

Completed acquisition by JD Sports Fashion Plc of Go Outdoors Topco Limited

Decision on relevant merger situation and substantial lessening of competition

ME/6648/16

The CMA's decision on reference under section 22(1) of the Enterprise Act 2002 given on 3 May 2017. Full text of the decision published on 7 June 2017.

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

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SUMMARY

- On 27 November 2016, JD Sports Fashion Plc (**JD Sports**) acquired Go Outdoors Topco Limited (**Go Outdoors**) (the **Merger**). JD Sports and Go Outdoors are together referred to as the **Parties**. JD Sports is 57% owned by Pentland Group Plc (**Pentland**).

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 turnover test is met. The four-month period for a decision, as extended, 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 retail supply of outdoor clothing, outdoor footwear and outdoor equipment in the United Kingdom. The CMA assessed the impact of the Merger on the supply of outdoor clothing, footwear and equipment (each as a separate product frame of reference) both at national level and in local areas of the United Kingdom.
4. The CMA found that online sales exercise some constraint on the bricks-and-mortar sales of outdoor products, although there may be limits to the competitive interaction between these two distribution channels. The CMA has therefore considered competition between bricks-and-mortar retailers and competition between online retailers separately. However, the CMA also took the constraint from online retailers on bricks-and-mortar stores into account, to the extent relevant, in its competitive assessment.

National assessment

5. In assessing the effect of the Merger at a national level, the CMA considered a range of evidence including: (i) share of supply estimates; (ii) internal documents; (iii) price matching and tracking data; (iv) evidence from third parties; and (v) some limited survey data. The CMA found that:
 - (a) the Parties have relatively modest shares of supply and face a significant number of credible competitors in each product category, in both the bricks-and-mortar and online channels; and
 - (b) the available evidence indicates that the Parties are not uniquely close competitors in each product category and face similarly close competitors across each product category, in both the bricks-and-mortar and online channels.
6. The CMA therefore concluded that the Merger does not give rise to a realistic prospect of a substantial lessening of competition (**SLC**) as a result of unilateral horizontal effects at national level in the UK.

Local assessment

7. To conduct its local assessment, the CMA undertook an initial filtering exercise, based on the parameters described in paragraphs 93 to 100 below.

The purpose of the filter was to identify local areas which did not raise *prima facie* competition concerns and which could be ruled out from further assessment. 14 local areas 'failed' the CMA's filter. The CMA conducted a detailed assessment of these areas, along with two further areas which passed the filtering exercise but where the Parties were particularly closely located with their competitors located further away. Seven local areas were taken forward for further consideration, and the assessment of these areas is set out in detail in paragraphs 110 to 186 below.

8. On the basis of the available evidence, the CMA believes that there will be sufficient post-Merger competitive constraints, including constraints from online retailers, within each local area to ensure that rivalry continues to discipline the commercial behaviour of the merged entity. The CMA therefore believes that the Merger does not give rise to a realistic prospect of an SLC as a result of unilateral horizontal effects in any local area in which the Parties overlap.

Vertical assessment

9. The Merger also involves a vertical relationship, as Pentland is active in the wholesale supply of branded outdoor products to outdoor retailers (in particular, through its Berghaus brand). The CMA therefore also considered whether the Merger could result in vertical competition concerns, either due to input foreclosure (which would involve the merged entity ceasing to supply or worsening the terms on which it supplies its Berghaus branded products to outdoor retailers) or due to customer foreclosure (which would involve the merged entity ceasing to stock or reducing its range of third party branded outdoor products).
10. Given Pentland's low market share in the upstream wholesale market, and third party submissions indicating that Berghaus is not a 'must have' outdoor brand, the CMA concluded that the merged entity would not have the ability to engage in input foreclosure. Similarly, given the Parties' relatively modest combined shares downstream, and the range of alternative routes to market available to suppliers of outdoor products, the CMA also concluded that the merged entity would not have the ability to engage in customer foreclosure. The CMA also noted that the Parties' business models involve the offer of a wide choice of outdoor brands to consumers, which indicates that the merged entity would also not have the incentive to pursue a strategy of customer foreclosure.
11. The CMA therefore concluded that the Merger will not result in a realistic prospect of an SLC as a result of vertical effects.

12. For these reasons the Merger will **not be referred** under section 22(1) of the Enterprise Act 2002 (the **Act**).

ASSESSMENT

Parties

13. JD Sports is an international retailer of sports fashionwear. JD Sports also operates an outdoor business comprising the Blacks, Millets, Ultimate Outdoors, Tiso Group and George Fisher fascia (together, **JD Outdoor**) which supplies outdoor clothing, footwear and equipment in the UK. The turnover of JD Sports in the financial year ending 30 January 2016 was around £1,408 million in the UK.
14. JD Sports is listed on the London Stock Exchange and is 57% owned by Pentland. Pentland is a privately owned company active in the sports, fashion and outdoor markets. In the outdoor space, Pentland owns the Berghaus and Speedo brands, which are active in the UK primarily at wholesale level.¹ The turnover of Pentland in the financial year ending 31 December 2015 was around £1,869 million in the UK.
15. Go Outdoors is a UK-based retailer of outdoor clothing, footwear and equipment. The turnover of Go Outdoors in the financial year ending 31 January 2016 was around £202 million in the UK.

Transaction

16. JD Sports agreed to acquire the share capital of Go Outdoors via a Sale and Purchase Agreement dated 27 November 2016. The transaction completed the same day.
17. The Merger was not reviewed by any competition authorities other than the CMA.

Jurisdiction

18. As a result of the Merger, the enterprises of Pentland (which includes JD Sports) and Go Outdoors have ceased to be distinct.

¹ Berghaus and Speedo each have a small number of branded stores. The CMA has considered these stores in its competitive assessment of local overlaps. Pentland also owns (or owns an interest in) a number of other brands which are arguably outdoor related. Given the limited overlaps involved, or the high degree of differentiation between these brands and the core businesses of the Parties, the CMA has not considered these brands further in its competitive assessment of the Merger.

19. The UK turnover of Go Outdoors exceeds £70 million, so the turnover test in section 23(1)(b) of the Act is satisfied.
20. The Merger completed on 27 November 2016 and was first made public the same day. The four month deadline for a decision under section 24 of the Act is 7 June 2017, following extension under section 25(2) of the Act.
21. The CMA therefore believes that it is or may be the case that a relevant merger situation has been created.
22. The CMA opened an own-initiative investigation into the Merger by sending an Enquiry Letter to Pentland on 19 December 2016.² Pentland and JD Sports responded to the CMA's Enquiry Letter and submitted a Merger Notice.
23. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 21 March 2017 and the statutory 40 working day deadline for a decision is therefore 18 May 2017.

Counterfactual

24. 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.³
25. Pentland and JD Sports told the CMA that the relevant counterfactual was the pre-merger situation, and the CMA did not find any evidence supporting a different counterfactual. No third party has put forward any argument that an alternative counterfactual should be used.
26. The CMA therefore believes the pre-Merger conditions of competition to be the relevant counterfactual.

Frame of reference

27. Market definition provides a framework for assessing the competitive effects of a merger and involves an element of judgement. The boundaries of the

² See [Mergers: Guidance on the CMA's jurisdiction and procedure](#) (CMA2), January 2014, paragraphs 6.9-6.19 and 6.59-60.

³ [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).

market do not determine the outcome of the analysis of the competitive effects of the merger, as 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.⁴

28. As explained above, the Parties overlap in the supply of outdoor clothing, footwear and equipment. Outdoor clothing includes outerwear (such as waterproofs), fleeces, accessories, base layers and other associated products. Outdoor footwear includes walking boots, hiking boots and shoes, climbing shoes and other associated products. Outdoor equipment includes tents, luggage (such as rucksacks), sleeping bags, climbing equipment and other climbing equipment and other associated products.
29. JD Outdoor comprises the following fascia:
 - (a) Blacks (59 stores across the UK and online);
 - (b) Millets (99 stores across the UK and online);
 - (c) Ultimate Outdoors (7 stores across the UK and online);
 - (d) Tiso⁵ (10 Tiso stores and 4 Alpine Bikes stores across the UK and online); and
 - (e) George Fisher (1 specialist store in the Lake District which also sells online, and is part of the Tiso Group).
30. Go Outdoors owns and operates 57 stores in the UK, and has entered into binding arrangements to open new stores in Ipswich and Tonbridge.
31. Pentland owns the following outdoor-related brands:
 - (a) Speedo (5 stores across the UK); and
 - (b) Berghaus (4 stores across the UK).

Product scope

32. The Parties submitted that the relevant product market comprises the retail supply of outdoor clothing/apparel, outdoor footwear and outdoor equipment. This is on the basis that, while there are differences from a demand-side

⁴ [Merger Assessment Guidelines](#), paragraph 5.2.2.

⁵ Tiso Group is 60% owned by JD Sports.

perspective between these categories, from a supply-side perspective all of the specialist outdoor retailers are active across all of the segments (albeit to varying degrees).

