

# Anticipated acquisition by Bain Capital of Zenith Hygiene Group PLC

## Decision on relevant merger situation and substantial lessening of competition

**ME/6723/17**

The CMA's decision on reference under section 33(1) of the Enterprise Act 2002 given on 19 March 2018. Full text of the decision published on 3 April 2018.

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. Bain Capital Private Equity, L.P. and Bain Capital Private Equity (Europe), LLP (together with their affiliates, **Bain Capital**) is a private equity group that owns **Diversey**. Bain Capital has agreed to acquire Zenith Hygiene PLC (**Zenith**) (the **Merger**). Diversey and Zenith are together referred to as the **Parties**.
2. The Competition and Markets Authority (**CMA**) believes that it is or may be the case that the Parties will cease to be distinct as a result of the Merger, that the share of supply test is met and that accordingly arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.
3. The Parties overlap in the manufacture of cleaning and hygiene products (**cleaning chemicals**) and the supply of these products to customers to different industries and at different levels of the supply chain in the UK. The CMA has assessed the impact of the Merger in the supply of cleaning chemicals to two groups of customers, industrial and institutional customers, separately, using a UK-wide frame of reference in both cases. The CMA considered further segmentation by sectoral customer group or product type, but, for the purpose of this assessment, has not needed to conclude on the

product frame of reference as no competition concerns arise on any plausible basis. The CMA also considered the impact of the Merger at the manufacturing level.

4. The CMA believes that the Merger does not raise competition concerns in the manufacture or supply of cleaning chemicals. The Parties' combined share of supply does not exceed [30-40]% in any candidate frame of reference or any narrower plausible segment within which the CMA has assessed the impact of the Merger. In addition, the increment brought about by the Merger is typically limited (less than 10% in almost all cases).
5. Furthermore, the CMA's assessment has found that customers consistently identify several other competitors in all candidate frames of reference and narrower segments. These rival suppliers are close competitors to the Parties and for most customers the Parties are not considered to be each others' closest competitor. These competitors will continue to impose sufficient constraint on the Parties post-Merger.
6. In light of the vertical relationship between the Parties' activities in the manufacturing and supply of cleaning chemicals (both Parties, to varying extents, currently supply cleaning chemicals to other suppliers, such as distributors, as opposed to end-users), the CMA also assessed the vertical effects of the Merger. The CMA found that the Parties do not have the ability to foreclose other chemical suppliers, given the Parties' low level of sales to third parties, and the number of alternative suppliers in the market.
7. As a result, the CMA believes that in the absence of horizontal and vertical competition concerns, the Merger does not give rise to a realistic prospect of a substantial lessening of competition (**SLC**) in any market.
8. The Merger will therefore **not be referred** under section 33(1) of the Enterprise Act 2002 (the **Act**).

## ASSESSMENT

### Parties

9. Diversey is a global manufacturer and supplier of cleaning chemicals. It is controlled by Bain Capital, a private equity group.<sup>1</sup> Bain Capital had a worldwide turnover of £[~~3~~] billion in 2016, of which £[~~2~~] billion was

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<sup>1</sup> The European Commission approved the acquisition by Bain Capital of Diversey (formerly the Care Division and the Food hygiene and cleaning business of Sealed Air US) on 22 May 2017. (Case M.8466.- *Bain Capital/ Sealed Air Diversey Care Division and Food Hygiene and Cleaning Business*).

generated in the UK. The global turnover of Diversey in 2016 was £[X] billion and its UK turnover was £[X] million.<sup>2</sup>

10. Zenith is a UK-based manufacturer and distributor of cleaning chemicals and other related janitorial products, such as hygiene paper and washroom solutions. The turnover of Zenith in the financial year ending 28 February 2017 was £66.9 million worldwide, of which £[X] million was generated in the UK.

## Transaction

11. Bain Capital intends to take full control of Zenith.
12. The Parties informed the CMA that the Merger is not the subject of review by any other competition authority.

