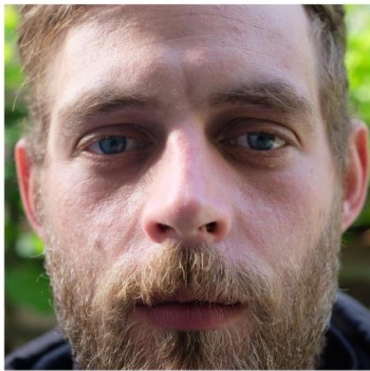


# ***The Sonic Dossier***

*Pathological Duplicity in the Pursuit of Profit*



*“The current advice is that regular testing is of no value.”*

-Sonic UK CEO David Byrne in a letter to couriers refusing them regular Covid-19 testing<sup>1</sup>  
20 March, 2020

*“Sonic’s Australian laboratory practices have performed almost 20 per cent of all COVID-19 tests in Australia. Widespread testing in the early stages of the pandemic has worked to control the spread of COVID-19 and is a key factor in Australia's world-leading position in percentage of positive cases identified.*

*A further expansion of testing capacity will consolidate Australia’s position, providing immediate and longterm benefits to the entire nation.”*

-Sonic Healthcare CEO Dr. Colin Goldschmidt in a press announcement<sup>2</sup>  
30 April, 2020

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<sup>1</sup> [https://twitter.com/IWGB\\_CLB/status/1242100589368086535?s=20](https://twitter.com/IWGB_CLB/status/1242100589368086535?s=20)

<sup>2</sup> [file:///C:/Users/User/Downloads/02230677%20\(1\).pdf](file:///C:/Users/User/Downloads/02230677%20(1).pdf)



**Colin Goldschmidt**  
 @colgold

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---



**Ivanka Trump** ✓  
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Wife, mother, sister, daughter. Advisor to POTUS on job creation + economic empowerment, workforce development & entrepreneurship. Personal Pg. Views are my own

---



**Melania Trump** ✓  
 @FLOTUS

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**Donald J. Trump** ✓  
 @realDonaldTrump

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45th President of the United States of America 🇺🇸

-The only 4 people Sonic Healthcare CEO Dr. Colin Goldschmidt follows on Twitter<sup>3</sup>

<sup>3</sup> <https://twitter.com/colgold/following>

*“Sonic engages with unions and other employee representative groups in a positive manner, and hasn’t experienced any significant industrial action in our 32-year history.”*

-Sonic Corporate Responsibility Report 2019



-Significant industrial action of Sonic UK couriers, led by IWGB official Alex Marshall  
23/24 May 2019



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## Introduction

1. This document is produced for Sonic Healthcare stakeholders. It sets out various issues of serious concern regarding Sonic's operations in the UK, including among other things, alleged breaches of UK employment laws and the European Convention on Human Rights, a pending health and safety investigation before the state enforcement body, widespread negative press coverage, and the public criticism of Sonic by various UK politicians, including at some of the most senior levels of the Labour Party.
2. The contents of this document should be read and considered with care, and indeed some stakeholders will be required by Sonic internal policies and/or by their broader fiduciary duties, to take certain actions upon reviewing these matters.
3. The dossier is produced by the Independent Workers' Union of Great Britain (IWGB)<sup>4</sup>. The IWGB is the leading trade union for low-paid and precarious workers in the UK, representing among others, outsourced migrant cleaners and security guards, Uber and other private hire drivers, foster care workers, and couriers. Crucially for present purposes, the IWGB represents the in-house couriers at The Doctors Laboratory (TDL), Sonic's UK subsidiary.
4. This dossier will first set out why Sonic Healthcare is responsible for the actions of its UK subsidiary. This will be followed by an exposition of the UK subsidiary's unlawful actions and the industrial strife which has characterised the past few years. Next, we will compare of Sonic holds itself out to the public and investors on the one hand, with how it operates on the other. Then we will conclude.

## Sonic Healthcare Limited Controls its UK Subsidiary

5. Sonic Healthcare Limited and its subsidiaries, collectively referred to as "Sonic", is an Australian healthcare multinational listed on the Australian Securities Exchange<sup>5</sup>. Sonic Healthcare Limited has subsidiaries in eight countries: Germany, Belgium, Australia, New Zealand, Switzerland, the USA, Ireland, and the UK. The UK subsidiary, which is called The Doctors Laboratory, shall for the sake of convenience and clarity be henceforth referred to as "Sonic UK"<sup>6</sup>.
6. Sonic is overseen by a Board of Directors, consisting of five independent directors and three executive directors<sup>7</sup>. The Chairman of the Board is Professor Mark Compton AM<sup>8</sup>,

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<sup>4</sup> For more on which, see: [iwgb.org.uk](http://iwgb.org.uk)

<sup>5</sup> SHL.AX

<sup>6</sup> Sonic UK is the largest private provider of pathology/clinical laboratory services in the country (see: *Concise Annual Report 2019*, [https://investors.sonichealthcare.com/FormBuilder/\\_Resource/\\_module/T8Ln\\_c4ibUqyFnnNe9zNRA/docs/Reports/AR/sonic-healthcare-limited-2019-annual-report-online.pdf](https://investors.sonichealthcare.com/FormBuilder/_Resource/_module/T8Ln_c4ibUqyFnnNe9zNRA/docs/Reports/AR/sonic-healthcare-limited-2019-annual-report-online.pdf), p11).

<sup>7</sup> See *Concise Annual Report 2019*, p3 and pp25-28.

<sup>8</sup> Professor Compton AM is a non-executive director.

and the Chief Executive Officer (CEO), who is also one of the executive directors on the Board, is Dr. Colin Goldschmidt<sup>9</sup>.

7. The Board in turn has three committees:

- a. The Audit Committee<sup>10</sup>;
- b. The Risk Management Committee<sup>11</sup>; and
- c. The Remuneration and Nomination Committee<sup>12</sup>.

8. The various Sonic subsidiaries are highly integrated into the global operation. Whilst Sonic presents its structure as a “federation”, whereby subsidiaries retain a certain amount of autonomy, the Directors’ Report contained in the *Concise Annual Report 2019* also states:

However, Sonic’s operations work in a collaborative way within the structure, via central executives and widespread inter-company communication, to achieve synergies and improved performance. Detailed benchmarking leading to best practice, group purchasing, IT, E-health, quality system sharing and centralisation of testing are all examples of continuous improvement activity within the Group.<sup>13</sup>

9. Various policies, in particular those related to labour, human rights, health and safety, and other matters which could impact upon reputation, are set at the global level. For example, Sonic’s Corporate Governance Statement states<sup>14</sup>:

Sonic’s Board and management are committed to governance which recognises that all aspects of the Group’s operations are conducted ethically, responsibly and with the highest standards of integrity. The Board has adopted practices and policies designed to achieve these aims. Sonic supports the ASX Corporate Governance Council Corporate Governance Principles and Recommendations

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<sup>9</sup> The remaining executive directors of the Board include: Christopher Wilks (Finance Director) and Dr Philip Dubois. The remaining non-executive directors include: Neville Mitchell, Lou Panaccio, Kate Spargo, and Dr Jane Wilson.

<sup>10</sup> This committee consists of: Neville Mitchell (Chair for FY 2020), Lou Panaccio, Professor Mark Compton AM, and Kate Spargo (see: *Concise Annual Report 2019*, p3 and p53).

<sup>11</sup> This committee consists of: Dr Jane Wilson (Chair), Dr Colin Goldschmidt, Neville Mitchell, and Lou Panaccio (see: *Concise Annual Report 2019*, p54).

<sup>12</sup> This committee consists of: Kate Spargo (Chair), Professor Mark Compton AM, Lou Panaccio, and Dr Jane Wilson (see: *Concise Annual Report 2019*, p54).

<sup>13</sup> See: p19. Also, the *Corporate Responsibility Report 2019*

([https://investors.sonichealthcare.com/FormBuilder/Resource/module/T8Ln\\_c4ibUqyFnnNe9zNRA/docs/CSR/Sonic-Corporate-Responsibility-Report\\_2019.pdf](https://investors.sonichealthcare.com/FormBuilder/Resource/module/T8Ln_c4ibUqyFnnNe9zNRA/docs/CSR/Sonic-Corporate-Responsibility-Report_2019.pdf)) at p4, appears to suggest that the autonomy of Sonic subsidiaries is restricted to medical issues, rather than business management more broadly (emphasis in the original):

We also employ a federated structure of management, where every practice has autonomous decision-making from a medical perspective, to ensure they continue to provide services in line with the expectations of their local communities.

It is the combination of these four ingredients – Medical Leadership, Core Values, Foundation Principles and Medical Sovereignty – that make us different, because it’s not *what* we do, it’s *how* we do it.

<sup>14</sup> See: *Concise Annual Report 2019*, p48



(‘the Recommendations’) in advancing good corporate governance, and has complied with the third edition during the 2019 financial year. For the 2020 financial year, Sonic intends to report against the fourth edition of the Corporate Governance Principles and Recommendations, which was released in February 2019. Sonic’s Board believes Sonic has been in compliance with the fourth edition from 1 July 2019. Sonic’s website ([www.sonichealthcare.com](http://www.sonichealthcare.com)) includes a Corporate Governance section which sets out the information required by the Recommendations, plus other relevant information, including copies of all Policies, Charters and Codes referred to in this report.

Sonic’s Code of Ethics (replaced from 1 July 2019 with Sonic’s Code of Conduct) and Core Values (listed below)<sup>15</sup> set out the fundamental principles that govern the way that all Sonic people conduct themselves. Sonic’s Core Values apply equally to every employee of Sonic and were formulated with significant input from Sonic’s staff. They have been embraced throughout the Group.

10. Further, Sonic asserts a unified approach on the company’s culture and values, and attributes its reputational merits and low staff turnover to this approach, as seen in the Directors’ Report in the *Concise Annual Report 2019*<sup>16</sup>:

Sonic’s Medical Leadership philosophy and federation structure have resulted in significant ‘brand’ differentiation in the market place. The Company’s operations are viewed as specialist medical practices, rather than as ‘businesses’. This market differentiation has not only fostered strong organic revenue growth over the years but has often made Sonic the preferred acquirer when laboratory or imaging practice founders and owners wish to realise the value of their practices without seeing their focus on the medical nature of the business lost to a more ‘corporatised’ acquirer. Similarly, hospital systems choose to partner with Sonic for laboratory services on the basis of Sonic’s culture. Sonic’s culture and structure have also served to attract and retain top pathologists, radiologists, scientific staff and managers, with staff turnover at this important senior level consistently at very low levels.

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<sup>15</sup> The Core Values (more on which below) are:

- Commit to Service Excellence: To willingly serve all those with whom we deal, with unsurpassed excellence.
- Treat each other with Respect & Honesty: To grow a workplace where trust, team spirit and equity are an integral part of everything we do.
- Demonstrate Responsibility & Accountability: To set an example, to take ownership of each situation to the best of our ability and to seek help when needed.
- Be Enthusiastic about Continuous Improvement: To never be complacent, to recognise limitations and opportunities for ourselves and processes, and to learn through these.
- Maintain Confidentiality: To keep all information pertaining to patients, as well as professional and commercial issues, in strict confidence

<sup>16</sup> See: p19

11. The Sonic corporate structure is clear that responsibility for the ethical behaviour, or lack thereof, of the entire group, lies squarely with the Board. This is seen from the following extracts of the Corporate Governance Statement<sup>17</sup>:

The Board of Directors is accountable to shareholders for the performance of the Company and the Group and is responsible for the corporate governance practices of the Group. The Board's principal objective is to increase shareholder value while ensuring that the Group's overall activities are properly managed.

Sonic's corporate governance practices provide the structure which enables the Board's principal objective to be achieved, whilst ensuring that the business and affairs of the Group are conducted ethically and in accordance with law.

The Board's overall responsibilities include:

...

- monitoring and ensuring the maintenance of adequate risk management identification, control and reporting mechanisms
- ensuring the business is conducted ethically and transparently

12. Similarly, the Audit and Risk Management Committees of Sonic's Board of Directors are specifically tasked with ensuring that "all Group companies are in compliance with laws and regulations relating to their activities"<sup>18</sup>.

13. The various Sonic subsidiaries are subject to detailed and regular oversight by the CEO and the Board, in part to determine the allocation of global Sonic resources, as seen in the *Concise Annual Report 2019*<sup>19</sup>:

The Group's Chief Executive Officer and the Board of Directors (the chief operating decision makers) review the Group's performance both by the nature of services provided and geographic region. Discrete financial information about each

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<sup>17</sup> See: *Concise Annual Report 2019*, p49. This is also seen in Sonic's *Board Charter*, under the heading "Role of the Board of Directors"

([https://investors.sonichealthcare.com/FormBuilder/Resource/module/T8Ln\\_c4ibUqyFnnNe9zNRA/file/SHL\\_BoardCharter.pdf](https://investors.sonichealthcare.com/FormBuilder/Resource/module/T8Ln_c4ibUqyFnnNe9zNRA/file/SHL_BoardCharter.pdf)), at p4:

- The Board of Directors is accountable to shareholders for the performance of the parent entity and the consolidated group and is responsible for the corporate governance practices of the group.
- The Board's principal objective is to increase shareholder value, in an enduring manner while ensuring that the group's overall activities are properly managed.
- Sonic's corporate governance practices underpin the structure enabling the Board's principal objective to be achieved, whilst ensuring that the business and affairs of the group are conducted ethically and in accordance with the law. ...

<sup>18</sup> See: *Concise Annual Report 2019*, p56

<sup>19</sup> See "Note 2: Segment Information", in the Notes to the Concise Financial Statements section, p69.

operating segment, is reported to the Chief Executive Officer and the Board of Directors on at least a monthly basis and is used to assess performance and determine the allocation of resources.

14. The top-down – i.e. global to national - governance structure is helpfully depicted in the *Corporate Responsibility Report 2019*<sup>20</sup>, reproduced below:



*Sonic governance structure depicted in the Corporate Responsibility Report 2019*

15. The dividing lines between subsidiary and parent company management structures become even more blurred when one considers that a Sonic subsidiary is not necessarily restricted to one country. For example, Sonic UK wholly owns or has a majority stake (either directly or indirectly) in no fewer than 24 subsidiaries in Switzerland<sup>21</sup>. Similarly,

<sup>20</sup> See: p45

21 Sonic UK has a minority stake in a further 6 companies in Switzerland, and one in the USA. See *Annual Report and Financial Statements for the Year Ended 30 June 2019 for The Doctors Laboratory* ([https://s3.eu-west-2.amazonaws.com/document-api-images-live.ch.gov.uk/docs/cRvQGluSPQYA\\_6vtWfgt2F1n1rxms2eSdDvql5TbXfE/application-pdf?X-Amz-Algorithm=AWS4-HMAC-SHA256&X-Amz-Content-Sha256=UNSIGNED-PAYLOAD&X-Amz-Credential=ASIAWRGBDBV3JVQZWNG6%2F20200521%2Feu-west-2%2Fs3%2Faws4\\_request&X-Amz-Date=20200521T093433Z&X-Amz-Expires=60&X-Amz-Security-Token=IQoJb3JpZ2UuX2VjEM7%2F%2F%2F%2F%2F%2F%2F%2F%2FwEaCWV1LXdlc3QtMiJGMEQCIH0qyBAWdjBLrbz1GVccppP0eLpHzK%2BP80bgKd%2FEZ5VLAiAd2SSA4AhvVnTOIjfalShqL3spG39ggNjsYbSKPJXECq0AwgmEAlaDDQ00TIyOTAzMjgyMiIMwEZAjCtpfblggH0zKpED4vp%2Bg1LdNzNhGZEDwRxtXnpqqXFCWt1NPH%2FHGYrYE2eVV8e10pTiOvQp%2F9z8YI3N7vvOy0ypdjV%2B%2FtVsxdd%2FRcYNCzsnYQlXj3EPRZoRVDJU%2F3gxHX%2FWdUj%2B2UWMvNZCzMTQYsv4btK3gKXKAvc5flqx8mNGqyJLYfkUqeQqCUF%2BDiZc2uy5dZg88A%2BPb%2FDNxlk5T5%2Fpj](https://s3.eu-west-2.amazonaws.com/document-api-images-live.ch.gov.uk/docs/cRvQGluSPQYA_6vtWfgt2F1n1rxms2eSdDvql5TbXfE/application-pdf?X-Amz-Algorithm=AWS4-HMAC-SHA256&X-Amz-Content-Sha256=UNSIGNED-PAYLOAD&X-Amz-Credential=ASIAWRGBDBV3JVQZWNG6%2F20200521%2Feu-west-2%2Fs3%2Faws4_request&X-Amz-Date=20200521T093433Z&X-Amz-Expires=60&X-Amz-Security-Token=IQoJb3JpZ2UuX2VjEM7%2F%2F%2F%2F%2F%2F%2F%2F%2F%2FwEaCWV1LXdlc3QtMiJGMEQCIH0qyBAWdjBLrbz1GVccppP0eLpHzK%2BP80bgKd%2FEZ5VLAiAd2SSA4AhvVnTOIjfalShqL3spG39ggNjsYbSKPJXECq0AwgmEAlaDDQ00TIyOTAzMjgyMiIMwEZAjCtpfblggH0zKpED4vp%2Bg1LdNzNhGZEDwRxtXnpqqXFCWt1NPH%2FHGYrYE2eVV8e10pTiOvQp%2F9z8YI3N7vvOy0ypdjV%2B%2FtVsxdd%2FRcYNCzsnYQlXj3EPRZoRVDJU%2F3gxHX%2FWdUj%2B2UWMvNZCzMTQYsv4btK3gKXKAvc5flqx8mNGqyJLYfkUqeQqCUF%2BDiZc2uy5dZg88A%2BPb%2FDNxlk5T5%2Fpj))

some of the reporting lines from Sonic subsidiaries into the parent company are organized by the function performed rather than by the country in which they operate, as seen (materially) in “Note 2: Segment Information” in the Notes to the Concise Financial Statements<sup>22</sup> (emphasis supplied):

The Group has the following reportable segments:

- i) Laboratory – Pathology/clinical laboratory services provided in Australia, New Zealand, the United Kingdom, the United States of America, Germany, Switzerland, Belgium and Ireland. **The geographic regions have been aggregated into one reportable segment as they provide similar services and have similar expected growth rates, cost structures, risks and return profiles.**
- ii) ...
- iii) ...

