

# Completed acquisitions by Independent Vetcare Limited (IVC) of multiple independent veterinary businesses

## Decisions that undertakings might be accepted

ME/7026–7033/22

The CMA's decision under section 73A(2) of the Enterprise Act 2002 that undertakings might be accepted, given on 3 March 2023. Full text of the decision published on Friday 20 April 2023.

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

### Introduction

1. Between 16 September 2021 and 22 March 2022, Independent Vetcare Limited (**IVC**) acquired eight independent veterinary businesses (the **Targets**):
  - (a) Penrose Veterinary Group Limited (**Penrose**);
  - (b) Kevin Castle (Pet Care) Limited (**Pet Care**);
  - (c) Swayne & Partners Topco Limited, including Swayne and Partners Holdings Limited and its wholly owned subsidiary Swayne and Partners Limited (**Swayne**);
  - (d) Treforest Vets (Holdings) Limited (**Treforest**);
  - (e) Mercer & Hughes Limited (**Mercer & Hughes**);
  - (f) Swaffham Veterinary Centre Limited (**Swaffham**);
  - (g) Anglesey Pet Clinic Ltd (**Anglesey**), and

- (h) Chiltern Equine Clinic, including Chiltern Veterinary Services Limited and Chiltern Bury Farm Limited (**Chiltern**).<sup>1</sup>
2. Each of the Targets are independent veterinary practices located in areas across England and Wales. Together, these transactions are referred to as the **Mergers**. With the exception of Chiltern, IVC and the other Targets overlap in the supply of first opinion veterinary care to small animals on a commercial basis during daytime hours (**standard small animal veterinary services**). IVC also overlaps with Swayne and Swaffham in the supply of out of hours (**OOH**) veterinary services to small animals provided on a business to consumer (**B2C**) basis. Lastly, IVC overlaps with Chiltern in the supply of first opinion veterinary services to equine animals.
  3. On 17 February 2023, 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 each of the Mergers constitute 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 Decisions**).
  4. On the date of the SLC Decisions, the CMA gave notice pursuant to section 34ZA(1)(b) of the Act to IVC of the SLC Decisions. However, the CMA did not refer the Mergers for phase 2 investigations pursuant to section 22(3)(b) on the date of the SLC Decisions in order to allow IVC the opportunity to offer undertakings to the CMA in lieu of such references for the purposes of section 73(2) of the Act.
  5. 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 Friday 24 February 2023, IVC offered undertakings to the CMA for the purposes of section 73(2) of the Act in relation to each of the Mergers.
  6. The CMA now gives notice, pursuant to section 73A(2)(b) of the Act, to IVC that it considers that there are reasonable grounds for believing that the undertakings offered in relation to each of the Mergers, or a modified version of them, might be accepted by the CMA under section 73(2) of the Act and that it is considering the offers.

### **The undertakings offered**

7. 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

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<sup>1</sup> In parallel, IVC also acquired eVetDrug Limited (**eVetDrug**), an online dispensary of equine medicine, from the same sellers as Chiltern. This acquisition was not within the scope of the CMA's phase 1 merger investigation.

from it, except from such of the merger parties concerned as it considers appropriate undertakings to take such action as it considers appropriate.

8. The SLC Decisions found that each of the Mergers gives rise to a realistic prospect of an SLC in one or more local areas in England and Wales (together, the **SLC Areas**) as a result of horizontal unilateral effects in relation to the supply of:
  - (a) standard small animal veterinary services;
  - (b) first opinion equine veterinary services, or
  - (c) OOH small animal veterinary services (as relevant).
9. The SLC Areas are listed in Annex 1.
10. To address these SLCs, IVC offered to give undertakings in lieu of a reference to divest each of the Targets listed above in paragraph 1 (the **Proposed Undertakings**).<sup>2</sup> More specifically, the relevant entities to be divested (none of which owns subsidiaries) are as follows:
  - (a) Penrose Veterinary Group Limited;
  - (b) Kevin Castle (Pet Care) Limited;
  - (c) Swayne & Partners Limited;<sup>3</sup>
  - (d) Treforest Vets (Holdings) Limited, [redacted];
  - (e) Mercer & Hughes Limited;
  - (f) Swaffham Veterinary Centre Limited;
  - (g) Anglesey Pet Clinic Limited, [redacted];
  - (h) Chiltern Veterinary Services Ltd, Chiltern Bury Farm Limited, and eVetDrug Limited.
11. Together, the proposed entities are referred to as the **Divestment Businesses**.<sup>4</sup>
12. IVC submitted that 100% of the shares in the relevant Divestment Business legal entities would be sold to a suitable purchaser or purchasers, along with all key assets (including leases, staff, clinical and laboratory equipment, and all current

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<sup>2</sup> eVetDrug will be divested together with Chiltern. This is because of the material level of integration between these two businesses [redacted] following IVC's acquisitions of Chiltern and eVet.

