

**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 Orders made by the Competition and
Markets Authority ('CMA') on 17 November 2022**

**COMPLETED ACQUISITIONS BY INDEPENDENT VETCARE LIMITED OF
MULTIPLE INDEPENDENT VETERINARY PRACTICES**

Dear Bertrand Louveaux,

We refer to your email and accompanying note dated 16 December 2022 requesting that the CMA consents to a derogation to the Initial Enforcement Orders (the '**Initial Orders**') dated 17 November 2022. The terms defined in the Initial Orders have the same meaning in this letter.

The CMA issued Initial Orders addressed to Independent Vetcare Limited ('**IVC**'), Acquisition Pikco Ltd ('**Pikco**'), IVC Acquisition Topco Limited ('**IVC Topco**'), Islay New Group Holding S.A. ('**Islay**'), Société Des Produits Nestlé S.A. ('**Nestle**'), EQT Fund Management S.à r.l. ('**EQT**') and Berkshire Partners LLC ('**Berkshire**') (together, the '**Acquirer Group**'). 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 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, based on the information received from you and in the particular circumstances of this case, IVC and the relevant Target Entity may carry out the following actions, in respect of the specific paragraphs:

1. Paragraph 5(i) of the Initial Orders

IVC's acquisitions of Penrose Veterinary Group Limited, Kevin Castle (Pet Care) Ltd, Swayne & Partners Ltd, Treforest Veterinary Clinic Ltd, Mercer & Hughes Limited, Swaffham Veterinary Centre Limited, Anglesey Pet Clinic Ltd, Chiltern Equine Clinic (including Chiltern Veterinary Services Limited & Chiltern Bury Farm Limited) (the '**Target Entities**') completed between 16 September 2021 to 22 March 2022.

IVC has sought CMA consent to exclude paragraph 5(i) of the Initial Orders in order to allow for:

- (i) the recruitment of individuals to Key Staff roles¹ as and when required at IVC and the Target Entities;
- (ii) internal promotions to Key Staff roles as and when required at IVC and the Target Entities;
- (iii) dismissal of individuals without notice from Key Staff roles [X] (and in strict accordance with the contract of employment) as and when required at IVC and the Target Entities; and
- (iv) the non-retention of Key Staff who have [X] as and when required at IVC and the Target Entities.

IVC has informed the CMA that vacancies in key staff roles [X] arise across its UK business and at the Target Entities. At clinical level, IVC notes that these are filled by [X]. IVC further notes that individuals may from time to time be dismissed from key staff roles at IVC or the Target Entities without notice for reasons set out in their contract of employment or not retained after failing to achieve the requisite standards during their probationary periods at IVC or the Target Entities.

IVC has informed the CMA that granting this derogation is the most administratively efficient approach as it will enable IVC and the Target Entities to [X] fill key staff vacancies, allow IVC to conduct dismissal processes [X] when it is strictly necessary to do so and not retain individuals in key staff roles who [X] as and when required at IVC and the Target Entities.

The CMA consents that the obligations in 5(i) of the Initial Orders be excluded to enable IVC and the Target entities to take the actions listed in (i) to (iv) above. This derogation is granted strictly on the basis that:

- (i) [X] such that there will be no disruption to the ongoing operation and viability of the IVC business or the Target Entity businesses;
- (ii) Once a candidate has been identified to fulfil a Key Staff position on a permanent basis, and [X], the Parties will:
 - a. Provide the CMA, in writing, with the following information:
 - i. [X];
 - ii. [X] with the Acquirer Group, IVC or the Target Entities;

¹ Key staff' is defined in the IEO as 'staff in positions of executive or managerial responsibility and/or whose performance affects the viability of the business'.

- iii. An explanation as to why the candidate has the necessary skills and experience to fulfil the responsibilities of the position in question;
 - iv. Confirmation of any financial or non-financial interest in the Acquirer Group, IVC or the Target Entities; and
 - v. A description of the selection process (whether by the Acquirer Group, IVC, or the Target Entities);
 - b. Seek the CMA's written consent to make a formal employment offer to the candidate (such consent can be given via email);
- (iii) For any Key Staff member being dismissed, IVC will:
 - a. Provide the CMA, in writing, with the following information:
 - i. [X];
 - ii. [X];
 - iii. An explanation [X] necessary [X];
 - iv. A description of the process [X]; and
 - b. Seek the CMA's written consent to dismiss the relevant individual (such consent can be given via email);
- (iv) All appointments of Key Staff members made pursuant to this derogation will ensure the ongoing operation, viability and competitive capability of the IVC and Target Entity businesses;
- (v) 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,

Faye Fullalove

Assistant Director, Mergers

3 February 2023