SERIOUS FRAUD OFFICE

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TESCO STORES LIMITED

STATEMENT OF FACTS PREPARED PURSUANT TO
PARAGRAPH 6(1) OF SCHEDULE 17 TO THE CRIME AND COURTS ACT 2013

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1. This document is an agreed Statement of Facts in respect of a Deferred Prosecution Agreement concerning the commission by Tesco Stores Limited of an offence of false accounting contrary to section 17 of the Theft Act 1968. A draft charge is enclosed.

2. In this Statement of Facts Tesco Stores Limited is referred to as TSL and Tesco PLC is referred to either as Tesco or as the Company, as the context requires.

A. Overview

3. TSL operates the UK's largest supermarket business. It is a UK-registered company (company number 00519500) and a wholly owned subsidiary of Tesco (company number 445790). Tesco is listed on the London Stock Exchange ('LSE'), and as one of the hundred companies listed on that exchange with the highest market capitalisation, the value of its shares contributes to the Financial Times Stock Exchange 100 Index.

4. In accordance with normal accounting practice, Tesco prepares and publishes a single set of consolidated financial statements which take into account the financial performance of its subsidiaries, including TSL. Tesco's annual report and financial statements published on 22 May 2014 reported that UK revenue (of which TSL was a part) for the financial year ending 22 February 2014 was £43bn with a trading profit of £2.19bn.

5. On 29 August 2014, Tesco issued a trading update for expected Group profits for the 6 months to 23 August 2014 which was incorrect and overstated by over £250m. This overstatement was not corrected until 22 September 2014.

6. The overstatement predominantly arose as a result of the dishonest falsification by TSL of its results for the 6 month period, known as H1 2014/15, upon which the Group trading forecast was based.

7. The false accounting covered by the draft charge involved recognising commercial income that should not be recognised until later, if at all; a practice known by some TSL employees as ‘pulling forward’ (although this phrase was also used in other contexts with different and legitimate meanings). The effect of it was:

    a. falsely to inflate TSL commercial income figures;

    b. to create a false account of the financial position of TSL;

    c. to distort the process by which TSL budgets, based on reported past performance, were fixed;

    d. to create a shortfall in TSL’s income in the accounting period in which pulled forward commercial income should in fact have been recognised. The consequence for future periods was known by some TSL employees as ‘legacy’ and part of the overstatement consisted of ‘legacy’ from previous years (although again this phrase was also used in other contexts with different and legitimate meanings); and

    e. to cause an inaccurate analysis of expected performance for H1 2014/15 and the full year to be submitted to the Tesco Board at its meeting on 28 August 2014 which considered the need for a trading update. That analysis did not alert readers to the fact or risk of an overstatement

8. Following the 29 August 2014 trading update, work continued within Tesco on the preparation of Tesco half year interim results for publication. Those senior leaders in TSL who were aware of the overstatement continued to fail to report it, with the result that the half year Tesco interim results continued to be prepared by Group Finance in the mistaken belief the figures were correct.

9. Members of TSL's senior leadership team who were aware of and dishonestly perpetuated the misstatement leading up to the trading update on 29 August 2014 and up until the correction on 22 September 2014, thereby falsifying or concurring in the falsification of accounts or records made for an accounting purpose, were

    a. UK Financial Director, Carl Rogberg;

    b. UK Managing Director, Chris Bush; and

    c. UK Food Commercial Director, John Scouler.

10. Certain employees at various levels of seniority in TSL's finance and commercial teams, acting under the direction and guidance of Carl Rogberg, Chris Bush and John Scouler, were aware of improper recognition of commercial income. However, it was not until a TSL Finance employee ('Employee A') provided a written report on these matters to Tesco's legal department on Thursday 18 September 2014 that remedial action commenced.

11. The report was escalated within the legal department and the following morning Dave Lewis, the new Chief Executive of Tesco, was informed. That day its external auditors Price waterhouse Coopers LLP ('PwC') and Tesco Group Internal Audit started verifying the figures contained in the report, work that continued over the weekend. On Sunday 21 September 2014, the Tesco Board met twice to agree the action to be taken. As a result of the decisions taken at the meetings, Tesco:

    a. immediately suspended Carl Rogberg, Chris Bush and John Scouler from work;

    b. instructed its Group Internal Audit team, together with PwC, to continue working to confirm the extent of the overstatement and its impact on full year results;

    c. instructed Deloitte independently to conduct a comprehensive review of this process and the wider issues;

d. made a trading update to the market before it opened on Monday 22 September 2014, reporting both an overstatement of its expected profits for the half year to 23 August 2014 of an estimated £250m and its continuing review of the position; and

e. committed to a course of full co-operation with the SFO from the outset of its dealings with it.

