

## **Veterinary services for household pets in the UK**

### **VetPartners' response to the CMA's working paper on competition in the supply of veterinary medicines of 6 February 2025**

**(submitted 21 March 2025)**

#### **1. Introduction**

- 1.1. VetPartners welcomes the opportunity to submit comments on the CMA's working paper on competition in the supply of veterinary medicines dated 6 February 2025 (the "**Medicines WP**"). Our comments below are not exhaustive. The fact that VetPartners does not expressly respond to a point in the Medicines WP does not necessarily imply that VetPartners agrees with it.
- 1.2. VetPartners provides responses to each of the CMA working papers of 6 February 2025. Due to the large degree of overlap between the CMA working papers, however, some of the points relevant to this working paper are dealt with in more detail in other working paper responses and will not be repeated in this response. Where appropriate, VetPartners has sought to include cross-references to the other relevant working paper responses.
- 1.3. VetPartners will also make reference in this response to the Vet Users Survey of January 2025 carried out by Accent on behalf of the CMA (the "**Consumer Survey**"). For more comprehensive comments regarding the Consumer Survey, please see VetPartners' response to the CMA's working paper "How people purchase veterinary services" of 6 February 2025.

#### **2. The CMA emerging thinking is not based on clear and compelling evidence, and fails to account for the practical realities related to the supply of medicines**

- 2.1. When seeking to identify whether there is an adverse effect on competition ("**AEC**"), the CMA must define, and evidence, a clear benchmark that is based on a well-functioning but not idealised perfectly competitive market.<sup>1</sup> The CMA's emerging thinking appears to be that:
  - a) Some customers may face difficulties when accessing and comparing the prices of veterinary medicines and associated fees;
  - b) Other customers may not be aware that they may be able to buy veterinary medicines from other third-party retailers; and
  - c) As a result of these features, the CMA is concerned that 'savings' from discounts and rebates negotiated with wholesalers and manufacturers are not passed on to consumers, leading to consumers paying higher prices for medicines.
- 2.2. The CMA's emerging view is not based on clear evidence, and instead seems to be based only on "*indicators of competition – such as retail prices and profitability*".<sup>2</sup> The CMA, however, also acknowledges that "*findings that price-cost margins are wide or profitability is high in a*

<sup>1</sup> CMA MIR Guidelines CC3, para 320.

<sup>2</sup> Medicines WP, summary, para 2.

*market do not on their own provide conclusive evidence that the market could be more competitive, in **the absence of an identified feature of the market giving rise to an AEC***.<sup>3</sup> We will deal with any such features throughout this response. It is necessary to make clear at the outset that:

- a) The CMA has not, at this stage, conducted a profitability assessment and the CMA's intended profitability analysis will not look at individual activities (such as the sale of medicines). Therefore, the CMA has attempted to rely on incomplete profitability *measures* that do not consider all direct and indirect cost related to the provision of veterinary medicines at FOPs. See *Section 6(A)* below.
- b) In the assessment of prices:
  - The CMA has only carried out an unjustifiably narrow and restricted comparison to third-party retailers which fails to consider the actual cost to consumers. For any comparison of retail prices to be credible, it *must* include the prescription fee payable by consumers for the professional service provided by vets as well as delivery fees added by online retailers. See *Section 4(B)* below; and
  - The CMA's information on retail pricing of medicines is partially based on the analysis of pet insurance claims, and VetPartners and its external economists have already provided the CMA with extensive comments regarding the various fundamental deficiencies in the CMA's analysis. See *Section 6(C)* below.

2.3. In any event, even if it is assumed for argument's sake that the prices or profitability may be relatively high, the CMA has not identified any significant features of the market that may give rise to an AEC (meaning features that would not be expected in a well-functioning but not idealised perfectly competitive market). In this regard:

- a) As outlined below, the CMA's evidence considered in the appropriate context appears to be that:
  - Pet owners do not choose FOPs based on medicine prices alone. Rather, they consider a range of factors, including convenience and the quality of service provided by the FOP.
  - A significant number of pet owners already buy medicines from online retailers, particularly for ongoing requirements, and there is a clear trend towards a further increase in sales by online retailers (which is sure to continue);
  - There are no meaningful barriers that prevent pet owners from buying medicines from online party retailers.
- b) The CMA underestimates pet owners' ability to directly and indirectly compare medicines prices, due to an outdated view of the market. We will discuss this further in *Section 3(C)* below.

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<sup>3</sup> Medicines WP para 3.4 (emphasis added).

- c) The CMA has not attempted to assess the improvements made by FOPs, aimed at enhancing the quality of the supply of veterinary medicines. See *Section 6(C)* below.

### **3. The CMA emerging thinking focuses on an idealised view of the market that is not realistic in the veterinary sector**

#### ***A) The Competition Commission's 2003 investigation into the supply of veterinary medicines showed the importance of understanding the true cost of supplying veterinary medicines, and the wider public interest considerations related to the sale of veterinary medicines***

- 3.1. The CMA's emerging thinking is based primarily on the ideas that (a) medicines are not priced at costs (i.e., they may be priced higher to keep other fees lower), and (b) pet owners do not have sufficient information to make informed decisions.

- 3.2. Firstly, it is important to recognise that the current pricing structure for medicine sales by vets has been a feature of the constantly evolving veterinary market for many decades. For example, in the conclusions of the Competition Commission's ("CC") investigation report into the supply of veterinary medicines in 2003 it said:<sup>4</sup>

- *"53 per cent of veterinary surgeries questioned said that they priced POMs to subsidize professional fees, to a greater or lesser extent... and some said that cross-subsidization was endemic, and described how it had **grown for historical reasons**..."*,
- *"...However, other veterinary surgeons and the British Veterinary Association (BVA) argued that there was **insufficient evidence to conclude that the pricing of POMs was commonly used to subsidize professional fees, once proper allowance was made for the true costs, to veterinary surgeons, of dispensing medicines**..."*
- *"...We were able to obtain only limited data on veterinary surgeons' dispensing costs and this was not of sufficient quality to allow the subsidization of fees by profits from medicine sales to be demonstrated beyond doubt. However, our analysis does tend to support the views of the many veterinary surgeons questioned, who reported that POMs were commonly priced to subsidize professional fees..."*

- 3.3. The point raised by the BVA at the time points to a critical flaw in the CMA's emerging view, and this will be discussed further in this response.

