

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 ACQUISITIONS BY MEDIVET GROUP LIMITED

Dear [redacted]

We refer to your email and accompanying note dated 9 November 2022, and further submissions 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), 5(a), 5(g), 5(h) and 5(l) of the Initial Orders

Medivet has requested a derogation from paragraphs 4(a), 5(a), 5(g), 5(h) and 5(l) of the Initial Orders to enable Medivet to continue to issue clinical related communications to customers whose 'home registered practice'¹ is one of the Target Entities practices ('**Clinical Related Communications**').

¹ A 'home registered practice' is determined by a customer registering at a practice, setting up a new client account and attending a first consultation.

Medivet submits that a critical form of customer communications that Medivet carries out is the provision of Clinical Related Communications for ensuring patient health and wellbeing, defined as:

- (a) automated reminders (e.g. by text, post and/or email) for appointments (including diagnostics, imaging, surgical and non-surgical procedures);
- (b) automated reminders (e.g. by text, post and/or email) regarding medication (re)ordering and collection; and
- (c) automated reminders (e.g. by text, post and/or email) regarding vaccinations.

These communications are [redacted].

Medivet submits that the above clinical related communications are essential for the health and wellbeing of patients, and that it is critical that Medivet be permitted to continue to issue these communications to customers whose 'home registered practice' is one of the Target Entities notwithstanding the imposition of any Initial Orders, so as to minimise the risk of appointments and medication, etc. being missed and to maintain current levels of patient care. Further, removal of these services to customers would represent a material reduction in the quality of services available to customers in terms of animal well-being.

[redacted]. If local practices were now made responsible for communicating with customers on their own, there would be a material risk that any information held would be out-of-date and [redacted]. Without up-to-date information and data, the local practices may send inaccurate communications to customers, including incorrect clinical compliance communications, as well as potentially providing information to customers about pets which have now deceased, which can be very upsetting for customers and damage goodwill.

For the avoidance of doubt, Medivet communications (both clinical related and non-clinical related) would continue to be sent to customers whose 'home registered practice' is *not* one of the Target Entities in the ordinary course, some of whom may also be customers of the Target Entities (eg for out of hours or specialist services, or simply as an alternative practice for convenience) and are therefore effectively common customers. Medivet submits that such activity should not require a derogation from the terms of the Initial Orders.

On the basis of Medivet's representations, the CMA consents to derogations from paragraphs 4(a), 5(a), 5(g), 5(h) and 5(l) of the Initial Orders to enable the Target Entities that currently operate on Freedom to continue operating on Freedom, strictly on the basis that:

- (a) The provision of Clinical Related Communications is strictly necessary in order to ensure pet health and wellbeing and preserve the viability and competitive capability of the Target Entities.
- (b) Clinical Related Communications is limited to the kinds of communications defined in this letter. For the avoidance of doubt, any other kinds of communications between Medivet and customers whose 'home registered practice' is one of the Target Entities' practices is prohibited under the Initial Orders.
- (c) Any Clinical Related Communications that market or promote Medivet goods or services are not included in this derogation.
- (d) When Clinical Related Communications occur, the information which will be exchanged between Medivet and the relevant Target (including customer information) will be limited to what is strictly necessary to enable the Clinical Related Communications to take place. Any client/ patient/ treatment details will be treated confidentially under existing safeguards for such information.
- (e) These derogations will not result in any 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