16. The Australian Accounting Standards Board (AASB)<sup>23</sup> defines the term “key management personnel” as<sup>24</sup>:

Those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly, including any director (whether executive or otherwise) of that entity.

17. The *Concise Annual Report 2019* states that CEO Dr Colin Goldschmidt and Finance Director Christopher Wilks oversee Sonic’s UK operations and are therefore the “key management personnel” (emphasis supplied)<sup>25</sup>:

The Sonic Group operates via a decentralised federated structure whereby the Chief Executive Officers of individual operating entities have delegated authority for their local operations. The Group’s Australian laboratory and imaging activities are coordinated and controlled through the Pathology Sonic Executive Committee

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[13PgJRT14A5lBpGjxW3d22VvKEzxy%2Fjf1e15lpqcZStxAb8xwobyImAxHo3Up3ioarCKdysA2J7bByRLRnWa3Phmx2ioAdCgNvQ46Sq5o1vqE2FYUYErr7Ju0IEVbJMG0etfLpZCx8ZpzzqZ%2Bqf4%2FX5PXR2GwB4evjQ%2FW5ZHfKJwB0cd9R5JQfYAdJypMYCmh%2BkLXMV%2Bow%2F1sfFaEJzSTggukZPltThSgiW9w9j39WJ5pfYr7wp4Ux7MUVofsLFSpON3Yo1WXMJvrMpszF0QQXprRk74x19L8%2Bij9oCZeE64BuvUwZwc2QfqlchvbPMGMbeML0jWH30UUw056Y9gU67AGP2nOcfIPJ%2FsaIoFX%2Fv4avPf7rnOYRtozg5YIG%2BDCLLoO%2FQ72RMoap2QsdxdxUhPRECP242oxi%2BmyTQChOhq0Molhg59Q9%2Bf%2FiVNYh5po8LkfUXp2Ma7%2Fzj1hud6i7TtMZJH1FCoMImYrAvj2EADG1leC5XBO5MNMuLr1bPL95WLKSyOVL4pFrUHC4rJ0%2FRB%2B%2F%2FfExZhEHsC00yGZEMz3IHxgDY06Ya5SbmbVrsVuUcGH0VIYHk7EGryH5kkjpGTB%2BDiliSDu6Os9LAqZjv2m%2BEIuchdi1A6Dw5L2camcR9BrhhRdTgRN8pyKOG%3D%3D&X-Amz-SignedHeaders=host&X-Amz-Signature=b89f35854eb717f7aed4d240031d44c5db4743b4307a589f938a80bd827ccd84\)](https://www.aasb.gov.au/admin/file/content102/c3/AASB_Glossary_30_September_2015.pdf), pp36-41

<sup>22</sup> See: *Concise Annual Report 2019*, p69

<sup>23</sup> See: <https://aasb.gov.au/>

<sup>24</sup> See: AASB124.9 in *Glossary of Defined Terms*, p33

([https://www.aasb.gov.au/admin/file/content102/c3/AASB\\_Glossary\\_30\\_September\\_2015.pdf](https://www.aasb.gov.au/admin/file/content102/c3/AASB_Glossary_30_September_2015.pdf))

<sup>25</sup> See: p32

and the Imaging Sonic Executive Committee (PSEC and ISEC respectively). Dr C.S. Goldschmidt is a member of both PSEC and ISEC, Dr P.J. Dubois is Chairman of ISEC and CEO of the Imaging division, and C.D. Wilks is a member of both PSEC and ISEC. A German Sonic Executive Committee (GSEC) coordinates the Group's German operations. Dr C.S. Goldschmidt is Chairman of GSEC and C.D. Wilks is also a member. **Dr C.S. Goldschmidt and C.D. Wilks also oversee Sonic's businesses in the USA, the UK, Ireland, Switzerland, Belgium and New Zealand, and the medical centre and occupational health businesses in Australia.**

**The Board therefore considers that the Executive Directors and the Non-executive Directors are the Group's 'key management personnel'.**

18. The responsibility of the Sonic CEO and Finance Director (and by extension the Board) is also reflected in the legal structure of Sonic UK in the following ways:
- a. Sonic UK is a wholly owned subsidiary of Sonic<sup>26</sup>;
  - b. Sonic is the ultimate controlling party of Sonic UK<sup>27</sup>;
  - c. Both CEO Goldschmidt and Finance Director Wilks are Directors of Sonic UK<sup>28</sup>;
  - d. Directors are responsible, pursuant to UK company law, for preparing the annual report and financial statements, keeping adequate accounting records, safeguarding the assets of the company, "taking reasonable steps for the prevention and detection of fraud and other irregularities"<sup>29</sup>;
  - e. Sonic UK has exempted itself from providing certain financial information in its annual report on the basis that this information could be found in Sonic's annual report<sup>30</sup>;

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<sup>26</sup> See: *Annual Report and Financial Statements for the Year Ended 30 June 2019 for The Doctors Laboratory*, p46

<sup>27</sup> See: *Annual Report and Financial Statements for the Year Ended 30 June 2019 for The Doctors Laboratory*, p47:

#### **CONTROLLING PARTIES**

At 30 June 2019, the Company's immediate parent is Sonic Healthcare Holding Company and the ultimate parent company and ultimate controlling party, and the parent company of both the largest and smallest group, preparing consolidated financial statements, of which the Company is a member, was Sonic Healthcare Limited, a company incorporated in Australia.

<sup>28</sup> See: *Annual Report and Financial Statements for the Year Ended 30 June 2019 for The Doctors Laboratory*, p3

<sup>29</sup> See: *Annual Report and Financial Statements for the Year Ended 30 June 2019 for The Doctors Laboratory*, pp6-7

<sup>30</sup> See: *Annual Report and Financial Statements for the Year Ended 30 June 2019 for The Doctors Laboratory*, p16:

The Company is exempt by virtue of section 401 of the Companies Act 2006 from the requirement to prepare Group financial statements on the grounds that it is a wholly owned subsidiary undertaking of the Sonic Healthcare Limited Group, a company incorporated in Australia, and its subsidiary undertakings are included by full consolidation in the consolidated financial statements of that undertaking. These financial statements represent information about the Company as an individual undertaking and not about its Group.

- f. Sonic involves itself in highly detailed and specific aspects of managing Sonic UK, such as implementing new accounting standards for leases<sup>31</sup>; and
  - g. Certain employees of Sonic UK are compensated by way of shares in Sonic<sup>32</sup>.
19. Sonic is a large and profitable company, reporting a record net profit of A\$ 550 million in FY 2019 on revenues of A\$ 6.2 billion<sup>33</sup>. 2019 was a particularly good year for the company, as articulated by CEO Goldschmidt in the closing paragraph of his CEO Report in the *Concise Annual Report 2019*<sup>34</sup>:

To summarise, the Company is in a healthy, strong and stable position, with growth momentum and significant opportunities ahead. We operate in eight countries, and employ 37,000 people. Our people are very actively delivering highest quality, essential healthcare services to 120 million patients each year. Our global team of more than 1,000 pathologists, along with our 200 radiologists, 2,000-plus partner general practitioners and thousands of qualified scientists and technical staff, underpin and enrich our global healthcare offering. Sonic's Medical Leadership culture differentiates Sonic in our markets, attracting referrals to our practices, making us an employer of choice, and attracting like-minded organisations for acquisition, joint ventures and laboratory outsource contracting. The talent and passion of our people are the driving force behind the continuous improvements in our businesses and to the overall success of Sonic Healthcare and I thank all Sonic staff for their dedication and the positive energy they bring to the Company.

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<sup>31</sup> See: *Annual Report and Financial Statements for the Year Ended 30 June 2019 for The Doctors Laboratory*, p18, on the implementation of IFRS 16:

A team of senior finance staff of the ultimate parent company of the Group are project managing the implementation of this standard. Work completed so far includes understanding the current systems that the Group has for managing lease data, reviewing contracts for evidence of embedded lease arrangements, policy development, modelling the potential financial impacts of the standard using current lease information, and selecting a third party lease management software system for IFRS 16 compliance. Work is well advanced on system implementation and business processes. Note that the application of IFRS 16 will not impact cash flows.

<sup>32</sup> See: *Annual Report and Financial Statements for the Year Ended 30 June 2019 for The Doctors Laboratory*, p24:

The Company's ultimate parent operates an equity-settled share based compensation plan under which certain employees of the Company are awarded share options convertible into ordinary shares of the ultimate parent company.

<sup>33</sup> See *Concise Annual Report 2019*, p2

<sup>34</sup> See: p6



20. Sonic UK was a big part of that success story, earning a whopping UK £28,267,000 in profits<sup>35</sup>. CEO Goldschmidt predicted a rosy future in times to come:

Other milestones in the year included ... winning the cervical screening contract to provide HPV testing for the population of London, and positioning ourselves well in the bidding processes for other major National Health Service laboratory contracts in the UK.<sup>36</sup>

21. The Directors' Report in the *Concise Annual Report 2019*<sup>37</sup> also emphasized the positive future prospects for Sonic UK:

In the UK, acquisitions are unlikely, as the market is dominated by the National Health Service (NHS) and Sonic is by far the largest private participant. However, substantial growth opportunities exist from potential NHS outsourcing contracts, including current bidding processes for contracts, with potential revenues totalling more than £150M per annum.

22. The good year enjoyed by both Sonic UK and the Sonic group more generally was generously reflected in the remuneration packages of the two Executive Directors responsible for UK operations, as well as in the salary of Chairman of the Board<sup>38</sup>:

- a. CEO Goldschmidt received A\$ 5,538,541 in total cash remuneration in the 12 months to 30 June, 2019;
- b. Finance Director Wilks received A\$ 2,455,880 in the same period; and
- c. Chairman Compton received A\$ 425,000 in the same period.

23. Indeed, in apportioning the outsized remuneration of the CEO and Finance Director, Sonic's Remuneration and Nomination Committee took explicit account of the fact that these two individuals managed complex overseas operations (emphasis supplied)<sup>39</sup>:

The Committee has determined that Total Target Remuneration (TTR) for Dr C.S. Goldschmidt should be positioned around the 75th percentile of the comparator groups and Total Target Remuneration for C.D. Wilks should be positioned around the 80th percentile of the comparator groups, reflecting the broader than usual role he performs as Finance Director and CFO. In making these determinations, the Committee considered Sonic's market capitalisation, the complexity of its operations (**including the significant percentage of revenue sourced offshore**

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<sup>35</sup> See: *Annual Report and Financial Statements for the Year Ended 30 June 2019 for The Doctors Laboratory*, p4. Similarly, Sonic UK achieved organic growth of 9% in FY 2019 on a constant currency basis (see: *Concise Annual Report 2019*, p15).

<sup>36</sup> See: *Concise Annual Report 2019*, p6

<sup>37</sup> See: p20

<sup>38</sup> See: *Concise Annual Report 2019*, p34

<sup>39</sup> See: Directors' Report in the *Concise Annual Report 2019*, p37

from seven other countries) and, in particular, the value to the Company of the two executives.

## Sonic UK: The Imploding Situation

### Pre-Covid Industrial Relations

24. Sonic UK operates a fleet of around 160 couriers, using a range of different transport methods, including vans, motorbikes, pushbikes, walkers and railers. Sonic UK uses these couriers to service contracts with multiple clients, designating the appropriate mode of transport based on each client's needs and taking account of parameters such as location, quantity, and urgency of the jobs.
25. Although historically Sonic UK used a predominantly motorised fleet, in recent years it introduced and increased the use of pushbike and walker couriers in order to overcome the hurdles of congestion, designated cycling streets, parking restrictions, and other limitations in accessing buildings. Pushbikes and walkers were also introduced as a more environmentally sustainable alternative to an entirely motorised fleet.
26. For years, and in some cases nearly two decades, Sonic UK bogusly classed many of its couriers as independent contractors. Sonic UK deprived these couriers of their statutory employment rights, including the right to paid holidays, pensions with contributions from Sonic UK, and others.
27. Sonic UK was well aware of the risks in treating its couriers in this manner, hence the inclusion of Clause 13.2 in the standard courier contracts, in which it threatened to pursue couriers for legal costs if they dared to assert their rights, and, more incredibly, sought to oblige couriers to indemnify Sonic UK against any potential government fines for Sonic UK's unlawful employment practices:

13.2 This agreement constitutes a contract for the provision of services and not a contract of employment and accordingly the Courier shall be fully responsible for and shall indemnify the Company for and in respect of:

- (a) any income tax, national insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the performance of the Services, where the recovery is not prohibited by law. The Courier shall further indemnify the Company against all reasonable costs, expenses and any penalty, fine or interest incurred or payable by the Company in connection with or in consequence of any such liability, deduction, contribution, assessment, or claim;
- (b) any liability arising from any employment-related claim or any claim based on worker status (including reasonable costs and expenses) brought by the Courier against the Company arising out of or in connection with the provision of the Services.

28. It was only after some of these couriers brought employment tribunal proceedings against Sonic UK<sup>40</sup> that the company admitted, in April, 2017, to the misclassification. In January 2018, several months later, it re-classed its couriers as “limb b workers”<sup>41</sup> (though the company still failed to provide all required statutory employment rights even then).
29. Before a pushbike courier named Alex Marshall started working for Sonic UK, there was no trade union presence amongst the courier fleet. Alex says he was mistreated by Sonic UK but his attempts to sort workplace issues internally bore no fruit. Therefore, in around 2015 he resolved, along with other pushbike couriers, to seek the assistance of the IWGB to challenge, among other things, the fact that the Sonic UK misclassified them as independent contractors.



*Alex with his son Ralph, 2020*

<sup>40</sup> *Kowal & Ors v The Doctors Laboratory Ltd* – (Case 2200444\2017)

<sup>41</sup> This is an employment status in UK law which begets an entitlement to a variety of statutory employment rights, including the right to paid annual leave, minimum wage, pension contributions from the employer, protection from discrimination, and trade union rights, among others.

