

Anticipated acquisition by Orkla House Care Norge AS of L.G. Harris & Co. Limited

Decision on relevant merger situation and substantial lessening of competition

ME/6615/16

The CMA's decision on reference under section 33(1) of the Enterprise Act 2002 given on 28 July 2016. Full text of the decision published on 26 August 2016.

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

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SUMMARY

1. Orkla House Care Norge AS (**Orkla**) has agreed to acquire L.G. Harris & Co. Limited (**Harris**) (the **Merger**). Orkla operates through Hamilton Acorn (**Hamilton**) in the UK. Orkla and Harris are together referred to as the **Parties**.

2. The Competition and Markets Authority (**CMA**) believes that it is or may be the case that the Parties will cease to be distinct as a result of the Merger, that the share of supply test is met and that, accordingly, arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.
3. Both Parties supply UK retailers with painting tools under their own brands, as well as retailers' own private-label brands. Hamilton supplies professional-quality painting tools under its own brands, whilst Harris supplies both professional and DIY-quality products under the 'Harris', 'Harris Victory', 'Lynwood', and 'T-Class' brands.
4. The Parties overlap in the wholesale supply of branded professional-quality paintbrushes and rollers, private-label paintbrushes and rollers and certain sundry painting products (**sundries**) in the UK.
5. The CMA found that painting tools differed in quality depending on whether they focussed on DIY end-users (often for 'one-off' use) or professional end-users (who would expect a paintbrush to be more durable and give better coverage). The CMA found that Hamilton is focussed on the supply of professional-quality paintbrushes and rollers (sold in most cases through trade counters), while Harris is focussed on the supply of DIY-quality paintbrushes and rollers (sold in many cases through national DIY retailers).
6. The CMA found that retailers and end-users did not in general consider professional-quality and DIY-quality products to be substitutable and there were significant price differences between the two products.
7. The CMA also found differences in the competitive conditions in the supply of branded painting tools from those in the supply of private-label painting tools. In particular, the supply of private-label painting tools is typically tendered for by retailers. Further, the supply of private-label is subject to significant constraints from overseas competitors who compete for these tenders and also by the ability of retailers to source directly from overseas manufacturers (ie self-supply).
8. The CMA found that most paintbrushes and rollers supplied to UK retailers are from suppliers based in the UK. Whilst some supply, in particular for private-label products, is sourced from suppliers outside the UK, on a cautious basis, the CMA assessed the impact of the Merger in a geographic frame of reference which is UK-wide.
9. The CMA assessed the impact of the Merger in relation to the national wholesale supply of:

- (a) branded paintbrushes which are of DIY-quality;
 - (b) branded rollers which are of DIY-quality;
 - (c) branded paintbrushes which are of professional-quality;
 - (d) branded rollers which are of professional-quality;
 - (e) private-label paintbrushes;
 - (f) private-label rollers; and
 - (g) sundries.¹
10. For each of the frames of reference in paragraph 9, the CMA assessed whether the Merger would give rise to a realistic prospect of a substantial lessening of competition (**SLC**) as a result of horizontal unilateral effects.
11. In relation to the supply of branded paintbrushes and rollers of DIY-quality, the CMA found that the Parties do not overlap as Hamilton does not currently supply these products.²
12. In relation to the supply of branded paintbrushes and rollers of professional-quality and private-label paintbrushes and rollers, the CMA found that:
- (a) the Parties are not each other's closest competitor;
 - (b) several strong competitors will remain post-Merger which compete at least as closely with the Parties as the Parties do with one another; and
 - (c) customers can and would switch to alternative suppliers in the event of a price increase by the merged entity (including a reduction in the discounts offered) or a reduction in the quality of their products or services.
13. The CMA believes that these constraints, taken together, are sufficient to ensure that the Merger does not give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in any market in the UK.
14. In relation to the supply of sundries, the Parties' combined share of supply is low and there are a number of other competing providers that would remain post-Merger. No concerns were received from customers in relation to the supply of sundries.

¹ Sundries are tools and accessories other than paintbrushes and rollers which are used when painting.

² The CMA notes that Hamilton previously provided DIY-quality paintbrushes and rollers but withdrew these from sale in 2015.

15. The CMA also considered whether widening the frames of reference listed at paragraph 9 above could lead to competition concerns being identified.
16. First, the CMA aggregated the supply of branded and DIY paintbrushes and rollers as part of the same frame of reference. Whilst Harris is a major supplier of DIY-quality paintbrushes and rollers, it is a minor supplier of professional-quality paintbrushes and rollers; and, conversely, Hamilton supplies solely professional-quality paintbrushes and rollers and does not supply DIY-quality products. However, in such a combined frame of reference, the Parties would face competition from a large number of competing providers of both DIY-quality and professional-quality paintbrushes and rollers.
17. Second, the CMA aggregated branded and private-label supply as part of the same frame of reference. However, in such a combined frame of reference, the Parties would have a lower share of supply than in private-label and would still face competition from a large number of competing providers.
18. For these reasons, and in particular because of the presence of large competitors post-Merger on any basis, the CMA believes that no competition concerns would arise on any alternative frame of reference.
19. The Merger will therefore **not be referred** under section 33(1) of the Enterprise Act 2002 (the **Act**).

