

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

Consent under section 72(3C) of the Enterprise Act 2002 (the ‘Act’) to certain actions for the purposes of the Initial Enforcement Order made by the Competition and Markets Authority (‘CMA’) on 26 October 2021.

Completed acquisition by Clayton, Dubilier and Rice of Wm Morrison Supermarkets Plc (‘Morrisons’) (the ‘Acquisition’).

We refer to your submission of 12 April 2022 requesting that the CMA consents to a derogation from the Initial Enforcement Order of 26 October 2021 (the ‘**Initial Order**’). Unless otherwise stated, 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, Clayton, Dubilier & Rice Holdings, LLC (‘**CD&R**’), Motor Fuel Limited (‘**MFG**’), CD&R Firefly Holdco Limited, Market Bidco Limited and Market Topco Limited (collectively referred to as the ‘**Acquirer Group**’), and Morrisons (together with the Acquirer Group the ‘**Addressees**’) are required to hold separate the Acquirer Group business from the Morrisons 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.

On 9 December 2021, the CMA granted a derogation permitting certain CD&R individuals to receive limited commercially sensitive information (set out in templates agreed with the CMA) from Morrisons which was strictly necessary for the purposes of monitoring Morrisons’ ongoing financial performance in the ordinary course of business (the ‘**9 December Derogation**’).

On 24 March 2022, the CMA announced that it believes the Merger does not give rise to a realistic prospect of a substantial lessening of competition (‘**SLC**’) in relation to the wholesale or retail supply of convenience groceries in any local area or on a national basis. On the same day, the CMA also announced that it believes the Merger does give rise to a realistic prospect of an SLC with respect to the retail supply of road fuel in 121 local areas.

After due consideration of your request for a derogation from the Initial Order, based on the information received from you and in the particular circumstances of this case, the CMA consents to the Addressees carrying out the following actions, in respect of the specific paragraph:

1. Paragraph 6(l) – Sharing of additional information regarding Morrisons' groceries business

The CMA understands that [§], certain CD&R individuals will require access to more granular information about the Morrisons' groceries business than the 9 December Derogation currently permits. The CMA also understands that the purposes of sharing this information are limited to ongoing performance monitoring and integration planning.

The CMA consents to a derogation to permit the individuals listed in Annex 1 (the '**CD&R Authorised Recipients**') to receive commercially-sensitive information limited to Morrisons' groceries business exclusively for the purposes of ongoing performance monitoring and integration planning (the '**Permitted Purposes**'). The CMA's consent is subject to the below conditions:

- (a) Any information disclosed pursuant to this derogation will not contain any commercially sensitive information in relation to Morrisons' road fuel business.
- (b) Only the CD&R Authorised Recipients are authorised to receive and see information pursuant to this derogation.
- (c) The CD&R Authorised Recipients will use the information received under this derogation exclusively for the Permitted Purposes.
- (d) No further changes to the CD&R Authorised Recipients are permitted without the prior written consent of the CMA (including via email).
- (e) The sharing of information with the CD&R Authorised Recipients will be governed by the non-disclosure agreement submitted to the CMA on 8 December 2021 which contains appropriate safeguards on the use, treatment and storage of confidential financial information, as well as the necessary IT firewalls to prevent unauthorised individuals from accessing any commercially sensitive Morrisons information shared for the Permitted Purposes.
- (f) The information to be provided to the CD&R Authorised Recipients is confidential and cannot be shared more widely within CD&R, although high-level summaries of such information may be shared within CD&R provided the information has been

generalised or aggregated to such an extent that it is not commercially sensitive.

- (g) Each of the CD&R Authorised Recipients shall enter into an individual NDA/confidentiality undertaking in the form submitted to the CMA on 8 December 2021.
- (h) Should the CMA refer the Acquisition to Phase II and subsequently order a divestment of all of, or part of, Morrisons' groceries business, CD&R will ensure that any confidential information received from Morrisons for the purposes of this derogation will be returned to Morrisons and any copies destroyed, except to the extent that record retention is required by law or regulation.
- (i) This derogation will not result in any integration between the Morrisons business and the CD&R business.
- (j) This derogation shall not prevent any remedial action which the CMA may need to take regarding the Acquisition.

Yours sincerely,

Alex Hazell

Assistant Director, Mergers

20 April 2022

Annex 1 – CD&R Authorised Recipients

[illegible]