9 June 2017

ME/6647/16

Euro Car Parts / Andrew Page

Response to Phase 1 Decision

1 Introduction

1.1 Euro Car Parts (**ECP**) and Andrew Page (**AP**) set out in this note a summary of their views on the Phase 1 Decision and the competitive dynamic against which the ECP/AP merger (**Merger**) should be considered. A more detailed paper will be submitted in response to the Issues Paper, which we understand will be adopted shortly.

1.2 The Phase 1 decision finds 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 in 92 local overlap areas and in relation to "Key Accounts":

(a) At the local level, the Phase 1 decision found that concerns arise in 92 local overlap areas, because the Merger would lead to high concentration and remove a close competitor of ECP. It found that post-Merger, there would be insufficient effective competitors capable of constraining the merged entity.

(b) In relation to key accounts, the Phase 1 decision found that AP competes closely with ECP for key accounts and that post-Merger, there would only be one significant competitor with national coverage capable of constraining the merged entity (Parts Alliance).

1.3 The Parties submit that the Phase 2 investigation will show that competition concerns do not arise in relation to either of these. As regards local competition, the evidence will show that the number of effective local competitors is significantly higher than the Phase 1 decision found and that there will be ample post-Merger constraint. As regards key accounts, reviewing the Merger against the appropriate counterfactual, will show clearly that no significant lessening of competition arises from the Merger.

1.4 The Parties are continuing to gather evidence and provide economic analysis of the operation of competition in the market and will provide this to the CMA as early in the Phase 2 process as possible. This paper therefore sets out the Parties' response to the Phase 1 decision and initial submissions on the competitive impact of the merger based on the information currently available, which they will update and supplement as the analysis develops.

1.5 The paper comprises the following sections:

- **Section 2** summarises the background to the Merger, namely the purchase by ECP of AP out of administration;
- **Section 3** addresses the findings of the Phase 1 decision in relation to the closeness of competition between AP and ECP and provides evidence of the size of the "effective competitor set" at local level;
- **Section 4** highlights the appropriate counterfactual through which to assess the effect of the merger in relation to key accounts and addresses the findings of the Phase 1 decision in relation to the constraint posed by AP on ECP for such accounts; and
- **Section 5** relates specifically to garage equipment, and explains why the Merger has no significant impact on competition in relation to garage equipment.

2 Background

2.1 The Parties distribute independent aftermarket (**IAM**) car parts and garage equipment to the independent motor trade.[1]

2.2 ECP is owned by LKQ Corporation, a global distributor of aftermarket car parts. LKQ entered the UK market with its purchase of ECP in October 2011, and has over 200 branches across the UK, 19 regional distribution centres and 5 national distribution centres. AP was founded in 1917 and was owned by the Page family until 2010, when it partnered first with Phoenix Equity Partners and, from 2014, with Endless LLP. AP had 109 branches across England and one distribution centre at the time of the Merger.

2.3 In March 2014, the AP business went into administration. At that time, it was acquired by Colton Mill Holdings, in partnership with Phoenix (which had been its PE backer since 2010 and agreed to provide additional investment) and Endless (which committed to invest in the business).

2.4 During 2015 and 2016, AP suffered a number of difficult trading conditions, which led to significant problems with car part suppliers and their credit insurers, who were increasingly unwilling to trade with AP. AP retained William Blair & Co to market the business between May 2015 and August 2016. However, it failed to find a buyer; out of 20 potential purchasers, ECP alone submitted a bid for the business in 2015, but negotiations failed.

2.5 By August 2016, with its credit and supply problems continuing, AP instructed PwC to review cash-flow requirements, provide an options review, and to assist with contingency planning. It pursued several alternative funding options, but could not obtain funding in a sufficiently timely manner. Its management, supported by insolvency practitioners, concluded that a pre-packaged sale of AP in administration was necessary to prevent unplanned insolvency and liquidation of the business.

2.6 Because the business was rapidly running out of cash, PwC began an accelerated sales process in the summer of 2016. Subsequently, Andrew Page entered administration, with PwC acting as administrators. On 4 October 2016, ECP purchased AP out of pre-packaged administration.[2] It was the only bidder for the whole of the AP business. As summarised at paragraph 70 of the Phase 1 decision, absent the purchase by ECP, AP "*would have become insolvent, ceased operating, and exited the market*".

2.7 For AP, the alternative to the Merger would simply have been to shut up shop and exit the market. There was no other bidder that would have allowed the AP business to continue (as a going concern and constraint in the market - the partial bids by Parts Alliance and MPD would, at best, have allowed some individual branches to remain open).

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1 The businesses of the Parties are described at section 3 of the draft Merger Notice. The Parties also overlap in relation to the supply of private label car parts; and retail supply to end-consumers. The Phase 1 decision, however, found that AP's activities in both areas are minimal and did not address these overlaps further. No questions have thus far been raised with the Parties in Phase 2 regarding these activities. The Parties' submit that this is the correct approach, in view of the inability of the AP acquisition to have an impact on the market for either private label car parts or retail supply of car parts. ECP is active in relation to the provision of car parts and paint to body shops in relation to collision repair. AP has minimal activities in this area (even smaller than its activites in relation to retail supply and private label car parts). In relation to paint, for example, AP sells a very limited range of touch-up paint and other basic coatings products ([✂]). The Parties therefore submit that, given the very minimal overlap between the Parties, and AP's miniscule presence, these activities should similarly not form part of the detailed Phase 2 investigation.

