



# DETERMINATION OF MERGER NOTIFICATION M/23/065 – PHEY TOPCO/TRASMORE

---

## Section 21 of the Competition Act 2002

**Proposed acquisition by Phey Topco Limited of Trasmore Limited (trading as Dental Medical Ireland).**

**Dated 11 April 2024**

---

### Introduction

1. On 12 December 2023, in accordance with section 18(1)(a) of the Competition Act 2002, as amended (the “Act”), the Competition and Consumer Protection Commission (the “Commission”) received a notification of a proposed acquisition whereby Phey Topco Limited (“Phey”), directly or through any of its affiliates, would acquire the entire issued share capital, and thus sole control, of Trasmore Limited, trading as Dental Medical Ireland (“DMI”) (the “Proposed Transaction”).<sup>1</sup>

### The Proposed Transaction

2. The Proposed Transaction is to be implemented pursuant to a share purchase agreement (the “SPA”) dated 4 October 2023, as varied by a variation of contract agreement dated 7 December 2023 (the “Variation”). Pursuant to the SPA and the Variation, Phey will acquire the entire issued share capital, and thus sole control of, DMI<sup>2</sup>.

### The Undertakings Involved

#### *The Acquirer – Phey*

---

<sup>1</sup> Phey and DMI are referred to collectively as “the Parties”.

<sup>2</sup> [...] Phey wholly owns and controls the group of companies comprising the DD Group.



3. Phey is a holding company incorporated in England & Wales, that wholly owns and controls a group of companies referred to as DD Group, which are active in the supply of dental consumables, dental equipment, beauty and medical aesthetics, and related services to medical and dental professionals, beauticians, and aesthetic clinics in the United Kingdom, Belgium, France, Germany, the Netherlands, and the State. Phey supplies dental consumables and equipment in the United Kingdom through its subsidiary DD Products and Services Limited and in Belgium through Dental Promotion & Innovation SA. Phey through its subsidiaries supplies its customers predominantly [...]. In addition to third-party branded dental consumables and dental equipment, Phey also supplies dental consumables under its *UnoDent* brand.
4. In the State, Phey is active via BF Mulholland IRE Limited (“BF Mulholland”), which is a subsidiary of DD Group. BF Mulholland supplies third-party branded dental consumables, dental equipment, dental products-related services (including installation, repair, and maintenance services for certain dental equipment), beauty products and medical aesthetics. BF Mulholland supplies customers in the State [...].<sup>3</sup>
5. For the financial year ending 31 December 2023, Phey’s worldwide turnover was approximately €[...], of which €[...] million was generated in the State.

### ***The Target – DMI***

6. DMI is a company incorporated in Ireland which is wholly-owned by four shareholders.<sup>4</sup> DMI is active in the supply of dental consumables, dental equipment and related services to dental professionals in the State and in Northern Ireland. DMI is based in Dublin, with offices in Lisburn and Cork, and a warehouse in Kildare. DMI primarily supplies third-party branded dental consumables and dental equipment, but also supplies dental consumables under its own DMI brand.

---

<sup>3</sup> BF Mulholland also supplies dental consumables under Phey’s *UnoDent* brand.

<sup>4</sup> Patrick O’Brien, Nuala O’Brien, Nuapat Unlimited Company, and Vinshaz Unlimited Company. Nuapat Unlimited Company is wholly owned by Patrick O’Brien and Nuala O’Brien, and Vinshaz Unlimited Company is wholly-owned by Michael Vincent McDonagh and Sharon McElligott.



7. For the financial year ending 31 December 2023, DMI's worldwide turnover was approximately €[...], of which approximately €[...] was generated in the State.

#### Rationale for the Proposed Transaction

8. In the merger notification form, the Parties state the following:

*“The Parties’ activities are complementary, with DD Group and DMI focussing on a different product mix, geographic areas, and customers. Accordingly, the Proposed Transaction represents an opportunity for Phey Topco to diversify DD Group’s and DMI’s activities, and to advance cost, operational, supply chain, and distribution efficiencies.”<sup>5</sup>*

#### Contact with the Undertakings involved

9. On 24 January 2024, the Commission served a Requirement for Further Information (“RFI”) on each of Phey and DMI pursuant to section 20(2)(a)(i) of the Act (the “Phase 1 RFIs”). The service of these RFIs adjusted the deadline within which the Commission had to conclude its assessment of the Proposed Transaction in Phase 1.
10. Upon receipt of a full response to the Phase 1 RFIs, the “*appropriate date*” (as defined in section 19(6)(b)(i) of the Act) became 15 April 2024.<sup>6</sup>
11. During the Phase 1 investigation, the Commission requested and received further information and clarifications from the Parties.

#### Third Party Submissions

12. One third-party submission was received from a stakeholder in the dental industry. The competition concerns expressed in this submission have been considered by the

---

<sup>5</sup> Merger notification form, paragraph 2.6.1

<sup>6</sup> The “*appropriate date*” is the date from which the time limits for making both Phase 1 and Phase 2 determinations begin to run.



Commission as part of its Phase 1 review of the likely competitive impact of the Proposed Transaction.

### Market Enquiries

13. The Commission also engaged with third parties in relation to its review of the likely competitive impact of the Proposed Transaction. This third-party engagement consisted of market enquiries, including issuing questionnaires to competitors and suppliers of the Parties, and conducting a survey of dental professionals, which was carried out by Ipsos MRBI on behalf of the Commission (the “Survey”). As part of the Survey, 70 dental professionals responded to a variety of questions regarding the purchase of dental consumables, dental equipment, and the likely impact of the Proposed Transaction.

### Industry Background – Dental Consumables and Dental Equipment

14. In the merger notification form, the Parties provide the following description of dental consumables and dental equipment:

*“Dental consumables such as PPE, oral healthcare items, laboratory supplies, dental instruments, handpieces and endodontic products, dental filling materials, impression materials, cements and bond, and infection control and decontamination products.*

*Dental equipment such as dental chairs and stools, digital x-ray equipment, sterilisation equipment such as sterilisers and washer/disinfectors, intra-oral scanners and milling machines, compressors, suction motors, microscopes, handpiece maintenance equipment, phosphor plate systems and other small equipment.”<sup>7</sup>*

15. Based on information provided by the Parties and third parties, the main difference between the purchasing practices of customers in respect of dental consumables and

---

<sup>7</sup> Merger notification form, paragraph 4.4.2.



dental equipment is that while the former are ordered on a frequent basis (e.g., multiple orders per month), the purchase of dental equipment typically involves a once-off capital expenditure (e.g., when a dentist is refurbishing its workspace). Some dental equipment may require repair, maintenance, and installation services. Accordingly, many suppliers of dental equipment also offer the provision of repair, maintenance and installation services for dental equipment.

