AUSURUS GROUP / METAL & WASTE RECYCLING (MWR) MERGER INQUIRY

PHASE 2 SUBMISSION BY A MARKET PARTICIPANT

A market participant made a confidential submission to the CMA on 23 February 2018. Below is a non-confidential summary of this submission.

1. SUMMARY

1.1 The market participant was of the view that the Phase 1 decision had not adequately assessed the impact of the Transaction on the supply of different grades of ferrous processed scrap metal and, in particular, the supply of low residual ferrous processed scrap metal. In this regard, the market participant expressed concerns that the Phase 1 decision did not adequately address the fact that:

(a) different grades of ferrous processed scrap metal, and low residual scrap metal in particular, are not always substitutes;

(b) the merging parties are the two largest suppliers of low residual ferrous scrap metal with an estimated market share in excess of 80 per cent;

(c) other suppliers of ferrous scrap metal either do not supply low residual ferrous scrap metal, or only provide low residual scrap in relatively small volumes; and

(d) the Transaction will remove from the market an independent supplier of low residual ferrous scrap, remove a competitive constraint on EMR and make the merged entity a compulsory trading partner in respect of the supply of low residual ferrous scrap metal.

1.2 The market participant explained that low residual ferrous scrap metal has a low proportion of other metallic elements such as copper, tin, lead etc. Specifications of ferrous scrap metal grades are agreed jointly by the British Metals Recycling Association, the Cast Metals Federation and UK Steel. Low residual scrap comprises the following grades:

(a) Grade 4A and Grade 4C – New Production Compressed Steel Sheet in bales;

(b) Grade 8A and Grade 8B – New Loose Light Steel Cuttings and Loose Light Steel Cuttings; and

(c) Grade 12A and Grade 12D – New Production Heavy Steel and New Production Clean Shovellable Steel.

1.3 In contrast to other grades of ferrous scrap metal which may be generated from recycling obsolete consumer products (e.g. old scrapped automobiles, domestic appliances and scrap from demolition of buildings and general engineering), low residual scrap is typically generated by factories (e.g. automobile factories) as waste from their production processes.

1.4 In relation to market definition the market participant agreed that the supply of ferrous processed scrap metal and the supply of non-ferrous processed scrap metal represent separate markets. However, the market participant submitted that the supply of ferrous processed scrap metal should be further delineated by grade on the basis that there was a lack of demand side and supply side substitution between grades.

1.5 According to the market participant, for certain uses, scrap metal that has high levels of other metallic elements and contaminants such as copper, tin, lead etc. cannot be used. Accordingly, there is no demand side substitution between low residual scrap and other ferrous scrap metal grades.

1.6 With regards to supply side substitution the market participant noted that:

(a) there are a limited number of large factories from which low residual scrap can be obtained; and

(b) recycling scrap metal from factories requires a scrap yard in relatively close proximity to the factory. Unprocessed scrap generally needs to be collected in skips carrying between five and ten tonnes (in comparison processed scrap is significantly cheaper to transport as once the scrap is densified it can be moved in 25-28 tonnes containers). Competitors to the merging parties have limited yard coverage which restricts their ability to compete to supply certain grades of ferrous scrap metal.

1.7 The market participant was of the view that the market shares presented in the Phase 1 decision understated the merging parties' market positions in the supply of ferrous processed scrap metal as they excluded exports. The market participant submitted that market shares including exports were more relevant as they:

(a) more accurately reflect the merging parties market position in relation to purchasing unprocessed ferrous scrap which is the relevant upstream activity to acquire the inputs for the downstream supply of ferrous processed scrap metal; and

(b) more accurately reflect the supply options available to downstream customers in the UK for sourcing ferrous processed scrap metal.

1.8 Moreover, the market participant was concerned that the merging parties had significantly higher market shares in relation to the supply of low residual ferrous processed scrap metal. The market participant estimated the merging parties combined share of supply of low residual scrap was above 80 per cent.

1.9 In particular, the market participant was concerned that competitors to the merging parties exerted a limited constraint in relation to the supply of low residual ferrous scrap metal for the following reasons:

(a) Sims, the second largest processor and supplier of ferrous scrap in the UK (including exports) does not have a sufficient network of yards in the Midlands (from where the majority of low residual scrap is sourced) and will not therefore be well placed to secure and supply material volumes of low residual scrap metal;

(b) S. Norton, the third largest processor and supplier of ferrous scrap in the UK (including exports) is primarily a dockside operator and does not own and operate a network of inland yards that would enable it to collect, process and supply material volumes of low residual ferrous scrap metal. By contrast EMR and MWR are the only market participants with a network of plants in the Midlands; and

(c) smaller scrap merchants are both individually, and in aggregate, unable to provide material volumes of low residual scrap metal.

1.10 In addition, the market participant felt that processed ferrous scrap metal cannot be economically sourced from overseas as there is a significant price premium for importing scrap metal into the UK compared to domestic supply. The market participant estimated the price premium is around 10 – 15 per cent or approximately £40 - £45 per tonne. The additional costs of importing scrap metal from abroad include the cost of port loading in the EU, freight costs to transport scrap metal from the EU to the UK, the cost of port discharge in the UK and the cost of transporting scrap from the port to a site in the UK.