

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

Consent under section 72(3C) of the Enterprise Act 2002 to certain actions for the purpose of the Initial Enforcement Order made by the Competition and Markets Authority (CMA) on 30 August 2019

Completed acquisition by Danspin A/S of certain assets and goodwill of LY Realisations Limited (formerly Lawton Yarns Limited)

We refer to your emails dated 7 August 2019, 14 August 2019 and 16 August 2019 requesting that the CMA consents to derogations to the Initial Enforcement Order of 23 July 2019 (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, Danspin and Lawton Yarns are required to hold separate the acquired business ('the LY Realisations business' as defined in the Initial Order) from the acquirer's business ('the Danspin/Lawton Yarns business' as defined in the Initial Order) 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, Danspin and LY Realisations business may carry out the following actions, in respect of the specific paragraphs:

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

a) [~~X~~] (*Chief Executive Director of Danspin*) as the only statutory director of LY Realisations business

Danspin has sought CMA consent for [~~X~~], the Chief Executive Director of Danspin, to continue to be the sole statutory director of LY Realisations business.

[~~X~~] was appointed statutory director of LY Realisations business prior to the Initial Order.

During the specified period and to allow LY Realisations business to continue to be carried on as a going concern, the CMA consents to [X] to continue to be the statutory director of LY Realisations business under conditions set out below:

- (i) [X] will not have any involvement in the day-to-day planning, management, strategic or financial decision making over LY Realisations business, except as expressly permitted by CMA in other derogations to the Initial Order;
- (ii) [X] shall enter into a non-disclosure agreement in a form approved by the CMA.

The LY Realisations business will inform the CMA of any instances in which [X] requires involvement or is involved in the commercial and operational running of LY Realisations business.

This derogation shall not prevent any remedial action that the CMA may need to take regarding the Transaction.

b) for [X] to be provided with high level reporting on financial matters, production matters and key exceptional items such as health and safety in his role as a statutory director of LY Realisations business and as a director of its ultimate parent company

Danspin has sought CMA consent for [X] to be provided with access to certain information on financial, production matters and key exceptional items such as health and safety which may include commercially sensitive information of the LY Realisations business.

The derogations below are granted on the basis of representations by Danspin that:

- 1) [X] is required to comply with relevant duties as a statutory director under the general duties requirement of the Companies Act 2006 (**CA06**), certain specific duties under the CA06 where shareholder approval is required, and director responsibilities in relation to access to reporting and accounts of LY Realisations business is required; and
- 2) as a director of a private limited company, [X] is also subject to a number of legal and regulatory duties outside CA06 and therefore requires access to certain reporting and account information.

During the specified period, the CMA consents to [X] to have access to high level reporting of the LY Realisations business limited to:

- (i) total turnover per customer (anonymised) per month for credit insurance purposes:

- (ii) high level short form profit and loss account showing only turnover and profit before tax;
- (iii) weekly overview including total value and volume of orders received, total value and volume of orders invoiced, total volume spun, quality issues and claim rate (anonymised), total volume of total orders year-to-date and total sales year to date;
- (iv) annual budget forecast limited to turnover and profit before tax; and
- (v) monthly health and safety report.

This derogation is granted subject to access to the following information and conditions that:

- (i) the Initial Order prevents [X] from any involvement in the day-to-day planning, management, strategic or financial decision making over LY Realisations business’;
- (ii) [X] currently does not, and will not during the period of the Initial Order, have any operational or commercial role in the LY Realisations business;
- (iii) access to the following information of LY Realisations business to [X] must be limited to that which is strictly necessary and does not include customer specific information;
- (iv) [X] will not have access to the identification of the customers or suppliers; and
- (v) [X] shall enter into a non-disclosure agreement in a form approved by the CMA.

c) For [X] to have access to monthly management account information of LY Realisations business to comply with the Danish Bookkeeping Act

Danspin has also sought consent for the finance manager of Danspin, [X] to have access to monthly management account information of LY Realisations business for the purpose of complying with Danish bookkeeping regulation.

