

Anticipated acquisition by IKO plc of Pure Asphalt Company Limited

Decision on relevant merger situation and substantial lessening of competition

ME/6616/16

The CMA's decision on reference under section 33(1) of the Enterprise Act 2002 given on 25 August 2016. Full text of the decision published on 3 October 2016.

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

CONTENTS

	<i>Page</i>
SUMMARY	2
ASSESSMENT.....	4
Parties.....	4
Transaction	4
Jurisdiction	4
Counterfactual.....	5
Frame of reference	6
Competitive assessment.....	11
Vertical effects	24
Barriers to entry and expansion	26
Third party views.....	27
Conclusion on substantial lessening of competition.....	28
Exceptions to the duty to refer	28
Decision	30

SUMMARY

1. IKO plc (**IKO**) has agreed to acquire Pure Asphalt Company Limited (**Pure**) (the **Merger**). IKO and Pure 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. The Parties overlap in the manufacture and supply of mastic asphalt in the UK. Given that all grades and formulations can be supplied by the same companies using the same production facilities, the CMA, on a cautious basis, found the relevant product frame of reference to be the supply of all mastic asphalt in the UK.
4. The Parties estimated their combined share of supply of mastic asphalt, by volume, to be [70-80]% (with an increment of [20-30]%) as a result of the Merger. Post-Merger, only Guaranteed Asphalt Limited (**Guaranteed Asphalt**) would remain as an alternative supplier of mastic asphalt in the UK.
5. However, the Parties submitted that the supply of mastic asphalt forms part of a broader range of options depending on the specific application it is used for (ie whether for car parks, paving or roofing). The Parties submitted that there were a number of alternatives to mastic asphalt for these various applications, which provide a competitive constraint on mastic asphalt prices.
6. As part of its competitive assessment, the CMA therefore assessed the extent to which these alternative solutions for specific end-uses could exert a constraint on the price of mastic asphalt, including in relation to the use of mastic asphalt for bridge decks, carpark decks, highway maintenance, floors, roofs, screed and tanking.
7. In respect of car park decks, bridge decks, screed and tanking, the CMA found that the existence of suppliers (other than the Parties) of mastic asphalt and of alternative solutions would act as a competitive constraint on the merged entity.
8. However, the CMA was unable to form a positive view of the impact of the merger in relation to highway maintenance, floors, paving and roofing. Specifically:
 - (a) for roofing applications, the CMA found that certain customers that may need to carry out repairs to mastic asphalt roofs, particularly in respect of

certain listed building roofs, may have little alternative to the Parties' products in the event of a price rise; and

- (b) for highway maintenance, floors, and paving, the CMA was unable to obtain sufficient evidence that alternative solutions, or alternative suppliers of mastic asphalt, would prevent the merged entity from raising prices post-Merger.
9. In light of the above, the CMA believes that the Merger gives rise to a realistic prospect of a substantial lessening of competition (SLC) as a result of horizontal unilateral effects in relation to the supply of mastic asphalt in the UK.
 10. The CMA then considered whether it was appropriate to apply the de minimis exception to the duty to refer.¹ The CMA took into account the size of the market affected, the strength of concerns, the magnitude of competition lost, the duration of such effects and the replicability of the Merger.
 11. Whilst, the total revenue attributable to the supply of mastic asphalt in the UK is approximately [X], as set out above, the CMA found that competition concerns were unlikely to arise in relation to the supply of mastic asphalt for use on car park decks, bridge decks, screed and tanking. When revenue attributable to those segments is excluded, the total revenue falls to [X]. The CMA also notes that it identified competition concerns in the remaining segments on a 'may be the case' basis.
 12. On the facts of this case, the CMA believes that this market is not of sufficient importance to justify the making of a reference to phase 2 and therefore that it is appropriate to exercise its discretion to apply the de minimis exception.
 13. IKO also competes in the downstream supply of goods and services that require mastic asphalt as a key input. The CMA received concerns about potential input foreclosure by the merged entity of customers that buy mastic asphalt from Pure and compete with IKO. Whilst the CMA believes that the merged entity may be able to engage in partial input foreclosure, it does not believe that it would have the incentive to do so. As a result, the CMA does not believe that a substantial lessening of competition (SLC) would arise from the Merger as a result of input foreclosure.

¹ The CMA did not believe that sufficiently clear-cut and proportionate undertakings would be available in this case to resolve the competition concerns identified, since any divestment would equate to prohibition. Given that each Party has a single mastic asphalt plant.

14. The Merger will therefore **not** be referred under section 33(1) of the Enterprise Act 2002 (the Act).

ASSESSMENT

Parties

15. IKO is a privately owned company with its registered office in Wigan, Lancashire. The company is a manufacturer and supplier of waterproofing materials and associated products for the building and construction industry. It exports its products to over 50 countries. IKO is ultimately owned by IKO Industries Ltd, a company incorporated in Calgary, Canada.
16. IKO generated a turnover of £74.7 million in 2015, of which £69.4 million was attributable to the UK.
17. Pure is privately owned and has its registered office in Bolton, Greater Manchester. Its main business line is the manufacture and supply of mastic asphalt in the UK. It also has a contracting services arm and makes limited sales of mastic asphalt into Europe.
18. Pure's turnover in 2015 was £3.1 million, of which £2.6 million was attributable to the UK.

Transaction

19. IKO has conditionally agreed to acquire the entire issued share capital of Pure from its existing shareholders. The total consideration is [REDACTED].

Jurisdiction

20. As a result of the Merger, the enterprises of IKO and Pure will cease to be distinct.
21. The Parties overlap in the manufacture and supply of mastic asphalt, and have estimated that they have a combined share of supply, by volume, of [70-80]% (increment [20-30]%) in the UK.² The CMA therefore believes that the share of supply test in section 23 of the Act is met.

² The CMA's own analysis confirmed that the share of supply test would be met.

22. 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.
23. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 1 July 2016 and the statutory 40 working day deadline for a decision is therefore 25 August 2016. The Merger was considered at a Case Review Meeting.³

Counterfactual

24. 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. However, 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.⁴
25. The Parties submitted that Pure's annual turnover attributable to contracting services reduced from [redacted] in 2014 to [redacted] in 2015, and further reduced in 2016. Pure's UK-wide revenue from contracting services for the period January to May 2016 was only some [redacted].⁵ The contracting services business had previously been managed by one of the two co-owners and, [redacted], the other owner decided to run down this side of the Pure business. As a consequence, it is likely that Pure's turnover associated with contracting services will have reduced to a minimal amount by the end of 2016 irrespective of the Merger. The Parties therefore submitted that, for the purposes of the CMA's assessment of the Merger, the counterfactual situation should be that Pure would not be active in the supply of contracting services.
26. [redacted].

