Completed acquisition by Ausurus Group Ltd of Metal & Waste Recycling

Provisional findings report

Notified: 1 June 2018

The Competition and Markets Authority has excluded from this published version of the provisional findings report information which the inquiry group considers should be excluded having regard to the three considerations set out in section 244 of the Enterprise Act 2002 (specified information: considerations relevant to disclosure). The omissions are indicated by [✂]. [Some numbers have been replaced by a range. These are shown in square brackets.] [Non-sensitive wording is also indicated in square brackets.]

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Summary of provisional findings

1. Pursuant to section 22 of the Enterprise Act 2002 (The Act), on 7 February 2018 the Competition and Markets Authority (CMA) referred for an in-depth phase 2 investigation the completed acquisition by Ausurus Group Ltd (through its subsidiary European Metal Recycling Limited (EMR)) of CuFe Investments Limited, including its wholly owned subsidiary Metal & Waste Recycling Limited (MWR) (the Transaction). We have provisionally found that the merger has resulted, or may be expected to result, in a substantial lessening of competition (SLC) in a number of markets in the UK for goods or services, as explained below.

2. The merger Parties are metal recyclers. Metal recycling involves purchasing metals from suppliers that have waste scrap metal they wish to sell, in most cases processing it, and either selling the scrap metal on to other metal recyclers, exporting it, or selling it to UK customers. For suppliers of waste scrap metal the Parties provide a waste disposal and recycling service. For customers of scrap metal they provide input material into a manufacturing process, such as the production of steel.

3. EMR operates 65 metal recycling sites across the UK. MWR is active at 8 sites across London and the South East, Wales, the West Midlands and the North East.

4. EMR is the UK's largest metal recycler by some distance – it has twice as many sites as its nearest rival, and by volume its size difference is even larger. On its own, it has a large share in most of the markets we have examined. The Transaction brings EMR together with MWR, the third largest metal recycler in the UK by sites (fourth largest by volume). In most of the markets we have examined they have a high combined share. Beyond the top four metal recyclers, the other recyclers in the industry are much smaller than MWR, and very much smaller than EMR. Smaller recyclers frequently sell to larger firms, including EMR and MWR, in order for the scrap metal to reach final customers in the UK and elsewhere. This means that a high proportion of scrap metal in the UK passes through the hands of a small number of recyclers.

5. We received a number of concerns from customers about EMR's existing size and power, and carefully examined whether, although it is smaller, the loss of the constraint from MWR would give rise to an SLC.

6. EMR completed the purchase of MWR on 25 August 2017. We provisionally consider that the appropriate counterfactual for the assessment of the effects

of the merger is MWR's operations, and the market conditions, that existed before the Transaction.

7. In this inquiry, we defined markets in relation to the upstream purchase of waste scrap metal by metal recyclers, and to the downstream sale of processed scrap metal to customers such as steel mills.

8. We have provisionally found, for purchasing, that geographic markets are regional – within an area of 115 km around shredder sites, and 50 km around other sites – and that there are separate markets for:

   (a) Purchasing of shredder feed. We drew this distinction on the basis that the processing of shredder feed requires use of a shredder, which relatively few metal recyclers have, meaning that conditions of competition are substantially different in this segment.

   (b) Purchasing of ferrous and non-ferrous metal from tendered contracts. We drew a distinction in this way between purchasing large volumes of waste scrap metal via competitive tender and purchasing other waste scrap metal on the basis of comment from suppliers, competitors, and final customers that the conditions of competition are substantially different in the tendered contract segment.

   (c) Purchasing of ferrous metals and non-ferrous metals (other than shredder feed and materials from tendered contracts). We did not draw any further distinctions between metal types because we understand that almost all metal recyclers accept both ferrous and non-ferrous materials, and that the necessary processing equipment is relatively widespread across a high proportion of metal recyclers.

9. We have provisionally found, for sales to UK customers, that geographic markets are national across all product markets. We have provisionally concluded that the market is not wider than national because of the high costs of importing material, but did take account of how exports create a link between UK and international prices. In relation to specific product markets for sales to UK customers we provisionally found that there are separate markets for:

   (a) Sales of new production steel (NPS). This provisional conclusion is based on comments from competitors and customers of the Parties that the conditions of competition in sales of new production steel are substantially different from those in the sale of other ferrous or non-ferrous metals.

   (b) Sales of other ferrous metals; and

(c) Sales of non-ferrous metals. We have provisionally concluded that the market for non-ferrous metals is separate from that for ferrous metals because the two types of metal are not substitutable from the point of view of customers, have distinct processing needs, and there are also some specialist non-ferrous recyclers that aggregate volumes for sale to customers.

10. Our competitive assessment considers the effects of the merger in the following markets in which the Parties overlap:

(a) Purchases of shredder feed in the South East (chapter 8);

(b) Purchases of ferrous and non-ferrous scrap metals in London (chapter 9);

(c) Purchases of ferrous and non-ferrous scrap metals from tendered contracts in the West Midlands, North East, and Wales (chapter 10);

(d) Sales of new production steel to UK customers (chapter 11); and

(e) Sales of other ferrous and non-ferrous scrap metals to UK customers (chapter 12).

11. Below we set out our provisional conclusions on whether the merger has resulted, or may be expected to result, in a substantial lessening of competition within these markets. Before that we set out some characteristics of the industry that have been pertinent to our analysis.

Background to our analysis

12. Waste scrap metal is a by-product of other activities. This means that the factories, demolition companies, car breakers, local authorities, tradespeople and households that sell their waste scrap to the Parties are not suppliers in the usual sense of an upstream firm producing an input. Instead, for suppliers, metal recyclers provide a service that allows them to dispose of waste materials.

13. Once purchased by a metal recycler, there are various routes that scrap metal can take to reach a final customer in the UK or abroad. There are important distinctions between four categories of scrap metal in relation to the route to a final customer. Broadly:

(a) Non-ferrous metals come from varied sources and often require little processing before being sold to UK customers (ie mills and metal foundries) or exported. When they are exported, this usually occurs using containers, often via traders.

(a) Shredder feed comes from varied sources but there are certain types of scrap which usually need to be shredded (for example cars and white goods), others that may need to be shredded depending on customer requirements, and further grades which are sometimes or often shredded but can be processed in other ways. For customers, the output of shredding is in most cases substitutable for other non-shredded grades, and is almost all exported, usually in bulk.

(b) New production steel comes from factories, requires limited processing other than, sometimes, baling, and is exported in containers or bulk, as well as being sold to UK customers.

(c) Other ferrous materials from varied sources can require shearing, and are mostly exported in bulk, as well as being sold to UK customers.

14. Metals can be exported in containers (primarily to Asia), through short-sea bulk to European customers, or deep-sea bulk to more distant customers, or can be sold to UK customers. Each of the export routes reaches different international markets and may have different prices at any given time, which may also differ from sales prices to UK customers. Individual metal recyclers may, depending on the extent of their export capabilities and ability and appetite for dealing with UK customers, sell directly to some or all of these four markets, or to other metal recyclers that do so.

15. It is not essential for each recycler to offer every stage in each route to market, because if metal recyclers find it more profitable (or feasible) they can sell to other recyclers rather than themselves doing certain types of processing, or making UK or export sales.

16. However, competitive purchase and sale prices (and service), for any given category of waste or processed scrap metal, depend on there being sufficient competition at each stage of the supply chain that applies to each metal type, and we provisionally found that firms that can provide multiple stages, or all the stages, involved in the supply chain have an advantage over rivals that can provide only one stage.

17. We have taken into account submissions from the Parties and third parties which are specific to each area and market in question. In the course of the inquiry we received evidence from 26 suppliers of waste scrap metal, 31 metal recyclers, and 46 customers of processed scrap metal. With a small number of third parties we conducted in-depth hearings. A summary of these hearings is available on the Ausurus/MWR case page on the CMA website. We note that some of these third parties may have more than one relationship with the Parties, as supplier, competitor, customer, and in some cases also

rival bidders or potential bidders in the sales process in which EMR bought MWR. We received many different, and often conflicting, views and have interpreted third party comments in light of their varied relationships and resulting incentives.

18. We also conducted a survey of 800 mostly small suppliers in London, the South East and the West Midlands, of which 58 were also metal recyclers. At many of the Parties' sites, the survey achieved only a very small sample size and as such has been interpreted with caution. At all sites, respondents were primarily very small, and we have used it to understand the concerns of that group, alongside the evidence from larger suppliers we contacted directly.

19. Where relevant, our assessment has been informed by data on the Parties' and competitors' purchase and sales volumes, and bidding activity. This data has been collated from a range of sources and as such is not comprehensive. Interpretation of shares data is complicated by the fact that many metal recyclers sell to and buy from one another, as well as from original suppliers and to final customers, meaning that two recyclers may handle similar volumes of metal while one simply passes it directly to another recycler and the other conducts a complete supply chain including processing and sale to a final customer.

Purchases of shredder feed in the South East

20. Our provisional conclusion on the purchase of shredder feed grades in the South East is that the Transaction has resulted, or may be expected to result, in an SLC. This is based on:

    (a) The Parties' high combined shares of shredder feed purchases at shredder sites within 115km of their sites at Hitchin, Willesden or East Tilbury, of [60-70]%, and the very substantial increment provided by the acquisition of MWR ([20-30]%). The merger combines the two largest purchasers in the region;

    (b) The weaker capability of other shredders in the catchment area. Whilst there are competing shredder sites and some have spare capacity, these competitors operate much less powerful shredders than the Parties, which limits their capacity and the grades that they can process;

    (c) The distant location of some shredders in the catchment area, when assessed from the point of view of the suppliers most likely to currently choose between the Parties. While we considered competition from shredder sites across a wide geographic area, evidence on supplier locations and on transport costs indicated that those shredders located in

the West Midlands and in Sussex were unlikely to impose a sufficient constraint to prevent an SLC for suppliers close to the Parties' shredder sites in north London, Essex and Hertfordshire. Such suppliers would have to travel well over 115km to reach these alternative shredders; and

(d) High barriers to entry for shredder sites, in particular given the difficulty of finding a suitable site and securing planning permission in London and the South East, as well as the costs of such sites and the length of time required to commission them.

Purchases in the London region of ferrous and non-ferrous metals other than shredder feed

21. Our provisional conclusion on the purchase of ferrous and non-ferrous scrap metals (other than shredder feed) in the London region is that the Transaction has resulted, or may be expected to result, in an SLC. This is based on:

(a) The Parties' high combined market shares ([40-50]%) and the material increment to this provided by the acquisition of MWR ([5-10]%) – the merger brings together the two largest purchasers in the region (with EMR by far the largest);

(b) Evidence that both Parties are important in providing an onward route to market for smaller recyclers who themselves lack necessary processing equipment or export capabilities – indicating both that the Parties are close competitors and that smaller recyclers are a weaker constraint;

(c) Weak constraints from other recyclers. Our detailed assessment of the other competitors in the region suggests they provide some constraint, but these competitors all purchase much lower volumes than the Parties, and many are distant from the areas where the Parties' catchments overlap or use EMR (and MWR) as an important route to market. The remaining competition therefore appears unlikely to be sufficient to constrain the Parties post-merger; and

(d) High barriers to entry in London for a site or sites which would provide an equivalent constraint to the independent processing and exporting capabilities and capacity that would be lost by the acquisition of MWR's London sites and assets.

Purchases from tendered contracts

22. Our provisional conclusion on purchases from tendered contracts is that the Transaction has resulted, or may be expected to result, in an SLC in the West Midlands and in the North East, but not in Wales.

23. Comments from competitors and suppliers, and evidence on the existing contracts held by competitors, suggested that tendered contracts are the most difficult to compete for and only a limited set of metal recyclers are able to win these large contracts. NPS makes up a large proportion of the material from tendered contracts and half of all purchased NPS comes from this route.

24. We investigated whether the merger would enable the Parties to submit bids for the contracts at prices below the pre-merger levels and/or worsen the quality of service provided to suppliers that use large tendered contracts.

25. Nationally, we have found that the Parties account for over 60% of NPS volumes purchased (with an increment of [10-20]%). Based on tenders we examined, in which the Parties participated, we found that they had a strong position in the tendered segment, with other competitors being, in general, far less successful. A summary of our analysis by region is below.

West Midlands

26. In the West Midlands, the Parties have been successful in winning tendered contracts, with most other competitors being far less successful.

27. Other constraints in the area appear to be weak, with rivals having bid very infrequently, with little success.

28. Five out of nine large suppliers we spoke to were concerned about the merger, and we have not been able to identify any countervailing measures, such as entry or expansion by rivals or buyer power by suppliers, which would prevent an SLC from arising. One third-party metal recycler told us that it was looking to enter the West Midlands and compete for tendered contracts, but it had not secured a site and therefore we cannot be sufficiently sure that it would enter and provide a sufficient constraint to prevent an SLC.

29. We therefore provisionally conclude that the Transaction has resulted, or may be expected to result, in an SLC in purchasing of scrap metal from tendered contracts in the West Midlands.

North East

30. In the North East, the Parties have been successful in competing for, and winning bids, with limited success for other bidders for these tendered contracts. Two large suppliers of NPS raised concerns about the merger.

31. There are other competitors active in the area, but each is weak, and we provisionally consider that they are not sufficient to prevent an SLC: a competitor that competes weakly from outside the area, others that bid infrequently or with little success, and only one supplier that appears to have some prospect for encouraging entry from outside the region.

32. We have not been able to identify any countervailing measures, such as entry or expansion by rivals or buyer power by suppliers, which would be sufficient to prevent an SLC from arising in the North East.

33. We provisionally conclude that the Transaction has resulted, or may be expected to result, in an SLC in purchasing of scrap metal from tendered contracts in the North East.

Wales

34. In Wales, there are no large contracts of the scale that we have seen in the other regions that we have examined. This indicates that a broader range of competitors are likely to compete for each contract than in other areas. In line with this, very little NPS is purchased by the Parties in the Wales region, and the merger also creates a very small increment in overall purchases in the area.

35. We did not receive any concerns about the merger from large suppliers in Wales, and the bidding data available to us is consistent with this lack of concern. Therefore, we provisionally consider that the Parties will continue to face sufficient competition for tendered contracts in Wales after the merger.

36. We provisionally conclude that the Transaction may not be expected to result in an SLC in the purchasing of scrap metal from tendered contracts in Wales.

Sales of new production steel to UK customers

37. Our provisional conclusion on sales of new production steel to UK customers is that the Transaction has resulted, or may be expected to result, in an SLC.

38. The Parties' estimated [50-60]% combined share of current sales of NPS to UK customers (with a [5-10]% increment) raises a strong reason for concern. This was reinforced by the concerns from several customers who argued that

EMR has existing power in this market and that MWR is an important constraint.

39. Customers also told us that they value reliable supply of high volumes and pay higher prices per tonne to those recyclers that can provide this. MWR's position as the provider of the second-highest volumes of NPS to UK customers, in a market where very few recyclers sell similar quantities, makes it a close competitor to EMR.

40. We assessed the constraint provided by other recyclers, taking into account both volumes that they supply to UK customers, and the volumes they currently export or sell to other recyclers. However, we provisionally found that although the Parties face some constraint from Sims, GES Recycling, Ward Bros and Enablelink, including to an extent from volumes that these recyclers currently export, this is not likely to be sufficient to prevent an SLC given the Parties' high market share and existing evidence that high-volume recyclers get paid more.

41. We have also provisionally found that customers seeking to purchase directly from suppliers are unlikely to represent a competitive constraint sufficient to prevent an SLC.

Sales of other ferrous metals to UK customers

42. Our provisional conclusion on the sale of other ferrous metals to UK customers is that the Transaction is not likely to result in an SLC.

43. In ferrous metals other than NPS, the Parties have an estimated share of current sales to UK customers of around [20-30]%, but the increment provided by MWR is [0-5%]%. Moreover:

(a) There are many UK recyclers that currently sell to UK customers;

(b) Customer concerns were few, with most telling us that they have multiple other recyclers from whom they can purchase non-NPS grades and that competition is stronger than in NPS; and

(c) Competition in sales is affected by recyclers' access to metals through competition for purchases, and competition for purchases in non-NPS ferrous materials takes place across the country. As well as London (where we have found an SLC in purchasing), it includes the West Midlands and North East where MWR's focus is on industrial NPS contracts (which relate primarily to NPS, meaning that there is little effect in relation to other metals), and several regions where the Parties do not overlap and there is no merger effect.

44. Assessing this evidence in the round, we found that an SLC is not likely to arise in the sale of ferrous metals (other than NPS) to UK customers.

Sales of non-ferrous metals to UK customers

45. Our provisional conclusion on the sale of non-ferrous metals to UK customers is that the Transaction is not likely to result in an SLC.

46. Although we received one complaint from a large customer specific to the supply of copper, other large customers of copper were not concerned. The Parties have a low overall share in the supply of non-ferrous metals, and customers and competitors listed multiple competitors, including for copper.

Provisional findings

47. We have provisionally concluded that the Transaction has resulted, or may be expected to result, in an SLC in the following markets, involving a large proportion of the MWR business:

(a) Purchasing of shredder feed in the South East;

(b) Purchasing of ferrous and non-ferrous scrap metals in the London region;

(c) Purchasing of ferrous and non-ferrous scrap metals through tendered contracts in the West Midlands;

(d) Purchasing of ferrous and non-ferrous scrap metals through tendered contracts in the North East; and

(e) Sales of new production steel to UK customers.

Provisional findings

1. The reference

1.1 On 7 February 2018, in exercise of its duty under section 22(1) of the Act, the CMA referred for further investigation and report by a group of CMA panel members (the inquiry group) the completed acquisition by Ausurus Group Ltd (through its subsidiary European Metal Recycling Limited) of CuFe Investments Limited (including its wholly owned subsidiary Metal & Waste Recycling Limited).

1.2 In exercise of its duty under section 22(1) of the Act, the CMA must decide:

(a) whether a relevant merger situation has been created; and

(b) if so, whether the creation of that situation has resulted, or may be expected to result, in a substantial lessening of competition within any market or markets in the United Kingdom for goods or services.

1.3 Our terms of reference, along with information on the conduct of the inquiry, are set out in Appendix A. We are required to publish our final report by 24 July 2018.

1.4 Ausurus Group Ltd and its wholly-owned subsidiary European Metal Recycling Limited are together referred to as EMR throughout this document. CuFe Investments Limited and its wholly-owned subsidiary Metal & Waste Recycling Limited are together referred to as MWR throughout this document. Where relevant, we refer to EMR and MWR collectively as the Parties.

1.5 This document, together with its appendices, constitutes our provisional findings, published and notified to EMR and MWR in line with the CMA's rules of procedure.[1] Further information relevant to this inquiry, including non-confidential versions of the submission received from the Parties and summary of our hearings with third parties, can be found on our website.

[1] *CMA rules of procedure for merger, market and special reference groups (CMA17)*, Rule 11.

2. The Parties

EMR

2.1 EMR is a wholly-owned subsidiary of Ausurus Group Limited. EMR is a privately-owned UK based company, headquartered in Warrington, with metal recycling operations in the UK, continental Europe and the USA. It employs around 4,000 people operating at 150 locations around the world. Its core business is the recycling of scrap metal, which results in sales of recycled commodities of around 10 million tonnes a year.

2.2 EMR is largest metal recycler in the UK, by some distance. It operates 65 metal recycling sites in the UK.[2] Of these sites, 18 are feeder sites where no processing takes place, and 10 are dockside sites. EMR has deep-sea dockside sites at Cardiff[3], Liverpool, Tilbury and Tyne[4] and short-sea sites at Glasgow, Eccles, Southampton, Newhaven, Sunderland and Great Yarmouth.[5] The rest are processing sites. EMR has a shredder at 8 of these sites (Birmingham, Hartlepool, Liverpool, East Tilbury, Erith, Newhaven, Portsmouth, Willesden and Leeds). The Erith shredder is currently not operational.[6,7]

2.3 In the year to December 2017 EMR's group turnover was £[✂] and its UK turnover was £[✂]. In the same financial year, EMR UK reported EBITDA of £[✂] and EBITDA margin of [✂]%.

2.4 EMR told us that the strategy of the EMR Group has been [✂], starting in the 1940s from a single site in Rochdale, Greater Manchester.

2.5 In the UK, EMR has made the following acquisitions since 2000:

(a) Mayer Parry Recycling, 2000

(b) Sita, 2013[8]

(c) [✂], 2016

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[2] [✂]
[3] This has not generally used by EMR for deep-sea shipments in recent years.
[4] This is not a quayside site, as EMR's site is located a short distance from the actual quay which is a public port.
[5] EMR also has dockside sites at Sharpness and Shoreham but EMR told us that these have not been used for bulk export for several years.
[6] Erith site has a quay that is occasionally used for internal transfer by barge to the Tilbury Dock site.
[7] [✂]
[8] This acquisition was the subject of a merger investigation by the Office of Fair Trading

2.6 In addition to acquiring existing UK recycling businesses, in the last 10 years EMR has made acquisitions in the [✂] and [✂].

MWR

2.7 MWR is a wholly-owned subsidiary of CuFe Investments Limited, and is the fourth largest metal recycler in the UK. MWR is a UK-based company, headquartered in Edmonton, London, with metal recycling operations in the UK. It employs over 240 people. Its core business is recycling of scrap metal, which results in sales of recycled commodities of over 800,000 tonnes a year.[9]

2.8 Across the UK, MWR currently operates at 8 sites, although it holds the head lease or has the rights to use 12 sites in total. Of these sites, 2 are feeder sites and 2 are dock sites. MWR has 1 shredder at its Hitchin site. One of its Telford sites and one London site are currently closed.

2.9 In the year to 30 April 2017, prior to the acquisition, MWR's turnover was £163 million (all of which was earned in the UK). In the same financial year, MWR reported EBITDA of £7 million and EBITDA margin of 4.3%.

2.10 Unlike EMR, MWR has not made any acquisitions in the last 10 years. From 1970 to 2005 MWR's site network grew from a combination of organic growth and acquisitions, including the 1998 gaining of access to a wharf facility (Pinns Wharf in London, a facility shared with other recycled metal exporters)[10] and 2003 acquisition of H Williams & Sons Ltd in Hitchin.

2.11 Figure 3.1 shows the location in Great Britain of EMR's and MWR's sites. MWR is present in Greater London, the South East, the Midlands, the North East and Wales. In contrast, EMR is more broadly dispersed geographically, across London, the North East, the West Midlands, Wales, Scotland, Bedfordshire/Northamptonshire, East Anglia and Kent.[11] The Parties' operations overlap in the London area, the South East and in the West Midlands, Wales, and North East. Neither Party is present in Northern Ireland.

[9] http://www.metalandwaste.com/about-us/our-history/
[10] [✂]
[11] [✂]

Figure 3.1: The Parties' sites

Other scrap metal suppliers

2.12 We now briefly describe some of the other large scrap metal recyclers present in the UK. There are additionally many other small and medium sized scrap metal recyclers throughout the country.

2.13 Sims Group UK Limited (with UK marketing brand names Sims Metal Management and Sims Recycling Solutions) (Sims), headquartered near Stratford upon Avon, is the UK subsidiary of Sims Metal Management Limited, a global metal and electronic waste recycler listed on the Australian Stock Exchange. It is the second largest metal recycler in the UK. In the UK, Sims buys waste scrap metal and sells processed scrap metal to the domestic and export markets. Sims' UK turnover is around £[✂] million a year. The business has 37 operational sites across the UK and handles [✂] tonnes of waste scrap metal per year.

2.14 S Norton & Co Ltd (S Norton), a family business with turnover of more than £200m, is the UK's third largest metal recycler in terms of tonnage processed

and sold. S Norton processes over 1.2 million tonnes per year of metal scrap at 4 sites across the UK in Liverpool, Manchester, East London and Southampton.

