

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

**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 20 December 2021.**

**Acquisition by Veolia Environnement S.A. of Suez S.A. (the 'Transaction').**

We refer to your submission of 21 December 2021 requesting that the CMA consents to derogations from the Initial Enforcement Order of 20 December 2021 (the '**Initial Order**'). The terms defined in the Initial Order have the same meaning in this letter. Further, in this letter:

'**Comgen**' means Comgen Australia Pty Limited (ACN: 050 242 441) and its subsidiaries which comprise Veolia's Australian waste business;

the '**UK-related assets**' refers to any individuals, business activities, assets and contracts of the Veolia business (including, but not limited to the items identified at paragraphs 2(a) to 2(f) of this consent letter), which are related to the effective functioning of the Veolia UK business, as at the commencement date of the Initial Order; and

the '**Veolia Non-UK business**' means the Veolia business excluding the Veolia UK business.

Under the Initial Order, save for written consent from the CMA, Veolia Environnement S.A. ('**Veolia**') and Veolia UK Limited ('**Veolia UK**') are required to hold separate the Veolia business from the Suez business and refrain from taking any action which might prejudice a reference under section 33 of the Enterprise Act 2002 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, Veolia and Veolia UK may carry out the following actions, in respect of the specific paragraphs:

## **1. Paragraphs 6(b), 6(c), 6(d), 6(e), 6(g), 6(h), 6(i), 6(j), 6(k), 6(l) and 10 of the Initial Order**

Veolia has sought the CMA's consent to limit the scope of paragraphs 6(b), 6(c), 6(d), 6(e), 6(g), 6(h), 6(i), 6(j), 6(k), 6(l) and 10 of the Initial Order so that they only apply to the Veolia UK business (thereby excluding the Veolia Non-UK business from the abovementioned provisions of the Initial Order) until such time the Veolia non-UK business puts in place the internal controls and procedures to comply with the Initial Order. Veolia has also sought the CMA's consent to limit the scope of the same paragraphs of the Initial Order so that they do not apply to Comgen, which is a subsidiary of Veolia UK which undertakes its business outside the UK.

Veolia submits that the obligations in the Initial Order that restrict changes to the Veolia Non-UK business and Comgen, and which require Veolia to report material developments to the CMA in respect of the Veolia Non-UK business and Comgen, would impose a significant administrative burden on Veolia. Veolia further submits that the exclusion of the Veolia Non-UK business and Comgen from the scope of these provisions of the IEO would not lead to pre-emptive action.

Veolia submits that the Veolia UK business is largely distinct and operated separately from the Veolia Non-UK business by a dedicated management team in the UK which is subject to a high degree of legal and managerial autonomy from the Veolia Non-UK business. Further, the Veolia UK business predominantly involves the provision of services that are inherently carried out by UK teams for UK customers. Similarly, Veolia submits that Comgen is distinct from the rest of the Veolia UK business, with its own dedicated management team based in Australia and is subject to a high degree of legal and managerial autonomy from the rest of the Veolia UK business. Veolia further submits that Comgen is only active in the provision of services in Australia by teams which are based there.

The CMA understands from Veolia that the voluntary public offer by Veolia for the remaining issued share capital of Suez is expected to complete on [X] January 2022.

Based on Veolia's representations and related evidence provided to the CMA:

- 1) The viability and competitive capability of the Veolia UK business on a standalone basis is not reliant on the Veolia Non-UK business (other than the UK-related assets);
- 2) The Veolia UK business is run independently of the Veolia Non-UK business (with the Veolia UK management taking operational decisions independently of the Veolia Non-UK business by virtue of [X]), and does not have material

links with the Veolia Non-UK business other than in respect of the UK-related assets, which include (amongst others):

- a) certain Veolia UK board representatives;
  - b) certain shared Group services;
  - c) financing arrangements and Group guarantees;
  - d) a small number of shared customer relationships/contracts;
  - e) a limited number of shared sales arrangements; and
  - f) certain shared intellectual property and associated licensing agreements; and
- 3) Comgen's business relates to non-UK customers, is undertaken by non-UK teams and is run independently of the rest of the Veolia UK business. The viability and competitive capability of the rest of the Veolia UK business on a standalone basis is not reliant on Comgen. Comgen does not own any tangible or intangible assets used by the rest of the Veolia UK business. Comgen and the rest of the Veolia UK business do not share any contracts with customers or suppliers. There are no other material links between Comgen and the rest of the Veolia UK business and, other than a shared Tax Director, staff of the rest of the Veolia UK business do not hold responsibilities in respect of Comgen.

[§<], the CMA consents to a [§<] derogation from the Initial Order to limit the scope of paragraphs 6(b), 6(c), 6(d), 6(e), 6(g), 6(h), 6(i), 6(j), 6(k), 6(l) and 10 of the Initial Order so that they only apply to the Veolia UK business (with the exception of Comgen) and the UK-related assets, strictly subject to the following conditions:

- (i) all Veolia UK board Members who are also employed by (or have management responsibilities in) the Veolia Non-UK business (in particular, [§<]) will remain within the scope of the Initial Order;
- (ii) the Tax Director of Veolia UK will remain within the scope of the Initial Order;
- (iii) This derogation will not cause disruption to the Veolia UK business (with the exception of Comgen), nor impact its ongoing operation or viability on a standalone basis; and
- (iv) Unless withdrawn beforehand, this derogation shall remain in effect until the earlier of the date of completion of the Transaction (ie relating to Veolia's acquisition of the remaining issued share capital of Suez) or one month from

the date of this derogation (unless amended with the prior written consent of the CMA, which can be provided by e-mail).

Tim Geer

Director, Mergers

22 December 2021