

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 submission of 17 June 2022 requesting that the CMA consents to a derogation to 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.

Under the Initial Order, save for written consent by the CMA, Morrisons is required to hold separate the Morrisons business from the McColl's 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, the CMA consents to the Addressees carrying out the following actions, in respect of the specific paragraphs:

Paragraphs 5(a) and 5(l) – Delegation of authority

McColl's intends to change the remuneration of certain McColl's staff, which is due to be implemented on 1 July 2022 and would increase McColl's annual salary costs by approximately £[~~5~~] (the "**Remuneration Review**").

Morrisons is in the process of applying to the CMA for a derogation from the IEO, which would allow it to enter into a delegated authority arrangement in relation to certain material conduct undertaken by Alliance, including actions taken outside the ordinary course of business ("**Non-Standard Acts**"). The Remuneration Review would be classified as a Non-Standard Act under the proposed derogation request.

Morrisons submits that it is strictly necessary that Morrisons has the opportunity to discuss the Remuneration Review with McColl's (i.e. in advance of the delegated

authority arrangement being finalised), which would enable Morrisons to evaluate McColl's proposal, to contribute to the discussion within McColl's in respect of the scope of this proposal and to enter into a dialogue with McColl's to determine whether the proposal should proceed or be varied.

Morrisons further submits that Alliance will prepare a memorandum setting out information which is strictly necessary for Morrisons to receive in order to make a decision in respect of the Remuneration Review, and share it with the individuals listed in Annex 1 (the "**Authorised Remuneration NSA Recipients**"). On the basis of the information contained in the memorandum and any additional clarifications required, Morrisons will decide whether to approve or veto the Remuneration Review.

Accordingly, Morrisons requests the CMA's consent to: (i) engage in discussions with McColl's in respect of the Remuneration Review; (ii) share certain limited information with Morrisons in order for Morrisons to take an informed decision in relation to the Remuneration Review; and (iii) on the basis of the information shared with the Authorised Remuneration NSA Recipients, decide whether to approve or veto the Remuneration Review.

The CMA consents to a derogation from paragraphs 5(a) and 5(l) of the Initial Order to permit Morrisons to engage with McColl's in relation to the Remuneration Review, as described above, strictly on the basis that:

- (a) The information to which Authorised Remuneration NSA Recipients will be given access will be limited to that which is strictly necessary for Morrisons to reach a view on the Remuneration Review.
- (b) Each of the Authorised Remuneration NSA Recipients will have entered into an individual confidentiality undertaking in the form approved by the CMA on 25 May 2022 prior to receiving any information under this derogation.
- (c) The Authorised Remuneration NSA Recipients will not use any information provided by Alliance in any way to intervene in the day-to-day management or operation of Alliance.
- (d) Any confidential or commercially sensitive information shared under this derogation will not be shared with any Morrisons individuals other than the Authorised Remuneration NSA Recipients.
- (e) No additions or changes to the list of Authorised Remuneration NSA Recipients shall be made under this derogation without the prior written consent of the CMA (including via email).
- (f) Whilst [X] and [X] are not Authorised Remuneration NSA Recipients, they may receive information provided under this derogation in the form of a summary report that has been sufficiently aggregated and/or anonymised to remove any

competitively sensitive information. Under no circumstances will [X] or [X] receive competitively sensitive information relating to individual stores and specific product lines. The Addressees shall provide to the CMA a copy of any such reports, should the CMA request to see a copy.

- (g) The Authorised Remuneration NSA Recipients will not consult with any other individual in Morrisons when taking decisions on the Remuneration Review (with the exception of [X] and [X] subject to the requirements of condition (f) above).
- (h) In the event of a proposed veto, partial or total, of the Remuneration Review by the Authorised Remuneration NSA Recipients, the Authorised Remuneration NSA Recipients will notify the CMA of their reasons for vetoing the Remuneration Review but will not exercise that veto, partially or totally, without giving the CMA at least 1 working day of advanced notice or, where urgent action (ie under 1 working day) is strictly necessary to preserve the viability of the Alliance business, as much notice as possible.
- (l) The Authorised Remuneration NSA Recipients will not allow any information provided by Alliance to be used to inform Morrisons' commercial strategy.
- (m) This derogation will not result in any integration between the Alliance business and Morrisons.
- (n) This derogation will not prevent any remedial action which the CMA may need to take regarding the Acquisition.

Yours sincerely,

Lasse Burmester

29 June 2022

Annex 1 – Authorised Remuneration NSA Recipients

Authorised Remuneration NSA Recipients	Role at Morrisons
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]