2.15 Ward Recycling Ltd (Ward Recycling), [✂].

2.16 H. Ripley & Co Ltd (H Ripley) has five UK sites located at Hailsham, Hastings and Newhaven in East Sussex, as well as two at Ashford in Kent.

2.17 Enablelink Ltd (Enablelink) is located close to Birmingham, Dudley and West Bromwich.

2.18 Ward Bros (Steel) Ltd (Ward Bros) is based in Darlington, with depots in Newcastle, Sunderland and Darlington.

3. The merger and relevant merger situation

The transaction

3.1 On 25 August 2017, EMR and Bain Capital Credit (BCC) entered into a binding agreement for EMR to acquire MWR through the purchase of the whole of the issued share capital of MWR's holding company CuFe Investments Limited (the Transaction). The enterprise value of the Transaction was approximately £52.6 million.

The rationale for the transaction

3.2 EMR said that its primary reasons for acquiring MWR were:

(a) to broaden its geographic presence; and

(b) to achieve operating synergies and savings from the retention of sales margin in-house, a reduction of the senior management base, absorption of various head office functions and protection of the EMR margin made on the material sold by MWR to EMR each year. EMR estimated that together these synergies would be worth around £[✂] per year.

3.3 EMR also noted that, following the integration of the Parties' operations, the merger [✂]

3.4 EMR said that the acquisition of MWR was [✂], because:

(a) MWR holds a strong portfolio of industrial contracts and would enhance EMR's capabilities in this segment; and

(b) enhancement of collection and processing capabilities in major cities (London and Birmingham) would provide improved stability of scrap sourcing regardless of market conditions.[12][13]

3.5 BCC told us that, given the timing and age of the funds and accounts that owned the shares in MWR, it looked to sell MWR as soon as commercially appropriate. BCC took the decision to put the business up for sale through an open sales process in May 2017, and EMR's bid offered the best opportunity to maximise the value of its investment on behalf of investors.

[12] [✂]
[13] [✂]

Jurisdiction

Introduction

3.6 Under section 35 of the Act and pursuant to our terms of reference (see Appendix A), we are required to investigate and report on certain statutory questions, the first being whether arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation. Section 35 of the Act provides that a relevant merger situation has been created if two or more enterprises have ceased to be distinct within the statutory period for reference and either the turnover test or the share of supply test (or both) specified in the Act is satisfied.

The elements of the relevant merger situation

3.7 A relevant merger situation has four elements.[14] First, the transaction must involve enterprises. Secondly, two or more enterprises must have ceased to be distinct as a result of the transaction. Thirdly, the enterprises must have ceased to be distinct at a time or in circumstances falling within section 24 of the Act. Finally, the turnover test, or the share of supply test, must be satisfied.

3.8 Section 129 of the Act defines an 'enterprise' as 'the activities, or part of the activities, of a business'. A 'business' is defined as including 'a professional practice and includes any other undertaking which is carried on for gain or reward or which is an undertaking in the course of which goods or services are supplied otherwise than free of charge'. We consider that both EMR and MWR are enterprises since each operates a business which supplies goods and services related to scrap metal recycling.

3.9 As a result of the Transaction, EMR has ownership and control of MWR. Therefore, we are satisfied that as a result of the Transaction the enterprises of EMR and MWR have ceased to be distinct for the purposes of the Act.

3.10 The transaction completed on 25 August 2017 and was first made public on 29 August 2017. Following extension for failure to answer in good time the enquiry letter issued under section 109, the deadline was 15 February 2017. The reference was made on 7 February 2017. Therefore, the enterprises ceased to be distinct at a time or in circumstances falling within section 24.

[14] Section 23 of the Act.

3.11 The turnover test is satisfied where the value of the turnover in the UK of the enterprise being taken over exceeds £70 million. The UK turnover of MWR in the financial year ended 30 April 2017 was approximately £163 million. Therefore, the turnover test in section 23 is met and it is not necessary to enquire whether the share of supply test is met.

3.12 In light of the above assessment, we consider that this transaction has resulted in the creation of a relevant merger situation.

4. The industry

4.1 EMR and MWR are principally engaged in the provision of metal recycling services. Within the industry, the recycling of metal is commonly segmented between ferrous metals (iron and steel) and non-ferrous metals (other major metals).[15] Ferrous metals are more abundant and less valuable than non-ferrous metals. Metals are further classified into grades according to their composition and physical properties.[16]

4.2 From the perspective of suppliers of waste scrap metal, the material is waste and the Parties (and other metal recyclers) supply them with a waste disposal and recycling service. From the perspective of the customers of waste recyclers, the scrap metal is an input material. For example, ferrous scrap can be melted in furnaces as a substitute for making steel from iron ore.[17]

4.3 This chapter provides an overview of the scrap metal supply chain.

Supply chain

4.4 The supply chain in the metal recycling sector comprises the:

(a) Purchase of waste scrap metal;

(b) Processing of scrap metal; and

(c) Sale of processed scrap metal.

4.5 The main metal recyclers operate from a range of site types, including feeder yards with limited or no processing equipment, yards with processing equipment (of which the largest and most expensive are shears and shredders), and short-sea or deep-sea docks. Recyclers also use public docks for export via containers.

Purchase of waste scrap metal

4.6 Scrap metal merchants who purchase waste scrap metal vary in size and range from scrap metal merchants with a national presence to those with a regional presence or small, local operations.

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[15] Including copper, copper alloys, aluminium, zinc and lead.
[16] For example, there are 12 ferrous grades, and further subgrades.
[17] [✂]

4.7 Broadly, scrap metal merchants purchase from the following main sources of supply to obtain waste scrap metal:

(a) end of life vehicle (ELV) industry suppliers, such as car dealers, insurance companies, and vehicle dismantlers;

(b) demolition contractors;

(c) industrial suppliers such as car factories or parts manufacturers;

(d) local authorities;

(e) plumbers, builders, electricians and the general public; and

(f) other metal recyclers.

4.8 Although it is common for the main metal recyclers to source waste scrap metal from all of the above sources, the importance of individual sources of supply to the recycler will vary across recyclers and sites. For example, MWR buys a higher proportion of metal from industrial sources than EMR does in the West Midlands, Wales and North East, while in London EMR buys a higher proportion from demolition sources than is the case for MWR.

4.9 Scrap metal merchants' purchasing activities may involve suppliers dropping off waste scrap metal at recyclers' yards ('drop-off' suppliers, including the public, small business people and small collectors), or suppliers who require the waste scrap metal to be collected ('collection suppliers', who are likely to be larger companies that regularly produce large amounts of waste scrap metal requiring removal).

4.10 Purchases can be agreed bilaterally or tendered. Less than 20% of the Parties' volumes are purchased through mechanisms they consider to be tenders, although this figure is higher for certain metal grades – new production steel in particular.[18]

Processing of scrap metal

4.11 Not all waste scrap metal requires processing. The three main reasons for processing waste scrap are to (i) sort and weigh it; (ii) make the transport of it more cost effective (by reducing its volume); and (iii) to meet customer requirements (eg foundries require scrap not to exceed certain dimensions). In cases where processing is necessary it may include the following steps:

[18] [✂]

(a) Sorting: different types of metals are separated, cleaned and prepared for processing;

(b) Baling: scrap metal is often baled (ie compacted) for ease of transportation;

(c) Shearing: some scrap metal is processed using a shear, to reduce it into smaller pieces for onward transport and sale;

(d) Shredding: some ferrous and mixed materials require shredding. This 'shredder feed', includes light iron, baled cars, and other 'frag feed'. In some circumstances final customers may also specifically require materials in the format achieved by a shredder. Some other materials can be processed using either a shear or a shredder. Shredders generally process mixed material, separates metal from non-metal waste, and sorts different metal types.

(e) Other processing – examples include cutting material by hand, cable granulation, and using trommels for removing dirt. Cable granulation is the process by which any remaining steel or plastic is removed from a shredded or stripped bare copper cable, thus leaving copper in its purest form. A trommel is a machine consisting of a large drum with screens that rotate and screen recyclable material from other waste.

4.12 Although not all waste scrap metal requires processing, in this report we refer to scrap metal available for sale to downstream customers as processed scrap metal in order to distinguish it (where necessary) from waste scrap metal supplied by upstream suppliers.

Export of scrap metal

4.13 Around 80% of processed ferrous and non-ferrous scrap metal is exported[19]. The major export destinations for UK scrap metal include Turkey, India, Pakistan and, for NPS, the US.

4.14 Metal recyclers' export sales consist of direct sales to overseas final customers or indirect sales through traders who buy processed scrap metal and sell it to final customers internationally.

4.15 Metal recyclers who sell directly to export customers will often need to engage in currency hedging and to arrange letters of credit from the buyer. Another

[19] [✂]

route to export customers is to sell through traders, located inside or outside of the UK. Such sales tend to be concluded on a spot basis.

4.16 The physical shipping of processed scrap metal exports from the UK occurs via:[20]

(a) Containers, usually shipped to markets in south and east Asia and Asia Pacific including India, Pakistan and Indonesia. Container shipping primarily operates from the ports in Felixstowe, Southampton, Tilbury, and Grangemouth (Scotland). Container shipping is often organised by traders who arrange all logistics, from delivering the container to the metal recycler, arranging transport to the customer and all customs paperwork in between.[21] Whether or not the transport is arranged by the metal recycler or a trader, it will be carried out by a freight forwarder, and the route (and dock) used in the UK is not managed by the metal recycler.[22] Most non-ferrous and some ferrous materials (including sometimes NPS and shredded feed) can be exported by container.

(b) Short-sea bulk export (eg to ports in Europe). This refers to the maritime transport of goods over relatively short distances, as opposed to the intercontinental cross-ocean deep-sea shipping. The scrap metal is transported loose, in the hull of a ship. MWR has a deep-sea dock at Seaham in the North of England and an agreement with a short-sea dock owner at Barking (Pinns Wharf) in London. EMR has short-sea docks at Glasgow, Eccles, Southampton, Newhaven, Sunderland and Great Yarmouth. EMR also reaches short-sea markets from its deep-sea docks at Cardiff, Liverpool, Tilbury and Tyne.

(c) Deep-sea bulk export, for example to Turkey and the US. As with short-sea export, the scrap metal is transported loose, in the hold of a bulk carrier. EMR has deep-sea docks in Cardiff, Liverpool, Tilbury and Tyne.[23] MWR has a deep-sea dock in Seaham in the North East.

4.17 The three routes to export markets, described above, generally have different prices at any given time, and may also be priced differently from sales to UK customers. Each has different risks (eg foreign exchange risk and credit considerations) and prices tend to be volatile, which makes it difficult to predict price movements over time. Many external factors may affect prices,

[20] [✂]
[21] [✂]
[22] [✂]
[23] [✂]

for example, movements in foreign exchange rates, political events and public and religious holidays in overseas markets.

4.18 Some large metal recyclers have the opportunity to export either via containers or bulk cargo ships, hence they weigh up the relative revenues and costs (and risks) associated with exporting and supplying domestically. Those smaller recyclers without easy access to export may sell to larger recyclers that have ready access to export markets.

Sale of processed scrap metal to UK customers

4.19 The main UK end-customers of processed scrap metal are steel mills and metal foundries. In both cases the scrap metal is purchased as an input into the manufacture of metal or metal products. The main UK steel mills are Celsa UK, Tata, British Steel, Outokompu and Liberty Steel.

4.20 As mentioned above, the bulk of UK processed scrap metal is exported. However, the proportion of their processed scrap metal that metal recyclers sell abroad varies. The Parties told us that, along with other UK metal recyclers, they use UK export prices as a benchmark to inform what price to demand for domestic sales. Similarly, UK and export prices of processed scrap metal influence what prices UK recyclers can and are willing to pay when purchasing waste scrap.

4.21 For the most part, transactions involving the supply of scrap metal to final customers are contracted on a spot basis.

UK volumes of processed scrap metal

4.22 There is no published data on the volume of UK ferrous and non-ferrous scrap metal. However, information from the Parties and other industry sources is set out below.

(a) the Parties estimated that the volume of UK supply of ferrous processed scrap was 11.7 million tonnes in 2016. This is a sum of the International Steel Statistics Bureau (ISSB) estimate that 8.1 million tonnes of ferrous metals were exported from the UK[24] and the EEF[25] estimate that 3.6 million tonnes of ferrous metal (1.6 million tonnes of which both arises and is consumed within steelworks (ie self-supplied)) was supplied

[24] [✂]
[25] Formerly the Employers Federation

domestically into UK steelworks.[26] This implies 10.1 million tonnes of ferrous processed scrap arising in the UK is potentially available for sale to UK customers or to export customers.

(b) volumes of non-ferrous processed scrap are more difficult to estimate because there are no independent figures for sales to UK final customers. The Parties stated that ISSB estimated total non-ferrous exports from the UK in 2016 to be 0.8m tonnes.[27] EMR estimated the total volume of sales to UK final customers by applying its own export to domestic sales ratio to the ISSB estimate of total non-ferrous exports. This resulted in an estimated UK market size for non-ferrous sales of 1.2m tonnes in 2016.[28] EMR, however, believes that total UK volumes of non-ferrous processed scrap are likely to be 1.25-1.5m tonnes a year because EMR's non-ferrous sales are largely exports.

[26] [✂] UK Steel is the trade association for the UK steel industry and EEF (the manufacturers' organisation voice for the country's steel manufacturers. Further details can be found at https://www.eef.org.uk/uk-steel . The report can be found at https://www.eef.org.uk/uk-steel/news-blogs-and-publications/publications/2017/mar/key-statistics-2016
[27] [✂]
[28] [✂]

5. Counterfactual

5.1 Before we turn to the effects of the merger, we need to assess what we expect would have been the competitive situation in the absence of the merger. This is called the 'counterfactual'. The counterfactual is an analytical tool used to provide a benchmark against which the expected effects of the merger can be assessed. The counterfactual takes events and circumstances and their consequences into account to the extent that they are foreseeable.[29]

The sale of MWR

5.2 BCC told us that:

(a) If the business had not been sold to EMR, it would have looked to re-engage with another bidder to agree and effect a sale on mutually agreeable terms; and

(b) if no sale had occurred, then 'a strategic review would have been performed and the business would have continued to operate based on the parameters determined by this review. Going forward, further expressions of interest to purchase the business would have been solicited at opportune times to maximize value on behalf of BCC's investors.'[30]

5.3 We therefore consider that if the merger with EMR had not happened BCC would in the first instance have looked to sell to another party.

5.4 BCC undertook an open sales process for MWR. In response it received three other bids in addition to the bid from EMR. These are described in Appendix C. Given that there were three other bidders for MWR, we consider that the most likely counterfactual outcome was a sale to another bidder.

5.5 When deciding on the most appropriate counterfactual, we will consider the circumstances of the sale, including the offers of the alternative purchasers. In this case, one bidder was a metal recycler with operations in a number of UK regions. Therefore, we cannot rule out that this transaction may have raised competition concerns.[31] Given that there were other bidders whose bids were in excess of the metal recycler's bid, and were thus more likely to have been

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[29] *CC2/OFT1254*, paragraphs 4.3.1 - 4.3.3. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/284449/OFT1254.pdf

[30] [✂]

[31] Merger Assessment Guidelines, paragraphs 4.3 6.

successful, we did not consider it necessary to look in detail at the overlaps with this bidder.

5.6 Of the other two bidders, one was a no overlap bidder and clearly would represent the pre-merger conditions of competition for the purpose of our counterfactual. The other [✂]. We consider that, in the absence of the EMR bid, either of these two companies could have been chosen by BCC as a purchaser. Whilst we note that one of these bidders had put in a higher initial offer than the other, we consider it uncertain which one BCC would have been most likely to sell to. As between these two bidders, we consider that the identity of the successful bidder would not have a material effect on the counterfactual. MWR is a profitable standalone business, both of these bidders either had stated intentions of operating in the market or have scrap metal operations in other countries. Therefore, it is likely that in either scenario the counterfactual would have been a replication of the current conditions of competition.

5.7 Furthermore, we consider that even if BCC had not sold MWR at this time BCC would, in line with its submission, have continued to operate the business with a view to carrying out a further sales process at some point in the short to medium term. We note that BCC would have undertaken a strategic review if the business had not been sold. It is uncertain what the outcome of such a review would have been. However, we consider that, as MWR was a profitable standalone business, the most likely scenario would be that MWR would have been operated as previously until a further sales process was undertaken.

EMR's [✂] site

5.8 EMR stated that the correct counterfactual is the current set of competitive conditions, with the exception of shredding where the Merger should be assessed against a different counterfactual. EMR submitted that prior to the [✂]. EMR submitted that therefore the counterfactual in respect of shredding would be the [✂]. This, it stated, would [✂].[32]

5.9 In the phase 1 issues meeting EMR told us that it had, prior to striking the MWR deal, been seeking an alternative [✂] site to replace [✂]. It stopped looking following the acquisition of MWR, noting in its Board papers that the acquisition provided an opportunity to relocate its [✂]. Given EMR was seeking an alternative to the [✂] site prior to acquiring MWR, and that the proposed closure date at that time was around two and a half years away

[32] [✂]

(during which time harm would arise as a result of any SLC caused by the merger), we provisionally conclude that removal of the competition currently provided by EMR's [✂] site is not sufficiently likely to justify a counterfactual which departs from the pre-merger conditions of competition.

Other considerations

5.10 We note that there is an active merger investigation relating to another transaction in the UK metal recycling industry, namely Sims' completed acquisition of Morley Waste which the CMA is reviewing.[33] We have not adjusted our counterfactual in this inquiry to take account of that merger because our provisional findings in this inquiry are unaffected by that merger.

Provisional conclusions on the counterfactual

5.11 As set out above, we consider that absent the merger, the most likely counterfactual is that BCC would have sold MWR to another bidder that would have run MWR in a manner similar to that in which it was run pre-merger. Even if MWR had not been sold, it would have been run in a similar manner by BCC in the short to medium term. We consider that a reduction in competition from EMR as a result of EMR's sale of its [✂] site is not sufficiently likely to justify a counterfactual which departs from the pre-merger conditions of competition.

5.12 In light of the above, we take as our counterfactual the pre-merger conditions of competition.

[33] See the CMA case page

6. Market definition

6.1 The purpose of market definition in a merger inquiry is to provide a framework for the analysis of the competitive effects of the merger.[34] Market definition is a useful analytical tool, but not an end in itself and identifying the relevant market involves an element of judgement.

6.2 The boundaries of the relevant market are determined by whether customers (and suppliers) would switch demand (or supply) between different products and geographical areas in response to a small but significant and sustained change in relevant prices, thus providing a competitive constraint.

6.3 As set out in the CMA's Merger Assessment Guidelines,[35] the boundaries of the relevant product market are generally determined by reference to demand-side substitution alone. However, there are circumstances where the CMA may aggregate several narrow relevant markets into one broader market on the basis of considerations about the response to suppliers to changes in prices (supply-side substitution). It may do so when:

(a) Production assets can be used by firms to supply a range of different products that are not demand-side substitutes, and the firms have the ability and incentive quickly (generally within a year) to shift capacity between these different products depending on demand for each; and

(b) The same firms compete to supply these different products and the conditions of competition between the firms are the same for each product; in this case aggregating the supply of these products and analysing them as one market does not affect the CMA's decision on the competitive effect of the merger.

6.4 The Guidelines indicate that the boundaries of the relevant market do not determine the outcome of the analysis of the competitive effects of the merger in any mechanistic way. In assessing whether a merger may give rise to an SLC, it is possible to take into account constraints outside the relevant market, segmentation within the relevant market, or other ways in which some constraints are more important than others.[36]

6.5 As set out in the Merger Assessment Guidelines, the CMA's approach to market definition is based on the hypothetical monopolist test, which seeks to identify a set of substitute products over which a hypothetical monopolist firm

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[34] *CC2/OFT1254*, paragraph 5.2.1
[35] *CC2/OFT1254,* paragraph 5.2.17
[36] *CC2/OFT1254,* paragraph 5.2.2

would find it profitable to raise prices ('a candidate market').[37] If customers would respond to a 'small but significant non-transitory increase in price' (or SSNIP) by switching to products outside the set of products identified as the candidate market, then the market is wider than the proposed candidate market ('demand-side substitution'). Similarly, as set out earlier, supply-side substitution can similarly lead to a wider market being defined.

6.6 In practice in this case, bearing in mind the framework provided by the hypothetical monopolist test, in defining the relevant market, we take into account:

(a) Substitution on the part of suppliers of scrap metal to metal recyclers and customers purchasing processed scrap metal – the extent to which they can switch between different metals or different metal recyclers in response to a worsening of prices;

(b) Substitution on the part of metal recyclers – the extent to which they can switch between purchasing or selling different types of metals or serving different types of suppliers and customers; and

(c) The extent to which the conditions of competition – eg, the identity and strength of the competitors involved – are the same across different metal, supplier or customer types, meaning that the segments can be aggregated into single markets without affecting the outcome of our competitive assessment.

6.7 In this section, we set out the relevant markets in which we have assessed the effects of the merger. We first define the product market. Then we define the geographic market.

Relevant product markets for the purchase of scrap metal

6.8 We characterise the process of competition between metal recyclers in the purchase of waste scrap metal as follows:

(a) The 'service' involved is the disposal of this waste, which, unlike in other waste disposal markets, involves a payment from the metal recycler to the supplier of the waste, as the waste here has a resale value;

(b) The metal recyclers, even though they are purchasing waste scrap metal, are competing to provide this service; and

[37] Merger assessment guidelines, paragraphs 5.2.9 to 5.2.19.

(c) The customers are those firms that produce waste scrap metal as part of their business, eg, demolition firms or factories, which we refer to as suppliers.

6.9 We look at two potential sources of segmentation that may be relevant to the product market on the purchasing side:

(a) On metal type, we have considered whether competitive conditions vary materially between ferrous and non-ferrous, and between any specific grades of scrap metal. Our consideration included whether competitive conditions vary materially depending on the processing requirements of the grades of scrap metal being purchased; and

(b) On supplier types, we have considered whether competitive conditions vary materially depending on the type of supplier, eg, the size of the supplier; whether it is a metal recycler; and whether it has specialised needs in terms of services required, procurement process or grades of metal supplied.

6.10 We note that the OFT's Phase 1 clearance decision on the EMR/SITA merger defined a product market for the purchase of ferrous and non-ferrous waste scrap metal, but with separate markets for purchases from other scrap metal merchants and purchases from other types of suppliers.[38]

6.11 The Parties' argued that the purchase of ferrous and non-ferrous waste scrap metal was the appropriate product frame of reference. They pointed out that, looking at supply-side substitutability, the vast majority of metal recyclers purchase both ferrous and non-ferrous scrap metal of varying grades and that, even if this were not the case, there are no barriers that would prevent them from switching between the two, given that the equipment required on site (eg, weighbridge) is largely the same, regardless of metal type (ie ferrous or non-ferrous). In both cases the merchant transacts with suppliers in broadly the same way. The Parties argued that, similarly, suppliers of waste scrap metal may supply a mixture of ferrous and non-ferrous scrap metal of varying grades to the same site.[39]

6.12 However, the Parties argued that, as in the OFT's clearance decision in *EMR/SITA*,[40] a separate frame of reference should be applied for inter-

[38] *EMR/SITA* Decision: https://www.gov.uk/cma-cases/european-metal-recycling-ltd-sita-metal-recycling-ltd
[39] [✂]
[40] CMA reference decision, paragraph 35.

merchant trade (ie, the supply of waste scrap metal by scrap metal merchants to other scrap metal merchants).[41]

6.13 In relation to shredding, the Parties, in their response to the reference decision, agreed that shredding of scrap metal should be assessed separately and with no need to distinguish between the shredding of ferrous and non-ferrous scrap metal given that most (but not all) shredders can shred both types of metal. However, they also argued that shredder sites are 'constrained to some extent by competitors that operate a shear',[42] and that 'shears perform a function that is partially substitutable of the function performed by a shredder'.[43]

6.14 The Parties stated that the lack of differentiation between ferrous and non-ferrous waste on the purchasing side was because metal recyclers handled both ferrous and non-ferrous scrap, did not distinguish between collecting ferrous and non-ferrous metal, had sales channels for all types, and could quickly switch capacity between ferrous and non-ferrous metals.

