

**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 and 24 January 2023**

**COMPLETED ACQUISITIONS BY MEDIVET GROUP LIMITED OF
MULTIPLE INDEPENDENT VETERINARY PRACTICES**

Dear [redacted]

We refer to your email dated 23 March 2023 and 4 April 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 Orders 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 put in place a delegation of authority from the Target Entities, via the hold separate manager (the **HSM**), to Medivet in relation to the funding approval of Non-Standard Expenditure Requests (as defined in **Annex 1** below) (the **Delegation of Authority**).

The Delegation of Authority provides Medivet with a critical oversight mechanism necessary if Medivet is to balance securing the long-term viability and competitiveness of individual clinics with ensuring the ongoing financial security and cash flow of the wider Medivet business. Without such information, there is a risk that 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.

Medivet has identified [redacted] with the support of one or both of [redacted] and [redacted] as appropriate recipients of the Delegation of Authority (together, the **Authorised Individuals**). Unlike the HSM, all Authorised Individuals have oversight of the business position, resources and cash flow of the wider Medivet business.

By giving Medivet a Delegation of Authority in relation to Non-Standard Expenditure Requests, this derogation would: (i) balance securing the long-term viability and competitiveness of individual Target Entities with ensuring the ongoing financial security and cash flow of the wider Medivet business; and (ii) enable Medivet to fulfil its obligations under the Initial Orders, specifically that Medivet and the Target Entities are maintained as going concerns with sufficient resources make 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 Delegation of Authority, strictly on the basis that:

- a) The Delegation of Authority is necessary to preserve the viability and competitive capability of the Target Entities.
- b) The thresholds for the level of expenditure that classifies as a Non-Standard Expenditure Request (as defined in **Annex 1**) can be amended by the CMA via email, and these thresholds will be reviewed (with the assistance of the HSM and MT) and might be revisited by the CMA subject to a request from the HSM. Following a request by the HSM to change the level of expenditure that classifies as a Non-Standard Expenditure Request and before any change to the threshold is made, the HSM and Medivet must first engage in constructive discussions to discuss the proposed change and attempt to reach a mutual agreement on (i) whether a change to the thresholds is appropriate and (ii) the new level of any such threshold.
- c) The Delegation of Authority provided to Medivet above for the purposes of reviewing Non-Standard Expenditure Requests is granted only to the Authorised Individuals identified in **Annex 2**. The named Authorised Individuals can be altered only by email confirmation from the CMA.

- d) Each of the 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 the Delegation of Authority; and
 - b. ensure that any Target Entity information accessed for the purposes of the Delegation of Authority would only be used for decisions on Non-Standard Expenditure Requests for cash flow purposes, and not for any other business purposes.
- e) The Authorised Individuals must not consult with any other individual in the Medivet business in taking decisions on the Non-Standard Expenditure Requests.
- f) The Authorised Individuals will not seek to change the proposal made by the Target Entities businesses via the HSM in connection with the Non-Standard Expenditure Requests, or seek to substitute their judgment with that of the HSM, except for the purposes of condition (j) below;
- g) The Authorised Individuals will only review requests relating to Non-Standard Expenditure Requests from a cash flow perspective where the business case for these has already been approved by the HSM.
- h) The Authorised Individuals will only review the minimum information strictly necessary to make a decision on the Non-Standard Expenditure Requests for cash flow purposes, including:
 - a. the name of the Target Entity;
 - b. details of the item requested and the value of the item; and
 - c. details of the proposed payment terms.
- i) The Authorised Individuals are required to make a note of any requests made by the Target Entity businesses via the HSM in relation to this derogation and, at its request, the CMA will be provided with a summary of the information shared by the Target Entities via the HSM with the Authorised Individuals for the purposes of the escalation.
- j) In the event of a proposed veto, the Authorised Individuals are required to make reasonable efforts to identify reasonable alternatives to the vetoed request in discussion with the HSM.
- k) Except where an alternative has been agreed with the HSM under condition (j) above, in the event of a proposed veto of a Non-Standard Expenditure Request

by the Authorised Individuals, the Authorised Individuals will notify the CMA of their reasons for vetoing at least one working day in advance of any such veto being exercised.

- l) Should remedial action be required by the CMA in relation to any or all of the Relevant Transactions, any records or copies (electronic or otherwise) of business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature, wherever they may be held, that were received from the relevant Target Entities for the purposes of this derogation will be returned to such Target Entities and any copies destroyed, except to the extent that record retention is required by law or regulation.
- m) This derogation will not result in any disruption to, or impact the viability of the Medivet business or the Target Entities' businesses.
- n) 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 decision on a reference.

Sincerely,

[S<]

Faye Fullalove
Assistant Director
Mergers
6 April 2023

Annex 1 – Non-Standard Expenditure Requests subject to the proposed Delegation of Authority

- 1.1 Each Target Entity site has a proposed annual expenditure budget of [redacted] (FY23/24) (the **Budget**).¹
- 1.2 Non-Standard Expenditure Requests are defined as all requests for expenditure ([redacted]) – individually, or collectively in the case of multiple requests which all relate to the delivery of one and the same project – from the Target Entity sites which:
 - (a) [redacted]
 - (b) [redacted]
- 1.3 [redacted]
- 1.4 [redacted]²
- 1.5 For the avoidance of doubt:
 - (a) Non-Standard Expenditure Requests will not include any expenditure requests relating to medicines; and
 - (b) Exceptional Expenditure requests at all times remain subject to the review thresholds outlined in paragraph 1.2 above, even if not contributed towards the site Budget.

1 [redacted]
2 [redacted]

Annex 2 – Authorised Individuals

- [REDACTED]
- [REDACTED]
- [REDACTED]