ASSESSMENT

Parties

20. Hamilton manufactures its painting tools in Sweden and is party to a joint venture in China. It operates an assembly and packing operation in the UK. Hamilton's turnover in the UK was approximately £6.7 million for the financial year ending 31 December 2015.
21. Harris manufactures painting tools in China, India, Sri Lanka and the UK. Harris' turnover in the financial year ending 30 June 2015 was approximately £54.0 million worldwide, of which £[~~5~~] million was in the UK.

Transaction

22. Orkla proposes to acquire 100% of the share capital of Harris for £55 million. The transaction has not been notified in any other jurisdiction.

Jurisdiction

23. As a result of the Merger, the enterprises of Orkla and Harris will cease to be distinct.
24. The Parties submitted that they overlap in the manufacture and supply of 'painting tools', which includes paintbrushes, rollers and sundries.
25. The Parties were unable to provide the CMA with an estimate of their combined share of supply in any product market but submitted that the share of supply test would be met. The CMA estimated the Parties' combined shares of supply in different product frames of reference on the basis of their sales revenues and those of their principal competitors. The CMA's estimates of the Parties' combined shares of supply are presented in Tables 1, 2 and 3. These estimates exceed 25 percent in a few cases (eg the national wholesale supply of branded professional paintbrushes and rollers (Table 2)). The CMA therefore believes that the share of supply test in section 23 of the Act is met.
26. The CMA therefore believes that it is or may be the case that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.
27. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 14 June 2016 and the statutory 40 working day deadline for a decision is therefore 8 August 2016.

Counterfactual

28. The CMA assesses a merger's impact relative to the situation that would prevail absent the merger (ie the counterfactual). For anticipated mergers the CMA generally adopts the prevailing conditions of competition as the counterfactual against which to assess the impact of the merger.³
29. In this case, the CMA did not find evidence supporting a different counterfactual and neither the Parties nor third parties have put forward arguments in this respect. Therefore, the CMA believes the prevailing conditions of competition to be the relevant counterfactual.

³ The CMA will assess the merger against an alternative counterfactual where, based on the evidence available to it, it believes that, in the absence of the merger, the prospect of these conditions continuing is not realistic, or there is a realistic prospect of a counterfactual that is more competitive than these conditions. [Merger Assessment Guidelines](#) (OFT1254/CC2), September 2010, from paragraph 4.3.5. The [Merger Assessment Guidelines](#) have been adopted by the CMA (see [Mergers: Guidance on the CMA's jurisdiction and procedure](#) (CMA2), January 2014, Annex D).

Background

30. Paintbrushes vary by design, size, and material, with customer preferences depending on several factors, including the type of paint to be used,⁴ the quality (and evenness) of the finish, and the durability of the brush. Higher quality or 'professional' paintbrushes are more durable and so suited to repeated use.
31. Rollers also vary by design, size, and material, with customer preferences depending on, among other things, the paint type and the surface to be painted. Rollers are predominantly composed of manmade fibres, with lower quality rollers using woven fabrics and better quality rollers using micro-fibres or woollen fibres. Better quality rollers also have a ball-bearing system to enable free movement of the roller and a more even application of paint.
32. Sundries are painting tools and accessories, including metal scrapers and filling knives (which are used in the preparation of the surface to be painted), dust sheets and floor protectors.
33. Paintbrushes, rollers and sundries are supplied either as branded or private-label products.
34. Branded products are sold through retailers and wholesalers. Suppliers compete with one another on negotiated prices with larger retailers (such as national chains) or on list prices for smaller independent retailers. Volume rebates or sales allowances are commonly used to incentivise sales.
35. Brands are usually targeted at different end-users. Professional end-users generally recognise and have a preference for a particular brand.
36. Private-label products are made according to the retailer's specifications (eg in materials, quality and packaging).⁵ Suppliers usually compete via a tender process. Most private-label products are aimed at DIY customers, although some are aimed at professional users.

Frame of reference

37. Market definition provides a framework for assessing the competitive effects of a merger and involves an element of judgement. The boundaries of the market do not determine the outcome of the analysis of the competitive

⁴ Oil based paints are normally applied using a brush made from natural bristles (from pig or other animal hair), which are coarser than synthetic fibres and allow such paints to hold better. Synthetic brushes are preferred for water-based paints.

⁵ For example B&Q products sold under its 'Diall' label.

effects of the merger, as it is recognised that there can be constraints on merger parties from outside the relevant market, segmentation within the relevant market, or other ways in which some constraints are more important than others. The CMA will take these factors into account in its competitive assessment.⁶

Product scope

38. The Parties submitted that the relevant frame of reference was ‘painting tools’, encompassing paintbrushes, rollers and sundries.⁷ The CMA investigated whether this was a sufficiently narrow frame of reference or whether paintbrushes, rollers and sundries should be assessed separately.
39. Retailers that purchase the Parties’ products told the CMA that paintbrushes and rollers had different applications and that they therefore stocked both. Stocking only one or the other could have a negative impact on their business. They said that sundries had very different uses to either paintbrushes or rollers (ie most are used in the preparation of surfaces for painting or the protection of furniture, rather than the application of paint).
40. In light of the above, the CMA considered as a starting point the wholesale supply to retailers of each of paintbrushes, rollers and sundries as separate frames of reference. The CMA then investigated whether further segmentation was appropriate.

Paintbrushes

41. The CMA investigated whether the different attributes of various types of paintbrush (as set out in paragraph 30 above) meant that it was appropriate to adopt narrower frames of reference within this product category.