Segmentation by metal type

6.15 We understand that final customers often seek very specific grades of metal which are expensive or impossible to substitute for other grades. This means that for final customers, different metal grades and types are often not demand-side substitutes, though we note that in some case they may be, eg, some steel mills can substitute between different ferrous grades depending on their production process and the grade of steel that they intend to produce. For the original suppliers of scrap, the scrap produced is largely unresponsive to changes in the price of scrap, meaning that different grades and metal types are not substitutable on the supplier side either: these suppliers simply provide the grade that arises as part of their main business. However, in determining the scope of relevant product market, we may aggregate separate markets where the same metal recycling firms compete to purchase or supply these different grades and where, as a result, the conditions of competition between the firms are the same for each grade.[44]

6.16 In assessing the scope for demand- and supply-side substitution between different grades, this section sets out evidence on the extent to which:

(a) Many suppliers provide a mix of ferrous and non-ferrous grades;

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[41] See paragraph 30 of the decision in the *EMR/Sita* case.
[42] [✂]
[43] [✂]
[44] Merger Assessment Guidelines, paragraph 5.2.17

(b) Many metal recyclers accept all grades;

(c) Particular issues arise in relation to NPS;

(d) Particular issues arise in relation to 'shredder feed' grades; and

(e) Issues arise in relation to any non-ferrous grades.

Most suppliers provide a mix of ferrous and non-ferrous grades

6.17 A large proportion of suppliers supply a mix of both ferrous and non-ferrous metals. The Parties' transaction data indicates that many EMR and MWR suppliers (over 80% by volume [✂]) supply both ferrous and non-ferrous metals, as set out in Table 6.1, below.

Table 6.1: Parties' suppliers of ferrous and non-ferrous metals, UK, 2017

	EMR			*MWR*		
Metal type	*No. of suppliers*	*% of volumes*	*% of value*	*No. of suppliers*	*% of volumes*	*% of value*
Ferrous only	[✂]	[10-20%]	[✂]	[✂]	[10-20%]	[✂]
Non-ferrous only	[✂]	[0-5%]	[✂]	[✂]	[0-5%]	[✂]
Both	[✂]	[80-90%]	[✂]	[✂]	[80-90%]	[✂]
Total	[✂]	100%	[✂]	[✂]	100%	[✂]

Source: CMA Analysis of Parties' transaction data

6.18 We note that the responses to the supplier survey were broadly consistent with this,[45] although some respondents were unclear on the distinction between ferrous and non-ferrous metals.[46]

6.19 However, because scrap metal is a waste product of other processes, rather than a product produced in response to demand, the specific grade and type of metal supplied by original sources of waste scrap metal are unlikely to be responsive to changes in price except in some marginal cases. This means that from the point of view of suppliers, different metals are not substitutes.

Most metal recyclers accept most grades of metal

6.20 In relation to purchasing scrap metal, we found that almost all metal recyclers that we have received evidence from accepted (and, in many cases, collected) all grades of ferrous and non-ferrous metal. However, there are a number of specialist non-ferrous metal recyclers, eg, Alutrade, which

[45] DJS survey report, responses to Q04.
[46] Respondents were generally clear on the specific metal (copper, aluminium, etc.) or grade of metal supplied, but were not always clear on whether these should be categorised as ferrous or non-ferrous.

specialises in aluminium, and [✂], which only purchases non-ferrous metals. In addition, some of the larger recyclers pointed to limitations in their ability to compete across all grades, for example, [one metal recycler] pointed out that it was not a very effective competitor for 'factory contracts',[47] [✂].[48]

6.21 The evidence we have received from metal recyclers indicates that, in general, many are not capacity constrained and could, in principle, switch between ferrous and non-ferrous metal, which largely require the same equipment to process. However, as set out below, specific issues arise in relation to NPS (due to the services that the larger NPS suppliers require) and in relation to some grades of ferrous metal where a shredder is required in order to process the material ('shredder feed').[49] We have also been told that some non-ferrous grades require specialist equipment, eg, a granulator to process copper wire, which would also imply that not all metal recyclers can compete effectively for all non-ferrous grades.[50]

6.22 We provisionally conclude that the most commonly-handled grades of ferrous and non-ferrous metals (excluding NPS and shredder feed) form a single product market on the purchasing side.

New production steel

6.23 In assessing whether NPS should be considered a separate product market, we considered that the distinction between NPS and other ferrous grades was due to the way in which contracts for the purchase of this material (and other supplies from industrial sources) were tendered by the relevant suppliers and their specific needs. As such, we have assessed this distinction as part of our assessment of supplier segmentation, in paragraphs 6.50 to 6.59, below.

Shredder feed grades

6.24 While many grades of metal can be processed using equipment that is available to many metal recyclers, certain grades of metal require shredding, either because of the nature of the input material or the requirements of the final customer.

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[47] [✂]
[48] [✂]
[49] 'Shredder feed' grades are classified as ferrous grades, even though these often consist of scrap material which requires processing in order to separate ferrous metal from non-ferrous and non-metal waste, eg, ELV waste which includes substantial amounts of non-ferrous materials.
[50] However, as set out in Appendix E (Entry and Expansion), we note that the purchase and installation of a granulator may not be a substantial barrier to metal recyclers competing effectively for the purchase of these grades.

Parties' views

6.25 While the Parties agreed with the Phase 1 decision's finding of a separate frame of reference for shredding, they also argued that shredder sites are 'constrained to some extent by competitors that operate a shear',[51] and that 'shears perform a function that is partially substitutable of the function performed by a shredder',[52] in particular in relation to light iron.[53] They explained that a scrap metal merchant's decision as to whether to shred a particular grade of scrap metal that it purchases from a supplier, is influenced by the requirements of the scrap metal merchant's customer. As such, even among 'shredder feed' grades, it may be the case that not all of this is material processed through a shredder. The Parties told us that much metal (including most non-ferrous metals and new production steel) requires only minimal, if any, processing and can be loaded into freight containers, trains or ships, without baling or compacting, to be sold directly to final customers. Conversely, there may be other grades (not listed among 'shredder feed' grades) that also get processed through a shredder from time to time. They also argued that there may be alternative methods available, eg, clean light iron may sometimes not need to be processed or can be baled or sheared, and end-of-life vehicle (ELVs) can be processed through a shear after manual stripping.[54]

Assessment

6.26 We understand that most metal recyclers accept shredder feed material, although we note that [✂].[55] As only a small subset of recyclers have the shredding equipment required to process it, this means that recyclers that have purchased these grades need to sell on to other recyclers that have shredders. As a result, the conditions of competition for the initial purchase of 'shredder feed' is likely to be strongly affected by competition between recyclers that offer shredding.

6.27 Contrary to the Parties' argument that shearing may be a viable option for some shredder feed grades, we note that responses from a number of metal recyclers indicate that this is not likely to be a material constraint on shredder operators:

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[51] [✂]
[52] [✂]
[53] [✂]
[54] [✂]
[55] [✂]

(a) [✂];[56]

(b) [✂] argued that certain types of scrap metal ([✂]) need to be shredded and there is no alternative;[57]

(c) Based on this definition of 'must-shred' grades, these account for [80-90]% of EMR's shredder feed purchases (by volume);[58] and

(d) [✂] operates a shear and yet supplies shredder feed representing almost [✂]of its purchase volumes to MWR and EMR, which strongly suggests that it does not consider shearing to be a viable option for this material.[59]

6.28 This evidence points towards a separate market for the shredder feed, based on:

(a) For some grades, shredding is the only processing option, while for some other grades shredding is the more effective and efficient way of separating ferrous material from other waste as compared to shearing; [60]

(b) Installing a new shredder requires a major investment, they tend to be operated by larger recyclers, and finding a suitable site to install a new one may be difficult, as set out in Chapter 8. As such, the scope for supply-side substitution may be very limited in relation to shredding.

6.29 We therefore provisionally conclude that the purchase of shredder feed grades forms a separate product market.

Issues in relation to specific non-ferrous grades

6.30 We have received very little evidence of concerns in relation to the purchase of non-ferrous grades, and have not identified any other specific grades in which both Parties compete and where merger concerns have been expressed. The only specific issue that arose in this regard was whether metal recyclers purchasing copper cable needed a granulator in order to process this and whether this meant that competition for that grade would be restricted as a result. We note that [✂] (an important supplier of [✂]) was not concerned about the merger, given the other metal recyclers it invites bids from and the visibility of [✂] prices on the LME, so we have not concluded in

[56] [✂]
[57] [✂]
[58] This is based on EMR's purchase of 'frag feed' [✂]and ELV [✂]. CMA analysis of EMR purchases transaction data.
[59] [✂]
[60] [✂]

relation to this or any other narrow market for the purchase of non-ferrous metals.

Segmentation by supplier types

6.31 In assessing the scope for segmenting the market according to supplier types, we have examined four potential sources of segmentation, as set out below.

6.32 First, in relation to collection versus delivery, we would expect these suppliers to face different competitive conditions, as:

(a) Suppliers requiring a collection service need a recycler with this capability or that is willing to provide it. They may be less sensitive to distance than a supplier who delivers its own waste scrap metal, although transport costs will impact on the prices offered by the metal recycler.

(b) Suppliers that deliver their waste scrap metal to the metal recycler's site are likely to favour sites that are close to where their scrap arises.

6.33 Second, the size of the supplier or the volumes supplied may affect the number of competing metal recyclers or the intensity of competition for those supplies, as:

(a) Larger deliveries (or collections) are likely to affect the distance that suppliers are prepared to travel (or the area over which metal recyclers are prepared to offer collection), as smaller loads are likely to have higher unit transport costs, so competition is likely to take place over a smaller geographic area for those suppliers with lower volumes.

(b) Suppliers with large volumes are likely to require recyclers with sufficient capacity – in terms of transport, storage and/or processing – which may limit the extent of competition for the purchase of scrap from those suppliers.

6.34 Third, where the supplier is another metal recycler, this may affect the intensity of competition and/or the specific competitors. Sales between metal recyclers are a key feature of the sector. Much of this involves smaller recyclers selling to larger recyclers, but even among larger metal recyclers there is a high degree of inter-merchant trade.

6.35 Fourth, the way in which suppliers tender for the sale of their waste scrap metal and the requirements that they place on purchasers (eg in terms of service levels required) may affect the intensity of competition, as not all metal recyclers may have the appropriate logistical capabilities and expertise to serve these suppliers.

6.36 Before assessing the possible sources of segmentation, below, we present a breakdown of the Parties' suppliers in the London and West Midlands regions since a number of features of EMR's distribution of suppliers may be of relevance for market definition.

Table 6.2: EMR suppliers in London, by type and ferrous/non-ferrous split, 2017

	Ferrous			*Non-Ferrous*		
Supplier type	*No. of suppliers*	*% of volumes*	*% of value*	*No. of suppliers*	*% of volumes*	*% of value*
Car breakers	[✂]	[5-10%]	[✂]	[✂]	[0-5%]	[✂]
Demolition	[✂]	[20-30%]	[✂]	[✂]	[5-10%]	[✂]
Door Trade	[✂]	[10-20%]	[✂]	[✂]	[30-40%]	[✂]
Industrial	[✂]	[5-10%]	[✂]	[✂]	[10-20%]	[✂]
Metal recycling	[✂]	[30-40%]	[✂]	[✂]	[20-30%]	[✂]
Other	[✂]	[0-5%]	[✂]	[✂]	[0-5%]	[✂]
Waste recycling	[✂]	[10-20%]	[✂]	[✂]	[10-20%]	[✂]
Total	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]

Source: [✂]

Table 6.3: EMR suppliers in W Midlands, by type and ferrous/non-ferrous split, 2017

	Ferrous			*Non-Ferrous*		
Supplier type	*No. of suppliers*	*% of volumes*	*% of value*	*No. of suppliers*	*% of volumes*	*% of value*
Car breakers	[✂]	[10-20%]	[✂]	[✂]	[0-5%]	[✂]
Demolition	[✂]	[5-10%]	[✂]	[✂]	[0-5%]	[✂]
Door Trade	[✂]	[10-20%]	[✂]	[✂]	[20-30%]	[✂]
Industrial	[✂]	[30-40%]	[✂]	[✂]	[40-50%]	[✂]
Metal recycling	[✂]	[20-30%]	[✂]	[✂]	[20-30%]	[✂]
Other	[✂]	[0-5%]	[✂]	[✂]	[0-5%]	[✂]
Waste recycling	[✂]	[5-10%]	[✂]	[✂]	[0-5%]	[✂]
Total	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]

Source: [✂]

6.37 In brief, this breakdown shows that for EMR:

(a) [✂]

(b) [✂]; and

(c) [✂].

Table 6.4: MWR suppliers in London, by type and ferrous/non-ferrous split, Jan-Aug 2017

	Ferrous			Non-Ferrous		
Supplier type	*No. of suppliers*	*% of volumes*	*% of value*	*No. of suppliers*	*% of volumes*	*% of value*
Factory	[✂]	[5-10%]	[✂]	[✂]	[5-10%]	[✂]
Merchants	[✂]	[80-90%]	[✂]	[✂]	[70-80%]	[✂]
Other	[✂]	[0-5%]	[✂]	[✂]	[0-5%]	[✂]
Waste	[✂]	[0-5%]	[✂]	[✂]	[0-5%]	[✂]
Weighbridge	[✂]	[5-10%]	[✂]	[✂]	[10-20%]	[✂]
Total	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]

Source: [✂]

Table 6.5: MWR suppliers in the West Midlands, by type and ferrous/non-ferrous split, Jan-Aug 2017

	Ferrous			Non-Ferrous		
Supplier type	*No. of suppliers*	*% of volumes*	*% of value*	*No. of suppliers*	*% of volumes*	*% of value*
Factory	[✂]	[60-70%]	[✂]	[✂]	[50-60%]	[✂]
Merchants	[✂]	[30-40%]	[✂]	[✂]	[30-40%]	[✂]
Other	[✂]	[0-5%]	[✂]	[✂]	[5-10%]	[✂]
Waste	[✂]	[0-5%]	[✂]	[✂]	[0-5%]	[✂]
Weighbridge	[✂]	[0-5%]	[✂]	[✂]	[0-5%]	[✂]
Total	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]

Source: [✂]

6.38 Although MWR's supplier classification is different,[61] for its London sites we see that [✂] are the main source of purchases, while for its West Midlands sites [✂] account for the majority of MWR's purchases, with [✂] making up most of the rest.

Collection versus delivery

6.39 In assessing the scope for segmentation by suppliers that deliver versus those that require a collection service, we have analysed the types of suppliers to the Parties that deliver and those that have their scrap collected, as well as assessed the extent to which other metal recyclers are capable of providing collection services.

6.40 As set out in Table 6.6, below, based on EMR purchasing transaction data:

(a) Many suppliers that deliver are [✂];

(b) Suppliers that have their scrap metal collected tend to be, across all supplier types, the [✂], on average, with [✂] and [✂] being particularly likely to have their scrap collected.

[61] MWR used different supplier classifications to EMR pre-merger.

Table 6.6: EMR suppliers in London and West Midlands, by type and collection/delivery, 2017

	Collection			*Delivery*		
Supplier type	*No. of suppliers*	*% of volumes*	*% of value*	*No. of suppliers*	*% of volumes*	*% of value*
Car breakers	[✂]	[0-5%]	[✂]	[✂]	[0-5%]	[✂]
Demolition	[✂]	[5-10%]	[✂]	[✂]	[10-20%]	[✂]
Door trade	[✂]	[0-5%]	[✂]	[✂]	[10-20%]	[✂]
Industrial	[✂]	[10-20%]	[✂]	[✂]	[0-5%]	[✂]
Metal Recycling	[✂]	[5-10%]	[✂]	[✂]	[20-30%]	[✂]
Waste recycling	[✂]	[0-5%]	[✂]	[✂]	[5-10%]	[✂]
Other	[✂]	[0-5%]	[✂]	[✂]	[0-5%]	[✂]
Total	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]

Source: [✂]
Note: Percentages are the percentages of the combined total of all volumes and values for collection and delivery.

6.41 Given that individual suppliers will often have a preference for collection or delivery, there is likely to be little demand-side substitutability among suppliers. However, the Parties and almost all of the metal recyclers from which we have received evidence offered a collection service at all or most of their sites. [✂] offers a collection service at [✂] of its sites and has its own fleet of [✂] vehicles based across these sites.[62] [✂].[63] S Norton offer a collection service at [✂] of its sites, [✂].[64] Even where metal recyclers do not maintain their own fleets, contracting with haulage companies is possible.

6.42 There are, however, particular issues around transport arrangements that mean certain types of supplier, especially industrial suppliers, may require very frequent collection or may require large volumes be moved at short notice. These differences form part of our assessment of a separate market for purchases from large industrial suppliers and other tendered contracts, below.

Segmentation based on purchases from metal recyclers

6.43 As set out in Tables 6.2 to 6.5, above, other metal recyclers are a major source of supply for the Parties. The trading of scrap metal – both processed and unprocessed – between metal recyclers accounts for a significant share of volumes among the large recyclers. Data on this inter-merchant trade illustrates this, with:

[62] [✂]
[63] [✂]
[64] [✂]

(a) EMR purchasing just over [30-40%]% of its scrap metal purchases from other metal recyclers;[65]

(b) MWR buying approximately [50-60%]% of its scrap metal purchases from other metal recyclers before its acquisition by EMR;[66] and

(c) [✂] buying [✂]% of its volumes from other metal recyclers ([✂]% by value).

Parties' views

6.44 The Parties argued that purchases from other metal recyclers should be examined under a separate frame of reference, because:

(a) First, while inter-merchant trade may include scrap metal which requires further processing (such as shredding), it also includes a large proportion of scrap metal which has already been processed or does not require any (or minimal) processing prior to sale to customers. The Parties argued that, as a result of this, final customers (in UK and export markets) and traders are also competing with scrap metal merchants to purchase this type of waste scrap metal; and

(b) Second, scrap metal merchants are knowledgeable suppliers and waste scrap metal can be moved in bulk at low cost over large geographical areas in order to obtain the best prices.[67]

6.45 The Parties also argued that, even if no separate frame of reference is identified for either inter-merchant trade or for collection and drop-off suppliers, a proper consideration of the different needs of these suppliers and the distances that merchants may travel to deliver or collect waste scrap metal is required.[68]

Assessment

6.46 In terms of the different circumstances where metal recyclers supply scrap metal to other recyclers, we have considered three reasons why this takes place:

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[65] Transaction-level data provided by Parties. Calculated by dividing the total tonnage purchased by EMR from metal recyclers by the total tonnage purchased from all suppliers in 2017.
[66] Transaction-level data provided by Parties. Calculated by dividing the total tonnage purchased my MWR from metal recyclers by the total tonnage purchased from all suppliers pre-merge.
[67] [✂]
[68] [✂]

(a) Where the metal recycler who purchases from the original source of supply does not have the appropriate processing equipment. We have considered processing capability and capacity in the context of shredders, as these are major pieces of equipment operated at relatively few sites. Many of the suppliers to these shredder sites are smaller recycles purchasing waste scrap metal that then must be shredded in order to be sold on for export or to final customers. While shears are more common, our assessment of competition in London has focussed on those competitors that operate a shear, as the removal of MWR's site at Edmonton as a competitor removes this processing capacity as an independent competitor and as an alternative route to market for smaller metal recyclers without this equipment, but that have purchased waste scrap metal that requires sheering.

(b) Where metal recyclers have limited access to export markets, eg, because they do not have dock facilities or handle low volumes. Potentially, the purchasers in this case would be limited to those (large) metal recyclers with their own dock facilities, convenient access to a port, or other advantages in exporting or in serving UK final customers. Given that a very large proportion (of around 70-80%) of UK scrap metal arisings are exported,[69] some metal recyclers are likely to have an advantage in purchasing scrap metal supplies where they have more direct access to export markets. We note that ownership of (or easy access to) dock facilities is likely to be an important factor in determining the competitive strength of a metal recycler and, as noted below, this may be relevant to geographic market definition. In addition, some smaller recyclers may also face challenges in accessing some UK customers (eg, due to extended payment terms[70] or the requirements of supplying to some industrial customers), with selling to larger recyclers being a route to these customers.

(c) A third reason for inter-merchant trade is where metal recyclers need to balance their supply and demand: selling off scrap metal where the recycler does not have a quick turnaround (to get the scrap to a final customer) or buying up metal where the recycler has an identified customer but does not have sufficient volumes of its own. While there may be no specific constraints on the recyclers that can compete for these purchases (such as specific processing equipment or dock

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[69] [✂]
[70] A number of metal recyclers have pointed to the extended payment terms (90 days) that some UK customers impose, which can make these less attractive than other routes to selling processed scrap metal.

facilities), there may be a limited number of recyclers that are able to handle the specific volume of material at that particular point in time.

6.47 As set out above, for a number of reasons, metal recyclers who want to sell to other metal recyclers may choose from a more limited subset of recyclers than is the case for the original suppliers of scrap. Competition for purchases from metal recyclers is likely to feed through into competition for purchases from original suppliers, because if metal recyclers do not face a sufficiently competitive set of larger metal recyclers competing for their volumes, they themselves will not be competitive purchasers of material. As a result of this relationship, even though a separate market is not defined for these purchases from metal recyclers, our competitive assessment takes account of the role of this trade in determining which firms can compete for purchases and how strongly.[71]

Segmentation based on tendered contracts

6.48 A number of metal recyclers indicated that industrial sources of waste scrap metal, often involving a tendering process (unlike the spot trading more common in the industry) and often involving relatively large volumes have different characteristics and are often more difficult to serve than other waste scrap metal suppliers. NPS accounts for a high proportion of the volumes that are supplied in this context and not all metal recyclers can compete effectively for the purchase of this grade. As such, we have considered whether the purchase of waste scrap metal through tendered contracts (typically from industrial sources, involving large volumes and often including NPS) may form a separate relevant product market.

Parties' views

6.49 The Parties argued that NPS, which is the grade commonly supplied by industrial suppliers via large tendered contracts, should not be defined as a separate product market.[72] Given that the issues that distinguish NPS from other grades generally relate to the way in which many suppliers use tendered contracts in finding purchasers, the Parties' arguments are also relevant to the assessment of the relevant market here.

6.50 First, they submitted that it was not necessary for a metal merchant to have scale, national presence, or a site network in order to serve industrial

[71] The 'double-counting' of inter-merchant sales in our market share data is discussed in Chapter 8 and in Appendix D.
[72] [✂]

suppliers, as most of these contracts involved only one or a small number of sites within a particular region.

6.51 Second, in relation to purchases of NPS (a grade that makes up the majority of many industrial contracts), the Parties stated that the majority of these volumes in NPS can be collected and sold without processing, meaning that there is often no requirement for competitors to have access to any processing equipment and that capital requirements are low.[73] They pointed out that among the largest contracts, many suppliers (eg Nissan, Honda, BMW, Vauxhall) carry out on-site handling of waste scrap metal, often using their own balers, such that the service required from metal recyclers is essentially one of logistics.[74]

6.52 Third, they argued that, while some suppliers of NPS have particular service requirements, these are not unique to NPS suppliers, with all supplier decisions being driven by a combination of price, service and convenience.[75]

Assessment

6.53 In coming to a view on whether the purchase of waste scrap metal (including NPS) from large tendered contracts was likely to form a separate product market we examined: other metal recyclers' views; the views of the relevant suppliers; and tender data submitted by the Parties.

