

Completed acquisition by Euro Car Parts Limited of the assets of the Andrew Page business

Decision on relevant merger situation and substantial lessening of competition

ME/6647/16

The CMA's decision on reference under section 22(1) of the Enterprise Act 2002 given on 10 May 2017. Full text of the decision published on 15 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

1. On 4 October 2016, Euro Car Parts Limited (**ECP**) acquired certain assets¹ of Andrew Page Limited, Solid Auto (U.K.) Limited, and Colton Parts Company Limited (**Andrew Page**) (the **Merger**). ECP and Andrew Page are together referred to as the **Parties**.
2. The Competition and Markets Authority (**CMA**) believes that it is or may be the case that the Parties' enterprises have ceased to be distinct and that the 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 supply of independent aftermarket (**IAM**) car parts in the UK. IAM car parts are replacement car parts that are not specific to one particular vehicle manufacturer. They are used when a consumer takes their vehicle to be repaired at an independent (or franchised) garage, car dealer, or fast-fit centre (collectively referred to as the independent motor trade or **IMT**).
4. Customers for IAM car parts can be broadly characterised into: (i) small, local customers, whose choice is primarily driven by the supply options in their locality; and (ii) larger customers (**Key Accounts**), who select suppliers centrally, based on a range of requirements not limited to locality.
5. The CMA has assessed the impact of the Merger in the supply of IAM car parts to local customers (in local catchment areas) and Key Account customers (on a national basis).
6. ECP purchased Andrew Page out of administration. The CMA's initial investigation has found that Andrew Page would have exited the markets at issue absent the Merger, but that there were less anti-competitive purchasers than ECP for parts of the Andrew Page business.
7. The CMA therefore believes that, for most local areas (94 out of the 96 local areas in which the Parties overlap) and Key Accounts, the failing firm counterfactual is not satisfied. Consistent with its Guidelines, the CMA has therefore assessed the Merger against the pre-Merger conditions of competition for these areas.
8. On that basis, the CMA believes that that the Merger raises the following competition concerns:

¹ As defined in the Agreement for the Sale of Assets, dated 4 October 2016.

- (a) In Key Accounts, ECP is the clear market leader. It has largest number of sites, its geographic scope covers the whole of the UK, and it generates the highest overall turnover. The CMA's merger investigation found that Andrew Page competes closely with ECP for Key Accounts on price, quality, product range, and delivery capability. Post-Merger, there would only be one significant competitor with national coverage capable of constraining the merged entity (Parts Alliance).
- (b) At the local level, the CMA has assessed competition in 94 local overlap areas. The CMA has analysed a range of evidence, including fascia counts, shares of supply, price matching data, and customer stealing data. It has also sought the views of a large number of local customers and competitors. The evidence shows that competition concerns arise in 92 of these local overlap areas, in particular because the Merger would lead to high concentration and remove a close competitor of ECP. Post-Merger, there would be insufficient effective competitors capable of constraining the merged entity.
9. The CMA therefore believes that the Merger gives rise to a realistic prospect of a substantial lessening of competition as a result of horizontal unilateral effects in the supply of IAM car parts to (i) Key Accounts and (ii) local customers in 92 overlap areas.
10. The CMA is therefore considering whether to accept undertakings under section 73 of the Enterprise Act 2002 (**the Act**). ECP has until 17 May 2017 to offer an undertaking to the CMA that might be accepted by the CMA. If no such undertaking is offered, then the CMA will refer the Merger pursuant to sections 22(1) and 34ZA(2) of the Act.

ASSESSMENT

Parties

11. ECP is a wholly-owned subsidiary of LKQ Euro Limited, whose ultimate parent is LKQ Corporation, a public company incorporated in Delaware and listed on the NASDAQ Stock Exchange. LKQ Corporation's annual turnover for 2015 was £4,717 million. Approximately £905 million of this was generated by ECP in the UK.
12. In the UK, ECP principally acts as a wholesaler, supplying IAM car parts and garage equipment to the IMT. ECP also manufactures private label car parts and supplies other IAM wholesalers. In addition, it supplies IAM car parts directly to consumers via its retail business.

13. Andrew Page was founded in 1917. The Page family ran it as a family business until 2010, when Phoenix Equity Partners invested in the company, followed, in 2014, by a further investment from Endless LLP. Like ECP, Andrew Page supplies IAM car parts to the IMT. More recently, Andrew Page has started selling IAM car parts directly to consumers at its sites and online. Andrew Page is also active to a limited extent in the upstream supply of car parts through its private label business. Andrew Page entered administration in September 2016.
14. Andrew Page's turnover for the last financial year ending 30 September 2016, excluding sales from the assets not acquired by ECP, was £167 million.

Transaction

15. The Merger relates to ECP's purchase of certain assets of Andrew Page out of administration.
16. ECP acquired a licence to occupy, and an option to purchase the leasehold of, 101 Andrew Page sites. In addition, it acquired [X]. ECP also acquired a temporary license to occupy, and option to purchase the leasehold of, Andrew Page's distribution centre and head office.

Jurisdiction

17. As a result of the Merger, the enterprises of ECP and Andrew Page have ceased to be distinct.
18. Andrew Page's UK turnover exceeds £70 million. The turnover test in section 23(1)(b) of the Act is satisfied.
19. The Merger completed on 4 October 2016. The four-month deadline for a decision under section 24 of the Act is 13 June 2017, following an extension under section 25(2) of the Act.
20. The CMA believes that it is or may be the case that a relevant merger situation has been created.
21. The initial period to consider the Merger under section 34ZA(3) of the Act started on 10 March 2017. The statutory 40 working day deadline for a decision is therefore 10 May 2017.

Competitive landscape

Parameters of competition

22. The Parties distribute IAM car parts² to the IMT. This means that they supply car parts to businesses (the IMT) that repair cars after the car is sold as new. The IMT are independent of the original manufacturers for the cars (the **OEMs**). Suppliers of car parts to the IMT are known as **motor factors**.
23. ECP purchases car parts from manufacturers located in the UK and continental Europe. ECP stores the parts at regional and national distribution centres or hubs. It stocks fast-moving products (such as oil filters or brake pads) at local sites. This allows for timely delivery to the IMT. Andrew Page follows a similar business model.
24. The Parties supply IAM car parts mainly to small, independent customers (typically garages) that operate locally. Local customers told the CMA that they mainly consider price, quality, product range, and delivery capability when deciding from whom to order car parts.³ In particular, customers consider product delivery time as one of the main criteria when choosing suppliers. Customers usually expect products to be delivered within 60 minutes of placing an order.
25. The Parties also supply IAM car parts to a range of larger customers with multiple sites across the UK (**Key Accounts**). Like local customers, Key Account customers also generally require car part delivery within a short time following placing an order. The CMA's merger investigation found that, for Key Account customers, delivery time, product availability, product range, geographic scope, and price are the main parameters of competition.
26. Key Account customers also typically require suppliers to be able to administer their accounts on a national basis (eg, through a centralised billing function). Competition for Key Accounts generally takes place via tenders or direct negotiation with customers.

ECP's existing market presence

27. The evidence available to the CMA indicates that ECP is currently the market leader in the supply of IAM car parts, both to Key Accounts and at a local level.

² In this decision, the term car parts refers to parts for cars and light commercial vehicles.

³ ECP's internal documents likewise note that 'product availability and pricing are by far the key decision drivers for parts purchases.' It lists 'Faster Product Availability' as the number 1 customer influencing factor. [38]

28. ECP is the largest player by number of sites (operating over 200 local sites, 16 regional distribution centres, and 4 national distribution centres). It generates the highest overall turnover and has the highest per site turnover. ECP confirmed in submissions to the CMA that it was the largest multi-branch competitor.⁴
29. The table below shows the annual revenues, number of sites, geographic coverage, and average annual sales per site for ECP and its main competitors:

	ECP		Andrew Page	Parts Alliance	Alliance Automotive	Motor Parts Direct
	Branch	Hub				
Annual revenues	£905m		£172m	[REDACTED]	[REDACTED]	[REDACTED]
No. of sites	203	17	101	163	81	90
Average annual sales per site	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Geographic coverage	National		Multi-regional	National	Multi-regional	Multi-regional

30. Third parties stated that ECP is the largest supplier of car parts at a national, regional, and local level. The majority of responses ranked ECP highly in terms of price, quality, product range, and delivery time.

Competitive interaction between the Parties

31. The evidence available to the CMA indicates a high degree of competitive interaction between ECP and Andrew Page. This is both in relation to Key Accounts (discussed at paragraphs 117-143 below) and at a local level (paragraphs 145-185 below).
32. Andrew Page is one of four other significant multi-regional or national competitors that supply IAM car parts in the UK. As the table above shows, Andrew Page is the third largest supplier by number of sites, and it has the joint second highest per-site turnover. Customers told the CMA that Andrew Page was a key competitor, ranking it within the top three players in each local area.