2 Paragraphs 76 and 77 of the Phase 1 decision set out in some detail the history of AP's efforts to obtain a buyer during 2015 and 2016. Further detail has been requested in the Market Questionnaire and will be provided by the Parties in response.

3 Local Competition

3.1 The Merger will not result in a significant lessening of competition at local level.

3.2 As set out at paragraph 53 of the Phase 1 decision, customer demand for the supply of IAM car parts is local because customers require distributors to supply deliveries within a short amount of time. However, contrary to the findings in the Phase 1 decision, the Parties submit that competition for this local demand is fierce, with many effective local competitors.

3.3 The Parties also submit that they were not each other's closest competitors. CRA has carried out economic analyses of ECP's discounting in AP and non-AP areas and of the rate of diversion to ECP branches in areas in which AP was overlapping but exited the local market.[3] Both of these analyses show that AP was not a strong constraint on ECP at the local level.

3.4 The Parties submit that the fact that the economic evidence shows results different to the findings in the Phase 1 decision is unsurprising, as the Phase 1 decision took a very conservative approach to the identification of catchment areas and the potential effective competitor set. Whilst understandable in the context of a Phase 1 process, the Parties submit that this very conservative approach would be inappropriate in Phase 2, where greater time and data allow for a more comprehensive analysis.

A. <u>ECP discounts show limited pre-Merger constraint from AP and a wide competitor set</u>

3.5 CRA has carried out a number of analyses of ECP's discounting history, using aggregate level discounts provided to the customers of each of ECP's sites for a 12 month period to April 2017.[4] CRA analysed this data in three different ways, in order to test whether AP was a close competitor of ECP at local level – if it were a close competitor, the data would show that (all else being equal), ECP sites in areas where AP competed offered higher discounts than other areas. The data did not show this.

1. *A simple graphical analysis comparing areas in which AP was present pre-Merger and areas in which AP was not present shows no difference in ECP discounts*

3.6 The data[5] shows that there is no material difference between the discounts given by ECP sites whether or not there was a rival AP site within the catchment area. In the graph below, each blue circle shows the ECP discount offered at a particular site, while the red crosses show the simple average discount across all branches depending on whether they overlap with an AP site.

3.7 The graph shows that there is no material difference between the discounts given by ECP sites if there is or is not a rival AP site with either the catchment or twice the catchment of the ECP site. For each type of discount and the overall cumulative total discount the difference between the average discount at ECP sites that overlap with AP sites and the average at ECP sites that do not overlap is not discernibly different.

ECP discount by site and overlaps with AP within a single catchment[6]

[✄]

Note: Excludes the top and bottom 5% of ECP branches in terms of the discount. Overlap branches include overlaps with all AP branches that were open between April 2016 and August 2016 (including AP branches that were not purchased by ECP).

Source: CRA analysis of ECP data

3 The CRA analysis is provided as an Annex to this submission.

4 [✄]

5 CRA's analysis used pre-Merger data for the period April 2016 to August 2016. A breakdown of discounts as between IPM, Terms and Other is not available prior to April 2016.

6 As a robustness check, CRA also carried out the analysis using the wide two-times catchment area used in the Phase 1 decision. The analysis holds even on this wider basis.

3.8 CRA also ran a simple regression analysis of the level of each of the types of discounts as a function of whether AP was present within a catchment area, and a set of regional dummies and dummy variables for whether the ONS classifies the ECP site as being in a city, town, rural or very rural location. Consistent with the graphical analysis, this shows that after controlling for common regional and area effects, the average difference between the discounts given by ECP sites that did and did not overlap with AP sites pre-Merger are not statistically significant at the ten percent level.

2. *A regression analysis holding constant either the number or the identity of factors in each area shows that AP was not a more significant constraint pre-Merger than other competitors.*

3.9 Finally, to ensure the above result was robust, CRA carried out regression analyses using the limited competitor set identified in the Phase 1 decision to assess whether the average discounts given by ECP sites differed by the number of competitors within the ECP catchment area and whether one of these competitors was AP. As explained in the paper, controlling for the number of competitors, there was no evidence that AP's presence had a significant effect on the level of discount that ECP offered. Further, because the identiy of other competitors may also have an influence on the level of discount in an AP area, CRA also ran a regression that took into account the identify of the largest rival fascia that ECP faced locally and examined whether the average discount given by an ECP site differed depending on the particular competitor within their catchment.

3.10 Once again, and consistent with the other analysis, this analysis shows that there is no evidence that discounts are on average higher at ECP sites that faced competition from an AP branch. These findings are consistent with ECP being constrained by a wide range of local competitors rather than only one or two particularly key competitors (specifically AP).

