

Completed acquisition by MSV Group Limited of the Circuit Business Operating at the Donington Park Motor Racing Circuit and Related Assets and Land Interests

Decision on relevant merger situation and substantial lessening of competition

ME/6669/16

The CMA's decision on reference under section 22(1) of the Enterprise Act 2002 given on 11 August 2017. Full text of the decision published on 31 August 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.

SUMMARY

1. On 1 March 2017 MSV Group (**MSV**) (through its wholly-owned subsidiary, MotorSport Vision Limited) purchased various assets of the Donington Park motor racing circuit business (the **Donington Business**) (the **Merger**). MSV and the Donington Business are together referred to as the **Parties**.
2. The Donington Business includes leasehold interests in the Donington Park Estate, Castle Donington, Derbyshire (the **Site**) and certain assets required for the Site and operating the Donington Business.
3. The Competition and Markets Authority (**CMA**) believes that it is or may be the case that the Parties' enterprises have ceased to be distinct and that the share of supply test is met. The statutory period for a decision, as extended, has not yet expired. The CMA therefore believes that it is or may be the case that a relevant merger situation has been created.
4. The Parties overlapped in the sale of tickets to spectators to attend competitive motor racing events at licensed circuits and the supply of track time to third parties in the UK.

5. The CMA assessed potential horizontal competition concerns with regard to:
 - (a) the supply of tickets to spectators of major motorsports events where the Parties' catchment areas overlapped;
 - (b) the supply of track time to racing clubs, on a national basis; and
 - (c) the supply of track time to track day operators (**TDOs**), on a national basis.
6. The CMA also assessed potential vertical competition concerns with regard to:
 - (a) the foreclosure of third party TDOs in the supply of track days to end consumers; and
 - (b) the foreclosure of third party circuits in the promotion and organisation of motorsports events.
7. In investigating each concern, the CMA assessed a range of evidence, including internal documents, survey data and switching data obtained from the Parties and views submitted by third party competitors and customers.
8. In each case, the CMA found limited evidence of head-to-head competition between the Parties pre-Merger and believes that, post-Merger, sufficient competitive constraints from other circuits will remain.
9. The Merger will therefore **not be referred** under section 22(1) of the Enterprise Act 2002 (the **Act**).

ASSESSMENT

Parties

10. MSV owns and operates four licensed motor racing circuits in the UK, namely Brands Hatch, Oulton Park, Snetterton and Cadwell Park, and operates Bedford Autodrome, which is not licensed to hold competitive motor racing events. MSV circuits host a range of motorsport racing events and make use of non-racing time for other motorsport activities such as club racing and track days, which are organised either by third parties or MSV through its MSV Track Days (**MSVT**) division. MSV also supplies track time to third party intermediaries. MSV's wholly-owned subsidiary, Motorsport Vision Racing Limited (**MSVR**), acts as an organiser and promoter of motorsports events and series. The turnover of MSV in 2016 was £[~~9~~] in the UK.

11. The Donington Business was a provider of spectator motorsports activities and supplied track time to third parties at the Donington Park motor racing circuit (**Donington Park**). The turnover of the Donington Business in 2016 was £[~~XX~~].

Transaction

12. MSV acquired the Donington Business for a total consideration of around £[~~XX~~]. The Merger was completed on 1 March 2017.

Jurisdiction

13. As a result of the Merger, the enterprises of MSV and the Donington Business have ceased to be distinct.
14. The Parties overlapped in the sale of tickets to spectators to attend motor racing events at licensed circuits and the supply of track time to third parties in the UK. MSV submitted that it now owns and operates five of the 17 licensed motor racing circuits in the UK following the acquisition of the Donington Business, giving MSV a 29.4% share of supply of licensed motor racing circuits in the UK post-completion. The CMA therefore believes that the share of supply test in section 23 of the Act is met.
15. The Merger was first made public on 12 January 2017 and completed on 1 March 2017. The four-month deadline for a decision under section 24 of the Act is 20 September 2017, following extension under section 25(2) of the Act.
16. The CMA therefore believes that it is or may be the case that a relevant merger situation has been created.
17. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 19 June 2017 and the statutory 40 working day deadline for a decision is therefore 11 August 2017. The Merger was considered at a Case Review Meeting.¹

Counterfactual

18. 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,

¹ See [Mergers: Guidance on the CMA's jurisdiction and procedure](#) (CMA2), January 2014, from paragraph 7.34.