⁴ [REDACTED]

33. Andrew Page's internal documents identify ECP as a close competitor. In particular, the documents note a strategy by ECP to open [REDACTED]: sites near Andrew Page sites]. For example, one document notes that:

[REDACTED]: ECP opened large sites near Andrew Page sites as part of a strategy to target Andrew Page]'⁵

34. In Andrew Page's board minutes, ECP is the most frequently mentioned competitor. For example:

(a) In March 2015, Andrew Page planned carefully for the new ECP site launches at Nottingham and Leeds.⁶

(b) In June 2015, Andrew Page's Board was made aware of extremely aggressive competitive activity that indicated that ECP wanted to 'beat AP at any price.'⁷

(c) In January 2016, Andrew Page specifically assessed the impact of ECP's rollout of new sites and found that these new sites were expected to have a negative EBITDA impact on Andrew Page of around £2m in 2016.⁸

(d) In February 2016, the biggest impact on Andrew Page's business is identified as ECP's opening programme and its aggressive pricing.⁹

Alternative suppliers

35. The motor factors that supply IAM car parts to the IMT in the UK are largely small, independent players that operate locally, with significant variety in range and delivery capability. In particular, some do not stock the full range of products or do not provide a delivery service.

36. Many motor factors join buying groups to improve their purchasing power and the range of products that they can supply. Andrew Page used to be a member of the Parts Alliance buying group, but it left in September 2015.

37. Other than ECP and Andrew Page, there are a small number of multi-regional or national competitors, including Parts Alliance, Motor Parts Direct, and Alliance Automotive (listed in the table at paragraph 29). These are the main competitors listed in ECP's internal documents.¹⁰

⁵ [REDACTED]
⁶ [REDACTED]
⁷ [REDACTED]
⁸ [REDACTED]
⁹ [REDACTED]
¹⁰ [REDACTED]

38. The evidence available to the CMA indicates that these competitors exert a relatively limited constraint on the Parties. These competitors are assessed in greater detail in paragraphs 136-143 below.

Frame of reference

39. Market definition provides a framework for assessing the competitive effects of a merger and involves an element of judgement. The boundaries of the market do not determine the outcome of the analysis of the competitive effects of the merger. There can be constraints from outside the relevant market, segmentation within the relevant market, and some constraints are more important than others. The CMA considers these factors, to the extent necessary, in its competitive assessment.¹¹
40. As described above, the Parties overlap in the supply of IAM car parts to the IMT.¹² The CMA has considered the implications of variation in product and customer types for the purposes of determining the appropriate frame of reference below.

Segmentation by product type

41. When consumers need to repair a car, they can take their vehicle to either vehicle manufacturers (**VM**) and their dealers, or independent garages and bodyshops (the IMT). VM dealers supply branded OEM car parts for repairs. The IMT supplies IAM car parts that are not approved by VMs and are therefore not branded OEM parts.
42. ECP submitted that the relevant product frame of reference should be the supply of private car parts, including both branded OEM and IAM car parts. In support, ECP submitted that:
- (a) ECP sites will sometimes price match against VM dealers.
 - (b) IAM and OEM car parts can be physically the same.
 - (c) The recommended retail price of identical OEM and IAM car parts can be the same.

¹¹ *Merger Assessment Guidelines*, (OFT1254/CC2), September 2010, paragraph 5.2.2. 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).

¹² The Parties' activities also overlap in: (i) the supply of private label car parts; and (ii) retail supply to end-consumers. Andrew Page's activities in both areas, however, are minimal and these overlaps are not further addressed in this decision.

43. From a demand-side perspective, however, the evidence available to the CMA indicates that customers will not generally switch to using OEM over IAM car parts. Customers told the CMA that VMs and their dealers do not deliver OEM car parts or deliver them less frequently than IAM car parts. Customers also explained that VMs have a more limited product range than exists for IAM car parts.
44. When customers were asked to identify all effective competitors for the supply of car parts in their local areas, they included only one VM dealer as an effective competitor. Consistent with this position, only one (the same) VM dealer appears in ECP's price matching data, but it appears in the price match data in significantly fewer instances than motor factors.¹³
45. From a supply-side perspective, VMs and their dealers specialise in offering certain car brands. They would be unlikely to start stocking the car parts of all other brands in response to a small but significant non-transitory increase in price.
46. For the above reasons, the CMA has not widened the product frame of reference to include the supply of OEM car parts.

Geographic scope

47. The CMA has considered the appropriate geographic frame of reference for (i) Key Accounts and (ii) local customers.

Key Accounts

48. ECP submitted that the geographic scope for Key Accounts is national. It argued that Key Account customers have a national presence, with sites or garages located across the UK. A national customer would therefore not consider a supplier who does not have national coverage.
49. Responses to the CMA's merger investigation confirmed that some customers have requirements for IAM car parts from multiple sites, spread across a number of geographically dispersed regions. These responses indicated that these customers prefer to centralise their procurement through tenders or by selecting a list of approved suppliers with a significant national or regional presence.¹⁴

¹³ The CMA does not believe that this VM dealer competes with the Parties in the frame of reference at issue. In particular, this VM dealer only supplies a single OEM brand, and it has limited delivery capability.

¹⁴ Key Account customers may split their needs between more than one IAM car part supplier. Therefore, they may not require full national supply by a single supplier.

50. At the same time, these customers require suppliers' sites to be sufficiently close to their sites to ensure that suppliers can deliver car parts within a short timescale. While there are important local aspects to the demands of Key Accounts, these customers – whose requirements may be multi-regional or national – place a high value on dealing with a limited number of suppliers with a broad coverage of sites.¹⁵
51. Given variations in the footprint of different Key Accounts customers across different parts of the UK, the CMA has not considered it appropriate to define the geographic frame of reference according to any particular region.
52. The CMA is therefore assessing the impact of the Merger on Key Accounts on a national basis. The CMA, however, has taken into account any variation in competitive strength based on geographic presence of suppliers, to the extent relevant, within the competitive assessment.

Local customers

53. Customer demand for the supply of IAM car parts is local because customers require motor factors to supply deliveries within a specified (and short) amount of time. The evidence available to the CMA indicates that prices to customers vary on a local basis in response to local competitive conditions. Other competitive parameters also vary on a local level, including the choice of suppliers, speed of delivery, and product range.
54. Given the importance of location on customer choice and on price setting, the CMA has considered the effects of the Merger on a local basis.

Determining the catchment areas

55. Where the frame of reference is local, the CMA's starting point for determining where the Parties' activities overlap – and therefore the relevant frame of reference for a local assessment – is by identifying the relevant catchment areas of the Parties' sites.¹⁶ ECP initially submitted that the appropriate catchment area to identify these relevant overlaps was about 5 miles for all 101 Andrew Page sites. ECP suggested that this was consistent with the

¹⁵ Key Account customers told the CMA that they place value on using a single supplier (or limited number of suppliers) because this makes invoicing and reconciliation easier.

¹⁶ Consistent with the CMA's established practice, the determination of overlapping catchment areas provides a starting point for identifying potential competitive interactions between the Parties' businesses, and does not constitute a mechanistic framework for competitive assessment. The CMA may consider, for example, whether there are customers located within a part of the catchment area who could be more acutely affected by the merger. Equally, the CMA will also consider the constraint posed by competitors outside this catchment area.

distance implied by minimum delivery times agreed in Service Level Agreements between ECP and its customers.¹⁷

56. The CMA tested ECP's position for a number of selected sites. The CMA found significant differences in catchment areas based on the location of 80% of an Andrew Page site's customers by revenue (the CMA's typical starting point for determining catchment areas), indicating that ECP's approach did not provide a sufficiently robust and reliable basis for competitive analysis.
57. Following further engagement with ECP regarding data availability, the CMA determined relevant catchment areas using the following approach:
 - (a) The CMA categorised Andrew Page sites by geographic location using ONS categorisations of (i) conurbation/city, (ii) city/town, and (iii) rural; and
 - (b) The CMA calculated individual catchment areas for a sample of each ONS type, and, from these individual catchment areas, determined an average of 4, 6, and 9 miles respectively for the Andrew Page sites categorised as (i), (ii) or (iii) above.

Identifying the relevant overlaps

58. Next, the CMA applied the relevant average catchment areas to each Andrew Page site to identify the relevant overlaps (extending the individual catchment areas where appropriate in order to account for overlapping catchment areas).¹⁸ Based on the initial application of the average catchment areas identified above (as extended where applicable), the CMA identified that the catchment areas of 94 Andrew Page sites overlap with one or more ECP sites.
59. With regard to the seven remaining Andrew Page sites, the CMA believes that:
 - (a) For five sites (Isle of Wight, Scarborough, Louth, Thirsk, and Felixstowe), there is no overlap between the catchment areas of the Andrew Page site

¹⁷ ECP indicated that it was usually required to deliver to a customer within an hour of a delivery being made and also that its sites tended to be in the same type of areas, such as industrial zones on the edge of towns or urban areas. Given these characteristics, ECP suggested a journey length of 5 miles as a reasonable estimate of the average catchment area.