30. Alex was one of the five couriers who in March 2017 brought the tribunal proceedings (referred to above) which led to Sonic UK recognising these couriers as limb b workers.
31. Alex also went on to become the Chair of the IWGB's Couriers and Logistics Branch, and as such an *ex officio* member of the IWGB's Executive Committee, the union's supreme decision-making body.
32. In August 2017 the IWGB submitted an application to the Central Arbitration Committee (CAC)<sup>42</sup> in order to compel Sonic UK to sign a collective bargaining deal with the union. On 28 February 2018, the CAC declared that the IWGB was entitled to a collective bargaining deal with Sonic UK. After much initial resistance, in April 2018 Sonic UK eventually agreed the terms of a deal, which is still in force today.
33. This collective bargaining agreement provides for Sonic UK to allow one day per week of paid time for union activities and duties. Alex Marshall uses the entirety of this allocated time on behalf of the couriers and the union.
34. In 2018, around 50 of Sonic UK's couriers, including many of the pushbikes, submitted employment tribunal claims for the back payment of paid holidays<sup>43</sup>. Although Sonic UK admitted to unlawful behaviour and admitted that it owed some back payment of paid holidays, it nevertheless argued that it shouldn't have to pay all of the holidays of which it had deprived its couriers because of tribunal time limits. The Employment Tribunal preferred Sonic UK's arguments regarding the extent of the back payment owed. The couriers have appealed however, and the matter is now before the Employment Appeal Tribunal (EAT). Whether or not Sonic UK is ultimately correct in law that the couriers' remedy is extinguished by virtue of time limits for submitting proceedings, the value of the paid holidays to which the couriers in that case were legally entitled but denied, is estimated at just under £1 million.
35. In October 2018, many of the couriers took part in a demonstration outside Sonic UK's headquarters over the fact that many of the couriers had been subjected to successive pay cuts and had concerns around bullying from management. Alex Marshall voiced the couriers' requests and publicly, using a megaphone, laid down the foundation of the campaign.<sup>44</sup>

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<sup>42</sup> This is a UK tribunal with jurisdiction over collective bargaining issues. The statutory scheme for collective bargaining in the UK is set out in Schedule A1 to the Trade Union and Labour Relations (Consolidation) Act 1992.

<sup>43</sup> These claims became consolidated as the case of *Alston & Ors v The Doctors Laboratory Ltd* (Case Nos. 2200353/2018 and Ors). The submission of these proceedings followed on from an important decision of the Court of Justice of the European Union, *King v The Sash Window Workshop Ltd* (Case: C-214/16), which allowed claimants, in circumstances where they had been unlawfully deprived of the right to paid holidays, to claim far more of these back-dated holidays than had been previously understood.

<sup>44</sup> See: <https://www.facebook.com/824352997654845/videos/379027639507128>



*Alex Marshall leading the IWGB courier protest outside Sonic UK headquarters, October 2018*

36. The dispute was reported in the news and featured Alex Marshall exposing the risks that these pay cuts posed, not only for the couriers, but also for Sonic UK patients. For example, in an article published by *The Independent*,<sup>45</sup> Alex was quoted as saying:

I feel like they have become so far detached from the bread and butter of their business that they just don't understand that the repercussion of these cuts is a poor service being provided to sick people whose life hangs on it. They seem to have forgotten that a lot of times these people need an emergency test, they've had blood taken out or they're being operated on. ... TDL's service is based on long-term, high-quality staff but this is not recognised by the company.

37. In December 2018 the couriers staged another demonstration, this time outside the venue Sonic UK had hired for its Christmas party, to protest the fact that the couriers hadn't been invited and were being excluded from the rest of the business.
38. In May 2019, the couriers went on strike for two days, as part of the on-going union campaign for improved pay. After this, Sonic UK negotiated a pay rise for the courier fleet with the IWGB. This pay rise was implemented in July 2019.
39. At the beginning of this year Alex Marshall, Anthony Alston, and James Graham Ramstein, all Sonic UK couriers, submitted another employment tribunal case, alleging yet further unlawful behaviour by Sonic UK, this time for unlawful deductions from wages<sup>46</sup>, as they were being required to work an unpaid half an hour every day.
40. In addition to the various tribunal proceedings outlined above, another Sonic UK courier, and member of the union, Joseph Williams, submitted an employment tribunal claim in March 2019 alleging disability discrimination, victimisation and the failure of Sonic UK to

<sup>45</sup>23 October, 2018, see: <https://www.independent.co.uk/news/business/news/nhs-blood-couriers-lives-at-risk-doctors-laboratory-pay-cuts-campaign-a8597251.html>

<sup>46</sup> Pursuant to Sections 13 and 23 of the Employment Rights Act 1996.



make reasonable adjustments to his work so as to accommodate his disability<sup>47</sup>. On 23 March 2020 Sonic UK dismissed him due to an incident connected to his disability and, the union submits, in retaliation for having brought proceedings against Sonic UK in the first place. Joe had been working for Sonic UK for 21 years.



*Disabled courier Joe Williams, callously dismissed by Sonic UK after 21 years of service*

41. On the 27 April 2020, Alex Marshall wrote to Sonic UK CEO David Byrne denouncing the injustice and unlawfulness of Joe William’s dismissal. Alex emphasised that the behaviour was particularly egregious in times of a global pandemic and he finished the letter by saying:

David, this global health pandemic, and the economic crisis it is causing, are greatly exacerbating the already existing social inequalities in this country. It is also highlighting the true character of people, whether good or bad. History will look back on this moment, and those who had the means but nevertheless failed to do

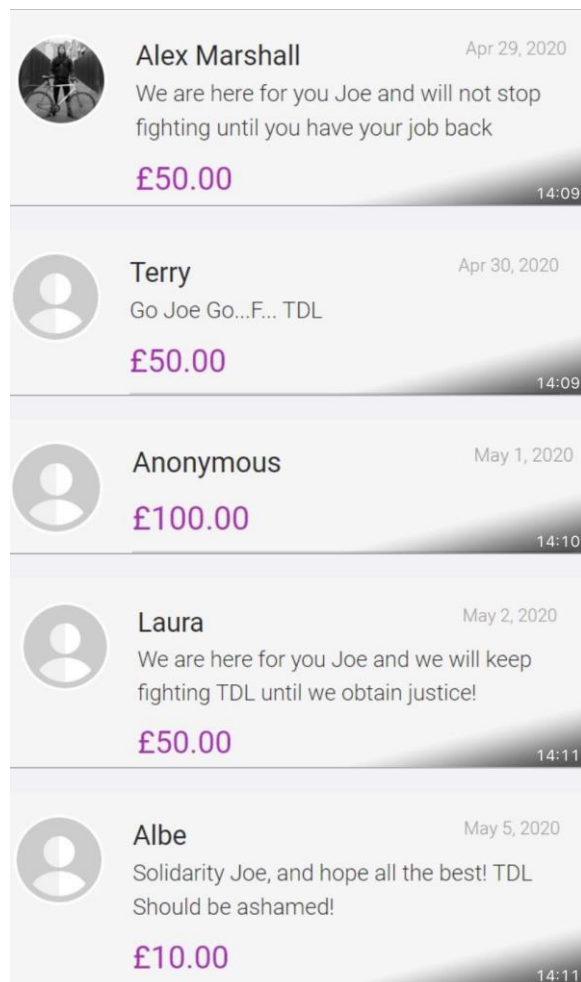
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<sup>47</sup> *Williams v The Doctors Laboratory Ltd.* (Claim: 2201103/2019). The claim was made pursuant to sections 15, 19, 20, and 23 of the Equality Act 2010.



everything possible to assist and protect the most vulnerable, will be judged harshly.

42. Alex also started a crowdfunder to support Joe<sup>48</sup> and publicised this on his social media, denouncing the fact that Joe had been unfairly dismissed by Sonic UK. To date, the crowdfunder has raised UK £1,375.



*Selected comments from the Joe Williams crowdfunder*

43. Among the couriers, the pushbikes, and especially Alex, are therefore extremely active trade unionists. As has been seen above, Alex was one of the main workers who started the unionisation of Sonic UK couriers, he has repeatedly challenged Sonic UK's unlawful

<sup>48</sup> See here: [https://www.justgiving.com/crowdfunding/joewilliams?utm\\_term=3x3Qwv7pw](https://www.justgiving.com/crowdfunding/joewilliams?utm_term=3x3Qwv7pw)

behaviour, has been responsible for organising strikes and various other actions, and instigated the push for a collective bargaining deal. He and his fellow couriers have been extraordinarily successful: they have forced Sonic UK into providing them with the statutory employment rights to which they are legally entitled, have won a collective bargaining deal, and achieved a substantial pay rise.

44. Alex's role in the union is also public facing as he has been very vocal about it on social media and in national news. For example, in May 2018, Alex was featured in an article in *The Independent*<sup>49</sup> covering the couriers' victory on collective bargaining. Alex was quoted as saying: "We were forced to unionise since every time we went to management with a concern we were being ignored".
45. Similarly, on 23 May 2019, Alex appeared in an article on the news website *Employee Benefits*<sup>50</sup>, explaining why Sonic UK's couriers were going on strike. Alex also appeared in articles in *The Guardian*<sup>51</sup> and the *Daily Mail*<sup>52</sup>, both on 16 May 2019.

## Health and Safety in a Pandemic

46. Since the start of the Covid-19 pandemic Alex has been extremely active in his advocacy for better health and safety protections for Sonic UK couriers. For example, on 17 March 2020 he sent Sonic UK CEO Byrne a letter making some basic health and safety requests to protect the couriers, including those who were handling Covid-19 specimens<sup>53</sup>. The letter included requests for the following health and safety provisions:
  - a. full pay for those couriers that needed to self-isolate in order to follow public health advice (Sonic UK was only offering the statutory sick pay level of £94.25 per week, meaning self-isolating for 14 days would cause great financial hardship or be outright impossible);
  - b. regular Covid-19 testing for couriers as those couriers regularly entered cancer hospitals, old people's homes and places in which there is a high concentration of high-risk people;
  - c. social distancing to be put in wherever possible;
  - d. the provision of personal protective equipment (PPE) such as masks<sup>54</sup>; and

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<sup>49</sup> See: <https://www.independent.co.uk/news/business/news/nhs-gig-economy-couriers-blood-transfusions-union-recognition-the-doctors-laboratory-a8235446.html>.

<sup>50</sup> See: <https://employeebenefits.co.uk/couriers-the-doctors-laboratory-strike-pay/>

<sup>51</sup> <https://www.theguardian.com/society/2019/may/16/nhs-emergency-blood-deliveries-could-be-hit-by-courier-strike>

<sup>52</sup> <https://www.dailymail.co.uk/health/article-7036319/Emergency-blood-deliveries-large-hospitals-stalled-two-days-couriers-strike.html>

<sup>53</sup> See: <http://ridersroovolt.com/wp-content/uploads/2020/03/IWGB-CLB-TDL-demands-COVID-19.pdf>

<sup>54</sup> At the beginning of the pandemic the couriers that were transporting Covid-19 samples were not given appropriate PPE or PPE at all for the risk to which the couriers were exposed. This included, among other things, face masks, which were refused, and gloves and hand sanitiser, which had only been provided to half of the couriers. This equipment was crucial for the protection of the health and safety of not only the Sonic UK couriers but also that of the vulnerable people and front-line NHS staff with whom they come into contact on a regular basis.

- e. and the proper packaging of Covid-19 samples as some couriers had been transporting Covid-19 samples which had been packaged with only two layers, rather than the three necessitated by Public Health England guidance.
47. Sonic UK CEO Byrne replied to the health and safety demands<sup>55</sup> stating that:
- a. full pay whilst in self-isolation was a benefit awarded only to employee couriers and that all couriers should follow Government guidance on self-isolation;
  - b. Covid-19 testing would not be provided as the current advice was that regular testing was of no value;
  - c. the implementation of social distancing at collection points was out Sonic UK's control; and
  - d. couriers were not obliged to collect samples that weren't compliant with the requirement set out by Public Health Guidance.

48. Sonic UK CEO Byrne ended his letter to Alex by saying:

In these extraordinary times, could I ask that we pull together and agree our wider and long- term interest is a common purpose to serve our communities, and overcome this immense challenge to our lives and livelihoods

49. On 20 March 2020, Alex featured in an article in *The Independent*<sup>56</sup>, which reported:

Alex Marshall is a self-employed courier for TDL – a laboratory services company that does work for the NHS – ferrying medical samples across London. He has carried some of the samples taken from potential sufferers of Covid-19 for lab testing. The 35-year-old told *The Independent* he is concerned about gig economy workers, like him, who simply can't afford to develop symptoms of the virus. "Self-isolation shouldn't be a privilege. We shouldn't have to think, 'I can't afford to stop working'".

50. On 25 March 2020, the IWGB sent a letter before action to Sonic UK, threatening to apply to the High Court for an injunction and/or declaratory relief over the company's various failings on couriers' health and safety, including the failure to provide adequate PPE.

51. The next day the newspaper *The Guardian* reported on the union's letter before action and Alex was featured in this article<sup>57</sup>. The article stated:

a group of blood couriers are launching legal action against a testing lab, arguing they are not being given sufficient protection while transporting high-risk Covid-19 samples.

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<sup>55</sup> See: [https://twitter.com/IWGB\\_CLB/status/1242100589368086535?s=20](https://twitter.com/IWGB_CLB/status/1242100589368086535?s=20)

<sup>56</sup> See: <https://www.independent.co.uk/news/uk/home-news/coronavirus-supermarkets-home-delivery-drivers-key-workers-gig-economy-schools-a9413716.html>

<sup>57</sup> See: <https://www.theguardian.com/business/2020/mar/26/uk-blood-couriers-not-given-gloves-and-hand-sanitiser-for-covid-19-samples>

The article also quoted part of the letter Alex had sent Sonic UK CEO Byrne on 17 March, 2020 (referred to above):

TDL couriers are going to be paramount to the tackling of this virus and to monitoring the spread. When everyone is being told to stay home and keep safe, TDL couriers will have to be out and expose themselves to the risks others are able to avoid.

52. On the same day, the journal *The Canary* reported the intention of the IWGB and its members to commence legal action against Sonic UK for its failure to implement basic health and safety measures to protect the couriers<sup>58</sup>. Alex was once more mentioned in this article.
53. In response to the letter before action, Sonic UK made some minor improvements on the health and safety situation. They still refused to provide proper sick pay for Covid-19 self-isolation, instead offering to loan the money necessary for the couriers to survive during these periods, and then make them pay it back.
54. On 31 March, 2020, Alex featured in the BBC programme *Panorama*<sup>59</sup> where he stated that he worked for Sonic UK and complained that if he got sick, he would only get statutory sick pay and that he could not afford to self-isolate on this paltry amount.
55. On 2 April, 2020, Alex also featured in *The Guardian* programme *Anywhere but Westminster*<sup>60</sup> where he identified himself as a Sonic UK courier and stated among other things: "It's a bizarre kind of time to be considered integral but still have so little rights, so little securities".
56. Another pushbike courier and IWGB member, Ben Gee, also featured in the same *Guardian* programme, saying: "We have a severe lack of protective equipment at the moment, I feel that I am being exposed to the risk of Covid at the moment".
57. In addition to the above, Sonic UK has failed to carry out adequate risk assessments to date and not one of the risk assessments has been shared with the couriers. The current loading bay where couriers need to go into is extremely crowded and it is impossible to maintain social distancing. This is despite the fact that Sonic UK CEO Byrne came to the loading bay on 14 April, 2020 and witnessed for himself many couriers in close proximity to each other. He however took no action to remedy this; all he did was thank the couriers for their work. Similarly, the allocated space for dropping off specimens is extremely small and often couriers are within centimetres of each other while dropping.
58. There is also no facility for appropriate ventilation which is one of the recommendations made by the UK Government in its latest guidance on workplace health and safety. There are also several couriers that are being compelled to work even though they have underlying health conditions and are at a greater risk. Sonic UK has not, to our or the

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<sup>58</sup>See: <https://www.thecanary.co.uk/analysis/2020/03/26/blood-couriers-take-action-over-lack-of-protective-equipment-when-ferrying-coronavirus-samples/>

<sup>59</sup> See: <https://www.bbc.co.uk/news/av/uk-52111389/coronavirus-minimum-wage-heroes>

<sup>60</sup> See: <https://www.theguardian.com/commentisfree/video/2020/apr/02/life-in-lockdown-how-our-jobs-turned-upside-down-video>

couriers' knowledge, assessed these couriers' health in order to establish who was most at risk.

