

**COMPLAINT AGAINST HPOWER GROUP LIMITED, JAGUAR LAND ROVER AUTOMOTIVE
PLC AND ROLEX SA IN RESPECT OF VIOLATIONS OF THE 2011 OECD GUIDELINES FOR
MULTINATIONAL ENTERPRISES**

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MNEs: **HPower Group Limited (Company No. 05332261)**
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Guidelines for Multinational Enterprise**
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I. INTRODUCTION

Summary

1. The Bahrain Institute for Rights and Democracy (“**BIRD**”) complains to the National Contact Point (“**NCP**”) of the United Kingdom for the Organization for Economic Cooperation and Development (“**OECD**”) regarding violations of the 2011 OECD Guidelines for Multinational Enterprises (“**OECD Guidelines**”) by Hpower Group Limited (“**HPower**”), Jaguar Land Rover Automotive PLC (“**JLR**”) and Rolex SA (“**Rolex**”), the organisers and sponsors (respectively) of the Royal Windsor Horse Show.
2. In summary, on all available evidence, HPower, JLR and Rolex have failed to investigate and carry out adequate due diligence in relation to the human rights compatibility of the links between the Kingdom of Bahrain and the Royal Windsor Horse Show. It appears that this has arisen through their failure to promulgate adequate human rights due diligence policies, at least in the case of HPower and Rolex.
3. The Royal Windsor Horse Show is a prominent annual equestrian event taking place on the Windsor Estate, of which Her Majesty The Queen is a Patron. It began in 1943 and has since its inception enjoyed a close association with the British Royal Family.¹ The event is organised by HPower and enjoys prominent sponsorship by JLR and Rolex, as the “Principal Partner” and “Official Partner” of the event, respectively.
4. In recent years, the event has grown in its association with Bahrain. King Hamad of Bahrain has attended the Royal Windsor Horse Show on an annual basis since at least 2013, leading to numerous photo opportunities with Her Majesty The Queen. The Kingdom of Bahrain appears to provide financial support for the event, contributing to its costs and

¹<https://web.archive.org/web/20110605023749/http://www.royal.gov.uk/ThecurrentRoyalFamily/RoyalAnimals/Equestriansports/TheRoyalWindsorHorseShow.aspx>

profits. It sponsors four competitions at the event, including the centrepiece “King’s Cup”. The show also displays highly prominent signage associating it with the Kingdom of Bahrain.² Prince Nasser (the son of King Hamad and the Commander of the Royal Guard in Bahrain) has participated in the Royal Windsor Horse Show’s endurance races in past years.

5. HPower plays an important role in associating the show with Bahrain. It appears that, in organising the Royal Windsor Horse Show, it secures and negotiates the sponsorship of the Kingdom of Bahrain.
6. The association of the event with the Bahrain authorities provides them with a platform to demonstrate their standing on the world stage; allows them to associate closely with the Royal Family; and to present an image to the world of “business as usual” that is at odds with the reality of continuing human rights violations in the country.
7. We acknowledge that the event is a sporting occasion, but it does not operate in a vacuum. The decision to closely associate it with a government that is not part of the community of democratic nations, but instead one which responds with excessive force to those demonstrating in favour of democracy; prevents access to the UN Special Rapporteur for Torture, and which routinely jails prominent human rights activists such as Nabeel Rajab for the sending of a tweet,³ has inexorably placed the event within a human rights context that requires appropriate policy, due diligence and stakeholder engagement, of which there is little evidence.
8. Indeed, the event itself has also caused an increase in human rights violations in the

² See e.g. images at : <https://heelsdownmag.com/?p=8850> ; <http://www.thegaitpost.com/first-entries-announced-for-royal-windsor-horse-show-2017/> ; <https://www.sherenemelinda.co.uk/blogs/news/116466501-celebrating-the-queens-birthday-at-the-royal-windsor-horse-show-2016>

³ <https://www.amnesty.org/en/latest/news/2018/02/bahrain-shameful-attack-on-freedom-of-expression-as-nabeel-rajab-sentenced-to-five-years-in-prison-for-tweets/>

country. In 2017, while King Hamad was present at the Royal Windsor Horse Show, and on the day of the "King's Cup", the family members of a group of UK-based Bahraini activists were arbitrarily detained in Bahrain and questioned about proposed demonstrations by their relatives at the event. They had committed no crimes. They were held throughout the day. They were asked to call their relatives to dissuade them from taking any action. We understand that it was only at the end of the day, once the race had finished, that the Bahrain-based relatives were released. Other UK national demonstrators who did demonstrate were quickly prevented from doing so initially by Bahraini security officers (before handing them over to British security at the event), suggesting a close level of coordination at the event itself.⁴

9. Part 1 Chapters II and IV of the OECD Guidelines require the Respondents to avoid causing or contributing to adverse human rights impacts and to address such impacts when they occur; and to seek ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations by a business relationship, even if they do not contribute to those impacts themselves. The OECD Guidelines also impose substantial due diligence obligations on HPower, JLR and Rolex where their activities involve complicity in and commission of human rights abuses. At a minimum, they require an effective investigation; the involvement of stakeholders; and the gathering and testing of evidence. This has not occurred in this case.

10. Accordingly, we request the NCP's good offices to supervise a negotiated settlement of this complaint, whereby Hpower, JLR and Rolex put in place not only adequate human rights policies, but a plan for the carrying out of effective due diligence and stakeholder engagement in relation to future events, with the overarching aim of assisting as far as possible with protecting the human rights of Bahraini citizens.

