24 March 2016

ME/6556/15

LADBROKES / CORAL

RESPONSE TO THE ISSUES STATEMENT AND OTHER DOCUMENTS CURRENTLY AVAILABLE

1 Introduction and Executive Summary

1.1 This submission responds primarily to the Theories of Harm outlined in the CMA's Issues Statement dated 4 February 2016 and follows the structure of the Issues Paper by addressing the various issues by reference to the relevant Theory of Harm. [✂].

1.2 The annotated Issues Statement is not yet available and the Parties are aware that a number of working papers are still in train. [✂].

1.3 This submission shows that the Merger will not lead to a substantial lessening of competition (**SLC**) for a number of reasons.

1.4 First, competition at the local level is fierce and all competitors present in a given catchment area impose a significant constraint. This is borne out by the evidence the Parties have submitted [✂]. This evidence also shows that there is no dynamic to competition resulting from the Parties competing closely. In addition, as the Parties demonstrate, the constraint on retail gambling from online is significant and is felt across the "value proposition" that operators offer to customers, including on pricing. This constraint will remain post-merger and, indeed, is expected to continue growing. Given the ubiquity of the internet and improvements in mobile technology, the constraint is felt in each and every location. In light of all of these factors, the Merger will not give rise to the possibility of an SLC at the local level, other than in relation to a limited number of local overlaps (where the Parties are prepared to make appropriate local divestments).

1.5 Second, as regards potential competition between the Parties, the evidence shows that the UK retail betting and gaming market is generally static (with the notable exception of Paddy Power's recent expansion) and the Parties have little to no plans to open new stores. In any event, the Parties do not have a policy of entry in each other's pre-existing locations and third parties provide a sufficient competitive constraint when it comes to new LBO openings. As a result, the Merger will not give rise to the possibility of an SLC in relation to potential competition.

1.6 Third, as regards the potential for an effect on "national" competition, as recognised by the CMA, centrally taken and uniform decisions are necessarily a function of the "average" level of local competition across the Parties' respective estates. As regards these decisions, the relatively small overlap in the Parties' estates, the significant third party LBO competition in the majority of these areas, and the ever increasing constraint from online betting and gaming means that there will be no increased incentive for the Merged Entity to degrade its offering. Indeed, as a result of the increasing online constraint, if anything, there will be an incentive to compete more vigorously post-merger. In any event, such a concern is essentially no more than a hypothetical one because the Parties have already signalled that they are prepared to make appropriate divestments in any local areas where an SLC arises; as a result the individual local constraints and thus the aggregate competitive constraint on the Parties will remain unchanged. Therefore, any divestments necessary to address local concerns will also remove any potential reduction in competition relating to centrally decided competitive parameters.

1.7 Fourth, as regards the possibility of a national effect on innovation in particular, the evidence shows that the retail gambling market is not a particularly innovative market because of the regulatory constraint on innovation and any innovation that has taken place has been driven by third parties (suppliers) and/or by the online constraint. The Merger will therefore have no effect on the incentives to innovate and will not lead to a reduction in innovation.

1.8 Finally, as regards the possible effect in relation to greyhound racing, [✂]. This submission summarises the key evidence supporting this conclusion.

2 Theory of harm 1: Loss of a current competitor at the local level

2.1 The Issues Statement notes that the CMA will "*assess whether, as a result of the loss of competition at the local level, the Merged Entity would have the ability and incentive to increase the prices of its products and/or deteriorate other parameters of its offering (service, quality or range) in the local areas where the Parties currently overlap*".

2.2 As explained in the Parties' Initial Submission, competition between retail LBOs in relation to off-course fixed-odds betting takes place locally across all key parameters of competition.[1]

2.3 While the Parties do vary key aspects of their offering locally (as do all other operators), the Parties view all competitor LBOs, irrespective of the identity of the LBO operator, as equally credible, reflecting the fact that all of the LBOs they face locally have a customer proposition that is at least as appealing as the Parties' own offerings. Similarly, there is no *a priori* reason to suggest that the Parties' LBOs are closer competitors to one another than they are to the LBOs of any other bookmakers.

2.4 The transaction will not, therefore, give rise to the possibility of an SLC at the local level, other than in relation to a limited number of local overlaps (where the Parties are prepared to make appropriate local divestments). This conclusion is supported both by the evidence submitted by the Parties to the CMA previously [✂].

(i) **<u>The Parties have submitted compelling evidence demonstrating the constraint faced at the local level from all competitors and the absence of a specific Ladbrokes / Coral dynamic to competition</u>**

2.5 The evidence already submitted by the Parties shows that all local competitors provide an effective constraint and that the Parties are not particularly close competitors. [✂].

2.6 The Parties view each competitor LBO in a given catchment area as credible (irrespective of the identity of the LBO operator), principally because all LBOs offer a broadly standard product and service to customers and thus have a similar customer offering.[2] In particular:

- all competitors offer a similar range of OTC betting products – all take bets on horses, greyhounds, football, other sports and numbers games (and broadcast content is very similar) – and within these products all offer a similarly wide range of bets;

- all competitors offer the same basic facilities and are classed under the same planning category. Almost all offer heated and comfortable seating areas for customers; large-screen televisions displaying (very similar) audio-visual imagery from major sporting and racing events; on-screen displays of latest odds information on upcoming events; customer toilets; and limited beverage offerings;

- most LBO operators now also offer one or more SSBTs in their shops, an innovation which has been driven by the need to compete with online operators;

- nearly all LBOs have the maximum number of four FOBTs (from one of two suppliers), reflecting the importance of gaming revenue as an income stream for LBOs[3]; and

[1] For examples, see the Merger Notice at paragraphs 15.10 to 15.68.

[2] This is explained in further detail in Section 4(C) of the Parties' Initial Submission and the Parties' submission on the appropriate methodology to assess the impact of the merger on competition at the local level.

[3] Since many betting customers will also play FOBTs, the availability of FOBTs alongside the OTC offer will also be relevant to a bettor in choosing where to place a bet.

- there is limited ability to differentiate on the odds offered to customers, at least for horse and greyhound racing. Approximately 80% to 85% of horse racing bets and 98% of greyhound racing bets are placed at either the Starting Price or Board Prices for a given race.

2.7 The Parties have submitted a number of pieces of compelling evidence, which demonstrate (1) that they are constrained by all competitors present in a given catchment area and (2) that there is no dynamic to competition resulting from the Parties competing closely.

2.8 First, as set out at paragraphs 15.89 to 15.92 of the Merger Notice, Coral regularly responds to local competitive events by making defensive refurbishments. Ladbrokes also did so prior to December 2012. These requests are made in relation to [✂]. It is also clear from these requests that the Parties [✂].

2.9 Second, as set out at paragraphs 15.35 to 15.42 of the Merger Notice, the Parties also offer concessions as a targeted response to local competition, demonstrating the credible constraint from all competitors.[4] [✂]. These findings are at paragraph 2.16 below.

2.10 Third, as explained at paragraphs 4.26 and 5.21 of the Parties' Initial Submission and paragraphs 15.96 to 15.97 and 15.211 to 15.213 of the Merger Notice, in October 2014, Coral carried out a historical analysis of the impact of incursions during financial years 2008 to 2013, looking at the EBITDA impact in years one to five following the incursion. [✂]

2.11 Fourth, as explained in Annexes 2 and 3 to the Parties' Initial Submission, economic analysis of retail horse betting and retail football betting prices of the five major retail bookmakers demonstrates that Ladbrokes and Coral are not each other's closest competitors on price and that they face equally strong competition from the other major retail bookmakers. The analyses indicate that, to the extent that there is a degree of differentiation on price, other competitors are closer competitors to the Parties than the Parties are to each other.[5]

2.12 Lastly, in relation to gaming specifically, and as explained in detail at paragraphs 15.215 to 15.226 of the Merger Notice, an analysis of the use of promotions (in the form of free bets) across the Parties' local estates, demonstrates that the [✂]

(ii) [✂]

2.13 [✂]

2.14 [✂].

2.15 First, [✂]:

- Coral responded to new entry by Ladbrokes in [✂]. While Ladbrokes responded to new entry by Coral [✂] of the time, [✂].

- Both [✂], but [✂].[6]

- For Coral, Betfred triggers an [✂] response rate. The rate for Ladbrokes is [✂], but nevertheless significant.

- Coral responds to Paddy Power at [✂] and for Ladbrokes, entry by Paddy Power [✂]. Moreover, [✂]

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4 [✂] Similarly, for Ladbrokes, [✂]

5 Based on publicly available retail pricing data from Pricewise tables published in the Racing Post between October 2011 and July 2015 and pricing data collected from retail football coupons for the favourite selection across the first nine weeks in the 2015/16 football season (up to 27 January 2016).

6 [✂]

- Both Parties had responded to entries from independents.

2.16 Second, [✂].

- For Coral, following its 2014 re-base of its concessions, the CMA finds that it [✂]. Figure 1 below reproduces the CMA's analysis of Coral's concessions, which shows that [✂]. The Internal Documents Paper observes that [✂].

  The CMA undertook an additional analysis in which it identified the instances where Ladbrokes was the competitor in a local area with the most concessions on offer. These were considered as being the instances when Ladbrokes constrained Coral and prevented it from removing its concessions in the course of its concessions re-base. This occurred in [✂] of all Coral shops where concessions had been offered prior to the re-base.

  Figure 1: Average number of concessions by competitor

  [✂]

- For Ladbrokes, the CMA observes that Ladbrokes' decisions on concessions have historically been driven by local competition from [✂].[7]

2.17 Third, [✂].

2.18 As regards closeness of competition between the Parties, [✂].

2.19 [✂]

(iii) The Parties are significantly constrained by online gambling

2.20 The Issues Statement states that, as part of the CMA's assessment into the effect of the loss of a current competitor at local level, the CMA will consider "*the extent to which LBOs are constrained by online betting and gaming operators*".

2.21 It has been suggested by third parties that online gambling does not constrain retail gambling. This is not correct; online gambling is an important and significant constraint which, given the ubiquity of the internet and improvements in mobile technology (i.e. the near universal use of smart phones), is felt in each and every location. Online betting and gaming is therefore an additional constraint on all LBOs (regardless of the number of retail competitors in a given local area).

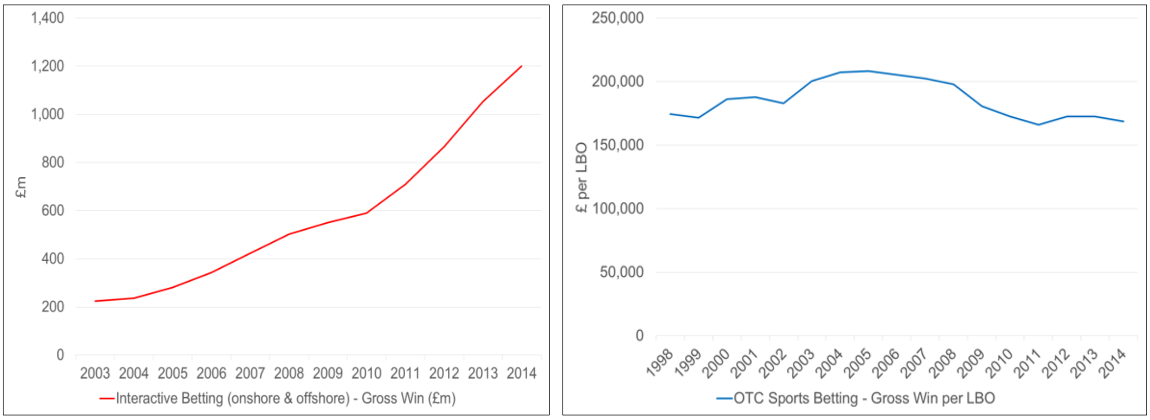
(a) The evidence shows a strong and ongoing trend of migration to online

2.22 According to H2 Gambling Capital data, between 2009 and 2014, online gross win doubled from £1.5 billion to almost £3 billion, a compound annual increase of approximately 15% in five years. Moreover, online growth is expected to continue, with Mintel forecasting that the market value of the online gambling segment will reach £4.27 billion by 2019, continuing to grow by 10-12% per year.

2.23 This growth in online gambling has occurred across the market and has been (at least in part) at the expense of gambling in retail shops, as evidenced by the fact that retail gross win has been declining over the same period of time. Figure 1 below provides the growth charts for online and retail sports betting on a gross win basis.

Figure 1: Online betting (Gross Win) OTC sports betting (Gross Win per LBO)

[7] [✂]



Source: H2 Gambling Capital (H2 United Kingdom Data downloaded from www.h2gc.com on 3 September 2015)

2.24 The migration of customers from retail gambling to online gambling is also clear from the evidence of customer behaviour. According to Kantar data, approximately 46% of all the Parties' regular customers and 37% of the Parties' retail customers use online channels. The level of migration (and substitution) is therefore very significant.[8]

2.25 This is supported by the Parties' own survey data. Specifically when asked the key question about what customers would do if their usual shop was temporarily closed, 20% of regular gamblers in the telephone survey and 21% of regular gamblers in the online survey said they would go online. This compares to around 45% of customers who said they would go to another retail shop, and therefore suggests that online is a significant constraint relative to other retail brands.