59. Indeed, Sonic UK has only just announced, two and a half months after the pandemic hit the UK, that they are going to carry out a risk assessment for the loading bay area. This is still on-going and as at the time of writing only very few safety measures have been put in place.
60. The couriers have also received little to no training with regard to the safe handling of Covid-19 samples or the pick-up of samples from Covid-19-infected patients. Sonic UK has also failed to disclose information to the couriers when picking up samples from infected patients which means they are unable to anticipate any safety measures. For example, when collecting directly from a patient, couriers are not made aware that the patient could have Covid-19.<sup>61</sup>
61. Somewhat unsurprisingly, the Union is aware of at least six Sonic UK couriers who have had Covid-19 symptoms. Of course, we can't say for sure if they actually had Covid-19, because the testing laboratory for whom they work wouldn't give them tests, on the basis that regular testing served no purpose.
62. Given the multiple and persistent breaches of health and safety protections by Sonic UK, on 20 May, 2020 the IWGB submitted a formal complaint to the Health and Safety Executive (HSE), the UK's state agency for health and safety enforcement, alleging various contraventions of legislation<sup>62</sup>. We further sent a letter to the HSE's Chief Executive outlining the issues<sup>63</sup>. The Chief Executive's office responded the same day, saying "We are investigating the issues raised, and will respond in full as soon as possible."
63. Given the extent to which Sonic, and in particular CEO Goldschmidt and Finance Director Wilks, oversee, control, and are responsible for, their UK subsidiary, combined with the fact that health and safety is one of those areas where Sonic keenly emphasizes its company-wide approach (more on which below), the IWGB has concerns that the sort of health and safety breaches at Sonic UK may be more widespread throughout the company. It is important to note that we have not seen any evidence of Covid-19 related health and safety breaches at other Sonic subsidiaries and we therefore do not assert that they have occurred. But for the reasons outlined above, we would feel better if the questions were at least asked. And answered. For this reason we have taken steps to draw our health and safety complaint in the UK to the attention of the following health and safety enforcement bodies, which have jurisdiction over various Sonic entities:
  - a. Occupational Safety and Health Administration, New York, **USA**;
  - b. Occupational Safety and Health Administration, Tennessee, **USA**;

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<sup>61</sup> One specific example of this occurred in April when one of the couriers was sent a job at a home address. A woman opened the door and asked him if he had a receptacle for the specimen. He replied that he didn't, and she went back into the house. A few minutes later she opened the door again and he held up his box for her to place the specimen into. As she put it into the box, she said to me "Don't come too close, I have the virus" and she placed a potential Covid-19 specimen that was just in a plastic bag into the couriers' box.

<sup>62</sup> In particular, Regulation 4 of the Personal Protective Equipment at Work Regulations 1992, and Section 2 of the Health and Safety at Work Act 1974.

<sup>63</sup> See: <https://cdn.iwgb.org.uk/bucket/Covid19/health-and-safety-letter.pdf>

- c. Division of Occupational Safety and Health, California, **USA**;
- d. Bundesanstalt für Arbeitsschutz und Arbeitsmedizin, **Germany**;
- e. Health and Safety Authority, **Ireland**;
- f. Safe Work Australia for the state of Western Australia, **Australia**;
- g. Safe Work Australia for the state of South Australia, **Australia**;
- h. Safe Work Australia for the state of Tasmania, **Australia**;
- i. Safe Work Australia for the state of Queensland, **Australia**;
- j. WorkSafe New Zealand, **New Zealand**;
- k. SECO, **Switzerland**; and
- l. Supervision of Well-being at Work Inspectorate, **Belgium**.

### Clapping for Key Workers on a Thursday, Firing them on a Friday

- 64. On 1 May 2020, Sonic UK informed the IWGB that it intended to start a 30-day consultation over its desire to dismiss 10 of the couriers by way of redundancy. As it happens, these 10 couriers consist of all of the pushbike and walker couriers, including Alex, Ben, and other couriers referred to above. They include some of the most active trade unionists at Sonic UK, responsible for much of the action described thus far.
- 65. Sonic UK's purported reasons for selecting this particular group of couriers was mainly that the sample collection requirements for these couriers on the pushbike circuit was currently down by 70% and that the proposal for the future operating model did not require pushbike couriers and walkers.
- 66. Sonic UK sent a letter to Alex and the others stating its reasons for not requiring pushbikes and walkers anymore. The letter stated the following:

Because of the large downturn in work TDL needs all it's couriers to be able to work flexibly and outside their normal geographical areas. TDL needs to be able to deploy all it's couriers to any London jobs regardless of normal working patterns – subject always of course to any individually agreed working patterns based on disability, caring or other personally agreed restrictions on work location. Regrettably pushbike and walker couriers are not able to be deployed across London in this way so that the proposal is that TDL's needs for pushbike and walker couriers will cease and the contracts of the 10 pushbike and walker couriers will be terminated.

You will see that the proposal to reduce the courier workforce by 10 out of a total current London courier workforce of 158 is not a proposal to reduce the workforce by 30% to match the decreased total department workload.





*IWGB activist Ben Gee is one of the couriers targeted for dismissal*

67. The IWGB on behalf of the couriers sent Sonic UK various proposals, which have been reiterated in subsequent consultation meetings, to avoid these redundancies. The union proposed and explained the following:

- a. As three of the couriers set to be made redundant were currently on furlough<sup>64</sup>, they should not be considered for redundancy, especially now that the furlough scheme had been extended until October.
- b. Sonic UK should furlough more of its couriers and reallocate work accordingly.
- c. Sonic UK should extend the consultation time from 30 days to three months to see if activity levels resumed again.
- d. Fertility (IVF) clinics were due to reopen on the 11 May 2020 which was a clear indicator that business would soon be picking up again.
- e. Other places that had been closed for lockdown had started to reopen and more samples were being collected.
- f. Sonic UK should contact its clients to ask what their plans for reopening were.

<sup>64</sup> Furlough refers to employees on the Government's Coronavirus Job Retention Scheme (CJRS). The scheme subsidises employers to the tune of 80% of salary costs, plus non-salary employment costs such as tax and pension contributions, for businesses who have experienced a downturn in activity due to the pandemic. Sonic UK has taken advantage of this scheme by furloughing some of its couriers. The scheme is due to run, albeit with some modifications in the future, until October, 2020.

- g. Although motorbikes are useful in some cases, there are other situations where pushbikes and walkers are a better option. This is due to the fact that pushbikes and walkers can access Central London areas that motorbikes can't and are able to get to certain pick-up points quicker as they can avoid the congestion in the city centre.
- h. Sonic UK had historically employed pushbikes and walkers in the area where they operate as it understood it is the most efficient way to pick up and deliver samples given the traffic restrictions for other modes of transport.
- i. This need had not changed; if anything it had been reinforced by the recent announcement of the Mayor of London of a plan for large areas of London to restrict access to just cyclists and walkers<sup>65</sup>.



*IWGB official Alex Marshall is one of the couriers targeted for dismissal*

<sup>65</sup> *The Guardian* characterised this as “one of the biggest car-free initiatives of any city in the world”. See: <https://www.theguardian.com/uk-news/2020/may/15/large-areas-of-london-to-be-made-car-free-as-lockdown-eased>

## Why the Purported Rationale for the Dismissals Cannot Stand up to Scrutiny

68. The pre-pandemic financial outlook for Sonic in general, and Sonic UK in particular, was extremely positive. In addition to the material already cited above to the effect that Sonic UK's market positioning and size, combined with the long term trend of further outsourcing of pathology/laboratory services by the NHS, was conducive to long term growth for the subsidiary, Sonic UK's *Annual Report and Financial Statements for the Year Ended 30 June 2019 for The Doctors Laboratory* also painted a rosy picture<sup>66</sup>:

### FUTURE OUTLOOK

We expect to see further growth in public and private sector business. Our high service levels, medically led approach and the application of leading edge technologies are, we believe, important to our existing customer base and a factor in attracting new business.

The NHS has identified the pathology sector as a possible source of efficiencies in the coming years. We are well placed to take advantage of opportunities created by this initiative because of our long experience in supporting and transforming public sector laboratory services.

69. Similarly, Sonic's *Results for the Half Year Ending 31 December 2019*<sup>67</sup> were also very positive. In particular, Sonic announced<sup>68</sup>:

- After seven months of trading the Company is on track to achieve the full year earnings guidance issued in August 2019 (6-8% underlying EBITDA growth, Constant Currency, excluding impact of AASB 16 Leases).
- Revenue growth of 15% to A\$3.3 billion.
- Solid organic revenue growth of ~5% (Constant Currency).
- Net profit growth of 14% to A\$254 million (growth 15% excluding AASB 16).

70. And again, Sonic UK also performed well, achieving an "organic growth of ~13% (Constant Currency), with strong growth in both the private and National Health Service market segments"<sup>69</sup>.

71. The financial strength of, and long-term growth prospects for, Sonic in general, and Sonic UK in particular, as recently as 19 February 2020, nearly a month after the World Health

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<sup>66</sup> See: p5

<sup>67</sup> See: <file:///C:/Users/User/Downloads/02203851.pdf>

<sup>68</sup> See: p3

<sup>69</sup> See: p4



*Fernando Oliveira Silva is one of the IWGB couriers targeted for dismissal*

Organisation declared the Covid-19 outbreak a Public Health Emergency of International Concern (PHEIC)<sup>70</sup>, are best articulated by CEO Goldschmidt, as quoted in the company's media release on the half year results<sup>71</sup>:

... The results for the half again demonstrate the predictable, reliable nature of Sonic's business, with the company on track to deliver the earnings growth guidance set in August 2019.

The company achieved 15% revenue growth for the half, including solid organic growth of 5%. Organic revenue growth was particularly strong in our Australian, UK and Swiss laboratory businesses, as well as our Imaging division. On the back of this growth, and through the dedicated efforts of our management teams to continually identify and implement efficiency improvements, both our global laboratory division and the Imaging division expanded their margins versus the

<sup>70</sup> See: <https://www.who.int/news-room/detail/27-04-2020-who-timeline---covid-19>

<sup>71</sup> See: Media Release: Financial Results for the Half Year Ended 31 December 2019. 19 February, 2020. <file:///C:/Users/User/Downloads/02203874.pdf>. This media release was authorized by Sonic's Board of Directors. Similarly, in a separate presentation on the half year results (see: <file:///C:/Users/User/Downloads/02203885.pdf>), CEO Goldschmidt stated that the company was in a "strong, stable position" with "favourable industry dynamics" (at p17) and that Sonic's UK and Ireland operations had "a strong pipeline of private market opportunities" (at p11).

comparative period. This was achieved despite the headwinds of PAMA fee cuts in the US and statutory insurance fee quota changes in Germany.

The company is well set for future growth, with strong brands and market positions, our binding culture of Medical Leadership, and a balance sheet which provides significant financial flexibility. ...

72. CEO Goldschmidt also rightly attributed this success to Sonic's employees:

As always, Sonic's achievements are the result of the hard work, passion and creativity of our 37,000 staff and I thank each of them for their contributions to Sonic and to the health care of 120 million patients each year.

73. On 20 March, 2020, Sonic withdrew its earnings guidance for FY 2020 due to uncertainty. At the time of the statement Sonic's earning results were still consistent with predictions, however guidance was being withdrawn on the basis that "as populations in Sonic's markets self-isolate or are quarantined there is potential for diagnostic testing volumes to be impacted in the short to medium term"<sup>72</sup>.

74. CEO Goldschmidt, in his quoted remarks, also emphasized the business opportunity of the pandemic:

As a global laboratory company, Sonic is currently playing a crucial frontline role in combating the pandemic. Our laboratories in Australia, the USA and Europe are testing thousands of patients every day for COVID19, and we continue to increase our testing capacity to meet the needs of the communities in which we operate.<sup>73</sup>

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<sup>72</sup> See: *Withdrawal of FY 2020 Earnings Guidance and Covid-19 Update*, <file:///C:/Users/User/Downloads/02216479.pdf>. This document was authorized by Sonic's Board of Directors.

<sup>73</sup> Similarly, a statement on Sonic's website dated 30 April 2020 says:

Sonic Healthcare has been at the forefront of COVID-19 testing since the beginning of the pandemic in Australia. Sonic's laboratories in New South Wales and Queensland were the first to perform high volume COVID-19 testing in the crucial early stages of the pandemic. Over the last two months, Sonic's laboratories have collectively tested more than 100,000 Australians for COVID-19.



*Sonic UK is attempting to dismiss loyal courier Jim Boshier*

75. The guidance document also reassured readers that Sonic's finances were nonetheless in a healthy position, even after the A\$ 162 million that was to be paid out to shareholders five days later:

Sonic's balance sheet is in a strong position, and the company has almost A\$1 billion of cash and committed credit facilities currently available (prior to payment on 25 March of the FY 2020 Interim Dividend totalling ~A\$162 million). None of Sonic's debt facilities are due to mature until CY 2021.





*Tony Alston is one of ten couriers Sonic UK is trying to dismiss in the midst of a pandemic and economic recession*

76. And CEO Goldschmidt emphasized in his quoted remarks that one of the company's main priorities during the pandemic was the well-being of Sonic staff:

In addition to our focus on meeting the diagnostic testing needs of our communities, we remain focussed on the well-being of our 37,000 staff. I could not be prouder of the reaction of Sonic's people to this crisis. The level of effort, dedication, communication, and global collaboration has been truly inspiring.



*IWGB member Jon Foster is one of the couriers targeted for dismissal*

77. When it comes to the ten couriers in question, looking after their well-being by not firing them is an eminently affordable thing for Sonic to do. Their *combined* salaries constitute less than a tenth of one per cent of any of Sonic's key metrics, and less than 10 per cent of the remuneration paid to CEO Goldschmidt and Finance Director Wilks last year.

### Comparison of Salaries of Couriers Targeted for Dismissal to Key Sonic Metrics

	Total Amount	Courier Salaries as Percentage of Key Metric
Courier salaries	A\$ 502,415*	100%
Sonic revenue FY 2019 <sup>74</sup>	A\$ 6,184,056,000	0.008%
Net profit after tax FY 2019 <sup>75</sup>	A\$ 549,725,000	0.091%
Labour and related costs <sup>76</sup>	A\$ 2,848,122,000	0.018%
Remuneration paid to CEO Goldschmidt & Finance Director Wilks FY 2019	A\$ 7,994,421	6.285%

\*This is a very rough estimate, based on annual salary of around UK£ 27,000 for the ten pushbike and walker couriers Sonic UK intends to dismiss.

78. Sonic UK has also been unable to explain why the model adopted by virtually every major courier company in London, consisting of a mixed fleet of pushbikes, motorbikes, and vans, would somehow be unsuitable to the specific needs of Sonic UK.
79. Furthermore, Sonic UK has provided evidence that during the week ending on 17 May 2020 alone there had been an **increase of activity level** of 15%. This chimes with recent anecdotal evidence obtained by the union, including:
  - a. One of Sonic UK's lab supervisors has told us that the company had signed around seven or eight new clients per week since the beginning of the pandemic;
  - b. Sonic UK staff working in the company's postroom have told us that they have been sending out around 2,000 Covid-19 home-testing kits per day this week, on 21 May they sent out around 3,000, and the company has taken on an additional seven (temporary) members of staff to help do all the packaging of kits; and
  - c. We've been told by staff at the Specimen Reception department of Sonic UK that they're currently receiving more specimens for processing than pre-pandemic.
80. All of the above anecdotal evidence should be assessed in the context of a country whose Government aims to provide 200,000 Covid-19 tests per day, where Sonic UK is the largest private provider of laboratory/pathology services. As the UK proceeds with its gradual easing of the lockdown, and patients necessarily resume their engagement with primary care providers, fertility clinics, cancer treatments, and other pre-pandemic medical services, Sonic UK will likely be processing even more tests than before.
81. Further, Sonic has won various high-profile contracts for Covid-19 testing, including:
  - a. For Premier League football<sup>77</sup>;

<sup>74</sup> See: *Concise Annual Report 2019*, p7

<sup>75</sup> See: *Concise Annual Report 2019*, p7

<sup>76</sup> See: *Concise Annual Report 2019*, p62

<sup>77</sup> See: the *Evening Standard*, 12 May, 2020, <https://www.standard.co.uk/business/premier-league-covid-test-firm-plans-tests-for-uk-firms-a4437926.html>

- b. For the German Bundesliga football league<sup>78</sup>; and
- c. The Australian Government<sup>79</sup>.