⁴ <https://vimeo.com/217325233>

Urgency

11. The Royal Windsor Horse Show 2018 is due to take place from 9-13 May 2018.⁵ While the Complainant acknowledges that resolution of the complaint is unlikely to be possible within this timescale, it requests that the NCP consider communicating this complaint to HPower, JLR and Rolex on an expedited basis so that they might be able to respond before the event date. Discussions with the Respondents might be possible before 9 May 2018, and these would be welcomed by the Complainant.
12. The Complainant, along with other organisations and individuals,⁶ already sought to engage with HPower, JLR and Rolex in relation to last year's Royal Windsor Horse Show. However, no material changes in policy or practice have followed, nor has any further engagement with them or other Bahrain human rights organisations materialised in the run-up to this year's event as was hoped.
13. We are copying this complaint to HPower, JLR and Rolex with a request that they provide a response to the NCP as a matter of urgency.

II. PARTIES TO THE COMPLAINT

Complainant

14. BIRD is a non-profit human rights organisation based in London which promotes democratisation and human rights in Bahrain.⁷ BIRD works by engaging with victims of human rights abuse in Bahrain to provide them recourse to aid and justice. They engage with key international actors and governments to advocate for policies that support human rights in Bahrain. BIRD's mission is to promote human rights and effective

⁵ <https://www.rwhs.co.uk/>

⁶ https://www.reprieve.org.uk/wp-content/uploads/2017/05/2017_05_12_PUB-BIRD-Reprieve-joint-letter-to-Queen-re-Bahrain-Windsor-Horse-Show.pdf

⁷ <http://birdbh.org/>

accountability in Bahrain.

15. The Director of Advocacy at BIRD is Sayed Ahmed Alwadaei. Sayed protested King Hamad's attendance of the horse show in 2013 and was stripped of his citizenship two years later.⁸ Since March 2017, his mother-in-law, brother-in-law and his wife's cousin have been arrested, tortured and unfairly tried.⁹ His wife, Duaa Alwadaei has also been targeted and was recently sentenced in absentia to two months in prison in Bahrain.¹⁰ Their prosecution appears to be solely to punish Sayed for his protests and human rights campaigning. Human Rights Watch has described it as a "*cowardly attempt to break the resolve of an activist by attacking his family.*"¹¹

Multi-National Enterprise ("MNE")

16. The Respondents are all MNEs who support and stand to profit from, the Royal Windsor Horse Show.

HPower

17. The Royal Windsor Horse Show is organised by the HPower, a UK-registered events management company which is "*based in Windsor but work[s] worldwide*".¹² HPower creates and manages sporting, military and national commemorative and celebratory events all over the world, and specialises in large-scale televised consumer events. The events HPower has organised include International Horse Shows, National Commemorations, Her Majesty The Queen's 90th Birthday Celebration and many other prestigious Royal and Ceremonial

⁸ <https://www.independent.co.uk/news/world/middle-east/exiled-bahrain-activist-who-protested-at-windsor-horse-show-among-72-to-have-citizenship-revoked-10015919.html>

⁹ <http://birdbh.org/2018/03/bahrain-uk-based-activists-kin-sentenced-to-7-years-and-fined-now-serving-13-years-in-total/>

¹⁰ <https://www.theguardian.com/commentisfree/2018/mar/22/wife-jail-bahrain-why-wont-uk-act>

¹¹ <https://www.hrw.org/news/2017/03/06/bahrain-activists-family-targeted>

¹² <http://www.hpower.co.uk/hpower-projects/>

Events of enormous civic importance.

18. The purpose of the present complaint is not to prevent the organisation of such events, but to ensure that they take place with due regard to relevant human rights considerations in accordance with the OECD Guidelines. HPower operates not only in the UK, but has carried out state celebrations in countries such as Jordan and the UAE also.¹³
19. HPower describes its role in the Royal Windsor Horse Show as follows: “*The largest horse show in the country, which enjoys the close patronage of The Queen and The Duke of Edinburgh and hosts over 50,000 spectators annually. Project delivery demands discretion, empathy with environment, understanding of high level security issues, complex build and a robust wet weather plan. HPower provides a turnkey management (Marketing, Sales, Operations, Content, Creative). 100% of the risk lies with HPower and, therefore, we have a keen appreciation of the budget and sticking to it.*”¹⁴
20. HPower claims to have “*strong experience in identifying potential sponsors and developing and selling in sponsorship of an event*”. For example, in relation to the 2017 endurance event “*generously supported by The Kingdom of Bahrain*”, it claims to have “*run a turn-key operation on the event and delivered the Sponsorship*”.¹⁵ HPower has featured the King of Bahrain heavily in its promotional material.¹⁶
21. HPower also organises the Royal Windsor Endurance Ride, an associated event of the Royal Windsor Horse Show which is “*generously supported by The Kingdom of Bahrain*”.¹⁷
22. HPower does not have a published human rights policy.

¹³ <http://www.hpower.co.uk/hpower-projects/>

¹⁴ <http://www.hpower.co.uk/hpower-projects/royal-windsor-horse-show/>

¹⁵ Ibid.

¹⁶ <https://www.youtube.com/watch?v=1acKE1fywcg>

¹⁷ <http://www.hpower.co.uk/hpower-projects/royal-windsor-endurance/>

JLR

23. The Principal Partner of the Royal Windsor Horse Show is JLR, a multinational automotive company with its headquarters in Coventry.
24. According to JLR: *“We support some of the most prestigious equestrian events and venues in the world, including Royal Windsor Horse Show [...] Land Rover plays a vital operations role at all these events, transporting doctors, vets, course builders and officials so they can carry out their duties. This involves driving off-road across challenging terrain which requires the most versatile and capable SUV.”*¹⁸
25. Although not the subject of this complaint, it is understood that JLR exports vehicles to the Ministry of Interior of Bahrain. A military export application to Bahrain was made by JLR in 2010.¹⁹
26. JLR has a published human rights policy²⁰.