2.26 Similarly, a large proportion of respondents who started gambling in a retail shop now use online channels at least once a month (44% in the telephone survey and 56% in the online survey). Importantly, a significant proportion of online only respondents in the survey actually started in retail and migrated to the online channel completely: in the telephone survey 30% of regular online-only users started in betting shops (22% in the online survey). This is supported by Kantar data, which shows that 53% of regular online gamblers have gambled in betting shops before but not in the last 12 months.

(b) Online migration is placing significant and accelerating pressure on retail gambling

2.27 As highlighted in the Merger Notice and Initial Submission, this migration poses a significant threat to retail gambling because of the decline in retail spend as customers use online gambling.

2.28 In the Merger Notice, the Parties provided internal data showing that their retail revenues declined as their online revenues grew. The results of the Parties' customer survey[9] shows that the online revenue growth comes at the expense of retail. Nearly half of the respondents who started betting or gaming in retail and are currently using online, (44% in the telephone survey and 55% in the online survey) said that that the amount they spend in the retail channel had decreased when they started using the online channel. This was the case even though about half of respondents (53% in the telephone and 44% in the online survey) said that their total spending across both channels increased – suggesting that while online gambling is increasing their total spend it is also taking spend away from the retail channel.

8 Both the CMA's decision referring the case to Phase 2 and William Hill's submission highlighted Kantar survey data showing that there is significant "solus retail" gambling and thus that the online and retail channels are distinct, with relatively little demand side substitution. As the Parties explained in detail in the Initial Submission, the figures in the cited Kantar data are misleading, as they refer to the proportion of the Parties' Total Customers that used the Parties' own website. The relevant measure for assessing the competitive constraint placed upon retail by the online channel should be the proportion of the Parties' retail customers that use any online website (as per the Parties' submissions).

9 See CRA submission "A summary of the online and telephone surveys commissioned by the Parties; Evidence on cross-channel substitution", submitted on 28 January 2016.

2.29 Similar results are seen in Kantar data covering both betting and gaming on an industry-wide basis:[10]

- In relation to betting, between Q2 2014 and Q3 2015 the proportion of total spend from regular retail only bettors declined from 50% in Q2 2014 to 37% in Q2 2015.

- In relation to gaming, the proportion of total spend from retail-only gaming customers has declined dramatically from 46% in Q2 2014 to 26% in Q3 2015 while spend by gaming customers using online platforms has increased: spend from multi-channel customers has increased from 37% to 44% while spend from online only customers has nearly doubled from 17% to 31%.

2.30 This is supported by various analyst comments which, rather than evidencing a lack of migration and impact on retail (as suggested by William Hill), highlight the negative (and growing) effect of online gambling on retail revenues. For example Morgan Stanley commented recently that "*strong growth and increasing participation in online gambling could put further downwards pressure on UK retail revenues*", stating further that "*there is some evidence that the migration from retail to online is accelerating, partly due to the expansion of mobile gambling, which facilitates online gambling*".[11]

2.31 There are a number of reasons why migration to online is accelerating and will continue to grow in the future:

- As highlighted by Morgan Stanley, growth in online is being largely driven by the mobile channel – for example, regular mobile only bettors increased from 16% in Q2 2014 to 26% in Q3 2015. This is backed-up by survey evidence, which suggests that many retail gamblers would consider using mobile betting in future (see paragraphs 14.45 to 14.48 of the Merger Notice).

- The growing importance of mobile betting will continue with the increase in smartphone penetration and improvements in WiFi and 4G technologies. The Parties note, for example, that the evidence provided regarding use of mobile betting technologies on-course is indicative of this trend.[12]

2.32 The evidence relating to the Parties' business and to the wider retail industry therefore shows a clear and accelerating migration from retail to online, which is putting considerable pressure on retail revenues.

(c) The constraint from online is consistent with customer preferences and with demographics

2.33 The constraint from online gambling seen in the data referenced above is consistent with the survey data on customer preferences.

2.34 As set out in detail at section 14 of the Merger Notice, the key drivers for customer choice of a retail LBO are convenience of location, quality of service/staffing and quality of facilities. It is clear that these needs are easily served by online betting. For example, there is nothing more convenient than online betting; with access to the internet (via desktop, laptop, wifi, 3G and 4G mobile), customers can place bets from wherever they are and at any time. They do not need to leave their home/office, nor are they constrained by opening hours. Similarly, as online gambling websites continue to improve the functionality and user-interface (for example through the introduction of "live-chat" instant messaging between customers and helpdesks), the quality of service will correspondingly increase. This obvious ability for online gambling to meet the key needs of retail customers shows that online migration is consistent with customer preferences.

10 See the Parties Initial Submission, submitted on 27 January 2016.

11 Morgan Stanley: "Ladbrokes: Insight – Odds Improving: Overweight", 16 June 2015.

12 See the Parties' joint response to the RFI on on-course betting, submitted on 7 December 2015.

2.35 Recent developments in retail also show how the online constraint is consistent with customer preferences. For example, as discussed further below at paragraphs 2.81 and 4.35-4.37, the main innovation in recent years has been the introduction of SSBTs to retail shops. These SSBTs were introduced in-store to try to reproduce what customers want online in the retail environment.

2.36 Kantar data shows that customers using the retail channel are significantly older on average than customers who bet online either through PCs or through mobiles.[13] First, this is a static view and the Parties' expect that more and more older customers will use online as they get accustomed to online technology and smartphone penetration increases within that demographic. Furthermore, rather than indicating a permanent separation between retail and online due to different customer profiles, this demographic evidence also strongly suggests that over time, the PC and mobile channels are likely to increase relative to the retail channel. In particular, as online gamblers age, it is expected that they will maintain the same mix of channels going forward – thus resulting in a steady reduction in the use of the retail channel.

(d) Online imposes a significant constraint on the retail value proposition

2.37 When considering the impact of online on retail gambling, it is worth first emphasising that customers will not choose one channel over the other for a single reason; they make their decisions based on a broader range of factors that make up the overall "value proposition" of each alternative. Such factors include the atmosphere and customer service in the shop, the convenience of location, the user-interface of the online website, the odds on offer, and any promotions or concessions that apply. The relative importance of these factors will differ to some extent between the value propositions for retail and for online (for example, a greater emphasis on customer service in retail, a greater emphasis on promotions in online), but this does not mean that the two channels do not constrain each other. Customers will weigh up the overall propositions of the alternatives and switch between them if one becomes better value than the other.

2.38 It is clear from the evidence already submitted by the Parties and the further evidence provided in this submission, that online gambling provides a significant constraint on the retail value proposition. In particular, online gambling imposes a significant and direct constraint on retail odds (pricing) as this is a very visible and easy-to-compare benchmark. Innovation in retail has also clearly been driven by the pressure from online (as explained in paragraphs 4.31 to 4.49 below). For example, SSBTs help to ensure that the range of products in retail, a key element of the value proposition, is as broad as can be found online. In other areas of the value proposition, the constraint is less direct. For example, online promotions tend to be more generous than retail promotions. For the reasons given in paragraph 2.71, it is difficult for retail to respond to this constraint directly and so instead primarily earns its customers' loyalty through other elements of the value proposition, such as customer service. This is examined further in the sub-sections below.

2.39 First, in relation to pricing, the evidence below shows that retail odds and online odds track each other closely in relation to bets on football favourites (on which the Parties believe that 80-90% of football bets are placed) and are almost identical in relation to horse racing and greyhound racing. Before the submission considers the evidence showing this pricing constraint, we summarise below the role of online in the process of compiling and adjusting retail odds, as well as the reasons why it would be misleading to use the overround as a proxy for expected margin (as appears to have been suggested by William Hill).

2.40 Second, while there are differences between online and retail in terms of the use of promotional offers, the evidence demonstrates that this is not significant when viewed in terms of competition on the overall value proposition. Importantly, in this respect, some promotional offers have an impact on

13 See the detailed demographic charts attached in Annex 14.1 to the Merger Notice. See also William Hill's submission of 13 January 2016.

Gross Win margin and the evidence shows that Gross Win margins are generally converging between online and retail.

2.41 Finally, the evidence shows that online gambling is the main driver behind retail innovations in the last ten years or so. As online technology develops, it is likely to continue to be so in the future.

(i) Role of online in the process of compiling and adjusting retail odds

2.42 As will have been apparent from the CMA's site visit, online pricing plays a very significant role in the process of compiling and adjusting odds. [✂]. This shows clearly that online pricing from various sources is a critical input into the various stages of the retail pricing process. To summarise briefly:

- At the odds compilation stage for horse racing, key informational inputs for retail operators are online betting exchanges (such as Betfair and Betdaq), online websites (such as Bet365) and aggregator sites (primarily Oddschecker). Typically, online betting exchanges and websites offer prices in advance of retail operators, usually the evening before the event. Movements in these online prices are taken into account by the Parties' traders with prices typically not offered in shops until the morning of the event.

- As regards football, retail operators have no information on their retail competitors when setting initial coupon prices, and instead rely on the Asian online market for pricing information to assess the "true price".

- When it comes to adjusting odds (following their initial release into the market), a similar constraint from online operators is present. In particular, the trading team will invariably have information available on their screens regarding all major online operators that are tracked via Oddschecker. If the Parties' pricing moves significantly out of line with prices offered by on-line competitors, the trading team would consider whether to adjust the odds on offer in retail (as discussed in detail at paragraph 14.110 of the Merger Notice).

(ii) Importance of not focusing on "overround"

2.43 The Parties submit that, when comparing pricing (either between channels or between operators), the CMA should not give undue weight to overrounds. This is because overround is a theoretical concept and does not reflect any "ex ante target" or expected margin as William Hill would appear to suggest in its first submission. The overround is defined as the sum of the probabilities of each outcome (as implied by its odds), minus the sum of the "true" probabilities of each outcome (which will always be 100%). To focus on this measure would fundamentally misunderstand (or misrepresent) the dynamics of competition because the calculation does not take account of two key factors: (i) the distribution of stakes (i.e. turnover) across each outcome and (ii) the distribution of the overround across each outcome.

Distribution of stakes

2.44 In all betting events where there is a favourite, there will be a disproportionate amount of bets on that favourite. In Coral's experience, total stakes on a selection are generally lower when the odds of a particular horse/team suggest that it is unlikely to win, and increase disproportionately as the odds make it clearer that the horse/team is the favourite. Ladbrokes estimates that in Football, favourites will generally attract 80-90% of stakes.

Distribution of overround

2.45 The unevenness of stakes distribution on events is particularly relevant when the overround is not evenly distributed across all outcomes. For example, whilst Football may have an overround of 12% in retail, in reality that overround is not distributed evenly across the three outcomes (i.e. home team winning, away team winning or a draw). As discussed on the site visit and summarised above, the retail overround on football favourites is now significantly lower (than 4%, being one third of 12%) due to the constraint that online has placed on the retail channel. This constraint has been particularly felt on the favourite due to the popularity of this selection and the volume of bets that the favourite receives. The result is that even though the overround may be 12% in a given football match, the realised gross win margin that the LBO is likely to make will be significantly lower if there is a disproportionate quantity of betting on the favourite to win, which is almost always the case. As a means to compare the online and retail channels, the overround is therefore very misleading.

2.46 The tables below set out three simple examples which demonstrate how the combination of unevenness of stakes distribution and overround distribution mean that the overround is a very poor indicator of actual returns.

Table 1: Hypothetical book overround and expected gross win % analysis

	True Prob.	OR*	Book Percentages	Decimal odds	Stakes (£)	Payout If wins (£)	GW** If wins (£)	Expected GW (£)	Expected GW%
Example 1 - Hypothetical 'balanced book'									
Home	33.3%	4%	37.3%	2.68	33.3	89.3	10.7	3.6	**10.7%**
Draw	33.3%	4%	37.3%	2.68	33.3	89.3	10.7	3.6	
Away	33.3%	4%	37.3%	2.68	33.3	89.3	10.7	3.6	
Total	100%	**12%**	**112%**		100			10.7	

*: OR = overround, **: Gross win; Source: CRA analysis

2.47 The hypothetical example above has an overround of 12% (because the sum of the implied probabilities in the odds is 112%) and it represents a perfectly balanced book. This means that any outcome (home win, draw or away win) will result in the same gross win result of £10.70. Even in this perfectly balanced scenario, it should be noted that the expected gross win percentage is 10.7%, which is *lower* than the overround. Indeed, the expected gross win percentage in a betting event will *always* be lower than the overround because it is calculated as overround divided by overround plus 100% (i.e. 12/112 in this example).

