



DETERMINATION OF MERGER NOTIFICATION M/22/049 – UNIPHAR/LXV REMEDIES (SAM MCCAULEY)

Section 21 of the Competition Act 2002

Proposed acquisition by Uniphar plc, through its wholly-owned subsidiary Trennamally Limited, of LXV Remedies Holdings Limited

Dated 20 January 2023

Introduction

1. On 19 September 2022, 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 Uniphar plc (“Uniphar”), through its wholly-owned subsidiary Trennamally Limited (“Trennamally”), would acquire sole control of LXV Remedies Holdings Limited (“LXV Remedies”), the ultimate owner of Sam McCauley Chemists Limited (“Sam McCauley”) (“the Proposed Transaction”).

The Proposed Transaction

2. The Proposed Transaction is to be implemented pursuant to a share purchase agreement dated 8 September 2022 (the “SPA”).¹ Under the terms of the SPA, Uniphar, through Trennamally, will acquire the entire issued share capital, and thus sole control, of LXV Remedies, the ultimate owner of Sam McCauley.

¹ The parties to the SPA are CCIF Pharmacy S.À R.L, Samuel Bernard McCauley, Leslie McCauley, Rectory Road Holdings Limited, LXV Incentives Limited, Tony McEntee, Peter Maher, Jackie Kelly, and Trennamally Limited.



The Undertakings Involved

The Acquirer – Uniphar

3. Uniphar is a public limited company registered in the State under company number 224324. Uniphar is listed on both the Euronext Dublin stock exchange and the London Stock Exchange.²
4. Uniphar is active in the healthcare services sector in the State with three main business divisions: (i) commercial and clinical; (ii) product access; and (iii) supply chain and retail. These business divisions are discussed in further detail below.

Commercial and clinical division

5. Uniphar is active in the provision of sales, marketing and distribution services to pharmaceutical and medical devices manufacturers through its commercial and clinical business division.

Product access division

6. Within its product access business division, Uniphar offers two distinct types of service: (i) “*On Demand Access*”, which are pharmacy-led services for the sourcing and supply of unlicensed medicines; and (ii) “*Exclusive Access*”, which are manufacturer-led services for controlling the release of speciality medicines.

Supply chain and retail division (“SCRD”)

7. Uniphar’s supply chain and retail division consists of:
 - *Wholesale and pre-wholesale*: Uniphar is active in the supply of pharmacy-only human pharmaceutical products (“POHPPs”), over-the-counter (“OTC”) products, front-of-shop (“FOS”) products and veterinary pharmaceutical products in the State through its SCR. Uniphar’s SCR includes Uniphar Wholesale Limited (“Uniphar

² For more information, see <https://www.uniphar.ie/>.



Wholesale”), which is a full-line wholesaler,³ and All-phar Services Limited (“Allphar”), which is a pre-wholesale/logistic services provider⁴ (“LSP”). Through Uniphar Wholesale, Uniphar purchases POHPPs from manufacturers and re-sells them to community, hospital and veterinary pharmacies. Through Allphar, Uniphar provides distribution services, including storage, warehousing, logistics, order processing, and product delivery, to pharmaceutical and medical device manufacturers in the State. Allphar’s primary function is to deliver products on behalf of manufacturers directly to other wholesalers as well as to community and hospital pharmacies. In some cases, additional services, such as the provision of marketing activities, may be provided by Allphar to manufacturers;

- *Symbol groups*: Uniphar operates both the Allcare symbol group (“Allcare”) and the Life Pharmacy symbol group (“Life Pharmacy”).⁵ These symbol groups provide common management and branding to retail pharmacies. Allcare and Life Pharmacy consist of both independent and Uniphar-owned pharmacies.
- *Uniphar-owned pharmacies*: Uniphar owns 103 pharmacies located in the State, the majority of which operate under the *Hickey’s*, *Allcare* or *Life Pharmacy* brands.
- *Buying groups*: Uniphar also operates two retail pharmacy buying groups, LinkUp and LinkUp Gold. These buying groups negotiate directly with manufacturers for discounts and supply terms for their member pharmacies, which pay monthly membership fees.

8. For the financial year ending 31 December 2021, Uniphar’s total worldwide turnover was €1,943,149,000, of which €1,672,158,000 was generated in the State.

³ Full-line wholesalers are wholesalers which stock an extensive range of products, which amounts to a minimum of 10,000-12,000 distinct items or stock keeping units.

⁴ Pre-wholesalers distribute POHPPs behalf of manufacturers to full-line wholesalers in the State.

⁵ Life Pharmacy is operated by Independent Life Pharmacy plc (“ILP”), a 50:50 joint venture between Uniphar plc and the pharmacy members. ILP owns the Life Pharmacy trademark and is operated by the board of directors of ILP, a majority of whom are appointed by the pharmacy members.



The Target – LXV Remedies & Sam McCauley

9. LXV Remedies is the ultimate owner of Sam McCauley, a retail pharmacy chain active in the State.
10. Sam McCauley owns 37 retail pharmacies (each a “Target Pharmacy” and collectively the “Target Pharmacies”) across Leinster, Munster and Ulster, all but one⁶ of which trade under the name *McCauley Health & Beauty Pharmacy*. Sam McCauley also operates an online retail website.⁷ The Target Pharmacies are set out in the table below:

Table 1: The Target Pharmacies

	Trading Name	Street	Town	County
1	McCauley Health & Beauty Pharmacy	59 Leinster Street	Athy	Co. Kildare
2	McCauley Health & Beauty Pharmacy	Athy Primary Care Centre, Dublin Road	Athy	Co. Kildare
3	McCauley Health & Beauty Pharmacy	Blackpool Shopping Centre	Blackpool	Co. Cork
4	McCauley Health & Beauty Pharmacy	Market Square	Bunclody	Co. Wexford
5	McCauley Health & Beauty Pharmacy	Unit 11 Carlow Shopping Centre	Carlow Town	Co. Carlow
6	McCauley Health & Beauty Pharmacy	Units 14-17, Fairgreen Shopping Centre	Carlow Town	Co. Carlow
7	McCauley Health & Beauty Pharmacy	Unit 4, Shamrock Plaza	Carlow Town	Co. Carlow
8	McCauley Health & Beauty Pharmacy	39-40 Kickham Street	Carrick-On-Suir	Co. Tipperary
9	McCauley Health & Beauty Pharmacy	Unit 4, Connolly Court, Hillside, Connolly Street	Cavan Town	Co. Cavan
10	McCauley Health & Beauty Pharmacy	Block 3, Charlemont Square	Charlemont Street	Dublin 2

⁶ Garahy's Pharmacy, 6 Slaney Street, Enniscorthy, County Wexford.

⁷ Accessible at <https://www.mccauley.ie/>



11	McCauley Health & Beauty Pharmacy	Unit 3, Whitemill Road	Clonard	Co. Wexford
12	McCauley Health & Beauty Pharmacy	Unit 6, Bawnogue Shopping Centre, Bawnogue	Clondalkin	Dublin 22
13	McCauley Health & Beauty Pharmacy	Aldi Shopping Centre, Newlands Cross	Clondalkin	Dublin 22
14	McCauley Health & Beauty Pharmacy	Unit 11 Poppyfield Retail Park	Clonmel	Co. Tipperary
15	McCauley Health & Beauty Pharmacy	Unit 18, The Showgrounds Shopping Centre	Clonmel	Co. Tipperary
16	McCauley Health & Beauty Pharmacy	Unit 1, Dunnes Stores Shopping Centre, Davis Road	Clonmel	Co. Tipperary
17	McCauley Health & Beauty Pharmacy	Unit 2a, Douglas Court Shopping Centre, Douglas	Cork	Co. Cork
18	McCauley Health & Beauty Pharmacy	65/66 Glasthule Road	Dun Laoghaire	Co. Dublin
19	McCauley Health & Beauty Pharmacy	Unit 7, High Street	Dungarvan	Co. Waterford
20	McCauley Health & Beauty Pharmacy	31 Court Street	Enniscorthy	Co. Wexford
21	Garahy's Pharmacy	6 Slaney Street	Enniscorthy	Co. Wexford
22	McCauley Health & Beauty Pharmacy	61-63 McCurtain Street	Fermoy	Co. Cork
23	McCauley Health & Beauty Pharmacy	76 Main Street	Gorey	Co. Wexford
24	McCauley Health & Beauty Pharmacy	Church Road	Greystones	Co. Wicklow
25	McCauley Health & Beauty Pharmacy	Kilkenny Shopping Centre, Loughboy	Kilkenny	Co. Kilkenny
26	McCauley Health & Beauty Pharmacy	30-31 High Street	Kilkenny	Co. Kilkenny
27	McCauley Health & Beauty Pharmacy	Unit 2, Mahon Point, Mahon Point Shopping Centre	Mahon	Co. Cork
28	McCauley Health & Beauty Pharmacy	Units A1 - A2, Market Green Shopping Centre	Midleton	Co. Cork



29	McCauley Health & Beauty Pharmacy	Bedford Medical Centre, Convent Road, Athlumney	Navan	Co. Meath
30	McCauley Health & Beauty Pharmacy	Navan Shopping Centre, Kennedy Road	Navan	Co. Meath
31	McCauley Health & Beauty Pharmacy	North Gate Medical Centre, John Street	New Ross	Co. Wexford
32	McCauley Health & Beauty Pharmacy	4 South Street	New Ross	Co. Wexford
33	McCauley Health & Beauty Pharmacy	Primary Care Centre, Rosanna Road	Tipperary Town	Co. Tipperary
34	McCauley Health & Beauty Pharmacy	Manor West Retail Park	Tralee	Co. Kerry
35	McCauley Health & Beauty Pharmacy	Unit 1 Ground Floor, Williamstown Centre	Waterford City	Co. Waterford
36	McCauley Health & Beauty Pharmacy	8-10 North Main Street	Wexford Town	Co. Wexford
37	McCauley Health & Beauty Pharmacy	4-9 Redmond Square	Wexford Town	Co. Wexford

Source: Information provided by the parties in the notification

11. Sam McCauley's core activities include the retail sale of POHPPs, OTC products and FOS products.
12. For the financial year ending 30 September 2021, Sam McCauley's total worldwide turnover was €80.4 million, all of which was generated in the State.

