

Notice of provisional decision on the review of the undertakings given by Wm Morrison Supermarkets Limited (Morrisons) pursuant to section 73 of the Enterprise Act 2002 and notice of consultation on proposed undertakings under paragraph 2(1) of Schedule 10 to the Enterprise Act 2002

Notice of provisional decision

1. On 9 May 2022, Alliance Property Holdings Limited (**Alliance**), a wholly owned subsidiary of WM Morrison Supermarkets Limited (**Morrisons**), acquired the assets and business 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 **Merger**).
2. On 8 September 2022, the Competition and Markets Authority (**CMA**) decided under section 22(1) of the Enterprise Act 2002 (the **Act**) that it is or may be the case that the Merger constitutes a relevant merger situation that has resulted or may be expected to result in a substantial lessening of competition (**SLC**) within a market or markets in the United Kingdom (the **SLC Decision**).
3. On 27 October 2022, the CMA accepted undertakings in lieu (**UILs**) from Morrisons under section 73(2) of the Act, pursuant to which Morrisons agreed to divest a site or sites in each of the SLC Areas (the **Divestment Sites**) to a purchaser or purchasers approved by the CMA by the end of the Divestment Period (as defined in the UILs), such that no areas would fail the CMA's decision rule (applied by the CMA in its SLC Decision) following the divestment. The Divestment Sites offered by Morrisons are listed in Annex 1 of the UILs Acceptance Decision.¹ Each of these sites is a McColl's site.
4. One of the Divestment Sites is a Martin's-branded McColl's store, a leasehold property located in 36 High Street, Pewsey, SN9 5AQ (the **Pewsey Site**).
5. On 2 February 2023, Morrisons submitted Smart Convenience Ltd (Companies House number 14549505) for the CMA's approval as a proposed purchaser of the Pewsey Site and five other Divestment Sites (the **Proposed Purchaser**).

¹ See [Morrisons / McColl's UILs acceptance decision](#)

6. On 20 April 2023, the CMA approved the Proposed Purchaser as a buyer of the Pewsey Site and five other Divestment Sites. This approval was conditional on the CMA being satisfied with the relevant transaction documents.
7. Between March and May 2023, Morrisons made various submissions to the CMA, including in response to a request issued by the CMA under s109 of the Act, that it was unable to divest the Pewsey Site to the Proposed Purchaser, or to any other hypothetical purchaser, because the landlord of the Pewsey Site (the **Landlord**) decided to convert the Pewsey Site for residential use and refused to grant or transfer the lease to any new purchaser despite various efforts by Morrisons to induce the Landlord.
8. On 25 September 2023, the CMA published its Provisional Decision on the review of the UILs given by Morrisons.
9. In summary, the CMA assessed whether there has been any change in circumstances related to the UILs such that the current UILs, to the extent that they relate to the Pewsey Site, are no longer appropriate.
10. The CMA has provisionally concluded that there has been a change of circumstance allowing the CMA to vary the UILs. The CMA has also provisionally concluded that the UILs should be varied to remove the obligation to divest the Pewsey Site.
11. Implementation of this remedy would occur by the UILs being superseded by UILs that remove the obligation to divest the Pewsey Site.

Notice of intention to vary the UILs

12. As envisaged in paragraph 3.29 of guidance document [CMA11](#), and required under Schedule 10 of the Enterprise Act 2002, the CMA hereby gives notice of its intention to vary the UILs. The reasoning for this notice is set out in the Provisional Decision document. The proposed superseding UILs, with the obligation to divest the Pewsey Site removed, have also been published on the case page.
13. Any representation in relation to the CMA's provisional decision and the above notice of intention to vary the UILs should be made by Monday 9 October 2023 and sent to: Jonathan Akinyemi (jonathan.akinyemi@cma.gov.uk).
14. Following this consultation period, the decision makers will assess the available evidence in order to make a final decision on whether to retain, release or vary the Undertakings.