

ACQUISITION BY ANGLO BEEF PROCESSORS UK OF CERTAIN ASSETS OF SCOTBEEF LIMITED

Directions issued on 2 August 2023 pursuant to paragraph 11 of the Initial Enforcement Order imposed by the Competition and Markets Authority on ABP Food Group and Anglo Beef Processors UK on 29 July 2023

Whereas:

- a) On 14 June 2023, Anglo Beef Processors UK (**ABP UK**) agreed to acquire Scotbeef Limited's (**Scotbeef**) business carrying out the slaughter, processing, packing, storage and sale of cattle and lamb products at Longleys Farm, Bridge of Allan, Stirlingshire and Penston Road, Queenslie, Glasgow (the **Target business**) (the **Transaction**).
- b) Following the Transaction, ABP UK and the Target will cease to be distinct.
- c) On 29 July 2023, the Competition and Markets Authority (**CMA**) made an Initial Enforcement Order (the **Order**) addressed to ABP Food Group (**ABP**), Anglo Beef Processors and ABP UK in accordance with section 72(2) of the Enterprise Act 2002 (the **Act**) to prevent pre-emptive action. The Order is still in force.
- d) On 2 August 2023, the CMA issued directions to ABP, Anglo Beef Processors and ABP UK to appoint a monitoring trustee (**MT**) for securing compliance with the Order.
- e) The CMA wishes to ensure that no action is taken pending final determination of any reference under sections 22 or 33 of the Act which might prejudice that reference or impede the taking of any action by the CMA under Part 3 of the Act which might be justified by the CMA's decision on the reference.
- f) The CMA understands that immediately on completion of the Transaction the Target business will lose all of the management support it previously received from Scotbeef. On 29 July 2023, the CMA consented to several managerial appointments at the Target business (the **Derogation**). As set out in the consent letter for the Derogation, the CMA consented to these appointments on the basis of submissions from ABP that there were no options available to

the Target business within the relevant timeframe. Notwithstanding the conditions set out in the consent letter for the Derogation, the CMA has residual concerns that (i) the Target business's management may not be sufficient to provide it with the level of support it enjoyed before completion of the Transaction, and (ii) the Target business's management may not be fully incentivised to operate the Target business independently of ABP.

- g) The CMA now therefore issues written directions under paragraph 11 of the Order that, for the purpose of securing compliance with the Order, ABP, Anglo Beef Processors and ABP UK must appoint a formal hold separate manager (**HSM**) of the Target business in accordance with the terms provided for in Annex A and must comply with the obligations set out in Annex A.

Matteo Alchini

Assistant Director, Remedies Business and Financial Analysis

Competition and Markets Authority

2 August 2023

Annex A

Directions to appoint a hold separate manager

Interpretation

In these directions:

‘ABP’	means ABP Food Group a company registered in Jersey with company number 96292; (and the ABP business shall be construed as meaning the business of ABP Food Group and its subsidiaries but excluding the Target business, carried on as at the Commencement Date);
‘ABP UK’	means Anglo Beef Processors UK a company registered in England and Wales with company number 02925718;
‘the Act’	means the Enterprise Act 2002;
‘Anglo Beef Processors’	means Anglo Beef Processors a company registered in England and Wales with company number 04296447;
‘business’	has the meaning, unless otherwise stated, given by section 129(1) and (3) of the Act;
‘CMA’	means the Competition and Markets Authority;
‘Commencement Date’	means the date of commencement of the Order, which is the date of completion of the Transaction;
‘Derogations’	means any derogations granted whether before or after the appointment of the HSM by the CMA by which ABP, , Anglo Beef Processors and ABP UK may undertake certain actions that derogate from the Order;
‘MT’	means the monitoring trustee appointed in accordance with the directions issued on 2 August 2023;
‘Order’	means the initial enforcement order made by the CMA on 29 July 2023 and addressed to ABP, Anglo Beef Processors and ABP UK;
‘Scotbeef’	means Scotbeef Limited a company registered in Scotland with company number SC039434;
‘subsidiary’,	has the meaning, unless otherwise stated, given by section 1159 of the Companies Act 2006 (and ‘subsidiaries’ shall be construed accordingly);
‘the Target business’	means the business, trade and assets of Scotbeef’s business carrying out the slaughter, processing, packing,

storage and sale of cattle and lamb products at Longleys Farm, Bridge of Allan, Stirlingshire and Penston Road, Queenslie, Glasgow, carried on as at the Commencement Date; and

'Transaction' means the transaction by which ABP UK and the Target business have ceased to be distinct within the meaning of section 23 of the Act;

Terms and expressions defined in the Order have the same meaning in these directions, and the singular shall include the plural and vice versa, unless otherwise specified or the context requires otherwise.

