

Completed acquisition by Solera Holdings, Inc. of Autodata Publishing Group Limited

Decision on relevant merger situation and substantial lessening of competition

ME/6670-17

The CMA's decision on reference under section 22(1) of the Enterprise Act 2002 given on 17 May 2017. Full text of the decision published on 16 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.

Contents

	<i>Page</i>
SUMMARY	2
ASSESSMENT	4
Parties.....	4
Transaction	4
Jurisdiction	5
Counterfactual.....	5
Background.....	6
Frame of reference	7
Competitive assessment.....	13
Entry and expansion	25
Third party views.....	28
Conclusion on substantial lessening of competition.....	28
Exceptions to the duty to refer	29
Decision	30

SUMMARY

1. On 26 January 2017, Solera Holdings, Inc. (**Solera**), via its wholly owned subsidiary HPI Holdings Limited (**HPI**), acquired Emperor 1 Ltd (**Emperor 1**), the ultimate holding company of Autodata Publishing Group Limited (**Autodata**) (the **Merger**). Solera, HPI and Autodata are together referred to as the **Parties**.
2. The Competition and Markets Authority (**CMA**) considers that the Parties have ceased to be distinct and that the share of supply test is met. The four-month period for a decision has not yet expired. The CMA therefore considers that a relevant merger situation has been created.
3. The Parties overlap in the supply of vehicle repair and maintenance information (**RMI**) platforms in the UK. Autodata both aggregates the RMI and makes it available to customers through its RMI platform. Solera (via its wholly-owned subsidiary CarweB Limited (**CarweB**)) licences the RMI already aggregated by HaynesPro and resells it through an online platform called E3 Technical.
4. The CMA has assessed whether horizontal effects may arise as a result of the Merger by reference to the supply of RMI platforms in the UK.
5. Solera (but not Autodata) also supplies other types of automotive data and services such as tyre data and Vehicle Registration Mark (**VRM**) enablement services.¹
6. The CMA has also considered whether the Merger might lead to conglomerate effects by reference to the supply of tyre data and VRM enablement services in the UK.

Horizontal effects

7. The CMA believes that the Merger gives rise to horizontal unilateral concerns for a number of reasons. The Parties are close competitors and the two main suppliers of RMI platforms in the UK, with a combined share of supply of [85-95]%.
8. The other competing suppliers of RMI platforms in the UK, namely TecAlliance, AllData, Hella Gutmann and HaynesPro, would not sufficiently constrain the merged entity, mainly because: (a) they have a limited presence in the UK: each has a share of supply of less than 5%; (b) the products

¹ See definition of VRM enablement services in paragraph 61 below

offered by some competitors are different from the Parties' RMI platforms and used for other purposes, or are targeted mainly at a specific set of the customers; and (c) the RMI platforms supplied by most of the Parties' competitors in the UK do not have some features of the Parties' RMI platforms that are highly valued by most customers, including an accurate VRM enablement functionality and customer helpdesk.

9. Evidence available to the CMA indicated that new entry or expansion in the supply of RMI platforms in the UK, including by existing suppliers of RMI platforms, will not be timely, likely or sufficient to offset any lessening of competition caused by the Merger. This is mainly because there are significant barriers to entry and expansion in the supply of RMI platforms in the UK, in particular: (i) customer stickiness, arising from the strong brands of the Parties and familiarity of mechanics with their products; and (ii) the time and investment required to establish an accurate VRM matching system.
10. Although some competitors have expressed their intention to increase their UK presence, the CMA believes that such expansion is unlikely to be delivered on a sufficiently timely basis to offset the effects of the Merger.
11. The CMA therefore believes that the Merger gives rise to a realistic prospect of a substantial lessening of competition (**SLC**) in the supply of RMI platforms in the UK as a result of horizontal unilateral effects.
12. The CMA considers that the 'de minimis' exception to the duty to refer does not apply in this case, as clear-cut undertakings in lieu of reference are in principle available.

Conglomerate effects

13. In respect of conglomerate effects, the CMA has found that the overlap between the customer bases of RMI and either tyre data or VRM enablement services is limited, and concluded that the Parties will have no ability to foreclose competing suppliers. Accordingly, the CMA believes that the Merger does not give rise to a realistic prospect of an SLC as a result of conglomerate effects in relation to tyre data or VRM enablement services.

Conclusion

14. The CMA has found that, as a result of the Merger, there is a realistic prospect of an SLC in the supply of RMI platforms in the UK.
15. The CMA is therefore considering whether to accept undertakings under section 73 of the Enterprise Act 2002 (the **Act**). The Parties have until 24 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 under sections 22(1) and 34ZA(2) of the Act.

ASSESSMENT

Parties

16. Solera, a US corporation headquartered in Wakeland, Texas, is a global provider of risk and asset management software and services to the automotive sector in 75 countries. Among the types of data and services provided by Solera's various companies are VRM look-up services, vehicle valuation data, vehicle specification data, vehicle provenance data, insurance claim estimation services, tyre data services, commercial reporting and analytics, and a RMI platform.
17. In 2013 and 2015 respectively, Solera acquired CarweB and CAP Automotive Limited (CAP), both of which supply technical products and services to the automotive sector in the UK. As a result of the 2013 merger, Solera (through CarweB) has expanded its aftermarket activities into the supply of RMI through an online platform called E3 Technical.²
18. In 2016, Solera's total revenue in the UK was [REDACTED], of which [REDACTED] was generated from the supply of RMI platforms.
19. Emperor 1, a company incorporated in the UK, is the ultimate holding company of Autodata. Autodata is headquartered in Maidenhead, Berkshire, and supplies RMI used by workshops and other mechanics, but also to distributors, diagnostic tool providers, garage management software providers and parts catalogue providers in the UK, throughout Europe, Australia and New Zealand. Autodata's total UK turnover was [REDACTED] in 2016, all of which was generated from the supply of RMI (including from its RMI platform).

Transaction

20. On 26 January 2017, Solera purchased the entire share capital of Emperor 1 (the **Merger**).

² CarweB refers to B2B Technical as the delivery of the E3 Technical platform to corporate customers.

Jurisdiction

21. As a result of the Merger, the enterprises of Solera and Autodata have ceased to be distinct.
22. The Parties overlap in the supply of RMI platforms, with a combined share of supply of [85-95]% (and an increment of [10-20]% as a result of the Merger). The CMA therefore believes that the share of supply test in section 23 of the Act is met.
23. The Merger completed on 26 January 2017. The four month deadline for a decision under section 24 of the Act is 25 May 2017.
24. The CMA therefore believes that it is or may be the case that a relevant merger situation has been created.
25. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 20 March 2017 and the statutory 40 working day deadline for a decision is therefore 18 May 2017.

