

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 submission dated 22 September 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 and any directions issued under 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 derogations 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:

1. Paragraphs 6(a), 6(h) and 6(l) of the Initial Order

[✂].

[✂].

[✂].

[✂].

ABP therefore requests a derogation from paragraphs 6(a), 6(h) and 6(l) of the IEO to permit the Target business to continue [✂].

The CMA consents to ABP's request for a derogation on the basis that:

- a) the [X] is on the same terms as the Target business agreed with [X] prior to completion of the Transaction;
- b) the [X] cannot be provided in the short or medium term by [X] third-party processors;
- c) the Target business will continue [X];
- d) the [X] is necessary to maintain the ongoing viability and competitive capability of the Target business;
- e) this derogation will not result in the integration of ABP UK's business with the Target business; and
- f) 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.

2. Paragraphs 6(c), 6(i), 6(j) and 6(k) if the Initial Order

ABP submits that [X] is no longer able to carry out her responsibilities unsupported, due to the volume of work and the responsibilities attaching to her role. ABP therefore wishes to appoint a [X] to the Target business in order to support [X] in discharging her responsibilities. In particular, ABP proposes appointing [X] to the Target business as a [X].

ABP submits that [X] needs immediate support and that it is not possible to identify, interview and engage a third-party candidate as the [X] in the short term. ABP further submits that there are no other employees at the Target business who could perform the [X] role.

ABP therefore requests a derogation from paragraphs 6(c), 6(i), 6(j) and 6(k) of the Initial Order to permit ABP UK to appoint [X] to the Target business as a [X].

The CMA consents to ABP's request for a derogation on the basis that:

- a) [X] appointment is strictly necessary to support the ongoing viability and competitive capability of the Target business;
- b) there is no alternative viable staffing option within the limited timeframe available;
- c) [X] has the necessary experience and expertise to assume his role as [X] within the Target business;
- d) [X] in his capacity as [X] will be solely dedicated to the Target business and will not have any involvement with ABP's business while the Initial Order is in

force. ABP will ensure that [X] does not have access to ABP systems or premises during this time;

- e) [X] will be dedicated to the Target business and, as such, will act in the best commercial interests of the Target business during the term of his appointment;
- f) [X] will enter into a new non-disclosure agreement (in the form previously agreed with the CMA) which prevents him from disclosing to ABP any information relating to the Target business which he receives in his capacity as its [X];
- g) during his appointment [X] will have no lines of communication with ABP while the Initial Order is in force, other than as permitted under other derogations the CMA has previously granted;
- h) [X] will not be involved in any activities related to bidding for new contracts (including pricing), unless the CMA provides written consent (which can be provided via email);
- i) no other organisational changes or key staff changes will be made to the Target business as a result of this derogation;
- j) the derogation will not result in the integration of ABP's business with the Target business; and
- k) 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.

3. Paragraph 6(c) of the Initial Order

ABP submits that the Target business currently operates two broad shift patterns for its employees: (i) a day shift; and (ii) a 'back' shift. There are currently [X] employees allocated to the back shift (altogether the '**Back Shift Employees**'). ABP further submits that:

- (i) [X];
- (ii) [X] filling day shift vacancies with Back Shift Employees should allow the [X] day shift to operate more efficiently and therefore improve productivity;
- (iii) a more efficient and productive day shift should:
 - o be more cost efficient for the Target business, as a greater volume of finished goods should be produced per unit of wage cost ([X]);

- allow the Target business to harvest each carcass in a more effective manner ([✂]); and, therefore
- drive an improvement in the Target business' gross margin; and
- increase production capacity and thereby reduce the Target business' reliance on the Deboning Arrangement.

ABP therefore requests a derogation from paragraph 6(c) of the IEO to permit the Target business to simplify its shift patterns by ceasing to operate a back shift and transferring all of the Back Shift Employees onto one or more day shifts.

The CMA consents to ABP's request for a derogation on the basis that:

- a) transferring all of the Back Shift Employees onto the day shift will improve the viability and competitive capability of the Target business;
- b) the HSM has led the proposal to alter shift patterns in this way, and supports this derogation on the basis that transferring all of the Back Shift Employees onto the day shift will improve the viability and competitive capability of the Target business;
- c) this derogation will not result in the integration of ABP's business with the Target business; and
- d) 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

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29 September 2023