

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 emails dated 21 September 2023 and 27 September 2023 requesting that the CMA consents to a derogation 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 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:

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

ABP submits that the Target business has traditionally held an annual winter fair in November as a national showcase for Scotch beef and lamb and as a means of strengthening ties with its customers and suppliers. ABP also submits that the event acts as an important forum for the Target business, its customers and suppliers to discuss market trends and requirements, and to build on their relationships with a view to maintaining and growing their existing supply chains.

ABP submits that the winter fair requires considerable planning and marketing resource to ensure that it can be delivered safely and effectively. ABP also submits that prior to completion of the Transaction, the Target business received support from the wider Scotbeef business to plan and advertise the winter fair. The Target business ceased to have access to the wider Scotbeef planning and marketing team on

completion of the Transaction and at present ABP submits that it does not have the capability to deliver the winter fair without further support from ABP.

[REDACTED], ABP submits that it is essential that the Target Business can deliver a successful winter fair and assure its customers and farming suppliers that it is able to reliably deliver on its commitments to each of them.

ABP therefore request a derogation from paragraphs 6(a) and 6(l) of the IEO to allow the following named ABP employees to provide planning and marketing support to the Target Business in connection with its winter fair to be held on 18 November 2023:

- (i) [REDACTED];
- (ii) [REDACTED];
- (iii) [REDACTED];
- (iv) [REDACTED];
- (v) [REDACTED];
- (vi) [REDACTED]; and
- (vii) [REDACTED].

(individually and together the '**Authorised Individual(s)**').

ABP submits that each Authorised Individual's contact with the Target business would be limited to that which is strictly necessary to assist the Target Business to plan, advertise and deliver the upcoming winter fair, and each Authorised Individual will not interact with the Target business' customers in connection with the winter fair. ABP also submits that the Authorised Individuals will not have access to any commercially sensitive information from the Target business, aside from the terms on which the Target business contracts with any third-party suppliers who are engaged to help organise the winter fair.

ABP further submits that the Target business will present itself as a standalone business (and not as part of the ABP business) in its interactions with customers, as long as the Initial Order is still in force at the time of the winter fair.

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

- a) it is strictly necessary in order to preserve the Target business' ability to deliver the winter fair and, as a consequence, its viability and competitive capability in the short term;

- b) the Target business will present itself as a standalone business (and not as part of the ABP business) in its interactions with customers, as long as the Initial Order is still in force at the time of the winter fair;
- c) aside from ABP employees who are solely dedicated to the Target business, only the Authorised Individuals will be involved in providing planning and marketing support to the Target business for the purpose of this derogation. The identity of the Authorised Individuals cannot be changed except through written consent by the CMA (which can be given via email);
- d) the Authorised Individuals will not have access to any commercially sensitive information from the Target business, aside from the terms on which the Target business contracts with any third-party suppliers who are engaged to help organise the winter fair;
- e) the Authorised Individuals will receive information about the Target business only to the extent to which it is necessary in order for them to provide planning and marketing support to the Target business for the purpose of this derogation (the **Permitted Purpose**);
- f) the Authorised Individuals will not interact with the Target business' customers in connection with the winter fair;
- g) the Authorised Individuals must enter into non-disclosure agreements in a form agreed with the CMA, with a view to preventing any information received from the Target business in connection with the Permitted Purpose from being shared with any part of ABP's business;
- h) 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;
- i) all electronic files and emails exchanged in this context will be password protected, adequately ring-fenced, and only accessible to the Authorised Individuals;
- j) this 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.

Yours sincerely,

Matteo Alchini

Assistant Director, Remedies Business and Financial Analysis

29 September 2023