³ See [Mergers: Guidance on the CMA's jurisdiction and procedure](#) (CMA2), January 2014, from paragraph 7.34.

⁴ [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).

⁵ Versus sales between January to May 2015: [redacted].

27. [X]. Therefore, the CMA has adopted the prevailing conditions of competition for both contracting and manufacture and supply to be the relevant counterfactual.

Frame of reference

28. The CMA considers that market definition provides a framework for assessing the competitive effects of a merger and involves an element of judgement. The boundaries of the market do not determine the outcome of the analysis of the competitive effects of the merger, as it is recognised that there can be constraints on merger parties from outside the relevant market, segmentation within the relevant market, or other ways in which some constraints are more important than others. The CMA will take these factors into account in its competitive assessment.⁶
29. The Parties overlap in the manufacture and supply of mastic asphalt in the UK.
30. The Parties also overlap in the provision of contracting services for roofing and waterproofing as a sister company of IKO, Briggs Amasco Limited, is active in the supply of contracting services for industrial and commercial roofing and waterproofing, and Pure's contracting division takes on waterproofing, flooring, paving and hydraulic contracts. However, the horizontal overlap in contracting services is negligible, did not give rise to prima facie competition concerns and is not discussed further.

Product scope

Background

31. Mastic asphalt is composed of graded mineral matter, usually limestone, and asphaltic cement to form a cohesive, impermeable mass, which is solid or semi-solid under normal temperature conditions, but which is sufficiently fluid when brought to a suitable temperature (200°C to 230°C) that it can be spread by means of a hand float or by mechanical means without compaction.⁷
32. Mastic asphalt is melted in a mechanically agitated mixer and, when sufficiently molten to be workable, transported to the receiving surface, and spread on the prepared surface where it solidifies. It can be supplied by

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

⁷ [Mastic Asphalt Council General information index](#), p2 et seq.

manufacturers either in hot charge form, delivered by a road tanker, or as cold blocks, which are put on pallets and delivered either to the contractor, or to a merchant. The contractor then heats the blocks to melt the mastic asphalt on site.⁸ Since hot charge and cold blocks, once reheated, can be used by contractors in the same way, the CMA considers cold block mastic asphalt and hot charge mastic asphalt to be in the same market.

33. The Parties told the CMA that they supply both main- and sub-contractors, installers and merchants of mastic asphalt. However, the decision as to whether mastic asphalt may be used for a given application is often taken by another entity (eg an architect or specifier for a construction project).

Possible delineation by application

34. Mastic asphalt has a variety of applications in the construction industry arising from its waterproofing characteristics, including on car park decks, green roofs, flat roofs, floors, pavements, and as a tanking membrane.⁹
35. The CMA understands that the composition of mastic asphalt may differ depending on the intended application. For example, Pure told the CMA that it operates different vessels for each of the three different specifications of mastic asphalt (ie for roofing, for paving, and a polymer modified mastic asphalt).¹⁰
36. The Parties submitted that the supply of mastic asphalt forms part of a broader range of options (and therefore a wider market) depending on the specific application it is used for (ie whether for car parks, paving or roofing).
37. The CMA received mixed evidence on the use of alternative solutions to mastic asphalt. Some contractors and competitors submitted that only mastic asphalt would fulfil certain technical and functional requirements (in particular, longevity and durability) whilst others believed there to be a number of alternative solutions depending on the intended application.
38. The CMA has taken into account the availability of alternative solutions for each intended end use in its competitive assessment.

⁸ CA98/01/2005, p14.

⁹ See the Mastic Asphalt Council's (MAC) website at: <http://www.masticasphaltcouncil.co.uk/applications/>.

¹⁰ CA98/01/2005, p14.

Supply-side substitutability

39. While the boundaries of the relevant product market are generally determined by reference to demand-side substitution alone, the CMA may widen the scope of the market where there is evidence of supply-side substitution. This is appropriate when production assets can be used by firms to supply a range of different products that are not demand-side substitutes, and the firms have the ability and incentive quickly (generally within a year) to shift capacity between these different products depending on demand for each and the same firms compete to supply these different products and the conditions of competition between the firms are the same for each product.
40. The Parties submitted that producers of other types of asphalt would be able to switch production capacity easily to mastic asphalt, as the facilities used to produce other types of asphalt are essentially the same as those for mastic asphalt. As an example, the Parties submitted that a Swiss competitor, Aeschlimann AG, (**Aeschlimann**) uses this approach to produce mastic asphalt in the UK for its UK contracts.
41. The Parties submitted that there is a significant degree of supply-side substitutability between different grades and specifications of mastic asphalt. They also submitted that switching production between different grades or specifications of mastic asphalt was easy, would be almost at no cost and could be done every time a mixer is emptied. However, switching would be more time consuming and costly when switching production to or from coloured or acid-resistant mastic asphalt.
42. On a cautious basis, the CMA did not widen the frame of reference to include all types of asphalt. However, based on the Parties' submissions and given that all grades and formulations can be supplied by the same companies using the same production facilities, the CMA found the relevant product frame of reference to be the supply of all mastic asphalt (regardless of specific end-use).¹¹

Delineation by supply to third party contractors who use mastic asphalt

43. The Parties currently supply mastic asphalt to downstream suppliers of products that use mastic asphalt, including in the provision of roofing and waterproofing contracting services and highway repairs. IKO is also active downstream in the supply of these services.

¹¹ The CMA has included sheathing felt in the same product frame of reference as it is only sold with mastic asphalt.

44. The CMA has therefore separately assessed the impact of the merger (with regard to vertical effects) in relation to the downstream supply of goods or services that use mastic asphalt.

Conclusion on product scope

45. For the reasons set out above, the CMA has assessed the impact of the Merger in the following product frames of reference:
- (a) the supply of mastic asphalt in general; and
 - (b) the downstream supply of goods and services that use mastic asphalt.

Geographic scope

46. The Parties submitted that the geographic scope of the frame of reference is at least UK-wide, as both supply mastic asphalt in hot charge and block form throughout the UK from their (single) manufacturing sites. In addition, the Parties submitted that mastic asphalt suppliers based outside the UK would be able to supply mastic asphalt in the UK by using the facilities of tarmacadam manufacturers in the UK.
47. The Parties noted that mastic asphalt in block form is easily transported over long distances and can be kept in stock at merchants until sold. Further, they noted that mastic asphalt in hot charge lorries can be re-heated if the temperature falls below laying temperature. For instance, it would be possible to keep mastic asphalt at a reduced temperature overnight, and re-heat it when laying is possible. This is not the case for other forms of asphalt, which would need to be disposed of if the temperature falls below a certain level.

