

**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 Order made by the Competition and Markets Authority (‘CMA’) on 14 November 2022

Anticipated acquisition by Cochlear Limited of the hearing implants division of Demant A/S, known as Oticon Medical

Dear Mr Parker,

We refer to your submission dated 27 April 2023 requesting that the CMA consent to a derogation to the Initial Enforcement Order of 14 November 2022 (the ‘**Initial Order**’). Unless otherwise stated, the terms defined in the Initial Order have the same meaning in this letter.

Further, in this letter:

Oticon Medical Support Activities means any activities carried out by the Demant business which support the activities of Oticon Medical in relation to the procurement, supply and/or development of Oticon Medical’s products. The Oticon Medical Support Activities include (without limitation) any operational, relationship management, strategic, development, technical or back-office activities or services.

Under the Initial Order, save for written consent by the CMA, Demant and Oticon Medical are required to refrain from taking any action which might prejudice a reference of the transaction under section 22 or 33 of the Act or impede the taking of any remedial action which may be justified by the CMA’s decisions on such a reference.

After due consideration of your request for derogations from the Initial Order, based on the information received from you and in the particular circumstances of this case, the CMA consents to Demant and Oticon Medical carrying out the following actions, in respect of the specific paragraphs:

1. Paragraphs 6(c) and 6(i) of the Initial Order

As a result of the resignation of [X] from his role as [X] [X] and [X] (the ‘**Companies**’), Demant has sought CMA consent to fill this position with [X]. This amounts to a change to key staff engaged in Oticon Medical Support Activities and a substantive change to the organisational structure of, and the management responsibilities within, the Oticon Medical business.

Demant submits that [X] has the skills and experience necessary to take on the responsibilities of [X], and that the replacement will not have a material impact on the continuity of the Oticon Medical business during the specified period.

On the basis of the representations made by Demant, and in the circumstances of this case, the CMA consents to a derogation from paragraphs 6(c) and 6(i) to implement the changes described above, strictly on the basis that:

- (i) The key staff changes do not involve the transfer of any employees between the Oticon Medical business and the Demant business;
- (ii) All decisions in relation to the key staff changes are taken independently of Cochlear and without consideration of the transaction;
- (iii) This derogation will not result in any integration between the Oticon Medical and Cochlear businesses;
- (iv) This derogation will not negatively impact the viability or competitive capability of the Oticon Medical business; and
- (v) This derogation will not result in any pre-emptive action which might prejudice the reference or impede the taking of any action which may be justified by the CMA's decisions on the reference

The CMA also consents to the amendment of the list of Demant business key staff engaged in Oticon Medical Support Activities in its derogation letter dated 14 November 2022, as amended for completeness at Annex 1.

Sincerely,

Sue Oxley
3 May 2023

Annex 1: Key Demant staff engaged in Oticon Medical Support Activities

Name	Area
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]