6.54 A number of other metal recyclers, as well as some large suppliers, stated that large industrial contracts can be challenging to serve and the set of effective competitors may be significantly narrower than for purchases from other types of suppliers, for a number of reasons:

(a) Access to international markets[76] and large purchase volumes give some metal recyclers an advantage in bidding for these contracts, as it allows them to pay a higher price.[77]

(b) The recycler needs sites that are close to the factory site[78] [✂].[79]

(c) Large factory suppliers are risk averse, as selling scrap is not part of their core business and problems in dealing with scrap could have serious

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[73] [✂]
[74] [✂]
[75] [✂]
[76] [✂]
[77] [✂]
[78] [✂]
[79] [✂]

adverse impacts on their core business.[80] As a result, competitors argued that this leads to an 'incumbency advantage' for a small number of recyclers that are known to the suppliers in question.[81]

(d) The ability to deal with large and fluctuating volumes can be important, meaning that a recycler needs several nearby sites and access to large numbers of skips and vehicles.[82]

(e) For a recycler to compete without a strong UK record in industrial contracts, it needs to invest substantial time and money in relationship management and the tender processes involved in winning factory contracts.[83]

(f) The service requirements of factory suppliers can be demanding – for example because of the need to minimise traffic at the factory sites and prevent any interference with the production processes on site.[84]

(g) In relation to NPS specifically, competitors and suppliers broadly agreed with the Parties that NPS often requires relatively little processing.[85] However, we were told that a baler is necessary to compete strongly.[86]

6.55 Second, many metal recyclers do not have the appropriate logistics, services, and locations to serve these suppliers, with even a large national metal recycler like [✂] noting its weak position in relation to 'factory contracts' outlining the need to:

(a) develop relationships with suppliers which, in turn, requires a dedicated workforce that [✂] does not have in place;

(b) have a logistical network of sites and servicing capability which is close to the supplier; and

(c) provide '… a full-service delivery proposition rather than a commodity sale and purchase based model.'[87]

6.56 Third, tender data submitted by the Parties supports the proposition that [✂].[88] The tender data also pointed to an incumbency advantage for these four largest metal recyclers in bidding for these contracts, which is consistent

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[80] [✂]
[81] [✂]
[82] [✂]
[83] [✂]
[84] [✂]
[85] [✂]
[86] [✂]
[87] [✂]
[88] [✂]

with third-party views that suppliers tended to be risk averse and that it was difficult to gain new contracts serving large industrial suppliers.

6.57 We provisionally conclude that the purchase of waste scrap metal through tendered contracts, typically from industrial suppliers with large volumes and often including NPS supplies, constitutes a separate relevant product market from other ferrous and non-ferrous grades.

Conclusion on the product market for the purchase of waste scrap metal

6.58 Our provisional conclusion on the relevant product markets for the purchase of scrap metal is as follows:

(a) The most commonly-purchased grades of ferrous and non-ferrous scrap metal (other than the purchases from large industrial suppliers and other tendered contracts, including supplies of NPS, and shredder feed) form a relevant market on the purchasing side, as most grades are accepted by most recyclers, with those that do not have the ability to process or efficiently sell it on to a final customer or export market, having the ability to sell to other larger metal recyclers.

(b) Within this broader market, we will take account of any differences in competitive conditions when purchasing from other metal recyclers versus other types of suppliers in our assessment of competitive effects.

(c) Purchases from large tendered contracts, including supplies of NPS, form a separate market, due to different metal recyclers' abilities to serve these suppliers.

(d) The purchase of shredder feed forms a separate market, due to the equipment required to process this material for sale to final customers or for export.

Product market for the sale of processed scrap metal

6.59 In the reference decision, the sale of ferrous and the sale of non-ferrous processed scrap metal were included as separate frames of reference. This was based on a lack of demand-side substitutability between ferrous and non-ferrous among customers, while the evidence on supply-side substitutability was more mixed, with some metal recyclers having sales channels for all types of metal, while others focussed more on ferrous or non-ferrous. This

distinction is consistent with the OFT's Phase 1 clearance decision on the *EMR/SITA* merger.[89]

6.60 In our assessment we have examined whether:

(a) There is scope for demand-side substitution between ferrous and non-ferrous and across specific grades, ie whether customers can switch between purchasing these;

(b) There is scope for supply-side substitution between ferrous and non-ferrous and across specific grades, ie whether metal recyclers can easily switch between supplying these, or the same firms compete across different segments and the conditions of competition are the same;

(c) The conditions of competition in the sale of NPS are different from other grades, given the challenges in accessing substantial volumes of NPS on the purchase side; and

(d) The limited set of metal recyclers that can compete effectively in the purchase and processing of shredder feed grades leads to a narrow market for the sale of shredded material.

6.61 We note that the OFT's Phase 1 clearance decision on the EMR/SITA merger defined separate product markets for:[90]

(a) supply of processed ferrous scrap metal; and

(b) supply of processed non-ferrous scrap metal.

Parties' views

6.62 In relation to the product markets for sale of scrap metal, the Parties argued that the supply of ferrous and non-ferrous scrap metal to final customers should be looked at separately, given that ferrous metals are not substitutable for non-ferrous metals in manufacturing processes. They also argued that, as customers can and do substitute different grades of a particular metal in their manufacturing processes, and given the fact that the main suppliers of processed scrap metal all offer a broad range of grades, it would not be appropriate to undertake further segmentation on the basis of type or grade of metal.[91]

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[89] *EMR/SITA* Decision: https://www.gov.uk/cma-cases/european-metal-recycling-ltd-sita-metal-recycling-ltd
[90] *EMR/SITA* Decision: https://www.gov.uk/cma-cases/european-metal-recycling-ltd-sita-metal-recycling-ltd
[91] [✂]

Demand-side substitution between grades

6.63 Generally speaking, customers require a specific type of metal (eg, copper cannot be substituted for aluminium). The Parties argued that different grades within the same metal types (eg, different grades of carbon steel) can be substituted by customers, however responses from customers indicated that this was not always the case:

(a) A number of non-ferrous customers outlined specific needs.

(b) As set out below, the requirement of some steel mills means that only recyclers with access to sources of NPS are credible competitors. A number of the Parties' NPS customers raised concerns in relation to EMR's strong position in NPS supply and the effect of the removal of MWR as a competitive constraint in NPS supply, implying a lack of close demand-side substitutes.

Supply-side substitution between grades

6.64 Metal recyclers typically supply across a broad range of types and grades, as demonstrated by the Parties' transaction data, in Table 6.7, below, sets out the mix of the broad categories of metal grades that the Parties supplied in 2017, while competitor responses indicate that many supply across a comparable range of commonly-sold ferrous and non-ferrous grades.

Table 6.7: Parties' metal sales by metal type, UK, 2017

	EMR			*MWR*		
Metal grade	*No. of customers*	*% of volumes*	*% of value*	*No. of customers*	*% of volumes*	*% of value*
Non-Ferrous	[✂]	[10-20%]	[✂]	[✂]	[5-10%]	[✂]
New production steel	[✂]	[10-20%]	[✂]	[✂]	[5-10%]	[✂]
Shredder material	[✂]	[5-10%]	[✂]	[✂]	[0-5%]	[✂]
Other ferrous materials	[✂]	[60-70%]	[✂]	[✂]	[80-90%]	[✂]
Total	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]

Source: [✂]
Notes:
1. Includes all sales in the calendar year 2017.
2. Only includes ferrous and non-ferrous scrap. Does not include exports.

6.65 However, both customers and competitors have pointed to specific issues in relation to the sale of NPS, as set out below.

New production steel

6.66 As set out above, under the purchasing product market, the main source of NPS supplies is from manufacturing plants, especially in the automotive sector. These suppliers typically demand a range of services in connection with the sale of their scrap NPS arisings and so only a subset of the metal

recyclers can effectively compete for the purchase of these grades of ferrous metal. This limitation on competition on the purchasing side means that the sale of NPS is similarly only possible for a subset of metal recyclers who can service the 'factory contracts' where it arises or can buy materials from other metal recyclers that do so.

6.67 There were mixed views among customers on demand-side substitutability, with one customer stating that it could substitute for other grades [✂], whereas [✂] of both Parties, expressed the view that, for the end-products [✂] there was no scope for demand-side substitution.[92] Celsa, a steel mill operator and [✂] customer, was less concerned about NPS specifically as the quality of its output did not require a high share of NPS input,[93] although, like many customers from which we received responses, [✂][94]

6.68 Given our findings on the purchasing side, it seems unlikely that supply-side substitution is likely to occur for NPS, as there are substantial barriers to winning the relevant supply contracts, as [✂] also noted.[95]

Shredder grades

6.69 As set out above, we have provisionally defined a separate market for the purchase of shredder feed based on those metal recyclers that operate the appropriate equipment needed to efficiently process these grades of metal. We have not heard any customer concerns specific to the sale of shredded grades, which suggests that, in general, these grades are substitutable for other grades, or that the conditions of competition in the sale of shredded material are similar to those for other metals. We note that almost all of the Parties' shredded metal output is exported from the UK.

Provisional conclusion on the product market for the sale of processed scrap metal

6.70 We provisionally found that there were separate markets for the sale of ferrous and non-ferrous metals, due to the lack of demand-side substitution among customers, different processing needs, and the presence of some specialist non-ferrous suppliers. We have also considered whether there are any specific grades of ferrous or non-ferrous metals in which the Parties compete and where the conditions of competition may vary from other grades. On this basis, we have provisionally concluded that sales of NPS should form

[92] [✂]
[93] [✂]
[94] [✂]
[95] [✂]

a separate product market, given that some customers cannot substitute NPS for other grades of ferrous metal and given the more limited set of metal recyclers that can access the main sources of NPS.

Geographic market definition

6.71 This section sets out our assessment of the geographic markets for:

(a) The purchase of scrap metal, focussing on the catchment areas across which metal recyclers' sites draw their supplies; and

(b) The sale of scrap metal, focussing on the scope of the geographic area over which metal recyclers compete in selling processed scrap metal.

Geographic market for the purchase of processed scrap metal

6.72 As set out in the Merger Assessment Guidelines, geographic markets may be based on the location of suppliers or customers. In markets involving multiple local geographic markets (such as grocery retail), the CMA may examine the geographic catchment area within which the majority of a store's customers are located.[96]

6.73 On the purchasing side, we focus on the main overlap areas of concern and set out below the evidence on the size of the relevant catchment areas for the Parties' sites in the London, South East and West Midlands regions, as well as for the Parties' shredder sites in the South East. We assess the extent to which these catchment areas reflect the geographic area over which competition is likely to take place and whether the scope of these areas should be considered separately in relation to:

(a) Suppliers that deliver their scrap to the Parties' sites versus those that have their scrap collected – where the latter may imply a wider geographic market;

(b) Suppliers of ferrous versus non-ferrous metal – where the latter may display a wider catchment area due to the higher value and, therefore, relatively lower transport costs;

(c) Sites with processing equipment versus those that act as feeders – where we would expect the latter to have smaller catchment areas;

[96] Mergers Assessment Guidelines, paragraphs 5.2.21 to 5.2.27

(d) Metal recyclers versus other types of suppliers – where metal recyclers may have a higher willingness to travel if they are supplying large volumes, or are supplying processed (or part-processed) scrap, as this is more cost-efficient to transport ('densified'); and

(e) The volumes of scrap metal being supplied – where suppliers with higher volumes may be more willing to travel or metal recyclers may be more willing to offer collection over a wider area.

6.74 One type of supplier that we are particularly interested in is metal recyclers. While there may be numerous small recyclers that provide a suitable option for some suppliers (in particular door trade with small volumes), the extent to which they are able to provide an effective competitive constraint will depend on the options available to them for selling on to other larger recyclers, either for processing or to obtain a route to market, as set out earlier. It is therefore particularly important to understand the locations of these customers and the distances they are prepared to travel in order to assess the options available to them post-merger. Separate catchment areas for metal recyclers (and all types of the Parties' suppliers) are set out below.

6.75 Another source of supplier segmentation that we have considered is in relation to those suppliers with multiple sites across different regions. Suppliers that require national coverage, such as the MoD or [✂], are likely to face a restricted set of competing metal recyclers (regardless of the catchment areas of specific sites), although the Parties have argued that metal recyclers without a national presence are capable of winning contracts with such suppliers – by subcontracting with local scrap metal merchants or by being willing to offer collection services over a longer distance.[97]

Parties' views

6.76 On the scope of the geographic market for purchases, the Parties put forward a number of arguments.

6.77 They argued that our approach to calculating catchment areas for the Parties' sites underestimated the area over which competition takes place and argued that:

(a) Geographic market definition is about the extent to which marginal sales would divert to other areas in response to a price change. The Parties argued that the 80%-volume catchment areas used by the CMA were a

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[97] [✂]

poor proxy for this,[98] as large jumps were observed in catchment distances above 80% rather than a plateauing above 80%. In their view, the large jump in the size of the catchment area between 80% and 90% suggested that these marginal suppliers were spread over a wide area and were likely to be capable of being served by a significant number of other competitors. They also argued that using the wider 90-100% catchment areas would be a more appropriate market definition for collection, as these suppliers were less sensitive to distance.

(b) The Parties calculated catchment areas for three years (2015-2017) and found considerable variation over time – arguing that taking the widest of the three catchment areas would represent a better reflection of the suppliers' willingness to travel and area over which competition for collections takes place.[99]

(c) They submitted that using the same catchment area distance for both processing and feeder sites was not justified, as processing sites have wider catchment areas than feeder sites: [✂] for the Parties' processing sites compared to [✂] for their feeder sites.[100] However, they also pointed out that these were not independent, as EMR's network of feeder sites was likely to be a factor in its processing sites having [✂].[101] They also pointed out that Edmonton's catchment area was [✂], which was significantly more than the 50km distance adopted by the CMA.

(d) They also argue that wider catchment areas for demolition and industrial customers meant that these suppliers had a wider selection of competitors to choose from.[102]

6.78 In relation to the geographic market for shredding, the Parties argued that:

(a) There is significant over-capacity in the shredding sector and scrap metal for shredding regularly travels significant distances, well in excess of the 115km catchment area calculated based on 80% of supplies to MWR Hitchin.[103]

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[98] In order to define the scope of the geographic market, we have calculated the size of the area over which the suppliers accounting for most of the supplies to a particular site are located. The 80%-volume catchment area calculates the distance from the site that must be travelled before the supplier locations accounting for 80% of volume have been reached, eg a 20-km catchment area means that most supplies are sourced close to the site, while a 200-km catchment area means that some volumes supplied travel a significant distance.
[99] [✂]
[100] [✂]
[101] [✂]
[102] [✂]
[103] [✂]

(b) They pointed out that this is borne out in the Environment Agency returns made by a number of significant competitors with shredders (including Sims, Hawkeswood, H Ripley, Briggs and Light Bros), some of which even show scrap metal being imported for shredding.

(c) The Parties submitted estimates of transport for a range of vehicle sizes and argued that transport costs were low – arguing that, given scrap is transported by the lorry-load, incremental distances of 15-25km are *de minimis,* and a number of suppliers will 'backload' their lorries (ensuring that they are full going in both directions), so the incremental cost of sending material longer distances is low.[104]

(d) They also argued that, in line with the EMR/SITA decision, the catchment area for shredding sites should be 140km (which was the distance between the parties' shredder sites in that case).

6.79 The Parties' submitted 70, 80 and 90% catchment areas for all of their sites, pointing out that there was a significant difference between the 80 and 90% catchment areas, and that over half of their sites (55%) had an 80% catchment area of more than 50km.[105] These results are summarised for each Party in Table 6.8, below.

Table 6.8: Parties' catchment area calculations, (km)

	% of total volume supplied from catchment area		
	70%	*80%*	*90%*
EMR sites			
Simple average	[✂]	[✂]	[✂]
Weighted average	[✂]	[✂]	[✂]
MWR sites			
Simple average	[✂]	[✂]	[✂]
Weighted average	[✂]	[✂]	[✂]
All Parties' sites			
Simple average	[✂]	[✂]	[✂]
Weighted average	[✂]	[✂]	[✂]

[✂]

Catchment area analysis

6.80 At Phase 1 the CMA considered the 80% catchment areas for each depot, ie the radius within which 80% of waste scrap metal originates calculated by volume. These varied between depots, but the average catchment area for a site without a shredder was 40km, based on 2016 transaction data. This is broadly consistent with the 50km geographic scope adopted in the *EMR/SITA*

[104] [✂]
[105] [✂]

merger. On this basis, the CMA believed that an area of around 50km was appropriate.

6.81 For sites with a shredder, the average 80% catchment area was around [✂]km and the 80% catchment area for MWR's shredder site at Hitchin was 115km. EMR submitted that a wider area should be used as many suppliers located beyond 115km are collection suppliers that are unaffected by the distance to the shredder.

CMA catchment area results

6.82 We have considered catchment areas using the further data, covering transactions for 2017 supplied at Phase 2. However, there are a number of caveats regarding this analysis, which, cumulatively, mean that it should be interpreted with some caution and as giving a broad indication of the size of the relevant catchment areas. These issues include:

(a) First, the Parties have explained that they collect suppliers' contact details only in order to comply with legislation that requires the identification of the person supplying the metal, so records may not always reflect the site where the scrap metal originated. This will apply particularly to suppliers working in multiple locations, such as demolition firms, where the postcode will usually be that of the head office, not the site where the scrap originates.

(b) Second, the data supplied by both Parties contains a number of transactions for which there are missing postcodes: accounting for 7% of MWR volumes (6% of value) and 9% of EMR volumes (9% by value). These proportions vary considerably between depots.[106,107]

(c) Finally, the calculated catchment areas appear to vary considerably over time, as the Parties have pointed out – noting that these can change significantly as contracts are won and lost, and large suppliers switch to alternative sites and competitors.

[106] The share of missing postcodes varies between 3 and 25 per cent across EMR's sites, and between 0 and 24 per cent across MWR's sites. The share of missing postcodes in the purchasing data set is almost identical when measured by volume and by value.
[107] The catchment areas have been generated using three different approaches to adjusting for this. First, they have been calculated assuming that the missing postcodes are all closer than the known postcodes. Second, the suppliers with missing postcodes have been removed from the dataset (this effectively assumes that the transactions for which the postcodes are missing have the same distribution across distances as those for which postcodes are available). Third, they have been calculated assuming that the missing postcodes are all further away than the known postcodes. The results obtained vary depending on which method is used. In the Tables in this paper we present results based on the second methodology – with all missing postcodes removed.

6.83 As set out below, the catchment areas that we have calculated are a starting point in identifying the geographic area over which a scrap metal recycler finds it economic to compete. In our more detailed assessments of competition at the site- and region-level, we take account of those areas where the Parties' suppliers are clustered and the Parties are likely to compete most intensely, rather than necessarily treating the conditions of competition as being uniform across the entire catchment area.

Catchment area calculations for London, South East and the West Midlands

6.84 While bearing in mind the significant caveats set out above, we have looked at whether catchment areas differ between:

(a) Ferrous and non-ferrous metal;

(b) Suppliers that deliver and those that have their scrap collected;

(c) Sites which have processing facilities and those which act as feeder sites

(d) Shredder sites, in particular MWR's Hitchin site;

(e) Metal recyclers and other types of suppliers; and

(f) Suppliers of different sizes.

6.85 Based on calculating where 80% of supplier volumes had originated, Table 6.9, below, sets out catchment areas for the Parties' sites – with distance for ferrous/non-ferrous and collection/delivery presented separately.

Table 6.9: 80%-volume catchment areas for Parties' sites in London, South East and West Midlands (km)

Parties' sites		*Ferrous metal*	*Non-ferrous metal*	*Collected*	*Delivered*
London and South East					
EMR sites	Feeder	[✂]	[✂]	[✂]	[✂]
	Processing	[✂]	[✂]	[✂]	[✂]
	Shredder	[✂]	[✂]	[✂]	[✂]
MWR sites	Feeder	[✂]	[✂]	[✂]	[✂]
	Processing	[✂]	[✂]	[✂]	[✂]
	Shredder	[✂]	[✂]	[✂]	[✂]
West Midlands					
EMR sites	Feeder	[✂]	[✂]	[✂]	[✂]
	Processing	[✂]	[✂]	[✂]	[✂]
	Shredder	[✂]	[✂]	[✂]	[✂]
MWR sites	Feeder	[✂]	[✂]	[✂]	[✂]
	Processing	[✂]	[✂]	[✂]	[✂]
	Shredder	[✂]	[✂]	[✂]	[✂]

Source: CMA Analysis of Parties' transaction data.
Note: These catchment areas are calculated for each site and then simple averages are taken to produce the summary set out in the Table. [✂]

6.86 Taking each potential segmentation in turn:

(a) While there are some mixed results, non-ferrous catchment areas tend to be somewhat narrower than ferrous catchment areas;

(b) On collection versus delivery, EMR sites have wider collection catchment areas compared to delivery;

(c) Looking at site type, there is a clearer pattern of feeder sites having narrower catchment areas, which is most clear for ferrous metals and for deliveries, as would be expected; and

(d) Looking at shredder sites, these tend to have wider catchment areas, at least for ferrous metals, with MWR's Hitchin site having a 115-km catchment area for ferrous metals and for deliveries, while EMR's shredder sites had somewhat smaller catchment areas – in the region of [✂] for ferrous grades.

6.87 In response to the Parties' point that MWR's Edmonton site has an 80% catchment area of [✂] and so demonstrates that processing sites have a wider reach,[108] we note that EMR's processing sites have somewhat smaller catchment areas than this. Also, as is likely to often be the case in calculating catchment areas in this market, the catchment area of the Edmonton site is sensitive to the inclusion of one large supplier that is located [✂] from the site. When this supplier is removed, the catchment area drops to [✂] (for ferrous metal).

6.88 We have also looked at possible segmentation by supplier type and did not find that metal recyclers displayed a substantially higher willingness to travel than other types of suppliers, although catchment areas did vary quite widely for supplier types when comparing the Parties.

6.89 Table 6.10 sets out the Parties' analysis of their sites' catchment areas, which shows the greater degree of variation across supplier types for MWR sites and the greater average catchment areas overall for MWR sites. However, it also demonstrates that the overall pattern of distances travelled are not systematically and substantially different between different supplier types. Looking at the average catchment area distances across both Parties, all supplier types fall within the range of [✂], with the exception of the 'Other' category.

[108] [✂]

Table 6.10: 80% catchment areas for the Parties' sites by supplier type (km)

	All suppliers	*Car-breakers*	*Demolition*	*Door Trade*	*Industrial*	*Metal Recycling*	*Waste Recycling*	*Other*
EMR sites	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
MWR sites	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
Total	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]

Source: Parties' analysis of transaction data. [✂].

6.90 It is also likely that the relevant catchment areas vary depending on the scale of the transaction involved. In particular, it seems reasonable to assume that it would be more worthwhile to transport metals over longer distances to obtain a better price where the total value of the metal involved is larger, and the unit transport costs involved will vary depending on the volumes involved. On the other hand, recyclers also locate sites close to large-volume sources of waste scrap metal.

6.91 While we have not conducted a detailed analysis of transaction sizes and distance, in assessing the extent of supplier segmentation we have calculated catchment areas for suppliers of different sizes in terms of overall volumes supplied. Table 6.11 sets out the 80%-volume catchment areas for suppliers of different sizes for the Parties' London, South East and West Midlands sites. This breakdown indicates that, in general, suppliers with low overall volumes are likely to be located closer to the Parties' sites, but the pattern is only clear for the smallest suppliers, with those supplying under 5 tonnes a year tending to have smaller catchment areas.