48. The Parties stated that mastic asphalt is commonly sold at a price per tonne, which includes delivery, and that they can and do deliver anywhere in the UK. In addition, block form deliveries are also made beyond the UK.

Figure 1: Location of UK mastic asphalt manufacturers



Source: CMA (based on postcodes)

49. Figure 1 shows the location of the Parties' mastic asphalt manufacturing sites (Bolton, DE4 4BW, and Grangemill, BL3 2RD) and that of their competitor (Guaranteed Asphalt in Corby, NN17 4AP). In addition, IKO has a subsidiary in Dublin, from which it (along with its branch in England) supplies customers in Northern Ireland. All mastic asphalt manufacturers supply mastic asphalt nationally.¹²
50. The CMA has not received any evidence that indicates customers would only consider geographically close suppliers. Merchants buy mastic asphalt in block form and sell it on to contractors throughout the UK (albeit it is commonly only sold in the population centres around London, and the Midlands).
51. Customers provided evidence on the viability of imports of mastic asphalt from continental Europe. While some said that this was not economical, one customer said that imports would be an option if prices increased by 20 to 30% (following the Merger). This evidence implies that the constraint from imports would not deter a hypothetical monopolist in the UK from imposing a small but significant (ie 5 to 10%) non-transitory increase in price and hence does not consider the market should be widened beyond the UK.

¹² Guaranteed Asphalt confirmed this to the CMA.

52. On a cautious basis, the CMA applied a UK-wide geographic frame of reference for each of the product frames of reference listed at paragraph 45 above.

Conclusion on frame of reference

53. For the reasons set out above, the CMA has assessed the impact of the Merger in the following frames of reference:
- (a) the supply of mastic asphalt in the UK; and
 - (b) the downstream supply of goods and services that use mastic asphalt in the UK.

Competitive assessment

Horizontal unilateral effects

54. Horizontal unilateral effects may arise when one firm merges with a competitor that previously provided a competitive constraint, allowing the merged firm profitably to raise prices or degrade quality on its own and without needing to coordinate with its rivals.¹³ Horizontal unilateral effects are more likely when the merger parties are close competitors. The CMA assessed whether it is or may be the case that the Merger has resulted, or may be expected to result, in a substantial lessening of competition in relation to unilateral horizontal effects in the supply of mastic asphalt and provision of contracting services in the UK.

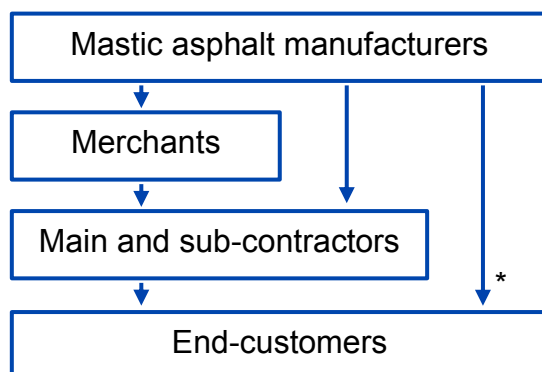
Mastic asphalt

55. Mastic asphalt manufacturers supply mastic asphalt in cold block form to merchants who will then sell it on to contractors for use in their projects for end-customers. The same manufacturers also sell mastic asphalt in hot charge form direct to contractors for use in their projects for end-customers.

¹³ [Merger Assessment Guidelines](#), from paragraph 5.4.1.

56. Mastic asphalt manufacturers are also active as contractors, and will, through their contracts with end-customers, supply mastic asphalt directly to them.

Figure 2: Mastic asphalt supply chain



* Through manufacturers' own contracting businesses.

Shares of supply

57. The CMA estimated shares of supply and of capacity based on information provided by the Parties [redacted]. These estimates are set out in Table 1 below.

Table 1: CMA share estimates (UK, 2015)

	Production: excluding self-supply*		Capacity		Production: including self-supply	
	Volume	Share	Volume	Share	Volume	Share
IKO	[redacted]t	[redacted]%	[redacted] t	[redacted]%	[redacted]t	[redacted]%
Pure	[redacted]t	[redacted]%	[redacted]t	[redacted]%	[redacted]t	[redacted]%
Combined	[redacted]t	[redacted]%	[redacted]t	[redacted]%	[redacted]t	[redacted]%
Guaranteed Asphalt	[redacted]t	[redacted]%	[redacted]t	[redacted]%	[redacted] t	[redacted]%
Aeschlimann	[redacted]t	[redacted]%	[redacted]t	[redacted]%	[redacted]t*	[redacted]*
Total	[redacted]t	100%	[redacted]t	100%	[redacted]t	100%

Source: Parties' actual sales and maximum capacity, [redacted], and (*) Parties' estimates

* This includes sales to merchants and independent contractors, but excludes supply to the Parties own downstream business (see Figure 2 above).

58. The Parties submitted that the use of mastic asphalt has been decreasing over recent years, due to the emergence of new alternative solutions. As a result, the number of suppliers in the UK has decreased to three. The CMA found that the high combined share of supply of the Parties gives rise to prima facie competition concerns.

Alternative suppliers and closeness of competition

The Parties' views

59. The Parties told the CMA that Guaranteed Asphalt is the only other UK manufacturer of mastic asphalt. Pure's 'Information Memorandum' for the sale

of its business mentions that: *“There are only two other principal manufacturers of mastic asphalt in the UK’, namely IKO and Guaranteed Asphalt (Guaranteed)’*. Pure submitted that Guaranteed’s *‘production of mastic asphalt is largely [...] destined for its own contracting operations.’*”

60. The Parties submitted that there is a fourth mastic asphalt manufacturer, based in Switzerland, which is active as a contractor in the UK, namely Aeschlimann. The Parties submitted that Aeschlimann supplies some [90-100]% of the mastic asphalt used for bridge decks.
61. The Parties submitted that they do not tend to know whether each is quoting for the same job. IKO believes that it would be unusual for IKO to quote for the same jobs as Pure as its customers tend to be involved in larger jobs than Pure’s.
62. The Parties also noted that they have only four common customers. Whilst Pure targets smaller, independent contractors and also allows contractors to collect smaller quantities of hot charge mastic asphalt from its plant, IKO targets larger customers and does not have collection customers.

