Response from Innovest's adviser to the CMA's Supplementary Interim Report

To the Members of the Competition and Markets Authority

Dear Members

I refer to the Supplementary Interim Report (ME/7129/25) dated 21st May 2026 ("the Supplementary Report") issued by the Competition and Markets Authority ("CMA") on the acquisition by Associated British Foods PLC ("ABF") (through ABF Grain Products) of Hovis Group Limited ("Hovis") ("the Merger").

I make the following submission.

I disclose that I am an advisor to Mr Shane Corby and Innovest Holdings, who were among the bidders for Allied Bakeries' business and operations in Northern Ireland ("AB-NI"). I have been actively involved in helping him prepare his business case for the acquisition of AB-NI and his conditional offer. Further, as a former chartered accountant with over 30 years of corporate finance experience advising FTSE 250 companies, I am well-versed in business sales and purchases of the kind contemplated by ABF.

1. <u>CMA's provisional conclusion</u>

1.1. In the matter of the ABF acquisition of Hovis, the CMA has provisionally concluded, in respect of Northern Ireland, "that the most likely scenario, absent the Merger, is one in which:

   a) AB would have exited the market, and
   b) There would <u>not</u> have been an alternative, less <u>anti-</u>competitive purchaser for AB NI business who would have operated it as a competitor to Hovis."

1.2. In other words, in the CMA's revised opinion, the counterfactual in respect of Northern Ireland no longer held true. The CMA requirement that AB-NI should be sold should no longer apply, and the Merger of AB-NI and Hovis should be permitted without limitation or constraint.

1.3. I challenge this conclusion.

2. <u>The CMA should give no weight to ABF's threat that it will exit the Bread market.</u>

2.1. To think that ABF, a publicly quoted company with a turnover of £19.5 billion and an operating profit of £1.24 billion, will close its bakery division and exit the market (Paragraph 1.1 a) above) without seeking a buyer for it is absurd. It is negotiating puff. For the CMA to put any weight behind such a threat shows inexperience and naivety not expected from such an august body.

2.2. This close-down threat is particularly preposterous when Allied Bakeries is such an important customer of its ingredients business (flour and yeasts) (sales £2.04bn).

2.3. ABF's threat to withdraw from the bakery market is not relevant in competition terms. They can put their business up for sale and seek competitive bids, or they can rationalise it before competitive bids, or they can shut it down.

2.4. You only have ABF's representation that they will close AB down, but this threat has been judged against the fact that they've had the opportunity to do this for many years.

2.5. Regarding AB-NI, the plant is an integral part of the AB GB bakery business. Only the Merger has enabled them to consider closing it.

2.6. The reputational harm ABF would suffer in the financial market from AB's withdrawal from the UK bread market would be irreparable, and its board knows this.

2.7. ABF's proper response to the admitted challenges in the bread market is not to buy a competitor to stifle competition, but to do what its shareholders might reasonably expect of a publicly quoted company: to manage the business much better.

2.8. Except that the board of ABF is protected from the normal disciplines of the market and commercial life, as Wittington Investments reportedly owns around 56%–60% of ABF shares (depending on the reporting date and share buybacks). 79% of Wittington is owned by the Garfield Weston Foundation, a charitable trust, with the remaining shares held by Weston family members. And the Weston family's background is in bread. They are emotionally connected to this business. This is why any approach to ABF to buy AB has always received negative responses.

2.9. Acknowledging that, absent the Merger, ABF would exit the bread market, is for the CMA to give succour and approval to ABF's poor corporate governance and management. This is not right, and under no circumstances should the CMA be doing this.

2.10. In competition terms, it would be far better to allow AB to withdraw from the market and for competitors to take their appropriate market share, rather than for the CMA to "fix" the market as though it were operating as an authority in a command-and-control economy. And any concern that the AB plant's closure poses risks to daily bread supplies should not be exaggerated.

2.11. By CMA originally requiring a divestiture remedy for AB-NI and making merger clearance conditional upon it, these factors come into sharp focus when considering the binary choices available to ABF as set out in paragraph 6.5 below.

3. <u>Untrue statement and false conclusion.</u>

3.1. Most importantly, point 1.1(b) above is not true. Accordingly, the provisional conclusion must fail.

3.2. Four bidders were prepared to acquire AB-NI and keep the business operating. It is axiomatic that, if any one of them were to acquire AB-NI, then there would be no Substantial Lessening of Competition.