DIY-quality versus professional-quality paintbrushes

42. The Parties submitted that different types of paintbrush cater for different types of customer, who could broadly be categorised as either ‘DIY end-users’ or ‘professional end-users’. The Parties said that, for DIY end-users, price is paramount in their purchasing decisions for painting tools. In contrast, professional end-users have more technical knowledge and also have stronger personal preferences for painting tools.⁸ The Parties submitted that

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

⁷ Elsewhere in their submissions the Parties indicated that rollers and paintbrushes were not necessarily within the same frame of reference, especially where paintbrushes and rollers had different sizes or functions.

⁸ The Parties submitted that professional end-users look for a combination of best finish, speed of use and longevity of a paintbrush.

the quality of different products and different brands are targeted at different end-users.

43. The majority of customers who responded to the CMA's questionnaire also distinguished between DIY and professional-quality paintbrushes,⁹ noting in particular that:
 - (a) For DIY-quality paintbrushes, price is the most important feature. Additional considerations are the quality of finish and the brand or reputation of the supplier.
 - (b) For professional-quality paintbrushes, end-users are brand conscious and quality sensitive. Stocking one or more recognised UK brands was seen as important to retailers catering for these customers.
44. Competitors also told the CMA that they provide a range of products which are targeted at DIY and professional end-users and that these products differ in quality and price. Competitors indicated that lower quality products were intended, predominantly, for DIY end-users, whereas higher quality products were intended for professional end-users. They said that professional end-users are unlikely to use a lower quality paintbrush.
45. Third parties told the CMA that private-label products and brands were less readily identifiable as being of either DIY or professional-quality. They said that the quality of private-label products depends solely on the retailer's specifications.
46. On the basis of this evidence, the CMA assessed the impact of the Merger on the wholesale supply of branded DIY-quality paintbrushes separately from the wholesale supply of branded professional-quality paintbrushes.

Sales channels for DIY and professional-quality paintbrushes

47. The CMA considered whether any segmentation in relation to sales channels for paintbrushes was appropriate.
48. The Parties submitted that different types of retailer cater for different end-users. The Parties said that DIY-quality products are sold predominantly through large national DIY retailers (eg B&Q, Homebase, and Wilkinson), mass-merchandise discounters and grocery retailers. Professional-quality paintbrushes are sold predominantly through professional retailers.

⁹ 17 (out of 23) retailers noted the difference between 'retail' and 'professional' quality paintbrushes.

49. However, the CMA found that there was no single criterion to distinguish between DIY and professional retailers and no clear divide between these two types of sales channels. Some retailers serve both DIY and professional end-users and stock a wide product range.
50. On the basis of this evidence, the CMA did not further delineate the frame of reference by sales channel.

Branded versus private-label paintbrushes

51. The CMA also considered whether any further segmentation between branded and private-label paintbrushes was appropriate.
52. The Parties submitted that:
 - (a) branded products are generally sold using the suppliers' list price as a starting point and involve negotiations between the supplier and the retailer and the use of rebates, whereas private-label products are generally sourced via a tender process;
 - (b) brand loyalty is greater for suppliers' brands than for private-label brands (in particular for professional end-users); and
 - (c) private-label products are rarely an alternative for professional end-users as the performance and quality of branded products is generally higher.
53. Third parties confirmed that some suppliers have gained strong brand loyalty with some end-users. Retailers and competitors both noted that professional end-users are particularly brand conscious, whereas DIY consumers tend to be more concerned with price.
54. Retailers also noted that, in general, branded products were of a higher quality than private-label products. They said that some retailers (eg supermarkets), targeting DIY end-users, offered private-label paintbrushes at low prices with less emphasis on quality. Whilst some retailers targeting professional end-users offer a private-label professional-quality paintbrush, these sales account for a small proportion of all private-label paintbrushes.
55. In light of the above evidence, and on a cautious basis, the CMA assessed the impact of the Merger on the wholesale supply of branded paintbrushes separately to the wholesale supply of private-label paintbrushes.
56. The CMA did not further delineate the wholesale supply of private-label paintbrushes between DIY-quality and professional-quality because, as mentioned above: (i) private-label products are less readily identifiable as

being of either DIY or professional-quality; (ii) sales of professional-quality private-label paintbrushes represent a small proportion of all private-label paintbrushes.

57. The CMA notes that private-label paintbrushes may provide some competitive constraint on the retail price of branded products, in particular branded DIY-quality paintbrushes (eg due to similarity in quality and limited brand loyalty of DIY end-users). This is taken into account as part of the competitive assessment.

Rollers

58. The CMA investigated whether the different attributes of different types of rollers (as set out in paragraph 31 above), meant that it was appropriate to adopt narrower frames of reference within this product category.

DIY-quality versus professional-quality rollers

59. The Parties submitted that, similar to paintbrushes, different types of roller cater for different types of customer, and that these types of customer could be categorised as either DIY or professional end-users.
60. Third parties told the CMA that retailers consider the quality of a roller when deciding whether it is appropriate to stock it, depending on their target customer base. Some brands target a particular type of end-user (eg professional).
61. Customers told the CMA that there is less differentiation between rollers than between paintbrushes.¹⁰ However, similar to paintbrushes, they said that for DIY end-users the most important consideration is price, followed by the quality of finish and then the brand or reputation of the supplier. Professional end-users place a greater emphasis on the design and materials used in the roller and the brand.¹¹ Retailers focussed on serving professional end-users said that DIY-quality products were unlikely to meet the needs of professionals.