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 than these conditions.²

19. In this case, there is no evidence supporting a different counterfactual, and neither MSV nor third parties put forward arguments in this respect. Therefore, the CMA believes the pre-Merger conditions of competition to be the relevant counterfactual.

Frame of reference

20. Market definition provides a framework for assessing the competitive effects of a merger and involves an element of judgement. The boundaries of the market do not determine the outcome of the analysis of the competitive effects of the merger, 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.³

Background

21. Motor racing circuits provide a range of activities to consumers including spectator events and participatory activities.
22. Both MSV and the Donington Business operated licensed motor racing circuits in the UK and overlapped in the supply of spectator events to consumers and the supply of track time to racing clubs, track day operators (**TDOs**) and other third parties.⁴

² [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).

³ [Merger Assessment Guidelines](#), paragraph 5.2.2.

⁴ MSV and the Donington Business held testing sessions at each of their circuits for racing teams to test their cars. The CMA did not find competition concerns in relation to the supply of circuit time for testing, as testing at a circuit tends to be associated with a particular race at that circuit and therefore circuits are not substantively competing to supply testing.

23. In addition to owning and operating motor racing circuits, MSV (through MSVR) also promotes and organises spectator and club racing events and (through MSVT) provides car and bike track days.
24. The key competitors for the Parties as licensed motor racing circuits were other motor racing circuits in the UK that were licensed by the sports' governing bodies to host racing events. There are different licensing bodies for car and motorbike racing events.⁵ Licensed circuits must meet specific health and safety requirements depending on the types of events.
25. Racing generally occurs between March and October, particularly over weekends. Outside of those times, circuit operators use their venues for other activities, including providing other motorsports activities or hiring out the circuit to intermediaries for motorsport or other activities. Non-racing motorsport activities are not regulated by the sports' governing bodies and are not required to take place on licensed circuits. This means that activities such as track days and experience days may face constraints from unlicensed circuits as well as licensed circuits.

Product scope

Horizontal concerns

26. The CMA identified three potential competition concerns arising from horizontal overlaps between the Parties in the supply of tickets to spectators of major motorsports events, the supply of track time to racing clubs and the supply of track time to TDOs.
27. The product frames of reference that the CMA adopted to investigate these potential horizontal concerns are discussed in turn below.

Tickets to spectators

28. MSV submitted that spectator events at licensed circuits could be categorised broadly as:
 - (a) major international events, such as the Formula One Grand Prix and the MotoGP;

⁵ For car racing, the relevant body is the Motor Sports Association (**MSA**) in the UK and the Federation Internationale de l'Automobile (**FIA**) internationally. For motorbike racing, there are the Auto-Cycle Union (**ACU**) and the Motorcycle Circuit Racing Control Board (**MCRCB**) for Great Britain and the Motorcycle Union of Ireland (**MCUI**). Internationally, there is the Federation Internationale de Motocyclisme (**FIM**).

- (b) major domestic championship events – ie the British Touring Car Championships (**BTCC**) and the British Superbike Championships (**BSB**);⁶ and
 - (c) minor domestic championships, which includes domestic events other than the BTCC and BSB that attract more than 1,000 spectators per year.
- 29. The CMA investigated the extent to which these categories of events were substitutable and whether it was appropriate to distinguish them in this way.
- 30. The CMA found that, pre-Merger:
 - (a) The Parties did not overlap in the supply of tickets to international spectator events, such as Formula 1, which are substantially more expensive to attend than domestic events.⁷ Whilst Donington Park hosts the World Superbike Championships, no MSV circuits are licensed to host this event and MSV does not host any other international spectator events at its circuits. None of the circuits controlled by the Parties have the necessary licences to host the Formula One Grand Prix or the MotoGP.⁸
 - (b) The Parties did overlap in the supply of tickets to major and minor domestic events. However, the latter type of event generally attracts a smaller number of spectators over a relatively narrow catchment area (estimated, based on customer location data, to be approximately 70 miles). The distance between Donington Park to the nearest MSV circuit is greater than 70 miles from each of the MSV circuits and there was no other evidence suggesting any significant competitive interaction between the Parties' activities with regard to minor domestic events.
- 31. Given the above, the CMA focussed its assessment on major domestic motorsport events. It investigated which events should be included within this putative frame of reference and identified two events, the BTCC and BSB, that domestic governing bodies of racing events confirmed were the most

⁶ The allocation of BSB events is governed by a deed, which will remain in place until 2028.

