

Completed Acquisition by VetPartners Limited of Goddard Holdco Limited

Decision that undertakings might be accepted

ME/6967/21

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

Introduction

1. On 26 October 2021, VetPartners Limited (**VetPartners**) acquired Goddard Holdco Limited (**Goddard**) (the **Merger**). VetPartners and Goddard are together referred to as the **Parties**. VetPartners and Goddard overlap in the provision of first opinion veterinary care to small animals, on a commercial basis, during standard daytime hours (**standard small animal veterinary services**) in 11 local areas in Greater London.
2. On 28 April 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 VetPartners 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 VetPartners 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 6 May 2022, VetPartners offered undertakings to the CMA for the purposes of section 73(2) of the Act.

5. The CMA now gives notice, pursuant to section 73A(2)(b) of the Act, to VetPartners that it considers that there are reasonable grounds for believing that the Alternative Divestiture Package (as defined below), or a modified version of it, 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 the merger parties concerned undertakings to take action as the CMA 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 11 local areas located in Greater London (together, the **SLC areas**). The SLC Areas are listed in Annex 1.
8. To address this SLC, VetPartners offered to give undertakings in lieu of a reference to divest six sites located in or around the SLC areas (Palmerston Romford, Palmerston Buckhurst Hill, Palmerston Walthamstow, Best Friends Isle of Dogs, Best Friends Oakhill, and Forest Woodford) along with all core assets, including staff, fixed assets, local site management and customer records. These six sites are referred to as **VetPartners' Preferred Divestment Package**.
9. In case the CMA considered that VetPartners' Preferred Divestment Package was not an effective and clear-cut undertaking capable of being accepted, VetPartners also offered to give undertakings in lieu of a reference to divest the six sites and all core assets included in VetPartners' Preferred Divestment Package, along with two additional sites, Forest Epping and Forest Harlow, including all core assets. These eight sites are referred to as the **Alternative Divestment Package**.
10. VetPartners offered certain transitional service arrangements (**TSAs**) to ensure the continuity of the operations of VetPartners' Preferred Divestment Package and the Alternative Divestment Package immediately post-divestiture. VetPartners proposed that the TSAs will have a maximum duration of three months, or for such a time as required by the CMA and the divestment purchaser.
11. Under both VetPartners' Preferred Divestment Package and the Alternative Divestment Package, VetPartners offered to enter into a purchase agreement with a buyer approved by the CMA before the CMA finally accepts the undertakings in lieu (**Upfront Buyer Condition**).
12. VetPartners has proposed that divestment take place by a share sale to an Upfront Buyer. However, a divestment of the Alternative Divestment package 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.

13. VetPartners will provide the CMA with a timeframe and milestones throughout the process.

The CMA's provisional views

VetPartners' Preferred Divestment Package

14. The CMA considers that undertakings in lieu of a reference are appropriate when they are clear-cut and capable of ready implementation. The clear-cut requirement has two dimensions. In relation to the substantive competitive assessment, it means that there must not be material doubts about the overall effectiveness of the remedy. In practical terms, it means that remedies of such complexity that their implementation is not feasible within the constraints of the phase 1 timetable are unlikely to be accepted.¹ The CMA's starting point when assessing undertakings is to seek an outcome that restores competition to the level that would have prevailed absent the merger.²
15. VetPartners submitted that VetPartners' Preferred Divestment Package eliminates the SLCs identified by the CMA in the SLC Decision. However, the CMA considers that the divestment of a site or sites in each SLC Area to ensure that no catchment areas fail the CMA's filter as identified in the SLC Decision does not necessarily restore competition to pre-Merger levels in all areas.
16. As outlined in the SLC Decision, each of the Parties' operate a hub-and-spoke model in which they build up a significant presence within a specific location and then link a larger practice or hospital ('the hub') to smaller surrounding practices ('branch practices').³ There are advantages for a branch practice in being part of such an arrangement as the branch practice can leverage the strength of the hub to offer access to a wider range of veterinary services. These services include referral treatments and out-of-hours (OOH) services. In addition, hub-and-spoke arrangements can allow veterinary groups to adopt flexible staffing arrangements with individual staff members shared between the sites, and can assist in delivering continuity of care with some services delivered at the spoke and others at the hub within the same group.
17. In the VetPartners' Preferred Divestment Package, Forest Woodford is proposed to be removed from its existing hub-and-spoke arrangement, in which it is a branch practice alongside Forest Harlow, supported by the Forest Epping hospital. Forest Epping provides OOH services to both Forest Harlow and Forest Woodford, as well

¹ [Mergers remedies \(CMA87\)](#), December 2018, (**Remedies Guidance**) paragraph 3.28.

² See [\(CMA87\)](#), paragraph 3.30.

³ VetPartners / Goddard decision, paragraph 48.

as a number of other VetPartners sites, including the Palmerston-branded sites. In addition, the Clinical Directors and other staff, including vets and veterinary nurses, based at Forest Epping are shared with its hub practices.