16. For both dental consumables and dental equipment, orders are placed with suppliers via multiple avenues; website, phone, email, and sales representatives (if applicable). Some suppliers such as DMI and Morris Dental Company Limited (“Morris Medray”) have warehouses located in the State to facilitate the quick delivery of dental consumables and dental equipment. In contrast, some suppliers such as [...] deliver dental consumables and dental equipment to customers in the State from warehouses located outside of the State.
17. Some suppliers of dental consumables and dental equipment can be categorised as “full-line” suppliers, in that they supply a full (or close to full) range of products to customers in the State.<sup>8</sup> Examples of full-line suppliers of dental consumables and dental equipment in the State include both of the Parties, Henry Schein, and Morris Medray.<sup>9</sup> In contrast, some suppliers of dental consumables and dental equipment in the State are not full-line suppliers, instead they supply a more limited range of either dental consumables, dental equipment, or both. Examples of such suppliers in the State include Ardagh Dental Supply Co., Orthocare Ltd, and Medguard HealthCare Ltd.
18. Customers of dental consumables and dental equipment are dental professionals, operating in independent dental practices (with 1 to 3 dentists per practice), corporate dental groups, dental hospitals, or the Health Service Executive (the “HSE”). The Parties estimate that approximately 75% of dental professionals operate as part of

---

<sup>8</sup> As noted by the Competition and Markets Authority (“CMA”) in the United Kingdom in a 2015 merger decision *Henry Schein / Plandent*, full-line suppliers of dental consumables offer a “materially complete portfolio of dental consumables”. See: [CMA decision of 21 April 2015 – Henry Schein / Plandent Case ME/6515/15](#), paragraph 31.

<sup>9</sup> Dontalia is a full-line supplier of dental consumables in the State but does not supply any dental equipment products in the State.



independent dental practices or smaller corporate dental groups.<sup>10</sup> Based on views expressed to the Commission in its engagement with third parties, the Commission notes that independent dental practices tend to place frequent but low-volume orders of dental consumables, and *ad hoc* orders of dental equipment as and when needed. In contrast, corporate dental groups are more likely to source dental consumables and dental equipment centrally for all of their dental practices. Dental hospitals<sup>11</sup> may carry out tenders for the procurement of dental consumables and dental equipment or source them on an *ad hoc* basis, whereas the HSE exclusively sources dental consumables and dental equipment through tenders.

19. The Commission's engagement with third parties, including the Survey, indicates that dental professionals consider price and delivery speed as the two most important factors when choosing a supplier of dental consumables. In respect of dental equipment, price and the provision of repair, maintenance and installation services are the two most important factors for dental professionals when choosing a supplier.

## Competitive Analysis

### Horizontal Overlap

20. There is a horizontal overlap between the Parties in the full-line supply of dental consumables and dental equipment in the State.
21. The Parties also overlap horizontally in the provision of repair, maintenance and installation services for dental equipment in the State.

### Vertical Overlaps

22. There are no vertical overlaps between the Parties.

---

<sup>10</sup> Merger notification form, paragraph 4.4.11. Some third parties expressed the view to the Commission that there are few large corporate dental groups in the State as compared to the United Kingdom and other jurisdictions, and those that do exist are comparatively smaller (typically only 5-7 dental practices per group). The largest corporate dental group in the State is Dental Care Ireland Management Limited with 33 practices; Xeon Dental Services Limited (t/a Smiles Dental) is the second largest, with approximately 20-25 dental practices. In contrast, the British United Provident Association Limited and Portman Healthcare Ltd in the United Kingdom comprise 450 and 200 dental practices, respectively.

<sup>11</sup> Of which there are only two in the State: Cork University Dental School and Hospital, and Dublin Dental University Hospital.



## Market Definition

### Relevant Product Market

#### *Views of the Parties*

23. The Parties state in the merger notification form that the relevant product market is “the supply of dental consumables and equipment by any supplier”.<sup>12</sup> The Parties did not provide any views on the product market definition in relation to the provision of repair, maintenance and installation services for dental equipment.

#### *Previous Decisions*

24. The Commission has not previously considered a merger or acquisition in the dental consumables or dental equipment sector.
25. In the case of *Henry Schein/Plandent*, the CMA, while ultimately leaving the product market definition open, assessed the competitive effects of that transaction by reference to the potential market for the supply of dental consumables by full-line distributors only (rather than all distributors of dental consumables).<sup>13</sup> The CMA stated that customers typically use full-line distributors only, noting that those who did multi-source did so between different full-line distributors. The CMA also stated, however, that distributors of dental consumables who are not full-line may exert a competitive constraint over full-line distributors of dental consumables and this was taken into account in its competitive assessment.<sup>14</sup>
26. In *Henry Schein/Plandent*, the CMA also stated that it would not be appropriate to further segment the potential market for the supply of dental consumables by product type, noting (i) the extent to which customers typically purchased various dental consumables products together, (ii) the fact that comparable distributors offered a

---

<sup>12</sup> Merger notification form, paragraph 5.1.1.

<sup>13</sup> [CMA decision of 21 April 2015 – Henry Schein / Plandent Case ME/6515/15](#), paragraph 43. The CMA in its decision did not consider the supply of dental equipment.

<sup>14</sup> [CMA decision of 21 April 2015 – Henry Schein / Plandent Case ME/6515/15](#), paragraph 43.



similar range of dental consumables products and (iii) that the conditions of competition are similar across different product categories.<sup>15</sup>

27. The European Commission (“EC”) has previously reviewed several transactions in the dental consumables and dental equipment sector. For example, in its decision in *Dentsply/Sirona*, the EC, while ultimately leaving the potential relevant product markets open, carried out its competitive assessment by reference to the following potential product markets: (a) the supply of dental equipment relating to treatment centres; and (b) the supply of certain small dental equipment.<sup>16</sup>

#### *Views of the Commission*

##### **The Full-Line Supply of Dental Consumables**

28. The Commission considers that it is not necessary to come to a definitive view on the precise relevant product market for the supply of dental consumables, as doing so will not alter the Commission’s assessment of the likely competitive impact of the Proposed Transaction. Accordingly, the Commission has assessed the likely competitive impact of the Proposed Transaction in the narrowest potential product market, i.e., the potential market for the full-line supply of dental consumables.<sup>17</sup>

##### **The Full-line Supply of Dental Equipment**

29. The Commission considers that it is not necessary to come to a definitive view on the precise relevant product market for the supply of dental equipment, as doing so will not alter the Commission’s assessment of the likely competitive impact of the Proposed Transaction. Accordingly, the Commission has assessed the likely competitive impact of

---

<sup>15</sup> [CMA decision of 21 April 2015 – Henry Schein / Plandent Case ME/6515/15](#), paragraph 59.