¹⁰ For example, one difference between rollers is the diameter of the roller. Larger rollers increase the painting speed but are harder to use. These rollers are preferred by professional users and are likely to be stocked by those retailers serving professional end-users.

¹¹ In particular, 3 (out of 5) customers serving the professional sector, did not rank price as the most important feature.

62. On the basis of the above, the CMA assessed the impact of the Merger on the wholesale supply of branded DIY-quality rollers separately from the wholesale supply of branded professional-quality rollers.¹²

Sales channel for DIY and professional-quality rollers

63. The CMA found that the evidence described in paragraphs 47 to 50 regarding the sales channels for DIY and professional-quality paintbrushes was also applicable to rollers and therefore did not further delineate the frames of reference for rollers by sales channel.

Branded and private-label rollers

64. The CMA found that the evidence described in paragraphs 51 to 57 regarding branded and private-label paintbrushes was also applicable to branded and private-label rollers. Therefore, the CMA has considered the effects of the merger on the wholesale supply of branded rollers separately from the wholesale supply of private-label rollers.

Sundries

65. The CMA investigated whether it was appropriate to adopt narrower frames of reference within the supply of sundries.
66. The Parties did not make any submissions on this segment.
67. The CMA noted that some of Harris' internal documents indicated that, whilst it considered sundries as secondary products, they were valuable in making Harris a 'one-stop-shop' for painting tools. Harris' documents also suggested that sundries consist of a variety of different products which are not in Harris' core manufacturing strategy and that Harris would therefore consider sourcing them from other manufacturers.
68. Customers told the CMA that sundries could be easily sourced from many different suppliers globally, and the majority of customers provided evidence to show that they were currently doing this. None of the evidence provided to the CMA by third parties indicated that it was appropriate for the CMA to consider narrower frames of reference within sundries.

¹² The CMA found that the evidence described in paragraphs 42 to 46 regarding DIY and professional-quality paintbrushes was also applicable to DIY and professional-quality rollers.

69. The CMA notes from evidence provided by the Parties and third parties that contracts to supply sundries are often won through tender and bidding processes for a range of sundries.
70. On the basis of this evidence, the CMA aggregated different sundry products, which are not necessarily demand-side substitutes for each other, into one frame of reference.¹³ The CMA assessed the impact of the Merger on the wholesale supply of sundries as a single frame of reference.

Conclusion on product scope

71. The CMA has not concluded on the product frame of reference as no SLC has been found on any basis. However, for the reasons set out above, and on a cautious basis, the CMA assessed the impact of the Merger in relation to the wholesale supply of:
 - (a) branded paintbrushes which are of DIY-quality;
 - (b) branded rollers which are of DIY-quality;
 - (c) branded paintbrushes which are of professional-quality;
 - (d) branded rollers which are of professional-quality;
 - (e) private-label paintbrushes;
 - (f) private-label rollers; and
 - (g) sundries.

Geographic scope

72. The Parties submitted that the relevant frame of reference is national. Both Parties have one depot in the UK which they use to deliver paintbrushes and rollers nationally.
73. Similarly, the majority of competitors told the CMA that they supply paintbrushes and rollers nationally from a centrally located warehouse or warehouses.

¹³ [Merger Assessment Guidelines](#), from paragraph 5.2.18

74. The majority of customers¹⁴ indicated that they would source branded paintbrushes and rollers globally, while some¹⁵ indicated that they would source branded paintbrushes and rollers nationally.
75. The majority of customers indicated that they would consider sourcing their private-label paintbrushes and rollers globally.

Conclusion on geographic scope

76. The CMA has not concluded on the geographic frame of reference as no SLC has been found on any basis. However, on the basis of this evidence, and on a cautious basis, the CMA assessed the impact of the Merger in a geographic frame of reference which is at least UK-wide. The CMA notes that both paintbrushes and rollers (in particular private-label products) may be sourced from suppliers located outside the UK and took this into account in its competitive assessment.

Conclusion on frame of reference

77. For the reasons set out above, the CMA assessed the impact of the Merger on the national wholesale supply of:
 - (a) branded paintbrushes which are of DIY-quality;
 - (b) branded rollers which are of DIY-quality;
 - (c) branded paintbrushes which are of professional-quality;
 - (d) branded rollers which are of professional-quality;
 - (e) private-label paintbrushes;
 - (f) private-label rollers; and
 - (g) sundries.

Competitive assessment

Horizontal unilateral effects

78. Horizontal unilateral effects may arise when one firm merges with a competitor that previously provided a competitive constraint, allowing the merged firm profitably to raise prices or degrade quality on its own and

¹⁴ 13 (out of 22) customers who responded to the CMA.

¹⁵ 7 (out of 22) customers who responded to the CMA.

without needing to coordinate with its rivals.¹⁶ Horizontal unilateral effects are more likely when the merger parties are close competitors.