18. VetPartners submitted that pre-Merger conditions can be restored by Forest Woodford being integrated into the Palmerston hub-and-spoke system,⁴ a geographically close alternative hub-and-spoke system that is included in VetPartners' Preferred Divestment Package. VetPartners submitted that whilst the hub-and-spoke model is a feature of each of the Parties' businesses, the model is flexible and does not present a material impediment to a divestment of 'spoke sites' on a standalone basis.
19. VetPartners stated that therefore there was no material risk of a loss of value to, or competitiveness of, the Forest Woodford site because:
 - (a) the Forest Woodford site has experienced senior staff that require little involvement from the Forest Epping hub;
 - (b) the Palmerston Buckhurst Hill hub has a strong management team which would oversee successful integration, as well as the necessary capacity and expertise to support Forest Woodford as an additional site;
 - (c) Forest Epping (under the continued ownership of VetPartners) would be able to continue to receive referrals for OOH and specialist care from Forest Woodford;
 - (d) Forest Woodford has all the equipment necessary to provide the first opinion veterinary services (aside from [~~3~~] shared with the Forest Epping site, which VetPartners would supply to the Forest Woodford site and provide the associated training for); and
 - (e) Certain management and business functions, such as accounting/finance etc, were supported by VetPartners' central office in York, but a prospective buyer would be very likely to already have these services available (and VetPartners would have been prepared to offer these on a transitional basis).
20. VetPartners stated, as a result, the Forest Woodford site would continue to operate effectively, as it did pre-Merger, and that there would not be a loss of competitive constraint.
21. In order to accept undertakings in lieu, the CMA must be confident that all of the potential competition concerns identified in its investigation would be resolved without the need for further investigation.⁵

⁴ Consisting of Palmerston Buckhurst Hill (the hub), Palmerston Walthamstow and Palmerston Romford.

⁵ See [CMA 87](#), paragraph 3.27.

22. The CMA believes that there are material doubts as to whether the VetPartners' Preferred Divestment Package would be effective in resolving the competition concerns identified in the SLC Decision.
23. The CMA's starting point when assessing undertakings is to seek an outcome that restores competition to the level that would have prevailed absent the merger.⁶ In assessing divestiture packages, the CMA will take as its starting point a divestiture of all or part of the acquired business.⁷ This is because restoration of the pre-merger situation in the markets subject to an SLC will generally represent a straightforward remedy.⁸
24. VetPartners' Preferred Divestment Package envisages significant changes to the way in which the businesses included within that package are operated at present, including:
- (a) the loss of access to OOH and referral services within the existing hub-and-spoke system (while VetPartners has suggested that Forest Epping could continue to provide these services to the divestment business, the CMA considers that relying on third parties to provide such services is materially different from having the capability to provide the services within the same corporate group);
 - (b) the loss of the strategic oversight and input from the Clinical Directors at the Forest Epping hub; and
 - (c) the loss of the ability to continue to use established flexible staffing arrangements between the sites within the existing hub-and-spoke arrangement, including loss of access to the staff in the hub who previously provided additional coverage at Forest Woodford.
25. The CMA notes, in addition, that VetPartners' Preferred Divestment Package envisages material changes to existing staffing arrangements, including the removal of [redacted] of staffing at the site, and material changes in the working patterns of the [redacted].
26. This would result in changes for patients who might previously have accessed referral or OOH services at Forest Epping and who would now be directed to other services. There would also be changes in [redacted] and [redacted] staff.
27. On the basis of the evidence available at present, the CMA is concerned that breaking up the existing hub-and-spoke arrangements in relation to Forest Woodford could materially impact the constraint from that site. In particular, the

⁶ See [CMA 87](#), paragraphs 3.27, 3.28 and 3.30.

⁷ See [CMA 87](#), paragraph 5.6.

⁸ See [CMA 87](#), paragraph 5.6.

CMA is concerned that the loss of the ability to offer (in-house) OOH and referral services, as provided for by the hub-and-spoke system, may impact the strength of the constraint offered by the divestment business. This concern applies not only to Forest Woodford, which forms part of an existing hub-and-spoke with Forest Epping, but also to some extent to the other divestment sites, all of which currently refer clients to Forest Epping for OOH services.⁹ The CMA notes, in addition, that the proposed re-arrangement of staff at Forest Woodford may have implications for the revenue and profit mix in a way that may affect the financial strength of the divestment business. The CMA is also concerned about the potential cumulative effect of the numerous changes to the business on its stability and competitive position.