Rationale for the Proposed Transaction

13. The parties state the following in the notification:

"The Target [i.e. LXV Remedies and Sam McCauley] will constitute an investment holding of Uniphar".

14. The parties further explained the rationale for the Proposed Transaction in their responses to the requirements for information ("RFIs") as follows:



“The acquisition preserves Uniphar's wholesale margin and the substantial EBITDA generated from the McCauley wholesale business.”⁸

“[Sam McCauley's] has a comprehensive dispensing and retail offering across its 37 retail pharmacies. These have a strong Leinster and Munster geographic focus which complements the Uniphar-owned store network.”⁹

“[...]. [Sam McCauley's] specialises in beauty and wellness and is one of the leading retailers in Ireland in the premium skincare, fragrance and medicated skincare categories. This gives the Uniphar retail business additional scale in these areas which will support its engagement and partnering opportunities with these large brands.”¹⁰

“The acquisition will support and strengthen the Uniphar consumer wholesale business and provide synergistic opportunities by centralising and simplifying the supply chain in these categories.”¹¹

“LXV Remedies' rationale for the Proposed Transaction is [...]”¹²

Contacts with the Undertakings Involved

15. On 27 October 2022, the Commission served a RFI on each of Uniphar and LXV Remedies pursuant to section 20(2) of the Act. This adjusted the deadline within which the Commission had to conclude its assessment of the Proposed Transaction in Phase 1.

⁸ Uniphar response to RFI.

⁹ Uniphar response to RFI.

¹⁰ Uniphar response to RFI.

¹¹ Uniphar response to RFI.

¹² LXV Remedies response to RFI.



16. Upon receipt of a full response to the RFI from both of Uniphar and LXV Remedies on 21 November 2022, the “appropriate date” (as defined in section 19(6)(b)(i) of the Act) became 21 November 2022.¹³
17. During its investigation, the Commission requested and received, on an on-going basis, further information and clarifications from the undertakings involved in the Proposed Transaction. In the course of the communication between the Commission and the undertakings involved in the Proposed Transaction, Uniphar submitted proposals to the Commission in accordance with section 20(3) of the Act. This also adjusted the deadline within which the Commission had to conclude its assessment of the Proposed Transaction in Phase 1.

Third Party Submissions

18. During its investigation, the Commission received a submission from one third party in relation to the Proposed Transaction. This submission was fully considered by the Commission insofar as it related to potential competitive effects arising from the Proposed Transaction.

Industry Background

19. Both Uniphar and Sam McCauley are active in the retail pharmacy sector. Pharmacies dispense POHPPs, OTC products and FOS products. There are two types of pharmacies active in the State: retail pharmacies and hospital pharmacies. According to the Pharmaceutical Society of Ireland, there were 1,905 retail pharmacies in the State as of July 2022.¹⁴ Approximately 45% of retail pharmacies are located in city or urban areas, with the remainder located in towns, villages and rural areas.¹⁵ Ireland has one of the lowest population per pharmacy figures in

¹³ The “appropriate date” is the date from which the time limits for making Phase 1 or Phase 2 determinations begin to run.

¹⁴ Pharmaceutical Society of Ireland (2022). “Pharmacy Statistics: A summary of the pharmacy register”, available at https://www.thepsi.ie/Libraries/Monthly_Statistics/Pharmacies_-_Website_Statistics.sflb.ashx. Retail pharmacies may also be known as community pharmacies.

¹⁵ Irish Pharmacy Union (2021). *Annual Review of Community Pharmacy in Ireland 2020*, p. 5.



the world,¹⁶ with there being 2,400 residents per pharmacy in the State, in comparison to 2,900 in France, 4,000 in Germany, 3,300 in Italy and 4,500 in the UK.¹⁷

Competitive Analysis

Horizontal Overlap

20. There is a horizontal overlap between the activities of the parties, as both Uniphar and LXV Remedies are active in the operation of retail pharmacies in the State.

Potential Relevant Markets

The Operation of Retail Pharmacies

21. The Commission has previously examined transactions involving retail pharmacies.¹⁸

- In its determination in *M/15/021 – Lloyds Pharmacy/Walsh’s and Friary Allcare Pharmacies*, the Commission assessed the competitive impact of the proposed acquisition in that case by reference to the narrowest potential relevant market (being the potential market for the supply of prescription medicines in retail pharmacies in each of the geographic areas in which the target pharmacies in that case were located).¹⁹
- In its determination in *M/18/024 – Lloyd’s Pharmacy/McSweeney Group*, the Commission assessed the competitive impact of the proposed acquisition by reference to the narrowest potential product market (being the supply of prescription

¹⁶ Henman, Martin C. (2020). “Primary Health Care and Community Pharmacy in Ireland: a lot of visions but little progress”, *International Series: Integration of community pharmacy in primary health care*, Vol. 1, No. 4, p. 3.

¹⁷ Irish Pharmacy Union (2021). *Annual Review of Community Pharmacy in Ireland 2020*, p. 14.

¹⁸ For example, see the Commission’s determinations in *M/20/027 – Uniphar/Hickey’s*, which is available at: <https://www.cpc.ie/business/wp-content/uploads/sites/3/2020/09/M-20-027-Uniphar-Hickeys-Determination-PUBLIC.pdf>, and *M/15/021 – Lloyds Pharmacy/Walsh’s and Friary Allcare Pharmacies*, which can be accessed at: <https://www.cpc.ie/business/mergers-acquisitions/merger-notifications/m1521-lloyds-pharmacywalshs-friary-allcare-pharmacies/>

¹⁹ See paragraph 11 of the Commission’s determination *M/15/021 – Lloyds Pharmacy/Walsh’s and Friary Allcare Pharmacies*, which can be accessed at: <https://www.cpc.ie/business/mergers-acquisitions/merger-notifications/m1521-lloyds-pharmacywalshs-friary-allcare-pharmacies/>



and non-prescription medicines in retail pharmacies in each of the geographic areas in which the target pharmacies were located). The Commission analysed certain local geographic areas by reference to a “geographic market comprising a catchment area of within a radius of 2km” from the pharmacy to be acquired.”²⁰

- In its determination in *M/20/027 – Uniphar/Hickey’s*, the Commission analysed that proposed transaction by reference to “(i) the supply of prescription medicines in retail pharmacies in the State; and (ii) the supply of prescription medicines in retail pharmacies within a catchment area of 2km from each of the [target pharmacies in that case].”²¹

22. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case. In this instance, it is not necessary for the Commission to define the precise relevant product and geographic market or markets because doing so will not alter the Commission’s assessment of the competitive impact of the Proposed Transaction.

23. However, for the purposes of its competitive analysis of the horizontal overlap that exists between Uniphar and the Target Pharmacies, the Commission has assessed the competitive impact of the Proposed Transaction in the following frames of reference:

- the operation of retail pharmacies in the State: and
- the operation of retail pharmacies within a catchment area of 2km of each of the Target Pharmacies.

²⁰ See paragraph 22 of the Commission’s determination in *M/18/024 – Lloyds Pharmacy/McSweeney Group*, which can be accessed at: <https://www.ccpic.ie/business/mergers-acquisitions/merger-notifications/m18024-lloyds-pharmacymcsweeney-group/>

²¹ See paragraph 35 of the Commission’s determination in *M/20/027 – Uniphar/Hickey’s*, which is available at: <https://www.ccpic.ie/business/wp-content/uploads/sites/3/2020/09/M-20-027-Uniphar-Hickeys-Determination-PUBLIC.pdf>



Competitive Assessment

Horizontal Competitive Assessment

The operation of retail pharmacies in the State

24. For the purpose of its horizontal competitive assessment, the Commission considers that only those retail pharmacies which Uniphar currently owns and controls should be taken into account when calculating Uniphar's market share. Uniphar has exclusive purchasing arrangements with a number of other retail pharmacies in the State. Uniphar does not, however, currently own or control any of these retail pharmacies. Nor does Uniphar own a shareholding in any of these retail pharmacies. The Commission, therefore, does not include these retail pharmacies when calculating Uniphar's share of the potential market for the operation of retail pharmacies in the State. This is consistent with the approach taken by the Commission in previous determinations.²²
25. As detailed in paragraph 19 above, there are approximately 1,905 retail pharmacies in the State. Uniphar currently owns 103 retail pharmacies, holding a share of approximately 5.4% of the number of retail pharmacies operated in the State. Sam McCauley owns 37 retail pharmacies, holding a share of approximately 1.9% of the number of retail pharmacies operated in the State. Following the implementation of the Proposed Transaction, Uniphar will hold an estimated share of approximately 7.3% of the number of retail pharmacies operated in the State. Therefore, at a national level, the Proposed Transaction is only likely to result in a minimal increase in Uniphar's share in the operation of retail pharmacies in the State.
26. Furthermore, a range of retail pharmacy groups, such as *Boots, Lloyds, McCabes* and others, as well as independent retail pharmacies, will continue to exert a competitive constraint on Uniphar, on a national basis, following the implementation of the Proposed Transaction.
27. Therefore, the Commission considers that the Proposed Transaction does not raise any horizontal competition concerns in respect of the operation of retail pharmacies in the State,

²² See, for example, paragraph 37 of the Commission's determination in *M/20/027 – Uniphar/Hickey's*, which is available at: <https://www.ccpic.ie/business/wp-content/uploads/sites/3/2020/09/M-20-027-Uniphar-Hickeys-Determination-PUBLIC.pdf>



when the Proposed Transaction is assessed using the State as a whole as the geographic frame of reference.

The operation of retail pharmacies within a catchment area of 2km from each of the Target Pharmacies

Catchment areas with no horizontal overlap

28. The Target Pharmacies comprise 37 retail pharmacies in the State. Uniphar does not own any retail pharmacies within 2km of 23 of the Target Pharmacies. These 23 Target Pharmacies are listed in the table below.

