

**COMPLETED ACQUISITION BY TESCO PLC OF THE CO-OPERATIVE GROUP  
(CWS) LIMITED'S STORE IN UXBRIDGE ROAD, SLOUGH**

**Directions issued pursuant to paragraph 11 of the Undertakings given by  
Tesco plc (Tesco) to the Competition Commission on 14 June 2007**

To preserve the possibility of restoring effective competition in the market or markets affected by the completed acquisition by Tesco of the Co-operative Group (CWS) Limited store in Uxbridge Road, Slough;

To supervise the establishment of any additional mechanisms necessary for ensuring compliance with the Undertakings, to monitor compliance by Tesco with certain elements of the Undertakings, and, so far as possible, to ensure Tesco's continued full and effective compliance;

The CC now issues written directions under paragraph 11 of the Undertakings that, for the purpose of securing compliance with the Undertakings pending final determination of the reference, Tesco shall appoint a Monitoring Trustee in accordance with the terms provided for in the Annex and Tesco shall comply with the obligations set out in the Annex.

(signed)



PETER FREEMAN  
*Chairman*  
14 June 2007

1. To supervise the establishment of any additional mechanisms necessary for ensuring compliance with the Undertakings pending final determination of the reference, to monitor compliance by Tesco with certain elements of the Undertakings, and, so far as possible, to ensure Tesco's continued full and effective compliance with the Undertakings, Tesco shall appoint a Monitoring Trustee (MT). The functions of the MT shall be as set out below. The MT shall act on behalf of the CC and shall be under an obligation to the CC to carry out its functions to the best of its abilities.
2. Tesco shall cooperate fully with the MT, in particular as set out below. Tesco shall ensure that the terms and conditions of appointment of the MT shall reflect and give effect to the functions and obligations of the MT and Tesco as set out in this document.

### General

3. The MT shall possess appropriate qualifications and experience to carry out its functions.
4. The MT shall neither have, nor become exposed to, a conflict of interest.
5. The MT shall be remunerated and reimbursed by Tesco for all reasonable costs properly incurred in accordance with the terms and conditions of its appointment. This shall be done in a way that does not impede its independence or its ability effectively to carry out its functions.
6. Subject to receiving the CC's prior approval in accordance with paragraph 7 of these directions, the MT shall be appointed by Tesco as soon as is reasonably practicable and in any event by **5pm** on 21 June 2007, or such later date as is agreed by the CC in writing, and shall continue to act until the CC has finally determined the reference (within the meaning of section 79 of the Act).
7. The appointment by Tesco of a MT shall be subject to the approval of the CC as to the identity of the MT and the terms and conditions of appointment in their entirety. To this end, Tesco shall inform the CC as soon as is reasonably practicable, and in any event by **5pm** on 19 June 2007, of the identity of the MT that Tesco proposes to appoint and provide the CC with draft terms and conditions of appointment, and once appointed, Tesco shall provide the CC with a copy of the agreed terms and conditions of appointment.

### Primary Functions

8. The Primary Functions of the MT shall be:
  - (a) to monitor compliance by Tesco with paragraphs 2(a), 2(b), 2(d), 4 and 6 of the Undertakings (together, the "Relevant Undertakings");
  - (b) to advise the CC regarding the draft work plan to be submitted by Tesco under paragraph 5 of the Undertakings;
  - (c) the monitoring of communications (including written and electronic communications, telephone conversations and meetings) between Tesco (or its subsidiaries) and its agents, advisors and contractors and/or Slough Borough

Council and any other planning authority, as the MT considers reasonably necessary for the fulfilment of the MT's Primary Functions;

- (d) to supervise the establishment of any additional mechanisms necessary for ensuring compliance with the Relevant Undertakings pending final determination of the reference; and
  - (e) so far as possible, to ensure Tesco's continued full and effective compliance with the Undertakings during its term of appointment.
9. The MT shall take all steps that it reasonably considers to be necessary in order for it effectively to carry out the Primary Functions. Those steps may include, but shall not be limited to:
- (a) attending any meetings involving Tesco or its subsidiaries and any agents, advisors or contractors involved in construction on the site;
  - (b) communicating with representatives of Tesco or its subsidiaries, or agents, advisors and contractors of Tesco or its subsidiaries and/or Slough Borough Council or any other planning authority; and
  - (c) monitoring communications (including written and electronic communications and telephone conversations) between Tesco or its subsidiaries and/or agents, advisors and contractors of Tesco or its subsidiaries and/or Slough Borough Council or any other planning authority.

If the MT has communicated with agents, advisors or contractors of Tesco or its subsidiaries, then it must inform Tesco of the existence of these communications as soon as is reasonably practicable after the communications have concluded, and must provide Tesco with a copy of any correspondence.

