

# Completed acquisition by Enterprise Rent-A-Car UK Limited of Vulcan Holdco Limited and its subsidiary Burnt Tree Holdings Limited

**ME/6463-14**

The CMA's decision on reference under 22(1) given on 29 October 2014. Full text of the decision published on 3 December 2014.

**Please note that [X] indicates figures or text which have been deleted or replaced in ranges at the request of the parties for reasons of commercial confidentiality.**

## Summary

1. Enterprise Rent-A-Car-UK Limited (**Enterprise**) has acquired Burnt Tree Holdings Limited (**Burnt Tree**) (the **Merger**), together the '**Parties**'. Enterprise is a vehicle rental company providing cars and light commercial vehicles to consumers and businesses, as insurance replacement vehicles and manufacture replacement vehicles. Burnt Tree is a vehicle hire company predominantly offering the hire of light commercial vehicles on a flexible or long term rental contract hire basis.
2. The Competition and Markets Authority (**CMA**) considers that the Parties have ceased to be distinct and that the turnover test is met. Therefore, it considers that it is the case that arrangements are in progress which will result in the creation of a relevant merger situation pursuant to section 23(2) of the Enterprise Act (the **Act**). The CMA's statutory timetable for a decision expires on 29 October 2014.
3. The Parties mainly overlap in the supply of cars and light commercial vehicles for hire by way of flexible rental. Flexible vehicle rental is essentially the hiring of commercial vehicles that have been modified to customer specifications but offered without fixed or minimum term contracts and without penalty for early termination.
4. The CMA analysed the effect of the Merger on the provision of flexible rental services in the UK for both national and regional customers. Several customers told the CMA that the need for prompt repairing and replacement

of vehicles meant that suppliers needed the ability to react quickly to local demands.

5. In assessing the impact of the Merger on the provision of flexible rental services, the CMA found that the combined shares of supply are relatively low, the Merger gives rise to a small increment and that the merged entity remains subject to several significant competitive constraints for both the national and regional customers. The CMA also noted a lack of third party concerns with respect to the Merger.
6. Accordingly, the CMA does not consider that it is or may be the case that the Merger has resulted, or may be expected to result in a substantial lessening of competition (**SLC**).
7. This Merger will therefore **not be referred** under section 22(1) the Act.

## **Assessment**

### ***Parties***

8. Enterprise is a vehicle rental company with approximately 380 UK locations. Enterprise provides cars and light commercial vehicles to consumers and businesses, as insurance replacement vehicles and manufacture replacement vehicles. Enterprise is a subsidiary of Enterprise Holdings Inc. which is a privately-held US company and operates the Enterprise Rent-A-Car brand through its regional subsidiaries with more than 7,000 offices in the UK, Germany, Ireland, the United States and Canada. Enterprise operates a flexible rental service in the UK through its Flex-E-Rent brand, providing flexible vehicle rental solely to businesses. Enterprise Flex-E-Rent operates nationally from a single location in Egham, Surrey, utilising an ‘outsource model’<sup>1</sup> to meet customers’ local requirements such as repairs, liveries and replacement vehicles.
9. Burnt Tree is a commercial vehicle hire business based in the UK. Its headquarters are in Shrewsbury and it provides a range of vehicle hire services from its national network across 19 UK locations.<sup>2</sup> It predominantly offers the hire of light commercial vehicles on a flexible or long term rental contract hire basis. Burnt Tree also offers for hire cars, heavy goods vehicles and specialist vehicles (such as temperature controlled vehicles and accessible vehicles modified for use by persons with disabilities). Burnt Tree

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<sup>1</sup> Enterprise bases its business in one location and outsources servicing and repairs to local suppliers.

<sup>2</sup> Burnt Tree does not have a presence in Northern Ireland.

uses an 'insource model'<sup>3</sup> to meet customer requirements, servicing and maintaining the majority of its owned fleet. Burnt Tree had a turnover of £83 million in 2013.