- 3.4. Building on this historical context, VetPartners notes that the pricing structure for veterinary medicines reflects not only historic practices, but also inherent costs associated with prescribing medicines, including the professional time vets spend advising on and administering treatments.

- 3.5. Specifically, VetPartners believes that the industry developed in this way as:

- a) Vets are generally and historically not good at valuing or charging for their own professional time; and
- b) Each practice incurs a significant amount of costs, such as the vets' salaries, which are semi-fixed in nature and which are not incremental to the provision of any specific service

<sup>4</sup> CC report on the supply within the United Kingdom of prescription-only veterinary medicines (April 2003), conclusions section, para 2.25 (emphasis added).

offered. These costs must be recovered by each practice from the various services it carries out, and the current balance of revenue is the most effective way to provide veterinary care to a larger number of pets, to further the animal welfare and public interest functions served by vet businesses. We will discuss this further below.

- 3.6. At the time, the CC also found that we “*fully accept that the supply of POMs raises issues that go wider than competition and that the public interest includes protection of public safety and animal welfare. We recognize the importance of veterinary training in diagnosis and control of potentially harmful veterinary medicines, and hence the importance of the veterinary surgeons’ ‘gatekeeper’ role in prescribing POMs. We also recognize the advantages to society of effective pharmacovigilance and emergency medical services for animals.*”<sup>5</sup>
- 3.7. The CMA has not considered any of these factors in the Medicines WP. The CMA has also not attempted to analyse the “*true costs, to veterinary surgeons, of dispensing medicines*”.<sup>6</sup> Consistent with the suggestion made by the BVA in 2003, understanding and accounting for the true costs of the service of prescribing and dispensing medicines is critical to the understanding of the pricing of veterinary medicines. See also *Section 6(A)* below.

***B) The CC imposed remedies in 2003 that shaped the sector and professional obligations of vets***

- 3.8. VetPartners recognises that the CC, at that time, found that the wider public interest benefits did not outweigh the identified consumer harm (loss of choice and higher prices). Therefore, the CC imposed a range of remedies, most of which remain in force today.
- 3.9. The CC remedies were aimed at diverting sales from FOPs to pharmacies and are far-reaching. For example, vets are effectively being forced by the regulation that implemented these remedies to divert sales away from their own business to alternative outlets.
- 3.10. Some of these remedies were also reviewed more recently, which led to some of the more drastic and unworkable remedies being abandoned. For example, the requirement to publish a list of the 10 most commonly prescribed or dispensed medicines was scrapped in 2013, based largely on the views of the RCVS, as it was found to be confusing to clients. The RCVS’s media release at the time said:<sup>7</sup>

*“The poster, which was outlined in the Guide to Professional Conduct, and subsequently the Code of Professional Conduct, had to include information about prescriptions and repeat prescriptions, together with the ‘ten relevant veterinary medicinal products most commonly prescribed during a recent and typical three-month period’.*

*How ‘most commonly prescribed’ has been calculated has often varied – for example, by price, volume, number of prescriptions, etc – and, in addition, different formulations, brands or pack sizes of the same active ingredient could cause confusion.*

<sup>5</sup> CC report, conclusions section, para 2.154.

<sup>6</sup> CC report, conclusions section, para 2.25.

<sup>7</sup> See <https://www.rcvs.org.uk/news-and-views/news/oft-agrees-to-drop-top-ten-medicines-requirement/> (emphasis added).

*“Having seen how this has worked in practice, we have been keen to push for change because it was felt that the list could be confusing to clients,” says RCVS President, Jacqui Molyneux.*

*“We have also been mindful of the fact that the ways in which consumers access information has changed radically over the last seven years or so, with internet searches becoming more prevalent.*

*“These factors conspired to make the list less meaningful as a tool that allowed consumers to shop around. It is thus hoped that the removal of the list will reduce potential misunderstanding among the public.”*

- 3.11. This history shows that the CMA’s idealised ‘benchmark’ of a market where consumers can access prices for all medicines and/or compare medicines prices for all FOPs based on industry wide list is not realistically achievable in the veterinary sector.
- 3.12. The evidence from the LVGs clearly shows that it is not possible to publish medicine prices for each practice in a way that is consistent and comparable across the sector, due to the large number of product items.<sup>8</sup> For example, in 2024, VetPartners’ small animal practices purchased more than ~~8~~ different SKUs.
- 3.13. Furthermore, this view has become obsolete and outdated, given the rise of online retailers, which has changed the ways in which consumers access information. See further *Section 3(C)* below.
- 3.14. Any possible marginal benefit from such a list of products to a small minority of pet owners would also not outweigh the significant cost burden that this would place on FOPs (in particular on smaller independent practices), as this would result in an additional regulatory requirement that would be expensive and time-consuming to maintain (ultimately leading to fee pressures for clients).

***C) Online retailers did not exist at the time of the CC investigation, and their emergence has significantly changed the ways in which consumers access information***

- 3.15. Following the CC investigation, most pet owners continued buying veterinary medicines from FOPs. This is because vets provide good quality services and convenience to pet owners, at generally reasonable prices, allowing pets to be treated immediately. Pet owners do not make decisions based purely on price, they also consider quality and convenience (see *Sections 5(A)* and *5(C)* below). Therefore, it is not surprising that clients continued to buy medicines from FOPs in the absence of better alternatives.

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<sup>8</sup> Medicines WP, para 4.11.