33. The CMA notes that, from a consumer perspective, the goods within each category would typically not be substitutable for those in another. Moreover, the Parties' internal documents tend to segment their activities between outdoor clothing, footwear and equipment, and third party market reports also adopt these same categories. Therefore, the CMA believes that there is unlikely to be material demand-side substitution between the categories identified.
34. While the boundaries of the relevant product market are generally determined by reference to demand-side substitution alone,⁶ the CMA may widen the scope of the market where there is evidence of supply-side substitution. In the circumstances of the current case, the CMA believes that the available evidence does not support a wider frame of reference. While a significant number of outdoor retailers offer products across all three product categories, there is some differentiation between the retail propositions of different competitors, which are often active to varying extents in outdoor clothing, footwear or equipment. The CMA has limited evidence to suggest that supply-side substitution between segments is possible in all instances, and notes, for example, that some retailers are focussed only on the supply of one product category (for example, Argos and Halfords in relation to equipment).
35. The CMA therefore considers it appropriate to assess the Merger by reference to separate frames of reference for each of:
 - (a) outdoor clothing;
 - (b) outdoor footwear; and
 - (c) outdoor equipment.

Distribution channel

36. The CMA has also considered whether the product scope should be segmented by distribution channel – ie between bricks-and-mortar sales (or offline sales) and online sales. When selecting a frame of reference in horizontal mergers, the CMA may apply a 'hypothetical monopolist' test, to assess whether a hypothetical monopolist could profitably raise the price of

⁶ [Merger Assessment Guidelines](#), paragraph 5.2.17.

products in the candidate market by at least a small but significant amount over a non-transitory period of time (ie a ‘SSNIP’ – a small but significant and non-transitory increase in price, or an equivalent reduction in quality).⁷ When considering a possible segmentation by distribution channel in this case, the relevant question to consider would be whether customers would switch from bricks-and-mortar suppliers to online retailers in the event of a SSNIP.

37. The CMA assessed the extent to which the Parties’ customers regard the online supply of outdoor clothing, footwear, and equipment to be a direct substitute to the Parties’ bricks-and-mortar product offering. To assess the strength of the online constraint,⁸ the CMA has considered internal documents, third party views, and evidence from two customer surveys.⁹

Parties’ submissions

38. The Parties submitted that they compete against a range of retailers including online-only retailers (such as Amazon and eBay). The Parties told the CMA that they have a ‘multichannel’ product offering, with the same prices available online and in-store, and that online retailers are an important constraint on their bricks-and-mortar sales.
39. On the other hand, the Parties noted that some customers value the expert service available in-store (and therefore that online-only retailers may not be an attractive alternative for these customers). Go Outdoors also indicated that its expansion plans for bricks-and-mortar stores had not been significantly affected by the material increase of online sales in recent years (which could suggest that there are limits to the competitive interaction between the different distribution channels).

Internal documents

40. The CMA has looked at the Parties’ internal documents to help understand how retailers perceive the interaction between different channels and how it affects business decisions.¹⁰
41. The CMA notes that the Parties’ internal documents consistently reference online-only competitors. By way of example:

⁷ [Merger Assessment Guidelines](#) paragraph 5.2.11.

⁸ ‘Online retailers’ can include ‘pure play’ online retailers and bricks-and-mortar retailers with an online presence.

⁹ [Retail Mergers Commentary](#), paragraphs 4.1 and 4.2

¹⁰ [Retail Mergers Commentary](#), paragraph 4.8.

- (a) Go Outdoors' "Management Presentation" shows [REDACTED] competitive positioning as being closer to that of Go Outdoors than any other outdoor retailer;
 - (b) Go Outdoors' "Price Leadership" presentation refers to the competitive threat posed by online retailers such as [REDACTED]; and
 - (c) Millets' 2015-2017 business plan identifies [REDACTED].
42. Go Outdoors also tracks competitors' prices online and offers a "Price Match Plus" scheme across its store network, under which it provides discounts in local stores where a customer can show that a product is available cheaper at another retailer. The "Price Match Plus" scheme covers both bricks-and-mortar and online-only retailers.¹¹ In addition, the data submitted by Go Outdoors showed that:
- (a) Go Outdoors monitored [REDACTED] on all of the occasions for which price tracking data was provided; and
 - (b) Between February 2014 and January 2017, approximately [40-50]% of Go Outdoors price matches were made against online-only retailers (with [REDACTED] being the most frequently matched competitor).

Third parties

43. The majority of the competitors who responded to the CMA's merger investigation said that their pricing does not vary between the bricks-and-mortar and online sales channels. In addition, some of the Parties' competitors noted that customers already shop online for the products at issue, and that online sales are increasing. A number of online-only retailers who responded to the CMA's investigation stated that they already consider themselves to compete effectively with the Parties in relation to the supply of outdoor clothing, footwear and equipment.
44. On the other hand, some competitors noted that customers may be unwilling to source products online because they seek physical interaction with outdoor products and value the expert assistance of in-store sales staff.

Customer surveys

45. The Parties submitted a recent customer survey carried out by Go Outdoors, which showed that [60-70]% of the customers surveyed (in the first 10 weeks

¹¹ JD Sports told the CMA that it [REDACTED].

of 2017) browsed the internet prior to visiting the store. The Parties suggested that the survey highlights the competitive interaction between bricks-and-mortar and online retailing within this sector.

46. The CMA and the Parties also carried out an online survey of the Parties' customers in some of the local areas where the Parties both have stores. The survey, and the weight that the CMA has placed on its results, is discussed further below and in detail in Annex 2.
47. Responses to the online survey provide a clear indication that an appreciable proportion of the Parties' customers would switch to an online retailer if their usual store was closed. In particular, [20-30]% of JD Outdoor customers surveyed would switch to an online retailer and [30-40]% of Go Outdoors customers surveyed would switch to an online retailer if their usual JD Outdoor/Go Outdoors store was closed.¹² Even allowing for a degree of potential bias in an online survey (ie an online survey may overstate the overall propensity of customers to purchase online), the CMA considers that the survey results support the position that online retailers currently constrain bricks-and-mortar retailers, to some extent.

Conclusion

48. As explained above, the evidence submitted by the Parties and third parties is consistent with the online channel representing a significant constraint within this sector. There is, however, some evidence to suggest that there may be limits to the competitive interaction between the different distribution channels, in particular because some customers value the expert service provided in stores and may not regard online stores as an effective alternative. The CMA notes, in addition, that most of the available evidence does not address the question of whether customers would switch to an online retailer in the event of a SSNIP.
49. Accordingly, the CMA has not included online retailing within the product frame of reference.
50. However, in light of the evidence of the significance of online retailing (as described above), the CMA has taken the constraint from online retailers on bricks-and-mortar stores into account, to the extent relevant, within its competitive assessment.

¹² The survey asked customers what they would have done if, the last time they went to a named branch of JD Outdoor or Go Outdoors, they had learned beforehand that the bricks-and-mortar store in question had closed for a year for refurbishment.

Conclusion on product scope

51. For the reasons set out above, the CMA has considered the impact of the Merger in the supply of each of:
 - (a) outdoor clothing;
 - (b) outdoor footwear; and
 - (c) outdoor equipment.
52. The CMA has considered the impact of the Merger on competition for the supply of these categories of goods separately for (i) bricks-and-mortar sales; and (ii) online sales.
53. However, it was not necessary for the CMA to reach a conclusion on the product frame of reference, since, as set out below, no competition concerns arise on any plausible basis.

Geographic scope

National versus local competition

54. The Parties submitted that the relevant market is national in scope, explaining that they operate single national price lists and do not materially flex price, quality, range and customer service (PQRS) parameters at local level according to competitive conditions.
55. JD Sports submitted that JD Outdoor does not run local price promotions, except for limited local marketing for [X] (expenditure on which in 2016 amounted to £[X], or just [0-5]% of JD Outdoor's annual marketing spend in that year). JD Outdoor further submitted that its local store managers do not have any authority or discretion to alter prices, range or staff costs at local level (all of which are controlled centrally).
56. Go Outdoors submitted that its "Price Match Plus" scheme (as described in paragraph 42 above) constitutes the only material flexing of PQRS at local level, with the exception of some vouchering activity focussed on new stores and opening periods.
57. As explained in its Retail Merger Commentary, the CMA's starting point in retail cases is that customers shop in local retail stores within a given travel time of their home or work. For this reason, the CMA's strong starting assumption, within a Phase 1 proceeding, is that there will be local competition on one or more aspects of the retail offer.

58. While the available evidence suggests that there is currently relatively limited flexing of the Parties' retail offerings at a local level, it nevertheless shows that:
- (a) the Parties assess local conditions of competition (eg assessments of new store openings submitted by the Parties contain analyses of local competitive conditions);
 - (b) the Parties engage in local marketing activity (eg distributing leaflets advertising in-store price reductions); and
 - (c) the Parties have previously flexed their local retail offers in response to local competition.¹³
59. Even if, pre-Merger, the Parties did not often depart from the parameters set nationally for the majority of the PQRS elements of their offerings, the loss of competition resulting from the Merger in some local areas may create an incentive to flex some aspects of the retail offer locally. The CMA also noted the potential for consumer harm to arise through the closure of stores in particular local areas.
60. The CMA has therefore assessed the effects of the Merger both at a national and at a local level.

Methodology for defining local frames of reference

61. The Parties submitted a local analysis which involved calculating 80% "revenue weighted" outcode-based catchment areas, based on data collected through a mixture of customer surveys and loyalty card data. The Parties used their pre-Merger customer revenue and location data,¹⁴ collected as follows:
- (a) JD Outdoor – revenue and postcode data were captured through a mix of customer surveys (conducted periodically at the point of sale) and loyalty cards. Customer surveys were conducted via the tills, recording customer postcodes and value of goods purchased, over the following periods:
 - (i) Blacks and Ultimate Outdoors: Customer surveys across 2015;

¹³ In particular, in addition to the examples described above, there have been two examples of Go Outdoors running short-term promotions for a few days in response to a competitor opening a local store.