3.3. I can say with certainty that if Innovest were to acquire AB-NI, then there would be no Substantial Lessening of Competition in Northern Ireland. In fact, the opposite would happen. Innovest's business plan includes keeping the Kingsmill brand on shelves across the island of Ireland and expanding its product lines with new offerings. This adds to the competition, not lessens it!

3.4. The fact that the commercial terms offered were unacceptable to ABF should be of no concern to the CMA. It should not alter their opinion that AB-NI should be divested.

4. Acting Ultra Vires

4.1. If the CMA confirms its decision set out in paragraph 1 above, and permits the acquisition of Hovis by ABF, it will almost certainly be acting ultra vires. It will be making a decision that it neither has the authority nor the competence to make.

4.2. It will allow any interested party, including the trade unions, to appeal the decision by applying to the English Courts for judicial review.

5. The Competitive Imperative

5.1. In its first report, the CMA correctly identified that the acquisition of Hovis by ABF would be anti-competitive in Northern Ireland, i.e. a Substantial Lessening of Competition.

5.2. The CMA's own figures show that the combined AB-NI/ Hovis entity would control the following sectors and thus dominate the bread market:

- Pancakes ~80–90%
- Soda farls ~60–70%
- Potato farls ~50–60%
- Bread Overall ~60–70% in bread overall

5.3. For the CMA to allow one person to dominate the daily bread market, when it is such an important feature of daily life, would be an abrogation of its duties. It would be a failure of gigantic proportions, as it creates a systemic risk to human life that does not exist today.

5.4. The CMA recognised that the anti-competitive risks were at their extreme in Northern Ireland. For this reason, it issued a provisional ruling that the Merger would be approved, conditional on ABF disposing of its AB-NI business and operations.

5.5. Nothing in the Supplementary Report changed or altered the fundamental competitive analysis of Northern Ireland.

6. <u>The CMA's revised provision decision introduces a moral hazard which was not there before.</u>

6.1. By changing the rules of the game (i.e., changing its opinion without foundation) as it has gone along, the CMA has suddenly and without warning introduced moral hazard into its dealings that no bidder could reasonably have been aware of at the outset. This is reprehensible for a UK government department.

6.2. This is particularly shameful behaviour given the time and money bidders have invested in examining the AB-NI's virtual data room, visiting the Belfast site, preparing their post-acquisition business plans, engaging bankers and advisers and submitting bids.

6.3. Having determined, on competition grounds, that AB-NI is a counterfactual and set out, in its preliminary ruling, that AB-NI had to be divested if ABF wished to acquire Hovis, then the CMA should have no further involvement in any bid process. For it to opine on offers, as it has effectively done, comprises an unjustified interference in the determination of business values.

6.4. In this case, there were four bidders for AB-NI. This is sufficient evidence to show the CMA that the value of AB-NI was determined by its market value.

6.5. In these circumstances, the choices for ABF became simple. Either

a) They sell AB-NI on the best terms to their preferred bidder, and the Merger goes ahead, or.

b) They withdraw from the Merger, and it does not go ahead, or

c) If the buyers of AB-NI require buyer support that is too high for ABF's business case, then ABF and Hovis renegotiate the terms of their Merger to accommodate it. If they are unable to agree, then they either (i) continue with the Merger or (ii) withdraw from it.

6.6. The CMA, having set the rules, made ABF's choices binary. It is NOT the job of the CMA, nor is it within their competence, to judge the value of bids or to interfere in the market value of a business which they have determined, on competition grounds, should be sold.

7. <u>Errors and Misleading Statements – Clause 2.7</u>

7.1. ABF submitted to the CMA that "*the acquisition of AB-NI would likely be an uneconomical and risky transaction for the purchaser.*" I have to say, so what?

7.2. In a free market economy, a person is free to decide how they invest their money and the risks they are prepared to take. Investor risk profiles are remarkably different. Accordingly, it is inappropriate for CMA to involve itself in determining the risk profiles of the various bidders to make an assessment on competition.

8. <u>Errors and Misleading Statements – Clause 2.7 (c)</u>

8.1. At Clause 2.7 (c), ABF is reported to have submitted that*: a Material investment is required to turn AB-NI into profitability, and evidence from potential purchasers in the AB-NI sales process indicates that they would not be prepared to take the risk of funding such an investment.*

8.2. As the CMA knows, this submission is not true. Mr Shane Corby and I spoke with them about the investment Innovest would make in replacing (i) the wooden roof, (ii) returning a cooling tower to replace that canablised by ABF, (iii) the investment which would be made in a sourdough mixing machine and (iv) the development of new products.