Table 6.11: Catchment areas for Parties' sites in London and West Midlands, all metals (km)

Parties' sites	*<1 MT*	*1-5 MTs*	*5-50 MTs*	*50-100 MTs*	*100-500 MTs*	*500-1,000 MTs*	*>1,000 MTs*
EMR sites							
London and South East							
Boreham	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
Brentford	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
Canning Town	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
East Tilbury	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
Erith	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
Mitcham	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
Rochester	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
Tilbury Dock	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
Wandsworth	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
Willesden	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
West Midlands							
Birmingham	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
Coventry	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
Darlaston	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
Kingsbury	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
Smethwick	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
MWR sites							
London and South East							
Edmonton	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
Neasden	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
Hitchin	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
West Midlands							
Cradley	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
Hockley	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
Telford	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]

Source: CMA Analysis of Parties' transaction data

6.92 We note that our catchment area analysis is based on straight-line distances, which may not always reflect the geographic constraints that affect particular areas in practice. For example, in London the time that suppliers can be expected to travel to deliver to a depot may be impacted to a significant extent by congestion. One option for taking this into account would be to look at drive-time catchment areas. As set out above, given the issues we have with data quality in relation to supplier locations, a more detailed analysis involving drive-times is unlikely to give a more accurate picture and would suffer from the same limitations as the more straightforward analysis presented above.

6.93 In response to the Parties' points set out above:

(a) On the appropriateness of calculating catchment areas that account for 80% - as opposed to 90 or 100% - of supplier volume, our view is that the data quality and the nature of competition in this market (with larger suppliers negotiating prices) mean that these catchment areas are only useful in giving a broad indication of the scope of the geographic market. The fact that those suppliers at the edges of these areas may have additional competing sites to choose from, does not constrain the Parties

in any price negotiations with suppliers that are located closer to the Parties' sites. We also note that the 95 and 100% catchment areas for some sites include extreme distances, eg, MWR Edmonton's 99% catchment area is in excess of [✂]km.

(b) We accept that catchment areas may vary over time, as contracts are won and lost, and suppliers switch to different sites and competitors, but this is why we look at an overall average across all sites in order to avoid placing undue weight on one year's data from one site.

(c) On processing sites having wider catchment areas than feeder sites, this is consistent with our own analysis, above, but for most sites (bearing in mind that EMR has many more sites than MWR) 50km remains a reasonable estimate, as the Parties' own calculations set out, above, demonstrate, with the average EMR processing site having a (weighted) average catchment area of [✂]km.[109]

(d) On their argument that wider catchment areas for demolition and industrial customers meant that these suppliers had a wider selection of competitors to choose from, we note that the Parties' estimates of these catchment areas were [✂]km for industrial suppliers and [✂]km for metal recyclers, which are somewhat higher than our general approach of [✂]km.

6.94 We respond below to these points made by the Parties in relation to shredding.

6.95 On the point that there is over-capacity in shredding and that waste scrap metal travels significantly more than the 115km catchment area that the CMA has defined, we note that 80% catchment areas will inevitably exclude those suppliers that travel furthest. As set out above, given the prevalence of negotiated prices for larger suppliers in this sector and, as set out below, given the transport costs of moving shredder feed over long distances, we do not consider that widening the catchment area would necessarily better reflect the relevant competitive constraints on a particular site.

6.96 The Parties submitted estimates of transport costs for a range of vehicle sizes and argued that transport costs were low. Their lowest estimates pointed to [✂] per tonne based on a vehicle carrying 28 tonnes making four 50-mile trips per day with no empty or partially-full loads. However, given the Parties' main point is that shredder material can be transported over long distances, it

[109] [✂]

would be more appropriate to look at what these data tell us about the costs of these longer journeys:

(a) For example, assuming two 100-mile trips per day, rather than four 50-mile trips, gives a higher cost per tonne of £[✂] per tonne.

(b) Comparing this to purchase prices of £[75-150] per tonne for some grades of shredder feed suggests that transport costs are likely to be an important constraint on distant shredders' ability to attract purchases from the Parties' suppliers.

(c) This may well be understating the transport costs per tonne as it assumes no empty or partial loads, and shredder feed may not be dense enough to be carried in a 28-tonne load, which would increase these costs further, eg, based on the Parties' data, transporting a lighter load of 12 or 16 tonnes over a distance of 100 miles would cost £[✂] per tonne.

(d) We also note the Parties' transport cost estimates here (£[✂] for 50 miles) are considerably lower than the estimate of £[✂] per tonne that they previously provided for transporting ferrous scrap from Salford to Liverpool (55km) and £[✂] per tonne from Sheffield to Liverpool (128km).[110]

6.97 On their argument that we should follow the EMR/SITA decision and use a 140km catchment area around shredder sites, we note that this was the distance between the shredders in that case, rather than being of wider significance as a guide to competition between shredder sites.

Conclusion on the geographic market for the purchase of waste scrap metal

6.98 Our analysis points towards the 50km catchment areas around each site as being a reasonable starting point for assessment of competition for supplies of scrap metal to feeder and processing sites without shredders, based on:

(a) The Parties' data on the average 80%-volume catchment areas across all their sites, which was [✂]km, as set out in Table 6.8, and similar results when averaged across supplier types (Table 6.10); and

(b) Our analysis of catchment areas for the Parties' feeder and processing sites in London, the South East and the West Midlands (Table 6.9) showed a wide range of distances across regions and between the

[110] [✂]

Parties, but the overall average for ferrous volumes is [✂]km and [✂]km for non-ferrous supplies to these types of sites.

6.99 In relation to shredder sites, taking account of the somewhat narrower catchment areas of EMR's shredder sites and also of the Parties' arguments on this point, defining a catchment area in the region of 115km in relation to shredder sites appears reasonable. Having assessed a number of possible ways to segment suppliers, we did not find systematic and substantial differences between ferrous and non-ferrous supplies, although we note that EMR's collection areas tended to be wider. We did find that smaller suppliers tend to travel less far and that feeder sites tended to have smaller catchment areas than those with processing equipment (shears and/or balers). Our provisional conclusion is that we have not defined separate markets based on these differences – only for shredder sites, where a wider geographic market is appropriate. In our competitive assessment, we took account of constraints from metal recyclers located outside these catchment areas, where appropriate, as well as taking account of variations in competitive locations within these catchment areas.

Geographic market for the sale of processed scrap metal

Introduction

6.100 At Phase 1, the geographic market for the sale of processed scrap was defined as being national, based on the fact that, despite the significant share of processed scrap metal that is exported, many smaller recyclers did not have export facilities, imports were negligible and did not impose a constraint on sales by UK metal recyclers to UK customers. Many recyclers stated that they supplied customers all over the UK, although regional markets were also considered but ultimately rejected.

Parties' view

6.101 EMR pointed out that the CMA's definition of a UK-wide frame of reference for the sale of scrap metal at Phase 1 appeared to be more conservative than the approach taken by the OFT in *EMR/SITA* where the OFT recognised that assessing the sale of scrap metal to final customers could take place in a market much wider than the UK.[111] Given the importance of exports, in EMR's

[111] See *EMR/SITA* clearance decision, paragraph 45.

view, the market should be defined as global and, at the very least, significantly wider than the UK.[112]

Phase 2 assessment

6.102 In assessing the geographic scope of the market for the sale of processed scrap metal, the key feature of the sector is that there are international markets for scrap metal, with UK supply exceeding demand and the majority of UK arising scrap being exported, including by the merging Parties. Approximately 70% of UK ferrous processed scrap metal is exported and EMR has estimated that 57-68% of UK non-ferrous processed scrap metal is also exported.[113] EMR itself exports [✂] per cent of the scrap metal that it purchases in the UK.

6.103 As set out above, the Parties have argued that the market for the supply of processed scrap metal is global, with neither the UK nor specific regions of the UK forming separate markets for the sale of scrap metal. The Parties argued, in particular, that it is easy for metal recyclers of all sizes to access export markets using containers, making export markets no more difficult to serve than domestic customers.

6.104 In assessing the competition for supply of processed scrap metal in the UK, we focus on the options available to UK customers, ie, steel mills, foundries, etc. and where these sources are based. In principle, imports could be a source of constraint, but, given that the UK generates a surplus of most scrap metals far above UK domestic requirements, there is no reason for imports and we understand that these are negligible, with almost none of the customers stated to import scrap metal from overseas.[114]

6.105 We set out below a summary of the evidence that we have on:

(a) The constraint from imports;

(b) Metal recyclers' catchment areas within the UK; and

(c) third parties' views on specific regional/customer-specific issues.

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[112] [✂]
[113] [✂]
[114] [✂]told us that the UK generates significantly more scrap metal than is required for domestic use. As such, it is very uncommon for end-users of scrap metal in the UK to import scrap from abroad. In this regard, in the last five years, [✂] has not imported any scrap metal into the UK. [✂]

Constraint from imports

6.106 On the cost of importing scrap metal, [✂] told us that there is a significant price premium for importing scrap metal into the UK compared to domestic supply. [✂] estimates the price premium is approximately £40 - £45 per tonne. The additional costs of importing scrap metal from abroad include:

(a) [✂];

(b) [✂];

(c) [✂];

(d) [✂]; and

(e) [✂].

6.107 [✂] believes that even in response to a 5-10 per cent increase in the price of domestic scrap, UK customers would be unlikely to import scrap metal from abroad. [✂] made the same point, that even if in principle it was possible to import, the transport and port costs (at £10-15 per tonne) made this unattractive, in the context of prices of £200 to £230 per tonne.

6.108 These views were consistent with a number of other third party comments on the constraint from imports, as well as with the fact that imports at present are negligible. Hence, we do not consider it appropriate in this case to consider the geographic scope to be wider than the UK.

Regional differences within the UK

6.109 In assessing whether a national market may be too wide, we have considered evidence and views on:

(a) Catchment areas within the UK

(b) Transport costs within the UK, especially when compared to export costs

(c) Customer segmentation

Catchment areas within the UK

6.110 As part of the Phase 1 process, EMR's economic advisers, CRA, calculated catchment areas for the Parties' sales from each site, covering the area over which 80% of their sales were made. These are summarised in Table 6.12, below, which shows that, in comparison to the purchase of scrap metal,

catchment areas are larger for the supply of scrap metal, averaging [✂] for non-shredder sites.

Table 6.12: Parties' catchment areas for 80% of supplied material based on distance (km)

	Ferrous metal	*Non-ferrous metal*
MWR sites		
Site	[✂]	[✂]
Shredder	[✂]	[✂]
	[✂]	[✂]
EMR sites	[✂]	[✂]
Site	[✂]	[✂]
Shredder	[✂]	[✂]
	[✂]	[✂]
EMR and MWR	[✂]	[✂]
Site	[✂]	[✂]
Shredder	[✂]	[✂]

Source: CMA calculations based on CRA analysis of Parties' transaction data for 2016

6.111 The Parties argued that they serve customers all across the UK. Based on customer responses at Phase 1, we found a mix of those that had their supply delivered and those that collected their supply. Table 6.13 summarises what average distances customers stated for where their suppliers are located (indicating in brackets how many customers stated the distance).[115] Most customers stated that their suppliers are at least located in a radius of over 120 km with some stating their suppliers are located all over the UK and even internationally.

Table 6.13: Average distance (km) of customers' supplier(s)

Delivery method	*Distance (Number of customers)*
Collection	160-320 km (2) UK-wide (1)
Delivery	30 km (1) 65 km (1) 130-150 km (3) UK-wide (1) International (2)
Both	120 km (1) UK-wide (1)

[✂]

6.112 Responses from larger metal recyclers, when asked to estimate the 'average distance within which 80% of your customers are located' indicated that processed ferrous metal was supplied over a distance of between 100 and 200km, while non-ferrous sales travelled shorter distances, as set out below:

[115] One of the four customers who gets processed scrap metal delivered did not state the average distance of its suppliers.

Table 6.14: Metal recyclers' estimates of their 80% catchment areas for sales (kms)

Metal recycler	*Ferrous catchment area*	*(KM) Non-ferrous catchment area*
[✂]	[✂]	[✂]
Ampthill Metals	100-200	50-100
[✂]	[✂]	[✂]
Sackers Recycling	100	50
[✂]	200	200
[✂]	400	200

[✂]

Transport costs within the UK relative to the cost of exporting

6.113 On the costs of exporting relative to the costs of transport within the UK, EMR put forward a number of relevant cost estimates:[116]

(a) International shipping for $15-20 per metric tonne for ferrous metal;

(b) Example costs of transporting ferrous scrap to dock facilities by road: £[✂] per tonne for Salford to Liverpool; £[✂] per tonne from Sheffield to Liverpool; and

(c) Example costs of transporting by rail: £[✂] per tonne from Sheffield to Liverpool.

6.114 [✂] set out indicative costs of exporting from the UK to US customers of NPS. [✂].[117]

6.115 [✂].

6.116 [A metal recycler's] view was that scrap metal arising in London did not travel outside the London area, due to traffic congestion, the lack of any customers for processed scrap metal within 'a few hours of London' and, in its view, the only 'route to market' for scrap metal arising in London was export.[118] However, it considered that, apart from the London area, processed scrap metal could be supplied from anywhere in the UK as the market was an international one.[119] It gave a number of examples of UK customers that it supplied in various regions, typically within a 125-mile (200-km) radius of its sites.[120]

[116] [✂]
[117] [✂]
[118] [✂]
[119] [✂].
[120] [✂]

Customer segmentation

6.117 Based on the evidence we have received, we have considered whether it is appropriate to define a separate geographic market for customers of NPS, while also considering specific issues raised by other customers. In relation to both these NPS customers and a number of customers of other specific grades, the issues raised related to the services that needed to be offered alongside the supply of metal. This requirement has implications for the proximity of metal recyclers' sites and the extent to which this limited the set of metal recyclers that could effectively compete to supply these customers.

6.118 More broadly, a number of customers raised issues around the services and logistical arrangements that they require when being supplied with processed scrap metal, which suggest that, for those customers, competition does not take place nationally. For example, [✂][121] It stated that having an EMR site nearby was an important factor in deciding which recycler to source from [✂].[122]

Provisional conclusion on the geographic market for the sale of processed scrap metal

6.119 Overall, while it seems reasonable to assess competition for the sale of processed scrap metal on the basis of a national market, there are likely to be important regional variations (eg, sources of scrap metal in London and those suppliers located near docks may be less likely to be supplied to UK final customers) and specific issues around customer needs (eg, proximity of metal recyclers' sites) that need to be considered when assessing the closeness of competition between metal recyclers.

Provisional conclusions on market definition

6.120 Our provisional conclusion on the scope of the relevant product and geographic markets are set out below.

6.121 On the product market for purchasing scrap metal, we provisionally conclude that:

(a) The purchase of ferrous and non-ferrous waste scrap metal (excluding purchases from large industrial suppliers and other tendered contracts, including of NPS, and shredder feed) forms a relevant market;

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[121] [✂]
[122] [✂]

(b) The purchase of shredder feed forms a separate market; and

(c) The purchase of waste scrap metal through tendered contracts (forms a separate market.

6.122 On the product market for sales of processed scrap metal, we provisionally conclude that there are separate markets for:

(a) The sale of ferrous scrap metal;

(b) The sale of non-ferrous scrap metal; and

(c) The sale of NPS.

6.123 On the geographic scope of the market for purchasing, we provisionally conclude that:

(a) A 50-km catchment area around each feeder or processing (but non-shredder) site is an appropriate starting point for the assessment of competition; and

(b) For purchases of shredder feed at shredder sites, a catchment area in the region of 115km around each shredder site was appropriate.

6.124 On the geographic scope of the market for sales, our provisional conclusion is that this is nationwide, but we take into account transport costs when assessing the closeness of competition between metal recyclers, eg, material arising close to ports or in London may be a weak constraint on metal recyclers in other parts of the UK.

7. Framework for the assessment of competitive effects

Introduction

7.1 In light of the market definitions set out in Chapter 6, and the Parties' locations and activities, our competitive assessment will consider the effects of the merger in the following markets in which the Parties overlap:

(a) Purchases of shredder feed in the South East (chapter 8);

(b) Purchases of ferrous and non-ferrous metals in London (chapter 9);

(c) Purchases of ferrous and non-ferrous metals from tendered contracts in the West Midlands, North East, and Wales (chapter 10).

(d) Sales of new production steel to UK customers (chapter 11); and

(e) Sales of other ferrous and non-ferrous metals to UK customers (chapter 12).

7.2 The theories of harm that apply in these markets fall into two categories:

(a) Horizontal unilateral effects in purchasing markets; and

(b) Horizontal unilateral effects in sales markets.

7.3 In each case the theory of harm is that the merged firm will have an incentive to increase its margins by worsening the terms that it offers, because suppliers and customers that the Parties would previously have lost to the other Party will now be retained, making such worsening less costly.

7.4 In the case of the sales markets, the possible detriment is that prices will rise and customers pay more.

7.5 In the case of the purchase markets, the possible detriment is that the amount paid to suppliers will fall.

7.6 While the Parties have argued that the potential harm to suppliers in the purchasing market should be weighed against a benefit to customers on the downstream sales market, we do not consider that this is the correct approach to assessing the scope for harm in this sector. In simple terms, the Parties compete in the purchase, processing and sale of waste scrap metal. Effective competition in both purchasing and selling leads to a competitive margin between prices at each level of the supply chain. While the effect of a loss of competition on the sales side is obvious (higher prices or worse terms for

customers), there is also a clear detrimental effect on the purchasing side from a loss of rivalry.

7.7 Suppliers of waste scrap metal are, in a sense, the Parties' customers, with the Parties offering a waste disposal and recycling service, but because the waste scrap metal has value, metal recyclers are not only willing to provide the recycling service but are willing to pay for the scrap. So the payment flows in the opposite direction to what we would normally expect from firms providing a service. Scrap metal is a by-product of other activities, and the suppliers of the scrap are customers, who 'pay' for a recycling service, but also get a payment for the value of the scrap being taken away. Our concern in this case is that as a result of the merger the price of the recycling service goes up, resulting in lower overall payments to the supplier. This is consistent with the way that the suppliers and recyclers think about the market: suppliers describe themselves as customers, and are referred to as such by the recyclers.

7.8 Our theories of harm in relation to purchasing are therefore that the loss of competition between EMR and MWR could lead to less choice for suppliers of waste scrap metal. This loss of competition in purchasing could lead to lower prices or other worsening in the Parties' offer to waste scrap metal suppliers.

7.9 A number of metal recyclers have expressed concern that the merger will allow EMR to pay higher prices to suppliers to the disadvantage of competing metal recyclers, due to its greater scale and efficiency in the processing, transport and/or onward sale of waste scrap metal. Where the concern relates to the difficulty competitors would have in matching prices that the Parties would be able to pay for waste scrap metal, rather than a concern that a loss of competition would result in lower prices being paid to suppliers, there is less immediate concern about detriment arising from the merger.[123]

7.10 However, EMR is the UK's largest metal recycler by some distance – it has twice as many sites as its nearest rival. The Transaction brings it together with MWR, the fourth largest metal recycler in the UK. The other recyclers in the industry are much smaller than MWR, and very much smaller than EMR. Smaller recyclers also frequently sell to larger firms in order for the scrap metal to reach final customers in the UK and elsewhere, meaning that most scrap in the UK passes through the hands of a small number of recyclers.[124] We received a number of concerns about EMR's existing size and power, and

[123] However, we note that concerns could arise in the long term if competition were sufficiently weakened such that the Parties no longer had an incentive to pay higher prices in order attract purchases of waste scrap metal.

carefully examined whether, although smaller, MWR is an important constraint whose loss would give rise to an SLC.

7.11 The UK metal recycling industry provides the activities and commercial arrangements necessary to link UK suppliers that have waste scrap metal with customers of processed scrap metal within and outside the UK. Given the substantive test the we are required to answer,[125] the focus of our enquiry has been on possible effects of the merger on suppliers and customers in the UK.

7.12 This chapter sets out the key data sources and evidence framework that we have used in considering the effects of the merger on competition. It is organised into the following parts:

(a) A description of the various 'routes to market' that scrap metal can take from supplier to customer, and how these influence competition.

(b) A brief summary of the data sources we have used and how we have interpreted 'market share' data.

(c) An assessment, informed by evidence from the Parties and third parties, of how best to analyse competition in purchasing from small suppliers, large suppliers, and metal recyclers.

7.13 In light of the points set out in this chapter, the subsequent chapters set out the evidence on competition in each of the markets in which the Parties' activities overlap.

Routes to market

7.14 The route from supplier to customers taken by a quantity of scrap metal can vary in respect of:

(a) The type of supplier from which it is sourced (eg door trade, demolition contractor, industrial supplier, or another metal recycler) and whether it is bought on a contract or 'spot' basis;

(b) The location from which it arises;

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[125] Section 35(1) of the Act says "…the CMA shall, on a reference under section 22, decide the following questions—
(a) whether a relevant merger situation has been created; and
(b) if so, whether the creation of that situation has resulted, or may be expected to result, in a substantial lessening of competition within any market or markets in the United Kingdom for goods or services.

(c) Whether it requires processing or can pass through a feeder or other site with minimal processing;

(d) The type of processing (and therefore equipment) it goes through;

(e) Whether it is sold to a UK or export customer;[126] and

(f) In the case of export whether it is exported in a container, or via a short-sea dock or via a deep-sea dock, and whether it is sold via a trader or directly to a customer outside the UK. We note that EMR operates in all three export streams, as does MWR although its access to deep-sea export is limited to Seaham in the North East, and its short-sea access is limited to Pinns Wharf in London.

7.15 The route to customers will also vary according to metal type. Broadly speaking:

(a) Non-ferrous metals come from varied sources and often require little processing before being sold to UK customers or exported. When they are exported, this usually occurs using containers, often via traders.

(b) Shredder feed comes from varied sources but there are certain types of scrap which must usually be shredded (for example cars and white goods), others that may need to be shredded depending on customer requirements, and further grades which are sometimes or often shredded but can be processed in other ways. For customers, the output of shredding is in most cases substitutable for other non-shredded grades, and is almost all exported, usually in bulk.

(c) NPS comes from factories, requires limited processing other than baling, and is exported in containers or bulk, as well as being sold to UK customers (ie steel mills and metal foundries).

(d) Other ferrous materials from varied sources can require shearing, and are mostly exported in bulk, as well as being sold to UK customers.

7.16 Therefore, there are many paths that scrap metal can take through the supply chain. An individual metal recycler may purchase from an initial source, from another metal recycler (who may not have undertaken any processing or may have done some initial processing such as baling), or from a metal recycler that has fully processed the metal. The same metal recycler, to reach a customer, may either export via its own bulk export facility, sell to another metal recycler that has access to bulk export, to a trader for container export,

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[126] [✂]

or to a UK customer (or indeed to another metal recycler that sells to a UK customer). In some cases, the metal recycler that provides the necessary transport or processing does not take ownership of the scrap involved but is instead paid for the services provided, under a 'tolling' arrangement. In other cases, the recycler may take ownership but immediately sell the metal on, without the material ever passing through the recycler's own site.

7.17 In practical terms we consider that it is not essential for each competitor to offer every stage in each route to market, because if metal recyclers find it more profitable (or feasible) they can sell to other recyclers rather than themselves doing processing, or making UK or export sales.

7.18 In line with this, the Parties' submitted that for a metal recycler to exert a strong competitive constraint, it is not necessary for it to offer all stages of all routes to market, since once waste scrap metal is received at a site, it can be moved in bulk at low cost enabling the selling metal recycler to seek the best price from other metal recyclers over large geographic areas.[127]

7.19 However, competitive purchase and sale prices (and service) for any given scrap or processed metal depend on there being sufficient competitors at each stage of the chain that applies to each metal type, and 'vertically integrated' firms that can participate in multiple or all the stages involved may have an advantage over rivals that are present in only one stage,[128] meaning that it is particularly important to maintain rivalry between such firms as they are less strongly constrained by other firms.

