

23 October 2015

**Consent to certain actions for the purposes of the Initial
Enforcement Order made by the Competition and Markets Authority
(‘CMA’) on 10 September 2015**

**Acquisition by MRH (GB) Limited of 78 petrol stations from Esso
Petroleum Company Limited**

We refer to your letter dated 6 October 2015, requesting that the CMA consents to derogations to the Initial Enforcement Order of 10 September 2015 (the ‘Initial Order’). We have also considered the additional information you provided on 15 and 16 October 2015. The terms defined in the Initial Order have the same meaning in this letter.

Under the Initial Order, save for written consent by the CMA, MRH (GB) Limited (**MRH**), through its subsidiaries Malthurst South East Limited (**MSE**) and Malthurst Anglia Limited (**MA**), are required to hold separate the business of the target 78 petrol stations from the MRH business and refrain from taking any action which might prejudice a reference under section 22 or 33 of the Enterprise Act 2002 or impede the taking of any remedial action following such a reference. This consent applies to the sites acquired from Esso Petroleum Company Limited (**Esso**) subsequent to the date of the Initial Order (**the target business**).¹

After due consideration of your request for derogations from the Initial Order, based on the information received from you and in the particular circumstances of this case, the CMA consents to the following actions, in respect of the following paragraphs of the Initial Order:

1. Paragraphs 4(a), 5(c), 5(i), 5(j) and 5(l) of the Initial Order

During the Specified Period (as defined in the Initial Order), in order to ensure the effective continuity and ongoing viability of the target business, and to protect MRH’s investment in a proportionate manner, MRH is permitted to appoint its’ employee, [X], as the regional manager for the target business sites. The CMA grants this

¹ Those sites acquired from Esso had prior to the date of the Initial Order already integrated prior to the Initial Order being put in place. The derogations have not been required to cover these sites.

derogation to the Initial Order on the basis of the following representations made by MRH:

- Necessity of appointing regional manager:
 - MRH submitted that the appointment of a regional manager of the sites is necessary following the loss of management support for this group of sites from Esso.
 - A regional manager is required to have overall supervision and management of the target business sites to ensure that the target business remains able to compete independently and operate efficiently consistent with the requirements and overarching purpose of the Initial Order.
- Independence of and appropriateness of [REDACTED] for the role:
 - [REDACTED]
 - The timing of the imposition of the Initial Order left MRH with only six weeks until completion. MRH concluded that this was insufficient time to enable MRH to recruit externally at the right level for the post and given the nature of the appointment, there was unlikely to be a sufficient pool of suitable candidates.
 - [REDACTED] has been identified within MRH as having the appropriate level of expertise to manage the target business and has been isolated from the rest of the MRH business.

The CMA grants this derogation subject to the following safeguards which will apply during the Specified Period:

- [REDACTED] will no longer have any role, interaction or access to information relating to the MRH business.
- [REDACTED] will sign a non-disclosure agreement, as approved by the CMA.
- [REDACTED] role will be undertaken independently of MRH and no further reporting by [REDACTED] to MRH will be undertaken except as permitted by any derogations to the Initial Order.
- The appointment of [REDACTED] will not prejudice any remedial action which may need to be taken by the CMA.

2. Paragraphs 4(a), 5(a), 5(c) and 5(l) of the Initial Order

During the Specified Period (as defined in the Initial Order), for the purposes of overseeing that the target business is able to continue to operate its business effectively, and to protect the value of MRH's investment, the target business is permitted to send financial performance reports to [X], Managing Director of MRH (GB) Ltd. These reports are restricted to aggregated information and should not contain site specific information except in the limited circumstance below:

- For the specific purpose of monitoring the performance of the Group, safeguarding the Group's assets and ensuring those assets are maintained.
- Also for the purpose of ensuring that the target site assets are sufficiently supported by the MRH Group, [X] is permitted to receive site specific information [X].

[X] will sign a non-disclosure agreement, as approved by the CMA covering the protection of any such data received.

