

DEROGATION LETTER

IN RESPECT OF INITIAL ENFORCEMENT ORDERS ISSUED PURSUANT TO SECTION 72(2) ENTERPRISE ACT 2002

**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 29 July 2023**

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

We refer to your letters and accompanying notes dated 18 July 2023, 25 July 2023 and 18 August 2023 requesting that the CMA consents to derogations to the Initial Enforcement Order of 29 July 2023 (the '**Initial Order**'). The terms defined in the Initial Order have the same meaning in this letter.

Under the Initial Order, save with the written consent of the CMA, ABP, Anglo Beef Processors and ABP UK are required to hold separate the Target business from the ABP business 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, ABP, Anglo Beef Processors and ABP UK may carry out the following actions, in respect of the specific paragraphs:

Paragraphs 6(a) and 6(l) of the Initial Order

ABP UK submits that ABP must have access to certain financial information of the Target business to ensure that it can:

- (i) effectively monitor the financial health of the Target business while the Initial Order is in force;
- (ii) provide timely financial support where necessary to secure its ongoing viability and competitive capability; and
- (iii) comply with its own accounting obligations.

Effective monitoring of the financial health of the Target business while the Initial Order is in force

ABP submits that it is essential that ABP can monitor the financial health of the Target business in order to ensure that it is maintained as a going concern and that sufficient resources are made available for the development of the Target business, particularly given the Target business' significant ongoing fragility.

In particular, ABP submits it needs an understanding not only of current financial health but also, given the Target business' ongoing fragility, of potential 'warning signs' suggesting that the Target business is failing to operate viably or is likely to require material additional support in the short-term future than ABP had planned. Having these warning signs is critical to ABP being able to ensure that the Target business is able to operate viably and competitively going forwards while the Initial Order is in force.

Provision of timely financial support to the Target Business where necessary to secure its ongoing viability and competitive capability

ABP submits that in order to provide funding to satisfy the Target business' ongoing working capital requirements (consented to separately by the CMA on 29 July 2023), ABP must have visibility over the general financial health of the Target business as well as its near-term expenses and associated funding liquidity requirements. Without this information, ABP submits that it cannot adequately plan for the necessary funding and liquidity to be in place in order to meet the needs of the Target business.

Compliance with accounting obligations

ABP submits that ABP is required (including as a matter of corporate governance) to maintain appropriate accounting records reflecting the position of the ABP business. Without receiving financial information from the Target business, ABP submits that ABP will not be able to maintain these records and therefore will not be able to operate its business on a prudent basis.

ABP therefore requests a derogation from paragraphs 6(a) and 6(l) to allow the Target business to share the following financial information with ABP, being:

- (i) a weekly summary of the Target business' profit and loss account;
- (ii) a weekly cashflow report; and
- (iii) a weekly report setting out details of the Target Business' expected near-term expenses and associated funding / liquidity requirements,

(together, the “**Financial Information**”).

The CMA consents to ABP UK’s request for a derogation strictly on the basis that:

- (a) the Financial Information is strictly necessary to maintain preserve the viability and competitive capability of the Target business;
- (b) the Financial Information is shared only with [X] and [X] (the **Authorised Individuals**), who are representatives of ABP and are not directly engaged in, nor responsible for making commercial or strategic decisions with regards to ABP UK’s business;
- (c) [X] and [X] enter into non-disclosure agreements in a form agreed with the CMA, with a view to preventing the Financial Information from being shared with any part of ABP’s business;
- (d) the Financial Information is shared only using the templates submitted to the CMA on 18 August 2023;
- (e) should remedial action be required by the CMA in relation to the Target 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, wherever they may be held, that were received from the Target business for the purposes of this derogation will be returned to the Target business and any copies destroyed, except to the extent that record retention is required by law or regulation;
- (f) all electronic files and emails exchanged in this context will be password protected, adequately ring-fenced, and only accessible to the Authorised Individuals; and
- (g) this derogation will not result in any pre-emptive action which might prejudice the outcome of a reference or impede the taking of any action which may be justified by the CMA’s decision on a reference.

Yours sincerely,

Matteo Alchini

Assistant Director, Remedies Business and Financial Analysis

23 August 2023