- 3.16. However, this changed with the emergence of online retailers. As mentioned in the RCVS statement at paragraph 3.10 above, online retailers have significantly changed the landscape. Online retailers can – and do – offer medicines at lower prices (due to the different business models and cost bases) whilst consumers have become increasingly familiar with ordering all sorts of products from online retailers. Further, by implication, the online prices of medicines are publicly available from online retailers instantaneously on all mobile devices. In other words, clients can easily make direct price comparisons for the vast majority of products offered by FOPs.
- 3.17. In addition, pet insurers have started directing their customers to purchasing medicines online by partnering with online retailers and capping their payouts based on the cheapest online price (see also paragraph 4.2 below). ~~✗~~.<sup>9</sup>
- 3.18. Accordingly, even if it were possible to come up with a standard list of medicines that may be comparable across FOPs, there would be very little benefit in publishing such a list as:
- a) Clients do not choose FOPs based solely on medicine pricing (see also *Section 5(C)* below).
  - b) Prices charged by online retailers are instantly available on mobile devices to pet owners who have a specific need for a medicine, and are therefore more useful to individual consumers than standardised price lists.
- 3.19. The fact that consumers are now accessing medicine prices from online retailers is also evidenced by the Consumer Survey that found that those who are interested in comparing prices were able to do so. More specifically, of the pet owners who purchased online, 72% were able to compare prices for one-off medicines, rising to 93% for ongoing medicines.<sup>10</sup>
- 3.20. The fact that pet owners are now more aware of the ability to buy medicines from third party retailers is also evident from the Consumer Survey which found that 57% of pet owners are aware of the option to request a prescription and then order the medication elsewhere.<sup>11</sup> This is compared to only one out of six pet owners who were aware that it was possible to ask for a prescription in 2003. VetPartners expects this percentage to continue increasing substantially.
- 3.21. While vets are required, as part of the RCVS Code and the Supply of Relevant Veterinary Medicinal Products Order 2005 to inform clients of the options to buy medicines online, the Consumer Survey found that 42% of pet owners that are aware of the fact that they can buy medicines elsewhere became aware of this fact through word of mouth, 22% through website advice, and another 14% through social media (including social media marketing).<sup>12</sup> The Consumer Survey also found that 39% of pet owners were informed by a vet practice, however, we have no way of knowing whether the pet owners that selected the other options in responding to the Consumer Survey were also informed by their vet (during their most recent or a previous visit to the vet). Regardless, this is consistent with the above-mentioned RCVS observations from 2013 that pet owners access information in several different ways. For this reason, the Consumer Survey is also not evidence that vets do not inform pet owners of this fact.

<sup>9</sup> ~~✗~~.

<sup>10</sup> Consumer Survey Q95, 96 and 98.

<sup>11</sup> Consumer Survey, Question 91 (see p.73).

<sup>12</sup> Consumer Survey, Question 91b (see p.73).



3.22. We will discuss the increasing trend towards more online sales further in *Section 4* below.

**4. The CMA analysis of the competition from online retailers is short-sighted and fails to properly capture the competitive threat from online retailers, and the implications for consumers**

***A) There is a clear trend towards more online retail sales, which has been largely ignored by the CMA***

4.1. FOPs are facing increasing competition from online retailers. This is consistent with most other sectors in this time of digitalisation, and the vet sector is no exception. As an example of ~~✗~~<sup>13</sup>:

a) ~~✗~~.

b) ~~✗~~.

4.2. In addition, VetPartners provided the CMA with an extensive list of pet insurance companies who offer free vet video consultations as part of their cover.<sup>14</sup> They are able to provide prescriptions through their online service (see also paragraph 3.17 above in relation to the role played by insurers). This is another indication of the online channels disrupting the traditional model.

4.3. The CMA's analysis of the competitive dynamic between FOPs and online retailers is inaccurate. It appears based on only anecdotal evidence and a short-term view of the sector. In particular, the CMA's emerging thinking suggests that:

a) The number of pet owners that are currently buying medicines from third-party retailers is low as:

- The Consumer Survey showed that 20% of pet owners had requested a written prescription from their FOP in the past two years (compared to 44% of pet owners who had purchased medication from their FOP in the past two years);<sup>15</sup>
- The CMA's analysis of written prescriptions shows only a slow increase in written prescriptions (although the CMA acknowledges that this analysis suffers from data limitations).<sup>16</sup>

b) The CMA "*might plausibly expect the number of pet owners who consider using third-party retailers to buy veterinary medicines to be significantly higher if the market for veterinary medicines was working well.*"<sup>17</sup> Notably, the CMA does not explain this 'expectation' and there is no benchmark of what the CMA would have considered to be a sufficiently high number of pet owners choosing to buy online.

<sup>13</sup> Annex MI-00181, provided in response to VetPartners' response to RFI 3 of 5 August 2024, submitted on 19 August 2024, Q15.

<sup>14</sup> VetPartners' response MI-RFI 1 of 13 September 2023 (submitted 11 October 2023), para 8.5.

<sup>15</sup> Medicines WP, para 5.8.

<sup>16</sup> Medicines WP, para 5.13.

<sup>17</sup> Medicines WP, para 5.8.

- 4.4. Firstly, the Consumer Survey has limitations in terms of the absolute number of pet owners, and overall representativeness. Therefore, it may not be compelling evidence in the face of contradictory evidence. The CMA has also largely ignored the evidence from the LVGs, all of which have submitted that the competitive constraint has been increasing in recent years.<sup>18</sup>
- 4.5. VetPartners' external economic advisors have assessed the trends in online sales for the VetPartners-owned online retailers, 365 Vet and VetUK. The analysis is attached as **Annex MI-03554**, and **⌘**: The underlying data for this analysis is submitted as **Annex MI-03555**.
  - a) **⌘**
  - b) **⌘**.
  - c) **⌘**. This suggests that the increase in online prescription medicine sales is not merely a reflection of a general rise in online sales, but rather a distinct trend.
- 4.6. Furthermore, the total number of prescription fees charged per active pet across **⌘**.<sup>19</sup>
- 4.7. VetPartners previously provided the CMA with a list of 60 online retailers of medications and pet care products.<sup>20</sup>
- 4.8. These trends show how online retailers have developed as an alternative that is readily available to pet owners and, therefore, act as a competitive constraint on FOPs. This clear evidence contradicts the CMA's emerging thinking (which was based on limited evidence anyway). In addition, see *Section 5(B)* below, where it is shown that pet owners also do not face any barriers to buying medicines from online retailers.