ECP discount by site controlling for the identity of main rival fascia

	IPM	Other	Terms	Total
PARTS ALLIANCE	[✂] [✂]	[✂] [✂]	[✂] [✂]	[✂] [✂]
ANDREW PAGE	[✂] [✂]	[✂] [✂]	[✂] [✂]	[✂] [✂]
MOTOR PARTS DIRECT	[✂] [✂]	[✂] [✂]	[✂] [✂]	[✂] [✂]
JAYAR CAR PARTS	[✂] [✂]	[✂] [✂]	[✂] [✂]	[✂] [✂]
FLEET FACTORS LTD	[✂] [✂]	[✂] [✂]	[✂] [✂]	[✂] [✂]
DORSET AUTO SPARES LTD	[✂] [✂]	[✂] [✂]	[✂] [✂]	[✂] [✂]
EU LINCO	[✂] [✂]	[✂] [✂]	[✂] [✂]	[✂] [✂]
BENNETTS LTD	[✂] [✂]	[✂] [✂]	[✂] [✂]	[✂] [✂]
INDEPENDENTS	[✂] [✂]	[✂] [✂]	[✂] [✂]	[✂] [✂]

Source: CRA analysis of ECP data

B. <u>Diversion analysis shows limited pre-Merger constraint from AP and a wide competitor set</u>

3.11 In addition to the above discount evidence, ECP has data from a number of instances between 2014 and 2016 where an AP branch within the catchment (as defined by the CMA in the Phase 1

Decision) of an ECP site had closed.[7] This provides a natural experiment, allowing an assessment of whether AP was a strong constraint on ECP. If AP was a particularly strong constraint on ECP, following the closure of an AP site, ECP would be expected to have gained a disproportionately large share of the sales at that AP site. Similarly, the level of ECP discounts to its customers would be expected to have decreased significantly once ECP was no longer constrained by AP. Neither of these results is found in the data set.

3.12 CRA examined the sales of AP's top 20 customers at each closing site that subsequently switched to the overlapping ECP site and estimated the implied 'diversion ratio' from AP to ECP for these top 20 customers, by expressing the change in sales as a percentage of the average month sales to the top 20 customers at each AP site. The table below contains the resulting estimated diversion ratios from AP to ECP for the each of the closed AP sites along with the implied diversion ratios based on ECP's share of outlets and fascia within the AP catchment area using the CMA's list of 86 effective competitors.

Diversion Ratio from AP to all ECPs within 1x the AP catchment (Top 20 AP customers)

AP closed sites	Estimated diversion ratio	Diversion ratio implied by ECP's share of outlets in 1X catchment	Diversion ratio implied by ECP's share of fascia in 1X catchment:
Basingstoke	[✂]	[✂]	[✂]
Chertsey	[✂]	[✂]	[✂]
Warrington	[✂]	[✂]	[✂]
Bolton	[✂]	[✂]	[✂]
Bedfordshire	[✂]	[✂]	[✂]
Chelmsford	[✂]	[✂]	[✂]
Sheffield	[✂]	[✂]	[✂]
Salisbury	[✂]	[✂]	[✂]
Kingston	[✂]	[✂]	[✂]
Loughborough	[✂]	[✂]	[✂]
Barnsley	[✂]	[✂]	[✂]

Note: There is no overlap between ECP and AP based on the CMA's catchment area for the closed AP sites in Northallerton and Leatherhead.
Source: CRA analysis based on AP and ECP sales and location data.

3.13 The estimated diversion ratios are consistent with AP generally not being a strong constraint on ECP, as almost all of them are relatively small. Also, compared with the implied diversion ratios, the estimated diversion ratios are, with the exception of one, consistently smaller.

3.14 To check the robustness of these results, CRA economically estimated sales diverted from AP to the nearest ECP site by reference to all non-overlapping ECP sites as a control group. The results of this are consistent with the analysis of the top 20 AP customers. At the majority of closed AP sites, the estimated diversion ratios are both small, and are smaller to the implied diversion ratios based on either ECP's share of outlets or fascia within the AP catchment area. There are only [✂] areas, [✂], where the diversion rates are higher than the implied share of effective competitors using the CMA's Phase 1 effective competitive set. The direct implication is that for the majority of the sites, the CMA's effective competitor set is clearly narrower than the actual competitor set. Furthermore, even in areas where the actual diversion is higher than the CMA's

[7] Between 2014 and 2016 thirteen AP sites closed: four sites closed in November 2014, one site closed in January 2015, one site closed in July 2015, one site closed in August 2016, and seven sites closed in October 2016.

implied diversion, this appears more to do with the fact that these ECP sites exhibit trends of increased sales before the AP closure, rather than the effect of the closure itself (see for example the figure below).

[✄]

[✄][✄]

Source: CRA analysis of ECP data

3.15 In summary, the direct evidence from AP leaving areas in which they overlapped with ECP is consistent with the discounting evidence. It demonstrates that AP was not a key constraint on ECP in the majority of areas. Furthermore, when compared against the predicted diversion ratios based on the CMA's effective competitor set, it is clear that the CMA's effective competitor set is missing key constraints. This is consistent with the effective competitor set being wider than considered in the Phase 1 decision.