28. For the reasons summarised above in paragraph 19, VetPartners submitted that the CMA's concerns could be easily addressed by the re-arrangement of Forest Woodford into the Palmerston hub-and-spoke model. The information provided by VetPartners does not, however, enable the CMA to be confident that all of the potential competition concerns identified in its investigation would be resolved without the need for further investigation.¹⁰ In particular, for the reasons set out above, the CMA considers that there are a number of differences between the VetPartners' Preferred Divestment Package and the way that these businesses are operated at present, which could mean that the VetPartners' Preferred Divestment Package would be a materially weaker constraint within the markets at issue.
29. Accordingly, after examination of the VetPartners' Preferred Divestment Package, the CMA does not believe that the VetPartners' Preferred Divestment Package would achieve as comprehensive a solution as is reasonable and practicable to the SLC identified in the SLC Decision and the adverse effects resulting from that SLC.

Alternative Divestment Package

30. The CMA believes that the Alternative Divestment Package, or a modified version of it, might be acceptable as a suitable remedy to the SLC identified by the CMA, given that it would remove the SLCs identified in the SLC Decision and maintain the existing hub-and-spoke arrangements of the divested sites. As such, the Alternative Divestment package would restore the competitive constraint provided by Goddard on VetPartners (and vice versa) that would otherwise be lost in the SLC areas as a result of the Merger.
31. The CMA currently believes that the Alternative Divestment Package is capable of amounting to a sufficiently clear-cut and effective resolution of the CMA's competition concerns. This is primarily because the Alternative Divestment Package

⁹ Parties Submission titled 'Submission to the CMA in response to the CMA's email of 29 April 2022 regarding Forest Woodford, the hub & spoke model and UILs' at paragraph 41.

¹⁰ See [CMA 87](#), paragraph 3.27.

includes the two additional sites comprising the hub-and-spoke arrangement around Forest Woodford, including the Forest Epping hospital site, which provides referral and OOH services. Therefore, the CMA believes that the divestment sites would be able to be supported in their original arrangements, restoring the pre-Merger market structure.

32. While the Alternative Divestment Package forms part of a broader business at present, the CMA currently considers that the assets included in the Alternative Divestment Package have limited reliance on the wider VetPartners business, and that the Alternative Divestment Package includes all that is required to replace the competitive constraint that would otherwise be lost as a result of the Merger.
33. The CMA also believes at this stage that the sale of the Alternative Divestment Package is capable of ready implementation, in particular in light of the evidence provided by VetPartners that several potential purchasers have expressed an interest in acquiring the sites, and the fact that the sites, in aggregate, are profitable. Under the Alternative Divestment Package, all assets, key staff and leases will be divested, allowing the practices to continue to viably supply standard small animal veterinary services. The divestment of the entire Alternative Divestment Package 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.
34. The Upfront Buyer Condition means that the CMA will only accept the Alternative Divestment Package after VetPartners has entered into an agreement with a nominated buyer 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, as well as other aspects of the Alternative Divestment Package. In order to consider the proposed purchaser as being suitable, the CMA will need to be satisfied that the purchaser suitability criteria in the Remedies Guidance are met.¹¹ These criteria include the requirement that the proposed purchaser has the financial resources, expertise, incentive and intention to maintain and operate the Alternative Divestment Package as part of a viable and active business in competition with the merged entity in the relevant market. In addition, the proposed purchaser will be expected to obtain all necessary approvals, licences and consent from any regulatory or other authority.¹²
35. The CMA notes that an Upfront Buyer Condition is necessary in this case because it has not been presented with reasoning to depart from the general requirements of a cautious approach at phase 1.¹³ Further, the CMA considers there may be only a

¹¹ See [CMA 87](#), Chapter 4 (in particular paragraphs 4.30-4.34) and Chapter 5 (in particular paragraphs 5.20 – 5.32).

¹² See [CMA 87](#), paragraphs 5.21.

¹³ See [CMA 87](#), paragraphs 5.28–5.32, and [CMA2](#), paragraph 8.34.

limited pool of suitable purchasers, given that some prospective purchasers may already have a significant presence in one or more of the SLC areas, resulting in an element of purchaser risk with the divestment process.

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

Consultation process

38. 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.¹⁴

Decision

39. The CMA therefore considers that there are reasonable grounds for believing that the Alternative Divestment Package offered by VetPartners, or a modified version of it, might be accepted by the CMA under section 73(2) of the Act. The CMA now has until 12 July 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 7 September 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
13 May 2022

¹⁴ See [CMA2](#), paragraph 8.29.

ANNEX 1 – SLC AREAS

Site type	Site name	Site owner
Hospital	Goddard Wanstead	Goddard
Hospital	Forest Veterinary Centre Epping	VetPartners
Hospital	Palmerston Veterinary Group Buckhurst	VetPartners
Practice	Goddard Chingford	Goddard
Practice	Goddard Loughton	Goddard
Practice	Goddard South Woodford	Goddard
Practice	Goddard Walthamstow	Goddard
Practice	Best Friends Isle of Dogs	VetPartners
Practice	Best Friends Oakhill	VetPartners
Practice	Forest Veterinary Centre Woodford	VetPartners
Practice	Palmerston Veterinary Group Walthamstow	VetPartners