***B) There are fundamental cost differences between FOPs and online retailers, and the CMA cannot compare FOPs to online retailers on price only***

- 4.9. The CMA recognises the fundamental differences between the business models of FOPs and online retailers,<sup>21</sup> which means that online retailers are able to supply veterinary medicines on a lower cost base than FOPs. For example, the CMA recognises that the costs of storing products and the loss of medicines through waste are greater in FOPs.<sup>22</sup>
- 4.10. Despite these helpful acknowledgments, the CMA, however, ignores these facts in the Medicines WP, and repeatedly compares medicine prices at FOPs to online retailers purely on price and without including prescription and dispensing fees. In this regard, the CMA's emerging thinking is that:
  - a) *"pet owners purchasing from online pharmacies can make substantial savings and that there are concerns among some vets and some pet owners that on-going medication at FOPs are 'over-priced' relative to online pharmacies"*<sup>23</sup>

<sup>18</sup> Medicines WP, para 5.37.

<sup>19</sup> **⌘**. See **Annex MI-03556** for the underlying data.

<sup>20</sup> VetPartners' response to Question 34 of the CMA's MR-RFI 1 of 13 September 2023 (submitted 11 October 2023).

<sup>21</sup> Medicines WP, para 3.40.

<sup>22</sup> Medicines WP, para 2.84.

<sup>23</sup> Medicines WP, para 3.38.



b) *“these significant price differences suggest that there is not a sufficiently strong competitive constraint from online pharmacies on the price of medicines at FOPs”*

- 4.11. The CMA fails to recognise that FOPs also incur the additional costs of providing the prescription service to pet owners, including the vets’ time in choosing and prescribing the most effective and appropriate medicines in each case, giving detailed instructions about its use (including contra-indications and methods of delivery), and the training and development costs to practices for improving the quality of this service. The additional cost of the service is included in the prescription charges by FOPs as part of the overall cost of the product.
- 4.12. The CMA analysis is meaningless without a proper analysis and comparison of the true cost of supply for FOPs and online retailers. As explained above, prescription costs are incurred by the FOP only, and are covered by either (a) the product cost when the medicine is purchased at the FOP or (b) the prescription fee when pet owners decide to purchase veterinary medicines from online retailers. Therefore, the relevant comparison should be between the sum of the online price (including delivery fees) and the prescription fee, and the price payable at FOPs.

***C) Drastic enforced changes to shift medicine sales to third-party retailers will have serious unintended consequences for pet owners***

- 4.13. The CMA has not attempted to consider the wider consumer and public interest benefits from the supply of veterinary medicines through FOPs. This is surprising given that this was extensively dealt with in the CC investigation and is clearly relevant to the assessment.
- 4.14. VetPartners informed the CMA at the Main Party Hearing that some smaller practices would be impacted most by a shift in medicine sales to online retailers, as (a) these practices may be more reliant on the revenues from medicines as they do few other treatments and (b) these practices are more likely to have a higher proportion of their cost base made up of fixed costs (which would still have to be recovered if medicine sales decrease and it would be difficult to reduce their cost base). This is likely to disproportionately affect rural areas where smaller practices may struggle to remain feasible, and any closures would result in job losses and clients needing to travel even further (as the demand in the local area may be insufficient to sustain multiple practices nearby).
- 4.15. Therefore, the longer-term impact of the shift in medicines sales from these FOPs to online retailers is likely to mean that many will face financial challenges, and some will close down, resulting in pet owners losing the convenience of having a vet practice in their local area. See *Section 6(D)* below, which contains a summary of the analysis conducted by VetPartners’ external economic advisors to assess the impact of reduced revenues from medicines sales in the case of VetPartners’ practices.
- 4.16. During the Main Party Hearing, Inquiry Group members suggested that:
  - a) on one possible view, it may be preferable for medicines to be priced ‘closer to costs’ (i.e., the cost of the product itself), and for vets to charge pet owners more for their time (i.e., the cost of the service); and
  - b) the CMA may be looking for ways to speed up the trend of shifting medicine sales to online retailers, rather than letting the trend take its natural course.

- 4.17. The CMA's emerging thinking in this regard is flawed, as any enforced changes in the pricing practices of FOPs would result in an increase in, for example, consultation fees (to a lesser degree), and in particular prescription fees and dispensing fees.<sup>24</sup> Therefore, on balance, consumers will likely be worse off as:
- a) Any 'shift in sales' would largely be a re-allocation of revenues, without any real benefits to consumers. The only potential benefits would be to online retailers, but those would likely to be reduced overall if pet owners were asked to pay prescription fees reflecting the true costs. In this regard, VetPartners also informed the CMA that at present prescription fees may not be reflective of the true cost of the service;
  - b) As explained above, smaller practices and, in particular, those in rural areas, would be more severely impacted by this forced 'shift in sales', and some would close down, leading to reduced consumer choice and convenience.
- 4.18. The natural competitive process over time will enable a larger number of practices to sustainably increase revenues and/or reduce costs in response to the trends in client expectations in different local areas (as this will differ for each local area and FOP). Further, online retailers will continue to grow and innovate, to better serve the growing demands of pet owners across the UK. Any attempted 'nudge' will only lead to worse consumer outcomes, as (a) pet owners will not see any material price savings, (b) some will lose the choice and convenience of local FOPs, and (c) more pet owners will become reliant on only online retailers.