C. Catchment area and effective competitor set

3.16 The Phase 1 decision takes a very conservative approach to the identification of relevant catchment areas and estimation of the effective competitive set. This has the result of significantly over-estimating the competitive constraint posed by AP and significantly under-estimating the constraint posed by other competitors locally.[8]

3.17 First, in the absence of data allowing the CMA to re-center its potential overlap areas on ECP sites as well as AP sites, the Phase 1 decision takes the overlap areas centred on AP sites using standard methodology and then simply multiplies the catchment area by two. This was a very expansive approach, which resulted in a larger set of overlap areas than a re-centering analysis. Whilst understandable in light of the lack of data in Phase 1, it is of little relevance in the context of a Phase 2 investigation and, indeed, is unnecessary as ECP can now provide the data to allow the CMA to identify the actual catchment areas for each site.

3.18 Second, the Phase 1 decision relies on a very narrow set of data and limited third party observations to identify the "effective competitor set" at local level. The approach adopted - narrowing down to those suppliers that were specifically named in an extremely limited market testing exercise - produced data which, it is respectfully submitted, was of little probative value even in the context of Phase 1 and resulted in the elimination of suppliers that other evidence demonstrated were effective competitors. Indeed, the CMA itself was unsure of the robustness of its process – the Phase 1 decision identifies 121 effective competitors; however only 86 of these competitors were actually taken into account in its analysis.

3.19 For example:[9]

(a) 26 of the 28 Tier 1 and 2 competitors that were dropped from the effective competitor set appear in ECP's price matching data. 11 of these competitors appear on more than [✄] occasions on average across each of the locations that they are based, and another 15 appear on more than [✄] occasions on average. Whilst these numbers should be treated with caution in light of the systemic flaws in the IPM database (see below), they nevertheless suggest that the effective competitor set is wider than assumed in the Phase 1 decision.

(b) The Phase 1 effective competitor set omits a number of competitors with extremely high levels of price matching by ECP. For example [✄] which has several branches is price

[8] The parties note that the effective competitor set includes not just independent motor factors, but others such as the dealer networks and direct sales of vehicle manufacturers, albeit that competition from these may be somewhat more limited. The Parties are continuing to gather evidence on this.

[9] For greater detail, see Parties' Second Response to the Issues Paper – Local Issues (submitted on 18 April 2017).

matched on average around [✂], with one branch receiving over [✂] price matches. This translates into over [✂] a month, or nearly [✂] times a day. Similarly [✂] has been price matched on average just under [✂] times in each branch during the 8 month period, which translates to approximately [✂] times a day. The exclusion of [✂] again suggests that the effective competitor set defined at Phase 1 was overly narrow.

(c) 21 of the 92 competitors that were excluded from the effective competitor set appear in ECPs customer stealing data and are often mentioned by a large proportion of customers. Of these 21, 16 were previously classified by the CMA as Tier 1 or 2 competitors, meeting all the conditions necessary to be an effective competitor at local level. However, they were excluded simply because they were not specifically named by three customers.[10]

3.20 Third, the Phase 1 decision relied on a share of supply test to assess closeness of competition. The parties make two submissions in this regard. First, whilst the weight given to a simple share of supply test may have been appropriate in Phase 1, a similar approach would not be in Phase 2. Second, and more importantly, the outcome of the share of supply analysis depended on the size of the effective competitor set. The elimination of a large number of effective operators meant that the parties shares of supply was significanlty higher than it should have been. As a consequence, the Phase 1 decision overestimated the closeness of competition between ECP and AP.

3.21 The Phase 1 decision further overestimated the closeness of competition between ECP and AP by placing too much reliance on the internal ECP price matching data (**IPM data)** for the following reasons:

3.22 First, ECP believes that, whilst the IPM database can provide an indication of the number of effective competitors, it is not suited to providing a view of the relative closeness of effective competitors, especially with respect to AP. [✂].[11]

3.23 [✂].

3.24 Second, and in any event, the IPM data represents a minority of competitor price matching activity. [✂].

[10] The Parties' comments on the survey questionnaire (submitted on 6 June 2017) address some of the very significant problems with reliance on a small number of customer surveys to determine the effective competitor set.

[11] [✂].

4 Key Accounts

4.1 The Merger will not result in a significant lessening of competition in relation to key accounts.

4.2 As set out in the Phase 1 decision, key account customers are "larger customers with multiple sites across the UK". Competition for key account customers can take place via tenders or direct negotiation. Key account customers typically require suppliers to be able to deliver car parts quickly to their various sites, and to offer consistent pricing across a consistent range of products or be able to administer accounts through a centralised billing function. Some key accounts are truly "national" in scope, such as Halfords and KwikFit, with hundreds of sites across all of the UK, whereas others are more limited in geographic scope, with multiple sites in a particular region.

4.3 The impact of the merger on competition must be assessed in light of the factual situation at the time of the Merger. As set out above, AP was already in administration and, absent an acquisition, would have ceased operating and exited the market. There was no bidder for the AP business as a whole other than ECP. Parts Alliance and MPD each only bid for some branches.

