

# Acquisition by CVS Group plc of Quality Pet Care Ltd (trading as The Vet)

## Decision that undertakings might be accepted

ME/6967-21

The CMA's decision under section 73A(2) of the Enterprise Act 2002 that undertakings might be accepted, given on 4 March 2022. Full text of the decision published on 14 March 2022.

Please note that [§<] indicates figures or text which have been deleted or replaced in ranges at the request of the parties for reasons of commercial confidentiality.

### Introduction

1. On 19 August 2021, CVS Group plc (**CVS**) acquired Quality Pet Care Ltd (**The Vet**) (the **Merger**). CVS and The Vet are together referred to as **the Parties**. CVS is a large corporate veterinary group, operating 467 veterinary practices within the UK, together with other related veterinary services. The Vet is a chain of eight small animal veterinary practices located in Bristol, Liverpool, Morden, Nottingham, Waltham, Portsmouth, Southampton and Warrington (together **The Vet practices**). CVS and The Vet overlap in the provision of first opinion veterinary care to small animals, from commercial practices during standard daytime hours (**standard small animal veterinary services**) in the UK.
2. On 18 February 2022, the Competition and Markets Authority (**CMA**) decided under section 22(1) of the Enterprise Act 2002 (the **Act**) that it is or may be the case that the Merger constitutes a relevant merger situation that has resulted or may be expected to result in a substantial lessening of competition (**SLC**) within a market or markets in the United Kingdom (the **SLC Decision**).
3. On the date of the SLC Decision, the CMA gave notice pursuant to section 34ZA(1)(b) of the Act to CVS of the SLC Decision. However, the CMA did not refer the Merger for a phase 2 investigation pursuant to section 22(3)(b) on the date of the SLC Decision in order to allow CVS the opportunity to offer undertakings to the CMA in lieu of such reference for the purposes of section 73(2) of the Act.
4. Pursuant to section 73A(1) of the Act, if a party wishes to offer undertakings for the purposes of section 73(2) of the Act, it must do so within the five working day period specified in section 73A(1)(a) of the Act. Accordingly, on 25 February 2022, CVS offered undertakings to the CMA for the purposes of section 73(2) of the Act. On 2 March 2022, CVS offered modified undertakings to the CMA.

5. The CMA now gives notice, pursuant to section 73A(2)(b) of the Act, to CVS that it considers that there are reasonable grounds for believing that the undertakings offered, or a modified version of them, might be accepted by the CMA under section 73(2) of the Act and that it is considering the offer.

### **The undertakings offered**

6. Under section 73 of the Act, the CMA may, instead of making a reference, and for the purpose of remedying, mitigating or preventing the SLC concerned or any adverse effect which has or may have resulted from it or may be expected to result from it, accept from such of the merger parties concerned as it considers appropriate undertakings to take such action as it considers appropriate.
7. The SLC Decision found that the Merger gives rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the supply of standard small animal veterinary services in the local areas of Bristol, Nottingham, Portsmouth, Southampton and Warrington (together the **SLC areas**).
8. To address this SLC, CVS has offered to give undertakings in lieu of a reference to divest the entire The Vet business (including the eight The Vet practices). This divestment will include all assets of the business (including leases) and key staff<sup>1</sup> (the **Proposed Undertakings**). The Vet business will be divested as a going concern on a cash free/debt free basis.
9. CVS has also offered to provide any transitional services, to the extent required, with the approval of the CMA, as part of the Proposed Undertakings.
10. Under the Proposed Undertakings, CVS has also offered to enter into a purchase agreement with a buyer approved by the CMA before the CMA finally accepts the Proposed Undertakings (**Upfront Buyer Condition**).
11. CVS has proposed that divestment take place by a share sale of the entire issued capital of The Vet to a single upfront buyer. However, divestment of the entire The Vet business may take place in a maximum of two separate packages (by sale to a maximum of two upfront buyers) with the prior written approval of the CMA.
12. CVS will provide the CMA with a timeframe of milestones throughout the process.