## Jurisdiction

13. As a result of the Merger, the enterprises of Diversey and Zenith will cease to be distinct.
14. The turnover test is not met because the UK turnover of Zenith does not exceed £70 million.
15. The Parties overlap in the supply of cleaning chemicals in the UK to customers in different industries and at different levels of the supply chain. Within the supply of cleaning chemicals to industrial beverage customers, the Parties estimate their combined share of supply is [30-40]% (with an increment of [5-10]% brought about by the Merger).<sup>3</sup> The CMA therefore believes that the share of supply test in section 23 of the Act is met.
16. As a result, the CMA therefore believes that it is or may be the case that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.
17. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 24 January 2018 and the statutory 40 working day deadline for a decision is therefore 20 March 2018.

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<sup>2</sup> Turnover has been converted from USD using an exchange rate of 1 GBP = 1.3542 USD.

<sup>3</sup> Bain Capital's estimated share of supply of the Parties and key competitors based on sales revenue.

## Counterfactual

18. The CMA assesses a merger's impact relative to the situation that would prevail absent the merger (ie the counterfactual). For anticipated mergers, the CMA generally adopts the prevailing conditions of competition as the counterfactual against which to assess the impact of the merger. However, the CMA will assess the merger against an alternative counterfactual where, based on the evidence available to it, it believes that, in the absence of the merger, the prospect of these conditions continuing is not realistic, or there is a realistic prospect of a counterfactual that is more competitive than these conditions.<sup>4</sup>
19. In this case, the CMA has seen no evidence supporting a different counterfactual, and the Parties and third parties have not put forward arguments in this respect. Therefore, the CMA believes the prevailing 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 merging 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.<sup>5</sup>
21. The Parties are both vertically integrated and overlap in the manufacturing of cleaning chemicals, as well as the supply of cleaning chemicals to customers in different industries in the UK.<sup>6</sup>

## Product scope

22. The candidate frame of reference in the decisional practice of the European Commission has distinguished, at the downstream level, between residential

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<sup>4</sup> *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).

<sup>5</sup> *Merger Assessment Guidelines*, paragraph 5.2.2.

<sup>6</sup> The Parties also overlap in a number of ancillary products such as floorcare equipment and spares, and housekeeping items. The Parties' revenues and estimated shares of supply in these products are negligible (relative to the overall businesses, and in most cases with revenue below £[redacted]), with shares of supply estimated at below [5]% in most of those categories. The CMA found no reason to deepen its competitive assessment in any of these categories and no customer or competitor raised any competition issues. As a result, this decision does not address any of these products any further.

and professional end-users, with further segmentation by type of end-user (institutional and industrial). The European Commission decisional practice acknowledged other differences in types of customer, channel of distribution and product type, however, did not need to conclude on the product scope as those cases did not raise any competition concerns under any plausible frame of reference.<sup>7</sup>

23. The European Commission decisional practice considered further segmentation including by distinguishing, within industrial customers, between food and beverage (**F&B**) and professional laundry customers,<sup>8</sup> and further segmenting F&B customers into processed food, beverage, dairy, and agriculture customers.<sup>9</sup> The European Commission has also considered whether the supply of products within the institutional customer segment should be further divided by product type between kitchen hygiene, on-premises laundry and housekeeping hygiene products.<sup>10</sup>

### *Supply of cleaning chemicals*

24. The Parties consider, consistent with the European Commission decisional practice, that differentiating between residential, industrial and institutional customers could be appropriate. They noted the differences in the way the products are delivered, with industrial customers having the cleaning chemicals delivered in bulk, and differences in branding.
25. Notwithstanding these differences, the Parties submitted that the cleaning chemical products are broadly similar between customers and that there are limited barriers for suppliers to switch between customer segments. The Parties do not supply cleaning chemicals for residential use and as a result, the CMA has focused on industrial and institutional customers.
26. The CMA considered it appropriate to segment the product frame of reference between industrial and institutional customers. These customer groups have different uses for the cleaning chemicals, procure their products via different delivery methods and containers, and typically choose between different sets of suppliers (albeit that some suppliers are active across both types of customer/end-user). In particular, institutional customers often buy their

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<sup>7</sup> Case IV/M.704 – [Unilever/Diversey](#), paragraphs 7-12, and Case M.2665 – [Johnson Professional Holdings/Diverseylever](#), paragraphs 8-16.

<sup>8</sup> Diversey does not supply professional laundry customers and Zenith has de minimis sales of less than £[X] therefore the CMA has not considered these customers further.