Third party views

63. Of the 13 customers who responded during the CMA’s merger investigation, seven raised concerns in relation to horizontal effects in the supply of mastic asphalt, while two had no concerns, with one mentioning explicitly that imports would exert constraints post-Merger. Three customers expressed no views.
64. Despite only one of these customers¹⁴ being common to both IKO and Pure in 2015, seven customers also considered IKO and Pure to be their only possible suppliers of mastic asphalt, given that Guaranteed Asphalt mainly self-supplies. Customers were not aware of Aeschlimann as a supplier. A number of customers¹⁵ informed the CMA that they have bought from both Parties in the past. Seven customers commented that they consider that IKO and Pure are each other’s closest competitors.
65. A customer¹⁶ said that, despite the reduction in the number of manufacturers over the past years, there has been no real effect on prices, as mastic asphalt prices largely depend on input prices. This customer raised concerns about the Merger, commenting that if a price rise occurred it would have to accept it and pass it on fully to end customers. It currently buys mastic asphalt from

¹⁴ [REDACTED]

¹⁵ [REDACTED]

¹⁶ [REDACTED]

IKO but has used Pure in the past to 'benchmark market prices and to ensure that [IKO's prices] are in line'.

66. Customer responses indicate that many believe that IKO and Pure are the only two suppliers of mastic asphalt for contractor customers in the UK. One such customer told the CMA that Guaranteed Asphalt would not be a 'worthy alternative' due to its own contracting business.¹⁷
67. Guaranteed Asphalt submitted that the 'industry has been reducing for years'. It also noted that the three remaining mastic asphalt manufacturers compete closely but that IKO may be a closer competitor to Guaranteed Asphalt than Pure in commercial projects (in particular car park decks (see below)). [✂].
68. [✂].
69. No third party responses mentioned Aeschlimann as a supplier of mastic asphalt.

CMA Analysis

70. Although concerns were raised by most customers of the Parties, some of these customers may be specialised in mastic asphalt contracting work (eg trained work force, specific equipment, etc.) and hence not the decision maker as regards to whether mastic asphalt or some alternative solution is used for a given project.
71. There were limited responses to the CMA's market testing; in particular, from end-customers and decision makers (rather than the direct customers of the Parties). One merchant customer considered that decision makers (architects or contractors) are 'not overly price-sensitive'.
72. In relation to the constraint imposed on the Parties by other suppliers, the evidence gathered by the CMA indicates that:
 - (a) Aeschlimann only manufactures and supplies mastic asphalt in the UK for its own projects, which are mainly roads and bridge decks; and
 - (b) Guaranteed Asphalt mainly self-supplies and evidence from contractors and merchants indicated that IKO and Pure are the closest competitors to each other both in the supply of mastic asphalt to independent contractors as well as to merchants.

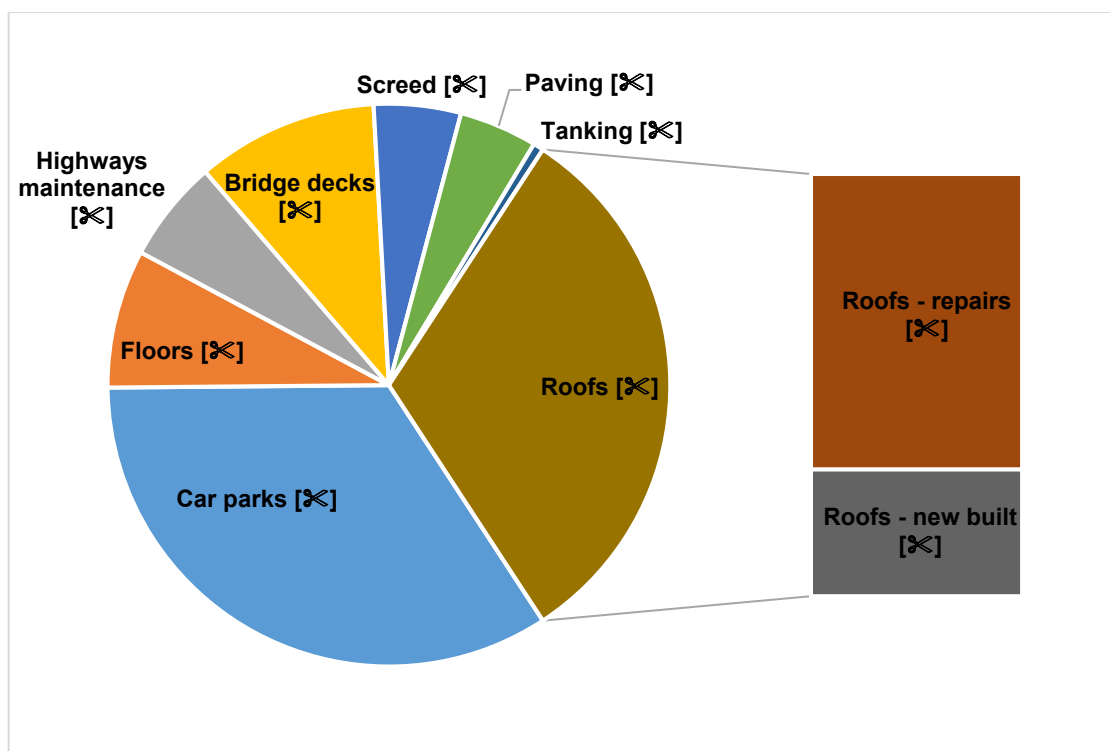
¹⁷ [✂]

- 73. However, Guaranteed Asphalt¹⁸ [redacted] may be imposing some constraint on the Parties pre-Merger.
- 74. As a result of the Merger, IKO will have a high share of supply of mastic asphalt, which, despite existing constraints [redacted] in the market raises prima facie competition concerns.

Constraints from alternative solutions for specific end-uses

- 75. The Parties argued that constraints arise from competition further down the supply chain from customers of the Parties (or customers of their customers, etc.) competing with other firms that use alternatives to mastic asphalt.
- 76. The Parties provided estimates of the value and volume of mastic asphalt sold for each end-use. These estimates were broadly confirmed by the Mastic Asphalt Council.

Figure 3: Parties' estimates of for the value of mastic asphalt sold for each end use in the UK (2015)



Source: Parties

¹⁸ [redacted].