12. On 23 October 2014, Tesco published its interim results, recording that the overstated recognition of commercial income was estimated at £263 million, made up of:

    a. an overstatement of expected trading profit for the first half of 2014/15 of approximately £118 million;

    b. an overstatement of reported profits of approximately £70 million relating to the financial year ending 22 February 2014; and

    c. an overstatement of reported profits of approximately £75 million in accounting periods prior to the financial year ending 22 February 2014.

13. On 22 April 2015, Tesco published its Preliminary Results for 2014/15 and stated (in summary) that, following further investigations, the commercial income recognised in previous periods had been overstated by £53 million in 2013/2014 and by a total of £155 million in years prior to 2013/14. These figures were confirmed in Tesco's Annual Report and Financial Statements for 2014/15, published on 5 May 2015.

14. On 3 September 2015, Tesco published a Performance Pro-Forma for H1 and the full year 2014/15 which identified an adjustment to the H1 2014/15 results associated with the updated commercial adjustment recognised in the full year 2014/15 results. The adjustment had the effect of increasing trading profit for H1 2014/15 by £42 million.

15. Tesco's interim results and Annual Report and Financial Statements 2014/15 show that the largest element of mis-reported income related to the UK Food business.

16. In November 2014, Tesco dismissed Carl Rogberg, Chris Bush and John Scouler for gross misconduct.

17. Arising out of these facts Carl Rogberg, Chris Bush and John Scouler have been charged with offences of fraud and false accounting. Their trial is fixed for 4 September 2017.

18. Throughout the criminal investigation, Tesco maintained the exemplary standard of co-operation required of it by the Serious Fraud Office. It was proactive in the offering of information, and responded promptly and constructively to requests made of it. As such, it:

    a. refrained, at the SFO's request, from interviewing witnesses or taking statements during the course of the criminal investigation, despite the fact that it faced both actual and threatened civil proceedings both in this jurisdiction and in the United States of America;

    b. agreed a limited waiver of privilege over relevant material which pre-dated the profit statement;

    c. disclosed voluntarily other material which appeared to it to be significant to the criminal investigation;

    d. provided mailbox accounts of its employees and former employees without first filtering their contents for any privileged items which fell outside the limited waiver;

    e. agreed that any issues of privilege that might arise as a result could be resolved by independent counsel;

    f. scheduled over 1,600 evidence bags of hard copy materials in order to facilitate the SFO's inspection of that material;

    g. helped the SFO arrange interviews with its employees and former employees;

    h. kept the SFO updated of developments in its business that might impact the criminal investigation; and

    i. generally helped facilitate a swift conclusion to the investigation.

B. The Tesco Organisation

Tesco's Governance

19. On 23 February 2014, the date on which the 2014/15 financial year started, Tesco's Board was made up of eleven people. Nine members of the Tesco Board were non-executive directors including its Chairman, Sir Richard Broadbent. The company's two executive directors were:

    a. Philip Clarke, who was the Group Chief Executive Officer (CEO) until 1 September 2014 when Dave Lewis replaced him; and

    b. Laurie McIlwee, who was the Chief Financial Officer (CFO) until he resigned with effect from 4 April 2014 but who was not replaced until 23 September 2014 when Alan Stewart was appointed.

20. Five committees reported directly to the Tesco Board: the Audit Committee, the Disclosure Committee, the Remuneration Committee, the Corporate Responsibility Committee and the Nominations Committee.

21. The Audit Committee's role was to provide confidence in the integrity of the Company's processes and procedures in relation to internal control risk management and corporate reporting. Its responsibilities included:

    a. reviewing Tesco's financial statements and announcements relating to its financial performance;

    b. reviewing, and challenging where necessary, the actions and judgements of management in relation to the interim and annual financial statements before submission to the Tesco Board;

    c. reviewing external and internal audit processes; and

    d. supporting the Tesco Board in assessing whether the Company's financial statements, taken as a whole, were fair, balanced and understandable.

22. The Disclosure Committee's role was to oversee Tesco's compliance with its disclosure obligations to the market. Its duties included overseeing the implementation and operation of appropriate procedures for the verification of financial statements and other documents that were to be publicly disclosed, and to ensure the truth, accuracy and completeness of those disclosures. It met in advance of the proposed release of any such information, and was chaired by the CFO.

23. None of the committees in this structure dealt with Tesco's operational activity. Instead Tesco's Board delegated to the CEO the responsibility for formulating, and after approval by the Tesco Board, implementing the Group's strategic plan and for managing the day-to-day operations of the Group.