*Sonic UK wants to dismiss Jamie Ramstein, a courier and IWGB member*

So, What's the Real Reason?

- 82. Anyone who has read this far will not think that the suggestion of whistleblowing and trade union victimization is coming out of left field. Indeed, were pandemic-induced market forces the real explanation for the sudden need to eliminate entire modes of courier transportation, resulting in the selection for dismissal of some of the most active trade unionists with whom Sonic has ever had to deal, it would be one of the most extraordinary coincidences in the history of UK industrial relations.
- 83. But in addition to the inferences which would naturally be drawn by anyone of even the most rudimentary analytical abilities, Sonic UK also provides hints of its motives through its behaviour. For example, the IWGB with and on behalf of its members facing redundancy are also currently balloting for strike action and on 6 May 2020 sent Sonic UK

<sup>78</sup> See: the *Evening Standard*, 12 May, 2020, <https://www.standard.co.uk/business/premier-league-covid-test-firm-plans-tests-for-uk-firms-a4437926.html>

<sup>79</sup> See: [file:///C:/Users/User/Downloads/02230677%20\(1\).pdf](file:///C:/Users/User/Downloads/02230677%20(1).pdf)

CEO Byrne a notice of ballot, in line with the legislation.<sup>80</sup> And on 13 May, 2020, Sonic UK's Logistics Director, Laurence Harvey<sup>81</sup>, sent an email to all couriers in response to the notice of ballot, stating (materially; emphasis supplied):

You will all no doubt be aware that the IWGB union is balloting its TDL Collect members on whether they wish to take part in a strike. The ballot paper states the reasons for the dispute are:

- Redundancies
- Health & Safety failures in response to COVID-19
- Unfair Dismissal of Joseph Williams

I would like to take this opportunity to provide you with some context behind these three areas of dispute and to explain why we feel strike action, or indeed any industrial action, is uncalled for.

(...)

Under the current circumstances, **I believe would be damaging at every level – for patients, health professionals and you** – and the general public would struggle to understand such a decision. **I would ask you to consider carefully before deciding on what action is taken.**

84. This email expressly seeks to prevent or deter members from taking part in trade union activities at the appropriate time, one of the very definitions of trade union victimization in UK law<sup>82</sup>. Similarly, in response to campaigning by the IWGB, Sonic UK wrote to its couriers, informing them it was taking legal action against the union and setting out a number of things couriers were purportedly prohibited from doing in support of the campaign.
85. Whilst technically no decision has yet been made and communicated regarding the decision to dismiss these couriers, the on-going process is nevertheless having a highly detrimental impact on them. They are currently suffering from high levels of anxiety and stress due to the difficult prospect of finding alternative jobs at the moment. The courier industry is known for its poor working conditions and Sonic UK couriers had managed to secure, through the union, more favourable working conditions than in any other courier company in London (albeit that is an extremely low bar). Many of the couriers Sonic UK now intends to dismiss feel victimised for daring to take part in trade union activities and the decision to dismiss them will have terrible consequences on their private and family

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<sup>80</sup> Section 226A Trade Union and Labour Relations (Consolidation) Act 1992.

<sup>81</sup> Laurence Harvey's troubled relationship with the union goes back some time, e.g. see this video: <https://www.facebook.com/824352997654845/posts/2229157800507684/?vh=e&d=n>

<sup>82</sup> Referred to as trade union "detriment", see: Section 146(1)(b) Trade Union and Labour Relations (Consolidation) Act 1992.

lives. Many of them have children to support and wonder how they will be able to adequately support them if they are dismissed and unable to find a job.

86. On 22 May, 2020 the union submitted fresh employment tribunal proceedings, on behalf of Alex and seven of his coworkers (pictured on the cover of this dossier), and against Sonic UK, David Byrne, and Laurence Harvey, in which the union argues that there are no grounds, other than the desire to rid the company of so-called “troublemakers” and active trade unionists, for Sonic UK to dismiss these couriers. The claims are for whistleblowing and trade union detriment under both domestic law and the European Convention on Human Rights (ECHR)<sup>83</sup>.
87. And the union intends to call a witness, through a court order if necessary, who is privy to senior level management discussions, and who can testify that he has witnessed discussions in which the Sonic UK managers have referred to the pushbike couriers as “troublemakers” due to their union militancy, and that Sonic UK Logistics Director Laurence Harvey was brought in to deal with the union.

#### Sonic’s Reputation in the UK in Freefall

88. Sonic’s attempts to dismiss these couriers has led to significant public outrage, with members of the British Parliament, trade union General Secretaries, senior figures in the British Labour Party, and lawyers from around the world, calling on Sonic to reverse track. In short, it has been a public relations disaster, and one that is still very much unfolding. At the time of writing the following people had written to Sonic<sup>84</sup> over the company’s attempt to dismiss these couriers:
  - a. Keir Starmer MP, Leader of the Labour Party (UK)<sup>85</sup>
  - b. Andy McDonald MP, Shadow Secretary of State for Employment Rights and Protections (UK)<sup>86</sup>
  - c. John McDonnell MP, Former Shadow Chancellor (UK)<sup>87</sup>
  - d. Rachel Maskell MP, Former Shadow Secretary of State for Employment Rights and Protections (UK)<sup>88</sup>
  - e. Grahame Morris MP (UK)<sup>89</sup>
  - f. Alex Sobel MP (UK)<sup>90</sup>

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<sup>83</sup>Pursuant to Section 47B Employment Rights Act 1996, Section 146 Trade Union and Labour Relations (Consolidation) Act 1992, and Articles 10 and 11 ECHR. In the public interest, the union is making the full pleadings publicly available here: <https://cdn.iwgb.org.uk/bucket/Covid19/marshall-v-TDL.pdf>

<sup>84</sup> Nearly all of these letters were sent to Sonic Chairman Compton.

<sup>85</sup> See: [https://twitter.com/IWGB\\_CLB/status/1261373733228253185](https://twitter.com/IWGB_CLB/status/1261373733228253185)

<sup>86</sup> See: [https://twitter.com/IWGB\\_CLB/status/1259822518006943744](https://twitter.com/IWGB_CLB/status/1259822518006943744)

<sup>87</sup> See: [https://twitter.com/IWGB\\_CLB/status/1260607443752665088](https://twitter.com/IWGB_CLB/status/1260607443752665088)

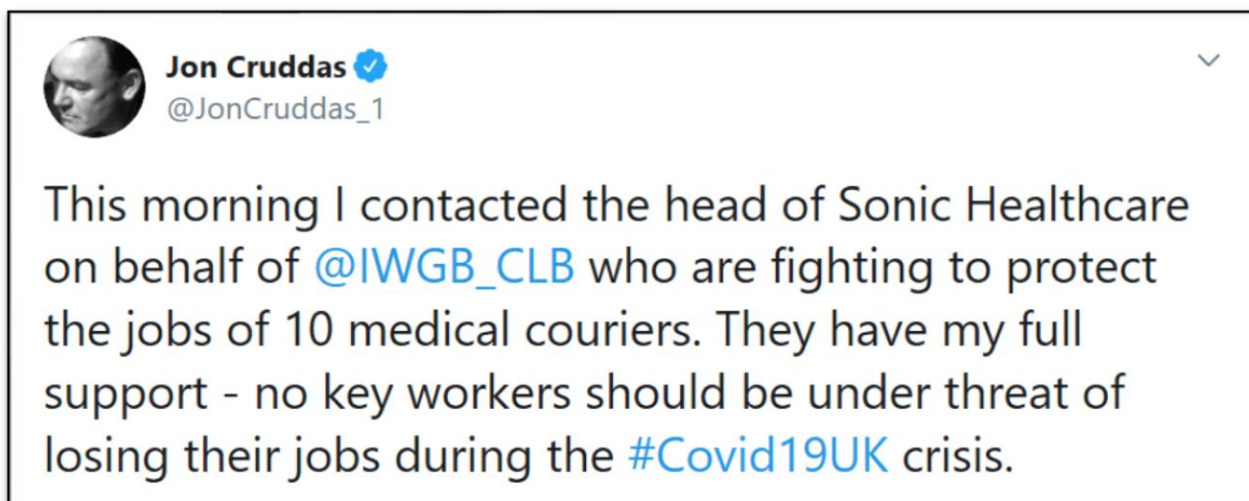
<sup>88</sup> See: [https://twitter.com/IWGB\\_CLB/status/1259812930771718144](https://twitter.com/IWGB_CLB/status/1259812930771718144)

<sup>89</sup> See: [https://twitter.com/IWGB\\_CLB/status/1263417312931176448](https://twitter.com/IWGB_CLB/status/1263417312931176448)

<sup>90</sup> See: [https://twitter.com/IWGB\\_CLB/status/1261269422917984257](https://twitter.com/IWGB_CLB/status/1261269422917984257)



g. Jon Cruddas MP (UK)<sup>91</sup>



*Snapshot of UK Labour Party MP Jon Cruddas's Twitter account. Jon is one of many politicians to publicly support the couriers Sonic is trying to dismiss.*

h. Justin Madders MP (UK)<sup>92</sup>

i. Bell Ribeiro-Addy MP (UK)<sup>93</sup>

<sup>91</sup> See: [https://twitter.com/JonCruddas\\_1/status/1261218334193917953](https://twitter.com/JonCruddas_1/status/1261218334193917953)

<sup>92</sup> See: [https://twitter.com/IWGB\\_CLB/status/1259841041911492609](https://twitter.com/IWGB_CLB/status/1259841041911492609)

<sup>93</sup> See: [https://twitter.com/IWGB\\_CLB/status/1263785076745175040](https://twitter.com/IWGB_CLB/status/1263785076745175040)



*Bell Ribeiro-Addy MP has called on Sonic to protect the couriers*



*Zarah Sultana MP has warned Sonic of a "permanent stain" on their reputation*



**John McDonnell MP**

Member of Parliament for

Hayes & Harlington

Pump Lane

Hayes

Middlesex

UB3 3NB

Dear Professor Mark Compton, AM,

I am John McDonnell, Member of Parliament for  
Harlington in the United Kingdom.

Hayes and

I am writing to you as you are Chairman of the Board of Directors of Sonic Healthcare, the parent company of the UK subsidiary The Doctors Laboratory (TDL), as I would like to ask you to intervene on a matter of serious concern.

Provision of healthcare services, including Covid-19 testing, has never been more important to the entire world, and I congratulate you personally and your company for your work in this field. At the same time, it has never been more important that we all appreciate the contribution of our key workers who are on the frontlines of responding to this crisis around the globe, and that includes the medical couriers working for TDL. Here in the UK we clap for these key workers every Thursday evening at 8pm and have begun a national conversation about how society can better support them.

I am therefore seriously concerned by the news that TDL is looking to make 10 of these key workers redundant in a month's time. I am further concerned by the fact that one of these 10, Mr. Alex Marshall, appears to be a very effective trade union activist with the Independent Workers' Union of Great Britain (IWGB), a union which alleges that the dismissals are motivated by trade union victimization. Whatever the motive may be, I fear that looking to dismiss 10 key workers, who have done so much to contribute to the UK's response to the pandemic, in the context of a company with a very healthy balance sheet and clear alternatives, will be viewed as nothing short of greedy and heartless.

I am therefore not surprised that the IWGB union has initiated a campaign to put pressure on TDL and their stakeholders, to try and defend the livelihoods of these key workers. And I must confess I was shocked to learn that TDL as a response is suing the union and writing intimidatory letters to its couriers.

If this sort of behaviour is not modified, I fear it will serve as a permanent stain on the reputation of TDL and by extension Sonic Healthcare, here in the UK. We need to be not just applauding our key workers, but bending over backwards, doing absolutely everything physically possible, to protect them and their livelihoods, as a demonstration of our gratitude for the work they do to keep us all safe.

I trust you will consider this letter in the constructive vein in which it was written, and I do hope you intervene in this matter before permanent damage is done to both livelihoods and reputations.

Yours sincerely,

John McDonnell MP  
Member of Parliament for Hayes and Harlington

[mcdonnellj@parliament.uk](mailto:mcdonnellj@parliament.uk)  
[www.john-mcdonnell.net](http://www.john-mcdonnell.net)

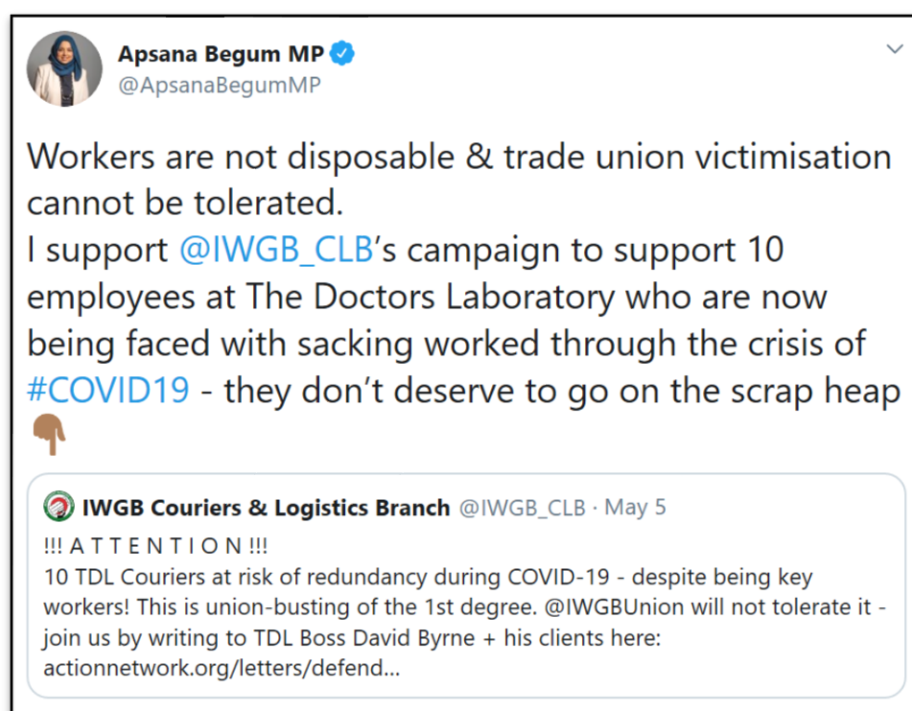
*Public letter from UK Former Shadow Chancellor, John McDonnell MP, calling on Sonic to reverse its decision.*

- j. Zarah Sultana MP (UK)<sup>94</sup>
- k. Stephen Cotton, General Secretary of the International Transport Workers' Federation (ITF)<sup>95</sup>;
- l. The Board of the International Lawyers Assisting Workers (ILAW) network<sup>96</sup>;
- m. Manuel Cortes, General Secretary of the TSSA union (UK & Ireland)<sup>97</sup>; and
- n. Scott Ludlam, Former Senator and Deputy Leader of the Australian Greens (Australia)<sup>98</sup>.

And there are many more in the pipeline.

89. Additionally,

- a. The couriers have received public support from Apsana Begum MP (UK)<sup>99</sup>;



*UK Member of Parliament, Apsana Begum, defends the couriers Sonic is trying to throw on the “scrap heap”.*

<sup>94</sup> See: [https://twitter.com/IWGB\\_CLB/status/1263876944745107456?s=19](https://twitter.com/IWGB_CLB/status/1263876944745107456?s=19)

<sup>95</sup> See: [https://twitter.com/IWGB\\_CLB/status/1263489046376054784](https://twitter.com/IWGB_CLB/status/1263489046376054784). The ITF is a global union representing nearly 20 million workers in 150 countries.