¹⁸ Consistent with the CMA's established practice, for the catchment areas to be considered as overlapping, it is not necessary for both of the merging parties sites' to be within a given catchment area. This is because overlaps that require further assessment may arise where the catchment areas themselves overlap (since the merging parties may still be serving a common group of customers). In order to identify these overlapping catchment areas, the CMA applied a second, wider catchment area of 2 times the radii described above. This is similar to 're-centring' the catchment area on an ECP site (ECP-specific catchment areas were not calculated because ECP did not provide data to undertake the calculation of such areas).

and the closest ECP site. This is based on substantial distance between them, the geographic location of the sites, and the absence of other evidence of competitive interaction.

- (b) For two sites (Andover and Malton), the CMA received evidence from its merger investigation indicating that customers and competitors in these areas consider the relevant Andrew Page and ECP sites to be close competitors. This suggests that the catchment areas may be broader than indicated based on average catchment areas. Accordingly, the CMA considered there to be an overlap between the nearest Andrew Page and ECP sites in these areas.

60. Based on the approach described above, the CMA has identified 96 local areas for the purposes of its local assessment.

Conclusion on frame of reference

61. For the reasons set out above, the CMA has considered the impact of the Merger in the following frames of reference:¹⁹

- (a) The supply of IAM car parts to the IMT for Key Accounts on a national basis; and
- (b) The supply of IAM car parts to the IMT for local customers based on average Andrew Page catchment areas depending on whether the Andrew Page site is located in a conurbation/city, (ii) city/town, and (iii) rural area, as defined by the ONS.

Counterfactual

62. The CMA assesses a merger's impact relative to the situation that would prevail absent the merger (ie the counterfactual). For completed mergers, the

¹⁹ The Parties' activities also overlap in the supply of garage equipment to the IMT. The evidence available to the CMA indicates that the conditions of competition for the supply of garage equipment are similar to those for the supply of IAM car parts (in particular because the competitive set of suppliers that are active at a local level is similar). There are, however, some demand- and supply-side differences between the supply of garage equipment and the supply of IAM car parts (in particular, the products themselves are functionally different), suggesting that there may be a separate frame of reference for this service offering. For the purposes of the present decision, the CMA has left open whether a separate frame of reference exists for garage equipment at the local level, and has not analysed the Merger by reference to such a separate frame of reference, because competition concerns raised by an overlap in the Parties' facilities at the local level are already addressed within the analysis for the supply of IAM car parts.

The CMA has also left open whether a separate frame of reference for the supply of garage equipment to Key Accounts exists at the national level. The available evidence, however, indicates that manufacturers supply garage equipment directly to larger Key Account customers. This suggests that competition concerns would not arise for the supply of garage equipment to Key Accounts in any event.

CMA generally adopts the pre-merger conditions of competition as the counterfactual against which to assess the impact of the merger.

63. The CMA, however, will assess the merger against an alternative counterfactual where, based on the evidence available to it, it believes that, in the absence of the merger, the prospect of these conditions continuing is not realistic, or there is a realistic prospect of a counterfactual that is more competitive than these conditions.²⁰ In these circumstances, the CMA will assess the effect of the merger compared with the most competitive counterfactual provided that it considers this situation to be a realistic prospect.
64. In the present case, ECP submitted that the correct counterfactual is that where Andrew Page had exited the market. The CMA's assessment of this counterfactual is set out below.

Exiting firm

65. For the CMA to accept an exiting firm counterfactual, it would need to believe, based on compelling evidence, that the following three cumulative conditions are met:²¹
- (a) it is inevitable that Andrew Page would have exited absent the Merger;
 - (b) there is no substantially less anti-competitive purchaser for the Andrew Page business or parts of the business; and
 - (c) the Merger does not represent a substantially less competitive outcome compared with what would have happened to Andrew Page's sales in the event of its exit.
66. Where, based on the available evidence, the CMA cannot reach a sufficient level of confidence in relation to each of the considerations (a), (b) and (c), it will use the pre-merger situation as its counterfactual to assess the merger.²²

Limb 1: Would Andrew Page have inevitably exited absent the Merger?

67. ECP submitted that Andrew Page would have inevitably exited the market in October 2016. It provided a range of evidence to support this, including:
- Andrew Page's business plan for July 2016;

²⁰ *Merger Assessment Guidelines*, paragraph 4.3.5.

²¹ *Merger Assessment Guidelines*, paragraphs 4.3.8-4.3.18.

²² *Merger Assessment Guidelines*, paragraph 4.3.10.

- Andrew Page’s management accounts for the period between October 2015 and July 2016;
- Andrew Page’s cash flow and forecasts for October and November 2016;
- Letter by Andrew Page’s administrators (PwC) to Andrew Page’s creditors dated 10 October 2016; and
- Minutes of the board meetings of Andrew Page’s directors between April and September 2016.

68. In September 2016, Andrew Page entered administration. It was suffering from severe financial difficulties. According to the administrators, this could have led to insolvency absent further funding before the end of October 2016.²³

69. The administrators explain that Andrew Page’s management had pursued several alternative funding options, but could not obtain funding in a sufficiently timely manner. Andrew Page’s management, supported by insolvency practitioners, concluded that a pre-packaged sale of Andrew Page in administration was necessary to prevent liquidation of the business.

70. The CMA believes that absent a sale of the business, Andrew Page would have become insolvent, ceased operating, and exited the market. Limb 1 of the exiting firm counterfactual is therefore satisfied.

Limb 2: Would there have been a substantially less anti-competitive purchaser than ECP for Andrew Page or parts of the Andrew Page business?

71. ECP submitted that Andrew Page was marketed extensively both before and during the administration process. It argued that although there were two other partial offers for the business, ECP was the only realistic bidder for the whole (or nearly the whole) of the Andrew Page business.

72. Recognising the partial bids, however, ECP also submitted that limb 2 of the exiting firm counterfactual is satisfied because:

- (a) One of these partial bids was not realistic because the potential acquirer would have lacked the funds to operate the sites it bid for; and
- (b) The other potential purchaser would not be substantially less anti-competitive than ECP.

²³ [🔗]

73. In the alternative, ECP submitted that for the Andrew Page branches for which only ECP submitted a bid, similar to the situations in *Kingfisher/Focus*²⁴ and *HMV/Zavvi*,²⁵ the exiting firm counterfactual should apply.
74. The CMA has examined whether there was a substantially less anti-competitive purchaser for the Andrew Page business, in whole or in part, in relation to supply of IAM car parts to Key Accounts or to local customers.

The marketing process for the Andrew Page business

75. The CMA first considered whether the marketing process to sell the Andrew Page business was sufficiently open such that all realistic purchasers had sufficient opportunity to participate in that process.
76. The evidence available to the CMA indicates that the Andrew Page business had been marketed before and during the pre-pack accelerated sales process as follows:
 - (a) Andrew Page retained William Blair & Co to market Andrew Page for sale between May 2015 and August 2016. ECP submitted and provided contemporaneous evidence indicating that William Blair held detailed discussions with around 20 potential purchasers. Although some potential purchasers expressed initial interest, only ECP submitted a bid.
 - (b) In August 2016, Andrew Page instructed PwC to review cash-flow requirements, provide an options review, and to assist with contingency planning. PwC recommended a pre-packaged sale of the business in administration. Because the business was rapidly running out of cash, PwC began an accelerated sales process in September 2016. Subsequently, Andrew Page entered administration, with PwC acting as administrators. According to PwC, Andrew Page faced an unsustainable funding requirement in the first week of October 2016.
 - (c) PwC approached over 40 businesses in the UK, Europe, Japan, the US, and India about purchasing Andrew Page as part of its accelerated sales process. PwC contacted not only parties who would be able to purchase the entirety (or vast majority) of the Andrew Page business, but also parties who may only have been able to purchase a number of sites. PwC confirmed that potential purchasers contacted and pursued at this time

²⁴ ME/5043/11 *Anticipated acquisition by Kingfisher plc of stores from Focus (DIY) Limited (in administration) and Do It All Limited (in administration)*.

²⁵ ME/4036/09 *Anticipated acquisition by HMV of 15 Zavvi stores*.

included purchasers involved in the earlier (pre-accelerated) sales process.

(d) At that point, only three bids were made for the Andrew Page business – one for almost the whole of the business (from ECP), and two partial bids (from Parts Alliance and Motor Parts Direct).

77. In short, the sales process in late 2016 was the final stage of over 12 months of marketing efforts by two different financial advisors. Although the accelerated sales process was short, it was necessarily so given the financial circumstances of Andrew Page. The available evidence suggests that realistic prospective buyers would have had sufficient opportunity before and during the accelerated sales process to advance a purchase had they been interested in doing so.

Was there a substantially less anti-competitive purchaser for the whole, or parts, of the Andrew Page business?