This derogation is made on the basis of representations by Danspin that the regulatory requirement under the Danish Bookkeeping Act requires Danspin to keep an updated record of all transactions going in and out of its bank account including payments to and from LY Realisation business since it is using Danspin’s bank account under a derogation from the CMA. Pursuant to compliance with this regulatory requirement, Danspin would require access to certain monthly management accounts of LY Realisations business that may include commercially

sensitive information about customers/suppliers until a bank account is opened in the name of LY Realisations business.

For the purpose of allowing compliance with the regulatory requirements under the Danish Bookkeeping Act, the CMA consents to [X], Danspin's finance manager, to have access to the monthly management accounts only to the extent necessary to perform this activity and until the bank account of LY Realisations business is opened.

The derogations are subject to [X] entering a non-disclosure agreement in advance in a form approved by the CMA.

For the avoidance of doubt, [X] is allowed access to, the following information, which must be held securely and not distributed to anyone else in and outside Danspin (other than Danspin's bank, auditor and any regulatory authority, as required);

- a. date of transaction;
- b. document type that the transaction has proceeded under (eg invoice);
- c. high level description of the transaction (eg 'LY Realisations business – wages' or 'LY Realisations business – pension' or 'LY Realisations business – payment to X');
- d. identification of the customer/supplier, excluding the underlying details of the transaction;
- e. currency in which the payment was made; and
- f. amount of the payment.

Any changes to any of the named individuals in this derogation can only be made with the prior approval of the CMA and Danspin continues to proceed to open up a bank account in Lawton Yarns name and will notify the CMA when the bank account of LY Realisations business is opened.

If Danspin is required by the CMA to divest all, or part, of the LY Realisations business, any records or copies (electronic or otherwise) of business secrets, know-how, commercially sensitive information, intellectual property or any other information of a confidential or proprietary nature that have passed to [X] or [X], wherever they may be held, will be returned to the business to which they relate and any copies destroyed. Notwithstanding this paragraph, if the Danish bookkeeping regulatory regime requires copies of such information to be kept by Danspin, [X] may keep such copies as are necessary provided that they remain confidential and are not shared other than as permitted in this derogation.

This derogation shall not prevent any remedial action that the CMA may need to take regarding the transaction.

d) For the appointment of [X] as an independent consultant to assist with the management responsibility of LY Realisations business

Danspin has sought CMA consent to appoint [X], [X] as an independent consultant to provide additional management resource, supervision and strategic direction to LY Realisations business.

The CMA granted the derogation on the basis of representations by Danspin that:

- 1) [X] is required to deal with suppliers of LY Realisations business in order to ensure supplier relationships;
- 2) [X] has been involved in the British woollen yarn industry for 35 years and has the relevant knowledge of the industry and is familiar with the LY Realisations business to be able to run as an independent consultant of LY Realisations business;
- 3) there are no commercial relationships between [X] and either of Danspin or LY Realisations business currently or in the past, save for ad hoc [X] orders from Danspin and LY Realisations business to [X], when Danspin and LY Realisations business could not cover all the [X];

During the specified period, the CMA consents to Danspin to appoint [X] as an independent consultant to assist with the management responsibility of LY Realisations business. This derogation is granted on the condition that:

- (i) [X] will not share any commercially sensitive information regarding the LY Realisations business with any employee or an affiliated person with Danspin or with any company outside LY Realisations business;
- (ii) [X] will be the only person assisting the management responsibility of LY Realisations business subject to signing of a non-disclosure agreement in a form approved by the CMA and be provided appropriate training to understand the obligations of the Initial Order;

This derogation shall not prevent any remedial action that the CMA may need to take regarding the transaction.

e) For a delegation of authority for LY Realisations business to be put in place

Danspin has sought CMA consent to provide [X] with delegation of authority in his capacity as an independent consultant to LY Realisations business where [X] will be responsible for carrying out the strategic decision making for LY Realisations

business in the ordinary course of business and to seek Danspin's approval if purchases are outside the ordinary course of business. Danspin submitted that [X] will require Danspin's approval for certain decisions outside the ordinary course of business to reduce the risk of significant liability arising for Danspin.

