

**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 Orders made by the Competition and
Markets Authority ('CMA') on 17 November 2022**

**COMPLETED ACQUISITIONS BY INDEPENDENT VETCARE LIMITED OF
MULTIPLE INDEPENDENT VETERINARY PRACTICES**

Dear Bertrand Louveaux,

We refer to your email and accompanying note dated 11 November 2022 (as subsequently amended) as well as your submissions dated 29 November, 7 December and 9 December 2022 requesting that the CMA consents to further derogations to the Initial Enforcement Orders of 17 November 2022 (the '**Initial Orders**'). The terms defined in the Initial Orders have the same meaning in this letter.

The CMA issued Initial Orders addressed to Independent Vetcare Limited ('**IVC**'), Acquisition Pikco Ltd ('**Pikco**'), IVC Acquisition Topco Limited ('**IVC Topco**'), Islay New Group Holding S.A. ('**Islay**'), Société Des Produits Nestlé S.A. ('**Nestle**'), EQT Fund Management S.à r.l. ('**EQT**') and Berkshire Partners LLC ('**Berkshire**') (together, the '**Acquirer Group**'). 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 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, based on the information received from you and in the particular circumstances of this case, the IVC and the relevant Target Entities may carry out the following actions, in respect of the specific paragraphs:

Paragraphs 5(a), 5(g), and 5(h) of the Initial Orders

IVC's acquisitions of Penrose Veterinary Group Limited, Kevin Castle (Pet Care) Ltd, Swayne & Partners Ltd, Treforest Veterinary Clinic Ltd, Mercer & Hughes Limited, Swaffham Veterinary Centre Limited ('**Swaffham**'), Anglesey Pet Clinic Ltd, Chiltern Equine Clinic (including Chiltern Veterinary Services Limited & Chiltern Bury Farm

Limited) (the '**Target Entities**') completed between 16 September 2021 to 22 March 2022.

The CMA previously granted consent to IVC to offer out of hours services ('**OOH Services**') to certain practices, subject to specified safeguards and in accordance with the Royal College of Veterinary Surgeons (RCVS) rules and guidance, where this is strictly necessary to safeguard patient welfare. This consent was granted under the Initial Enforcement Orders dated 31 October 2022 and continues to be in force under the re-issued Initial Orders of 17 November 2022.

On 25 November the CMA granted a derogation from paragraphs 5(a), 5(g) and 5(h) of the Initial Orders in order to enable the continued provision of the following out of hours services ('OOH Services') where this is strictly necessary (the '**25 November Derogation**')

- a) The provision of OOH Services from Swaffham Veterinary Centre Ltd to certain IVC practices; and
- b) The provision of OOH Services between Chiltern Equine Clinic and Wendover Heights Veterinary Centre (an IVC practice) on a shared rota basis.

IVC submits that due to [redacted] at Swaffham, consent to allow Swaffham to provide OOH Services to IVC is no longer required. Instead, IVC has sought CMA consent for an exemption from paragraphs 5(a), 5(g) and 5(h) of the Initial Orders in order to enable (a) the provision of OOH services from Mill House Vets ('**Mill House**'), an IVC practice, to Swaffham, and (b) Mill House staff to cover in order to enable Swaffham to offer OOH Services to its clients when required by a particular case.

IVC submits that prior to the CMA's investigation and in the ordinary course of business, Mill House has provided OOH Services to Swaffham on an ad-hoc basis and, without a continued arrangement, [redacted]. IVC has provided evidence to support this submission. IVC notes a contract will be put in place between Mill House and Swaffham to facilitate the provision of such services and that this will be handled by IVC Legal and Compliance Authorised Individuals, as per the support services derogation dated 31 October 2022 (which continues to be in force under the IEOs dated 17 November 2022).

On the basis of IVC's representations, the CMA therefore consents to a derogation from paragraphs 5(a), 5(g) and 5(h) of the Initial Orders in relation to the provision of OOH Services:

- a) By Mill House to Swaffham as described above (as opposed to the provision of OOH Services from Swaffham Veterinary Centre Ltd to certain IVC practices, as per previously consented on 25 November); and
- c) The provision of OOH Services between Chiltern Equine Clinic and Wendover Heights Veterinary Centre (an IVC practice) on a shared rota basis (as previously consented on 25 November).

These derogations supersede the 25 November OOH Derogation.

These derogations are granted strictly on the basis of the conditions set out below.

- (i) These derogations are strictly necessary for IVC to safeguard patient safety and welfare, and to preserve the viability and competitive capability of the relevant Target Entities.
- (ii) OOH Services will be provided on an arm's length basis, and the CMA will be provided with a copy of the relevant contract to be put in place.
- (iii) Where OOH Services are provided, the information exchanged between IVC and the Relevant Target Entities will be limited to what is strictly necessary to enable the OOH Services to be provided, and will be limited to client, patient and/ or treatment details. Any client/ patient/ treatment details exchanged will be treated confidentially under existing safeguards for such information.
- (iv) No incentives, financial or otherwise, ~~shall~~ will be put in place in respect of OOH Services.
- (v) This derogation 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.
- (vi) This derogation does not preclude any final remedy that may be required or any further steps the CMA might take during its investigation to prevent pre-emptive action and to preserve the CMA's ability to take remedial action.

Sincerely,

Faye Fullalove

Assistant Director

9 December 2022