78. Other than the bid from ECP, there were no bids for the whole (or substantially the whole) of the Andrew Page business. Given the extensive marketing efforts for Andrew Page, the CMA concludes that it does not appear realistic that there existed any substantially less anti-competitive purchasers that (either jointly or on their own) could have purchased the whole (or substantially the whole) of the Andrew Page business other than ECP.

79. As to parts of the Andrew Page business:

(a) Parts Alliance bid for [25-50] sites; and

(b) Motor Parts Direct bid for 21 sites ([0-20] of which overlapped with Parts Alliance's bid).

80. Accordingly, there were bids by alternative purchasers for 52 sites (the **52 bid sites**),²⁶ and no alternative bids for 49 sites (the **49 unbid sites**).

81. For the 52 bid sites, ECP submits that neither Parts Alliance's nor Motor Parts Direct's bid offers a realistic alternative to ECP's bid. It claims that Motor Parts Direct could not have financed the investment necessary to make Andrew Page viable, and that Parts Alliance's bid raises similar competition issues to ECP's.

²⁶ The 52 bid sites constitute the [25-50] sites for which Parts Alliance bid, plus the 21 sites for which Motor Parts Direct bid, minus the [0-20] sites for which both Parts Alliance and Motor Parts Direct bid.

82. The CMA has examined each of these submissions in turn.
- *Was Motor Parts Direct a realistic purchaser?*
83. To support its submission that Motor Parts Direct was not a realistic purchaser for the 21 sites for which it bid, ECP provided aggregated financial information relating to the funds that ECP has invested in Andrew Page since purchasing the business. ECP argues that if Motor Parts Direct had made the same investment for 21 sites, it would have had to spend [X], a level of funding to which Motor Parts Direct would not have access.
84. The evidence submitted by ECP, however, does not permit the CMA to conclude that Motor Parts Direct was not a realistic purchaser for the 21 sites for which it bid:
- (a) First, ECP's evidence relates to the level of investment that ECP has made in the Andrew Page business. It provides limited insight into the level of investment that would have been necessary at the site level for the sites for which Motor Parts Direct submitted a bid.
 - (b) Second, while the evidence provided by ECP substantiates the level of investment that it has made in the Andrew Page business, ECP fails to show that it would have been necessary for Motor Parts Direct to invest a similar amount in the Andrew Page business.
85. Accordingly, given the firm interest expressed by Motor Parts Direct, and the fact that it submitted a concrete bid, the CMA is unable to conclude that Motor Parts Direct was not a realistic purchaser for the 21 sites for which it bid.
- *Were Parts Alliance and/Motor Parts Direct substantially less anti-competitive purchasers than ECP?*
86. The CMA has assessed whether Parts Alliance's and Motor Part Direct's acquisition of the 52 bid sites would be substantially less anti-competitive than ECP's acquisition of the Andrew Page business.
87. The assessment takes into account competition both at Key Accounts and at the local level.
88. **Key Accounts.** For Key Accounts, ECP submits that Parts Alliance is as close a competitor to Andrew Page as ECP because Parts Alliance participates in a comparable number of tenders in which Andrew Page participated as ECP.

89. The available evidence, however, indicates that ECP currently has a significantly stronger market presence than Parts Alliance and/or is a closer competitor to Andrew Page within this segment. The CMA notes, in particular, that:²⁷

(a) ECP won twice as many of the tenders in which Andrew Page participated as Parts Alliance.²⁸

(b) ECP is already the clear market leader within this segment, with revenues that are more than double those of Parts Alliance:

Key Account Revenues, 2015-2016

	Key Account Revenues, 2015	Key Account Sales, 2016
ECP	[REDACTED]	[REDACTED]
Parts Alliance	[REDACTED]	[REDACTED]
Andrew Page	[REDACTED]	[REDACTED]

(c) The Parties' internal documents indicate that ECP is the market leader in Key Accounts. For example, an April 2015 paper prepared for the Andrew Page board notes that ECP operates on a 'completely different scale' compared with Andrew Page and the remaining players.²⁹ The documents also confirm that ECP and Andrew Page compete closely (see paragraphs 31-34 above).

(d) The CMA's merger investigation confirms that ECP is the market leader in Key Accounts. Customers and competitors referred to ECP as the largest supplier of car parts at a national and regional level.

90. The CMA has also assessed the impact that the acquisition of (all or part) of the Andrew Page business would have on the ability of suppliers to bid for future Key Accounts contracts.

91. The CMA's merger investigation suggests that the number of sites operated by a supplier (and, in particular, the geographic coverage of those sites) is an important competitive parameter for Key Accounts (see paragraph 25 above). This suggests that ECP acquiring 101 Andrew Page sites would further

²⁷ This is not to say that a merger between Parts Alliance (or Motor Parts Direct) and Andrew Page would not lead to any competition concerns (either on a Key Account or a local basis). Rather, it indicates that the competitive concerns that arise due to the Merger between ECP and Andrew Page appear to be greater than those that might arise with a merger between Andrew Page and either of these other two businesses.

²⁸ [REDACTED]

²⁹ [REDACTED]

strengthen its existing market-leading position in Key Accounts, while removing the constraint currently provided by Andrew Page (which is the third largest operator by number of sites at present).

92. By contrast, Parts Alliance's acquisition of [25-50] Andrew Page sites would result in a more modest enhancement of its competitive capability within Key Accounts – competing primarily against ECP, which would retain the largest number of sites. Moreover, Motor Parts Direct's acquisition of 21 Andrew Page sites would, according to Motor Parts Direct,³⁰ facilitate its entry within the Key Accounts market. In principle, this would enable Motor Parts Direct to become the third largest operator in Key Accounts, replicating – at least to some extent – the competitive constraint that is currently provided by Andrew Page.
93. The available evidence suggests, therefore, that the acquisition by Parts Alliance and Motor Parts Direct of the 52 bid sites could realistically have produced a less anti-competitive outcome in Key Accounts than the acquisition of 101 sites by ECP.³¹
94. Limb 2 of the exiting firm counterfactual is therefore not satisfied for Key Accounts.
95. **Local areas.** At the local level, ECP submitted that it is likely that Parts Alliance's bid would have created overlaps with Parts Alliance's existing business. ECP argued that Parts Alliance's bid would therefore have raised similar competition concerns to ECP's bid.³²
96. The CMA has assessed whether Parts Alliance (or Motor Parts Direct, as the case may be) would be a substantially less anti-competitive purchaser than ECP for the 52 sites for which an alternative bid was submitted.
97. For 32 of the 52 bid sites, neither Parts Alliance nor Motor Parts Direct are currently present in the local area.³³ ECP, on the other hand, is currently present. In these areas, the available evidence suggests that Parts Alliance and Motor Parts Direct are substantially less anti-competitive purchasers than ECP, in particular because the acquisition by ECP would result in a reduction

³⁰ Motor Parts Direct explained to the CMA that it does not currently have sufficient geographic coverage to bid for Key Accounts. Motor Parts Direct, however, stated that if it had acquired the Andrew Page sites for which it bid, it would have been able to supply Key Accounts.

³¹ The CMA notes that these conclusions are necessarily without prejudice to any separate assessment of a merger between Parts Alliance and Andrew Page, or Motor Parts Direct and Andrew Page, where the counterfactual and consequent competitive assessment would be different.

³² [REDACTED]

³³ Bristol, Bury St Edmunds, Chichester, Chippenham, Gloucester, Oxford, Scunthorpe, Worthing, Cambridge, Croydon, Darlington, Durham, Halifax, Lytham, Malton, Mansfield, Midsomer Norton, Manchester, Morley, Newburn, Newcastle, Sunderland, Wakefield, Woodford Green, York, Hove, Liphook, Swindon, Isle of Wight, Wisbech, Kings Norton, Yeovil.

of the number of independent competitors within these local areas, whereas an acquisition by Parts Alliance / Motor Parts Direct would not.

98. For 20 of the 52 bid sites, one of either Parts Alliance or Motor Parts Direct is already present in the local area.³⁴ In each of these areas, the available evidence suggests that Parts Alliance or Motor Parts Direct are likely to be substantially less anti-competitive purchasers than ECP. As explained in paragraphs 168-185 below, ECP is the established market leader at the local level and the available evidence shows that it has a significantly larger presence than Parts Alliance and Motor Parts Direct within each of these areas. For example, the revenue data available to the CMA indicates that ECP's revenues within each of those areas are at least 50% greater (and on average over 200% greater) than those of each of Parts Alliance and Motor Parts Direct.³⁵
99. Accordingly, for each of the 52 bid sites, the available evidence indicates that Parts Alliance (or Motor Parts Direct, as the case may be) could be a substantially less anti-competitive purchaser of the Andrew Page sites than ECP.
100. The CMA therefore concludes that limb 2 of the exiting firm counterfactual is not satisfied for each of the 52 bid sites at the local level.

Limb 3: What would have happened to the sales of the Andrew Page business absent the Merger?

