

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Lina M. Khan, Chair
Noah Joshua Phillips
Rebecca Kelly Slaughter
Christine S. Wilson
Alvaro M. Bedoya

In the Matter of

JAB Consumer Partners SCA SICAR
a corporation,

National Veterinary Associates, Inc.
a corporation,

and

VIPW, LLC
a corporation,

Ethos Veterinary Health LLC,
a corporation.

Docket No. C-4770

REDACTED PUBLIC VERSION

COMPLAINT

Pursuant to the Clayton Act and the Federal Trade Commission Act, and its authority thereunder, the Federal Trade Commission (“Commission”), having reason to believe that Respondents JAB Consumer Partners SCA SICAR, the owner of Compassion-First Pet Hospitals and National Veterinary Associates, Inc. (collectively, “Compassion-First/NVA”), a corporation subject to the jurisdiction of the Commission, has agreed to acquire VIPW, LLC and Ethos Veterinary Health LLC (collectively, “Ethos”), corporations subject to the jurisdiction of the Commission, in violation of Section 5 of the Federal Trade Commission Act (“FTC Act”), as amended, 15 U.S.C. § 45, that such acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the FTC Act, as amended, 15 U.S.C.

§ 45, and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues its Complaint, stating its charges as follows:

I. RESPONDENTS

1. Respondent JAB Consumer Partners SCA SICAR is a private corporation organized, existing, and doing business under and by virtue of the laws of Luxembourg, with its office and principal place of business located at 14 Boulevard Royal, Luxembourg, Luxembourg L-2449 with its United States office and principal place of business located at JAB Holding Company LLC, 1701 Pennsylvania Avenue NW, Suite 801, Washington, DC 20006.
2. Respondent National Veterinary Associates, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 29229 Canwood St., Suite 100, Agoura Hills, CA 91301.
3. Respondent VIPW, LLC is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 150 Presidential Way, Suite 200, Woburn, MA 01801.
4. Respondent Ethos Veterinary Health LLC is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 150 Presidential Way, Suite 200, Woburn, MA 01801
5. Each Respondent is, and at all times relevant herein has been, engaged in commerce, as “commerce” is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. § 12, and is a company whose business is in or affects commerce, as “commerce” is defined in Section 4 of the FTC Act, as amended, 15 U.S.C. § 44.

II. THE PROPOSED ACQUISITION

6. Pursuant to Stock Purchase Agreement and Plan of Merger dated August 13, 2021, Compassion-First/NVA proposes to acquire Ethos for approximately \$1.65 billion (the “Acquisition”). The Acquisition is subject to Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

III. THE RELEVANT MARKETS

7. The relevant lines of commerce in which to analyze the effects of the Acquisition are individual specialty veterinary services and emergency veterinary services. Specialty veterinary services are required in cases where a general practitioner veterinarian does not

have the expertise or equipment necessary to treat the patient. General practitioner veterinarians commonly refer such cases to a specialist, typically a doctor of veterinary medicine who is board-certified within the required specialty. Individual veterinary specialties include internal medicine, neurology, medical oncology, critical care, ophthalmology, surgery, radiology, cardiology, dermatology, and anesthesiology. Emergency veterinary services are those used in acute situations in which a general practice veterinarian is not available, or in some cases, not properly trained or equipped to treat the patient's medical problem. Compassion-First/NVA and Ethos both provide specialty and off-hours emergency veterinary services in facilities operated across the United States.

8. For the purposes of this Complaint, the relevant areas in which to assess the competitive effects of the Acquisition are local, delineated by the distance and time that pet owners travel to receive treatment.
9. The specific relevant markets in which to analyze the competitive effects of the Acquisition are:
 - a. medical oncology veterinary specialty services in and around Richmond, Virginia;
 - b. medical oncology veterinary specialty services in and around the Washington, DC Metro Area;
 - c. internal medicine, neurology, medical oncology, critical care, surgery, radiology, cardiology, dermatology, and anesthesiology veterinary specialty services and emergency veterinary services in and around Denver, Colorado; and
 - d. internal medicine, neurology, medical oncology, critical care, ophthalmology, and surgery veterinary specialty services and emergency veterinary services in and around San Francisco.