4.4 The question, therefore, is whether the Merger would result in a significant lessening of competition when compared to:

(a) the exit of AP as a competitor from the market; and

(b) to the extent that the Parts Alliance and MPD bids were realistic,[12] the acquisition by Parts Alliance and MPD of some of its branches.

4.5 The Parties submit that this is clearly not the case, as explained more fully below:

(a) AP exercised only a marginal constraint on ECP pre-Merger, the main constraint on ECP being Parts Alliance. Therefore, regardless of whether ECP acquired AP or AP exited the market, the loss of this constraint does not significantly impact competition.

(b) The limited impact from the Merger is not affected by the alternative possibility that some of the AP branches could have been acquired by Parts Alliance or MPD. As regards Parts Alliance, the acquisition of these branches would not significantly increase its ability to compete in relation to key account customers and thus would not increase the constraint on ECP already existing pre-Merger. As regards MPD, if (as MPD submitted in Phase 1) it is not already a competitor for key accounts, the addition of these specific branches would not be sufficient to make it a competitor. On the other hand, if MPD is already able to compete for key accounts, the addition of these specific branches would not significantly increase its competitive strength. In either scenario, the constraint on ECP already existing pre-Merger would not be increased.

A. <u>AP provided a marginal constraint on ECP pre-Merger</u>

4.6 The constraint offered by AP even pre-Merger was far less significant than the Phase 1 decision found. In particular, the Phase 1 decision relies heavily on evidence that ECP constrains AP, notably internal AP documents focusing on ECP[13] and tender data which shows a strong

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12 In particular, as ECP submitted in Phase 1, MPD could not have financed the investment necessary to make the AP branches viable. Had the full financial situation in which AP found itself come to light during the bidding process, ECP considers that MPD would not have completed an acquisition of these stores once it had done due diligence.

13 The Parties note that the ECP documents cited in the Phase 1 decision as evidence that ECP considers AP to be a strong supplier do not distinguish between AP and other competitors such as Alliance Automotive, GAU, FPS or MPD. Further the internal document relied on to show that ECP considers the acquisition of AP would eliminate a supplier to national customers actually notes "since November 2015, Panther [AP] has largely exited from the national accounts business".

asymmetric constraint, with ECP constraining AP far more than AP's minimal constraint on ECP.[14] The Parties submit that this focus is incorrect.

4.7 As set out above, the AP business would have exited the market regardless of the Merger. Whether the AP business pre-Merger was constrained by ECP is therefore irrelevant, as there is no scenario in which the AP business could continue without the loss of that constraint (i.e. there is no counterfactual to the merger from the AP perspective). The only relevant question is whether AP was a significant constraint on ECP pre-Merger, as it is this loss of constraint that must be weighed against the alternative of AP exiting the market as a competitor (with some branches possibly being picked-up by either Parts Alliance or MPD).

4.8 The Parties submit that, rather than being a significant constraint on ECP pre-Merger, AP was in fact a marginal constraint with respect to key account customers.

1. AP's ability to compete was reduced significantly once it left Parts Alliance

4.9 AP's ability to compete effectively was strongly dependent on Parts Alliance. AP was a member of Parts Alliance for considerably the largest portion of the last 18 years, being a member from 1999 to 2008 and again from July 2014 to November 2015. As a member of Parts Alliance, AP benefitted from Parts Alliance branch network and from the ability to bid for tenders without active competition from Parts Alliance.[15] Once it left Parts Alliance in November 2015, AP could compete only on the basis of its own more limited geographic reach and product range.

4.10 Further, when AP left Parts Alliance in November 2015, it no longer had access to the buying, product management and cataloguing functions that had been performed by Parts Alliance and which were central to its ability to supply key account customers. These functions are characterised by very high levels of complexity. As well as the large numbers of products involved, there is constant change in the parts required to be sourced and catalogued, as the mix of vehicles in the market changes. These activities are dependent on highly skilled individuals and up-to-date information; [✂].

4.11 The impact of this is seen clearly from the fact that AP's sales to its key accounts dropped by [✂]% between 2015 and 2016. In addition, while AP had continued to participate in tenders in 2016, its success rate had decreased materially.

4.12 The reduction in AP's competitiveness can be seen from the fact that it lost significant volumes of sales to some of its largest customers. For example, its sales to KwikFit fell by [✂]% from 2015 to 2016. Similarly, sales to Micheldever dropped by approximately [✂]% and National Tyres dropped by [✂]%. Finally, AP immediately lost [✂] sales to the AA.

4.13 Other customers also awarded very limited proportions of their actual sales to AP during 2016. For example, Formula One APG awarded no more than [✂]% of sales to AP in 2016 and ATS Euromaster awarded no more than [✂]% of sales to AP.[16]

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14 For example, the tender data relied on in the Phase 1 decision shows that between 2012 and 2016, AP partipated in only [✂]% of the [✂] tenders that ECP participated in and won only [✂]%.

