

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 27 September 2022 and 28 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 derogations from the Initial Order, based on the information received from you and in the particular circumstances of this case, the

CMA consents to Morrisons carrying out the following actions, in respect of the specific paragraphs:

Paragraphs 5(c) and 5(i) – Changes to key staff and associated changes to reporting lines

The CMA understands that, on [X], [Y] resigned as [Z] of Morrisons (Work Level [Z]) and that [Y] ([Y]; Work Level [Y]) has been identified as a suitable candidate to assume certain responsibilities previously held by [Z]. Morrisons intends to appoint [Y] to the newly established role of '[Y]' at its earliest opportunity. [Y] will continue reporting to [Y] ([Y] of Morrisons).

The CMA also understands that Morrisons has identified [Y] ([Y]; Work Level [Y]) as a suitable replacement to assume [Z] current role as [Z] of Morrisons (a role that [Z] has recently held on a temporary basis). [Y] will continue reporting to [Y].

The CMA further understands that Morrisons is proposing to implement a number of associated changes to reporting lines, including:

- (a) the reporting structure for five individuals, who previously reported to [Z], shall now report to [Y]:
 - (i) [Y] ([Y], Work Level [Y]);
 - (ii) [Y] ([Y], Work Level [Y]);
 - (iii) [Y] ([Y], Work Level [Y]);
 - (iv) [Y] ([Y], Work Level [Y]); and
 - (v) [Y] ([Y], Work Level [Y]).
- (b) the reporting structure for two individuals, who previously reported to [Z], shall now report to [Y]:
 - (i) [Y] ([Y], Work Level [Y]); and
 - (ii) [Y] ([Y], Work Level [Y]).
- (c) [Y] ([Y], Work Level [Y]), who previously reported to [Z], shall now report to [Y]. [Y] job title shall be updated to "[Y]" as part of this change, but [Y] will remain at Work Level [Y];
- (d) the reporting structure for three individuals, who previously reported to [Z], shall now report to [Y] following [Y] appointment as [Y]:
 - (i) [Y] ([Y], Work Level [Y]);

- (ii) [X] ([X], Work Level [X]) following the end of [X] secondment to [X];
and
- (iii) [X] ([X], Work Level [X]).

Morrisons submits that the appointment of [X] as [X] and the appointment of [X] as [X] are both urgent and strictly necessary in circumstances where the [X] of Morrisons has resigned and in light of the current economic and financial challenges affecting the groceries sector.

Morrisons has also submitted evidence that [X] and [X] have the necessary knowledge and experience to hold the positions of [X] and [X] respectively, including evidence of relevant roles that they previously held within the Morrisons business.

The CMA considers [X], [X] and [X] to constitute key staff under the Initial Order.

The CMA consents to a derogation from paragraphs 5(c) and 5(i) of the Initial Order to permit Morrisons to execute the above changes, strictly on the basis that:

- (e) [X] has the necessary knowledge and experience to assume the role of [X] of Morrisons and [X] has the necessary knowledge and experience to assume the role of Morrisons' [X].
- (f) Morrisons will ensure a smooth transfer of responsibilities from [X] to [X] and from [X] to [X].
- (g) Morrisons will continuously monitor the staffing requirements of its [X], [X] and [X] divisions and will, if necessary, hire new staff or appoint additional staff to support [X] in [X] role as [X] and/or [X] in [X] role as [X].
- (h) Morrisons will ensure a smooth handover of the reporting functions that were previously handled by [X] to [X] and [X], and by [X] to [X], as appropriate.
- (i) Morrisons will continuously monitor the impact of the changes to reporting lines and will, if necessary, consider whether any further changes (including new hires or staff appointments) are needed.
- (j) The grant of this derogation will not affect the viability of the Morrisons business.
- (k) This derogation will not result in any integration between the Morrisons business and the McColl's business.
- (l) This derogation shall not prevent any remedial action which the CMA may need to take regarding the Acquisition.

Yours sincerely,

Matteo Alchini

Assistant Director, Remedies, Business and Financial Analysis

3 October 2022