

**DEROGATION LETTER  
IN RESPECT OF INITIAL ENFORCEMENT ORDERS ISSUED PURSUANT TO  
SECTION 72(2) ENTERPRISE ACT 2002**

Please note that [X] indicates figures or text which have been deleted at the request of the parties for reasons of commercial confidentiality.

**Consent under section 72(3C) of the Enterprise Act 2002 to certain actions for the purposes of the Initial Enforcement Order made by the Competition and Markets Authority ('CMA') on 31 July 2020.**

**Completed acquisition by Breedon Group plc of certain assets of Cemex Investments Limited ('the Merger')**

We refer to your submissions of 19 and 24 August 2020 requesting that the CMA consents to a derogation to the Initial Enforcement Order of 31 July 2020 (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, Breedon Group plc and Breedon Southern Limited (together, "**Breedon**") are required to hold separate certain assets acquired from Cemex Investments Limited (the "**Target**") from the Breedon business and refrain from taking any action which might prejudice a reference under section 22 of the 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, Breedon may carry out the following actions, in respect of the specific paragraphs:

**1. Paragraph 5(l) of the Initial Order**

Breedon submits that the CMA has indicated that the Merger may give rise to competition concerns in respect of aggregates, RMX and/or asphalt in a number of local areas (the "**Relevant Local Areas**"). In order to be able to consider and offer Phase 1 remedies (if required), Breedon submits it requires access to the specific market shares allocated by the CMA to Breedon and Target sites in the Relevant Local Areas (the "**Market Share Information**"). Annex 3 of the Issues Letter contains market share ranges allocated by the CMA to Breedon and Target sites in the Relevant Local Areas but Breedon submits that these market share ranges are not sufficient for it to be able to fully consider remedy proposals. As such, Breedon requires access to the Market Share Information for the Relevant Local Areas.

On this basis, the CMA consents to provide the Market Share Information for the Relevant Local Areas to [X] (the "**Authorised Breedon Individuals**"), if required.

The CMA consents to this derogation from the Initial Order strictly on the basis that:

- a) The information shared with, or accessed by, the Authorised Breedon Individuals under this derogation will not be shared with, or accessed by, anyone who is not an Authorised Breedon Individual;

- b) The information shared under this derogation will only be used by the Authorised Breedon Individuals for the purposes of considering and offering Phase 1 remedies to address any potential competition concerns identified in the CMA's Phase 1 decision;
- c) Each of the Authorised Breedon Individuals shall enter into a non-disclosure agreement (NDA)/confidentiality undertaking in a form approved by the CMA;
- d) No further changes to the Breedon personnel covered by this derogation are permitted without written consent from the CMA (including via email);
- e) None of the Authorised Breedon Individuals hold commercial or strategic roles within Breedon;
- f) Firewalls or access restrictions will be put in place to prevent anyone who is not an Authorised Breedon Individual from accessing the information shared under this derogation;
- g) Should the transaction ultimately be prohibited, or remedies required, Breedon will ensure that any records or copies (electronic or otherwise) of such information (to the extent relevant to the Target business) that have passed for the purpose of this derogation, wherever they may be held, will be returned to the Target business and any copies destroyed, except to the extent that record retention is required by law or regulation; and
- h) This derogation does not prejudice the outcome of a CMA reference or impede the taking of any remedial action which may be justified by the CMA's decision on a reference.

Yours sincerely,

Assistant Director, Mergers

24 August 2020