

**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 submits that there are [X] Retained Suez HQ Staff who principally support the Suez non-UK business, but who also provide non-essential support functions to the Suez WTS business (the '**Category 4 Individuals**').

Veolia submits that the Category 4 Individuals:

- a) do not support the Suez UK waste business and have no access to any Suez UK waste business confidential information; and
- b) provide non-essential support functions to the Suez WTS business, but do not have access to any Suez WTS business confidential information (eg because they are responsible for maintaining its vehicles).

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**'), the Category 4 Individuals:

- a) now support the integrated Veolia/Suez local businesses outside the UK; and
- b) continue to provide non-essential support functions to the Suez WTS business (which remains held-separate).

Veolia submits that the integration with Veolia of the Category 4 Individuals is incapable of giving rise to pre-emptive action because:

- a) The Category 4 Individuals would continue to provide non-essential support functions to the Suez WTS Business. Accordingly, the viability of the Suez WTS Business would not be affected by this change.
- b) There is no risk that – once integrated – the Category 4 Individuals could share confidential information about the Suez WTS business with Veolia because: (i) they do not have access to its confidential information in their current roles; and (ii) in any case, they have entered into an NDA prohibiting them from divulging confidential information about the Suez WTS business to Veolia.
- c) These individuals do not support the Suez UK waste business and do not have access to Suez UK waste business confidential information in their current roles. There is therefore no prospect that this change would: (i) affect the viability of the Suez UK waste business; (ii) result in the Category 4 Individuals sharing Suez UK waste business confidential information with Veolia; and (iii) affect any potential CMA remedy in the event that a full or partial divestment of the Suez UK waste business is required. As the Category 4 Individuals do not support the Suez UK waste business, there is no realistic prospect that these individuals would be included in any divestment business.

The CMA understands from the Monitoring Trustee that only one of the Category 4 Individuals [X] may receive confidential (but non-sensitive) board level material including financial information relating to the Suez WTS business.

The CMA consents to the integration of the Category 4 Individuals (with the exception of [REDACTED] and [REDACTED] strictly subject to the following conditions:

- a) the Category 4 Individuals are limited to the individuals listed in 'Veolia-Suez - Annex 1 - Derogation Request re HQ Integration – Category 4 – Confidential.xlsx', with the exception of [REDACTED];
- b) [REDACTED] integration into Veolia as a Category 4 Individual may be permitted subject to:
 - i. the CMA's and the Monitoring Trustee's further investigation in relation to the information [REDACTED] has access to and Veolia's proposed ringfencing measures; and
 - ii. further written consent from the CMA under this derogation (which can also be provided by email);
- c) any support for the Suez WTS business provided by the Category 4 Individuals listed in (a) prior to this derogation must continue to be provided by the same Category 4 Individuals;
- d) prior to their integration with Veolia, the Category 4 Individuals listed in (a) shall each enter into an NDA (in a form approved by the CMA) preventing them from disclosing to Veolia or using information confidential to the Suez WTS business;
- e) this derogation would not have any effect on the Suez UK waste business or the Suez WTS business; and
- f) this derogation 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.

For the avoidance of doubt, Veolia should seek its own legal advice in relation to whether Veolia requires separate consent from the European Commission under Veolia's remedy commitments to the European Commission in respect of the actions permitted under this derogation.

2. Paragraphs 5 and 6 of the Initial Order

Veolia submits that there are [REDACTED] Retained Suez HQ Staff, who principally support the Suez non-UK business, but also provide non-essential support functions to the Suez WTS business (but not the Suez UK waste business), and have access to confidential Suez WTS business information (the "**Category 5 Individuals**").

Veolia submits that the Category 5 individuals comprise:

- a) [X]: these individuals are [X] and
- b) [X] who previously supported the Suez WTS business's [X] Veolia submits that the Suez WTS business no longer requires this [X] support, which can be provided by the Suez WTS business's in-house team. Veolia plans to transfer [X] to the Veolia [X] department once permitted by the CMA.

Veolia submits that as a consequence of the Non-UK Integration Derogation, the Category 5 Individuals:

- a) now support the integrated Veolia/Suez local businesses outside the UK; and
- b) [X] continue to provide non-essential support functions to the Suez WTS business (which remains held-separate).

Veolia submits that the integration with Veolia of the Category 5 Individuals is incapable of giving rise to pre-emptive action because:

- a) The [X] who currently support the Suez WTS business would continue to provide non-essential support functions to the Suez WTS business. Accordingly, the viability of the Suez WTS business would not be affected by this change.
- b) There is no risk that – once integrated – the [X] could share confidential information about the Suez WTS business with Veolia because they have entered into an NDA prohibiting them from divulging confidential information about the Suez WTS business to Veolia.
- c) In relation to the [X] (a Category 5 Individual):
 - i. The Suez WTS business no longer requires [X] support from [X], which will instead be provided by Suez WTS business's in-house team. There is therefore no prospect that this change will affect the viability of the Suez WTS business.
 - ii. There is no risk that – once integrated – [X] could share confidential information about the Suez WTS business with Veolia because: (a) [X] will no longer have any contact with the Suez WTS Business in [X] new role; and (b) [X] has entered into an NDA prohibiting him from divulging information about the Suez WTS business to Veolia.
- d) None of the Category 5 Individuals support the Suez UK waste business and do not have access to Suez UK waste business confidential information in their current roles (or [X] future role). There is therefore no prospect that this change would:

- i. Affect the viability of the Suez UK waste business.
 - ii. Result in the Category 5 Individuals sharing Suez UK waste business confidential information with Veolia.
- e) Affect any potential CMA remedy in the event that a full or partial divestment of the Suez UK waste business is required. As the Category 5 Individuals do not support the Suez UK waste business, there is no realistic prospect that these individuals would be included in any divestment business.

The CMA consents to a derogation from paragraphs 5 and 6 of the Initial Order to permit Veolia to take steps to integrate the Category 5 Individuals into the Veolia business, 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 5 Individuals are limited to the individuals listed in 'Veolia-Suez - Annex 1 - Derogation Request re HQ Integration – Category 5 – Confidentiali.xlsx';
- b) any support for the Suez WTS business provided by the Category 5 Individuals prior to this derogation must continue to be provided by the Category 5 Individuals to the extent required by the Suez WTS business;
- c) prior to their integration with Veolia, the Category 5 Individuals shall each enter into an NDA (in a form approved by the CMA) preventing them from disclosing to Veolia or using information confidential to the Suez WTS business;
- d) this derogation would not have any effect on the Suez UK waste business or the Suez WTS business; and
- e) this derogation 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.

For the avoidance of doubt, Veolia should seek its own legal advice in relation to whether Veolia requires separate consent from the European Commission under Veolia's remedy commitments to the European Commission in respect of the actions permitted under this derogation.

Tim Geer

Director, Mergers

26 April 2022