

COMPLETED ACQUISITIONS BY INDEPENDENT VETCARE LIMITED (IVC) OF MULTIPLE INDEPENDENT VETERINARY PRACTICES

NOTICE UNDER PARAGRAPH 2(1) OF SCHEDULE 10 TO THE ENTERPRISE ACT 2002 (THE ACT) – CONSULTATION ON PROPOSED UNDERTAKINGS IN LIEU OF REFERENCE PURSUANT TO SECTION 73 OF THE ACT.

ME/7029/22

Please note that [X] indicates figures or text which have been deleted 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 the following independent veterinary practices (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**).¹
2. Each of the Targets are independent veterinary practices located in areas across England and Wales. Together, the transactions listed above are referred to as the **Mergers**. With the exception of Chiltern and Swaffham, 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 equine veterinary services.
 3. On 17 February 2023, the Competition and Markets Authority (**CMA**) decided under section 22(1) of the Act that it is or may be the case that each of the Mergers constitutes a relevant merger situation² 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**). The text of the SLC Decisions is available on the CMA webpage.³
 4. On 24 February 2023, IVC offered undertakings in lieu of reference to the CMA for the purposes of section 73(2) of the Act in relation to each of the eight Mergers.
 5. On 3 March 2023, the CMA gave notice to IVC, pursuant to section 73A(2)(b) of the Act, 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 IVC's offers (the **UIL Provisional Acceptance Decisions**).
 6. On 26 May 2023, the CMA issued a consultation on the undertakings offered by IVC in relation to the Penrose, Pet Care, Swayne, Mercer & Hughes, Swaffham, Anglesey, and Chiltern Mergers (the **First Set of Proposed Undertakings**).⁴ The CMA is now consulting on the undertakings offered in relation to the Merger listed in paragraph 1(d) above (the **Treforest Merger**).

¹ 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.

² Pursuant to section 25(4) of the Act the four-month period mentioned in section 24 of the Act is extended while the CMA is seeking undertakings in lieu of reference.

³ See [Independent Vetcare Limited \(IVC\) / multiple independent veterinary businesses merger inquiries - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/independent-vetcare-limited-ivc-multiple-independent-veterinary-businesses-merger-inquiries).

⁴ See [Notice of consultation \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/consultations/treforest-merger).

THE UNDERTAKINGS OFFERED

7. As set out in the SLC Decisions, the CMA found that the Treforest Merger gives rise to a realistic prospect of an SLC in two local areas in Wales (together, the **Treforest SLC Areas**) as a result of horizontal unilateral effects in relation to the supply of standard small animal veterinary services.
8. The Treforest SLC Areas are listed in Annex 1.
9. As set out in the relevant UIL Provisional Acceptance Decision, to address the SLCs identified by the CMA, IVC has offered undertakings to divest Treforest as a viable and standalone business (the **Treforest Proposed Undertakings**). More specifically, the relevant entity to be divested is Treforest Vets (Holdings) Limited [redacted] (the **Treforest Divestment Business**).
10. The text of the Treforest Proposed Undertakings is available on the CMA webpage.⁵ A full list of sites that would be divested under the Treforest Proposed Undertakings is included in Annex 2 below.
11. IVC offered to enter into transitional service arrangements (**TSAs**) (if required by the divestment purchaser) for up to [redacted] in order to ensure the continuity of the operations of the Treforest Divestment Business 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 Treforest Divestment Business (such as finance, IT and HR) are easily replicable within [redacted] by a suitable purchaser.
12. IVC has also offered to enter into an agreement for the sale and purchase of the Treforest Divestment Business with an upfront buyer, before the CMA finally accepts the Treforest Proposed Undertakings. In particular, IVC has proposed Andrew O'Donnell, former owner of Treforest (**Andrew O'Donnell**) as the upfront buyer of Treforest.
13. The agreement with Andrew O'Donnell will be conditional on acceptance by the CMA of the Treforest Proposed Undertaking(s), including approval of Andrew O'Donnell as the buyer of the Treforest Divestment Business.