15 During the period when AP was last a member of Parts Alliance, it participated in 27 tenders, 11 of which it bid jointly with Parts Alliance. Even in those instances where it put in a separate bid, AP's bids were predicated on the ability to use other Parts Alliance branches to fill in any gaps in its own coverage. AP had no coverage in Scotland, Devon and Cornwall, most of Wales, Kent, and large parts of London, as well as some significant gaps in key cities, e.g.: Liverpool. AP had an informal arrangement with Parts Alliance that each could use the other's network to fill in coverage gaps when fulfilling customer requirements.

16 The figures represent the sales awarded to AP as a proportion of the combined sales awarded to AP and ECP. Since we do not know the sales awarded to other suppliers, these proportions are upper boundaries for the actual proportions awarded to AP. See analysis of sales by ECP and AP for eleven common accounts, Parties' First Response to the Issues Paper (submitted on 13 April 2017).

2. AP's constraint on ECP was therefore a distant third competitor to Parts Alliance, more akin to other regional distributors

4.14 The primary constraint on ECP for key account customers was, and is, Parts Alliance. An analysis of the tenders in which ECP participated between 2012 and 2016[17] shows that Parts Alliance participated in [✂]% of tenders. No other distributor came even close to that. In comparison, AP, with [✂]% of tenders, was similar to IFA, with [✂]% (and Unipart pre-administration with [✂]%).

4.15 Whilst the Parties do not have access to third party data to document all instances in which rivals were bidding, even a conservative estimate shows that a number of other distributors participated in just under [✂]% of tenders, including TPS, Alliance Automotive Group (AAG), and GSF (now owned by Parts Alliance).

4.16 To the extent that the constraint from AP pre-Merger is lost (whether through the Merger or AP's inevitable exit), therefore, the loss is not that of a principal constraint on ECP but rather a distant third player which was not significantly different to a number of other distributors.[18]

3. Other distributors are building up their presence in this area

4.17 The impact of the loss is further lessened by the fact that other distributors are making significant efforts to increase their attractiveness as a supplier to key accounts. Group Auto (GAU), for example, already has a branch network that can supply on a UK-wide basis. Its parent company Alliance Automotive Group (AAG) has a branch network with 771 sites in the UK[19] comprising around 100 wholly owned branches in the UK FPS Distribution (a superfactor which has 21 wholly owned regional distribution hubs) plus GAU and UAN affiliates. [✂].

B. <u>The alternatives to the Merger would not significantly increase the constraint on ECP</u>

4.18 In the absence of the Merger, AP would inevitably have exited from the market. This would remove the marginal constraint it placed on ECP, an outcome that is unavoidable regardless of the ultimate resolution of the Phase 2 investigation.[20] There is no alternative whereby AP could continue to operate as a business in the way it did before it entered administration.

4.19 The alternative to the Merger would only have been for Parts Alliance and MPD to each acquire a limited number of branches.[21] The Parties submit that this would not significantly change the competitive outcome, such as to reduce the lessening of competition below the level that would inevitably occur in any event.

4.20 Parts Alliance, as set out above, is already the undisputed primary constraint on ECP for key accounts. It is the distributor that ECP faces most often in tenders and it has a national coverage, centralised function, and price/product offering to rival ECP. PartsAlliance is comprised of wholly-

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17 See analysis of ECP and AP tender data prepared by CRA (submitted on 16 March 2017).

18 For example, MPD, whilst having a smaller (regional) scale, already has the ability to provide common pricing, invoicing and consistent parts. It is a strong competitor in those areas where it is present.

19 See AAG website description of its UK network at: http://www.allianceautomotivegroup.eu/about Note that AAG states that it "services the market through a comprehensive network of distributors, be they subsidiaries or independent affiliates, through almost 1,800 outlets comprising 982 in France, 771 in the UK and 37 in Germany. These outlets deliver over 30,000 SKUs to repairers within 2 hours in France and Germany and 45 minutes in the UK. Alliance Automotive Group is a member and the largest shareholder of a leading international buying group, GROUPAUTO International."

20 The Phase 1 decision does not appear to recognise this inevitablity, noting that the Merger would "remov[e] the constraint currently provided by Andrew Page (which is the third largest operator by number of sites at present)". Regardless of the extent of the AP constraint, it is clear that the constraint would be removed even in the Merger did not proceed.

21 Parts Alliance bid for [✂] and MPD bid for 21. However, [✂]of those branches overlapped and so it is not possible that both companies could have acquired them. While the Phase 1 decision acknowledges that there are thus only 52 "bid sites", the analysis of the alternative purchases proceeds on the basis that each of the Parts Alliance and MPD would acquire all of the branches it bid for. As a consequence, this overstates the potential impact of the respective acquisitions. The analysis also assumes that Parts Alliance and MPD would have, in fact, completed the transactions – as noted above, had they learned the true state of the business and cash needs, it is possible they would have walked away from all or some of the sites they bid for.

owned entities, Parts Alliance affiliates, and “strategic alliances”. The wholly-owned and affiliate entities give Parts Alliance a branch network of 161 corporate stores and 38 affiliated locations. Its strategic alliances include the Independent Motor Trade Factors Association (IFA), an alliance reached in November 2015, which enables Parts Alliance to use some of IFA’s further 200- branch strong network to plug any geographical gaps in its own branch network.