24. The CEO was supported in this work by the Group Executive Committee. The Group Executive Committee was not a committee of the Tesco Board, and a significant number of matters were expressly excluded from its remit and were reserved to the Tesco Board and its committees. As stated in Tesco's Annual Report and Financial Statements 2014,

> "*The Group Executive Committee, which the CEO chairs, supports the CEO in carrying out his role and manages the day-to-day operations of the Group's business. The Group Executive Committee comprises the CEO and CFO and a number of senior executives. The Group Executive Committee has established a number of sub-committees which assist its work and ensure strategic choices are properly considered; new growth opportunities are fully discussed; [and] progress against the Group's priorities is reviewed. The membership of the sub-committees comprises a mix of Group Executive Committee members and senior management from relevant functions. The sub-committees report to the Group Executive Committee after each meeting on their work and issues are escalated for discussion and/or decision to the Group Executive Committee or the Board as appropriate*."

25. During the relevant period, there were seven sub-committees to the Group Executive Committee: the Commercial Committee, the Compliance Committee, the Multichannel Committee, the People Matters Group, the Property Strategy Committee, the Social Responsibility Committee and the Technology Committee.

26. In accordance with its statutory and listing obligations, Tesco reports on its financial position at the end of every financial year through its Annual Report and Financial Statement and every half year in the form of its Interim Results. It is also required to notify the market of anything that could have a material impact on the share price.

27. Tesco's financial year runs for 52 weeks to the last Saturday of February. It is divided into twelve periods (P1 etc.) and also into quarters (Q1 etc.) and halves (H1 and H2). In 2014, H1 of the 2014/15 financial year started on 23 February and ended on 22 August.

<u>TSL</u>

28. TSL was (and is) a subsidiary of Tesco. Its principal activity was (and is) the operation of the food stores and associated activities. At the end of the financial year ending on 22 February 2014 it had 2614 stores throughout the United Kingdom and it had employed on average 278,876 people over the course of that year. It is the largest single contributor of revenue to Tesco.

29. On 23 February 2014, TSL's Board of directors was made up of five people:

    a. Philip Clarke, Tesco's CEO;
    b. Chris Bush, Tesco's UK Managing Director;
    c. Laurie McIlwee, Tesco's CFO, who resigned from that Board on 4 April 2014;
    d. Adrian Morris, Tesco's General Counsel; and
    e. Steven Rigby, Tesco's Chief Property Officer.

30. Whilst TSL published its own abbreviated accounts (which Chris Bush signed off as a Director in November 2013), under applicable accounting standards Tesco's accounts and statements to the market reflected TSL's performance.

<u>Tesco's Finance Organisation</u>

31. The CFO was responsible for all aspects of financial governance and reporting within Tesco. Two separate accounting teams within Tesco reported directly to him: the Group Finance team headed by the Finance Director Group Financial Control and Reporting and the Group Planning and Analysis team headed by the Group Financial Planning

and Tax and Treasury Director. In addition the Group Internal Audit team reported to the CFO.

i) <u>Group Finance Team</u>

32. The Group Finance team was responsible for:

    a. defining and policing Tesco's accounting standards, known at the relevant time as Tesco Group Accounting Practice (TGAP);

    b. itself applying those standards in consolidating the information submitted to it every month by Tesco's various business units and producing from it management and financial accounts, including its statutory financial statements and its half-year review;

    c. working on the production of the financial statements; and

    d. liaising with Tesco's external auditors regarding the audit of the financial statements.

<u>Accounting Standards</u>

33. The Group Finance Team issued requirements defining Tesco's accounting standards, TGAP. TGAP was launched in October 2012 and updated in January 2014. TGAP and its predecessor, Tesco Accounting Policy Manual (TAPM), were stated to be compatible with United Kingdom and International Accounting Standards.

34. TGAP was readily accessible across the business. It was posted on Tesco's intranet site. Finance staff were provided with a manual on its contents. Every finance director and manager in Tesco was required to attend a training course on it at Tesco's Financial Academy.

35. TGAP applied to all Tesco entities. Tesco required complete compliance with its terms, irrespective of the materiality of the transaction in question. Staff across the business, including in TSL, were responsible for ensuring compliance with it. Requests could be made from across the business to the Group Finance team for guidance on whether a particular treatment accorded with TGAP standards or for permission to treat a

transaction in a manner incompatible with TGAP. Over the relevant period no relevant dispensations were given to depart from TGAP.