Table 2: Parties' estimates of the volume of asphalt sold for different end-uses (UK, 2015)

End-use	Mastic asphalt supplied	Share of mastic asphalt within end-use	Alternatives	Share of total mastic asphalt supplied
Bridge decks	[redacted]t	[0-5]%	Tarmacadam laid on a cold applied waterproof liquid system	[0-5]%
Car park decks	[redacted]t	[30-40]%	Cold applied systems ([50-60]%) Other ([10-20]%)	[30-40]%
Flat roof waterproofing membranes	[redacted]t	[0-5]%	Built up roofing felt systems ([50-60]%) Single ply membranes ([30-40]%) Cold applied systems ([5-10]%) Hot melt ([5-10]%)	[30-40]%
Flooring	[redacted]t	[0-5]%	Screeding concrete	[5-10]%
Highways maintenance	[redacted]t	[0-5]%	Tarmacadam	[0-5]%
Paving	[redacted]t	[0-5]%	Cement-based paving	[5-10]%
Screed	[redacted]t	[0-5]%	Cement-based screed	[5-10]%
Tanking	[redacted]t	[0-5]%	Cement with a membrane or liquid-based waterproofing system	[0-5]%

Source: Parties

77. The following paragraphs explain the CMA's assessment, for each main end-use, of closeness of competition between the Parties, the competitive constraints imposed by competing suppliers of mastic asphalt and the extent of out of market constraints from suppliers of alternative solutions to mastic asphalt.

Car park decks

78. As seen from Table 2, car park decks represent one of the major uses of mastic asphalt in the UK (besides flat roofs). The Parties, as well as Guaranteed Asphalt, supply mastic asphalt for car park decks.
79. The Parties provided estimated shares of supply of mastic asphalt for car park decks, as set out in Table 3 below. This was based on their supplies to contractors known to be waterproofing car park decks (though in the case of Pure there were no such supplies) and includes a share of supplies to merchants and an estimate of Guaranteed Asphalt's activity.

Table 3: Parties' estimates of share of supply for car park decks

Supplier	Mastic asphalt only			Total carpark decks market	
	Surface	Volume	Share	Surface	Share
IKO	[X]m ²	[X]t	[50-60]%	[X]m ²	[10-20]%
Pure	[X]m ²	[X]t	[0-5]%	[X]m ²	[0-5]%
combined	[X]		[50-60]%	[X]m²	[20-30]%
Guaranteed Asphalt	[X]m ²	[X]t	[40-50]%	[X]m ²	[10-20]%
total	[X]m²	[X]t	100%	[X]m²	[30-40]%
			Cold applied systems*	[X]m ²	[50-60]%
			Other solutions†	[X]m ²	[10-20]%
			total	[X]m²	100%

Source: Parties' estimates

* - includes cold applied systems supplied by IKO (Polimar: [X] m² = [0-5]%).

80. The Parties submitted that Pure makes limited sales for this end-use and consequently that its share of mastic asphalt supply for car park decks is very small. It was not aware of having supplied mastic asphalt to any sub-contractor for waterproofing car parks in 2015, but estimated that a small proportion of the block supplied to merchants might have been used for this application (ie some [X] tonnes in 2015). Guaranteed Asphalt commented that Pure is a small player in this sector (car park decks) and that consequently it competes more closely with IKO than with Pure.
81. The Parties told the CMA that different combinations of solutions for car park decks are available to end-customers. For example, waterproofing layers can be combined with paving asphalt.
82. The Parties submitted that the alternative solutions for car park decks comprise: (i) cold applied systems ([50-60]%) and 'other' solutions ([10-20]%). Cold applied systems are lighter than mastic asphalt, have more available colour options, and are cheaper. However, they requires a longer curing time, cannot be applied in cold weather and require a more stringent substrate preparation.
83. Guaranteed Asphalt listed liquid coats (ie cold applied systems), tarmacadam, and waterproof concrete as alternative solutions. It also noted that liquid coats are not as reliable as mastic asphalt and that installation is weather dependent. [X] a contractor and Guaranteed Asphalt noted that waterproof concrete is not as successful as mastic asphalt in waterproofing as it can crack. Guaranteed Asphalt noted that there is always an alternative for mastic asphalt.

CMA's analysis

84. The information supplied by the Parties, which is broadly supported by [REDACTED], shows that Pure supplies minimal volumes of mastic asphalt suitable for car park decks. [REDACTED].
85. The Parties submitted that alternative solutions account for over half of the contracts for waterproofing car parks decks. They provided a list of projects for car park decks for which they had bid and lost against competing waterproofing systems. This view was supported by [REDACTED]. However, the CMA was unable to verify these shares [REDACTED] Table 1.
86. The CMA received mixed evidence on the set of alternative solutions for car park decks. Third parties noted the superior durability, longevity, and waterproofing properties of mastic asphalt in comparison to cold applied systems. One third party¹⁹ told the CMA that there are also end customers in the UK that only consider mastic asphalt as a waterproofing solution for car parks, although this view was neither substantiated nor confirmed by other parties.
87. Therefore, in light of the very limited existing overlap between IKO and Pure in the supply of mastic asphalt for car park decks and the constraint from Guaranteed Asphalt in this segment and given the alternative solutions, the CMA does not believe that the merger would give rise to competition concerns in relation to the supply of mastic asphalt for this particular segment.

Flat roofs

88. As seen from Table 2, flat roofs represent the other major use of mastic asphalt in the UK.
89. The Parties, as well as Guaranteed Asphalt, supply customers with roofing grade mastic asphalt. However, the Parties estimated that mastic asphalt represented only [0-5]% of all solutions for flat roofs in 2015.
90. The Parties submitted that other solutions for flat roofs include:
 - (a) Built up roofing felt systems (representing [50-60]% of the segment) which are lighter than mastic asphalt, allow for simpler and quicker detailing, do not necessitate hot works, and do not require separate solar protection

¹⁹ [REDACTED]

layer. They are however less durable than mastic asphalt, not seamless, and cannot be used on heavily trafficked roofs.

(b) Single ply membranes ([30-40]% of the segment) which are lighter compared to mastic asphalt, can be installed faster, allow for simpler and quicker detailing, do not necessitate hot works, do not require separate solar protection layer, and are cheaper. They are however less durable than mastic asphalt, not seamless, and cannot be used on heavily trafficked roofs.

(c) Cold applied systems ([5-10]% of the segment) which are lighter compared to mastic asphalt, have more available colour options, allow for simpler and quicker detailing, do not necessitate hot works, do not require separate solar protection layer, and are cheaper. They require however a longer curing time, cannot be applied in cold weather, and require a more stringent substrate preparation.

(d) Hot melt solutions ([5-10]% of the segment) which can be installed faster, allow for simpler and quicker detailing, and are cheaper than mastic asphalt. They however require a more stringent substrate preparation.