Table 2: Target Pharmacies which are not located within 2km of a Uniphar pharmacy

	Target Pharmacy	Nearest Uniphar Pharmacy	Approximate distance between both pharmacies
1	Unit 11 Carlow Shopping Centre	McHugh's Allcare Athy	19km
2	Units 14-17, Fairgreen Shopping Centre	McHugh's Allcare Athy	19km
3	Unit 4, Shamrock Plaza	McHugh's Allcare Athy	19km
4	39-40 Kickham Street	O'Reillys Allcare Fermoy	83km
5	Unit 4, Connolly Court, Hillside, Connolly Street	Allcare Carrickmacross	39km
6	Unit 3, Whitemill Road	Hassett's Allcare	2.1km
7	Unit 11 Poppyfield Retail Park	O'Reillys Allcare Fermoy	64km
8	Unit 18, The Showgrounds Shopping Centre	O'Reillys Allcare Fermoy	64km
9	Unit 1, Dunnes Stores Shopping Centre, Davis Road	O'Reillys Allcare Fermoy	64km



10	Unit 2a Douglas Court Shopping Centre, Douglas	Hickeys Ballyphehane	2.95km
11	65/66 Glasthule Road	Hickeys Mounttown Road	2.15km
12	Unit 7, High Street	O'Reillys Allcare Fermoy	52km
13	31 Court Street	Loftus Allcare Bunclody	20km
14	Garahy's Pharmacy, 6 Slaney Street	Loftus Allcare Bunclody	20km
15	Kilkenny Shopping Centre, Loughboy	Mc Hugh's Allcare Athy	47km
16	30-31, High Street	Mc Hugh's Allcare Athy	47km
17	Units A1 - A2, Market Green Shopping Centre	Crowley's Allcare Cork	22km
18	North Gate Medical Centre, John Street	Loftus Allcare Bunclody	40km
19	4 South Street	Loftus Allcare Bunclody	40km
20	Primary Care Centre, Rosanna Road	Hospital Allcare Hospital	22km
21	Manor West Retail Park	Kenneally's Pharmacy	2.75km
22	Unit 1 Ground Floor, Williamstown Centre	Loftus Allcare Bunclody	66km
23	Unit 6, Bawnogue Shopping Centre	Hickey's Pharmacy, 5 Castle Crescent	2.17km

Source: *The parties*

29. As Uniphar does not own any retail pharmacies within 2km of any of these Target Pharmacies, the Commission considers that the Proposed Transaction will not raise horizontal competition concerns in respect of the operation of retail pharmacies in respect of these catchment areas.



Catchment areas with horizontal overlaps

30. Fourteen of the Target Pharmacies are located within 2km of Uniphar-owned retail pharmacies, resulting in 14 catchment areas in which there is a horizontal overlap between Uniphar and Sam McCauley.

Catchment area 1: Blackpool, County Cork

31. Table 3 below lists the retail pharmacies within the 2km catchment area from the Target Pharmacy that is located in Blackpool Shopping Centre, indicating which are currently owned by Uniphar.

Table 3: Retail pharmacies within the 2km catchment area from the Target Pharmacy in Blackpool Shopping Centre

Pharmacy	Pharmacy Location	Distance from Target Pharmacy
McCauley Health & Beauty Pharmacy	Blackpool Shopping Centre	N/A
O'Carroll's Allcare Pharmacy (Uniphar)	Orchard Court	0.458km
Blackpool Bridge Pharmacy Ltd	Blackpool Bridge	0.527km
Boots	Blackpool Retail Park, Cork, T23 DPY1	0.077km
Pharmacy First Plus Northside	Glenwood Drive	0.974km
Blackpool Late Night Pharmacy	34 Watercourse Rd, Blackpool, Cork, T23 N20R	1.01km
Glenheights Pharmacy	4 College Shopping Centre	1.34km
Walsh's Pharmacy	123 Shandon Street	1.38km
Deasy's Pharmacy	98/99 Shandon Street	1.51km
Irwin's Pharmacy	77 Shandon Street	1.69km



Falvey's Pharmacy	17 Bridge Street	1.73km
Dillons Cross Pharmacy	256 Old Youghal Road	1.89km
Dalton's Pharmacy	Unit 11-12, North Main Street Shopping Centre	1.90km
Boots	1 Half Moon Street	1.92km
Boots	F6 Merchant's Quay, Centre, Cork, T12 P890	1.93km
Phelans Late Night Pharmacy	9 Patrick Street	1.95km
Wallace's Pharmacy	Ballyvolane Shopping Centre	2km

Source: The parties

32. Table 3 shows that Uniphar owns one retail pharmacy within the 2km catchment area, which is located on Orchard Court. Following the implementation of the Proposed Transaction, there will be 15 non-Uniphar-owned retail pharmacies within the 2km catchment area. The Commission considers that these retail pharmacies, by reason of their presence within the 2km catchment area, will continue to exert a significant competitive constraint on Uniphar following the implementation of the Proposed Transaction.
33. Therefore, the Commission is of the view that the Proposed Transaction does not give rise to horizontal competition concerns in relation to the operation of retail pharmacies within 2km of the Target Pharmacy in Blackpool Shopping Centre, Cork.

Catchment area 2: Charlemont Street, Dublin 2

34. Table 4 below lists the retail pharmacies within the 2km catchment area from the Target Pharmacy that is located on Charlemont Street, Dublin 2, indicating which are currently owned by Uniphar.

Table 4: Retail pharmacies within the 2km catchment area from the Target Pharmacy on Charlemont Street, Dublin 2



Pharmacy	Pharmacy Location	Distance from Target Pharmacy
McCauley Health & Beauty Pharmacy	Block 3, Charlemont Street	N/A
Cahill's Allcare Pharmacy (Uniphar)	36 Lower Camden Street	0.488km
Hickey's Pharmacy (Uniphar)	21 Grafton Street	1.32km
Brady's Pharmacy	12 Upper Camden Street	0.270km
Foody's Pharmacy	Harcourt Building	0.263km
Burke's Pharmacy	21-23 Ranelagh	0.758km
Boots	Unit 1, 13-17, Dawson Street	0.780km
Mercer Pharmacy	39 Lower Stephen Street	0.815km
Rathmines Pharmacy	114 Lower Rathmines Road	0.829km
Pure Pharmacy	11 - 12 Redmond's Hill	0.841km
South Circular Pharmacy	80, South Circular Road	0.843km
Leech Pharmacy	43 Ranelagh	0.873km
Boots	Unit 113, Stephen's Green Shopping Centre	0.880km
Leonard's Corner Pharmacy Limited	106 South Circular Road	0.935km
LloydsPharmacy	The Meath Primary Care Centre	0.984km



Meagher's Chemist	69 Ranelagh Village	0.984km
Boots	134-135 Lower Baggot Street	1.16km
Life Pharmacy Rathmines	Unit 18, Rathmines Rd Lower	1.19km
Meagher's Pharmacy	22 - 24 Sandford Road	1.27km
LloydsPharmacy	282 Lower Rathmines Road	1.29km
Boots	302 Lower Rathmines Road	1.29km
Dowling's Pharmacy	6 Lower Baggot Street	1.34km
Dunville Pharmacy	32-34 Dunville Avenue	1.36km
Boots	12 Grafton Street	1.54km
Roches Chemist	165 Upper Rathmines Road	2km

Source: The parties

35. Table 4 shows that Uniphar owns two retail pharmacies within the 2km catchment area, which are located on Camden Street and Grafton Street, respectively. Following the implementation of the Proposed Transaction, there will be 22 non-Uniphar-owned retail pharmacies within the 2km catchment area. The Commission considers that these retail pharmacies, by reason of their presence within the 2km catchment area, will continue to exert a significant competitive constraint on Uniphar following the implementation of the Proposed Transaction.
36. Therefore, the Commission is of the view that the Proposed Transaction does not give rise to horizontal competition concerns in relation to the operation of retail pharmacies within 2km from the Target Pharmacy on Charlemont Street, Dublin 2.

Catchment area 3: Newlands Cross, Clondalkin, Dublin 22



37. Table 5 below lists the retail pharmacies within the 2km catchment area from the Target Pharmacy that is located in the Aldi Shopping Centre, Newlands Cross, Clondalkin, Dublin 22, indicating which are currently owned by Uniphar.

Table 5: Retail pharmacies within the 2km catchment area from the Target Pharmacy in Newlands Cross, Clondalkin, Dublin 22

Pharmacy	Pharmacy Location	Distance from Target Pharmacy
McCauley Health & Beauty Pharmacy	Unit 6, Bawnogue Shopping Centre	N/A
Hickey's Pharmacy (Uniphar)	5 Castle Crescent	1.27km
Cadden's Pharmacy	Unit 1, Tower S. Centre	0.956km
Green Park Pharmacy	Green Park Shopping Centre	0.957km
Freyne's Pharmacy	Orchard Rd	1.08km
Pure Pharmacy	Unit 6, The Village Centre	1.19km
Lloyds Pharmacy	Units 6 – 7, The Mill SC	1.36km
Boots	Unit 27, The Mill SC	1.66km
Kelly's Pharmacy	The Nangor Centre	1.78km

Source: The parties

38. Table 5 shows that Uniphar owns one retail pharmacy within the 2km catchment area, which is located at Castle Crescent. Following the implementation of the Proposed Transaction, there will be 7 non-Uniphar-owned retail pharmacies within the 2km catchment area. The Commission considers that these retail pharmacies, by reason of their presence within the 2km catchment area, will continue to exert a significant competitive constraint on Uniphar following the implementation of the Proposed Transaction.



39. Therefore, the Commission is of the view that the Proposed Transaction does not give rise to horizontal competition concerns in relation to the operation of retail pharmacies within 2km from the Target Pharmacy in Newlands Cross, Clondalkin, Dublin

Catchment area 4: Fermoy, County Cork

40. Table 6 below lists the retail pharmacies within the 2km catchment area from the Target Pharmacy that is located on McCurtin Street, Fermoy, County Cork, indicating which are currently owned by Uniphar.

