

SPREADEX LIMITED / SPORTING INDEX LIMITED:
RESPONSE TO THE REMITTAL NOTICE OF POSSIBLE REMEDIES

1. INTRODUCTION AND SUMMARY

- 1.1 With reference to the CMA's notice of possible remedies ("**Remittal RN**") and provisional findings report ("**Remittal PFs**"), both issued on 5 June 2025 in relation to the Competition Appeal Tribunal's remittal of the CMA decision of 22 November 2024 (the "**Final Report**") on the acquisition by Spreadex Limited ("**Spreadex**") of the 'business-to-consumer' ("**B2C**") business of Sporting Index Limited ("**Sporting Index**") (the "**Merger**"), this note sets out Spreadex's response to the Remittal RN. Unless otherwise specified, defined terms have the meaning provided for them in the Remittal RN and the Final Report.
- 1.2 This response is without prejudice to Spreadex's forthcoming response to the Remittal PFs and its strong view that the provisional SLC finding in the Remittal PFs is both irrational and unjustified. This response also constitutes Spreadex's provisional views on the Potential Divestiture Remedy and Spreadex reserves the right to make further submissions on the Proposed Divestiture Remedy.
- 1.3 Spreadex provides its views on the Proposed Divestiture Remedy identified by the CMA in the Remittal RN in Section 2 of this response, before addressing specific questions and comments from the Remittal RN in Section 3.
- 1.4 Spreadex submits that this response does not supersede previous submissions it has made on potential remedies considered in respect of the Merger and refers the CMA to these previous submissions.¹

2. PROPOSED REMEDIES

Provisional dismissal of behavioural remedies

- 2.1 The CMA has provisionally dismissed the implementation of a behavioural remedy on the basis that it is very unlikely to be an effective remedy of the provisional SLC finding and/or any adverse effects.² Spreadex does not wish to challenge at this stage the CMA's provisional dismissal of the implementation of a behavioural remedy. This is notwithstanding that such a remedy could potentially, at least in principle, offer a better option for customers for a longer period than a structural remedy in light of the CMA's provisional finding that the Alternative Bidders may not be able to operate Sporting Index as a competitor for more than two years.³

Proposed Divestiture Remedy

- 2.2 In the RN, the CMA has provisionally identified a Proposed Divestiture Remedy package, which includes, in summary, the following elements:
- 2.2.1 **Acquired Assets Element:** The divestiture of Spreadex's shares in the Sporting Index legal entity, including all of the Sporting Index assets which Spreadex had acquired under the Merger, except in relation to the Sporting Index employees, in respect of which a potential purchaser may opt to transfer fewer than the four current Sporting Index employees;

¹ These submissions include, but are not limited to: (i) Spreadex's response to the Draft Remedies Notice dated 20 August 2024 ("**Spreadex Response to Draft Remedies Notice**"); (ii) Spreadex's submission on its Consolidated Remedies Proposal dated 24 September 2024 ("**Spreadex Revised Remedies Proposal**"); and (iii) Spreadex's response to the Remedies Working Paper dated 23 October 2024 ("**Spreadex RWP Response**").

² Remittal RN, paragraph 34.

³ Remittal PFs, paragraph 5.154.