101. If the CMA believes that the firm and its assets would have exited the market, it considers what would have happened to the sales of the firm. The CMA assesses whether sales would have been redistributed among the firms remaining in the market and, if so, how.
102. If sales were likely to have been dispersed across several firms, the merger, by transferring most or all of the sales to the acquirer, may have a significant impact on competition. If, on the other hand, the majority of sales were expected to have switched to the acquiring firm in the absence of the merger, the merger may have little effect on competition.³⁶
103. The purpose of the assessment under limb 3 is to analyse whether the transfer of a failing firm's share to a single rival (through a merger) may, in

³⁴ Aldershot, Andover, Boston, Bournemouth, Eastleigh, Great Yarmouth, Beverley, Bradford, Bramley, Crawley, Doncaster, Farnborough, Harrogate, Huddersfield, Hull, Leeds, Scarborough, Selby, Teesside/Stockton on Tees, Thirsk.

³⁵ Save Scarborough, where neither ECP nor Parts Alliance is present in the overlap. Scarborough is not included as a local overlap area in the CMA's competitive assessment below.

³⁶ [Merger Assessment Guidelines](#), paragraph 4.3.18.

practice, produce a worse outcome for competition than the situation that would have prevailed if the remaining players in the market had competed for the exiting firm's share (absent the merger).³⁷

104. The CMA notes that the available evidence in relation to the assessment of limb 3 – regarding what would have happened to the sales of the Andrew Page in the local areas at issue – is mixed.³⁸
105. As explained in paragraphs 98 and 168-185, the available evidence indicates that ECP is likely to be the clear market leader in many local areas, and therefore may be well-placed to pick up a significant proportion of Andrew Page's sales.
106. On the other hand, market exit can provide an opportunity for increased competition as the remaining players seek to gain share in competition with rivals.³⁹ Third parties told the CMA that they would have had greater opportunity to win more sales if Andrew Page had exited, rather than if ECP acquired Andrew Page.
107. Moreover, there is significant variety of competitor within each local area (with the market being characterised by a small number of national or regional players, as well as a fringe of local, independent suppliers). Accordingly, in many of the local areas for the 49 unbid sites where the Parties overlap, a range of different suppliers, with varying capability to compete, may be present.⁴⁰ These competitors could have picked up a material proportion of Andrew Page's sales in the event of its exit.
108. For 2 of the 49 unbid sites,⁴¹ Andrew Page and ECP are the only competitors in the local catchment area that the CMA was able to identify in its merger investigation. In these areas, the available evidence clearly indicates that the majority of Andrew Page's sales would have transferred to ECP. Accordingly, the CMA believes that limb 3 of the exiting firm counterfactual is satisfied for these two sites and there is no realistic prospect of a substantial lessening of competition.

³⁷ *Merger Assessment Guidelines*, paragraph 4.3.10.

³⁸ The CMA notes that there were 8 Andrew Page sites for which ECP did not bid that have now been liquidated. The Parties have not provided any evidence in relation to what has happened to Andrew Page's sales at these 8 liquidated sites.

³⁹ See, eg, *Completed acquisition by Arcelor SA of Corus UK Limited's UK hot-rolled steel sheet piling business*, OFT decision of 9 September 2004.

⁴⁰ In each of the catchment areas around the 49 unbid sites, between 1 and 6 additional competitors are present. The most common number of additional competitors is 3 and 4, which occurs in 15 and 12 local areas, respectively.

⁴¹ Chesterfield, Staines.

109. For the remaining 47 unbid sites, on the other hand, there is no such compelling evidence that limb 3 is satisfied. While ECP may be the leader in many areas, the available evidence does not exclude the realistic prospect that the transfer of Andrew Page's share to ECP through the Merger produces a worse outcome for competition than the situation that would have prevailed absent the Merger.
110. ECP submitted that because the CMA finds a realistic prospect of a substantial lessening of competition in many local areas, this would result in a logical conclusion that the sales would not have been well distributed in all localities absent the Merger and that therefore limb 3 is satisfied. This is not the case, because the questions that the CMA is required to consider are different in each case. In particular, limb 3 would only be satisfied where compelling evidence supports the position that the transfer of Andrew Page's share to ECP through the Merger would not produce a worse outcome for competition than the situation that would have prevailed absent the Merger. A finding that a realistic prospect of a substantial lessening of competition exists in a local area does not necessarily mean that this test is met.

The appropriate counterfactual

111. If the CMA cannot reach a sufficient level of confidence in relation to any of the considerations reflected in limbs 1 to 3 of the exiting firm counterfactual, it will use the pre-merger conditions of competition as its counterfactual to assess the merger.⁴²
112. In light of the CMA's finding that the exiting firm counterfactual is not satisfied, the CMA has – in line with its Merger Assessment Guidelines – assessed the Merger against the pre-Merger conditions of competition. This is in relation to both Key Accounts and local areas (including the 52 bid sites and 47 unbid sites for which limb 3 is not satisfied).
113. In any case, the available evidence suggests that the competitive constraint provided by the Andrew Page business would have continued, at least to some extent, absent the Merger. This would be either because its operations would have continued via a purchaser or because the dispersal of its sales could have provided other competitors with the opportunity to compete more effectively with ECP (broadly replicating the competitive constraint currently provided by Andrew Page in both cases).

⁴² *Merger Assessment Guidelines*, paragraph 4.3.10.

Competitive assessment

114. 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.⁴³
115. Horizontal unilateral effects are more likely when the merging parties are close competitors. The CMA assessed whether it is or may be the case that the Merger has resulted, or may be expected to result, in a substantial lessening of competition in relation to unilateral horizontal effects in the supply of IAM car parts to the IMT for (i) Key Accounts and (ii) local customers.
116. In this section, the CMA first analyses the effect of the Merger on competition for the supply of IAM car parts to Key Accounts. The CMA then addresses the effect of the Merger on competition for local customers.

Horizontal unilateral effects: supply of IAM car parts to Key Accounts

117. Both ECP and Andrew Page compete to supply IAM car parts to Key Accounts. This section provides the CMA's assessment of the potential for the Merger to give rise to a realistic prospect of a substantial lessening of competition due to horizontal unilateral effects in Key Accounts.

Closeness of competition

118. ECP submitted that Andrew Page does not have sufficient national coverage to allow it to compete for Key Account contracts. It argued that Andrew Page is weak when bidding or negotiating contracts with national customers, particularly since its exit from the Parts Alliance group in 2015.
119. The CMA's assessment of the closeness of competition between the Parties in the supply of Key Accounts considers the similarity of the Parties' service proposition based on the views of third parties, the extent to which the Parties' serve similar customers, and tender data for Key Accounts. The CMA has separately considered the impact of Andrew Page's exit from the Parts Alliance in September 2015.

⁴³ *Merger Assessment Guidelines*, paragraph 5.4.1.

Similarity of the Parties' service proposition

120. The available evidence shows that Andrew Page and ECP have similar and strongly competing service propositions for the supply of Key Accounts:
- (a) Customers and competitors state that Andrew Page and ECP compete on price, quality, product range, and delivery times.
 - (b) Third parties consistently identify Andrew Page and ECP as close competitors for Key Account customers.
 - (c) ECP's internal documents identify Andrew Page as a significant supplier.⁴⁴ Andrew Page's documents likewise refer to Andrew Page competing for Key Account customers.⁴⁵ The documents confirm a high degree of competitive interaction between the Parties (see paragraphs 31-34 above). And an ECP document discussing the acquisition of Andrew Page notes that it would involve the elimination of a supplier to national customers.⁴⁶

The extent to which the Parties serve similar customers

121. Andrew Page's ability to service a customer seeking comprehensive national service coverage may be more limited than ECP's given that Andrew Page has a smaller number of branches, with those branches being concentrated in certain areas of the UK.
122. The evidence available to the CMA, however, indicates that ECP and Andrew Page compete closely for Key Account customers despite these geographic differences. Andrew Page can compete for customers with multi-regional (and not national) requirements and for customers who are willing to split their needs between a small number of large multi-regional suppliers.
123. In particular, both Andrew Page and ECP supply a number (11) of common Key Accounts customers.⁴⁷ These customers accounted for over [50-60]% of ECP's and [70-80] % of Andrew Page's Key Account sales in 2016. Andrew Page is therefore able to compete for and win significant Key Accounts.
124. ECP submitted that for these 11 common Key Accounts, ECP supplies the majority of volumes and therefore Andrew Page is a relatively weak

⁴⁴ [REDACTED]

⁴⁵ [REDACTED]

⁴⁶ [REDACTED]

⁴⁷ As discussed in paragraph 131(a) below, despite Key Account customers typically choosing suppliers through tenders, multi-sourcing still occurs outside the tender process.

constraint.⁴⁸ The evidence, however, shows that Andrew Page supplies up to 50% of the customer's total spend to some of these Key Account customers.⁴⁹ Andrew Page therefore cannot be dismissed as a significant supplier of Key Accounts on this basis.