***D) The professional duties of vets would prevent them from seeking to influence the medicines prescribed***

- 4.19. The CMA's emerging thinking seeks to explore whether vets have the 'incentive and ability' to influence the choices of pet owners, because of the 'gatekeeper' role held by vets, for example by prescribing medication that is more likely to be purchased from FOPs.<sup>25</sup>
- 4.20. The CMA also seeks to explore the incentives for LVGs that own FOPs and online pharmacies to act on this incentive by steering pet owners to their own online pharmacies with a view to mitigating losses at the FOPs.<sup>26</sup>
- 4.21. The CMA rightly accepts that the ethical conscience as well as professional and regulatory obligations of vets would prevent FOPs from acting on this incentive, even if it were to arise.<sup>27</sup> In this regard, the RCVS Guidance makes clear that:<sup>28</sup>
- a) Written prescriptions should not contain any specific recommendation of which retailer to purchase the medicines from; and

<sup>24</sup> During the Main Party Hearing, the discussions centred around consultation fees. However, as not all consultations require the prescription of medicines, some of the costs would also need to be recovered through higher prescription fees or increases in other fees that are more reflective of the true costs of the service.

<sup>25</sup> Medicines WP, paras 5.5-5.6.

<sup>26</sup> Medicines WP, paras 5.43-5.44.

<sup>27</sup> Medicines WP, para 5.45.

<sup>28</sup> RCVS Guidance, paragraph 10.6.

- b) Where any recommendations are made, the prescribing vet should disclose any commercial interest of the vet or their employer.
- 4.22. VetPartners believes that, if there is any evidence of vets infringing these rules, they should be dealt with firmly. As explained in the response to the CMA’s working paper on the regulatory framework of 6 February, we agree that the current system for monitoring and enforcing regulatory compliance needs significant reinforcement.
- 4.23. Furthermore, as set out in *Section 5(B)* below, the CMA evidence shows that pet owners do not face any meaningful barriers to buying medicines from third-party retailers.
- 5. The sale of medicines is an important but ancillary function of FOPs, and pet owners do not choose FOPs or switch based on medicine prices alone**
- 5.1. The CMA recognises that in a well-functioning market, “*customers of a FOP would reassess their options if higher medicine prices meant that the FOP was not offering **value for money across its services compared to other FOPs and third-party retailers of veterinary medicines.***”<sup>29</sup>
- 5.2. VetPartners agrees with this view, as FOPs do compete on price to an extent, and an FOP must ensure that it is offering value for money “across its services”. In other words, if the prices of medicines at an FOP are too high and drive up the overall price of the treatments provided by the FOP beyond competitive levels, pet owners will switch.
- 5.3. The CMA further suggests that in a well-functioning market, pet owners would (a) be aware of the option to buy medicines from a third-party retailer by requesting a prescription, (b) face no significant barriers to comparing prices for a given product, and (c) be able to switch between FOPs, and between FOPs and online retailers.
- 5.4. The CMA’s emerging thinking is that if these features are present, consumers in such a well-functioning market would pay “*competitive prices for veterinary medicines*”, and the CMA would expect no “*excess industry profit for the supply of veterinary medicine at the retail level of the supply chain over a sustained period.*”<sup>30</sup>
- 5.5. The CMA has not defined what it would regard as a “competitive price”, and, as far as we are aware, the CMA has no intention of conducting a profitability analysis of individual activities, including the retail provision of medicines by FOPs (see *Section 6(C)* below). Regardless, as set out below:
  - a) Pet owners are largely aware of the option of buying medicines from third-party retailers, and this trend is increasing, due to the ways in which online retailers provide consumers with easy access to information, and also due to significant marketing activities by the online retailers through social media and other channels.
  - b) There are no significant barriers to comparing prices for a given product, or to buying medicines from third-party retailers.
  - c) Pet owners are able to switch between FOPs and online retailers.

<sup>29</sup> Medicines WP, para 1.9 (emphasis added).

<sup>30</sup> Medicines WP, para 1.12.

***A) VetPartners is committed to providing pet owners with all available alternatives, but some owners would prefer to buy medicines from their FOP***

- 5.6. VetPartners has provided the CMA with extensive evidence that shows that VetPartners and its practices are committed to providing pet owners with all information that is required to make an effective decision, including prices and the ability to buy medicines online. The CMA's evidence confirms this for all LVGs, in that the CMA found that "*LVG internal documents showed evidence of LVG policies to present prices clearly when they were being provided to pet owners in the consulting room, or for specific treatment plans.*"<sup>31</sup> This applies also to the option of buying medicines from third-party retailers.<sup>32</sup>
- 5.7. The Consumer Survey found that it may be convenient for many pet owners to purchase veterinary medicines directly from their FOP or could even be necessary when their pet needs the medicine quickly. Jointly, this makes up 61% of all pet owners that required veterinary medicines.
- 5.8. The CMA also recognises that the nature of veterinary medicines may lead to pet owners preferring to purchase medicines from FOPs, rather than third-party retailers, and to some extent, owners must rely on veterinary professional, as trained experts.<sup>33</sup> In addition, the CMA acknowledges that even in a well-functioning market, some pet owners would continue to purchase medicines from their FOPs. Therefore, it is not clear what the CMA expects would have been an acceptable benchmark of consumers buying medicines from third-party retailers.
- 5.9. Even assuming that it is true that 38% of all pet owners are not aware that they can buy medicines from third-party retailers, a significant proportion of them would not buy medicines from third party retailers (i.e. even if they were aware). These customers would be actively choosing to purchase from a FOP rather than an online retailer, for a variety of reasons including convenience and confidence that the medication from the vet practice was the most reliable and best quality (e.g. no counterfeit, animal welfare etc.).<sup>34</sup>

***B) Pet owners do not face any meaningful 'barriers' to accessing information or buying medicines online***

- 5.10. The CMA's evidence does not show any meaningful barriers to pet owners buying medicines online. However, the CMA's emerging thinking still refers to the idea that, in addition to pet owners not being aware of their options to buy medicines online, they face several barriers, including (a) prescription fees and (b) the use of injectable medication.<sup>35</sup>
- 5.11. We deal with each of these CMA's perceived barriers separately below, to show that there is no evidence of any barriers, and that the CMA should de-prioritise these theories at the earliest opportunity (and in this regard, it is worth noting the CMA Board's advisory steer to the Inquiry Group of 23 May 2024 that the Inquiry Group should ensure an expeditious investigation, and that "*if there are areas of the inquiry where early on evidence suggests that no adverse effect on*

<sup>31</sup> Medicines WP, para 4.12.