36. Commercial income consists of volume-related allowances, promotional and marketing allowances and various other fees and discounts received in connection with the purchase of goods for resale from suppliers. Most of such income relates to adjustments to the core price of a product. Sometimes receipt of the income is conditional on Tesco performing specified actions or satisfying certain performance conditions associated with the purchase of the product such as achieving agreed purchases or sales volumes targets and providing promotional or marketing materials and activities or promotional product positioning.

37. The difference between the sale price to the customer, the till price and the purchase price from the supplier is referred to at Tesco as the ‘front margin’. Payments or credit notes received from suppliers (net of expenses) are referred to at Tesco as ‘back margin’. Two key ways in which back margin is generated are:

    a. through volume-related transactions, where the supermarket receives a rebate from a supplier depending on the quantity of a particular product sold; and

    b. where the supermarket charges suppliers for services it provides, for example in advertising placement or prominence on the end of an aisle.

38. Accounting for commercial income requires an element of judgement, as was recognised by the Company’s external auditors, the Audit Committee and the Tesco Board. It was therefore a key focus for the Company and PwC who noted in Tesco’s Annual Report and Financial Statements 2014 in respect of commercial income “*We focused on this area because of the judgement required in accounting for the commercial income deals and the risk of manipulation of these balances*”.

39. TGAP set out the basis on which commercial income should be recognised in the following terms:

> *"Commercial income (although a reduction to cost of goods sold) should be recognised in accordance with the relevant guidance in IAS '18' Revenue: it is*

probable that the economic benefits associated with the transaction will flow to Tesco; and the amount of income can be measured reliably."

40. On 4 April 2012 Laurie McIlwee, the then CFO of Tesco, issued an explicit reminder by email to company and regional finance directors to comply with the Tesco accounting rules following a report by their auditor PwC concerning the inaccurate recording of commercial income by a non UK subsidiary,

"As senior finance leaders in the Tesco business, you are expected to carry out your responsibilities with integrity and objectivity so as not to allow your professional judgement in relation to relevant laws and accounting regulations to be over-ridden. It is therefore the Company's expectation that your accounts submissions (actual budgets and plans) are always prepared strictly in accordance with the policies set out in the Tesco Accounting Policy Manual and IFRS. Each reporting period, you are required to sign and submit a declaration confirming that this is the case and failure to provide such a declaration will result in your submissions being invalidated. This is an important control for the Group and you should be in no doubt as to the seriousness of such declarations and indeed mis-declarations for all reporting periods, not just half year and year end".

<u>Preparation of accounts</u>

41. TSL used two accounting systems: one, called Oracle, to prepare Tesco's general ledger and a second, called Hyperion, which produced periodic financial reports at a Group level where they were consolidated by Group Finance. The process was as follows:

    a. UK commercial teams inputted into the Oracle accounting system details of the transactions they had entered into on Tesco's behalf.

    b. At the end of every month the data on Oracle was transferred into Hyperion, in order to permit the preparation of reports. The UK Finance team reviewed the data in Hyperion for accuracy before it could be sent to Tesco.

    c. As UK finance director, Carl Rogberg was personally responsible for the truth and accuracy of the data submitted to Tesco, which he certified, (or authorised to be certified) as giving a true and fair view of the business unit by means of a secure digital PIN issued to him.

d. After the data was sent to Tesco, the Group Finance team would review the figures, approve them in a periodic close meeting and then use them to prepare financial statements. In doing so, the Group Finance team relied on Finance Directors across Tesco's business to supply them with full and complete information compiled in accordance with TGAP.

e. The financial statements would then be sent to the Group Planning and Analysis team, who would provide summary management accounts to the CFO and the Group Executive.

ii) Group Planning and Analysis Team

42. The Group Planning and Analysis team was responsible for reviewing Tesco's consolidated accounts against budget and commenting on any variances. This work was done in conjunction with the Finance Directors for each country.

iii) Group Internal Audit

43. The Group Internal Audit team was independent of business operations and had a Group-wide mandate. Its role was to undertake a continuous programme to review the internal control and risk management processes and identify audit risks within the business, review them and thereafter put in place procedures to manage and minimise them. Its responsibilities included:

a. facilitating oversight of risk management arrangements across the Group through structured reviews with senior management teams;

b. using the results of these reviews to assist the Group Executive Committee to refresh and update a Group risk register; and

c. reviewing and reporting on the effectiveness of risk management systems and internal controls to senior management, the Group

Executive Committee, the Audit Committee and ultimately to the Tesco Board.

iv) <u>External Auditor</u>

44. At the relevant time Tesco's external auditor was PwC. PwC had been Tesco's auditor since 1983. Every year PwC conducted a full audit of Tesco's annual financial statements and signed opinions on the statutory accounts of both Tesco and TSL. It also conducted a high level review of Tesco's interim results.

