

ANTICIPATED MERGER OF FRESHWAYS AND MEDINA

Directions issued on 8 November 2021 pursuant to paragraph 12 of the Initial Enforcement Order imposed by the Competition and Markets Authority on 24 August 2021 on: Rajinder Singh Nijjar, Balvinder Singh Nijjar, Ravinder Singh Nijjar, Kalvinder Singh Nijjar, Nijjar Group Holdings (Acton) Limited, Deo Volente Limited, Sheazad Hussain, Mohammed Azam and Medina Holdings Limited.

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

The CMA is currently investigating the anticipated merger between Nijjar Group Holdings (Acton) Limited (**Freshways**) and Medina Holdings Limited (**Medina**).

On 24 August 2021, the Competition and Markets Authority (**CMA**) made an Initial Enforcement Order (the **Order**) addressed to (i) each of Rajinder Singh Nijjar, Balvinder Singh Nijjar, Ravinder Singh Nijjar and Kalvinder Singh Nijjar (the **Freshways Shareholders**) in their individual capacity as a Freshways Shareholder and in their individual capacity as a trustee of Nijjar Dairies Limited Retirement Benefit Scheme (ii) Freshways (iii) each of Deo Volente Limited, Sheazad Hussain and Mohammed Azam (the **Medina Shareholders**) and (iv) Medina (collectively the **Addressees**), in accordance with section 72(2) of the Enterprise Act 2002 to prevent pre-emptive action. The Order is still in force.

The CMA now issues written directions under paragraph 12 of the Order that, for the purpose of securing compliance with the Order, the Addressees must appoint a monitoring trustee in accordance with the terms provided for in this Annex and must comply with the obligations set out in the Annex.

Signed,

Imogen Ditchfield

Assistant Director, Mergers
Competition and Markets Authority
8 November 2021

Annex

Directions to appoint a monitoring trustee

Interpretation

In these directions:

‘the Act’	means the Enterprise Act 2002;
‘the Addressees’	refers, collectively, to: Rajinder Singh Nijjar, Balvinder Singh Nijjar, Ravinder Singh Nijjar and Kalvinder Singh Nijjar (in their individual capacity as a Freshways Shareholder, and in their individual capacity as a Trustee); Nijjar Group Holdings (Acton) Limited; Deo Volente Limited, Sheazad Hussain and Mohammed Azam (in their individual capacity as a Medina Shareholder); and Medina Holdings Limited;
‘an affiliate’	of a person is another person who satisfies the following condition, namely that any enterprise (which, in this context, has the meaning given in section 129(1) of the Act) that the first person carries on from time to time and any enterprise that the second person carries on from time to time would be regarded as being under common control for the purposes of section 26 of the Act;
‘business’	has the meaning, unless otherwise stated, given by section 129(1) and (3) of the Act;
‘CMA’	means the Competition and Markets Authority;
‘Deo Volente Limited’	means Deo Volente Limited, with registered address at P.O. Box 227, Clinch’s House, Lord Street, Douglas, Isle of Man, IM991RZ (Isle of Man company number 127150C);
‘Derogations’	means any derogations granted whether before or after the appointment of the MT by the CMA by which any of the Addressees may undertake certain actions that derogate from the Order;
‘Existing Arrangements’	refers to the arrangements between the Freshways business and the Medina business as defined in Annex A of the Order.

‘Freshways’	means Nijjar Group Holdings (Acton) Limited, with registered address at 16 Eastman Road, Acton, London, W3 7YG (company number 07265694);
‘the Freshways business’	means the business of Nijjar Group Holdings (Acton) Limited and its subsidiaries carried on as at the commencement date;
‘the Freshways Shareholders’	refers, collectively, to Ravinder Singh Nijjar ([X]), Balvinder Singh Nijjar ([X]), Rajinder Singh Nijjar and Kalvinder Singh Nijjar ([X]);
‘Medina’	means Medina Holdings Limited, with registered address at Medina Dairy House, Vale Road, Windsor, Berkshire, SL4 5JL (company number 04885592);
‘the Medina business’	means the business of Medina Holdings Limited and its subsidiaries carried on as at the commencement date;
‘the Medina Shareholders’	refers, collectively, to Deo Volente Limited, Sheezad Hussain ([X]) and Mohammed Azam ([X]);
‘MT’	means the monitoring trustee appointed in accordance with this Annex;
‘Order’	means the initial enforcement order made by the CMA on 24 August 2021 and addressed to each of the Freshways Shareholders (in their individual capacity as a Freshways Shareholder and in their individual capacity as a trustee of Nijjar Dairies Limited Retirement Benefit Scheme), Freshways, each of Deo Volente Limited, Sheezad Hussain and Mohammed Azam (in their individual capacity as a Medina Shareholder) and Medina;
‘the Transaction’	means the transaction by which Freshways and Medina will cease to be distinct within the meaning of section 23 of the Act;
‘subsidiary’	means any company in which a legal person (a) holds a majority of the voting rights, or (b) is a member and has the right to appoint or remove a majority of board of directors, or (c) is a member and controls alone, pursuant to an agreement with other members, a majority of the voting rights;

