

Completed acquisition by Survitec Group Limited of the marine safety business of Wilhelmsen Maritime Services A/S

Decision on relevant merger situation and substantial lessening of competition

The CMA's decision on reference under section 22(1) of the Enterprise Act 2002 given on 2 December 2016. Full text of the decision published on 25 January 2017.

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ME/6635/16

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SUMMARY

1. On 30 November 2016, Survitec Group Limited (**Survitec**) acquired the marine safety business of Wilhelmsen Maritime Services A/S (this business is referred to below as **Wilhelmsen Safety**) (the **Merger**). Survitec and Wilhelmsen Safety 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' enterprises have ceased to be distinct and that the share of supply test is met. The four-month period for a decision has not yet expired. The CMA therefore believes that it is or may be the case that a relevant merger situation has been created.
3. The Parties overlap in the supply of a number of products and services, including the distribution of commercial life rafts, immersion suits, life jackets, rescue equipment and firefighting equipment.
4. The CMA assessed the impact of the Merger on the supply of these products and services in the UK and EEA. However, the CMA did not conclude on the precise product or geographic frame of reference with regard to the supply of immersion suits, lifejackets, rescue equipment and firefighting equipment as it did not identify concerns on any plausible basis in relation to these products.
5. The Parties overlap in the supply of leased commercial life rafts and are two of the main three suppliers both globally, in the EEA and in the UK. Therefore the CMA took the supply of leased commercial life rafts as its starting point for the appropriate product frame of reference in which to conduct its assessment.
6. However, as Survitec is active both in the manufacture, sale and servicing of commercial life rafts and (following the emergence of leasing as an alternative to purchasing and servicing) the supply of leased commercial life rafts, the CMA investigated the extent of competitive interaction between, on the one hand, sales and servicing of commercial life rafts and, on the other, the leasing of commercial life rafts.
7. The CMA found that some customers had switched from purchasing commercial life rafts to leasing them but not vice versa. Critically, the CMA's merger investigation found that leasing customers would not switch to (or back to) purchasing commercial life rafts in the event of a small but significant non-transitory increase in price (**SSNIP**). On the basis of this evidence, the CMA does not believe that leasing and sales are in the same product frame of reference. However, given that some purchasing customers have switched to

leasing, the CMA has taken into account this potential asymmetric constraint in its competitive assessment.

8. With regard to the geographic scope of the supply of leased commercial life rafts, the CMA found that competition takes place at both a national and on a wider basis (at least EEA-wide, and possibly global), depending on the routes of the vessels on which the life rafts are installed, the types of vessel and the preferences of customers. In particular, for certain customers, the ability to offer a comprehensive network of servicing stations (and/or replacement hubs) beyond the UK is an important factor in a supplier's competitiveness. The CMA therefore assessed the Merger on both a UK and an EEA-wide basis.
9. The CMA found that the Merger reduces the number of competing major suppliers of leased commercial life rafts both in the UK and the EEA from three to two. On the basis of the Parties' offerings, internal documents, third party views, and tender data, the CMA believes that the Parties are close competitors in the supply of leased commercial life rafts, though Viking (the third major supplier) is Survitec's closest competitor. The CMA found that entry barriers are high, in particular as a strong reputation and an ability to provide replacement commercial life rafts on a wide (potentially global) basis are required by many customers.
10. Given the evidence of close competition between the Parties and, in particular, the presence of only one major competitor post-Merger, 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 leased commercial life rafts in the UK and the EEA. The CMA did not identify concerns in relation to the supply of purchased commercial life rafts.
11. The CMA considered whether competition concerns relating to vertical effects would arise as a result of the Merger. Wilhelmsen Safety currently purchases commercial life rafts from Survitec and Youlong, and it purchases the servicing of life rafts in the UK from Norwest Marine. In terms of customer foreclosure, the CMA found that the combined entity would not have the ability to foreclose Youlong as there are sufficient alternative channels through which Youlong has access to customers in the UK and the EEA. It would also not have the ability to foreclose Norwest Marine as Norwest Marine services the life rafts of several other commercial life raft providers in the UK.
12. The CMA noted that the size of the affected market (ie the supply of leased commercial life rafts) in the UK is approximately £[2.5-3.5] million. Therefore, the CMA considered whether it was appropriate to exercise its discretion to

apply the de minimis exception to its duty to refer the Merger.¹ Due in particular to the size of the affected market, and given that there is not in principle a clear-cut undertaking in lieu available, the CMA believes that the market to which the duty to refer applies is not of sufficient importance to justify a reference.

13. Therefore, the Merger will **not be referred** under section 22(1) of the Enterprise Act 2002 (the **Act**).

ASSESSMENT

Parties

14. Survitec is based in the UK and its product portfolio includes marine evacuation systems, life rafts, life jackets, immersion suits and inflatable boats. Survitec is owned and controlled by Onex Partners, a private equity firm headquartered in Toronto, Canada. Survitec's total turnover in 2015 was £[~~8~~] million, of which approximately £[~~8~~] million was generated in the UK.
15. Survitec manufactures commercial life rafts under several brand names and sells those life rafts to distributors, such as servicing stations or lessors (like Wilhelmsen Safety), to ship-builders, and to end-customers, eg ship-owners and ship-operators, in the UK, EEA and globally. Survitec provides servicing for customer-owned life rafts and has a large network of service stations. Some of these service stations are owned and operated by Survitec, while others are owned and operated by Survitec-certified third parties.² Survitec also leases its commercial life rafts to end-customers, with the service element effectively included, as life rafts are exchanged for recently-serviced life rafts at appropriate intervals when customers' vessels are in harbour.
16. Wilhelmsen Maritime Services A/S (**Wilhelmsen**) provides commercial life raft rental and exchange, and safety equipment, such as fire-fighting equipment and inert gas systems, in the UK, EEA and globally. The marine safety business of Wilhelmsen is currently carried out by two different entities within the Wilhelmsen Group: Wilhelmsen Ships Service AS (**WSS**) and Wilhelmsen Technical Solutions AS (**WTS**). The relevant activities which will transfer as part of the Merger, Wilhelmsen Safety, include fire-fighting equipment, inert gas systems, personal safety equipment, life-saving equipment, medical equipment, and life raft rental and exchange. Wilhelmsen Safety's total

¹ *Mergers: Exceptions to the duty to refer and undertakings in lieu of reference guidance* (OFT1122), December 2010, chapter 2.

² Survitec owns five servicing stations in the UK and there are three further third party service stations certified to service Survitec life rafts in the UK.

turnover in 2015 was £[X] million, of which approximately £[X] million was generated from supplies in the UK.

17. Wilhelmsen Safety does not manufacture commercial life rafts. It purchases life rafts from Survitec and Youlong and then sells or leases these life rafts under its 'Unitor' brand.³ In the UK, Wilhelmsen Safety is mainly active in the leasing of life rafts, but it also sells a few used rafts to customers that previously leased those rafts. Wilhelmsen Safety, like Survitec, also has access to a global network of service stations. In the UK, Wilhelmsen Safety does not own service stations but it has a contract with an independent service station (Norwest Marine) and a Survitec station.