Rolex

27. Rolex, the *“most reputable company in the world”*, according to the Reputation Institute's 2018 annual rankings,²¹ is the only "Official Partner" of the event.²²
28. According to Rolex: *“The crown in equestrianism for over 50 years, Rolex is a major force at play, supporting the pinnacle of the sport. From top-level riders to iconic events, Rolex has cultivated a privileged relationship with this elite world.”*²³
29. The strong ties between Rolex and the Kingdom of Bahrain are evidenced by a 2017

¹⁸ <https://www.landrover.co.uk/experience-landrover/sponsorship/land-rover-equestrian.html>

¹⁹ <https://www.caat.org.uk/resources/mapping/organisation-tag/315>

²⁰ <https://www.jaguarlandrover.com/2016/code-conduct>

²¹ <https://www.reputationinstitute.com/global-reprtrak-100>

²² <https://www.rwhs.co.uk/sponsors/>

²³ <https://www.rolex.com/rolex-and-sports/equestrianism.html>

regional visit by Rolex's board chairman to Bahrain, during which he: *"hailed the kingdom's economic model and noted that his company considers Bahrain among the most important financial markets in the world and a key communication centre with neighbouring markets due to its unique features."*²⁴

30. Rolex does not have a published human rights policy.

III. JURISDICTIONAL ANALYSIS

31. The United Kingdom is a member of the OECD. According to Article I(1) of the Amendment of the Decision of the Council on the OECD Guidelines, NCPs may receive and consider OECD Complaints concerning MNEs within their territorial jurisdiction. Paragraph 4 of Chapter I OECD Guidelines recognises that multinational enterprises *"usually comprise companies or other entities established in more than one country and so linked that they may coordinate their operations in various ways."*

32. The Respondents are all MNEs operating in the UK which also engage in substantial commerce worldwide:

- a. HPower's business involves the organisation of large-scale events both inside the UK and worldwide which are broadcast globally;
- b. JLR manufactures vehicles in the UK, Slovakia, China and Austria; assembles vehicles in India; and has a regional business office in Brazil and markets and sells its products worldwide;²⁵
- c. Rolex was founded in the UK, has its current headquarters in Geneva, Switzerland,

²⁴ <http://bna.bh/portal/en/news/437654?date=2017-06-4>

²⁵ JLR Annual Report 2016/2017, pages 18-19.

relies on 4,000 watchmakers in more than 100 countries and markets and sells its products worldwide.²⁶

33. The Department for Business, Innovation, and Skills is the designated NCP for the United Kingdom. It may therefore consider the present complaint.

IV. COMPLAINANT'S GOOD FAITH PARTICIPATION IN OECD PROCEDURES

34. The OECD Guidelines require complainants to engage the complaint procedure in good faith.²⁷ They explain that "*good faith behaviour in this context means responding in a timely fashion, maintaining confidentiality where appropriate, refraining from misrepresenting the process and from threatening or taking reprisals against parties involved in the procedure, and genuinely engaging in the procedures with a view to finding a solution to the issues raised in accordance with the Guidelines.*"²⁸ The Complainant undertakes to respect these requirements and to adhere to any requirements that are agreed in relation to any mediation or other similar process that follows acceptance of the complaint.

V. INFORMAL ACTIONS TAKEN OUTSIDE OF THE OECD COMPLAINT PROCESS

35. Human rights groups, including but not limited to the Complainant, attempted to engage with HPower and JLR before last year's horse show regarding the human rights compatibility of links between King Hamad of Bahrain and the Royal Windsor Horse Show.

36. On 11 May 2017, a group of NGOs, including the Complainant and Reprive, wrote letters to

²⁶ <https://www.forbes.com/companies/rolex/>

²⁷ OECD, *Commentary on the Implementation Procedures of the OECD Guidelines for Multinational Enterprises*, 2011, <http://www.oecd.org/daf/inv/mne/48004323.pdf>.

²⁸ *Ibid.*

Her Majesty The Queen, HPower and JLR urging that ties be severed between the horse show and the Kingdom of Bahrain until the adoption of strong ethical commitments preventing states, companies and individuals linked to human rights abuses from involvement with the horse show (see **Appendices 1, 2 and 3**). The letters stated:

“King Hamad bin Isa Al Khalifa of Bahrain, who sponsors four events in the show, is directly involved in the serious deterioration in the human rights situation in Bahrain that has taken place over the past year. Prince Nasser is also a member of the ruling family and is implicated in the human rights situation there. The Kingdom of Bahrain uses the prestige of the Royal Windsor Horse Show to whitewash its human rights abuses, and the close relations they enjoy with the horse show and the royal family are a source of considerable reputational risk to both the Royal Windsor Horse Show and Buckingham Palace.”

37. We are not aware of a response from JLR to this letter.

38. On 11 May 2017, BIRD received a response from the General Counsel of HPower (see **Appendix 4**), noting the contents of the letter and stating: *“Please note that The Royal Windsor Horse Show is a sporting event enjoyed by thousands of spectators and competitors, drawn from across the globe. Thank you for making us aware of your views which will be brought to the attention of and considered by, the organisers.”* It did not offer to undertake any further engagement with BIRD, to investigate BIRD's concerns, to undertake human rights due diligence, or to promulgate a human rights policy to govern such decisions in the future. There appears to have been no change in its behaviour as a result.

39. BIRD has not written to Rolex in relation to the Royal Windsor Horse Show, but understands its approach to be one of disclaiming responsibility for human rights impacts of events which it is a sponsor, exemplified in its failure to publish a human rights or due diligence policy in

the face of complaints regarding its supply chain.²⁹

VI. **FORMAL ACTIONS TAKEN OUTSIDE OF THE OECD COMPLAINT PROCESS**

40. The Complainant is not involved with and does not intend any formal parallel proceedings concerning the Respondents' involvement with the Royal Windsor Horse Show. However, as a campaigning organisation dedicated to raising awareness of the human rights violations in Bahrain, the Complainant will in due course publicise the present complaint. Such publication is not incompatible with, and is not intended to constitute any departure from, the good faith requirement.