¹⁴ The Parties used customers' postcodes, aggregated to outcode level (eg so that 'EC4A 3BF' would become 'EC4A'), so that catchment areas did not capture individual customers and areas would not be presented with spurious accuracy.

(ii) Millets: Customer surveys in February and March 2016; and

(iii) Tiso Group: Customer loyalty card data across 2016.

(b) Go Outdoors – has a large database of those customers currently holding loyalty cards including customer revenues and postcodes.

62. The CMA considers that the “revenue weighted” outcode approach to local analysis is not appropriate for the present case, in particular because:

(a) the approach may miss overlaps between stores if, for example, certain outcodes are not captured in a catchment area because the store in question does not derive a high enough proportion of its turnover from that outcode. This might be the case if the Parties’ sales are focussed in areas where they face less competition;

(b) the catchment areas defined may not reflect consumers’ underlying willingness to travel to purchase outdoor clothing, footwear and equipment;

(c) in some instances the defined catchment areas were based on the locations of very small samples of customers; and

(d) there was a wide variation in the sizes of the defined catchment areas.

63. When testing the revenue-weighted approach, the CMA found that local overlaps that could raise *prima facie* competition concerns would not be identified using the “revenue weighted” approach but would be identified using a drive-time-based approach. The inverse was not the case (ie the drive-time-based approach did not fail to identify any overlaps that could raise *prima facie* competition concerns that were identified by the revenue-weighted approach).

64. The CMA therefore considers that drive-time isochrones are a more appropriate starting point for measuring store catchment areas in this case.

Defining catchment areas based on isochrones

65. In order to determine the appropriate size of the catchment areas for the local analysis, the CMA considered evidence from the Parties’ submissions, the Parties’ internal documents, and from third parties.

66. The Parties submitted that, on average, an 80% catchment area (ie a catchment area covering 80% of a store’s customers) is [X] minutes’ drive-time for a Go Outdoors store and [X] minutes’ drive-time for a JD Outdoor store.

67. The CMA also reviewed the Parties' internal documents for evidence relevant to the assessment of the appropriate drive-time isochrones for assessing local competition. In this regard:
- (a) documents produced in relation to Ultimate Outdoors' Merry Hill, Nottingham and Preston branches show that [REDACTED]%, [REDACTED]% and [REDACTED]% of customers respectively were within a 20 minute drive-time of those stores;
 - (b) one Go Outdoors document noted that [REDACTED]; and
 - (c) seven packs of internal documents relating to the assessment of new Go Outdoors stores identified [REDACTED].
68. The CMA asked the Parties' competitors for their views on their 80% catchment areas. Four competitors responded, with two estimating that 80% of their customers travelled 30 minutes to reach their stores. The other two respondents estimated that the size of their catchment areas would likely be 'up to' 60 minutes, with one noting that it had very loyal customers who may travel further than customers of other outdoor stores.
69. In light of the evidence described above, the CMA considers that a 30 minute drive-time isochrone is an appropriate geographic frame of reference at the local level.
70. In keeping with the CMA's established practice, the catchment area does not, however, determine the CMA's competitive assessment in any mechanistic way. In particular, the CMA has considered maximum reach overlaps ie where the Parties' stores are not within a 30 minute drive-time of one another but overlap in the locations of some of their customers (described further in the competitive assessment below) and has considered constraints from outside the boundaries of the catchment areas where appropriate. The CMA has also considered whether the closeness of competition between the Parties within a given catchment area could raise competition concerns (eg where the Parties' competitors are located towards the edges of the catchment area).

Conclusion on geographic scope

71. For the reasons set out above, the CMA has considered the impact of the Merger both at a national level and at a local level based on 30 minute drive-time isochrones around each of the Parties' stores.
72. However, it was not necessary for the CMA to reach a conclusion on the geographic frame of reference, since, as set out below, no competition concerns arise on any plausible basis.

Conclusion on frame of reference

73. For the reasons set out above, the CMA has considered the impact of the Merger in the following frames of reference.
- (a) At a national level, the supply of each of:
- (i) outdoor clothing;
 - (ii) outdoor footwear; and
 - (iii) outdoor equipment.
74. On a cautious basis, for each of these product categories the CMA has considered separately (i) bricks-and-mortar sales; and (ii) online sales. The CMA has also considered the competitive interaction between the two distribution channels for the purposes of its competitive assessment.
- (b) At a local level, based on 30 minute drive-time isochrones around each of the Parties' stores, the bricks-and-mortar supply of each of:
- (i) outdoor clothing;
 - (ii) outdoor footwear; and
 - (iii) outdoor equipment.
75. For the purposes of its competitive assessment, the CMA has also taken into account any constraint from online retailers on the Parties' ability and incentives to flex their retail offerings at a local level post-Merger.

Competitive assessment

Horizontal unilateral effects

76. 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
77. The CMA assessed whether it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC in relation to unilateral horizontal effects in the supply of each of outdoor clothing, outdoor footwear

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

and outdoor equipment, both at national level and in local areas of the United Kingdom.

Supply of each of outdoor clothing, outdoor footwear, and outdoor equipment at a national level

78. The supply of outdoor clothing, footwear and equipment – on a national basis – is analysed below.¹⁶ As explained above, the CMA has assessed competition in online retailing within a separate frame of reference to competition in bricks-and-mortar retailing (although the constraint from online retailers on bricks-and-mortar retailers has been taken into account, to the extent relevant, in the CMA’s competitive assessment).

Shares of supply

79. The CMA has estimated national shares of supply for outdoor clothing, footwear and equipment in the UK, both for bricks-and-mortar and for online sales. The CMA’s estimates are based on actual revenue information collected from the Parties and from third parties, revenue estimates provided by the Parties for their competitors (where the CMA did not have access to actual revenue data), and a third party market report produced by Profile Outdoors UK (to inform the estimated total market size). The data are set out in Tables 1 and 2 below:

¹⁶ Where possible, the CMA has disaggregated the evidence for each product category (although this has not been possible in all cases).

Table 1 Estimated national shares of supply for bricks-and-mortar sales, 2016¹⁷

Supplier	Clothing	Footwear	Equipment
	Share of supply	Share of supply	Share of supply
JD Outdoor	[5-10]%	[10-20]%	[10-20]%
Go Outdoors	[5-10]%	[10-20]%	[20-30]%
<i>Combined</i>	[10-20]%	[20-30]%	[30-40]%
Outdoor and Cycle Concepts Ltd. (Cotswold and Snow + Rock)	[10-20]%	[10-20]%	[10-20]%
Mountain Warehouse	[5-10]%	[5-10]%	[0-5]%
Jacobs & Turner Limited (Trespas and Nevisport)	[5-10]%	[5-10]%	[5-10]%
Sports Direct/ Field & Trek	[5-10]%	[20-30]%	[5-10]%
North Face	[5-10]%	[0-5]%	[5-10]%
Rohan	[0-5]%	[0-5]%	[0-5]%
Other monobrand eg Colombia, Jack Wolfskin	[0-5]%	[0-5]%	[0-5]%
Tog 24	[0-5]%	[0-5]%	[0-5]%
Decathlon	[0-5]%	[0-5]%	[0-5]%
Regatta	[0-5]%	[0-5]%	[0-5]%
Ellis Brigham	[0-5]%	[0-5]%	[0-5]%
Timberland	[0-5]%	[0-5]%	[0-5]%
Tesco	[0-5]%	[0-5]%	[5-10]%
Asda	[0-5]%	[0-5]%	[0-5]%
Halfords	[0-5]%	[0-5]%	[5-10]%
Argos	[0-5]%	[0-5]%	[0-5]%
Sainsbury's	[0-5]%	[0-5]%	[0-5]%
Other	[30-40]%	[10-20]%	[0-5]%
<i>Total</i>	<i>100%</i>	<i>100%</i>	<i>100%</i>

1. Source: The Parties, third parties, Profile Outdoor UK.

¹⁷ Data reflects the fact that suppliers operate different financial years.