<sup>9</sup> Case IV/M.704 – [Unilever/Diversey](#), paragraph 8.

<sup>10</sup> Case IV/M.704 – [Unilever/Diversey](#), paragraph 9, and Case M.2665 – [Johnson Professional Holdings/Diverseylever](#), paragraphs 10-16.

cleaning chemicals from distributors, who also supply products related to cleaning chemicals.

*Industrial customers and further segmentation*

27. Industrial customers include those who use cleaning chemicals to clean manufacturing and processing equipment and premises, who normally purchase in bulk directly from cleaning chemical manufacturers.
28. The Parties submitted that customer segmentation within industrial F&B customers was not meaningful given strong supply-side substitutability and the prevalence of suppliers catering for all industrial customer types.
29. Questionnaire responses from F&B customers and suppliers received by the CMA confirmed limited differences between the F&B customers' requirements, and the ability of competitors to supply the different customer groups. Therefore, the CMA has considered all industrial customers within the same product frame of reference, with any customer-specific differences considered in its competitive assessment.

*Institutional customers and further segmentation*

30. Institutional customers include those who use cleaning chemicals and associated products to clean their premises and equipment at which products or services are offered to consumers, including public (eg hospitals, schools) and commercial (eg hotels, restaurants) customers.
31. The Parties submitted that cleaning chemicals should not be segmented by product type, given the difficulty in drawing clear distinctions between product type (as the underlying chemical formulation is broadly similar across many products), that the same product can be used in different settings, and that there is strong supply-side substitution.
32. The majority of questionnaire responses from customers and competitors received by the CMA supported the Parties' view, and the CMA did not find any evidence of niche products offered by one or both Parties that other suppliers were unable to provide. Therefore, the CMA has not considered the different cleaning products supplied to institutional customers as separate frames of reference.
33. The Parties also submitted that further segmentation of institutional customers by customer type was unnecessary, given supply-side substitution and that customer types would use very similar products. Notwithstanding this position, the Parties provided information around possible segmentation of institutional

customers into foodservice, hospitality, healthcare, building services, government/education and retail customer types.

34. The CMA received limited evidence to suggest that customer types within institutional customers should form separate product frames of reference, with competitors able to cater for all customer types with little difference in customer requirements. Therefore, the CMA has considered institutional customers within the same product frame of reference, with any customer-specific differences considered in its competitive assessment.

#### *Manufacture of cleaning chemicals*

35. The Parties submitted that while they both manufacture cleaning chemicals for multiple purposes, the relevant market on which to assess their activities was the supply of cleaning chemicals, rather than the manufacture of cleaning chemicals, primarily due to their low levels of sales to other suppliers or distributors.<sup>11</sup>
36. The CMA estimates that while suppliers not active in manufacturing account for less than 5% of all sales to industrial customers, they account for over half of all sales to institutional customers. The CMA has therefore considered the manufacture of cleaning chemicals for institutional customers separately from the supply of cleaning chemicals to institutional customers.

#### *Conclusion on product scope*

37. For the reasons set out above, the CMA has considered the impact of the Merger in the following product frames of reference:
- The supply of cleaning chemicals to industrial customers;
  - The supply of cleaning chemicals to institutional customers; and
  - The manufacturing of cleaning chemicals for institutional customers.
38. However, it is not necessary for the CMA to reach a conclusion on the product frame of reference, since, as set out below, no competition concerns arise on any plausible basis.

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<sup>11</sup> The Parties submitted that Diversey sells less than [X]% of its products to distributors as customers, but that it also uses third-party distributors or logistics providers to deliver and invoice customers. Zenith supplies its end-customers via its in-house distribution operation. Both Parties also manufacture a small volume on a white label basis for other suppliers (less than [X]% of each Party's manufacturing output).

## ***Geographic scope***

39. The European Commission decisional practice has considered the geographic frame of reference to be at least national,<sup>12</sup> while noting that some industrial and institutional detergent markets are more likely to be national given costs of transportation, different national legislative requirements, and the need to serve customers regionally.
40. The Parties submitted the geographic frame of reference is at least national in scope, and told the CMA that even if a supplier did not have the delivery capability to deliver across the whole UK, they could engage third-party logistics providers to do so.
41. Third-party evidence mostly supported the Parties' views on the geographic scope of the supply of cleaning chemicals, with competitors submitting that they supply across the UK without any material variation to their terms based on location.
42. The CMA has assessed the impact of the Merger for each product frame of reference on a UK-wide basis.