9. <u>Errors and Misleading Statements – Clause 2.7 (e)</u>

9.1. At Clause 2.7 (e), ABF is reported to have submitted that: *wider aspects of the NI market make this an unattractive opportunity, including: the decline in the plant bread market and consumers shifting into other types of bakery goods, higher input costs, labour cost inflation, the competitiveness of the market, with a number of other brands already present, the presence of GB retailers which constrains prices, and that NI is an expensive place to service.*

9.2. Again, I have to say, so what? The fact that four bidders were prepared to acquire AB-NI in the circumstances ABF describe only goes to the offer price of AB-NI. It does not go to the root of the issue. Are their people willing to buy AB-NI and keep competition in the market? The answer is a resounding yes!

10. <u>Errors and Misleading Statements – Clause 2.8 and 2.8(a)</u>

10.1. At Clause 2.8, ABF is reported to have submitted that: *the financial benefit to ABF of selling the business, as compared to liquidating it, would be small, such that the potential financial upside from the sale would be outweighed by the additional execution risk associated with pursuing such a sale. Therefore, ABF submitted that it is more likely that ABF would have liquidated. AB-NI than seek to sell it.*

10.2. Of course! Post the Merger, ABF will naturally liquidate either AB-NI or Hovis NI. The rationalisation of plants and the elimination of competition are the economic rationale.

10.3. But that is not the appropriate question. The question is, would ABF have shut down AB-NI if there had been no Hovis merger on the horizon? I submit that they would not because

i. AB-NI is so integrated into the Allied Bakeries operation on the mainland, with trucks going backwards and forward each day.

ii. Allied Bakeries operates its bakeries on a cost-plus basis, with contributions to central overhead costs and, thus, to profits or losses. Allied Bakeries' own figures should show that its AB-NI business is contributing to the operational level. If an operation is making a meaningful contribution, as AB-NI is, then why, all of a sudden, is ABF changing its business strategy, other than at the behest of seeking the Merger?

iii. ABF have a flour mill in NI, which would lose a major customer if AB-NI were to be closed

10.4. At *Section 2.8(a), the CMA states: ABF submitted that all the offers received, if accepted, would entail greater costs for ABF than liquidating ABNI.* I must say "so what". It is the economics of the whole Merger which is the issue, not some small subset, and these are freely determined by ABF as set out in Paragraph 6.5 above.

11. <u>Errors and Misleading Statements – Clause 2.30</u>

11.1. The CMA's provisional view *is that ABF would only be likely to sell AB-NI in the counterfactual if the net sales value, once additional costs are taken into account, was above its estimated £x million liquidation cost*. Why is this their view? It is the wrong assessment. It is not whether ABF are likely to sell AB-NI. The question is whether the offers for AB-NI are so unattractive to ABF that they withdraw from the Merger, and even then, so what? The choices are ABF's; they are not the CMA's

11.2. And is this greater cost £1 or £10,000,000? Other than the redacted figure in Section 2.30, nothing is said. At one end, there might be grounds for the CMA having sympathy with ABF; at the other end, there is no reason at all!

11.3. Standing this decision in isolation from the commercial merits and economic gains of the Merger, and the price ABF is paying for Hovis, makes no sense. I refer you to my matrices in paragraph 6.5 above, which is the only basis on which the Northern Ireland counterfactual should be judged.

12. <u>Irrelevant Considerations</u>

12.1. In Sections 2.31 to 2.35, the CMA considers AB-NI's financial performance, and in Sections 2.36 to 2.40, it considers the allocation of central costs. But why? These are the kinds of assessments that competent bidders will have taken into account when evaluating their interest and making their bid. It is irrelevant when there are bidders prepared to buy AB-NI, invest in the business, and keep competition alive in Northern Ireland.

12.2. AB-NI's poor trading performance does not affect the fact that AB-NI is a counterfactual in competition terms. If someone wants to invest their money in the AB-NI plant and take the economic risks involved, that is their business. The CMA's interference in the bidding process when there has been no change in the competitive counterfactually, has resulted in Executive overreach. It is not for the CMA to adjudicate on the commercial terms as it has done.