7.20 Given the differing processing requirements of different metals, we consider that:

(a) Competitors with no or limited processing equipment may exert some constraint, particularly in relation to metals that can be shipped without processing (such as many non-ferrous metals);

(b) A competitor will exert a stronger constraint if it has processing equipment such as a shear or baler, and for shredder feed, a shredder; and

(c) Competitors with good routes to export (and UK) customers will also exert a stronger constraint.

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[127] [✂]

[128] Because of the elimination of double marginalisation. This may arise when 'firms supplying the input and producing the final product set their prices independently and both charge a mark-up, resulting in prices to customers for the final product being higher than would suit the joint interests of both firms.' Merger Assessment Guidelines paragraph 5.7.10

7.21 We assess competition in sales to UK customers in detail in later chapters.

7.22 In relation to exporting, the Parties submitted that all metal recyclers are readily able to access the global export market via a number of options and it is not necessary for a metal recycler to have its own export facilities. Specifically, they submitted that:[129]

(a) container export is easily accessible to all metal recyclers, and particularly useful for exporting non-ferrous metals, and new production steel, as well as being suitable for processed shredder feed;

(b) there are multiple short-sea exporters;

(c) a number of companies operate without deep-sea dock facilities and owning a deep-sea dock facility is not necessary in order to access the deep-sea export markets.[130]

(d) deep-sea ports in the UK are readily accessible. In addition to UK deep-sea ports[131] recyclers can access deep-sea export through 'trans-shipment' (transferring from short to deep-sea vessels at a port outside the UK, for example Rotterdam). The Parties submitted that it is also possible to rent dock facilities for a single cargo.[132]

(e) that docks have wide catchment areas: across EMR's 10 docks the catchment area from which 80% of volumes arrive vary from [✂] to [✂] km (and 100% of volumes from [✂] to [✂] km). The Parties submitted that the true catchment area of docks is also significantly expanded by the use of feeder sites.[133]

7.23 From third parties, we heard that:

(a) Where a recycler does not have direct access to a bulk export facility, it can sell to other metal recyclers that do have such access.[134] Even in circumstances where a recycler does have its own bulk facilities it may sometimes sell to other recyclers, for example where it has scrap arising close to the other recycler's facility, or where it does not itself have

[129] [✂]
[130] [✂]
[131] [✂]
[132] [✂]
[133] [✂]
[134] [✂]

sufficient volumes for a full cargo and would rather sell volumes on promptly than wait for a full cargo to accumulate.[135]

(b) Many recyclers use container export, and it is relatively easy to access via traders,[136] although we have been told that demand from traders is subject to strong fluctuations.[137]

(c) Although traders may commission bulk cargoes, they will do so via a recycler that owns or rents dock facilities, so a recycler that wishes to access bulk export markets must do so through its own facilities or another recycler.

7.24 We also heard that a metal recycler can offer better prices if it has good routes to market – ie the necessary processing facilities and the ability to export by multiple routes, and to sell to UK customers.[138]

7.25 In light of these comments, we consider that many recyclers are likely to exert some constraint in purchasing, as a result of their ability to export via containers, but that a recycler will exert a stronger constraint if it also has access to bulk export through a short-sea dock (as MWR does in London), and even more so if it has a deep-sea dock facility (as EMR does at multiple locations including London, and MWR does at Seaham).

7.26 Throughout our assessment, we have considered whether, even if there are seemingly many metal recyclers competing for supply of scrap metal, the level of competition may not be as strong as it first appears, or may not be maintained throughout the supply chain, if those recyclers cannot process scrap or sell it to customers.

7.27 In doing so we have taken account of the equipment and dock facilities that each competitor has available, but also note that where a metal recycler considers that rivals have better routes to market than it does, it can sell material on to them – the extent to which a recycler sells to others (and buys from them) is therefore informative of its overall strength – the more it sells to others, the worse are its own routes to market likely to be; the more it buys, the more it is used as a route to market by others.

7.28 We also take into account the Parties' role as a route to market for other recyclers, and how the merger may affect competition in the provision of this

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[135] [✂]
[136] [✂]
[137] [✂]
[138] [✂]

route. For example, we estimate that around [60-70%] of UK metal exports are currently made by only four firms (Table 7.1).[139] Although MWR does not itself currently export large volumes directly, in the context of such high concentration its role as a route to direct export (shown in the table) and export via traders (an additional [✂] tonnes per year) may well be important.

Table 7.1: Share of exports of Ferrous and Non-Ferrous Scrap Metals

	Total Exports (Ferrous and Non-Ferrous)	*Share of Exports*
EMR	[✂]	[40-50%]
MWR	[✂]	[0-5%]
Parties Combined	[✂]	*[40-50%]*
[✂]	[✂]	[10-20%]
S Norton	[✂]	[10-20%]
Other competitors	[✂]	[30-40%]
Total	8,983,000	100%

Source: [✂]

Information sources

Market shares and other data

7.29 Where relevant, our assessment has been informed by data on the Parties' and competitors' purchase and sales volumes, and bidding activity. This data has been collated from a range of sources and as such is not comprehensive.

7.30 Market shares, in particular, have been interpreted with caution, in part because it is common for metal recyclers to make sales between one another, meaning that the same metal can be counted in the 'market share' of multiple recyclers, and a recycler that buys 100 tonnes and sells it on to another recycler without processing it will appear to have the same market share as a recycler that buys 100 tonnes, processes it, and delivers it to a final customer in the UK or through its own export facilities.

7.31 Our market share estimates are explained in more detail in Appendix D. Overall, we think that while market shares might overstate EMR's (and MWR's) significance in instances where its only role is in exporting materials that have been processed by other recyclers, they may equally overstate the strength of smaller recyclers whose only role is in purchasing from original sources. We therefore propose:

(a) Using market shares to understand, in broad terms, the relative strength of competing recyclers;

[139] [✂]

(b) Where possible interpret them alongside information on the proportion of each recycler's sales which are made to other recyclers (and for some competitors, the proportion bought from other recyclers), to help us understand their dependence on other recyclers for processing and export or sale to UK mills and foundries.

7.32 Our assessment has not included any detailed analysis of pricing (eg how UK pricing relates to international pricing, or how regional prices may be affected by local competition), given that prices vary widely with time, detailed metal grade and volume, making it difficult to isolate the effects of interest.

Third party evidence

7.33 We have taken into account submissions from the Parties and third parties which are specific to each area and market in question. In the course of the inquiry we received evidence from 26 suppliers of waste scrap metal, 31 metal recyclers, and 46 customers of processed scrap metal. A summary of these hearings is available on the EMR/MWR case page on the CMA website. We note that some of these third parties may have more than one relationship with the Parties, as supplier, competitor, and customer, and in some cases they were also rival bidders or potential bidders in the sales process in which EMR bought MWR. We have interpreted third party comments in light of these varied relationships and resulting incentives.

Survey evidence

7.34 As part of the evidence gathering for the case, the CMA commissioned a telephone survey of the Parties' suppliers in the South East and West Midlands,[140] based on supplier contact details provided by the Parties.[141] The survey company conducting 800 interviews.

7.35 The interpretation of survey results, and the inferences that can be drawn from them about the population of the Parties' suppliers from supplier responses are particularly difficult for this survey for the following reasons:

(a) The sampling frame (ie the list of suppliers provided to the survey company) included only those suppliers for which the Parties were able to provide contact details (a low proportion of the total).[142] This is likely to

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[140] The survey covered suppliers of the following sites: EMR South East – Bedford, Boreham, Brentford, Canning Town, East Tilbury, Erith, Mitcham, Rochester, Tilbury Dock, Wandsworth, Willesden; MWR South East – Edmonton, Hitchin, Neasden; West Midlands EMR – Coventry, Darleston, Kingsbury, Landor, Smethwick; West Midlands MWR – Cradley, Hockley, Telford.
[141] The survey was conducted by DJS Research Ltd. A copy of DJS's survey report has been published on the CMA website.
[142] [✂]

have resulted in a sampling frame that was unrepresentative of the population of suppliers.

(b) The number of completed interviews is small at most sites and very small at some. The target set for the market research agency of 120 completed interviews per site was only achieved at 3 sites (all EMR) – Bedford, Coventry and Kingsbury. Over 100 interviews were completed at one other site, MWR Hitchin;[143] at all other sites the number of completed interviews was considerably lower because of a combination of small populations and limited available contact details, and robust population inference at these sites in particular, is not possible. In most cases we have aggregated responses across sites and presented results separately for Hitchin, London,[144] and the West Midlands.

(c) A high proportion of survey respondents supply only small amounts of metal.

(d) Supplier businesses are heterogeneous, from sole tradespeople to large manufacturing businesses and other metal recyclers. This variation makes it harder to draw statistical conclusions across the supplier population.

7.36 In light of the above, we have primarily used the survey to inform our conclusions on how the merger may affect small suppliers, and for large suppliers used evidence that we collected from them directly.

7.37 Below we consider some overarching evidence on the nature of competition in purchasing, and how it varies between small suppliers, large suppliers, and metal recyclers. This informs our later assessments of competition, in particular, in purchases of shredder feed in the South East and of ferrous and non-ferrous metals in London.

Evidence on competition for purchases from suppliers of different sizes

Small suppliers ('door trade')

7.38 'Door trade' suppliers include the general public, building trade contractors, and small licensed collectors. These are typically very small suppliers – although they make up more than [80-90%] of the Parties' suppliers, they

[143] [✂]
[144] [✂]

provide less than [10-20%] of volumes.[145] The vast majority of volumes from these suppliers are delivered by them to the Parties' yards.[146]

The Parties' views on the requirements of small suppliers

7.39 The Parties submitted that suppliers who drop off waste scrap metal tend to be relatively small (eg plumbers, builders, electricians, the general public).[147]

7.40 For suppliers that travel to the scrap metal merchant and for whom proximity matters, having more sites increases the likelihood that a customer will divert to the Parties. This is because for these customers, convenience, price and service are important, and volume shares of supply are not appropriate to assess the choice and competition available to these suppliers. Therefore, a competitor's share of sites reflects the strength of its competitive constraint.

Survey evidence on the requirements of small suppliers

7.41 The majority of the sample that responded to the CMA survey was chiefly composed of small suppliers that drop off their metal to the Parties' sites. Excluding metal recyclers and industrial suppliers, the large majority had in the last year used only a single site of one of the Parties,[148] suggesting that for small suppliers, a network of sites is not a requirement. On the other hand, around one in five respondents said that they recycle metal monthly or more frequently,[149] and around 70% of respondents[150] listed location among their reasons for choosing the site they use.[151] This compares with around 20% that mentioned price and 10% that mentioned service. At least three quarters said that they would not be willing to travel further than ten miles to deliver metal.[152] These results are consistent with the Parties' submission that convenience is an important aspect of competition for small suppliers.

The CMA's provisional assessment of the requirements of small suppliers

7.42 The above evidence suggests that in competing for the business of small suppliers, site location is the most important factor. Our competitive assessment therefore includes data on the number of sites that the Parties

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[145] [✂]
[146] [✂]
[147] [✂]
[148] [✂]
[149] [✂]
[150] [✂]
[151] [✂]
[152] [✂]

and competitors have in each region. This includes small sites that may have no processing equipment.

Large suppliers

7.43 The Parties purchase over 80% of their volumes from less than 10% of suppliers.[153] Therefore, the supply of waste scrap metal is heavily skewed to large suppliers. This includes the following supplier types that supply higher average volumes than is the case for small 'door trade' suppliers:

(a) Demolition companies provided approximately [✂]% of EMR's volumes and [✂]% of MWR's in 2017.[154] As well as having higher average volumes, demolition companies are somewhat more likely to want material to be collected.[155]

(b) Industrial suppliers supply around [✂]% of EMR's and around [✂]% of MWR's volumes. These suppliers are much more likely to want material collected.[156]

(c) Metal recyclers, car breakers, and other waste companies provide around half of the Parties' volumes. A proportion of each of these supplier types want material collected.[157] Metal recyclers in particular provide very high average volumes.[158]

7.44 The Parties submitted that demolition and industrial suppliers would not use the smallest metal recyclers,[159] and that for these supplier types the service elements of the business are more important than for smaller suppliers. For example, for a demolition contractor it is important to be able to clear a site quickly and securely, while for a large industrial contract it can be important that waste does not build up and stop the production line. In both cases, a proven professional track record is likely to be important in the choice of recycler.[160]

7.45 The Parties submitted that for some metal recyclers, the Parties simply provide a logistics-style service; that is, the Parties purchase waste scrap metal which requires minimal or no processing. For other suppliers (which

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[153] [✂]
[154] [✂]
[155] [✂]
[156] [✂]
[157] [✂]
[158] [✂]
[159] [✂]
[160] [✂]

may include scrap metal merchants or industrial customers), the Parties may simply transport waste scrap metal from the supplier's premises directly to other third-party premises (so-called "truck trade"), again with no processing being required and the scrap metal not even being received on the Parties' sites. For these, the availability of particular equipment or the volumes that a site can handle is not, therefore, a relevant consideration;[161]

7.46 From third parties, we heard that:

(a) Some suppliers provide large volumes of metal which can be difficult for small metal recyclers to deal with, particularly when service is required at short notice. For the largest suppliers, a metal recycler might need several nearby sites and access to large numbers of vehicles.[162]

(b) There are some suppliers that want service in multiple regions, for whom recyclers whose sites have wider geographic coverage are in a stronger position to compete,[163] although multi-region suppliers are also sometimes served by suppliers based in a single region;[164]

(c) Transport costs are important, particularly for unprocessed metals, meaning that metal recyclers compete more strongly for purchases from suppliers that are located more closely to them;[165]

(d) Metal recyclers sell on to other recyclers for:

(i) processing, where the recycler does not have the relevant processing facilities, or does not have the relevant facilities nearby;

(i) export, in cases where the recycler does not have dock facilities that allow it to access whichever export market is most lucrative at the time, and/or where the recycler does not have sufficient volumes available to fill a bulk cargo; and

(ii) for onward sale to UK customers in cases where the metal recycler finds it difficult to meet the UK mills' quality or service requirements, or is unable or unwilling to accept the delayed payment terms and credit risk associated with UK mills.

[161] [✂]
[162] [✂]
[163] [✂]
[164] [✂]
[165] [✂]

The CMA's assessment of the requirements of large suppliers

7.47 In light of the evidence set out above, we consider that metal recyclers will be stronger competitors in purchasing from large suppliers if they:

(a) Are located close to the supplier in questions. This means, for example that competitors at one far extreme of the Parties' catchment area are unlikely to be strong competitors for customers located at the opposite geographic extreme. For this reason, our assessment, where relevant, takes account of customer and competitor locations, as well as the number and strength of competitors within each market overall.

(b) Have spare capacity and multiple sites. We consider that this allows them both to deal with large volumes of materials from large suppliers, but also to more easily build sufficient volumes to export in bulk, and to provide UK customers with large volumes in order to receive a better price. It also provides the recycler with some flexibility in its vehicle routing.[166]

(c) Have a presence in multiple regions – although, in light of the responses received from multi-region suppliers, it appears that single-region suppliers also provide some constraint.

(d) For metal recyclers especially, the ability to process materials and to export them and sell them on to UK customers is also important. As set out earlier in this chapter, we assess competitors' strength in this regard through data on the processing equipment that they have in each region, and information on whether they have access to short-sea or deep-sea docks (with the latter being a greater constraint), as well as data on the proportion of their sales that are made to UK customers or for export, as opposed to being made to other metal recyclers for processing or onward sale.

[166] See the Parties' points made in relation 'multi-region suppliers', set out in Chapter 10

8. Purchase of scrap metal for shredding in the South East

8.1 This section assesses the likely effect of the merger on competition in the purchase of shredder feed in the South East, including London. As discussed in Chapter 6 (Market Definition):

(a) the purchase of scrap metal that requires (or is made more valuable by) shredding is a separate product market. Throughout this document we use the term 'shredder feed' to describe this material.

(b) the geographic market we have focused on is based on the 115 km catchment areas around the Parties' shredder sites at Hitchin in Hertfordshire, Willesden in London and East Tilbury in Essex – covering a broad area in the South East. However, we have also taken account of the competitive constraints provided by shredders outside this area.

8.2 The theory of harm that we consider in this section is that a reduction in competition for purchases of shredder feed results, in effect, in an increase in the price that suppliers pay for the service of having their metal recycled. This is reflected in a reduction in the prices that they are paid for the metal that they supply.

The Parties' views on shredding in the South East

8.3 The Parties submitted in respect of shredding in the South East that no SLC is likely because:

(a) Metal recyclers do not need a shredder to purchase shredder feed (as shown by the fact that the Parties buy a significant proportion of their shredder feed from other recyclers;[167]

(b) the Parties' share of purchases of all metals in the area (ie not just shredder feed) is only 25-35% depending on whether a 115km or 140km catchment is used;[168]

(c) There are a large number of effective competing metal recyclers and significant overcapacity in the industry, which encourages fierce competition. This includes seven shredders within 115km of Hitchin;[169]

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[167] [✂]
[168] [✂]
[169] [✂]

(d) There are additional constraints from outside the 115km 80% catchment areas, because the additional cost of travelling 15-20km further to collect materials is low – there are eight further shredders between 115km and 140km of Hitchin, and a total of 44 competitors operating shredders nationwide;[170]

(e) A substantial proportion of shredder feed volumes come from other recyclers and car breakers, that have an in-depth understanding of pricing in the industry;[171] and

(f) There is some additional constraint from the ability of suppliers to shear some material that is usually shredded.[172]

8.4 The Parties also emphasised that the CMA's survey showed that only 8% of respondents would switch to EMR if the Hitchin site were closed, and that Ampthill (a competing shredder site near Hitchin) and Nationwide (a competitor without a shredder) were mentioned more often than EMR.[173]

8.5 The survey results, as well as comments from other third parties, are considered within our assessment below.

The CMA's assessment of shredding in the South East

8.6 This section first considers the market shares of the Parties and competitors in the region. It then considers the competitive constraint that EMR and MWR currently exercise on each other pre-merger. It then considers the competitive constraint provided by other firms operating in the region.

Market shares for shredding in the South East

8.7 As set out below, the Parties are the two largest purchasers of shredder feed by volume in the South East. Other metal recyclers purchasing shredder feed have low market shares in comparison.

8.8 Table 8.1 sets out estimates of shares of purchases of shredder feed. For some companies we have received data on the volumes of shredder feed they purchased. For other companies we do not have this data, so we have estimated their shredder feed volumes (as explained in the notes below the

[170] [✂]
[171] [✂]
[172] [✂]
[173] [✂]

Table). The table also includes total purchase volumes of all waste scrap metal at the site to show the overall scale of the site.

8.9 Table 8.1 shows that the Parties have a high combined market share and the increment is large. The Parties' combined share of shredder volumes at shredder sites that are within 115km of any of Hitchin, Willesden or East Tilbury (hereafter referred to as the Shredder Catchment Area) is [60-70%] and the increment is [20-30%]. In comparison, the next largest purchaser of shredder feed by volume is B W Riddle ([10-20%]), followed by a number of smaller purchasers with volumes each mostly accounting for 5% of purchases or less.

Table 8.1: Share of shredder feed purchases at shredder sites within 115km of Hitchin, Willesden or East Tilbury

Site	*Total Purchase volumes*	*Estimated volume of shredder feed purchases*	*Share of shredder feed purchases at shredder sites within 115km of Hitchin (%)*	*Share of shredder feed purchases at shredder sites within 115km of Willesden (%)*	*Share of shredder feed purchases at shredder sites within 115km of East Tilbury (%)*	*Share of shredder feed purchases within 115km of any of the Parties sites (%)*
MWR Hitchin	[✂]	[✂]	[20-30%]	[20-30%]	[20-30%]	[20-30%]
EMR Willesden	[✂]	[✂]	[10-20%]	[10-20%]	[10-20%]	[10-20%]
EMR East Tilbury	[✂]	[✂]	[20-30%]	[20-30%]	[20-30%]	[20-30%]
EMR Newhaven	[✂]	[✂]		[0-5%]	[0-5%]	[0-5%]
EMR Portsmouth	[✂]	[✂]		[5-10%]		[5-10%]
Parties Combined	[✂]	[✂]	*[60-70%]*	*[70-80%]*	*[70-80%]*	*[60-70%]*
B W Riddle	[✂]	[✂]	[10-20%]			[10-20%]
Van Dalen	[✂]	[✂]	[5-10%]	[5-10%]	[5-10%]	[5-10%]
[✂]	[✂]	[✂]	[0-5%]	[0-5%]	[0-5%]	[0-5%]
Sackers Recycling	[✂]	[✂]	[0-5%]	[0-5%]	[0-5%]	[0-5%]
Ampthill Metals	[✂]	[✂]	[0-5%]	[0-5%]	[0-5%]	[0-5%]
H Ripley	[✂]	[✂]		[0-5%]	[0-5%]	[0-5%]
MDJ Light Bros	[✂]	[✂]		[0-5%]	[0-5%]	[0-5%]

Source: [✂]
Note: The total purchase volumes and volume of shredder feed purchases for the Parties include inter-depot trade. This is to ensure that the market shares reflect the total quantities of shredder feed processed at the shredder sites.

8.10 The Parties have argued that the geographic area over which competition takes place for the purchase of shredder feed is wider than the 115km catchment area identified by the CMA.[174] The Parties' arguments on this issue are discussed in detail in Chapter 6 (Market Definition). In particular, they argue that:

[174] [✂]

(a) although the Parties' 80% catchment areas are around 115km, they are willing to travel further to collect materials, as reflected in their 100% catchment areas, and that rivals are prepared to do the same;[175] and

(b) the costs of transporting a full load of shredder feed are low, encouraging metal recyclers to compete for shredder feed from significant distances away.[176]

8.11 The Parties also argued that sites do not need to be located near the source of shredder feed and can be located near export locations, or at intermediate locations instead.[177] We note, however, that this would involve higher transport costs as when unprocessed scrap is transported this involves moving volumes of waste in addition to the metal that will be obtained from shredding and the material is less dense than when it has been processed and therefore cannot be loaded as efficiently on vehicles.

8.12 This issue is discussed in more detail below where the location of other shredders is taken into account in the assessment of the competitive constraint provided by other firms in the region. However, as a sensitivity test, the CMA has also considered whether the Parties' shares are significantly different when assessed on the basis of a wider geographic area by also considering shares of all waste scrap metal purchase volumes and shares of shredder feed purchases at all shredder sites within 140km of Hitchin, Willesden or East Tilbury. These are shown in Table 8.2 below. It shows that the Parties' combined share of shredder feed purchases at all shredder sites within 140km of Hitchin, Willesden or East Tilbury is [50-60%], with an increment of [10-20%], and for purchases of all waste scrap metal at shredder sites their share and the increment are marginally lower ([40-50%]% and [10-20%], respectively). Whilst these figures are lower than those for the smaller (115km) catchment area, even on the basis of this larger (140km) area the Parties are the two largest purchasers by volume, have a high market share and the increment is significant.