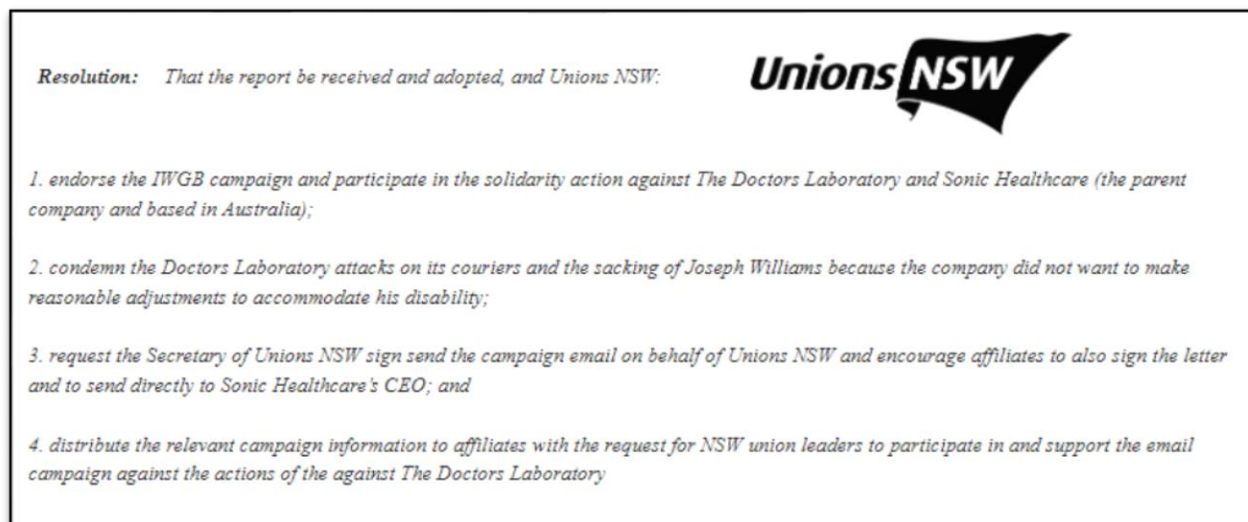
<sup>96</sup> See: [https://twitter.com/IWGB\\_CLB/status/1262720716560125953?s=20](https://twitter.com/IWGB_CLB/status/1262720716560125953?s=20). ILAW represents over 400 workers' rights lawyers from some 55 countries around the world.

<sup>97</sup> See: [https://twitter.com/IWGB\\_CLB/status/1259766809030524929](https://twitter.com/IWGB_CLB/status/1259766809030524929)

<sup>98</sup> See: <https://twitter.com/Scottludlam/status/1261081313777344512?s=20>

<sup>99</sup> See: <https://twitter.com/ApsanaBegumMP/status/1257642495246241794>

- b. Unions New South Wales, the largest state trade union federation in Australia, has unanimously adopted a resolution committing itself to supporting the IWGB campaign and condemning Sonic's actions;



*Unions New South Wales unanimously adopts a resolution to back the IWGB campaign against Sonic*

- c. Hundreds of emails have been sent to Sonic executives<sup>100</sup>; and
- d. Sonic's treatment of its couriers has attracted widespread UK and international press coverage<sup>101</sup>.

<sup>100</sup> See: <https://actionnetwork.org/letters/round-two-defend-the-tdl10?source=twitter&>

<sup>101</sup> For example, see:

- In the *Washington Post*: [https://www.washingtonpost.com/world/europe/these-coronavirus-carriers-take-test-samples-around-london/2020/05/21/9be18f54-9b2b-11ea-ad79-eef7cd734641\\_story.html](https://www.washingtonpost.com/world/europe/these-coronavirus-carriers-take-test-samples-around-london/2020/05/21/9be18f54-9b2b-11ea-ad79-eef7cd734641_story.html)
- In *Al Jazeera*: <https://www.aljazeera.com/indepth/features/road-london-gig-economy-workers-200419103609359.html>
- In *The Independent*: <https://www.independent.co.uk/news/uk/home-news/coronavirus-supermarkets-home-delivery-drivers-key-workers-gig-economy-schools-a9413716.html>
- In *The Guardian*: <https://www.theguardian.com/business/2020/mar/26/uk-blood-couriers-not-given-gloves-and-hand-sanitiser-for-covid-19-samples>
- In *The Guardian*: <https://www.theguardian.com/commentisfree/video/2020/apr/02/life-in-lockdown-how-our-jobs-turned-upside-down-video>
- In *The Canary*: <https://www.thecanary.co/uk/analysis/2020/03/26/blood-couriers-take-action-over-lack-of-protective-equipment-when-ferrying-coronavirus-samples/>
- By the *BBC*: <https://www.bbc.co.uk/news/av/uk-52111389/coronavirus-minimum-wage-heroes>
- In the *Associated Press*: [https://apnews.com/7a12428047c4b051d577f9a971e4495b?utm\\_source=Twitter&utm\\_medium=AP\\_Europe&utm\\_campaign=SocialFlow](https://apnews.com/7a12428047c4b051d577f9a971e4495b?utm_source=Twitter&utm_medium=AP_Europe&utm_campaign=SocialFlow)



90. Despite all of this, at the time of writing Sonic UK is still charging ahead with its plan to dismiss these workers.
91. The consultation period is due to end on 4 June 2020. From the 5 to 8 June there will be a “reflection period” in which Sonic UK supposedly considers all of the proposals presented. On 9 June 2020 Sonic UK will formally take a decision, and the next day, will serve legal notice to the workers that they are being dismissed.



*Former Senator and Deputy Leader of the Greens in Australia, Scott Ludlam, supports the courier campaign against Sonic on Twitter.*

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- In the *Medical Xpress*: <https://medicalxpress.com/news/2020-05-coronavirus-carriers-samples-london.html>
  - In *This is Money*: <https://www.thisismoney.co.uk/wires/ap/article-8343041/These-coronavirus-carriers-test-samples-London.html>
  - By *MSN*: <https://www.msn.com/en-us/news/world/these-coronavirus-carriers-take-test-samples-around-london/ar-BB14oD4L>



# READ ALL ABOUT IT!

**ALJAZEERA**

**On the road with London's gig economy workers**

*The UK's often overlooked and underpaid couriers and drivers share their stories of working during the pandemic.*

by **Amandas Ong**  
18 May 2020

**The Washington Post**  
*Democracy Dies in Darkness*

**These coronavirus 'carriers' take test samples around London**

**The Guardian**

**Anywhere but Westminster**  
**Life in lockdown: how our jobs turned upside down - video**

Coronavirus lockdown: our

**London, United Kingdom** - When 35-year-old medical courier Alex Marshall

**Coronavirus: How do delivery drivers, pharmacists and supermarket staff feel about having to go to work during the crisis?**

'Self-isolation shouldn't be a privilege. We shouldn't have to think, 'I can't afford to stop working,' says medical courier

**Coronavirus: Medical couriers transporting Covid-19 samples threatened with redundancies in the middle of pandemic**

The key workers say they have been 'left out in the cold' by the news and are fearful they will struggle to find work during the crisis

**The Medical Couriers Risking Their Lives On London's Deserted Streets**

There is a real danger that self-employed workers

Press coverage of Sonic UK's treatment of its couriers

## Beware of the Person with Two Faces: What Sonic Says and What it Does

92. Given the detailed exposition of Sonic's behaviour above, it will not come as a surprise to many that this track record is not what Sonic brags about when pitching itself to investors. The difference between the values Sonic publicly professes to uphold, and its track record in the UK, is stark. But as the nature and extent of these differences engage the fiduciary duty of some stakeholders and may create legal liability for Sonic, these differences are detailed below.

### Values and Purpose

#### *What Sonic Says*

93. According to Sonic's Corporate Governance Statement<sup>102</sup>, the "principal function of a business" is to (emphasis supplied)<sup>103</sup>:

...undertake prudent activities to:

- generate rewards for shareholders who invest their capital
- provide services of value to customers
- **provide meaningful employment for employees**

and to do so in a way that **contributes positively to the community**.

94. Sonic's Core Values are<sup>104</sup> (emphasis supplied):

- Commit to Service Excellence: To willingly serve all those with whom we deal, with unsurpassed excellence.
- **Treat each other with Respect & Honesty: To grow a workplace where trust, team spirit and equity are an integral part of everything we do.**
- **Demonstrate Responsibility & Accountability: To set an example, to take ownership of each situation to the best of our ability and to seek help when needed.**
- Be Enthusiastic about Continuous Improvement: To never be complacent, to recognise limitations and opportunities for ourselves and processes, and to learn through these.

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<sup>102</sup> See: *Concise Annual Report 2019*, pp48-60

<sup>103</sup> See: *Concise Annual Report 2019*, p48

<sup>104</sup> See: *Concise Annual Report 2019*, p48

- Maintain Confidentiality: To keep all information pertaining to patients, as well as professional and commercial issues, in strict confidence.

95. Sonic purports to be a company with strong health and safety and anti-discrimination values. For example, in the company's Corporate Governance Statement<sup>105</sup> it states:

Sonic Healthcare strives to maintain a healthy, safe, inclusive and productive environment that is free from discrimination and harassment based on race, colour, religion, political beliefs, gender, gender identity, socio-economic or cultural background, perspective, experiences, sexual orientation, marital or family status, age, national origin or disability. In addition, the Company is committed to the continued development and implementation of initiatives to remove barriers that disadvantage any person or group, such that everyone is able to compete on equal terms. Within Sonic, recruitment, development, promotion and remuneration are based on merit. These principles are an integral part of Sonic's corporate culture, and are encapsulated in the Sonic Core Values and the Company's Diversity Policy.

96. The position on anti-discrimination, in particular in relation to people with disabilities, is reflected in Sonic UK's *Annual Report and Financial Statements for the Year Ended 30 June 2019 for The Doctors Laboratory*<sup>106</sup> (emphasis supplied):

The Company does not discriminate on the basis of age, gender, race, religion, sexual orientation or any basis other than merit. Applications for employment by disabled persons are always fully considered, bearing in mind the respective aptitudes and abilities of the application concerned. In the event of members of staff becoming disabled **every effort is made to ensure that their employment with the Company continues** and the appropriate training is arranged. It is the policy of the Company that the training, career development, and promotion of a disabled person should, as far as possible, be identical to that of a person who does not suffer from a disability.

97. Sonic asserts that its global governance structure is what ensures ethical behaviour on the part of the company<sup>107</sup>:

Our governance ensures that all aspects of the Group's operations are conducted ethically, responsibly and with the highest standards of integrity, and the Board has adopted practices and policies designed to achieve these aims.

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<sup>105</sup> See: *Concise Annual Report 2019*, p55

<sup>106</sup> See: p5

<sup>107</sup> See: *Corporate Responsibility Report 2019*, p45

## What Sonic Does

98. Sonic's attempt to dismiss ten couriers in the midst of a pandemic and economic recession, on grounds which cannot stand up to scrutiny, is clearly not the best example of Sonic attempting to "provide meaningful employment". The same goes for the callous dismissal of Joe Williams, a loyal courier of 21 years' service. Whilst we are not suggesting that Sonic could never dismiss someone without falling foul of its "principal function" to provide meaningful employment, the nature in which the dismissals were/are being effected does call into question the sincerity of the company's pursuit of this objective.
99. Similarly, and contrary to the core values set out above, these 11 couriers do not feel respected. And the IWGB asserts that Sonic is not being honest about the reasons for the dismissals; the union alleges retaliation for bringing proceedings in the case of Joe, and victimization for whistleblowing and/or trade union activities in the case of Alex and his colleagues.
100. With regard to Joe, it is preposterous to suggest that "every effort" was made to accommodate his disability and adjust his work. He worked for 21 years. He made one mistake, which would not have happened but for his disability. He was sacked. Rather than reinstate him, Sonic has let Joe try his luck at crowdfunding his way out of destitution. To date, Sonic does not appear to have contributed to the crowdfunder unless they did so anonymously.

## Code of Conduct

### What Sonic Says

101. Sonic's *Code of Conduct*<sup>108</sup> purports to describe the company's "shared values" and to set out "the standards of behaviour expected of all those who represent Sonic and act on its behalf"<sup>109</sup>. Obeying the law is a key element of this<sup>110</sup>:

It is a governing principle that all Sonic operations are conducted in strict accordance with the cultural, legal, regulatory and professional standards appropriate to each country in which we operate. We must comply with all relevant local and international laws that govern our global operations. In the event employees have concerns about legal issues, advice must be sought before any decision is taken.

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<sup>108</sup> See:

[https://investors.sonichealthcare.com/FormBuilder/\\_Resource/\\_module/T8Ln\\_c4ibUqyFnnNe9zNRA/file/SHL\\_CodeofConduct.pdf](https://investors.sonichealthcare.com/FormBuilder/_Resource/_module/T8Ln_c4ibUqyFnnNe9zNRA/file/SHL_CodeofConduct.pdf)

<sup>109</sup> See: p3

<sup>110</sup> See: p4

102. However, the *Code* makes clear that as far as Sonic is concerned, ethical behaviour entails more than simply complying with the law<sup>111</sup>:

In certain circumstances, striving to conduct ourselves with integrity may require a higher standard of conduct than is required by law or regulation. Integrity is the practice of being honest and showing a consistent and uncompromising adherence to strong ethical principles and values. Additionally, our conduct must be to a standard which meets community expectations, including those related to our environmental and social responsibilities.

103. The *Code* also makes clear that one must avoid not only impropriety but *the appearance* of impropriety. And a useful guide is set out for how one can go about assessing this<sup>112</sup>:

It is expected that each of us will use good judgment and avoid even the appearance of improper behaviour. If in doubt about a course of conduct, ask yourself:

- Is it consistent with the Code?
- Is it ethical?
- Is it legal?
- Will it reflect well on me and the Company?
- Would I want to read about it in the newspaper?

If the answer to any of these questions is 'No ', or it simply does not feel right, don't do it!

104. And the *Code* again reiterates Sonic's purported commitment to principles of anti-discrimination<sup>113</sup>:

Therefore, we must treat others as we ourselves expect to be treated, irrespective of gender, age, race, culture, religion, ethnicity, disability, social and economic status, sexual orientation or political beliefs. It is an expectation that we will treat all people we encounter through our professional dealings with dignity and abide by all relevant employment laws.

105. The *Code* is not intended as simply a list of vague and unenforceable principles; it imposes strict requirements on all Sonic employees to act when potential breaches of the

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<sup>111</sup> See: p3

<sup>112</sup> See: p3

<sup>113</sup> See: p5

Code are brought to their attention. These requirements include, but are not limited to, the following<sup>114</sup>:

Each of us has an obligation to uphold Sonic's ethical standards. If you observe behaviour that concerns you, or that may represent a violation of this Code, it is important to ask questions and voice your concerns promptly.

...

Any supervisor or manager who receives a report of a violation of the Code must report it immediately to their divisional or national Chief Executive Officer. If the violation is material, the divisional or national CEO must immediately report it to Sonic's global Chief Executive Officer, who in turn will report it to the Sonic Healthcare Limited Board of Directors (or a Committee of the Board).

All reports will be taken seriously and investigated appropriately.

#### *What Sonic Does*

106. As outlined above, Sonic has not complied with all relevant employment and human rights laws. In some cases, Sonic has admitted as much. In others, Sonic is splurging on expensive lawyers rather than settle the matters. As seen above, the IWGB has brought or is in the process of bringing a multitude of tribunal proceedings, including over the following issues:

- a. Right to paid holidays, including under the EU Charter of Fundamental Rights;
- b. Unlawful deductions from wages;
- c. Collective bargaining;
- d. Whistleblowing, including under the European Convention on Human Rights;
- e. Disability discrimination; and
- f. Trade union victimization, including under the European Convention on Human Rights.

107. It is hard to see how this track record could possibly meet "community expectations". If the couriers are constantly in the midst of legal proceedings and campaigns, clearly Sonic UK is doing something wrong. The extent and tone of the press coverage on these issues is as good an indicator as any of Sonic's failure to meet "community expectations". At an absolute minimum, "the appearance of impropriety" exists, and Sonic has not done everything possible to avoid this.

108. With regard to the duty to act when potential breaches of the code are brought to the attention of Sonic employees, it is unclear whether the matters outlined in this dossier

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<sup>114</sup> See: pp9-10



have been reported by Sonic UK's CEO to the Sonic Board. However, whether or not he reported them, it is inconceivable that Sonic's CEO and Finance Director, given their close involvement in and responsibility for the UK subsidiary, were unaware. In any case, we have ourselves brought a number of these issues to the attention of both CEO Goldschmidt and Chairman Compton. If they have undertaken some investigation or action in response, neither we nor the couriers are so aware.