125. Moreover, ECP's largest Key Accounts customer accounts for around [20-30%] of ECP's total Key Account sales in 2016. The same customer is also Andrew Page's largest Key Account customer, with Andrew Page supplying [20-30%] of the value of this customer's purchases of IAM car parts.⁵⁰

Tender data

126. ECP submitted an analysis of tender data that examined the extent of the overlaps between Andrew Page's and ECP's participation in tenders.
127. ECP argued that the proportion of tenders in which the Parties compete is relatively small. Between 2012 and 2016, ECP participated in [X] tenders, with Andrew Page participating in [30-40%] of them. Between 2014 and 2016, Andrew Page participated in [X] tenders, with ECP participating in [30-40%] of them.⁵¹ ECP also stated that Andrew Page won infrequently in the [X] tenders in which it participated with ECP (around [5-10%]).
128. The CMA's analysis of the tender data also reflects that ECP participates in, and wins, more Key Accounts tenders than Andrew Page. This is consistent with ECP's position as the market leader for Key Accounts. Indeed, tender data indicates that ECP places a strong competitive constraint on Andrew Page: between 2014 and 2016, ECP participated in almost [40-50%] of Andrew Page tenders and won roughly half of those.
129. At the same time, Andrew Page bids relatively frequently against ECP and it has successes when it does so: between 2014 and 2016, Andrew Page participated in [30-40%] of ECP tenders and won 1 in 5. In addition, there were [X] tenders where although ECP won the tender, Andrew Page was appointed as approved supplier. These [X] bids relate to customers that account for [40-50] of ECP's total sales and [60-70%] of Andrew Page's total sales in 2016.
130. The CMA believes that this evidence indicates that the Parties compete closely for Key Accounts. Much of the evidence suggests that the constraint is

⁴⁸ [X]

⁴⁹ [X].

⁵⁰ [X] The largest Key Accounts customer is over three times bigger than the second largest Key Accounts customer in terms of sales from ECP and Andrew Page in 2016.

⁵¹ [X]

asymmetric, such that the constraint that Andrew Page exercises on ECP is weaker than that exercised *vice versa*. It is clear that the constraint exercised by Andrew Page on ECP is nonetheless significant, particularly within the context of a market in which the competitive fringe of firms that constrains ECP (especially for Key Accounts) is already limited.

131. The CMA also believes that the tender data may underestimate the competitive interaction between the Parties for Key Accounts:
- (a) First, the tender data does not reflect the multi-sourcing that occurs for Key Accounts. As shown above, Andrew Page is an important second-line or multi-source supplier for a number of Key Account customers. In fact, multi-sourcing customers represent over [50-60%] of ECP's sales, with Andrew Page supplying a significant proportion of these customers' sales.
 - (b) Second, the tender data does not reflect that supply arrangements can be directly negotiated. The data therefore does not capture the full extent to which the Parties compete for Key Accounts. In fact, [a significant proportion of] ECP Key Account customers ([10-20%] by value) and [a significant proportion of] Andrew Page Key Account customers ([50-60%] by value) do not participate in tenders.
132. Accordingly, the tender data indicates that the Parties bid against each other relatively frequently when competing for Key Accounts, and that they both win bids when competing against each other.

Andrew Page's exit from the Parts Alliance

133. ECP submitted that after Andrew Page exited the Parts Alliance buying group in November 2015, it lost its scale advantage in terms of winning business from large Key Account customers. ECP argued that even based on pre-Merger conditions of competition, Andrew Page presented an insignificant competitive constraint for Key Accounts.
134. The CMA acknowledges that Andrew Page's overall sales declined in Key Accounts in 2016 as some customers switched their sales away from Andrew Page. But the evidence available to the CMA indicates that Andrew Page had a commercial rationale for leaving the Parts Alliance buying group,⁵² and that it could continue as a significant competitor for Key Accounts even absent this membership. Specifically:

⁵² An internal document prepared for the Andrew Page board notes that [REDACTED].

- (a) Key Account customers told the CMA that they considered that Andrew Page was still an effective supplier – even if its service offering may have reduced slightly on exit from the Parts Alliance.
- (b) While Andrew Page’s Key Account sales declined by around 35% between 2015 and 2016, it still generated around [REDACTED] in sales in 2016.
- (c) In 2016, Andrew Page participated in 22 tenders for Key Accounts, winning 4 outright. In addition, Andrew Page was appointed the approved supplier in 3 other tenders.
- (d) Andrew Page’s internal documents from around the time of its departure refer to discussions with Key Account customers as being on-going and encouraging.⁵³

135. Accordingly, the available evidence indicates that Andrew Page was, and could have continued to be, a significant supplier of Key Accounts after its departure from the Parts Alliance.

Remaining competitive constraints

136. Unilateral effects are more likely where customers have little choice of alternative supplier.

137. ECP identified several significant competitors to the Parties for the supply of Key Accounts – specifically, Alliance Automotive, Motor Parts Direct, IFA, and Parts Alliance. It also noted that there are some other competitors with multi-regional geographic coverage. ECP’s internal documents refer to Parts Alliance and Andrew Page as significant competitors when discussing Key Accounts.

138. The CMA in this case has assessed the constraint from these alternatives by taking into consideration:

- (a) Similarity of service proposition; and
- (b) Third-party views on alternatives.

139. The CMA considered the extent to which the suppliers named by ECP compete in Key Accounts. Of these suppliers, only two have national coverage – namely the Parts Alliance and IFA – with the others operating on a multi-regional basis.

⁵³ [REDACTED]

140. The CMA acknowledges that Parts Alliance is a significant competitor for Key Accounts customers. As noted above in paragraphs 89-93, however, Parts Alliance is not as strong as ECP (which is the market leader, even prior to the addition of Andrew Page). Even if Parts Alliance acquired the [25-50] Andrew Page sites for which it bid, it would still have fewer sites than ECP currently has (and almost [80-120] fewer than if ECP acquired all of Andrew Page).
141. In a few instances, ECP's tender data also named [X] as a competitor. [X] is a buying group that has 31 members that are all local motor factors; [X] does not own these motor factors. It is unclear the extent to which [X] is able to supply Key Account customers. For example, [X] does not have a central invoice system or a consistent choice of brands, which Key Account customers told the CMA was preferable when choosing a supplier. Only one customer identified [X] as an effective competitor, while a rival indicated that [X] is a weak competitor for Key Accounts.
142. The remaining competitors seem to exert only a limited competitive constraint on the Parties. The CMA found that some of these competitors, for example Motor Parts Direct and Alliance Automotive, do not currently bid or negotiate for national or multi-regional Key Accounts. This is because they do not have sufficient geographic coverage within their own businesses.⁵⁴

Conclusion on the supply of IAM car parts to Key Accounts

143. In summary, the CMA's merger investigation has found that ECP, Andrew Page, and Parts Alliance are the only effective competitors for Key Accounts. The combination of ECP and Andrew Page would therefore leave insufficient post-Merger competitive constraints, as described above.
144. Accordingly, the CMA believes that the Merger gives rise to a realistic prospect of a substantial lessening of competition through horizontal unilateral effects in the supply of IAM car parts to Key Accounts.

Horizontal unilateral effects: supply of IAM car parts at the local level

145. The CMA identified overlapping catchment areas around 96 Andrew Page sites (as described in paragraph 60 above).⁵⁵ As explained in the counterfactual section (paragraph 108), two of these sites satisfy the exiting

⁵⁴ Motor Parts Direct told the CMA that it would only be able to bid for Key Accounts if it acquired the 21 Andrew Page sites for which it bid. Alliance Automotive told the CMA that they do not currently have coverage to bid for Key Accounts.

⁵⁵ As noted in paragraph 60, this constitutes all the 101 Andrew Page sites that ECP purchased, save for the Isle of Wight, Scarborough, Louth, Thirsk, and Felixstowe

firm counterfactual and therefore do not raise competition concerns.⁵⁶ Accordingly, the CMA has assessed the local competitive effects of the Merger in 94 local overlap areas.

Initial filtering approach – methodology

146. In mergers involving large numbers of local overlaps, the CMA will sometimes seek to scope its investigation by applying certain filters based on the number of significant competitors remaining in a local area post-merger (a ‘fascia count’). These fascia counts can provide a basic measure of market concentration for the purposes of identifying areas for further detailed scrutiny or, in the absence of other evidence, as a test for whether a realistic prospect of harm exists.
147. Fascia counts do not, however, take into account how closely competitors compete with each other. They ignore, for example, the precise location of competitors, differences in shares of supply, the size or distribution of the firms, and other differentiating factors.⁵⁷
148. ECP provided the CMA with a local analysis that identified car parts generalists (ie, suppliers who provide a broad product range of car parts), car parts specialists (ie, suppliers who specialise in a certain type of car part such as paint or batteries), suppliers of car accessories, and VM dealers as effective competitors of the Parties. This resulted in a list of more than 3,800 suggested competitors across all the overlap areas.
149. ECP did not, though, provide evidence to support whether and to what extent these suppliers actually compete with the Parties. Nor did it provide any evidence to support the relative strength of the various players.
150. As explained in paragraphs 22-26 above, the available evidence indicates that the main parameters for competition between motor factors are delivery capability (requiring local vans or a fleet), product range, quality, and price.
151. The CMA therefore sought to narrow the list of 3,800 suppliers into an effective competitor set by identifying competitors that competed in the product frame of reference and satisfied these parameters. The CMA considered a range of evidence, including evidence from ECP’s submissions, references to the suppliers in the Parties’ internal documents, initial customer and competitor views, and public information.