Table 6: Retail pharmacies within the 2km catchment area from the Target Pharmacy in Fermoy, County Cork

Pharmacy	Pharmacy Location	Distance from Target Pharmacy
McCauley Health & Beauty Pharmacy	61-63 McCurtain Street	N/A
O'Reilly's Allcare Pharmacy (Uniphar)	17 Pearse Street	0.220km
Lyons Family Pharmacy	43 McCurtain Street	0.045km
Stack's Allcare Pharmacy	1 MacCurtain Street	0.172km
Walsh's Pharmacy (Fermoy) Limited	15 Patrick Street	0.275km
Mellericks Pharmacy	24 Patrick Street	0.298km

Source: The parties

41. Table 6 shows that Uniphar owns one retail pharmacy within the 2km catchment area, which is located on Pearse Street. Following the implementation of the Proposed Transaction, there will be 4 non-Uniphar-owned retail pharmacies within the 2km catchment area. In addition, the Commission understands that an additional pharmacy is expected to be established in the Fermoy Primary Care Centre upon its opening.²³ The Commission considers that these retail

²³ <https://www.irishexaminer.com/news/munster/arid-40945181.html>



pharmacies, by reason of their presence within the 2km catchment area, will exert a significant competitive constraint on Uniphar following the implementation of the Proposed Transaction.

42. Therefore, the Commission is of the view that the Proposed Transaction does not give rise to horizontal competition concerns in relation to the operation of retail pharmacies within 2km of the Target Pharmacy in Fermoy, County Cork.

Catchment area 5: Gorey, County Wexford

43. Table 7 below lists the retail pharmacies within the 2km catchment area from the Target Pharmacy that is located on Main Street, Gorey, County Wexford, indicating which are currently owned by Uniphar.

Table 7: Retail pharmacies within the 2km catchment area from the Target Pharmacy in Gorey, County Wexford.

Pharmacy	Pharmacy Location	Distance from Target Pharmacy
McCauley Health & Beauty Pharmacy	76 Main Street	N/A
Roche's Allcare Pharmacy (Uniphar)	14 Main Street	0.151km
Hickey's Pharmacy (Uniphar)	18 Gorey Town Centre	0.506km
McCabe's Pharmacy	69 Main Street	0.59km
Boots	85-86 Main Street	0.095km
Grant's Pharmacy	The Palms Medical Centre	0.247km
Lloyds Pharmacy	Lower Main Street	0.252km
Whelan's Pharmacy	Unit 1 & 5 Puigin Court	0.294km
Gorey Pharmacy	St. Michael's Road	0.336km



Tesco Pharmacy	Tesco Extra	0.813km
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Source: The parties

44. Table 7 shows that Uniphar owns two retail pharmacies within the 2km catchment area, which are located on Main Street and in Gorey Town Centre. Following the implementation of the Proposed Transaction, there will be 7 non-Uniphar-owned retail pharmacies within the 2km catchment area. The Commission considers that these retail pharmacies, by reason of their presence within the 2km catchment area, will continue to exert a significant competitive constraint on Uniphar following the implementation of the Proposed Transaction.
45. Therefore, the Commission is of the view that the Proposed Transaction does not give rise to horizontal competition concerns in relation to the operation of retail pharmacies within 2km of the Target Pharmacy in Gorey, County Wexford.

Catchment area 6: Greystones, County Wicklow

46. Table 8 below lists the retail pharmacies within the 2km catchment area from the Target Pharmacy that is located on Church Road, Greystones, County Wicklow.

Table 8: Retail pharmacies within the 2km catchment area from the Target Pharmacy in Greystones, County Wicklow

Pharmacy	Pharmacy Location	Distance from Target Pharmacy
McCauley Pharmacy	Church Road	N/A
Roches Allcare Pharmacy Greystones (Uniphar)	Unit 7, Blacklion Retail Centre	1.71km
Boots	18 Church Road	0.077km
McGleenans Pharmacy	2 Church Road	0.093km
David Dodd Pharmacy	Mill Road	0.633km
Lloyds Pharmacy	Tesco Shopping Centre	1.34km



Greystones Rochecare Limited	Roches Clinic, Blacklion	1.42km
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Source: The parties

47. Table 8 shows that Uniphar owns one retail pharmacy within the 2km catchment area, which is located in the Blacklion Retail Centre. Following the implementation of the Proposed Transaction, there will be 5 non-Uniphar-owned retail pharmacies within the 2km catchment area. The Commission considers that these retail pharmacies, by reason of their presence within the 2km catchment area, will continue to exert a significant competitive constraint on Uniphar following the implementation of the Proposed Transaction.
48. Therefore, the Commission is of the view that the Proposed Transaction does not give rise to horizontal competition concerns in relation to the operation of retail pharmacies within 2km of the Target Pharmacy in Greystones, County Wicklow.

Catchment area 7: Mahon, County Cork

49. Table 9 below lists the retail pharmacies within the 2km catchment area from the Target Pharmacy that is located in Mahon Point Shopping Centre, Mahon, County Cork, indicating which are currently owned by Uniphar.

Table 9: Retail pharmacies within the 2km catchment area from the Target Pharmacy in Mahon, County Cork

Pharmacy	Pharmacy Location	Distance from Target Pharmacy
McCauley Health & Beauty Pharmacy	Unit 2, Mahon Point SC	N/A
Crowley's Allcare Pharmacy (Uniphar)	Unit 3, Ave de Rennes, Mahon, Cork, T12 P79Y	1.3km
Boots	Units 48-49, Mahon Point SC	0.056km
Phelan's, Blackrock Hall	Blackrock Avenue, Skehard Road	1.42km
Skehard Pharmacy	Skehard Road, Blackrock	1.88km



Source: The parties

50. Table 9 shows that Uniphar owns one retail pharmacy within the 2km catchment area, which is also located in Mahon Point Shopping Centre. Following the implementation of the Proposed Transaction, there will be 3 non-Uniphar-owned retail pharmacies within the 2km catchment area. Boots is located within Mahon Shopping Centre, and would continue to exert the most significant competitive constraint on the Target Pharmacy following the implementation of the Proposed Transaction.
51. In a submission dated 22 December 2022 to the Commission, Uniphar expressed the following view:

“As a suburb of the State's second largest city, it sees a significant amount of footfall well above the level of an isolated rural town, with customers travelling to and from Mahon from much further afield than a 2 km radius. With several industrial/retail locations such as the Loughmahon Technology Park, the Mahon Industrial Estate and the Mahon Point Shopping Centre as "pull factors" along with the high level of accessibility generally, not least due to the N40 national road, there is a large influx of transient/transitory customers to Mahon who have ample opportunity to shop elsewhere. Thus, the pharmacies of Mahon face additional competition from pharmacies in the areas their respective customers come from and go to on a daily basis, as would be expected of any suburb of a large city.”²⁴

52. The Commission notes that Mahon Shopping Centre, within which the Target Pharmacy is located, is the largest shopping centre in Co. Cork, with customers travelling from outside the 2km catchment area (and indeed the suburb of Mahon) to shop at the centre.
53. In light of this, the Commission also considered the competitive impact of the Proposed Transaction within a wider 6km radius. On the basis of this wider radius, the Commission notes that there would be two additional non-Uniphar-owned pharmacies within 6km of the Target Pharmacy following the implementation of the Proposed Transaction: (i) Holland's Pharmacy

²⁴ Uniphar's submission to the Commission dated 22 December 2022, page 4.



(located at Churchyard Lane, Ballinlough); and (ii) Rochestown Pharmacy (located at Rochestown Road, Monfieldstown). Holland's Pharmacy is located 3.3km from the Target Pharmacy at Mahon Point Shopping Centre; and Rochestown Pharmacy is located 5.1km from the Target Pharmacy located at Mahon Point Shopping Centre.

54. In light of this, the Commission considers that these additional two retail pharmacies, by reason of their presence within or outside the 2km catchment area, will continue to exert a significant competitive constraint on Uniphar following the implementation of the Proposed Transaction.
55. Therefore, the Commission is of the view that the Proposed Transaction does not give rise to horizontal competition concerns in relation to the operation of retail pharmacies within 2km of the Target Pharmacy in Mahon, County Cork.

Catchment area 8: North Main Street, Wexford Town, County Wexford

56. Table 10 below lists the retail pharmacies within the 2km catchment area from the Target Pharmacy located on North Main Street, in Wexford Town, County Wexford, indicating which are currently owned by Uniphar.

Table 10: Retail pharmacies within the 2km catchment area from the Target Pharmacy on North Main Street, Wexford Town, County Wexford.

Pharmacy	Pharmacy Location	Distance from North Main St
McCauley Pharmacy	8-10 North Main Street	N/A
McCauley Pharmacy	4-9 Redmond Square	0.7km
Hassett's Allcare Pharmacy (Uniphar)	9-11 North Main Street	0.017km
Sherwood's Pharmacy	2 North Main Street	0.017km
Boots	9-13 South Main Street	0.062km



Fehily's Pharmacy	28 South Main Street	0.115km
Fortune's Pharmacy	82 North Main Street	0.309km
Abbey Street Pharmacy	42 Abbey Street	0.341km
McCormacks Pharmacy	14 Selskar Street	0.394km
Selskar Pharmacy	27 - 28 Selskar Street	0.447km
First Choice Pharmacy	Instore Tesco, Distillery Road	0.857km
Grant's Pharmacy	Unit 4b, St. Aidan's Shopping Centre	1.07km
B & T Healthcare Limited	178 The Faythe	1.45km

Source: *The parties*

57. Sam McCauley currently operates on retail pharmacy within 2km of the Target Pharmacy on North Main Street in Wexford Town. This Sam McCauley retail pharmacy is located at 4-9 Redmond Square. Uniphar currently operates one retail pharmacy within 2km of the Target Pharmacy, which is Hassett's Allcare Pharmacy at 9-11 North Main Street. Therefore, on the basis of a geographic market comprising a catchment area of 2km from the Target Pharmacy on North Main Street, Wexford Town, there is a horizontal overlap between the parties.
58. In respect of the Target Pharmacy on North Main Street, following the implementation of the Proposed Transaction, there will be 10 non-Uniphar-owned retail pharmacies within the 2km catchment area. The Commission considers that these retail pharmacies, by reason of their presence within the 2km catchment area, will continue to exert a significant competitive constraint on Uniphar following the implementation of the Proposed Transaction.
59. Therefore, the Commission is of the view that the Proposed Transaction does not give rise to horizontal competition concerns in relation to the operation of retail pharmacies within 2km of the Target Pharmacy on North Main Street, Wexford Town, County Wexford.