Counterfactual

26. The CMA assesses a merger's impact relative to the situation that would prevail absent the merger (ie the counterfactual). For completed mergers the CMA generally adopts the pre-merger conditions of competition as the counterfactual against which to assess the impact of the merger. However, the CMA will assess the merger against an alternative counterfactual where, based on the evidence available to it, it believes that, in the absence of the merger, the prospect of these conditions continuing is not realistic, or there is a realistic prospect of a counterfactual that is more competitive as between the Parties than these conditions.³
27. In this case, there is no evidence supporting a different counterfactual, and Solera and third parties have not put forward arguments in this respect. Therefore, the CMA believes the pre-Merger conditions of competition to be the relevant counterfactual.

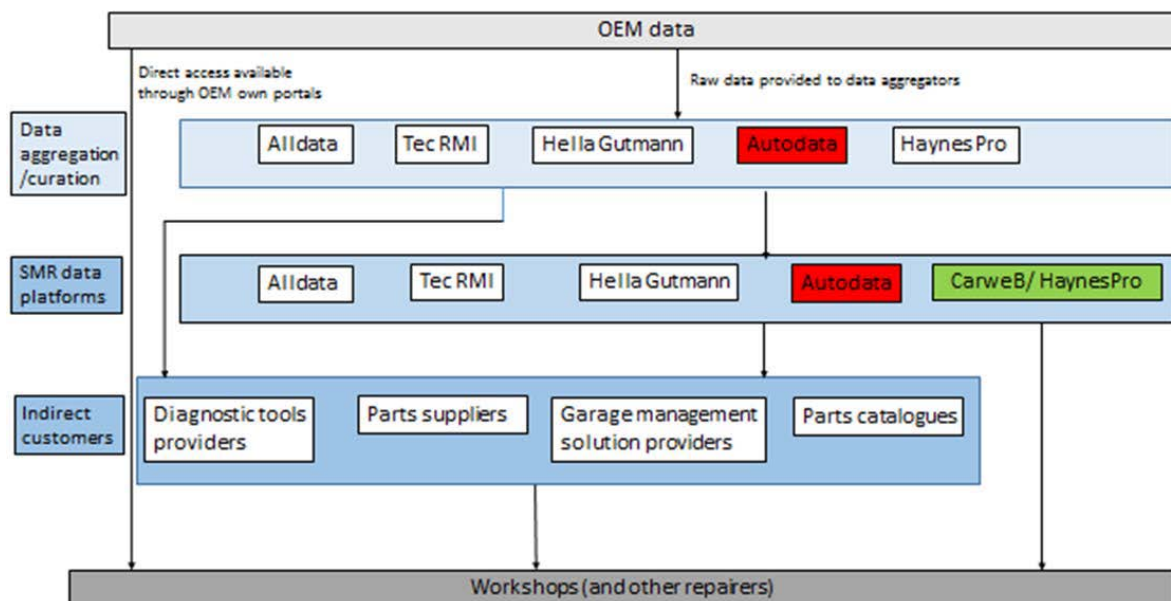
³ [Merger Assessment Guidelines](#) (OFT1254/CC2), September 2010, from paragraph 4.3.5. The [Merger Assessment Guidelines](#) have been adopted by the CMA (see [Mergers: Guidance on the CMA's jurisdiction and procedure](#) (CMA2), January 2014, Annex D).

Background

The RMI platform supply chain

28. Based on third party responses and Solera's submissions, the CMA understands that RMI is produced by original equipment manufacturers (**OEMs**), i.e. vehicle manufacturers. RMI is purchased from OEMs by RMI aggregators, which assemble data from different OEMs and usually edit it to achieve a uniform appearance across vehicle brands. Final customers (such as workshops, other repairers, fleet managers, vehicle rental and lease companies) access the edited RMI in different forms (detailed RMI through RMI platforms or more limited information incorporated in diagnostic tools or parts catalogues).
29. RMI platforms make the data easily accessible and consultable. They may incorporate added-value features and services, such as customisation and ease of access to a specific vehicle's information by entering the registration number of that vehicle (ie through VRM lookup functionality).
30. RMI platforms can be provided either by the RMI aggregators themselves or by third parties, which purchase the compiled data from RMI aggregators. Autodata both aggregates the RMI and also makes it available to customers through its own RMI platform. Solera (CarweB) does not aggregate data itself but licences RMI that is already aggregated by HaynesPro and incorporates it into its E3 Technical platform.
31. Figure 1 illustrates the RMI supply chain.

Figure 1: RMI value chain



Source: Parties, Merger Notice, page 21.

Autodata and Solera's RMI platforms

32. Autodata was established in 1975 and it was the only supplier of RMI platforms in the UK until CarweB⁴ started supplying its RMI platform in the UK, in 2008.
33. CarweB was able to challenge Autodata and increase its presence in the UK [X].
34. Solera submitted that RMI platforms are typically supplied in different packages [X].
35. [X].

Solera's relationship with HaynesPro

36. Solera (via its subsidiary CarweB) had an [X] licence agreement with HaynesPro in the UK. [X].

Frame of reference

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

⁴ CarweB was acquired by Solera in 2013, who entered into a partnership with HaynesPro as explained below in paragraph 36.

market do not determine the outcome of the analysis of the competitive effects of the merger, as it is recognised that there can be constraints on merger parties from outside the relevant market, segmentation within the relevant market, or other ways in which some constraints are more important than others. The CMA will take these factors into account in its competitive assessment.⁵

38. The Parties overlap in the supply of RMI platforms in the UK.
39. The CMA has also considered the frame of reference for certain other types of automotive data and services in which the Parties do not overlap, but which are related to the supply of RMI platforms, for the assessment of the conglomerate effects that may arise from the Merger. In particular, the CMA has considered the frame of reference for the supply of tyre data and of VRM enablement services (see Conglomerate effects section below).

Product scope

40. Solera submitted that the narrowest possible frame of reference in which the Parties overlap is the supply of RMI platforms.⁶
41. Solera stated that there is a wide range of RMI available in various forms and from various sources, with different channels being used for the supply of RMI platforms, including direct sales to the end user and indirect sales of either the RMI platform or RMI bundled with other products. RMI platforms can be supplied on a standalone basis, or incorporated into other software solutions targeted at workshops, which include other types of data, such as parts catalogues.
42. The Parties did not distinguish between types of customers and submitted that competition takes place both for direct sales to workshops and other repairers and also for sales to indirect channels.

RMI platforms and other sources of RMI

43. Based on third party responses, the CMA understands that CarweB's customers and most of Autodata's customers access RMI through the Parties' respective RMI platforms and do not consider bulk RMI supplied by RMI aggregators or OEMs as an alternative to the Parties' RMI platforms.

