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Response to the Competition and Markets Authority's provisional decisions to designate Aldi and Lidl under the Groceries Market Investigation (Controlled Land) Order 2010

I Introduction and summary

- I.1 Waitrose Limited ("**Waitrose**") welcomes the Competition and Markets Authority's ("**CMA**") provisional decisions to designate Aldi Stores Limited ("**Aldi**"), Lidl Great Britain Limited and Lidl Northern Ireland Limited (together, "**Lidl**") as Large Grocery Retailers ("**LGRs**") under the Groceries Market Investigation (Controlled Land) Order 2010 (the "**Order**"), published on 7 August 2026 (the "**Provisional Decisions**").¹
- I.2 The designation of Aldi and Lidl is key to ensuring that the UK grocery retail sector operates on a level playing field. It also recognises that the UK grocery retail market has evolved materially since the Order came into force in 2010. The significant expansion of Aldi's and Lidl's geographic footprint, market share, customer base and grocery offering over the past 16 years has materially altered the competitive landscape of the UK grocery retail market. Aldi and Lidl now compete directly with existing LGRs – not only for customers looking to fulfil their grocery shopping needs, but also for suitable grocery retail sites.
- I.3 The Competition Commission recognised in its 2008 Final Report that the UK grocery retail market could change over time and that the scope of the controlled land remedies should be capable of adapting to those changes.² The Order was intentionally drafted to permit the designation of additional grocery retailers where they satisfy the designation criteria, thereby ensuring that the remedies remain effective as market conditions evolve. Accordingly, as the CMA's Provisional Decisions do, decisions to designate further entities should be undertaken with reference to current market conditions, rather than those that existed in 2008.
- I.4 The substantial growth of Aldi and Lidl provides compelling evidence that the CMA has reached the correct provisional conclusions. The recent Institute for Fiscal Studies ("**IFS**") working paper on the rise of Aldi and Lidl usefully details how the competitive conditions in UK grocery retail have evolved since the Order was introduced.³ The paper concludes that the growth of Aldi and Lidl in particular

¹ Competition and Markets Authority, *Assessment of Aldi Stores Limited, Lidl Great Britain Limited and Lidl Northern Ireland Limited, Provisional Decisions*, dated 7 August 2026.

² Competition Commission, *Groceries Market Investigation: Final Report* (30 April 2008), paragraph 11.154.

³ O'Connell, M., Smith, H. and Thomassen, Ø., *The rise of discounters and its impact on concentration, market power and welfare* (13 August 2025). IFS Working Paper. London: Institute for Fiscal Studies, see e.g., pp. 7-9.

has been associated with lower concentration across most grocery categories and, in its detailed modelling, lower average prices and increased product availability for consumers.⁴ The paper attributes that growth not only to wider geographic coverage, but also to efficiency gains and continued improvements in Aldi's and Lidl's product offering.⁵ This is consistent with what Waitrose has experienced in the market.

- 1.5 Therefore, Waitrose supports the CMA's well-evidenced decisions to designate Aldi and Lidl under the Order. The CMA should confirm this position in its final decisions.
- 1.6 In addition, in sections 2 and 3 below, Waitrose:
- (a) demonstrates why, consistent with the CMA's approach, it is appropriate to consider evidence beyond SKU count in assessing whether Aldi and Lidl "carry a full range of Groceries for sale at the retail level" (Article 3(4)(b) of the Order); and
 - (b) outlines its view that, following the designation of Aldi and Lidl as LGRs under the Order, the CMA should carry out a review of existing land restrictions which Aldi and Lidl are parties to, making use of its powers to consider the impact of existing land restrictions under Schedule 4 of the Order.