⁵⁶ Chesterfield and Staines.

⁵⁷ [Merger Assessment Guidelines](#), paragraph 5.3.4.

152. Based on this evidence, the CMA identified a list of 150 suppliers that appeared to be motor factors supplying a broad range of car parts to IMT customers and offering delivery. Given the scope for variation in suppliers and the limited evidence available to the CMA, the CMA was unable to conclude at that stage of the investigation, to the required standard, that each of these suppliers was an effective competitor to the Parties. The CMA therefore could not, based on simple fascia count alone, dismiss any local overlaps from further assessment.
153. Therefore, rather than using initial fascia counts to dismiss areas that were unlikely to prove problematic, the CMA used them to scope its market testing. The CMA prioritised, and tested more substantively, those areas that appeared more likely to give rise to concerns based on the more limited evidence of competitive constraint of certain suppliers.

Approach following market testing – methodology

154. Consistent with its established practice for local assessment, the CMA has assessed the Merger based on the following evidence:
- (a) Fascia counts;
 - (b) Shares of supply based on sales data;
 - (c) Data on how often ECP price matched a motor factor (April – August 2016); and
 - (d) Data on the suppliers whose customers ECP targeted for switching in 2015.
155. The sections below first discuss the nature of this evidence and how the CMA used the evidence in its competitive assessment of the Merger (paragraphs 156-167). The CMA then sets out its competitive assessment of the 94 overlap areas (paragraphs 168-185).

Fascia counts

156. The number of players in a local area (the fascia count) provides a basic measure of concentration. As noted above, the CMA used some initial fascia counts to scope and prioritise its market testing. It did not, though, believe that it had sufficient information on the identified competitors to exclude a realistic prospect of a substantial lessening of competition from any overlap areas absent further confirmation of those (or other) suppliers' ability to compete effectively with the Parties.

157. The CMA has therefore used evidence from its merger investigation to develop its understanding of the effectiveness of competitors and whether they should form part of an effective competitor set for the purposes of any fascia count.
158. Based on the responses to its merger investigation, the CMA has only included competitors in its competitive assessment that were named by at least one customer or competitor.⁵⁸ The CMA believes that this approach is appropriate, in the circumstances of the present case, because to be an effective competitor a motor factor must be able to fulfil certain requirements (in particular, broad product range and delivery capability). Absent specific evidence that a particular supplier could meet these requirements, the CMA considered that the views of customers and competitors constituted the most reliable evidence of suppliers' effectiveness.⁵⁹
159. Based on this methodology, the CMA identified 121ⁱ competitors that, on the evidence available, should be included in the fascia count for the 94 overlap areas.

Shares of supply

160. Shares of supply may indicate a firm's competitive strength, the closeness of competition between firms, and the competitive constraint that they place on each other. Combined shares, post-merger, can provide an indication of the change in market power resulting from a merger.⁶⁰
161. In line with its Guidelines, the CMA does not typically raise concerns when combined shares of supply are less than 40%.⁶¹ By contrast, if the combined shares of supply are greater than 40%, and the merger brings about a material increment, the merger is more likely to give rise to horizontal unilateral effects.
162. In the present case, the CMA has calculated shares of supply for each catchment area using ECP's and Andrew Page's turnover per site. For competitors, the CMA has used (where available) competitor revenue data.

⁵⁸ The CMA engaged with the Parties to establish a reasonable list of motor factors that compete with the Parties on the same level of supply chain by supplying the IMT. The CMA, however, was unable to agree a list with the Parties.

⁵⁹ The CMA's merger investigation sought the views of 267 local customers, 9 buying groups, 6 VM dealers, and 138 individual motor factors. This included a number of established market players with oversight of a large number of areas where the Parties' activities overlap.

⁶⁰ [Merger Assessment Guidelines](#), paragraph 5.3.4.

⁶¹ [Merger Assessment Guidelines](#), paragraph 5.3.5.

Where data is unavailable, the CMA has used reasonable assumptions based on average revenues.⁶²

Price matching and customer stealing data

163. ECP operates a price match promise that shows which ECP site price matched which motor factor in the period from April 2016 to August 2016 (pre-Merger) and September 2016 to January 2017 (post-Merger).
164. The price matching data provides an indication of the closeness of competition between two players. ECP may compete more closely with those motor factors that it price matches more frequently.
165. ECP has submitted that the CMA's approach does not place sufficient weight on a number of suppliers that are mentioned in the price matching data.⁶³ The price matches with these suppliers, however, occur far less frequently than the extent to which ECP price matches Andrew Page (suggesting that these suppliers are considerably more remote competitive constraints on ECP).⁶⁴
166. Moreover, ECP is active at different levels of the supply chain and does not only price match motor factors, but also retailers and superfactors (which supply motor factors, and are not active in the frame of reference under consideration). ECP has not provided evidence to establish that the suppliers mentioned in the pricing data are active in relation to any given overlap related to the supply of IAM car parts. For this reason, the CMA is unable to include these suppliers within the effective competitor set based on the price matching data alone.
167. As to the customer stealing data, ECP followed a customer stealing strategy in 2015 where it identified 2-5 customers per site that it would specifically target to attempt to make them switch from their current supplier. The data indicates which motor factors supply the customer prior to ECP targeting them. The customer stealing data therefore indicates motor factors that compete closely with ECP for significant customers.

⁶² Where turnover data was only available for some competitor sites, the CMA used the competitor's average turnover for those sites. Where no turnover data was available for a particular competitor, the CMA used the average turnover available across sites of similar competitors.

⁶³ [REDACTED]

⁶⁴ For example, between April and August 2016, ECP price matched Andrew Page at the Acocks Green site [REDACTED] times and at the Wakefield site [REDACTED] times. By contrast, the Parties refer to competitors being price matched by ECP [REDACTED]: around 5-10 times less frequently] across a period of about 300 days (April 2016 to January 2017).

Assessment

168. The section below describes the CMA’s assessment of the 94 local overlap areas that do not satisfy the exiting firm counterfactual, based on the evidence set out above. Consistent with the approach taken in its merger investigation, the CMA has structured the assessment as follows:
- (a) The CMA first considers “high concentration” areas, in which a fascia count indicates that there would be fewer than three competitors post-Merger (described as the “**high market concentration areas**” below);
 - (b) The CMA then considers the “high combined share” areas in which there would be more than three competitors locally, but the Parties appear to hold significant shares of supply (described as the “**high combined share areas**” below); and
 - (c) Finally, the CMA considers the areas in which, absent evidence in relation to market concentration and market shares, other evidence (primarily customer concerns) suggests that the Merger may raise competitive concerns (described as the “**other basis for concern areas**” below).

High market concentration areas

169. In 38 overlap areas, post-Merger, the CMA identified fewer than three effective competitors in the catchment area. Given ECP’s existing market strength and closeness of competition to Andrew Page (see paragraphs 27-34 above), this level of concentration alone indicates a realistic prospect of a substantial lessening of competition.⁶⁵
170. In addition to the level of concentration suggested by the fascia count, the CMA conducted an analysis of local conditions and closeness of competition using shares of supply and price matching data:
- (a) For 29 overlaps, ECP’s share of supply equals or exceeds [40-50%], Andrew Page’s share of supply equals or exceeds [10-20%], and Andrew Page is in the top 3 competitors that ECP’s closest site price matches.⁶⁶

⁶⁵ [Merger Assessment Guidelines](#), paragraph 5.3.5.

⁶⁶ Beverley, Bramley, Bury, Bury St Edmunds, Chichester, Chippenham, Croydon, Darlington, Derby, Guildford, Halifax, Harrogate, Huddersfield, Hull, Liphook, Lytham, Morley, Newburn, Oldham, Scunthorpe, Stockport, Wakefield, Walsall, Warrington, Wigan, Woodford Green, Worcester, Yeovil, York.

(b) For 8 overlaps, the combined share of supply equals or exceeds [40-50%] and Andrew Page is in the top 3 competitors that ECP's closest site price matches.⁶⁷

(c) For the remaining 1 overlap, the Parties' combined share of supply is [30-40%]; but the increment brought about by the Merger is significant (greater than [10-20%]), and Andrew Page is in the top 3 competitors that ECP's closest site price matches.⁶⁸

171. Taken together, the available evidence (ie, the fascia count, shares of supply, and price matching and customer stealing data) establishes that these areas are characterised by high levels of market concentration, that ECP already holds a strong position in these areas, and that the Merger will remove a significant competitive constraint on ECP.