Transaction

18. Survitec will acquire 100% of WTS' shares, as well as the marine safety business of WSS (including its subsidiaries), which will be transferred to a newly-incorporated subsidiary of WSS prior to completion (the **Transaction**). Together these companies form the target business, Wilhelmsen Safety. In return, Wilhelmsen will acquire a minority shareholding giving it approximately [15-20%] of the votes in the ultimate holding company of Survitec, Survitec Topco Limited (**Survitec Topco**), alongside Onex Partners, and other shareholders.
19. The Transaction is valued at approximately £[X] million.
20. The Parties informed the CMA that the Merger is also the subject of review by competition authorities in Germany and South Korea. The German Bundeskartellamt cleared the Merger on 27 July 2016.

Jurisdiction

21. As a result of the Merger, the enterprises of Survitec and Wilhelmsen Safety will cease to be distinct.
22. The Parties overlap in the supply of leased commercial life rafts in the UK, with a combined share of supply of [25-55]% (increment [15-35]%) based on units exchanged in the UK.⁴ The CMA therefore believes that the share of supply test in section 23 of the Act is met.

³ From 2007 until 2012, Wilhelmsen Safety used to purchase Seasafe life rafts from Nautic Service Sauvetage, which were manufactured by Youlong. In the same year Wilhelmsen Safety started purchasing life rafts from Youlong directly.

⁴ Please see the tables in paragraph 72 below.

23. The Merger completed on 30 November 2016, during the process of the CMA's phase 1 review of the Merger.⁵
24. The CMA therefore believes that it is or may be the case that a relevant merger situation has been created.
25. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 10 October 2016 and the statutory 40 working day deadline for a decision is therefore 2 December 2016. The Merger was considered at a Case Review Meeting.⁶
26. The CMA considered whether it is or may be the case that, as a result of the Merger, Wilhelmsen's acquisition of a minority shareholding in Survitec Topco would confer material influence on Wilhelmsen over Survitec post-Merger, and hence lead to a second relevant merger situation under the Act.
27. The Parties submitted that Wilhelmsen will acquire less than 20% of the shares or votes in Survitec Topco, and therefore will not gain material influence over Survitec. Post-merger, Onex Partners will have by far the largest share of votes, at approximately [X]%. Onex Partners also has the ability to [X]. The CMA considered the certain limited voting rights Wilhelmsen will hold in Survitec Topco, and the ongoing business links between Wilhelmsen and Survitec, but it did not find any evidence to suggest that Wilhelmsen would have the ability to influence Survitec's policy to a significant degree.
28. On the basis of this evidence, the CMA does not believe that it is or may be the case that Wilhelmsen will obtain material influence over Survitec Topco as a result of the Merger.

Counterfactual

29. The CMA assesses a merger's impact relative to the situation that would prevail absent the merger (ie the counterfactual). For completed mergers the CMA generally adopts the pre-merger conditions of competition as the counterfactual against which to assess the impact of the merger. However, the CMA will assess the merger against an alternative counterfactual where, based on the evidence available to it, it believes that, in the absence of the merger, the prospect of these conditions continuing is not realistic, or there is

⁵ The four month deadline for a decision under section 24 of the Act is 30 March 2017. As completion occurred prior to the CMA's final decision in this case, an Initial Enforcement Order was issued on Survitec on 1 December 2016. The Parties had previously notified the CMA that completion was conditional on CMA clearance but this condition was subsequently waived.

⁶ See [Mergers: Guidance on the CMA's jurisdiction and procedure](#) (CMA2), January 2014, from paragraph 7.34.

a realistic prospect of a counterfactual that is more competitive than these conditions.⁷

30. In this case, there is no evidence supporting a different counterfactual, and Survitec and third parties have not put forward submissions in this respect. Therefore, the CMA believes the pre-Merger conditions of competition to be the relevant counterfactual.

Frame of reference

31. The Parties overlap in the supply of leased commercial life rafts, immersion suits, lifejackets, rescue equipment and firefighting equipment.
32. The CMA does not believe that there is or may be a realistic prospect of an SLC in the supply of immersion suits, lifejackets, rescue equipment or firefighting equipment, on the basis that the Parties' combined share of supply in each of these product areas in the UK is less than [15%]. The CMA also received no concerns in relation to these products. Therefore, the CMA does not discuss these overlaps further in this decision.

The distribution and servicing of commercial life rafts

33. Companies supply life rafts to customers either by selling the life raft (in which case the customer must arrange the servicing of that life raft separately, which may or may not be undertaken by the seller) or through leasing⁸ life rafts (in which case servicing forms part of the lease agreement).
34. Commercial vessels of a certain size and type are required to have life rafts on board that comply with the requirements set out in the International Convention for the Safety of Life at Sea (**SOLAS**).⁹ SOLAS inter alia stipulates that commercial life rafts have to be serviced on a regular basis, generally once a year, by the original producer of that life raft or by a service provider certified by the original producer. The owner of the commercial life raft is obliged to comply with the SOLAS requirements and has to ensure that the commercial life raft is serviced on time.

⁷ *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).

⁸ The lessor remains the owner of the leased commercial life raft and commits to exchanging it as necessary. In this decision, leasing is used to refer both to the lessor's act of leasing and the hirer's act of hiring.

⁹ Other commercial and non-commercial vessels are not required to carry SOLAS life rafts and are free to use non-SOLAS compliant (leisure) life rafts, although they could still opt for SOLAS life rafts. Wilhelmsen Safety does not lease leisure life rafts in the EEA.

35. When customers lease commercial life rafts, the lessor (or its sub-contractor) will service the life raft as part of the leasing agreement. This will typically involve the life raft distributor exchanging the commercial life raft at an agreed location for a fully-serviced commercial life raft. The old commercial life raft is returned to the pool of life rafts owned by the lessor and serviced in preparation for re-installation on another vessel.
36. Leasing is a relatively recent means of supplying life rafts. Some customers told the CMA that it is a cheaper alternative to purchasing and paying for subsequent servicing. It was introduced by Wilhelmsen Safety around 2007 and Viking and Survitec then started offering leased commercial life rafts in 2011 and 2013 respectively. The Parties stated that currently around 10-15% of all commercial life rafts in the EEA are leased. The Parties also stated that, for some customers, the annual cost of leasing a life raft will typically be lower than the annualised cost of purchasing and servicing. Third parties also indicated that the total life cost of a leased commercial life raft is significantly cheaper than the costs of a purchased and serviced commercial life raft. However, one third party stated that the cost of owning and servicing a life raft is cheaper in the first five years than in the second five years compared to leasing a commercial life raft, as the costs of servicing a life raft tend to increase as the life raft ages.

Approach to frame of reference

37. The CMA's approach to assessing the product frame of reference is to begin with the overlapping products of the Parties in the narrowest plausible candidate product frame of reference and then to investigate whether this should be widened on the basis, primarily, of demand-side considerations.¹⁰
38. The Parties overlap in the supply of leased commercial life rafts. The CMA then considered whether the frame of reference should be broadened to include:
 - leisure life rafts;
 - rented commercial life rafts; and/or
 - purchased commercial life rafts, including servicing.

¹⁰ 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, see [Merger Assessment Guidelines](#), paragraph 5.2.17.