Terms and expressions defined in the Order have the same meaning in these directions, and the singular shall include the plural and vice versa, unless otherwise specified or the context requires otherwise.

Appointment

1. The Addressees must appoint a MT in order to ensure compliance with the Order, in particular to:
 - a. avoid any pre-emptive action (within the meaning of the Act) taking place during the CMA's investigation;
 - b. monitor and report to the CMA on compliance by the Addressees with the Order; and
 - c. support the CMA taking any remedial action which may be required to keep separate and maintain the Freshways business and the Medina business as a going concern.
2. The MT must act on behalf of the CMA and be under an obligation and duty of care to the CMA to carry out his or her functions to the best of his or her abilities.
3. The Addressees must cooperate fully with the MT, in particular as set out below, and must ensure that the terms and conditions of appointment of the MT reflect and give effect to the functions and obligations of the MT and the obligations of the Addressees as set out in these directions.

General

4. The MT must possess appropriate qualifications and experience to carry out his or her functions.
5. The MT must neither have, nor become exposed to, a conflict of interest that impairs his or her objectivity and independence in discharging his or her duties under these directions, unless it can be resolved in a manner and within a timeframe acceptable to the CMA.
6. The Addressees shall remunerate and reimburse the MT for all reasonable costs properly incurred in accordance with the terms and conditions of the appointment and in such a way so as not to impede the MT's independence or ability to effectively and properly carry out his or her functions.
7. The Addressees must appoint the MT as soon as is reasonably practicable and in any event by **10am on Tuesday 16 November 2021** (or such longer period as the CMA may reasonably agree in writing, including via email) and

the MT will continue to act either until the CMA reaches a decision to clear the Transaction or until the CMA directs that the MT is no longer required.

8. The appointment of a MT by the Addressees is subject to the approval of the CMA as to the identity of the MT and the terms and conditions of appointment in their entirety and:
 - a. the name of the proposed MT and a second proposed MT in reserve (should the CMA not approve the first proposed MT) must be notified to the CMA as soon as is reasonably practicable and in any event by **10am on Thursday 11 November 2021**;
 - b. the draft terms and conditions of appointment must be notified to the CMA as soon as is reasonably practicable and in any event by **10am on Thursday 11 November 2021**; and
 - c. once the MT has been approved by the CMA and appointed, the Addressees must provide the CMA with a copy of the agreed terms and conditions of appointment.

Functions

9. The functions of the MT will be to:
 - a. ascertain and report to the CMA in relation to the current level of compliance by the Addressees and their subsidiaries with the Order;
 - b. assess and report to the CMA in relation to the arrangements made by the Addressees for compliance with the Order and what changes to those arrangements, if any, are necessary to preserve the possibility of the CMA taking any remedial action, if required;
 - c. identify and supervise if necessary the arrangements made by the Addressees for ensuring compliance with the Order;
 - d. monitor compliance by the Addressees and their subsidiaries with the Order;
 - e. assist the CMA with the consideration of any derogation requests made by the Addressees and monitor compliance by the Addressees with any derogations granted by the CMA; and
 - f. without prejudice to the right of the Addressees to directly contact the CMA, respond to any questions which the Addressees may have in relation to compliance with the Order, in consultation with the CMA.
10. The MT must, following a consultation with the CMA, take such steps as he or she reasonably considers necessary in order to carry out his or her functions

effectively, including requiring the provision of information or the production of documents relating to communications within and between the Freshways business and the Medina business, such as written and electronic communications, telephone conversations and meetings as may be required (save to the extent that the Addressees have already provided the same to the CMA, in which case the CMA shall supply the MT with such information).