4.21 As the CMA will no doubt have noted, Parts Alliance has just been acquired by a large Canadian operator who intends to use the acquisition to enter the market. In the press release announcing the transaction, Uni-Select notes that Parts Alliance has “*a market leadership position and national scale, a proven growth platform and an experienced management team that has demonstrated its ability to drive profitable growth both organically and through acquisitions*”. The acquisition of an [✂]branches ([✂]of which are in areas where Parts Alliance is already present) cannot significantly add to this position. As a result, the constraint already placed by Parts Alliance on ECP pre-Merger would not be significantly increased if Parts Alliance were to acquire these branches.

4.22 MPD, as set out above, is a strong regional distributor who already exercises a degree of constraint on ECP by picking up sales volume from key account customers. This constraint will not materially increase with the acquisition of between 13 and 21 branches (7 of which are in areas where MPD is already present). To the extent that its current reach is insufficient to attract key account customers, these few additional branches will not significantly extend that reach. To the extent that MPD is already seen by key account customers as a viable supplier, the additional branches will not make a material change to the competitive landscape. As a result, the constraint from MPT pre-Merger would not be significantly increased if it were to acquire these additional branches.

4.23 To the extent that the conclusion in the Phase 1decision that AP “was, and could have continued to be, a significant supplier of Key Accounts after its departure from the Parts Alliance” was informed by customer responses, the Parties stress that those responses may well have been given on the basis that if the Merger is prohibited, AP would remain in the market as a competitor, (albeit, for the reasons set out above, a distant third to ECP and Parts Alliance). It is clear that, whatever the outcome of the Phase 2 investigation, that is not a possibility.

4.24 As such, in the Parties view, it is critical that the correct counterfactual is communicated to third parties during the Phase 2 investigation - if customers are not fully aware of this when providing their views to the CMA, there is a significant risk that this will negatively skew their consideration of the actual impact of the Merger as compared to the alternative (AP’s exit, with some individual branch pick-ups by Parts Alliance and MPD). The Parties would therefore request that the Phase 2 investigation make the factual situation clear to customers in their market investigation, so as to avoid having the results of the investigation being tainted by a fundamental misunderstanding.

5 Garage Equipment

5.1 The Merger will not result in a significant lessening of competition in relation to garage equipment. As a result, the Parties submit that there is no need for the in-depth Phase 2 investigation to consider separately the impact of the Merger on the market for garage equipment.

5.2 Garage equipment describes a broad range of products used by garages in the repair and maintenance of customers' vehicles. Within the overall category, it is common to distinguish between hand tools and larger items (or "heavy equipment"). Hand tools are those that tend to be purchased by individual technicians themselves; they tend to cost less than £1,000. Heavy equipment generally comprises those items that a garage owner would purchase, such as lifts, ramps, air compressors, and expensive diagnostic equipment.

5.3 Competition for the distribution of garage equipment (both hand tools and heavy equipment) is fierce. The following table sets out some of the principal distributors of garage equipment:

Company	Description	Specialism
Alliance Automotive (GAU) owned distributors	General multi-brand reseller sourced from UK distribution. Wide range of product categories.	
Gemco	Manufacturer owned (Stenhoj) importer; selected product range.	Service & Maintenance, installation by own engineers Heavy metal equipment, project and design work Fitted workshop furniture (Dura)
GSF & other Parts Alliance-owned distributors	General multi-brand reseller sourced from UK distribution. Wide range of product categories.	Growing own brand product range 'Angry Jester'
Tecalemit	Manufacturer owned (Werther) importer; selected product range.	Service & Maintenance, installation by own engineers. Heavy metal equipment, project and design work
Snap-on Equipment	Manufacturer and importer. Distributor Brands – Hofmann, John Bean. Direct Brands Sun / Snap-on	Service & Maintenance -Emissions, own engineers - 4,000 install base Air conditioning
Snap-on Tools	Franchise operation 400 UK mobile stores Manufacturer & importer, Hand Tools Diagnostics, Power Tools, Tool storage	Exclusivity of Brand, In house finance, range and product knowledge Diagnostic product offering and software subscription base
J & S Products	Importer and wholesale distributor of hand tools, power tools. 30 brands	Suppling 600 independent mobile tool sellers
Sealey	Importer / wholesaler / hand tools, power tools, light garage equipment	Brand recognition, huge distributor network most motor factors, breadth of range, value for money
Hickleys	Distributor General multi-brand reseller sourced from UK distribution. Wide range of product categories.	Diagnostic knowledge, product range Key coding
MAC Tools	Franchise operation 100 UK mobile stores Manufacturer & importer, Hand Tools, Power Tools, Tool storage	Exclusivity of brand, in-house finance, range of products. Owned by Stanley Group

5.4 The Parties' combined share of the market is very small, as can be seen from the tables below:[22]

Estimated market shares for garage equipment overall:

	2015 Sales	2015 Share	2016 Sales	2016 Share
ECP	[✂]	[✂]	[✂]	[✂]
AP	[✂]	[✂]	[✂]	[✂]

Estimated market shares for hand tools:

	2015 Sales	2015 Share	2016 Sales	2016 Share
ECP	[✂]	[✂]	[✂]	[✂]

22 These figures are ECP estimates based on its view of 2016 market value at workshop/bodyshop buying prices.

AP	[✂]	[✂]	[✂]	[✂]

5.5 The following paragraphs describe briefly the competitive situation in relation to each of hand tools and heavy equipment, showing that the Meger cannot result in a significant lessening of competition for either.