Table 2 Estimated national shares of supply for online sales, 2016¹⁸

Supplier	Clothing	Footwear	Equipment
	Share of supply	Share of supply	Share of supply
JD Outdoor	[5-10]%	[10-20]%	[10-20]%
Go Outdoors	[0-5]%	[0-5]%	[10-20]%
<i>Combined</i>	[10-20]%	[20-30]%	[20-30]%
Other monobrand eg Colombia, Jack Wolfskin	[0-5]%	[0-1]%	[0-1]%
Decathlon	[0-5]%	[0-5]%	[5-10]%
Ellis Brigham	[0-5]%	[0-5]%	[0-5]%
Jacobs & Turner Limited (Tresspass and Nevisport)	[5-10]%	[5-10]%	[5-10]%
Mountain Warehouse	[5-10]%	[5-10]%	[0-5]%
Timberland	[0-5]%	[0-5]%	[0-5]%
North Face	[5-10]%	[0-5]%	[5-10]%
Outdoor and Cycle Concepts Ltd. (Cotswold and Snow + Rock)	[10-20]%	[10-20]%	[10-20]%
Regatta	[0-5]%	[0-5]%	[0-5]%
Rohan	[0-5]%	[0-5]%	[0-5]%
Sports Direct/ Field & Trek	[10-20]%	[50-60]%	[10-20]%
Tog 24	[0-5]%	[0-5]%	[0-5]%
Amazon	*	*	*
Ebay	*	*	*
Argos	[0-5]%	[0-5]%	[0-5]%
Asda	[0-5]%	[0-5]%	[0-5]%
Tesco	[0-5]%	[0-5]%	[5-10]%
Other	[20-30]%	[0-5]%	[5-10]%
Total	100%	100%	100%

2. *Source: The Parties, third parties, Profile Outdoor UK.*
Notes: i) Footwear does not sum to 100%. The CMA's estimated total market size was larger than that estimated by the Profile Outdoor report and shares are estimated on the smaller total market size on a cautious basis;
ii) The CMA received revenue estimates from Amazon and eBay but excluded these on a cautious basis given difficulties in allocating revenues to appropriate product categories and the possibility of double counting;

¹⁸ Data reflects the fact that suppliers operate different financial years.

iii) The 'other' category will include shares of online-only retailers from which the CMA did not collect revenue data, but which the available evidence suggests are competitors (such as Gaynor Sports and Outdoor GB).

83. The data shows that the Merger has created the largest outdoor retailer in the UK in all three product categories. However, the Parties' shares of supply remain moderate in all cases. In bricks and mortar sales, their combined shares are no more than [10-20]% in clothing, [20-30]% in footwear and [30-40]% in equipment. Their combined shares are similar in the online channel, amounting to no more than [10-20]% in clothing, [20-30]% in footwear and [20-30]% in equipment. The CMA considers that these share estimates may overstate the Parties' positions, particularly in relation to online sales where certain online retailers have been excluded or revenue information was not collected.¹⁹ The CMA also used the lower estimate where multiple estimates of market size were available, to give the most conservative estimate for the Parties' shares.²⁰
84. The market is fragmented, and the Parties face competition from numerous credible outdoor retailers present both online and with bricks-and-mortar stores, including Outdoor and Cycle Concepts (comprising the Cotswold and Snow + Rock fascia), Jacobs and Turner (comprising the Trespass and Nevisport fascia), Mountain Warehouse, Sports Direct (including the Field and Trek fascia), Tog 24 and the North Face. The other evidence available to the CMA (ie the Parties' internal documents, the price tracking and matching data, the survey data and feedback from the CMA's merger investigation) also indicates that the Parties are constrained by a diverse competitor set at the national level.

Closeness of competition

85. The CMA found that the Parties consistently identified each other as competitors in their internal documents, across all product categories. However, the Parties also consistently identified a number of other competitors (including when internal documents focussed on particular product categories), and various internal documents indicated that the Parties consider their different fascia to be competing more closely with other suppliers with respect to eg price and product range. For example, one third party report produced for Go Outdoors analysed the typical price and range carried by a number of outdoor retailers for a customer camping trip. This

¹⁹ See note ii) to Table 2 above.

²⁰ In any case, the CMA considers that market share data has less probative value where products are differentiated. See: [Merger Assessment Guidelines](#), from paragraph 5.3.2. However, the CMA considers that these data are still informative, and provide an indication of the number of effectively competing fascia in each of the frames of reference.

analysis placed Go Outdoors closest to [REDACTED], and Blacks closest to [REDACTED] and [REDACTED].

86. A number of the internal documents provided to the CMA also indicated that Go Outdoors competes more closely with [REDACTED] than with the other JD Outdoor fascia, and some documents indicated that Go Outdoors competed more closely with [REDACTED] than with any specialist or bricks-and-mortar retailer.
87. Similarly, data provided to the CMA shows that while Go Outdoors price monitors and matches JD Outdoor, it also price monitors and matches against a wide and diverse range of retailers for each of outdoor clothing, footwear and equipment. The CMA analysed a six-week sample of price tracking data, and found that the most-tracked competitors were [REDACTED] and [REDACTED] for both outdoor clothing and outdoor equipment, and [REDACTED] and [REDACTED] for outdoor footwear. The price matching data shows that Go Outdoors' most-matched competitors were all predominately online retailers, namely [REDACTED] and [REDACTED] in clothing and footwear, and [REDACTED] and [REDACTED] in equipment.
88. The majority of third parties told the CMA that the Parties were close competitors in relation to each of outdoor clothing, footwear and equipment. These third parties also typically told the CMA that they compete closely with the Parties within each of the product categories in which they are active. Consistent with the differentiation noted in internal documents (as described in paragraphs 85 and 86 above), some competitors also noted that Go Outdoors competes more closely on price and range with Millets than with Blacks (given Blacks has a more "premium" retail offering).
89. Finally, the CMA also notes that there is some differentiation between the Parties' retail propositions. In particular, Blacks and Millets trade from smaller (typically High Street) locations, whereas Go Outdoors operates from larger stores typically in "out of town" locations and is therefore able to offer a broader range of products.
90. Overall, the evidence available to the CMA suggests that the Parties are close competitors, but also compete against a significant number of similarly close competitors across each product category.

Interaction between bricks-and-mortar and online sales

91. As explained above, the CMA has analysed bricks-and-mortar retailing separately to online retailing for the supply of outdoor clothing, outdoor footwear and outdoor equipment. The CMA notes, as described in paragraphs 36 to 50 above, that the available evidence indicates that online operates as a constraint on bricks-and-mortar retailing, at least to some extent.

Conclusion on horizontal unilateral effects at a national level

92. As set out above, the Parties have moderate combined shares in the supply of each of outdoor clothing, footwear and equipment in the UK, both in relation to bricks-and-mortar sales and in relation to online-only sales. The Parties are constrained by numerous credible outdoor retailers active both in bricks-and-mortar sales and online sales. The CMA also believes that the Parties each face alternative close competitors in relation to each of their fascia. Accordingly, the CMA found that the Merger does not give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to either the bricks-and-mortar supply, or the online supply, of each of outdoor clothing, outdoor footwear and outdoor equipment in the UK.

Supply of each of outdoor clothing, outdoor footwear, and outdoor equipment at a local level

Initial filtering

93. As explained above, the CMA identified local overlaps between the Parties' stores based on 30 minute drive-time isochrones. The CMA found that there are 52 Go Outdoors stores within a 30 minute drive of a JD Outdoor store, and 93 JD Outdoor stores within a 30 minute drive of a Go Outdoors store.
94. The CMA also considered whether it would be appropriate to assess the maximum reach overlaps between the Parties, ie where the Parties' stores were located up to 60 minutes apart but were competing for customers located at a similar distance from each of their stores. This analysis resulted in a further seven overlaps. The CMA conducted a preliminary assessment of these overlaps and, due to the distances between the Parties' stores and the significant presence of other competitors between the Parties' stores, the CMA found there to be no realistic prospect of an SLC in these local areas as a result of the Merger.
95. For the purposes of assessing the local effects of the Merger, the CMA employed a filtering methodology to identify areas raising *prima facie* competition concerns. Where, following the filtering analysis, the Merger would lead to a reduction in alternative effective competitors to three or fewer in any local area, a more detailed assessment was carried out on an area-by-

area basis.²¹ The CMA also conducted additional checks to ensure that no problematic areas had been screened out through the filtering exercise.²²

The effective competitor set

96. The Parties submitted that they face a diverse range of competitors in the supply of outdoor clothing, footwear and equipment, including non-specialist retailers and online-only retailers. In the local analysis submitted to the CMA, the following 'outdoor specialists' were identified: Sports Direct (including Field & Trek), Trespass (including Nevisport), Mountain Warehouse, O&CC (including Cotswold and Snow + Rock), Regatta, Rohan, Tog 24, Decathlon, The North Face and Ellis Brigham. Other competitors, such as Argos and Halfords, were also identified for the supply of outdoor equipment.
97. The Parties also submitted that independent outdoor retailers represent a significant competitive constraint in local areas of the United Kingdom. However, a market study submitted by JD Outdoor suggested that [REDACTED]²³
98. Where relevant, the CMA has determined on a case-by-case basis whether independent competitors pose an effective competitive constraint on the Parties (in each of outdoor clothing, outdoor footwear and outdoor equipment).
99. In determining which third parties (whether national or independent players) pose effective competitive constraints on the Parties in each of outdoor clothing, outdoor footwear and outdoor equipment, the CMA considered the following evidence:
 - (a) third party comments made during the course of the CMA's investigation;
 - (b) desk research conducted by the CMA;
 - (c) the Parties' internal documents; and
 - (d) third party market reports and commentary.
100. The third parties that the CMA identified as effective competitors for the purposes of its initial filtering are set out in Annex 1. The CMA did not find sufficient evidence to include other third parties outside of the effective competitor set in the filtering exercise including, for example, non-specialist or

²¹ Where a competitor owns more than one fascia (ie brand) in a local area, the CMA has counted the relevant fascias as one single competitor for the purpose of its filtering analysis.

²² [Retail Mergers Commentary](#), paragraph 3.6

²³ Report by Pragma Consulting Limited, July 2016.

online-only retailers. Additional competitors within specific areas are considered in each of the area-by-area assessments set out below.