⁵ [Merger Assessment Guidelines](#), paragraph 5.2.2.

⁶ Solera used the terminology service maintenance and repair (SMR) platforms to describe the activities in which the Parties overlap. The CMA refers to SMR platforms as RMI platforms.

44. The CMA also understands from third party submissions and internal documents that the Parties add significant additional value to the underlying data through their platform interface. The features of the interface and the possibility of them being customised to a customer's specific needs can be an important element influencing the customer's choice of provider. For example, [X] choice to switch from Autodata to CarweB was partly motivated by the willingness of the latter to create a bespoke product.
45. Solera's marketing materials, prepared in the context of Solera's acquisition of CarweB in 2013, emphasised both the importance of the database used by CarweB⁷ and platform interface: '*bespoke user interface designed and built by CarweB*'.⁸ It also noted that '*customer feedback has enabled CarweB to modify the user interface to suit the expanding needs of the customer*'.⁹
46. On the basis of this evidence, the CMA has found that the level of demand side substitution between bulk RMI supplied by OEMs and aggregators and RMI platforms is limited for most customers.
47. The boundaries of the relevant product market are generally determined by demand-side substitution.¹⁰ In any event, in this case the CMA considers that supply side substitution between RMI platforms and other sources of RMI is also limited, given the time and investment required to supply an RMI platform that is comprehensive, accurate and user friendly.

Types of customers

48. RMI platform providers supply several types of customers. While workshops and other small customers purchase the standard platform product, larger corporate customers may need a more customised product that integrates into their own IT systems. Most providers, however, supply or are willing to supply both types of customers. For this reason, the CMA has not considered it appropriate in this case to define separate frames of reference for different customer types but has taken account of any differences between customer types in its competitive assessment.¹¹
49. As there is no overlap between the Parties in RMI aggregation, the CMA has excluded from the relevant customer base those intermediate customers (diagnostic tools providers, parts suppliers and parts catalogues) that,

⁷ CarweB Presentation (undated).

⁸ Ibid.

⁹ Ibid.

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

¹¹ The Office of Fair Trading (OFT) looked at vehicle data services when Solera purchased CarweB in 2013. The OFT left the exact product market definition open in that case but assessed the effects of the transaction on each of the consumer and commercial segments separately.

according to the Parties, purchase aggregated RMI rather than an RMI platform.

Supply of an RMI platform as a standalone product and as a bundle with other products

50. As discussed above, RMI may be integrated into different types of products. The CMA has therefore considered whether an RMI platform that is bundled with diagnostic tools or parts catalogues is a substitute for a standalone RMI platform.
51. A competitor who supplies an RMI platform in the UK both as a standalone product and as part of a bundle with other product told the CMA that, although less comprehensive than that which can be accessed through a dedicated platform, the 'bundled' RMI platform is an alternative to the standalone RMI platform for some workshops. [REDACTED].
52. [REDACTED].¹²
53. [REDACTED].
54. Based on this evidence, the CMA believes that bundles incorporating an RMI platform with other products should not be included in the frame of reference.
55. For the reasons set out above, the CMA has considered the impact of the Merger in the supply of RMI platforms.

Related product frames of reference

56. In addition, the CMA also considered the frames of references for tyre data and VRM enablement data for the assessment of possible conglomerate effects arising from the Merger.

Tyre data

57. Tyre data enables a customer to identify the tyre fitment for a vehicle, to assist with the identification of replacement tyres for a vehicle and to track use of tyres by model to enable tyre manufacturers to develop their distribution and sales strategy.
58. Typical customers include tyre manufacturers, fast fit organisations, tyre specialists and independent workshops that offer tyre-fitting services.¹³

¹² [REDACTED]
¹³ [REDACTED].

59. Some RMI platforms include some tyre data, such as wheel fitment and tyre pressure data, but such a dataset is less comprehensive than for a standalone tyre data product: for example, it might not include the range of tyre options considered by the manufacturer for a particular vehicle make and model on the production line factory. Standalone tyre data is mainly used for different purposes (ie more specialist tyre work) and customers (eg tyre fitters and manufacturers).
60. The CMA, therefore, considered the supply of tyre data as a separate frame of reference, for the purpose of the assessment of the conglomerate effects arising from the Merger.

VRM enablement

61. VRM enablement services (also called VRM look-up services) link VRM and associated basic vehicle data to other types of vehicle data (eg provenance data, valuation data and data used by car insurers to determine a quote). Customers of VRM enablement services are therefore mainly other vehicle data suppliers. As an 'enablement' tool, VRM enablement services enhance the functionality of other vehicle data products and are made available both integrated with another product (eg integrated with RMI) and as a stand-alone product.
62. VRM enablement services suppliers obtain raw VRM data from the Driver Vehicle Licensing Agency (**DVLA**) under licence. Providers of VRM enablement services typically improve the quality of the DVLA data by correcting errors in the original dataset. Providers may therefore vary in the quality of their VRM enablement services.
63. Solera has stated that it supplies VRM enablement services and holds three licences from the DVLA to access this data, through Carweb, HPI and CAP portfolio companies. The Parties submitted that there is a potential vertical overlap as Autodata obtains VRM enablement services from a third party [X].
64. In the *Solera/CAP* decision,¹⁴ the supply of VRM enablement services to suppliers of vehicle data was defined as a separate product frame of reference. The CMA has not received evidence to support using a different product frame of reference in this case.

¹⁴ ME/6504-14, *Solera/CAP* (CMA, 5 May 2015), paragraph 30.

65. The CMA has therefore considered the supply of VRM enablement services as a separate related frame of reference for the assessment of possible conglomerate effects arising from the Merger.

Conclusion on product scope

66. For the reasons set out above, the CMA has considered the impact of the Merger on the following product frames of references:
- a. Supply of RMI platforms;
 - b. Supply of tyre data; and
 - c. Supply of VRM enablement services.

Geographic scope

Parties' submission

67. The Parties submitted that the geographic scope for the supply of RMI platforms is UK-wide, based on previous decisions of the CMA and its predecessors.

CMA's view

68. The CMA believes that although most of the underlying data is common to the UK and other European countries and most suppliers of RMI platforms in the UK, except for CarweB, are also active in other European countries, there are reasons to consider the relevant geographic frame of reference of RMI platforms as no wider than the UK. In fact, in the current investigation:
- (a) competitors and customers have stressed the importance of UK data 'localisation' and of a UK based helpdesk; and
 - (b) some customers reported that they would only source RMI from UK-based providers.
69. This is supported by the findings of the CMA's predecessor in a previous decision. In the *HPI/ CarweB* decision,¹⁵ the OFT did not conclude on the precise geographic frame of reference, but it found that it was likely to be at most UK-wide because the datasets used for the provision of vehicle data services were based on the same vehicle information provided by UK industry

¹⁵ ME/5945/13, *HPI/CarweB Limited* (OFT, 14 May 2013), paragraph 35.

agencies and trade bodies, and because both consumers and commercial customers require access to information on UK registered vehicles.