3. Paragraphs 5(a), 5(i), 5(j) and 5(l) of the Initial Order

During the Specified Period (as defined in the Initial Order), for the purposes of overseeing that the target business is able to continue to operate its business effectively, MRH will be permitted to second two employees to the target business in order to facilitate:

- Financial accounting within the target business, and
- Financial reporting to and by the Regional Manager.

Each employee will sign a non-disclosure agreement, as approved by the CMA, covering the protection of any such data received. MRH also undertakes to ensure that each of these employees is aware of MRH's obligations regarding the Initial Order and will instruct them not to share information concerning the target sites with anyone not authorised to see or use such information.

4. Paragraphs 4(a), 5(a), 5(g), 5(l), and 8(d) of the Initial Order

During the Specified Period (as defined in the Initial Order), for the purpose of overseeing that the target business is able to operate its business effectively and to protect the value of MRH's investment, the target business is permitted to provide to [X], details of any proposed contracts or expenditure with a value in excess of £[X] in respect of capital expenditure and £[X] in respect of operating expenditure. The CMA consents to approval being required from [X] for the target business to enter into such contracts or incur such expenditure provided approval is not unreasonably

withheld and on the basis that [X] undertakes to inform the CMA where such approval is not granted and the reasons for this refusal. This derogation to the Initial Order is given on the basis of MRH's representations to the CMA that [X] and that [X] will need to approve only exceptional payments relating to the target business.

In relation to these contracts or expenditure, [X] will receive financial information only as strictly necessary and subject to the terms of a non-disclosure agreement, as approved by the CMA.

5. Paragraphs 4(a), 5(a), 5(f), 5(h) and 5(l) of the Initial Order

During the Specified Period (as defined in the Initial Order), for the purposes of ensuring that the target business is able to continue to operate its business effectively, and to protect the value of MRH's investment, MRH:

- Is permitted to provide the target business with MRH's current IT infrastructure including, point of sale equipment, back office computing, access to an accounting system for financial record keeping and communication links to enable connectivity to payment card merchant service providers and centrally provided services such as email and the site daily sales record system.
- Undertakes to ensure that all employees who use these systems are made aware of MRH's obligations regarding the Initial Order and the target businesses. MRH will instruct employees not to share information concerning the target sites with anyone not authorised to see or use such information.

6. Paragraphs 4(a), 5(a), 5(f), 5(l) and 8(d) of the Initial Order

During the Specified Period (as defined in the Initial Order), for the purposes of ensuring that the target business is able to continue to operate its business effectively, and to protect the value of MRH's investment, MRH is permitted to provide the following central services to the target business:

- HR and payroll;
- Transaction processing; and
- Environmental monitoring and protection.

7. Paragraphs 4(a), 5(a), 5(d), 5(g), 5(h), 5(l) and 8(d)

During the Specified Period, in order to ensure that the target business is maintained as a going concern, MRH will be permitted to enter into supply agreements for the target sites on MRH's standard terms. This derogation is granted on the basis that any supply agreement will not impair the ability of the target business or MRH to

compete independently or impede the CMA's ability to take any action under the Enterprise Act 2002.

8. Paragraphs 4(a), 5(a), 5(g), 5(h), 5(l) and 8(d)

During the Specified Period, in order to ensure that the target business is maintained as a going concern, MRH will be permitted to arrange for the supply of fuel to the target sites under [X]. This derogation is granted on the basis that any agreed fuel supply agreement will not impair the ability of the target business or MRH to compete independently or impede the CMA's ability to take any action under the Enterprise Act 2002.

9. Paragraphs 4(a), 5(a) and 5(l)

During the Specified Period, in order to ensure that the target business is maintained as a going concern, MRH will be permitted to include the target business in MRH's group wide insurance policies. This derogation is granted on the basis that any agreed insurance policy will not impair the ability of the target business or MRH to compete independently or impede the CMA's ability to take any action under the Enterprise Act 2002.