Dear Neil,

Thank you for your letter dated 30 April, regarding the recent announcement for the proposed merger between Sainsbury’s and Asda. I appreciate the significant interest in this takeover bid and, as you are aware, the Government is closely monitoring the situation.

The UK’s merger regime is highly regarded worldwide. It is based on transparent rules, administered consistently by expert bodies that operate independently of government. Moreover, mergers and takeovers play an important role in the UK economy and society. They bring inward investment, boost UK jobs, increase management efficiency and support businesses to grow on the world stage.

However, the Government also recognises that some mergers can raise public and competition concerns. For that reason, there are a number of mechanisms in place to ensure that takeovers benefit the UK economy and society at large. With respect to the proposed Sainsbury’s Asda merger, the responsibility for the review and adjudication of the merger lies with the independent Competition and Markets Authority (CMA), and it is conditional on the CMA’s clearance. As I stated to the House on 30 April, the CMA’s role is to consider whether the merger situation has resulted, or may be expected to result, in a substantial lessening of competition within any UK market for goods or services. As part of their investigation into the effect of the deal on consumers, the CMA can also look at the buying power of a merged company in relation to its suppliers.

Additionally, Section 172 of the Companies Act 2006, sets out a requirement for directors to have due regard to, among other things: the interests of the company’s employees; its business relationships with suppliers, customers and others; and the impact of the community and environment.

As you are aware, the findings of the Government’s call for evidence indicated there was insufficient evidence of widespread problems to justify any major extension of the Groceries Code Adjudicator’s ("GCA") remit.
However, some important issues were identified which the Government believes are best addressed through a suite of targeted measures, for instance, in the dairy sector.

The GCA has the statutory powers to carry out an investigation, if there are reasonable grounds to suspect that a large retailer has breached the Groceries Code or has failed to follow a recommendation made following a previous investigation.

The Adjudicator’s guidance makes clear that reasonable grounds could be based on evidence supplied by direct or indirect suppliers, third parties (such as trade associations or farming organisations), other retailers, whistle-blowers or information which is in the public domain. Indirect suppliers can therefore approach the Adjudicator if they believe a large retailer is in breach of the Code in its dealings with its direct suppliers. The Adjudicator does not cover pricing negotiations between retailers and suppliers.

The Secretary of State and I have spoken to Sainsbury’s Chief Executive Officer, Mike Coupe, and Asda CEO, Roger Burnley, so that we can better understand their plans. Additionally, I have spoken to the Union of Shop, Distributive and Allied Workers and Unite unions, where I made it clear that I expect Sainsbury’s and Asda to conduct proper and thorough engagement with the unions.

The Government will continue to monitor this merger closely over the coming weeks.

Yours sincerely

[Signature]

ANDREW GRIFFITHS MP
Minister for Small Business, Consumers & Corporate Responsibility