70. With respect to VRM enablement services, in the *Solera/CAP* decision, the CMA defined the geographic frame of reference for the supply of VRM enablement services as being the UK. In the course of this investigation, the CMA has received no evidence supporting a departure from this precedent.
71. On a cautious basis, and as the reasons set out above in paragraph 68 seem to also apply to the supply of tyre data, the CMA assessed the impact of the Merger in the supply of tyre data within a UK-wide geographic frame of reference. 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

72. In summary, the CMA has considered the impact of the Merger in the following frames of reference:
 - (a) Supply of RMI platforms in the UK.
 - (b) Supply of tyre data in the UK.
 - (c) Supply of VRM enablement services in the UK.

Competitive assessment

Horizontal unilateral effects

73. 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.¹⁶ Horizontal unilateral effects are more likely when the merger parties are close competitors. In the present case, 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 horizontal unilateral effects in the supply of RMI platforms in the UK.

Supply of RMI platforms in the UK

74. As part of its assessment of the horizontal effects arising from the Merger in the supply of RMI platforms in the UK, the CMA considered: (a) the shares of

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

supply of the Parties and their competitors; (b) closeness of competition; and (c) constraints from other suppliers of RMI platforms.

(a) Shares of supply

75. The Parties provided information showing an estimated combined share of supply across all customer types of [85-95%]: [75-85%] for Autodata and [10-20%] for Solera/CarweB, as shown in Table 1.

Table 1: Parties' estimates of shares of supply

Competitor	Sales in 2016	Share of supply
CarweB	[REDACTED]	[10-20]%
Autodata	[REDACTED]	[75-85]%
Combined	[REDACTED]	[85-95]%
HaynesPro ¹⁷	[REDACTED]	<3%
TecAlliance	[REDACTED]	<1%
AllData	[REDACTED]	<2%
Hella Gutmann	[REDACTED]	<1%

Source: the Parties.

76. The CMA has estimated the Parties' shares of supply in relation to RMI platforms only based on the Parties' submissions and responses by third parties. In making estimates, the CMA excluded sales by Autodata and their competitors to diagnostic tool providers, part suppliers and part catalogues. As set out in Table 2, the CMA's estimates indicate that the Parties have a combined share of supply of [85-95]%, with an increment of [10-20]% resulting from the Merger.

¹⁷ The CMA acknowledges that although HaynesPro operates mainly as a RMI aggregator in the UK, it also competes to a limited extent, with the Parties as RMI platform supplier through its RMI platform Workshop Edition (See below paragraphs 75 and 76 regarding the shares of supply of the suppliers of RMI platforms in the UK).

Table 2: Parties' and competitors' sales and shares of supply in 2016

Competitor	Sales in 2016	Share of supply
CarweB	[REDACTED]	[10-20]%
Autodata	[REDACTED]	[70-80]%
<i>Combined</i>	[REDACTED]	<i>[85-95]%</i>
TecAlliance	[REDACTED]	0-5%
Alldata	[REDACTED]	0-5%
Hella Gutmann	[REDACTED]	0-5%
HaynesPro ¹⁸	[REDACTED]	0-5%
<i>Total</i>	[REDACTED]	<i>100.0%</i>

Source: the Parties and third parties.

77. Many of the customers who responded to the CMA's merger investigation stated that Solera and Autodata are the only suppliers of RMI platforms in the UK. Furthermore, when asked by the CMA to identify alternative suppliers of RMI platforms, most customers of the Parties did not name any other suppliers.

78. [REDACTED].¹⁹ [REDACTED].²⁰ [REDACTED].²¹

79. On the basis of the evidence above the CMA considers that the Parties' combined share of supply is high enough to raise prima facie competition concerns.

(b) Closeness of competition

Parties' submissions

80. Solera submitted that CarweB and Autodata have different focuses in their sales of RMI platforms. Whilst Autodata is positioned as a 'premium' product, which targets workshops, parts catalogues and diagnostic tools providers, CarweB focuses on sales of full RMI platforms and does not tend to sell data for integration into parts catalogues and diagnostic tools (as do Autodata and HaynesPro). [REDACTED].

¹⁸ In 2016, the [REDACTED] reselling HaynesPro's WorkshopData platform to workshops was [REDACTED]. Since 2017, [REDACTED]. HaynesPro's share of supply, however, would remain below [5].

¹⁹ [REDACTED].

²⁰ [REDACTED].

²¹ [REDACTED].

The CMA's views

81. Some of the evidence available to the CMA indicates that currently CarweB and Autodata focus, to some extent, on different customer bases. However, other evidence indicates that the Parties compete closely with each other and that, although the growth of CarweB was driven by sales to large customers (eg [REDACTED]), a material proportion of its customers comprises smaller independent accounts. In particular:
- (a) [REDACTED]²². Furthermore, some of CarweB's marketing materials seem to be targeted at workshop customers.²³
 - (b) [REDACTED].²⁴
 - (c) Autodata reacted to the entry of CarweB by improving its offer (eg in 2012 Autodata started offering VRM enablement services).
 - (d) One customer noted that Autodata lowered the price of its RMI platform after the entry of CarweB.
82. The CMA has also received evidence from Solera showing customers switching from CarweB to Autodata or vice versa, as shown in Table 3.²⁵ This evidence highlights that customers switching to a different provider [REDACTED], and therefore is consistent with Autodata and CarweB being close competitors.

Table 3: CarweB's lost customers in the last 2 years

Reason for account cancellation	Number of customers
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED] ²⁶	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED] ²⁷	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
<i>Total</i>	[REDACTED]

Source: Solera.

²² CarweB presentation, undated.

²³ CarweB marketing materials, undated.

²⁴ [REDACTED].

²⁵ Solera provided data on the customers lost by CarweB in the last two years. Autodata does not track the competitors to whom it loses customers.

²⁶ [REDACTED].

²⁷ [REDACTED].