VII. **ALLEGED HUMAN RIGHTS VIOLATIONS**

Country Conditions

41. The Kingdom of Bahrain is a hereditary monarchy. Under the constitution, the King is the Head of State and is responsible for appointing the Prime Minister, all senior ministers and councils responsible for defence and the judiciary. It is consistently classed as 'not free' in Freedom House's annual global survey.³⁰

42. Bahrain has been in a state of political unrest since 14 February 2011, when protesters numbering in the many tens of thousands began peaceful demonstrations for greater popular representation in the country's governance and greater respect for human rights by Bahraini authorities. A smaller group of demonstrators also took to the streets at this time in

²⁹ <https://www.business-humanrights.org/en/rolex>

³⁰ Freedom House, *Freedom in the World 2018*, <https://freedomhouse.org/report/freedom-world/2018/bahrain>.

support of the Bahraini regime.³¹ The Bahrain government took no action in response to pro-regime demonstrations, but reacted strongly to pro-democracy demonstrators. The initial response was marked by systematic violence leading to numerous deaths and mass arrests, although in the face of international pressure it permitted some protests to continue in February 2011.³²

43. In March 2011, however, government security forces violently suppressed the pro-democracy protest movement.³³ To facilitate this, a Royal Decree was made on 15 March 2011 declaring a state of 'national safety', curtailing rights.³⁴ This lasted until 1 June 2011.³⁵ The excessive use of force led to the death of more protesters, and thousands of Bahrainis were injured.³⁶ Thereafter, the government targeted persons that were most actively involved in the protest movement and higher profile participants, including several athletes including football players.³⁷ Hundreds of people were subjected to enforced disappearance, arbitrary detention, and torture.³⁸ Many of these people were eventually convicted in military and civilian courts under charges of criminal conspiracy and inciting the overthrow of the regime.³⁹

44. Since 2011, the human rights situation in Bahrain has shown little sign of improvement. The government has passed a series of laws curtailing the rights to expression and assembly.⁴⁰

³¹ See e.g. Al-Jazeera, *Bahrain Protest Continues*, 21 February 2011, <http://www.aljazeera.com/news/middleeast/2011/02/2011220211947585788.html>.

³² Bahrain Independent Commission of Inquiry, Report of the Bahrain Independent Commission of Inquiry (BICI Report), 2011, para. 276, <http://www.bici.org.bh/BICIreportEN.pdf>.

³³ BICI Report, para. 1693.

³⁴ BICI Report, para. 126.

³⁵ BICI Report, para. 126.

³⁶ BICI Report, para. 1703.

³⁷ Al Jazeera, *Bahrain Cracks Down on Protesting Footballers*, 15 April 2011, <http://www.aljazeera.com/indepth/opinion/2011/04/2011413132952273777.html>.

³⁸ BICI Report, para. 1693.

³⁹ BICI Report, para. 1705.

⁴⁰ CNN, *New Law: Insult Bahrain's King, Get Thrown in Jail*, 6 February 2014, <http://edition.cnn.com/2014/02/06/world/middleeast/bahrain-new-law/>.

Allegations continue to emerge of forced disappearances, extrajudicial killing and torture.⁴¹ These human rights violations have been well-documented. A number of international non-governmental organizations and foreign governments have criticised the Government of Bahrain for its suppression of free speech and freedom of assembly, arbitrary detention and enforced disappearance, the torture of detainees, and extrajudicial killing. They emphasise that such breaches have arisen systematically, signalling a deliberate campaign of suppression of the pro-democracy movement.

45. In 2011, in response to international pressure, the Bahrain government commissioned an independent inquiry into the abuses that occurred in the immediate aftermath of the start of the protests in 2011, which reported in November 2011. It concluded that security forces had used excessive force against peaceful protesters, and that the government had arbitrarily arrested, tortured, ill-treated, and denied them fair trials. Progress towards the implementation of the report's recommendations remains very slow.

46. In its World Report 2015,⁴² Human Rights Watch maintained its serious concerns regarding the suppression of free speech in Bahrain, stating:

“Bahrain’s courts convicted and imprisoned peaceful dissenters and failed to hold officials accountable for torture and other serious rights violations. The high rate of successful prosecutions on vague terrorism charges, imposition of long prison sentences, and failure to address the security forces’ use of lethal and apparently disproportionate force all reflected the weakness of the justice system and its lack of independence.

Human rights activists and members of the political opposition continued to face arrest and prosecution, and the government invested itself with further powers to arbitrarily strip critics of their citizenship and the rights that attach to it.”

⁴¹ Human Rights Watch, “*The Blood of People who Don’t Cooperate*”: Continuing Torture and Mistreatment of Detainees in Bahrain, November 2015, <https://www.hrw.org/report/2015/11/22/blood-people-who-dont-cooperate/continuing-torture-and-mistreatment-detainees>.

⁴² Human Rights Watch, *World Report 2015: Bahrain: Events of 2014*, <https://www.hrw.org/world-report/2015/country-chapters/bahrain>.

47. These concerns are echoed by the US Department of State and numerous UN reports.

Forty-seven states, including the US and the United Kingdom, signed a joint statement initiated by Switzerland criticising Bahrain and calling for the release of political prisoners at the United Nations Human Rights Council in Geneva in June 2014.⁴³ In July 2015 the EU Parliament issued a strongly worded condemnation of the Bahrain authorities' human rights abuses.⁴⁴

48. In June 2016, Bahraini authorities dissolved the main political opposition group, al-Wifaq; jailed the country's leading human rights defender, Nabeel Rajab; charged a prominent human rights lawyer, Mohamed al-Tajer (the lawyer of the two men sentenced to death noted above), with offences that violate his right to free expression; further undermined media freedom by charging a prominent Bahraini journalist with working without a license; and harassed and prosecuted Shia clerics who peacefully protested the arbitrary revocation of the citizenship of Bahrain's most senior Shia cleric leader, Sheikh Isa Qassim.