45. PwC's function as external auditor was to provide shareholders with reasonable assurance that the financial statements prepared by the Company were free from material misstatement, whether caused by fraud or error. Whilst an audit does not involve the auditor checking every single transaction entered into by a company, in providing that assurance an auditor may review individual transactions or financial control mechanisms within a company. An auditor is entitled to expect that information given to it in the performance of its duties is true and complete.

v) <u>Investor Relations Team</u>

46. As a company listed on the LSE, Tesco was obliged to comply with listing rules and make regular announcements to the market about its financial position. Tesco's Investor Relations team relied on information provided by the business including figures provided to it by the Group Finance team but was able to ask for further information to ensure that the information the Company wished to convey to the market was communicated in a way that was comprehensible and relevant to it. For most announcements, such as end of year financial statements, interim results or trading updates, the Company sought outside advice from its independent corporate brokers.

47. Any draft announcement went through a review process. It was considered for approval by the CEO, the CFO and the Audit Committee. Only then did it go to the Tesco Board for final approval. Any ensuing announcement was the Tesco Board's responsibility.

vi) <u>Finance Committee</u>

48. Laurie McIlwee resigned from Tesco with effect from 4 April 2014. Following his resignation a Finance Committee was established. It was not a committee of the Tesco

Board, did not report to it and did not discharge the functions of a CFO. It served as a forum where the functional finance leaders below CFO level could inform and consult each other on their areas of responsibility and accountability and the key finance priorities of the business.

49. The Finance Committee, on which Carl Rogberg sat, had no specific terms of reference or fixed agenda items. Brief ‘next steps’ were circulated following its fortnightly meetings, together with the agenda for the following meeting which served as minutes. Examples of the topics discussed included performance against forecast and budget, management accounts, the half year close process, potential exceptional items, finance re-organisation to cut head office cost and staffing issues. When discussing performance against forecast and budget, TSL would often be covered as it was the most significant part of Tesco’s business. At no point did Carl Rogberg report any concerns about the manner in which commercial income was being recognised.

C. Key Personnel

50. Tesco’s employees were placed in a hierarchical framework with Level 1 for the most junior and Level 5 for the most senior below Tesco Board level. Chris Bush, Carl Rogberg and John Scouler were all Level 5s. Employee A was one of approximately 500 Level 4s in Tesco at the material time.

51. Chris Bush joined Tesco in 1982 on leaving school and rose to become Managing Director of TSL, in which capacity he reported directly to Philip Clarke as CEO. Chris Bush was a member of the Group Executive Committee, a statutory director of TSL and a controlling mind of TSL. Those who reported to him included Carl Rogberg and John Scouler. On 19 December 2012 he signed a service agreement with Tesco. At the date of signature his annual salary was £610,000 plus bonus and benefits and, by the time he left Tesco’s employment, it had been increased to £761,000 plus bonus and benefits including share options. The total annual value of his pay and benefits for the year ending 4 July 2014 was £2,871,461. He held shares in Tesco.

52. Carl Rogberg joined Tesco in January 2007 and was promoted to the post of TSL’s Finance Director on 1 March 2013, in which capacity he reported directly to Chris Bush. He was both an employee and a controlling mind of TSL. Those who reported to him were the finance directors of the various aspects of TSL’s business including, Employee A. On 28 January 2013 he signed a service agreement with TSL. At the date

of signature his annual salary was £330,000 plus bonus and benefits and, by the time he left Tesco's employment, it had been increased to £400,000 plus bonus and benefits including share options. The total annual value of his pay and benefits for the year ending 4 July 2014 was £1,021,944. He held shares in Tesco.

53. John Scouler joined TSL on 11 February 2002 as a category director for the dairy business and he was promoted to TSL's commercial director on 24 October 2012, in which capacity he reported directly to Chris Bush. Commercial directors for the various product categories, such as fresh foods, packaged foods, and convenience and emerging markets, reported directly to him. On 12 July 2010 he signed a service agreement with TSL in which his annual salary was set at £260,866 plus bonus and benefits, which was increased to £450,000 plus bonus and benefits when he became Commercial Director. By the time he left Tesco's employment, his remuneration package had been increased to £507,000 plus bonus and benefits including share options. The total annual value of his pay and benefits for the year ending 4 July 2014 was £1,424,891. He held shares in Tesco.

D. Evidence of False Accounting

54. In April 2013 Tesco had announced its first fall in profits in nearly twenty years as a result of a combination of adverse general economic conditions and competition from other retailers. It was against this background that Tesco's annual budget and financial targets were set by the CEO in consultation with the Group Executive Committee and approved by the Tesco Board. Once finalised in March 2014, the budgets were communicated to TSL's commercial and financial teams, where they were widely regarded as unachievable.