<sup>16</sup> [Case M.7822 - Dentsply/Sirona](#) at paragraphs 32-39. The EC defined a treatment centre as “*includ[ing] at least the patient chair, the dentists stool, the dentists work station (including the monitor, the tray and the instrument holders), the assistant work station, and lighting*”, whereas small dental equipment included endoscopic motors, contra-angle handpieces, ultrasonic scalers and ultrasonic scaler tips.

<sup>17</sup> The Commission considers that it would not be appropriate to further segment the potential product market for the full-line supply of dental consumables by product type for two reasons. First, based on views expressed to the Commission by third parties, including the results of the Survey, dental professionals typically purchase a bundle of different types of dental consumable products from suppliers. Second, dental professionals informed the Commission that full-line suppliers of dental consumables carry a broad range of products.





the Proposed Transaction in the narrowest potential product market, i.e., the potential market for the full-line supply of dental equipment.<sup>18</sup>

### **The Provision of Repair, Maintenance, and Installation Services for Dental Equipment**

30. The Commission considers that it is not necessary to come to a definitive view on the precise relevant product market for the provision of repair, maintenance and installation services for dental equipment, as doing so will not alter the Commission's assessment of the likely competitive impact of the Proposed Transaction. Accordingly, the Commission has assessed the likely competitive impact of the Proposed Transaction with reference to the narrowest potential product market, i.e. the potential market for the provision of repair, maintenance, and installation services for dental equipment.

#### Relevant Geographic Market

##### *Views of the Parties*

31. The Parties in the merger notification form state that the relevant geographic market for the supply of dental consumables and equipment is “*at least Europe (EEA and the UK)*”.<sup>19</sup>

##### *Previous Decisions*

32. In the case of *Henry Schein/Plandent*, the CMA, while ultimately leaving the relevant geographic market definition open,<sup>20</sup> assessed the competitive impact of that transaction by reference to both Great Britain and Northern Ireland. The CMA did not consider whether the relevant geographic market should be extended beyond the United Kingdom.

---

<sup>18</sup> Like the full-line supply of dental consumables, the Commission considers that it would not be appropriate to further segment the potential market for the full-line supply of dental equipment by product type. Based on the views expressed to the Commission by third parties, including the results of the Survey, dental professionals typically purchase a bundle of different types of dental equipment products from full-line suppliers.

<sup>19</sup> Merger notification form, paragraph 5.1.12.

<sup>20</sup> [CMA decision of 21 April 2015 – Henry Schein / Plandent Case ME/6515/15](#), paragraphs. 62- 63.



33. In its merger decision in *Dentsply/Sirona*, the EC, while ultimately leaving the relevant geographic markets open, assessed the competitive impact of that transaction by reference to EEA-wide and national geographic markets.<sup>21</sup>

#### *Views of the Commission*

34. The Commission considers that it is not necessary to define the precise relevant geographic markets in this instance, as doing so will not alter the Commission's assessment of the likely competitive impact of the Proposed Transaction. Since the Parties supply dental consumables, dental equipment, and repair, maintenance, and installation services for dental equipment on a nationwide basis, the Commission has assessed the likely competitive impact of the Proposed Transaction by reference to the narrowest potential geographic markets, i.e., the State.

#### Conclusion on Relevant Markets

35. The Commission has assessed the likely competitive impact of the Proposed Transaction in the following potential relevant markets:
- a) The full-line supply of dental consumables in the State;
  - b) The full-line supply of dental equipment in the State; and,
  - c) The provision of repair, maintenance, and installation services for dental equipment in the State.

#### **Competitive Analysis – Horizontal**

##### *The Full-line Supply of Dental Consumables in the State*

36. The Commission identified preliminary competition concerns in the potential market for the full-line supply of dental consumables in the State.

#### Structure of potential market

---

<sup>21</sup> [Case M.7822 - Dentsply/Sirona](#) at paragraphs. 35 and 45



37. Based on information provided by the Parties and third parties, the Commission has estimated annual shares in the full-line supply of dental consumables in the State over the period 2021-2023 (see Table 1 below).

Table 1: Estimated shares in the Full-line Supply of Dental Consumables in the State, 2021-2023<sup>22</sup>

Supplier	2021	2022	2023
Phey	[10-20]%	[10-20]%	[10-20]%
DMI	[30-40]%	[30-40]%	[30-40]%
<b>Combined</b>	<b>[45-55]%</b>	<b>[45-55]%</b>	<b>[45-55]%</b>
Henry Schein	[40-50]%	[40-50]%	[40-50]%
Morris Medray	[0-10]%	[0-10]%	[0-10]%
Dontalia	[0-10]%	[0-10]%	[0-10]%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
<b>HHI (pre-Proposed Transaction)</b>	<b>[3000-4000]</b>	<b>[3000-4000]</b>	<b>[3000-4000]</b>
<b>HHI (post-Proposed Transaction)</b>	<b>[4000-5000]</b>	<b>[4000-5000]</b>	<b>[4000-5000]</b>

Source: the Commission, based on information provided by the Parties and third parties

38. As shown in Table 1 above, the implementation of the Proposed Transaction would see Phey's share in the full-line supply of dental consumables in the State increase from [10-20]% to [45-55]%. The number two supplier of dental consumables in the State,

<sup>22</sup> Market shares in Table 1 have been rounded to the nearest decimal point.



Henry Schein, had a share of [30-40]% in 2023. The potential market for the full-line supply of dental consumables in the State is currently highly concentrated (and has been during the period 2021-2023) with few suppliers, reflected in a HHI of [3000-4000] in 2023. Following implementation of the Proposed Transaction, the full-line supply of dental consumables in the State would become even more highly concentrated with the HHI increasing to [4000-5000]. The change in the HHI of [1000-2000] is well above the figure of 150, the threshold below which the Commission considers that a post-merger HHI is unlikely to cause concern.

#### Views of the Commission

39. During the course of its review of the Proposed Transaction, the Commission identified preliminary competition concerns in the potential market for the full-line supply of dental consumables in the State. As detailed in Table 1 above, the full-line supply of dental consumables in the State is highly concentrated with the top three suppliers (pre-Proposed Transaction) having a combined share of around [85-95]%. Following implementation of the Proposed Transaction, Phey's share would increase to [45-55]%.
40. The acquisition of DMI by Phey would lead to a reduction in the number of full-line suppliers of dental consumables in the State from five to four. This reduced competition could lead to customers (i.e., dentists) having less choice, an increase in the price of dental consumables in the State and/or otherwise harm competition in the potential market for the full-line supply of dental consumables in the State (e.g., by reducing service quality).

#### *The Full-line Supply of Dental Equipment in the State*

41. The Commission also identified preliminary competition concerns in the potential market for the full-line supply of dental equipment in the State.

#### Structure of potential market

42. Based on information provided by the Parties and third parties, the Commission has estimated annual shares in the full-line supply of dental equipment in the State over the period 2021-2023 (see Table 2 below).



