

## 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 5 September 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.

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 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 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 paragraphs:

## 1. Paragraphs 5(c) and 5(i) – Changes to key staff and associated changes to management responsibilities

The CMA understands that, on [X], [X] resigned from [X] position as the [X] of McColl's (Work Level [X]) and that [X] has a contractual notice period of [X] months, which upon request by [X], Alliance has agreed to shorten to [X].

The CMA also understands that following the departure of [X], Alliance intends for [X] responsibilities to be absorbed by four existing employees:

- [X] ([X] – Work Level [X]), who shall absorb the commercial remit of [X] role. [X] will also be responsible for [X] of [X] direct reports: [X];
- [X] ([X] – Work Level [X]), who shall absorb [X] category-related buying responsibilities;
- [X] ([X] – Work Level [X]) whose role will be expanded in order to progress the automation of day-to-day tasks to maximise team efficiency and capacity, whilst continuing to support the supply chain team by assisting with the optimisation of McColl's supply chain systems; and
- [X] ([X] – Work Level [X]) who shall absorb the strategic elements of [X] role relating to supply chain whilst continuing to [X] the supply chain team,

(together, the "**Senior Commercial Team**").

Alliance submits that the Senior Commercial Team has the knowledge and experience to assume the responsibilities of [X]. Alliance also submits that the expansion of the Senior Commercial Team's existing roles is strictly necessary following the departure of [X] as it would contribute towards a more seamless transfer of responsibility within a more streamlined management structure. Alliance also submits that the changes would incur no additional cost, benefitting the business from a financial perspective.

As [X] at Work Level [X] and [X] at Work Level [X] of Alliance's organisational structure, meaning that they each hold positions of executive or managerial responsibility, the CMA considers the Senior Commercial Team to be key staff under the Initial Order.

The CMA grants a derogation from paragraphs 5(c) and 5(i) of the IEO to permit the above change, strictly on the basis that:

- (a) The Senior Commercial Team has the necessary experience and expertise to

assume the role of [X] whilst continuing to perform their existing roles.

- (b) No other organisational changes or key staff changes will be made to the Alliance business as a result of this derogation.
- (c) Alliance will ensure a smooth transfer of responsibilities and reporting functions from [X] to the Senior Commercial Team.
- (d) Alliance will continuously monitor the staffing requirements of its Commercial division and will, if necessary, hire new staff to support the Senior Commercial Team.
- (e) The grant of this derogation will not affect the viability of the Acquirer Group or Alliance business.
- (f) This derogation will not result in any integration between Alliance and the Acquirer Group.
- (g) 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

8 September 2022