### **The CMA's provisional views**

13. The CMA considers that undertakings in lieu of a reference are appropriate when they are clear-cut and capable of ready implementation. The CMA's starting point

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<sup>1</sup> Key staff does not include the Hold-Separate Manager appointed pursuant to the CMA's direction dated 6 October 2021.

when assessing undertakings is to seek an outcome that restores competition to the level that would have prevailed absent the merger.<sup>2</sup>

14. The CMA believes that the Proposed Undertakings, or a modified version of them, might be acceptable as a suitable remedy to the SLC identified by the CMA, given that they would result in the full divestment of The Vet business by CVS. As such, the Proposed Undertakings would restore the competitive constraint provided by The Vet on CVS (and vice versa) that would otherwise be lost in the SLC areas as a result of the Merger.
15. The CMA currently believes that the Proposed Undertakings are capable of amounting to a sufficiently clear-cut and effective resolution of the CMA's competition concerns. The CMA also believes at this stage that the Proposed Undertakings may be capable of ready implementation, in particular in light of the fact that The Vet was a stand-alone business prior to the Merger, and evidence provided by CVS that several potential purchasers have expressed an interest in acquiring some or all of The Vet practices. Under the Proposed Undertakings all assets, key staff and leases will be divested, allowing the practices to continue to viably supply standard small animal veterinary services. The CMA understands that [X], based on the latest financial information provided to it. CVS has confirmed that 'there are no functions necessary to the on-going viability of [The Vet] practices that will not form part of the proposed [undertakings in lieu of a reference][...] which cannot easily be sourced from third party suppliers or provided in-house by the prospective purchaser(s)'.<sup>3</sup> The divestment of the entire The Vet business by way of two separate packages (by sale to a maximum of two upfront buyers) would only occur with the prior written approval of the CMA and where this can be achieved without undermining the effectiveness of the remedy.
16. The Upfront Buyer Condition means that the CMA will only accept the Proposed Undertakings after CVS has entered into an agreement with a nominated buyer(s) that the CMA considers to be suitable. It also means that, before acceptance, the CMA will consult publicly on the suitability of the nominated buyer(s), as well as other aspects of the Proposed Undertakings. The CMA does not consider that there are sufficient reasons to depart from the general requirement for a cautious approach at phase 1.<sup>4</sup> In addition, the CMA notes that an Upfront Buyer Condition is necessary in this case because:
  - (a) [X]; and
  - (b) The CMA notes that there may be only a limited pool of suitable purchasers, given that some prospective purchasers may already have a significant

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<sup>2</sup> [Mergers remedies \(CMA87\)](#), December 2018, Chapter 3 (in particular paragraphs 3.27, 3.28 and 3.30).

<sup>3</sup> Paragraph 39, Remedies Form for Offers of Undertakings in Lieu of Reference dated 25 February 2022.

<sup>4</sup> See [CMA 87](#) paragraphs 5.28–5.32, and [CMA2](#), paragraph 8.34.

presence in one or more of the SLC areas, resulting in an element of purchaser risk within the divestment process.

17. For these reasons, the CMA currently thinks that there are reasonable grounds for believing that the Proposed Undertakings, or a modified version of them, might be accepted by the CMA under section 73(2) of the Act.
18. The CMA's decision on whether ultimately to accept the Proposed Undertakings or refer the Merger for a phase 2 investigation will be informed by, among other things, third party views on whether the Proposed Undertakings are suitable to address the competition concerns identified by the CMA. In particular, before ultimately accepting the Proposed Undertakings, the CMA must be confident that the nominated buyer(s) is effective and credible such that the competitive constraint provided by The Vet absent the Merger is replaced to a sufficient extent.

### **Consultation process**

19. Full details of the undertakings offered will be published in due course when the CMA consults on the undertakings offered as required by Schedule 10 of the Act.<sup>5</sup>

### **Decision**

20. The CMA therefore considers that there are reasonable grounds for believing that the Proposed Undertakings offered by CVS, or a modified version of them, might be accepted by the CMA under section 73(2) of the Act. The CMA now has until 4 May 2022 pursuant to section 73A(3) of the Act to decide whether to accept the undertakings, with the possibility to extend this timeframe pursuant to section 73A(4) of the Act to 1 July 2022 if it considers that there are special reasons for doing so. If no undertakings are accepted, the CMA will refer the Merger for a phase 2 investigation pursuant to sections 22(1) and 34ZA(2) of the Act.

**Colin Raftery**  
**Senior Director, Mergers**  
**Competition and Markets Authority**  
**4 March 2022**

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<sup>5</sup> [CMA2](#), paragraph 8.29.