Table 2: Estimated shares in the Full-line Supply of Dental Equipment in the State, 2021-2023<sup>23</sup>

Supplier	2021	2022	2023
Phey	[0-10]%	[0-10]%	[0-10]%
DMI	[40-50]%	[40-50]%	[40-50]%
<b>Combined</b>	<b>[35-45]%</b>	<b>[45-55]%</b>	<b>[45-55]%</b>
Henry Schein	[20-30]%	[20-30]%	[20-30]%
Morris Medray	[10-20]%	[10-20]%	[10-20]%
Murray Woods Limited	[10-20]%	[10-20]%	[10-20]%
<b>Total</b>	100%	100%	100%
<b>HHI (pre-Proposed Transaction)</b>	<b>[2000-3000]</b>	<b>[3000-4000]</b>	<b>[3000-4000]</b>
<b>HHI (post- Proposed Transaction)</b>	<b>[3000-4000]</b>	<b>[3000-4000]</b>	<b>[3000-4000]</b>

Source: the Commission, based on information provided by the Parties and third parties.

43. As shown in Table 2 above, the implementation of the Proposed Transaction would see Phey's share in the full-line supply of dental equipment in the State increase from [0-10]% to [45-55]%. The number two supplier of dental equipment in the State, Henry Schein, had a share of [20-30]% in 2023. The potential market for the full-line supply of

<sup>23</sup> Market shares in Table 2 have been rounded to the nearest decimal point.



dental equipment in the State is currently highly concentrated (and has been during the period 2021-2023), reflected in a HHI of [3000-4000] in 2023. Following implementation of the Proposed Transaction, the potential market for the full-line supply of dental equipment in the State would become even more highly concentrated, with the HHI increasing to [3000-4000]. The change in the HHI of [0-1000] is well above the figure of 150, the threshold below which the Commission considers that a post-merger HHI is unlikely to cause concern.

#### Views of the Commission

44. During the course of its review of the Proposed Transaction, the Commission identified the following preliminary competition concerns in the potential market for the full-line supply of dental equipment in the State. As detailed in Table 2 above, the full-line supply of dental equipment in the State is highly concentrated. Prior to the Proposed Transaction, the top two suppliers have a combined share of [60-70]% with this figure rising to around [65-75]% following implementation of the Proposed Transaction. Following implementation of the Proposed Transaction, the merged entity's share would be [45-55]%. The acquisition of DMI by Phey would lead to a reduction in the number of full-line suppliers of dental equipment in the State from five to four. This reduced competition could lead to customers (i.e., dentists) having less choice, an increase in the price of dental equipment in the State and/or otherwise harm competition in the potential market for the full-line supply of dental equipment in the State (e.g., by reducing service quality).

#### *The Provision of Retail, Maintenance and Installation services for Dental Equipment in the State*

45. The Commission identified the potential market for the provision of retail, maintenance and installation services for dental equipment in the State as an area of overlap in respect of the Parties' activities. The Commission considered whether the Proposed Transaction would give rise to competition concerns in this potential market. However, the proposals submitted by Phey (referred to in paragraphs 48 to 50 below) to address the preliminary competition concerns in the potential markets for dental consumables and dental equipment in the State would also address any concerns in the potential



market for the provision of retail, maintenance and installation services for dental equipment in the State. On this basis, the Commission did not need to reach any preliminary view on whether the Proposed Transaction would raise competition concerns in this potential market.

### Vertical Overlap

46. The Parties stated in the merger notification form that there is no vertical overlap between them in the State. The Commission did not identify any actual or potential vertical overlaps.
47. Accordingly, the Commission considers that the Proposed Transaction does not give rise to any vertical competition concerns in any market in the State.

### Proposals submitted by Phey

48. In response to the preliminary competition concerns identified by the Commission, Phey submitted proposals to the Commission on 20 March 2024 in accordance with section 20(3) of the Act for the purpose of ameliorating any effects of the Proposed Transaction on competition in markets for goods and services in the State (the “Proposals”). In accordance with the terms of the Proposals, Phey would divest BF Mulholland (whilst retaining activities relating to the supply of beauty products and medical aesthetics, i.e. unrelated to the supply of dental consumables, as well as [...]). The Commission market tested the Proposals between 2-3 April 2024. The Proposals describe the divestment package and set out the process for appointing a Monitoring Trustee and selecting a suitable purchaser for the divestment package.
49. The Commission is of the view that the Proposals are sufficient to address the preliminary competition concerns identified by the Commission in the potential markets for the full-line supply of dental consumables and the full-line supply of dental equipment in the State. The number of suppliers active in the full-line supply of dental



consumables in the State will, post-merger, be restored to five. The Commission considers that the merged entity will continue to face competitive constraints from the remaining suppliers. In respect of the full-line supply of dental equipment in the State, the Commission considers that the Proposals are sufficient to address the preliminary competition concerns identified by the Commission because they restore to five the number of suppliers active in the market for the full-line supply of dental equipment in the State.

50. The Proposals are set out below as Annex A to this Determination.

#### **Conclusion of Competitive Analysis**

51. For the reasons set out above, the Commission considers that, taking the Proposals into account, the Proposed Transaction will not substantially lessen competition in any market for goods or services in the State and, accordingly, that the acquisition may be put into effect.

#### **Ancillary Restraints**

52. Clauses 11.2(a), 11.2(d), and 11.2(e) of the SPA impose restrictive covenants. The Commission notes that these restrictions are limited in scope and do not exceed the maximum duration acceptable to the Commission. Therefore, the Commission considers Clause 11.2(a), 11.2(d), and 11.2(e) to be directly related and necessary to the implementation of the Proposed Transaction, insofar as they relate to the State.





## **Determination**

Pursuant to section 20(3) of the Competition Act 2002, as amended (the “Act”), Phey Topco Limited has submitted to the Competition and Consumer Protection Commission (the “Commission”) the Proposals set out below regarding measures to be taken to ameliorate any effects of the proposed acquisition on competition in markets for goods or services in the State, with a view to the said Proposals becoming binding on Phey Topco Limited.

The Commission has taken the Proposals into account and, in light of the said Proposals (which form part of the basis of its determination), has determined, in accordance with section 21(2)(a) of the Act, that the result of the proposed acquisition whereby Phey Topco Limited, which is indirectly jointly owned by funds managed by Sun Capital Partners, Inc., would acquire the entire issued share capital, and thus sole control, of Trasmore Limited, will not be to substantially lessen competition in any market for goods and services in the State, and, accordingly, that the acquisition may be put into effect.