Catchment area 9: Redmond Square, Wexford Town, County Wexford

60. Table 11 below lists the retail pharmacies within the 2km catchment area from the Target Pharmacy that is located on Redmond Square in Wexford Town, County Wexford, indicating which are currently owned by Uniphar.

Table 11: Retail pharmacies within the 2km catchment area from the Target Pharmacy on Redmond Square, Wexford Town, County Wexford.

Pharmacy	Pharmacy Location	Distance from Redmond Square
McCauley Pharmacy	4-9 Redmond Square	N/A
McCauley Pharmacy	8-10 North Main Street	0.7km
Hassett's Allcare Pharmacy (Uniphar)	9-11 North Main Street	0.601km
Selskar Pharmacy	27 - 28 Selskar Street	0.107km
McCormacks Pharmacy	14 Selskar Street	0.160km
Fortune's Pharmacy	82 North Main Street	0.240km
Abbey Street Pharmacy	42 Abbey Street	0.300km
Sherwood's Pharmacy	2 North Main Street	0.580km
Boots	9-13 South Main Street	0.631km
Fehily's Pharmacy	28 South Main Street	0.670km



First Choice Pharmacy	Instore Tesco, Distillery Road	1.45km
Grant's Pharmacy	Unit 4b, St. Aidan's Shopping Centre	1.56km
B & T Healthcare Limited	178 The Faythe	1.73km

Source: *The parties*

61. Sam McCauley's pharmacy at North Main Street is within 2km of the Target Pharmacy on Redmond Square. Uniphar currently operates one retail pharmacy within 2km of this pharmacy, which is Hassett's Allcare Pharmacy at 9-11 North Main Street. Therefore, on the basis of a geographic market comprising a catchment area of 2km from the Target Pharmacy on Redmond Square in Wexford Town, there is a horizontal overlap between the parties.
62. In respect of the Target Pharmacy on Redmond Square, following the implementation of the Proposed Transaction, there will be 10 non-Uniphar-owned pharmacies within the 2km catchment area. The Commission considers that these retail pharmacies, by reason of their presence within the 2km catchment area, will continue to exert a significant competitive constraint on Uniphar following the implementation of the Proposed Transaction.
63. Therefore, the Commission is of the view that the Proposed Transaction does not give rise to horizontal competition concerns in relation to the operation of retail pharmacies within 2km of the Target Pharmacy on Redmond Square, Wexford Town, County Wexford.

Catchment area 10 & 11: Athy, County Kildare

64. Table 12 below lists the retail pharmacies within the 2km catchment areas from each of the two Target Pharmacies that are located on Leinster Street and in the Athy Primary Care Centre on the Dublin Road in Athy, County Kildare, indicating which are currently owned by Uniphar.

Table 12: Retail pharmacies within the 2km catchment areas from the Target Pharmacies in Athy, County Kildare

Pharmacy	Pharmacy Location	Distance from 59 Leinster Street	Distance from Athy Primary Care Centre
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McCauley Health & Beauty Pharmacy	59 Leinster Street	N/A	1.01km
McCauley Health & Beauty Pharmacy	Athy Primary Care Centre, Dublin Road	1.01km	N/A
McHugh's Allcare Pharmacy (Uniphar)	39 Duke Street	0.482km	1.48km
McCabes Pharmacy	51 Leinster Street	0.048km	1.06km
Moore's Life Pharmacy	6 Duke Street	0.338km	1.36km
A & A Pharmacy	21 William Street	0.566km	1.60km

Source: *The parties*

65. Table 12 shows that Uniphar owns one retail pharmacy within 2km of each of the two Target Pharmacies, which is located on Duke Street.
66. During the course of its investigation, the Commission identified preliminary competition concerns with respect to the two catchment areas in Athy, Co. Kildare. Uniphar submitted the Proposals to the Commission, pursuant to which Uniphar proposed to divest McHugh's Allcare Pharmacy on Duke Street following the implementation of the Proposed Transaction. The Commission is of the view that the Proposals are appropriate and effective to address the preliminary competition with respect to the two catchment areas in Athy Co. Kildare. In light of the Proposals, it is not necessary for the Commission to conclude on the competitive effects of the Proposed Transaction in the absence of the Proposals in relation to the operation of retail pharmacies within 2km of each of the Target Pharmacies in Athy, County Kildare.
67. Following the implementation of both the Proposed Transaction, and taking account of the Proposals, the Commission considers that there will be three non-Uniphar-owned retail pharmacies within this 2km catchment area. The Commission considers that these retail pharmacies, by reason of their presence within this 2km catchment area, will continue to exert a significant competitive constraint on Uniphar following the implementation of the Proposed



Transaction. Therefore, the Commission considers that the Proposed Transaction does not give rise to horizontal competition concerns in relation to the operation of retail pharmacies within 2km of each of the Target Pharmacies in Athy, County Kildare.

Catchment area 12 & 13: Navan, County Meath

68. Table 13 below lists the retail pharmacies within the 2km catchment areas from each of the two Target Pharmacies that are located at the Bedford Medical Centre and Navan Shopping Centre in Navan, County Meath, indicating which are currently owned by Uniphar.

Table 13: Retail pharmacies within the 2km catchment areas from the Target Pharmacies in Navan, County Meath

Pharmacy	Pharmacy Location	Distance from Bedford MC	Distance from Navan SC
McCauley Health & Beauty Pharmacy	Bedford Medical Centre	N/A	3.4km
McCauley Health & Beauty Pharmacy	Navan Shopping Centre	3.4km	N/A
Hickey's Pharmacy (Uniphar)	7 Watergate Street	0.484km	0.698km
Hickey's Pharmacy (Uniphar)	Unit 15 Navan Shopping Centre	0.881km	0.035km
Hickey's Pharmacy (Uniphar)	Abbey Road Medical Centre	0.897km	0.218km
Boots	Unit 3-4 Navan Shopping Centre	0.881km	0.05km
Staunton's Pharmacy	Belfry View	0.593km	0.507km
Christine's Pharmacy	33 Brews Hill	0.970km	0.783km
Cottage Pharmacy	2 McDermott Villas	1.44km	1.28km
Chemist Warehouse	Unit 3, Blackwater Retail Park, Navan	3.6km	1.3km



O'Connor's Pharmacy	Unit 6, Blackcastle SC, Navan	1.63km	1.58km
O'Driscoll's Pharmacy	Unit 3 Beechmount Shopping Centre	1.75km	1.65km

Source: The parties

69. Table 13 shows that Uniphar owns three retail pharmacies within 2km of each of the two Target Pharmacies, which are located (i) on Watergate Street; (ii) in Navan Shopping Centre; and; (iii) in Navan Medical Centre.
70. During the course of its investigation, the Commission identified preliminary competition concerns with respect to the two catchment areas in Navan, Co Meath. Uniphar submitted the Proposals to the Commission, pursuant to which Uniphar proposed to divest Hickey's Pharmacy at Navan Medical Centre following the implementation of the Proposed Transaction. The Commission is of the view that the Proposals are appropriate and effective to address the preliminary competition with respect to the two catchment areas in Navan, Co Meath. In light of the Proposals, it is not necessary for the Commission to conclude on the competitive effects of the Proposed Transaction in the absence of the Proposals in relation to the operation of retail pharmacies within 2km of each of the Target Pharmacies in Navan.
71. Following the implementation of the Proposed Transaction and the Proposals, there will be seven non-Uniphar-owned retail pharmacies within 2km of the Target Pharmacy at Navan Shopping Centre and six non-Uniphar-owned retail pharmacies within 2km of the Target Pharmacy at the Bedford Medical Centre. The Commission considers that these retail pharmacies, by reason of their presence within the 2km catchment areas, will continue to exert a significant competitive constraint on Uniphar following the implementation of the Proposed Transaction. Therefore, the Commission considers that the Proposed Transaction does not give rise to horizontal competition concerns in relation to the operation of retail pharmacies within 2km of each of the Target Pharmacies in Navan, County Meath.



Catchment area 14: Bunclody, County Wexford

72. Table 14 below lists the retail pharmacies within the 2km catchment area from the Target Pharmacy that is located at Market Square Bunclody, County Wexford, indicating which are currently owned by Uniphar.

Table 14: Retail pharmacies within the 2km catchment area from the Target Pharmacy in Bunclody, County Wexford

Pharmacy	Pharmacy Location	Distance
McCauley Health & Beauty Pharmacy	Market Square	N/A
Loftus Pharmacy (Uniphar)	Market Square	0.066km
Chemco Pharmacy	Supervalu Shopping Centre	0.519km

Source: The parties

73. Table 14 shows that Uniphar owns one retail pharmacy within 2km of the Sam McCauley retail pharmacy, which is located at Market Square.
74. During the course of its investigation, the Commission identified preliminary competition concerns with respect to the catchment area in Bunclody, Co. Wexford. Uniphar submitted the Proposals to the Commission, pursuant to which Uniphar proposed to divest McCauley Health & Beauty Pharmacy at Market Square following the implementation of the Proposed Transaction. The Commission is of the view that the Proposals are appropriate and effective to address the preliminary competition with respect to the catchment area in Bunclody, Co. Wexford. In light of the Proposals, the Commission considers that the Proposed Transaction does not give rise to horizontal competition concerns in relation to the operation of retail pharmacies within 2km of the Target Pharmacy in Bunclody, County Wexford since the effect of the Proposals will be that no change to the market structure in respect of the operation of retail pharmacies in the catchment area will result from the implementation of the Proposed Transaction.