11. The MT must comply with any requests made by the CMA for the purpose of ensuring the full and effective compliance by with the Order.

Obligations of the Addressees

12. The Addressees, their respective affiliates and their employees, officers, directors, advisers and consultants must cooperate fully with the MT, in particular by providing the MT with all cooperation, assistance and information as the MT may reasonably require in order to discharge his or her functions, including but not limited to:

- a. the provision of full and complete access to all personnel, books, records, documents, facilities and information of the Freshways business and the Medina business as the MT may reasonably require; and
- b. the provision of such office and supporting facilities as the MT may reasonably require.

13. If the Addressees are in any doubt as to whether any action or communication would infringe the Order, they are required to contact the MT for clarification. However, for the avoidance of doubt, the MT has no authority, express or implied, to consent to any derogation or variation of the obligations in the Order, and any opinion of the MT regarding an action or communication does not bind the CMA nor indicate that the CMA has approved or sanctioned the action or communication. Derogations can only be granted by the CMA and will always be granted in writing.

14. If any of the Addressees has any reason to suspect that the Order may have been breached, they must notify the MT and the CMA immediately.

Reporting functions

15. The MT is required to provide an initial report to the CMA no later than **10am on Tuesday 23 November 2021** (or such longer period as the CMA may reasonably agree in writing, including via email), giving details of any arrangements which have been, or should be, put in place to ensure compliance with the Order, and including among other things:

- a. details of the current extent of compliance with the Order by the Addressees, with particular regard to how the Existing Arrangements are being carried out in practice;
 - b. an assessment of the circumstances in which the Existing Arrangements were entered into, including the reasons for their timing and the extent to which Medina engaged with third parties;
 - c. an assessment of [✂];
 - d. a description of the current arrangements made for the operation of the Medina business and the Freshways business, and for the preservation of the assets required to operate the Medina business and the Freshways business; and
 - e. if applicable, recommendations on measures the Parties can take to minimise the risk of breaches of the Order.
16. In addition to providing the initial report referred to in paragraph 15 above, the MT must provide a statement to the CMA every two weeks thereafter (or otherwise as required by the CMA) stating whether or not, in his or her view, the Addressees have complied with the Order. At the same time, the MT must provide the CMA with a report setting out the following:
- a. the basis for the MT's view that the Order has or has not, as the case may be, been complied with and in particular whether:
 - i. anything has caused the MT to be concerned as to whether the Addressees have complied with the Order, and if it has, whether those concerns have been resolved and why;
 - ii. the MT has any remaining doubts or uncertainties as to whether the Addressees have complied with the Order; and
 - iii. anything that causes the MT to be concerned about a possible future breach of the Order (whether deliberate or inadvertent);
 - b. details of the performance of the Medina business and the Freshways business, including any factors that might indicate asset deterioration;
 - c. whether appropriate steps are being taken to maintain the Medina business and the Freshways business as going concerns;
 - d. the extent to which the Addressees have cooperated with the MT in his or her task of monitoring its compliance with the Order and details of any aspects of the cooperation of the Addressees that he or she considers could be improved;

- e. the extent to which the MT considers that he or she is in an appropriate position to monitor the compliance of the Addressees with the Order and if there is anything that the MT considers would assist him or her in monitoring compliance;
 - f. any current or anticipated requests for consent to vary the Order; and
 - g. the information he or she used to compile the report.
17. The CMA will, following its review of the initial report referred to in paragraph 15, decide on the frequency with which the MT must provide the statements and accompanying reports referred to in paragraph 16.
18. When providing reports to the CMA, the MT must ensure that he or she does not disclose any information or documents to the CMA which the Addressees or any of their subsidiaries would be entitled to withhold from the CMA on the grounds of legal privilege and nothing in these directions requires the Addressees or any of their subsidiaries to produce any information or documents to the MT which are privileged.
19. The MT must immediately notify the CMA in writing if he or she forms a reasonable suspicion that the Order has been breached, or if he or she considers that he or she is no longer in a position to effectively carry out his or her functions. In that situation, the MT must give reasons for this view, including any supporting evidence available (unless doing so would infringe the obligations referred to in paragraph 16 above).
20. All communications between the MT and the CMA (including the statements and reports referred to in paragraphs 15 and 16) are confidential and should not be disclosed to the Addressees, save with the prior written consent of the CMA. The MT shall not disclose such communications to third parties.