2.48 The examples below now consider "real world" books, where the stakes distribution favours the favourite and, in the case of retail, the overround distribution is skewed away from the favourite, reflecting the constraint from online. The result is an altogether different expected gross win margin percentage.[14]

Table 2: "Real world" retail and online books

	True Prob.	OR*	Book Percentages	Decimal odds	Stakes (£)	Payout If wins (£)	GW** If wins (£)	Expected GW (£)	Expected GW%
Example 2 – Real world retail book									
Home	60%	2%	62%	1.61	90	145.2	(45.2)	(27.1)	**4.9%**
Draw	20%	5%	25%	4	5	20	80	16	
Away	20%	5%	25%	4	5	20	80	16	
Total	100.0%	**12%**	**112%**		100.0			4.9	
Example 3 – Real world online book									
Home	60%	2%	62%	1.61	90	145.2	(45.2)	(27.1)	**3.8%**
Draw	20%	2%	22%	4.55	5	22.7	77.3	15.5	
Away	20%	2%	22%	4.55	5	22.7	77.3	15.5	
Total	100%	**6%**	**106%**		100			3.8	

14 Note, if a book has a varied distribution of stakes but the overround per participant is uniform, the book would be unbalanced but the expected margin would be unchanged (because the margin uplift is the same in all participants and therefore expected margin is agnostic as to which participant wins). Similarly, a varied distribution of overround does not necessarily result in a different expected margin if stakes happen to be directly proportional to the implied probabilities of each participant. In practice, however, neither of these scenarios occur and so expected margin is always different to the hypothetical balanced book.

*: OR = overround, **: Gross win; Source: CRA analysis

2.49 The "real world" retail book again has a 12% overround but this overround is distributed unevenly to ensure that the favourite is competitive with online. Stakes are skewed to the favourite (in this example, the home team), in line with the experience of the Parties. As can be seen the result is an expected gross win margin of 4.9%, which is considerably *lower* than the 12% overround or the 10.7% margin in the hypothetical example of a balanced book. This expected gross win percentage of 4.9% is evidenced by Coral's actual recorded gross win margin on single Home/Draw/Away bets in paragraph 2.76 below.

2.50 Finally, in the "real world" online book, the overround of 6% is spread evenly across all outcomes. This results in an expected gross win of 3.8% which is only slightly below the expected retail gross win margin of 4.9%, despite the overround being 50% lower. Converting this difference into a return to customers for online (96.2) versus retail channel (95.1) shows that customers are only 1.1% better off going online than in retail – a very small amount.

2.51 It can be seen, then, that simply looking at the overall overround as an indicator of competition is meaningless, as the expected margin will almost always be significantly lower than the overround in the "real world". Equally, in the first two examples above, the expected margins are very different despite the overall overround being exactly the same, due to the distribution of stakes and overround across the different outcomes. Finally in the second and third example it can be seen that the return that the customers will achieve are very similar despite the online overround being half the retail overround.

2.52 It is worth noting therefore that William Hill make two errors in their submission:

- First, they describe the overround as "the expected win". As the examples above show, the expected win margin is significantly lower than the overround.

- Second, they suggest that the difference in "expected win" between online and retail is 7.5% (online 106.5% vs retail 112%). However, as the examples show, the difference in expected win is actually nearer 1%. This small difference is evidenced by the economic analyses of actual data in sections (iii) and (iv) below.

2.53 A final reason for not just looking at the overround as a measure of performance is because estimating the underlying probability is also a key facilitator of competition. Looking solely at the overround implicitly assumes that there is a single accepted 'true' probability of an outcome occurring. In reality, different operators will have different abilities in appraising this 'true' probability (as discussed on the site visit). There will be some degree of convergence because of: (a) the availability of (mostly online) information during odds compilation and (b) the information (again, mainly online) that is gathered during odds trading. However, there are many instances when Coral will consider that its appraisal is more accurate and will diverge from others. Having the ability to make more accurate appraisals of probability allows an LBO to have a competitive edge over players with less accurate appraisals. Simply concentrating on the overround as the only relevant aspect of competition loses this additional aspect.

(iii) Online and retail odds in football

2.54 In relation to football, while the odds in retail and online are not always the same,[15] the retail odds on football favourites closely track those online. As mentioned above roughly 80-90% of football bets are estimated to be placed on the favourites. For the Premier League, which is the most popular league, this means that the odds are effectively converged on the vast majority of football bets.

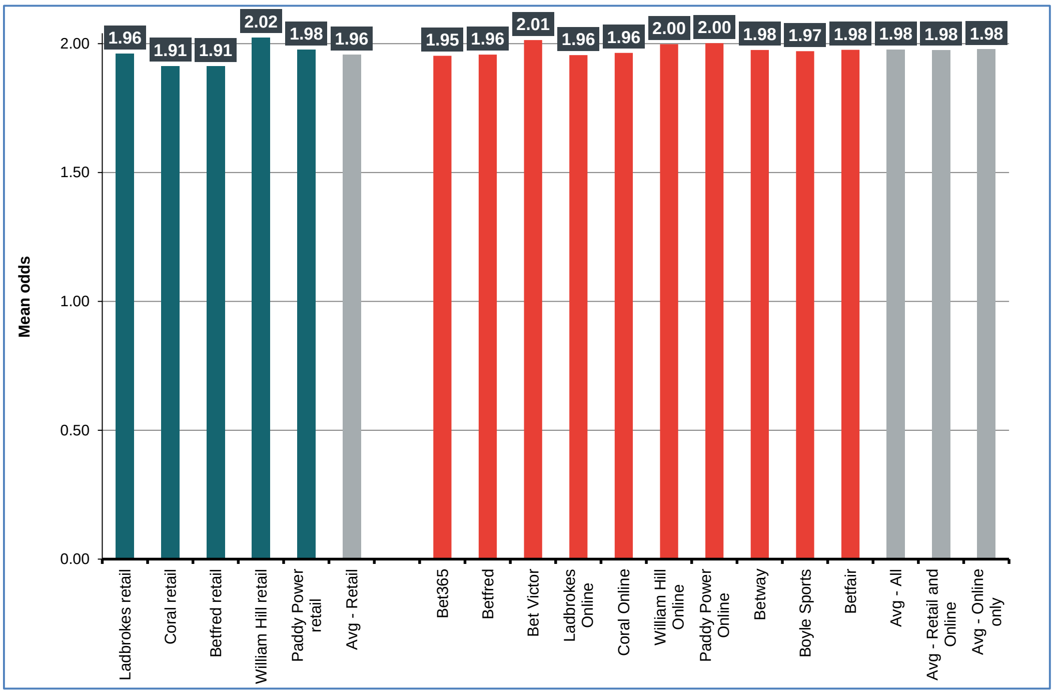
15 The Parties draw the CMA's attention to paragraphs 15.78 to 15.80 for a discussion of the use of football coupons in retail betting and the consequent need to build in a higher retail overround to provide a "buffer" for the additional risk of holding the coupon price to customers.

2.55 To demonstrate this empirically, the Parties' economic advisers have conducted two analyses using publicly available football pricing data on match favourites from the Premier League. The first analysis examines football odds for a recent snapshot of matches whilst the second contains an historical comparison of online and retail football odds for a subset of online and retail providers.

2.56 In combination, these analyses indicate that, on the favourites in the Premier League, there is only a small difference between retail and online. Furthermore, this difference has been declining over time – which is entirely consistent with the increasing constraint from online. It should also be noted that these changes have been occurring even while the overall football overround has remained at 112%. This shows that a simple comparison of overround between online and retail would misrepresent the key dynamic that has occurred over time and continues to occur. Both of these analyses are provided at Annex 2.

2.57 The first analysis undertaken by the Parties' economic advisers shows that there is little difference between online and retail favourite odds. This is shown in Figure 2 below, which shows average retail odds versus average online odds for 38 Premier League fixtures in January and February 2016. Across these fixtures, the average of online odds across all ten bookmakers in the sample was 1.976, compared to an average of 1.957 across retail operators. This equates to a difference of less than 1%.[16] Figure 2 also shows that, on average across these fixtures, the retail odds offered by William Hill and Paddy Power were more competitive than average online odds across all the bookmakers in the sample.

Figure 2: Retail and online odds on the favourite selection for a sample of 2015/16 Premier League fixtures

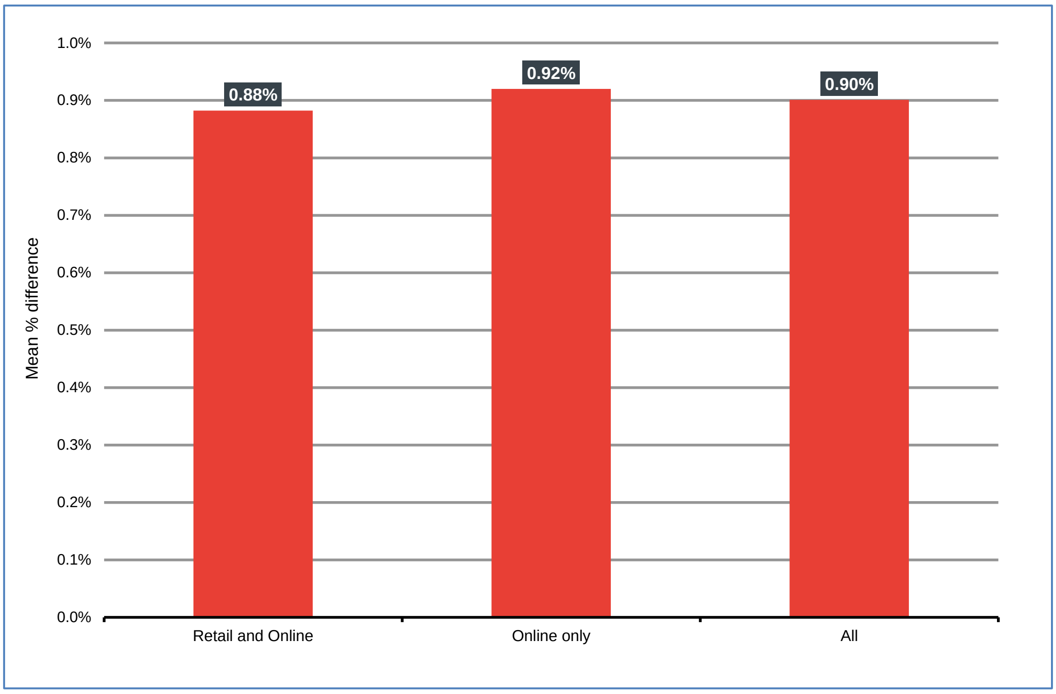


2.58 As noted above, the average difference between online and retail odds in the sample of fixtures considered is less than 1%.[17] This is shown in Figure 3 below, which demonstrates that there is minimal difference between online and retail odds, regardless of whether one considers online odds quoted by (i) those operators with retail and online operations; (ii) those operators that have solely online operations; or (iii) all operators in the sample.

16 When calculated as the difference between average online and average retail odds, divided by average retail odds.

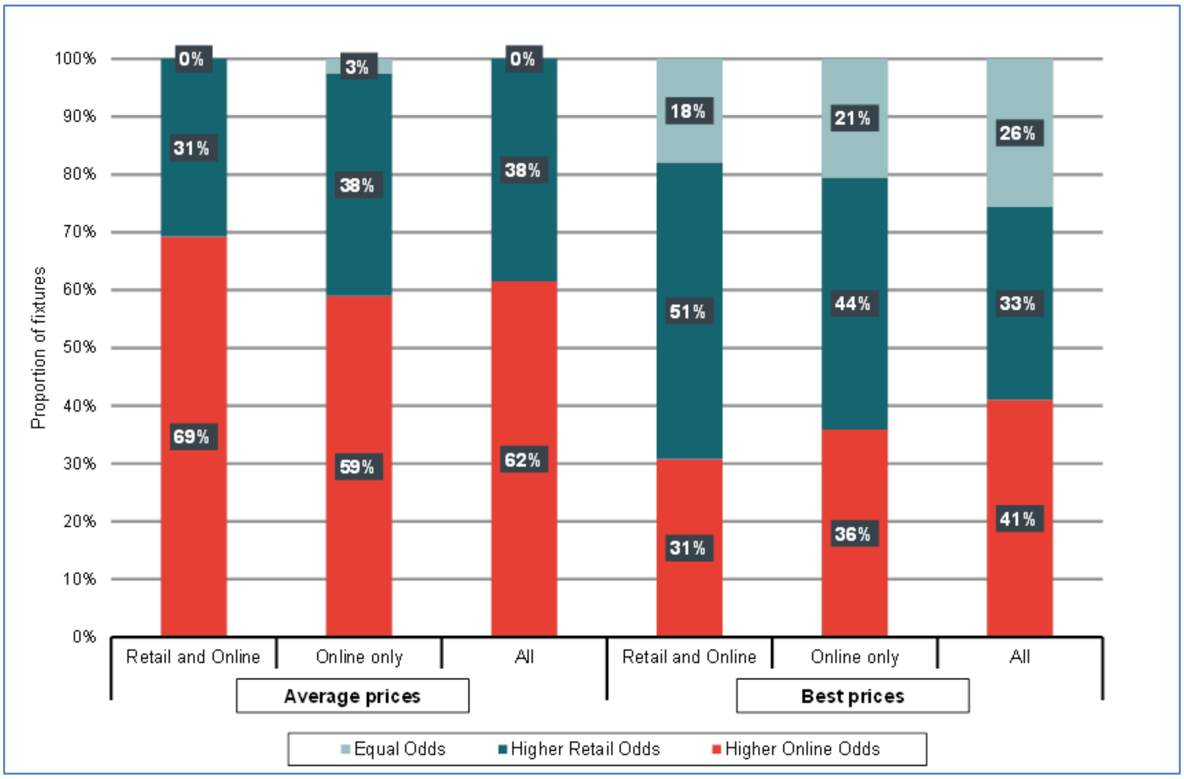
17 Calculated as the percentage difference in average odds per fixture, averaged across all fixtures in the sample. Percentage differences for each fixture are calculated as online odds minus retail odds, divided by retail odds.