<sup>3</sup> The following entities may also be divested: (i) Swayne & Partners Holdings Limited (of which Swayne & Partners Limited is a wholly owned subsidiary) and/or (ii) Swayne & Partners Topco Limited (of which Swayne & Partners Holdings Limited is a wholly owned subsidiary).

<sup>4</sup> A full list of sites that would be divested under the Proposed Undertakings is included in Annex 2 below.

customer relationships and contracts) and without any financial liabilities (ie on a debt-free basis).

13. The Divestment Businesses each provide veterinary services from one or more sites [X]. With respect to the leases [X], IVC intends to [X]. The proposed divestment of Penrose includes the option to acquire, in addition to the operating Colchester site, a site located in Stratford St Mary, which was closed by IVC (for reasons unrelated to the Penrose transaction) in July 2022.
14. All staff who [X] would [X] transfer to the purchaser(s) [X]. Any staff who [X] would transfer to the divestment purchaser(s) [X]. Under the sale agreements, [X] (used to [X] previous owners of the Targets to remain with the relevant practices [X]) would [X] from IVC to the relevant purchaser(s).
15. IVC offered to enter into transitional service arrangements (**TSAs**) (if required by the divestment purchaser(s)) for up to [X] in order to ensure the continuity of the operations of the Divestment Businesses post-divestiture. IVC submitted that only a relatively short transition period is likely to be required, as support services currently provided by IVC to the Divestment Businesses (such as finance, IT and HR) are easily replicable within [X] by a suitable purchaser.
16. IVC submitted that an upfront buyer requirement is not required with respect to any of the Divestment Businesses, in particular given that each of the Targets are attractive, profitable, standalone businesses with a range of suitable purchasers. [X]. Alternatively, with respect to each of the Divestment Businesses, IVC also offered to enter into a purchase agreement with a buyer approved by the CMA before the CMA finally accepts the Proposed Undertakings (the **Upfront Buyer Condition**), should the CMA consider it necessary in order for the remedies to be acceptable.
17. Therefore, in order of preference, IVC offered to sell the Divestment Businesses:
  - (a) With no Upfront Buyer Condition with respect to any of the Divestment Businesses;
  - (b) [X]; or
  - (c) With an Upfront Buyer Condition with respect to each of the Divestment Businesses.

### **The CMA's provisional views**

18. The CMA considers that undertakings in lieu of a reference are appropriate when they are clear-cut and capable of ready implementation. 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.<sup>5</sup> When considering whether to accept undertakings in lieu of a reference, the CMA has an obligation under the Act to have regard to the need to achieve as comprehensive a solution as is reasonable and practicable to remedy the SLC and any resulting adverse effects.<sup>6</sup>

### *Scope of the Proposed Undertakings*

19. The CMA believes that the Proposed Undertakings, or a modified version of them, might be acceptable as a suitable remedy to the SLCs identified by the CMA, given that they entail the entire divestment of each of the eight businesses originally acquired by IVC. As such, the Proposed Undertakings would restore the competitive constraint provided by the Targets on IVC (and vice versa) that would otherwise be lost in the SLC Areas as a result of the Mergers. With regard to IVC's acquisition of Treforest, one of the Treforest sites (Tonypany Veterinary Clinic) overlaps with a now closed IVC site (IVC Tonypany, formerly Budget Vets). The CMA believes that the divestiture of Treforest, as the only asset owned by IVC in the local area that remains in operation (and it appears, otherwise, to be a profitable business), mitigates the SLC identified by the CMA in relation to this merger, with IVC retaining the option to re-establish its presence in the area (consistent with the counterfactual against which that Merger was assessed). Accordingly, the CMA currently believes that the Proposed Undertakings are capable of amounting to a sufficiently clear-cut and effective resolution of the CMA's competition concerns.
20. The CMA also believes at this stage that the Proposed Undertakings may be capable of ready implementation. In particular, the Proposed Undertakings include the transfer of all the assets of the Divestment Businesses, including staff, equipment and leases,<sup>7</sup> which are necessary to continue to viably supply the relevant veterinary services. The CMA understands, based on the latest financial information provided to it by IVC, that each of the Divestment Businesses are profitable. Although the Targets currently require IVC to provide support functions (such as finance, IT and HR services), the CMA understands that the Divestment Businesses can be sold as standalone businesses, as these support functions can be replicated by a suitable purchaser(s) and key operational decisions are made locally (ie at Target level).