79. Notwithstanding the frames of reference identified at paragraph 77 above, which were distinguished principally on the basis of a lack of demand-side substitution, the CMA's assessment found that:
- (a) the conditions of competition in relation to the supply of branded paintbrushes and branded rollers are similar;
 - (b) the conditions of competition in relation to the supply of DIY and professional-quality products for both paintbrushes and rollers are similar; and
 - (c) the conditions of competition in relation to the supply of all private-label paintbrushes and rollers are similar.
80. The CMA has therefore presented the evidence underlying its findings and its assessment of unilateral horizontal effects in each of the frames of reference listed at paragraph 77 above in the following four sections (noting any significant differences between the relevant product sets as necessary):
- (a) branded DIY-quality paintbrushes and rollers;
 - (b) branded professional-quality paintbrushes and rollers;
 - (c) private-label paintbrushes and private-label rollers; and
 - (d) sundries.

National horizontal effects in the supply of each of branded DIY-quality paintbrushes and branded DIY-quality rollers

Shares of supply

81. The Parties submitted that Hamilton does not supply any branded paintbrushes or rollers targeted at DIY end-users.¹⁷
82. The Parties submitted that other suppliers of DIY-quality paintbrushes and rollers, with which Harris competes, included Ciret, Coral Tools, Draper, Faithfull, Nespoli UK, Pioneer, Rodo and Roll Roy UK.

¹⁶ [Merger Assessment Guidelines](#), from paragraph 5.4.1.

¹⁷ Hamilton previously offered branded DIY-quality paintbrushes and rollers (through its 'Easy' and 'Vantage' ranges) but these were unsuccessful and were discontinued in 2015.

83. The CMA estimated the Parties' and their main competitors' shares of supply of branded DIY-quality paintbrushes and rollers.¹⁸ The results are set out in Table 1.

Table 1: Estimated shares of supply in the national wholesale supply of branded DIY-quality paintbrushes and rollers, last financial year

Supplier	Paintbrushes		Rollers	
	Turnover (£)	Market share, %	Turnover (£)	Market share (%)
Harris	[X]	[80-90]	[X]	[70-80]
Hamilton	0	0	0	0
Combined	[X]	[80-90]	[X]	[70-80]
Rodo	[X]	[0-10]	[X]	[0-10]
Ciret	[X]	[0-10]	[X]	[10-20]
Coral	[X]	[0-10]	[X]	[0-10]
Total	[X]	[X]	[X]	100

Source: The Parties and third party responses

84. As the CMA's calculations did not include revenue from all firms which provide DIY-quality paintbrushes and rollers, these estimates will overstate Harris' share of supply. Nevertheless, the table shows that Harris is by far the largest supplier of branded DIY-quality paintbrushes and rollers in the UK.

Closeness of competition

85. The Parties submitted that they did not overlap in the supply of DIY-quality paintbrushes and rollers, as Hamilton's customers in the UK currently only purchase professional-quality products through trade retailers.
86. Of the customers that responded to the CMA's questionnaire and which catered predominantly for DIY customers, ten (out of 13) purchased from Harris but not Hamilton. The three customers that purchased from both parties told the CMA that they stock Hamilton products for professional end-users.
87. Most of the customers that responded to the CMA's questionnaire did not believe that the Parties' compete closely in the supply of DIY-quality branded paintbrushes and rollers.
88. Customers who targeted DIY end-users told the CMA that, in general, Harris was known for supplying paintbrushes and rollers of good quality at a good price with a reputable brand. Customers told the CMA that Hamilton's

¹⁸ Using information submitted by the Parties and a number of competitors including [X], [X] and e.

paintbrushes and rollers were considered to be of a higher quality and design and so were sold at a higher price level not intended for DIY end-users.

89. On the basis of this evidence, the CMA believes that the Parties either do not compete at all for the wholesale supply of branded DIY-quality paintbrushes and rollers or that, at most, Hamilton's branded paintbrushes, which are more suitable for professional end-users, provide a very weak competitive constraint on Harris.

Competitive constraints

90. Competitors told the CMA that there are several suppliers of branded DIY-quality paintbrushes and rollers, including Axus, Ciret,¹⁹ Coral, Draper and Rodo.
91. The majority²⁰ of customers which view their core customers as DIY end-users indicated that, if Harris and Hamilton were to increase the prices of their paintbrushes and rollers by 5%, they would switch to alternative suppliers, such as Coral, Nespoli or Rodo. Some customers indicated that they would also consider sourcing products from Axus, Ciret, Faithfull and Pioneer.
92. Although five customers who target DIY end-users indicated they might accept a price increase of 5%, three of these customers indicated that they would negotiate with the Parties before considering a switch to alternative suppliers, and one of these customers said that it would negotiate with the Parties to find terms which ensure supply at the same price. In addition, some customers told the CMA that, in the event of a price rise, they would consider replacing branded DIY-quality paintbrushes and rollers with private-label paintbrushes and rollers.
93. No third parties raised concerns in relation to the supply of branded DIY-quality paintbrushes and rollers.

Conclusion on national horizontal effects in branded DIY-quality paintbrushes and rollers

94. The CMA notes that the Parties do not currently compete for the wholesale supply of branded DIY-quality paintbrushes and rollers as Hamilton does not currently supply paintbrushes or rollers targeting DIY end-users. On the basis of the evidence set out above, the Parties are not close competitors for branded DIY-quality paintbrushes and rollers as Hamilton's professional-

¹⁹ Through Ciret's 'Stanley' brand.

²⁰ 10 (out of 15) customers.

quality products are differentiated in quality and price. Furthermore, several alternative suppliers of branded DIY-quality paintbrushes and rollers will remain post-Merger. Customers indicated that they would switch to these alternative suppliers in the event of a price increase by the Parties.