[175] [✂]
[176] [✂]
[177] [✂]

Table 8.2: Share of all purchases and shredder feed purchases at shredder sites within 140km of Hitchin, Willesden or East Tilbury

Site	*Total Purchase volumes*	*Share of all shredder site purchase volumes within 140km of Hitchin, Willesden or East Tilbury*	*Volume of shredder feed purchases*	*Share of shredder feed volumes within 140km of Hitchin, Willesden or East Tilbury*
MWR Hitchin	[✂]	[10-20%]	[✂]	[10-20%]
EMR Willesden	[✂]	[5-10%]	[✂]	[50-10%]
EMR East Tilbury	[✂]	[10-20%]	[✂]	[10-20%]
EMR Birmingham	[✂]	[10-20%]	[✂]	[10-20%]
EMR Newhaven	[✂]	[0-5%]	[✂]	[0-5%]
EMR Portsmouth	[✂]	[0-5%]	[✂]	[0-5%]
Parties Combined	[✂]	[40-50%]	[✂]	[40-50%]
[✂]	[✂]	[5-10%]	[✂]	[10-20%]
[✂]	[✂]	[5-10%]	[✂]	[5-10%]
[✂]	[✂]	[5-10%]	[✂]	[0-5%]
B W Riddle	[✂]	[5-10%]	[✂]	[5-10%]
Sackers Recycling	[✂]	[0-5%]	[✂]	[0-5%]
Ampthill Metals	[✂]	[0-5%]	[✂]	[0-5%]
H Ripley	[✂]	[0-5%]	[✂]	[0-5%]
Chris Allsop	[✂]	[0-5%]	[✂]	[0-5%]
Van Dalen	[✂]	[0-5%]	[✂]	[0-5%]
Hawkeswood	[✂]	[0-5%]	[✂]	[0-5%]
[✂]	[✂]	[0-5%]	[✂]	[0-5%]
MDJ Light Bros	[✂]	[0-5%]	[✂]	[0-5%]
Briggs Metals	[✂]	[0-5%]	[✂]	[0-5%]

Source: [✂]
Notes:
1. Only Party and competitor sites within 140km of Hitchin, Willesden or East Tilbury are included.
2. Total purchase volumes include inter-depot trade for the Parties.
3. Distances are based on straight-line, rather than road, distances.

8.13 The Parties have calculated their combined share of purchases from suppliers and metal recyclers on a wider catchment area of 140km is [30-35%]%.[178] Our understanding is that this represents the share of all volumes (including all grades rather than just shredder feed) from all sites operated by competitors that have a shredder within 140km of MWR Hitchin so is not

[178] [✂]

particularly informative of the Parties' position in the relevant market for our purposes.

8.14 In conclusion, the Parties are the two largest purchasers of shredder feed in the South East. They have a high combined market share in the Shredder Catchment Area of [60-70%] and the increment is significant at [20-30%]. In comparison, all the other operators have relatively low shares.

Closeness of competition between the Parties pre-merger

8.15 For the reasons set out below, the evidence points to the Parties being close competitors prior to the merger.

8.16 In assessing the closeness of competition between the Parties, we considered:

(a) similarities between the Parties' shredder sites in the Shredder Catchment Area in terms of site locations, the location of suppliers, and the size of the shredders; and

(b) how volumes of shredder feed varied at EMR's sites at Willesden and East Tilbury when MWR's shredder at Hitchin was out of action between June 2015 and February 2016.

8.17 Supplier and competitor views collected through a survey, questionnaires, and hearings and competitor characteristics are discussed later in this chapter.

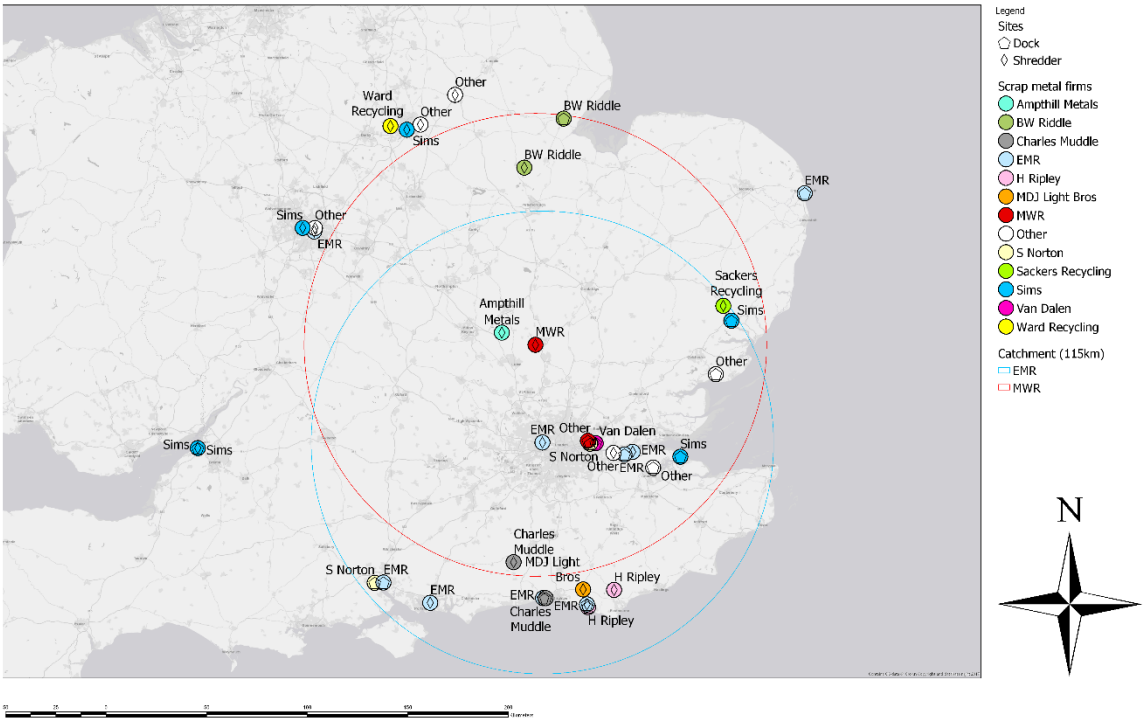
Similarities between the Parties' sites

8.18 Although the Parties' shredder sites are not the closest to each other geographically, there is a significant overlap in terms of their customers in the central and north London area. Moreover, their shredders are significantly larger than shredders at competing shredder sites within the South East, which means that they have a greater capacity and (to some extent) are able to shred a broader range of material.

8.19 Figure 8.1 below shows the location of shredder sites in the South East. This shows that while MWR's Hitchin site is located relatively close to EMR's Willesden and East Tilbury sites, they are not the most proximate competitors. Ampthill Metals is closest to Hitchin, 18km away compared to 49km to Willesden, and there is a further site, Van Dalen (57km), that is closer than East Tilbury (72km). The closest site to Willesden is Van Dalen (26km) and Ampthill Metals (58km) is not much further away than Hitchin. However, apart from these sites, most alternative shredder sites are a considerable distance from London. Van Dalen is also the closest site to East Tilbury and there are

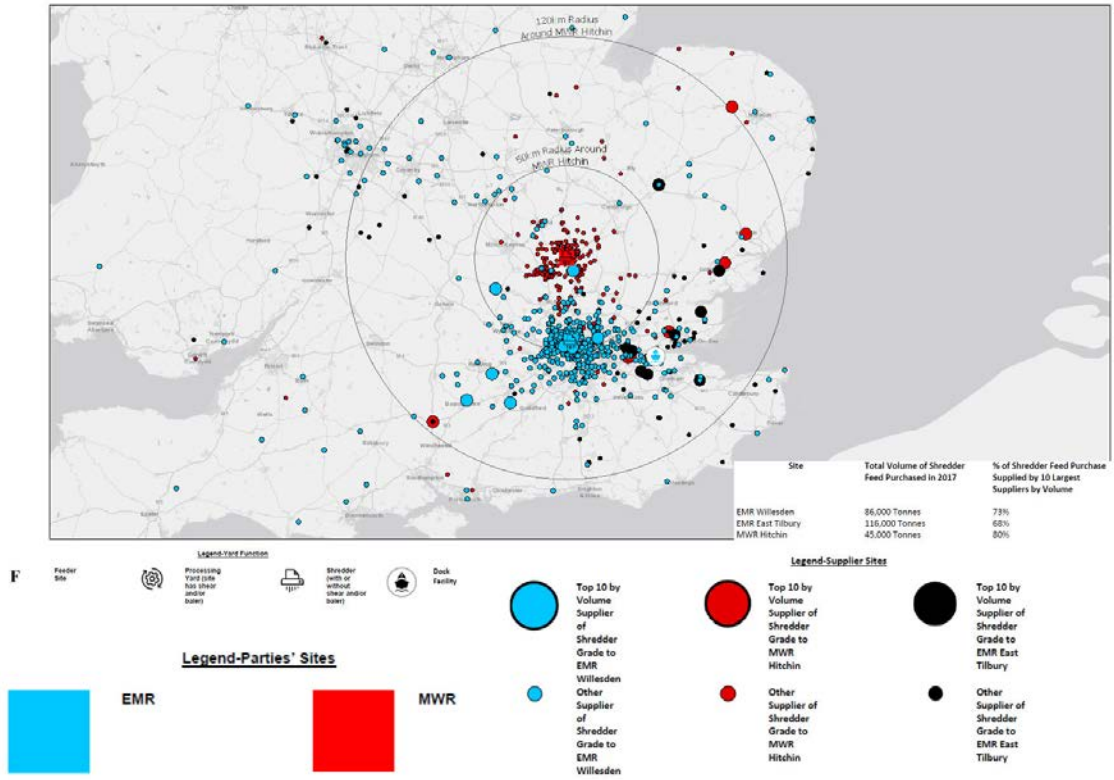
several sites that are a comparable distance to the distance between this site and Hitchin.

Figure 8.1: Map of metal recyclers' shredder and dock sites in the South East of England



8.20 Figure 8.2 shows a map of customer locations for both EMR and MWR. This shows that there are both pronounced clusters of small suppliers in close proximity to the sites, and that some large suppliers (which account for a large proportion of the Parties' shredder feed purchases) travel considerable distances to these sites (or have material collected from considerable distances).

Figure 8.2: Map of the Parties' shredder feed suppliers in the South East of England



8.21 As noted above, a further factor that makes EMR and MWR close competitors is the fact that they both operate large shredders. MWR's shredder at Hitchin and EMR's at East Tilbury are both 6,000hp shredders and the one at Willesden is 5,000hp. The power of the shredder impacts on both the capacity of the facility and (to some extent) what can be shredded. This issue is considered further in the section on competitive constraints below.

The impact of MWR's shredder at Hitchin being out of action

8.22 As well as the characteristics and capabilities of the Parties, event studies can give an insight into the competitive dynamic between them. One event that may provide an insight into the extent to which EMR and MWR are close competitors for shredding in the London area is the period between June 2015 and February 2016 when MWR's shredder at Hitchin was out of action. We have considered the extent to which this resulted in volumes being diverted to EMR shredder sites at Willesden and East Tilbury. Figure 8.3 below shows how volumes varied over time at Hitchin, Willesden and East Tilbury. Volumes at EMR's Birmingham site are also shown for comparison.

8.23 Shredder feed volumes at EMR Willesden and East Tilbury increased sharply immediately following the shutdown before falling back.[179] To give a broad indication of how the volumes at Willesden might have been affected by the shutdown, taking account of the variations from month to month, we compared total volumes during the period 1 June to 31 December 2015 with those during the same months in 2016. This suggests that around a quarter of the lost Hitchin shredder feed may have been diverted to Willesden,[180] with a potentially much more significant proportion diverting in the initial few months.[181] At EMR East Tilbury volumes were lower during the Hitchin shutdown than in the equivalent period in 2016, but this may be due to a general rise in volumes at East Tilbury over the period.[182] There were no comparable trends in volumes at Birmingham.[183] Volumes at Hitchin broadly returned to their previous levels once the shredder was repaired.

8.24 Taken as a whole, we consider that this analysis is consistent with EMR's sites at Willesden and East Tilbury having absorbed a substantial proportion of MWR's volumes during the outage at Hitchin, and that this supports our provisional conclusion that the Parties are close competitors in the Shredder Catchment Area.

Figure 8.3: Volumes at MWR and EMR shredder sites during Hitchin outage (tonnes)

[✂]

Source: [✂]

8.25 Additionally, as discussed in earlier, the Parties stated that the merger could potentially provide a relocation option for EMR's [✂] operations. This opportunity was also referred to in MWR's assessment of potential synergies with various purchasers, referring to Hitchin as offering 'a great opportunity to rationalise with their site at [✂]'.[184] [✂] suggests that this would also be the case from the perspective of suppliers. The MWR assessment of synergies also referred to EMR adding 'great value to the Hitchin output' by 'reducing

[179] At Willesden, volumes rose from around [✂] to [✂] tonnes per month in the period January to May 2015 to around [✂] tonnes per month in July and August 2015. Volumes declined to around [✂] to [✂] tonnes per month between September 2015 and January 2016. At East Tilbury, Volumes rose from around [✂] to [✂] tonnes per month in the period January to May 2015 to around [✂] tonnes per month in June and July 2015.
[180] The total volume at Willesden was around [✂] tonnes higher for this period in 2015 than for the same period in 2016, compared to a reduction in Hitchin volumes comparing the same periods of around [✂] tonnes.
[181] The shredder feed volumes at Willesden in July 2015 were [✂] tonnes higher than in July 2016 whereas the Hitchin volumes were [✂] tonnes lower. Comparing August 2015 with August 2016, the Willesden volumes were [✂] higher and the Hitchin volumes were [✂] tonnes lower.
[182] The monthly volumes during the Hitchin shutdown were all higher than the monthly volumes during the period January to May 2015.
[183] Although volumes increased slightly in mid-2015, the largest increase happened in May 2015 before the Hitchin shutdown, and volumes generally during the shutdown were around the same level as the period before the shutdown and slightly lower than those after the shutdown.
[184] [✂].

competition for feed' as well as improving yield and reducing waste cost and finding deep-sea markets at higher prices.

8.26 Overall, we provisionally consider that the Parties are close competitors in the purchase of shredder feed in the South East. They are closely located, there is substantial overlap in the area from which their customers are drawn, and they each operate large shredders with significantly higher horsepower than shredders at competing sites. Moreover, it appears that EMR's sites absorbed a substantial proportion of MWR's volumes during the outage at Hitchin. Whilst there are a number of other shredder sites located within the Shredder Catchment Areas, the shredders at these sites are much smaller and therefore do not have the same capacity, nor can they process the full range of materials that the Parties' shredders can.

8.27 These findings are consistent with what we heard from competitors and from large suppliers of the Parties – which is set out in the subsequent section along with what third parties said about the constraint from other competitors.

Competitive constraints from other operators of shredders in the London area

8.28 This section considers the competitive constraint provided by other operators of shredder sites (including sites located outside the relevant catchment area). For the reasons set out below, we provisionally conclude that other shredder sites are unlikely to pose a sufficiently strong constraint on the Parties post-merger to prevent an SLC. In making this assessment we have focused on the following criteria:

(a) Purchase volumes;

(b) Locations, in particular the extent to which these are likely to be attractive options for those suppliers most affected by the loss of competition between EMR and MWR in the north/central London area;

(c) Processing capabilities at competitor sites, in particular the power of the shredders as this affects the capacity of the site and, to some extent, the type of material that can be processed;

(d) Spare capacity at competitor sites, to gain a broad understanding of whether, and where, there is a material amount of spare capacity among competitors in the region;

(e) Whether the competitor metal recycler was considered a strong constraint based on its own views, those of other recyclers or those of other suppliers;

(f) The Parties' views on the strength of the current constraint on them from each competitor; and

(g) Survey evidence on whether those suppliers that responded considered these competitors to be close substitutes or viable options for the Parties' sites.

8.29 In discussing the relevant competitors, we have focused on the seven sites that are within 115km of Hitchin, Willesden or East Tilbury but we have also taken account of the constraint from the six further sites that are within 140km of Hitchin, Willesden and East Tilbury.

Purchase volumes

8.30 The strong market position of EMR and MWR, and relatively weak market position of competitors, in terms of purchases of shredder feed was discussed above. Table 8.1 above shows that the Parties together account for a very high share of purchases within the Shredder Catchment Area, around [60-70%]. In contrast, all the other companies with shredders in this area have low shares of purchases. Only [✂] (which is within 115km of Hitchin but further away from Willesden and East Tilbury) has a share of more than [10-20%] - the other six have shares in the range of [0-5%] to [5-10%].

Locations

8.31 Table 8.3 below sets out the distances between MWR's shredder at Hitchin and EMR's shredders at Willesden and East Tilbury, and those of other companies that own shredders within 140 km of at least one of the Parties' sites. It also includes the total waste scrap metal purchase volumes and volumes of shredder feed purchased at the site for ease of reference regarding the scale of the site.

Table 8.3: Distances of sites from Hitchin, Willesden and East Tilbury

Site	*Distance from Hitchin (km)*	*Distance from EMR Willesden (km)*	*Distance from EMR East Tilbury (km)*	*Total Purchase volumes (MTs)*	*Volume of shredder feed purchases (MTs)*
MWR Hitchin	0	49	72	[✂]	[✂]
EMR Willesden	49	0	45	[✂]	[✂]
EMR East Tilbury	72	45	0	[✂]	[✂]
EMR Birmingham	123	154	192	[✂]	[✂]
EMR Newhaven	132	83	79	[✂]	[✂]
EMR Portsmouth	139	97	125	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
[✂]	88	137	151	[✂]	[✂]
Sackers Recycling	95	113	85	[✂]	[✂]
Ampthill Metals	18	58	88	[✂]	[✂]
H Ripley	128	81	69	[✂]	[✂]
Chris Allsop	123	169	194	[✂]	[✂]
Van Dalen	57	26	19	[✂]	[✂]
Hawkeswood	124	155	193	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
MDJ Light Bros	124	76	73	[✂]	[✂]
Briggs Metals	131	178	198	[✂]	[✂]

Source: [✂][✂].
Notes:
1. Only Party and competitor sites within 140km of Hitchin, Willesden or East Tilbury are included.
2. Total purchase volumes include inter-depot trade for the Parties.
3. Distances are based on straight-line, rather than road, distances.

8.32

8.33 Table 8.3 shows that several of the sites that are within 140km of Hitchin are considerably more than 140km from Willesden. In particular, the large shredder sites in the West Midlands are around 200km from Willesden. This is significantly more than the 80% catchment areas as discussed in Chapter 6. Similarly, BW Riddle's site in Peterborough, which purchases [✂] volumes, is also significantly more than twice the distance from Willesden that Hitchin is, and the sites that are around 20-30km further from Willesden than Hitchin all handle relatively small volumes of shredder feed.

8.34 The parties have argued that transport costs for moving shredder feed are low and therefore more distant competitors represent suitable alternatives for suppliers. The Parties have estimated that it would cost around £[✂] per tonne to move shredder feed around 80km, based on a vehicle completing 4 trips per day with a full load and no empty trips.[185] However, we note that this

[185] [✂]

is considerably less than an estimate of £[✂] per tonne that they previously provided for transporting ferrous scrap from Salford to Liverpool (55km) and £[✂] per tonne from Sheffield to Liverpool (128km).[186] Transport costs of such a level would not be trivial in comparison with shredder feed purchase prices in the region of £100-£125 per tonne and would suggest that more distant shredders do not impose a strong constraint on the Parties. This would be consistent with comments from third parties on the distances over which they are able to compete. For example, [✂] stated that it is more difficult to compete on price for the purchase of light iron more than [✂] miles ([✂]) from its shredder site [✂] because of road transport costs.[187]

8.35 This suggests that suppliers in the north/central London area may be particularly impacted by a loss of competition between EMR Willesden and MWR Hitchin. Whereas currently these suppliers have a choice between large shredders at Hitchin and Willesden, post-merger they would have limited options as the distances to alternative shredders, in particular large shredders, are much longer.

Processing capability and spare capacity

8.36 We have examined the processing capability of competing shredding sites and the level of spare capacity. For the reasons set out below, this supports our provisional view that other competing shredding sites, whilst providing some constraint, are unlikely to provide a strong competitive constraint.

8.37 As discussed above, the size of the shredders in terms of horsepower varies considerably between competitors. This is important as the power of the shredder determines the volumes of material it can process and also impacts on what can be processed at the site.

8.38 Table 8.4 below gives the horsepower of all shredders in the London area. Ampthill Metals and Van Dalen, together with some of the more distant shredders (Sackers Recycling in Ipswich, [✂], MDJ Light Brothers and [✂], [✂] and [✂]) all have shredders that are 1,250hp or less. More powerful shredders are at [✂] in Peterborough and [✂] and [✂] which both have [✂] shredders. [✂] is the only competitor which has a [✂] shredder.

[186] [✂]
[187] [✂]

Table 8.4: Power of shredders within 140km of Hitchin, Willesden or East Tilbury

Shredder site	*Shredder Power (hp)*
EMR Willesden	5,000
EMR East Tilbury	6,000
MWR Hitchin	6,000
[✂]	[✂]
Hawkeswood	[✂]
[✂]	[✂]
BW Riddle	[✂]
[✂]	[✂]
Ampthill Metals	[✂]
Van Dalen	[✂]
Sackers Recycling	[✂]
[✂]	[✂]
Briggs Metals	[✂]
H Ripley	[✂]
Chris Allsop	[✂]
MDJ Light Brothers	800

Source: [✂]

8.39 The power of the shredder primarily affects its throughput. EMR provided details of the capacity of each its shredders, which vary in size between 1,250hp and 10,000hp.[188] While Willesden and East Tilbury are capable of handling a maximum of [✂] and [✂] tonnes per hour respectively, its small shredders at Newhaven and Portsmouth (1,250 and 1,400 hp respectively) are only capable of handling [✂] tonnes per hour. Similarly, [✂] estimated that a 1,250hp shredder could process around 4,000 to 5,000 tonnes per month whereas it is able to process in the region of 50,000 tonnes per month using a 6,000hp shredder.[189]

8.40 The power of the shredder also affects what metal can be shredded in it. We understand that baled cars need to be processed in a 4,000 or greater horsepower shredder.[190] Less powerful shredders can process 'logged' cars (ie cars that have been squashed lengthways, but not the other way), but this affects transport costs as when cars have been logged only 13 tonnes can be transported in a vehicle compared to 18 to 20 tonnes when they have been baled.[191] [192]

8.41 When firms provide similar products or services in a marketplace, capacity may be a significant determinant of a firm's competitive strength.[193] If so, and if the merger were to provide an incentive to the Parties to lower prices to suppliers, it may be the case that competing metal recyclers have the available capacity to meet the demand from suppliers who would switch away

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[188] [✂]
[189] [✂]
[190] [✂]
[191] [✂]
[192] [✂]
[193] Merger Assessment Guidelines, paragraph 5.3.3.

in response to a price change.[194] In this case we note that metal recyclers do provide similar products and services to some degree although we also note that they are differentiated by location (which is important to suppliers) and by other factors (such as access to docks or the type of processing functions that they can perform).

8.42 The Parties have also indicated that a number of scrap metal merchants have capacity in their shredding operations and would therefore be in a position to win volumes from affected customers should the Parties seek to lower purchase prices for shredder feed. Most of the competitors that responded indicated that they had some spare capacity at their shredding sites although it was not always clear whether that related to capacity to process shredder feed or other processing capacity. Based on an approximate comparison of current purchases and their likely capacity given the size of the shredder, we estimated that the total spare capacity across the three sites at [✂], [✂] and [✂] was likely to be in the region of 30,000 to 115,000 tonnes.[195] This compares with current purchases of shredder feed at Hitchin of [✂] tonnes, purchases at Willesden of [✂] tonnes and at East Tilbury of [✂] tonnes. The information regarding [✂] suggested that it had [✂] capacity and we were not able to make any assessment for [✂].

8.43 The above evidence indicates that the geographically closest metal recyclers to the Parties in London do have some spare capacity, albeit for shredders of much lower power than the Parties which may limit what can be processed at the site. Whilst this may be sufficient for each of these competitors to provide some competitive constraint post-merger, it may not be sufficient to substantially increase the competitive constraint that they provide particularly given the potential impact on the type of material that can be shredded.

8.44 At a late stage in our analysis we received evidence suggesting that certain export markets which had previously accepted certain types of sheared metal were no longer doing so and would now require that this metal be shredded. Such a development would increase the demand for shredding. We will consider this issue further following the publication of our provisional findings.