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<sup>5</sup> [Mergers remedies \(CMA87\)](#), December 2018, Chapter 3 (in particular paragraphs 3.27, 3.28 and 3.30).

<sup>6</sup> Section 73(3) of the Act and [Mergers remedies \(CMA87\)](#), December 2018, paragraph 3.30.

<sup>7</sup> [§<].

### *Upfront buyer requirement*

21. At Phase 1, the CMA will generally require an upfront buyer unless it considers that there are reasonable grounds for not doing so and, in particular, where the risk profile of the remedy does not require it.<sup>8</sup>
22. In keeping with the position set out in its Remedies Guidance,<sup>9</sup> the CMA considers that an Upfront Buyer Condition is necessary for each of the Divestment Businesses because of certain risks relating to the proposed divestiture packages. In particular:
  - (a) The Mergers have been completed for a significant period of time and the Divestment Businesses, though capable of being separated, are currently integrated into the IVC business. In particular, the CMA notes each of the Divestment Businesses relies on a wide array of support services currently provided by IVC including: support with respect to IVC's practice management system, financial processes, IT and telecommunications, legal and compliance, HR, health and safety, insurance, procurement, tax, exports, training, leases and related utilities. This gives rise to some composition risk.
  - (b) The divestiture process will take place against a backdrop of a severe shortage of vets and nursing staff in the industry, which might affect the Divestment Businesses' ability to provide their services, particularly in a situation where the divestment process is prolonged. IVC provided limited information or reassurance [§<] and [§<], meaning that the [§<] (ie asset risk). In keeping with the position set out in its Remedies Guidance, the CMA therefore believes that it is particularly important that IVC is motivated to achieve a sale swiftly to end its exposure to the possibility of a reference.<sup>10</sup>
23. The Upfront Buyer Condition means that, in relation to each merger, the CMA will only accept the Proposed Undertakings after IVC 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 Proposed Undertakings.<sup>11</sup> In order to consider the proposed purchaser(s) as being suitable, the CMA will need to be satisfied that the purchaser suitability criteria in the Remedies Guidance are met.<sup>12</sup> These criteria include the requirement that any nominated buyer has the financial resources, expertise, incentive and intention to maintain and operate the Divestment Business(es) in competition with IVC in the relevant market (including the supply of small animal OOH services, where relevant).

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<sup>8</sup> [CMA 87](#) paragraph 5.28.

<sup>9</sup> [CMA 87](#) paragraph 5.29.

<sup>10</sup> [CMA 87](#) paragraph 5.29.

<sup>11</sup> See [CMA 87](#) paragraphs 5.28–5.32, and [CMA2](#), paragraph 8.34.

<sup>12</sup> See [CMA 87](#), Chapter 4 (in particular paragraphs 4.30–4.34) and Chapter 5 (in particular paragraphs 5.20 – 5.32).

24. For these reasons, with respect to each of the Mergers, the CMA currently thinks that there are reasonable grounds for believing that the Proposed Undertakings, or a modified version of them, might be accepted by the CMA under section 73(2) of the Act.
25. The CMA's decision on whether ultimately to accept the Proposed Undertakings or refer any or all of the Mergers for phase 2 investigations will be informed by, among other things, third-party views on whether the Proposed Undertakings are suitable to address the competition concerns identified by the CMA. In particular, before ultimately accepting the Proposed Undertakings, the CMA must be confident that the nominated buyer(s) is (or are) effective and credible such that, in each case, the competitive constraint provided by the relevant Target absent the merger is replaced to a sufficient extent.

### **Consultation process**

26. 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.<sup>13</sup>

### **Decision**

27. The CMA therefore considers that there are reasonable grounds for believing that the Proposed Undertakings offered by IVC, or a modified version of them, might be accepted by the CMA under section 73(2) of the Act in relation to each of the Mergers.
28. The CMA now has until 3 May 2023 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 30 June 2023 if it considers that there are special reasons for doing so. If undertakings are not accepted in relation to that merger, the CMA will refer the relevant 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  
3 March 2023**

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<sup>13</sup> [CMA2](#), paragraph 8.29.

