11 March 2025

<u>Response from third party A to the CMA's invitation to comment on remedies</u>

We write with reference to the CMA's published interim report into the competed acquisition of GXO Logistics, Inc by Wincanton plc (**Merger**), which invites written representations from interested parties on the CMA's provisional findings. This letter sets out our initial views, but we will reserve the option to provide you with further feedback.

As you have provisionally found, the Merger would put us in a position that reduces our commercial options and likely exposes us to price rises/reductions in service, owing to the absence of viable alternatives that arise. Our expectation is that any final outcome to the CMA's investigation maintains effective competition for the dedicated warehousing and related services that we buy.

We set out below our headline concerns in relation to the likely effectiveness of specific remedies. Note for the sake of clarity we have set out the points below in order of preference.

1. The Merger is blocked

- this option would unequivocally solve the competition concern by both Merger parties staying in the market - retaining the status quo, continuity of service, and choice/competition in the market remains attractive to us as a customer of 3PLs.

Options 2 and 3 below, which have been proposed by the parties and set out in the Remedies Notice, could ultimately lead to a new entrant, though this is not certain, nor are we clear about the capability of any new entrant. Our expectation is that this would lead to increased costs and result in the loss of continuity of service, which is key when running a complex grocery operation. Continuity also extends to the retention of an end to end service with one 3PL (warehouse AND final mile delivery). Committed investment by Wincanton was a key factor in awarding this contract. An assignment of the contract to a new entrant doesn't guarantee delivery of these commitments.

We are also unclear in relation to option 3 around how a new entrant would be guaranteed continuity of these contracts as we would assume all impacted parties would have the right to insource. This only creates further uncertainty for the likely new entrant and the risk they would need to price into running a new industry sector within their business.

2. **A 'behavioural model' involving certainty of contractual terms for up to a further 5 years, plus an element of financial compensation, to sponsor a new entrant**

- We believe there is a relatively high risk that we could be in a position at the end of the 5 years where this remedy effectively fails or becomes evident that it is unworkable, and we would have to re-contract with GXO (at higher costs).

Our rationale:

- there is uncertainty whether a new entrant would see value in moving into this specialised area and the risk that those third parties factor this into costs increases for our business should they decide to enter, as potentially they would be serving a single client's need and that would require resource disproportionate to the revenue. Such an entrant would not necessarily have the benefit of synergies of working with us across multiple service lines or of a suite of grocery contracts that give them scale in this space (as potentially different retailers will work with different potential entrants and will not be able to coordinate a strategy)

- the proposed financial fund is only useful if someone capable wants to come into the market. We recognise that change brings uncertainty from both a transitional perspective – seamless or service impacting and the ability to sustain the agreed commercial model in place with the existing incumbent.

- restrictions placed on usage of the financial amount, such that it becomes unworkable in practice (e.g. we would want the financial amount to be available for insource as well as outsource, which may not be the case)

- capability of the proposed new supplier – such that it would not result in an on cost to our business/make the new supplier unviable. This on-cost to our business being a result of us having to support the new entrant to become capable to operate at a level of the existing grocery 3PLs pre-Merger, with no assurance they will have scale to succeed

- delay in development (and/or not the same levels of continuous improvement) of innovation and automation which we would see as a key part of our future plans to improve our business and help manage some of the head winds we face and is a key factor in decisions to outsource and appoint from tenders

- disruption and uncertainty to people and service - could result in heightened attrition, e.g. as colleagues become concerned about their futures, leading to costs or recruitment / retraining and loss of capability and service delivery

- time and resourcing requirements for our business, to support the talent investment of the new entrant, which exceed the benefit of the price guarantee and/or compensation amount upfront

- we would need to re-negotiate our transport contracts, with associated costs including legal costs

- it is difficult to quantify upfront the amount of compensation that would be sufficient for this element; there may not be any economic or operational return

- the CMA recognises in its report that new entrants are not likely to emerge for 2-3 years

3. Divestment of a business unit relevant to dedicated warehousing

- whilst this option is intended to increase competition, we do not currently believe that there is a credible party in the market that could take on the service without adversely impacting us – the consequences being negative for us as a business, and not what we believe the solution is intended to achieve. These adverse impacts are headlined below**;**

  - our concern re Divestment relates to the ability of a new market entrant to maintain continuity without impact to service and costs. The learning curve in Grocery is a difficult/step one so our concern re capability to serve would remain. We recognise TUPE would support, but without guarantees re key leaders remaining for an agreed number of years, we are likely to experience disruption and the risk of ultimate failure of the new entrant may remain high.

  - uncertainty - we would not ultimately have any control over the purchasing entity, and believe that we would suffer a detriment as a result:

    - medium to long term service disruption/lack of continuity

    - costs increases through service disruption and/or the fact that we may be forced to insource as a result. This would result in higher employment costs for us due to the fact that our terms are generally better than 3PLs' terms

    - disruption and uncertainty to people and service - could result in heightened attrition, e.g. as colleagues become concerned about their futures, leading to costs or recruitment / retraining and loss of capability and service delivery

- costs increases in other ways from GXO, e.g. in the retained services (final mile transport) – additionally having two competing suppliers providing the services linked to this operation (i.e. one for transport, and another for warehousing) gives rises to disputes and increases risk to us.
- we would need to renegotiate our transport contracts, with associated time and resourcing costs, including legal costs.

If insource becomes our only option as a result, due to lack of control on who is selected to take on this business, we would face additional costs for change (e.g. alignment to our internal T&Cs for those incoming colleagues). The cost of exit, including management fee charges. We would also lose benefit from the removal of innovation programmes that were in flight and part of future value delivery.