10. Vulcan Holdco Limited (**Vulcan**) was established for the purpose of the Merger and is now wholly owned by Enterprise.

### ***Transaction***

11. The Merger was completed on 7 August 2014 and made public on 8 August 2014. Enterprise acquired 100% of the share capital of Vulcan, which owned 100% of Burnt Tree at the time of the Merger. Vulcan is a newly incorporated company, which became the holding company of Burnt Tree shortly before the Merger.

### ***Jurisdiction***

12. As a result of the Merger, the enterprises of Enterprise and Burnt Tree have ceased to be distinct. The UK turnover of Burnt Tree exceeds £70 million, so the turnover test in section 23(1)(b) of the Act is satisfied.
13. The CMA therefore believes that it is or may be the case that a relevant merger situation has been created.
14. The initial period for consideration of the Merger under section 34ZA(3) of the Act on 3 September 2014 and the statutory 40 working day deadline for a decision by the CMA is 29 October 2014. The statutory four month deadline for a decision under section 24 of the Act is 7 December 2014.

### ***Frame of reference***

15. The CMA considers that market definition provides a framework for assessing the competitive effects of the Merger and involves an element of judgment. The boundaries of the market do not determine the outcome of the analysis of the competitive effects of the Merger, as it is recognised that there can be constraints on merging Parties from outside the relevant market, segmentation within the relevant market, or other ways in which some constraints are more important than others.<sup>4</sup>

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<sup>3</sup> Burnt Tree uses an insource model operating from numerous locations and conducting servicing and repairs at their own locations around the country.

<sup>4</sup> [Merger Assessment Guidelines](#) (OFT1254/CC2, September 2010), paragraph 5.2.2. The *Merger Assessment Guidelines* have been adopted by the CMA (see Annex D to *CMA2 Mergers: Guidance on the CMA's Jurisdiction and Procedure*, January 2014).

16. The Parties submitted that they mainly overlap in the supply of flexible rental vehicle services to customers requiring vehicles across Great Britain, including both national and regional customers. The Parties stated that the flexible rental market is predominately concerned with light commercial vehicles, although providers do also supply cars on a flexible basis.
17. In addition, the Parties submitted that there was a minor overlap between them in the supply of light commercial vehicles and cars on a daily basis to customers, in particular around the 19 Burnt Tree locations. However, the Parties submitted that this was a very minor overlap given that Burnt Tree's daily rental services accounted for only [0-10]% of its total UK turnover and it was not competing strongly with Enterprise due to the Parties' differing business models which focused on different markets. Burnt Tree's business is focussed on the supply of light commercial vehicles on a flexible basis, whereas Enterprise is predominately a shorter term car rental company. Numerous national competitors exist in the daily rentals market such as Hertz, Europcar/National, Avis, Sixt and Thrifty. There are also numerous smaller rental companies that compete in local markets throughout the UK.
18. The CMA received evidence from third parties that several major competitors were present in each local area of overlap and received no concerns relating to the daily rentals market.
19. The CMA has therefore not considered competition in the daily rentals market any further in this decision.

### *Product frame of reference*

#### *Flexible vehicle rental*

20. Flexible vehicle rental is essentially the hiring of commercial vehicles without fixed or minimum term contracts, although the average rental is often longer than a year. The vehicles hired include light commercial vehicles and cars that have been modified to customer specifications, for example vehicles with specific company livery or accessories such as roof racks and tow bars. The CMA understands from the Parties, and confirmed by third parties that flexibility and customisation are the main factors differentiating flexible vehicle hire from fixed term vehicle hire and shorter term daily vehicle hire.
21. The Parties submitted that the narrowest product frame of reference is the provision of light commercial vehicles and cars on a flexible and daily basis. The Parties stated that they believe that different methods of hire (daily rental, flexible rental, longer-term contract and vehicle leasing) do exercise a constraint on each other, at least to some extent and so can plausibly be

considered to be within the same product market.