The CMA's approach to area-by-area analysis

101. Following the initial filtering described above, there were 14 catchment areas in which there were three or fewer effective competitors remaining post-Merger (in one or more of the three product categories at issue).
102. The CMA conducted an in-depth analysis of these local areas by reference to the following evidence:²⁴
 - (a) maps of the local areas;
 - (b) drive-times between the Parties' stores and from the Parties to the Parties' nearest effective competitors;
 - (c) locations and identities of independent outdoor retailers, and third party evidence relating to those independents;
 - (d) customer location maps supplied by the Parties (these maps showed the locations of customers by outcode for each of the Parties' stores, and so effectively show where their current customer bases overlap);
 - (e) CMA analysis of revenue information supplied by the Parties, to understand the importance of the customer base overlap relative to each store's sales. The lower the overlap, the less the merger would affect a store's incentives to raise prices or lower service quality post-Merger; and
 - (f) evidence relating to the closeness of competition between the Parties and their competitors.
103. Having conducted a review of the local areas which failed the CMA's filter, the CMA was able to exclude competition concerns within nine of these areas (Andover, Hull, Exeter, Huddersfield, Leek / Stoke on Trent, Harlow, Taunton, Worcester and Hexham). Competition concerns were dismissed on the basis that:²⁵

²⁴ The Parties provided event analysis for [REDACTED] local areas showing the impact on JD sales of the opening of a Go Outdoors store. The CMA placed limited weight on these analyses given the volatility of sales and difficulties in making like-for-like comparisons.

²⁵ The CMA notes that its assessment was conducted on an area-by-area basis and that not all of the factors listed applied universally across all local areas considered.

- (a) the Parties were in different towns or were not geographically proximate, being located at the boundaries of their catchment areas;
- (b) the remaining effective competitors were closer geographically to each of the Parties' stores;
- (c) there were equally close effective alternatives in terms of product offering; and/or
- (d) the CMA was able to identify additional independent effective competitors that would constrain the Parties post-Merger.

104. The CMA was unable to dismiss competition concerns at this stage in relation to five areas – Southend-on-Sea, Llanelli, Lincoln, Colchester and Tonbridge – that failed the initial filter. The CMA also identified two local areas – Basingstoke and Derby – that passed the initial filter but in which the available evidence suggested that competition concerns could nevertheless arise, in particular because the Parties are particularly geographically close and/or some of the competing fascia identified are close to the boundary of the catchment area (and so may present a more limited competitive constraint).

105. The CMA considered these seven areas at a Case Review Meeting (**CRM**).

Customer surveys

106. The CMA conducted an online survey of customers of the Parties' stores in the seven local areas considered at CRM.²⁶ The CMA asked questions of customers who reported they had made a purchase of outdoor clothing and/or footwear and/or equipment in a named branch of one of the Parties' stores in the last six months. There were 2,552 eligible responses from Go Outdoors customers (across six named stores) and 293 eligible responses from JD Outdoor customers (across ten named stores).²⁷

107. The questionnaire asked customers what they would have done if the last time they went to the named store, they had learned beforehand that it was closed for refurbishment for a year (ie a 'forced diversion' question).²⁸

²⁶ The Parties emailed a link to the survey to those customers for whom they held email addresses. For Go Outdoors, these were customers who had a Go Outdoors discount card, and for JD Outdoor these were customers who had provided a contact email address when making a purchase. Go Outdoors customers in Tonbridge were not surveyed as the Go Outdoors in Tonbridge is not yet open.

²⁷ This represents an indicative response rate overall of 3.7% (Go Outdoors) and 3.4% (JD Outdoor) respectively. At individual store level, indicative response rates ranged between 3.3%-4.2% (Go Outdoors) and 1.5%-4.2% (JD Outdoor).

²⁸ See: [Good practice in the design and presentation of consumer survey evidence in merger inquiries](#), CC2com1 / OFT1230, 1 March 2011, adopted by the CMA board April 2014 ([Survey Design Guidelines](#)), paragraphs 3.39 to 3.42.

Customers were given four options: 'not bought anything at all'; 'done your shopping instore somewhere else'; 'done your shopping online'; or 'don't know'. Customers who responded that they would have visited a different store were then asked which other store they would have visited and the location of this store. Customers who responded that they would have done their shopping online were then asked which website they would have visited.

Assessment of the survey evidence

108. For the reasons explained in detail in Annex 2, the CMA has treated the evidence gathered by the survey with caution. In particular, when interpreting the results, the CMA noted both the relatively low numbers of respondents in relation to diversion by product and channel, and also the low number of responses per store from JD Outdoor customers. The CMA has therefore only considered evidence based on the Go Outdoors responses, and has only placed material weight on store level diversions (with the more granular product and channel level information considered to be merely illustrative).
109. Nevertheless, the CMA believes that overall, the survey confirms the constraint exercised by online retailers on bricks-and-mortar retailers within each of the seven areas that were subject to in-depth assessment.

3. *Area-by-area assessment*

110. The CMA's assessment of each of the seven local areas is set out below.

Southend-on-Sea

111. In this local area, the filtering analysis results in a reduction of fascia from 4 to 3 in the Millets catchment area in relation to each of outdoor clothing and outdoor footwear. The store does not fail the CMA's filter for the supply of outdoor equipment, because of the presence of Argos and Halfords in the catchment area (and therefore this product category is not considered further below).

- *The Parties' stores*


112. The overlapping Go Outdoors store is located in Basildon, 11.9 miles, or a 29 minute drive, from Millets. The Go Outdoors store passes the CMA's filter for each product frame of reference because of the presence of additional

competitors located in the Lakeside Shopping Centre, approximately a 20 minute drive from the store.

113. Survey evidence confirmed that customers were willing to travel to Lakeside and did not see Millets in Southend as an alternative to Go Outdoors. For this reason, the CMA has focussed on the loss of the constraint on the Millets store in its competitive assessment.

- *Closeness of competition*

114. The Parties' stores are not geographically close (Go Outdoors is located at the edge of the Millets catchment area) and Millets faces more proximate competitors (namely the Trespass and Sports Direct located in Southend-on-Sea).

115. The Parties submitted a 'heat map' for the local area, showing the proportions of the overlapping stores' revenues derived from the surrounding outcodes. The heat map indicates that , suggesting that there is moderate overlap between their 80% catchment areas.

- *In-area competitive constraints*

116. As noted above, the CMA's initial filtering identified two remaining competitors in the supply of outdoor clothing and footwear.

117. In addition, the Parties identified a number of independent outdoor retailers in the local area. Having reviewed the available evidence, the CMA believes that one of these retailers, Camping and General, poses an effective competitive constraint on the Parties. Camping and General is a specialist retailer of outdoor clothing, footwear and equipment located just outside the Millets catchment area. The constraint exercised by this retailer is supported by the Go Outdoors customer survey, in which the greatest level of diversion was to Camping and General.²⁹

- *Other competitive constraints*

118. Consistent with the general significance of online retailing (as described above), the Go Outdoors customer survey evidences the willingness of customers in this local area to switch to online retailers. More specifically, around a quarter of Go Outdoors customers who responded to the CMA's

²⁹ Although the survey relates to Go Outdoors customers, and not Millets customers, the CMA notes that that Camping and General is approximately the same drive-time to Millets as Millets is to Go Outdoors, and therefore Camping and General is also a likely constraint on Millets.

survey stated they would switch online if the Go Outdoors store was closed for refurbishment.

119. The Go Outdoors price matching data also confirms the extent to which online retailers constrain the Parties within this local area: three of the top five competitors price-matched by Go Outdoors are online competitors.

- *Conclusion*

120. The available evidence indicates that Millets will continue to be constrained not only by at least three remaining bricks-and-mortar retailers within this area post-Merger, but also by the presence of a wide set of online retailers.

121. For these reasons, the CMA believes that there will be sufficient post-Merger competitive constraints to ensure that rivalry continues to discipline the commercial behaviour of the merged entity. The CMA therefore believes that the Merger does not give rise to a realistic prospect of an SLC in relation to outdoor clothing or outdoor footwear in the local area of Southend-on-Sea.

Llanelli

122. In this local area, the filtering analysis results in a reduction of fascia from 4 to 3 in the Millets catchment area in relation to each of outdoor clothing and outdoor footwear. The store does not fail the CMA's filter with respect to equipment, because of the presence of Argos and Halfords in the catchment area (and therefore this product category is not considered further below).

- *The Parties' stores*

123. The overlapping Go Outdoors store is located in Swansea, 14.9 miles, or a 28 minute drive, from Millets. The Go Outdoors store passes the CMA's filter for each product frame of reference because of the presence of additional competitors located at a shopping village in Bridgend. Survey evidence confirmed that customers were willing to travel to Bridgend and did not see Millets in Llanelli as an alternative to Go Outdoors. For this reason, the CMA has focussed on the loss of the constraint on the Millets store in its competitive assessment.

- *Closeness of competition*

124. The Parties are not geographically close (Go Outdoors is located at the edge of the Millets catchment area) and each store faces more proximate competitors (in particular, the Millets is constrained by Trespass and Sports Direct in Llanelli, and just over 30 minutes in the opposite direction to

Swansea is Carmarthen, where a number of outdoor retailers are located including a Cotswold).

125. The Parties submitted a 'heat map' for this local area, showing the proportions of the overlapping stores' revenues derived from the surrounding outcodes. The heat map indicates that the Parties' customers are concentrated in different areas.

