

Notice of Designation of Amazon.com, Incorporated under the Groceries (Supply Chain Practices) Market Investigation Order 2009

9 February 2022

Introduction and background

1. The Competition Commission (CC) investigated the supply of groceries, following a reference from the Office of Fair Trading (OFT) in May 2006. On 30 April 2008 the final report was published and set out the CC's findings from the investigation (the 2008 Report). The CC found adverse effects on competition arising in several areas including the exercise of buyer power by certain grocery retailers with respect to their suppliers of groceries through the adoption of supply chain practices that transfer excessive risks and unexpected costs to those suppliers, impairing their willingness to invest or innovate. To address these concerns, the CC made the Groceries (Supply Chain Practices) Market Investigation Order 2009 (the Order). The Order imposes a series of obligations on Designated Retailers, including to comply with the Groceries Supply Code of Practice (GSCOP).
2. The Competition and Markets Authority (CMA) actively monitors and enforces the orders, undertakings, directions and commitments within its remit, including the Order, and works closely with the Groceries Code Adjudicator (GCA).¹ As part of this role, the CMA has considered the evidence available to it regarding whether there are additional retailers that should be designated under the Order and responded to requests in this area.

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3. From the date of the Order,² the following 10 retailers were designated, as described in Schedule 2 of the Order:

(a) Asda Stores Limited;

¹ The GCA is responsible for monitoring and enforcing compliance with the GSCOP.

² February 2010

- (b) Co-operative Group Limited;
- (c) Marks & Spencer plc;
- (d) Wm Morrison Supermarkets plc;
- (e) J Sainsbury plc;
- (f) Tesco plc;
- (g) Waitrose Limited;
- (h) Aldi Stores Limited;
- (i) Iceland Foods Limited; and
- (j) Lidl UK GmbH (now Lidl GB Limited).

4. Article 4(1)(b) of the Order provides that the following will also be Designated Retailers for the purposes of the Order:

‘Any retailer with a turnover exceeding £1 billion with respect to the retail supply of groceries in the United Kingdom, and which is designated in writing as a Designated Retailer by the OFT.’^{3 4 5}

‘For the purposes of Article 4(1)(b), a Retailer’s turnover with respect to the retail supply of Groceries in the United Kingdom, on any particular dates, will be the applicable turnover figure for the financial year preceding that date’⁶

5. As described in the Explanatory Note to the Order, the CMA has a discretion over whether or not to designate additional retailers as Designated Retailers under the Order:

‘Article 4 specifies those retailers who will be ‘Designated Retailers’ for the purposes of the Order. The article lists retailers identified in the report as those who would be covered by the Code, and sets out the criteria which the OFT will consider to determine whether additional

³ Part 2, Article 4(1)(b) of the Order.

⁴ Groceries is defined in Article 2 of the Order as, ‘Groceries means food (other than that sold for consumption in the store), pet food, drinks (alcoholic and non-alcoholic, other than that sold for consumption in the store), leaning products, toiletries and household goods, but excludes petrol, clothing, DIY products, financial services, pharmaceuticals, newspapers, magazines, greetings cards, CDs, DVDs, videos and audio tapes, toys, plants, flowers, perfumes, cosmetics, electrical appliances, kitchen hardware, gardening equipment, books, tobacco and tobacco products’.

⁵ The CMA has taken on the relevant functions of the OFT as described in this Order.

⁶ Part 2, Article 4(3) of the Order.

retailers will be covered by the Code in the future. As currently drafted, the OFT will designate a grocery retailer as a Designated Retailer as soon as it obtains evidence that it meets the £1 billion turnover threshold. The OFT has a discretion as to whether to appoint a business meeting the turnover threshold as a Designated Retailer, based on the nature of the business meeting the turnover threshold, and the purposes of the Order...'⁷

6. The purpose of the Order is to address certain manifestations of buyer power which were identified by the 2008 Report. Specifically, the 2008 Report identified that there was a transfer of excessive risk and unexpected costs by grocery retailers to their suppliers through various supply chain practices, which, where unchecked, could have an adverse effect on investment and innovation in the supply chain, and ultimately on consumers:

'We found that the exercise of buyer power by certain grocery retailers with respect to their suppliers of groceries, through the adoption of supply chain practices that transfer excessive risks and unexpected costs to those suppliers, was a feature of the markets for the supply of groceries'.⁸