22. In a previous case, the Office of Fair Trading (**OFT**) considered the flexible rental market but did not conclude on the frame of reference and, in particular, how it fitted in with the daily rental market and fleet hire market.<sup>5</sup> However, in the previous case it was not necessary for the OFT to conclude on the product frame of reference as no competition concerns were identified on any basis.
23. On the demand-side, the CMA received mixed comments on the substitutability between flexible vehicle hire, longer-term fleet hire and daily rental hire. Whilst some customers considered the different forms of vehicle rental do compete, several told the CMA that they valued the flexibility offered by flexible hire and therefore would seek to use flexible hire where possible. The CMA received evidence that several suppliers focused on the flexible rental model, with those suppliers explaining to the CMA that flexibility was a key way in which they attracted rental customers.
24. For the reasons set out above, and on a cautious basis, the CMA's competitive assessment therefore considers the supply of flexible rental vehicles separately from other forms of vehicle hire. Given the lack of competition concerns in this case under any frame of reference, it was not necessary for the CMA to conclude on whether the appropriate frame of reference may be wider than the narrower segments considered.
  - *Segmentation between light commercial vehicles and cars*
25. The CMA also considered whether the market should be split between the rental of cars and the rental of light commercial vehicles. Suppliers of flexible rental services told the CMA that they supply both and that customers often require a mixture of cars and light commercial vehicles.
26. The CMA was told by the Parties and third parties that that the flexible rental market is predominately concerned with light commercial vehicles but that some customers also require cars on a flexible basis and all providers therefore supply cars on flexible terms. The CMA therefore considered the supply of flexible rental of cars and light commercial vehicles together.
  - *Segmentation by customer type*
27. The CMA may sometimes define relevant markets for separate customer

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<sup>5</sup> Completed acquisition by Northgate plc of Arriva Vehicle Rental Limited (ME/2307/06), decision of 31 May 2006 (**Northgate/Arriva decision**) paragraph 14.

groups if the effects of the merger on competition to supply a targeted group of customers may differ from its effects on other groups of customers, and require a separate analysis.<sup>6</sup>

28. The CMA received comments from some customers who rented vehicles for use across the UK that they required companies who could fulfil their requirement nationally. This is because of the requirement to get vehicles back onto the road as quickly as possible in the event of any downtime (for example, breakdown), requiring nearby servicing and prompt replacement of vehicles. These customers told the CMA that these requirements reduced the number of potential flexible vehicle suppliers available to them. The CMA also received some evidence that smaller providers did not have the fleet capacity to service some customers with large requirements.
29. On a cautious basis, the CMA therefore assessed separate frames of reference for customers requiring vehicles across the UK (national customers) and customers requiring vehicles in a specific region or locality in the UK (regional customers).

#### *Conclusion on product scope*

30. The CMA has assessed the Merger against the following product frames of reference:
  - The supply of flexible rental services (including cars and light commercial vehicles) to customers requiring vehicles nationally (national customers).
  - The supply of flexible rental services (including cars and light commercial vehicles) to customers requiring vehicles in a specific region or locality in Great Britain (regional customers).

#### *Geographic frame of reference*

31. The Parties submitted that the appropriate geographic frame of reference was the whole of Great Britain.<sup>7</sup> In the Parties' view, Enterprise, Burnt Tree and other large providers are able to bid for contracts in any part of Great Britain, either by delivering services themselves or by outsourcing.
32. In a previous OFT case, the OFT received mixed evidence on the extent to which competition for flexible rental services has regional or local elements.<sup>8</sup> In the current case, the CMA also received mixed evidence on whether a local

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<sup>6</sup> See *Merger Assessment Guidelines*, paragraph 5.2.28 *et seq.*

<sup>7</sup> The Parties do not overlap in Northern Ireland, as Burnt Tree does not have a presence there.

