

## **ACQUISITION BY NICHOLLS' (FUEL OILS) LIMITED OF THE OIL DISTRIBUTION BUSINESS OF DCC ENERGY LIMITED IN NORTHERN IRELAND**

### **Directions issued pursuant to paragraph 10 of the Initial Enforcement Order made by the Competition and Markets Authority pursuant to section 72(2) of the Enterprise Act 2002 (the Act)**

On 8 June 2018, the Competition and Markets Authority (**CMA**) issued an Initial Enforcement Order in accordance with section 72(2) of the Enterprise Act 2002 (**the Act**) concerning the completed acquisition by Nicholls' (Fuel Oils) Limited (**Nicholls**) of the business and assets related to the oil distribution business of DCC Energy Limited in Northern Ireland (the **acquired DCC business**) (the **Initial Enforcement Order**).

On 11 July 2018, the CMA issued directions to Nicholls to appoint a monitoring trustee (**MT**) for securing compliance with the Initial Enforcement Order.

On 4 September 2018, the CMA received a report from the MT which identified certain actions necessary to ensure the independence and the economic viability of the acquired DCC business. Nicholls has failed to address certain actions identified by the MT and requested by the CMA following the report.

The CMA wishes to ensure that no action is taken pending final determination of any reference under section 22 of the Act which might prejudice that reference or impede the taking of any action by the CMA under Part 3 of the Act which might be justified by the CMA's decision on the reference.

The CMA now issues written Directions under paragraph 10 of the Initial Enforcement Order that, for the purpose of securing compliance with the Initial Enforcement Order, in particular to ensure compliance with paragraph 5(a) and 5(b) thereof, Nicholls must must comply with the obligations set out in Annex 1.

## ANNEX 1

### Directions to take specific actions

#### Interpretation

1. In these Directions:

**‘the acquired DCC business’** means the business and assets of DCC Energy Limited that were the subject of the transaction and which remain under the control of Nicholls;

**‘the Act’** means the Enterprise Act 2002;

**‘CMA’** means the Competition and Markets Authority;

**‘HSM’** means the Hold Separate Manager appointed in accordance with the CMA’s directions issued on 19 September 2018;

**‘Initial Enforcement Order’** means the Initial Enforcement Order issued by the CMA on 8 June 2018 and terms and expressions defined in the Initial Enforcement Order have the same meaning in these Directions, unless the context requires otherwise;

**‘MT’** means the Monitoring Trustee appointed pursuant to CMA’s directions issued on 11 July 2018;

**‘MT Report’** means the report provided by the MT to the CMA on 4 September 2018;

**‘Nicholls’** means Nicholls’ (Fuel Oils) Limited (company number NI005816);

**‘the Nicholls business’** means the business of Nicholls and its subsidiaries but excluding the acquired DCC business;

unless the context requires otherwise, the singular shall include the plural and vice versa.

#### Budget

2. Nicholls must agree a budget with the acquired DCC business under the supervision of the MT in line with the recommendations included in the MT Report.

3. The budget must include an allocation of expenditure for [X] and [X]. This expenditure must not be subject to approval by Nicholls.
4. Nicholls must agree the budget without delay, and in any event by 5pm on 28 September 2018 (or such longer period as the CMA may reasonably agree in writing).

[X]

5. [X].
6. [X].
7. [X].
8. [X].

### **Payments**

9. Nicholls must grant the HSM the authority to independently authorise payments related to the day-to-day operations of the acquired DCC business (so long as such payments are consistent with the agreed budget specified in paragraphs 2 to 4 above).
10. Nicholls must grant this authority to the HSM without delay and in any event by 5pm on 2 October 2018 (or such longer period as the CMA may reasonably agree in writing).