'The size of a purchaser (here a grocery retailer) in terms of both its size relative to the market and relative to the supplier is a key influence on a grocery retailer's buyer power in relation to a supplier'.⁹

'In particular, we set out in Section 9 that the ability to pass excessive risks and unexpected costs to suppliers is a function of buyer power, and that buyer power is, in a large part, a function of the size of the retailer. Given this, we decided that a threshold based on UK retail groceries turnover should be set, below which retailers will not be subject to the GSCOP'.¹⁰

'We decided that this threshold should be set at £1 billion a year. There is an element of judgement in the setting of this threshold in that it is not possible to calculate precisely the degree of buyer power that any individual retailer will have relative to its suppliers. Nevertheless, in setting this threshold, we took into account the identity of the retailers where particular issues had been brought to our attention during the course of this investigation (see Appendix 9.9). There were very few

⁷ Part 2, Article 18 of the Explanatory Note to the Order.

⁸ From Executive Summary Paragraph 4.1. See also paragraphs 9.41 – 9.49 of the 2008 Report.

⁹ From paragraph 9.7 of the 2008 Report.

¹⁰ From paragraph 11.410 of the 2008 Report.

*cases which involved a grocery retailer with an annual turnover of less than £1 billion’.*¹¹

7. Further retailers have been designated under Article 4(1)(b) since it came into force. On 1 November 2018, the CMA designated Ocado Group plc and B&M European Value Retail S.A. On 3 September 2019, the CMA designated a further retailer, TJ Morris Limited, trading as Home Bargains, under the Order. On 16 October 2019, the CMA designated Ocado Retail Limited under the Order as it carried on the whole or a substantial part of the business formerly carried on by Ocado Group plc.

Amazon.com, Inc

8. Amazon.com, Inc (Amazon) is one of the largest companies in the world with a market capitalisation of approximately \$1.44 trillion as of January 2022. In 2019, Amazon earned over \$280 billion in net sales which was up 20% year on year and over \$14 billion in operating income. It generated net sales of approximately \$17.5 billion in the UK in 2019.¹²

Grocery activities in the UK

9. Amazon has two separate and wholly owned subsidiaries that are active in the supply of groceries in the UK, Amazon EU Sarl, and Fresh & Wild Limited.

Amazon EU Sarl

10. Through its UK subsidiary, Amazon EU Sarl, Amazon sells everyday grocery and household products via its website Amazon.co.uk and through its app.¹³
11. Amazon has launched a number of branded grocery services in the UK, through its Amazon EU Sarl subsidiary:
 - (a) ‘Amazon Pantry’ launched in 2015, for Amazon Prime subscription customers to shop for everyday essentials like grocery, household and pet care items. Amazon Pantry closed on 30 June 2020, and a large selection of those items are now available via Amazon’s core service and Amazon Fresh;

¹¹ From paragraph 11.411 of the 2008 Report.

¹² Sales and income figures sourced from the CMA’s [final report of the merger between Amazon and Deliveroo](#).

¹³ These items include a range of groceries, including beer, wine and spirits; household and cleaning products; health and personal care products; and pet supplies.

- (b) 'Amazon Prime Now' launched in 2015 in the UK. This service, available through a separate website and app, allowed Amazon Prime subscription customers to purchase from a range of around 15,000 fresh and frozen grocery items for same-day home delivery. Prime Now was closed on 1 September 2021, the same selection is available via Amazon Fresh at equivalent delivery speeds;
- (c) 'Amazon Fresh' launched in 2016 in the UK. Amazon Fresh is a same-day or next-day home delivery service which is only available to Amazon Prime customers in certain postcodes of the UK. This includes fresh produce, including meat, dairy, frozen items and household essentials. Customers can choose from a selection of more than 18,000 items. These products are supplied via a range of suppliers and retailers such as Whole Foods, Morrisons and Booths; and
- (d) Amazon Fresh physical stores launched in the UK in March 2021. The first store opened in Ealing, West London. Each store stocks approximately 2,400 grocery convenience products such as fresh meat and fish, dairy, fruit and veg, bakery, frozen items and household essentials, including Amazon own-brand products. The stores also sell some Morrisons and Booths branded goods. Amazon opened fourteen further physical stores in Greater London during 2021.

Fresh & Wild Limited

- 12. Fresh & Wild Limited, another subsidiary of Amazon currently operates seven physical groceries stores in London, as well as offering delivery through Deliveroo in the UK. Fresh & Wild Limited is a wholly owned subsidiary of Whole Foods Market, Incorporated, a company registered in Texas in the USA and is ultimately owned by Amazon.