Conclusion on horizontal overlap

75. In light of the above, and in light of the Proposals, the Commission considers that the Proposed Transaction does not raise any horizontal competition concerns in the State.

Vertical Relationships

76. The Commission has identified the following actual and potential vertical relationships between Uniphar and Sam McCauley:
- a. the full-line wholesale supply of POHPPs in the State;
 - b. the provision of common management and branding services to retail pharmacies in the State;
 - c. the provision of buying group services to retail pharmacies in the State;
 - d. the wholesale supply of medical products to retail pharmacies in the State;
and
 - e. the wholesale supply of FOS products and non-pharmacy-only products to retail pharmacies in the State.

The full-line wholesale supply of POHPPs in the State

77. Uniphar is one of two full-line wholesalers in the State, and currently operates as Sam McCauley's primary full-line wholesaler.
78. The Commission considers that the Proposed Transaction does not give rise to vertical foreclosure concerns in relation to the wholesale supply of POHPPs in the State for the following reasons:
- **Input foreclosure:** Uniphar estimates that it holds a share of approximately [40-45%] in the potential upstream market for the full-line wholesale supply of POHPPs in the State. Uniphar's estimated market share will not change as a result of the Proposed Transaction. Furthermore, Uniphar faces a strong competitor in UDG Healthcare Limited ("United Drug") in respect of the full-line wholesale supply of POHPPs in the



State. As noted above at paragraph 25, the increase in Uniphar's estimated share in the downstream operation of retail pharmacies in the State following the implementation of the Proposed Transaction will be minimal, and so the Commission considers that this increase is unlikely to result in Uniphar gaining the incentive and ability to engage in input foreclosure. Therefore, the Commission considers that input foreclosure is unlikely to arise in respect of the full-line wholesale supply of POHPPs in the State following the implementation of the Proposed Transaction.

- **Customer foreclosure:** as noted above at paragraph 25, the increase resulting from the Proposed Transaction in Uniphar's estimated share in the downstream operation of retail pharmacies in the State is minimal, and the Commission therefore considers that the Proposed Transaction is unlikely to result in Uniphar gaining the incentive and ability to engage in customer foreclosure. Additionally, as noted in paragraph 77, Uniphar is already Sam McCauley's primary full-line wholesaler. Therefore, the Commission considers that customer foreclosure is unlikely to arise in respect of the full-line wholesale supply of POHPPs in the State following the implementation of the Proposed Transaction.

The provision of common management and branding services to retail pharmacies in the State

79. There is a potential vertical relationship between Uniphar and Sam McCauley in the provision of common management and branding services, as Uniphar provides common management and branding services to retail pharmacies, while Sam McCauley operates retail pharmacies.
80. Providers of common management and branding services primarily provide their services to independent retail pharmacies. Sam McCauley's retail pharmacies form part of a retail chain and are not independently owned. Sam McCauley's retail pharmacies do not source common management and branding services from external providers.
81. Therefore, the Commission considers that input or customer foreclosure is unlikely to arise in relation to the provision of common management and branding services to retail pharmacies in the State following the implementation of the Proposed Transaction.



The provision of buying group services to retail pharmacies in the State

82. There is a potential vertical relationship between Uniphar and Sam McCauley in the provision of buying group services, as Uniphar provides buying group services to retail pharmacies, while Sam McCauley operates retail pharmacies.
83. Providers of buying group services provide their services to independent retail pharmacies. Sam McCauley's retail pharmacies form part of a retail chain and are not independently owned. Sam McCauley's retail pharmacies do not source buying group services from external providers.
84. Therefore, the Commission considers that input or customer foreclosure is unlikely to arise in relation to the provision of buying group services to retail pharmacies in the State following the implementation of the Proposed Transaction.

The wholesale supply of medical products to retail pharmacies in the State

85. There is a vertical relationship between Uniphar and Sam McCauley in the wholesale supply of medical products to retail pharmacies in the State. Uniphar currently acts as a secondary supplier of medical products to Sam McCauley, supplying both Uniphar-branded and non-Uniphar branded medical products.
86. The Commission considers that the Proposed Transaction does not give rise to any vertical foreclosure concerns in the State in relation to the wholesale supply of medical products for the following reasons:
 - **Input foreclosure:** Uniphar estimates that it held a [5-10%] share in the wholesale supply of medical products to retail pharmacies in the State in 2021. Uniphar provided the following estimated shares of other suppliers in the potential market for the wholesale supply of medical products to retail pharmacies in the State: Fleming Medical Limited [15-20%]; United Drug [5-10%]; Pharmacare Distribution Limited [0-5%]; Allegro Limited [0-5%]; and Lynch Medical Supplies (LMS) Limited [0-5%]. These competing suppliers will continue to exert a significant competitive constraint on Uniphar in the potential market for the wholesale supply of medical products to retail



pharmacies in the State following the implementation of the Proposed Transaction. Therefore, the Commission considers that input foreclosure is unlikely to arise in respect of the wholesale supply of medical products to retail pharmacies in the State following the implementation of the Proposed Transaction.

- **Customer foreclosure:** as noted above at paragraph 25, the increase resulting from the Proposed Transaction in Uniphar's estimated share in the downstream operation of retail pharmacies in the State is minimal, and the Commission therefore considers that the Proposed Transaction is unlikely to result in Uniphar gaining the incentive and ability to engage in customer foreclosure. Therefore, the Commission considers that customer foreclosure is unlikely to arise in respect of the wholesale supply of medical products to retail pharmacies in the State following the implementation of the Proposed Transaction.

The wholesale supply of FOS products and non-pharmacy-only products to retail pharmacies in the State

87. There is a vertical relationship between Uniphar and Sam McCauley in the wholesale supply of FOS products and non-pharmacy-only products to retail pharmacies in the State. Uniphar supplies both Uniphar-branded and non-Uniphar branded FOS products and non-pharmacy-only products to Sam McCauley.
88. The Commission considers that the Proposed Transaction does not give rise to any vertical foreclosure concerns in the State in relation to the wholesale supply of FOS products and non-pharmacy-only products for the following reasons:
- **Input foreclosure:** Uniphar estimates that it held an [15-20%] share in the wholesale supply of FOS products and non-pharmacy-only products to retail pharmacies in the State in 2021. Uniphar provided the following estimated shares of other suppliers in the potential market for the wholesale supply of medical products to retail pharmacies in the State: United Drug [15-20%]; Cosmetics Active [5-10%]; Allegro Limited [5-10%]; L'Oreal Ireland Limited [0-5%]; Parle and Hickey [0-5%] and Sundrelle Limited [0-5%]. These competing suppliers will continue to exert a significant



competitive constraint on Uniphar in the potential market for the wholesale supply of FOS products and non-pharmacy-only products to retail pharmacies in the State following the implementation of the Proposed Transaction. Therefore, the Commission considers that input foreclosure is unlikely to arise in respect of the wholesale supply of FOS products and non-pharmacy-only products to retail pharmacies in the State.

- **Customer foreclosure:** as noted above at paragraph 25, the increase resulting from the Proposed Transaction in Uniphar's estimated share in the downstream operation of retail pharmacies in the State is minimal, and the Commission therefore considers that the Proposed Transaction is unlikely to result in Uniphar gaining the incentive and ability to engage in customer foreclosure. Therefore, the Commission considers that customer foreclosure is unlikely to arise in respect of the wholesale supply of FOS products and non-pharmacy-only products to retail pharmacies in the State following the implementation of the Proposed Transaction.

Conclusion on Vertical Relationships

89. In light of the above, the Commission considers that the Proposed Transaction does not raise vertical competition concerns in the State.

Proposals Submitted by Uniphar to Ameliorate Potential Competition Concerns

90. On 20 January 2023, following engagement with the Commission throughout its investigation, Uniphar submitted the Proposals to the Commission 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 or services in the State.
91. The Proposals provide, *inter alia*, that:
- a. Uniphar commits to divest to a Suitable Purchaser (as defined in the Proposals), within 6 months of the date of the Commission's determination, each of the following pharmacies (collectively referred to in the Proposals as the "Businesses"):



- i. the McHugh's Allcare Pharmacy on Duke Street, Athy, Co. Kildare (as discussed in paragraph 66 above);
 - ii. the Hickey's Pharmacy at Navan Medical Centre, Navan, Co. Meath (as discussed in paragraph 70 above); and,
 - iii. the McCauley Health & Beauty Pharmacy at Market Square, Bunclody, Co. Wexford (as discussed in paragraph 74 above);
- b. the sale of each of the pharmacies shall be upon such conditions as detailed in the Proposals and the acquisition of each of the pharmacies by a prospective purchaser must not be likely to create, in light of information available to the Commission, *prima facie* competition concerns;
 - c. the Suitable Purchaser is required to meet with the Commission's approval and such purchaser shall be unconnected to and independent of Uniphar and Sam McCauley;
 - d. Uniphar 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 Businesses until the date of the completion of their sale to a Suitable Purchaser;
 - e. Uniphar undertakes not to purchase the Businesses (or otherwise to acquire an interest in the Businesses) for a period of [...] following the date of completion of the sale of the Businesses to a Suitable Purchaser pursuant to the Proposals; and
 - f. Uniphar commits that its compliance with the terms of the Proposals shall be monitored by a Trustee (as defined in the Proposals), in accordance with the terms of a Mandate (as defined in the Proposals), to be agreed with the Commission.
 - g. Uniphar undertakes to hold separate the Businesses and to preserve the economic viability, marketability, and competitiveness of the Businesses until the date(s) of disposal in accordance with good commercial practice, and to ensure that the



Businesses are managed separately in the best interests of each Business as a distinct economic entity;

92. The Commission is of the view that the Proposals are appropriate and effective to address the potential competition concerns relating to the Proposed Transaction. In accordance with section 20(3) and section 26(1) and 26(4) of the Act, the Commission has taken the Proposals into account and the Proposals form the basis or part of the basis for this determination. Consequently, the Proposals have become commitments binding upon Uniphar. The Proposals are set out at Appendix A of this determination.