55. Tesco expected its employees to meet financial targets that were set. This gave rise to a culture in which TSL's employees were under great pressure to deliver in line with the budget. In the period between 1 February 2014 and 18 September 2014 and whilst under pressure to meet these targets TSL's employees misstated commercial income to the extent that by 23 August 2014 TSL had wrongly recognised £257m of commercial income, a figure made up of both legacy from earlier financial years and pulling forward of income from future accounting periods.

56. Every month in H1 2014/15, and in purported compliance with Tesco's procedures for financial reporting, Carl Rogberg had submitted to Group Finance financial reports for

TSL which he certified (or authorised to be certified) as true and fair but which contained overstated commercial income figures for the UK Food Division. Group Finance used these figures to prepare reports on TSL's performance, including for a meeting of the Tesco Board held at 6pm on 28 August 2014 at which the only agenda item was Group performance. In advance of that meeting, Tesco Board members were provided with an analysis of expected performance for the half year and the full year, which indicated a reduction in expected trading profit. Nothing in that analysis alerted readers to the fact or risk of the overstatement.

57. The minutes of the meeting record that the Tesco Board was told that there was a reasonable degree of confidence that the figures on which the analysis had been based would not change materially as a result of the half year audit process. The Tesco Board then made a number of decisions including deciding immediately to inform the market of its revised profit forecast.

58. Carl Rogberg, Chris Bush and John Scouler were each told at various times in reports, meetings and emails that employees in TSL were pulling forward income. TSL employees did not like doing this: a number resigned as a consequence, and Carl Rogberg and John Scouler were aware of the toll this was taking. On 26 August 2014, Employee A informed them by email that staff were resigning,that H1 had left them "*highly bruised*", and that H2 had to be a different story or "*they would lose credibility with colleagues*". [B35]

59. All the Commercial teams within TSL were under pressure to meet targets or deliver more to cover shortfalls in other areas. The result was that the accounting and finance functions were also placed under pressure to help to deliver on the budgets including through illegitimate methods that ended up undermining their independence and true function to record and report accurately on the performance of the business.

60. At various points during H1 Carl Rogberg, Chris Bush and John Scouler were informed that the UK business was under-performing and could not meet its targets, that the challenge included filling the hole from previous years' pull forward and that pull forward was necessary to meet targets. This is illustrated as follows by reference to contemporaneous documents:

    a. By the time the budget was set in March 2014 the UK business Commercial Food division entered the financial year with what was believed to be -£31 million of commercial income, a figure which the business would have to make up over the course of the year, whatever budget was fixed for it.

b. In April 2014 Chris Bush, Carl Rogberg and John Scouler received a presentation on a paper entitled Commercial Period 1 2014/15 Review which showed that at the end of P1 commercial income from the UK business Commercial Food division was £62.6m less than the budget anticipated.

c. On 26 May 2014 Carl Rogberg received a paper entitled H1 Phasing profit proposal identifying an anticipated miss to the H1 2014/15 budget for the trading profit of the UK business of £104m.

d. In early June 2014 Chris Bush, John Scouler and Carl Rogberg received and were taken through a report entitled Commercial Period 3 2014/15 Review to June 2014 which detailed a £69.8m profit shortfall to budget in the UK business Commercial Food division and included the £38.2m legacy of pull forwards from the previous year. A request to amend the budget was refused.

e. On 17 June 2014 Carl Rogberg, Chris Bush and John Scouler received and discussed a report with others entitled Review of Food Commercial Margin prepared by the UK Commercial department. It revealed the miss to the H1 2014/15 commercial gross margin ('CGM') target for the UK business Commercial Food Division was £72.1m. It suggested ways of closing the profit gap including an unpalatable option of "*further pull forwards YOY*". A request to amend the budget was refused.

f. On 19 June 2014 Carl Rogberg emailed Chris Bush attaching a copy of a document entitled CGM review.pdf which he had annotated and which showed a miss of £72m to the CGM target for the UK Business Commercial Food division in H1 2014/15. Carl Rogberg informed Chris Bush that the prior year impact of £35m at the previous year end was now thought to be £57.7m.

g. On 19 June 2014 John Scouler emailed Chris Bush about H1. He informed Chris Bush that reducing the miss (presumably for the UK business Commercial Food division) from £71m to £35-40m involved a "*number of very difficult actions we have put in place outside of price to get us to this figure. I have shared this with Carl".* Chris Bush responded by email on the 21 June 2014 that the gap had to be closed to zero and suggested John Scouler meet with the "*finance team …. to go through options yet again*". John Scouler responded by email copying in Carl Rogberg that they would "*go back again*".

h. On 27 June 2014 John Scouler received a paper entitled H1 UK Commercial Margin, recording that the trading profit miss at H1 2014/15 in the UK business Commercial Food division could be £175m of which £102m was attributable to legacy and pull forward, £68m relating to the current half. It also detailed current stretch plans to include £46m of "*pull forward income relating to future activity*". He emailed the paper to Carl Rogberg and Chris Bush on 30 June.

i. On 2 July 2014 John Scouler emailed Chris Bush advising him that he would talk him through the assumptions in their £46m pull forward plan.

j. On 4 July 2014 the UK Leadership Team met. Chris Bush, Carl Rogberg and John Scouler attended along with others. A document entitled Risks and Ops to full year number from UKLT session 4th July 2014-Welham Green, generated as a result of the meeting, made no mention of legacy or a significant miss to the budget.

k. On 6 August 2014, Carl Rogberg and John Scouler were informed in an email from Employee A, who was requesting guidance, that a miss to the H1 target would be between £45m and £60m rather than £35m and there was a big risk at H2. A number of reasons for the miss were identified which included in the Packaged Category "*13/14 Pull Forward*". Employee A asked "if *we are not going to hit (35), should we do what we are asking categories to do to hit the number*".

l. On 8 August 2014 John Scouler emailed Chris Bush to inform him that what was being done to meet the H1 2014/15 target (for the UK business Commercial Food division) would mean there would be a miss to the margin in H2 of circa £100m. On 9 August Chris Bush emailed John Scouler that he would meet the UK commercial directors individually on his return from annual leave.

m. In mid – August 2014 a business plan review identified that by P5 2014/15 Tesco's UK Core profits were £408m lower than the year before. The business plan was circulated to recipients including Chris Bush, Carl Rogberg and John Scouler on 14 August and was presented at a meeting of the UK Leadership team on 15 August 2014 which was attended by Carl Rogberg (but not Chris Bush or John Scouler).

n. On 14 August 2014 Carl Rogberg received a document entitled UK Core – H2PP (6+6) 1415 H2 Risks and Ops outlook - unapproved draft, illustrating a profit forecast of £692m for the UK core business for H1 and various underlying risks for H2 which included a £90m Commercial accruals legacy.

o. On 15 August 2014 Carl Rogberg received a document entitled UK Core – H2PP (6+6) 1415 H2 Risks and Ops outlook -unapproved draft, detailing a £100m "*Commercial* : *potential margin risk*" to the UK Core business trading profit budget for H2 2014/15.

p. On 18 August 2014 Chris Bush, Carl Rogberg and John Scouler were emailed a paper reviewing P5 recording a miss to the CGM budget of £133.5 m to the budget, for the UK business Commercial Food division.

q. On 18 August 2014 Carl Rogberg was informed by Employee A by email that pull forward of at least £40m was used in the previous accounting year and the same number plus probably a further £10-15m was being used in H1 2014/15. Carl Rogberg was told that this contributed to the inability to meet the margin and that budget relief of £200m was required for the full year 2014/15.

r. On 19 August 2014 Carl Rogberg emailed John Scouler noting that there was a risk level of £100m + £100m of which an accrual risk of £100m was driven by legacy. He said Chris Bush understood the accrual risk of £100m driven by legacy and that Employee A had asked him to help get Chris Bush to understand the £100m ‘rate’ risk.

s. On 20 August 2014 John Scouler was advised in an email by Employee A that to get to the UK business Commercial Food trading budget for H1 2014/15 £50m had been pulled forward on top of the £45m “*borrowed at full year 13/14”* . Employee A wrote that £100m in structural relief was required to get the “*pull forward corrected (legacy)*”. He continued “*what that will do is take the burden off the categories and help us have constructive conversations with suppliers. Also GSCOP risk is getting bigger, our legal team is asking for more discipline, our teams are walking away from it”*.

t. On 21 August 2014 a presentation was shown to and discussed with Chris Bush entitled Review of Food Commercial Margin - 2014/15. It identified a gap of £444m on the UK Food H2 Margin Outlook to be filled in order to meet the full year budget. It also illustrated that £233m of the gap figure was legacy challenge.

u. On 1 September 2014 Employee A emailed John Scouler concerning the possibility of revising targets for H2 2014/15. In the email, Employee A said under the heading *“How do we achieve it?”; “We don’t test the integrity of our teams, we test their delivery. So, as a team we do discuss before passing accruals, especially where we are uncomfortable ….. We keep legacy conversation alive with Chris* [Bush] *and Dave* [Lewis]*, and resolve it over next 6-9 months”*.

