

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 22 September 2023 and 28 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 prior to completion of the Transaction, the Target business won a contract with [X] to develop and produce a [X] (the '**New Product**'). The Target business did not complete development of the New Product prior to completion of the Transaction and [X] has recently asked the Target business to do so with a view to producing [X] the New Product [X].

ABP further submits that the Target business must be able to rebuild its retail customer base if it is to continue as a going concern. The Target business therefore agreed to complete the New Product development process and to produce the volumes required [X].

[X]. ABP submits that (i) [X] has expressly requested that members of the ABP new product development team be brought in to support the Target business, and (ii) the Target business is concerned that [X] may look to a competitor to produce the New Product if it is unable to address [X] concerns in short order.

ABP therefore request a derogation from paragraphs 6(a) and 6(l) of the IEO to permit the following named individuals to assist the Target business to complete the development of the New Product:

(i) [X];

(ii) [X]; and

(iii) [X],

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

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 have the New Product approved for production by [X] and, as a consequence, its viability and competitive capability in the short term;
- b) [X] has specifically requested for members of the ABP new product development team be brought in to support the Target business;
- c) the Target business has explored alternatives to gaining approval of the New Product, including by engaging a third-party product development specialist to lead the development process of the New Product;
- d) only the Authorised Individuals will be involved in providing 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);
- e) none of the Authorised Individuals will engage with [X] directly (except following written consent by the CMA, which can be given by email), and their support to the Target business will be strictly limited to (i) finalising the recipe for the New Product, (ii) completing [X] product specification process, and (iii) finalising the New Product's artwork and packaging (the '**Permitted Purposes**'). None of the Authorised Individuals will provide the Target business with any other support unless consented to via email by the CMA;
- f) the Authorised Individuals will not have access to any confidential information

of the Target business beyond what is strictly necessary for the Permitted Purposes;

- g) neither the New Product nor any materials prepared for [X] will contain any ABP branding (to the extent that they are prepared and presented while the Initial Order is in force);
- h) 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 Purposes from being shared with any part of ABP's business;
- i) 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;
- j) all electronic files and emails exchanged in this context will be password protected, adequately ring-fenced, and only accessible to the Authorised Individuals;
- k) this derogation will not result in the integration of ABP's business with the Target business; and
- l) 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

3 October 2023