For the Competition and Consumer Protection Commission

**Úna Butler**

**Member**

**Competition and Consumer Protection Commission**

## **Annex A: The Proposals**

**M/23/065 – PHEY TOPCO/TRASMORE**

**PROPOSALS BY PHEY TOPCO LIMITED TO THE COMPETITION AND CONSUMER PROTECTION COMMISSION RELATING TO THE PROPOSED ACQUISITION OF TRASMORE LIMITED (TRADING AS DENTAL MEDICAL IRELAND), AS NOTIFIED TO THE COMMISSION PURSUANT TO SECTION 18(1)(a) OF THE COMPETITION ACT 2002, AS AMENDED, ON 12 DECEMBER 2023**

**Recitals**

- A.** On 12 December 2023, the Competition and Consumer Protection Commission (the “CCPC”) received notification of a proposed acquisition whereby Phey Topco Limited, directly or through any of its affiliates, would acquire sole control of Trasmore Limited, trading as Dental Medical Ireland (the “Proposed Transaction”). The Proposed Transaction was notified to the CCPC pursuant to section 18(1)(a) of the Competition Act 2002, as amended (the “Act”).
- B.** During its review of the Proposed Transaction, the CCPC informed Phey that it had identified preliminary competition concerns in relation to the supply of dental consumables and dental equipment in the State.
- C.** On 10 April 2024 Phey submitted the following proposals pursuant to Section 20(3) of the Act, for the purposes of ameliorating any effects of the Proposed Transaction on competition in markets for goods or services in the State (the “Proposals”) with a view to the Proposals becoming binding on Phey if the CCPC takes the Proposals into account and states in writing that the Proposals form the basis or part of the basis of a Determination (as hereinafter defined).

**Definitions**

For the purpose of the Proposals, the following terms shall have the following meaning:

“**Act**” means the Competition Act 2002, as amended;

“**CCPC**” means the Competition and Consumer Protection Commission;

“**Determination**” means the Determination of the CCPC pursuant to Section 21(2)(a) of the Act that the Proposed Transaction may be put into effect, taking into account the Proposals, which form the basis or part of the basis of the Determination;

“**Divestment Business**” means the business consisting of the items listed in the Appendix (but excluding the Retained Activities, as defined in the Appendix), which is to be sold by Phey, after having acquired Trasmore as part of the Proposed Transaction, under the terms of the Proposals (however effected, including by means of an asset sale or a sale of shares);

“**Divestment Period**” has the meaning ascribed to it in paragraph 2 of the Proposals;

“**Existing Supplier**” means any supplier of the Divestment Business on the day prior to the date of the Determination;

“**Hold Separate Manager**” has the meaning ascribed to it in paragraph 38 of the Proposals;

“**Mandate**” means the mandate agreement to be entered into between Phey and the Trustee in accordance with paragraph 20 of these Proposals;

**“Material Change”** means a change whereby a purchaser no longer fulfils the requirements of a “Suitable Purchaser”, as defined below;

**“Phey”** means Phey Topco Limited, a company incorporated in England and Wales under registration number 14121907, and its subsidiaries, representatives, franchisees and agents and all the undertakings they control either directly or indirectly, solely or jointly from time to time. For the purposes of this definition, “control” and its variants have the meaning ascribed by section 16(2) of the Act. For the avoidance of doubt, any actions or obligations to be performed by Phey under the Proposals may be performed by Phey Topco Limited directly or by any of its affiliates;

**“Proposed Transaction”** means the proposed acquisition whereby Phey, directly or through any of its affiliates, would acquire sole control of Trasmore, as notified to the CCPC on 12 December 2023;

**“Proposed Trustee”** has the meaning ascribed to it in paragraph 16 of these Proposals;

**“Suitable Purchaser”** means a purchaser who meets all of the following criteria:

- (a) the acquisition by the purchaser of the Divestment Business would not, in the CCPC’s view, be likely to create *prima facie* competition concerns;
- (b) the acquisition by the purchaser of the Divestment Business would be on terms and conditions which would not, in the CCPC’s view, be likely to create *prima facie* competition concerns;
- (c) the purchaser is unconnected to, and independent of, both Phey and Trasmore;
- (d) the purchaser is able to continue to operate the Divestment Business on a financially viable basis; and
- (e) the purchaser is committed to operating the Divestment Business as an active competitive force.

**“The State”** – means the Republic of Ireland;

**“Trasmore”** means Trasmore Limited (trading as Dental Medical Ireland), a company incorporated in the State under registration number 314003, and its subsidiaries, representatives, franchisees and agents and all the undertakings they control either directly or indirectly, solely or jointly. For the purposes of this definition, “control” and its variants have the meaning ascribed by section 16(2) of the Act;

**“Trustee”** means the trustee approved, or deemed to have been approved, by the CCPC with whom Phey shall enter into the Mandate in accordance with paragraph 20 of the Proposals;

**“Trustee Reports”** has the meaning ascribed to it in paragraph 24(a) of the Proposals.

**A. Proposal to divest the Divestment Business following the completion of the Proposed Transaction**

- 1 Pursuant to section 20(3) of the Act, Phey submits to the CCPC the following Proposals relating to the Divestment Business for the purpose of ameliorating any potential effects of the Proposed Transaction on competition in markets for goods or services in the State, with a view to the Proposals becoming binding on Phey on the date of the Determination.
- 2 Phey undertakes, after having acquired Trasmore and subject to the provisions set out herein, to effect the sale of the Divestment Business within [...] of the Determination (the **“Divestment Period”**) (or such longer period as may be allowed by the CCPC, acting reasonably) to a Suitable Purchaser approved by the CCPC (which approval shall not be unreasonably withheld or delayed by the CCPC).

3 Phey recognises that the sale of the Divestment Business shall be upon such conditions as agreed between the CCPC and Phey under the Proposals and that the acquisition of the Divestment Business by a prospective purchaser must not be likely to create, in light of information available to the CCPC, *prima facie* competition concerns.

4 Phey recognises that for a prospective purchaser to obtain the CCPC's approval, such purchaser shall be unconnected to and independent of Phey and Trasmore and shall be a Suitable Purchaser. Phey recognises that the Suitable Purchaser shall be able to maintain and develop the Divestment Business as an active competitive force.

Phey further recognises that for a prospective purchaser to obtain the CCPC's approval, that purchaser must be deemed reasonably likely to obtain all authorisations and consents required to effect a transfer of the Divestment Business.

5 Phey shall:

- i. promptly inform the Trustee and the CCPC in writing, with a fully documented and reasoned proposal, once it has established a complete list of all prospective purchasers who have indicated a serious desire to purchase the Divestment Business and to whom Phey is considering the sale of the Divestment Business, enabling the Trustee and the CCPC to verify the suitability of the prospective purchaser(s); and
- ii. when the parties have entered into a binding contract for the sale of the Divestment Business, submit a fully documented and reasoned proposal enabling the Trustee and the CCPC to verify that the conditions laid down in the Proposals are fulfilled and that there has been no Material Change in the status of the purchaser not reasonably foreseeable at the time the CCPC assessed the purchaser's suitability under paragraph 5(i) subject to the CCPC agreeing to keep confidential all such information received.

