

**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 25 May 2022.**

**Completed acquisition by Wm Morrison Supermarkets Ltd of certain assets of McColl’s Retail Group plc, Martin McColl Limited, Clark Retail Limited, Dillons Stores Limited, Smile Stores Limited, Charnwait Management Limited, and Martin Retail Group Limited (these assets are collectively referred to as ‘McColl’s’) (the ‘Acquisition’)**

We refer to your submissions of 17 and 23 May 2022 requesting that the CMA consents to a derogation from the Initial Enforcement Order of 25 May 2022 (the ‘**Initial Order**’). Unless otherwise stated, the terms defined in the Initial Order have the same meaning in this letter.

On 9 May 2022, Wm Morrison Supermarkets Limited completed the acquisition of McColl’s via Alliance Property Holdings Limited (‘**Alliance**’), a wholly-owned previously non-trading subsidiary the purpose of which, since completion of the acquisition by Wm Morrison Supermarkets Limited of McColl’s, has been solely to act as the holding company for McColl’s.

Under the Initial Order, save for written consent by the CMA, Clayton, Dubilier & Rice Holdings, LLC (‘**CD&R**’); Motor Fuel Limited and CD&R Firefly Holdco Limited (referred to together as ‘**MFG**’); Market Bidco Limited, Market Topco Limited, and each of the subsidiaries of Wm Morrison Supermarkets Limited other than Alliance (referred to together as ‘**Morrisons**’) (CD&R, MFG and Morrisons collectively are referred to as the ‘**Acquirer Group**’); and Alliance (together with the Acquirer Group the ‘**Addressees**’) are required to hold separate the Acquirer Group business from the Alliance 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 requests for derogations 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 paragraphs:

## **1. Paragraph 5(i) – Changes to key staff**

The CMA understands that the Acquisition involved the transfer of the McColl's assets to Alliance, a dormant, non-trading entity within the Acquirer Group. However, McColl's Retail Group plc and its operating entities were not transferred to Alliance as part of the Acquisition.

The CMA further understands that the current directors of Alliance, [X] and [X], are senior employees of Morrisons and that their current position as statutory directors of Alliance is primarily for the purpose of [X].

The Addressees submit that in circumstances where the current directors of Alliance must be held separate from the McColl's business under the Initial Order, it would be appropriate to replace the current directors of Alliance with senior management of the McColl's business that transferred to Alliance as part of the Acquisition.

The Addressees further submit that appointing new directors of Alliance from within the senior management team of the McColl's business would enable the directors of Alliance to fulfill their duties to act in the best interests of the company and to provide necessary supervision to the McColl's business.

To accommodate this, Addressees intend to:

- appoint [X] as directors of Alliance; and
- accept the resignation of [X] and [X] as directors of Alliance.

As [X] and [X] hold positions of executive or managerial responsibility in their current roles, the CMA considers them to be key staff under the Initial Order.

The CMA consents to a derogation from paragraph 5(i) of the Initial Order to permit Morrisons to execute the above changes. This consent is granted strictly on the basis that:

- (a) [X] and [X] have the necessary experience and expertise to be appointed as directors of Alliance.
- (b) The grant of this derogation will not affect the viability of the Alliance business.
- (c) This derogation will not result in any integration between Alliance and the Acquirer Group.

(d) This derogation shall not prevent any remedial action which the CMA may need to take regarding the Acquisition.

Yours sincerely,

Lasse Burmester

Assistant Director, Mergers

25 May 2022