## ***Conclusion on frame of reference***

43. For the reasons set out above, the CMA has considered the impact of the Merger in the following frames of reference:
  - The supply of cleaning chemicals to industrial customers in the UK;
  - The supply of cleaning chemicals to institutional customers in the UK; and
  - The manufacturing of cleaning chemicals for institutional customers in the UK.

## **Competitive assessment**

### ***Horizontal unilateral effects***

44. 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 to degrade quality on its own and without needing to coordinate with its rivals.<sup>13</sup> Horizontal unilateral effects are

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<sup>12</sup> European Commission Case IV/M.704 – [Unilever/Diversey](#), paragraph 16, and European Commission Case M.2665 – [Johnson Professional Holdings/Diverseylever](#), paragraph 24.

<sup>13</sup> [Merger Assessment Guidelines](#), from paragraph 5.4.1.



more likely when the merging parties are close competitors. The CMA assessed whether it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC in relation to horizontal unilateral effects in the supply of cleaning chemicals to industrial and institutional customers in the UK.

45. In undertaking this assessment, the CMA considered the Parties' shares of supply in each frame of reference and evidence relating to the closeness of competition between the Parties pre-Merger and the remaining post-Merger competitive constraints. In addition, the CMA assessed whether the estimated shares of supply did not accurately reflect the actual level of competition loss resulting from the Merger. For example, if the products or services of the merging parties are close substitutes or perceived to be by customers as such, unilateral horizontal effects are more likely because the merged firm will recapture a significant share of the sales lost in response to a price increase.

#### *Shares of supply*

46. The Parties estimated their share of supply for the frames of reference, as well as segmented further by sectors or customer types for those in which their activities overlap, as shown below in Table 1.

**Table 1: Share of supply estimates of cleaning chemicals by customer segment (UK, 2016). Sales by value.**

	Diversey	Zenith	Combined
<b>Industrial customers</b>	<b>[10-20]%</b>	<b>[5-10]%</b>	<b>[10-20]%</b>
<i>F&amp;B Beverage</i>	<i>[20-30]%</i>	<i>[5-10]%</i>	<i>[30-40]%</i>
<i>F&amp;B Dairy</i>	<i>[5-10]%</i>	<i>[5-10]%</i>	<i>[10-20]%</i>
<i>F&amp;B food manufacturing</i>	<i>[10-20]%</i>	<i>[5-10]%</i>	<i>[20-30]%</i>
<b>Institutional customers</b>	<b>[5-10]%</b>	<b>[0-5]%</b>	<b>[10-20]%</b>
<i>Food service</i>	<i>[5-10]%</i>	<i>[5-10]%</i>	<i>[10-20]%</i>
<i>Chains</i>	<i>[10-20]%</i>	<i>[10-20]%</i>	<i>[20-30]%</i>
<i>Independent</i>	<i>[0-5]%</i>	<i>[0-5]%</i>	<i>[0-5]%</i>
<i>Hospitality</i>	<i>[10-20]%</i>	<i>[0-5]%</i>	<i>[10-20]%</i>
<i>Health</i>	<i>[5-10]%</i>	<i>[0-5]%</i>	<i>[10-20]%</i>
<i>Buildings</i>	<i>[5-10]%</i>	<i>[0-5]%</i>	<i>[5-10]%</i>
<i>Education/govt.</i>	<i>[10-20]%</i>	<i>[0-5]%</i>	<i>[10-20]%</i>
<b>Manufacturing of products for institutional customers</b>	<b>[10-20]%</b>	<b>[0-5]%</b>	<b>[10-20]%</b>

Source: The Parties.