⁷ Brands Hatch has hosted World Superbikes in the past and therefore could be seen as a potential competitor to Donington Park for this event in future. However, in such a scenario, Silverstone would represent a much stronger constraint as it already holds the necessary licence and that constraint is unaffected by the Merger. Further, in the absence of concerns on a narrower basis (major domestic events), the CMA believes that there is no realistic prospect of an SLC on a broader putative market including international events.

⁸ The CMA notes in this regard that upgrading circuits to the required level is costly and time consuming. Donington Park previously considered upgrading to Formula One standard in 2009 and estimated that this would cost £100 million over a five-year period.

significant major domestic events. No evidence suggested that other major domestic motorsports events competed with these events.

32. The CMA then explored which circuits would be able to compete to host the BTCC and BSB and found that only circuits with the appropriate track facilities (e.g. marshal points, race control, scrutineering facilities and timing) could obtain the necessary licenses from the motorsports governing bodies to stage these events. The MSA Yearbook 2017 indicated that there were currently 17 venues with licensed circuits in the UK. These car racing circuits overlap with several circuits holding road race permits from the ACU, including all eight of the circuits used for the BSB Championship.⁹
33. In relation to major domestic spectator events, circuits pay the promoter for the right to host the event and charge spectators for attending the event. As the promoter is effectively a supplier to the circuit and spectators are customers of the circuit, the CMA focussed its assessment on the supply of tickets by circuits to spectators. The CMA did not identify any competition concerns that could be raised by the Merger in relation to the purchase by circuits of hosting rights from promoters.
34. The CMA therefore assessed the potential impact of the Merger on a frame of reference for the supply of tickets to spectators of major domestic motorsports events (ie the BTCC and BSB) at licensed circuits and excluding minor domestic and international motorsports events.

The supply of track time to third parties

35. MSV and Donington Park also supply track time at their circuits to third parties, including racing clubs (for club racing events), TDOs (for track days) and other third parties. MSV submitted that the appropriate product frame of reference was the supply of track time at licensed circuits to all third parties.
36. Previous Competition Commission (**CC**) and Office of Fair Trading (**OFT**) merger investigations into the motorsport sector did not segment the market by types of end-user. For example, in *Octagon/BRDC*, the CC noted that: *“because of the very close substitutability in the supply of circuit time for*

⁹ See <https://www.msauk.org/assets/bluebook2017completevlow-res.pdf>. The cross-over between licensed car and bike venues is not exact. For example, motorcycle racing permitted by the ACU took place in 2016 at Aberdare, Aintree, Billown, Darley Moor, Jurby Airfield, Olivers Mount, Three Sisters and Tonfanau. Further, Kirkistown is licensed by the MCUI which covers motorcycle racing in Ireland.

different competing uses ... there is just one upstream market for track time".¹⁰

37. The CMA investigated whether it would be appropriate to further segment the product frame of reference to differentiate between track time supplied to racing clubs and track time supplied to TDOs.

The supply of track time to racing clubs

38. The evidence available to the CMA in this case indicated that the conditions of competition for the supply of track time to racing clubs may differ to the supply of track time to other third parties. For example:

- (a) racing clubs use a broader range of facilities at circuits, such as the control tower, paddock and scrutineering bays, and pay higher prices at the Parties' (and third parties') circuits compared to other third parties;
- (b) circuit operators allocate track time to racing clubs before allocating track time to other third parties (most club racing takes place at weekends only). They also use price lists which differentiate between track time supplied to racing clubs and track time supplied to other third parties; and
- (c) club racing events are regulated by governing bodies and must therefore take place on licensed circuits (unlike other events, which can take place on unlicensed circuits).

39. Third parties which responded to the CMA's merger investigation also supported the view that racing clubs may have different preferences in relation to the selection of track time and pay different rates.

40. Accordingly, the CMA adopted a distinct product frame of reference for the supply of track time to racing clubs.

The supply of track time to TDOs

41. MSV submitted that, excluding racing clubs, the supply of track time to all other third parties should be considered as a single frame of reference. MSV submitted that ~~the~~¹¹ ~~the~~. Further, MSV submitted that there was significant supply-side substitutability between end-uses.

¹⁰ *Octagon Motorsports Limited (OML) and British Racing Drivers Club Limited (BRDC)*, CC report, 6 September 2001, paragraph 4.175.