49. In 2017, the human rights situation in Bahrain continued to worsen. According to Human Rights Watch:⁴⁵

"Authorities shut down the country's only independent newspaper and the leading secular-left opposition political society. The country's preeminent human rights defender remained in prison on speech charges. The government, ending a de facto moratorium on use of the death penalty, executed three people in January following unfair trials, despite their alleging that they had been tortured and their confessions coerced.

The government reversed two of the few substantive recommendations of the Bahrain Independent Commission of Inquiry (BICI) that it had previously implemented. In January, authorities restored arrest and investigation powers to the National Security Agency, despite

⁴³ http://www.adhrb.org/wp-content/uploads/2014/06/2014.06.10_Swiss_Joint_Statement_Bahrain-with-Argentina.pdf

⁴⁴ European Parliament, Urgency Resolution: *Bahrain, in particular the case of Nabeel Rajab*, July 2015, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P8-TA-2015-0279+0+DOC+PDF+V0//EN>.

⁴⁵ Human Rights Watch, *World Report 2018: Bahrain: Events of 2017*, <https://www.hrw.org/world-report/2018/country-chapters/bahrain>

its record of torture and abuse, and in April, King Hamad bin Isa Al Khalifa signed legislation authorizing trial of civilians before military courts.

Bahrain continued to deny access to special procedures of the Office of the UN High Commissioner for Human Rights, including the special rapporteur for torture. Authorities prevented dozens of rights advocates from traveling to Geneva ahead of Bahrain's third Universal Periodic Review (UPR) in May and the regular UN Human Rights Council (UNHRC) session in September."

"On October 30, a criminal court in Manama sentenced three relatives of human rights defender Sayed al-Wadaei to three years in prison on dubious terrorism-related charges, despite due process violations and allegations of ill-treatment and coerced confessions. Targeting family members to silence activists amounts to collective punishment."

50. Those concerns have continued into 2018, with the sentencing of the prominent human rights activist, Nabeel Rajab, to 5 years' imprisonment for sending tweets critical of the King of Bahrain.⁴⁶

51. The narrative of reform initially presented by the Bahrain authorities in the aftermath of the 2011 protests rings increasingly hollow. It is by now clear that no meaningful reform that permits the exercise of democratic rights will take place, and the use of torture, criminalisation of human rights defenders, the use of arbitrary detention – such as that imposed on the family members of UK-based Bahrain human rights defenders at the time of last year's Royal Windsor Horse Show (see below) – and the suppression of free speech and assembly will continue indefinitely. A more decisive response is thereby warranted from the international community and multi-national enterprises interacting with the Bahraini regime.

⁴⁶ <https://www.amnesty.org/en/latest/news/2018/02/bahrain-shameful-attack-on-freedom-of-expression-as-nabeel-rajab-sentenced-to-five-years-in-prison-for-tweets/>

Human Rights Concerns Relating to the Royal Windsor Horse Show 2017

52. The Royal Windsor Horse Show is very important in signalling Bahrain's acceptance by the international community and Britain in particular. It is a sporting occasion that extends links to Bahrain not simply as spectators, but as monarchy guests accorded special honours; as sponsors; and as important participants. The Bahraini authorities' sponsorship of the Royal Windsor Horse Show is a prominent one, as noted above. It is reflected in the central signage,⁴⁷ printed materials, sponsorship of key races⁴⁸ and the attendance of the King of Bahrain, who is provided with an opportunity to associate with Her Majesty The Queen at the event.⁴⁹

53. The importance of the event to Bahrain's reputation has been acknowledged by the King of Bahrain:

*"HM King Hamad asserted that participation in such international competitions reflects the developed level of the endurance sport in Bahrain as well as the kingdom's progress in various economic, trade, cultural and sport fields."*⁵⁰

54. During 2015's Royal Windsor Horse Show, King Hamad stated *"The participation in Royal Windsor Horse Show reflects deep-rooted historic relations as Bahrain and Britain celebrate the bicentennial of their bilateral ties"*⁵¹. Similarly, in the 2017 Royal Windsor Souvenir Programme Book, King Hamad of Bahrain stated *"Last year, the Kingdom of Bahrain celebrated the 200th year of its relations with the United Kingdom, and this fine Show reflects*

⁴⁷ See e.g. images at : <https://heelsdownmag.com/?p=8850> ; <http://www.thegaitpost.com/first-entries-announced-for-royal-windsor-horse-show-2017/> ; <https://www.sherenemelinda.co.uk/blogs/news/116466501-celebrating-the-queens-birthday-at-the-royal-windsor-horse-show-2016> <https://www.rwhs.co.uk/international-celebrations-royal-windsor/> ⁴⁹ Ibid.

⁴⁹ Ibid.

⁵⁰<https://www.bna.bh/portal/en/news/668744>. See also: <http://www.newsofbahrain.com/viewNews.php?ppld=587&TYPE=Posts&pid=21&MNU=2&SUB=1>

⁵¹ <http://bna.bh/portal/en/news/617978?date=2014-05-21>

our shared values and traditions and the deep-rooted love of horses in both countries. Our support embodies and embraces these mutual interests and that special relationship” (see Appendix 5).