47. In their estimates, the Parties used internal sales data, publicly available competitor information (such as annual accounts), third-party market reports and their knowledge of the industry to estimate total market size and their relevant shares. The Parties acknowledge that a lack of publicly available information and comprehensive market reports place limitations on the accuracy of such calculations.
48. The CMA tested the estimates provided by the Parties by comparing them with information provided by competitors. The CMA notes that the shares as calculated by the Parties appear to be broadly accurate (and may, in some cases, have understated their competitors' sales revenues for certain customer segments). The overall competitive assessment below addresses these uncertainties.
49. The estimated shares of supply set out in the table above indicate that the Parties' combined share of supply does not exceed [30-40]% in any candidate frame of reference or narrower plausible segment within which the CMA has assessed the Merger. In addition, as explained further below, the increment brought about by the Merger is typically limited (less than 10% in almost all cases).

### *Industrial customers*

#### *Closeness of competition*

50. The Parties submitted that Zenith is not a close competitor to Diversey for industrial customers. They told the CMA that Zenith only has a [5-10]% share of supply and Diversey faces stronger competition from several other competitors. The Parties also noted that there were limited customer interactions in which both Parties competed for the same customer, which further illustrated Zenith's limited presence in this segment.
51. This was consistent with the Parties' internal documents. These show limited evidence of close competition between Zenith and Diversey for industrial customers. Diversey's internal documents focus on Ecolab, and a reference to Diversey in a Zenith document states that the "[X]" when compared to Zenith's technical offering.
52. Testing this submission with industrial customers, the CMA found that around half of those industrial customers who responded to the CMA's questionnaire had not heard of or had limited awareness of the other Party. As a result, the CMA believes that pre-Merger the closeness of competition between the Parties for industrial customers is limited.

### *Other competitive constraints*

53. The Parties submitted that post-Merger they would face strong competition from competitors such as Holchem, Ecolab and Christeyns, all of which have a larger estimated share of supply to industrial customers than Zenith. The Parties also submitted that they face significant competition from a large number of smaller players, which they estimate represent around a third of all supply.
54. Some customers told the CMA they are concerned that the Merger could lead to a loss of competition. However, when asked, customers in aggregate listed more than ten alternative named suppliers to the Parties. The most frequently listed were Ecolab, Christeyns and Holchem, together with some global suppliers, such as Univar and Brenntag, and other local or national suppliers, such as Bunzl and AFCO.

### *Institutional customers*

#### *Closeness of competition*

55. As with their submissions in relation to industrial customers (as described in paragraph 50 above), the Parties told the CMA that Zenith is not a close competitor to Diversey for institutional customers. The Parties submitted that Zenith only has a [0-5]% share of supply in this frame of reference and Diversey faces stronger competition from multiple other competitors.
56. Internal documents submitted by the Parties and third-party responses mostly corroborate this submission. The Parties' documents show that Diversey and Zenith do compete for institutional customers, particularly those in the foodservice sector. In this customer segment, Zenith records the majority of its competitor interactions with Diversey. For other customer types, Zenith appears to have marginal sales and more limited market presence. For this reason, the CMA focused its assessment on the impact of the Merger for institutional customers in the foodservice sector. As described below, the available evidence in relation to the closeness of competition between the Parties within this segment was mixed.
57. On the one hand, third party views stressed material differences between the Parties. A customer told the CMA that Diversey has "*greater scale and geographic reach*" and another commented that they would not see Zenith as a viable alternative given their need for a global cleaning chemical strategy, which Zenith is unable to offer. Similarly, a few customers indicated that they did not consider the Parties to be close competitors. One of these told the

CMA that Diversey has “*much better recognition as a quality supplier*”, with others mentioning different levels of customer service.

58. On the other hand, some other customers confirmed that the Parties compete more closely in the supply to institutional foodservice customers, and considered the companies to be similar in the products and service they offer.

#### *Other competitive constraints*

59. The Parties submitted there is strong competition from multiple sizeable competitors in this frame of reference. These include Ecolab, Bunzl, Jangro and Nationwide Hygiene, and that they face competitive pressure from other generalist distributors who offer the advantage of a wide portfolio of products (which institutional customers can buy alongside cleaning chemicals) and often have regular direct contact with customers to reinforce relationships.
60. In their internal documents, the Parties list multiple competitors. Diversey documents focus on Ecolab, as well as other international competitors (but typically not Zenith). Zenith’s documents report on competition with both Diversey and Ecolab, as well as other suppliers including Bunzl, Nationwide Hygiene, Alliance and Delphis Eco.
61. A small proportion of customers raised concerns that the Merger could lead to some loss of competition and choice. However, those customers identified in aggregate more than ten alternative suppliers to the Parties in their questionnaires responses to the CMA. The most often mentioned competitor was Ecolab. Other available suppliers that were frequently mentioned by customers included Alliance, Bunzl, P&G, Innuscience, and other local suppliers. Most customers also commented that switching suppliers would be relatively easy with limited cost.