39. The CMA also considered whether all lengths of leasing contract are in the same product frame of reference.

Parties' views

40. The Parties submitted that the supply of leased commercial life rafts should be the main focus of the CMA's investigation as this is where the Parties overlap.

Leisure life rafts

41. The OFT has previously examined the supply of commercial life rafts in its *Survitec/Cosalt*¹¹ and *Survitec/Zodiac*¹² decisions.
42. In those cases, the OFT found that the supply of commercial life rafts either to distributors or end customers differs from the supply of leisure life rafts because the former have to comply with SOLAS rules, and hence there is no demand-side substitution. The OFT found no supply-side substitution due to differing regulatory requirements and the need for a commercial life raft supplier to have a large service station network (which they are required to authorise and audit).
43. In the present case, the CMA's investigation has confirmed that commercial life rafts and leisure life rafts have different regulatory regimes. Commercial vessels that meet certain size and type requirements are required to carry SOLAS compliant (commercial) life rafts. Leisure vessels (and some commercial vessels) are not required to carry SOLAS life rafts and can use non-SOLAS compliant (leisure) life rafts. For customers which are required to carry commercial life rafts, leisure life rafts are therefore not an option. For this reason, the CMA believes that there will be little demand-side substitution between commercial and leisure life rafts.
44. With respect to supply-side considerations, the CMA notes that the conditions of competition are different for commercial life rafts and leisure life rafts. Firstly, the competitors are different (eg Wilhelmsen Safety is not active in the distribution of leisure life rafts). Secondly, commercial life rafts are typically approved under SOLAS requirements, while leisure life rafts typically comply with ISO and ISAF standards, and a supplier of commercial life rafts has to

¹¹ OFT Decision of 17 August 2011, [ME/5018/11](#), Anticipated acquisition by Survitec Group Limited of the marine division of Cosalt plc.

¹² OFT Decision of 17 August 2011, [ME/5017/11](#), Anticipated acquisition by Survitec Group Ltd of the SOLAS Division of Zodiac Marine & Pool SASU.

audit and authorise its service stations. Thirdly, commercial life rafts will tend to be considerably larger than leisure life rafts.

45. The CMA did not receive any evidence to suggest that it should widen the product scope to include leisure life rafts.
46. For these reasons the CMA believes that the product frame of reference for commercial life rafts should not be broadened to include leisure life rafts.

Rented commercial life rafts

47. Survitec and Viking also offer all-inclusive renting of commercial life rafts. In this case, a ship owner rents a commercial life raft from a life raft supplier for a price which includes servicing. The only difference compared with leasing is that the rented life raft is taken from the ship, serviced and returned to the ship rather than a different life raft being substituted in the leasing model. The key features of renting, ie precise cost forecasting and the service element being included, are the same as for leasing and, therefore, the CMA believes that these options are close substitutes. The CMA also notes that the principal suppliers of rented life rafts in the UK and the EEA (Survitec and Viking) also offer leased commercial life rafts.
48. For these reasons the CMA has not distinguished between the leasing and renting of commercial life rafts. For the purposes of this decision, references to leasing include leasing or renting.

Purchased commercial life rafts, including servicing

49. Survitec is also active in the supply and service of purchased commercial life rafts, while Wilhelmsen does not offer these products and services.
50. In 2007, Wilhelmsen, which was previously not active in the life raft sector, started supplying leased commercial life rafts and it was the first supplier of commercial life rafts in the EEA to offer customers a leased option. [✂] In response to Wilhelmsen's leasing offering, both Viking and Survitec began offering a leasing option to their customers, in 2011 and 2013 respectively. The Parties noted the significant difference in total life costs between a leased commercial life raft as opposed to a purchased and serviced commercial life raft. This view was supported by third parties.

51. Survitec submitted [X] [evidence suggesting that switching had predominantly been from purchasing to leasing but not vice versa].¹³
52. The CMA's investigation has confirmed that many customers that responded to the CMA's merger investigation of commercial life rafts have switched from purchasing their life rafts to leasing them, but customers have not switched the other way. Some customers said that leasing and purchasing/servicing are alternatives, though others said that they preferred leasing over purchasing because of lower costs and/or the convenience of not being responsible for servicing the life raft. Most competitors indicated that a hypothetical price increase of 5% to 10% of leased commercial life rafts would not induce leasing customers to switch back to purchased commercial life rafts.
53. The CMA did not identify any customer which had switched from leasing to purchasing, or any evidence to suggest that the price of purchasing/servicing constrained the price of leasing.
54. On the basis of this evidence, the CMA believes that, whilst leasing may exert some constraint on the purchasing/servicing of commercial life rafts, this does not currently appear to be the case the other way round. Therefore, the CMA believes that the supply and service of purchased life rafts is not in the same frame of reference as the supply of leased commercial life rafts. However, the CMA noted that, as some purchasing customers have switched to leasing, there is evidence of an asymmetric constraint of leasing on purchasing, which the CMA took into account in its competitive assessment.

Different exchange periods

55. The CMA considered whether the supply of leased commercial life rafts should be sub-divided into different exchange periods.
56. The standard period for replacement of a commercial life raft under a leasing agreement is 12 months. However, Survitec and Viking also offer commercial life raft leases with a 30-month replacement period. Survitec explained that some customers prefer 30 month replacement period as it is less disruptive to their business.
57. However, Survitec submitted that it does not consider it necessary for the CMA to distinguish between leases with different replacement periods as the

¹³ The Parties estimate that currently around 10 to 15% of commercial life rafts in operation in the EEA are leased, while the rest are customer-owned.

product is very similar.¹⁴ The CMA also noted that there is no distinction between type of vessel and length of typical lease. In addition, the CMA noted an internal document from Wilhelmsen [✂].

58. For these reasons the CMA has not distinguished between leases with different exchange periods, but has taken the differences in products into account as part of its competitive assessment when looking at the closeness of competition between the Parties.

Conclusion on product scope

59. For the reasons set out above, the CMA has assessed the impact of the Merger in relation to the supply of leased commercial life rafts.

Geographic scope

60. Survitec submitted that the market for the supply of commercial life rafts is at least EEA-wide. Survitec said that this is in line with the relevant precedents. Survitec submitted that:
- suppliers are active throughout the EEA;
 - the SOLAS regulations apply across the EEA;
 - customers are typically active in international shipping and do not need to be located in the UK to enter into an agreement with the Parties; and
 - customers obtain a single global contract and can have their life rafts serviced/exchanged throughout the world.
61. In *Survitec/Cosalt* and *Survitec/Zodiac*, the OFT assessed the distribution and servicing of commercial life rafts within a national frame of reference. This was because service stations typically transport life rafts all over the country. The OFT noted that the increasing trend towards the leasing of commercial life rafts meant that the relevant geographic scope had broadened as a customer no longer needed to wait for the servicing to be completed before recommencing their journey. Nevertheless, the OFT also noted that there was likely to be a proportion of customers who would seek a distributor/service

¹⁴ Survitec said that the 30-month exchange life raft should be considered from a technical perspective as a 12-month service life raft which is specially packaged to increase the annual service interval. Most of the life raft components, including the inflatable life raft hull, are identical, except for the special packaging and additional items to increase the service interval.

station at the port where they were based, and therefore a local analysis may also be appropriate.