Appointment

1. ABP, Anglo Beef Processors and ABP UK must appoint a formal HSM to ensure that the Target business operates as a viable and competitive business, separately from and independently of the ABP business. The HSM must be subject to the approval by the CMA of his or her identity and the terms and conditions of appointment. Any appointment must be made in accordance with the provisions of these Directions.
2. ABP, Anglo Beef Processors and ABP UK must appoint the HSM without delay and in any event by **5pm on Wednesday 9 August 2023** (or such longer period as the CMA may reasonably agree in writing) and the HSM will continue to act until the CMA has finally determined the reference (within the meaning of section 79 of the Act), has revoked the Order, or has otherwise directed that the HSM is no longer required. ABP, Anglo Beef Processors and ABP UK must provide the CMA with the draft terms and conditions of appointment of the potential candidate HSM by **5pm on Monday 7 August 2023** (or such longer period as the CMA may reasonably agree in writing).
3. ABP, Anglo Beef Processors and ABP UK must ensure that the terms and conditions of appointment of the HSM reflect and give effect to the functions and obligations of the HSM and the obligations of ABP and ABP UK as set out in these Directions.
4. ABP, Anglo Beef Processors and ABP UK, their subsidiaries and their employees, officers, directors, advisers and consultants must provide the HSM with all cooperation, assistance and information as the HSM may reasonably require in order to discharge his or her functions.

Functions

5. The functions of the HSM will be to exercise day-to-day management and control of the Target business so that:
 - a. it operates as a viable and competitive businesses, separately from and independently of the ABP business and competes actively against the ABP business;
 - b. appropriate management, reporting and decision-making systems are put in place to preserve the independence of the Target business and ensure such independence on an ongoing basis; and
 - c. the Target business is maintained as a going concern with access to sufficient resources for its continued operation and development.
6. The HSM will also be required to:
 - a. ensure the economic viability and competitiveness of the Target business in accordance with good business practice;
 - b. minimise, as far as possible, any risk of loss of competitive potential of the Target business;
 - c. assist the CMA and MT in monitoring the extent of compliance by ABP, Anglo Beef Processors and ABP UK with the Order (including any direction issued under paragraph 11 of the Order) or any other order issued by the CMA pursuant to section 72 of the Act;
 - d. discuss with the CMA and MT arrangements which have been, or should be, put in place to ensure the separate operation from the ABP business of a viable, competitive Target business and compliance by ABP, Anglo Beef Processors and ABP UK with the Order; and
 - e. provide every two weeks (or otherwise as required by the CMA) a statement stating whether or not ABP, Anglo Beef Processors and ABP UK have complied with the Order.
7. The HSM must act on behalf of the CMA and be under an obligation to the CMA to carry out his or her functions to the best of his or her abilities.
8. The HSM must take such steps as he or she reasonably considers necessary in order to carry out the HSM's functions effectively.
9. The HSM must comply with any requests made by the CMA for the purpose of ensuring the full and effective compliance by ABP, Anglo Beef Processors and ABP UK with the Order.

10. The HSM must immediately notify the CMA in writing if he or she forms a reasonable suspicion that the Order has been breached or if he or she considers that he or she is no longer in a position to effectively carry out the HSM's functions.

General

11. The HSM must possess the appropriate qualifications and experience to carry out the HSM's functions.

12. The HSM must neither have nor become exposed to a conflict of interest that impairs the HSM's objectivity and independence in discharging his or her functions under these Directions unless it can be resolved in a manner and within a timeframe acceptable to the CMA.

13. ABP, Anglo Beef Processors and ABP UK shall remunerate and reimburse the HSM for all reasonable costs properly incurred in accordance with the terms and conditions of the appointment and in such a way so as not to impede the HSM's independence or ability to effectively and properly carry out the HSM's functions.

14. ABP, Anglo Beef Processors and ABP UK must provide the CMA with a copy of the agreed terms and conditions of the appointment of the HSM prior to his or her appointment.

15. Any termination of the appointment of the HSM is subject to the agreement of the CMA, such agreement not to be unreasonably withheld.

16. All communications between the HSM and the CMA are confidential and should not be disclosed to ABP, Anglo Beef Processors or ABP UK, save with the prior written consent of the CMA. The HSM shall not disclose such communications to third parties.

17. The CMA may issue such further directions as it considers necessary to ensure compliance with the Order, including, where the appointment of the HSM has been terminated, directions for the appointment of a further HSM.