

**DEROGATION LETTER  
IN RESPECT OF INITIAL ENFORCEMENT ORDERS ISSUED  
PURSUANT TO SECTION 72(2) ENTERPRISE ACT 2002  
COMPLETED ACQUISITION**

**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 1 February 2023 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.

**1. Paragraph 5(I) of the Initial Orders in respect of the actions described below**

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**’)<sup>1</sup> (the ‘**Transactions**’) completed between 16 September 2021 to 22 March 2022.

IVC submits that in order for IVC to enter into purchase agreement(s) with one or more buyers approved by the CMA in the event the CMA finally accepts undertakings in lieu of a reference (“Proposed Undertakings”) which IVC has offered to give in respect of certain Target Entities (together, the “Divestment Target Entities”)<sup>2</sup>, IVC will require access to certain Target Entity information while the Initial Orders are in force.

IVC submits that it requires certain information in order to enable it to:

- (a) Fully understand the nature and extent of the Divestment Target Entities and their businesses, including, for example, for the purposes of describing [X] due diligence and [X] in the context of the purchase agreement(s);
- (b) [X] Target Entities with a view to negotiating and finalising a sale; and
- (c) [X] a purchase agreement(s), transitional services agreement(s) and ancillary documentation in respect of the Divestment Target Entities.

(together the ‘**Permitted Purposes**’).

IVC therefore requires access to such legal, operational and financial information regarding the Divestment Target Entities as may be strictly necessary for the Permitted Purposes.

IVC submits that the receipt of the aforementioned information is strictly necessary to: (a) enable it to give the Proposed Undertakings; and (b) allow the directors of IVC to discharge their fiduciary duties associated with their respective roles.

The CMA consents to the Target Entities providing IVC with information relating to the Target Entities businesses which is strictly required for the Permitted Purposes, strictly on the basis that:

- (a) Where Target Entity information is provided for the Permitted Purposes:
  - (i) The Target Entity information, when provided to IVC, will only be provided to [X] (the “IVC Clean Team”), for whom it is strictly necessary to receive the information to run the sales process, as well as to internally monitor compliance with the Initial Order and derogation. Save as

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<sup>1</sup> This consent letter refers to all Target Entities unless otherwise specified.

<sup>2</sup> More specifically, these are: Anglesey Pet Clinic Ltd, Kevin Castle (Pet Care) Ltd, Mercer & Hughes Limited, Swayne & Partners Topco Limited (including Swayne & Partners Ltd) and Chiltern Equine Clinic (including Chiltern Veterinary Services Ltd & Chiltern Bury Farm Ltd).

disclosed to the CMA, none of [~~X~~] hold commercial or strategic roles in the IVC business.

- (ii) any confidential or commercially-sensitive information of the Target Entities will be limited to that which is strictly necessary to provide the IVC Clean Team with the information required for the Permitted Purposes; and
  - (iii) the IVC Clean Team shall maintain an updated schedule listing all of the documents and information relating to the Target Entities it has received, and provide the updated schedule to the Monitoring Trustee on a weekly basis;
- (b) The IVC Clean Team will be permitted to prepare and share high level summaries of any information confidential to the Target Entities with the IVC board of directors and senior individuals supporting IVC's internal governance procedures that do not contain competitively sensitive information.
- (i) Any such summary information shall first be shared with the Monitoring Trustee to confirm that it is both summary in nature and does not contain competitively sensitive information. The Monitoring Trustee will consult the CMA where there is any ambiguity on whether information is competitively sensitive.
- (c) Information provided to any of the IVC Clean Team is not to be used for any other purpose than the Permitted Purposes;
- (d) Each of the IVC Clean Team above shall enter into an NDA/confidentiality undertaking in the form approved by the CMA:
- (e) No changes to the IVC Clean Team are permitted without written consent from the CMA (including via email);
- (f) Firewalls and/or access restrictions will be put in place to prevent any unauthorised IVC personnel from accessing any information provided by the Target Entities to IVC for the Permitted Purposes;
- (g) This derogation will not lead to any integration of the IVC business, and the Target Entity business and it will have no impact on any remedial action that the CMA may need to take regarding the transaction;
- (h) Should the Proposed Undertakings (or an amended version of them) be accepted by the CMA, following completion of the divestiture of any Divestment Target Entities (as set out in any final undertakings in lieu), IVC will ensure that any records or copies (electronic or otherwise) of such information relating to the Divestment Target Entities that have passed

for the purpose of this derogation, wherever they may be held, will be destroyed except:

- (i) where the information is directly relevant to [X], that information may be retained only by the IVC Clean Team until the expiry of [X], and then subsequently destroyed; and/or
  - (ii) to the extent that record retention is required by law or regulation;
- (i) Should the transaction ultimately be prohibited, IVC will ensure that any records or copies (electronic or otherwise) of such information that have passed for the purpose of this derogation, wherever they may be held, will be returned to the Target Entities and any copies destroyed, except to the extent that record retention is required by law or regulation.

Yours sincerely,

Faye Fullalove

Assistant Director, Mergers

8 February 2023