Figure 3: Average percentage difference between online and retail odds for Premier League favourite odds



2.59 Finally, while online odds may, on average, be marginally more competitive than retail, Figure 4 below shows that the retail channel offers average odds that are at least as competitive as online a significant proportion of the time. For example, considering odds for online only operators versus retail odds for LBOs, average retail odds were equal or better than odds by online only operators in 41% (38%+3%) of fixtures in the sample. Furthermore, looking at a comparison of the best odds offered by online and retail channels, the proportions are higher, with the best retail odds being equal or better than the best online operator only odds 65% of the time (44%+21%).

Figure 4: Proportion of fixtures in which retail odds were less, more and equally competitive as online odds for Premier League fixtures (average and best price)



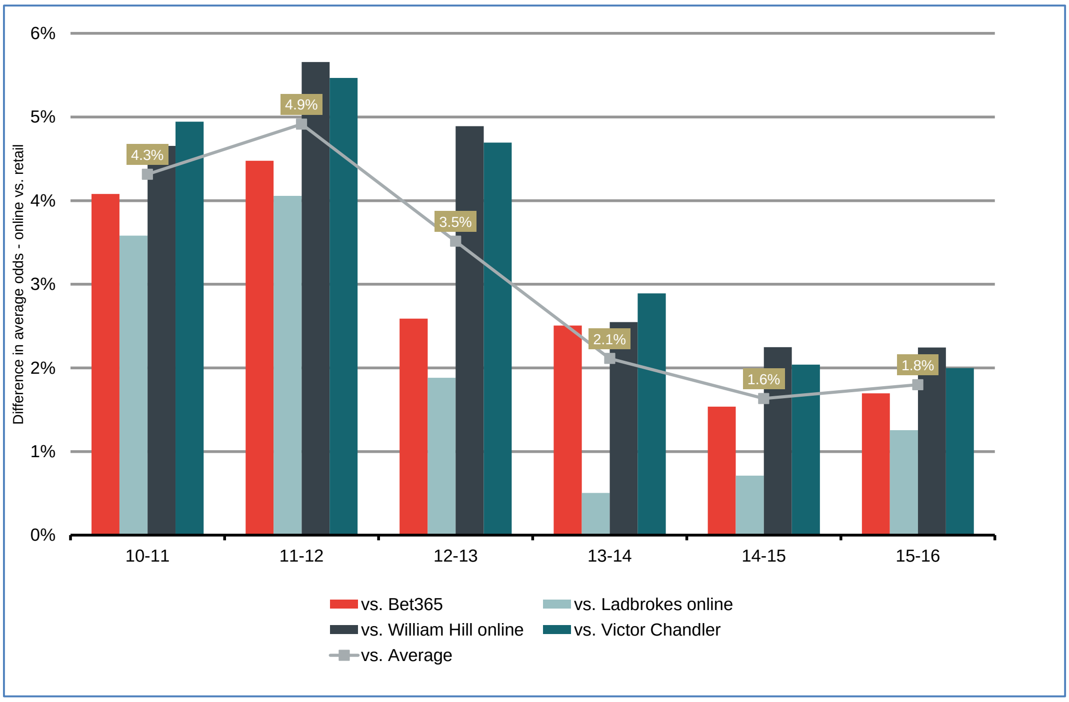
2.60 The second analysis draws on historic data to show the evolution of retail and online football odds over time. The Parties have analysed Ladbrokes' historic Premier League retail odds from 2010/2011 to 2015/16. In addition the Parties have collected online odds sourced from www.football-data.co.uk.[18,19] Unfortunately Ladbrokes only has its own retail odds and therefore it is not possible to compare for the full set of retail providers as per the more recent analysis. Indeed as shown above, this may underestimate the extent of retail competition given that it omits William Hill who has been particularly competitive on the retail premier favourites.

2.61 Figure 5 below shows that there has been a decline in the difference between the Premier League favourite odds quoted by Ladbrokes' retail and those quoted by online operators. In particular, it shows that the average difference between Ladbrokes retail and a selection of online odds has more than halved. For example, for the favourite selection in the 2010/11 season, average online odds across Bet365, Ladbrokes online, William Hill online and Victor Chandler were approximately 4.3% more generous than those for Ladbrokes retail. This compares to an equivalent difference of less than 2% when considering the 2015/16 season.

18 Online odds sourced from www.football-data.co.uk and are based on odds quoted on a Friday (as compared to Wednesday for the retail coupons in the sample). The comparison is made only with Ladbrokes retail odds, which Ladbrokes has recorded over time.

19 This analysis is based on all fixtures in the first half of each Premier League season from 2010/11 to 2015/16 (i.e. approximately 190 fixtures per season). It includes online odds quoted by Bet365, Ladbrokes, William Hill and Victor Chandler.

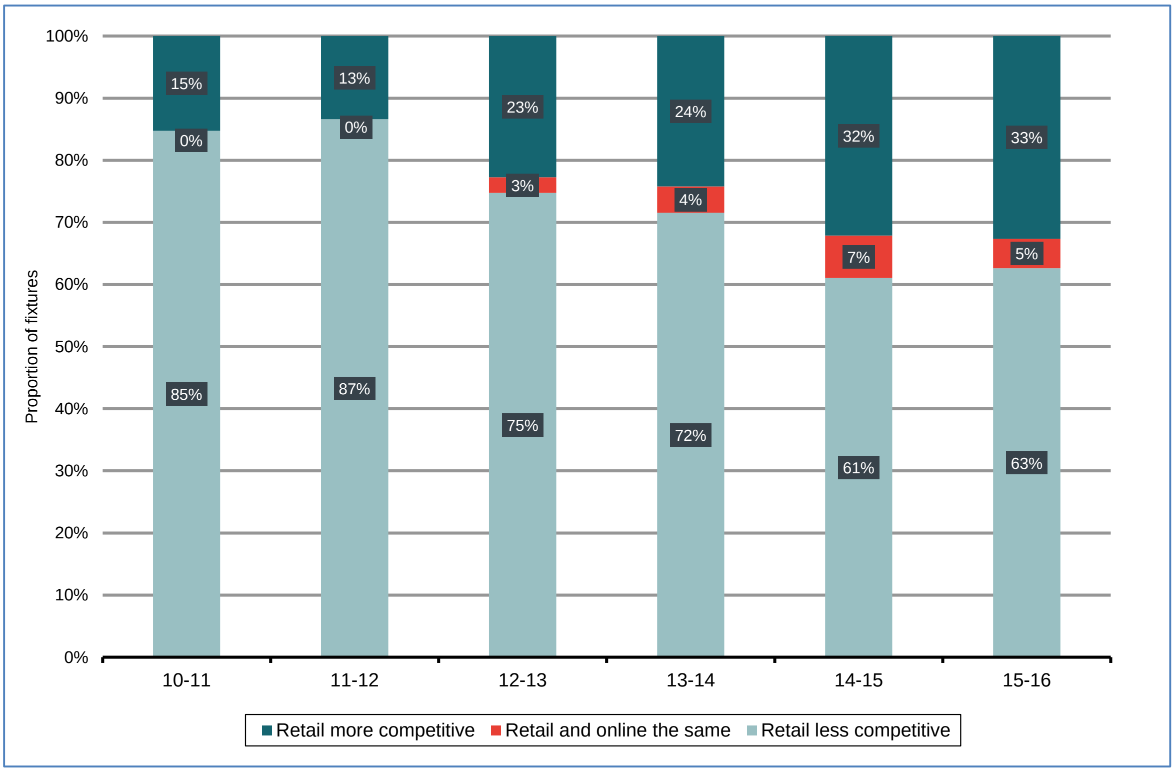
Figure 5: Average difference in odds between Ladbrokes retail and selected online bookmakers – 2010/11 to 2015/16[20]



2.62 Finally, Figure 6 below shows that the proportion of Premier League fixtures in which Ladbrokes retail odds were at least as competitive as average online odds (across the four online operators in the sample) has steadily increased significantly over time, from 15% in the 2010/11 season to almost 40% in the 2015/16 season.

20 Online odds sourced from www.football-data.co.uk and are based on odds quoted on a Friday (as compared to Wednesday for the retail coupons in the sample). The comparison is made only with Ladbrokes retail odds, which Ladbrokes has recorded over time.

Figure 6: Proportion of fixtures in which Ladbrokes retail odds were less competitive, more competitive and the same as average online odds for Premier League fixtures – 2010/11 to 2015/16



(iv) Online and retail odds in horse racing and greyhound racing

2.63 Finally, in relation to horse racing and greyhound racing (which made up two-thirds of Ladbrokes retail staking in FY2015), the odds offered by Parties (and others who operate across channels) are almost always identical. The large majority of retail betting therefore takes place at prices which are the same as those online. Further, comparing the price level between those operators who have both a retail and online presence to operators that only have an online presence shows that there are limited differences between the two sets of operators. The direct implication is that retail odds are set at the online level, and therefore this is consistent with online being a constraint on retail. Indeed this should not be surprising given the size of the online business and its highly competitive nature - it would never be a sensible strategy for retail operators to ignore their online business to protect retail margins.

2.64 The Parties' economic advisors have been provided with Oddschecker data on favourite odds on UK horse racing. The data provides odds from online only operators and retail operators during the period 2nd June 2015 to 22nd March 2016.[21] The table below compares the odds between those operators who only have an online operation, and those retail operators who have both an online and retail operation.

[21] The oddschecker data contains the last available snapshot of prices across each bookmaker for each horse in each race up until 15 minutes before the race is due to begin. For the purposes of the analysis, the data has been limited to (i) the race favourite as identified by Coral (ii) races across Great Britain (iii) races where the last available scan was collected 15 or 16 minutes before the race was due to begin and (iv) races where the oddschecker scan was able to collect a price for each bookmaker.

Table 3: Proportion of higher online and retail odds for horse favourites from June 2015 - to March 2016

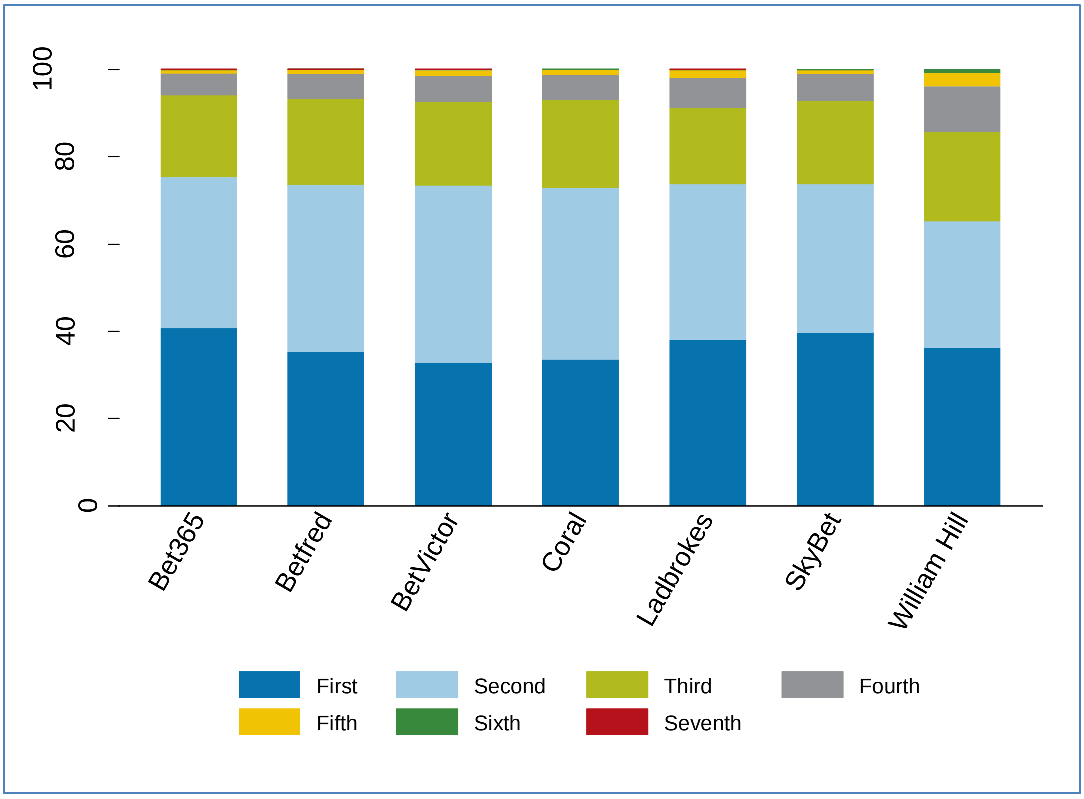
Online price comparator set being compared against retail odds	Better odds from online only operators	Better odds from Retail operators	Equal odds	Average % difference
All operators (average prices)	54%	42%	4%	0.66%
All operators (best prices)	19%	29%	52%	

Source: Oddschecker data

Note: Retail and online operators include Betfred, Coral, Ladbrokes and William Hill. Online only operators include Bet365, BetVictor and SkyBet. Paddy Power is not included as Oddschecker is prohibited from providing their historic odds data.