A. Hand tools

5.6 As noted above, hand tools tend to be purchased by individual technicians (as opposed to garage owners). They can range from specialist tools to basic screwdrivers or spanners.

5.7 There are many hundreds of tool manufacturers. At the manufacturing level the market is global given that the same tools and equipment can broadly be used on any car anywhere on the world. Leading manufacturers include Snap-On, Sykes-Pickyvant (who claim to be the UK's market leader in the supply of specialist automotive tools and diagnostic equipment), Facom, Britool, Teng Tools, Beta, Sealey, Laser Tools, Stanley (which owns Black & Decker), Bosch and Record.

5.8 At the wholesale level, most manufacturers rely on a distribution network to sell their products. Some manufacturers, such as Snap-On, operate through a network of franchisees (see www.snaponfranchise.co.uk). As well as these specialist distributors, many regular hand and power tools and some specialist equipment is available to the independent motor trade via high street DIY chains such as Screwfix and Wickes, as well as independent hardware stores.

5.9 Unlike IAM car parts, speed of delivery is a relatively unimportant factor in the customer's decision regarding suppliers. Tools tend to wear out or become obsolete over time, so that replacement is usually a planned purchase, unlike the purchase of car parts which is dependent on the cars booked in for service or repair on that particular day. As a result, delivery within an hour or less is rarely required.

5.10 Given that speed of delivery is not key, there are a number of ways in which hand tools are supplied to the market:

(a) Mobile van distribution is the traditional, and most common, way of selling hand tools in the UK. Major suppliers such as Snap-On and MAC operate franchises across the UK and these franchisees will generally provide a mobile service: there are an estimated 420 Snap-on Tools franchisees vans, 130 MAC Tools franchisees vans and 600-700 independent tool vans in the UK selling hand tools. These tend to have a set weekly route around their franchise territory, whereby they visit garages on a regular schedule and demonstrate their wares.

(b) Catalogue distribution is another method of sale, whereby distributors issue pamphlets and catalogues of products. This may be combined with the mobile van distribution or sent separately to potential customers.

(c) Online sales are an important means of distribution (again because overnight delivery or longer is not a problem in relation to hand tools). Almost all suppliers and distributors will have a website thorugh which customers can order tools and arrange for delivery. In addition, Amazon and eBay offer a full range of garage tools and equipment.

5.11 With all of these options for supply and vast number of competitors present, it is clear that the Merger will not significantly lessen competition in relation to hand tools.

B. Heavy equipment

5.12 Distribution of heavy equipment is also a highly competitive market space. Heavy equipment generally refers to large "one-off" pieces of equipment such as hydraulic lifts (used for vehicle inspection), ramps, and air compressors. These are expensive, heavy items, usually installed into the garage building itself, and intended to give many years' service. Large garages will operate more bays and so have a need for more equipment, although the type of equipment will still be broadly the same as a smaller garage. Garages offering MOTs are required to have specific equipment, such as emissions testers and brake rollers, which are high-value items.

5.13 The heavy equipment supply process can be lengthy, depending on the product:

(a) some heavy equipment (e.g. lifts) require assembly by manufacturers' engineers. Site surveys are vital to assess if site preparation is required, technical / architectural drawings for installation and in some cases planning permission or DVSA approval (e.g. MOT bays);

(b) civil engineering can be required for some pieces and can take days to complete. For example, any work carried out prior to installation requires a minimum of 7 days for the concrete to dry. Electrical requirements can be single or three phase (offering more powerful motors, lifts tyre-changers, compressors etc.);

(c) some more technical products (e.g. diagnostics, alignment) will require the users to be trained either onsite or at a third party location;

5.14 For smaller items of heavy equipment, stock is consolidated centrally, and where a product is in stock it is generally shipped within 24 hours. Where a product is not in stock it is normally supplied within 36-48 hours. ECP quotes a lead-time of between 1-2 working days and 4-6 weeks, depending on the product. Some specialist products (e.g. larger lifts) have to be manufactured to order, which can result in a lead time of 8-10 weeks

5.15 Heavy equipment sales are often accompanied by after-sales service and ongoing technical support, both of which are key factors for garage owners. As noted above, larger equipment may also require installation, civil work and additional services (e.g. electrical / compressed air connection) and may require a technical drawing. As a result, many customers are supplied by directly by key manufacturers, who offer full service offerings.

5.16 In addition to the specialist distributors noted above and other car parts distributors, the Parties therefore face significant competition from the manufacturers directly. Given the wide variety (and number) of competitors, it is clear that the Merger will not significantly lessen competition in relation to heavy equipment.