impacts.

6) Provide for or co-operate through legitimate processes in the remediation of adverse human rights impacts where they identify that they have caused or contributed to these impacts.

Mediation

12) The UK NCP offered mediation and both parties accepted the offer. The UK NCP appointed Dr Karl Mackie to serve as mediator. The parties met together with the mediator in London on 10 October 2019. Further negotiations took place between the parties by correspondence and telephone over the following year. Outcome of the mediation

13) On 28th October 2020, the parties informed the NCP that they had reached an agreement. The agreement was in the form of a joint statement which can be found in Annex 1.

UK NCP Conclusions

14) The parties reached an agreement and this is recorded in their joint statement which can be found in Annex 1.

15) The NCP's report of the agreement in this Final Statement concludes the process and closes the complaint.

16) The NCP will not offer any further examination of the issues raised in the complaint.

17) A follow-up will be conducted in 6 months' time (June 2021). In the follow-up statement the UK NCP will review HPG's progress in adopting a human rights policy that it committed to in the joint statement.

Wider relevance

18) The UK NCP reminds UK businesses that the OECD Guidelines state that all multinational enterprises regardless of their size, sector, operational context, ownership and structure, should respect human rights wherever they operate. They should carry out human rights due diligence appropriate to their size, the nature and context of operations and the severity of the risks of adverse human rights impacts.

19) More guidance on how to do this is provided in the OECD Guidelines on Due Diligence for Responsible Business Conduct.

Annex 1:

PUBLIC STATEMENT FROM PARTIES: OECD MEDIATION OUTCOME

The Bahrain Institute for Rights and Democracy (“BIRD”) and The HPower Group Limited (“HPower”), the organizer of the Royal Windsor Horse Show, entered into mediation in order to discuss the matters raised by BIRD in its complaint under the OECD Guidelines for Multinational Enterprises (“Guidelines”) to the UK Government’s OECD National Contact Point. See here.

As a result of the mediation process and the dialogue thereby established, HPower has committed to adopting a human rights policy which reflects the standards provided for by the Guidelines, without prejudice to whether the Guidelines apply to HPower given its small size. Accordingly, HPower takes this opportunity to reaffirm its commitment to respect internationally recognised human rights.

BIRD and HPower have agreed that the mediation process has successfully settled matters between them.

Both parties would like to thank the NCP and mediator for their work on this matter.

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