<sup>32</sup> Medicines WP, para 4.14 and 4.40(a).

<sup>33</sup> Medicines WP para 5.51 and 5.53.

<sup>34</sup> Consumer Survey, Q91 and Q99.

<sup>35</sup> Medicines WP, para 13(b), 5.54 and 5.98.

*competition exists, or that appropriate remedies are unlikely to be available, we would urge the Group to deprioritise such areas”).*

**(i) Prescription and dispensing fees**

- 5.12. The CMA recognised that the fees charged by FOPs for dispensing and/or administering injectables cover the various costs faced by the FOPs in relation to the veterinary medicines.<sup>36</sup> However, the CMA also seeks to understand any potential ‘barriers’ related to prescription fees, i.e.:
- a) an incentive to increase prescription fees,<sup>37</sup> which would reduce the savings of pet owners buying medicines from third party retailers;
  - b) written prescriptions being issued for smaller amounts of medicines, which would increase the purchasing cost (i.e., limiting repeatability or the length of validity of prescriptions, which means pet owner needs to pay repeat prescription fees).
- 5.13. VetPartners disagrees with the notion that prescription fees (which the CMA recognises are necessary to cover the cost of the vet practices of providing this service) can be considered a barrier. These fees are intended to cover the cost incurred by FOPs when veterinary medicines are prescribed. Vets need to spend time with pet owners explaining how the medicine should be administered, possible side effects and how it should be stored. This is a cost that is only incurred at the FOP, regardless of where the pet owner obtains the veterinary medicine. It is covered by prescription fees when pet owners decide to buy from third-party retailers, and by medicines markups when buying at the FOP.
- 5.14. Further, the CMA recognises that there is a wide range of factors that contribute to the prescription fees charged by practices, and the fees will vary depending on, for example, the type of drug. However, the CMA has surprisingly not included any assessment of these costs. Instead, the CMA’s emerging view is based purely on the ‘incentive’ and ‘ability’ to *increase* these fees which, in of itself, is not in any way based on evidence. Further, this is entirely irrelevant to the CMA’s emerging thinking that “*the **current** level of fees*”<sup>38</sup> may present a barrier to consumers buying medicines online, in that the prescription fee “*may reduce or eliminate the savings that could be made when purchasing veterinary medicines from an online pharmacy with a written prescription*”.<sup>39</sup> In other words, the CMA’s view can only be sustained by a finding, on compelling evidence, that these fees are not reflective of the cost of the services, and are set to serve as a barrier.
- 5.15. In fact, the CMA’s view on prescription fees currently undermines the CMA’s own analysis by showing that on a fair comparison, which accounts for the necessary costs of a prescription, there are no or only limited savings to consumers. It is not helpful for the CMA to effectively wish away the requirement that medicine purchases require a prescription from a suitably qualified professional, and the fact that there is a cost to the service provided by this professional.

<sup>36</sup> Medicines WP, para 2.72.

<sup>37</sup> Medicines WP, para 5.56.

<sup>38</sup> Medicines WP, para 5.59 (emphasis added).

<sup>39</sup> Medicines WP, para 5.57.

5.16. VetPartners would endorse a proposal to require practices to publish their prescription fees on the practice websites. This would enhance transparency and enable pet owners to make further informed comparisons. It is also consistent with the BVA’s guidance for the veterinary profession on transparency and client choice of 2 May 2024<sup>40</sup> and the LVGs’ framework of remedies offered on 21 February 2024 during the CMA’s market review.

5.17. VetPartners agrees with the CMA’s emerging thinking that the length of prescriptions do not present a barrier to pet owners buying medicines from third party retailers.<sup>41</sup> This is consistent with the CMA evidence:

- a) Taken together, all the evidence suggests that the prescription period is within the discretion of the vet, and vets have clinical freedom to determine this.<sup>42</sup>
- b) There is no evidence that vets have reduced the length of written prescriptions to increase the frequency of prescriptions.

**(ii) Injectable medicines**

5.18. The CMA also seeks to understand whether FOPs may have an incentive to prescribe injectables, as pet owners “*may feel less able to request a written prescription for a product that is injectable rather than those available as tablets or liquid suspensions*”.<sup>43</sup>

5.19. The CMA suggests that the evidence on this is mixed.<sup>44</sup> VetPartners submits that the working paper does not present any evidence of a deliberate strategy by vets to use injectables as a means of retaining medicine sales. The evidence from LVGs and veterinary professionals is clear in that the prescription of injectables is purely a matter for the vet’s clinical discretion.<sup>45</sup>

5.20. The CMA’s evidence from veterinary professionals also shows that vets:<sup>46</sup>

- a) “*consider different formats of medications when prescribing, discussing their respective prices and benefits or drawbacks with pet owners.*”; and
- b) “[t]hey often made decisions about which format to recommend based on circumstances of the pet owner or pet, such as the pet owners’ mobility and ability to administer medication regularly.”

5.21. The only evidence to the contrary appears to be anecdotal evidence (i) from manufacturers (i.e. not veterinary service providers) that they are considering the benefits of moving towards more injectable medication and (ii) examples of LVGs adding injectables to their list of preferred products. Importantly, the CMA also acknowledges that:

- a) The decision to add injectables to the list of preferred products was based on clinical, rather than commercial, factors; and

<sup>40</sup> <https://www.bva.co.uk/media/5766/bva-transparency-and-client-choice-guidance.pdf>.

<sup>41</sup> Medicines WP, paras 5.81-5.82.

<sup>42</sup> Medicines WP, para 5.81

<sup>43</sup> Medicines WP, para 5.85.