Decision to designate Amazon

- 13. Amazon, Amazon UK Services Limited (on behalf of Amazon EU Sarl) and Fresh & Wild Limited made detailed representations to the CMA in relation to whether or not the CMA should exercise its discretion to designate Amazon under the Order. The CMA has considered all these representations carefully before making its decision.
- 14. Having had regard to the size and nature of Amazon's grocery business in the UK and the purpose of the Order, the CMA considers it appropriate to exercise its discretion to designate Amazon.
- 15. In reaching this decision, the CMA has assessed the following matters:

- (a) Amazon controls a corporate group which contains two separate retailers of groceries in the UK;
- (b) the £1bn groceries threshold for designation has been exceeded by the Amazon corporate group of companies;
- (c) how the Code would apply to Amazon and its corporate group of companies; and
- (d) whether the designation of Amazon is appropriate taking into account the objectives of the Order and the business model of the Designated Retailer.

16. The CMA's consideration of these matters is summarised below.

Amazon controls two separate retailers of groceries in the UK

17. In order to determine which, if any, company within the Amazon corporate group of companies should be designated, the CMA examined the involvement of Amazon in the groceries business of its subsidiaries in the UK, and highlights that:

- (a) Amazon EU Sarl and Fresh & Wild Limited are wholly owned subsidiaries of Amazon;
- (b) as wholly owned subsidiaries of Amazon, both Amazon EU Sarl and Fresh & Wild Limited are within the sole control of Amazon and operate within the global Amazon framework;
- (c) as the corporate controller and ultimate holding company for both Amazon EU Sarl and Fresh & Wild Limited, Amazon is able to control the strategic policy and operations of each of its subsidiaries that supply groceries in the UK;
- (d) Fresh & Wild Limited's report and financial statements (strategic report) for the year ended 31 December 2020 stated that it:

'...operates in the UK as part of Amazon.com Inc's global business (...). Further, Fresh & Wild Ltd operates within the global Amazon Framework and the application of section 172 considerations is through a number of activities, both at Group and Company level, including but not limited to (...) ensuring a sustainable and ethical supply chain'.

The strategic report further states that Fresh & Wild Limited, 'is dependent on the continued success of the Amazon group of companies';¹⁴ and

- (e) Amazon is involved in the strategic management of the UK grocery business of Amazon EU Sarl.¹⁵ The CMA also found clear operational links between Amazon EU Sarl and Amazon including through spending and transactional policies where certain expenditure requires the involvement and/or approval of Amazon. The CMA also found that the internal staffing structure, reporting lines, and degree of control by Amazon over Amazon EU Sarl's business demonstrated sufficient control by Amazon of the UK grocery retailing business so as to be an appropriate body to be a Designated Retailer under the Order.
18. The CMA received representations from Amazon and Fresh & Wild Limited that Amazon does not sell groceries in the UK and is not involved in that activity.
19. Having considered all the available evidence, including all representations from Amazon and its subsidiaries, the CMA has concluded that, through its sole ownership of Amazon EU Sarl and Fresh & Wild Limited and control of their respective UK grocery businesses, Amazon is carrying out grocery retail business in the UK and it is therefore an appropriate subject of designation.

Groceries turnover in the UK

20. The CMA explored the relevant groceries turnover in the UK of Amazon specifically through the following two wholly owned subsidiaries active in this area. These are:
- (a) Amazon EU Sarl, with a groceries turnover in the UK of around £[~~£~~] in the financial year ending 31 December 2020;¹⁶ and
- (b) Fresh & Wild Limited, with a groceries turnover in the UK of below £100m for the financial year ending 31 December 2020.
21. The CMA has assessed whether the UK groceries turnover of Amazon may be expected to fall in the near future to a level below the £1 billion threshold. Given the scale of the turnover set out above, and noting that the scale of

¹⁴ Filed at Companies House.

¹⁵ Including that, Amazon takes some strategic decisions relating to the business of Amazon EU Sarl, including business-defining decisions and/or decisions with significant resource implications such as corporate development (e.g. M&A), the direction of aspects/elements of the business, or decisions related to material headcount changes.