91. Guaranteed Asphalt's views were similar. It listed hot melt, liquid coatings, single ply, and torch-on felt as alternatives. It considered that each alternative may be cheaper and more quickly installed but that mastic asphalt would be more robust and have a longer life span. It noted however, that there is always an alternative to mastic asphalt.
92. [REDACTED]²⁰ notes that 'few [contractors] carry out mastic asphalt laying, indicating that this is now becoming a niche service'.
93. The CMA received mixed evidence from other third parties on the set of alternative solutions in roofing. Some third parties considered mastic asphalt to be an 'old solution' and noted its heavy weight (per m²) and hazardous installation as disadvantages compared to new products. However, a majority of third parties noted the superior durability and longevity of mastic asphalt. AMA also mentions in its report that it is particularly suitable for roofs with complicated shapes and tight corners. A third party customer also commented that mastic asphalt is more suitable when a 'more traditional' solution is required.
94. Information from the Parties and feedback from third parties also indicates that, depending on the stage at which the decision is taken for a specific type

²⁰ [REDACTED]

of roofing solution, the number of available solutions may differ. For instance, the Parties told the CMA that they try to influence ‘decision makers’ (ie architects and specifiers) of the advantages of mastic asphalt rather than their direct customers. That is, out-of-market constraints on mastic asphalt, if suitable, may be weaker the more advanced a roofing project is.

95. However, the CMA was unable to obtain more detailed information on specific circumstances in which other solutions to mastic asphalt may be less suitable or entirely unsuitable. This is due to the fact that the Parties do not commonly supply to end-customers or decision makers directly and that they were unable to provide the CMA with contact details of such third parties.
96. In relation specifically to flat roofs on listed buildings, third parties submitted that typically only mastic asphalt would be a suitable solution. However, the Parties provided some examples of listed buildings where solutions other than mastic asphalt have been used.²¹
97. The Parties estimated that the UK market value for mastic asphalt used on roofs for listed buildings is around [redacted] (non-listed buildings [redacted]).
98. In relation to repairs of existing mastic asphalt roofing solutions, a number of third parties commented that repairs to mastic asphalt surfaces commonly require a mastic asphalt solution, but that repairs could take one of three forms:
 - (a) ‘patching’, whereby mastic asphalt is used to carry out the patch repair. The Parties estimated that the UK market value for mastic asphalt used for patch repairs is some [redacted] ([5-10]% of the total mastic asphalt roofing market);
 - (b) overlaying the existing membrane with a new system. If the existing membrane is mastic asphalt, then any other solution could be used; or
 - (c) taking away the existing membrane and replacing it with a new system.
99. The Parties estimated the value of mastic asphalt used for overlaying and replacement to be [redacted].

CMA’s analysis

100. Although there appear to be a number of alternative solutions, it was not clear the extent to which these would always (or in only some cases) constrain the

²¹ The Palace of Westminster, and the Square Tower, Portsmouth.

Parties. Third parties noted the superior durability and longevity of mastic asphalt and said there are circumstances where only mastic asphalt can be used, for example for repairs to listed buildings' roofs. While repairs do not always require the removal and replacement of the existing roofing material, the Parties were unable to provide many examples of listed buildings using an alternative roofing solution either for repairs or re-roofing.

101. Therefore, whilst alternative roofing solutions may provide some constraint on mastic asphalt suppliers, the CMA was unable to form a positive view that sufficient out-of-market constraints would remain post-Merger to prevent a price rise by the merged entity; in particular, with regard to the supply of mastic asphalt for listed building roofs.

Floors

102. Mastic asphalt for floors cover a variety of applications. In a majority of instances mastic asphalt flooring can be regarded as a finishing material. There are different grades specified for these applications, depending on usage and foot traffic.
103. The Parties estimated that the supply of mastic asphalt for flooring in 2015 represented less than [0-5]% of all flooring solutions, and [5-10]% of total mastic asphalt supply in the UK in 2015.
104. The Parties submitted that alternative solutions for floors include cement based flooring and concrete. Guaranteed told the CMA that it rarely supplies flooring grades of mastic asphalt.
105. The CMA received limited evidence from its market inquiries on alternative solutions for flooring. One third party noted that no other solution would be available when a waterproof, hard-wearing, and decorative floor surface was required (eg for offices or dancefloors). Similar to roofing, third parties also submitted that repairs to mastic asphalt surfaces would commonly require the use of mastic asphalt.

CMA analysis

106. In light of the above, the CMA was unable to form a positive view that sufficient out-of-market constraints would remain post-Merger to prevent a price rise by the merged entity in relation to the supply of mastic asphalt for flooring and in particular for repairs.

Screed

107. Mastic asphalt screed can also be an underlay for subsequent floor finishes ie carpet, vinyl, etc. as an alternative to other screeding materials, such as concrete.
108. The Parties estimated the supply of mastic asphalt for screed represented less than [0-5]% of all alternatives for screed, and [5-10]% of total mastic asphalt supply in the UK in 2015. Pure submitted that it has no customers in this segment.

CMA analysis

109. Although the CMA has received very limited evidence on the set of alternative solutions for screed, given the lack of concerns raised by third parties and the apparent absence of Pure as a supplier in this segment, the CMA believes that it is unlikely that any competition concerns would arise in the supply of mastic asphalt for screed when out-of-market constraints are taken into account.

Bridge decks

110. The Parties estimated the total supply of mastic asphalt in 2015 for bridge decks was 2,000 tonnes, which is estimated to represent less than [0-5]% of all other solutions, and [0-5]% of the total mastic asphalt supply in the UK in 2015.
111. The Parties submitted that the other solutions used for these applications were either cement or tarmacadam based.
112. [X] listed tarmacadam as an alternative which is cheaper and quicker to lay but prone to pot holes. For waterproofing layers (underneath bridge decks), liquid coatings were considered alternatives but [X] noted they would not be as robust and could not be installed in certain conditions.
113. The CMA notes, as mentioned above, that an additional (overseas) supplier of mastic asphalt is active in the UK in roads construction and bridge deck installation. The Parties told us that Aeschlimann supplies some [90-100]% of the mastic asphalt used for bridges. Guaranteed Asphalt also indicated that its contracting arm was active in bridge deck installation. Further, Pure submitted that it had no customers in this segment.

CMA analysis

114. The CMA acknowledges that there are additional suppliers (independent from the Parties) who will continue to exert competitive constraints post-Merger in bridge deck installations. In light of the existence of these additional suppliers, the fact that Pure has no customers for mastic asphalt for bridge decks and the presence of alternative solutions, the CMA does not believe that the Merger would give rise to competition concerns in relation to the supply of mastic asphalt for bridge decks.

Roads and paving

115. The Parties estimated the supply of mastic asphalt in 2015 for highway maintenance and for paving represents less than [0-5]% of all solutions used for each of these applications. The Parties also estimated that highway maintenance, and paving represented [0-5]%, and [5-10]% respectively of the total mastic asphalt supply in the UK for 2015.
116. The Parties submitted that the other solutions used for these applications were either cement or tarmacadam based.
117. A third party²² listed tarmacadam as an alternative which is cheaper and quicker to lay but prone to pot holes. While for pavements, paving slabs would also be an alternative, however, these may not be considered to be waterproof. Some suppliers of other solutions considered that their products compete with mastic asphalt.

