

**IN THE MATTER OF A REFERENCE TO THE COMPETITION COMMISSION
DATED 19 APRIL 2007 CONCERNING THE COMPLETED ACQUISITION BY
TESCO PLC OF THE CO-OPERATIVE GROUP (CWS) LIMITED'S STORE AT
UXBRIDGE ROAD, SLOUGH**

**ORDER MADE BY THE COMPETITION COMMISSION IN ACCORDANCE WITH
SECTION 81 OF THE ENTERPRISE ACT 2002**

Interpretation

The Interpretation Act 1978 shall apply to this Order as it does to Acts of Parliament.

For the purposes of this Order:

'the Act' means the Enterprise Act 2002;

'the Acquisition' means the completed acquisition by Tesco (or a subsidiary of Tesco) of the Uxbridge Road Store;

'business day' means any day which is not a Saturday or Sunday, Christmas Day, Good Friday or a bank holiday in any part of the United Kingdom under the Banking and Financial Dealings Act 1971;

'the CC' means the Competition Commission;

'existing planning permission' means the planning permission for development of the site as granted on 23 March 2006, and the application submitted by Spen Hill Developments Limited on 12 February 2007 for variation of this permission;

'the OFT' means the Office of Fair Trading;

'the reference' means the reference made by the OFT to the CC under section 22 of the Act concerning the Acquisition;

'the site' means the site at 78 Uxbridge Road, Slough on which the Uxbridge Road Store was formerly located, and, for the avoidance of doubt, includes any of the retail units on the site, any part of the site or any structure subsisting on the site from time to time;

'subsidiary' takes the meaning given to that term in section 129(1) of the Act;

'the specified period' means the period beginning on the date of this Order and terminating on 26 October 2007;

'Tesco' means Tesco PLC;

'the undertakings' means the undertakings given by Tesco and accepted by the CC on 14 June 2007;

'the Uxbridge Road Store' means the supermarket formerly operated by Cooperative Group (CWS) Limited located at 78 Uxbridge Road, Slough; and

unless the context requires otherwise, the singular shall include the plural and vice versa.

Recitals

On 19 April 2007, the OFT made the reference to the CC under section 22 of the Act:

On 14 June 2007, the CC accepted interim undertakings under section 80 of the Act:

In light of information received since 14 June 2007, the CC now considers that continued construction on the site might prejudice the reference or impede the taking of any action by the CC under Part 3 of the Act which might be justified by the CC's decisions on the reference:

The reference has not been finally determined in accordance with section 79(1) of the Act:

The CC wishes to ensure that no action is taken pending final determination of the reference which might prejudice the reference or impede the taking of any action by the CC under Part 3 of the Act which might be justified by the CC's decisions on the reference:

Now for the purpose of preventing pre-emptive action in accordance with section 81 of the Act, the CC makes the following order addressed to Tesco PLC:

No pre-emptive action

1. Except with the prior written consent of the CC, Tesco shall not, until the final determination of the reference, take any action which might prejudice the reference or impede the taking of any action under the Act by the CC which might be justified by the CC's decisions on the reference, including, but not limited to, any action which would impede the timely disposal of the site or any part of the site to a suitable purchaser or tenant.
2. Without prejudice to the generality of article 1, except with the prior written consent of the CC, Tesco shall:
 - (a) for the remainder of the specified period, procure that no further construction work is carried out on the site, other than such actions otherwise required by this Order;
 - (b) for the remainder of the specified period:
 - (i) maintain the site in a safe condition and take all steps necessary to prevent any deterioration of the site (including, but without limitation, the treatment of Japanese knotweed);
 - (ii) not enter into any agreement or arrangement relating to the purchase, leasing or occupation of the site; and
 - (iii) not seek any modifications to the existing planning permission.
3. If Tesco or a subsidiary of Tesco, or any agent, adviser or contractor of Tesco or a subsidiary of Tesco, has any contact (whether oral or written) concerning the site with prospective purchasers, tenants or occupants of the site, or with any agent or adviser of a prospective purchaser, tenant or occupant of the site, then Tesco shall provide the prospective purchaser, tenant or occupant or the agent or adviser of the prospective purchaser, tenant or occupant with a copy of the statement set out in Appendix 2.

Compliance

4. Tesco shall procure that each of its subsidiaries complies with this Order, as if the Order was addressed to them.
5. Tesco shall provide to the CC such information as the CC may from time to time require for the purposes of monitoring compliance by Tesco and its subsidiaries with this Order.
6. On 13 August 2007 and subsequently on the 13th and 27th day of each month (or, where the relevant day of the month does not fall on a business day, the first business day thereafter), Tesco shall provide a statement to the CC:
 - (a) confirming the compliance of Tesco and its subsidiaries with this Order;
 - (b) providing details of any contact (whether oral or written) concerning the site between Tesco or a subsidiary of Tesco, or any agent, adviser or contractor of Tesco or a subsidiary of Tesco, and prospective purchasers, tenants or occupants of the site, including the identity of the other party, the nature of the contact and the purpose of the contact;
 - (c) confirming that each of the prospective purchasers, tenants or occupants of the site with whom Tesco or a subsidiary of Tesco, or any agent, adviser or contractor of Tesco or a subsidiary of Tesco, has had contact (whether oral or written) concerning the site has been provided with a copy of the statement set out in Appendix 2;
 - (d) providing details of any agreements or arrangements entered into by Tesco or its subsidiaries in relation to the site; and
 - (e) providing details of the steps that Tesco has taken in order to verify the contents of the compliance statement;in the form set out in Appendix 1.

