

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 16 October 2018

Completed acquisition by CareTech Holdings plc of Cambian Group plc

We refer to your email and accompanying notes dated 15, 16, 17 and 18 October 2018 requesting that the CMA consents to derogations to the Initial Enforcement Order of 16 October 2018 (the **Initial Order**). The terms defined in the Initial Order have the same meaning in this letter.

Under the Initial Order, save for written consent by the CMA, CareTech and Cambian are required to hold separate the Cambian business from the CareTech business and refrain from taking any action which might prejudice a reference under section 22 or 33 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, CareTech and Cambian may carry out the following actions, in respect of the specific paragraphs:

1. Paragraph 7(I) of the Initial Order

The CMA understands that in order for CareTech to perform its role of ensuring overall compliance within the CareTech Group (including Cambian), CareTech may require access to certain information of Cambian and high-level reports relating to Cambian's compliance with regulatory requirements. The CMA consents to the Safeguarding Committee members of CareTech (presently [X]) receiving papers relating to Cambian's compliance with regulatory requirements, including the health and safety RIDDOR report (Reporting of Injuries, Diseases and Dangerous Occurrences) and a monthly Compliance report in the form agreed with the CMA, subject to the following safeguards:

- a. The relevant Cambian site name will be redacted from reports shared with CareTech.
- b. Materials will not be provided to [X]. [X] shall be required to leave the meeting room when discussions relating to Cambian take place. The written minute of discussions relating to Cambian shall be provided in a separate schedule which will not be provided to [X] whilst the Initial Order is in force.

- c. The Committee members shall enter into appropriate confidentiality and non-use undertakings in a form acceptable to the CMA and firewalls will be put in place to prevent any other CareTech employee from accessing Cambian information.

2. Paragraph 7(l) of the Initial Order

The CMA understands that in order for CareTech to be perform its role of ensuring overall compliance within the CareTech Group (including Cambian), CareTech wishes for Cambian employees to be included within CareTech's market-leading whistleblowing procedures. The CMA consents to two identified individuals within CareTech ([REDACTED] and [REDACTED]) being permitted to receive whistle-blowing disclosures made by Cambian employees and affiliates.

In the event that a serious incident needs to be communicated to the CareTech Board of Directors, compliance team or the Safeguarding Committee, CareTech will:

- notify the CMA in parallel that such incident reporting has taken place;
- ensure that communication of any Cambian commercially-sensitive information is strictly-limited to that necessary for CareTech to understand the nature of the incident, Cambian's response to manage the incident and to form a view on the necessary action required; and
- ensure that those CareTech individuals on the CareTech Board of Directors, compliance team and the Safeguarding Committee who need to receive access to Cambian information for these purposes, shall enter into appropriate confidentiality and non-use undertakings in a form acceptable to the CMA and firewalls will be put in place to prevent any other CareTech employee from accessing Cambian information.

3. Paragraph 7(l) of the Initial Order

The CMA understands that CareTech requires access to certain commercially-sensitive information of Cambian in order to ensure that it can meet its regulatory and reporting requirements. The CMA consents to [REDACTED] at CareTech being provided with the following information:

- rolling 90 day divisional (education, residential, and fostering) working cash flow forecast, which is currently updated on a weekly basis, in a format agreed with the CMA; and
- periodic (typically daily) occupancy information at a divisional level (education, residential, and fostering), in a format as agreed with the CMA.

[X] will enter into appropriate confidentiality and non-use undertakings in a form acceptable to the CMA and firewalls will be put in place to prevent any other CareTech employee from accessing Cambian information.

4. Paragraph 7(l) of the Initial Order

In order to ensure that CareTech can maintain financial oversight of Cambian with a view to ensuring its ongoing viability, the CMA consents to the Board of CareTech being provided with Cambian's monthly management accounts, in a format agreed with the CMA.

5. Paragraph 7(l) of the Initial Order

The CMA understands that in order for the CareTech Group to address certain reporting requirements and filings or dealings with its financial and legal advisers, banks, the UK Listing Authority (**UKLA**), the London Stock Exchange, or HMRC, CareTech may require access to certain commercially-sensitive information of Cambian. The CMA consents to three identified individuals within CareTech [X] being provided with information relating to Cambian's financial and tax reporting provisions, the preparation of CareTech's filings or dealings with its banks, accountants, and such information as required for the preparation of CareTech's filings or dealings with its financial and legal advisers, the UKLA, the London Stock Exchange, or HMRC.

The three identified individuals of CareTech will enter into appropriate confidentiality and non-use undertakings in a form acceptable to the CMA and firewalls will be put in place to prevent any other CareTech employee from accessing Cambian information.

In the event that individuals working within the CareTech finance team, reporting to or supervised by [X] of CareTech, require access to Cambian information for the preparation of CareTech's filings or dealings with its accountants, its financial and legal advisers, the UKLA, the London Stock Exchange, and/or HMRC, CareTech is required to seek prior approval of the CMA before this information can be shared. If the CMA provides its consent, the relevant individual within the CareTech finance team would be required to enter into appropriate confidentiality and non-use undertakings in a form acceptable to the CMA and firewalls would be put in place to prevent any other CareTech employee from accessing Cambian information.

6. Paragraph 4(a), 7(a), and 7(l) of the Initial Order

The CMA understands that it is necessary to increase the authorisation levels for the Cambian management team at appropriate levels post-completion. While [X] of Cambian remains responsible for the day-to-day management of the Cambian business, in order to maintain the ongoing viability of Cambian and to ensure

sufficient funds are made available to Cambian, it may be necessary from time to time for a named individual within CareTech to review and approve or veto certain expenditure of the Cambian business in line with the levels of delegated authority set out below:

- [X] are authorised to make payments [X], with both individuals required to authorise such payments. [X].
- [X] are authorised to make payments [X], with both individuals required to authorise such payments.
- [X] is required to notify [X] at CareTech in advance for any payments [X]. This review by CareTech of the proposed expenditure of Cambian may require access by CareTech to commercially-sensitive information of Cambian. [X].

This derogation is subject to the following safeguards:

- a. the information shared with [X] in order to seek CareTech's approval for expenditure is kept to the minimum strictly necessary to allow [X] to take a decision on the proposed expenditure;
- b. the CMA will be provided with prior notification of CareTech exercise of its right to veto expenditure proposed by Cambian which exceeds the levels of delegated authority described above, and is provided with the reasons for any proposed veto by CareTech; and
- c. [X] will not be involved in commercial-decision making at CareTech in respect of any activities in markets where the Parties overlap or attend meetings where such commercial decisions are to be made, whilst the Initial Order is in place.