2 Evidence supporting CMA findings that Aldi and Lidl carry a full range of groceries at the retail level

- 2.1 The CMA has correctly applied the three designation criteria set out in Article 3(4) of the Order. It has clearly taken a broad range of evidence into account when carrying out its assessment.
- 2.2 In particular, the CMA appears to have considered multiple forms of evidence in concluding that Aldi and Lidl carry a full range of groceries. That conclusion is unsurprising and is consistent with the experience of both consumers and competing retailers. The CMA has undertaken a detailed analysis of SKUs.⁶ It appears from the Provisional Decisions that Aldi and Lidl have placed significant emphasis on SKU count in their submissions on this limb of the designation test. While Waitrose agrees that SKU count is informative, like the CMA, it considers that SKU count is not the only factor that should be considered in this assessment.
- (a) **SKU count on its own is not a reliable indicator of "range":** Fundamentally, the assessment is best carried out by considering more broadly whether, in practice, a retailer's range allows it to compete with LGRs for the same shopping missions. In particular:
 - (i) There is no suggestion that the application of the Order was intended to turn on SKU count, such that retailers who ultimately compete for the same shopping missions fall within or outside the Order depending on whether they sit above or below a particular number of SKUs.
 - (ii) Waitrose considers that headline SKU comparisons may be sensitive to methodology. For example, multiple variants may be recorded under a single SKU.

⁴ Ibid., p. 39.

⁵ Ibid., p. 32.

⁶ Provisional Decisions, paragraphs 4.7-4.12.

For this reason, the CMA is correct to seek to compare ranges on a consistent basis and, importantly, not to treat any single SKU metric as determinative.⁷

- (iii) Waitrose considers that SKU count will in some cases overstate a retailer's functional range across grocery categories. Just one way in which this may occur is through different size and packaging formats constituting separate SKUs. A lower SKU count does not necessarily equate to a materially narrower ability to meet grocery needs.
 - (iv) The CMA is right to focus its assessment on whether Aldi and Lidl cover the core grocery categories / needs.⁸ Waitrose agrees with the CMA's assessment that the absence of entire grocery categories is considerably more significant than a narrower offering within a category.
 - (v) The legal test the CMA is applying when considering designation does not require a comparative analysis of SKU count against existing LGRs. Existing LGRs themselves adopt different strategies as to own-brand and branded mix, range depth and customer proposition. "Full range" cannot therefore mean conformity with any single incumbent model. The legal question is simply whether the retailer carries a sufficiently complete grocery range. Further, even if SKU count was a material factor, M&S carries materially fewer SKUs in certain categories than other LGRs, including a much narrower range across everyday household categories.⁹
- (b) **Real-world shopping behaviour supports the CMA's Provisional Decisions:** There is significant evidence which demonstrates that customers consider the range offered by Aldi and Lidl makes them credible alternatives to other LGRs. For example, Aldi and Lidl derive proportionately more sales from full "trolley shops" than Waitrose, despite narrower SKU ranges.¹⁰ Waitrose's experience is that Aldi and Lidl are not merely used for "top-up missions" - they derive a disproportionately high share of sales from full "trolley shops". Indeed, as the Provisional Decisions identify, both Aldi and Lidl expressly position themselves as destinations for the weekly shop.¹¹
- (c) **There is no requirement for equivalence, but differences between LGRs and Aldi and Lidl are driven by strategic positioning, not by the absence of a full range:** Waitrose has made a deliberate choice to carry a greater depth of range and many specialist and premium choices for its "food lover" customers, including across cuisines, dietary requirements and for different occasions. Each LGR, as well as Aldi and Lidl, makes choices as to how they want to best serve their customers. In that sense, there is differentiation between LGRs which leads to differing SKU ranges, breadth and depth. Fundamentally, it does not establish that Aldi and Lidl do not offer a full range of groceries.
- (d) **Waitrose's own assessment of Aldi and Lidl is inconsistent with their characterisation of themselves as materially incomplete grocery propositions:** The Provisional Decisions indicate that Aldi and Lidl have sought to represent their grocery

⁷ Provisional Decisions, paragraph 4.8.

⁸ Provisional Decisions, paragraphs 4.37-4.42.