<sup>44</sup> Medicines WP, para 5.86.

<sup>45</sup> Medicines WP, para 5.87.

<sup>46</sup> Medicines WP, para 5.89.



b) There are various benefits to using injectables.<sup>47</sup>

5.22. The direct evidence from veterinary professionals regarding their clinical discretion is instructive. Any potential incentives would be counteracted by the clinical discretion of the vets, which is informed by their ethical and professional obligations (as already explained above). As the CMA found in the Business Models WP, vets see their jobs as a vocation, and they are motivated primarily by a desire to provide the best clinical care for their patients.<sup>48</sup>

***C) Pet owners can easily switch, but they don't choose practices based on medicine pricing alone***

5.23. The Consumer Survey shows that pet owners choose a FOP based on a variety of factors, and that they do not choose a FOP based on medicine pricing alone.<sup>49</sup> Medicine pricing would be considered together with the overall service of the practices and the cost of the animal's care (including treatments and medicines), as set out in paragraphs 5.1 and 5.2 above.

5.24. The Consumer Survey and CMA analysis also show that pet owners consider and compare prices for items that they anticipate they may need,<sup>50</sup> and that the CMA would not expect pet owners to compare prices of non-routine medication.<sup>51</sup> Further, those who are interested in comparing prices were able to do so. More specifically, of the pet owners who purchased online, 72% were able to compare prices for one-off medicines, rising to 93% for ongoing medicines.<sup>52</sup>

5.25. It is, therefore, not correct for the CMA to assume that pet owners do not consider prices for veterinary medicines.<sup>53</sup>

**6. Pricing of veterinary medicines**

***A) The CMA has failed to properly consider the true costs of supplying veterinary medicines***

6.1. The main 'feature' that informs the CMA's emerging thinking on pricing is the fact that medicine pricing is not done on a 'cost-plus' basis based on purchase costs in almost all vet practices (across both LVGs and independents). Here the CMA suggests that in a well-functioning market, *"prices of veterinary medicines would be linked to the **costs of supply** and efficiencies of certain business models which lead to costs savings in relation to veterinary medicines would be passed on to pet owners."*<sup>54</sup>

6.2. The CMA's emerging thinking that *"FOPs set retail prices that are substantially above the costs of supply"*<sup>55</sup> seems to be based purely on a simplified analysis comparing retail prices to purchase cost to calculate a 'net net margin'.<sup>56</sup> Purchase cost, however, is not the "cost of supply", and

<sup>47</sup> Medicines WP, para 5.94.

<sup>48</sup> Business Models WP, para 2.83.

<sup>49</sup> Medicines WP, paras 4.18, 4.20 and 4.22.

<sup>50</sup> Medicines WP, para 4.28.

<sup>51</sup> Medicines WP, para 4.27.

<sup>52</sup> Consumer Survey Q95, 96 and 98.

<sup>53</sup> Medicines WP, para 4.22.

<sup>54</sup> Medicines WP, summary, para 18 (emphasis added).

<sup>55</sup> Medicines WP, summary, paras 2(c) and para 3.42 (c).

<sup>56</sup> Medicines WP, para 3.7.

therefore comparing the difference between retail prices and purchase costs does not provide an understanding of the “*profitability in the supply of veterinary medicines*”.

- 6.3. The CMA recognises that its analysis is limited by the fact that it does not include the indirect incremental costs, such as storage and wastage costs, in its assessment.<sup>57</sup> For example, a FOP needs to store a wide range of veterinary medicines at an appropriate stock level to meet the varying demands of the pets and owners, which results in inevitable costs of ordering and managing the delivery of medicines, storing the medicines securely, training employees to stock-take and keep track of varying shelf life of the medicines, and disposing of any out-of-date medicines.
- 6.4. However, the CMA does not fully acknowledge that the provision of medicines at a FOP draws upon certain costs that are common across a wide range of services.<sup>58</sup> Without a FOP incurring these common costs, such as vets’ salaries, a FOP would not be able to provide medicines. In other words, while these costs may not be incremental to the provision of medicines (i.e. these costs would not be reduced if medicine sales were stopped), they are critical to the provision of medicines at a FOP and thus should be included within any analysis of the profitability of medicines. These costs are likely to be very significant in value given the nature of the veterinary service (e.g. the high proportion of people costs), and a proportion of these common costs could be justifiably recovered from the sale of medicines for a practice to be able to be financially sustainable. As explained further below, the financial sustainability of a significant number of practices would be at serious risk without the mark-up on medicines.
- 6.5. As set out in *Section 5(B)(i)* above, when accounting for these costs by, for example, including prescription fees as a relevant proxy of the costs of the service, this would significantly affect the CMA’s analysis.

***B) The CMA has not conducted a profitability analysis, and medicines profitability cannot be looked at in isolation***

- 6.6. VetPartners understands from the CMA’s updated RFI 12 (updated financial template) and RFI 13 (updated narrative financial RFI) regarding the profitability analysis, and the CMA’s email explanations of 3 December 2024 that:
  - a) Based on the main parties’ responses to the RFI 6 (financial template) and RFI 7 (narrative financial RFI), the CMA noted that respondents were “*unable to disaggregate their balance sheets across the various activities*”; and
  - b) Based on what the CMA learned from the RFI responses, the CMA is now seeking to assess the economic profitability of UK veterinary clinics as a whole to be able to “*arrive at economically meaningful measures of capital employed, and, correspondingly, profitability*”.

<sup>57</sup> Medicines WP, para 3.10.

<sup>58</sup> The CMA acknowledges that online pharmacies can typically supply veterinary medicines at a lower cost than FOPs. Medicines WP, para. 3.40.