- *In-area competitive constraints*

126. As noted above, the CMA's initial filtering identified two remaining competitors in the supply of outdoor clothing and footwear.

127. In addition, the Parties identified a number of independent outdoor retailers in the local area. Having reviewed the available evidence (including comments from third parties and desk research conducted by the CMA), the CMA believes that one of these retailers, Mike Davies, poses an effective competitive constraint on the Parties. Mike Davies is a specialist retailer of outdoor clothing, footwear and equipment and is located a 23 minute drive from Millets.

- *Other competitive constraints*

128. Millets is likely to face an out-of-area constraint from competitors such as Cotswold in Carmarthen, which is just over a 30 minute drive from Llanelli.

129. Consistent with the general significance of online retailing (as described above), the Go Outdoors customer survey evidences the willingness of customers in this local area to switch to online retailers. More specifically, almost half of Go Outdoors customers who responded to the CMA's survey stated they would switch to an online retailer if the Go Outdoors store was closed for refurbishment.

130. The Go Outdoors price matching data also confirms the extent to which online retailers constrain the Parties within this local area: three of the top five competitors price-matched by Go Outdoors are online competitors.

- *Conclusion*

131. The available evidence indicates that Millets will continue to be constrained not only by at least three remaining bricks-and-mortar retailers within this area post-Merger, but also by retailers outside the catchment area (eg in Carmarthen), and by the presence of a wide set of online retailers.

132. For these reasons, the CMA believes that there will be sufficient post-Merger competitive constraints to ensure that rivalry continues to discipline the commercial behaviour of the merged entity. The CMA therefore believes that the Merger does not give rise to a realistic prospect of an SLC in relation to outdoor clothing or outdoor footwear in the local area of Llanelli.

Colchester

133. In this local area, the filtering analysis results in a reduction of fascia from 5 to 4 in the Millets catchment area in relation to each of outdoor clothing and outdoor footwear. The store does not fail the CMA's filter with respect to equipment, because of the presence of Argos and Halfords in the catchment area (and therefore this product category is not considered further below).

- *The Parties' stores*

134. The overlapping Go Outdoors store is located outside Colchester town centre, 1.8 miles, or an 11 minute drive, from Millets. The Go Outdoors store passes the CMA's filter for each product frame of reference because of the presence of an additional competitor (a North Face in Braintree) at the boundary of its catchment area.

135. Given the reduction in fascia in Colchester, and given that the Go Outdoors only passes the CMA's filter because of a competitor located towards the edge of its catchment area, the CMA has considered the impact of the Merger in Colchester in relation to both the Millets and the Go Outdoors stores.

- *Closeness of competition*

136. The Parties are both located in Colchester. Millets is geographically closer to a competing Sports Direct, a Trespass and a Mountain Warehouse than it is to the Go Outdoors store.

- *In-area competitive constraints*

137. As noted above, the CMA's initial filtering exercise identified three remaining competitors in the supply of outdoor clothing and footwear.

138. In addition, the Parties identified a number of independent outdoor retailers in the local area. However, having reviewed the available evidence, the CMA does not have sufficient evidence to conclude that these independent retailers pose an effective competitive constraint on the Parties.

- *Other competitive constraints*

139. The Go Outdoors customer survey provides some evidence that customers regard stores located outside of the Millets catchment area as effective alternatives. For example, the most frequently named alternative bricks-and-mortar store was Cotswold, the nearest branch of which is located in Ipswich.
140. In addition, consistent with the general significance of online retailing (as described above), the Go Outdoors customer survey evidences the willingness of customers in this local area to switch to online retailers. More specifically, around 40% of Go Outdoors customers who responded to the CMA's survey stated they would switch to an online retailer if the Go Outdoors store was closed for refurbishment.
141. The Go Outdoors price matching data also confirms the extent to which online retailers constrain the Parties within this local area: four of the top five competitors price-matched by Go Outdoors are online competitors.

- *Conclusion*

142. The available evidence indicates that the Parties' will continue to be constrained not only by at least three remaining bricks-and-mortar retailers within this area post-Merger, but also by retailers outside the catchment area (eg in Ipswich), and by the presence of a wide set of online retailers.
143. For these reasons, the CMA believes that there will be sufficient post-Merger competitive constraints to ensure that rivalry continues to discipline the commercial behaviour of the merged entity. The CMA therefore believes that the Merger does not give rise to a realistic prospect of an SLC in relation to outdoor clothing or outdoor footwear in the local area of Colchester.

Derby

144. In this local area, the Parties' stores pass the CMA's filter for all product frames of reference. However, the CMA noted that the Parties' stores were particularly closely located, and that they would control three of the seven outdoor retail stores in Derby city centre post-Merger.

- *The Parties' stores*

145. The Parties' stores are located in Derby city centre, where a Blacks, a Millets and a Go Outdoors compete against two Sports Direct stores, a Trespass and a Mountain Warehouse. The next nearest competitor is Decathlon, which is approximately a 22 minute drive away from the Parties' stores. Given the

reduction in fascia and post-Merger concentration of stores in Derby city centre, the CMA has considered the impact of the Merger in Derby in relation to both the Millets and the Blacks stores and the Go Outdoors store, across all product categories.

- *Closeness of competition*

146. The Parties are both located in Derby city centre. While there is some differentiation between Go Outdoors, Blacks, and Millets (in terms of store format), the Parties appear to compete closely against each other, as well as a significant number of similarly close competitors (described further below). For example, the available evidence confirms a material level of diversion from Go Outdoors to Blacks (and [X] are two of Go Outdoors' top five price-matched competitors).

- *In-area competitive constraints*

147. As explained above, the CMA's initial filtering analysis identified three remaining competitors in the supply of outdoor clothing, footwear and equipment in Derby city centre.

148. In addition, the Parties identified a number of independent outdoor retailers in the local area. None of the identified stores are located in Derby and all are more than a 20 minute drive away. Given that the potential concerns identified within this local area relate to the geographic proximity of the Parties' stores, the CMA has not considered these stores in its effective competitor set.

149. As noted above, the CMA has considered whether the Parties' control over three of the seven outdoor retail stores in Derby city centre post-Merger would raise competition concerns. The available evidence does not, however, suggest that this concentration of stores weakens the constraint that is exercised by other competitors within this area.

- *Other competitive constraints*

150. The Go Outdoors customer survey provides some evidence that customers regard stores located outside of Derby as viable alternatives. For example, a number of respondents identified Decathlon or Cotswold (the nearest branches of which are located in Nottingham - a 38 minute drive from Derby) as viable alternatives, or identified Nottingham as an alternative destination.

151. In addition, consistent with the general significance of online retailing (as described above), the Go Outdoors customer survey evidences the willingness of customers in this local area to switch to online retailers. More

specifically, around 30% of Go Outdoors customers who responded to the CMA's survey stated they would switch online if the Go Outdoors store was closed for refurbishment.

152. The Go Outdoors price matching data also confirms the extent to which online retailers constrain the Parties within this local area: three of the top five competitors price-matched by Go Outdoors are online competitors.

- *Conclusion*

153. The available evidence indicates that the Parties' will continue to be constrained not only by at least three remaining bricks-and-mortar retailers within this area post-Merger, but also by retailers outside the catchment area (eg in Nottingham), and by the presence of a wide set of online retailers.

154. For these reasons, the CMA believes that there will be sufficient post-Merger competitive constraints to ensure that rivalry continues to discipline the commercial behaviour of the merged entity. The CMA therefore believes that the Merger does not give rise to a realistic prospect of an SLC in relation to outdoor clothing or outdoor footwear in the local area of Derby.

Basingstoke

155. In this local area, the Parties' stores pass the CMA's filter for all product frames of reference. However, the CMA noted that the Parties' stores were particularly closely located, and that a number of competitors were located towards the edge of the catchment area, more than a 25 drive minute away. Even on this more cautious basis (ie excluding outlying competitors), the Merger produces a reduction in fascia from 6 to 5 in equipment (and therefore this product category is not considered further below).

- *The Parties' stores*

156. The Parties' stores are located in Basingstoke town centre, where a Blacks and a Go Outdoors compete against Sports Direct and Trespass. The next nearest competitors are located approximately a 25 to 30 minute drive away, in eg Alton, Reading or Farnborough. Given the reduction in fascia from 4 to 3 in Basingstoke in relation to each of outdoor clothing and outdoor footwear, the CMA has considered the impact of the Merger in Basingstoke in relation to both the Blacks and the Go Outdoors stores.

- *Closeness of competition*

157. While there is some differentiation between Go Outdoors and Blacks (in terms of store format), the Parties' outlets form part of a relatively limited number of stores located in Basingstoke town centre, and therefore a significant degree of competitive interaction between them can be expected. For example, the available evidence confirms a material level of diversion from Go Outdoors to Blacks (and [X] are two of Go Outdoors' top five price-matched competitors).

158. The Parties submitted a 'heat map' for the local area, showing the proportions of the overlapping stores' revenues derived from the surrounding outcodes. The heat map indicates that customers are drawn from broadly the same area. The heat map also shows, however, that the Parties' customers are drawn from a wide area for both stores, including [X], suggesting that a narrower catchment limited to the Basingstoke area does not accurately reflect competitive conditions.

- *In-area competitive constraints*

159. As noted above, the CMA's initial filtering analysis identified two remaining competitors in the supply of outdoor clothing and footwear in Basingstoke town centre.