62. In the present case, third parties told the CMA that a customer's choice between suppliers is affected by the route of the vessel and the possibilities of servicing along that route. If a vessel has only a few home ports, eg a ferry, then the decision is focussed on the servicing possibilities at these home ports. For some locally active customers, eg a fishing vessel, a single servicing station might be sufficient. However, customers which are active globally said that they would prefer to have a commercial life raft supplier with a broad network of servicing stations, covering the main international ports. Most third parties which are customers of Wilhelmsen Safety and Survitec submitted that their vessels operate worldwide.
63. Most smaller competitors located in the UK submitted that the market is the UK. However, two competitors which operate on an international level submitted that the market is global. Another competitor said that the scope of the geographic market depends on the operation of the customer, but noted that most large customers operate globally. Some competitors told the CMA that they had not been able to win some contracts because they did not have a sufficiently large network of servicing stations globally.
64. The CMA notes that many smaller distributors and servicers of commercial life rafts are only active in the UK. One competitor indicated that this was in part because shipping life rafts overseas to other servicing stations is difficult as rafts are bulky and classed as hazardous for transport purposes.
65. The CMA notes that a supplier of leased commercial life rafts must have a network of service stations, either owned or third party operated, through which it can service its life rafts. It may be able to offer exchange at many more ports, but its service stations must be nearby to the ports where exchange is offered. Therefore, for larger customers operating EEA-wide or globally, a supplier of leased commercial life rafts needs a wide service network; but for customers operating mainly in the UK, a supplier can offer services with a network limited to the UK.
66. For these reasons, and on a cautious basis, the CMA has assessed the effect of the Merger on both a UK and a wider EEA basis.

Conclusion on frame of reference

67. For the reasons set out above, the CMA has assessed the impact of the Merger in the supply of leased commercial life rafts in the UK and the EEA.

Competitive assessment

Horizontal unilateral effects

68. 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.¹⁵ Horizontal unilateral effects are more likely when the merger parties are close competitors.

The supply of leased commercial life rafts in the UK and the EEA

69. The CMA has assessed whether the Merger could lead to an increase in price and/or a reduction in quality in the supply of leased commercial life rafts as a result of horizontal unilateral effects. The evidence gathered by the CMA indicates that there are a number of parameters of competition on which the Parties and other suppliers compete, including reputation, the size of service network, availability of servicing, quality of servicing and price. The CMA has investigated these parameters in its competitive assessment. The CMA has also assessed:

- shares of supply in the supply of leased commercial life rafts in the UK and the EEA; and
- the closeness of competition between the Parties, their rivals and what competitive constraints would remain post-Merger from alternative suppliers.

Shares of supply

70. The Parties provided the CMA with estimated shares of supply of leased commercial life rafts, based on (a) the location where the exchange took place, and (b) the customer's base location. In addition, around half of the 17 service stations in the UK and several life raft suppliers also provided the CMA with their turnover figures for the UK. The CMA considers that the location where the exchange took place gives a better reflection of the competitive landscape, as one important parameter of competition is the size and location of the servicing/exchange network.
71. Viking provided an estimate of its turnover and an estimate of the number of life rafts it serviced and exchanged in the UK, split by leasing and long-fixed term renting contracts. Tables 1 and 3 below only include Viking's revenues

¹⁵ [Merger Assessment Guidelines](#), from paragraph 5.4.1.

from leasing, whereas table 2 and 4 also include turnover generated from long-fixed term renting contracts.

72. On the basis of this information, the CMA estimated the following shares of supply.¹⁶

Table 1: shares of supply of leased commercial life rafts in the UK in 2015 (Units) based on location where the exchange took place, excluding long-term rent					
<i>Survitec, %</i>	<i>Wilhelmsen Safety, %</i>	<i>Combined, %</i>	<i>Viking, %</i>	<i>Others, %</i>	<i>Total market, Units</i>
[10-20]	[20-30]	[30-50]	[20-30]	[30-40]	[X]

Source: Parties and third parties (based on Parties' units derived from geographical location of exchange).

Table 2: shares of supply of leased commercial life rafts in the UK in 2015 (Units) based on location where the exchange took place, including long-term rent					
<i>Survitec, %</i>	<i>Wilhelmsen Safety, %</i>	<i>Combined, %</i>	<i>Viking, %</i>	<i>Others, %</i>	<i>Total market, Units</i>
[10-20]	[10-20]	[20-40]	[40-50]	[25-35]	[X]

Source: Parties and third parties (based on Parties' units derived from geographical location of exchange).

Table 3: shares of supply of leased commercial life rafts in the UK in 2015 (£) based on location where the exchange took place, excluding long-term rent					
<i>Survitec, %</i>	<i>Wilhelmsen Safety, %</i>	<i>Combined, %</i>	<i>Viking, %</i>	<i>Others, %</i>	<i>Total market, £m</i>
[10-20]	[30-40]	[40-60]	[20-30]	[20-30]	[2-3]

Source: Parties and third parties (based on Parties' units derived from geographical location of exchange).

Table 4: shares of supply of leased commercial life rafts in the UK in 2015 (£) based on location where the exchange took place, including long-term rent					
<i>Survitec, %</i>	<i>Wilhelmsen Safety, %</i>	<i>Combined, %</i>	<i>Viking, %</i>	<i>Others, %</i>	<i>Total market, £m</i>
[10-20]	[20-30]	[30-50]	[50-60]	[5-15]	[3-4]

Source: Parties and third parties (based on Parties' units derived from geographical location of exchange and servicing).

Table 5: shares of supply of leased commercial life rafts in the EEA in 2015 (£) based on location where the exchange took place					
<i>Survitec, %</i>	<i>Wilhelmsen Safety, %</i>	<i>Combined, %</i>	<i>Viking, %</i>	<i>Others</i>	<i>Total market size, £m</i>
[10-20]	[60-70]	[70-90]	[10-20]	[0-5]%	[12-13]

Source: Parties (based on Parties' turnover derived from geographical location of exchange/servicing).

¹⁶ Where competitors provided the CMA with their turnover for the UK, these figures have been used; otherwise, competitor shares of supply are derived from sales estimates from the Parties.

73. The CMA believes that these shares of supply are likely to be informative, in particular as the Parties told the CMA that a relatively small share of their sales come through tenders and the products are not highly differentiated.¹⁷ However, the CMA notes that the figures may slightly overstate the Parties' shares since they may not capture the entire market.
74. Table 1 suggests that the Parties have a combined share of supply of around [30-50]%, with an increment of [20-30]%, in the UK, with only one significant alternative supplier remaining. The Parties' combined share of supply in the EEA (Table 3ⁱ) is significantly higher, [70-90]% with an increment of [10-20]%. The CMA believes that these shares of supply indicate possible prima facie competition concerns arising from the Merger.