<sup>8</sup> Northgate/Arriva decision.

presence for national customers is required. Some third parties indicated that they believed the market to be national, although some stated that they required a local presence for maintenance, with one customer indicating a distance of five miles from a rental location to any required servicing locations. However, other customers have suggested that the market is national or that location is not important; for example, the use of outsourcing the servicing of vehicles can allow companies to operate out of area. In this regard, the CMA notes that several suppliers, including Enterprise, through Flex-E-Rent, operate from one central location and then outsource local replacement needs. Other operators, such as Burnt Tree, have several locations and operate an 'insourced' model from which they provide replacement vehicles and carry out repairs from their own branches

33. The CMA also notes the presence of numerous smaller regional competitors that base themselves in particular areas of the country. These smaller regional competitors typically operate via an 'insourced' method in their local area.
34. In view of this evidence, on a cautious basis, the CMA has assessed competition for regional customers at a city or regional level, whilst considering the potential for constraints from outside of the region in the competitive assessment given that the CMA received evidence that customers are able to use suppliers from further afield which operate an outsourced model. For national customers, the CMA has assessed the Merger at a national level, given that the CMA received no evidence that suppliers from outside the UK posed a constraint on flexible rental providers in the UK. However, in the absence of competition concerns on any basis, it has not been necessary for the CMA to conclude on whether the geographic market is regional or wider.

#### *Conclusion on frame of reference*

35. For the reasons set out above, the CMA has assessed the Merger on the basis of the provision of flexible rental services of light commercial vehicles and cars to national customers at the national level, and for regional customers at a city or regional level while also taking into account the competitive constraint exerted by operators from outside of a region which utilise an outsourced model of supply.

### **Counterfactual**

36. The CMA assesses the Merger's impact relative to the situation that would prevail absent the Merger (that is, the counterfactual). In practice, the CMA

generally adopts the pre-Merger conditions of competition as the counterfactual against which to assess the impact of the Merger. However, the CMA will assess the Merger against an alternative counterfactual where, based on the evidence available to it, there is a realistic prospect of a different counterfactual.<sup>9</sup>

37. In this case, there is no evidence supporting a different counterfactual, and the Parties have not put forward arguments in this respect. Therefore, the CMA considers the pre-Merger conditions of competition to be the relevant counterfactual.

## **Competitive assessment**

### ***Horizontal unilateral effects***

38. Horizontal effects can arise in a merger when a firm merges with a competitor that previously provided a competitive constraint, potentially allowing the merged firm to profitably raise prices unilaterally and/or degrade the quality of service offered to its customers compared with what would occur absent the merger.<sup>10</sup>
39. The CMA considers below whether it is or may be the case that the current Merger has resulted, or may be expected to result, in an SLC in the provision of flexible rental services of light commercial vehicles and cars in the UK at national or regional level. In doing so, it has examined evidence on shares of supply, competitive constraints and the closeness of competition between the Parties.

### ***National customers***

40. The CMA first assesses the relevant shares of supply and then considers the potential risk of unilateral effects through the loss of existing competition at the national level.

### ***Shares of supply***

41. The CMA was unable to obtain share of supply information split according to customer type. Table 1 below sets out the Parties' estimated shares of supply for the provision of flexible rental services in the UK as a whole.<sup>11</sup>

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<sup>9</sup> See *Merger Assessment Guidelines*, paragraph 4.3.5 *et seq.*

<sup>10</sup> See *Merger Assessment Guidelines*, paragraphs 5.4.1 to 5.4.12.

<sup>11</sup> Table 1 shows national rental companies who can supply flexible rental services to all national customers.



**Table 1 – Estimated shares of supply by fleet size and turnover for flexible rental services in the UK as a whole**

<b>Flexible rental business</b>	<b>Fleet number/ estimate</b>	<b>% of fleet total</b>	<b>Estimated turnover from flexible rental (£m)</b>	<b>% of flexible rental turnover</b>
Burnt Tree	[✂]	[0-10]	[✂]	[10-20]
Enterprise	[✂]	[0-10]	[✂]	[0-10]
<b>Combined</b>	[✂]	<b>[10-20]</b>	[✂]	<b>[10-20]</b>
Northgate	[✂]	[30-40]	[✂]	[40-50]
SHB	[✂]	[0-10]	[✂]	[5-15]
West Wallasey	[✂]	[0-10]	[✂]	[0-10]
Hertz (Flexible division)	[✂]	[0-10]	[✂]	[0-10]
T.O.M. Vehicle Rental	[✂]	[0-10]	[✂]	[0-10]
Dawson Rentals	[✂]	[0-10]	[✂]	[0-10]
Others	[✂]	[25-35]	[✂]	[5-15]
<b>TOTAL</b>	<b>157,100</b>	<b>100</b>	<b>623</b>	

Source: the Parties' estimates.

42. The table above shows that the Parties' combined share of supply is between [10-20]% (fleet size) and [10-20]% (flexible rental turnover). Enterprise, being the [✂] largest competitor in the market (by fleet number) acquiring the second largest, Burnt Tree, represents an increment of [0-10]%. The Parties noted the significant number of other participants in the market capable of operating nationwide, including those who had resources to quickly increase market share via an increase in fleet numbers.
43. The CMA notes the relatively small increment in terms of the Parties' combined market share. Further, Northgate is significantly the largest firm in the market ([40-50]%) and will still remain as a significant constraint on the Parties post-Merger. One customer commented on the potentially limited number of alternative suppliers who can provide a complete national service following the Merger. However discussions with other customers as well as

competitors, including smaller competitors, indicates that a national service can be provided by a number of suppliers. One competitor noted that the increased market share of the combined entity could lead to dominance with two main players in the market, although other comments received noted that the increased size of the new entity could result in increased competition against the market leader (Northgate). As noted in paragraph 41 the CMA was unable to obtain shares of supply split according to customer type as per the product frames of reference. As such, the evidence the CMA has obtained in this regard is not in and of itself conclusive. However, the evidence overall strongly suggests the view that the Parties will remain subject to considerable competitive constraints post-Merger in respect of each of national and regional customers.

#### *Competitive constraints*

44. The Parties submitted that national customers usually procure flexible rental services via a central procurement team. The procurement team would issue a request for prices to be submitted, which would usually then be followed by presentations from competing suppliers.
45. The Parties submit that one of the key competitive factors, and the basis of a presentation for new business, would be how flexible rental suppliers intend to 'service' the account (ie how vehicles would be provided at short notice and how service, maintenance and repair requirements will be handled). According to the Parties, while price is still a significant factor, reliability and speed of service are of key importance. This view is confirmed by third party customers who commented that the ability of a provider to service and replace vehicles at short notice was a key factor.
46. The Parties submitted that there were a large number of competitors, with the most frequently encountered including Northgate, SHB, West Wallasey, T.O.M., Dawson Rentals and Reflex. In addition, the Parties commented that they had recently been encountering Hertz, Thrifty and Europcar in the flexible rental market. The Parties stated that they did not believe that they have ever been the only options available for a particular customer and that where, on occasions they have both submitted bids for tenders, there has always been a number of alternative bidders the customer could have appointed. The CMA's considerations on the tender data provided by the Parties are in paragraphs 50 to 51.
47. Table 2 below shows the number of locations that the main national flexible rental providers operate from.

**Table 2 – Number of locations of the main flexible rental providers who provide a national service**

<b>Flexible rental provider</b>	<b>Number of locations</b>
Northgate	65
Dawson Rentals	25
Burnt Tree	19
SHB	14
TOM	7
Enterprise	1
West Wallasey	1
Hertz	1

Source: the Parties

48. While the above table may indicate the ability of a firm to offer a national service the Parties use two different models to supply flexible rental services. As mentioned, Enterprise uses a largely outsourced model, outsourcing servicing and repairs to local suppliers and Burnt Tree uses an insource model, conducting servicing and repairs at their own locations around the country. National competitors serve all regions whether they operate through an insource or outsourced model. As noted above, many customers expect a national service but this does not necessarily mean that the supplier needs to have an outlet in an area, with the Parties stating that whether an insourced or outsourced model was used may be a matter for customer preference, but the main consideration would be whether all service requirements could be met.
49. Third parties have confirmed the view that the market is competitive, generally confirming that there remained a large number of competitors who were in a position to provide a national service. Third parties also confirmed that a physical presence in locations throughout Great Britain was not necessary if operating through an outsourced model. Customers were able to list several providers that could effectively supply them with the relevant flexible rental service.

