

## FREQUENTLY ASKED QUESTIONS

### **Will independent businesses get to see the CMA's provisional findings?**

Yes. While protecting all parties' confidential information, we will ensure the published provisional decision report (PDR) sets out the CMA's provisional findings and proposed remedies in sufficient detail for all interested parties – including your business – to be able to understand the CMA's provisional findings and recommendations sufficiently, and to be able to respond to the consultation effectively. All vet businesses – large and small – will see the same provisional decision report. We look forward to receiving your consultation response in due course.

### **Have you heard more from the LVGs than from other vet businesses in this investigation?**

We have engaged extensively with smaller vet businesses through site visits, roundtables, information requests and responses to our various consultations. Our qualitative research included vets from all types of businesses. We heard from hundreds of smaller vet businesses in response to our Remedies Working Paper and we have taken those submissions into account when developing our proposed package of remedies. We have also worked with industry groups such as BVA, BVNA, BSAVA and FIVP (and SPVS), including inviting them to main party hearings.

Much of our information gathering has focused on the LVGs because we wanted to understand their business models, their profitability and their impact on the market. As we said when we launched our investigation, a number of the CMA's initial concerns referred to the impact of acquisitions and corporatisation on the market. A substantial amount of the confidential information in our investigation has therefore come from, or relates to, the LVGs. We were also aware that these large firms might find it easier to respond to extensive requests for data and internal documents than smaller firms.

### **Why is there a confidentiality ring for legal and economic advisers?**

In CMA investigations, interested parties often retain legal and economic advisors to help them navigate the process, prepare information that has been requested by the CMA and respond to our consultations. In this case, the LVGs have all retained legal firms and some have employed economic advisors as well.

Along with other industry bodies and groups, such as RCVS, BVA and FIVP, the LVGs are all main parties to our investigation, because of their size and their large share of the market. As noted above, if the main parties appoint or retain legal advisors, these advisors would be able to see the unredacted version of the PDR, but not share any confidential information with their clients. Others who are affected by the outcome of the investigation, not just the main parties to the investigation, could also have or appoint external legal advisers and apply for those advisers to see some or all of the unredacted document.

**Will the LVGs have access to information that others will not see?**

No. The LVGs will not see the unredacted, confidential version of the PDR. They will see the redacted, published version, in the same way as you, or other veterinary businesses. Nor will they have access to other parties' confidential information that is redacted from the published PDR. Only their external advisers, subject to strict confidentiality barriers, will see the full unredacted document.

**Will the LVGs receive my confidential information via the confidentiality ring?**

No. The CMA uses confidentiality rings to ensure that commercial parties (including the LVGs) do not receive confidential information. This is why the confidentiality ring is restricted to a limited number of external advisers of the parties to the investigation, and where we consider disclosure to these advisers is necessary, taking into account the requirements of the Enterprise Act (in particular our duty to consult and the considerations relevant to disclosure in section 244 of the Act).

**Why do you share the confidential version with advisers?**

We are required by law to consult on our provisional decision as fairly as we can, so that all parties have a chance to respond and we can make a well-informed final decision. (There is case law about this: 1429/4/12/21 Meta Platforms, Inc. v Competition and Markets Authority - Judgment | 14 Jun 2022.) That means taking a carefully balanced approach.

On the one hand, that approach needs to protect parties' commercially sensitive and confidential information – which is why we publish a redacted version of the PDR. That complies with one part of our legal obligations.

On the other hand, it also means being as transparent as we can while protecting the commercially sensitive and confidential information. That is another part of our legal obligations. Doing that by sharing unredacted information with the external advisers of main parties to an investigation (but not the businesses they represent) in a 'confidentiality ring' is the standard process we use.

**How can you be sure that the advisers will not share the information with their clients, the LVGs?**

The confidentiality undertakings advisers provide to the CMA prohibit the advisers from disclosing confidential information to their clients. These advisers have access to confidential information in the PDR solely to enable them (as advisers) to understand the CMA's reasoning and inform the response to the CMA. They are not permitted to share confidential information with their clients, even when preparing a response on their client's behalf.

We typically use this process in merger and market investigations. It accords with case law, and is effective. Breaching the prohibition on disclosure outside of the confidentiality ring would entail very serious consequences for an external adviser, who may be subject to:

- criminal penalties, including up to two years imprisonment and/or a fine with no
- upper limit;
- referral to their professional regulator for disciplinary action; and/or
- exclusion from this and any future CMA data access.

This latter matters to these firms because they repeatedly represent clients involved in CMA cases, such as markets or market investigations.

**How can I see the confidential information?**

As a vet / business owner, you may not see confidential information relating to other businesses. We take our duties in protecting such information very seriously.

Parties who are not the main parties to the investigation could have or appoint external legal advisers and they could apply to join the confidentiality ring and gain access to some or all of the unredacted document. The advisers would need to sign undertakings not to disclose the commercially sensitive or confidential information to their clients.