

DEROGATION LETTER IN RESPECT OF UNDERTAKING IN LIEU OF A REFERENCE ISSUED

PURSUANT TO SECTION 73 (2) ENTERPRISE ACT 2002

COMPLETED ACQUISITION

Consent to certain actions for the purposes of the Undertakings in Lieu of a Reference (UILs) given by Bestway Panacea Holdings to and accepted by the Competition and Markets Authority (CMA) under section 73 (2) of the Enterprise Act 2002 on 18th August 2023 (UILs).

Completed acquisition by Bestway Panacea Holdings Limited (Bestway) of Lexon UK Holdings Limited and Asurex Limited (the Transaction)

We refer to your email dated 4 December 2023, requesting that the CMA consents to derogations to paragraph 12.1(d) of the **UILs**. The terms defined in the UIL have the same meaning in this letter.

Under the UIL, Bestway has undertaken to the CMA to dispose of seven pharmacies for the purpose of remedying, mitigating or preventing the substantial lessening of competition, or any adverse effect which has or may have resulted from it or expected to result from it. After due consideration of your request for derogations from the UIL, based on the information received from you and in the particular circumstances of this case, Bestway may carry out the following actions, in respect of the specific paragraphs:

Paragraph 12.1 (d) of the UILs – Changes to store opening hours

- 1) The CMA consents to a derogation from paragraph 12.1(d) of the UILs to permit Bestway to reduce the operating hours its 100 hour retail pharmacy located at Stockton-on-Tees pharmacy located at 70 Bishopton Lane, TS18 2AJ (pharmacy code FMP31) (Stockton Pharmacy) – a reduction from 100 hours to 77 hours.
- 2) The CMA's consent is conditional upon the following:
 - a) the proposed reduction in opening hours is fully compliant with the legal requirements under The National Health Service (Pharmaceutical and Local Pharmaceutical Services) (Amendment) Regulations 2023 (**Amended NHS Pharmacy Regulations**);¹
 - b) Bestway will obtain all prior necessary NHS and regulatory approvals for the proposed changes, as required by the Amended NHS Pharmacy Regulations and all other applicable laws and regulations
 - c) the derogation will not have any material impact on the nature, description, range and quality of goods and/or services offered by the Stockton Pharmacy;
 - d) the derogation will not have any impact on the ability of the Stockton Pharmacy business to carry on business in the ordinary course, the derogation will not impact the viability of the Stockton Pharmacy business prior to its disposal in accordance with the UILs;
 - e) the derogation will not impact the ability of the Stockton Pharmacy business to compete independently of Bestway Healthcare; and

¹ Reg 3, SI 2023 No. 479

- f) the derogation shall not prevent any remedial action which the CMA may need to take regarding the Transaction.

Yours Sincerely

Matteo Alchini

Assistant Director, RBFA

14 December 2023