CMA ASSESSMENT

14. The CMA currently considers that, subject to responses to the consultation required by Schedule 10 of the Act, the Treforest Proposed Undertakings will remedy the SLCs identified in the relevant SLC Decision in a clear-cut manner, ie the CMA currently does not have material doubts about the overall effectiveness of the

⁵ See [Independent Vetcare Limited \(IVC\) / multiple independent veterinary businesses merger inquiries - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/independent-vetcare-limited-ivc-multiple-independent-veterinary-businesses-merger-inquiries).

Treforest Proposed Undertakings or concerns about their implementation.⁶ In this regard, the CMA notes that one of the Treforest sites (Tonypandy Veterinary Clinic) overlaps with a now closed IVC site (IVC Tonypandy, 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, mitigates the SLCs identified by the CMA in relation to this merger, with IVC retaining the option to re-establish its presence in the area.

15. Treforest operates a 'hub-and-spoke' model in which a larger practice (the hub) is linked with a smaller surrounding practice (the spoke). The Treforest Divestment Business includes the entire Target business (ie both the Tonypandy Veterinary Clinic and Treforest Veterinary Clinic sites), and as such the CMA believes the divestiture would restore competition in a clear-cut manner.
16. The CMA also considers that the Treforest Proposed Undertakings would be capable of ready implementation, because the Treforest Divestment Business is a standalone business and includes all assets that enabled the Treforest Divestment Business to viably operate and compete with IVC prior to the Treforest Merger and since the implementation of Initial Enforcement Orders on 17 November 2022. Although Treforest currently requires IVC to provide support functions (such as finance, IT and HR services), the available evidence indicates that the Treforest Divestment Business can be sold as a standalone business, as these support functions can be replicated by a suitable purchaser and key operational decisions are made locally.
17. The Upfront Buyer Condition means that, in relation to the Treforest Merger, the CMA would only accept the Proposed Undertakings after IVC has entered into an agreement with a nominated buyer that the CMA considers to be suitable. The CMA considers that an Upfront Buyer Condition is necessary for the Treforest Divestment Business because of certain risks relating to the proposed divestiture package, including the fact that the Treforest Merger has been completed for a significant period of time and the Treforest Divestment Business, though capable of being separated, is currently integrated into the IVC business.
18. The evidence available to the CMA indicates that the upfront buyer listed at paragraph 12 above has sufficient resources and expertise to provide the necessary management support to enable the Treforest Divestment Business to operate as a competitor to IVC immediately.

⁶ [Merger remedies \(CMA87\)](#), December 2018, Chapter 3, paragraph 3.28.

Suitability of the proposed purchaser

19. In approving a purchaser, the CMA's starting position is that it must be confident without undertaking a detailed investigation that the proposed purchaser will restore pre-merger levels of competition. The CMA therefore seeks to ensure that:
- (a) the acquisition by the purchaser remedies, mitigates or prevents the SLC concerned and any adverse effect resulting from it;
 - (b) the proposed purchaser is independent of and unconnected to the merging parties;
 - (c) the proposed purchaser has the necessary financial resources, expertise, incentive and intention to maintain and operate the divested business as an effective competitor in the marketplace;
 - (d) the proposed purchaser is reasonably expected to obtain all necessary approvals, licences and consents from any regulatory or other authority; and
 - (e) the acquisition by the proposed purchaser does not itself create an SLC within any market or markets in the UK.⁷
20. Subject to the responses to this consultation, and having regard in particular to the criteria set out in paragraph 19 above, the CMA currently considers Andrew O'Donnell to be a suitable purchaser of the Treforest Divestment Business for the following reasons:
- a) The CMA currently considers that the acquisition by Andrew O'Donnell of the Treforest Divestment Business would remedy, mitigate or prevent the SLC(s) concerned and any adverse effect resulting from them, achieving as comprehensive solution as is reasonable and practicable. This is because it would allow the Treforest Divestment Business to operate independently from IVC and compete in the relevant local areas in the same way it did before the Treforest Merger.
 - b) The evidence available to the CMA indicates that Andrew O'Donnell (and any related entities) are independent of IVC and do not appear to have any significant connection to IVC that may compromise the incentive to compete with IVC if Andrew O'Donnell were to acquire the Treforest Divestment Business.
 - c) The evidence available to the CMA indicates that Andrew O'Donnell has both the capabilities and access to appropriate financial resources to acquire and operate the Treforest Divestment Business as an effective competitor. In

⁷ [CMA87](#), paragraph 5.21.

particular, Andrew O'Donnell has provided evidence of relevant managerial, operational and technical expertise, including past experience of owning and operating a veterinary business.