IV. THE STRUCTURE OF THE MARKETS

10. There has been a growing trend towards consolidation in the emergency and specialty veterinary services markets across the United States in recent years by large chains including Respondent Compassion-First/NVA. Respondent Compassion-First/NVA itself has grown principally through large acquisitions that were reported to federal antitrust authorities pursuant to the Hart-Scott-Rodino Act. First, in 2020, Compassion-First expanded through its acquisition of NVA, which it combined with Compassion-First to form Compassion-First/NVA. Through this acquisition, Compassion-First acquired 33 emergency and specialty clinics located throughout the United States. Most recently, in June 2022, Compassion-First/NVA acquired Sage Veterinary Partners, where it acquired 13 emergency and specialty clinics located in three states. The Commission determined that it had reason to believe that each of these transactions was illegal as originally structured and therefore

18. In the area in and around downtown San Francisco, California, would combine two of a limited number of competitively significant providers of internal medicine, neurology, medical oncology, critical care, ophthalmology, and surgery veterinary specialty services and emergency veterinary services.

V. ENTRY CONDITIONS

19. Entry into the relevant markets would not be timely, likely, or sufficient in magnitude, character, and scope to deter or counteract the anticompetitive effects of the Acquisition. For *de novo* entrants, obtaining financing to build a new specialty or emergency veterinary facility and acquiring or leasing necessary equipment can be expensive and time consuming. The investment is risky for specialists that do not have established practices and bases of referrals in the area. In addition, extensive education and training, beyond that required to become a general practitioner veterinarian, is required to become a licensed veterinary specialist. Consequently, specialists are frequently in short supply, and recruiting them to move to a new area often takes more than two years. Timely entry by emergency clinics is also difficult and expensive due to the costs and risks associated with acquiring and maintaining emergency staffing personnel and equipment.

VI. EFFECTS OF THE ACQUISITION

20. The effects of the Acquisition, if consummated, may be to substantially lessen competition and to tend to create a monopoly in the relevant markets in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. § 45, by, among other things:
 - a. eliminating head-to-head competition between Compassion-First/NVA and Ethos in the provision of specialty and emergency veterinary services;
 - b. increasing the likelihood that Compassion-First/NVA unilaterally exercises market power; and
 - c. increasing the likelihood that customers are forced to pay higher prices or experience a degradation in quality of the relevant services.
21. Specialists and emergency veterinarians often monitor procedure prices charged by competing specialty and emergency clinics and lower their prices to attract more referrals. Indeed, internal business documents from Compassion-First/NVA explain that Respondent's pricing policy is to [REDACTED]. If the Acquisition were consummated, it would result in monopolies in the provision of certain specialty services in one of the Relevant Markets and leave only two or three providers of other services. As a

result, if the Transaction were consummated, it would likely enable Compassion-First/NVA to unilaterally raise prices to consumers in the Relevant Markets.

22. As the Respondents note in their internal business analyses, the [REDACTED]
[REDACTED]
[REDACTED] } Respondents also observe that [REDACTED]
[REDACTED] } Few Americans are able to obtain insurance for emergency and specialty veterinary services, however, as such insurance is not widely available. As a result, the price effects that would result from the Acquisition would be born as out-of-pocket costs directly by American consumers.
23. Specialists also compete in important non-price dimensions, such as the quality of outcomes, communication with customers and referring veterinarians, flexibility of appointments, education for general practitioners, and the use of the latest treatment and equipment. Therefore, if the Acquisition were consummated, it would result in highly concentrated markets for the provision of specialty services, and the merged entity would have a significantly reduced incentive to compete on the basis of non-price dimensions to the detriment of consumers.

VII. VIOLATIONS CHARGED

24. The Acquisition constitutes a violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. § 45.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this twenty-eighth day of June, 2022 issues its Complaint against said Respondents.

By the Commission.

April J. Tabor
Secretary

SEAL: