

Completed acquisition by Allflex of Cox Agri Limited

ME/6522/15

The CMA's decision on reference under section 22(1) of the Enterprise Act 2002 given on 7 May 2015. Full text of the decision published on 9 June 2015.

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. On 1 August 2014, Ritchey Limited (**Ritchey**), part of Allflex Holding France SAS (**Allflex**), purchased Alfred Cox Limited, the parent company of Cox Agri Limited (**Cox**) (the **Merger**). Allflex and Cox are together referred to as the **Parties**.
2. The Competition and Markets Authority (**CMA**) considers that the Parties have ceased to be distinct and that the share of supply test is met. The Parties did not notify the CMA of the Merger and the CMA received material facts about the Merger on 12 January 2015. The four-month period for a decision, as extended, is 19 May 2015 and the statutory 40 working day deadline is due to expire on 14 May 2015. The CMA therefore considers that a relevant merger situation has been created.
3. The Parties overlap primarily in the supply of engraved livestock tags for cattle and sheep. The CMA considered the product scope of the relevant frame of reference, and, based on the limited possibility of demand-side substitution between engraved cattle and sheep tags, and the differing conditions of competition in these products, examined the effect of the Merger in separate frames of reference for engraved cattle and sheep tags, although it did not consider it necessary to conclude on the exact product scope.
4. The CMA also considered the appropriate frame of reference for the upstream market for the supply of blank tags. Again, due to the different specifications between cattle and sheep tags, and limited evidence of supply-side substitutability, on a cautious basis the CMA distinguished between blank cattle tags and blank sheep tags, but did not consider it necessary to conclude on the product scope.

5. As regards the geographic scope for the supply of engraved tags, the CMA found evidence that customers value an engraver's UK presence as this enables a faster and more reliable service. In relation to blank tags, these are procured by engravers from suppliers located outside the UK with plants across the European Economic Area (**EEA**), as the applicable standards are broadly the same across the EEA.
6. The CMA has therefore assessed the impact of the Merger in the supply of engraved sheep tags in the UK, the supply of engraved cattle tags in the UK, the supply of blank cattle tags in the EEA, the supply of blank sheep tags in the EEA, and the supply of a number of other agricultural products in the UK, though it was not necessary to conclude on the precise delineation of the relevant product and geographic frames of reference given that no competition concerns arise in any potential frame of reference.
7. The CMA has examined possible horizontal unilateral effects in engraved cattle tags, and found that despite the relatively significant position of Allflex in the supply of engraved cattle tags, competing engravers have the engraving capacity, sufficient access to suitable blank tags, and ability to expand their sales of engraved tags in order to provide a sufficient constraint on the merged entity.
8. The CMA has also examined possible horizontal unilateral effects in engraved sheep tags. Shearwell is the largest competitor and will continue to exert a constraint on the Parties. Third parties did not express concerns about engraved sheep tags. Overall the CMA considers that several competing engravers have the engraving capacity, sufficient access to suitable blank tags, and ability to expand their sales of engraved tags in order to provide a sufficient constraint on the merged entity.
9. In relation to possible horizontal unilateral effects in other agricultural products, the Parties have a relatively low share of supply of the majority of the products they distribute. Third party manufacturers which responded to the CMA's market investigation told the CMA that they had other routes to market and customers named a number of alternative distributors they considered they could switch to. Given the existence of alternative distributors available to manufacturers and the ability of customers to switch distributors, the CMA considers that the Parties would have limited ability to increase prices for these products.
10. In relation to possible vertical effects, the Merger does not create an increment upstream in the manufacture of blank tags, as Cox does not produce blank tags. In considering the ability of the Parties to foreclose downstream competitors, there is therefore no merger specific effect. Further,

there are a number of alternative suppliers who are willing and able to supply the UK market.

11. The CMA considers that these constraints, taken together, are sufficient to ensure that the Merger does not give rise to a realistic prospect of a substantial lessening of competition (**SLC**) as a result of either horizontal unilateral effects or vertical effects.
12. The Merger will therefore **not be referred** under section 22(1) of the Enterprise Act 2002 (the **Act**).

ASSESSMENT

Parties

13. Ritchey Limited (**Ritchey**) is a subsidiary of Allflex Holding France SAS which is the ultimate parent company of the Allflex group of companies (**Allflex**). Allflex produces blank livestock tags (for cattle and sheep) from a plant in France, which it engraves and sells in the UK directly to farmers or to retailers. Allflex also supplies blank livestock tags to competing engravers in the UK. Allflex is also involved in the distribution of other agricultural products in the UK, such as sheep marking equipment and electronic reading and weighing equipment. Allflex does not manufacture these additional products but acts as a distributor selling these products both directly to end customers and to retailers. Allflex's turnover in the UK in 2013 was £12.4 million.
14. Alfred Cox Limited was the parent company of Cox Agri Limited (**Cox**). Cox engraves livestock tags which it sells to retailers in the UK. Cox does not produce blank tags, although it has the rights to the trademark for a sheep tag. Cox does not supply engraved tags directly to farmers. Cox is also involved in the distribution of other agricultural products to retailers, for example, it has the exclusive right to distribute Heiniger shearing equipment in the UK. Cox's turnover in the UK in 2013 was £6.9 million.

Transaction

15. Ritchey purchased Alfred Cox Limited, the parent company of Cox, through a share purchase agreement. The consideration for the Merger was £[].
16. The Merger completed on 1 August 2014. The Parties did not notify the CMA of the Merger. The CMA investigated the Merger following receipt of a complaint by a third party.
17. The Merger was not notified in any other jurisdictions.

Jurisdiction

18. As a result of the Merger, the enterprises of Allflex and Cox have ceased to be distinct.
19. The Parties overlap in the supply of engraved cattle tags with a combined share of supply of 43% (increment 16%).¹ The CMA therefore considers that the share of supply test in section 23 of the Act is met.
20. The Merger completed on 1 August 2014 and the CMA was first informed about the material facts of the Merger on 12 January 2015. The four-month deadline for a decision under section 24 of the Act is 19 May 2015, following extension under section 25(2) of the Act because Allflex failed to fully respond to a request for information issued by the CMA under section 109 of the Act, within the deadline established by the CMA.
21. The CMA therefore believes that it is or may be the case that a relevant merger situation has been created.
22. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 16 March 2015 and the statutory 40 working day deadline for a decision is therefore 14 May 2015.

Counterfactual

23. The CMA assesses a merger's impact relative to the situation that would prevail absent the merger (ie the counterfactual). For completed mergers 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, it considers that, in the absence of the merger, the prospect of these conditions continuing is not realistic, or there is a realistic prospect of a counterfactual that is more competitive as between the merging parties than these conditions.²
24. Allflex submitted in relation to the counterfactual that Cox was [✂], although it did not submit that Cox would have ceased operations and inevitably exited the market, nor that it would not have been realistic that Cox could have been purchased by a less anticompetitive purchaser. In the circumstances of this

¹ See paragraph 67, Table 1. The CMA considers that the share of supply test is also satisfied in relation to the supply of engraved sheep tags, where the Parties' combined share would be 36% (increment 9%).

² *Merger Assessment Guidelines* (OFT1254/CC2), September 2010, from paragraph 4.3.5. The *Merger Assessment Guidelines* have been adopted by the CMA (see *Mergers: Guidance on the CMA's jurisdiction and procedure* (CMA2), January 2014, Annex D).

case, the CMA received no evidence that would persuade it to adopt a different counterfactual, and Allflex and third parties have not put forward further arguments in this respect. Therefore, the CMA considers the pre-Merger conditions of competition to be the relevant counterfactual.

Background

Livestock tagging

25. The Department for Environment, Food, and Rural Affairs (DEFRA) requires that cattle and sheep in Great Britain (England, Scotland and Wales) are registered with DEFRA. Sheep and cattle in Northern Ireland must also be tagged.³ Cattle and sheep tags must be engraved with a unique number for each cow and sheep.⁴ An animal can be sold or taken to slaughter only if it is tagged accordingly.
26. The manufacturers of livestock tags must meet certain standards. Tags that are fulfilling their primary function as livestock identification tags must meet certain criteria, which differ between cattle and sheep tags. Engravers of livestock tags must be accredited with DEFRA or the Department of Agricultural and Rural Development (DARD), which gives them access to the database of animals' unique identification numbers. In order to gain accreditation in Great Britain an engraver must hold an 'ear tag supplier's number'. DEFRA told the CMA that the accreditation process takes six to eight weeks.
27. Livestock tags can also be used for purposes other than for the mandatory reasons discussed above. End customers may purchase tags to record their own information. These tags are known as 'management tags'.
28. Livestock tags require an applicator that will attach the tag to the animal's ear. Applicators tend to be specific to a certain type of tag, or 'family' of tags, and are supplied by the tag manufacturer. However, in many cases applicators can be modified so that they can work with other tag types. In addition, customers may be able to use alternative applicators, although these applicators may not be as effective. Applicators or modifying pins may be

³ The DARD manages this process for Northern Ireland. DARD regulations do not differ significantly from regulations in Great Britain and the tag engravers that are accredited to supply cattle and sheep tags do not significantly differ from those that are accredited to supply tags in Great Britain and include Caisley, Quick Tag, Cox and Allflex.

⁴ [Animal identification, movement and tracing regulations](#).

given away free on first orders or when a certain number of tags have been purchased.⁵

Frame of reference

29. The CMA considers that market definition provides a framework for assessing the competitive effects of a merger and involves an element of judgement. 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 merger parties from outside the relevant market, segmentation within the relevant market, or other ways in which some constraints are more important than others. The CMA will take these factors into account in its competitive assessment.⁶
30. The Parties overlap in the supply of engraved sheep and cattle tags to UK customers. Allflex sells engraved tags both direct to the end customer (ie farmers), through its Allflex, Fearing [✂] companies, and to retailers through its Allflex and Ritchey companies. Cox sells engraved tags only to retailers.
31. In addition, Allflex is active upstream. It produces blank livestock tags for both sheep and cattle from its plant in France, which it supplies in the UK both to its downstream engraving business and other downstream competitors. Cox does not produce blank livestock tags.
32. A diagram summarising the Parties' roles in the production of livestock tags is below in Figure 1.⁷

Figure 1: The livestock tagging market

[✂]

33. The Parties also act as distributors in supplying a range of other agricultural products to retailers and direct to end customers; these are set out in more detail in paragraphs 54 to 56.
34. Given the horizontal and vertical overlaps set out above, the CMA has focused its assessment of the impact of the Merger in relation to the following products:

⁵ See for example, [Denimex's website](#).

⁶ [Merger Assessment Guidelines](#), paragraph 5.2.2.

⁷ Please note this diagram is a simplification of the market. Limitations include: Cox sources a small volume of blank tags from other manufacturers, competing engravers also sell direct to the end customer, the names of competitors given are for example only and not exhaustive, and the activities of competitors vary between cattle and sheep tags.

- (a) Engraved livestock tags, in particular cattle and sheep tags.
- (b) Blank livestock tags.
- (c) Other agricultural products.

Product scope

Engraved cattle and sheep tags

- 35. The CMA first considered whether substitution between cattle and sheep tags by customers (either retailers or end customers) is possible.
- 36. The CMA was told by third parties who responded to the CMA's market investigation that tags used for mandatory livestock identification purposes have to meet different specifications. Therefore, end customers purchasing mandatory tags are unable to substitute cattle tags for sheep tags, or vice versa.
- 37. However, the CMA was told by respondents to its market investigation that there may be some limited circumstances in which end customers can substitute, as some end customers purchase limited additional quantities of management tags for their own purposes. In these instances, customers are not limited by regulation as to the tag type that they use. The CMA did not gather information on how customers using tags for management information may respond to a price increase, but notes that management tags account for a small amount of the total number of livestock tags sold. Allflex provided data showing that the sales of management tags account for 12% of the Parties' total sales of tags.
- 38. Overall, on the basis of the evidence set out above, the CMA notes that demand side substitution is not generally possible, except as concerns management tags (which represent a relatively small number of sales of tags).
- 39. The CMA also considered whether supply side substitution is possible such that an engraver could easily switch production between engraving tags for cattle and sheep.
- 40. Four competitors at the engraving level provided information to the CMA on these issues and all of them stated that staff and machinery could be switched between engraving cattle and sheep tags. One competitor stated that they already switched resources between engraving cattle and sheep tags depending on demand and all four competitors stated that there were minimal

or insignificant costs, both financial and in terms of time, when switching between cattle and sheep tags.⁸

41. Finally, the CMA also considered whether the same firms are competing to engrave cattle and sheep tags and whether the conditions of competition are the same between these firms. The CMA notes that although broadly the same firms are competing to engrave cattle and sheep tags, their market shares vary significantly (for example in 2014 Shearwell had a 19% share of supply in cattle tag engraving whilst in sheep tag engraving it had a larger share of supply of 33%. Similarly, Symtag had a 1% share in cattle tag engraving and a larger 7% share in sheep tag engraving).
42. On the supply side, the CMA notes that, although there appears to be the ability to substitute production resources between cattle and sheep tags, the incentives to do so may be asymmetric and the conditions for competition in the two markets are not the same. [§] Engravers' share of supply also varies substantially between cattle and sheep tags (see further paragraphs 67 to 80).
43. Taking these factors into account, on a cautious basis, the CMA has assessed the Merger on the basis of separate frames of reference for the supply of engraved sheep and cattle tags.

Segmentation for different types of engraved tags

44. The CMA also considered whether the frame of reference may be further divided into specific types of engraved cattle or sheep tags.
45. Replies from third parties to the CMA's market investigation indicated that livestock tags have different characteristics, for example, in the way that the tag pierces the animal's ear. Furthermore, the replies indicated that different types of tag may require a different applicator, potentially creating a switching cost to changing tag type.
46. The CMA asked retailers how their customers would respond to an increase in the price of a specific type of tag. Retailers responding to the CMA's market investigation submitted that despite the broadly comparable nature of tags, customers tend to have preferences for certain tags. The CMA notes that when Cox lost the rights to engrave and distribute Zee Tags in late 2014 and started supplying another type of tag, its share of supply of cattle tags

⁸ The CMA also notes that in some instances engravers of cattle and sheep tags engrave other products, such as industrial tags.

decreased from 16% to 3% as customers continued to purchase Zee Tags but from another supplier.

47. The CMA notes that tags are viewed by many customers as mandatory low value products. Respondents to the CMA's market investigation told the CMA that as prices were comparable across tags it was not generally necessary to switch between suppliers. However, the CMA was also told by a customer that customers are generally very price sensitive.
48. The CMA received some limited evidence of customer responses to price changes. Two retailers stated that in promotional periods customers have switched tags, and one of these retailers also stated that in the past when tag/shipping prices have increased customers have switched tags.
49. Given that customers can switch between tag types and have previously done so in response to price changes, on the basis of the evidence it has found, the CMA does not consider it appropriate to segment the frame of reference by different tag types. The CMA has taken any differences in tag type between the engraved tags into account in its competitive assessment.

Blank livestock tags

50. Given the existence of a vertical overlap between the parties in the supply of blank livestock tags to engravers, the CMA has considered the frame of reference for blank cattle and sheep tags.
51. As noted above, blank cattle and sheep tags must conform to different standards (in particular, sheep tags are required to have electronic identification chips). Engravers must ensure that their tags conform to the standards, and could therefore not substitute between tags.
52. On the supply side, a supplier of cattle and sheep tags stated that there is limited substitutability between the production of blank cattle and sheep tags, as each type of tag requires a different mould. This supplier stated that switching production from cattle to sheep tags would cost around £30,000 and take two weeks to reconfigure systems. The CMA also notes that there are different competitors in the manufacture of blank sheep and cattle tags: for example, Shearwell is a significant manufacturer of blank sheep tags (producing over 10 million tags per year) that is not active in the manufacture of blank cattle tags.

53. On a cautious basis, the CMA has considered the effect of the Merger using a separate frame of reference for each of blank cattle and sheep tags.⁹

Other agricultural products

54. The Parties also overlap in a range of agricultural products, for which they act as distributors (**other agricultural products**).¹⁰
55. Evidence the CMA received from third parties who replied to its market investigation indicates that these products are likely to each form a separate frame of reference, as demand-side substitution is not possible given they have different end uses and functionalities. The CMA did not receive evidence to suggest that the frame of reference should be narrower than the product categories proposed by Allflex.
56. However, the CMA has not found it necessary to conclude on the frame of reference for the other agricultural products as no third parties expressed concerns, and the CMA found no evidence indicating a realistic prospect of an SLC arising from the Merger.

Geographic scope

Engraved cattle and sheep tags

57. Competitors in livestock engraving which responded to the CMA's market investigation stated that they supply to the whole of the UK but generally do not consider themselves to be in competition with engravers based outside of the UK. One competitor submitted that it considered itself to be competing with non-UK suppliers and one supplier stated it considered that it might be in competition with engravers from the Republic of Ireland.
58. Competitors told the CMA that engravers needed to quickly meet customer orders and achieving that was most practical by operating nationally. Two competitors submitted that this was particularly important in relation to replacement tags where replacements might be required at short notice in order to send an animal to slaughter. Retailers of engraved tags stated that a UK location was important, although a regional presence was not deemed to be important. In addition, the CMA notes that the Parties appear to have

⁹ However, the CMA has not assessed blank sheep tags in detail for the purposes of its vertical effects analysis as less than 1% of blank sheep tags sold are from Allflex to downstream competitors.

¹⁰ The products are: sheep and cattle handling products, sheep marking products, electronic weighing products, electronic reading products, feeding products, obstetric lubricant, iodine, birthing aids, rings and pliers, gloves, dehorning equipment, thermometers, brushes and combs, shears, tattoo equipment, ear notchers, clipping equipment, needles and syringes, vaccinators, hoof discs and cutters, bandages, and hoof and foot treatments.

national price lists and there was no evidence from customers that the competitive set differed by location.

Blank tags

59. Replies from third parties to the CMA's market investigation indicated that UK engravers were currently supplied with blank livestock tags from across the EEA, and potentially from a wider area. For example, Gepe, the supplier of tags to Roxan and Nordic Star, is based in Germany. The CMA is not aware of any blank tags being produced in the UK.
60. EEA based suppliers who meet EU standards for the manufacture of blank livestock tags will also meet UK standards. DEFRA told the CMA that any supplier active in Europe would also be able to supply to the UK.
61. Allflex submitted that the geographic market for blank tags was worldwide, and stated that the cost of transporting blank tags was low enough to make any international supplier a credible supplier to UK based engravers. The CMA contacted blank tag manufacturers outside Europe but did not receive any responses from them.
62. On a cautious basis, and given it only has evidence of existing supply from the EEA, the CMA has considered the geographic scope for blank tags to be EEA wide, but has not found it necessary to reach a conclusion on the geographic frame of reference, as no competition concerns arise even on this (narrowest plausible) basis.

Other agricultural products

63. In terms of geographic scope, the parties submitted that the market was UK-wide. The CMA found no evidence to indicate a geographic scope narrower than the UK, although as with the product frame of reference, the CMA has not found it necessary to reach a conclusion as no competition concerns arise in relation to other agricultural products on any plausible basis.

Conclusion on frame of reference

64. For the reasons set out above, on a cautious basis the CMA has considered the impact of the Merger using the following product and geographic frames of reference:
 - The supply of engraved cattle tags in the UK.
 - The supply of engraved sheep tags in the UK.

- The supply of blank cattle tags in the EEA.
- The supply of blank sheep tags in the EEA.¹¹
- The supply of other agricultural products in the UK.

65. However, it was not necessary for the CMA to reach a conclusion on the frame of reference, since, as set out below, no competition concerns arise on the narrowest plausible basis.

Competitive assessment

Horizontal unilateral effects

66. Horizontal unilateral effects may arise when one firm merges with a competitor that previously provided a competitive constraint, allowing the merged firm profitably to raise prices or degrade quality on its own and without needing to coordinate with its rivals.¹² Horizontal unilateral effects are more likely when the merger parties are close competitors. The CMA assessed whether it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC through horizontal unilateral effects in relation to the supply of engraved sheep tags in the UK and the supply of engraved cattle tags in the UK.

¹¹ However, as noted above, the CMA has not assessed blank sheep tags in detail for the purposes of its vertical effects analysis as less than 1% of blank sheep tags sold are from Allflex to downstream competitors.

¹² [Merger Assessment Guidelines](#), from paragraph 5.4.1.

Engraved cattle tags

Shares of supply

Table 1: shares of supply by volume for engraved cattle tags, GB, 2014¹³

	Volume	Market share, % ¹⁴
Allflex	[X]	[20–30]
Shearwell	[X]	[10–20]
Cox	[X]	[10–20]
Ketchum	[X]	[10–20]
Nordic Star	[X]	[0–10]
Dalton	[X]	[0–10]
Denimex	[X]	[0–5]
Quick Tag	[X]	[0–5]
Others	[X]	[0–10]
Total	[X]	100

Source: the parties, BCMS.

67. The Merger leads to a combined share of supply of [40–50]% in engraved cattle tags with an increment of [10–20]%. The merged entity would have a substantially greater share of supply than the next largest competitors, Shearwell and Ketchum, who have shares at [10–20]% and [10–20]% respectively. In addition, there are four other smaller competitors as well as a tail of eight other competitors.

Ability of customers to switch from Allflex

68. Third parties told the CMA that end customers bought tags in ‘runs’ of 50–200 tags and bought replacement tags in smaller quantities (as and when required). It was not necessary for all animals to bear the same type of tag; a decision to switch could therefore be made any time an order of tags was made. Retailers have stated that they stocked a range of tags such that switching for the end customer was relatively easy and this decision could be made at the point of sale.
69. The CMA notes that a switching cost exists for end-customers if they switch between tag types that require different applicators. However, this cost does not appear to be material, given that in many circumstances applicators are given away for free as part of promotions, or modifying pins can be placed in certain applicators to make them compatible with others. In any event, the CMA notes that cattle tag applicators tend to cost £10 to £20 and this cost does not represent a material barrier for end-customers to switching.

¹³ This includes tags and replacement tags. It does not include data for management tags. Note similar information for Northern Ireland is not available but market testing suggests the same competitive set exists in NI.

¹⁴ Does not sum to 100% due to rounding.

70. The CMA considers the market to be relatively undifferentiated. Evidence from third parties suggests that tags are broadly homogenous due to the technical specifications that they must meet with a number of third parties confirming that all tags are generally very similar, although retailers suggested that customers have preferences for certain types of tags. One retailer which responded to the CMA's market investigation told the CMA that in the event of increased prices, it believed a sufficient number of customers would switch engravers so as to prevent Allflex from implementing a significant price increase.

Extent of the constraint from competing engravers

71. The CMA considered whether competing engravers would be able to supply sufficient customers and provide a constraint on the merged entity such that a price rise post-Merger would be unprofitable.
72. In aggregate, the competitors that responded to the CMA's market investigation have existing spare capacity to engrave an additional 2.1 million cattle tags a year. The parties engraved a total of 2,647,258 cattle tags in 2014. Competitors that responded to the CMA's market investigation currently have sufficient spare engraving capacity to meet 81% of the Parties' current production value. Additional spare capacity may exist among engravers who did not respond to the CMA's market investigation.
73. On the basis of the evidence provided by third parties, the CMA considers that expansion of engraving capacity is relatively easy and quick, costing a maximum of £150,000 and taking six months. For existing engravers (who are already accredited to engrave tags by DEFRA) the inputs required for engraving a blank tag are a laser printer and staff to operate the laser printer. Two engravers have also indicated to the CMA that they have plans to expand in the engraving of blank cattle tags.
74. The CMA has also considered whether competing engravers would be able to source sufficient numbers of blank tags to provide a constraint on the Parties. Allflex has a strong position upstream, supplying [80–90]% of blank cattle tags currently sold to UK customers. However, four competing engravers told the CMA that their current blank cattle tag supplier has the ability to supply them with more tags, and their blank cattle tag suppliers confirmed to the CMA that they have capacity to supply significantly more blank cattle tags to the UK.
75. One such supplier of blank cattle tags confirmed to the CMA that it has sufficient spare capacity to supply an additional 470,000 blank cattle tags to the UK (7% of total UK demand). The supplier noted that to add an additional 1 million tags to their current capacity, an investment of £300,000 would be

required. This supplier currently supplies blank cattle tags to a UK engraver and would be willing to supply to other distributors but cannot as it said there is insufficient current demand from UK engravers.

76. Further, another of these suppliers, who [redacted] (and is therefore a credible supplier to UK customers), has capacity to supply 8 million blank cattle tags to the UK a year at current prices. This could cover the whole demand of UK based engravers (6.2 million tags). The supplier states that it is not currently supplying significant volumes to the UK as it lacks a UK engraver/distributor; however, should it be able to gain any new customers it said would be willing and able to do so.
77. Further, two of the engravers competing with the merged entity are vertically integrated and are not reliant on external suppliers to increase their access to blank tags. These competitors have stated that they can source significantly more tags from their parent company.
78. Overall the CMA considers that, based on the evidence before it, despite the relatively significant position of the merged entity in the supply of engraved cattle tags, competing cattle tag engravers have substantial spare capacity and the ability to quickly/easily expand their capacity as well as sufficient access to suitable blank tags, in order to provide a sufficient constraint on the merged entity.

Conclusion on horizontal unilateral effects in cattle tags

79. Taking the above evidence into account, the CMA considers 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 engraved cattle tags in the UK.

Engraved sheep tags

Shares of supply

Table 2: market shares for engraved sheep tags, GB, 2014¹⁵

	<i>Volume</i>	<i>Market share, %</i>
Shearwell	[X]	[30–40]
Allflex	[X]	[20–30]
Cox	[X]	[10–20]
Roxan	[X]	[0–10]
Symtag	[X]	[0–10]
Quick Tag	[X]	[0–10]
Others	[X]	[0–10]
Total	[X]	100

Source: the Parties, DEFRA.

80. The Merger leads to a combined share of supply of [30–40]% in engraved sheep tags with an increment of [10–20]%. The merged entity would have a similar share of supply to the next largest competitor, Shearwell.

Ability of customers to switch from Allflex

81. As discussed above at paragraphs 68 to 70, the evidence indicates that there are no material barriers to switching in engraved livestock tags. The CMA further notes that sheep tag applicators are slightly cheaper than cattle tag applicators, implying a lower switching cost.

Extent of the constraint from competing engravers

82. As previously discussed in relation to cattle tags, the evidence indicates that competing engravers would be able to supply sufficient customers and provide a constraint to the merged entity such that a price rise post-Merger would be unprofitable. As with cattle tags, competitors who have responded to the CMA's market investigation have substantial spare engraving capacity, as they currently have sufficient spare capacity to supply 65% of Allflex and Cox's current customers.
83. Allflex holds a weaker upstream position in relation to sheep tags. The CMA estimates based on the evidence that it received that Allflex produces [30–40]% of blank sheep tags used in the UK whilst Shearwell provides, on a conservative estimate, [30–40]% of blank sheep tags. Further, a number of competing engravers are vertically integrated and are not reliant on external

¹⁵ Includes replacements. Note does not include Northern Ireland figures.

suppliers to increase their access to blank tags. These competitors have stated that they can source significantly more tags from their parent company.

84. A third party commented that Allflex currently faces strong competition from Shearwell and Dalton.
85. Overall the CMA considers that competing sheep tag engravers including Shearwell as the largest competitor have substantial spare capacity and the ability to quickly/easily expand their capacity as well as sufficient access to suitable blank tags, in order to provide a constraint post-Merger.

Conclusion on horizontal unilateral effects in sheep tags

86. Taking the above evidence into account, the CMA considers 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 engraved sheep tags in the UK.

Horizontal unilateral effects in other agricultural products

87. Allflex submitted that the Parties have combined shares of supply in the UK of less than 1% in 22¹⁶ of the other agricultural products they distribute, and between 1% and 5% in a further ten of products the products they distribute.¹⁷ There are six products where the parties have combined shares of supply is 25% or greater,¹⁸ namely: iodine, castration rings and pliers, livestock marker, mobile sheep handling, electronic weighing equipment and electronic reading equipment.
88. The CMA considered whether the Merger would lead to Allflex having the ability and incentive to increase prices, or otherwise worsen the competitive offering, of any of these products.
89. Manufacturers of these other agricultural products who responded to the CMA's market investigation did not express concerns and stated that they had alternative distributors and routes to market for these products. One manufacturer also stated that they would reconsider their relationship with Allflex if they increased the prices of such products.

¹⁶ Colostrum, gloves, thermometers, brushes and combs, coaxers, cattle immobilisers, cattle lifting equipment, pig holder and rings, ear notchers, pig tooth clippers, needles and syringes, vaccinators, drenchers, anti-sucklers, hoof discs and cutters, bandages, hoof and foot treatments, milk whisks, teat dip cups and teat plugs

¹⁷ Emergency feeders, birthing aids, naval clamps, gas dehorner, dehorning wire, halters, tattoo equipment, slapping equipment, hoof knives, CMT agricultural construction equipment

¹⁸ There were some products, for example, iodine, where the parties estimated a market share of 5–25%. The CMA included these products on a cautious basis (as the upper bound estimate equalled 25%).

90. A third party retailer who responded to the CMA's market investigation stated that it had a number of credible alternative distributors of these other agricultural products, including Agrihealth, Dairy Spares, Nettex, Stockshop, and Fearing. Another retailer considered that Dairy Spares, Dunlops, Battles and Agrihealth were alternatives, noting that Agrihealth supplied a broad range of products which was comparable to Allflex and Cox's offering. In total, three customers submitted that Agrihealth was a credible alternative for them.
91. Given the low shares of supply for the majority of these products,¹⁹ the alternative distributors available to manufacturers, and the ability of customers to switch distributors, the CMA considers 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 other agricultural products in the UK.

Vertical effects

92. Vertical effects may arise when a merger involves firms at different levels of the supply chain, for example a merger between an upstream supplier and a downstream customer or a downstream competitor of the supplier's customers.
93. Vertical mergers may be competitively benign or even efficiency-enhancing, but in certain circumstances can weaken rivalry, for example when they result in foreclosure of the merged firm's competitors. The CMA only regards such foreclosure to be anticompetitive where it results in a substantial lessening of competition in the foreclosed market(s), not merely where it disadvantages one or more competitors.²⁰
94. In the present case, the CMA has considered whether Allflex has the ability and incentive, post-Merger, to foreclose downstream competitors in the supply of engraved cattle tags, through its upstream supply of blank cattle tags. The CMA has not considered foreclosure in the supply of engraved sheep tags as, based on the evidence before the CMA Allflex's supply to downstream competitors is minimal (less than 1% of blank sheep tags sold are from Allflex to downstream competitors).²¹
95. In terms of blank cattle tags, in 2014 Allflex supplied [redacted] blank cattle tags to downstream competitors, which internal documents indicate constituted [redacted]%

¹⁹ With the exception of iodine, castration rings and pliers, livestock marker, mobile sheep handling, electronic weighing equipment and electronic reading equipment, where shares equalled or exceeded 25%.

²⁰ In relation to this theory of harm 'foreclosure' means either foreclosure of a rival or to substantially competitively weaken a rival.

²¹ Allflex told us that it sold [redacted] blank tags to downstream competitors (out of a total of [redacted] million tags that were engraved in 2014 in the UK)

of all engraved cattle tags in the UK.²² It also supplied [X] blank cattle tags to its own downstream operations. Table 3 shows that Allflex has a strong upstream position in the supply of blank cattle tags, with an [80–90]% share of blank cattle tags. Other suppliers currently supply significantly less to UK engravers.

Table 3: share of blank cattle tags supplied to UK cattle tag engravers²³ in 2014

<i>Blank tag producer</i>	<i>Volume</i>	<i>Share (%)</i>
Allflex	[X]	[80–90]
Gepe	[X]	[0–10]
Datamars	[X]	[0–5]
Caisley	[X]	[0–5]
Hauptner	[X]	[0–5]
Other	[X]	[0–10]
TOTAL	[X]	

Source: CMA estimates based on data from parties and third parties.

96. The CMA’s approach to assessing vertical theories of harm is to analyse (a) the ability of the merged entity to foreclose competitors, (b) the incentive to do so, and (c) the overall effect of the strategy on competition.²⁴ This is discussed below.

Ability

97. The CMA has first considered whether Allflex would be able to foreclose downstream competitors by increasing the price it charges to them for blank cattle tags or refusing to supply such tags altogether. Two of Allflex’s customers expressed concerns about possible foreclosure.
98. There are a number of EEA based suppliers of blank cattle tags which have indicated they are willing to supply to UK based engravers. The CMA has gathered estimates on the market shares of blank tag manufacturers at the EEA level; Allflex has an estimated current share of supply of [70–80]%, with Caisley supplying [0–5]%, Datamars [0–5]%, Hauptner [0–5]%, Reyflex [0–5]% and others representing a further [0–5]%.
99. As discussed above in paragraphs 76 and 77, on the basis of replies to its market investigation, the CMA considers that there are sufficient blank cattle tag suppliers willing and able to supply large volumes of tags to the UK. Two suppliers have stated that they would be willing to significantly expand supply to the UK, should they be able to gain any new customers (such as ones

²² Annex 34 to the parties’ submission states that [X] million cattle tags were engraved in 2014.

²³ These are estimates based on the data provided by Allflex and information from engravers on where they purchase tags from. It is not based on data provided by the blank tag producers themselves. The data includes internal sales.

²⁴ [Merger Assessment Guidelines](#), paragraph 5.6.6.

foreclosed by Allflex) they would be willing and able to supply increased numbers of tags. The CMA is further aware that there are other EEA suppliers, such as Reyflex and Smartrac, which did not respond to the CMA's market investigation but may also be able to supply to UK based engravers. However since the CMA has not received direct evidence from these suppliers on their ability to supply UK engravers, it has not relied on this point.

100. The CMA next considered whether current customers of Allflex would be willing to purchase from these alternative blank tag suppliers.
101. One [redacted] stated that it was able to supply its own blank cattle tags. [redacted]
102. Of the customers which expressed concerns, one stated that it was considering [redacted].
103. The other of these customers stated that Allflex was able to cease supplying them [redacted]. The CMA notes that Allflex's ability to cease supply to this customer existed pre-Merger, that is, it is not merger specific. Furthermore, the customer stated it believed it could find alternative suppliers.
104. The Merger does not create an increment upstream, in the manufacture of blank tags, as Cox does not produce blank tags. In considering the ability of Allflex to foreclose downstream competitors, there is therefore no merger specific effect.
105. The CMA further considers on the basis of the evidence it has found that Allflex will not have the ability to foreclose downstream competitors in the supply of engraved cattle tags given the number of alternative suppliers of blank cattle tags who are willing and able to supply the UK market. Given this conclusion, the CMA has not found it necessary to examine the incentive to foreclose or effect of foreclosure.

Conclusion on vertical effects

106. As set out above, the CMA considers that there is no merger specific effect given the lack of increment upstream. Further, the CMA considers that Allflex will not have the ability to foreclose rival suppliers of engraved cattle tags post-Merger due to the presence of alternative suppliers of blank tags.

107. Accordingly, the CMA found that the Merger does not give rise to a realistic prospect of an SLC as a result of vertical effects in relation to the supply of engraved cattle tags in the EEA.²⁵

Barriers to entry and expansion

108. Entry, or expansion of existing firms, can mitigate the initial effect of a merger on competition, and in some cases may mean that there is no SLC. 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.²⁶

109. Allflex submitted that low barriers to entry existed in each of the markets in which the Parties were active (tag manufacture, engraving, and the distribution of other agricultural products). In particular, Allflex identified low costs of entry and low regulatory barriers in relation to tag manufacture and engraving.

110. On the basis of the evidence it found, the CMA notes that there are a number of blank tag suppliers outside the UK, such as Gepe and Hauptner, with products that meet UK standards who are willing and able to supply more tags to the UK market. Likewise, the CMA is aware that the accreditation process for UK based tag engravers takes only eight weeks. As discussed in the competitive assessment, expansion in relation to cattle and sheep tag engraving appears relatively cheap and straightforward.

111. However, the CMA has not had to conclude on barriers to entry or expansion as the Merger does not give rise to competition concerns on any basis.

Third party views

112. The CMA contacted customers and competitors of the Parties.

113. The majority of competitors raised concerns that Allflex is dominant in the supply of blank cattle tags and thus able to predate on competitors. Examples were cited by third parties of this occurring in Ireland.^[Endnote 1]

114. The CMA considered whether the Merger will give Allflex additional market power in the competitive assessment and did not find a realistic prospect that the Merger will lead to an SLC. The CMA notes that these more general complaints that Allflex is 'dominant' and may be able to predate are not

²⁵ As noted above, the CMA did not examine vertical effects in relation to sheep tags as less than 1% of blank sheep tags sold are from Allflex to downstream competitors.

²⁶ [Merger Assessment Guidelines](#), from paragraph 5.8.1.

merger specific, as the Merger does not increase Allflex's share of supply upstream. The CMA can take legal action using other competition legislation and processes to remedy any abuse of a dominant position should Allflex be found to hold and subsequently abuse such a dominant position.

115. A retail customer raised concerns that the Merger would lead to reduced margins as Allflex currently supplies engraved tags and other agricultural products direct to the end customer at more competitive prices online and the acquisition of Cox may lead to more sales being made through this direct channel. The CMA notes that lower prices would benefit end-consumers.
116. Other third party comments have been taken into account where appropriate in the competitive assessment above.

Decision

117. 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 an SLC within a market or markets in the United Kingdom.
118. The Merger will therefore **not be referred** under section 22(1) of the Act.

Nelson Jung
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Competition and Markets Authority

Endnote 1: Allflex submitted that it disputes these comments by third parties.