

Our ref: VZB\WMM01.00022
Your ref: CC/RM/Groceries (Remedies) 315-09
Direct line: +44 (0) 20 7859 1763
E-mail: nigel.parr@ashurst.com

Ashurst LLP
Broadwalk House
5 Appold Street
London EC2A 2HA

21 May 2009

Tel +44 (0)20 7638 1111
Fax +44 (0)20 7638 1112
DX 639 London/City
www.ashurst.com

BY EMAIL

Mr T J Oyler
Competition Commission
Victoria House
Bloomsbury Place
London
WC1A 2EB

The logo for Ashurst LLP, featuring the word "ashurst" in a lowercase, orange, sans-serif font.

Dear Mr Oyler

Supply of Groceries Market Investigation (Remedies Phase) - Undertakings in relation to Appointment of Groceries Ombudsman

We write in response to your email of 27 April 2009, which attached the CC's proposed draft Undertakings for the creation of an Ombudsman for the groceries sector. Morrisons notes that the CC is seeking Morrisons' agreement to these Undertakings by 28 May 2009.

Although Morrisons recognises that the Commission intends to pursue the adoption of such a remedy for the groceries sector, including if necessary by requesting BERR to establish an Ombudsman, Morrisons' position remains unchanged since its response to the informal consultation in October 2008. In particular, Morrisons does not intend to agree to the Undertakings (either as drafted, or in a materially similar form).

As previously stated, Morrisons is concerned that the appointment of an Ombudsman will not, ultimately, be in the interests of consumers. Morrisons would reiterate its view that the operation of a free market as between the retailer and its suppliers, governed where appropriate by contract law, has undoubtedly been of immense benefit to consumers. Morrisons, moreover, observes that, as Professor Lyons stated in his statement at page 244 of the CC Report, the usual role of an Ombudsman is to deal with complaints from consumers, which would not be the case in relation to the Commission's proposal. Accordingly, given that the UK has a consumer-focused competition policy, and in Morrisons' view, regulatory institutions should be created solely with that purpose in mind, Morrisons believes that a proper and informed Parliamentary debate is appropriate and necessary before an Ombudsman is created in relation to the groceries market.

Finally, Morrisons believes that in any event the proposal to appoint an Ombudsman, and the scope of his budget, powers and duties, is a matter that should properly be the subject of Parliamentary scrutiny and, if Parliament considers it appropriate, legislation. Issues such as data protection, the power to obtain and disclose information, budget, legal status and scope for judicial review are all issues that Morrisons considers should, if

Ashurst LLP is a limited liability partnership registered in England and Wales under number OC330252. It is regulated by the Solicitors Regulation Authority of England and Wales. A list of members of Ashurst LLP, and the non-members who are designated as partners, and their professional qualifications is open to inspection at its registered office Broadwalk House, 5 Appold Street, London EC2A 2HA. The term "partner" in relation to Ashurst LLP is used to refer to a member of Ashurst LLP or to an employee or to a consultant with equivalent standing and qualifications. Ashurst LLP or an affiliated undertaking has an office in each of the places listed below.

ABU DHABI BRUSSELS DUBAI FRANKFURT HONG KONG LONDON MADRID MILAN
MUNICH NEW DELHI NEW YORK PARIS SINGAPORE STOCKHOLM TOKYO WASHINGTON DC

an Ombudsman is considered to be necessary, be the subject of legislation, as is the case for the Financial Ombudsman Service.

Yours sincerely

Nigel Parr

cc. Jonathan J Burke, Morrisons