Closeness of competition and alternative suppliers

Parties' views

75. Survitec submitted that it does not consider itself to compete closely with Wilhelmsen Safety in relation to the leasing of commercial life rafts. Survitec said that both it and Wilhelmsen Safety compete more closely with Viking than with each other, as it and Wilhelmsen Safety serve different customers. Survitec said that [REDACTED].
76. Survitec named the following significant competitors to the Parties: Viking, Ocean Safety, Youlong, Samgong, Duarry, Lalizas, CSM and Fujikura. Survitec estimated that at least 11 Chinese life raft manufacturers have been established in the last 30 years, which now account for over 35 (Asian and European) life raft brands. Survitec said that Western distributors' acceptance of Chinese-manufactured rafts had increased during the last decade, and there had been a corresponding increase in the service station coverage of these brands worldwide. The Parties cited Duarry (Youlong life rafts) and Ocean Safety (Ningbo life rafts) as examples of brands starting to sell Chinese rafts in the UK within the last two years.

Framework of assessment

77. The CMA has examined the closeness of competition between the Parties and their rivals by considering:
- differentiation between commercial life raft offerings;

¹⁷ [Merger Assessment Guidelines](#), paragraph 5.3.4

- tender data;
- evidence from internal documents; and
- third party views.

Differentiation between commercial life raft offerings

78. Both Wilhelmsen Safety and Survitec offer a broad portfolio of marine safety products and operate on a global basis. With regard to commercial life rafts, the Parties offer a variety of rafts, both in terms of capacity and other product characteristics. Wilhelmsen Safety does not manufacture commercial life rafts but purchases its life rafts from Survitec and other manufacturers and leases these rafts under its Unitor brand. Currently, Wilhelmsen's commercial life raft fleet consists of [REDACTED]% Survitec-produced rafts, [REDACTED]% Youlong-produced rafts and [REDACTED]% Seasafe-produced rafts.¹⁸ Wilhelmsen is therefore vertically related and, to a certain extent, dependent upon the supply of Survitec; though the CMA notes that [REDACTED]. The CMA found that [REDACTED] this vertical relationship, [REDACTED] might limit the extent to which they compete in the downstream market.
79. Both in the UK and the EEA, the Parties offer commercial life rafts for sale or for lease. Wilhelmsen Safety focuses on leasing,¹⁹ [REDACTED]. Both Parties operate a global servicing network consisting of both owned service stations and independent licensed service stations.
80. Viking has a similar commercial life raft proposition to Survitec and also operates a large global servicing network.
81. Ocean Safety, owned by the 3Si Group, was an independent UK-based service station, which serviced Survitec-manufactured commercial life rafts. However, this contract was terminated a few years ago. Ocean Safety now sells life rafts under its own brand and operates some service stations in the UK, EEA and globally. In the UK, Ocean Safety has four servicing stations. Ocean Safety told the CMA that it has recently started leasing commercial life rafts, but this business is still small.
82. Youlong is a manufacturer of commercial life rafts based in Shanghai. In the EEA, Nautic Service Sauvetage (**Nautic**) sells and services Youlong's commercial life rafts under both its Seasafe brand and under Youlong's own brand. Nautic does not own a service station in the UK but utilises several independent service stations. However, Nautic told the CMA that it only sells

¹⁸ Seasafe is the life raft brand of Nautic Service Sauvetage, which is produced by Youlong see paragraph 82.

[REDACTED]

¹⁹ Wilhelmsen stated that it does not sell new commercial life rafts, [REDACTED].

commercial life rafts and is not active in the leasing of commercial life rafts. Moreover, [REDACTED]. A third party told the CMA that Duarry and Fujikura also offer Youlong-produced life rafts.

83. Lalizas is a Greek manufacturer of commercial life rafts. Lalizas owns one service station in the EEA and utilises a network of more than 160 independent service stations worldwide, including five in the UK. However, Lalizas is not active in the supply of leased commercial life rafts.
84. The other suppliers mentioned by the Parties have a very limited presence in the UK. CSM is an Asian manufacturer of commercial life rafts, which leases to customers in the UK via one independent service station. Samgong has no apparent commercial life raft activities in the UK.
85. Survitec submitted that approximately [REDACTED]% of its leasing customers based in the UK²⁰ use 30-month exchange commercial life rafts. Survitec submitted that certain customers, such as cruise ships, have a preference for 30-month exchanges. Two customers, one of which was a cruise ship operator, confirmed this view. Survitec said that, as Wilhelmsen Safety only offers the standard 12-month exchange commercial life rafts, the Parties do not compete closely in relation to these customers.
86. However, the Parties also stated that, in 2015, [REDACTED]% of Wilhelmsen Safety's revenue in the UK was generated by offering leasing services to cruise ships. This would suggest that at least some cruise ship customers see the 12-month leasing option as a viable alternative. Indeed, Wilhelmsen Safety said that in [REDACTED] [a negligible number of] occasions [REDACTED] due to the fact that the customer preferred a 30-month exchange period. Moreover, the CMA notes [REDACTED].
87. The Parties further submitted that Survitec supplies life rafts to all sectors of the marine industry, while Wilhelmsen Safety focuses on supply to 'bluewater'²¹ tankers and cargo ships, which travel longer distances and can be supported by Wilhelmsen Safety's smaller global servicing network. However, the CMA notes that, [REDACTED]. Moreover, third parties told the CMA that commercial life rafts are not designed for a particular customer group and therefore the same life rafts can be installed on various vessels. For example, three customers which operate different types of vessel each told the CMA that their choice of life raft brand is not affected by the type of vessel.

²⁰ In the EEA, [REDACTED]% of Survitec's customers use this option.

²¹ Vessels that operate in open waters.

88. The evidence above indicates that the Parties have a slightly differentiated offering, and a slightly different focus on the customers they target. However, both of the Parties serve all types of customer groups in the UK and the EEA, and their life rafts can be installed on all vessels.²² The CMA also notes that there are very few competitors in the UK and the EEA for leased commercial life rafts. The CMA therefore believes that the Parties compete closely, with only Viking having a comparable leased commercial life raft offering.

Tender data

89. The Parties estimated that approximately [20-30]% of their contracts have been won through a bidding process. The remainder of the contracts were renewals from existing customers, or arose from new customers approaching the Parties directly or from the Parties pitching their offerings to new customers.
90. Survitec provided bidding data for the period December 2013 to May 2016, and Wilhelmsen Safety provided data for the period February 2014 to May 2016. The CMA notes that there are certain limitations on the extent to which this data is informative about the competitive constraints between the Parties.²³
91. Survitec submitted evidence relating to bids with regard to [X] contracts from around the world (of which it won [X]). [X] of these bids were in Europe (of which it won [X]). On a global basis, Survitec bid [X] times ([X]%) against Viking and [X] times ([X]%) against Wilhelmsen Safety. In Europe, Survitec bid [X] times ([X]%) against Viking and [X] times ([X]%) against Wilhelmsen Safety. Viking was a sole competitor [X] times globally and [X] times in Europe, while Wilhelmsen Safety was the sole competitor to Survitec [X] times globally and [X] in Europe. Survitec won all the tenders where it participated in the UK, of which Viking bid on [X] occasions and Wilhelmsen Safety on [X].
92. Wilhelmsen Safety submitted bids with regard to [X] contracts on a global basis (of which it won [X]). [X] of these bids were in Europe (of which it won [X]). On a global basis, Wilhelmsen Safety bid [X] times ([X]%) against Viking and [X] times ([X]%) against Survitec. In Europe, Wilhelmsen Safety bid [X] times ([X]%) against Viking and [X] times ([X]%) against Survitec.

²² The OC&C presentation mentioned below (see paragraph 96) indicates that Wilhelmsen Safety serves all vessel types.