## ANNEX 1 – SLC AREAS

Underlying Target	Site name	Site owner	Market(s)
Anglesey	Aran Vet Clinic	IVC	Small animal
Mercer & Hughes	Mercer & Hughes Stansted	Mercer & Hughes	Small animal
Mercer & Hughes	Mercer and Hughes Bocking Braintree	Mercer & Hughes	Small animal
Mercer & Hughes	Apollo Vets Black Notley	IVC	Small animal
Mercer & Hughes	Spring Lodge Veterinary Centre	IVC	Small animal
Mercer & Hughes	Walton Lodge Veterinary Group	IVC	Small animal
Penrose	Penrose Veterinary Group Brinkley Lane	Penrose	Small animal
Petcare	Pet Care Veterinary Surgery	Petcare	Small animal
Petcare	Oval Pet Centre Welling	IVC	Small animal
Petcare	Oval Pet Centre Sidcup	IVC	Small animal
Petcare	Parkvets Veterinary Clinic Belvedere	IVC	Small animal
Petcare	Easipetcare Ltd Dartford	IVC	Small animal
Swayne	Swayne & Partners Sudbury	Swayne	Small animal
Swayne	Swayne & Partners Bury St. Edmunds	Swayne	Small animal, OOH
Swayne	Swayne & Partners Haverhill	Swayne	Small animal
Swayne	Catley Cross Veterinary Clinic	IVC	Small animal
Swayne	Mulberry Court Veterinary Surgery	IVC	Small animal
Swayne	Mulberry Vets Henny	IVC	Small animal
Swayne	Haughley Veterinary Centre	IVC	Small animal
Swayne	Hawkedon and Homefield Vets - Homefield	IVC	Small animal
Swayne	Hawkedon and Homefield Vets - Hawkedon	IVC	Small animal, OOH
Treforest	Tonypandy Veterinary Clinic	Treforest	Small animal
Treforest	South Wales Vets	IVC	Small animal
Chiltern	Chiltern Equine Clinic - Blueberry Farm	Chiltern	Equine
Chiltern	Chiltern Equine Clinic - Model Farm	Chiltern	Equine
Chiltern	Chiltern Equine Clinic - Widmer Farm	Chiltern	Equine
Chiltern	Wendover Heights Vets Aylesbury	IVC	Equine
Swaffham	Swaffham Veterinary Centre	Swaffham	OOH
Swaffham	Summerhill Veterinary Centre (Norfolk)	IVC	OOH



## ANNEX 2 – DIVESTMENT SITES

Target	Site name and address
Anglesey	Anglesey Pet Clinic (Cyttir Road, Holyhead, Gwynedd LL652SY)
Mercer & Hughes	Mercer & Hughes Great Dunmow Veterinary Surgery (Units 5-6, Great Dunmow, Essex CM61HD)
Mercer & Hughes	Mercer & Hughes Saffron Walden Veterinary Hospital (14 Radwinter Road, Saffron Walden, Essex CB113JB)
Mercer & Hughes	Mercer & Hughes Stansted Veterinary Surgery (80 Cambridge Road, Stansted, Essex CM248DA)
Mercer & Hughes	Mercer and Hughes Bocking Braintree Veterinary Surgery (175-179 Church Lane, Braintree, Essex CM75SG)
Penrose	Penrose Veterinary Group Ltd (70 Brinkley Lane, Colchester, Essex CO49XE)
Penrose	Penrose Veterinary Group Ltd (Peelers End, Upper Street, Stratford St Mary, Essex, CO7 6LW)
Petcare	Pet Care Veterinary Surgery (355 Bexley Road, Erith, Kent DA83EZ)
Swayne	Swayne & Partners Limited (84 Hamlet Road, Haverhill, Suffolk CB98QQ)
Swayne	Swayne & Partners Limited (Little St. Marys, Sudbury, Suffolk CO109HY)
Swayne	Swayne & Partners Limited (The Dairy, Bury St. Edmunds, Suffolk IP333SP)
Swayne	Swayne & Partners Limited (The Maltings, Newmarket, Suffolk CB87AA)
Treforest	Tonypandy Veterinary Clinic (2-3 De Winton Street, Rhona Cynon Taff, Mid Glamorgan CF402QZ)
Treforest	Treforest Veterinary Clinic (16 River Street, Pontypridd, Mid Glamorgan CF371TD)
Chiltern	Chiltern Equine Clinic (Blueberry Farm, Warfield, Berkshire RG426JL)
Chiltern	Chiltern Equine Clinic (Bury Farm, Slapton, Bedfordshire LU79BT)
Chiltern	Chiltern Equine Clinic (Model Farm, Chalfont St Giles, Buckinghamshire HP84AB)
Chiltern	Chiltern Equine Clinic (Widmer Farm, Princes Risborough, Buckinghamshire HP270PG)
Swaffham	Swaffham Veterinary Centre (Unit 3, Tower Meadows, Swaffham, Norfolk PE377LT)