¹¹ There is some small differentiation for cars and bikes due to different medical cover requirements.

42. However, the CMA believes that there was the potential for conditions of competition for TDOs to be different from those for other third parties: for example, to the extent that circuits compete on quality and standard of service and if TDOs are more likely to hire circuits at premium weekend rates.
43. The CMA also found that the supply of track time to TDOs accounts for most revenue earned from events other than racing.¹² Therefore, to the extent that concerns did not arise on the narrower basis of the supply of track time to TDOs, they would not arise on a broader putative market of the supply of track time to third parties (excluding racing clubs).
44. Accordingly, on a cautious basis, the CMA therefore also adopted a separate frame of reference for the supply of track time to TDOs.

Vertical concerns

45. The CMA also identified two potential competition concerns arising from vertical relationships between the Parties' activities; specifically, with regard to foreclosure of third party TDOs in the supply of track days to end consumers and foreclosure of third party circuits in the promotion and organisation of motorsports events.
46. The product frames of reference that the CMA adopted to investigate these potential vertical concerns are each discussed in turn below.

The supply of track days to end consumers

47. MSV also provides track days, through MSVT, in competition with other racing circuits and third party TDOs.¹³ MSVT purchases track time from third party circuits (including, pre-Merger, the Donington Park business), which gives rise to a vertical relationship between the Parties' activities.
48. MSV submitted that the appropriate downstream frame of reference for assessing potential concerns arising from this vertical relationship comprised the provision of track days to end consumers.
49. The CMA's investigation supported the view that this was an appropriate frame of reference to analyse this potential vertical concern.

¹² For the merged parties' circuits, revenue from TDOs averages [70-80]% of revenue from events other than racing.

¹³ The Donington Business itself provided track days, but to a small extent (two days per year). Accordingly, there was a small horizontal overlap between the Parties in the supply of track days. The CMA does not believe that there is a realistic prospect that this could have significant competitive effects and was not considered further.

The promotion and organisation of motorsports events

50. MSV promotes and organises motorsport events through its subsidiary, MSVR. MSVR hosts these events at its own circuits and at third party circuits (including Donington Park), which gives rise to a vertical relationship between the Parties' activities.
51. MSV submitted that the appropriate upstream frame of reference for assessing potential concerns arising from this vertical relationship comprised the promotion and organisation of motorsports series and events.¹⁴ Previous CC and OFT merger investigations, *Octagon/BRDC and Motorsport Vision/Brands Hatch*¹⁵, found the organisation and promotion of motorsports events at licensed circuits to be one upstream market.
52. The CMA's investigation supported the view that this was an appropriate frame of reference to analyse this potential vertical concern.

Geographic scope

The supply of tickets to spectators of major domestic motorsports events at licensed circuits

53. MSV submitted data showing the driving distances for the 80th percentile of customers who pre-purchased tickets for all major domestic events at its circuits.¹⁶ This generated a catchment area with a radius of [100-150] miles driving distance around each circuit. MSV further submitted that the CMA should take into account the significant constraint exerted by circuits (as well as a broader set of alternative events) outside that radius.
54. Third parties who responded to the CMA's merger investigation indicated what they considered to be the approximate catchment area for major and minor domestic motorsports events. The views expressed were mixed, but generally tended to suggest wider catchments than those submitted by MSV.
55. The CMA therefore adopted a [100-150]-mile catchment area as a starting point for the geographic frame of reference for the supply of tickets to

¹⁴ The promotion and organisation of motorsports events is the upstream market in the case of spectator events such as the BSB where circuits pay a sanction fee to organisers/promoters but a downstream market when organisers/promoters pay a hire fee to circuits.

¹⁵ *Completed acquisition by Motorsport Vision Ltd of Brands Hatch Circuits Ltd & Brands Hatch Leisure Limited*, OFT, 24 May 2004.

¹⁶ MSV calculated 80th percentile figures on the basis of the driving distance from the postcode provided by each customer to the circuit in question. In the case of series that held multiple rounds at a single circuit in 2016, MSV has grouped together pre-purchased tickets for all rounds to calculate the 80th percentile driving distance.

spectators of major domestic motorsports events at licensed circuits, while also taking into account, as appropriate, the constraint exercised by circuits located outside that radius.