*Closeness of competition – tender data and internal database information*

50. The Parties submitted flexible rental tender data for the previous two years and the CMA also reviewed the internal database of Burnt Tree which

recorded information on customers, including potential customers, and who their incumbent supplier was.

51. The tender data highlighted that Enterprise [X]. The tender data reviewed did show competition between the Parties in 19 out of 32 tenders in the last three years, although the CMA notes that this includes larger tenders that included more than one lot and that only nine of those were from the Flex-E-Rent side of the Enterprise business, suggesting that the tenders covered vehicle hire other than just flexible rental. The tender data shows that Burnt Tree was successful in a number of tenders over the last two years, although it was competing in the majority of tenders with Northgate. The CMA notes that there were also a number of other competitors participating in tenders for flexible rental services.
52. Furthermore, the CMA reviewed the internal customer relationship management database of Burnt Tree which recorded information on the incumbent of potential new business/recently acquired business. While the information in the database had to be treated with caution as it was based on user input which was not systematically required, the database did confirm that Burnt Tree was competing with at least five other competitors on a similar level to Enterprise. Enterprise was mentioned second most often out of all competitors, which suggests that the Parties are relatively close competitors. However, the gap between Enterprise and Northgate (mentioned most often) was significant and the remaining competitors who were mentioned closely followed the number of occurrences that Enterprise was mentioned.
53. Third parties were generally of the view that the Parties were not particularly close competitors in that Enterprise was stronger in cars and Burnt Tree in light commercial vehicles. Enterprise is predominately a supplier of short term car rentals and third parties generally confirmed the view that, in their view, Enterprise were not competing strongly in the flexible rental market.

#### *Conclusion on national customers*

54. As set out above, due to the relatively low share of supply of the combined entity and the small increment, the ability of several competitors to offer a national service and lack of evidence that the Parties are particularly close competitors, the CMA considers that the Merger does not give rise to a realistic prospect of a substantial lessening of competition to national customers of flexible vehicle rental of light commercial vehicles and cars.

#### *Regional customers*

55. The CMA assessed the relevant impact of the Merger at the regional level and

the potential risk of unilateral effects through the loss of existing competition at the regional level.

56. Enterprise, through Flex-E-Rent, uses a largely ‘outsourced’ model to deliver flexible rental services, basing its business in one location and outsourcing servicing and repairs to local suppliers. Burnt Tree uses an ‘insource’ model, conducting servicing and repairs at their own locations around the country.

*Shares of supply*

57. While no market share information was available in respect of regional markets, the Parties did provide analysis of alternative providers at each location of Burnt Tree, including those local providers and national providers active in each location. Table 3 below highlights the number of alternative providers of flexible rental services, with a physical presence operating in the area of each city or town where Burnt Tree has an office/site.

**Table 3 – Alternative providers of flexible rental services at Burnt Tree’s locations**

<b>Location<sup>12</sup></b>	<b>Alternative providers (regional only)</b>	<b>Alternative providers (national)</b>
<b>Birmingham</b>	2	3
<b>Bristol</b>	6	3
<b>Cardiff</b>	4	3
<b>Coventry</b>	5	3
<b>Derby</b>	4	3
<b>East London</b>	6	4
<b>Glasgow</b>	5	3
<b>Heathrow</b>	6	5
<b>Leeds</b>	6	3
<b>Manchester</b>	4	4

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<sup>12</sup> Although Pyle is listed on the website of Burnt Tree as a rental location it is essentially a workshop and de-fleet operation covering the Cardiff location and is therefore not listed in the Table 3.