83. This is also consistent with customer responses to the CMA's merger investigation: out of five CarweB customers that responded, four had switched from Autodata.^{28/29}The CMA notes that all except one of Autodata's current customers had never switched RMI supplier³⁰.
84. In addition, a document prepared by Solera³¹ indicates that Autodata and E3 Technical are at least as similar (or more similar) to each other than to products from competitors (TecAlliance, AllData and Hella Gutmann), in terms of ease of use, value added and comprehensiveness of the data.³² This is consistent with third parties submissions.
85. Finally, the CMA notes that Autodata is priced at a higher point than E3 Technical. [REDACTED]. While this difference might suggest a difference in the quality of the underlying data, the CMA's view is that is more likely to be a result of Autodata's historical position as the only supplier of RMI and of customer stickiness (see paragraphs 137 and 140 below), which has slowed the impact of CarweB's entry on Autodata.
86. CarweB entered the market as a challenger to a long-term strong player (as explained in paragraphs 32 and 33 above). It is therefore reasonable, in the CMA's view, to expect that it would have charged a lower price in order to convince customers to switch. One customer noted that Autodata lowered its prices after CarweB's entry in the UK market. Customer responses have not described its product as inferior in terms of quality. For example, one customer stated that it switched from Autodata to CarweB because the latter offered a better product at similar pricing (see also switching data in Table 3 showing that customers switching from CarweB to Autodata).
87. For the reasons set out above, the CMA does not consider that the price difference between the parties' RMI platforms indicates that they are not close competitors.

²⁸ The fifth was [REDACTED]. Solera submitted that Autodata is not a potential supplier for a customer such as [REDACTED], as its RMI platform does not cover vehicles in excess of 7.5 tonnes.

²⁹ The Parties argued that the fact that only 5 CarweB customers had responded to the CMA's questionnaire suggested that customers were not concerned (or neutral) about the transaction. The CMA does not agree: a low response rate may be associated with the small size of many of the Parties' customers.

³⁰ The Parties said that the fact that the CMA's market test only identified one Autodata customer that had switched supplier suggested that customers were not concerned (or neutral) about the transaction. The CMA notes that this is also consistent with customer stickiness and lack of competitor choice, a fact acknowledged in internal documents and by competitors.

³¹ [REDACTED].

³² Ibid.

Conclusion on closeness of competition

88. In light of the evidence set out above, the CMA believes that, whilst there are some differences in the Parties' customer bases, they are close competitors in the supply of RMI platforms.

(c) Constraints from other suppliers of RMI platforms

89. Unilateral effects are more likely where customers have little choice of alternative supplier. The CMA assessed the constraint from alternative suppliers by considering whether the products offered by other competitors differ from the RMI platforms offered by the Parties, taking into account evidence from internal documents and third party views on alternatives.

Parties' submissions

90. Solera identified HaynesPro, TecAlliance, AllData and Hella Gutmann as the Parties' competitors in the supply of RMI platforms and indicated that their small shares of supply may be explained in part by these competitors' recent entry into the RMI market in the UK.
91. Solera submitted that HaynesPro has begun marketing RMI directly to certain UK customers. Solera also said that HaynesPro's brand is very strong among workshops, and in its view HaynesPro could easily expand its presence in the UK as an RMI platform provider.
92. Solera also submitted that it does not manipulate or update in any way HaynesPro's data, which it supplies via the E3 platform. The Parties further submitted that VRM enablement is desirable but not essential to compete in the supply of RMI platforms and noted that Autodata users only use the VRM enablement service in [X] % of cases (based upon March 2017 usage figures) and that Autodata was able to link its platform to CDL's VRM enablement services in four to six weeks. The Parties did not provide the corresponding figure for CarweB, but expect VRM enablement services to be used more often by CarweB's customers, as VRM has always been a feature of CarweB's RMI platform, while Autodata originally did not have this functionality.

Evidence on constraints from other suppliers of RMI platforms competitors

93. Independent market research commissioned by Solera highlights that users of RMI platforms are interested in clear explanations, ease of use, depth of information and range of vehicles covered by the data, and are less sensitive to price, noting the weaknesses and strengths of each RMI platform provider.

The report's assessment indicates that competitors' RMI platforms do not generally match the quality of the Parties' RMI platforms. For example:

(a) [REDACTED].

(b) [REDACTED].

(c) [REDACTED].³³

94. This was confirmed by third party submissions, which stated that:

(a) Hella Gutmann's core business is mainly the provision of diagnostic tools for cars and, therefore, an important part of its RMI platform sales relates to the sales of bundled RMI and diagnostic tools (see above in paragraphs 50 to 54 on the limited extent to which bundled RMI and diagnostic tools compete with 'standalone' RMI platforms).

(b) AllData's data is more comprehensive than that of the other RMI platform suppliers, but its platform is more difficult to use as there is no data enhancement and/or 'localisation'. AllData was not considered a close substitute to the Parties. Its product is sometimes used as an add-on to one of the Parties' RMI platforms.

(c) HaynesPro and other RMI aggregators lack VRM enablement functionality.

95. Most customers confirmed the view that Solera and Autodata are the only firms that supply RMI platforms that could meet their requirements. Customers require an accurate VRM enablement functionality, customer support and quality data for UK vehicles and other competitors' products do not have some or all of the features that are highly valued by most customers.

96. In particular, third parties highlight the offer of accurate VRM enablement services as an important factor of competition.

97. Third party responses (from both competitors and customers) explained that customers use VRM enablement to access RMI and noted that for most RMI platform customers data is accessed by entering the VRM identification of a vehicle. All customers expressed a view on VRM enablement and reported that an accurate VRM identification is important.³⁴ Competitors noted that no

³³ [REDACTED].

³⁴ Some of the comments received regarding the importance of VRM enablement services were: 'Essential. Quality VRM enabled data is paramount'; 'Critical'; 'Cannot operate without it'; 'Vitality important'.

independent workshop would accept an RMI product without a VRM enablement service.

98. The CMA also understands from a customer that CarweB is considered by many in the industry to provide the best VRM enablement service, because it has achieved the highest rate of identification. As RMI databases are continuously updated, the CMA has been informed by a third party that continuous work is needed to maintain an accurate VRM linking.
99. Solera's internal documents also recognise the high quality of CarweB's VRM services and their importance for its business [REDACTED]:

(a) [REDACTED].³⁵ [REDACTED],³⁶ [REDACTED].³⁷

(b) [REDACTED]³⁸

(c) [REDACTED]³⁹

The CMA's views

100. Based on evidence from internal documents and third party responses, the CMA's view is that the competitive constraints imposed by Solera's competitors in the supply of RMI platforms in the UK are limited. This is consistent with the competitors' small shares of supply. The CMA also notes that Solera's evidence does not show any switching to any of the other main providers of RMI platforms, again suggesting that they impose a limited competitive constraint.
101. In addition, the products offered by certain competitors are different and may be used for different purposes than the Parties' RMI platforms (as in the case of [REDACTED]) or are targeted mainly at a particular set of the customers that also use diagnostic products (as in the case of [REDACTED]).
102. With regard to HaynesPro, the CMA accepts that HaynesPro is a competitor of the Parties by virtue of its direct marketing of own RMI platform (WorkshopData). However, the competitive constraint imposed by HaynesPro is very limited because:

³⁵ [REDACTED].