55. The honours bestowed on the Bahraini authorities through their central role in the Royal Windsor Horse Show are therefore reiterated domestically to reaffirm the Bahraini regime’s (undemocratic) leadership of the country. The images it generates send a similar message internationally, and the veil of impunity in relation to its activities is fortified.
56. However, the human rights impact of the Royal Windsor Horse Show is not solely confined to the implicit seal of approval, unwitting as it may be, that it provides to the Bahrain authorities’ human right abuses. The event itself has also led to human rights abuses in both Bahrain and the UK associated with freedom of protest and the right to liberty, as the Bahrain government seeks to forestall and suppress protest around the time of the race.
57. King Hamad of Bahrain was present at the Royal Windsor Horse Show from 12-14 May 2017. During that time, two groups of activists carried out protests. As a result, family members in Bahrain were summoned, detained at Muharraq Police Station and threatened.⁵² This occurred at 9am (UK time) before the protesters left London on 13 May 2017, and they were only released at 6.30pm after their return from the Royal Winsor Horse Show. The family members were instructed to call the activists in the UK, to tell them not to protest, delate their messages about the protest on social media and apologise to the King of Bahrain. On at least two occasions, a telephone call was made to a protestor by the police chief in Bahrain telling him that his father in Bahrain would be held responsible for any actions he carried out.

⁵² <https://apnews.com/72715e9367524b0dba16abe98d694fd4/Activist:-3-detained-in-Bahrain-over-UK-horse-show-protests> and <https://www.independent.ie/world-news/three-detained-in-bahrain-over-windsor-horse-show-protests-35711172.html>

58. A second group of protestors carried out a peaceful protest and were forced to stop by Bahraini security officials, who followed and photographed protesters through the horse showground; tore banners from the activists' hands and handed them to UK personnel.⁵³
59. It is understood that Bahraini intelligence officers were at the event and coordinating with event security and trailed activists and a British freelance journalist home.
60. Eyewitnesses on the ground described the security measures taken as "excessive" for a sport event.
61. It is clear that such incidents, in clear violation of rights to freedom of association and protest and the right to liberty, are very likely to occur in the future if the Royal Windsor Horse Show maintains its close association with the Bahrain government. This is not to acknowledge that sensible precautions cannot be taken at an event to ensure the safety of participants and spectators, but the use of arbitrary detention in Bahrain to support such policing clearly links the event to abuses in Bahrain and demonstrates the importance accorded to the event by the Bahraini authorities that have been clearly identified as serious human rights violators by international monitors. There is no evidence that the Respondents have carried out due diligence and stakeholder engagement to ensure that this does not take place.

VIII. STATUS IN INTERNATIONAL LAW OF HUMAN RIGHTS VIOLATIONS

62. See section VII above for a factual summary of the incidents occurring in Bahrain which engage the Respondents' responsibilities under the OECD Guidelines. For the avoidance of doubt, these constitute human rights violations in international law, as we briefly summarise below.

⁵³ <https://vimeo.com/217325233>

63. Article 19 of the International Covenant on Civil and Political Rights (ICCPR), to which Bahrain is a party, protects the right to free expression. Although Article 19(3)(d) allows governments to proportionately restrict these rights in the interest of national security, this does not extend to the criminalisation and torture of peaceful pro-democracy protesters. In particular, UN HR Committee General Comment No. 34 explains that “*Paragraph 3 may never be invoked as a justification for the muzzling of any advocacy multi-party democracy, democratic tenets and human rights.*”⁵⁴
64. Article 9(1) of the ICCPR prohibits arbitrary detention, while Article 9(3) states that persons arrested must promptly be brought before a judge or officer bound by law. Article 7 prohibits the use of torture. Extrajudicial killing is prohibited by Article 6 of the ICCPR.
65. The death penalty is prohibited by Articles 2 and 3 of the ECHR (as qualified by Additional Protocol and in *Al-Saadoon v United Kingdom*). Opposition to the death penalty is also a priority of the UK Foreign Office's human rights work.⁵⁵ In 2017, the Bahraini state ended a moratorium on the death penalty. On 15 January 2017, following King Hamad's signing of their death warrants, the Government of Bahrain executed three men: Sami Mushaima, Ali Al-Singace, and Abbas Al-Sameea. These were the first executions of Bahraini nationals since 1996 (albeit their citizenship had been stripped beforehand). They were charged with the murder of three police officers. However, there were serious allegations that the men had been tortured and subjected to an unfair trial. The Foreign Secretary reiterated his objection to the use of the death penalty in a statement, in which he stated that he had “*raised the issue with the Bahraini government.*” The UN Office of the High Commissioner for Human Rights said it was “*appalled*”, citing their alleged torture in custody and the fact

⁵⁴ UN Human Rights Committee, *General Comment No. 34*, 2011, <http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>.

⁵⁵ <https://blogs.fco.gov.uk/baronessanelay/2015/08/04/fco-abolition-of-the-death-penalty-remains-high-priority/>

that “*their lawyers were not given access to all the hearings against them nor allowed to cross-examine prosecution witnesses during court hearings.*” The UN Special Rapporteur on extrajudicial, summary or arbitrary executions declared the executions “*extrajudicial killings.*”

XIII. RELEVANT REQUIREMENTS OF THE 2011 OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

66. Chapter II of the OECD Guidelines sets out General Policies to which MNEs must adhere.

At a minimum, they must [emphasis added]:

“2. Respect the internationally recognized 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.”

67. Chapter IV of the OECD Guidelines sets out additional human rights-related requirements:

“States have the duty to protect human rights. Enterprises should, within the framework of internationally recognised human rights, the international human rights obligations of the countries in which they operate as well as relevant domestic laws and regulations:

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.”

68. The OECD Guideline requirements should be read as reflecting the United Nations Guiding Principles for Business and Human Rights (“**UNGP**”), which further develop the standards by

which a business may perform adequate due diligence in the context of human rights.

