

**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 14 July 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 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 5(l) of the Initial Order – Sharing of strictly necessary additional financial information**

On 22 June 2022, the CMA consented to a derogation permitting Alliance to share certain information with certain Morrisons Individuals (the '**22 June Derogation**').

On 14 July 2022, the Addressees submitted that it was strictly necessary for the individuals listed in Annex 2 of the 22 June Derogation to receive information from Alliance using additional templates. The Addressees further submitted that the additional detail in these templates is strictly necessary in order to take decisions necessary to ensure that the Alliance business can continue to operate as a going concern, in particular to ensure that Alliance can meet its ongoing liquidity requirements.

The CMA consents to a derogation to permit a subset of the individuals listed in Annex 2 of the 22 June Derogation, namely the individuals listed in Annex 1 (the '**Authorised Additional Financial Information Recipients**'), to receive the following categories of information for the above purpose (defined collectively as the '**Strictly Necessary Additional Financial Information**');

- (i) McColl's Trading Performance: McColl's and Morrisons Daily fascia stores' aggregated weekly trading performance providing an overview of weekly sales against forecasted sales, a like-for-like comparison against aggregated sales data available for the previous one/three years and the three year forecast, the weekly actual and forecasted sales margin, a like-for-like comparison of sales forecast by quarter/period/half highlighting joint sales initiatives, lost sales resulting from product unavailability, weekly market share split by category and value share of the national convenience market, the weekly volume of delivered Ambient, Chilled and Frozen products compared with McColl's capacity for the same products, a like-for-like comparison of the cost of product-category stock by quarter/period/week and McColl's aggregated year-to-date and forecasted weekly sales performance by product category.
- (ii) Morrisons Daily Weekly Sales: Morrisons Daily fascia stores' aggregated sales performance by category, providing an overview of actual sales data aggregated across McColl's Morrisons Daily fascia stores, a like-for-like comparison against aggregated sales data available for the previous three years, a like-for-like

comparison against McColl's fascia stores, sales uplift following the stores' conversion to the Morrisons Daily fascia and weekly sales uplift.

- (iii) Sales and Margin by Category: McColl's sales and net margin performance of product categories (excluding negotiated income) by providing an overview of sales, selling margin, write-off, net margin and net margin percentage in aggregated form and as split between McColl's fascia stores and Morrisons Daily fascia stores.

The CMA consents to a derogation from paragraph 5(l) of the Initial Order strictly on the basis that:

- (a) Any Strictly Necessary Additional Financial Information disclosed pursuant to this derogation shall not contain any store-specific information, and shall be limited to the templates set out at Annexes 2, 3, and 4. The only store categorization provided in the Strictly Necessary Additional Financial Information will be a split between aggregated McColl's-branded stores and aggregated Morrisons Daily McColl's stores. The aforementioned applies to any management commentary provided to the Authorised Additional Financial Information Recipients with respect to the information received under categories (i) to (iii) above.
- (b) Strictly Necessary Additional Financial Information will only be provided to a limited number of Morrisons employees as listed in Annex 1 (the 'Authorised Additional Financial Information Recipients') for the purpose of monitoring the business activities and performance of Alliance.
- (c) Strictly Necessary Additional Financial Information shared with the Authorised Additional Financial Information Recipients shall be governed by a non-disclosure agreement in the form approved by the CMA on 25 May 2022 which contains appropriate safeguards on the use, treatment and storage of confidential information, as well as the necessary IT firewalls to prevent unauthorised individuals from accessing any Strictly Necessary Additional Financial Information.
- (d) No changes to the Authorised Additional Financial Information Recipients are permitted without the prior written consent of the CMA (including via email).
- (e) No further changes to the templates set out at Annexes 2, 3 and 4 are permitted without the prior written consent of the CMA (including via email).

(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

12 August 2022

### Annex 1

**Authorised Additional  
Financial Information  
Recipients**

[X]  
[X]  
[X]  
[X]  
[X]  
[X]

**Role within the Acquirer Group**

[X]  
[X]  
[X]  
[X]  
[X]  
[X]

**Annex 2 – McColl’s Trading Performance Template submitted to the CMA on 2  
August 2022**

**Annex 3 – Morrisons Daily Weekly Sales Template submitted to the CMA on 14  
July 2022**

**Annex 4 – Sales and Margin by Category Template submitted to the CMA on 14  
July 2022**