- 2.2.2 **Platform Development Element:** the development and provision by Spreadex of a bespoke sports spread betting platform, which would form part of the divestiture package; and
- 2.2.3 **TSA Element:** the provision of a TSA to allow a potential purchaser to operate the Sporting Index business for a limited transitional period, while it makes any investments required to build up the personnel and functions that it does not currently have to operate the business in the manner that it was operated by Sporting Index pre-Merger.
- 2.3 Spreadex considers that the Proposed Divestiture Remedy set out in the Remittal RN could constitute an appropriate remedy. However, Spreadex is of the strong view that any remedy should not extend beyond the elements or associated provisions included in respect of the divestiture package as provided in the Draft Final Undertakings published by the CMA dated 16 January 2025 (the "**Draft Final Undertakings**").⁴
- 2.4 Spreadex also notes that the CMA determined in its Final Report that the provision of a divestiture package limited to the elements of an (i) Acquired Assets Element; (ii) Platform Development Element; and (iii) TSA Element would be effective in addressing the SLC and adverse effects found by the CMA in its Final Report.⁵ Spreadex provides additional comments on the Proposed Divestiture Remedy at paragraphs 2.5 to 2.13 below.
- (i) Acquired Assets Element*
- 2.5 Spreadex would be willing to divest its shares in the Sporting Index legal entity, including the Sporting Index assets that Spreadex acquired under the Merger, which comprises the following assets (the "**Acquired Assets Element**"):
- 2.5.1 The Sporting Index brand, IP and web domains;
 - 2.5.2 The source code for the applications for the spread betting platform used by Sporting Index prior to the Merger, which Spreadex acquired;
 - 2.5.3 The sports spread betting and sports fixed odds betting customer list (including all trading history);
 - 2.5.4 The four current Sporting Index employees, unless the potential purchaser does not wish to employ any of them;
 - 2.5.5 The regulatory licences with the FCA and the Gambling Commission, which are held by Sporting Index; and
 - 2.5.6 Any unrecognised deferred tax losses, as well as the trade debtors/prepayments and trade creditors/accruals.
- 2.6 Spreadex notes that the CMA has questioned whether the divestiture of solely the Sporting Index assets acquired by Spreadex as part of the Merger is likely to be sufficient to constitute the divestment of a standalone business and to be an effective remedy in addressing the potential SLC and/or resulting adverse effects that the CMA has provisionally identified.⁶
- 2.7 In accordance with the Draft Final Undertakings, Spreadex would also be prepared to offer a potential purchaser in addition (i) the Platform Development Element; and (ii) the TSA Element, if either or both of these were to be considered necessary. However, Spreadex submits that it would be wholly disproportionate and entirely inappropriate for the Potential Divestiture Remedy to include the transfer of any of Spreadex's own assets and staff. Providing any Spreadex staff and assets (including intellectual property and know-how) that were not part of the pre-Merger Sporting Index business, would weaken Spreadex's own pre-

⁴ Response to Draft Remedies Notice, paragraph 2.6.

⁵ Final Report, paragraph 9.287.

⁶ Remittal RN, paragraph 32.

Merger business and reduce its competitiveness. As well as artificially distorting the market, it would cause significant harm to Spreadex's legitimate business interests.⁷

(ii) Platform Development Element

2.8 Spreadex would be willing to develop the Bespoke Platform Solution, as proposed in the Remittal RN. However, in accordance with paragraph 2.2 above, the proposed Platform Development Element should not extend beyond the Platform Development Element as set out in the Draft Final Undertakings. As previously noted by Spreadex in the Spreadex Response to Draft Remedies Notice, what was on offer to the Alternative Bidders in the 2023 Sale Process was essentially the equivalent to the Acquired Assets Element and the TSA Element. The provision of the Bespoke Platform Solution effectively serves to *enhance* the pre-Merger Sporting Index platform.

2.9 Spreadex has previously submitted to the CMA that the build and development time of the Bespoke Platform Solution could take at least [REDACTED].⁸ In light of the risk of factors beyond Spreadex's control impacting the timeline for development (including factors arising from the involvement of any potential purchaser in the development process), Spreadex notes that there should be additional flexibility in the timeline for developing and providing any Platform Development Element as part of the Potential Divestiture Remedy.

(iii) TSA Element

2.10 Dependent upon the capabilities of the potential purchaser, Spreadex would be willing to provide transitional services under a TSA to operate the Sporting Index business for a limited transitional period, as outlined in the Remittal RN.

2.11 Spreadex would be willing to offer the TSA Element similar to the TSA proposed to be offered by Spreadex in accordance the Draft Final Undertakings, albeit Spreadex submits that any TSA entered into with a potential purchaser should (i) include an express provision that the TSA would be provided based on market rates; and (ii) last for a defined period, which is not subject to unilateral extensions.

2.12 Spreadex notes that the TSA Element could include the provision of spread pricing models needed to calculate spread pricing to the extent that these are required.⁹ Spreadex submits that any TSA Element should not include the provision of a copy of Spreadex's Trading Models. As Spreadex has set out in its previous submissions to the CMA,¹⁰ the provision of Spreadex's Trading Models [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

2.13 In this respect, Spreadex notes the CMA's conclusion in the Final Report that providing a purchaser with Spreadex's Trading Models would dampen competition between Sporting Index and Spreadex, cause Spreadex serious harm and call into question whether the purchaser could effectively run Sporting Index.¹¹

3. RESPONSES TO THE CMA'S OBSERVATIONS AND QUESTIONS IN THE REMITTAL RN

Development and provision of the Platform Development Element (paragraphs 49(a) and 55(c) of the Remittal RN)

⁷ Spreadex also notes that the CMA concluded in its Final Report that the transfer of any of Spreadex's own assets and staff as part of the divestiture package would not be required. In particular third parties did not consider it necessary for Spreadex to transfer its own staff (paragraph 9.268 of the Final Report).

⁸ Spreadex RWP Response, Annex 1.

⁹ Remittal RN, paragraph 48(d).