## Corporate Social Responsibility

### *What Sonic Says*

109. Although Sonic's Corporate Responsibility Report<sup>115</sup> does not formally form part of the *Concise Annual Report 2019*, in the Chairman's letter to shareholders in the latter document, he specifically and "strongly" recommends "that all Sonic shareholders read our latest Corporate Responsibility Report, available on our website." He goes on to state:

This report describes how Sonic cares for our people, the environment, our own communities and communities in acute need. The Board takes great pride in Sonic's standing in these important issues, and believes that our shareholders can rightfully be proud as well. Sonic's standing as a socially responsible company continues to be recognised by external parties, including through ongoing inclusion in the FTSE4Good Index Series.<sup>116</sup>

110. Sonic professes to have "a firm commitment to maintaining uncompromising ethical standards in the areas of both business management and medical practice"<sup>117</sup>, and believes that this should be assessed based on actions rather than words<sup>118</sup>:

Every organisation operates by a set of values and guiding principles. However, organisational culture is more than just what you say you do. It's about what you actually do – how you treat your staff, your customers and the communities in which you serve; the frameworks you use for decision-making and the approach you take to growing your business.

111. Similarly, Sonic separately states that<sup>119</sup>:

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<sup>115</sup> See: *Corporate Responsibility Report 2019*

([https://investors.sonichealthcare.com/FormBuilder/Resource/module/T8Ln\\_c4ibUqyFnnNe9zNRA/docs/CSR/Sonic-Corporate-Responsibility-Report\\_2019.pdf](https://investors.sonichealthcare.com/FormBuilder/Resource/module/T8Ln_c4ibUqyFnnNe9zNRA/docs/CSR/Sonic-Corporate-Responsibility-Report_2019.pdf))

<sup>116</sup> See: *Concise Annual Report 2019*, p3

<sup>117</sup> See: *Corporate Responsibility Report 2019*, p2

<sup>118</sup> See: *Corporate Responsibility Report 2019*, p4

<sup>119</sup> See: *Corporate Responsibility Report 2019*, p46

Sonic Healthcare has always had a culture of acting ethically, responsibly and lawfully. We see this as a natural extension of the responsibilities associated with delivering first-class healthcare services.

These values are codified in our broad range of policies and charters that ensure we operate in an ethical, safe and legally compliant manner.

112. Indeed, Sonic purports to not only hold itself, but also its suppliers, to the highest of standards. Among other things, Sonic suppliers are required to:

- Comply with all relevant laws, regulations and governmental requirements and directions
- Conduct their business in an ethically appropriate manner
- Pursue environmentally sustainable business practices
- Treat all individuals, including employees and customers, with respect and dignity, including observing all relevant laws and regulations regarding discrimination, equal opportunity and individual and human rights

#### *What Sonic Does*

113. The gaps between the general principles to which Sonic purports to hold itself and the behaviour of Sonic UK have been highlighted above. The point that can be specifically made here is that, contrary to the sections of the *Corporate Responsibility Report 2019* cited above, the highly detailed occurrences set out in this dossier are a fantastic example of saying one thing and doing another.

114. Further, whilst Sonic claims to hold its suppliers to high standards, for the reasons outlined in this dossier, Sonic UK would not satisfy any of the supplier standards quoted above. We make no comment on whether the suppliers meet these standards.

#### **Sonic the Employer**

##### *What Sonic Says*

115. With particular regard to Sonic as an employer, the company holds itself out as upholding the absolute highest standards, as seen in the *Corporate Responsibility Report 2019*<sup>120</sup>:

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<sup>120</sup> See: p12

Sonic's success is built on the steadfast belief that when we look after our people, they will look after everything else – doctors, patients and everything that is required to operate a successful healthcare organisation.

This respect for our people manifests itself in the need to be more than just an employer. We strive to create workplaces that are secure and fulfilling, and our culture is built on the strength of our people.

Sonic employs more than 36,000 people in an environment of professionalism, ethical behaviour, equal opportunity and reward based on merit.

...

'Respect for Our People' is one of the key pillars of our Foundation Principles, while 'Treating each other with Respect & Honesty' is one of Sonic's Core Values. Respect for our people is also embedded in a range of policies ensuring that our diverse workforce operates in safe, legally compliant workplaces that meet all operating requirements.

116. And Sonic's *Labour Standards & Human Rights Policy*<sup>121</sup> states<sup>122</sup>:

Sonic Healthcare Limited (Sonic), together with all of its subsidiaries (collectively referred to as Sonic in this Policy), is an organisation committed to the respect of human rights and upholding labour standards. As a healthcare company, this respect and commitment is central to the success of Sonic's entities in all the communities in which it operates.

117. And Sonic says it operates in compliance with all applicable employment laws<sup>123</sup>:

Sonic operates in full compliance with employment laws and regulations in all jurisdictions in which it operates. This includes but is not limited to laws governing wages, working hours, overtime and statutory employee benefits.

118. Sonic even claims to be an "employer of choice", due to its "professional reputation within the communities" in which it operates<sup>124</sup>.

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<sup>121</sup> See:

[https://investors.sonichealthcare.com/FormBuilder/Resource/module/T8Ln\\_c4ibUgyFnnNe9zNRA/file/SHL\\_HumanRightsPolicy.pdf](https://investors.sonichealthcare.com/FormBuilder/Resource/module/T8Ln_c4ibUgyFnnNe9zNRA/file/SHL_HumanRightsPolicy.pdf)

<sup>122</sup> See: p2

<sup>123</sup> See *Labour Standards & Human Rights Policy*, p4

<sup>124</sup> See: *Corporate Responsibility Report 2019*, p 13

119. With particular regard to redundancies, Sonic recognizes the deleterious impact these can have on staff morale and states that in the context of new acquisitions it tries to rely on natural staff turnover rather than redundancies<sup>125</sup>:

Sonic has a long and successful history of growth through the acquisition of existing medical practices. When achieving synergies from these acquisitions, our general approach is to rely on natural staff turnover to generate savings over time, rather than wide-scale redundancy programs. This preserves staff morale and helps to maintain the goodwill of the acquired businesses.

### *What Sonic Does*

120. Sonic's failure to obey relevant employment laws, including, in some instances, outrightly admitting to the same, has been detailed above. Here we draw the reader's attention to the fact that the laws in question are not just UK statutes, but also various international and human rights legal instruments, including:
- a. The EU Working Time Directive;
  - b. The EU Charter of Fundamental Rights; and
  - c. The European Convention on Human Rights.
121. Further, one would expect that Sonic, as a healthcare company, would take particularly extra care to uphold employment standards which impact upon health. There is no better example of such a standard than sick pay, the adequate provision of which enables workers to stay home when sick, injured, or in the present context, self-isolating, without having to worry about their ability to pay rent and buy food. Prior to the pandemic Sonic UK did not offer Alex or any of the other limb b worker couriers any sick pay at all. During the pandemic Sonic UK has been adamant that it will only provide sick pay at the level of "statutory sick pay", currently £95.85<sup>126</sup> per week.
122. The level of statutory sick pay in the UK is so low that the European Committee of Social Rights, the body supervising adherence to the European Social Charter 1961, an international fundamental rights treaty, concluded in 2018 that the rates were "manifestly inadequate" and not in conformity with Article 12§1 of the Charter. The Committee also stated that the statutory sick pay levels were "too low to comply with the requirements of" the International Labour Organisation's Social Security (Minimum Standards) Convention (No. 102), another international legal instrument<sup>127</sup>.
123. Indeed, the levels of statutory sick pay in the UK are so grossly inadequate to deal with the coronavirus crisis that the IWGB has brought urgent legal proceedings against the

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<sup>125</sup> See: *Corporate Responsibility Report 2019*, p 15

<sup>126</sup> Albeit, as mentioned above, off the back of the IWGB threat of legal action, Sonic UK offered to loan couriers extra money and then make them pay it back.

<sup>127</sup> See: European Committee of Social Rights, *UK, Article 12 - Right to social security*, January 2018, and [https://www.ilo.org/moscow/areas-of-work/social-security/WCMS\\_249301/lang--en/index.htm](https://www.ilo.org/moscow/areas-of-work/social-security/WCMS_249301/lang--en/index.htm).

Government, impugning the legality of the SSP regime on the grounds of discrimination pursuant to EU treaty law and the European Convention on Human Rights<sup>128</sup>.

124. Finally, whilst it is comforting to see that Sonic recognizes the detrimental impact of redundancies, and therefore purportedly seeks to avoid them when acquiring new businesses, it is difficult, and some might suggest impossible, to understand how Sonic could not recognize the detrimental impact of dismissing a group of couriers, including a long-serving disabled courier and prominent trade union activists, in the midst of a pandemic and severe economic recession. This is even more the case given the wealth of alternatives available to Sonic. Sonic says one thing and it does another.

## Trade Unions

### *What Sonic Says*

125. With regard to unions and industrial action, Sonic claims to be in favour of the former and never have experienced the latter<sup>129</sup>:

Sonic engages with unions and other employee representative groups in a positive manner, and hasn't experienced any significant industrial action in our 32-year history. We support the right to freedom of association for all our employees, including their right to join trade unions and to be represented by those unions for the purpose of collective bargaining. Sonic does not discriminate against, or deny access to, workers' representatives in the workplace, and a significant proportion of our global workforce are currently members of unions or other employee representative groups.

### *What Sonic Does*

126. This section is best taken sentence-by-sentence:

- a. *Sonic engages with unions and other employee representative groups in a positive manner, and hasn't experienced any significant industrial action in our 32-year history.*

The story of industrial relations over the past few years at Sonic UK has been one of complete breakdown; protests, strikes, and extensive litigation.

- b. *We support the right to freedom of association for all our employees, including their right to join trade unions and to be represented by those unions for the purpose of collective bargaining.*

<sup>128</sup> See: <https://www.standard.co.uk/news/uk/iwgb-union-suing-government-failure-coronavirus-a4394541.html>

<sup>129</sup> See: *Corporate Responsibility Report 2019*, p 15

Sonic UK refused to voluntarily enter into a collective bargaining deal with the IWGB. The deal was achieved only off the back of litigation.

- c. *Sonic does not discriminate against, or deny access to, workers' representatives in the workplace, and a significant proportion of our global workforce are currently members of unions or other employee representative groups.*

This is not the experience of the trade union activists Sonic UK is currently intending to dismiss. Ultimately, an employment tribunal will rule on the veracity of the claim.

## Health and Safety

### *What Sonic Says*

127. With regard to workplace health and safety, Sonic once again claims to hold itself to the highest standards<sup>130</sup>:

Sonic is committed to the health, safety and wellbeing of our staff, contractors and visitors. Our Workplace Health and Safety Policy recognises our responsibility to ensure that staff enjoy a work-life balance, are provided with opportunities to develop professionally and are assured of Sonic's concern in promoting their health and safety. Our commitment to a positive safety culture and proactive approach to safety management is reflected in the SonicSAFE Improvement Program, which aims to achieve a zero-harm workplace.

No work-related fatalities occurred during the year across Sonic, and our lost-time injury frequency rate (LTIFR) for the 2019 financial year was 4.5 per one million hours worked, which was a decrease of 10% on the previous year.

128. Sonic's *Workplace Health & Safety Policy*<sup>131</sup> says the company will "strive to prevent injuries and illnesses and to promote the benefits of good health in all workplaces and diagnostic facilities". The policy also commits the company to, among other things:

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<sup>130</sup> See: *Corporate Responsibility Report 2019*, p 16

<sup>131</sup> See: p2,

([https://investors.sonichealthcare.com/FormBuilder/\\_Resource/\\_module/T8Ln\\_c4ibUqyFnnNe9zNRA/file/SHL\\_WorkplaceHealthSafetyPolicy.pdf](https://investors.sonichealthcare.com/FormBuilder/_Resource/_module/T8Ln_c4ibUqyFnnNe9zNRA/file/SHL_WorkplaceHealthSafetyPolicy.pdf))



- Comply with all appropriate legislation and regulations with respect to health and safety
- Provide and maintain safe physical environments, equipment and systems of work to the full extent practicable
- Minimise disruption and personal hardship related to occupational injury and illness through effective injury management and rehabilitation programs
- Ensure that all managers, supervisors, employees, labour-hire employees, contractors and visitors are aware of their responsibilities in relation to safety and hold them accountable for the provision and/or maintenance of safe and healthy workplaces and work practices
- Provide relevant information, instruction and supervision to enable all persons to work in a manner that minimises risk of injury or ill health
- Provide regular, adequate and effective training for all employees to ensure that they carry out their work safely
- Consult with employees to realise corporate WHS objectives and involve them in decisions impacting on their health and safety

### *What Sonic Does*

129. Various of Sonic UK's practices outlined above are entirely inconsistent with what Sonic says it does on health in safety. In particular:

- a. Sonic UK has admitted to not complying with a major piece of health and safety law on working time;
- b. Sonic UK has failed to do sufficient risk assessments and/or share these with the workers concerned with regard to Covid-19;
- c. Sonic UK has refused the couriers regular testing for Covid-19, even denying that provision of the same would serve any purpose;
- d. The level of sick pay provided by Sonic UK has been deemed "manifestly inadequate" by the European Committee of Social Rights; and
- e. Insufficient Covid-related health and safety training has been provided to couriers.

## The Environment

### *What Sonic Says*

130. When it comes to pro-environmental credentials, Sonic also claims to lead<sup>132</sup>:

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<sup>132</sup> See: *Corporate Responsibility Report 2019*, p 36

Our Environmental Policy actively seeks to minimise the negative impacts our businesses may have on their surroundings.

Fortunately, healthcare is not a significant polluter or energy consumer, however, we recognise the need to continually minimise our environmental footprint, and to explore opportunities that deliver long-term environmental benefits.

131. Sonic says it achieves this aim through, among other things, “identifying opportunities for energy efficiency initiatives, including ... low environmental impact vehicles”<sup>133</sup>. More specifically, Sonic says it places a “strong focus on looking at ways to decrease emissions associated with transporting specimens and request forms to our laboratories”<sup>134</sup>.

132. The *Corporate Responsibility Report 2019* helpfully provides various examples of Sonic’s achievements in the environmental arena, including but not limited to:

- a. In 2016 Sonic UK refurbished its existing building to provide for “approximately 60 bicycle spaces and associated shower facilities onsite to encourage staff to cycle to work”<sup>135</sup>;
- b. In a “new purpose-built laboratory” in Brisbane, Australia in 2016, Sonic provided for “end-of-trip facilities accommodating 94 bicycles and change rooms, to encourage staff to use transport systems other than private motor vehicles”<sup>136</sup>;
- c. The assertion that energy efficiency is a consideration in Sonic’s equipment selection<sup>137</sup>;
- d. One of Sonic’s Swiss laboratories, Medisupport<sup>138</sup>, are “in the process of replacing fuel-based scooters with electric scooters, and have introduced electric bicycles for use in urban areas” and “generating significant environmental benefits” by

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<sup>133</sup>See: *Corporate Responsibility Report 2019*, p 36. See also: Sonic’s *Environmental Policy*, [https://investors.sonichealthcare.com/FormBuilder/Resource/module/T8Ln\\_c4ibUqyFnnNe9zNRA/file/SHL\\_EnvironmentalPolicy.pdf](https://investors.sonichealthcare.com/FormBuilder/Resource/module/T8Ln_c4ibUqyFnnNe9zNRA/file/SHL_EnvironmentalPolicy.pdf), at p2:

As part of this commitment we also actively seek to understand and minimise our environmental footprint and explore opportunities to deliver long-term environmental benefits. We achieve this through:

- identifying opportunities for energy efficiency initiatives including the use of renewable energy systems or low environmental impact vehicles

<sup>134</sup> See: *Corporate Responsibility Report 2019*, p 40. The report further states:

Even though our business model is focused on localised testing, the logistics involved in our operations are quite substantial, and represent an area where we continue to make practical and ongoing environmental improvements.

<sup>135</sup> See: p38

<sup>136</sup> See: p39

<sup>137</sup> See: *Corporate Responsibility Report 2019*, p 41

<sup>138</sup> As it happens this is a subsidiary of Sonic UK, see: *Annual Report and Financial Statements for the Year Ended 30 June 2019 for The Doctors Laboratory*, p36

transporting “samples between laboratories via train, using bike services at either end”<sup>139</sup>;

- e. Melbourne Pathology in Australia uses motorbikes, scooters, hybrid cars, and has “one courier who often walks the 1.3 km round trip between the laboratory and nearby hospitals and clinics, which is completed multiple times per day”<sup>140</sup>;
- f. Sonic UK “continues to use motorbikes, push bikes and walkers in congested city areas”<sup>141</sup>; and
- g. Sonic continues to “look for environmentally sustainable options to support” the business<sup>142</sup>.

