

**DEROGATION LETTER
IN RESPECT OF INITIAL ENFORCEMENT ORDERS ISSUED
PURSUANT TO SECTION 72(2) ENTERPRISE ACT 2002**

Please note that [✂] or [] indicates figures or text which have been deleted or anonymised at the request of the parties for reasons of commercial confidentiality.

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 7 February 2020.

Anticipated acquisition by PUG LLC of StubHub, Inc., StubHub (UK) Limited, StubHub Europe S.à.r.l., StubHub India Private Limited, StubHub International Limited, StubHub Taiwan Co., Ltd., StubHub GmbH, and Todoentradas, S.L.

We refer to your submissions of 11 and 13 February 2020 requesting that the CMA consent to derogations from the Initial Enforcement Order of 7 February 2020 (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, Pugnacious Endeavors, Inc., ("**viagogo**") PUG LLC ("**PUG**") and eBay Inc. ("**eBay**") are required to hold separate the viagogo business from the StubHub 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, viagogo, PUG and eBay may carry out the following actions, in respect of the specific paragraphs.

1. Paragraph 7(a), 7(c) and 7(l) of the Initial Order – delegation of authority

In order to ensure the ongoing viability of the StubHub business, viagogo has requested that StubHub be required to seek approval from designated individuals within viagogo to proceed with certain courses of action. The requirement to seek such approval from viagogo is strictly limited to the following matters:

- a. Capital expenditure and operating expenditure which was not budgeted for in the pre-Merger business plan(s) of the entities comprising StubHub and that exceeds (i) USD [X] in respect of the StubHub non-US entities, or (ii) USD [X] in respect of the StubHub US entities;
- b. Entering into customer or supplier contracts which are above: (i) USD [X] per year in respect of the StubHub non-US entities, (ii) USD [X] per year in respect of the StubHub US entities or (iii) which have a term of three years or more;
- c. Expenses of the Chief Executive Officer of StubHub Inc. exceeding USD [X]; and
- d. Entering into contracts with uncapped liability.

The CMA consents to a derogation from paragraphs 7(a), 7(c) and 7(l) of the Initial Order, strictly on the basis that:

- (i) Requests shall only be communicated to [*two senior members of viagogo*] who will have authority to take a decision on each matter and do not hold a commercial or strategic role within viagogo;
- (ii) Information shared with [X] and [X] shall be limited to that which is strictly necessary to allow viagogo to take a decision on the request and shall be limited to: (i) the relevant amount; (ii) a high-level description of the intended action; and (iii) confirmation of whether the expenditure was part of StubHub's business plans pre-Merger. For the avoidance of doubt, no commercially-sensitive information can be shared with viagogo;
- (iii) [X] and [X] must not consult with any other individual at viagogo in taking decisions on the specific matters listed above;
- (iv) [X] and [X] will enter into a confidentiality undertaking in a form approved by the CMA;
- (v) The CMA will be notified of any requests made by StubHub to viagogo and the CMA will be provided with a summary of the StubHub business information shared with viagogo in order to allow [X] and [X] to reach a decision on the request at hand;
- (vi) The CMA is notified of any proposed veto by viagogo and the reasons for this in advance of any such veto being exercised;
- (vii) Firewalls and/or other ring-fencing measures will be put in place to prevent any unauthorised individuals within viagogo from accessing the information shared with [X] and [X] for the purposes of this derogation;
- (viii) Should the Merger be prohibited, viagogo will ensure that any confidential information received from StubHub for the purposes of this derogation will be returned to the StubHub business and any copies destroyed, except to the extent that record retention is required by law or regulation;

- (ix) StubHub will notify the CMA if the limits set out in this derogation do not allow the StubHub business to carry out its day-to-day functions without the interference of viagogo; and
2. The limits set out in this derogation will be subject to CMA review and the CMA may revise the thresholds in writing (including via email) if it deems necessary for the StubHub business to conduct its day-to-day business independently of viagogo.

