

**DEROGATION LETTER
IN RESPECT OF INITIAL ENFORCEMENT ORDER ISSUED
PURSUANT TO SECTION 72(2) ENTERPRISE ACT 2002
COMPLETED ACQUISITION**

Consent under section 72(3C) of the Enterprise Act 2002 to certain actions for the purposes of the Initial Enforcement Order made by the Competition and Markets Authority ('CMA') on 28 September 2018

Completed acquisition by Tobii AB of Smartbox Assistive Technology and Sensory Software International Limited

We refer to your email dated 27 December 2018 requesting that the CMA consents to a derogation to the Initial Enforcement Order (the 'Initial Order') of 28 September 2018. 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, Tobii is required to hold separate the Tobii business from the Smartbox and Sensory Software businesses and refrain from taking any action which might prejudice a reference under section 22 of the Act or impede the taking of any remedial action following such a reference.

After due consideration of your request for a derogation from the Initial Order, based on the information received from you and in the particular circumstances of this case, Tobii may carry out the following actions, in respect of the specific paragraph:

1. Paragraph 5(c) of the Initial Order

The CMA understands that Tobii is proposing to undertake a corporate restructuring, which is scheduled to take effect for the Tobii group of companies on 1 January 2019 (the 'Tobii restructuring'). In an email to the CMA dated 11 December 2018, Tobii provided information to the CMA about the proposed Tobii restructuring, and explained that the Tobii restructuring will take place at Tobii group level and will apply to all three Tobii business units, including Tobii Dynavox. Tobii also explained that that the Tobii restructuring will be completely unrelated to the Smartbox and the Sensory Software businesses and will neither alter nor have any effect on the Smartbox and the Sensory Software business, including their operations.

The CMA consents to a derogation from the Initial Order permitting the Tobii restructuring to take place, subject to the following conditions:

- (i) that Smartbox and its subsidiaries and their respective businesses will be completely untouched and unaffected by the Tobii restructuring, including for the avoidance of doubt, that no shares or assets of Smartbox and Sensory Software will be transferred from Tobii AB to Tobii Dynavox or to any other legal entity or person;
- (ii) that the CMA reserves the right to request the Monitoring Trustee appointed in accordance with the directions issued by the CMA on 14 December 2018, to audit the Tobii restructuring to confirm that Tobii has fully complied with the conditions attached to this derogation; and
- (iii) that, without prejudice to the outcome of the CMA's merger enquiry, Tobii confirms to the CMA in advance of undertaking the Tobii restructuring that the Tobii restructuring would not impede or otherwise hinder the taking of remedial action by the CMA if it is determined that such action is required. As remedial action could potentially include a divestment of the overlapping Tobii business, the Tobii restructuring should not:
 - a. prevent the overlapping Tobii business or Smartbox and Sensory Software businesses (or parts thereof) from forming a potential divestment package if this was found to be necessary; and/or
 - b. make a potential divestment of the overlapping Tobii business or Smartbox and Sensory Software businesses (or parts thereof) any more onerous/difficult than would have been the case in the absence of the Tobii restructuring.