Overall conclusion on competitive analysis

93. In light of the above, and having taken the Proposals into account, the Commission considers that the Proposed Transaction will not substantially lessen competition in any market for goods or services in the State.

Ancillary Restraints

94. The parties state in the notification that Clause 13.2(a) of the SPA contains a restraint which is directly related and necessary to the implementation of the Proposed Transaction.
95. The Commission notes that Clause 13.2(a) of the SPA imposes certain non-compete obligations on three of the private individuals who are parties to the SPA (namely [...]). The duration and scope of these obligations do not exceed the maximum duration and scope acceptable to the Commission.²⁵ The Commission considers that the restrictive obligations contained in Clause 13.2(a) of the SPA are directly related and necessary to the implementation of the Proposed Transaction, insofar as they relate to the State.

²⁵ In this respect, the Commission follows the approach adopted by the European Commission in paragraph 20 of its “Commission Notice on restrictions directly related and necessary to concentrations” [2005] OJ C56/24, available at [http://eurlex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005XC0305\(02\)&from=EN](http://eurlex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005XC0305(02)&from=EN).



Determination

Pursuant to section 20(3) of the Competition Act 2002, as amended (the “Act”), Uniphar plc (“Uniphar”), has submitted to the Competition and Consumer Protection Commission (the “Commission”) the proposals set out below relating to the proposed acquisition whereby Uniphar plc, through its wholly-owned subsidiary Trennamally Limited, of sole control of LXV Remedies Holdings Limited, the ultimate owner of Sam McCauley Chemists Limited for the purpose of ameliorating any effects of the proposed acquisition on competition in markets for goods or services in the State, with a view to the proposals becoming binding on Uniphar plc and its subsidiaries.

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 Uniphar plc would acquire sole control of LXV Remedies Holdings Limited, the ultimate owner of Sam McCauley Chemists Limited, will not be to substantially lessen competition in any market for goods or services in the State, and, accordingly, that the acquisition may be put into effect.

For the Competition and Consumer Protection Commission

Patrick Kenny

Member

Competition and Consumer Protection Commission



Appendix A – Proposals

PROPOSALS TO THE COMPETITION AND CONSUMER PROTECTION COMMISSION RELATING TO THE PROPOSED ACQUISITION BY UNIPHAR PLC OF LXV REMEDIES HOLDINGS LIMITED (the "Proposals")

Submitted on 20 January 2023 RECITALS

- a) On 19 September 2022, the proposed acquisition by Uniphar plc of LXV Remedies Holdings Limited was notified to the CCPC under Section 18(1)(a) of the Act. (Certain terms are defined below.)
- b) Uniphar and the Target are both active in the retail/community pharmacy sector in the State.
- c) Pursuant to Section 20(3) of the Act, Uniphar has submitted the Proposals to the CCPC for the purpose of ameliorating any 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 Uniphar 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.

A. Definitions

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

"**Act**" means the Competition Act 2002, as amended;

"**Athy Business**" means Uniphar's interest, rights and obligations in respect of the McHugh's Allcare Pharmacy business, carried on by McHugh's Athy, and currently trading at Duke St, Athy, Co. Kildare, R14 YD77 (i.e., the operation of a retail/community pharmacy at that premises), which is to be sold by Uniphar under the terms of the Proposals (whether effected by means of an asset sale or a sale of the shares in McHugh's Athy);

"**Bunclody Business**" means the Target's interest, rights and obligations in respect of the McCauley Health & Beauty Pharmacy business, carried on by McCauley's Bunclody, and currently trading at Market Square, Ballinapark, Bunclody, Co. Wexford, Y21 AH39 (i.e., the operation of a retail/community pharmacy at that premises), which is to be sold by Uniphar, after having acquired it as part of the Proposed Transaction, under the terms of the Proposals (whether effected by means of an asset sale or a sale of the shares in McCauley's Bunclody);

"**Businesses**" means, all together or in any grouping, the Bunclody Business, the Athy Business and the Navan Business (and each individually is a "**Business**");

"**CCPC**" means the Competition and Consumer Protection Commission and its successors;



"**CCPC Trustee**" has the meaning ascribed to it in paragraph 16 of the Proposals;

"**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 part of the basis of the Determination;

"**Existing Supplier**" means any of the suppliers of a Business the day prior to the date of the Determination;

"**Hickey's Navan**" means DGM Pharmacies Limited, a company incorporated in the State under registration number 374247, being a wholly-owned indirect subsidiary of Uniphar;

"**Hold Separate Manager**" has the meaning ascribed to it in paragraph 32 of the Proposals;

"**Indemnified Party**" has the meaning ascribed to it in paragraph 28 of the Proposals;

"**Mandate**" means the mandate agreement to be entered into between Uniphar and the Trustee in accordance with paragraph 17 of the Proposals, the terms of which shall have been agreed with the CCPC;

"**McCauley's Bunclody**" means Sam McCauley Chemists (Bunclody) Limited, a company incorporated in the State under registration number 379884, being a wholly-owned indirect subsidiary of the Target;

"**McHugh's Athy**" means McHugh's Pharmacy Limited, a company incorporated in the State under registration number 376341, being a wholly-owned indirect subsidiary of Uniphar;

"**Navan Business**" means Uniphar's interest, rights and obligations in respect of the Hickey's Pharmacy business, carried on by Hickey's Navan, and currently trading at Abbey Road Medical Centre, Navan, Co. Meath, C15 EH75 (i.e., the operation of a retail/community pharmacy at that premises), which is to be sold by Uniphar, under the terms of the Proposals (whether effected by means of an asset sale or a sale of the shares in Hickey's Navan);

"**Proposed Transaction**" means the proposed acquisition by Uniphar of sole control of the Target as notified to the CCPC on 19 September 2022;

"**Proposed Trustee**" has the meaning ascribed to it in paragraph 14 of the Proposals;

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

- a. the acquisition by the purchaser of a Business would not be likely to create *prima facie* competition concerns;



- b. the acquisition by the purchaser of a Business would be on terms and conditions which would not be likely to create *prima facie* competition concerns;
- c. the purchaser is unconnected to, and independent of, both Uniphar and the Target; and
- d. the purchaser is able to continue to operate a Business on a financially viable basis.

"Target" means LXV Remedies Holdings Limited (Registration No. 603227), which has its registered offices at 3054 Lake Drive, Citywest, Dublin 24, D24 HN20, and all 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;

"Trustee" means the trustee approved, or deemed to have been approved, by the CCPC with whom Uniphar shall enter into the Mandate in accordance with paragraph 17 of the Proposals;

"Trustee Reports" has the meaning ascribed to it in paragraph 19(a) of the Proposals.

"Uniphar" means Uniphar plc, a public limited company incorporated under the laws of the State (Registration No. 224324), which has its registered address at 4045 Kingswood Road, Citywest Business Park, Co. Dublin, D24 V06K together with all its subsidiaries.



B. Proposal to divest the Businesses following completion of the Proposed Transaction

1. Uniphar undertakes, subject to the provisions set out herein, to effect the sale of each of the Businesses within six (6) months of the date of the Determination (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). For the purpose of the Proposals, any reference to a sale, disposal or transfer by Uniphar of the Businesses (or similar expressions) shall be deemed to include, but is not limited to, an asset sale or a sale, disposal or transfer by Uniphar of the entire issued share capital of Hickey's Navan and/or McHugh's Athy and/or McCauley's Bunclody (being the entities that own and operate the Businesses). For the avoidance of doubt, the Businesses may be sold individually, as a pair and an individual Business, or all together.
2. Uniphar recognises that the sale of the Businesses shall be upon such conditions as detailed in the Proposals and that the acquisition of a Business by a prospective purchaser must not be likely to create, in light of information available to the CCPC, *prima facie* competition concerns.
3. Uniphar recognises that for a prospective purchaser to meet with the CCPC's approval, such purchaser shall be unconnected to and independent of Uniphar and shall be a Suitable Purchaser.
4. Uniphar further recognises that for a prospective purchaser to meet with the CCPC's approval, that purchaser must be deemed reasonably likely to obtain all authorisations and consents required to effect a transfer of the Business(es) that that purchaser proposes to purchase.
5. Uniphar shall be deemed to have complied with paragraph 1 of the Proposals if, within six (6) months from the Determination (or such longer period as may be allowed by the CCPC, acting reasonably), it has entered into a letter of intent or a binding contract for the sale in respect of each of the Businesses, provided that any such sale is completed within a three (3) month period from the date of the relevant letter of intent or contract (or such longer period as may be allowed by the CCPC, acting reasonably).
6. Uniphar shall:
 - i. promptly inform the CCPC in writing, with a fully documented and reasoned proposal (together with all supporting documentation, including a copy of any heads of agreement or draft contracts prepared by Uniphar or the prospective purchaser), of any prospective purchaser who indicates a genuine interest/serious desire to purchase a Business and to whom Uniphar is considering the sale of that Business, enabling the CCPC to verify the suitability of the prospective purchaser; and
 - ii. when it has entered into a letter of intent or a binding contract for the sale of a Business within the meaning of paragraph 5 (or, if paragraph 22 applies, within the meaning of and subject to the terms of that paragraph), provide a fully documented and reasoned submission (including any relevant updates regarding the purchaser) enabling the CCPC to verify that the conditions and



obligations 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 6(i) subject to the CCPC agreeing to keep confidential all such information received.