133. Sonic also provides statistics on the total number of motor vehicles and electric or hybrid motor vehicles in its global fleet as part of its “Key ESG Indicators”<sup>143</sup>.

### *What Sonic Does*

134. There’s a slight tension, to put it mildly, between Sonic boasting about its green credentials, in particular when it comes to reducing transportation emissions, whilst at the same time attempting to dismiss all of the couriers in the UK who do not use motorized vehicles. This is not to suggest that the company could never replaced a non-motorised vehicle with a motorized vehicle without falling foul of its green commitments. But one would expect the company to have a good, or at least decent, or at least somewhat credible, rationale for so doing. In the case of Alex and his coworkers, Sonic has none of the above.

## Now What?

### Risk

135. Managing risk is an essential part of managing Sonic’s operations, and is of direct relevance to shareholders. The company says as much in its Corporate Governance Statement<sup>144</sup>:

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<sup>139</sup> See: *Corporate Responsibility Report 2019*, p 41

<sup>140</sup> See: *Corporate Responsibility Report 2019*, p 41

<sup>141</sup> See: *Corporate Responsibility Report 2019*, p 41

<sup>142</sup> See: *Corporate Responsibility Report 2019*, p 41

<sup>143</sup> See: *Corporate Responsibility Report 2019*, pp50-51

<sup>144</sup> See: *Concise Annual Report 2019*, p56. In this section of the *Report*, it is again suggested that the reader refer to the company’s *Corporate Responsibility Reports*.

Sonic recognises that risk management is an integral part of good management and corporate governance practice and is fundamental to driving shareholder value across the business.

Sonic views the management of risk as a core managerial capability. Risk management is strongly promoted internally and forms part of the performance evaluation of key executives.

136. In the *Concise Annual Report 2019* the Sonic Directors set out what they deem to be the major risks to Sonic's future prospects<sup>145</sup>. "Reputation" is a theme which features heavily throughout this list, appearing in no less than four of the 11 major risks outlined<sup>146</sup>. For example, the seventh major risk states<sup>147</sup>:

Relationships with referring physicians (including general practitioners, surgeons and other specialists), hospital groups and other parties with whom Sonic contracts to provide services are important to Sonic's businesses. If, for any reason, Sonic failed to maintain strong relationships with these parties or damaged its reputation with them, there would be a risk that it could lose business to competitors.

137. Reputation is clearly a matter that the Directors recognize can have a material impact on Sonic's success. Yet the Directors have failed to recognize the risk of reputational damage from labour, health and safety, and human rights abuses in this section. The section even concludes by baldly stating<sup>148</sup>:

After serious consideration, Sonic's Board does not believe the Company has any material exposure to environmental or social sustainability risks, given the industries and geographies in which it operates.

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<sup>145</sup> See: pp22-23

<sup>146</sup> The concern over reputational risk is replicated in Sonic UK's *Annual Report and Financial Statements for the Year Ended 30 June 2019 for The Doctors Laboratory*, p4:

As a clinical service provider, we are always subject to reputational risk. The organization invests heavily in quality both systems and personnel, and we work closely with all the necessary regulatory authorities to minimize our risk exposure in this key area.

<sup>147</sup> See: p22

<sup>148</sup> See: p23

138. Responsibility for risk management is delegated by the Board to the Risk Management Committee. According to the formal Charter pursuant to which the Committee works, the Committee's responsibilities include<sup>149</sup> (materially):

- assisting the Board in its oversight responsibilities by monitoring and advising on:
  - the identification and management of risks, including but not limited to:
    - ...
    - reputation risks
    - ...
    - insurable risks, including legal liability claims and property losses
    - environmental, social and governance risks
  - internal controls and treatments for identified risks including the Company's insurance program
  - the Company's overall risk management program

139. Materially for present purposes, the *Risk Management Committee Charter* also states that the Committee will<sup>150</sup>:

- Ensure that the Company identifies, reviews and regularly updates the profile of the principal risks to which it is exposed and assessed the appropriateness of the steps management has taken to manage these risks.
- Obtain regular updates from management and company's legal counsel, as required, regarding matters that may have a material impact on the company's reputation, risk profile or insurance program.
- Provide the board with an updated register of material business risks and advice on the effectiveness of the management of those risks.
- Review any material incident involving fraud or a break-down of the Company's controls and the 'lessons learned'
- Receive reports from management on new and emerging sources of risk and the risk controls and mitigation measures that management has put in place to deal with those risks.

140. In addition to managing reputational issues, the Risk Management Committee is also responsible for monitoring Sonic's "commitment to minimizing" its environmental impact and "providing oversight on Sonic's identification and response to key environmental issues"<sup>151</sup>.

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<sup>149</sup> See: *Concise Annual Report 2019*, p54. Also see: *Risk Management Committee Charter*, [https://investors.sonichealthcare.com/FormBuilder/\\_Resource/\\_module/T8Ln\\_c4ibUqyFnnNe9zNRA/file/SHL\\_RiskManagement.pdf](https://investors.sonichealthcare.com/FormBuilder/_Resource/_module/T8Ln_c4ibUqyFnnNe9zNRA/file/SHL_RiskManagement.pdf), p3

<sup>150</sup> See: p5

<sup>151</sup> See: *Corporate Responsibility Report 2019*, p 16

141. The Audit Committee also has certain duties with regard to risk management. Of particular relevance for present purposes, *The Audit Committee Charter*<sup>152</sup> requires this Committee to:

- a. Review the effectiveness of the system for monitoring compliance with relevant laws and regulations and the results of management's investigation and follow-up (including disciplinary action) of any fraudulent acts or non-compliance.<sup>153</sup>
- b. Obtain regular updates from management and/or the Company's legal counsel regarding corporate compliance matters that may have a material impact on the Company's reputation or financial statements.<sup>154</sup>
- c. Require management and the Business Assurance function to report to the Committee any material breaches of the Company's Core Values or Code of Conduct, material incidents under the Company's whistle blower policy, and material breaches of the Company's anti-bribery and corruption policy.<sup>155</sup>
- d. Regularly update the Board about matters relevant to the Committee's role and responsibilities and make appropriate recommendations.<sup>156</sup>

142. The IWGB is not privy to what the Sonic Board of Directors, the Risk Management Committee, or the Audit Committee, may or may not have done internally in response to the unfolding crisis in the UK. But clearly, their duties are engaged. In addition to the litigation which has been instigated, the reputational damage incurred by the public criticisms of so many high-profile politicians and others, and the widespread news coverage, self-evidently have the potential to materially impact on Sonic's operations. This dossier is being sent to the members of these Committees.

143. Whether or not Sonic UK is ultimately vindicated by the employment tribunal from a legal perspective, and whether or not the bottom line is vindicated from a money-making perspective, from a PR perspective, this situation has been a disaster.

144. Finally for present purposes, one must make the point that even if Sonic UK were able to demonstrate that victimization for whistleblowing and trade unionism played no part in its desire to dismiss the couriers discussed above, the optics of a rich healthcare multinational, which pays its executives and shareholders millions, and receives substantial business from both the pandemic and the tax-payer, dismissing a group of key workers who have been risking their lives to keep us safe, are truly nauseating. This point is best summed up by Stephen Cotton, General Secretary of the International Transport Workers' Federation, in his letter to Chairman Compton<sup>157</sup>:

I was deeply concerned to hear that TDL seeks to make ten of these key workers redundant in one month's time. Of further concern was the fact

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<sup>152</sup> See:

[https://investors.sonichealthcare.com/FormBuilder/Resource/module/T8Ln\\_c4ibUqyFnnNe9zNRA/file/SHL\\_AuditCharter.pdf](https://investors.sonichealthcare.com/FormBuilder/Resource/module/T8Ln_c4ibUqyFnnNe9zNRA/file/SHL_AuditCharter.pdf)

<sup>153</sup> See: p6

<sup>154</sup> See: p6

<sup>155</sup> See: p6

<sup>156</sup> See: p7

<sup>157</sup> See: [https://twitter.com/IWGB\\_CLB/status/1263489046376054784](https://twitter.com/IWGB_CLB/status/1263489046376054784)



that one of the employees you seek to dismiss is an effective trade union activist. Mr Alex Marshall is part of the Independent Workers of Great Britain (IWGB), who allege that these dismissals are motivated by trade union victimisation. Even if this were not the case, the dismissal of ten key workers at this time would be cynical, especially in light of these workers' contribution to the pandemic response.

## Disclosure

145. As a publicly listed company on the Australian Securities Exchange, Sonic is required by ASX Listing Rule 3.1 (Continuous Disclosure) and the Corporations Act 2001 to inform the market of material events as they occur. However, Sonic also binds itself and its directors to certain disclosure requirements by virtue of its *Continuous Disclosure Policy*<sup>158</sup>. In this policy, Sonic sets out its understanding of the duty of continuous disclosure in ASX Listing Rule 3.1<sup>159</sup>:

'Once an entity is or becomes aware of any information concerning it that a reasonable person would expect to have a material effect on the price or value of the entity's securities, the entity must immediately tell ASX that information.'

A reasonable person would be taken to expect information to have a material effect on the price or value of securities if the information would, or would be likely to, influence persons who commonly invest in securities in deciding whether or not to subscribe for, or buy or sell, the Company's securities.

146. Included in the list of examples of developments which engage the duty is: "becoming a plaintiff or defendant in a material law suit"<sup>160</sup>. This chimes with the company's recognition in its disclaimer on "Forward-looking Statements" in the *Results for the Half Year Ended 31 December 2019*<sup>161</sup> that law suits may affect the results of the company:

Risks and uncertainties that may affect the future results of the Company include, but are not limited to, adverse decisions by Governments and healthcare regulators, changes in the competitive environment and billing

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<sup>158</sup> See:

[https://investors.sonichealthcare.com/FormBuilder/\\_Resource/\\_module/T8Ln\\_c4ibUqyFnnNe9zNRA/file/SHL\\_DisclosurePolicy.pdf](https://investors.sonichealthcare.com/FormBuilder/_Resource/_module/T8Ln_c4ibUqyFnnNe9zNRA/file/SHL_DisclosurePolicy.pdf)

<sup>159</sup> See: p2

<sup>160</sup> See: p2

<sup>161</sup> See: p24

policies, lawsuits, loss of contracts and unexpected growth in costs and expenses.

147. Issues such as those outlined in this dossier are of particular interest to potential and current Sonic investors as Sonic is part of the FTSE4Good Index Series, which is “designed to measure the performance of companies demonstrating strong Environmental, Social and Governance (ESG) practices.”<sup>162</sup> The details contained in this dossier clearly relate to ESG practices. And some shareholders are restricted to only investing in companies which adhere to particular ESG practices.
148. At the time of writing, Sonic had made no relevant disclosure to the ASX in the year 2020 in relation to any of the labour, human rights, health and safety or environmental practices impugned in this dossier.

## Remuneration

149. Target Remuneration for the two Executive Directors with responsibility for overseeing Sonic UK, i.e. CEO Goldschmidt and Finance Director Wilks, consists of three components<sup>163</sup>:
  - a. Fixed Remuneration: ~32%;
  - b. Short-Term Incentives (STI): ~34%; and
  - c. Long-Term Incentives (LTI): ~34%.
150. The Target STI component is further divided into two subcomponents<sup>164</sup>:
  - a. The quantitative element, accounting for 75% of the component, measured by year-on-year growth of Earnings before Interest, Tax, Depreciation and Amortisation (EBITDA); and
  - b. The qualitative element, accounting for 25%<sup>165</sup>, based on an assessment of performance on specific objectives relating to:

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<sup>162</sup> See: <https://www.ftserussell.com/products/indices/ftse4good>

<sup>163</sup> See: Directors’ Report in *Concise Annual Report 2019*, p37

<sup>164</sup> See Directors’ Report in *Concise Annual Report 2019*, p38

<sup>165</sup> According to the Directors Report in the *Concise Annual Report 2019*, the weight of the qualitative element was reduced by the Board on the basis that the Executive Directors concerned had already demonstrated their abilities in this area (at p38):

In 2018, the split of the STI was 70%/30% quantitative/qualitative, however, this was changed to 75%/25% for 2019 as the Board was of the view that given the known strengths of these long-serving executives in the qualitative factors, more emphasis should be placed on financial outcomes.

In light of the content contained in this dossier, it is suggested that the Board should further review the weighting of the qualitative and quantitative subcomponents of the Target STI, given the abject failures of these directors in the qualitative subcomponent.

- i. Promotion of, and adherence to, Sonic's Core Values and Foundation Principles;
  - ii. Medical Leadership;
  - iii. Federation model;
  - iv. Risk management;
  - v. External standing and reputation (including stakeholder management, brand and quality); and
  - vi. Financial leadership and innovation (for C.D. Wilks).
151. For the reasons outlined above, the significant damage to Sonic's reputation from the various issues in this dossier, and the failure of CEO Goldschmidt and Finance Director Wilks to manage this risk, is clearly material to the qualitative element of the Target STI component of remuneration. The Remuneration and Nomination Committee of the Board of Directors is duty bound to consider these issues when assessing STI remuneration levels for FY 2020. This dossier is being sent to these committee members.

## Conclusion

152. We do not shy away from the fact that the reason for so much public attention on these issues, and for so much public support for the couriers, is our campaigning. We exist to protect and defend the working lives of our members. And given the nature of the issue at hand, this is a campaign unlike any other. I said as much in an email to Sonic UK CEO Byrne on 5 May 2020, giving him fair warning of what was to come:

Now you have already been the recipient of a number of IWGB campaigns and tribunal cases, many of which did not end well for you. And you may think you can simply weather the storm, or indeed that a further reputational hit is a price worth paying to be able to finally get rid of Alex and his coworkers, given the extent to which he has exposed your unethical behaviour on social media, the BBC, Sky, and elsewhere. But it's important I take this opportunity to make something clear. This is a campaign unlike any other. At stake is not only the livelihood of ten couriers who despite the extremely dangerous and publicly valuable work they have been doing, and the alternatives available to you, you deem fit to relegate to the ranks of Universal Credit queues. What is also at stake is the very essence of the IWGB and trade unionism more broadly, the ability of workers to speak out and challenge their boss, the ability of the union to protect its activists, and the standard of ethical behaviour to which companies can be held in the midst of this pandemic.

It's not too late to call off the redundancies. But until you do, I suggest you lawyer up, hire a few extra PR advisers, and start drafting your list of

excuses to your clients, to Sonic Healthcare and their shareholders, and to the world in general. Every campaign and tribunal we have waged against TDL combined won't come close to what we are about to throw at this.

153. The campaign has been escalating in phases, at each phase giving Sonic fair warning of what was coming next. Phase One focused on Sonic UK and its stakeholders, such as clients. Phase Two focused on Sonic globally, in particular on CEO Goldschmidt and Chairman Compton. And with the release of this dossier, we move into Phase 3, significantly ramping up pressure and involving more politicians, Australian allies, press coverage, litigation, and shareholders.
154. As can be seen in this document, the IWGB is not a bunch of serially litigating hotheads throwing around baseless accusations. Rather, we are fighting to defend the ability of our members to work with dignity, respect, basic protections and statutory rights. In the instant case, we are fighting to defend their ability to survive. When we make an allegation, it is detailed, substantive, and backed up by the facts.
155. No one wants to be campaigning. And indeed, the campaigning would stop, and relevant litigation and formal complaints would be withdrawn, the negative press coverage would cease, as would the public letters from politicians and emails from supporters, if only Sonic would agree to:
- a. Reinstate Joe Williams;
  - b. Call off the plan to dismiss Alex Marshall and his colleagues; and
  - c. Negotiate the implementation of a health and safety plan with the IWGB.
156. Sonic knows this. Now you know it. In refusing, has Sonic made the right choice, in line with its legal duties, its internal policies, and the interests of its shareholders and other stakeholders? Has Sonic been honest and truthful about the type of company it really is? You be the judge.

**Dr. Jason Moyer-Lee**  
**General Secretary**  
**Independent Workers' Union of Great Britain**  
**London, UK**  
**23 May, 2020**