³⁶ [REDACTED].

³⁷ [REDACTED].

³⁸ [REDACTED].

³⁹ [REDACTED].

- (a) Even though HaynesPro's presence in the UK has expanded recently through [REDACTED] sales to distributor Serenco, its share of supply is still likely to be below [0-5]%.
- (b) While its RMI is the same as CarweB's, HaynesPro does not provide VRM look-up or a helpdesk.
- (c) [REDACTED].

- 103. More generally, the CMA understands that none of the competitors of the Parties in the supply of RMI platforms in the UK - with the exception of TecAlliance – offer VRM enablement services integrated with its RMI platform.⁴⁰ The CMA believes that accurate VRM enablement is an important competitive advantage of the Parties compared with most of its competitors.
- 104. Third party submissions also indicate that the availability of customer support services is valued by customers and is a competitive advantage the Parties have over some of its competitors (AllData, HaynesPro).
- 105. The CMA believes that the factors mentioned above may explain why the competitors identified by the Parties have not been able to increase significantly their presence in the UK since their entry some years ago (see Entry and Expansion section).⁴¹
- 106. On the basis of the evidence described above, the CMA believes that the Parties face limited constraints from the other suppliers of RMI platforms in the UK.

Conclusion on horizontal unilateral effects

- 107. On the basis of the evidence described above, the CMA believes that the Parties compete closely as the two main suppliers of RMI platforms in the UK, with a combined share of supply of [85-95]%.
- 108. The CMA also found that the other suppliers of RMI platforms in the UK – TecAlliance, AllData, Hella Gutmann and HaynesPro - impose very limited constraints on the merged entity. They have a small share of supply in the UK. Moreover, some of the products offered by these competitors are different

⁴⁰ In this regard, the fact that Autodata's customers do not use the VRM around [REDACTED]% of the time (as submitted by Solera) is not necessarily evidence that the availability of VRM is not valued and important for customers. Customers may still value the ability to use VRM look-up even if they do not use it all the time.

⁴¹ The CMA notes that some competitors have been present in the supply of RMI platforms market in the UK for more than three years: Hella Gutmann entered in the UK in 2009; TecAlliance in 2013; and HaynesPro has direct sales in the UK since 2014.

and used for other purposes than the Parties' RMI platforms or are targeted mainly at a particular set of the customers.

109. Moreover the RMI platforms supplied by most of Parties competitors in the UK do not have certain features that are highly valued by most customers, including an accurate VRM enablement functionality and customer helpdesk.
110. Accordingly, the CMA believes that the Merger raises significant competition concerns as a result of horizontal unilateral effects in relation to the supply of RMI platforms in the UK.

Conglomerate effects

111. Conglomerate effects may arise in mergers of firms that are active in the supply of goods or services that do not form part of the same markets but which are nevertheless related in some way, either because their products are complements (so that a fall in the price of one good increases the customer's demand for another) or because there are economies of scale in purchasing them (so that customers buy them together).⁴²
112. Most non-horizontal mergers are considered to be benign or even efficiency-enhancing, when they involve complementary products, and do not raise competition concerns. However, in certain circumstances, a conglomerate merger can weaken rivalry, for example when it results in foreclosure of the merged firm's competitors through a tying or bundling strategy.
113. The CMA's approach to assessing conglomerate 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.^{43 44}
114. The CMA has considered, in particular, whether the merged company could foreclose competing suppliers of tyre data and VRM enablement.
115. Solera also supplies other vehicle data services such as claim estimation data, vehicle valuation data to commercial customers, vehicle specification data, provenance data and commercial reporting and analytics products. Based on Solera's submissions and third party responses, the CMA understands that the merged entity would not have the ability to foreclose its rivals in the supply of any of these vehicle data products/services, given that

⁴² [Merger Assessment Guidelines](#), paragraph 5.6.2.

⁴³ [Merger Assessment Guidelines](#), paragraph 5.6.6.

⁴⁴ The CMA's analysis of ability, incentive and effect may not be in distinct chronological stages but rather as overlapping analyses. So as to reach an SLC finding, all three questions must be answered in the affirmative. *Ibid*, paragraph 5.6.7.

the overlap between customers that use any of these products/services is very limited. Furthermore, no third parties raised concerns with regard to the possibility of customer foreclosure.⁴⁵

116. On the basis of this evidence, the CMA considers that the Merger does not result in a realistic prospect of an SLC in the supply of these related vehicle data products in the UK.

Conglomerate effects in relation to tyre data

117. The CMA assessed whether the Parties will have the ability and incentive to foreclose competing suppliers of tyre data by exploiting their market power in the supply of RMI platform data.
118. In order for the Parties to have the ability to foreclose competing suppliers of tyre data by bundling the data with RMI platform data, a significant proportion of tyre data sales must be generated from customers who also have a need for RMI platform data.
119. Solera sells tyre data to some independent workshops, fast fitters and tyre specialists; [REDACTED]. These customer types are also relevant customer types for RMI platforms. Solera currently supplies tyre data to [REDACTED] customers, of which [REDACTED] also source RMI from Solera.
120. Other suppliers of tyre data are DriveRight, Experian and TecAlliance (though the CMA understands from third party responses that Experian and TecAlliance source all or part of their tyre data from DriveRight).
121. Based on revenue estimates provided by Solera and third parties, DriveRight appears to be the major competing provider of tyre data, and the CMA estimates Solera's share of supply to be below 30%. Furthermore, while Solera targets smaller tyre retailers who do not require a product as comprehensive as DriveRight's, evidence from third parties indicate that DriveRight's more granular product is generally the choice of larger retailers. As a result, DriveRight does not appear to be a close competitor of Solera.
122. Based on third party responses, the CMA also understands that Solera's tyre data customers are not representative of the entire tyre data customer population. Tyre data is also purchased by vehicle manufacturers, tyre manufacturers, tyre distributors and larger tyre retailers. Purchasers of tyre data by these customers are unlikely to require RMI platform data. Solera

⁴⁵ A competitor expressed general reservations regarding the effect of the Merger on the supply of [REDACTED]. However, this competitor supplied no evidence of a customer overlap between RMI and [REDACTED] and no detailed explanation of how the Merger would give CarweB the ability to foreclose it.

would therefore not be able to induce them to purchase its tyre data by bundling with or tying to RMI data. Moreover, such purchasers of tyre data are sufficiently important that Solera would not be able to foreclose its competitors in the supply of tyre data.

123. The CMA therefore believes that Solera would not have the ability to foreclose competitors in the supply of tyre data. No rival suppliers expressed a concern with possible customer foreclosure in relation to the supply of tyre data.