²³ Wilhelmsen did not [X]. The data also only captures [X] and does not reflect contracts for which neither Survitec nor Wilhelmsen Safety were invited, or chose, to bid. This may cause the data to show the Parties to compete more closely than they actually do. However, given that there appear to be very few other potential suppliers, the CMA would not expect there to be many contracts where neither of the Parties were invited to bid.

Of these bids, Viking was a sole competitor on [redacted] times globally and [redacted] times in Europe, while Survitec was the sole competitor to Wilhelmsen [redacted] times globally and [redacted] times in Europe. Wilhelmsen Safety won [redacted] and lost [redacted] tenders in the UK, of which Viking bid on [redacted] occasions and Survitec on [redacted]. Wilhelmsen Safety said that Viking's offer was cited to be better priced on [redacted] occasions (out of [redacted]) where it lost to Viking.

93. Excluding tenders from customers [redacted], where Wilhelmsen Safety often bid against [redacted], there were only [redacted] bids (out of [redacted]) in Wilhelmsen Safety's data and [redacted] bids (out of [redacted]) in Survitec's data where a competitor other than Viking, Survitec or Wilhelmsen Safety participated. This suggests a strong competitive interaction between the three main suppliers and a very limited participation by others. The CMA notes again the limitations of the data submitted, but in light of the corroborating internal documents and third party views set out below, considers that the bidding data confirms the overall picture that the Parties and Viking are close competitors without any significant alternatives.
94. The CMA infers from the [redacted] that Viking might be a stronger competitor to each of the Parties than they are to each other; however [redacted] that Wilhelmsen Safety and Survitec are close competitors, and that they place a significant competitive constraint both on each other and on Viking. [redacted] there is a very limited competitive constraint on the Parties from other suppliers.

Internal documents

95. The CMA reviewed internal documents submitted to it by the Parties and identified several documents which indicated that the Parties view each other as close competitors.
96. A 2016 due diligence presentation [redacted].
97. Another internal document from Wilhelmsen Safety, [redacted].
98. Another internal document from Wilhelmsen Safety, a presentation [redacted].
99. An internal document from Survitec, a forecast presentation dated 2014, indicates that [redacted].
100. The CMA notes that [redacted] also mention Ocean Safety as a competitor in the UK.
101. Overall, the Parties' internal documents consistently indicate that the Parties compete closely, with Viking as the only other close competitor. There is little

evidence of other parties exerting a competitive constraint on the Parties with regard to leasing commercial life rafts.

Third party views

102. Eight competitors indicated that the Merger could lead to a loss of competition. Five customers expressed concerns about the Merger, in particular that it could lead to increased prices.
103. Several customers indicated that the Parties compete closely. The remaining customers did not comment on this issue or indicated that they were not able to answer this question as they had not used the services of both Parties. One customer told the CMA that an important consideration in choosing a commercial life raft supplier is the size of the supplier's network of service stations. It submitted that only Survitec, Viking and maybe Wilhelmsen Safety have sufficiently large global servicing station networks to meet its needs.
104. Most customers did not identify any suppliers of commercial life rafts other than the Parties and Viking. Only three customers mentioned other competitors, among which Ocean Safety and Harding²⁴ were named twice.
105. No third party mentioned Samgong as a competitor. One third party indicated that it switched from Fujikura to Wilhelmsen Safety. None of the customers that responded to the CMA's merger investigation mentioned UK-based independent service stations as competitors.
106. Several customers told the CMA that they would consider purchasing/leasing from Asian manufacturers (or already do), but more customers told the CMA that they would not, principally due to concerns over quality.²⁵ One customer said that it would not source from Asian suppliers because these suppliers did not have the reputation of the large Western suppliers and also did not have a sufficient size of servicing network. In addition, a British shipyard told the CMA that it would be too expensive to bring people from Asia to install life rafts, thereby indicating that, for ships built in the UK, a UK presence, or at least an EEA presence, is necessary. None of the customers that responded to the CMA mentioned Youlong as an alternative to the Parties.
107. Most competitors indicated that the Parties compete closely with each other. They said that the Parties offer similar products, with a similar large service station network, the same types of customer and similar business models. A

²⁴ Harding does not seem to be active in any part of the distribution chain of commercial life rafts.

²⁵ The CMA notes that some Asian manufacturers produce white label life rafts, which are then branded by European distributors/lessors (eg Wilhelmsen, Nautic and Ocean Safety). This, alongside the evidence from customers, indicates that some customers might be more brand-sensitive than manufacturer-sensitive.

few competitors suggested that the Parties do not compete closely. One of these competitors stated that the Parties do not compete closely in its local area in the UK and another said that the Parties have a different product offering. However, the same party noted that Survitec had been forced to offer a leasing solution for commercial life rafts after Wilhelmsen Safety had introduced this business model.

108. Competitors were asked to identify their top five competitors in the UK and in the EEA for the supply of commercial life rafts. Survitec, Wilhelmsen and Viking were consistently ranked in the top three in both the UK and the EEA. Other names featured very rarely, and only Ocean Safety, Nautic and Norwest Marine were mentioned occasionally in the UK, though none of these suppliers was mentioned in the top five in the EEA.
109. Two third party competitors mentioned Lalizas as an example of recent entry into the UK, but indicated that Lalizas is not very strong so far. In addition, [redacted].
110. Another third party told the CMA that an independent service station tried to introduce CSM life rafts in the UK, but was unsuccessful and was taken over by Survitec, which then disposed of this brand.

Conclusion on closeness of competition and alternative suppliers

111. On the basis of this evidence, the CMA believes that Survitec, Wilhelmsen Safety and Viking are the three principal suppliers of leased commercial life rafts. Ocean Safety is an additional weak competitor in the UK. The evidence indicates that the Parties exert a significant competitive constraint on each other in the supply of leased commercial life rafts in the UK and the EEA and, other than from Viking, the competitive constraint on the Parties from alternative suppliers of leased commercial life rafts in the UK and EEA is very limited.

Conclusion on horizontal unilateral effects in the supply of leased commercial life rafts in the UK and the EEA

112. For the reasons set out above, the CMA believes that the Merger reduces the number of competing major suppliers of leased commercial life rafts both in the UK and the EEA from three to two. On the basis of the Parties' offerings, internal documents, third party views, and tender data, the CMA believes that the Parties are close competitors in the supply of leased commercial life rafts, though Viking (the third major supplier) is Survitec's closest competitor.

113. Given the evidence of close competition between the Parties and, in particular, the presence of only one major competitor post-Merger, the CMA believes that the Merger gives rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the supply of leased commercial life rafts in the UK and the EEA.