¹⁶ Turnover of [~~£~~] in the financial year ending 31 December 2020.

recent growth may in part have been attributable to the Covid-19 pandemic, the CMA notes that there would need to be a loss of trade of over £[~~8~~] in UK groceries turnover to fall below the threshold. The CMA considers this to be unlikely given the growth in turnover in previous years.

22. Fresh & Wild Limited submitted that the designation of Amazon would be unlawful on the grounds that the Order can only be applied to the business that meets the turnover threshold, while Amazon UK Services Limited, (on behalf of it and Amazon EU Sarl) submitted that the designation of Fresh & Wild Limited would set a chilling precedent given that it only operates out of seven shops in London and its grocery turnover is below £100m.
23. The CMA highlights that the [CC's final report in 2008 \(the 2008 Report\)](#) identified that the Order should apply to those firms which are active in the retailing of groceries in the UK and which are controlled by corporate groups with (or which themselves have) an annual UK retail groceries turnover of £1 billion or more.
24. The CMA confirms that in its designation decision it has assessed the relevant groceries turnover of the Amazon corporate group of companies as a whole and is therefore not assessing purely the individual groceries turnover of Fresh & Wild Limited. Consequently, the individual grocery turnover of Fresh & Wild Limited is not the relevant benchmark, as the CMA's designation is of Amazon.
25. Having considered the evidence on turnover including the representations received, the CMA's assessment is that Amazon is involved in the retailing of a range of groceries in the categories that are mentioned in the 2008 Report and that this is in excess of the £1 billion groceries turnover threshold as set in the Order.

The applicability of the Code to Amazon.com Inc

26. The CMA explored the extent to which the individual elements of the Code are relevant to the two wholly owned subsidiaries of Amazon which are currently active in grocery retailing in the UK.
27. The CMA notes that many sections of the Code have direct relevance to these subsidiaries of Amazon and their suppliers of grocery products, as both Amazon EU Sarl and Fresh & Wild Limited contract directly with grocery suppliers. These include:
 - (a) Section two on fair dealing,

- (b) Section three on variation of supply agreements, and changes to supply chain procedures,
 - (c) Section four on prices and payments,
 - (d) Section five on promotions and
 - (e) Section six on other duties will apply differently to physical stores compared to online-only activities, but elements of each of these requirements will be relevant to the current grocery activities of both subsidiaries.
28. Those elements of the Code which are not currently directly relevant to one or other subsidiary may become more relevant over time, as Amazon develops its grocery business in the UK.
29. The CMA has assessed the current business model of the two subsidiaries of Amazon that contract with grocery suppliers and has not found any reason why the Code could not be incorporated into the activities of those subsidiaries. The Code provides protections to grocery suppliers in contracts and is directly applicable to grocery businesses such as Amazon EU Sarl and Fresh & Wild Limited that contract directly with suppliers. The Code contains a range of protections that, if implemented, would either provide a direct protection for suppliers from harms, or offer protection against these harms arising in the future.
30. The CMA notes that the designation of retailers does not rely solely on an evaluation of a specific retailer's current and previous business practices in relation to suppliers but anticipates that business models may change and evolve over time, so the assessment carried out at the time of designation examines whether the Code could reasonably apply to the retailer in question at present and in the future. As such, designation under the Order is, in part, intended as a protective measure for grocery suppliers to prevent problems in the future and ensure they are not faced with the concerns outlined by the 2008 Report.

Appropriateness of designating Amazon

31. In making an assessment as to whether to exercise its discretion to designate Amazon, the CMA has taken into account the guiding principles of effectiveness and proportionality to ensure that the designation decision:
- (a) is effective in achieving its legitimate aim;
 - (b) is no more onerous than needed to achieve its aim;

- (c) is the least onerous if there is a choice between several effective measures; and
- (d) does not produce disadvantages which are disproportionate to the aim.

32. These are examined below.

The designation of Amazon is effective in achieving the aims of the Order

33. The purpose of the Order is to address certain manifestations of buyer power which were identified by the 2008 Report.¹⁷
34. The CMA will only designate a retailer meeting the conditions where to do so promotes the objectives of the Order. This requires consideration of a range of factors including the business model of the proposed Designated Retailer and the extent to which such a designation is required to prevent the harms identified in the 2008 Report. In the present circumstances, where grocery retailing is being carried on by more than one retailer within a single corporate group, a further question arises as to whether it would be as effective to designate a single retailer within the corporate group.
35. The 2008 Report identified that the Order should apply to those firms which are active in the retailing of groceries in the UK and which are controlled by corporate groups with (or which themselves have) an annual UK retail groceries turnover of £1 billion or more. Specifically, the 2008 Report found that:

