

Consent to certain actions for the purposes of the Initial Enforcement Order made by the Competition and Markets Authority ('CMA') on 24 March 2017

Completed acquisition by GLO Dutch Bidco B.V. of Mallinckrodt Netherlands Holdings B.V. and Mallinckrodt Nuclear Medicine LLC

We refer to your submissions of 24 March 2017 and 28 March 2017 requesting that the CMA consents to derogations to the Initial Enforcement Order of 24 March 2017 (the Initial Order). The terms defined in the Initial Order have the same meaning in this letter unless otherwise stated.

Under the Initial Order, except with the prior written consent of the CMA, GLO BidCo S.à r.l.,¹ IBA Pharma SA,² GLO Dutch Bidco B.V. and Mallinckrodt Netherlands Holdings BV (**Mallinckrodt**)³ shall not, during the specified period, take any action which might prejudice a reference of the transaction under section 22 of the Act or impede the taking of any remedial action following such reference.

After due consideration of your request for derogations from the Initial Order, based on the information received from you and in the particular circumstances of this case, the following derogations in respect of the specific paragraphs of the Initial Order below are granted on the basis of two guiding principles:

- i) The UK business of Mallinckrodt will be ring-fenced and held separate during the period of the Initial Order and managed on a standalone basis by [X]; and

¹ GLO BidCo S.à r.l. was released from the requirements of the Initial Order by virtue of the derogation consent granted on 28 March 2017.

² IBA Pharma SA was released from the requirements of the Initial Order by virtue of the derogation consent granted on 28 March 2017.

³ Mallinckrodt Netherlands Holdings BV includes all of Mallinckrodt Netherlands Holdings BV's subsidiaries and affiliates.

- ii) IBA Molecular⁴ will maintain its supply of SPECT products through Alliance Medical during the period of the Initial Order, shall not amend or terminate the exclusive distribution agreement in place with Alliance Medical, shall maintain the same service levels under that agreement as prior to the commencement date and shall operate this activity wholly independently of Mallinckrodt's activities in and/or related to the UK, including that it shall not share competitively sensitive information with Mallinckrodt's business with activities in and/or related to the UK.

Proposed ring-fence of the UK businesses

IBA Molecular and Mallinckrodt have sought consent to integrate their global businesses outside of the UK, subject to a ring-fence of their business activities in the UK. This ring-fence seeks to ensure that Mallinckrodt's business with activities in the UK will:

- a. Not be integrated with IBA Molecular and be managed independently from IBA Molecular;
- b. Have no changes in key staff;
- c. Have no changes in key assets;
- d. Have and retain sufficient staffing, finances, and inputs to compete independently in the UK;
- e. Set its own prices and other terms of sale;
- f. Maintain its product portfolios and product development roadmaps in the UK as at the commencement date;
- g. continue to manage all existing contracts with UK customers, and tender for all new contracts with UK customers;
- h. contact all UK customers of Mallinckrodt to explain that the businesses will continue to be held separate for the duration of the Initial Order;
- i. maintain independent customer and supplier lists; and
- j. not share any other competitively sensitive information with each other.

⁴ IBA Molecular means the resultant businesses arising from the acquisition by GLO Dutch BidCo of Mallinckrodt Netherlands Holdings BV and Mallinckrodt Nuclear Medicine LLC excluding the former businesses of Mallinckrodt Netherlands Holdings BV and Mallinckrodt Nuclear Medicine LLC.

The ring-fence also seeks to ensure that all required inputs are provided to Mallinckrodt's UK businesses by the wider group on terms no less favourable than is currently the case.

'Paragraph 4(a) of the Initial Order

Manufacturing and operation of plant, facilities and equipment

The CMA consents to the joint oversight and management of all manufacturing operations by IBA Molecular and Mallinckrodt.

Regulatory and safety management

The CMA consents to all regulatory compliance and safety management activities of IBA Molecular and Mallinckrodt, including in respect of nuclear safety management.

Commercial activities outside of the UK

Provided that these arrangements are not at all relevant to the UK business, the CMA consents to all commercial activities of IBA Molecular and Mallinckrodt outside of the UK, including non-UK sales and distribution activities and arrangements with third party distributors.

US business

The CMA consents to any further activities of Mallinckrodt Nuclear Medicine, LLC which are not covered by the derogation set out above, except in so far as they relate to the supply of [REDACTED] and also provided that the Intellectual Property (IP) rights [REDACTED], are preserved.

Mallinckrodt Switzerland Limited (CHE-103.756.508), IBA Molecular France SAS (750 928 75) and the Czech branch (014 60 021)

The CMA consents to any activities relating to Mallinckrodt Switzerland Limited, IBA Molecular France SAS and the Czech branch, including the staff employed by this entity, except [REDACTED] and the other employees who have signed Non-Disclosure Agreements (**NDA**) in relation to UK specific information described below.

Paragraphs 4(a) and 5(f) of the Initial Order

The CMA consents to IBA Molecular providing to Mallinckrodt the services which are currently provided by the seller organisation under the terms of a Transitional Services Agreement dated [REDACTED] (**TSA**), as provided to the CMA. These services include: [REDACTED].

Paragraph 4(b) of the Initial Order

The CMA consents to the corporate merger of GLO Dutch Bidco B.V. and Mallinckrodt Medical B.V. (Netherlands) which will take place [✂].

Paragraph 5(a) of the Initial Order

The CMA consents to [✂].

Paragraphs 5(b) of the Initial Order

The CMA consents to the IBA Molecular and Mallinckrodt businesses outside of the UK being operated in accordance with the combined business plan and budget.

Paragraph 5(g) and (h) of the Initial Order

The CMA consents to joint procurement by IBA Molecular and Mallinckrodt for all supplies received outside of the UK, including [✂], provided that all inputs that are required by the Mallinckrodt UK business and Alliance Medical continue to be made available for UK businesses and customers and are provided on terms and service levels no less favourable than is currently the case.

Paragraph 5(l) of the Initial Order

The CMA consents to the exchange of non-UK specific information between IBA Molecular and Mallinckrodt. For the avoidance of doubt this includes the exchange of information in relation to manufacturing facilities and operations based outside of the UK, commercial activities outside of the UK and financial reporting/ budget information which is not specific to the UK.

[✂] during the period of the Initial Order will sign a NDA in an agreed form to preserve the confidentiality of the information that [✂] receives which is UK specific. [✂] will also sign a NDA in the same format.

The following persons who will provide back office assistance to the Mallinckrodt UK business in relation to in relation to IT/information systems, payroll, human resources, benefits, treasury, corporate executive, business development, internal audit, finance, tax and legal functions, following the carve out of Mallinckrodt from the seller's organisation, will sign a Non-Disclosure Agreement in an agreed format to ensure that information which is specific to the UK business remains appropriately ring-fenced:

[✂]

[✂]

[✂]

[✂]

[✂]

[✂]

[✂]

[✂]

[✂]

[✂]

The following persons who would access UK specific information, following the carve out of Mallinckrodt from the seller's organisation, will sign a Non-Disclosure Agreement in an agreed format to ensure that information which is specific to the UK business remains appropriately ring-fenced:

[✂]

[✂]

[✂]