CMA analysis

118. In light of the above, the CMA was unable to form a positive view that sufficient out-of-market constraints would remain post-Merger to prevent a price rise by the merged entity in relation to the supply of mastic asphalt for roads and paving.

Tanking

119. As Mastic asphalt is impermeable and does not rot it can be used for tanking and as tank lining for structures containing liquids. Acid resisting mastic asphalt tanking can also be used where corrosive liquids are involved.

²² [✂]

120. The Parties estimated that the supply of mastic asphalt for tanking in 2015 represents less than [0-5]% of all solutions for tanking,²³ and less than [0-5]% of total mastic asphalt supply in the UK in 2015.
121. A third party²⁴ considered Sika's products (liquid-based waterproofing systems) as alternatives. It considered that these may be easier to install but may not be as robust. Another third party that specialises in hydraulic engineering considered Pure to be a very small supplier in this segment. No concerns were raised by third parties.

CMA Analysis

122. Although the CMA has received very limited evidence on the set of alternative solutions for tanking, given the lack of concerns raised by third parties, the CMA believes that competition concern would not arise in this segment when out-of-market constraints are taken into account.

Conclusion

123. The CMA assessed the impact of the Merger on the supply of mastic asphalt in the UK. As a result of the Parties' high combined shares of the market for mastic asphalt, the CMA believes that there is a realistic prospect that the merger may result in an SLC in the supply of mastic asphalt in the UK.
124. [✂].
125. The CMA's assessment of out-of-market constraints found that, for some end-uses (car park decks, bridge decks, tanking and screed), sufficient alternative suppliers would remain post-Merger. However, for other end uses, (highway maintenance, floors, paving and roofing), the CMA could not form a positive view that sufficient constraints would remain.
126. Therefore, its assessment of competitive constraints for specific end-uses and [✂] did not affect its SLC finding in relation to the supply of mastic asphalt in the UK. However, the CMA discusses the relevance of these findings to its examination of the exceptions to the duty to refer from paragraphs 150 below.

Vertical effects

127. Non-horizontal mergers do not involve a direct loss of competition between firms in the same market, and it is a well-established principle that most are

²³ It is unclear whether this represents a share of value.

²⁴ [✂]

benign and do not raise competition concerns. Nevertheless, some can weaken competition and may result in an SLC.²⁵ In the present case, the CMA has considered whether the merged entity could engage in (partial) input foreclosure.

Input foreclosure

128. The CMA received concerns about input foreclosure from customers who buy mastic asphalt from Pure and compete with IKO. These concerns relate to purchases of mastic asphalt for the provision of contracting services and the manufacture of other products for which mastic asphalt is needed as an input.
129. The CMA assessed whether the merged entity could increase the price it charges for mastic asphalt to rival downstream contractors and installers of mastic asphalt products (partial input foreclosure) thereby making it harder for rival contractors and installers of mastic asphalt products to compete by increasing their costs, making them less competitive, or stop supplying these rivals altogether (total input foreclosure), thereby reducing the set of suppliers available for rival contractors.²⁶

Ability

130. IKO's Briggs Amasco business carries out roofing and waterproofing contracts, and there are competitors of Briggs Amasco that are not vertically integrated into the manufacture of mastic asphalt. One third party²⁷ considered that the merged entity will raise its prices, to increase the costs for its contracting rivals and thus win contracts.
131. The CMA notes the existence of alternative sources of mastic asphalt, which calls into doubt IKO's ability to raise prices for rival contractors. The CMA notes that the remaining manufacturer of mastic asphalt [✂] may render input foreclosure by the merged entity ineffective. However, the CMA has nonetheless assessed the merged entity's incentives for completeness.

Incentive

132. As discussed above, it may be the case that the Merger creates a realistic prospect of an SLC due to horizontal unilateral effects. If the SLC manifests

²⁵ [Merger Assessment Guidelines](#), paragraph 5.6.1.

²⁶ [Merger Assessment Guidelines](#), paragraphs 5.6.9 et seq.

²⁷ [✂]

itself as a price increase, some or all of the price increase may be expected to be passed through in the price of the downstream products.

133. In relation to input foreclosure, the question is whether the merged company would have an additional incentive to increase prices in order to reduce downstream competition. In this case the CMA considers that this is unlikely because the proportion of contractor sales that would switch to IKO would be limited because of the existence of Guaranteed Asphalt and the availability of alternative solutions.
134. Overall, therefore, the CMA does not believe that the merged company would have the incentive to engage in input foreclosure. Given this finding, the CMA does not consider that it is necessary to consider further the effect of input foreclosure.

Conclusion on vertical effects

135. As set out above, the CMA believes that whilst the merged entity may be able to engage in input foreclosure it will not have the incentive to do so. Accordingly, the CMA does not believe that there is a realistic prospect of an SLC as a result of input foreclosure in the supply of goods and services that use mastic asphalt.

Barriers to entry and expansion

136. 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.²⁸
137. IKO submitted that there are very low barriers to entry and expansion in relation to the supply of mastic asphalt, and that any manufacturer of tarmacadam could use its existing plant to manufacture mastic asphalt. This would be easy because the formulation of mastic asphalt is easily ascertainable and it is relatively easy and inexpensive to clean out existing silos or purchase new ones. IKO submitted that there are very large tarmacadam manufacturers who would be able to enter the market.
138. IKO stated that that large tarmacadam manufacturers could produce mastic asphalt with their existing plants and similar raw materials and IKO provided

²⁸ [Merger Assessment Guidelines](#), from paragraph 5.8.1.

the example of Aeschlimann, which, it submitted, uses a tarmacadam manufacturer to manufacture and supply mastic asphalt for bridges across the UK on this basis.

139. IKO noted that Rock International Holdings Limited which was active in mastic asphalt manufacturing in the UK was dissolved in November 2015. The only example of entry in the last five years provided by IKO was by Aeschlimann AG.
140. One manufacturer which uses similar facilities as the Parties²⁹ indicated that it would not consider supplying mastic asphalt as it is relatively niche and there would be difficulty in producing different products in the same plant, due to cleaning costs to prevent cross-contamination and the time taken to do this would mean that the long-term conversion of the plant would be required.
141. Another third party stated that moving into the supply of mastic asphalt would probably take them [X] months and would cost in excess of [X].
142. The low quantities of mastic asphalt sold in the UK (compared to products that require similar equipment, eg asphalt, tarmacadam etc) and the historic decline of the mastic asphalt demand may also make entry less attractive.
143. On the basis of this evidence, the CMA does not believe that entry will be timely, likely or sufficient to mitigate any SLC arising from the Merger.
144. [X].