6 The CCPC shall communicate in writing its approval or non-approval of all prospective purchaser(s) of the Divestment Business within ten (10) working days of receipt of a fully documented and reasoned proposal (together with all supporting documentation, including a copy of any heads of agreement or draft contracts prepared by Phey and/or the prospective purchaser) identifying a prospective purchaser in accordance with paragraph 5(i). Separately, within ten (10) working days of receipt of a binding contract for sale and an accompanying fully documented and reasoned proposal in accordance with paragraph 5(ii), the CCPC shall communicate in writing its view as to whether the conditions laid down in the Proposals have been fulfilled and as to whether there has been any Material Change in the status of the purchaser as provided for in paragraph 5(ii).

7 Failure of the CCPC to communicate its approval or non-approval of a prospective purchaser within ten (10) working days of receipt of a fully documented and reasoned proposal identifying such purchaser in accordance with paragraph 5(i) shall delay the running or expiration of the [...] period established above until the CCPC communicates its approval or non-approval. However, if the CCPC does not communicate its approval or non-approval within twenty (20) working days of receipt as aforesaid, such approval shall be deemed to have been given unconditionally. In the case of multiple offers from prospective purchasers whom the CCPC considers suitable, Phey shall be free to accept the offer of any one of these prospective purchasers of its choosing.

8 Phey recognises that, if at any time prior to the completion of the sale of the Divestment Business to a Suitable Purchaser, the CCPC reasonably considers on the basis of the information available to it that there has been a Material Change, the CCPC may withdraw its approval of the Suitable Purchaser of the Divestment Business.

- 9 Phey shall be deemed to have satisfied the terms of the Proposals immediately following the completion of the sale of the Divestment Business and all obligations under the Proposals shall cease at that time with the exception of the obligations set out in paragraphs 14 and 15, which will continue to have effect for the period specified therein.
- 10 The CCPC and Phey shall act at all times in a reasonable manner with a view to achieving the effective and efficient implementation of these Proposals.
- 11 The sale of the Divestment Business shall not prevent or delay completion of the Proposed Transaction.

**B. The Divestment Business**

- 12 Phey undertakes to dispose of the entirety of the Divestment Business, as defined in the Appendix, excluding the Retained Activities, as defined in the Appendix. Phey shall take all necessary and reasonable actions, including procuring any necessary and reasonable actions by Trasmore, to ensure the disposal of the entirety of the Divestment Business.
- 13 Phey undertakes not to carry out any act upon its own authority which may reasonably be expected to have a significant adverse impact on the economic value, the management, or the competitiveness of the Divestment Business until the date of completion of the sale of the Divestment Business.
- 14 Phey further undertakes that, for a period of [...] from the date of completion of the sale of the Divestment Business in accordance with paragraph 2 (the “Non-solicitation Period”), Phey will not actively canvass or solicit or conduct marketing activities targeted at any customer of the Divestment Business in the State in relation to the supply of dental consumables, dental equipment and dental products-related services, such as by way of (without limitation) direct mail (including the sending of unsolicited emails), telephone sales, or promotions targeted at the customers of the Divestment Business.

For the avoidance of doubt, the obligation in paragraph 14 does not preclude Phey from:

- (i) Responding to an unsolicited request from a customer of the Divestment Business to supply dental consumables, dental equipment and/or dental products-related services or from conducting general marketing activities which are not specifically targeted at any customer of the Divestment Business.
- (ii) Conducting any activities (including canvassing, soliciting, or marketing) targeting the existing customers of [...] for the supply of dental consumables, dental equipment and dental products-related services. [...].
- (iii) Conducting any activities in relation to any customers unrelated to the supply of dental consumables, dental equipment and dental products-related services, including in particular customers of aesthetics products.
- 15 Phey undertakes not to purchase as a merger or acquisition, within the meaning of Part 3 of the Act, the Divestment Business (or an interest in the Divestment Business) for a period of [...] following the date of completion of the sale of the Divestment Business to a Suitable Purchaser pursuant to the Proposals. If Phey enters into such a binding agreement to purchase the Divestment Business after the expiry of the [...] period referred to in this paragraph, Phey shall submit a written notification of such agreement to the CCPC within five (5) working days of the signing of such agreement and will, if required to do so by the CCPC, notify any such proposed merger or acquisition in accordance with Section 18(3) of the Act (or its successor provision, if applicable) if such proposed merger or acquisition is not required to be notified under Section 18(1) of the Act (or its successor provision, if applicable).

**C. Appointment of a Trustee**

- 16 Within ten (10) working days after the Determination, Phey will submit to the CCPC a reasoned proposal of a trustee, who is independent of both Phey and Trasmore (the "Proposed Trustee"). The appointment of the Proposed Trustee is subject to the approval of the CCPC (not to be unreasonably withheld or delayed). If the CCPC does not reject the Proposed Trustee by notice in writing within five (5) working days of the date of submission of the reasoned submission, the Proposed Trustee shall be deemed to have been approved.
- 17 If the Proposed Trustee is rejected, Phey will submit to the CCPC a reasoned proposal of a new trustee (the "New Trustee") within ten (10) working days of being informed of the rejection. If the CCPC does not reject the New Trustee by notice in writing to Phey within five (5) working days of the new proposal, the New Trustee shall be deemed to have been approved.
- 18 At the time of proposing the Proposed Trustee or the New Trustee to the CCPC, Phey shall furnish to the CCPC sufficient information to enable the CCPC to assess the suitability of the person so proposed, including (without limitation) a curriculum vitae.
- 19 If the New Trustee, proposed under paragraph 17, is rejected by the CCPC, the CCPC shall, acting reasonably, nominate a suitable trustee (the "CCPC Trustee") which Phey will appoint or cause to be appointed without delay.