160. In addition, the Parties identified a number of independent outdoor retailers in the local area. However, having reviewed the available evidence, the CMA does not have sufficient evidence to conclude that these independent retailers pose an effective competitive constraint on the Parties.

- *Other competitive constraints*

161. Consistent with the 'heat map' for the local area, the Go Outdoors customer survey provides some evidence that customers regard stores located outside of Basingstoke as viable alternatives. For example, a number of respondents said that in the event of a store closure they would visit Cotswold and Decathlon in Reading, or Decathlon in Farnborough.

162. In addition, consistent with the general significance of online retailing (as described above), the Go Outdoors customer survey evidences the willingness of customers in this local area to switch to online retailers. More specifically, almost 40% of Go Outdoors customers who responded to the CMA's survey stated they would switch to an online retailer if the Go Outdoors store was closed for refurbishment.

163. The Go Outdoors price matching data also confirms the extent to which online retailers constrain the Parties within this local area: three of the top five competitors price-matched by Go Outdoors are online competitors.

- *Conclusion*

164. The available evidence indicates that the Parties' will continue to be constrained not only by at least two remaining bricks-and-mortar retailers within this area post-Merger, but also by retailers outside Basingstoke (eg in Reading and Farnborough), and by the presence of a wide set of online retailers.

165. For these reasons, the CMA believes that there will be sufficient post-Merger competitive constraints to ensure that rivalry continues to discipline the commercial behaviour of the merged entity. The CMA therefore believes that the Merger does not give rise to a realistic prospect of an SLC in relation to outdoor clothing or outdoor footwear in the local area of Basingstoke.

Lincoln

166. In this local area, the filtering analysis results in a reduction of fascia from 4 to 3 in the Parties' catchment areas in relation to each of outdoor clothing and outdoor footwear. The store does not fail the CMA's filter with respect to equipment, because of the presence of Argos and Halfords in the catchment area (and therefore this product category is not considered further below).

- *The Parties' stores*

167. The Parties' stores are both located in Lincoln, where they face competition from a Sports Direct and a Trespass. Given the reduction in fascia in Lincoln, the CMA has considered the impact of the Merger in Lincoln in relation to both the Blacks and the Go Outdoors stores.

- *Closeness of competition*

168. While there is some differentiation between Go Outdoors and Blacks (in terms of store format), the Parties' outlets form part of a relatively limited number of outdoor stores located in Lincoln town centre, and therefore a significant degree of competitive interaction between them can be expected. The available evidence confirms that the Parties' stores are directly competing across the bulk of their 80% catchment areas [X].

- *In-area competitive constraints*

169. As noted above, the CMA's initial filtering identified two remaining competitors in the supply of outdoor clothing and footwear.

170. In addition, the Parties identified a number of independent outdoor retailers in the local area. However, having reviewed the available evidence, the CMA does not have sufficient evidence to conclude that these independent retailers pose an effective competitive constraint on the Parties.

- *Other competitive constraints*

171. Consistent with the general significance of online retailing (as described above), the Go Outdoors customer survey evidences the willingness of customers in this local area to switch to online retailers. More specifically, almost half of Go Outdoors customers who responded to the CMA's survey stated they would switch to an online retailer if the Go Outdoors store was closed for refurbishment.

172. The Go Outdoors price matching data also confirms the extent to which online retailers constrain the Parties within this local area: three of the top five competitors price-matched by Go Outdoors are online competitors.

- *Conclusion*

173. The Parties are part of a relatively limited bricks-and-mortar competitor set within Lincoln and compete directly with each other at present. The available evidence indicates, however, that the merged entity will not only be constrained by the two remaining bricks-and-mortar retailers post-Merger, but also by the presence of a wide set of online retailers.

174. For these reasons, the CMA believes that there will be sufficient post-Merger competitive constraints to ensure that rivalry continues to discipline the commercial behaviour of the merged entity. The CMA therefore believes that the Merger does not give rise to a realistic prospect of an SLC in relation to outdoor clothing or outdoor footwear in the local area of Lincoln.

Tonbridge / Tunbridge Wells

175. In this local area, the filtering results in reduction of fascia from 5 to 4 in the Parties' catchment areas in relation to each of outdoor clothing and outdoor footwear. The stores does not fail the CMA's filter with respect to equipment, because of the presence of Argos and Halfords in the catchment area (and therefore this product category is not considered further below).

- *The Parties' stores*

176. The Parties' stores will both be located in Tonbridge, where there is currently a Millets, and Go Outdoors has signed a lease and currently expects to open in [REDACTED]. As Go Outdoors is committed to opening a new store in Tonbridge in the near future, the CMA believes that the Merger may result in a loss of actual potential competition in this local area.³⁰ In addition, the Parties will control four of the eight outdoor clothing retailers, and four of the seven outdoor footwear retailers in the wider Tonbridge/Tunbridge Wells area post-Merger. Given the reduction in fascia and post-Merger concentration of stores in Tonbridge/Tunbridge Wells, the CMA has considered the impact of the Merger in relation to both the Millets and the Go Outdoors stores.

- *Closeness of competition*

177. The Parties' stores will be the only outdoor stores located in Tonbridge, and therefore a significant degree of competitive interaction between them can be expected.

178. The available evidence indicates, however, that customers regard stores located outside of Tonbridge as effective alternatives. In particular, Go Outdoors' internal documents (created pre-Merger) relating to the proposed opening of the Tonbridge store indicate that competition takes place over a broader geographic area, including the [REDACTED]: these documents make clear that the Go Outdoors store is [REDACTED] and [REDACTED]. The CMA also notes, in this regard, that Tunbridge Wells is a much larger population centre than Tonbridge.

179. Based on the available evidence, the CMA therefore considers that a narrower catchment limited to the Tonbridge area does not accurately reflect competitive conditions. The CMA therefore considers it appropriate to assess competition in this local area on the basis of 30 minute drive-time isochrones, and to take the competitors in Tunbridge Wells into account when considering the overlap between the Parties' stores in Tonbridge.

- *In-area competitive constraints*

180. The CMA's initial filtering analysis identified three remaining competitors in the supply of footwear (Cotswold, Sports Direct, and Mountain Warehouse) and four remaining competitors in relation to clothing (Cotswold, Sports Direct, Mountain Warehouse, and Rohan) in the Tonbridge/Tunbridge Wells area.

³⁰ [Merger Assessment Guidelines](#), paragraph 5.4.15.

181. In addition, the Parties identified a number of independent outdoor retailers in the local area. Having reviewed the available evidence, the CMA does not believe that any of these retailers poses an effective competitive constraint on the Parties.

182. As noted above, the CMA has considered whether the Parties' control over four of the seven (for footwear) or eight (for clothing) outdoor retail stores in Tonbridge/Tunbridge Wells post-Merger would raise competition concerns. The available evidence does not, however, suggest that this concentration of stores weakens the constraint that is exercised by other competitors within this area.

- *Other competitive constraints*

183. The CMA notes that the available evidence indicates the general significance of online retailing (as described above) in relation to the supply of outdoor clothing and footwear. While survey evidence in relation to Tonbridge/Tunbridge Wells is not available (because the Go Outdoors store in Tonbridge has not yet opened), there is no evidence to suggest that the consistent position across all areas surveyed — that customers view online retailers as a viable alternative to bricks-and-mortar retailers — is not the case within Tonbridge/Tunbridge Wells.

- *Conclusion*

184. The available evidence indicates that the merged entity will continue to be constrained not only by at least three (in relation to footwear) and four (in relation to clothing) remaining bricks-and-mortar retailers within this area post-Merger, but also by the presence of a wide set of online retailers.

185. For these reasons, the CMA believes that there will be sufficient post-Merger competitive constraints to ensure that rivalry continues to discipline the commercial behaviour of the merged entity. The CMA therefore believes that the Merger does not give rise to a realistic prospect of an SLC in relation to outdoor clothing or outdoor footwear in the local area of Tonbridge/Tunbridge Wells.

Conclusion on horizontal unilateral effects at local level

186. As explained above, the CMA found that the Merger does not give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the supply of each of outdoor clothing, outdoor footwear and outdoor equipment for any of the local areas where the Parties' stores overlap in the UK.

Vertical effects

187. Vertical effects may arise when a merger involves firms at different levels of the supply chain, for example a merger between an upstream supplier and a downstream customer.
188. Vertical mergers may be competitively benign or even efficiency-enhancing, but in certain circumstances can weaken rivalry, for example when they result in foreclosure of the merged firm's competitors. The CMA only regards such foreclosure to be anticompetitive where it results in a substantial lessening of competition in the foreclosed market(s), not merely where it disadvantages one or more competitors.³¹
189. In the present case, the CMA has considered whether Pentland's position as an upstream supplier of branded outdoor products to downstream outdoor retailers could result in vertical effects, either due to input foreclosure or due to customer foreclosure.
190. The CMA's approach to assessing vertical theories of harm is to analyse (a) the ability of the merged entity to foreclose competitors, (b) the incentive of it to do so, and (c) the overall effect of the strategy on competition.³² This is discussed in relation to each of the vertical theories of harm below.

