

**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 letter dated 28 March 2022 requesting that the CMA consents to a derogation to 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

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 5 and 6 of the Initial Order**

On 17 January 2022, a derogation was granted to permit Suez head office staff who formed part of the Suez business acquired by Veolia under the Transaction (the '**Retained Suez HQ Staff**'), to transfer to Veolia's headquarters for the purpose of supporting the retained Suez business held separate from Veolia.

Veolia proposes to integrate into Veolia:

- a) [~~X~~] members of Retained Suez HQ Staff with no links to the Suez UK waste business or the Suez WTS business (the '**Category 1 Individuals**');

- b) [X] members of Retained Suez HQ Staff with no links to Suez UK waste business or the Suez WTS business who are under-utilised (the '**Category 2 Individuals**'); and
- c) [X] members of Retained Suez HQ Staff with no links to Suez UK waste business or the Suez WTS business to Veolia's business units, in line with Veolia's pre-merger integration plan (the '**Category 3 Individuals**').

The Category 1 Individuals, the Category 2 Individuals and Category 3 Individuals are together referred to as the '**Relevant Suez Individuals**').

Veolia submits that as a consequence of the 10 March 2022 derogation permitting Veolia's integration with Suez's non-UK business (except Suez's WTS business worldwide) (the '**Non-UK Integration Derogation**'):

- a) the Category 1 Individuals had provided central support functions to the Suez Non-UK Business, which was permitted to be integrated with Veolia under the Non-UK Integration Derogation, and now support the integrated Veolia/Suez local businesses outside the UK;
- b) the Category 2 Individuals comprise [X]. Veolia also submits that the Category 2 individuals are now under-utilised in their current roles; [X]; and
- c) the Category 3 Individuals had provided central support functions to the Suez Non-UK Business, which was permitted to be integrated with Veolia under the Non-UK Integration Derogation, and are no longer required to provide head office functions because they had been identified by Veolia to join Veolia's business units.

Veolia therefore submits that it would be disproportionate to require the Relevant Individuals to remain held-separate or require the Relevant Individuals to remain under-utilised in their current roles, rather than move to their new roles in the integrated Veolia/Suez business.

Veolia also submits that its request to integrate the Relevant Individuals into Veolia will not give rise to the risk of pre-emptive action because:

- a) The Relevant Individuals provide no support to the Suez UK waste business or the WTS Business. There is therefore no risk that their integration will affect the viability of these businesses.
- b) There is no risk that – once integrated – the Relevant Individuals could share confidential information about the Suez UK waste business or the WTS business with Veolia because they do not have access to WTS or Suez UK waste business confidential information in their current roles.

- c) Integrating the Relevant Individuals would have no effect on any potential CMA remedy in the event that a full or partial divestment of the Suez UK waste business or the WTS business is required. As the Relevant Individuals do not support these businesses, there is no realistic prospect that the Relevant Individuals would be included in any divestment business.

On the basis of Veolia's representations why this derogation will not give rise to the risk of pre-emptive action, the CMA consents to a derogation from paragraphs 5 and 6 of the Initial Order to permit Veolia to take steps to integrate into the Veolia business the Relevant Individuals, strictly subject to the following conditions (which may be amended only with the prior written consent of the CMA, including by email):

- a) the Relevant Individuals are strictly limited to those listed in Veolia's submission to the CMA of 28 March 2022, where:
  - i. the Category 1 Individuals are limited to the individuals listed in 'Veolia-Suez - Annex 1 - Derogation Request re HQ Integration – Category 1 – Confidentiali.xlsx';
  - ii. the Category 2 Individuals are limited to the individuals listed in 'Veolia-Suez - Annex 1 - Derogation Request re HQ Integration - Category 2 - Confidentiali.xlsx' (submitted to the CMA on 28 March 2022); and
  - iii. the Category 3 Individuals are limited to the individuals listed in 'Veolia-Suez - Annex 1 - Derogation Request re HQ Integration - Category 3 - Confidentiali.xlsx'.
- b) this derogation will not have any effect on the Suez UK waste business or the Suez WTS business; and
- c) this derogation will have no effect on any potential CMA remedy in the event that a full or partial divestment of the Suez UK waste business or the WTS business is required.

## **2. Paragraphs 5 and 6 of the Initial Order**

Veolia proposes to integrate [X] members of Retained Suez HQ Staff that work on financial reporting for the Retained Suez Business (including the Suez UK waste business and the WTS business) (the '**Category 6 Individuals**').

Veolia submits that as a consequence of the Non-UK Integration Derogation, the Category 6 Individuals continue to provide support functions to the Suez UK waste businesses and the Suez WTS business (which remain held-separate), as well as to the Suez non-UK business (which has been integrated with Veolia).