The supply of track time to racing clubs and TDOs

56. MSV submitted that the relevant geographic frame of reference for the supply of track time to all customers was at least national in scope but that it was also likely to encompass some circuits outside the UK.
57. The decisions in *Octagon/BRDC* and *Motorsport Vision/Brands Hatch* considered the geographic scope for the supply of track time to third parties to be national.
58. Most third parties submitted that the geographic frame of reference was national in scope (although some suggested that there may be material local or regional variations in competitive conditions).
59. Accordingly, the CMA has adopted a national frame of reference for the supply of track time to racing clubs and track time to TDOs. The CMA has considered variations in competitive conditions at a local or regional level, as appropriate, in its competitive assessment.

The supply of track days to consumers

60. MSV submitted that the appropriate geographic frame of reference for the supply of track time to all customers was at least national in scope but that it was also likely to encompass some circuits outside the UK.
61. Most third parties submitted that the geographic frame of reference was national in scope (although some third parties suggested that there may be material local or regional variation in competitive conditions).
62. In light of the evidence from third parties, the CMA considered that the geographic frame of reference for the supply of track days is national in scope. The CMA has taken account of variations in competitive conditions at a local or regional level, as appropriate, within its competitive assessment.

The organisation and promotion of motorsports events

63. MSV submitted that promoters of motorsport events are active on an international basis but that the narrowest reasonable basis for making an assessment was on a national basis.

64. In *Octagon/BRDC*, the CC found there to be both national and international markets for the promotion of motorsport events.
65. The CMA did not, however, receive any evidence supporting a wider frame of reference than national. The CMA therefore adopted, on a cautious basis, a national frame of reference for the promotion and organisation of motorsports events.

Conclusion on frame of reference

66. The CMA has assessed the potential impact of the Merger in the following five frames of reference:
67. With regard to potential horizontal unilateral effects:
 - (a) the supply of tickets to spectators for major domestic spectator events at licensed circuits in the local area where the Parties' catchment areas overlap;
 - (b) the supply of track time to racing clubs in the UK; and
 - (c) the supply of track time to TDOs in the UK.
68. With regard to potential vertical unilateral effects, additionally:
 - (a) the supply of track days in the UK; and
 - (b) the organisation and promotion of motorsports events in the UK.

Competitive assessment

Horizontal unilateral effects

69. 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.¹⁷ Horizontal unilateral effects are more likely when the merger parties are close competitors.
70. In this case, the CMA assessed whether it is or may be the case that the Merger has resulted, or may be expected to result, in a substantial lessening of competition in relation to unilateral horizontal effects in relation to:

¹⁷ [Merger Assessment Guidelines](#), from paragraph 5.4.1.

- (a) the supply of tickets for major domestic spectator events in the local areas where the Parties' circuits overlap;
- (b) the supply of track time to racing clubs in the UK; and
- (c) the supply of track time to TDOs in the UK.

The supply of tickets for major domestic motorsport spectator events

71. The CMA investigated whether the Merger could give rise to competition concerns because of the loss of Donington Park as a competitive constraint on the MSV circuits with which it overlaps, and vice versa.
72. As discussed above at paragraph 55, the CMA adopted as a starting point a [100-150]-mile catchment area around Donington Park. In this local area, there are two MSV circuits, Oulton Park and Cadwell Park and two third party circuits, Rockingham and Silverstone. There is a third independent circuit, Croft, which is just outside this catchment area.¹⁸ MSV submitted that the Merger could therefore be characterised as a reduction in the number of licensed circuits offering tickets to major domestic motorsport spectator events to customers within the relevant local area from 5 to 4.
73. The CMA assessed how closely the Parties were competing pre-Merger and found only limited evidence of direct head-to-head competition. In particular:
- (a) racing events are staggered throughout the racing seasons. For example, eight licensed circuits in the UK currently hold a round of the BSB championship, meaning in practice that each round will take place on a different weekend and at a different location. Accordingly, a spectator seeking to attend an event on a specific weekend will typically not be choosing between events located at the Parties' circuits, which hold races at materially different times (often weeks or months apart);¹⁹
 - (b) survey evidence provided by MSV indicated that spectators attending an event at its circuits in one year, but not the following year, were switching to activities or events other than at the other Party's circuit(s). This evidence also indicated that many spectators attended multiple rounds of

¹⁸ The [100-150]-mile catchment represents a cautious approach to defining the scope of competitive constraints with a number of third parties. Evidence from third parties and from heat maps provided by the Parties suggest that the catchment area is potentially wider. In this regard, the CMA notes that Croft falls only [10-20] miles outside of this catchment.