3. Paragraphs 6(a), 7(a) and 7(l) of the Initial Order - Access to viagogo [REDACTED] arrangements

The CMA understands that prior to completion, StubHub relied on eBay's [REDACTED] arrangements and eBay provided StubHub with [REDACTED].

Following completion, these [REDACTED] arrangements with eBay have ceased. In order to maintain the ongoing viability of the StubHub business, viagogo is requesting CMA consent to include the StubHub business within [REDACTED].

The CMA consents to a derogation from paragraphs 6(a), 7(a) and 7(l) of the Initial Order for StubHub [REDACTED], strictly on the basis that:

- (i) Requests for [REDACTED] from StubHub will only be communicated to *[two senior members of viagogo]*. [REDACTED] and [REDACTED] do not have a commercial or strategic role within the viagogo business;
- (ii) [REDACTED] and [REDACTED] will only be provided with the following information from StubHub: [REDACTED]. For the avoidance of doubt, no information on the commercial reasons underlying the request will be shared with viagogo;
- (iii) [REDACTED] and [REDACTED] will enter into a confidentiality undertaking in a form approved by the CMA;
- (iv) Firewalls and/or other ring-fencing measures will be put in place to prevent individuals other than [REDACTED] and [REDACTED] from accessing any confidential StubHub information disclosed to viagogo for the purposes of the derogation;
- (v) [REDACTED]
- (vi) [REDACTED] will not be difficult or costly to reverse and will not prevent any remedial action that the CMA may need to take regarding the Merger; and
- (vii) [REDACTED], will have no influence upon the commercial direction of the StubHub business during the term of the Initial Order.

4. Paragraph 7(a) of the Initial Order – removing eBay name from StubHub branding

viagogo submits that in accordance with clause 5.15(a) of the Stock Purchase Agreement entered into between eBay, eBay International A.G, PUG and viagogo (the

'SPA'), viagogo is obliged to ensure that within 20 business days of completion, the entities comprising StubHub which transfer to viagogo as a result of the Merger will not include the eBay name.

viagogo therefore requests a derogation from the Initial Order to comply with its obligations in the SPA and remove all references (which includes references on the products, services, platforms, websites, signage, properties, technical information, stationery and promotional or other marketing materials and all other assets) of the eBay name connected with the StubHub legal entities being acquired by viagogo.

The CMA consents to a derogation from paragraph 7(a) of the Initial Order for the removal of all references of the eBay name connected with the entities comprising StubHub being acquired by viagogo, strictly on the basis that:

- (i) StubHub's branding will remain distinct from the viagogo branding; and
- (ii) No other changes will be made to the name of the entities comprising StubHub or branding of the StubHub business save for removal of the eBay name.

5. Paragraph 7(I) of the Initial Order – Management of TSA with eBay

In order to ensure that viagogo is able to enforce its rights [X] in the event that [X] pursuant to the Transitional Services Agreement ("TSA") entered into on completion, viagogo submits that it will require the following information from [X] and [X] (the 'StubHub Identified Individuals'):

- a. [X]; and
- b. [X].

viagogo submits that this derogation is necessary because [X].

The CMA consents to a derogation from paragraph 7(I) of the Initial Order for the StubHub Identified Individuals to provide viagogo with the information identified above strictly on the basis that:

- (i) such information will only be provided to [X] (Business Associate, viagogo) and [X] (Business Associate, viagogo) who do not hold a commercial or strategic role within the viagogo business;
- (ii) the StubHub information provided to [X] and [X] may include StubHub confidential information but for the avoidance of doubt, will not include any information which is commercially-sensitive;
- (iii) [X] and [X] will enter into a confidentiality undertaking in a form approved by the CMA; and

(iv) Firewalls and/or other ring-fencing measures will be put in place to prevent individuals other than [X] and [X] from accessing any confidential StubHub information disclosed to viagogo for the purposes of the derogation.

No changes to the viagogo personnel covered by the derogations in this consent letter are permitted without prior written consent from the CMA (including via email).

Alex Knight

Assistant Director, Remedies, Business and Financial Analysis

13 February 2020