95. Accordingly, the CMA believes that the Merger does not give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the wholesale supply of branded DIY-quality paintbrushes and rollers in the UK.

National horizontal effects in the supply of each of branded professional-quality paintbrushes and branded professional-quality rollers

96. The Parties overlap in the supply of branded professional-quality paintbrushes and rollers. These products are Hamilton’s core focus but Harris also offers some professional-quality products under its ‘T-Class’ brand.

Shares of supply

97. Using information submitted by the Parties and some of their competitors,²¹ the CMA estimated the Parties’ and their main competitors’ shares of supply for branded professional-quality paintbrushes and rollers.²² The results are set out in Table 2.

Table 2: Estimated shares of supply in the national wholesale supply of branded professional-quality paintbrushes and rollers, last financial year

<i>Supplier</i>	<i>Paintbrushes</i>		<i>Rollers</i>	
	<i>Turnover (£)</i>	<i>Market share, %</i>	<i>Turnover (£)</i>	<i>Market share (%)</i>
Harris	[REDACTED]	[0-10]	[REDACTED]	[0-10]
Hamilton	[REDACTED]	[20-30]	[REDACTED]	[20-30]
<i>Combined</i>	[REDACTED]	<i>[30-40]</i>	[REDACTED]	<i>[30-40]</i>
Rodo	[REDACTED]	[20-30]	[REDACTED]	[30-40]
Purdy	[REDACTED]	[30-40]	[REDACTED]	[10-20]
Ciret	[REDACTED]	[10-20]	[REDACTED]	[20-30]
Total	[REDACTED]	[REDACTED]	[REDACTED]	100

Source: The Parties and third party responses

98. The CMA’s estimates indicate that the Parties have a combined share of [30-40]% (with an increment of [0-10]%) in the wholesale supply of professional-quality paintbrushes and [30-40]% (with an increment of [0-10]%) in the wholesale supply of professional-quality rollers. However, as the CMA’s calculations did not include revenue from all firms which provide these

²¹ [REDACTED], [REDACTED], [REDACTED] and a number of overseas suppliers.

²² Using information submitted by the Parties and a number of competitors.

products, these estimates will overstate the Parties' combined share of supply to some extent.

99. For branded professional-quality paintbrushes, the CMA estimates that one competitor, Purdy, would have a similar share of supply ([30-40]%) to the Parties, while two other competitors, Rodo ([20-30]%) and Ciret ([10-20]%), would also have significant shares. The CMA notes that, in addition, there are several other smaller suppliers of branded professional-quality paintbrushes.
100. For branded professional-quality rollers, the CMA estimates that one competitor, Rodo, would have a similar share of supply ([30-40]%) to the Parties, while two other competitors, Ciret ([20-30]%) and Purdy ([10-20]%), would also have significant shares. The CMA notes that, in addition, there are several other smaller suppliers of branded professional-quality rollers.

Closeness of competition

101. The Parties submitted that their only competitive overlap is in relation to Harris' 'T-Class' brand, which is aimed at professional end-users.
102. Although two retailer customers that target professional end-users considered Hamilton and Harris to be close competitors for the supply of certain branded professional-quality paintbrushes and rollers, none considered them to be each other's closest competitor. Several customers told the CMA that Purdy was the closest competitor to Hamilton, and some added that they also considered Wooster to be an alternative to Hamilton. Customers noted that there was a difference in the perceived level of quality between the Parties' products.
103. One customer noted that it stocks Harris' paintbrushes and rollers for DIY end-users and Hamilton's paintbrushes for professional end-users; although this customer added that Harris' 'T-Class' range was comparable with Hamilton's 'Perfection' range. Another customer told the CMA that Harris' 'T-Class' range was not strong enough to compete with Hamilton's professional product ranges. Several other customers noted that Hamilton targets specialist professional retailers whereas Harris generally targets retailers that are focused on DIY end-users.
104. On the basis of this evidence, the CMA believes that the Parties compete with one another but are not each other's closest competitor for the wholesale supply of branded professional-quality paintbrushes and rollers.

Competitive constraints

105. The Parties submitted that they compete with a large number of alternative suppliers of branded professional-quality paintbrushes and rollers.
106. Competitors told the CMA that the following firms supplied branded professional-quality paintbrushes and rollers: Ciret, Eco-Ezee, Harris, Hamilton, Picasso, Purdy, Rodo and Wooster.²³ The CMA found that these brands all have a full offering of paintbrushes and rollers (including, for example, professional-quality paintbrushes and rollers suited for both oil and water based paints).
107. Retailer customers which target professional end-users confirmed that these companies supplied professional-quality natural bristle and synthetic fibre paintbrushes. The majority of retailer customers that target professional end-users told the CMA that, if the Parties were to increase the price of their professional-quality paintbrushes and rollers by 5%, they would be able to switch to these alternative suppliers.²⁴
108. Some competitors told the CMA that, in addition to the suppliers cited above, there was a long tail of alternative suppliers of branded professional-quality paintbrushes and rollers.
109. A small number of customers²⁵ told the CMA that the Merger would remove a recognised professional brand from the market. One customer said that, as a result of the Merger there would be reduced price competition. This customer said that, in particular, this would be problematic in natural bristle paintbrushes as it considered the Parties both to have a strong offering with this product. However, several competitors told the CMA that they also supply natural bristle paintbrushes of professional-quality, and the CMA found little evidence that the nature of competition in natural bristle paintbrushes is different to that for synthetic fibre paintbrushes.
110. On the basis of this evidence, the CMA believes that there are several other strong competitors for the supply of professional-quality paintbrushes which will constrain the Parties post-Merger.