- d) In addition, Andrew O'Donnell has provided evidence of the necessary financial resources to acquire and operate the Treforest Divestment Business, including that he has existing cashflows capable of financing the acquisition and supporting the ongoing development of the Treforest Divestment Business from its projected turnover.
- e) Andrew O'Donnell discussed his plans for the Treforest Divestment Business with the CMA and provided supporting material including financial projections. The CMA considers these projections to be reasonable and competitive. Andrew O'Donnell also provided the CMA with details of management plans and operational strategy, including the separation of the Treforest Divestment Business from IVC. The plans, financial projections, management plans and overall strategy indicate that Andrew O'Donnell has the necessary understanding of the Treforest Divestment Business' operational dynamics and is committed to operating Treforest as a viable competitor to IVC and other competitors in each of the SLC areas.
- f) The evidence available to the CMA indicates that the acquisition of the Treforest Divestment Business by Andrew O'Donnell should not create a realistic prospect of further competition concerns. Andrew O'Donnell does not have any existing practices and as such there is no local overlap between Andrew O'Donnell and the divested sites. As such, the CMA believes there is no possibility of an SLC as a result of horizontal unilateral effects in any of the local areas. Nor are there any vertical relationships that could give rise to competition concerns.

21. Therefore, subject to responses to this consultation, the CMA currently considers Andrew O'Donnell to be a suitable purchaser of the Treforest Divestment Business.

Proposed decision and next steps

- 22. For the reasons set out above, the CMA currently considers that the Proposed Undertakings and the purchase of the Treforest Divestment Business by Andrew O'Donnell are, in the circumstances of this case, appropriate to remedy, mitigate or prevent the competition concerns identified in the relevant SLC Decisions and form as comprehensive a solution to these concerns as is reasonable and practicable.
- 23. The CMA therefore gives notice that it proposes to accept the Treforest Proposed Undertakings in lieu of a reference of the Treforest Merger for a phase 2

investigation. The text of the proposed undertakings in relation to the Treforest Merger is available on the CMA web page.⁸

24. Before reaching a decision as to whether to accept the Treforest Proposed Undertakings in relation to the Treforest Merger, the CMA invites interested parties to make their views known to it. The CMA will have regard to any representations made in response to this consultation and may make modifications to the Treforest Proposed Undertakings as a result. If the CMA considers that any representation necessitates any material change to any of the Treforest Proposed Undertakings, the CMA will give notice of the proposed modifications and publish a further consultation.⁹
25. Representations should be made in writing to the CMA, preferably by email, and be addressed to:

Davide Canzano

Email: Davide.Canzano@cma.gov.uk

Deadline for comments: Wednesday 14 June 2023

⁸ See [Independent Vetcare Limited \(IVC\) / multiple independent veterinary businesses merger inquiries - GOV.UK \(www.gov.uk\)](#).

⁹ Under paragraph 2(4) of Schedule 10 to the Act.

ANNEX 1 – SLC AREAS

Underlying Target	Site name	Site owner	Market(s)
Treforest	Tonypandy Veterinary Clinic	Treforest	Small animal
Treforest	South Wales Vets	IVC	Small animal

ANNEX 2 – DIVESTMENT SITES

Target	Site name and address
Treforest	Treforest Veterinary Clinic (16 River Street, Treforest, Pontypridd, CF37 1TD)
Treforest	Tonypandy Veterinary Clinic (2 and 3 De Winton Street, Tonypandy, CF40 2QZ)