2.65 The table above shows that retail odds are equal or better than online only operators 46% of the time, and on average there is less than 1% difference between the average odds in the two channels. Comparing the best price by the online only operators with the best price from retail operators, retail best odds are equal or better in 81% of the races. The graph below breaks the result out for individual operators.

Figure 7: Favourite odds ranking by operator for horse race favourites



Source: Oddschecker data

2.66 The figure shows that online-only operators (Bet365, BetVictor and SkyBet) are the best odds no more frequently than the retail operators (Coral, Betfred, Ladbrokes and William Hill). In summary, the evidence on horseracing shows that the odds for the retail channel and the online channel are no different, even when comparing against online only operators. This evidence is supportive of the online and retail channels being substitutes.

(v) Constraint on retail concessions and promotions

2.67 In terms of types of concessions and promotions, there is considerable overlap between the offers available in retail and online, contrary to the statement made by William Hill in its response to the Issues Statement. This holds for both Parties.

2.68 As regards Ladbrokes:[22]

- the football price boosts that Ladbrokes offers on the Result Rush and WinCast markets are available in both retail and online, and both were offered on the same 87 fixtures in the year to date.
- Ladbrokes' 5+ fold ACCA football money back special is available weekly in both retail and online (the only difference being that retail customers require a Grid card to take advantage of this promotion and this promotion is also offered periodically to non-Grid card holder).
- Football money back specials are available across both channels, and have been offered on the same fixtures in 2016 YTD.
- Best Odds Guaranteed is available in the retail estate for two hours a day (currently 11am to 1pm).
- The bonus concessions that Ladbrokes offers online for Lucky 15/31/63 bets are also implemented in retail (and indeed in certain local areas, Ladbrokes' enhanced concessions are such that these are more competitive than their online equivalent).

2.69 As regards Coral, the table below shows the considerable overlap between retail and online concessions, promotions and bonuses:

	Online	Retail
Horses *(& Greyhounds where specified)*		
Best price guaranteed	✓ (horses/greyhounds, all the time)	✓ (Connect only, horses only, 2x meets/day)
Show price guaranteed	X	✓ (shop discretion)
Money back on Fallers	✓ (selected meetings)	✓ (Connect only)
Money back if beaten by a head	✓	✓ (Connect only)
Enhanced prices	✓	✓
Extra places	✓	✓
Enhanced payouts on Lucky bets	X	✓ (shop discretion on horses/greyhounds)
Free bets for winners	✓ (horses/greyhounds, selected meetings)	X
Football		
Super Acca insurance	✓ (money back)	✓ (Connect only, £5 free bet)
Enhanced prices	✓	✓
Top Price League Leaders	X	✓
Coral Acca Club	✓	X
Acquisition offers	✓	✓ (Connect only)
Reactivation offers	✓	✓ (Connect only)

2.70 Despite these considerable overlaps, the differences in the level of promotions and concessions in retail and online have been highlighted as an indication of a lack of competition between the two channels. However, for the reasons set out in detail in response to the CMA's RFI of 23 February 2015, this would be an incorrect conclusion to draw.

2.71 A large proportion of online concessions and bonuses are designed to attract new customers or reward specific customer loyalty. Such customer-specific concessions and bonuses can be offered

22 See Ladbrokes' response to the RFI dated 23 February 2016.

in the online channel because of the availability of customer information. Operators do not have the same ability to target specific customers within the retail estate (with the exception of multichannel customers where there are often loyalty card schemes that track activity across both channels). In addition, operators find it difficult to measure how successful specific retail bonuses and concessions are because of the anonymity of retail customers. Where an operator can measure the effectiveness of concessions in the retail channel, greater numbers of concessions are offered to those customers.[23]

2.72 Given the above, the approach to attracting customers and/or rewarding loyalty in a betting shop is different from online. In particular, the value proposition in retail is typically built around the good atmosphere, customer service and social environment of the betting shop. Expenditure on these areas are not classified as retail concessions or bonuses as they are not directly related to bets, however they do go directly to the customer experience and the value the customer perceives (versus other retailers and versus online).

2.73 This difference in approach does not signal a lack of competition. In particular, if a retail operator were to degrade its offer, for example by increasing prices, reducing service standards, or failing to invest in the shop environment, the customer's assessment of relative value would shift away from retail, causing migration to online to increase.

(vi) Retail and online margins are converging

2.74 Whilst there are some differences between online and retail gross win margins, in general retail gross win margin has been on either a slight downward trend or constant across horse racing, greyhound racing and football, whilst online gross win margin has been on a slight upward or constant trend. The result across all three sports is a gradual convergence of gross win margins across the two channels.

2.75 The assessment is particularly relevant in relation to football, as the vast majority of bets are taken on the favourites and the retail price on the favourites has been converging with the online price, as shown above.

2.76 [✄].[24][✄]

Figure 8: <u>Coral Retail and Online WWD football singles gross win (%)</u>

[✄]

Note: Retail (CR) GW% calculated as a percentage of GW over turnover. Online (CI) GW% calculated as a percentage of GGR over turnover

2.77 Looking at the like-for-like comparison of WWD singles, the graph at Figure 8 above shows that retail gross win percentages have fluctuated between [✄]% and [✄]%, with a general downward trend over time. As discussed during the CMA's Site Visit, whilst there is some degree of volatility in gross win margins due to significant uncertainty in football outcomes, Coral believes that this general downward trend is an accurate reflection of the increasing constraint that online betting has placed on the retail channel – particularly odds for the favourites, which account for the vast majority of WWD bets.

2.78 To the extent that there are differences in margin between retail and online odds, these arise from differences in the mix of products, in customer mix (including the propensity of customers to "cherry pick" outlying odds), and in the promotional offers between online and retail. In particular, the ability

23 See Coral's response to the RFIs dated 23 and 26 February at paragraph 1.6.

24 [✄].

and propensity of customers to "cherry pick" outlying odds on a bet-by-bet basis is important. Oddschecker allows customers to easily check prices and bet on a per-bet basis across online and retail operators. No one operator will be the most competitive on every bet, so this allows customers to see who is most favourable or is out of line with the rest of the market on a particular horse/team, and to bet with them. The Parties consider that this "cherry-picking" occurs more frequently online, partly as a result of well-informed customers representing a larger proportion of the customer base online. These well-informed customers tend to place more calculated bets targeting selections where the Parties' odds may not accurately reflect the "true" probability (due to information asymmetry, for example). The Parties consider that the balance of these customer types is likely to be different across the two channels (although both types are present in both channels), and as a result, make cross-channel comparisons of gross win margins potentially misleading.

2.79 Over time, however, the mix of product and bettor types will tend to even out as an LBO's online site becomes more established and therefore attracts more casual bettors who have previously used other brands for their online betting. The margins in retail and online can therefore be expected to converge further.

(vii) Online is a key driver of innovation in retail

2.80 Competition in relation to innovation, including the key role that online plays as a driver for innovation, is addressed more fully below at paragraphs 4.35 to 4.49.

2.81 For the purposes of this section, it is worth highlighting the introduction of SSBTs as a means of reproducing the online experience in retail. [✂].[25] [✂]

Figure 9: Proportion of football staking by type of bet, comparing online, retail and SSBT football betting

[✂]

2.82 It is also worth highlighting that multichannel offerings are primarily aimed at ensuring that, to the extent customers bet online rather than in retail, they do so using the online platforms of that retail operator. In this way, the operator attracts online custom and also retains the ability to cross-sell its retail offerings.

2.83 Public statements from operators such as William Hill demonstrate the importance of multichannel offerings. For example, in its 2015 Annual Report, William Hill stated that "*28% of regular Retail customers and 26% of regular Online customers are multi-channel. We capture 45% of those Retail customers in William Hill Online and 68% of those Online customers in our betting shops*."

(e) Online also imposes a significant constraint on gaming

2.84 The Parties provided detailed evidence at paragraphs 14.174 to 14.181 of the Merger Notice showing the constraint imposed by online particularly on retail gaming. It has been suggested that the constraint is less significant than argued by the parties because "games that perform well in shops are quite different to those that perform well online".[26]

2.85 The Parties submit that this statement is not consistent with the evidence. For example, as highlighted at paragraph 13.57 of the Merger Notice, the same software providers design games on each channel. In addition, the Parties' data shows a considerable overlap between games available online and in retail.

25 [✂].

26 See William Hill submission, submitted on 24 February 2015.

- [✄]
- [✄]
- [✄]

2.86 This is also consistent with the public statements of Paddy Power and William Hill. For example, Paddy Power's 2015 Interim Results highlighted its proprietary gaming content and drew particular attention to its "simultaneous cross channel releases". Contrary to its submissions in this case, William Hill's 2015 Annual report states that "cross-channel gaming launches generated seven of the top ten games in Retail in 2015."

(iv) <u>Conclusion on the constraint from online</u>

2.87 It is clear from the Parties' data and from wider industry and competitor data that online gambling poses a considerable constraint on retail gambling. This constraint will remain post-merger and, indeed, is expected to continue growing.

2.88 Given the ubiquity of the internet and improvements in mobile technology, it is felt in each and every location. Online gambling should therefore be considered to be an additional constraint on all LBOs (regardless of the number of retail competitors in a given local area).

3 Theory of harm 2: Loss of potential competition

3.1 The Issues Statement states that the CMA will assess whether the Merger *"may be expected to result in an SLC as a result of a loss of potential competition in areas where the Parties might have opened new LBOs and competed against each other"*.

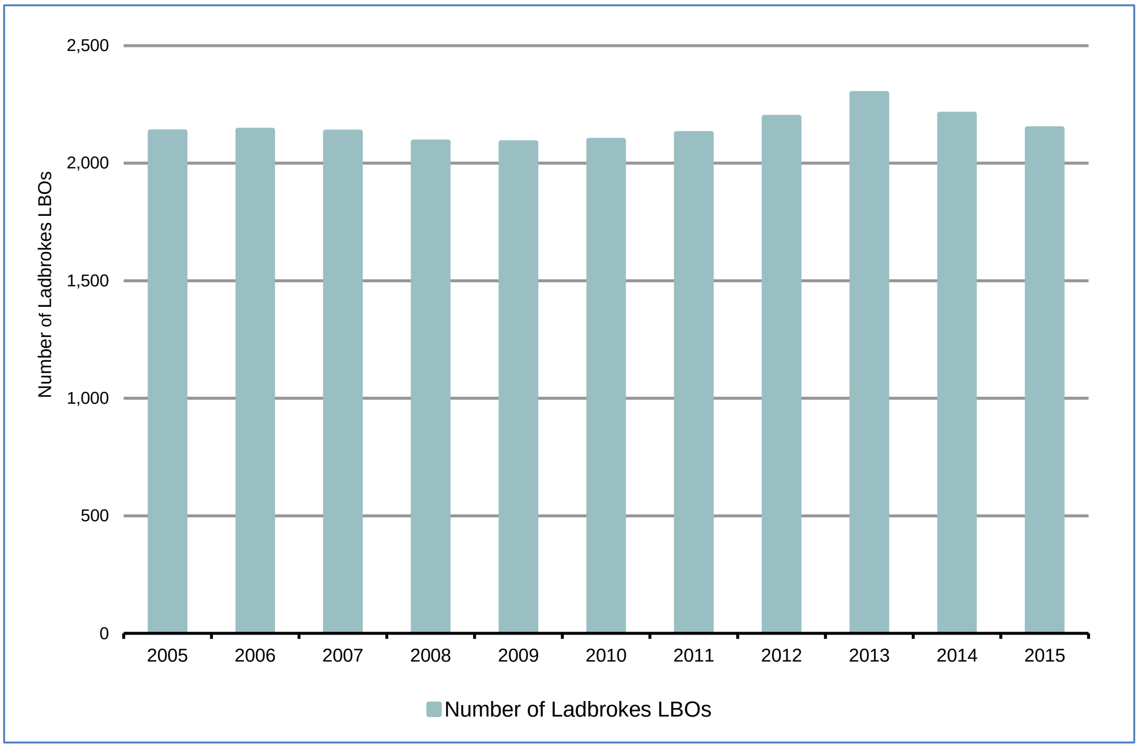
3.2 For the reasons set out below, the Merger will not have a negative effect on potential competition, as the Parties have little to no active pipeline of new store openings. This is consistent with the general market trend, which is stable to declining in terms of store openings, albeit that some competitors are more active than the Parties in this respect. The present case can therefore be clearly distinguished from a case like *Pure Gym/The Gym*, which took place in an immature and rapidly growing market, where the CMA had "*evidence that the parties' pre-existing plans show multiple sites where they are likely to enter into competition with each other; either one party entering into an area where the other is already present, or both entering into entirely new areas*".[27]

(i) <u>The Parties' have little to no active pipeline of openings</u>

3.3 Ladbrokes' [✄].[28] Given this, there is no scope for an SLC arising as a result of new licences in the Ladbrokes pipeline opening in areas where Coral is currently present.