#### *Conclusion on horizontal unilateral effects*

62. For the reasons set out above, the CMA believes that although the Parties do compete to some extent for both industrial and institutional customers, they typically face closer competition from other rivals. The available evidence indicates that there will remain a wide range of alternative suppliers who will continue to constrain the Parties across all frames of reference post-Merger.
63. Accordingly, the CMA found that the Merger does not give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the supply of cleaning chemicals to industrial and institutional customers in the UK.

## **Vertical effects**

64. Vertical effects may arise when a merger involves firms at different levels of the supply chain, for example a merger between an upstream supplier and a downstream customer or a downstream competitor of the supplier's customers.
65. Vertical mergers may be competitively benign or even efficiency-enhancing, but in certain circumstances can weaken rivalry, for example when they result in foreclosure of the merged firm's competitors. The CMA only regards such foreclosure to be anticompetitive where it results in an SLC in the foreclosed market(s), not merely where it disadvantages one or more competitors.<sup>14</sup>
66. Both Diversey and Zenith are active in manufacturing cleaning chemicals, as well as supplying these to the end-user. There are a number of businesses active in either just the manufacture of cleaning chemicals (for sale by others, eg on a white label or contract manufacturing basis), or just the supply of cleaning chemicals to the end-user (eg distributors who procure the products from manufacturers, including the Parties, and supply a range of products including cleaning chemicals to the end-user).
67. The CMA's approach to assessing vertical theories of harm is to analyse (a) the ability of the Parties post-Merger to foreclose competitors, (b) the incentive of them to do so, and (c) the overall effect of the strategy on competition.<sup>15</sup>
68. The Parties mostly sell to end-customers, and have limited sales to other suppliers. Diversey sells less than [X]% of the cleaning chemicals it manufactures to distributors, and both Zenith and Diversey manufacture a very small volume of cleaning chemicals on a white-label basis (see footnote 11 above). The CMA estimates that the value of cleaning chemicals sold by the Parties to other suppliers would at most make up around [5-10]% of the total value of cleaning chemicals supplied to institutional customers.
69. Post-Merger, there will still be a wide range of alternative manufacturers available to downstream distributors. There are alternative manufacturers selling branded products via independent distributors, such as P&G and Selden Research. There are also other manufacturers offering contract manufacturing, such as McBrides, Trichem Wales, Trichem South, Coventry Chemicals, Evans Vanodine and Bio Productions. The CMA did not find

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<sup>14</sup> In relation to this theory of harm 'foreclosure' means either foreclosure of a rival or to substantially competitively weaken a rival.

<sup>15</sup> [Merger Assessment Guidelines](#), paragraph 5.6.6.

evidence of any niche products that the Parties offer that other manufacturers would not be able to supply.

70. For these reasons, the CMA considers that the Parties would not have the ability to foreclose other downstream suppliers of cleaning chemicals to end-users.
71. As the CMA considers that the Parties would not have the ability to foreclose downstream competitors post-Merger, for the reasons explained above, it has not considered the incentive of them to do so or the overall effect of such a strategy on competition.

#### *Conclusion on vertical effects*

72. For the reasons set out above, the CMA believes that the available alternative suppliers will limit the Parties' ability to foreclose and that the acquisition does not significantly increase Diversey's ability to foreclose.
73. Accordingly, the CMA found that the Merger does not give rise to a realistic prospect of an SLC as a result of vertical effects in relation to the manufacture and supply of cleaning chemicals to other suppliers in the UK.

#### **Decision**

74. Consequently, the CMA does not believe that it is or may be the case that the Merger may be expected to result in an SLC within a market or markets in the United Kingdom.
75. The Merger will therefore **not be referred** under section 33(1) of the Act.

**Colin Raftery**  
**Director of Mergers**  
**Competition and Markets Authority**  
**19 March 2018**