

**Consent to certain actions for the purposes of the Initial Enforcement Order made by the Competition and Markets Authority ('CMA') on 19 May 2014**

**Completed acquisition by Oasis Dental Care (Central) Limited (Oasis) of JHD Holdings Limited (Smiles)**

We refer to your letters dated 16 and 19 May 2014 requesting that the CMA consents to derogations to the Initial Enforcement Order of 19 May 2014 (the 'Initial Order').

Under the Initial Order, save for written consent by the CMA, provision was made that Oasis will hold separate the Oasis business (as defined in the Initial Order) from the Smile's business. After due consideration of your request for a derogation to the Initial Order, Oasis may carry out the following actions, in respect of the specific paragraphs:

**Paragraphs 4(a), 4(b) and 5(a), 5(c) of the Initial Order**

During the specified period (as defined in the Initial Order), in order to comply with clinical and health and safety matters, Oasis is permitted to appoint [ ], the nominated individual under the Care Quality Commission (CQC) regime for all Oasis practices and [ ], CEO of the Oasis group with overall responsibility for it (the Nominated Directors), to the board of Smiles' Dental Body Corporate (DBC). To the extent required to comply with clinical and health and safety governance, they are permitted access to all matters relating to clinical and health and safety performance (including CQC compliance requirements, appointments of clinical managers within the Smiles group, adoption of clinical policies and protocols within practices), with authority to direct changes as required to ensure compliance with the applicable law and regulation.

During the specified period (as defined in the Initial Order), in order to comply with clinical and health and safety matters, [ ] (Head of Clinical Services and Commissioning at Oasis) is permitted access, observation and information rights to support the Nominated Directors in their roles as set out above.

In respect of those NHS contracts where the contract is in the name of a partnership, [ ] is permitted to be appointed as partner within the partnership to ensure that the

partnerships comply with their clinical and health and safety obligations on the same basis as the DBC as set out above.

[ ] is permitted to be appointed the nominated individual for all Smiles practices for the purposes of the CQC regime.

We require that the CMA is kept informed of any operational changes Smiles practices are directed to make with respect to clinical and health and safety governance. We require that [ ], [ ] and [ ] sign a confidentiality agreement in a form agreed with the CMA.

#### **Paragraph 5(l) of the Initial Order**

During the specified period (as defined in the Initial Order), [ ] (CFO of Oasis), the Financial Controller who supports him and [ ] (CEO of Oasis) are permitted to receive and use such of Smile's consolidated financial information as is strictly necessary for the purposes of meeting Oasis' contractual obligations under its third party debt arrangements. The board of directors of Oasis will also be permitted to see consolidated and aggregated financial information to comply with fiduciary and reporting obligations in the form of agreed templates. For the avoidance of doubt, the Oasis board of directors is not permitted to receive any Smiles financial information at a practice level. [ ] and the Financial Controller, who will have access to practice level data, will also be required to sign confidentiality agreements in a form agreed with the CMA. Oasis is also required to provide the CMA with the name of the Financial Controller.

To manage this information reporting requirement, [ ] (CFO of Oasis) and [ ] (CEO of Oasis) are permitted to be appointed to the Board of JDH Holdings Limited (which is purely an intermediate holding company).

[ ] (HR Director of Oasis) and the Head of HR Operations are permitted to have access to all HR records and employees of the Smiles business subject to signing a confidentiality agreement in a form agreed with the CMA. Oasis is required to provide the CMA with the name of the Head of HR Operations.

#### **Paragraph 5(e)**

The required legal entities within Smiles are permitted to be used to provide security and guarantees to third party lenders as required by the debt facilities entered into by Oasis in relation to the Smiles transaction.

## **Paragraphs 4(a) and 4(c) of the Initial Order**

Oasis is permitted to make a [ ] cash injection to [ ].

## **Paragraphs 4(a) and 5(f)**

Oasis is permitted to roll-out an upgrade of the [ ] but not to integrate the IT functions.

## **Paragraphs 4(a) and 5(g)**

Oasis and Smiles are permitted to make joint purchases in relation to agreements at a central level (rather than specific supply agreements) as long as the pricing paid by practices at a local level does not increase.

## **Paragraphs 4(a) and 5(e)**

[ ] (CEO of Oasis) and [ ] (CFO of Oasis) are permitted to require Smiles to obtain their approval in respect of the following:

- Capital expenditure in excess of [ ] for a specific project
- Approval to material changes to commercial contracts, including NHS contracts
- Expenditure in excess of amounts set out in the Smiles annual business plan
- New binding commercial contracts with terms in excess of 12 months including (i) finance and operating leases and (ii) property leases.
- Insurance claims in excess of [ ].