3.4 The lack of pipeline is consistent with Ladbrokes' actions over the last two years, which has seen it open only one new licence. This is borne out by Figure 10 below, which shows that Ladbrokes' estate has contracted over the last two years – decreasing from a high of 2,297 LBOs at the end of 2013 to 2,147 LBOs at the end of 2015.[29]

Figure 10: <u>Number of Ladbrokes LBOs as of 31 December 2005 to 2015</u>[30]



27 Pure Gym/The Gym reference decision, at paragraph 77.

28 [✄]. While relocations necessarily involve opening a store (in place of the closing store), they differ significantly from new store openings, in that the decision to relocate often sits with third parties ([✄]). Further, to the extent that relocations do occur, these typically involve an LBO moving a short distance, and rarely involve a material change in the competitive environment in the relevant local area(s). The relocation decision will be made entirely on the basis of the local conditions.

29 Source: Ladbrokes annual reports.

30 Source: http://www.gamblingcommission.gov.uk/docs/Industry-Statistics-April-2008-to-March-2015.xlsx

3.5 This is also consistent with Ladbrokes' longer term plans. [✄][31][✄].

3.6 [✄]

3.7 [✄]

3.8 [✄]

Figure 11: Coral stores 2006-2016

[✄]

(ii) The Parties do not actively seek to enter in areas where the other is present

3.9 [✄]

3.10 [✄].

3.11 Coral similarly has no policy of actively seeking to enter an area in which Ladbrokes (or any other specific competitor) is present. [✄].

(iii) The Parties' limited pipeline is consistent with overall market stability

3.12 The Issues Statement notes that the CMA will also consider *"the overall growth trends in the industry"* in assessing the scope for a loss of potential competition. As noted in the Final Merger Notice[32], retail betting is not an industry that is generally experiencing growth.

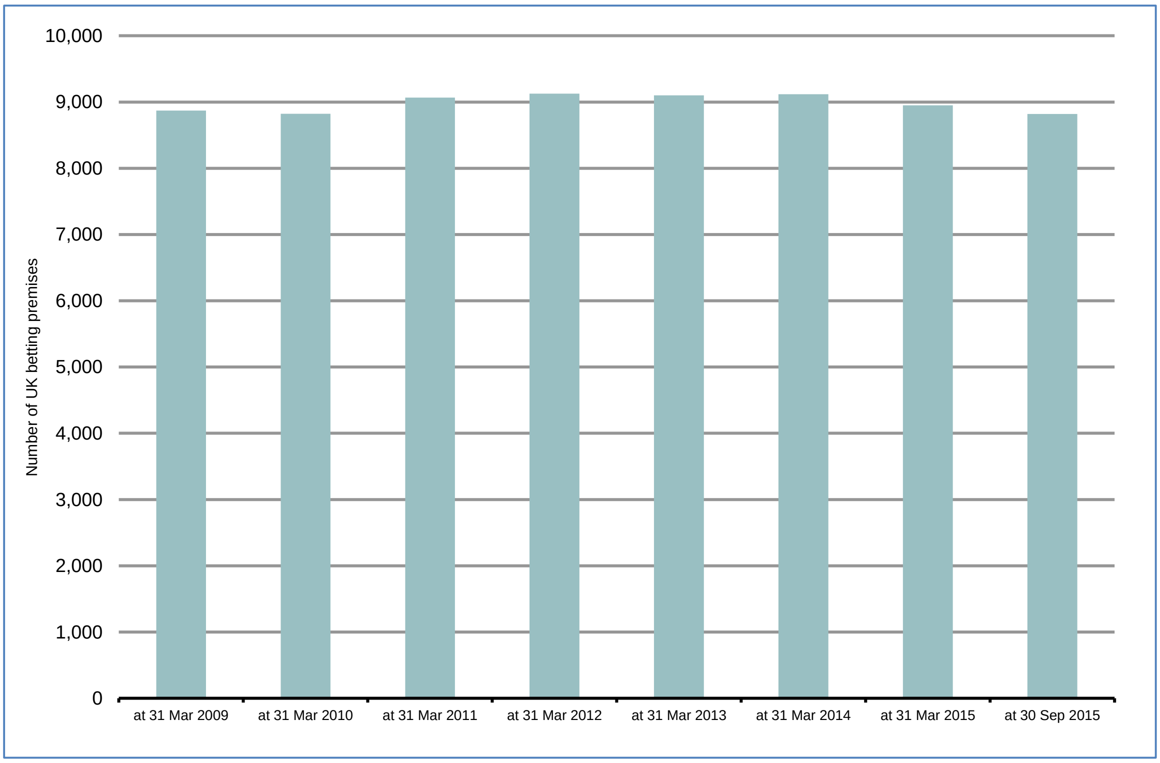
3.13 Figure 12 below shows that the number of LBOs in the UK has remained relatively flat in recent years, and indeed has declined in the last two years. This trend is set to continue, as noted by Mintel's 2014 betting report: *"The number of betting shops in the UK is now effectively static and unlikely to grow significantly in the short term."*[33] This lack of future industry-wide growth is inconsistent with a significant risk of loss of potential competition.

31 Provided to the CMA on 4 February 2016.

32 Paragraph 14.63

33 Mintel, Sports Betting UK, May 2014, at p. 27.

Figure 12: Number of betting premises 2009 to 2015



(iv) Third parties will provide sufificient competition in relation to new openings

3.14 As highlighted in the Merger Notice, while the market is generally stable to declining in terms of overall LBO numbers and while the Parties have very limited plans to open shops, third parties such as Paddy Power are more active in opening new shops.

3.15 Paddy Power has publicly stated, "Retail is a growth business for Paddy Power, driven by both increasing profitability in our existing shops and attractive opportunities to expand our estate."[34] In the investor presentation accompanying the 2015 interim results, Andy McCue, Paddy Power's CEO explained that "[*g]iven [its] leading product proposition and per shop profitability, [it is] still identifying attractive shop opening opportunities. Taking account of increased MGD, new regulations and planning laws, [it] now anticipate[s] opening up to 25 new shops per annum over the next few years*."[35]

3.16 Similarly, as the CMA's summary of the third-party hearing shows, JenningsBet has "adopted an ongoing organic development system, but it would always be looking to acquire new LBOs", indicating the potential for entry/expansion by other third parties.

3.17 [✂] This shows that each of William Hill, Betfred, Paddy Power and independents have made planning applications for new licences during FY2015.

3.18 In this respect, it is worth noting that, while the recent planning law changes may cause concern that it would become more difficult to open new LBOs, the "tracker" shows that of the planning applications submitted since the change in the planning laws, 81% of applications which would have been approved automatically under the old regime have still been granted under the new regime. The changes have not, therefore, had a significant impact on new license application approvals.

(v) Conclusion on Theory of harm 2

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34 Paddy Power, Annual Report 2014, at page 19.

35 Transcript available at: http://seekingalpha.com/article/3468326-paddy-powers-pdypf-ceo-andy-mccue-on-q2-2015-results-earningscall-transcript?page=3.

3.19 The Merger will not result in a significant loss of potential competition because:

- The overall market context in which the transaction is taking place is one of stability, not growth, and the Parties themselves have very limited plans to open new shops.
- The Parties do not have a policy of entry in each other's pre-existing locations. As a result, there can be no impact on potential competition between them.
- Third parties, including large chains like William Hill, Paddy Power and Betfred, will provide sufficient competitive constraint when it comes to new LBO openings.

4 Theory of Harm 3: Loss of competition at the national level

4.1 The Issues Statement states that the "*CMA's starting point is to recognise that consumers shop in local retail outlets, within a given travel time from their home or work, and that competition between retailers takes place at the local level. As such, any loss of competition between retailers at the national level is likely to arise as a result of the aggregated loss of competition in the various areas in which the two retailers operate*".

4.2 The CMA further states that the effect of the Merger nationally will therefore depend on:

- the extent of overlap between the Parties' LBOs in aggregate and as a proportion of their overall business; and
- the approach taken by the Parties to set and modify the aspects of their offerings that are common across all of their LBOs.

(i) **The aggregation of local effects shows no loss of competition at national level**

4.3 As noted in the Parties' Merger Notice and Initial Submission, the Parties' competitive decisions are local in nature. Paragraphs 15.10 to 15.68 of the Merger Notice provide many examples of competitive decisions, showing clearly that the local nature of competition applies across all price and non-price parameters of competition, including product range, service quality, look and feel of shops, brand and innovation. As this makes clear, the vast majority of competitive decisions are either: (i) made locally; (ii) made centrally but by reference to local conditions of competition; or (iii) made centrally and are uniform across the estate, but reflect the aggregation of local competitive constraints.

4.4 To the extent that the Parties take decisions centrally and apply them uniformly, the decisions will necessarily be a function of the "average" level of local competition across the Parties' respective estates. The only possible scope for deterioration of such a uniformly-set competitive variable would be if the Merger gives rise to a material change in the "average" level of local competition faced by the Parties that is not addressed by remedies, which will not be the case here.

4.5 This is consistent with the CMA's approach in *Poundland/99p Stores*, where it noted that "*any loss of competition between retailers at the national level is likely to arise as a result of the aggregated loss of competition in the various areas in which the two retailers operate. In other words, if the Transaction may be expected to result in competition concerns in local areas representing a significant proportion of the Parties' overall business, the Transaction may create an incentive to worsen any of the aspects of the Parties' offerings that are set on a national basis*."[36] The CMA also noted that "*any unilateral effect on competitive parameters set at a national level (in other words consistently across all local stores) will arise from the aggregated effect of the merger on competition at a local level*."[37] In applying this approach in its recent *Celesio / Sainsbury's UK pharmacy business* decision at Phase 1, the CMA clarified that "*[a]lthough the key parameters of competition may be set at the local or the national level, any effect of the Merger on these parameters, whether local or national ones, depends on the competitive constraints removed or remaining at the local level.*"[38]

4.6 The extent to which the merged entity could be incentivised to deteriorate a uniformly set parameter of competition post-merger will depend upon:

- the extent of overlap between the Parties' estates – if the Parties do not overlap in many local areas, there is little incentive for a uniform deterioration post-merger, as in most areas such a deterioration would simply result in a loss of sales to competitors; and

36 Final Report, paragraph 6.88.

37 Final Report, paragraph 6.135.

38 CMA's decision regarding the anticipated acquisition by Celesio AG of Sainsbury's Supermarkets Limited UK Pharmacy Business dated 11 December 2015, at paragraph 45.

- within each of the local areas in which the Parties overlap, the change in the degree of competition that the merged entity would face post-merger – the greater the competitive intensity in overlap areas, the lower the incentive for a uniform deterioration (as in overlap areas there is limited recapture of any sales that divert in response to a post-merger deterioration).

4.7 In any event, as long as the competitive constraints on the Parties do not change substantially in any of the local overlaps (as would be the case after appropriate divestments), the aggregate competitive constraint felt by the Parties will also remain unchanged. This means that any divestments necessary to address local concerns will also solve any potential reduction in competition relating to centrally decided competitive parameters. The cumulative sum of local constraints will not be significantly changed post-merger and thus, there will be no aggregated loss of competition.

4.8 In the present case, as shown in sections (a) and (b) below, there is limited overlap between the Parties and in the majority of overlap areas, the Parties face competition from multiple competitors (both retail and online). It is clear, therefore, that any aggregated impact on competitive incentives from the merger is likely to be muted. Further, the Parties are willing to consider making appropriate divestments in those areas in which there is a finding of an SLC at local level. After any such divestments, Coral and Ladbrokes will still face the same degree of competitive constraint aggregated across their estates as they faced pre-merger.

4.9 There can therefore be no national SLC in the presence of appropriate local divestments.

(a) <u>Limited overlap between the Parties' estates means that in the majority of local areas, diverted sales would be lost to alternatives</u>

4.10 The link between the incentive to deteriorate a competitive parameter post-merger and the degree of overlap between the Parties' estates stems from the greater ability to 're-capture' the lost sales. For example, if Ladbrokes and Coral were to overlap in 100% of locations, then Coral would be able to recapture the lost sales from a Ladbrokes' uniform price rise in every one of its locations. However if Coral was to overlap only in 10% of the Ladbrokes locations, a uniform price rise by Ladbrokes would only result in 10% of the locations being able to recapture any lost sales; in the other 90% of locations, sales would be lost to competitors thereby significantly reducing its incentive to implement such a price rise.