<b>Newcastle</b>	3	3
<b>Peterborough</b>	4	3
<b>Sheffield</b>	8	3
<b>Shrewsbury</b>	4	2
<b>Southampton</b>	4	2
<b>Teesside</b>	4	4
<b>Telford</b>	5	2
<b>Wigan</b>	4	4

Source: Parties.

58. The information shown in Table 3 indicates that there are a number of competitors who supply each location, based in the same town or city and including a number of national providers who also have a physical presence in each area. For example, Northgate has a physical presence in the vicinity of each location and SHB and Dawsons are also found in the majority of locations in Table 3.

*Competitive constraint exerted by national providers in regional areas*

59. The Parties submitted that regional customers will often not have a national network and therefore when selecting a flexible rental supplier whether or not it has a national network with a local presence will not be a primary consideration.
60. The CMA notes that, for regional customers, the suppliers offering services to national customers are likely to be able to offer services to flexible rental customers across the majority of regions in the UK, due to their widespread coverage.
61. In any event, as evident in Table 3 there are a number of alternative national providers who are active and have a presence at each Burnt Tree location.
62. No concerns were raised from customers or competitors about any regional area or city within Great Britain regarding the Merger. However, based on the ability of national providers to provide a service at regional levels and the number of alternative regional suppliers, the CMA considers that a number of credible competitive constraints will remain in each area post-Merger.

### *Conclusion on regional customers*

63. The CMA considers that due to the number of options available at regional level, either through a local competitor or a national competitor offering a regional presence, and the lack of customer concerns about any regional area, as set out above, the Merger does not give rise to horizontal unilateral effects in the supply of flexible rental vehicles in any region of Great Britain.

### *Conclusion on horizontal unilateral effects*

64. As set out above, in the supply of flexible rental vehicles the merged entity remains subject to competitive constraints for both national and regional customers across the whole of Great Britain, the Parties are not particularly close competitors, there remain a number of competitors who can offer a full service either nationally or locally, and the CMA received no significant concerns from third parties.
65. Accordingly, the CMA found that the Merger does not give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the supply of flexible rental vehicle services to national or regional customers.

### ***Barriers to entry and expansion***

66. Entry, or expansion of existing firms, can mitigate the initial effect of the acquisition on competition, and in some cases may mean that there is no substantial lessening of competition. In assessing whether entry or expansion might prevent a substantial lessening of competition, the CMA considers whether such entry or expansion would be timely, likely and sufficient.
67. The Parties submitted that barriers to entry and expansion in the provision of flexible rental service and daily rental services were not significant. The Parties commented on recent market entries by operators such as Transflex, Close Brothers and Central Vehicle Rental. Competitors also indicated that they planned on expanding over the coming years and did not see any particularly significant barrier to expansion, although capital restrictions were mentioned as a possible barrier to expansion.
68. However, on the basis that no competition concerns arise on any of the frames of reference assessed above, the CMA does not consider it necessary to conclude on barriers to entry and expansion.

### ***Third party views***

69. The CMA received responses from customers, competitors and fleet hire

providers in response to its market testing. One customer raised concerns that the high service level of Burnt Tree may be compromised by the Merger and suggested there may only be a limited number of alternative suppliers at a national level post-Merger, although it was able to point to several credible alternatives. Two competitors expressed concern about the increased market share of the combined entity and the ability of the combined entity to be aggressive in the market. The CMA received a number of responses supporting the Merger from both customers and smaller competitors.

70. Third party comments have been taken into account, where appropriate, in the competitive assessment above.

## **Decision**

71. Consequently, the CMA does not believe that it is or may be the case that the Merger has resulted or may be expected to result in a substantial lessening of competition within a market or markets in the United Kingdom.
72. This merger will therefore **not be referred** under section 22(1) of the Act.

**Nelson Jung**  
**Director of Mergers**  
**Competition and Markets Authority**  
**29 October 2014**