⁹ Provisional Decisions, paragraph 4.11 (Table 4.1).

¹⁰ Waitrose's response to the CMA's information request submitted on 20 April 2026, paragraph 2.5.

¹¹ Provisional Decisions, paragraph 5.17.

propositions as incomplete.¹² These submissions are not consistent with Waitrose's market experience of Aldi's and Lidl's grocery propositions. Waitrose regards Aldi's and Lidl's offerings as stronger than some existing LGRs, based on a range of factors including breadth and depth of range, product availability, value, quality, seasonality and branded and own-brand offering. By way of example, market data available to Waitrose indicates that Lidl is the market leader in continental meat.

- 2.3 In short, while Waitrose considers the CMA's decision-making on this point to be correct and supported by a range of evidence, it considers that the strongest evidence is outside of a highly statistical approach to SKU count.

3 Dealing with historic Aldi and Lidl land restrictions

- 3.1 In Appendix A of the Provisional Decisions, the CMA identifies that Aldi and Lidl appear to benefit from several restrictions in land agreements which are contrary to the Order.¹³ Waitrose, as a designated LGR, has committed extensive resources and significant effort to ensure its own estate of land dealings comply with the Order. The CMA regards the Order as key to ensuring a level playing field in the UK grocery retail market.¹⁴ This is increasingly important as the supply of suitable grocery development sites has become more constrained in recent years and grocery retailers, including Waitrose, seek to open new stores.
- 3.2 Waitrose has encountered, first hand, restrictions secured by Lidl which restrict the ability of other grocery retailers to open new stores and shield Lidl from local competition. If, as Waitrose strongly urges, the CMA confirms its Provisional Decisions to designate Aldi and Lidl as LGRs, their existing land agreements should be reviewed to assess the impact of those restrictions in the local areas where such land restrictions operate.
- 3.3 Article 4 of the Order provides a mechanism for the CMA to require the release of Restrictive Covenants which precede designation, and Article 7 provides the same for Exclusivity Arrangements. Waitrose requests that, immediately after designation, the CMA requires the review of all land dealings across Aldi's and Lidl's respective estates (in a broadly similar way to the review it conducted of existing LGRs' estates between 2020 and 2025) to determine which restrictions would fail the Schedule 4 test in the Order and should therefore be released. Waitrose considers this to be necessary if the CMA wishes to ensure the Order operates effectively to secure a level playing field.
- 3.4 If the CMA considers for any reason that it is unable to undertake such a review, at the very least it should require Aldi and Lidl to provide a full list of all Restrictive Covenants and Exclusivity Arrangements in force at the time of designation. While significantly less effective than a full review, this would at least ensure that third parties are able to assess where local competition may be being impacted by land restrictions that Aldi and Lidl have secured.

4 Final comments

- 4.1 Grocery retail in the UK is highly competitive. Part of what drives that competition is continued expansion of estates by Aldi, Lidl and the existing LGRs. There is ample evidence, as the CMA has

¹² Provisional Decisions, paragraphs 4.19-4.32.

¹³ Appendix A to the Provisional Decisions, paragraph I.I.

¹⁴ Competition and Markets Authority, press release "Aldi and Lidl should be subject to the same rules as major supermarkets" dated 7 August 2026. See: <https://www.gov.uk/government/news/aldi-and-lidl-should-be-subject-to-the-same-rules-as-major-supermarkets>.

identified, to designate Aldi and Lidl as LGRs under the Order. It is important that these decisions are taken without further delay to ensure there is equal opportunity in the competition between LGRs and Aldi and Lidl to secure further sites for grocery retail. Applying the Order equally to all grocery retailers who compete to supply UK consumers with their grocery needs will help maintain the level playing field envisaged by the Order.

- 4.2 Should it assist the CMA in reaching its final decisions, Waitrose would be pleased to provide any further information or clarifications or to engage further with the CMA in finalising its assessment.