The CMA consents that [X] is provided with delegation of authority in excess of the thresholds listed below, or as amended with prior approval of the CMA, to approve certain high value purchases and financial commitments by LY Realisations business:

- (i) in relation to purchases and sales not related to wool yarn, invoices exceeding £[X] for payroll, gas and electricity;
- (ii) invoices exceeding £[X] for other ordinary course expenditure including eg employee's liability insurance;
- (iii) invoices exceeding £[X] for all other sales and purchases for non-ordinary course expenditure or capex;
- (iv) payments from LY Realisations business' UK bank account (once available) above the value of £[X];
- (v) the hiring of staff with an annual salary in excess of £[X];
- (vi) ad-hoc salary increases exceeding £[X] per annum per individual;
- (vii) forming any subsidiary or acquiring shares in any other company or participating in any partnership or joint venture;
- (viii) creating or granting any encumbrance over the whole or any part of the business, undertaking or assets of Lawton Yarns or agreeing to do so;
- (ix) making any loan or granting any credit (other than in the normal course of trading or above £[X] in value) or giving any guarantee (other than in the normal course of trading or above £[X] in value) or indemnity;
- (x) entering into any arrangement, contract or transaction outside the ordinary course of the business otherwise than on arm's length terms;
- (xi) establishing or amending any pension scheme or granting any pension rights to any individual within the Lawton Yarns business or their family;
- (xii) dismissing any director, officer or employee in circumstances in which the business incurs or agrees to bear redundancy or other costs in excess of £[X] in total; and

- (xiii) instituting any legal proceedings, or settling or compromising any legal proceedings (other than debt recovery proceedings in the ordinary course of business) instituted or threatened against the business, or submitting to arbitration or alternative dispute resolution any dispute involving the business.

This derogation is granted on the condition that

- (i) [X] will be subject to entering a non-disclosure agreement in the form approved by the CMA and provided appropriate training to understand the obligations of the Initial Order; and
- (ii) [X] will notify the CMA if the above limits do not allow LY Realisations business to carry out its day-to-day functions without the interference of Danspin; and
- (iii) the above limits will be subject to CMA review and the CMA may revise the above thresholds if it deems necessary for LY Realisations business to conduct its day-to-day business independent of Danspin.

This derogation shall not prevent any remedial action that the CMA may need to take regarding the transaction.

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

a) Derogation request in relation to factoring arrangements

Danspin has sought consent from the CMA to allow Danspin to include LY Realisations business in its invoice factoring arrangements with [X] whereby [X] purchases from Danspin unpaid invoices of certain Danspin customers and pays Danspin the amount due under each purchased invoice.

Danspin has further submitted that this arrangement is necessary to maintain adequate cash flow within the LY Realisations business given the history of cash flow problems of LY Realisations business.

As part of the invoice factoring arrangements with [X], Danspin has sought consent for Danspin's finance manager [X] be provided with information relating to invoices for the purposes of arranging the factoring agreements and also as a regulatory requirement under the Danish Bookkeeping Act.

In order to ensure LY Realisations business as a going concern, the CMA consents to Danspin making the necessary factoring arrangement for LY Realisations

business including charging any such fee as may be required by Danish tax legislation in respect of the service provided by Danspin and [X]:

- (i) informing the LY Realisations Business which customers have been approved, rejected or withdrawn by [X] under the factoring arrangements; and
- (ii) Providing the information described below to [X] and retaining it within Danspin as described in derogation (c), above.

On the following conditions:

- (i) access to only the following information will only be limited to Danspin's finance manager [X] only to the extent necessary to perform this activity:
 - a. invoice number and date;
 - b. total amount (including currency) on the invoice; and
 - c. identity of customer.
- (ii) [X] will not have access to the information regarding the goods supplied such as prices or the volume in relation to the invoice subject to a factoring arrangement;
- (iii) LY Realisations business remains the decision maker as to whether a factoring arrangement is entered into for any particular customer contract; and
- (iv) [X] is subject to entering a non-disclosure agreement in the form approved by the CMA.

This derogation shall not prevent any remedial action that the CMA may need to take regarding the transaction. For the avoidance of doubt, if the CMA needs to take any remedial action, the machines acquired by Danspin will be considered, for that purpose, as being part of the LY Realisations business.

Yours sincerely

Maria Duarte
Assistant Director, Mergers
30 August 2019