124. As the CMA has concluded that no ability to foreclose exists, there has been no need to assess whether Solera would have the incentive to foreclose its competitors in the supply of tyre data and the effects of a foreclosure strategy on competition.

Conclusion on conglomerate effects – Tyre data

125. For the reasons set out above, the CMA does not believe that Solera has the ability to foreclose its competitors in the supply of tyre data. Accordingly, the CMA believes that the Merger does not give rise to a realistic prospect of an SLC as a result of conglomerate effects in the supply of tyre data in the UK.

Conglomerate effects in relation to VRM enablement

126. The CMA assessed whether the Parties would have the ability and incentive to foreclose competing suppliers of stand-alone VRM enablement services by exploiting their market power in the supply of RMI platforms.

127. In order for the Parties to have the ability to foreclose competing suppliers of VRM enablement by bundling the service with RMI, a significant proportion of VRM enablement sales must be generated from customers who also have a need for RMI.

128. Solera submitted that it sells VRM enablement (as a standalone product) to a wide range of customers, including insurers, car park companies, software suppliers, fleet, rental and leasing companies, garages and workshops, and parts manufacturers, distributors and retailers. Around ~~8~~% of Solera's revenues are derived from customer groups (insurers, car park companies, rental and leasing companies), which have no, or very limited, need for RMI. This still leaves a significant proportion of Solera's customers of VRM enablement who potentially need RMI.

129. However, based on third party responses, the CMA understands that Solera's customers of VRM enablement services are not representative of all customers that use these services.

130. The Parties estimate that other suppliers of VRM enablement services in the UK (Automotive Data Services / Vehicle Data Services (part of Euro Car Parts), CDL, Experian and Auto Data Guru) serve more than 80% of the overall customers of VRM enablement services in the UK. These competing suppliers stated that they have a broader range of customers, including price comparison websites and Solera's competitors in the supply of valuation data, claim estimation solutions, provenance data, etc. For example, one competing supplier identified insurers and 'aggregators' among their main customers. Another supplier of VRM enablement services included among its customers companies operating in finance, banking, insurance, auction and remarketing, and manufacturers. All these customer groups do not require RMI.
131. No suppliers of VRM enablement services expressed a concern with the possibility of customer foreclosure on the supply of such VRM enablement services.
132. Given the limited overlap between the customer bases for RMI and VRM enablement services, the CMA believes that Solera does not have the ability to foreclose competing providers of VRM enablement services.
133. As the CMA has concluded that no ability to foreclose exists, there has been no need to assess whether Solera would have the incentive to foreclose its competitors in the supply of VRM enablement services and the effects of a foreclosure strategy on competition.

Conclusion on conglomerate effects – VRM enablement services

134. As set out above, the CMA believes that there is a limited overlap between the customer bases of RMI and VRM enablement services and that, therefore, the Solera does not have the ability to foreclose its competitors in the supply of VRM enablement services. Accordingly, the CMA believes that the Merger does not give rise to a realistic prospect of a SLC as a result of conglomerate effects in relation to VRM enablement services.

Entry and expansion

135. Entry by potential rivals, or expansion by existing rivals, can mitigate the effect of the merger on competition, and in some cases may mean that there is no SLC. In assessing whether entry or expansion might prevent an SLC, the focus is on whether such behaviour would be timely, likely and sufficient in

scope.⁴⁶ In terms of timeliness, the CMA's guidelines indicate that the CMA will look for entry to occur within two years.⁴⁷

Parties' submissions

136. Solera submitted that the supply of RMI platforms in the UK is competitive, in particular as a result of the ease of potential entry. It stated, for example, that a new entrant could, as CarweB did, obtain a licence to an RMI database (eg, from HaynesPro) and (if they wanted to offer VRM enablement services, rather than VIN code look-up) could obtain a licence for VRM enablement services or obtain VRM enablement services from a third party supplier. In addition, Solera submitted that there is scope for entry through a licence with a third party RMI aggregator, such as Haynes Pro, TecAlliance or Hella Gutmann. CarweB also considers that setting up a helpdesk or linking an RMI platform to VRM enablement services can be established with limited technical resources and within a short period of time. CarweB emphasised, in particular, that HaynesPro was well placed to expand its presence in the supply of RMI platforms in the UK.
137. Internal documents of Solera highlight the existence of significant barriers to entry in this market. [REDACTED]⁴⁸ [REDACTED]⁴⁹ [REDACTED]⁵⁰ [REDACTED]⁵¹
138. The evidence described above indicates barriers to entry and expansion are significant.

Competitors who could potentially expand in the UK

139. The CMA assessed whether existing suppliers of RMI platforms are likely to expand their presence in the UK in a timely way and with sufficient scale to constrain the merged entity.
140. Third party responses supported the view that none of the current competitors of the Parties in the supply of RMI platforms is likely to expand its presence in the UK and/or significantly increase its share of supply in the next two years. According to competitors, barriers to expansion are significant, especially for RMI platform services targeted at workshops (as opposed to corporate customers). The main barriers identified by third parties were: (i) customers'

⁴⁶ [Merger Assessment Guidelines](#), paragraph 5.8.3

⁴⁷ *Ibid*, paragraph 5.8.11

⁴⁸ [REDACTED].

⁴⁹ [REDACTED].

⁵⁰ [REDACTED].

⁵¹ [REDACTED].

stickiness and Autodata's dominance⁵²; and (ii) even if it may not be difficult to find a VRM enablement services provider (eg, CDL, Experian and Auto Data Guru), the time and investment required to establish an accurate VRM matching system.

141. HaynesPro already has an RMI platform and its recent UK marketing and agreements with other third party distributors activities may indicate that it is attempting to increase its level of activity in the UK. The CMA understands that HaynesPro does not sell directly to end-users (*i.e.*, workshops, mechanics, etc.) but rather to partners who add value by combining other elements such as parts catalogues, where parts pricing and availability information is combined with its RMI. On the basis of the evidence available, the CMA believes that HaynesPro is unlikely to significantly expand its presence in the UK in the near future, because:
- (a) For the reasons described above, customer stickiness may be a material barrier to HaynesPro's expansion. Although the Haynes brand is well-known in relation to workshop manuals in the UK, given the different features of the products, it is uncertain whether Haynes's brand equity is transferable to other vehicle related software, including RMI platforms. Even if brand awareness may not be an obstacle to HaynesPro's expansion, the trust and familiarity arising from the continuous use of the Parties' RMI platforms would be a particularly significant barrier that HaynesPro would have to overcome to expand its position in the UK.
 - (b) HaynesPro would need to invest [REDACTED]. Based on third party evidence, the accuracy of CarweB's VRM enablement functionality seems to have been one of the factors that contributed to CarweB's growth.
 - (c) Third party evidence also indicates that none of HaynesPro's current distributors would be a suitable partner to support significant growth.
142. With regard to AllData, [REDACTED]. [REDACTED]. Third parties also stated that, although AllData aims to establish itself as an alternative to the Parties' RMI platforms, its product is more of a complement than an alternative to the RMI platform offered by the Parties.
143. In relation to Hella Gutmann, [REDACTED]. [REDACTED].