The supply and service of purchased commercial life rafts

114. The CMA also considered whether the Merger could lead to horizontal unilateral effects in the supply and service of purchased commercial life rafts. This is because Survitec was active in the supply and service of leased commercial life rafts and, as a reaction to the leasing offerings of Wilhelmsen, entered the supply of leased commercial life rafts. Similarly, customers that adopted leasing commercial life rafts had switched to this from the model of purchasing and servicing. These factors seem to suggest a competitive interaction between these two offerings.
115. The CMA examined the extent to which leasing a commercial life raft is an alternative for customers who currently purchase a commercial life raft.²⁶ Given that Wilhelmsen Safety does not supply purchased commercial life rafts,²⁷ the Merger will only impact the supply of purchased commercial life rafts if the loss of constraint on purchasing from leasing is significant.
116. In its *Survitec/Cosalt* and *Survitec/Zodiac* decisions, the OFT found that customers tend to consider the whole life cost when obtaining a commercial life raft, increasingly procuring servicing with the life raft either as part of a fixed-term contract, which includes ongoing service provision within the upfront purchase price of the raft, or hiring the raft with the cost of subsequent servicing included in the hire. Therefore, the OFT considered the distribution and servicing of commercial life rafts as a bundle.
117. In the present case, customers confirmed that they consider the whole life cost when purchasing a life raft, including servicing costs.
118. The Parties submitted that certain types of customer have a preference for leased commercial life rafts while others prefer to own their life rafts. The Parties said that shipyards, fishing vessels and tramping ships²⁸ have a strong

²⁶ For the purposes of the frame of reference (see paragraph 49), the relevant question was whether the frame of reference should be broadened from leasing to purchasing, which depended on the extent of the constraint from purchasing on leasing. This was shown to be very limited. In this section, the question is the competitive effect of the Merger in purchasing, which depends on the extent of constraint from leasing on purchasing.

²⁷ Wilhelmsen Safety [X] does not compete for the sale of new life rafts to customers.

²⁸ A tramping ship does not have a fixed schedule or published ports of call and might change its destination very quickly.

preference for purchased commercial life rafts, and therefore these customer groups were unlikely to switch to leasing.

119. The CMA notes that shipbuilders tend to purchase commercial life rafts for new ships as they need to deliver ready-for-sea vessels. However, an internal document of Wilhelmsen Safety indicated that [REDACTED]. Moreover, some customers told the CMA that, even if they purchased their commercial life rafts with a new vessel, they may subsequently replace them with leased life rafts, because servicing costs increase with the age of the raft. One third party told the CMA that, within around five years, it would consider replacing life rafts purchased up front with a vessel with leased rafts due to increasing annual service costs.
120. The CMA's investigation also found that some competitors supply leased commercial life rafts to fishing vessels.
121. Several third parties told the CMA that the decision whether to lease or to purchase a commercial life raft was affected by the route of the vessel. One third party said that, if the route of the ship is constant, it would prefer to lease, while if a ship does not have a constant route, purchasing would be preferable because it may be difficult to ensure that the ship will dock at one of the necessary ports to exchange its rafts (there being fewer sites for exchange than for servicing).
122. This evidence suggests that certain types of customer might perceive the supply and service of leased commercial life rafts as a closer substitute to the supply of purchased commercial life rafts than other types of customer. However, the evidence shows that all customer groups are to some extent supplied with both purchased and leased commercial life rafts.
123. The CMA's investigation found that in the period 2007 until present, a number of customers had switched from purchasing commercial life rafts to leasing commercial life rafts. An internal document from Wilhelmsen indicated that the estimated leased commercial life raft fleets of Survitec, Wilhelmsen Safety and Viking amounted to a total of approximately [REDACTED] rafts in 2015. Wilhelmsen Safety's commercial life raft fleet grew from 2010 to 2015 from [REDACTED] to [REDACTED]. Despite this trend, the Parties estimated that, currently, only [REDACTED]% of all commercial life rafts in the EEA are leased. Therefore, even if leasing provided some constraint on purchasing and servicing, the extent of this constraint appear limited given the scale of switching that has occurred.
124. Wilhelmsen Safety also submitted evidence that showed that [REDACTED] [demand for leased commercial life rafts was growing less in recent years and that this trend would continue].

125. The Parties also submitted that the full-life cost of leasing a commercial life raft was [redacted] less [redacted] than the full-life cost of purchasing and servicing a commercial life raft, [redacted] of commercial life rafts were [redacted] supplied through purchasing [redacted]. The Parties said that this showed that, for most customers, leasing was not a desired option, and was not a constraint on purchasing.
126. In addition, the CMA identified no customers which had switched back from leasing to purchasing and servicing, which indicates that once a customer has switched to leasing, they are unlikely to consider switching back. The CMA did not see evidence of suppliers of commercial life rafts reducing prices to customers who have switched away in order to induce them to switch back from leasing. Similarly, no customer of purchased commercial life rafts indicated that it used the prospect of switching to leasing to negotiate better prices. This suggests a limited constraint from leasing on the sale and purchasing of life rafts.
127. Survitec further submitted that [redacted].
128. Therefore, the CMA believes that the Merger will not give rise to a realistic prospect of an SLC in the supply and servicing of purchased commercial life rafts.

Vertical effects

129. Vertical effects may arise when a merger involves firms at different levels of the supply chain. Vertical mergers may be competitively benign or even efficiency-enhancing, but in certain circumstances can weaken rivalry, for example when they result in foreclosure of the merged firm's competitors. The CMA only regards such foreclosure to be anticompetitive where it results in an SLC in the foreclosed market(s), not merely where it disadvantages one or more competitors.²⁹
130. Wilhelmsen Safety is not a manufacturer of commercial life rafts and does not have its own servicing stations in the UK. Rather, it purchases life rafts from Survitec, Youlong and Seasafe and subcontracts servicing. Survitec services all Wilhelmsen Safety life rafts which are supplied by Survitec, while Norwest Marine services those life rafts supplied by Youlong and Seasafe.
131. The CMA has considered two ways in which customer foreclosure concerns may arise. First, if, post-Merger, all Wilhelmsen Safety life rafts are supplied to it by Survitec, the loss of Wilhelmsen Safety as a customer could lead to the

²⁹ In relation to this theory of harm 'foreclosure' means either foreclosure of a rival or to substantially competitively weaken a rival.

foreclosure of Youlong as a supplier of life rafts.³⁰ Second, if, post-Merger, all Wilhelmsen Safety life rafts are serviced in the UK by Survitec, the loss of Wilhelmsen Safety as a customer could lead to the foreclosure of Norwest Marine as a supplier of servicing. These concerns are considered in turn.

132. Reduced demand from Wilhelmsen Safety for Youlong's life rafts could weaken Youlong's position as a supplier of life rafts in the UK and the EEA. However, the CMA notes that Youlong has several distributors of its life rafts in the UK and the EEA. In particular, Youlong sells its life rafts to Nautic, which has a network of servicing stations in the UK; and it sells to Duarry, whose products are supplied by at least three servicing stations in the UK. According to Wilhelmsen's estimates, Wilhelmsen purchased [redacted] out of [redacted] Youlong life rafts sold globally, which indicates that Youlong only sells a small share of its life rafts to Wilhelmsen Safety. In addition, given that Youlong's life rafts were rebranded as Uitor when leased by Wilhelmsen, it is not apparent that having Wilhelmsen as a customer significantly helped Youlong in establishing a reputation in the UK or EEA.
133. Norwest Marine told the CMA that [redacted]. It said that, if Wilhelmsen Safety were to withdraw its licence to service its life rafts, Norwest Marine [redacted]. Though this would clearly weaken a competing provider of servicing, the CMA does not believe that this would be sufficiently harmful to Norwest Marine to reduce competition in the supply of servicing of commercial life rafts. Moreover, the Parties pointed out that service stations which Survitec had ceased using were able to find alternative life raft suppliers whose customers they could serve (eg Ocean Safety).
134. For these reasons, the CMA believes that the combined entity would not have the ability to foreclose Youlong as there are sufficient alternative channels through which Youlong has access to customers in the UK and the EEA; and it would not have the ability to foreclose Norwest Marine as Norwest Marine services the life rafts of several other commercial life raft providers in the UK. Accordingly, the CMA found that the Merger does not give rise to a realistic prospect of an SLC as a result of vertical effects in relation to the supply of leased commercial life rafts in the UK and the EEA.