13. <u>Errors and Misleading Statements – Clause 2.40</u>

13.1. The CMA states that its provisional view is that "*a potential purchaser would likely have to incur additional costs to provide the central services required to operate AB. NI"* and "*were any potential purchaser to incur £x million cost estimated by the Parties, this would be sufficient to make AB-NI loss-making."*

13.2. Again, I say -So what! Each of the four bidders will have been fully aware of these losses and will have factored them into their offers. It is not a factor that should affect the CMA's assessment of the competition issues.

14. <u>Errors and Misleading Statements – Section headed – Loss of AB specific synergies.</u>

14.1. Clauses 2.41 to 2.48 cover the Loss of AB Specific Synergies, where the CMA states that "*they have identified further benefits which AB-NI derives from being part of AB, which would be at risk of being lost on separation from AB-GB."* I repeat, so what!

14.2. The example in Clause 2.41(b) that "*the benefits included Sales to Grocery Multiple (GMS) in NI where the relevant contracts are negotiated centrally by AB on a UK-wide basis"* is a banality in the extreme and assumes an unjustified degree of incompetence on the part of bidders.

14.3. In essence, Clause 2.42 says that "*the Parties submitted that it would not be commercially viable to produce rolls, crumpets, and muffins."* This is not correct. ABF may be so managerially incompetent that it cannot run its AB-NI plant to produce these products viably; in fact, this speaks to the very reason AB is in an economic mess, but the same must not be assumed of competent, hands-on management.

15. <u>Errors and Misleading Statements – Section headed – Assessment of offer for AB-NI.</u>

15.1. I submit it is not the CMA's job nor within its competence to interfere or adjudicate on the economics of the sale of AB-NI, but only to ensure that :

15.1.1. There was a fair and competent sales process for the sale of AB-NI (which there was), and

15.1.2. Competition remains in the bread sector.

15.2. The CMA should not be involved in this level of granularity. There are people who want to take over AB-NI to keep it competing throughout the island of Ireland. That is sufficient. The fact that it is better for ABF, post-acquisition of Hovis, that the Belfast plant is shut down and competition eradicated, should be of no concern to the CMA.

15.3. The fact that the CMA assesses two bids (Section 2.59 – 2.64 and Section 2.65 to 2.69) as below the liquidation value of AB-NI has no relevance to the imperative of keeping a competitive market for daily bread in Northern Ireland. The CMA should ignore it. The assessment should be based on the economic totality of the Merger, and that is only for ABF to decide.

16. <u>No evidence that there is NOT a viable purchase of AB-NI</u>

16.1. Nothing in the Report shows the lack of a viable long-term competitive purchaser for AB-NI. To the contrary, four bidders making bids suggest people are willing and able to invest in AB-NI to make it profitable and a going concern.

16.2. And what if the purchaser of AB-NI fails in their ambition? That is the free market at work. Why the CMA seeks to deny someone the opportunity to utilise their own skills and risk their own capital in the pursuit of competition seems a very perverse decision, given that its raison d'être is to promote and maintain competition in a free market economy.

17. <u>Conclusion – The CMA's revised counterfactual is illogical and thus flawed</u>

17.1. The CMA created the framework for AB-NI offers by requiring a divestiture remedy and making merger clearance conditional on it.

17.2. The CMA must understand that, in its Supplementary Report, it has conceptually and incorrectly transposed buyer support into disposal costs, when these costs are, in fact, merger completion costs.

17.3. The Supplementary Report effectively says that no buyer existed because sale costs exceeded liquidation costs, but that was never the commercial decision facing ABF, as merger clearance depended on the sale.

17.4. The correct economic test is not whether ABF prefer liquidation (they obviously would). The question for ABF (and only ABF and not the CMA) is the amount of additional disposal costs it is prepared to pay to secure completion of the Hovis transaction?" Any involvement in this decision would be improper interference by the Executive branch of Government and subject to possible Judicial Review

17.5. The CMA's revised decision is illogical. It is fundamentally flawed because it assumes liquidation was economically preferable without adequately considering the strategic value of completing the Merger itself.

17.6. There were credible bidders for AB-NI who would have maintained competition for the Kingsmill brand in the island of Ireland, and for the CMA to say the opposite is wrong. It nullifies their decision.

17.7. For the reasons stated in this email, the CMA needs to reject the provisional conclusion set out in its Supplementary Report of 21st May 2026 and revert to its earlier opinion.

Please acknowledge safe receipt.

Your sincerely

Charles Bunker

28 May 2026