**D. Trustee's Mandate**

- 20 Within ten (10) working days of the date on which the CCPC has approved or is deemed to have approved either the Proposed Trustee, the New Trustee or the CCPC Trustee (the "Trustee"), Phey shall enter into a mandate agreement with the Trustee the terms of which have been agreed with the CCPC in accordance with paragraph 21 or 22 (the "Mandate"), which confers on the Trustee all the rights and powers necessary to permit the Trustee to monitor Phey's compliance with the terms of the Proposals.
- 21 Within five (5) working days of the date on which the CCPC has approved or is deemed to have approved the Trustee, Phey shall submit to the CCPC a draft mandate agreement for approval by CCPC, and such approval shall not be unreasonably withheld or delayed by the CCPC. The terms of the draft mandate agreement shall be consistent with the terms of the Proposals. If the CCPC rejects the terms of the draft mandate agreement by notice in writing, the CCPC shall within five (5) working days thereof, propose an amended version of the draft mandate agreement, which shall be accepted by Phey.
- 22 If the CCPC does not reject the terms of the draft mandate agreement by notice in writing within five (5) working days of the submission of the draft mandate agreement, the CCPC shall be deemed to have agreed to the terms therein.
- 23 The Trustee shall be independent of Phey and Trasmore, possess the necessary qualifications and experience to carry out its mandate, and shall neither have nor become exposed to a conflict of interest. The Mandate shall provide for a mechanism to resolve any conflicts of interest that may arise during the term of the Mandate (including, if necessary, the replacement of the Trustee).
- 24 Throughout the duration of the Trustee's appointment, the Trustee shall:
- a. provide written reports ("**Trustee Reports**") to the CCPC on the progress of the discharge of its duties under the Mandate, identifying any respects in which the Trustee has been unable to discharge such duties. The Trustee Reports shall be provided at monthly intervals, commencing one month after the date of the appointment of the Trustee, or at such other

times or time periods as the CCPC may specify and are notified in writing to Phey. Phey shall receive a non-confidential copy of such Trustee Reports.

- b. monitor and advise the CCPC as to the development of the procedure for selecting a prospective purchaser for the Divestment Business and as to the conduct of the negotiations;
- c. monitor and advise the CCPC as to whether the prospective purchaser with whom Phey intends to negotiate are likely to satisfy the CCPC's requirements as to suitability, including providing a written report to the CCPC within five (5) working days of receipt of a fully documented and reasoned proposal from Phey pursuant to paragraph 5 (i) of the Proposals verifying the suitability of a prospective purchaser;
- d. provide a written report to the CCPC within five (5) working days of receipt of a fully documented and reasoned submission from Phey pursuant to paragraph 5 (ii) of the Proposals, verifying whether the requirements set out in the Proposals have been fulfilled and that there has been no Material Change;
- e. monitor the maintenance of the viability and marketability of the Divestment Business and ensure that it is managed in the ordinary course of business, pursuant to good business practice; and
- f. provide such other ad hoc updates to the CCPC as the Trustee considers necessary.

25 The Trustee Report shall assess the compliance or otherwise of Phey with the Proposals during the period since the date of the previous Trustee Report (or, in the case of the first Trustee Report, since the date of the Determination).

26 The Trustee's duties and functions as set out above shall not be extended or varied in any way by Phey, save with the express consent of the CCPC. Any instruction or request to the Trustee from Phey which conflicts with the terms of the Mandate, and the duties and functions as set out above, will be considered null and void.

27 The CCPC may, on its own initiative or at the request of the Trustee, give any orders or instructions to the Trustee that are required in order to ensure compliance with the conditions and obligations attached to the Determination so long as Phey is first given an opportunity to comment on any such orders or instructions in advance.

28 After [...] have elapsed from the date of the Determination (or such longer period as may be allowed by the CCPC), without Phey having entered into a binding contract for the disposal of the Divestment Business to a Suitable Purchaser, the Trustee shall be given an irrevocable mandate to negotiate (in good faith) and conclude arrangements for the sale of the Divestment Business [...], to a viable and independent third party (subject to both the CCPC having approved the purchaser as a Suitable Purchaser and, following entry into a binding contract for the sale of the Divestment Business, the CCPC having verified that there has been no Material Change in the status of the purchaser, in accordance with paragraphs 5, 6 and 7). [...]. In this context, all references in paragraphs 5, 6 and 7 to "Phey" shall be substituted with "the Trustee". The Trustee shall have regard to the legitimate financial interests of Phey in respect of any such sale, subject to Phey's unconditional obligation to divest the Divestment Business [...].

29 The CCPC and Phey shall endeavour to ensure that the Trustee shall act reasonably and responsibly.

#### **E. Miscellaneous**

- 30 Phey will provide the Trustee with all reasonable assistance and will procure (so far as it is able) that all relevant third parties provide such assistance required to ensure compliance with the Proposals. Phey will provide or cause to be provided to the Trustee all such assistance and information, including copies of all relevant documents accessible by Phey as the Trustee may require in carrying out its Mandate, and will pay reasonable remuneration for the Trustee's services.
- 31 In addition, at the expense of Phey, the Trustee may appoint advisors (in particular for corporate finance and / or legal advice). The appointment by the Trustee of advisors is subject to Phey's approval, such approval not to be unreasonably withheld or delayed, if the Trustee considers the appointment of such advisors necessary or appropriate for the performance of its duties and obligations under the Mandate, provided that any fees and other expenses incurred by the Trustee are reasonable. Should Phey refuse to approve the advisors proposed by the Trustee, the CCPC may approve the appointment of such advisors instead, after first having heard Phey. Only the Trustee shall be entitled to issue instructions to the advisors.
- 32 Notwithstanding the Trustee's overall responsibility to discharge its functions and in particular notwithstanding the Trustee's position as an independent unrelated third party, the Trustee (who shall undertake in the Mandate to do so) shall have to the extent possible given the nature of its tasks due regard to the commercial interests of Phey. The Trustee shall have access on an unrestricted, working basis to the Hold Separate Manager (as defined below), and any other employees of the Divestment Business in order to ensure compliance by Phey with (i) the Proposals and (ii) its obligations to maintain the financial and competitive viability of the Divestment Business.
- 33 Phey shall indemnify the Trustee and its employees and agents (each an "Indemnified Party") and hold each Indemnified Party harmless against, and hereby agrees that an Indemnified Party shall have no liability to Phey for any liabilities arising out of the performance of the Trustee's duties under the Proposals and the Mandate, except to the extent that such liabilities result from the wilful default, recklessness, gross negligence or bad faith of the Trustee, its employees, agents or advisors. The Trustee and all other relevant third parties' powers of attorney and appointment shall be irrevocable.
- 34 The Mandate shall be deemed to be discharged and the Trustee's appointment shall be deemed to be terminated if Phey announces that the Proposed Transaction has been irrevocably abandoned.

#### **F. Interim Position of the Divestment Business**

- 35 Following the Determination and pending the onward sale of the Divestment Business, Phey undertakes to hold separate the Divestment Business and to preserve the economic viability, marketability, and competitiveness of the Divestment Business until the date of completion of the sale of the Divestment Business, in accordance with good commercial practice, and to ensure that the Divestment Business is managed separately by the Hold Separate Manager (as defined at paragraph 38) in the best interests of the Divestment Business as a distinct economic entity.
- 36 Phey shall implement verifiable measures to ensure that it does not obtain any competitively sensitive information relating to the Divestment Business during the period from the date of the Determination until the date of the completion of the sale of the Divestment Business (save by agreement with the Trustee under the terms of the Mandate and where such information is required:
- i. for the operation of the Divestment Business in accordance with good commercial practice;
  - ii. to enable compliance with legal or regulatory obligations by Phey and/or the Divestment Business;



- iii. for tendering purposes by Phey (equally, competitively sensitive information regarding Phey may be provided to the Divestment Business where necessary for tendering purposes); or
- iv. for the purpose of assisting the divesture by Phey of the Divestment Business to a prospective purchaser).