²³ The Parties also submitted that an additional brand, Axus, was a competitor for branded professional-quality paintbrushes and rollers.

²⁴ Only three (out of 22) customers who responded to the CMA's questionnaire said they would accept such a price increase for paintbrushes and, of these, only two said that they would accept such a price increase for rollers. However, two of these three customers indicated that they would also try and switch to alternative suppliers before accepting the price increase.

²⁵ Three (out of 22) customers who responded to the CMA's questionnaire.

Conclusion on national horizontal effects in branded professional-quality paintbrushes and rollers

111. In light of the above evidence, the CMA believes that, although the Parties compete to some extent for the wholesale supply of branded professional-quality paintbrushes and rollers, they are not each other's closest competitor and there are several other strong competitors remaining which will constrain the Parties post-Merger. Customers indicated that they would switch to these alternative suppliers in the event of a price increase by the Parties post-Merger.
112. Accordingly, the CMA believes that the Merger does not give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the national wholesale supply of branded DIY-quality paintbrushes or rollers.

National horizontal effects in each of the supply of private-label paintbrushes and rollers

113. The Parties submitted that Harris and Hamilton compete in the provision of private-label paintbrushes and rollers. However, they said that tender or bidding processes for these products occur frequently and that, in these processes, they compete against many international competitors.

Shares of supply

114. Using information submitted by the Parties and several competitors,²⁶ the CMA estimated the Parties' and their main competitors' shares of supply for private-label paintbrushes and rollers. The results are set out in Table 3.

²⁶ [REDACTED], [REDACTED], [REDACTED] and a number of overseas suppliers.

Table 3: Estimated market shares in the national wholesale supply of private-label paintbrushes and rollers, last financial year

<i>Supplier</i>	<i>Paintbrushes</i>		<i>Rollers</i>	
	<i>Turnover (£)</i>	<i>Market share, %</i>	<i>Turnover (£)</i>	<i>Market share (%)</i>
Harris	[X]	[70-80]	[X]	[70-80]
Hamilton	[X]	[0-10]	[X]	[0-10]
<i>Combined</i>	[X]	<i>[70-80]</i>	[X]	<i>[70-80]</i>
Rodo	[X]	[20-30]	[X]	[0-10]
Ciret	[X]	[0-10]	[X]	[0-10]
Coral	[X]	[0-10]	[X]	[0-10]
Non-UK manufacturers	0*	0	[X]*	[0-10]
Total	[X]	[X]	[X]	100

Source: The Parties and third party responses

* The CMA notes that the revenue figures provided by overseas suppliers, includes products which are manufactured for Hamilton (and other competitors). On a conservative basis, these figures have been omitted from the share of supply calculations, or amended where possible.

115. The results indicate that the Parties would have an estimated combined share of [70-80]% (with an increment of [0-10]%) in the wholesale supply of private-label paintbrushes and [70-80]% (with an increment of [0-10]%) in the wholesale supply of private-label rollers. However, as the CMA’s calculations did not include revenue from all firms which supply private-label paintbrushes and rollers, these estimates will overstate the Parties’ combined share of supply.
116. The CMA noted that, on the basis of these figures, Rodo is a larger supplier of private-label paintbrushes than Hamilton, and both Rodo and Coral are larger suppliers of private-label rollers than Hamilton.
117. The CMA notes that shares of supply figures in markets where bidding and tendering take place may not be representative of competition between suppliers during each individual bidding process.²⁷ Shares of supply tend to be ‘lumpy’ (ie they can change significantly from year to year, depending on which suppliers currently hold a contract) and should therefore be treated with caution. The CMA therefore places limited weight on these shares of supply as an indicator of competition.

Closeness of competition

118. The Parties submitted tender data for the last five years relating to the supply of private-label products. These processes were typically for the supply of

²⁷ [Merger Assessment Guidelines](#), from paragraph 5.3.2.

paintbrushes, rollers and sundries together. The CMA believes this data to give a good indication of the nature of competition between the Parties and with their competitors.

119. Of the 19 tenders which Harris participated in, and the 15 tenders which Hamilton participated in, the other merging party participated in 12. Of these 12, Hamilton won three and Harris won seven.
120. Customers told the CMA that they do not consider the Parties to be close competitors in the provision of private-label products. Most customers either did not consider the Parties to be close competitors or were unaware that they could source private-label products from Hamilton. Although four customers said that the Parties compete to some degree, only one out of 11 customers considered Harris and Hamilton to be close competitors.
121. The CMA noted that the 11 customers who purchase private-label products, and who responded to the CMA use different criteria to assess their bids received. For example, one customer considered price to be more important than quality, while another customer considered availability and quality to be more important than price. One customer noted that the requirements for private-label products differed depending on whether the customer was a DIY-focussed or professional-focussed retailer. One customer noted that private-label products were bespoke to individual retailer customers.