4.11 Table 4 below looks at the extent of overlaps based on a simple count of LBOs. The analysis is carried out on the basis of 400m and 800m areas. [✄]. However, for completeness and on a cautious basis, the Parties have included this wider catchment area in their analysis.

4.12 The overlap analysis shows that in approximately 70% of local areas in which Ladbrokes is present there is not a Coral LBO within 400m. Similarly, 66% of Coral LBOs do not face a Ladbrokes LBO within 400m. Even in the wider catchment area of 800m, there is still less than a 50% overlap between the Parties' estates.

Table 4: Number of localities in which the Parties' estates overlap – 400m and 800m

	Number of LBOs with at least one of the other merging Parties present		Total number of Party's LBOs	Percentage overlap
	400m	800m		
Ladbrokes	642	867	2146	30%/40%
Coral	616	795	1834	34%/43%

4.13 As a sensitivity analysis, the Parties have also calculated the gross win associated with the overlap areas set out in the table above, and expressed this as a proportion of their total estate-wide gross win. The results of this are set out in Table 5 below, and show that the above results are robust even using gross win as an alternative measure of "overlap" between the Parties.

Table 5: Gross win overlap between the Parties' estates – 400m and 800m[39]

	Total Gross Win (£m) accounted for by LBOs in areas in which the other merging Party is present		Total revenue of merging Party in question	Percentage overlap
	400m	800m		
Ladbrokes	251	333	815	31%/41%
Coral	211	268	612	34%/44%

4.14 This suggests that, at 400m, in almost two-thirds of local areas where the Parties are present, a uniform deterioration would result in no sales recapture by the other merging Party. This will have a significant dampening effect on any incentive to worsen the terms of centrally set competitive parameters that apply uniformly across the estate.

(b) Constraint from online and other retail LBOs means that the level of diversion in overlap areas would be low

4.15 The lack of overlap also feeds into any analysis of diversions between Coral and Ladbrokes, as the diversions must be scaled for the extent of the overlap. For example, even if the diversion ratio is 100% in a given location, if that was the only overlap area between the Parties and it accounted for only 1% of the entire estate, the aggregated diversion ratio would be only 1%. The lower the diversion ratio between the Parties within the overlapping areas, the lower any incentive to degrade competitive parameters that apply uniformly across the estate.

4.16 Within those local areas where there is overlap between the Parties' estates, for the reasons set out below the average level of diversion between the Parties will be low. This is because of the combined material constraint from online gambling and competing LBOs in these local areas.

4.17 In relation to the constraint from online, which is present in all localities, the surveys carried out by the Parties and discussed at paragraphs 2.22 to 2.26 above, show a significant diversion to online in

39 The Parties' note that the gross win figures provided are based on FY15 financial data (covering the respective financial years of the Parties). Where LBOs have since closed, and are therefore no longer part of the Parties' estates, the gross win of these LBOs has not been included when assessing the proportion of gross win generated by overlapping LBOs. Similarly, where an LBO has opened since the end of FY15, it has not been possible to include this in the gross win figures. There are no Ladbrokes LBOs that fall into this category, but there are six Coral LBOs that have opened since the end of FY15 and which therefore have no FY15 gross win information included (of which three have a Ladbrokes LBO within 800m).

the event of the temporary closure of an LBO. These survey samples are broadly reflective of the UK retail population.[40]

4.18 In relation to the constraint from other retail LBOs, all third party retail LBOs provide a strong constraint on both Coral and Ladbrokes regardless of their identity. Table 6 below shows how the number of Ladbrokes LBOs where there is a Coral present within 400m or 800m breaks down by the number of additional competitors also present in a given area.[41]

Table 6: Number of competing fascia within 400m or 800m of a Ladbrokes/Coral LBO in areas where there is also a Coral/Ladbrokes within the same catchment

	Ladbrokes centred		**Coral centred**	
	Coral within 400m	**Coral within 800m**	**Ladbrokes within 400m**	**Ladbrokes within 800m**
0 competing fascia	122 (19%)	137 (16%)	133 (22%)	138 (17%)
1 competing fascia	176 (27%)	198 (23%)	179 (29%)	217 (27%)
2 competing fascia	181 (28%)	251 (29%)	168 (27%)	221 (28%)
3 or more competing fascia	163 (25%)	281 (32%)	136 (22%)	219 (28%)
Total overlaps	642	867	616	795

4.19 As the table shows, even excluding the constraint from online gambling, in approximately 80% of 400m overlap areas, there is at least one other competing fascia, and in over 50% of overlap areas there are at least two other competing fascia (regardless of whether the area is centred on Coral or Ladbrokes LBOs). These proportions remain constant using an 800m catchment area. This means that even in the 30-45% of the Parties' locations in which there is an overlap, in the majority of such overlaps the extent of competition that the Parties face is significant and hence the diversions are likely to be small.

4.20 Combined with the relatively small overlap in the Parties' estates and the third party LBO competition in the majority of these areas, the constraint from online betting and gaming means that the extent of any recapture in the event of a uniform degradation of competitive parameters is likely to be negligible.

(c) Any potential national concerns will be addressed by local remedies

4.21 The direct implication of the above analysis is that any increased incentive to degrade competitive parameters uniformly set across the estate is likely to be small.

4.22 In any event, as set out at paragraph 15.147 of the Merger Notice, the Parties are willing to consider making appropriate divestments in those areas in which there is a finding of an SLC at local level.

4.23 As long as the competitive constraints on the Parties do not change substantially in any of the local overlaps (as would be the case after appropriate divestments), the aggregate competitive constraint felt by the Parties will also remain unchanged. After any divestments, Coral and Ladbrokes will still face the same degree of competitive constraint aggregated across their estates as they faced pre-merger. Therefore, any divestments necessary to address local concerns will also solve any potential

40 For example, where the survey results are weighted to reflect the Kantar UK retail population (a sample that the Parties consider to be reliable and that is used by them in making business decisions) the suggested diversion to online in the telephone survey is 21% and in the online survey is 18%.

41 Again, while the 800m area is more conservative than the CMA's working papers analysis would suggest appropriate, the Parties include this data for comprehensiveness.

reduction in competition relating to centrally decided competitive parameters. The cumulative sum of local constraints will not be significantly changed post-merger. Thus, there will be no aggregated loss of competition.

4.24 There can therefore be no national SLC in the presence of appropriate local divestments.

(ii) The Merger will not result in a loss of competition in relation to innovation

4.25 The Issues Statement also states that CMA will explore whether the Merger might have a *"dampening effect on innovation"*, if innovation is "*stimulated or facilitated by having a plurality of different players at the national level"*. In assessing this theory of harm, the CMA will consider, in particular:

- the importance of the Parties' and third parties' roles in driving the innovation process in the industry;
- the main drivers of innovation; and
- the extent to which, after the Merger, the Merged Entity would have the incentive to innovate.

4.26 The Parties submit that the Merger will have no dampening effect on innovation because the main drivers of innovation are exogenous (namely online and regulatory/technological developments) and these drivers will remain post-merger. The Parties also submit that, as with other competitive parameters, innovation should be assessed on the basis of the "aggregation of local effects".

(a) Innovation should be assessed as part of the "aggregation of local effects"

4.27 The Parties submit that innovation should not be assessed as a 'national' parameter of competition distinct from other centrally determined parameters that are applied uniformly across the estate. As explained in paragraphs 15.129 to 15.138 of the Merger Notice, to the extent that the Parties innovate, they do so in order to increase customer numbers across their estates and therefore their profitability.

4.28 From an economic point of view, the greater the difference between profitability pre- and post-innovation, the greater the incentive to innovate. If competition across the estate is lessened, the incentive to innovate is reduced because less competition increases the level of profits absent the innovation. This is known as the 'cannibalisation' effect (the less competition there is, the more an innovator would simply 'cannibalise' its existing profit if it were to innovate).[42] As such, it is the level of profitability and, by extension, the degree of competition across the estate that is the key determinant of the incentive to innovate.

4.29 In the present case, as discussed above, there will be no reduction in the level of competition across the estate. There can therefore be no reduction in the incentive to innovate. First, as stated, the average reduction in competition across the estate will be minimal given the limited overlaps between the parties and the presence of significant alternatives across those areas (both from other retail operators and online operators). Second, for any local overlaps in which there could potentially be a significant lessening of competition, the Parties have committed to make divestments. By definition, these divestments will avoid any lessening of competition in any local area and thus the aggregate level of competition across the estate.

4.30 In light of the above, the aggregate incentive to innovate will not be reduced.

(b) The primary driver of innovation in recent years has been the growth of online

4.31 Before considering the drivers and sources of innovation in UK betting and gaming, it is worth emphasising that this market is not particularly characterised by innovation. A key reason for this are the strict regulatory constraints under which LBOs operate, which limit, for example, the types of

[42] This 'cannibalisation' effect was first identified by Arrow (1962) Economic Welfare and the Allocation of Resources for Innovation. R. Nelson (Ed.), The Rate and Direction of Inventive Activity, Princeton University Press (1962)

product that LBOs can offer, the number of machines in a shop, opening hours etc. All LBOs operate within these constraints.

4.32 It is also important to point out that any innovations that do take place tend to be quickly and widely adopted. This can be seen, for example, from the statements of JenningsBet at its hearing that "no particular bookmaker had stood out by leading the innovation process in the gambling industry, as innovations were quickly followed by other bookmakers" and that "there were no significant obstacles to the adoption of a new product by the competitors of the bookmaker that introduced that product".

4.33 As a result, there have been very few significant or "game changing" innovations over the years. The most significant innovations will be discussed further below. The most important trend in UK betting and gaming in the last ten years has been the significant increase in competition via the online channel and the loss of customers to online operators. As such, one of the main drivers of innovation has been to compete with online and address the loss of customers to online gambling. Online gambling also provides a key source of innovative ideas. Given that the Merger will not lead to a significant reduction in the number of online players, the drive to innovate will continue to exist post-Merger.

4.34 The online driver of innovation is clear from the fact that the key innovations that retail LBO operators have introduced in the last five to ten years have been almost exclusively motivated by a response to online operators. Examples of these innovations include the introduction and roll-out of SSBTs, bet-in-play, cash-out and bet trackers, and a single wallet for multi-channel customers. In each case, retail LBO operators have taken ideas that work online and delivered them to retail and/or multi-channel customers.

(i) Introduction and roll-out of SSBTs

4.35 SSBTs deliver a large number of the features of online betting to the retail environment, including (i) the ability to bet in-play; (ii) greater flexibility in creating accumulator bets (e.g. mixing and matching different sports); (iii) a larger number of betting markets than are available OTC; and (iv) the ability to bet in privacy (i.e. without needing to interact personally with someone). The SSBT's user interface is also similar to that of betting websites and 'swipe and click' smart phone apps.

4.36 Of these, one of the key functions of SSBTs is the ability to bet in play, with the other being the ease and flexibility of creating accumulator bets. In-play betting has become increasing popular in recent years driven by online operators such as Bwin, Stan James, and Bet365. It was a difficult product to deliver in retail given the speed at which new betting opportunities need to be offered (for example, the odds on the next team to score in a football match) and the need for dynamic price changes. Similarly, the cumbersome OTC betting process (completing a betting slip, queuing to place the bet and waiting for the assistant to process the slip) was not convenient and did not give customers the equivalent experience to that available online. The advent of SSBTs gave the ability to bring bet-in-play to retail on a material scale. SSBTs are now common in LBOs across the UK.

4.37 SSBTs are aimed at replicating the online experience in retail, rather than extending the retail service in itself, as can be seen from the following:

- Third party statements are consistent with the evidence provided by the Parties showing that they consider SSBTs to be aimed at replicating online benefits in-store. In particular, in contrast to its submissions, William Hill stated in its 2015 annual report that "*[o]ne of our major competitive advantages is the massive product range we have already created for our Online customers. Our goal is to bring this to our Retail customers using self-service technology*".

- Data regarding SSBTs (Annex 4 contains a one-page slide prepared by Coral on BGT, the SSBT manufacturer) shows that the bet types and product mix are significantly different as between SSBTs and OTC. For example, in relation to SSBTs, football stakes are diversely spread across a huge number of leagues, as compared to retail, which is more polarised around domestic leagues. Significantly, the bet-in-play mix on SSBTs is 34%, compared to less than 1% in OTC.

(ii) Cash out functionality/Bet tracker

4.38 Cash-out is a feature pioneered by Betfair online in 2014, which allows bettors to settle a bet before all their markets have settled (i.e. to "cash-out" their position early). This is particularly attractive for customers betting on accumulators, enabling customers to effectively bet repeatedly whether to stay with the bet or take any winnings sooner.

