

Completed acquisition by Ausurus Group Ltd through its subsidiary European Metal Recycling Limited of CuFe Investments Limited

Decision to refer

ME/6712-17

Introduction

1. On 25 August 2017, Ausurus Group Ltd, acting through its subsidiary European Metal Recycling Limited (**EMR**), acquired CuFe Investments Limited, holding company of Metal & Waste Recycling Limited (**MWR**) (the **Merger**).
2. On 24 January 2018, the Competition and Markets Authority (**CMA**) decided under section 22(1) of the Enterprise Act 2002 (the **Act**) that it is or may be the case that the Merger constitutes a relevant merger situation that has resulted or may be expected to result in a substantial lessening of competition (**SLC**) within a market or markets in the United Kingdom (the **SLC Decision**).¹
3. On the date of the SLC Decision, the CMA gave notice pursuant to section 34ZA(1)(b) of the Act to EMR of the SLC Decision. However, in order to allow EMR the opportunity to offer undertakings to the CMA for the purposes of section 73(2) of the Act, the CMA did not refer the Merger for a phase 2 investigation pursuant to section 22(3)(b) on the date of the SLC Decision. On 21 September 2017 the CMA extended the statutory four-month period mentioned in section 24(1) of the Act by notice pursuant to section 25(4) of the Act.
4. Pursuant to section 73A(1) of the Act, if a party wishes to offer undertakings for the purposes of section 73(2) of the Act, it must do so before the end of the five working day period specified in section 73A(1)(a) of the Act. The SLC Decision stated that if no undertakings for the purposes of section 73(2) of the Act were offered to the CMA by the end of this period, ie by 31 January 2018, or EMR indicated before this deadline that it did not wish to offer such

¹ See <https://www.gov.uk/cma-cases/european-metal-recycling-metal-waste-recycling-merger-inquiry>.

undertakings, then the CMA would refer the Merger for a phase 2 investigation pursuant to sections 22(1) and in accordance with section 34ZA(2) of the Act.

5. Pursuant to section 34ZA(2) of the Act the CMA is not prevented from making a reference under section 22 of the Act in the event that it decides that the duty to refer does not apply because it is considering whether to accept undertakings under section 73 of the Act but no such undertakings are offered or accepted.
6. On 31 January 2018, EMR informed the CMA that it would not offer such undertakings to the CMA.

Decision

7. Therefore, pursuant to sections 22(1) and in accordance with section 34ZA(2) of the Act, the CMA has decided to refer the Merger to its chair for the constitution of a group under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 to conduct a phase 2 investigation.

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7 February 2018