37 Following the Determination and pending the sale of the Divestment Business, Phey undertakes not to carry out any act upon its own authority which may reasonably be expected to have a significant adverse impact on the economic value, the management, or the competitiveness of the Divestment Business until the date of completion of the sale of the Divestment Business. Furthermore, Phey undertakes not to carry out upon its own authority any act which may be of such a nature as to alter the nature or the scope of activity, or the industrial or commercial strategy, or the investment policy of any of the Divestment Business. In particular, Phey shall procure and ensure that the Divestment Business continues to engage with the Existing Suppliers to the Divestment Business in good faith, and to terminate contracts, whether written or unwritten, with Existing Suppliers only for material breach of contract.

38 Phey further undertakes to appoint a manager for the Divestment Business (who may be the existing manager of the Divestment Business or such similar person, who is unconnected to, and independent of, Phey) who shall be responsible for the day-to-day management of all operations in relation to the Divestment Business (the "Hold Separate Manager"). The Hold Separate Manager shall manage the Divestment Business independently of Phey, as a distinct economic entity, and in the best interest of the Divestment Business with a view to ensuring its continued economic viability, marketability, and competitiveness. Further, the Hold Separate Manager shall be responsible for ensuring that no competitively sensitive information relating to the Divestment Business and its operation is provided to Phey during the period from the date of the Determination until the date of completion of the sale of the Divestment Business, save with the agreement of the Trustee under the terms of the Mandate and where one of the following conditions are satisfied:

- a. such information is required for the operation of the Divestment Business in accordance with good commercial practice;
- b. such information is required to enable compliance with legal or regulatory obligations by Phey and/or the Divestment Business;
- c. such information is required for tendering purposes by Phey (equally, competitively sensitive information regarding Phey may be provided to the Divestment Business where necessary for tendering purposes); or
- d. such information is required for the purpose of assisting the divesture by Phey of the Divestment Business to a prospective purchaser.

39 Where Phey has signed a binding contract for the sale of the Divestment Business, it shall provide a copy of such binding contract and all supporting documentation to the Trustee and the CCPC within three (3) working days of Phey signing the binding contract.

40 Where the Trustee has signed a binding contract for the sale of the Divestment Business, it shall provide a copy of such binding contract and all supporting documentation to the CCPC within three (3) working days of the Trustee signing the binding contract.

## **G. Review provisions**

- 41 The CCPC may at its sole discretion, acting reasonably, extend any of the time periods provided for in the Proposals in response to a reasoned request from Phey or the Trustee, or, in appropriate cases, on its own initiative, acting reasonably.
- 42 The CCPC may further, at its sole discretion waive, modify or substitute any provision in the Proposals in response to a reasoned request from Phey or the Trustee showing good cause or in appropriate cases and following consultation with Phey, on its own initiative acting reasonably (albeit that the CCPC cannot shorten the Divestment Period, as defined in paragraph 2 of the Proposals).

## Appendix: The Divestment Business

The Divestment Business which shall, for the avoidance of doubt, exclude the Retained Activities (as defined further below), shall comprise the business relating to the supply by BF Mulholland Limited (**BF Mulholland**), a company incorporated in Northern Ireland under registration number NI610167 and having its registered address at 58 Glenavy Road, Crumlin, Co. Antrim, BT29 4LA, of the following products in the State:

- a) Dental consumables, including but not limited to dental filling materials, impression materials, cements and bond, PPE, infection control and decontamination products, oral healthcare items, laboratory supplies, dental instruments, handpieces, endodontic products, and certain dental pharmaceutical products (e.g., dental anaesthetics, antibiotics, and pain management products);
- b) Dental equipment, including but not limited to dental chairs and stools, digital x-ray equipment, sterilisation equipment such as sterilisers and washer/disinfectors, intra-oral scanners and milling machines, compressors, suction motors, microscopes, handpiece maintenance equipment, phosphor plate systems and other small equipment; and
- c) Dental products-related services, including but not limited to installation, repair, and maintenance services for certain equipment,

and shall consist of:

- 1 The entire issued share capital of BF Mulholland (if required by the Suitable Purchaser, and without prejudice to the right of Phey to dispose of the Divestment Business by any other means, including by way of a sale of the trade and assets of the Divestment Business);
- 2 BF Mulholland's own customer list, any price lists, and any contracts concerning its own supply of dental consumables, dental equipment and dental products-related services (but excluding any contacts, contracts, price lists and arrangements with customers of the Retained Activities);
- 3 BF Mulholland's leasehold interest in its premises at 58 Glenavy Road, Crumlin, Co. Antrim, BT29 4LA, Northern Ireland;
- 4 [...]
- 5 [...]
- 6 BF Mulholland's fixed assets, inventory, debtors and liabilities in respect of the Divestment Business and in particular in respect of the supply of dental consumables, dental equipment and related services (but excluding those that are attributable to the Retained Activities);
- 7 All of BF Mulholland's intellectual property, including the trademark and brand name "BFM" and "BF Mulholland";
- 8 BF Mulholland's website (<https://www.bfmulholland.com>) and associated IT infrastructure and its IT systems which are separate from Phey's other businesses (i.e., its enterprise resource planning systems and customer relationship management system);
- 9 BF Mulholland's wholesale distribution licence issued by the UK Medicines and Healthcare products Regulatory Agency (**MHRA Licence**), which allows BF Mulholland to sell dental pharmaceutical products in the State and Northern Ireland. [...];
- 10 A normalised level of working capital and cash on the balance sheet, to be determined as part of the Suitable Buyer's due diligence process, and in line with normal industry practice for private M&A transactions (but excluding working capital and cash attributable to the Retained Activities).

The following activities of BF Mulholland (referred to hereinafter as the **Retained Activities**) shall be excluded from the Divestment Business:

1. BF Mulholland's activities relating to the supply of beauty products and medical aesthetics (e.g., toxins, fillers, skin rejuvenation products, and skin peels); and
2. [...],

including:

- a) All contracts, price lists, contacts and arrangements with customers of the Retained Activities;
- b) [...];
- c) BF Mulholland's fixed assets, inventory, debtors and liabilities which are attributable to the Retained Activities;
- d) [...];
- e) [...]; and
- f) Working capital and cash on the balance sheet which is attributable to the Retained Activities.

Dated 10 April 2024

SIGNED for and on behalf of

PHEY TOPCO LIMITED by:

---

Marc Mabon, Director, Phey Topco Limited