Veolia submits that the Category 6 Individuals predominantly support the Suez non-UK business, which has now been integrated with Veolia and therefore, it would be disproportionate to require these individuals to remain held-separate from Veolia.

Veolia is proposing that:

- a) the Category 6 Individuals are integrated into Veolia;
- b) the Category 6 Individuals will continue to provide support functions to the Suez UK waste business and the WTS Business; and
- c) the Category 6 Individuals have already entered into an NDA prohibiting them from divulging confidential information about these businesses to Veolia (other than with individuals permitted to receive the information for external regulatory and/or accounting obligations).

Veolia submits that the integration with Veolia of the Category 6 Individuals is incapable of giving rise to pre-emptive action because:

- a) The Category 6 Individuals would continue to provide support functions to the Suez UK waste business and the WTS business. Accordingly, the viability of these businesses would not be affected by this change.
- b) There is no risk that – once integrated – the Category 6 Individuals could share confidential information about the Suez UK waste business or the WTS business with Veolia because they have entered into an NDA prohibiting them from divulging confidential information about these businesses to Veolia (other than with individuals permitted to receive the information for external regulatory and/or accounting obligations).

The CMA consents to a derogation from paragraphs 5 and 6 of the Initial Order to permit Veolia to take steps to integrate into the Veolia business the Category 6 Individuals, strictly subject to the following conditions (which may be amended only with the prior written consent of the CMA, including by email):

- a) the Category 6 Individuals are strictly limited to those listed in 'Veolia-Suez - Annex 1 - Derogation Request re HQ Integration - Category 6 – Confidential.xlsx' in Veolia's submission to the CMA of 28 March 2022;
- b) financial and other confidential information of the Suez UK waste business and the Suez WTS business will only be provided to the Category 6 Individuals for whom it is strictly necessary to see that information;
- c) the Category 6 Individuals will enter into NDAs in a form approved by the CMA preventing the disclosure to Veolia or use of financial and other

confidential information relating to the Suez UK waste business and the Suez WTS business;

- d) Veolia undertakes to put in place IT firewalls and/or other ringfencing measures to prevent any unauthorised individuals within the Veolia business from accessing the financial and other confidential information shared with the Category 6 Individuals for the purposes of this derogation;
- e) the Monitoring Trustee will review and report to the CMA on whether the IT firewalls and/or other ringfencing measures put in place by Veolia under condition (d) above are sufficient to safeguard the financial and other confidential information of the Suez UK waste business and the Suez WTS business;
- f) other than the change permitted by this derogation, this derogation will not have any effect on the Suez UK waste business or the Suez WTS business; and
- g) this derogation will have no effect on any potential CMA remedy in the event that a full or partial divestment of the Suez UK waste business or the Suez WTS business is required.

For the avoidance of doubt, this derogation will not affect the permitted actions under the 'Financial Reporting Derogation' granted on 10 January 2022.

### **3. Paragraphs 5 and 6 of the Initial Order**

Veolia proposes to integrate [X] Retained Suez HQ Staff on long-term leave (the '**Category 9 Individuals**'). Veolia submits that as a consequence of the Non-UK Integration, these individuals will support the integrated Veolia/Suez local businesses outside the UK upon their return to work.

Veolia told us that integrating with Veolia the Category 9 Individuals is incapable of giving rise to pre-emptive action because:

- a) The Category 9 Individuals provide no support to the Suez UK waste business or the Suez WTS business, and will not do so upon their return to work. There is therefore no risk that their integration will affect the viability of these businesses.
- b) There is no risk that – once integrated – the Category 9 Individuals could share confidential information about the Suez UK waste business or the Suez WTS business with Veolia because they do not have access to their confidential information in their current roles.

- c) Integrating the Category 9 Individuals would have no effect on any potential CMA remedy in the event that a full or partial divestment of the Suez UK Waste Business or the Suez WTS Business is required. As the Category 9 Individuals do not support these businesses (and will not do so on their return to work), there is no realistic prospect that these individuals would be included in any divestment business.

On the basis of Veolia's representations why this derogation will not give rise to the risk of pre-emptive action, the CMA consents to a derogation from paragraphs 5 and 6 of the Initial Order to permit Veolia to take steps to integrate into the Veolia business the Category 9 Individuals, strictly subject to the following conditions (which may be amended only with the prior written consent of the CMA, including by email):

- a) the Category 9 Individuals are strictly limited to those listed in 'Veolia-Suez - Annex 1 - Derogation Request re HQ Integration - Category 9 - Confidential.xlsx' in Veolia's submission to the CMA of 28 March 2022;
- b) this derogation will not have any effect on the Suez UK waste business or the Suez WTS business; and
- c) this derogation will have no effect on any potential CMA remedy in the event that a full or partial divestment of the Suez UK waste business or the WTS business is required.

Tim Geer

Director, Mergers

8 April 2022