¹⁹ MSV provided evidence from sales data that the majority of advance ticket sales occur in the month leading up to an event, with few sales occurring at the time when the series calendar is announced (when a choice might be made between all rounds).

major domestic events,²⁰ suggesting that they did not necessarily regard individual rounds as substitutes for each other; and

(c) event analysis of the 2017 round of the BTCC showed that a price increase for the Donington Park event did not appear to have any impact on attendance at Oulton Park. However, there are a variety of factors – including the weather, any clashes with non-racing related events and the closeness of the championship – that would also typically be considered to have had an impact on customer attendance.

74. In light of the above, the CMA believes that the Parties were not close competitors pre-Merger.
75. The CMA then assessed what countervailing constraints would remain on the Parties post-Merger. MSV submitted that it would continue to be constrained by circuits including Castle Combe, Croft, Mallory Park, Rockingham and Silverstone post-Merger.
76. MSV submitted that Silverstone, in particular, would provide a significant constraint post-Merger, because of its well-established popularity and the fact that its highly-rated spectator facilities would easily be able to accommodate any increase in customer numbers that could arise if customers chose not attend events at MSV's circuits. Third parties also indicated that Silverstone would exert the greatest constraint, highlighting its position as one of the most popular and important circuits in the UK.
77. MSV further submitted that they were constrained by factors outside of the market, including a high degree of customer elasticity and their willingness to watch events on live-TV or attend other non-motorsports related events. This is consistent with survey evidence provided by the Parties, indicating that the vast majority of spectators choosing not to attend an event at their circuits were switching to activities or events other than at the other Party's circuit. However, in light of the evidence that the Parties are not close competitors, and the presence of other in-market constraints, the CMA has not found it necessary to conclude on the strength of these out-of-market constraints.
78. In light of the above and, in particular, the limited evidence of head-to-head competition between events at the Parties' circuits, and the number of other independent circuits that will continue to host similar events post-Merger, the CMA believes that the Merger will not give rise to a realistic prospect of a substantial lessening of competition in the supply of tickets to spectators of

²⁰ For example, about half of respondents said they usually attended all three rounds of the BSB at Brands Hatch, and the majority of the remainder said they attended two out of the three rounds.

major domestic motorsport events in the UK in the local areas where the Parties overlap.

The supply of track time to racing clubs

79. The CMA investigated whether the Merger could give rise to competition concerns because of the loss of Donington Park as a competitive constraint on MSV, and vice versa, in the supply of track time to racing clubs nationally.
80. The CMA estimated that, pre-Merger, the Parties had a combined share of supply of 56%, with MSV having a share of supply of 43% and Donington Park a share of 13%.²¹
81. The CMA assessed how closely the Parties were competing pre-Merger. MSV submitted that its circuits were largely complementary and that racing clubs would tend to stage races across multiple circuits. MSV presented analysis showing that, of the 129 car race series holding a round at Donington Park, 119 (or 92%) also held a round at one or more of MSV's circuits. In relation to Donington Park and Brands Hatch, MSV noted that 81% of car racing series held races at both circuits while five of the six bike racing events at Donington Park were also at Brands Hatch.
82. MSV also submitted switching data²² showing that there were at least seven alternatives to MSV's circuits other than Donington Park, including Anglesey, Castle Combe, Croft, Mallory Park, Pembrey, Rockingham and Silverstone. MSV further noted that many of these and other circuits had significant excess capacity for hosting racing events.
83. The CMA received a limited number of submissions from racing clubs that suggested that Brands Hatch, Donington Park and Silverstone could form part of a smaller subset of circuits that were more desirable to certain racing clubs. This view was not, however, consistent with that held by the majority of respondents to the CMA's investigation, which submitted that there were a number of other circuits that were viable alternatives to the Parties' circuits.
84. The CMA assessed what countervailing constraints would remain on the Parties post-Merger. The MSV switching data for 2016 and 2017 (see

²¹ This data is based on information from the website, <http://www.on-track.co.uk>. However, the CMA notes that this data is incomplete. MSV used its market knowledge and research of racing club calendars to estimate that MSV circuits' share of supply was [40-50]% (based on hosting [X] of [X] car and motorcycle club racing events), with Donington Park estimated to have a share of [5-10]% (based on hosting [X] events out of [X]). Shares include races organised by MSVR.