General

7. (1) The CC may give directions falling within paragraph (2) to:
 - (a) a person specified in the directions: or
 - (b) a holder for the time being of an office so specified in any body of persons corporate or unincorporated.
- (2) Directions fall within this paragraph if they are directions:
 - (a) to take such steps as may be specified or described in the directions for the purpose of carrying out, or ensuring compliance with, this Order; or
 - (b) to do, or refrain from doing, anything so specified or described which the person might be required by this Order to do or refrain from doing.
- (3) The CC may vary or revoke any directions so given.

8. Tesco shall comply, insofar as it is able, with such written directions as the CC may from time to time give to take such steps as may be specified or described in the directions for the purpose of carrying out or securing compliance with this Order.
9. When this Order comes into force, the undertakings and the directions issued by the CC pursuant to the undertakings shall cease to be in force.
10. At all times, and as soon as is reasonably practicable, Tesco shall actively keep the CC informed of any material developments concerning any aspect of the site, including, but not limited to, any changes to the existing planning permission and matters relating to the physical state of the site.
11. If Tesco has any reason to suspect that this Order might have been breached, it shall immediately notify the CC and any monitoring trustee that Tesco may be directed to appoint under article 7.
12. This Order will come into force at 20:00 on 7 August 2007.



PETER FREEMAN
Chairman

Compliance statement for Tesco

I [insert name] confirm on behalf of Tesco that since the Order by the CC on 7 August 2007 ('the Order'):

- (a) Tesco has complied with the Order in the period from [insert date] to [insert date].
- (b) Tesco's subsidiaries have complied with the Order in the period from [insert date] to [insert date].
- (c) No action has been taken by Tesco or its subsidiaries in the period from [insert date] to [insert date] that might impede the taking of any action by the CC which may be justified by its decisions on the reference.
- (d) The following contact concerning the site has taken place between Tesco or its subsidiaries, or agents, advisers or contractors of Tesco or its subsidiaries, and prospective purchasers, tenants or occupants of the site in the period from [insert date] to [insert date]:

[Provide details of any contact (whether oral or written) concerning the site between Tesco or its subsidiaries and prospective purchasers, tenants or occupants of the site, including the identity of the Tesco Group entity involved, the identity of the other party, and the nature and purpose of the contact]

- (e) Each of the entities mentioned in the response to paragraph (d) have been provided with a copy of the statement in Appendix 2 to the Order.
- (f) The following agreements or arrangements have been entered into by Tesco or its subsidiaries in relation to the site in the period from [insert date] to [insert date]:

[Provide details of any agreements or arrangements entered into by Tesco or its subsidiaries in relation to the site]

- (g) The following steps have been taken in order to verify the contents of this compliance statement:

[Provide details of steps that have been taken to verify the contents of this compliance statement, including the name and position of all persons consulted.]

FOR AND ON BEHALF OF **TESCO PLC**

Signature

Name

Title

Date

Inquiry into completed acquisition by Tesco plc of the store operated by Co-operative Group (CWS) Limited in Uxbridge Road, Slough

Statement by the Competition Commission

On 19 April 2007, the Office of Fair Trading (OFT) referred to the Competition Commission (CC) a merger which involved the acquisition by Tesco plc (Tesco) of a store at Uxbridge Road, Slough from the Co-operative Group (CWS) Limited on 10 October 2003 (Acquisition).

The CC is required to determine whether the Acquisition has resulted, or may be expected to result, in a substantial lessening of competition (SLC) within any market or markets in the UK for goods or services, and if so, what action should be taken for the purpose of remedying, mitigating or preventing the SLC or any adverse effect.

In the period prior to the completion of its inquiry, the CC has made an interim order directed to Tesco. The interim order is published on the CC's website: <http://www.competition-commission.org.uk/inquiries/ref2007/tesco/index.htm>.

In summary, the CC has ordered that Tesco shall, until 26 October 2007:

- procure that no further construction work is carried out on the site, other than such actions otherwise required by the Order;
- maintain the site in a safe condition and take all steps necessary to prevent any deterioration of the site (including, but without limitation, the treatment of Japanese knotweed);
- not enter into any agreement or arrangement relating to the purchase, leasing or occupation of the site; and
- not seek any modifications to the existing planning permission¹ (although Tesco is permitted to continue with certain applications in relation to which they have already begun negotiations with Slough Borough Council).

The CC is required to publish its report in relation to the Acquisition by 28 November 2007.

This statement is being distributed to all prospective purchasers, tenants and occupiers of the site, including any of the retail units on the site, with whom Tesco or its subsidiaries, or agents, advisors or contractors of Tesco or its subsidiaries, have had any contact concerning the site.

If you have any queries in relation to this statement, please contact Ms Erika Forsberg of the Competition Commission on 020 7271 0232 or at erika.forsberg@cc.gsi.gov.uk.

¹'existing planning permission' means the planning permission for development of the site as granted on 23 March 2006, and the application submitted by Spen Hill Developments Limited on 12 February 2007 for variation of this permission.