

Completed acquisition by Rentokil Initial PLC of MPCL Limited

Consent to certain actions for the purposes of the Initial Enforcement Order made by the Competition and Markets Authority (‘CMA’) on 9 October 2018

We refer to your emails of 12, 16 and 25 October 2018 requesting that the CMA consents to derogations to the Initial Enforcement Order of 9 October 2018 (the ‘Initial Order’). The terms defined in the Initial Order have the same meaning in this letter.

Under the Initial Order, save for written consent by the CMA, Rentokil Initial plc (‘Rentokil Initial’) is required to hold separate the MPCL business from the Rentokil Initial business and refrain from taking any action which might prejudice a reference under section 22 of the Enterprise Act or impede the taking of any remedial action following such a reference. After due consideration of your request for derogations from the Initial Order, based on the information received from you and in the particular circumstances of this case, Rentokil Initial and MPCL Ltd (‘MPCL’) may carry out the following actions, in respect of the specific paragraphs:

1. *Paragraphs 5(c) and 5(l) of the Initial Order*

Rentokil Initial proposed that a reporting pack be provided by the MPCL Managing Director ([X]) to the Rentokil Initial CFO and CIO ([X]) on a monthly basis, in order to enable Rentokil Initial to comply with external regulatory and/or accounting obligations.

The CMA has granted this derogation on 22 October 2018, provided, inter alia, that the disclosure of information to the Rentokil Initial CFO and CIO will be limited to that provided for in the template approved by the CMA.

Rentokil Initial has requested that an additional piece of information should be added to the reporting pack (slide 9 of the template information pack). The additional information shows the aggregated Financial Quarterly / Half Year Forecast of MPCL as regards revenues, PBITA and Free Cash Flow, being confined to the minimum

information necessary in order for Rentokil to comply with its statutory obligations as regards financial forecasting and reporting of historic financial results.

To ensure that Rentokil Initial is able to meet its external regulatory and/or accounting obligations, and having regard to the aggregated nature of the information provided, the CMA consents to the inclusion of the information outlined above into the monthly reporting pack.

2. Paragraphs 4, 5(a), 5(c) and 5(i) of the Initial Order

In addition to the sole reporting line from MPCL's Managing Director (MD) to the Rentokil Initial CFO and CIO (CFO), Rentokil Initial has requested that in relation to certain specific matters which could expose Rentokil Initial to significant liability (see Proposed 2018 Authority Limits & Matters for Escalation to Rentokil¹), the MD should be permitted to escalate and discuss certain proposed conduct relating to the MPCL business with the Rentokil Initial CFO which exceed the MD's level of delegated authority. For those matters which are escalated to the Rentokil Initial CFO, the Rentokil Initial CFO should be permitted to approve or veto the proposed action of the MD.

The CMA consents to a derogation from paragraphs 4, 5(a), 5(c) and 5(i) of the Interim Order to enable Rentokil's Group CFO to approve or veto certain action by the MD of the MPCL business exceeding the levels of delegated authority as set out by Rentokil Initial (see Proposed 2018 Authority Limits & Matters for Escalation to Rentokil), provided that:

- (a) The information shared by the MD with the Rentokil Initial CFO is no more than is strictly necessary to allow the Rentokil Initial CFO to reach a view on the specific matter at hand and should not include any commercially sensitive information, including, but not limited to, information relating to customers including names and key contractual terms on price. The CMA will be provided with a summary of the MPCL information shared with Rentokil Initial in order to allow the Rentokil CFO to reach a decision on the matter at hand.
- (b) Discussions are limited to the specific matters listed under 'Matters for Escalation'² and the Rentokil CFO does not seek to change the MD's proposal or substitute his judgment with the MDs. The CMA is to be provided with minutes or records of such discussions.

¹ See Derogation Request of 25 October 2018, Annex 4.

² See Derogation Request of 25 October 2018, Annex 4.

- (c) The CMA is notified of any proposed veto and the reasons for this in advance of any such veto being exercised.
- (d) Rentokil's CFO will not be involved in commercial-decision making at Rentokil Initial in respect of its pest control business in the UK, or attend meetings where such commercial decisions are to be made, whilst the Initial Order is in place.

3. Paragraph 5(l) of the Initial Order

Rentokil Initial submits that due to the transaction structure it still needs to complete a certain amount of due diligence. Rentokil Initial has requested that a Commercial Director of Rentokil Initial ([REDACTED]), whose role is to run special M&A and business development projects and who does not have a UK pest control business operational or customer-facing role) will carry out certain post-completion due diligence in relation to the MPCL business. According to Rentokil Initial, [REDACTED] is the sole candidate in view of his expertise and his involvement in the initial stages of the acquisition pre-signing. Rentokil Initial also submits that external auditors are less suited to carry out this activity, as an internal employee has the necessary knowledge of Rentokil's internal financial processes and the required practical and technical experience. Rentokil Initial submits that the information required for such post-completion due diligence is purely financial or accounting in nature.

In the event that any problems are identified as a result of the due diligence activities detailed above, Rentokil Initial expects that these problems will be escalated by [REDACTED] to the Rentokil Initial Group Head of M&A ([REDACTED]), who also does not have a UK pest control business operational or customer-facing role.