*'[T]he buyer power of a grocery retailer is likely to be at least partially related to the retail groceries turnover of its corporate group, and we would be concerned about the possibility of retailers taking steps to avoid the remedy (for example, creating new subsidiaries or fascias) if the GSCOP did not apply at the level of the corporate group.'*¹⁸

'the GSCOP should apply to all firms which are:

- *active in the supply of groceries at a retail level in the UK; and*
- *controlled by corporate groups with (or which themselves have) an annual UK retail groceries turnover of £1 billion or more.'*¹⁹

¹⁷ See paragraph 9.84 and 9.86 of the 2008 Report.

¹⁸ Paragraph 11.278 of the 2008 Report.

¹⁹ Paragraph 11.283 of the 2008 Report.

36. In relation to the Amazon corporate group of companies, given its groceries turnover is more than £1 billion as set out above in paragraph 20 above, and having considered all the representations received, the CMA concludes that the Order should be applied to all firms within that group active in the supply of groceries in the UK, namely Amazon EU Sarl and Fresh & Wild Limited.
37. As the corporate controller and ultimate holding company for both Amazon EU Sarl and Fresh & Wild Limited, Amazon is able to control the strategic policy and operations of each of its subsidiaries that supply groceries in the UK.
38. The CMA considers that any grocery supplier engaging with Amazon EU Sarl and/or Fresh & Wild Limited is engaging with the Amazon corporate group of companies and therefore could be subject to the buyer power held by Amazon, which may be manifested through either of its subsidiaries that are active in grocery retailing in the UK.
39. Without the protections generally afforded by the Order, there is a risk that Amazon and the companies that are part of the Amazon corporate group of companies may seek to use their size and status to negotiate more favourable terms with grocery suppliers which could lead to some of the harms identified by the 2008 Report. This concern arises in relation to subsidiaries of Amazon even if their UK groceries turnover may not indicate that these subsidiaries would have sufficient buyer power to extract more beneficial terms, were they not part of a larger group of companies.
40. The 2008 Report also specifically identified the objective of avoiding the possibility of retailers taking steps to avoid the Order where this was not applied at the level of the corporate group.
41. The CMA considers that the risks of the manifestation of buyer power as envisaged by the 2008 Report are heightened in this case given the overall size and broader activities of Amazon and the range of suppliers and business areas in which it is involved. In this context, the CMA notes that Amazon is one of the world's largest companies, and therefore there is the potential, given its size and status in combination with the scale of its UK groceries turnover, for it to have buyer power in negotiations carried out by it or its wholly-owned subsidiaries.
42. The CMA has assessed the practical issues surrounding the designation of a US entity under the Order, that is Amazon, including taking account of the representations received from Amazon on these matters, for example, relating to the location of a Code Compliance Officer. The CMA is satisfied that these are not significant concerns for the applicability of the Order or the Code regime and the protections it affords. The CMA therefore considers that

Amazon.com Inc and the GCA will be able to work together to find practical ways of working in relation to the role of the Code Compliance Officer.

43. The CMA received representations from Fresh & Wild Limited, that it does not have buyer power, and that there are five corporate entities between Fresh & Wild Limited and Amazon. It also explained that it sources goods independently of other group companies and stated that there is no evidence that it engages in any of the Code's prohibited behaviours. It explained that there is no intention to change the way that it operates.
44. The CMA has considered whether it would have been effective for it to designate only Amazon EU Sarl, taking into account representations received, noting that Amazon EU Sarl currently accounts for the majority of Amazon's UK grocery sales and that the turnover of Fresh & Wild Limited falls substantially below the threshold for designation on a stand-alone basis. The CMA has concluded that it would not have been effective to take this approach, as it would have generated the following risks:
 - (a) the exercise of buyer power by Amazon through Fresh & Wild Limited, an existing grocery retailer in the UK wholly owned by Amazon and which would not be within the scope of the designation but that may, for example, contract with the some of the same grocery suppliers as the other UK grocery business in the Amazon corporate group of companies;²⁰ and
 - (b) changes to Amazon's business operations resulting over time in the exercise of buyer power outside the protection of the Code. This would require the CMA having to monitor, actively and in some detail, the ongoing activities in the Amazon corporate group of companies on a continuous basis for potential future designation.²¹
45. In the CMA's view, the purpose of the Order is only met in an efficient and effective manner where the designation encompasses all current UK grocery retailing activities of the Amazon corporate group of companies through the designation of Amazon.²²
46. The CMA notes that Amazon provided representations on the consistency of the CMA's designation with previous decisions to designate grocery retailers,