²² This switching data showed where racing clubs that had held an event at MSV's circuits in 2014 through 2017 had switched to in the years where they did not hold events at MSV's circuits.

paragraph 82) appears to show customers switching away from Brands Hatch, Donington Park and Silverstone to other circuits that are not within that group, including Cadwell Park, Castle Combe and Rockingham.

85. Evidence submitted by MSV showed a continuum of pricing for one-day hire across a number of circuits. This showed Donington Park falling roughly halfway in a long list of alternative options for customers.

Table 1: One-day circuit hire price, club racing, 2017

<i>Circuit</i>	<i>Price</i>
Silverstone Grand Prix Circuit	[✂]
Brands Hatch GP Circuit	[✂]
Brands Hatch Indy Circuit	[✂]
Oulton Park	[✂]
Silverstone National Circuit	[✂]
Rockingham	[✂]
Donington Park	[✂]
Snetterton 300 Circuit	[✂]
Castle Combe	[✂]
Snetterton 200 Circuit	[✂]
Cadwell Park	[✂]
Mallory Park	[✂]
Anglesey	[✂]

Source: Data provided by the Parties

86. In light of the above and, in particular, limited evidence of direct competition between the Parties' circuits, and the presence of a number of alternative independent circuits that will remain post-Merger, including Silverstone, the CMA does not believe that the Merger gives rise to a realistic prospect of a substantial lessening of competition in the supply of track time to racing clubs nationally.

The supply of track time to TDOs

87. The CMA investigated whether the Merger could give rise to competition concerns because of the loss of Donington Park as a competitive constraint on MSV, and vice versa, in the supply of track time to TDOs nationally.²³

²³ As discussed above in the frame of reference section, the CMA focussed its assessment on potential concerns regarding the supply of track time to TDOs while noting that circuits supply track time to other third parties (for example, those seeking to hold experience days). Experience days are similar to track days but the provider also supplies a vehicle to drive. As with track days, these activities can occur on licensed or unlicensed circuits as this is not a regulated motorsport activity. On both the supply and demand side, there are a number of substitutes and hence no concerns arise. Similarly, for manufacturers, filming and other activities there are a range of alternatives

88. The CMA estimated that, pre-Merger, the Parties would have a combined share of supply of 56%, with MSV having a share of supply of 46% and Donington with a share of 10%.²⁴
89. Some TDOs raised concerns about potential price increases and availability of dates at Donington Park following the merger.
90. The CMA assessed how closely the Parties were competing pre-Merger. MSV submitted that, in common with racing clubs, TDOs tend to need to offer track days at a variety of circuits to attract customers from different geographic catchments and to be able to offer different circuit characteristics and price points. MSV submitted evidence showing that when Donington Park was closed in 2010, MSV did not experience a significant increase in TDOs seeking track days at its circuits. Specifically, the number of track days used by four key track day operators at Brands Hatch did not vary between 2009 and 2010.
91. However, MSV acknowledged that there was some competition between circuits to encourage TDOs to move track days or expand their offering but submitted that Donington Park and MSV circuits are not particularly close competitors.
92. The CMA assessed what countervailing constraints would remain on the Parties post-Merger. Evidence from TDOs on which tracks they saw as substitutes for the Parties' circuits was mixed. Some TDOs submitted that the Parties' circuits were not substitutes for each other, while other TDOs suggested that they were the only substitutes for each other another. Most TDOs who responded to the CMA's questionnaire suggested that non-MSV circuits would be substitutes for the Parties' circuits and listed a range of MSV and non-MSV circuits that they currently used to provide track days.
93. MSV submitted that some TDOs do not operate on any MSV circuit or at Donington Park and that significant spare capacity exists at circuits across the UK, which will continue to provide a constraint on their pricing.
94. MSV also submitted that because track days are an unregulated activity, they can take place on licensed and unlicensed circuits as well as on non-UK circuits. The data used by the CMA suggested that the majority of track days ([80-90]%) do in fact occur on licensed circuits but that nevertheless there are

and no concerns were raised. The CMA has therefore not discussed the potential impact on these third parties further in this decision.

²⁴ Note that this data is based on information from the website, <http://www.on-track.co.uk>. Shares include races hosted by MSVT.

a number of unlicensed and European circuits used by UK TDOs. The data suggested that there were 32 tracks holding track days in 2016. As noted above, MSV suggested that there were 47 unlicensed facilities supplying track time to third parties.