7. The CCPC shall communicate in writing its approval or non-approval of a prospective purchaser of a Business within two (2) weeks 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 Uniphar or the prospective purchaser) identifying a prospective purchaser in accordance with paragraph 6(i) above. Separately, within two (2) weeks of receipt of a letter of intent or a binding contract for sale and all supporting documentation in accordance with paragraph 34 or paragraph 35 (as the case may be), as well as the fully documented and reasoned submission in accordance with paragraph 6(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 6(ii).
8. Failure of the CCPC to communicate its approval or non-approval of a prospective purchaser within two (2) weeks of receipt of a fully documented and reasoned proposal identifying such a purchaser in accordance with paragraph 6(i) shall delay the running or expiration of the six (6) month 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 thirty (30) calendar days of receipt as aforesaid, such approval shall be deemed to have been given unconditionally. In the case of multiple offers from prospective purchasers each of whom the CCPC considers suitable, Uniphar shall be free to accept any offer of its choosing.
9. The CCPC and Uniphar shall act at all times in a reasonable manner with a view to achieving the effective and efficient implementation of the Proposals.

C. The Businesses to be Divested

10. Uniphar undertakes to dispose of the entirety of the Businesses, to include all tangible and non-tangible assets, licences and contracts. For the avoidance of doubt, this will not include any intellectual property, copyright or trademark held by the Target, even where those assets solely and exclusively refer to a Business.
11. Uniphar undertakes to sell each of the Businesses as a going concern, including, where necessary, a transfer of all relevant staff subject to all applicable employment laws.
12. Uniphar 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 Businesses until the date of the completion of its sale to a Suitable Purchaser.
13. Uniphar undertakes not to purchase any of the Businesses (or otherwise to acquire an interest in any of the Businesses) for a period of [...] following the date(s) of completion of the sale of the Businesses to a Suitable Purchaser pursuant to the



Proposals. If Uniphar enters into a binding agreement to acquire any of the Businesses after the expiry of the [...] period referred to in this paragraph, Uniphar 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 acquisition in accordance with Section 18(3) of the Act (or its successor provision, if applicable) if such proposed acquisition is not required to be notified under Section 18(1) of the Act (or its successor provision, if applicable).

D. Appointment of a Trustee

14. Within ten (10) working days of the date of the Determination, Uniphar will propose to the CCPC a trustee, who is independent of both Uniphar and the Target (the "**Proposed Trustee**"). The appointment of the Proposed Trustee is subject to the approval of the CCPC. If the CCPC does not reject the Proposed Trustee by notice in writing within five (5) working days of the proposal, the Proposed Trustee shall be deemed to have been approved.
15. If the Proposed Trustee is rejected, Uniphar will propose the name 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 Uniphar within five (5) working days of the new proposal, the New Trustee shall be deemed to have been approved.
16. If the New Trustee, proposed under paragraph 15, is rejected by the CCPC, the CCPC shall, acting reasonably, nominate a suitable trustee (the "**CCPC Trustee**") which Uniphar will appoint or cause to be appointed.

E. Trustee's Mandate

17. 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, Uniphar shall enter into a mandate agreement (that is, the "Mandate" as defined in Section A above) with the approved trustee (the "**Trustee**"), the terms of which have been agreed with the CCPC, which confers on the Trustee all the rights and powers necessary to permit the Trustee to monitor Uniphar's compliance with the terms of the Proposals.
18. The Trustee shall be independent of Uniphar and the Target, possess the necessary qualifications and experience to carry out its mandate, and shall neither have nor become exposed to a conflict of interest.
19. 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 Uniphar. Uniphar 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 purchaser for each of the Businesses and as to the conduct of the negotiations;
 - c. monitor and advise the CCPC as to whether the prospective purchaser(s) with whom Uniphar intends to negotiate are likely to satisfy the CCPC's requirements as to suitability; and
 - d. monitor the maintenance of the viability and marketability of the Businesses and ensure that they are managed in the ordinary course of business, pursuant to good business practice.
20. The Trustee's duties and functions as set out above shall not be extended or varied in any way by Uniphar, save with the express consent of the CCPC. Any instruction or request to the Trustee from Uniphar which conflicts with the terms of the Mandate, and the duties and functions as set out above, will be considered null and void.
21. 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 Uniphar is first given an opportunity to comment on any such orders or instructions in advance.
22. After six (6) months have elapsed from the date of the Determination (or such longer period as may be allowed by the CCPC in accordance with paragraph 5), without Uniphar having entered into a letter of intent or a binding contract for the disposal of the Businesses to a Suitable Purchaser(s), the Trustee shall be given an irrevocable mandate to negotiate and conclude arrangements for the sale of the Businesses in relation to which a letter of intent or a binding contract remains to be concluded within six (6) months at no minimum price and upon such terms and conditions as the Trustee considers appropriate for an expedient sale, to a viable and independent third party (subject to both the CCPC having approved the purchaser(s) and, following entry into a letter(s) of intent or binding contract(s) for the sale of the Businesses, the CCPC having verified that there has been no material change in the status of the purchaser, in accordance with paragraphs 6, 7 and 8). For the avoidance of doubt, Uniphar shall not be obliged to remunerate the relevant purchaser(s) in order to ensure the sale of the Businesses. In this context, all references in paragraphs 6, 7 and 8 to "Uniphar" shall be substituted with "the Trustee". The Trustee shall, however, have regard to the legitimate financial interests of Uniphar in respect of any such sale, subject to Uniphar's unconditional obligation to divest the Businesses at no minimum price.
23. The CCPC and Uniphar shall endeavour to ensure that the Trustee shall act reasonably and responsibly.

F. Miscellaneous

24. Uniphar 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. Uniphar will provide or cause to be provided to the Trustee all such assistance and information, including copies of all relevant documents accessible to Uniphar as the Trustee may require in carrying out the Mandate, and will pay reasonable remuneration for the Trustee's services.

25. In addition, at the expense of Uniphar, the Trustee may appoint advisors (in particular for corporate finance and/or legal advice), subject to Uniphar'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, necessary and appropriate. Should Uniphar refuse to approve the advisors proposed by the Trustee, the CCPC may approve the appointment of such advisors instead, after first having received Uniphar's views in writing. Only the Trustee shall be entitled to issue instructions to the advisors.
26. 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 Uniphar. The Trustee shall have access on an unrestricted, working basis to the Hold Separate Manager(s) (as defined below), and any other employees of the Businesses in order to ensure compliance by Uniphar with the Proposals.
27. The Trustee shall have full and complete access to the Hold Separate Manager(s) and any other employees of the Businesses, in order to ensure compliance by Uniphar with its obligation to maintain the financial and competitive viability of the Businesses.
28. Uniphar 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 Uniphar 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's and all other relevant third parties' powers of attorney and appointment shall be irrevocable.

G. Interim Position of the Businesses

29. Following the Determination and pending the onward sale of the Businesses, Uniphar undertakes to hold separate the Businesses and to preserve the economic viability, marketability, and competitiveness of the Businesses until the date(s) of disposal in accordance with good commercial practice, and to ensure that the Businesses are managed separately by the Hold Separate Manager(s) (as defined at paragraph 32) in the best interests of each Business as a distinct economic entity.
30. Uniphar shall implement verifiable measures to ensure that it does not obtain any competitively sensitive information relating to each of the Businesses during the period from the date of the Determination until the date of the sale of the relevant Business (save, by agreement with the Trustee under the terms of the Mandate, where such information is required for the operation of, and preservation of the



economic value of, the Businesses in accordance with good commercial practice or for the purpose of assisting the divesture by Uniphar of the Businesses to a prospective purchaser). In this regard, it is recognised that engagement will be required by the Trustee with Uniphar on operational issues that are specific, limited and not competitively sensitive in order to preserve the economic value of the Businesses.

31. Following the Determination and pending the sale of the Businesses, Uniphar 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 any of the Businesses until the date of its disposal. Furthermore, Uniphar 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 Businesses. In particular, Uniphar shall procure and ensure that the Businesses continue to engage with the Existing Suppliers to the Businesses in good faith, and to terminate contracts, whether written or unwritten, with Existing Suppliers only for material breach of contract.
32. Uniphar further undertakes to appoint a manager for each or all or any combination of the Businesses (who may be the existing store manager of a Business or such similar person, who is unconnected to, and independent of, Uniphar) who shall be responsible for the day-to-day management of all operations in relation to that Business or Businesses (the "**Hold Separate Manager(s)**").
33. The Hold Separate Manager(s) shall manage each Business independently of Uniphar and in the best interest of each Business with a view to ensuring its continued economic viability, marketability, and competitiveness. Further, subject to the provisions of paragraph 30, the Hold Separate Manager(s) shall be responsible for ensuring that no competitively sensitive information relating to each Business and its operation is provided to Uniphar during the period from the date of the Determination until the date of the sale of the Business managed by the relevant Hold Separate Manager(s), save with the agreement of the Trustee under the terms of the Mandate and where one of the following conditions is satisfied:
 - a. such information is necessary to ensure the efficient transfer of the retail/community pharmacies forming part of the Target to Uniphar, and the continued operation of the Target (including any of the Businesses) throughout this period (during which the parties will work together to ensure that the transition has been successful); or
 - b. such information is required for the operation of the Businesses in accordance with good commercial practice, to enable compliance with legal or regulatory obligations by Uniphar; and/or the Businesses; or
 - c. such information is required for the purpose of assisting the divesture by Uniphar of the Businesses to a prospective purchaser.
34. Where Uniphar has signed a letter of intent or a binding contract for the sale of one or more of the Businesses within the meaning of paragraph 5, it shall provide a copy of such letter of intent or binding contract (as the case may be) and all supporting



documentation (including a copy of any heads of agreement or draft contracts prepared by Uniphar or the prospective purchaser) to the CCPC within three (3) working days of Uniphar's signing of the letter of intent or binding contract (as the case may be).

35. Where the Trustee has signed a letter of intent or binding contract for the sale of one or more of the Businesses within the meaning of paragraph 22, it shall provide a copy of such letter of intent or binding contract (as the case may be) and all supporting documentation (including a copy of any heads of agreement or draft contracts prepared by Uniphar or the prospective purchaser) to the CCPC within three (3) working days of Uniphar's signing of the letter of intent or binding contract (as the case may be).

H. Review Clause

36. 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 Uniphar or the Trustee. The CCPC may further, at its sole discretion waive, modify or substitute any provision in the Proposals in response to a reasoned request from Uniphar or the Trustee showing good cause.

Dated 20 January 2023