

**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 Limited and Sensory Software International Ltd

We refer to your email of 7 December 2018 requesting that the CMA consents to derogations to the Initial Enforcement Order of 28 September 2018 (the '**Initial Order**'). 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 derogations from the Initial Order, based on the information received from you and in the particular circumstances of this case, Tobii and Smartbox and Sensory Software may carry out the following actions, in respect of the specific paragraphs:

1. Paragraphs 4(a), 4(c), 5(a) and 5(g) of the Initial Order

The CMA understands that Tobii and Smartbox entered into the following reseller/distribution arrangements (**Reseller Agreements**) in August 2018:

- Distributor Agreement dated 29 August 2018 whereby Tobii acts as a distributor for Smartbox; and
- Reseller Agreement dated 15 August 2018 whereby Smartbox acts as a reseller for Tobii.

Tobii and Smartbox wish to continue operating under the Reseller Agreements and to implement various actions directly related to the Reseller Agreements. Tobii is therefore requesting a derogation from the Initial Order to continue to operate the Reseller Agreements.

The CMA consents to a temporary derogation from the Initial Order, subject to the following conditions:

- (i) the temporary derogation will remain in place until 25 January 2019, subject to the CMA having the discretion to reduce or extend this period in writing;
- (ii) the temporary derogation is strictly limited to necessary actions arising solely in relation to and directly resulting from the need for Tobii and Smartbox to fulfil their obligations and exercise their rights under the Reseller Agreements for the duration of the derogation. Tobii and Smartbox therefore acknowledge that the temporary derogation does not permit any wider integration which is unrelated to the Reseller Agreements; and
- (iii) the Parties shall seek the CMA's consent before taking any action under the Reseller Agreements that would have the effect of requiring the continued operation of the Reseller Agreement beyond the period of the temporary derogation (as may be amended under (i) above), including building up future stock and inventory of the products covered under the Reseller Agreements.