To ensure that Rentokil Initial is able to meet its external regulatory and/or accounting obligations, the CMA consents to [REDACTED] carrying out the post-completion due diligence and to communicate any problematic issues arising from due diligence to [REDACTED] provided that:

- (a) [REDACTED] and [REDACTED] will enter into a confidentiality agreement, the form of which will be agreed with the CMA;
- (b) MPCL information to which [REDACTED] and [REDACTED] will gain access will be limited to that strictly necessary in order to carry out the post completion due diligence; and
- (c) The activities by [REDACTED] are carried out from an anonymised customer portfolio and records and that no access to information which could identify individual customers is granted to [REDACTED] or [REDACTED].

4. Paragraph 5(l) of the Initial Order

Rentokil Initial submits that, pre-acquisition, MPCL received company secretarial services from Mitie Group plc's company secretariat, Mitie Company Secretarial Services Limited. On 30 September 2018, Rentokil Initial appointed [X] as the Company Secretary of MPCL in place of Mitie Company Secretarial Services Limited since there was no physical person providing that service in MPCL. [X] is the Assistant Company Secretary of Rentokil Initial and has the typical responsibilities of an Assistant Company Secretary in a London Stock Exchange listed company; these include areas of corporate governance and regulatory compliance in support of the Company Secretary of Rentokil Initial.

Rentokil Initial considers that [X] is the most appropriate person for the role of Company Secretary for MPCL, as she has no strategy or decision-making responsibility within Rentokil Initial nor does she have any access to commercially sensitive information regarding customers, pricing etc. from the UK operational business. Further, [X] will have no decision-making rights or powers conferred upon her in her role as Company Secretary of MPCL – her role is limited to that required to fulfil the regulatory or statutory obligations of a company secretary: specifically, completing statutory returns only when these are required by law and maintaining the statutory books of the company. It would be usual for [X] to attend Board meetings of MPCL, so that minutes can be prepared and the formalities of maintenance of the company books can be observed. Rentokil Initial submits that [X] will only attend MPCL board meetings where discussions relate to her regulatory reporting obligations. Moreover, it is not expected that frequent board meetings will take place during the course of the CMA's investigation. Such meetings would typically happen virtually and would involve technical matters requiring Board approval such as a change of a bank account mandate or of Board composition, the filing of statutory financial statements etc.

The CMA consents to [X] continuing in her position as Company Secretary of MPCL provided that:

- (a) [X] will only attend MPCL board meetings where discussions relate to her regulatory reporting obligations;
- (b) Disclosure of information to [X] will be limited to that which is strictly necessary for the purpose of [X] fulfilling her role as company secretary;
- (c) All minutes of MPCL board meetings in which [X] participated will be provided to the CMA as promptly as possible; and
- (d) [X] will enter into a confidentiality agreement, the form of which will be agreed with the CMA.

5. Paragraph 5(l) of the Initial Order

Rentokil Initial submits that, in order to comply with external health and safety reporting and compliance obligations, it will be necessary for confidential and potentially sensitive information to be provided by MPCL to Rentokil Initial's Group Safety, Health & Environment Director ([REDACTED]). This would include key performance metrics (such as Lost Time Accidents and Working Days Lost) and ad hoc reporting of major incidents relating to health and safety. Rentokil Initial submits that it is required to meet certain statutory reporting obligations, such as reporting incidents to the Health and Safety Executive, the independent regulator for work-related health, safety and illness.

The CMA consents to allow health and safety metrics reporting and the reporting of major incidents by MPCL to [REDACTED] provided that:

- (a) The health and safety metrics of MPCL will be shared with [REDACTED] in a format agreed with the CMA;
- (b) [REDACTED] will enter into a confidentiality agreement, the form of which will be agreed with the CMA;
- (c) if reporting of a major incident by MPCL to [REDACTED] is required: (i) any commercially-sensitive information which is shared with Rentokil Initial will be limited to that strictly necessary in order to enable Rentokil Initial to comply with its statutory obligations, and (ii) the CMA will be promptly informed and will be provided with a summary of the MPCL information shared with Rentokil Initial.

6. Paragraph 5(g) and 5(l) of the Initial Order

Rentokil Initial submits MPCL [REDACTED]. Prior to the acquisition, MPCL [REDACTED]. Rentokil Initial requests that MPCL be allowed to access Rentokil Initial's financing facility, [REDACTED]. Rentokil Initial also requests that certain identified individuals within Rentokil Initial receive information on the sums drawn down by MPCL, but which would not include information on the uses to which those sums were put. Rentokil Initial and MPCL will continue to maintain separate accounts.

To ensure that Rentokil Initial operates as a going concern, the CMA consents to allow Rentokil Initial to provide access to its financing facilities to MPCL, and to allow the identified individuals to receive information on the amounts drawn down by MPCL.

7. Paragraph 5(c) and 5(i) of the Initial Order

The CMA consents to the appointment of [REDACTED] and [REDACTED] to the Board of Directors of MPCL under the terms set out below:

(a) [X] will enter into a confidentiality agreement, the form of which will be agreed with the CMA.

Alba Ziso

Assistant Director, Mergers

2 November 2018