

## **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 (the 'Act') to certain  
actions for the purposes of the Initial Enforcement Orders made by the Competition  
and Markets Authority ('CMA') on 21 December 2022**

#### **COMPLETED ACQUISITION BY MEDIVET GROUP LIMITED**

Dear [redacted]

We refer to your email and accompanying note dated 11 November 2022, and further submissions made on 23 November 2022 requesting that the CMA consents to derogations to the Initial Enforcement Orders of 21 December 2022 (the 'Initial Orders'). The terms defined in the Initial Orders have the same meaning in this letter.

Under the Initial Orders, save for written consent by the CMA, the Acquirer Group is required to hold separate the Acquirer Group business from the Target Entities businesses and refrain from taking any action which might prejudice a reference under section 22 of the Act or impede the taking of any remedial action following such a reference.

After due consideration of your request for derogations from the Initial Orders, based on the information received from you and in the particular circumstances of this case, the Acquirer Group may carry out the following actions, in respect of the specific paragraphs:

#### **1. Paragraphs 4(a) and 5(a) of the Initial Orders**

Medivet requests a derogation from paragraphs 4(a) and 5(a) of the Initial Orders to enable Target Entities to use Medivet branding in specific instances described at (A) – (C) below (together, **Branding Conduct**).

##### **(A) Legal, contractual or compliance purposes**

Medivet submits that [redacted]. As a result, there will be a number of items associated with a given practice that make reference to Medivet or contain Medivet branding for legal, contractual and compliance reasons. This will include (but may not be limited to) any of the following:

- (a) privacy notices;
- (b) payment receipts;
- (c) invoices;
- (d) terms and conditions;
- (e) letter correspondence;
- (f) email communications (including in the email address(es) of the practices).

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Medivet has separately requested derogations from the terms of the Initial Orders to enable the Target Entities' businesses to be able to continue benefitting from Medivet's finance back-office support functions (including for payment processing) and Medivet's central contracting arrangements (including with regard to customers). Medivet would in addition need certain of its branding to remain associated with the Target Entities for legal, contractual and compliance reasons, as outlined above.

### **(B) In-practice Branding**

Medivet submits that over the course of the last approximately 12 months during which completion of the 17 acquisitions have taken place, certain minor Medivet branding may have been introduced within the Target Entities, for example through items such as posters, brochures, stationery, staff uniforms and Medivet own-brand products. Medivet has not, however, externally branded any of the Target Entities' practices (eg through signage) with Medivet branding.

Medivet submits that, in the absence of any external Medivet signage, these items do not significantly contribute to the perception of a practice as being a Medivet practice. Furthermore, to require the Target Entities' practices to remove any such minor Medivet in-practice branding, beyond their best efforts, places a disproportionate burden on the practices, particularly where many of these items are small and easily missed.

### **(C) Branded vehicles**

Medivet submits that it has a fleet of vehicles for use in its business, including in particular by its practices, some or all of which may be Medivet branded. Practices use the vehicles for multiple purposes, including visiting patients, transporting patients and attending other sites.

Medivet submits that certain of the Target Entities' practices have one or more Medivet branded vehicles allocated to them for their use, and such vehicles may be visibly associated with the practices by being parked nearby.<sup>1</sup> It is also possible that Medivet branded vehicles of other (non-target) practices may be visibly associated with the Target Entities' practices as a result of staff from other practices needing to attend a Target Entities' practice or a vehicle of another site (e.g. a hospital) being used to transport a patient from a Target Entities' practice. Vehicles may also need to be re-allocated at short notice owing to staff shortages or if a particular vehicle is off-the-road or requiring servicing for some reason. Medivet is not able to predict precisely which vehicles may need to visit particular sites in this context.

Medivet submits that the continued use of Medivet vehicles by the Target Entities is critical to patient care and wellbeing, to ensure that patients can be cared for by clinical staff in the appropriate location as efficiently as possible. Regardless of the extent to which those vehicles remain Medivet branded, given the possibility that Medivet branded vehicles of non-Target Entities' practices could visit a Target Entities' practice, it would not be possible for Medivet to comply with the terms the Initial Orders unless it removed the branding of all of its vehicles, which would be wholly disproportionate in the circumstances of this case.

The CMA consents to a derogation from paragraphs 4(a) and 5(a) of the Initial Orders to allow Medivet to continue to engage in Branding Conduct as defined above. The CMA grants this derogation strictly on the basis that:

- (a) Branding Conduct is strictly necessary in order to preserve the viability and competitive capability of the Target Entities.
- (b) All best efforts are made at the Target Entities practices to remove Medivet-branded products, including but not limited to posters, brochures, stationery, staff uniforms and Medivet own-brand products;
- (c) There will not be any external Medivet branding at any of the Target Entities' practices.

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<sup>1</sup> As far as Medivet is currently able to determine, six of the Target Entities' practices have Medivet-branded vehicles attached to them, namely: Iffley Vets, Barton Companion, Stanhope Park, Withy Grove, Ferring Street and the Vet on Richmond Hill.

- (d) This derogation will not prevent any remedial action which the CMA may need to take regarding the Transactions.
- (e) This derogation will not lead to pre-emptive action which might prejudice the outcome of a reference or impede the taking of any action which may be justified by the CMA's decisions on a reference.

Sincerely,

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Faye Fullalove

Assistant Director

Mergers

21 December 2022