²⁰ The CMA is aware that Section 4(1)(c) of the Order provides some protection in this regard, for any person who carries on the whole or a substantial part of the business of a Designated Retailer. However, the CMA is aware that one business area in one subsidiary can be expanded and another contracted to circumvent the intention of the Order without triggering a designation under Section 4(1)(c).

²¹ The CMA notes an inherent difficulty in such monitoring where the activities will not necessarily be evident.

²² See paragraphs 11.278 and 11.282 of the 2008 Report.

specifically Waitrose and Asda.²³ In relation to these points, the CMA highlights the following:

- (a) that past decisions on designations do not represent a binding legal precedent for the CMA in considering future designations;
 - (b) the principle and policy aim of the Order are clearly established in the 2008 Report, and the CMA should be slow to depart from such an aim without convincing reasons;
 - (c) that each designation decision turns on the facts of the case in question; and
 - (d) in this case, the CMA notes that the facts are different to a material degree from those considered in particular previous designation decisions, specifically the level of control of a parent company over a subsidiary and the corporate structure having two separate subsidiaries involved in the retailing of groceries in the UK.
47. The CMA highlights that neither at the time of their designation nor since, have either Walmart or the John Lewis Partnership had more than one subsidiary involved in the retailing of groceries in the UK. This is demonstrably not the case for Amazon given it currently has two separate subsidiaries, Amazon EU Sarl and Fresh & Wild Limited, both involved in the retailing of groceries in the UK. Therefore, the CMA does not consider a decision to designate Amazon to be inconsistent with previous designation decisions.
48. The designation of Amazon, compared to the designation of Amazon EU Sarl, which the CMA did not consider to be effective in delivering the aims of the Order, brings a further grocery retailing subsidiary of Amazon within the scope of the Order and the Code. The CMA considers the designation of Amazon is no more onerous than is necessary for the designation to be effective in delivering the aims of the Order, and for the reasons set out above in paragraphs 31 to 45, there is no alternative option available that would be effective in delivering these aims.

Proportionality with respect to the aim of the Order

49. The CMA considers designating Amazon would be a proportionate means of achieving the aims of the Order, given the risks identified by the CC, the scale

²³ Owned at the time of designation by John Lewis Partnership and Walmart respectively.

of Amazon's UK grocery operations and the relevance of the provisions of the Code to Amazon's UK grocery operations.

50. In reaching this view, the CMA took account of representations from Fresh & Wild Limited that highlighted the potential financial impact of designation on its business. The CMA notes that in designating Amazon, the costs of compliance fall on it and its two subsidiaries active in grocery retailing in the UK. The CMA notes that there may be some additional costs associated with designating Amazon rather than Amazon EU Sarl, in that it would bring additional activities within the scope of the Code – notably at present, the groceries activities of Fresh & Wild Limited. However, the CMA judges it appropriate that Amazon incurs any such incremental costs, which it considers are likely to be small in relation to its UK groceries turnover, in order to achieve the aims of the Order in an effective manner.
51. For the avoidance of doubt, the CMA considers that to the extent that some proportion of these costs are borne by Amazon EU Sarl and Fresh & Wild Limited, the CMA expects that such costs are likely to be proportionate to their size, grocery turnover and range of suppliers with whom they contract. Consequently, the CMA considers these costs to be proportionate to the aim of bringing the Amazon corporate group of companies within the scope of the Order in an effective manner, irrespective of whether they are met in full by Amazon or spread across that entity and its relevant subsidiaries.

Timing of designation

52. Article 4(2) of the Order provides that a '*Designated Retailer designated pursuant to Article 4(1)(b) will not be bound by the terms of this Order until such date as is specified by the [CMA] in the notice of designation*'.
53. The CMA has considered the optimal approach to the timing of designation to achieve effective compliance while minimising the costs for Amazon. The CMA has discussed this approach with the GCA and communicated this to Amazon in advance of its designation. Consequently, Amazon will be a Designated Retailer under the Groceries (Supply Chain Practices) Market Investigation Order 2009 effective from 1 March 2022.