Third party views

145. The CMA contacted customers, competitors and other relevant third parties, including, in relation to listed and historic buildings, churches; two large car park operators, and the highways maintenance departments of two local authorities. A majority of customers raised concerns about the Merger.
146. The CMA also contacted the Mastic Asphalt Council for general comments and background information.³⁰
147. Third party comments have been taken into account where appropriate in the competitive assessment above.

²⁹ [X]

³⁰ IKO is a member of the MAC.

Conclusion on substantial lessening of competition

148. For the reasons set out above, the CMA believes that the Merger gives rise to a realistic prospect of an SLC in relation to the supply of mastic asphalt in the UK.

Exceptions to the duty to refer

149. Where the CMA's duty to refer is engaged, the CMA may, pursuant to section 33(2)(a) of the Act, decide not to refer the merger under investigation for a Phase 2 investigation on the basis that the market(s) concerned is/are not of sufficient importance to justify the making of a reference (the **de minimis exception**). The CMA has considered below whether it is appropriate to apply the de minimis exception to the present case.

In principle' availability of undertakings in lieu

150. The CMA's general policy, regardless of the size of the affected market, is not to apply the de minimis exception where clear-cut undertakings in lieu of a reference could, in principle, be offered by the Parties to resolve the concerns identified.³¹ In order for an undertaking in lieu to be available in principle it must be:

(a) sufficiently clear-cut; and

(b) not wholly disproportionate in relation to the concerns identified.³²

151. If the competition concerns arising from a merger relate to such an integral part of the transaction that to remedy them via a structural divestment would be tantamount to prohibiting the merger altogether then clear-cut undertakings in lieu are not in principle available.³³

152. In this case, the CMA believes that there is no sufficiently clear-cut and proportionate divestment possible to resolve the concerns identified because an effective divestment remedy would be tantamount to prohibition, since both Parties only have a single manufacturing plant.

³¹ [Mergers: Exceptions to the duty to refer and undertakings in lieu of reference guidance](#), paragraphs 2.2 and 2.18-27.

³² [Mergers: Exceptions to the duty to refer and undertakings in lieu of reference guidance](#) (OFT1122), December 2010 - see paragraphs 2.22-2.27.

³³ [Mergers: Exceptions to the duty to refer and undertakings in lieu of reference guidance](#), paragraph 2.25.

Markets of insufficient importance

153. In considering whether to apply the de minimis exception, the CMA will consider, in broad terms, whether the costs involved in a reference would be disproportionate to the expected customer harm, taking into account the size of the market, the likelihood that harm will arise, the magnitude of competition and the duration of such effects and the replicability of the Merger.
154. Where the annual value in the UK, in aggregate, of the market(s) concerned is between £3 million and £10 million, the CMA will consider whether the expected customer harm resulting from the merger is materially greater than the average public cost of a reference (currently around £400,000).
155. In assessing the expected customer harm, the CMA will generally pay close attention to (i) the size of the market, (ii) the strength of concerns, (iii) the magnitude of competition lost, (iv) the duration of such effects, and (v) the replicability of the Merger.³⁴
156. The fact that one of these factors may point towards or against exercise of the discretion should not be regarded as decisive in any individual case. The CMA considers these factors in the round as part of its overall assessment of whether the expected impact of the merger in terms of customer harm is likely to exceed materially the public costs of a reference.

Size of the market

157. The Parties estimated that the total revenue attributable to the total supply of mastic asphalt in the UK in 2015 was approximately [REDACTED] per annum. Following its Merger investigation, the CMA estimates that total value of mastic asphalt sold in the UK amounted to approximately [REDACTED].
158. However, the CMA took account of its findings that the Merger would be unlikely to give rise to competition concerns in relation to the supply of mastic asphalt for use in car park decks, bridge decks, screed and tanking.³⁵ Therefore, when calculating the total value of the 'affected market' for the purposes of de minimis, the CMA excluded the turnover attributable to these segments.³⁶ The CMA therefore found the value of the affected market (for the purpose of de minimis) to be approximately [REDACTED] for 2015, attributable to

³⁴ [Mergers: Exceptions to the duty to refer and undertakings in lieu of reference guidance](#) (OFT1122), December 2010, chapter 2. The [Mergers: Exceptions to the duty to refer and undertakings in lieu of reference guidance](#) were adopted by the CMA (see [Mergers: Guidance on the CMA's jurisdiction and procedure](#), Annex D).

³⁵ See further paragraphs 78 to 87, 110 to 114, 107 to 109, 119 to 122.

³⁶ See paragraph 2.30 and footnote 13 of [Mergers: Exceptions to the duty to refer and undertakings in lieu of reference guidance](#).

the use of mastic asphalt in the repair of mastic asphalt roofs, highways maintenance, floors and paving.

Strength of concerns, magnitude of competition lost and durability

159. As set out above in the competitive assessment section, the CMA found that [X], which may be imposing some constraint on the Parties pre-Merger. The CMA also observes that there was some evidence to suggest that alternative solutions for roofing, highways maintenance, floors and paving may increase in competitiveness over time and could become more commercially attractive in response to a price rise or quality degradation in the supply of mastic asphalt.
160. The CMA also notes that it has identified an SLC on a 'may be the case' basis, noting that it was not able to obtain sufficient information regarding the availability and competitiveness of alternative solutions to mastic asphalt for roofing, highways maintenance, floors and paving.

Potential replicability

161. The CMA also assessed the risk that using the 'de minimis' exception in this case may create an expectation that mergers involving comparable competitive conditions and similar competition concerns would not be referred to phase 2 on the basis of the CMA exercising its discretion to apply the 'de minimis' exception. The CMA believes that the risk of replicability from applying the de minimis exception in this case is limited given the specific facts of this case.

Conclusion on use of de minimis

162. Taking the above factors into consideration, the CMA believes that the segments concerned in this case are not of sufficient importance to justify the making of a reference. As such, the CMA believes that it is appropriate for it to exercise its discretion to apply the de minimis exception to its duty to refer.

Decision

163. Consequently, the CMA believes that it is or may be the case that the Merger may be expected to result in a substantial lessening of competition within a market or markets in the UK. However, pursuant to section 33(2)(a) of the Act, the CMA believes that the market concerned is not of sufficient importance to justify the making of a reference.

164. The Merger will therefore **not be referred** under section 33 of the Act.

Kate Collyer
Deputy Chief Economic Advisor
Competition and Markets Authority
25 August 2016