Barriers to entry and expansion

135. 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

³⁰ Wilhelmsen Safety is no longer buying life rafts from Seasafe.

considers whether such entry or expansion would be timely, likely and sufficient.³¹

136. The Parties submitted that the barriers to entry to the supply of leased commercial life rafts are not high. In particular, the Parties said that it is conceivable that a supplier could cover all of the UK with one servicing station; all of the EEA with five to seven stations; and globally with around 20 stations. The Parties said that setting up a service station is not costly.
137. One third party told the CMA that, although the costs of establishing a servicing station might not be high in absolute terms, these costs might be significant for a local servicing station considering to expand, as such businesses are often small.
138. The CMA also notes that many customers indicated that reputation and the ability to offer a broad network of licensed service stations were very important, and necessary in order to become an effective competitor to the Parties. One third party told the CMA that it did not win a tender for a contract due to the size of its network, which consisted of more than 20 stations, which casts doubt over the Parties' suggestion that a global network of 20 stations would suffice to be a large regional (ie EEA) or global player. Third parties also told the CMA that developing a network of servicing stations would take considerable cost and time.
139. The CMA also notes that internal documents from Wilhelmsen Safety indicate that [REDACTED]. Moreover, these internal documents indicate that there are large costs involved in having a sufficiently large pool of exchange life rafts in order to undertake the leasing business.
140. The CMA also notes that Survitec entered the supply of leased commercial life rafts as a manufacturer of these rafts, and a supplier of purchased rafts, with a large established network of servicing stations; and Wilhelmsen Safety entered as a supplier of gas and fire safety equipment, with a customer base to which it could cross-sell life rafts and a global service base it could utilise. Neither the Parties nor third parties specified any other supplier which could leverage such advantages to enter or expand in the same way.
141. On the basis of this evidence, the CMA believes that the barriers to establishing a network of servicing stations are significant, and therefore the CMA cannot rely on entry or expansion to mitigate the effects of the Merger in the supply of leased commercial life rafts.

³¹ [Merger Assessment Guidelines](#), from paragraph 5.8.1.

Countervailing buyer power

142. The Parties submitted that they supply leased commercial life rafts to large, international, shipping companies, which are experienced and sophisticated purchasers of products and services.
143. However, the CMA notes that the Merger results in a loss of competition in the supply of leased commercial life rafts from three to two, and some customers indicated that they would expect prices to rise post-Merger due to their limited options.
144. In this context, the CMA does not believe that it can rely on countervailing buyer power to mitigate the effects of the Merger in the supply of leased commercial life rafts.

Third party views

145. Eleven competitors and 16 customers responded to the CMA's merger investigation. Third party comments have been taken into account where appropriate in the competitive assessment above.

Conclusion on substantial lessening of competition

146. Based on the evidence set out above, the CMA believes that it is or may be the case that the Merger has resulted, or may be expected to result in an SLC as a result of horizontal unilateral effects in the supply of leased commercial life rafts in the UK and the EEA.

Exceptions to the duty to refer

147. Where the CMA's duty to refer is engaged, the CMA may, pursuant to section 22(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.

Markets of insufficient importance

148. 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 size of the market(s) concerned, taking into account

also the likelihood that harm will arise, the magnitude of competition potentially lost and the duration of such effects.³²

149. For the purposes of applying the de minimis exception, the market concerned is the affected market. In the present case, this is the supply of leased commercial life rafts within the UK and the EEA, though turnover generated outside the UK is not taken into account.³³

'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.³⁴ In most cases, a clear-cut undertaking in lieu will involve a structural divestment.
151. The Parties submitted that Wilhelmsen Safety has no stand-alone commercial life raft leasing business in the UK which could be delineated and divested. In the UK, Survitec is acquiring through the Merger a number of multi-jurisdictional customer contracts with a UK exchange or service-delivery element and no other material assets in relation to that activity, other than Wilhelmsen Safety's service station in Liverpool. In order for these contracts to become a viable business in the UK they would need to be acquired by a company that is already active in life raft leasing with the relevant infrastructure, including an international presence to enable exchange at multiple locations, IT systems, know-how, staff and distribution systems. With these criteria, [redacted]. Survitec also submitted that its leasing business is integrated in its larger organisation, with the responsible staff performing many cross-over roles. It added that it would be disproportionate for the CMA to require it to divest this wider business.
152. For these reasons, the CMA does not believe that an 'in principle' clear-cut undertaking in lieu is available in this case.

Relevant factors

153. The CMA will consider the likely level of consumer harm by reference to a number of factors when deciding whether or not to apply the de minimis

³² *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).

³³ *Mergers: Exceptions to the duty to refer and undertakings in lieu of reference guidance* (OFT1122), December 2010, paragraph 2.30.

³⁴ *Mergers: Exceptions to the duty to refer and undertakings in lieu of reference guidance*, paragraphs 2.2 and 2.18-27.

exception. However, the CMA's guidance states that, where the size of the affected market is less than £3 million, it will generally not consider a reference justified provided that there is in principle not a clear-cut undertaking in lieu of reference available.³⁵

154. Based on data provided by the Parties and third parties, the CMA estimated that the total size of the affected market for the supply of leased commercial life rafts in the UK is £[2.5-3.5] million, depending on how the turnover is allocated geographically.³⁶ Given that the size of the affected market could be calculated in different ways, resulting in estimates slightly below and slightly above £3 million, the CMA considered the other factors set out in its guidance³⁷ in the round and concluded that the expected impact of the Merger in terms of the magnitude of possible harm arising in the longer term was not such as to warrant a reference.

Conclusion on the application of the de minimis exception

155. Due, in particular, to the size of the affected market, and given that there is not in principle a clear-cut undertaking in lieu available, the CMA believes that the market to which the duty to refer applies is not of sufficient importance to justify a reference (ie it has decided to apply the *de minimis* exception).

Decision

156. Consequently, the CMA believes 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. However, pursuant to section 22(2)(a) of the Act, the CMA believes that the market or markets concerned are not of sufficient importance to justify the making of a reference.

157. The Merger will therefore **not be referred** under section 22 of the Act.

Kate Collyer
Deputy Chief Economic Advisor
Competition and Markets Authority
2 December 2016

ⁱ Paragraph 74: The reference to 'Table 3' should read 'Table 5'.

³⁵ [Mergers: Exceptions to the duty to refer and undertakings in lieu of reference guidance](#), paragraph 2.16.

³⁶ See paragraph 72.

³⁷ [Mergers: Exceptions to the duty to refer and undertakings in lieu of reference guidance](#), paragraphs 2.28-2.43.