4.39 Having been introduced online, cash-out functionality has since been replicated very swiftly in retail. In particular, Paddy Power brought in a cash-out functionality in its SSBTs, allowing customers to access SSBT bets placed in shop through a web-based portal (www.trackmybet.co.uk). This is optimised for access on a mobile device, and allows customers to track live scores, see an in-play visualisation of bets and cash-out SSBT bets placed in shop. It is understood that this functionality is being rolled-out estate-wide by Paddy Power. Other LBOs, including Ladbrokes and Coral are also rolling out this functionality. For example, for Ladbrokes customers with The Grid card, this functionality is delivered by Ladbrokes' customer app, which allows customers to track their bets, their bet history and, most recently, also to cash-out bets.[43]

4.40 As explained on the site visit, Ladbrokes has focused its efforts on its mobile app for retail customers, which allows bettors to track the progress of their bets and cash-out (just as they would be able to do online). Ladbrokes launched its Betslip tracker in August 2015 with the intention of replicating the digital betting experience in retail, thereby encouraging retail customers to continue to bet in retail rather than move to online providers.[44] Ladbrokes understands that Paddy Power now also offers a similar product (as discussed above in relation to its SSBT offering). Coral has a betslip tracker linked to its cash-out offering for football products.

(iii) Multichannel and single wallet proposition

4.41 As set out in detail in the Merger Notice, multichannel (or "omnichannel") offerings are designed to make the shop and online experiences more interchangeable and to bring online betting features/advantages to the retail environment. There are many different aspects to such offerings, the primary ones being the ability to: (i) withdraw online winnings in a retail environment without delay; (ii) apply bonuses and loyalty points based on activity in retail or combined activity across retail and online channels; (iii) provide the same content (such as event coverage and casino games) across both channels; and (iv) provide the same betting opportunities and a consistent interaction across both retail and online channels.

4.42 The above examples make it clear that it is the desire to replicate the experience of online, thereby stemming the departure of retail customers that has been the key driver of innovation. This driver will continue to exist post-merger and therefore there will be no reduced incentive to innovate.

4.43 The importance of multichannel for retail operators and the online driver behind them is clear, not only from the evidence already submitted by the Parties, but also by public statements from other operators. For example:

- William Hill's 2015 Annual Report states, under the heading "Maximising the omni-channel potential of Retail and Online" that "28% of regular Retail customers and 26% of regular Online

43 The CMA will recall from the site visit that Ladbrokes' relationship with Chelsea Apps Factory and the "innovation lab" is very much aimed at responding to developments online. Chelsea Apps has developed the Ladbrokes App's ACCA and cash out, bet tracker and bet scanner functionality in particular..

44 As noted above, this results from Ladbrokes' strategic partnership with Chelsea Apps Factory.

customers are multi-channel. We capture 45% of those Retail customers in William Hill Online and 68% of those Online customers in our betting shops. Our omni-channel – or 'one William Hill' – strategy focuses on making it easy and logical for customers to choose William Hill when they cross between channels".

- Paddy Power's 2014 Annual Report states, under the heading "Key Strategic Elements", "we will also develop products for multichannel customers which will enable us to capture a higher share of their online spend".

(c) Third parties are frequently drivers of innovation to reproduce the online experience

4.44 In addition to the fact that the Parties' incentives to innovate will not be affected by the Merger, the Parties note that third party suppliers are frequently the drivers of innovation. Also, competitors such as William Hill, Paddy Power and Betfred, are active (and often leaders) in this area.

4.45 For example, in relation to SSBTs, the key innovator is BGT, which now dominates the supply of these terminals. William Hill and Paddy Power were first to roll-out SSBTs into their shops in 2011, and were initially more aggressive than other operators in the roll out of these machines across their respective estates. All retail bookmakers have subsequently followed, including independent operators.

4.46 In terms of related developments since then, Coral attempted to launch its own version of an SSBT terminal a number of years ago but the effort was unsuccessful and Coral has since reverted to supply by BGT. William Hill has now developed its own SSBT and, according to public statements, is planning to roll it out during 2016. Focusing on the bet-in-play aspect of SSBTs, Coral has developed its own standalone bet-in-play terminal, the rollout of which has been focused on shops where the demand is expected to be higher.

4.47 As regards single wallets and the multichannel proposition, William Hill was the first to provide an online withdrawal and deposit facility within shops (uKash). Other LBOs also used the uKash facility. Coral launched its multi-channel wallet (via Coral Connect) in 2014. Each of William Hill, Paddy Power, Betfred and the Parties have a credible multichannel offering. Further, independents such as Mark Jarvis and JenningsBet have an offering that allows customers to buy a voucher in-store that can be used to bet on their online offerings.

(d) Innovations outside the online area are widely replicated

4.48 Outside of innovations prompted by online, there have been very few material innovations over the last five to ten years in retail betting and gaming. The most significant innovation, albeit that this is more than 10 years ago, was the introduction of FOBTs. The driver behind the introduction of FOBTs was a change to the regulations relating to retail LBOs and the abolition of the turnover tax, which then allowed for higher staking and lower margin games. This innovation was taken forward simultaneously by all retail LBO operators, including independents.

4.49 As set out in the Merger Notice, the roll-out of FOBTs is driven by the suppliers (SG Gaming and Inspired). Coral has prepared a one-page document (attached at Annex 5) showing the roll-out of cabinets by competitor and highlights that these tend to be relatively "lumpy" in line with the replacement of old cabinets at the end of contractual periods/commencement of new contractual periods.

(e) Conclusion on innovation

4.50 It is clear from the above that the transaction will not result in any loss or dampening of innovation.

4.51 First, there is no particular “national” dimension to innovation. When assessed on the basis of an “aggregation of local effects”, it is clear that there will be no loss of incentive to innovate by the Parties and that any potential concerns would be addressed by local remedies.

4.52 Second, the evidence shows that the retail gambling market is not a particularly innovative market because of the regulatory constraint on innovation and any innovation that has taken place has been driven by third parties (suppliers) and/or by the online constraint. The Merger will therefore have no effect on the incentives to innovate and will not lead to a reduction in innovation.

(iii) Conclusion on Theory of harm 3

4.53 As the sections above show, the Merger will not result in an SLC on a national basis for a number of reasons:

- First, an assessment of the “aggregate” effect of local competition shows clearly that the Merger will not result in either a loss of incentive to compete or a reduction in actual competition. This evidence shows that this applies equally to odds, concessions and promotions.

- Second, the Merger will not result in a reduction in innovation. This is because the retail gambling market is not a particularly innovative market, as described above, and is primarily driven by the online constraint.

5 Theory of harm 4: Loss of competition in the operation of greyhound tracks – the racegoers side

5.1 The CMA indicated in its Issues Statement that it is investigating whether the Merger is likely to create an incentive for the Merged Entity to increase prices charged to racegoers at its greyhound racing tracks by eliminating competition between the Parties' tracks.

5.2 [✂]

5.3 [✂].

5.4 In particular, the Parties' note that the catchment areas of the Parties' greyhound tracks do not overlap. Ladbrokes' Crayford track and Coral's Romford track are approximately 20 miles apart with a drive-time of at least 35 minutes. This is greater than the upper limit over which the Parties' tracks may be expected to compete in ordinary circumstances (i.e. a drive-time of 25 minutes, cautiously 30 minutes). However, the specific topographical features of the local area (principally the need to cross the River Thames over the Dartford Crossing, a congested toll road) mean that in practice, there is no competition between the Parties' tracks.

5.5 This lack of competition is demonstrated by Ladbrokes' customer address data collected at its Crayford track, which shows that only [✂] of its customers (for whom it has address data between January 2014 and November 2015) travelled from the post code areas proximate to Coral's Romford track. Moreover, applying an 80% drive time around the Crayford track shows no overlap between the two tracks.

5.6 As the evidence shows that the Parties' tracks do not compete to a material extent, there is therefore no scope for the Merger to result in an SLC in relation to the supply of greyhound meetings to racegoers.

6 Theory of harm 5: Loss of competition in the operation of greyhound tracks – the supply of media rights

6.1 The Issues Statement suggests that the CMA is considering two possible theories of harm in relation to the supply of media rights by greyhound tracks:

- *loss of competition in the supply of greyhound race media rights:* due to the Merged Entity having a higher share in the supply of media rights for GB greyhound races, it may have an incentive to increase the prices it charges for these rights; and

- *foreclosure of competing greyhound tracks:* in the event that the Merged Entity had sufficient control over the relevant purchasers of greyhound media rights, it could prefer its own races over those of rival greyhound tracks, thereby foreclosing competing tracks.

6.2 [✂]

6.3 [✂]

6.4 [✂]

6.5 [✂].

(i) BAGs

6.6 As regards BAGS, the Parties operate four of 25 tracks suitable for holding greyhound meetings for broadcast to LBOs (and are two of 18 track operators that own Greyhound Board of Great Britain (**GBGB**) certified tracks). Even if the total number of tracks is limited to tracks that are currently contracted to BAGs fixtures in 2016, there are still 15 alternative tracks to those of the Parties (and 10 alternative track operators) and 69% of BAGS fixtures scheduled for 2016 will be held at tracks other than those owned by the Parties. There will therefore remain a number of credible alternatives to the Parties post-merger such that there could be no incentive (or ability) to increase prices and no SLC could be expected to arise.

6.7 In terms of decisions made by BAGs, the Parties would have approximately 45% of its voting rights,[45] which may suggest *prima facie* that it would have a degree of material influence over the company. However, in reality, for a number of reasons, the Parties would not be able influence BAGS and favour its tracks during the tender process:

- When taking members' decisions on a show of hands, the Merged Entity would hold two (or more likely only one) [46] of approximately 22 members' votes, meaning they could not pass or block ordinary resolutions alone.

- A poll vote (in which votes are weighted by reference to betting shop ownership) can only be held if it is called by three members or the chairman. The Merged Entity could not therefore demand that a poll vote is held on its own without the support of one (or more likely two) other members or the chairman. It is important to note that the Parties do not believe that a poll vote has been called in at least the last 40 years.

- Even if the Merged Entity was to succeed in calling a poll vote, it would not be able to pass members' ordinary resolutions alone or block them without the support of other members. Ladbrokes understands that the infrequent (largely annual) members' meetings are well

45 Ladbrokes does not know the number of qualifying offices owned by each member of BAGS, which is required to calculate each member's voting rights should a poll vote be called. It has therefore used its share of LBOs in GB as a proxy.

46 The Parties understand that following a merger/acquisition the merged company would only retain a single membership. For example, following its acquisition by William Hill, Stanley Leisure ceased to be a member of BAGS.

attended and certainly by the larger bookmakers. Even if only the three other large bookmaker members (William Hill, Betfred and Paddy Power) were to attend and vote at a members' meeting, the Merged Entity would not be able alone to carry an ordinary resolution on a poll vote.

- In any event, all key strategic decisions within BAGS (including the allocation of fixtures to tracks) are taken at board level (rather than through members' decisions). The Merged Entity would not have the ability to control the decisions of the board post-merger, as they will have only a maximum of two (and more likely only one) of the 10 directors on the board. Moreover, they do not hold sufficient voting rights to appoint directors by ordinary resolution (without the support of other members).

- In addition, directors connected with the Merged Entity (as an operator of greyhound tracks) are not entitled to be present at or participate in decisions regarding the award of contracts to greyhound tracks pursuant to a constitutional convention of the company that is rigorously enforced.[47]

6.8 Finally, it is important to recognise that BAGS is a not-for-profit company limited by guarantee and in many ways operates like a trade association or body and it is not realistic to expect that its other members would simply accept the Merged Entity seeking to direct its commercial policy.

(ii) SIS and Greyhound TV

6.9 Similarly, there is no scope for the Parties' interests in SIS or Greyhound TV to influence the tendering process to favour their tracks following the Merger.

- Ladbrokes has a non-controlling shareholding in SIS (less than 25%) and as Coral does not have an interest in SIS, the Merger will have no impact on this situation.[48]

- In relation to Greyhound TV, there are a number of compelling factors that mean the Parties would not be able to influence Greyhound TV post-merger: (i) they would not be able to pass shareholders' ordinary resolutions alone or block them without the support of other shareholders; (ii) at board level, the Parties would have only one of eight board positions and would not be able to control decisions of the board; and (iii) the Greyhound TV race programme is managed by the Racing Post and the final proposal is simply ratified by the board. Under the shareholders' agreement relating to the company, the directors appointed by the Parties are not entitled to participate in decisions regarding the Track Licence Agreement between each of the Parties and Greyhound TV or in respect of the arrangements around Greyhound TV broadcasting races from greyhound tracks which are not owned by the Parties. This would not change following the Merger.

47 The articles of association for BAGS do not expressly prevent the Parties' members/directors from having any involvement in certain decisions. However, in practice, and by constitutional convention, the directors are not entitled to participate in decisions regarding the award of contracts to greyhound tracks.

48 The CMA should also have regard to the corporate governance controls within the operational structure of SIS which ensure that its bookmaker shareholders (or their representative directors) do not get involved in decision making which could impact the business of the wider LBO market (for example, pricing and other contractual matters such as tender). [✂]