According to UNGP 17 (emphasis added):

“In order to identify, prevent, mitigate, and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed. Human rights due diligence:

- a) should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships;*
- b) Will vary in complexity with the size of the business enterprise, the risk of severe human rights impacts, and the nature and context of its operations;*
- c) Should be ongoing, recognizing that human rights risks may change over time as the business enterprise’s operations and operating context evolve.”*

69. UNGP 18 goes on to state:

“In order to gauge human rights risks, business enterprises should identify and assess and actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of their business relationships. This process should:

- a) Draw on internal and/or independent external human rights expertise;*
- b) Involve meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the business enterprise and the nature and context of the operation.”*

70. These requirements are then developed further in standard-setting guides to corporate human rights due diligence, such as the International Finance Corporation’s Guide to Human Rights Impact Assessment and Management.⁵⁶ It directs:

- a. the use of ‘cross-functional teams’ to assess human rights issues, to provide differing views and avoid ‘siloiing’ of information (p.21);
- b. identification of the relevant legal standards including the human rights legal

⁵⁶ International Business Leaders Forum and International Finance Corporation, *Guide to Human Rights Impact Assessment and Management (HRIAM)*, 2010, <https://www.unglobalcompact.org/library/25>

framework (pp.25-26);

- c. understanding of the country of operation and its human rights profile (pp.25,29-32);
- d. engagement with identified stakeholders including vulnerable groups, such as the victims in this case (pp.35-43);
- e. a detailed assessment of human rights risks and impacts, including any ‘unintended consequences’ (pp.45-46); and
- f. sets out the criteria for mitigation action plans and evaluation, as part of an investigation (pp.48-59).

71. Other guides, such as that of the UK Foreign Office, make clear the obligation on MNEs to implement “*grievance mechanisms which are transparent, equitable and predictable, to enable the remediation of any adverse human rights impacts they cause or to which they contribute.*”⁵⁷

72. It is clear, therefore, that the due diligence obligations of HPower, JLR and Rolex extend to the involvement of external stakeholders in the process; that the process should be communicated publicly; that the anxiousness of the scrutiny should correspond to the seriousness of the underlying human rights violations; and that these obligations were, and are, ongoing ones. We submit below that the Respondents have failed to comply with these obligations.

XII. HUMAN RIGHTS POLICIES OF THE MNEs

73. The JLR Corporate Policy on Human Rights provides as follows:

⁵⁷ Her Majesty’s Government, *Good Business: Implementing the UN Guiding Principles on Business and Human Rights*, 2012, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/236901/BHR_Action_Plan_-_final_online_version_1_.pdf.

“It is JLR’s policy to comply with all laws, rules and regulations governing human rights in the territories in which JLR operates. Any breach of this Policy will be regarded as a serious matter and is likely to result in disciplinary action, dismissal or deselection.

This policy applies to all JLR officers, Directors and employees (collectively JLR personnel), together with all suppliers of goods and services or any other persons / organisations acting on JLR’s behalf or engaging in business with JLR [...]

JLR expects human rights to be respected in all our worldwide operations and by our business partners. Our key principles include:

- *JLR does not knowingly engage with or deal with any business involved in slavery, human trafficking or other human rights abuses [...]*

JLR undertakes targeted due diligence on third party business partners to assess the risk of human rights abuses occurring in JLR’s supply chain. JLR also reserves the contractual right to conduct audits of suppliers and / or to ask suppliers to submit third-party assessment or certification of compliance. Supply chain partners found to have human rights abuses within their operations may be deselected’⁵⁸

74. In addition, JLR’s Sustainability Full Report provides: *“Our Human Rights Policy specifically addresses the issues of slavery, human trafficking, forced labour and child labour, and upholds the right to freedom of association.”⁵⁹ [emphasis added]*

75. Neither Rolex nor HPower have a publicly available human rights policy.

XIV. BREACHES OF THE OECD GUIDELINES

Failure To Carry Out Due Diligence/Promulgate A Human Rights Policy/Consider Impact

76. As set out above, the OECD Guidelines (Ch. II (7),(10); Ch. IV (4),(5)) require the Respondents to have carefully considered the human rights impact of the Royal Windsor Horse Show through the promulgation of a human rights policy, the carrying out of due

⁵⁸ <https://b.jcms-api.com/download/f2f3aae1-2091-486c-a4a1.../humanrights.pdf>

⁵⁹ https://www.landrover.co.uk/Images/55085_JLR_SustReport_Full%20Report_tcm295-371187.pdf

diligence and the anxious consideration of the impact of going ahead with the event and their involvement in it. They have been clearly on notice of such an impact from the events in previous years and the correspondence sent in 2017 (in the case of HPower and JLR).

77. This complaint is analogous to that in relation to Formula 1 in Bahrain,⁶⁰ in which the NCP accepted the complaint as regards a failure of due diligence and policy in very similar circumstances. As in that case, there is no evidence of due diligence having taken place, nor have organisations such as BIRD been approached for information as relevant stakeholders. HPower and Rolex also do not have publically available human rights policies.

78. The Complainant asks the Respondents to disclose all relevant due diligence, evidence of considerations of their human rights impact in Bahrain and applicable human rights policies (if any) of HPower and Rolex.

Respondents' Activities Cause/Contribute To/Are Directly Linked To Human Rights Violations

79. We have set out in section VII above how human rights violations are attributable to the Royal Windsor Horse Show. These violations have been caused or contributed to by the Respondents' activities – in particular the activities of HPower in organising the event incorporating prominent sponsorship from the Bahrain authorities. This represents a breach of Ch.II(11) and Ch.IV(2) of the OECD Guidelines.