95. In light of the above and, in particular, the limited evidence of competition between the Parties' circuits and the presence of a significant number of alternative independent circuits that will remain post-Merger, the CMA does not believe that the Merger gives rise to a realistic prospect of a substantial lessening of competition in the supply of track time to racing clubs nationally.

Vertical effects

96. Vertical effects may arise when a merger involves firms at different levels of the supply chain, including a merger between an upstream supplier and a downstream customer.
97. Vertical mergers may be competitively benign or in some cases efficiency-enhancing, but in certain circumstances can weaken rivalry, for example when they result in foreclosure of the merged firm's competitors (although vertical competition concerns are not necessarily limited to foreclosure effects).
98. In this case, the CMA assessed potential vertical competition concerns with regard to:
- (a) foreclosure of third party TDOs from supplying track days; and
 - (b) foreclosure of third party circuits from hosting motorsports events.

Foreclosure of third party TDOs from supplying track days

99. The CMA assessed whether MSV's presence as both a circuit operator and a TDO through MSVT could lead to foreclosure of third party TDOs from supplying track days as a result of MSV restricting their access to its circuits.
100. As part of its investigation of potential horizontal concerns with regard to the supply of track time to TDOs (see paragraphs 87 – 95 above), the CMA found that the Parties were not close competitors and that, post-Merger, a number of alternative circuits would remain where TDOs could host track day events, in addition to the Parties.
101. In light of those findings, the CMA does not believe that MSV would, post-Merger have the ability to foreclose rival TDOs by restricting or preventing

their access to circuits controlled by the merged entity.²⁵ Therefore, the CMA does not believe that the Merger gives rise to a realistic prospect of a substantial lessening of competition as a result of vertical effects in relation to the supply of track time to TDOs.

The promotion and organisation of motorsports events

102. The CMA also assessed whether MSV's presence as both a circuit operator and promoter of motorsport events (through MSVR) could lead to foreclosure of competing circuits as a result of MSVR moving events from third party circuits to its own circuits.
103. The CMA found that, post-Merger, MSVR would account for the promotion and organisation of only a small proportion of motorsport events:
- (a) MSVR is the organising club for 28 car racing series in the UK annually. There are many other racing clubs and, out of a total of around [X] competitive car and bike motor racing events in the UK in 2016, MSVR organised [X], giving it a share of supply as organiser of [10-20]%.²⁶
 - (b) In organising the race calendar, MSV has to consider the wishes and instructions of the race promoter. MSV is only the promoter of the BSB and six car championships annually and its share as promoter is considerably lower than its share as race organiser.
104. In light of the above, the CMA does not believe that MSV would have the ability to foreclose other circuit operators by transferring events it is responsible for to its own circuits.²⁷ The CMA therefore does not believe that the Merger gives rise to a realistic prospect of a substantial lessening of competition as a result of vertical effects in relation to the promotion and organisation of motorsports events.

Entry and expansion

105. Entry, or expansion of existing firms, can mitigate the initial effect of a merger on competition and, in some cases, may mean that there is no substantial lessening of competition. In assessing whether entry or expansion might

²⁵ Given the absence of ability, it has not been necessary to consider whether the merged entity would have the incentive to engage in this foreclosure strategy, or what the effect would be.

²⁶ CMA analysis suggested a similar figure.

²⁷ Given the absence of ability, it has not been necessary to consider whether the merged entity would have the incentive to engage in this foreclosure strategy, or what the effect would be.

prevent a substantial lessening of competition, the CMA considers whether such entry or expansion would be timely, likely and sufficient.²⁸

106. In the present case, the CMA has not had to conclude on barriers to entry or expansion as the Merger does not give rise to competition concerns.

Third party views

107. The CMA contacted licensed and unlicensed circuit operators, promoters, racing clubs, track day operators and other third parties hiring track time, relevant trade bodies and motorsport governing bodies. Third party comments have been taken into account where appropriate in the assessment above.

Decision

108. Consequently, the CMA does not believe that it is or may be the case that the Merger has resulted, or may be expected to result, in a substantial lessening of competition within a market or markets in the UK.

109. The Merger will therefore **not be referred** under section 22(1) of the Act.

Adam Land
Senior Director
Competition and Markets Authority
10 August 2017

²⁸ [Merger Assessment Guidelines](#), from paragraph 5.8.1.