⁵² The responses to the CMA questionnaires have indicated that many of Autodata's customers are not aware of any alternative supplier and have never switched before.

144. With regard to TecAlliance, it entered the UK market in 2013 and [REDACTED].

Conclusion on entry and expansion

145. Based on the evidence set out above, the CMA believes that new entry or expansion by existing suppliers of RMI platforms in the UK will not be timely, likely or sufficient to offset any lessening in competition caused by the Merger. This is mainly because there are significant barriers to entry and expansion, in particular: (i) customer stickiness, arising from the strong brands of the Parties and familiarity of mechanics with their product; and (ii) the time and investment required to establish an accurate VRM matching system. Although some competitors have expressed an intention to grow their UK presence, the CMA does not believe that such expansion is likely to be delivered on a timely basis to provide a sufficient constraint on the Parties to prevent a realistic prospect of an SLC arising from the Merger in the supply of RMI platforms in the UK.

Third party views

146. The CMA contacted customers and competitors of the Parties. The majority of RMI and non-RMI competitors and customers of the Parties that responded to the CMA's questionnaire expressed concerns in relation to the transaction, mainly with regard to the horizontal effects of the merger but also regarding possible conglomerate issues in general.

147. Third party responses have been taken into account where appropriate in the competitive assessment above.

148. In addition, one competitor expressed concerns regarding the possibility of Solera refusing to share CAP code and some finance data with its competitors in the supply of VRM enablement services. However the CMA believes this possibility could arise even in the absence of the merger (ie these concerns are not Merger specific).

Conclusion on substantial lessening of competition

149. Based on the evidence set out above, the CMA believes that it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC as a result of horizontal unilateral effects in relation to the supply of RMI platforms in the UK.

Exceptions to the duty to refer

150. Where the CMA's duty to refer is engaged, the CMA may, pursuant to section 22(2)(a) of the Act, decide not to refer the merger under investigation for a Phase 2 investigation on the basis that the market(s) concerned is/are not of sufficient importance to justify the making of a reference (the ***de minimis*** exception).

Markets of insufficient importance

151. The Parties estimate that the value of the market for the supply of RMI platforms in the UK was around £8 million in the UK.
152. As the annual value in the UK of the market concerned is less than £10 million, the CMA has considered whether it is appropriate to apply the *de minimis* exception to the present case.
153. The CMA's general policy, regardless of the size of the affected market, is not to apply the *de minimis* exception where clear-cut undertakings in lieu of a reference (**UILs**) could, in principle, be offered by the parties to resolve the concerns identified.⁵³
154. If there are no UILs available, in considering whether to apply the *de minimis* exception, the CMA will assess, in broad terms, whether the costs involved in a reference would be disproportionate to the size of the market(s) concerned, taking into account also the likelihood that harm will arise, the magnitude of competition potentially lost and the duration of such effects.⁵⁴

'In principle' availability of undertakings in lieu

155. In most cases, a clear-cut undertaking in lieu will involve a structural divestment. In this case, the CMA considers that a possible structural divestment in this case is the sale of the CarweB business, eliminating the increment arising from the Merger and therefore remedying the competition concern it has identified. This is a 'standalone' business and the CMA has no reason to believe that this could not be divested to an independent third party purchaser.⁵⁵

⁵³ [Mergers: Exceptions to the duty to refer and undertakings in lieu of reference guidance](#), paragraphs 2.2 and 2.18-27.

⁵⁴ [Mergers: Exceptions to the duty to refer and undertakings in lieu of reference guidance](#) (OFT1122), December 2010, chapter 2. The [Mergers: Exceptions to the duty to refer and undertakings in lieu of reference guidance](#) were adopted by the CMA (see [Mergers: Guidance on the CMA's jurisdiction and procedure](#), Annex D).

⁵⁵ [Mergers: Exceptions to the duty to refer and undertakings in lieu of reference guidance](#), paragraphs 2.24.

156. Accordingly, the CMA considers that an 'in principle' clear-cut undertaking in lieu is available.
157. The CMA considers that, in principle, the divestment of CarweB or the minimum structural divestment that would be required to ensure the remedy was effective would not be wholly disproportionate in relation to the concerns identified, or tantamount to prohibiting the merger.⁵⁶
158. The CMA notes that the CMA's judgment as to whether UILs are available (at the time of considering the 'de minimis' exception) is an 'in principle' one that does not depend on the actual offer, if any, of undertakings in lieu (or indeed whether the CMA believes they are likely to be offered). The actual offer of undertakings in lieu is a separate question relevant only to the subsequent exercise of the CMA's ability to accept undertakings under section 73(2) of the Act and is not relevant at this stage of the CMA's consideration.⁵⁷
159. As the CMA believes that there are UILs in principle available to resolve the SLC that may arise from the Merger, it was not necessary for the CMA to assess whether the costs involved in a reference would be disproportionate.

Decision

160. Consequently, 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.
161. 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 exercised⁵⁸ whilst the CMA is considering whether to accept undertakings⁵⁹ instead of making such a reference. Solera has until 24 May 2017⁶⁰ to offer an undertaking to the CMA.⁶¹ The CMA will refer the Merger for a phase 2 investigation⁶² if Solera does not offer an undertaking by this date; if Solera indicates before this date that it does not wish to offer an undertaking; or if the CMA decides⁶³ by 1 June 2017 that there are no reasonable grounds for believing that it might accept the undertaking offered by Solera, or a modified version of it

⁵⁶ Ibid, paragraphs 2.25 and 2.26.

⁵⁷ Ibid, paragraphs 2.22.

⁵⁸ Section 22(3)(b) of the Act.

⁵⁹ Section 73 of the Act.

⁶⁰ Section 73A(1) of the Act.

⁶¹ Section 73(2) of the Act.

⁶² Sections 22(1) and 34ZA(2) of the Act.

⁶³ Section 73A(2) of the Act.

162. 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 26 May 2017. For the avoidance of doubt, the CMA hereby gives Solera Holdings, Inc. 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 Solera Holdings, Inc. 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 Solera stating that it does not intend to give the undertakings; or the cancellation by the CMA of the extension.

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

ENDNOTES

¹ In relation to paragraph 84, the reference to “prepared by Solera” should read “prepared on behalf of Autodata as part of the vendor due diligence”.