80. Even where no such direct causal or contributory connection is found, the negative human rights impact is still directly linked to the Respondents' business arrangements in relation to the Royal Windsor Horse Show (including, in the case of HPower, the acceptance of

⁶⁰https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/440231/bis-15-305-final-statement-following-agreement-reached-in-complaint-from-adhrb-against-formula-one-group-companies.pdf

sponsorship from the King of Bahrain) in breach of Ch.II(12) and Ch.IV(3) OECD Guidelines.

81. As we have explained above, the Royal Windsor Horse Show arrangements give rise to these breaches in two ways: first by providing the Bahrain government with the means to rehabilitate itself internationally while continuing its human rights violations domestically (thus ensuring their continuation and impunity for past violations); and secondly by creating the circumstances in which further human rights violations occur in connection with the event itself.

82. The responsibility of the organisers and sponsors of the event arises in slightly different ways. In the case of HPower, as organiser of the event, it appears that it has made a commercial decision to accept substantial payment from the Bahrain government and/or its representatives, and it appears that it has not permitted human rights considerations to have any influence on that decision. Yet it cannot seriously be in doubt that they have been on sufficient notice of such matters since the beginning of the protests and the Government's crackdown in early 2011 and certainly the correspondence in 2017. But for their decision, there would be a notable diminution in the types of human rights abuses described above as associated with the event. Furthermore, there is no evidence of HPower promulgating a suitable human rights policy and carrying out appropriate due diligence, which would have enabled them to make a more informed judgment as to the appropriateness or otherwise of the prominence given to the Bahrain authorities in the event itself.

83. In the case of JLR and Rolex, as sponsors of the event, they too have chosen to sustain a commercial relationship with the Royal Windsor Horse Show despite the evidence we have outlined above. The payments that they make ensure the financial viability of the event. The display of their logos and their conduct at the event alongside signage associating the event

with the Bahrain government lends their support to it.

84. Sponsorship is both a form of advertising and a means of developing brand recognition and reputation through association with a particular event. However, sponsorship also carries influence. Brands influence how an event is perceived, a perception that is particularly damaging in the case of Bahrain: well-known companies and household names such as the Respondents are sending the signal that it is 'business as usual' regarding the Bahraini regime and that they wish for their brands to be associated with the country. Appropriate engagement with their human rights responsibilities under the OECD Guidelines would have led them to undertake appropriate due diligence before deciding whether to sponsor such an event. If necessary, they could have applied pressure to HPower, as the organisers to handle the matter appropriately. But it appears that they have not done that. In the case of Rolex, the absence of an appropriate human rights policy no doubt contributed to this.

85. Nor can it simply be claimed that 'sport transcends' such violations. We have explained above how the Royal Windsor Horse Show leads directly to foreseeable human rights violations.

86. The suggestion that the serious human rights abuses in Bahrain can be dismissed as 'political' problems does not bear scrutiny. A campaign for democracy is political only in the most elemental sense, and is protected by universal human rights instruments. The violations of the Bahrain government have been well documented by its own independent inquiry and by reputable international NGOs and by UN rapporteurs. As we have shown above, there is no serious programme of reform. The human rights situation in Bahrain is one of inertia and further deterioration, and the Respondents' actions must reflect this reality.

Evidential Threshold

87. The standard to be applied by the Respondents and the NCP in assessing this complaint is whether it is “bona fide”.⁶¹ For obvious reasons, the Complainant has had to rely on publicly available resources and has not had access to the Respondents’ records. The complaint is clearly “material” given the seriousness of the links between human rights situation in Bahrain and the Royal Windsor Horse Show, and the apparent failure of the Respondents to investigate these. As the evidence above shows, it is also a complaint that is clearly substantiated on the publicly available evidence. Given the evidence as to detentions in Bahrain linked to the Royal Windsor Horse Show, there is clearly a link between the enterprises’ activities and the issues raised. The question of whether the Respondents have in place appropriate human rights policies and have adequately carried out their due diligence processes are matters that merit considered discussion with the benefit of the good offices of the NCP.

XV. CONCLUSION

88. It is well known that the Bahrain Government has engaged in the suppression of pro-democracy protests since the events of February/March 2011 (and, indeed, beforehand). This alone is sufficient to engage the requirement in Ch. IV, para 2 of the OECD Guidelines that the Respondents avoid causing or contributing to human rights impacts. The Royal Windsor Horse Show has served as a focal point for those protests in the UK, and that has been met with corresponding security-related actions in Bahrain in violation of the human rights of the protestors and their families. And as the Bahrain Government wishes to demonstrate internationally that civil unrest is a thing of the past (despite the contrary

⁶¹ Commentary on the Implementation Procedures for the OECD Guidelines, para 25.

domestic reality), the event has become a causal factor in the perpetration of further human rights abuses.

89. The decision of HPower to continue organising the Royal Windsor Horse Show incorporating a prominent role for the Bahrain authorities is therefore directly causing, contributing to and/or directly connected to these human rights abuses. JLR and Rolex as sponsors share that responsibility due to their participation in the commercial arrangements that facilitate the event and by signalling support through their visible participation in the event. These failings all represent violations of their responsibilities arising under the OECD Guidelines. In the case of HPower and Rolex, they are compounded by their failure to promulgate adequate human rights policies and, for all Respondents, their failure to carry out adequate due diligence.

90. We therefore request that the NCP provide its good offices for the resolution of this complaint. We reiterate the Complainant's willingness to engage with the Respondents in relation to all relevant matters with the aim of securing an event that does result in a negative human rights impact in Bahrain.

11 April 2018

Appendix 1 – 11 May 2017, Letter from NGOs to Her Majesty The Queen

Appendix 2 – 11 May 2017, Letter from NGOs to JLR

Appendix 3 – 11 May 2017, Letter from NGOs to HPower

Appendix 4 – 11 May 2017, Letter from HPower to BIRD

Appendix 5 – 2017 Event Programme Extract