- 6.7. The CMA is, therefore, well aware of the difficulties in trying to disaggregate the analysis across different activities with the data available, which would also be required for any proper assessment of the profitability of medicines.
- 6.8. As explained above, there are significant common costs involved in the provision of medicines for all FOPs, which should be considered when assessing the profitability of medicines. Similarly, the sale of medicines at a FOP relies on a proportion of the asset base of the practices (e.g. the physical infrastructure). As VetPartners noted in its response to the approach to the profitability and financial analysis working paper, the profitability of medicines should not be considered in isolation as this only provides a partial picture and does not reflect the true economic profitability of a practice.<sup>59</sup>
- 6.9. The approach put forward by the CMA fails to recognise the intricacies of assessing profitability of medicines in isolation, and its simplified approach will necessarily over-estimate the profitability of medicines as well as over-estimate the degree to which there is cross-subsidisation between medicines and other services.<sup>60</sup>
- 6.10. Finally, without having assessed the profitability of medicines, the CMA's emerging view, which is informed by the alleged profitability, cannot be sustained.<sup>61</sup>

### ***C) Concerns regarding the CMA's pricing analysis***

- 6.11. The CMA acknowledges that it has not yet considered the submissions on the various fundamental deficiencies inherent in the initial analysis of insurance claim data, including those related to the pricing of medicines, and the fact that it fails to account for price increases and increased service quality.<sup>62</sup> For example, Oxera's technical response to the CMA's analysis using insurance claims data noted that the CMA's analysis does not account for the different dosages/volumes of the medicine dispensed.<sup>63</sup> VetPartners further notes that the quality of service provided around medicines can differ between practices. ✕.
- 6.12. This is in addition to the quality and cost relating to the prescription service, as further explained in paragraph 6.14 below. To the extent that a practice acquired by VetPartners (or another LVG) was not providing this level of service before, the CMA's analysis would not account for this service quality improvement.
- 6.13. The CMA's findings suggesting an increase in medicine pricing cannot be correct for VetPartners (or are misleading). VetPartners does not make changes to a practice's mark-ups after acquisition:

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<sup>59</sup> VetPartners' response to the CMA's working paper on the approach to profitability and financial analysis of 1 November 2024, section 3.

<sup>60</sup> The approach would necessarily over-estimate the profitability of medicines as it only includes the lowest possible cost in its assessment (i.e. the direct cost), and excludes any indirect incremental costs or any potential recovery of common costs.

<sup>61</sup> Medicines WP, summary para 2.

<sup>62</sup> See VetPartners' supplementary response to the ✕ (submitted on 22 January 2025), including Annex MI-03538 for the Oxera technical annex to VetPartners supplementary response (submitted on 22 January 2025).

<sup>63</sup> Oxera technical comments on the ✕.

a) ✕.<sup>64</sup>

b) ✕.

6.14. Furthermore, on the quality of the service, the CMA's suggestion that quality is not a relevant factor in the assessment is also not correct. As shown above, the supply of medicines at FOPs necessarily involves the service (including the vet's time) and a contribution to the common costs of the practice. Therefore, the cost of supply may be higher at a practice that invests in quality improvements to enhance the service quality through, for example:

- a) training and development of vets, to improve the clinical performance of the vets in prescribing the most effective and appropriate medicines in each case; and
- b) improvements to the practice facilities such as, for example, improving the record keeping and storage facilities to ensure sufficient supply of a wider range of medicines to better serve the individual customer's needs.

6.15. Therefore, the CMA's emerging view on pricing, which is informed by primarily this analysis, is not grounded in reliable evidence.

***D) Any sudden enforced change to the current model would have serious unintended consequences***

6.16. ✕.

6.17. ✕<sup>65</sup> ✕<sup>66</sup> ✕ (Annex MI-03557). The underlying data for this analysis is submitted as Annex MI-03558.

✕

6.18. ✕.

***E) No differences between LVGs and independent practices***

6.19. VetPartners was founded as a collection of diverse independent practices. VetPartners' operational model is based on practice level autonomy, and VetPartners does not make any changes to the pricing policies of any acquired practices post-acquisition. This is more fully set out in VetPartners' response to the Business Models WP.

6.20. Furthermore, the CMA's emerging view is that the negotiating position of some buying groups appears to be comparable to most LVGs, and that buying groups can obtain similar rebates to some LVGs.<sup>67</sup> The CMA also found no significant barrier that would prevent smaller FOPs from increasing their negotiating strength with wholesalers and manufacturers by joining buying groups.

6.21. Therefore, the CMA should proceed on the assumption that there is no material difference between the 'profitability' of medicines at LVGs and independent practices. Even though the

<sup>64</sup> See for example Annexes MI-01459 to MI-01487 ✕.

<sup>65</sup> ✕

<sup>66</sup> ✕

<sup>67</sup> Medicines WP, summary, para 16(d) and para 2.36.

CMA does not have the data to calculate the ‘net-net’ prices for independent practices, in the absence of evidence to the contrary, the CMA cannot draw any distinctions in this regard between LVGs and independents.

***F) No real risk of reduced buying power of buying groups***

6.22. The CMA also considers the risk that the negotiating power of buying groups may be reduced over time. VetPartners does not consider this to be a serious risk as:

- a) The CMA’s evidence in its working paper on the analysis of local competition dated 6 February 2025 (“**Local Competition WP**”) indicates that numerous new independent veterinary sites open each year.<sup>68</sup> Analysis by VetPartners’ external advisors, ~~✗~~,<sup>69</sup> shows that the number of new independent practice openings has grown significantly in recent years—~~✗~~. This growth is also reflected in the increasing proportion of independent practices among new openings. ~~✗~~. These figures should be viewed as conservative lower bounds, given that the CMA’s final dataset excludes around 1,000 unclassified independent sites, as explicitly acknowledged by the CMA in the Local Competition WP.<sup>70</sup>
- b) The CMA recognises that some buying groups are part of the same group as wholesalers, or other LVGs.

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<sup>68</sup> Local Competition WP, Annex A, Figure 6.2.

<sup>69</sup> The CMA shared the data pack containing the analysis underlying the Local Competition WP on 17 February 2025.

<sup>70</sup> Local Competition WP, para. 2.10.