

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

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 19 May 2020

Anticipated acquisition by Stryker Corporation (Stryker) of Wright Medical Group N.V. (Wright) (the Transaction)

We refer to your letter and email of 21 September 2020, your email of 9 October 2020 and accompanying information requesting that the CMA consents to a derogation from the Initial Enforcement Order of 19 May 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, Stryker and Wright are required to hold separate the Stryker business from the Wright 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.

On 30 June 2020, the CMA decided under section 33(1) of the Enterprise Act 2002 (the **Act**) that it is or may be the case that the merger consists of arrangements that are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation, and that this may be expected to result in a substantial lessening of competition (**SLC**) within a market or markets in the United Kingdom.

On 7 July 2020, to address this SLC, Stryker offered undertakings to the CMA for the purposes of section 73(2) of the Act by way of divestment of Stryker's Scandinavian Total Ankle Replacement (**STAR**) product and related assets (the **Proposed Undertakings**). The Proposed Undertakings identified Colfax Corporation (**Colfax**) as the proposed upfront buyer that is planning to incorporate the divestment business into its existing subsidiary DJO Global, Inc (**DJO**).

After due consideration of your request for derogation from the Initial Order, the information received from you and the particular circumstances of this case, we hereby provide consent for Stryker to carry out the following actions, in respect of the following paragraphs of the Initial Order:

Paragraphs 5 and 6(e) of the Initial Order

The CMA understands that Stryker is required by the competition authority(ies) of other jurisdiction(s) to sign an asset purchase agreement (the **APA**) with Colfax for the divestment of STAR product and related assets in advance of the CMA's decision on the Proposed Undertakings. The CMA further understands that absent the derogation and the ability to promptly enter into the APA, Stryker will be unable to complete the process required to obtain approval from the competition authority(ies) of other jurisdiction(s).

On consideration of the specific facts and circumstances of this case and in the context of the current stage of the review process for the Proposed Undertakings in lieu of a reference, the CMA consents to a derogation from paragraphs 5 and 6(e) of the Initial Order for Stryker to sign the APA with Colfax for the divestiture of Stryker's STAR product and related assets strictly on the basis that:

- a. entry into and signing of the APA remains conditional on written consent from the CMA;
- b. the APA is conditional on the CMA issuing a decision of final acceptance of the Proposed Undertakings in lieu of reference and final approval of the proposed purchaser, and to be void otherwise; and
- c. no provision will be included in the APA transferring any interest or right over the assets to Colfax until/unless it becomes unconditional.

Yours sincerely,

Elie Yoo
Assistant Director, Mergers
12 October 2020