10. Notwithstanding paragraph 9 of these directions, for the purpose of promoting occupational health and safety:
- (a) the MT must provide Tesco with reasonable notice of the date of any visits to the site;
  - (b) the MT must observe safety regulations at all times while on the site;
  - (c) the MT must not impede or obstruct the works on the site, nor issue any directions to any agents, advisors or contractors of Tesco or its subsidiaries.
11. The MT shall comply with any requests made by the CC for the purpose of ensuring the full and effective compliance by Tesco with the Undertakings.

### **The obligations of Tesco**

12. Tesco (including all employees, officers, directors, advisers and consultants) shall cooperate, and shall use its best endeavours to procure that its agents, advisors and contractors cooperate, fully with the MT, in particular by providing the MT with all cooperation, assistance and information as the MT may reasonably require, including but not limited to:
- (a) the provision of such facilities as are necessary for the discharge by the MT of the MT's functions; and

- (b) the provision of full and complete access to all personnel (including personnel of agents, advisors and contractors), books, records, communications, documents, facilities and information as the MT may reasonably require.
13. If Tesco has any reason to suspect that the Undertakings might have been breached, it shall notify the MT and the CC immediately.
14. At all times, Tesco shall actively keep the MT informed of any changes to the construction programme, as well as developments in relation to work on the site and the application for the Variation.

## Reporting functions

15. Ten business days following the date of its appointment, the MT will provide a report to the CC containing detailed information on any additional mechanisms which have been or will be put in place to ensure Tesco's continued compliance with the Relevant Undertakings. Thereafter, on a bi-monthly basis, the MT shall provide the CC with a declaration stating whether or not, in its view, Tesco has complied with the Relevant Undertakings. At the same time, the MT shall provide the CC with a report setting out its views in relation to the following matters:
- (a) The extent to which the work that has been completed on the site since the previous report has affected:
    - i. the flexibility with which the retail units in the development could be configured;
    - ii. the capacity to extend the gross internal area of the retail units in the development; and
    - iii. the capacity to redevelop the site using an alternative construction;
  - (b) The extent to which the work that is scheduled for completion before the next report will affect:
    - i. the flexibility with which the retail units in the development could be configured;
    - ii. the capacity to extend the gross internal area of the retail units in the development; and
    - iii. the capacity to redevelop the site using an alternative construction;
  - (c) Any actions or events in relation to the Variation;
  - (d) The reasons why the MT has concluded that the Relevant Undertakings have or have not been complied with. In particular, the MT shall set out and explain whether: (i) anything has caused it to be concerned as to whether Tesco has complied with the Relevant Undertakings and, if so, what steps it has taken so as to satisfy itself as to Tesco's compliance; (ii) it has any remaining doubts or uncertainties as to whether Tesco has complied with the Relevant Undertakings; and (iii) anything causes it to be concerned about a possible future breach of the Relevant Undertakings (whether deliberate or inadvertent);
  - (e) The extent to which the MT considers that it is in a good position to monitor the compliance of Tesco with the Relevant Undertakings. The MT shall set out and

explain if there is anything that it considers would assist in monitoring the compliance of Tesco with the Relevant Undertakings; and

- (f) The extent to which Tesco has cooperated with the MT in its task of monitoring compliance with the Relevant Undertakings. The MT shall set out and explain if there are any aspects of the cooperation of Tesco that it considers could be improved.
16. The MT shall notify the CC immediately if it forms a reasonable suspicion that the Undertakings have been breached, or if it considers that it is not in a position effectively to carry out its functions. In that situation, the MT shall set out the reasons for its view and attach relevant supporting evidence (so far as this is permitted by paragraphs 17 and 18 of these directions).
17. All communications between the MT and the CC (including the declarations and reports of the MT referred to in paragraphs 14 and 15) shall be confidential and shall not be disclosed to Tesco, save with the express written permission of the CC. In relation to the possibility of disclosure of such communications to third parties, the CC shall act in accordance with the provisions of Part 9 of the Act. The MT shall not disclose such communications to third parties.
18. Nothing in the functions of the MT shall require the disclosure to the MT or to the CC by Tesco or its subsidiaries information or documents that Tesco or its subsidiaries would be entitled to withhold from the CC on the grounds of legal professional privilege.

## Interpretation

19. For the purpose of these directions:

**"MT"** means the monitoring trustee appointed by Tesco pursuant to paragraph 1 of these directions;

**"Primary Functions"** means the functions of the MT set out in paragraph 8 of these directions;

**"Relevant Undertakings"** means paragraphs 2(a), 2(b), 2(d), 4 and 6 of the Undertakings; and

**"the Undertakings"** means the interim undertakings given by Tesco and accepted by the CC on 14 June 2007.

Terms and expressions defined in the Undertakings shall have the same meaning in these directions, save as the context otherwise requires.