v. On 2 September 2014 John Scouler emailed his UK commercial directors about the H2 targets which they had to meet, save for the miss that had occurred at H1, referring to the need to “*spend next two weeks getting to the bottom of the legacy and accrual position*”. The email was forwarded to Chris Bush by John Scouler and Carl Rogberg by Employee A.

w. On 15 September 2014 Employee A sent a draft position paper to John Scouler setting out legacy issues. The paper detailed that the UK Commercial Food margin in H1 2014/15 was overstated by c. £246m, the majority due to income being pulled forward from future periods. The paper explained that pulling forward income was a material audit risk and contrary to relevant accounting standards. It was also creating extra work for employees by collecting documentation to minimise audit risk. John Scouler agreed that much of what was said in the paper was fair and clear but asked for more balance to reflect "*progress we have made in many areas*".

x. On 16 September 2014, following a meeting between John Scouler, Employee A and a more junior finance colleague, a slightly amended legacy paper was submitted by the junior finance colleague to John Scouler. It contained details of a £246m legacy figure caused by the pulling forward of income, creating a material audit risk. The paper was presented to Chris Bush by John Scouler that day. A copy of the paper was emailed to Carl Rogberg.

61. Carl Rogberg knowingly signed off on false numbers in Tesco's accounting systems for every period in H1 2014/15**.** On 18 August 2014, Chris Bush was provided by the Tesco Investor Relations team with a Tesco Data Pack for the H1 2014/15 interim results which was based on data available for P5. The data pack contained a profit forecast for the UK for H1 2014/15 of £697m. Investor Relations requested that any concerns about the data pack should be raised by Chris Bush's team as this would be used to shape the interim results investor narrative at a meeting on 20 August 2014. There is no record that Chris Bush raised any concerns.

62. Throughout H1 and into H2 2014/15, Chris Bush, Carl Rogberg and John Scouler were provided with many opportunities to alert others including Group Finance, the TSL Board and the Tesco Board to the fact that the TSL numbers were false. They failed to take any of these opportunities and instead concealed the true position.

E. Auditor's Review

63. In April 2012 PwC reported to the Audit Committee that its testing of commercial income around the Group had confirmed the appropriateness of the amounts recognised.

64. In April 2013 PwC assured the Audit Committee that its detailed testing of the year end accrual and income recognised on a sample basis had not identified any material errors.

65. In April 2014 PwC informed the Audit Committee that it had performed extensive audit procedures on commercial income in the UK and overseas for the 2013 / 2014 year end (which in the UK included the testing of over 100 transactions), that no significant issues had been identified and that PwC was comfortable with the year-end commercial income balances.

66. The PwC interim review process for H1 2014/15 commenced on 25 August 2014 with a view to Tesco releasing its interim results H1 2014/15 in September 2014.

67. On 7 August 2014 Carl Rogberg attended the half year planning meeting with the PwC audit team. He confirmed he was not aware of any fraud within the business.

68. On 11 September 2014 PwC held an audit clearance meeting with senior Tesco finance officers including Carl Rogberg. The meeting was the final part of the process of PwC's review of the interim accounts. Carl Rogberg declared that there were no issues with commercial income.

69. In preparation for a meeting with Tesco fixed for 22 September 2014, on 16 September 2014 PWC provided Tesco with its interim report. On 17 September 2014 an employee in Group Finance provided to PwC a draft pack of Tesco interim financial results showing a UK profit figure of £641m. The true figures were concealed from Group Finance and PwC neither of whom had seen the paper provided to Chris Bush, Carl Rogberg and John Scouler by Employee A on 16 September 2014.

70. There is no record that John Scouler, Chris Bush or Carl Rogberg alerted PwC to the inaccuracies in the TSL accounts or the issues of which they were aware.

71. After Employee A's paper was provided to Tesco's legal department who promptly referred it to Tesco's CEO, Tesco instructed Deloitte independently to undertake an independent review to validate the Company's determination (following work by Group Internal Audit) of the extent by which the expected final position for H1 2014/15 in respect of UK Food Commercial income was overstated in the Company's 29 August

2014 announcement. Deloitte reported on 22 October 2014, confirming that the adjustment which Tesco proposed to its H1 2014/15 results in respect of overstated commercial income was reasonable.

72. On 23 October 2014 Tesco released to the market its interim results for the period ending 23 August 2014. The UK profit figure was £499m.

F. Impact

73. Tesco ordinary shares are listed on the main market of the LSE. On 22 September 2014 its share price fell by 11.585% reducing its total share value by £2,160,175,739.