172. The CMA therefore believes that there is a realistic prospect of a substantial lessening of competition in these 38 "high market concentration" overlap areas.

High combined share areas

173. Given the significant variety of competitors within each local area, the CMA believes that a simple fascia count to filter out non-problematic areas (based on the assumption that three competitors other than the Parties precludes competition concerns) is not appropriate.

174. The CMA has therefore conducted a competitive analysis based on shares of supply, price matching data, and customer stealing data on the remaining overlap areas that would have more than three competitors in each area post-Merger. The CMA conducted this analysis on 54 of the remaining 56 overlap areas.⁶⁹

175. For 32⁷⁰ of these 54 areas, the CMA has found that:

(a) ECP's share of supply is greater than [40-50%] and Andrew Page's share is greater than [10-20%]; and

⁶⁷ CV Spares (Slough), Gloucester, Kings Norton, Mansfield, Newcastle, Preston, Shrewsbury, Stafford,

⁶⁸ Worthing: shares of supply: Parts Alliance [50-60%], ECP [20-30%], Andrew Page [10-20%], Frenches [0-10%].

⁶⁹ As explained below, the CMA did not have this type of evidence available for two of the areas (Andover and Malton).

⁷⁰ In 21 of these areas, Andrew Page is additionally listed in ECP's customer stealing data for more than [50-60%] of the listed customers: Aldershot, Birmingham, Boston, Bradford, Bristol, Crawley, Durham, Farnborough, Grimsby, Halesowen, Kings Lynn, Lincoln, Manchester, Manchester South, Norwich, Oldbury, Portsmouth, Sheffield, South Sheffield, Stockton, and Swindon. The remaining 11 areas are: Cambridge, Colchester, Reading, Wolverhampton, Carlisle, Coventry, Fareham, Hove, Northampton, Peterborough, Sunderland.

- (b) Price matching data indicates that ECP and Andrew Page compete closely, with either: (i) ECP price matching Andrew Page more frequently than any other motor factor, and in more than [50-60%] of cases; or (ii) Andrew Page is in the top 3 of motor factors that ECP price matches.
176. For 2 areas,⁷¹ ECP's share of supply is greater than [40-50%] and Andrew Page's share is greater than [10-20%] (but price matching data is not available).
177. For 14 areas,⁷² the CMA has found that:
- (a) ECP's and Andrew Page's combined share is greater than [40-50%], with the increment brought about by the Merger being material (at greater than [5-10%]); and
- (b) Price matching data indicates that ECP and Andrew Page compete closely, with either: (i) ECP price matching Andrew Page more frequently than any other motor factor, and in more than [50-60%] of cases; or (ii) Andrew Page is in the top 3 of motor factors that ECP price matches.
178. For 4 areas,⁷³ the Parties' combined share is greater than [40-50%]. The increment brought about by the Merger is material (at more than [5-10%]), although price matching and customer stealing data is not available to verify the closeness of competition between the Parties.
179. Taken together, the available evidence (ie, the shares of supply, price matching data, and customer stealing data) establishes that in each of these areas the merged entity will hold a strong market position; that the Merger will remove a significant competitive constraint on ECP; and that the remaining fringe of firms will not be sufficient to constrain the merged entity. The CMA therefore believes that the Merger gives rise to a realistic prospect of a substantial lessening of competition at these 52 catchment areas.
180. By contrast, for 2 of the "high combined share areas", the CMA considers there is not a realistic prospect of a substantial lessening of competition:
- (a) In Great Yarmouth, the Parties' combined share of supply is more moderate (at [30-40%]), and the increment brought about by the Merger is less than [10-20%]. The share data also identifies a number of relatively

⁷¹ Castleford and Eastleigh.

⁷² In 7 of these areas, Andrew Page is additionally listed in ECP's customer stealing data for more than [50-60%] of the listed customers: Doncaster, Keighley, Leeds, Leicester, Midsomer Norton, Nottingham, Southampton. The remaining 7 areas are: Cardiff, Ipswich, Oxford, Bournemouth, Kettering, Milton Keynes, Stoke.

⁷³ Selby, Gatwick, Rawdon, and Wisbech.

strong competitors (four other motor factors in the area each have a share that is more significant than Andrew Page's).⁷⁴

(b) At Ellesmere Port, the Parties' combined share of supply is above [40-50%], but the increment brought about by the Merger is small (being less than [5-10%]). The closest ECP site does not price match Andrew Page, suggesting that Andrew Page is not considered a close competitor by ECP in this area.

181. The CMA therefore believes that there is a realistic prospect of a substantial lessening of competition in 52 of the 54 "high combined share" overlap areas.

Other basis for concern areas

182. As described above in paragraphs 58-60, the CMA did not find an overlap based on average catchment areas in Andover and Malton. However, the CMA received evidence from its merger investigation indicating that customers and competitors in these areas consider the relevant Andrew Page and ECP sites to be close competitors.

183. Limited information about the market structure within these areas is available to the CMA (in particular because the potential competitive interaction between the Parties' sites only arose at a relatively advanced stage of the CMA's merger investigation). Similarly, price matching and customer stealing data for these areas are not available to the CMA.

184. Nevertheless, within the context of the competitive landscape in the markets at issue, the CMA has received consistent views from customers and competitors that the Parties compete closely in these areas, with customers also articulating concerns about the impact that the Merger could have on competition. The Parties have not produced any data or information relevant to the competition concerns that the CMA has identified within these areas in its Issues Letter. The CMA therefore believes that the Merger gives rise to a realistic prospect of a substantial lessening of competition in these two catchment areas.

Conclusion on the supply of IAM car parts at the local level

185. The CMA believes that the Merger will allow the largest supplier for IAM car parts to merge with one of its closest competitors. For the reasons explained above, the CMA believes that the Merger gives rise to a realistic prospect of a

⁷⁴ Great Yarmouth. Shares of supply: ECP [20-30%], Alliance Automotive [10-20%], EU Linco [10-20%], Motor Parts Direct [10-20%], Jayar [5-15%], Andrew Page [5-10%], 1st Call [0-10%].

substantial lessening of competition a result of horizontal unilateral effects in 92 local areas.

Barriers to entry and expansion

186. 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.⁷⁵
187. ECP submitted that there are no real barriers to entry or expansion for the following reasons:
- (a) There are no specific legal or regulatory barriers and no barriers by way of intellectual property rights for distributors to enter.
 - (b) There are no barriers to access customers or to source supplies.
 - (c) There are no switching costs involved for customers. Contracts with customers are neither long-term nor exclusive.
188. The CMA's merger investigation, however, has found that it would take between 6 months to 2 years to set up a new site, at a cost of around £750,000. The cost of setting up in towns is even more expensive. Market participants cited barriers to entry including site availability, distribution viability, and the availability of management talent. Third parties also noted that ease of entry in a local area depends on whether ECP is already present in the area.
189. The CMA does not find that entry could prevent the realistic prospect of a substantial lessening of competition identified in the competitive assessment.

Decision

190. The CMA believes that it is or may be the case that the Merger has resulted, or may be expected to result, in a substantial lessening of competition within a market or markets in the United Kingdom.
191. The CMA therefore believes that it is under a duty to refer under section 22(1) of the Act. However, the duty to refer is not exercised⁷⁶ whilst the CMA is

⁷⁵ *Merger Assessment Guidelines*, from paragraph 5.8.1.

⁷⁶ Section 22(3)(b) of the Act.

considering whether to accept undertakings⁷⁷ instead of making such a reference. ECP has until 17 May 2017⁷⁸ to offer an undertaking to the CMA.⁷⁹ The CMA will refer the Merger for a phase 2 investigation⁸⁰ if ECP does not offer an undertaking by this date; if ECP indicates before this date that it does not wish to offer an undertaking; or if the CMA decides⁸¹ by 24 May 2017 that there are no reasonable grounds for believing that it might accept the undertaking offered by ECP, or a modified version of it.

192. The statutory four-month period mentioned in section 24 of the Act in which the CMA must reach a decision on reference in this case expires on 13 June 2017.
193. For the avoidance of doubt, the CMA hereby gives ECP notice pursuant to section 25(4) of the Act that it is extending the four-month period mentioned in section 24 of the Act. This extension comes into force on the date of receipt of this notice by ECP and will end with the earliest of the following events: the giving of the undertakings concerned; the expiry of the period of 10 working days beginning with the first day after the receipt by the CMA of a notice from ECP stating that it does not intend to give the undertakings; or the cancellation by the CMA of the extension.

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

ⁱ The CMA identified 121 competitors pre-market testing; post-market testing the CMA identified 86 effective competitors to be used in the fascia count.

⁷⁷ Section 73 of the Act.

⁷⁸ Section 73A(1) of the Act.

⁷⁹ Section 73(2) of the Act.

⁸⁰ Sections 22(1) and 34ZA(2) of the Act.

⁸¹ Section 73A(2) of the Act.