

**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 Order made by
the Competition and Markets Authority ('CMA') on 21 December
2022**

COMPLETED ACQUISITIONS BY MEDIVET GROUP LIMITED

Dear [redacted]

We refer to your emails dated 1 February and 13 February 2023 requesting that the CMA consents to a derogation to the Initial Enforcement Orders of 21 December 2022 and 24 January 2023 (the 'Initial Orders'). The terms defined in the Initial Order 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' business 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 a derogation 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) and 5(l) of the Initial Orders

Medivet requests a derogation from paragraph 4(a) and 5(l) of the Initial Orders to enable it to use its business control function (which is tasked with analysing and forecasting financial and operational performance of the Medivet Group) (the ***Business Control Function***) in relation to the Target Entities.

The Business Control Function provides Medivet with the critical ability to be able to [redacted]. The reports and accompanying data enable qualified and experienced Medivet personnel to [redacted]. Without such information, Medivet would be unable to meet its

obligations under the Initial Orders to ensure that the Target Entities' practices are maintained as going concerns with sufficient resources made available for their development.

Aware of potential confidentiality concerns, Medivet has created [redacted] which ring-fences the Target Entities' financial information on Medivet's [redacted] so that it cannot be accessed by the rest of the Medivet business. Only two people at Medivet – [redacted] and an [redacted] have the security settings required to access this data set and its outputs for the purposes of the Business Control Function.

In relation to the Target Entities, Medivet considers the following process would be appropriate, with the Business Control Function invoked at Step 4 (Steps 1 to 3 are included for completeness):

- a) Step 1: On a daily basis [redacted].¹
- b) Step 2: On a monthly basis, [redacted].
- c) Step 3: Once the [redacted].
- d) Step 4: From the information made available, these individuals [redacted].
- e) Step 5: The individuals with access to [redacted]. Appropriate steps could include [redacted].

By giving Medivet access to key performance indicators for the Target Entities' sites for the purposes of the Business Control Function, this derogation would: (i) ensure that Medivet could support the Target Entities appropriately; (ii) ensure the ongoing viability and financial performance of the Target Entities' sites; and (iii) enable Medivet to fulfil its obligations under the Initial Orders, specifically that the Target Entities are maintained as going concerns with sufficient resources made available for their development (paragraph 5(b) of the Initial Orders).

After due consideration, the CMA consents to this derogation from paragraphs 4(a) and 5(l) of the Initial Orders in respect of the Business Control Function, strictly on the basis that:

- a) Access to the Business Control Function is necessary to preserve the viability and competitive capability of the Target Entities.

¹ Steps 1 to 3 are covered by the Back Office derogation granted by the CMA on 21 December 2022.

- b) The Target Entities' information provided to Medivet under Steps 4 – 5 above for the purposes of the Business Control Function will be provided only to the individuals identified in **Annex 1** (together, the **Authorised Individuals**).²
- c) Each of the Business Control Function Authorised Individuals will sign non-disclosure agreements, in a form approved by the CMA, which:
 - a. cover the treatment of any commercially sensitive information they receive as a result of proving access to the Business Control Function to the Target Entities; and
 - b. ensure that any [redacted] information accessed for the purposes of the Business Control Function will only be used for financial oversight purposes and no other business purposes.
- d) All financial information [redacted] pertaining to the Target Entities' sites will be appropriately ring-fenced and secured so that it cannot be accessed by the rest of the Medivet business (e.g. through the continued use of [redacted]).
- e) Medivet will use a template for each clinic, agreed with the CMA, which contains the data Medivet requires to ensure the ongoing viability of the Target Entities' sites.
- f) These derogations will not result in any disruption to, or impact the viability of the Medivet business or the Target Entities' businesses.
- g) 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 decision on a reference.

Sincerely,

[redacted]

Faye Fullalove

Assistant Director

Mergers

13 February 2023

² Further to footnote 1 above, the Target Entities' information provided to Medivet under Steps 1 to 3 above will be provided only to the Authorised Individuals identified in Annex 1 part (I) of the Back Office Functions derogation (as amended from time to time with approval from the CMA).

Annex 1 – Authorised Individuals

- [redacted]
- [redacted]