Competitive constraints

122. The Parties' tender data suggests that the Parties will face competitive constraints from many other suppliers of private-label paintbrushes and rollers post-Merger. Of the 22 tenders in which at least one of the Parties competed, Rodo was successful in winning [REDACTED], while overseas suppliers were successful in [REDACTED].
123. Internal documents submitted by the Parties also indicated that competitors such as Ciret and Coral are active in the provision of private-label paintbrushes and rollers. [REDACTED].
124. Customers told the CMA that importers have a strong competitive offering for private-label paintbrushes and rollers, in particular in terms of price.
125. Several customers noted that they had previously approached a range of suppliers, who had subsequently tendered for their private-label requirements, including branded suppliers such as Ciret, Pioneer and Rodo as well as low cost overseas suppliers such as [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED]. One customer told the CMA that it had [REDACTED] competing bids in its recent private-label tender process for paintbrushes and rollers.

126. Three customers told the CMA that they procured their private-label requirements via sourcing hubs in Asia. In addition, one customer told the CMA that it was intending to source directly from Asian suppliers as part of its procurement strategy.
127. Some other customers told the CMA that they preferred sourcing private-label products through UK intermediaries, but that they had considered sourcing directly from low cost suppliers abroad. They each said that they would be able to source their requirements from overseas suppliers.
128. Customers told the CMA that they tender their private-label requirements frequently, and are willing to switch suppliers at the end of each contract. For example, one customer told the CMA that, while Harris had won its most recent tender, there was no guarantee that it would win next time.
129. Two customers raised concerns relating to the provision of private-label products. However, the CMA notes that: (i) one of these customers indicated that it would consider sourcing private-label products from Europe and Asia, and had recently introduced a new branded and private-label range of products from an alternative supplier to the Parties; and (ii) the other customer had not run a tender in the past three years and is part of a larger retail group, which also contains the customer that told the CMA that it had [X] bidders during its most recent tender for private-label products. All other customers told the CMA that they had no concerns about the effect of the Merger on the supply of private-label products.

Conclusion on national horizontal effects in private-label paintbrushes and rollers

130. In light of the above evidence, the CMA believes that, although the Parties were competing for the wholesale supply of private-label paintbrushes and rollers, there are many alternative suppliers who will continue to compete for the supply of these products. Customers indicated that they would switch to these alternative suppliers in response to a price rise.
131. Accordingly, the CMA believes that the Merger does not give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the wholesale supply of private-label paintbrushes and rollers in the UK.

National horizontal effects in the supply of sundries

132. The Parties submitted that Hamilton supplies an extremely limited range of sundries, which would represent an insignificant addition to that offered by Harris. The Parties estimated that their post-Merger share of supply would be [20-30]%, with an increment of [0-10]%.

133. The CMA found that there was limited information available on the provision of sundries but used information provided by some third party customers to estimate that the Parties would have a post-merger share of supply of sundries of around [20-30]%, with an increment of [0-10]%.²⁸
134. Customers told the CMA that they did not consider Harris and Hamilton to be close competitors in the supply of sundries
135. Customers also said that sundries could be sourced from many different suppliers globally, and most said that they used different firms for different sundries.²⁹
136. No customers raised concerns regarding the possible impact of the Merger on the supply of sundries.

Conclusion on national horizontal effects in sundries

137. In light of the above evidence, the CMA believes that the Parties are not close competitors for the wholesale supply of sundries. The CMA believes that the Parties will have a relatively low combined share of supply, with a small increment arising from the Merger, and there are many alternative suppliers which will continue to compete for the supply of these products.
138. Accordingly, the CMA believes that the Merger does not give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the wholesale supply of sundries.

Barriers to entry and expansion

139. Entry, or expansion of existing firms, can mitigate the initial effect of a merger on competition, and in some cases may mean that there is no SLC. In assessing whether entry or expansion might prevent an SLC, the CMA considers whether such entry or expansion would be timely, likely and sufficient.³⁰
140. However, in this case the CMA has not had to conclude on barriers to entry or expansion as the Merger does not give rise to competition concerns on any basis.

²⁸ This estimate is likely to be an overestimate, as it uses information provided by the Parties' largest customers.

²⁹ For branded sundries, customers use a variety of suppliers, with customer responses indicating an average of 16.2 different suppliers. For private-label sundries, customers also use a number of suppliers, with responses indicating an average of 8.4 different suppliers.

³⁰ [Merger Assessment Guidelines](#), from paragraph 5.8.1.

Third party views

141. The CMA contacted customers and competitors of the Parties. Most third parties who responded to the CMA's investigation had no concerns regarding the Merger.
142. Three customers raised concerns regarding the Merger in relation to a possible increase in the Parties' market power and the possible negative implications of this in terms of prices and quality of service. These comments have been taken into account where appropriate in the competitive assessment above.
143. Two competitors told the CMA that the Parties, through a retrospective rebate scheme which would apply to the products of both Harris and Hamilton, might be able to incentivise retailers to stock both brands post-Merger. In particular, this scheme would increase the incentive for retailers to stock Hamilton's products, the rebate to which would now benefit from Harris' high volumes. However, the CMA notes that the effect of this would be to reduce prices to retailers for the possible benefit of consumers. It could only have a significant detrimental effect on competition if alternative suppliers for either DIY-quality or professional-quality products were unavailable, which the CMA has not found to be the case.

Decision

144. Consequently, the CMA does not believe that it is or may be the case that the Merger may be expected to result in an SLC within a market or markets in the UK.
145. The Merger will therefore **not be referred** under section 33(1) of the Act.

Andrew Wright
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Competition and Markets Authority
28 July 2016