Input Foreclosure

191. In this case, an input foreclosure theory of harm would involve the merged entity foreclosing rival outdoor retailers by ceasing to supply or worsening the terms on which it supplies Berghaus products to such retailers.
192. Two third parties contacted by the CMA expressed concerns regarding their ability to access Berghaus products. The CMA noted that these concerns appeared to relate to the pre-Merger situation – with one third party commenting that it had never been able to obtain the full range of Berghaus products, and the other noting that it had experienced issues communicating with Berghaus – and were not merger specific.

Ability

193. Pentland submitted that it would not have the ability to foreclose downstream outdoor retailers because:

³¹ In relation to these theories of harm 'foreclosure' means either foreclosure of a rival or to substantially competitively weaken a rival.

³² [Merger Assessment Guidelines](#), paragraph 5.6.6.

- (a) in order to comply with a requirement of its Listing Authorities, Pentland has entered into a relationship agreement with JD Sports Fashion Plc, which Pentland considers [REDACTED];
 - (b) Pentland does not hold a significant position in the wholesale supply of outdoor clothing, footwear and equipment; and
 - (c) Berghaus is not a 'must have' outdoor brand.
194. Pentland estimated its upstream share of supply at [0-10]% in outdoor clothing, [0-10]% in outdoor footwear and [0-10]% in outdoor equipment, and provided the CMA with a third party report by Kantar in support of its estimates. The CMA considered whether certain brands included in the Kantar analysis should be excluded from the shares of supply due to their close association with single retailers (namely Trespass, Peter Storm,³³ Rohan, Tog 24, Karrimor and Gelert³⁴). However, Berghaus' shares remain below [0-10]% in each product category after adjusting the data to remove these brands, and numerous credible competing wholesalers remain.
195. The CMA contacted Berghaus' customers. The customers identified a wide range of alternative, strong outdoor brands, including The North Face, Rab, Regatta and Helly Hansen for clothing, Salomon, Scarpa, Merrell, and Timberland for footwear, and Vango, Osprey, Coleman, The North Face, and Garmin for equipment. No customers told the CMA that Berghaus was a 'must have' brand.
196. Overall, Pentland has a low share of supply in the upstream wholesale market and there are numerous other credible suppliers of branded outdoor products, across each of the outdoor product categories. The CMA therefore believes that the merged entity does not have the ability to engage in input foreclosure.
197. Given the CMA's conclusion that the Merger will not provide the merged entity with the ability to foreclose its downstream competitors, the CMA has not assessed the impact of the Merger on the incentive to foreclose or the effect of a foreclosure strategy on competition.

Customer Foreclosure

198. In this case, a customer foreclosure theory of harm would involve the merged entity foreclosing rival outdoor brands from the downstream outdoor retail

³³ Associated with Millets.

³⁴ Karrimor and Gelert both associated with Sports Direct.

market by ceasing to stock or reducing its range of branded third party products.

199. A number of outdoor retailers, and one wholesale supplier of outdoor brands, expressed concerns that the Merger would reduce the choice of brands available to consumers.

Ability

200. The Parties submitted that the merged entity would not have the ability to foreclose upstream suppliers of outdoor brands, for the following reasons:
- (a) as explained above, Pentland has entered into a relationship agreement with JD Sports, under which it considers [~~§~~]; and
 - (b) the merged entity has a limited share of supply on the downstream market, and there is a wide range of active alternative outdoor retailers.
201. As described above in paragraphs 79 to 84, the CMA notes that the Parties have relatively modest shares of supply in the downstream markets for the supply of each of outdoor clothing, footwear and equipment. Evidence from third parties indicates that there are numerous credible alternative retailers of outdoor brands, and one wholesale supplier told the CMA that it had a number of alternative routes to market, including through online sales. The CMA therefore believes that the merged entity does not have the ability to engage in customer foreclosure.
202. Given the CMA's conclusion that the Merger will not provide the merged entity with the ability to foreclose rival suppliers of branded outdoor products, the CMA has not assessed the impact of the Merger on the incentive to foreclose or the effect of a foreclosure strategy on competition. However, the CMA notes the Parties' arguments that there would in any event be no incentive to foreclose alternative brands given the Parties' business models rely on their ability to offer a wide range of brands to consumers, and to increase consumer choices. The CMA found that the Parties' internal documents were consistent with, and supported, this argument.

Conclusion on vertical effects

203. As set out above, the CMA does not believe that, as a result of the Merger, the Parties would have the ability to harm rival wholesale or retail suppliers of outdoor products. Accordingly, the CMA found that the Merger does not give rise to a realistic prospect of an SLC as a result of vertical effects.

Barriers to entry and expansion

204. 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 substantial lessening of competition. In assessing whether entry or expansion might prevent a substantial lessening of competition, the CMA considers whether such entry or expansion would be timely, likely and sufficient.³⁵
205. However, the CMA has not had to conclude on barriers to entry or expansion as the Merger does not give rise to competition concerns on any basis.

Decision

206. Consequently, the CMA does not believe that it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC within a market or markets in the United Kingdom.
207. The Merger will therefore **not be referred** under section 22(1) of the Act.

Rachel Merelie
Executive Director, Markets and Mergers
Competition and Markets Authority
18 May 2017

³⁵ [Merger Assessment Guidelines](#), from paragraph 5.8.1.

ANNEX 1: Effective Competitor Set

Outdoor clothing, footwear and equipment:

- Cotswold
- Snow + Rock
- Mountain Warehouse
- Decathlon
- Field & Trek
- Ellis Brigham
- Trespass
- Nevisport
- The North Face
- Sports Direct

Outdoor clothing and footwear:

- Tog 24

Outdoor clothing:

- Rohan

Outdoor equipment:

- Argos
- Halfords

The CMA also considered the competitive constraint exercised by independent retailers where appropriate.

ANNEX 2: Assessment of the Customer Survey Evidence

1. The CMA conducted an online survey which asked customers what they would have done if the last time they went to a named store, they had learned beforehand that it was closed for refurbishment for a year (ie a 'forced diversion' question).³⁶ Respondents were given four options: 'not bought anything at all'; 'done your shopping instore somewhere else'; 'done your shopping online'; or 'don't know'. Customers who responded that they would have visited a different store were then asked which other store they would have visited and the location of this store. Customers who responded that they would have done their shopping online were then asked which website they would have visited.
2. It is usual in local retail mergers for evidence to be gathered on alternative choices using a 'forced diversion' question.³⁷ Nevertheless, there are four points relating to the interpretation of this question that need to be taken into account in assessing the extent to which the survey results can be relied on for the purposes of determining diversion.
3. First, the questions are hypothetical and customers may have responded differently from what their actual behaviours would have been in practice. Second, the 'forced diversion' question asks about closure of the relevant store rather than a small but significant price increase (**SSNIP**). Thirdly, the number of customers responding in relation to how they would have diverted in relation to particular products and channel was low (ie the number of customers who had purchased clothing and also said they would divert to another store was low). Fourth, in asking the 'forced diversion' question the CMA gave customers a 'free text' choice for the identity of the store/website to which they would divert. A large number of customers wrote 'don't know' or left their response blank, particularly when asked to identify which online retailer they would switch to.
4. The CMA believes that the first point raised above can be regarded as a limitation inherent with any survey of this nature. The CMA believes that the survey still provides a good source of evidence for its competitive assessment, when considered in conjunction with other available evidence.

³⁶ See: [Good practice in the design and presentation of consumer survey evidence in merger inquiries](#), CC2com1 / OFT1230, 1 March 2011, adopted by the CMA board April 2014 ([Survey Design Guidelines](#)), paragraphs 3.39 to 3.42.

³⁷ See [Survey Design Guidelines](#).

5. In relation to the second point, the CMA believes that in principle, responses to the two types of question (a SSNIP or forced diversion) could be different. However, as noted in its Survey Design Guidelines,³⁸ the CMA does not generally expect this to be the case. In *Cineworld/City Screen* the Competition Commission found that diversion ratios derived from forced diversion questions were similar to those derived from SSNIP questions.³⁹ As such, the CMA believes that responses to the forced diversion question in the customer survey can provide a meaningful basis on which to assess diversion in this case.
6. In relation to the third point, the CMA notes the relatively low numbers of respondents in relation to diversion by product and channel. As such, the CMA has only considered diversion at store level. Information in relation to diversion at the more granular product and channel levels has been considered only in a qualitative manner. In addition, given the low number of responses per store from JD Outdoor customers (<30 respondents for seven of the ten stores), the CMA did not place weight on the survey responses from JD Outdoor customers.
7. In relation to the fourth point, due to the large number of ‘don’t knows’ submitted in relation to alternative online retailers, the CMA has treated the survey results with caution. In particular, in considering alternative online retailers, the CMA focussed its analysis on the evidence relating to the likelihood of customers switching online as opposed to which online retailers customers would switch to.
8. Although the survey received a good number of responses, the CMA noted that response rates were low, which could mean that findings are not representative of the sample as a whole. In addition, the CMA noted that the survey could be sent only to Go Outdoors customers who had a Go Outdoors discount card and to JD Outdoor customers who had provided their email details on a previous purchase occasion. A high proportion of Go Outdoors customers hold a discount card compared to the proportion of JD Outdoor customers for whom JD Outdoor has collected details. Even so, in both cases, the research necessarily excluded a proportion of each Party’s overall customer population.

³⁸ [Survey Design Guidelines](#), paragraph 3.42.

³⁹ [ME/5877/12 Completed acquisition by Cineworld Group plc of City Screen Limited](#), OFT, 30 April 2013, Appendix D, paragraph 8.