¹⁰ RWP Response, paragraph 2.18.

¹¹ Final Report, paragraph 9.211.

- 3.1 As set out above, Spreadex considers that the Platform Development Element should not extend beyond the Platform Development Element as set out in the Draft Final Undertakings.
- 3.2 Spreadex has also provided the CMA with further details on the proposed development process of the Platform Development Element in its previous submissions.¹²
- Are there other parts of the Sporting Index business which would need to be reconstituted or recreated in order to form a viable divestment business? What steps would be required to do so and how long would this process take? How costly would this process be? (paragraph 49(b) of the Remittal RN)***
- 3.3 Spreadex responds to this question in its submissions above.
- Is it necessary for the divestiture package to be configured to allow a prospective purchaser to provide sports fixed odds betting services in addition to providing sports spread betting services, either in order to operate a viable sports spread betting business (eg because sports fixed odds customers may become sports spread betting customers) and/or to attract a wider pool of prospective purchasers? (paragraph 50 of the Remittal RN)***
- 3.4 This would not be necessary and Spreadex refers the CMA to its previous submission on this question.¹³ However, in accordance with the Draft Final Undertakings, Spreadex would be willing to design the Bespoke Platform Solution to allow a third-party sports fixed odds betting platform to be plugged into the Bespoke Platform Solution.
- Would a TSA with Spreadex be required, and if so, what should the scope and duration of any such TSA involve? (paragraph 50(a) of the Remittal RN)***
- 3.5 Spreadex would be prepared to offer a TSA on the terms outlined in the Draft Final Undertakings, subject to its comments above at paragraphs 2.11 and 2.13 above.
- Would a customer non-solicitation clause be necessary, to prevent Spreadex from targeting Sporting Index customers for a particular period of time? (paragraph 50(b) of the Remittal RN)***
- 3.6 The inclusion of any customer non-solicitation clause in the Proposed Divestiture Remedy would need to be clearly defined, sufficiently targeted and should not extend beyond the scope or length of time provided for in the customer non-solicitation clause included in the Draft Final Undertakings (with reference to the Final Report).¹⁴
- Are there any other elements that would be required to be part of the divestiture package to ensure that it can compete effectively in the Relevant Market? (paragraph 50(c), Remittal RN)***
- 3.7 As noted above, nothing else would be required beyond what is included in the Draft Final Undertakings, subject to Spreadex's submissions in this response.
- Purchaser suitability (paragraph 54 of the Remittal RN)***
- 3.8 As previously submitted by Spreadex, overly broad Purchaser Suitability Criteria (as defined in the Remittal RN), would reduce the possibility of finding a potential purchaser for the business.¹⁵ The CMA has acknowledged in the Remittal PFs that there are only likely to be two purchasers of the B2C Business. In these circumstances, being overly prescriptive about the potential purchaser risks excluding the only potential purchasers. Spreadex considers that the Purchaser Approval Criteria as set out in the Draft Final Undertakings¹⁶ would be appropriate to address any purchaser risk arising from a divestiture of the B2C Business.
- Risk associated with the divestiture (paragraph 55 of the Remittal RN)***

¹² Spreadex Revised Remedies Proposal, Section 4; and Spreadex RWP Response Main Submission and Annex 1.

¹³ Spreadex Revised Remedies Proposal, paragraph

¹⁴ Draft Final Undertakings, Annex 5, paragraph 10; and Final Report, paragraph 9.97

¹⁵ Spreadex Response to the Draft Remedies Notice, paragraph 3.22.

¹⁶ Draft Final Undertakings, Annex 4.

- 3.9 Spreadex submits that it has continued to maintain the Acquired Assets and run the Sporting Index business under its ownership efficiently and effectively for the benefit of Sporting Index customers. Spreadex has also cooperated fully and transparently in good faith with the CMA and the Monitoring Trustee to preserve the value of the Sporting Index business throughout the Merger review, including the Remittal. There are therefore no grounds for the CMA to be concerned that Spreadex will not continue to preserve and maintain the Acquired Assets in good faith. There is therefore no need for additional oversight or procedural safeguards over the process.
- 3.10 As noted above at paragraph 3.2, Spreadex has previously provided the CMA with further detail on the process and timescale of developing the Platform Development Element.¹⁷
- 3.11 ***Divestiture trustee (paragraph 57 of the Remittal RN)***
- 3.12 For the reasons outlined in paragraph 3.9, Spreadex also sees no need for the appointment of a divestiture trustee at the outset of any divestiture process.

¹⁷ Spreadex Revised Remedies Proposal, Section 4; and Spreadex RWP Response Main Submission and Annex 1.