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[194] Merger Assessment Guidelines, paragraph 5.4.11.
[195] The estimates of spare capacity for [✂] were made from estimates of spare capacity provided by the company (which in some cases were at a site level rather than for shredder feed specifically), taking into account estimates of likely capacity of the size of shredder at the site.

Third party comments

8.45 This section considers the comments we have received from suppliers and competitors about the impact of the merger and the competitive constraint provided by other operators of shredders in the Shredder Catchment Area.

8.46 The evidence from suppliers is mixed. Several suppliers raised concerns about the merger, the focus of which was on the EMR's already strong position becoming even stronger post-merger:

(a) [✂] said that the merger limited the options of fragmentisers (ie shredders) to which it could [✂];[196]

(b) [✂] said that it believed the purchase of the MWR shredder will give EMR the monopoly with shredder feed in the South of England. It said that [✂] is the only other outlet for it in the area, and noted that it only has a small shredder. It said that if it wanted to [✂] baled shredder feed then the nearest outlet would be [✂] which is approximately 200 miles away in [✂].[197]

(c) [✂] described EMR as 'by far the most dominant player in the UK scrap market'. It noted that it had been selling to MWR, but had experienced a significant drop in prices immediately following the merger[198]

(d) [✂].[199]

8.47 Two suppliers, [✂] and [✂], both metal recyclers, said they had no concerns. [✂] said this was because they do not sell in the same markets.[200] [✂] did not provide a reason for this view.

8.48 Some competitors also raised concerns about the merger. Some of these specifically referred to concerns about a loss of competition from MWR post-merger:

(a) [✂] said that only EMR would have access to large shredding capabilities as other operators in the area only have very small shredders. It described EMR as having a very strong position in London, and more so following the merger because MWR had been the only competitor with a large shredder;[201]

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[196] [✂]
[197] [✂]
[198] [✂]
[199] [✂]
[200] [✂]
[201] [✂]

(b) [✂] said that MWR had 'ensured positive competition' in the South East because it was an independent processor that could sell via the deep-sea container market. It also said that 'faced with minimal competition, EMR & Sims will lower prices to maximise profit whereas independent shredders are forced to offer consistently higher prices to secure required volumes of feed.'[202]

(c) Ampthill Metals said in its Phase 1 response that 'EMR has taken a competitor out of the market which is good for us. However, the producers of scrap have less choice of where to sell to.' [203] However, in its Phase 2 response it said that it did not have concerns about the impact of the merger on competition, noting that '[✂]'.[204]

8.49 In some cases, the concerns from competitors related to the competitive strength of EMR and how this will increase with a further increase in EMR's scale, rather than commenting specifically on the loss of competition from MWR. For example, [✂] referred to an 'increase of already dominant players', and said that jointly the Parties 'are dominant in the UK due to the network of sites' and the merger will 'strengthen EMR's ability to control the marketplace'.[205]

8.50 In other cases, the concern was explicitly focused on the ability of the competitor to compete with the Parties post-merger rather than the impact that the loss of competition would have on suppliers of scrap. For example, [✂] raised concerns that the Parties 'will become uber dominant in the scrap recycling industry and have the ability to cut the margins to near extinction to wipe out the competition'. They referred to the stronger balance sheets and greater cash reserves of EMR enabling it to operate on lower margins and offer better payment terms, and said that the merger would make EMR 'stronger and leaner and hungrier for volume' which would make the market 'very tight and marginal'.[206] However, in its response to the Phase 2 Competitor Questionnaire, it said that it had no concerns about the impact of the merger on competition as it will 'help small independent shredders like [✂]'. Where the concern relates to the difficulty competitors would have in matching prices that the Parties would be able to pay for shredder feed, rather than a concern that a loss of competition would result in lower prices being paid to suppliers, there is less immediate concern about detriment arising from the merger. However, we note that concerns could arise in the long term

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[202] [✂]
[203] [✂]
[204] [✂]
[205] [✂]
[206] [✂]

if competition were sufficiently weakened such that the Parties no longer had an incentive to pay higher prices in order attract the shredder feed and instead had an ability to lower prices to below pre-merger levels.

8.51 Some competitors also commented on the extent to which they and other companies provided strong competition to EMR and MWR. In particular:

(a) [✂] because of the size of its shredder, the size of its yard, and the fact that it only has facilities for [✂].[207]

(b) [✂] said that most of the tonnage it purchased came from south of its site whereas 'EMR has strong presence in/around London' and that it did not attempt to compete with EMR.[208]

8.52 Overall, there were mixed views from both suppliers and competitors on the likely competitive impact of the merger in shredding feed. Several suppliers and competitors supported the view that the merger would result in a reduction of competition and a strengthening of EMR's already strong market position, but there were a few that were either not concerned or their concerns were more about the Parties' ability to compete more strongly post-merger.

Evidence from the survey

8.53 The survey evidence does not clearly suggest that the merger raises significant competition concerns, although there are limitations on what reliance we can place on the survey in this context given the number and nature of the respondents. In relation to shredding, the number of responses was very low at Willesden and East Tilbury (2 and 4, respectively), and while there was a good response rate at Hitchin (108 responses), not all of these supplied shredder feed.

8.54 Twenty of the Hitchin respondents, two of the East Tilbury respondents and none of the Willesden respondents had supplied end-of-life vehicles, washing machines and/or light iron, which we used as a proxy for shredder feed. Around half of these were small suppliers (11 had supplied less than 5 tonnes in the past year) and slightly less than half were large suppliers (8 had supplied more than 10 tonnes in the past year).[209] Of the 22 respondents:

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[207] [✂]
[208] [✂]
[209] One respondent had supplied between 5 and 10 tonnes and two respondents did not know how much they had supplied.

(a) When asked which sites had been used, only one said that they had used Willesden and none mentioned other sites at which there is a shredder. There were four other respondents that mentioned using other sites which do not have a shredder.[210]

(b) When asked which sites they could use, seven sites were mentioned by 11 respondents. The most frequently mentioned was Ampthill (seven mentions) followed by S Norton (four mentions) and Sims Avonmouth (three mentions). Sims Nottingham and Sackers were both mentioned by two respondents and Ward Recycling was mentioned by one respondent.

(c) When asked which sites they would divert to, one respondent mentioned Ampthill. Three other respondents mentioned sites which don't have a shredder[211]

8.55 The survey also asked respondents for their views on whether they could have used certain sites within the Shredder Catchment Area.

(a) When asked about Ampthill Metals, 8 of the 20 Hitchin respondents and 1 of the 2 East Tilbury respondents said they could use them and 12 of the Hitchin respondents and the other East Tilbury respondent said they could not use them. The main reasons given for not being able to use Ampthill Metals were 'Never heard of/don't know much about' (8 Hitchin respondents) and 'too far away/difficult to get to' (3 Hitchin responses).

(b) When asked about Sackers, 2 of the Hitchin respondents said they could use them and 18 said they could not, of which 10 gave the reason 'Never heard of/don't know much about' and 7 said 'too far away/difficult to get to'. Both the East Tilbury respondents said that Sackers could be used.

(c) When the East Tilbury respondents were asked about Van Dalen, one said they could use them and the other said they could not giving the reason 'Never heard of/don't know much about'.

(d) When the Hitchin respondents were asked about EMR, 10 said they could use them and 6 said they could not,[212] of which 5 gave the reason 'Never heard of/don't know much about' and one said 'too far away/difficult to get to'.

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[210] The sites mentioned were Nationwide (three mentions), and EMR Mitcham and Williams (one mention each).
[211] The sites mentioned were Robert Gibbs, Simply Recycling Solutions and William Bedfords.
[212] [✂].

(e) When the East Tilbury respondents were asked about MWR, one said they could use them the other said they could not.

8.56 The survey also asked respondents for their views on whether they could have used certain sites that were located outside the Shredder Catchment Area.

(a) When asked about Ward Recycling, one of the Hitchin respondents and both the East Tilbury respondents said they could use them and 16 of the Hitchin respondents said they could not use them. The main reasons given for not being able to use Ward Recycling were 'Never heard of/don't know much about' (10 respondents) and 'too far away/difficult to get to' (6 responses).

(b) When asked about Sims Avonmouth, 3 of the Hitchin respondents and both the East Tilbury respondents said they could use them and 17 of the Hitchin respondents said they could not use them. The main reasons given for not being able to use Sims Avonmouth were 'Never heard of/don't know much about' (11 respondents) and 'too far away/difficult to get to' (6 responses).

(c) When the Hitchin respondents were asked about Sims Nottingham, 2 said they could use them and 18 said they could not,[213] of which 10 gave the reason 'Never heard of/don't know much about' and 8 said 'too far away/difficult to get to'.

8.57 While it is difficult to draw conclusion from a small number of responses, we note that respondents were more likely to consider EMR and Ampthill Metals to be viable alternatives to MWR's Hitchin site as compared to their views on alternative metal recyclers' sites located further away.

8.58 Of the 22 respondents that supplied shredder feed, only 1 thought the merger would be bad for its business, compared with 9 who thought it would be good for their business and 10 who thought the effect would be neutral. There were no clear trends as to why respondents thought the effect on their business would be neutral or positive, although there were several respondents that indicated that they only recycled a limited amount of material or that they valued the close proximity of the site, and only one stated that they were not concerned as there were other sites that could be used.

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[213] [✂]

Assessment of individual competitors

8.59 For each of the seven competitors with shredder sites within the Shredder Catchment Area, we have considered below the extent to which they impose a competitive constraint on the Parties, having regard in particular to their market share, the capacity of their shredder, their location and third party comments. Overall, this assessment supports our provisional view that other shredder sites do not impose a strong competitive constraint:

(a) BW Riddle – This is the largest competitor in the Shredder Catchment Area with a market share of [10-20]% (Table 8.1) ([✂] tonnes of shredder feed purchased). It also has [✂] power shredder ([✂]). However, while its location in Peterborough is reasonably close to Hitchin (88km), it is a long way from Willesden (137km) and East Tilbury (151km). It is therefore not clear that it represents a strong competitor for suppliers in London and the south of the Shredder Catchment Area although it may be a strong competitor for other suppliers in the north of the Shredder Catchment Area.

(b) Van Dalen – Although it is the second largest competitor in the Shredder Catchment Area, its share is only [5-10]% (Table 8.1) ([✂] tonnes of shredder feed purchased). It is located close to Hitchin, Willesden and East Tilbury (57km, 26km and 19km respectively), but it [✂] shredder. [✂]. It is therefore not clear that it represents a strong competitor for customers in the Shredder Catchment Area.

(c) [✂]– It has a market share of [0-5]% ([✂] of shredder feed purchased). Like [✂], it operates [✂] ([✂]) shredder. [✂] is within the 115km catchment areas ([✂] from Hitchin, [✂] from Willesden and [✂] from East Tilbury) but the firm stated that most of its purchases come from [✂] of its site and that it did not attempt to compete with EMR. It is therefore not clear that it represents a strong competitor for suppliers in London and the [✂] of the Shredder Catchment Area although it may be a strong competitor for other suppliers in the [✂] of the Shredder Catchment Area.

(d) Sackers Recycling – It has a market share of [0-5%] (Table 8.1) ([✂] tonnes of shredder feed purchased). Like [✂], its location in Ipswich is within the 115km catchment areas (95km from Hitchin, 113km from Willesden and 85km from East Tilbury) but it only operates a small shredder (1,250hp). It also noted that the stronger balance sheets and greater cash reserves of EMR enabled it to operate on lower margins and offer better payment terms. It was mentioned as a site that could be used by two of the 22 respondents in the survey that were suppliers of shredder feed to Hitchin, Willesden or East Tilbury. It is therefore not clear that it

represents a strong competitor for customers in the Shredder Catchment Area.

(e) Ampthill Metals – It has a market share of [0-5]% (Table 8.1) ([✂] tonnes of shredder feed purchased). It only operates a small shredder (1,250hp) but is located very close to Hitchin (18km) and well within the 115km catchment area (58km from Willesden and 88km from East Tilbury). It was the most frequently mentioned site that could be used in the survey (7 mentions), and was the only site with a shredder that was mentioned as a site that would be diverted to (but only by one respondent). It therefore appears that, notwithstanding the power of its shredder, Ampthill Metals is likely to represent a strong competitor in particular for suppliers in the north of the Shredder Catchment Area.

(f) H Ripley – It has a market share of [0-5]% (Table 8.1) ([✂] tonnes of shredder feed purchased). Its location in East Sussex is within the 115km catchment area for Willesden (81km) and East Tilbury (69km) but it is further away from Hitchin (128km). It also has a [✂] shredder ([✂]). It is therefore not clear that it represents a strong competitor for customers in the north of the Shredder Catchment Area.

(g) MDJ Light Bros – market share [0-5]% (Table 8.1) ([✂] tonnes of shredder feed purchased). Like H Ripley it is located in East Sussex, within the 115km catchment area for Willesden (76km) and East Tilbury (73km) but it is further away from Hitchin (124km). Its shredder is [✂]. It is therefore not clear that it represents a strong competitor for customers in particular for customers to the north of the Shredder Catchment Area.

8.60 In conclusion, it is not clear that the other shredder sites within the Shredder Catchment Area will exercise a strong competitive constraint on the Parties post-merger, having regard in particular to their location and the power of their shredder. While Ampthill Metals and BW Riddle may be strong competitors in the north of the Shredder Catchment Area, they are unlikely to be so for suppliers in the south of the Shredder Catchment Area and (in the case of BW Riddle) in London. Conversely, [✂] and H Ripley are unlikely to be strong competitors for suppliers in the north of the Shredder Catchment Area. In particular, the Parties are unlikely to face strong competition in London given that [✂] and [✂], and the nearest 4,000hp shredders (needed to process baled cars) are located in the West Midlands, over 150km from EMR's Willesden site.

Partial constraint from shearing

8.61 The Parties have argued that there is some substitutability between shredding and shearing with respect to light iron and therefore it is necessary to take into account the partial constraints exercised by metal recyclers who use shears as an alternative to shredding.[214] They argue that, whilst whole cars and domestic appliances must be shredded, metal recyclers can and do strip them manually in order to process as much metal as possible via shearing with limited amounts remaining for shredding.[215]

8.62 As discussed in Chapter 6, certain grades must be shredded. Around [80-90%] of EMR's shredder feed purchase is made up of frag feed ([✂]%) and ELV ([✂]%).

8.63 Whilst some metal recyclers may process scrap in the way described earlier, we do not consider this to be a close enough substitute such that it would provide a constraint on the ability of the Parties to lower the price that they pay for shredder feed. The volume that would divert in the face of a reduction in price for shredder feed is likely to be small, and there is a significant volume which must be shredded and so could not be processed using a shear.

Barriers to entry and expansion

8.64 We have considered whether entry by new rivals, or expansion in activities by existing rivals would prevent an SLC from arising in the purchase of scrap metal for shredding in the South East of England. In assessing whether entry or expansion might prevent an SLC we consider whether such entry or expansion would be timely, likely and sufficient.[216] Detailed evidence is included in Appendix D.

Parties' submissions

8.65 The Parties have argued that actual or potential competitors would not encounter barriers that would affect the timeliness, likelihood and sufficiency of their ability to enter and expand thereby mitigating the effect of the SLC. In particular, they refer to the availability of small shredders, some of which are mobile, and argue that sites are available in areas from which it is possible to access London.[217]

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[214] [✂]
[215] [✂]
[216] Merger Assessment Guidelines, paragraph 5.8.3.
[217] [✂]

8.66 The Parties said that there are no particular technical or regulatory barriers and the basic equipment is simple. They argued that barriers to entry and expansion in the shredding of waste scrap metal in the South East are low, with mobile shredders available and leasing options open to metal recyclers without sufficient capital to invest.

8.67 The Parties submitted a list of entry and expansion at site level across the UK over the last 5 years by region. The list included details of any processing equipment[218] installed on site as part of the entry or expansion. Within London there were 2 new sites with a shear or a baler. There were no new sites with shredders. Similarly, with respect to expansion, only 2 sites in London expanded their processing capability, but with a shear. There were no new shredders installed in existing sites representing expansion London or the South East in the past 5 years.

Third party submissions

8.68 Some third parties submitted that barriers are high, particularly in London and the South East given the difficulties of finding available and appropriate sites. In addition, finding a suitable site for a large shredder, and the cost of a large shredder, represented significant barriers to entering or expanding in the shredding of waste scrap metal.

Our assessment

8.69 With regard to the timeliness of entry into the purchase of scrap metal for shredding in the South East of England, we have provisionally found that licensing in the form of an environmental permit or a T9 exemption from the Environment Agency could be obtained in a timely manner. Planning permission is required for both the site and, if fixed, the main processing equipment (balers, shears and shredders).[219] Planning permission is granted by local authorities. Local authorities take account of objections such as noise and disturbance resulting from use, and the use of hazardous materials. These may make planning permissions more difficult to obtain, eg in densely populated areas. In assessing the significance of planning permission as a barrier to entry we recognise that a planning consent is subject to an appeal, which can make the process long and uncertain. We are not aware of any site in the South East of England awaiting planning approval for shredding and therefore we cannot consider that entry would occur in a timely manner.

[218] Balers, shears or shredders.
[219] Balers and Shears can be mobile as well as fixed. Shredders are fixed.

8.70 With regard to the likelihood of entry or expansion in the South East there is little evidence of recent past entry in shredders. In addition, expansion in recent periods with new processing capability has been minimal. No party was able to provide evidence that suitable sites had been found for new entry in processing in London or shredding in the South East. Third parties told us that they were severely constrained by availability of land and required planning permissions for larger processing sites in London. Both [✂] and [✂]. We therefore have provisionally found that entry or expansion is not likely for the provision of shredding in the South East.

8.71 Given we have provisionally found that entry or expansion into the purchase of scrap metal for shredding in the South East of England is neither timely or likely, we do not consider that it is necessary for us to assess whether any such entry would be sufficient to prevent an SLC from arising.

Countervailing buyer power

8.72 The Parties have also suggested that shredder sites generally deal with other scrap metal merchants, car breakers and sophisticated suppliers of scrap metal, and that these customers are generally well informed about prices, as well as willing to travel to obtain the best price. As a result, they suggest that the Parties will be constrained by the buyer power of their suppliers.[220]

8.73 We have provisionally found that suppliers with scrap metal requiring shredding will suffer from a reduction of choice as a result of the merger and many of these suppliers will not be able to easily switch their scrap metal volumes to other metal recyclers. Suppliers, even very large suppliers, will therefore find it difficult to exercise any countervailing buyer power.[221]

8.74 We have not seen any evidence of suppliers exercising countervailing buyer power in the supply of scrap metal for shredding in the South East nor are we aware of any evidence of suppliers sponsoring entry for shredding.

8.75 We therefore provisionally conclude that countervailing buyer power will not prevent an SLC from arising in the purchase of scrap metal for shredding in the South East.

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[220] [✂]
[221] Merger Assessment Guidelines, paragraphs 5.9.3-5.9.4.

Provisional conclusion on shredding in the South East

48. Our provisional conclusion on the purchase of shredder feed grades in the South East is that the Transaction has resulted, or may be expected to result, in a SLC. This is based on:

(a) The Parties' high combined shares of shredder feed purchases at shredder sites within 115km of their sites at Hitchin, Willesden or East Tilbury of [60-70%] and the very substantial increment provided by the acquisition of MWR ([20-30%]) – the merger combines the two largest purchasers in the region. Even if competitors from a wider geographic area are taken into account, the Parties have a high market share, together accounting for [40-50%] of shredder feed volumes within 140km of Hitchin, Willesden or East Tilbury;

(b) The much smaller capacity, and weaker capability of other shredders in the catchment area. Whilst there are competing shredder sites and some of these may have some spare capacity, these operate much less powerful shredders than the Parties which limits their capacity and the grades that they can process;

(c) The distant location of some shredders in the catchment area, when assessed from the point of view of the suppliers most likely to currently choose between the Parties. While we considered competition from shredder sites across a wide geographic area, evidence on supplier locations and on transport costs indicated that those shredders located in the West Midlands and in Sussex were unlikely to impose a sufficient constraint to prevent an SLC for suppliers close to the Parties' shredder sites in North London and Hertfordshire. Such suppliers would have to travel well over 115km to reach these alternative shredders; and

(d) High barriers to entry for shredder sites, in particular given the difficulty of finding a suitable site and securing planning permission in London and the South East, as well as the costs of such sites and the length of time required to commission them.

9. Purchase of waste scrap metal in the London region

Introduction

9.1 The Parties overlap in the purchase of ferrous and non-ferrous waste scrap metal in the London region. Indeed, the Parties are the two largest purchasers of waste scrap metal in the London region and they have a strong presence in terms of site numbers, processing capabilities and export facilities. While the Parties have argued that their market shares are not as substantial as the CMA had estimated in its reference decision, by any measure EMR is by far the strongest metal recycler in the region. MWR, although some way behind, is the second largest purchaser in the region, with far higher purchase volumes than other metal recyclers, significant processing facilities and a short-sea dock in London.

9.2 As set out in the preceding Chapter, the Parties both operate large shredder sites in the broader region – EMR at Willesden and East Tilbury, and MWR at Hitchin. These facilities give them a strong position in London and the South East more broadly, but our assessment in this Chapter seeks to focus on their position in purchasing waste scrap metal in the London region. Where possible, we have sought to separate out issues that relate to the purchase of shredder feed (dealt with in Chapter 8, above) from those that relate to the purchase and processing of other grades of waste scrap metal.

9.3 As set out in Chapter 6, above, the relevant geographic market for the Parties' non-shredder sites is narrower than for shredder sites. As such, the geographic scope of the market that we focus on in this chapter is the area within 50km of the Parties' London sites ('the London region'), which includes a number of EMR sites in surrounding areas of Kent and Essex.

9.4 In our assessment of the likely effect of the merger we have relied on evidence in relation to:

(a) The volumes of waste scrap metal purchased by the Parties and by third parties in the London region. Where relevant and feasible, we have broken this down into ferrous and non-ferrous, as well as excluding narrower grades where appropriate, in particular 'shredder feed'. Our purchase volume data are a combination of information gathered from the Parties, third-party responses and Environment Agency data collected from licensed metal recycling sites.

(b) The Parties and some third parties' transaction data on their purchases and sales of scrap metal, including trade with other metal recyclers.

(c) Metal recyclers' site locations and the facilities at each site, including dock facilities, processing equipment, site surface areas, and spare capacity estimates.

(d) Third party responses – from suppliers of waste scrap metal and from other metal recyclers – which have informed our view of the competitive constraints that are likely to be exerted on the Parties post-merger.

(e) Our survey of suppliers to the Parties' London sites, which has informed our view of competition between the Parties and the constraint from other competitors.

9.5 Our theory of harm is that the loss of competition between EMR and MWR could lead to less choice for suppliers of waste scrap metal in the London region. This loss of competition in purchasing could lead to lower prices, worse terms or other worsening in the Parties' offer to waste scrap metal suppliers. Our approach to assessing the scope of detriment on the purchasing side of the market, as well as our response to the Parties' views on this, are set out in Chapter 7.

9.6 The remainder of this Chapter is structured as follows:

(a) Parties' views on competition in the London region;

(b) Market shares in the purchase of waste scrap metal in the London region;

(c) Closeness of competition between the Parties pre-merger, with a focus on site locations and equipment;

(d) Competitive constraint from other metal recyclers in the region, with a focus on:

(i) Their purchase volumes in the region;

(ii) Site locations – relative to the Parties' sites;

(iii) Processing capabilities, in particular, shears;

(iv) Routes to market, in particular, metal recyclers' access to export markets and the extent to which larger metal recyclers, including the Parties, provide a route to market for smaller recyclers;

(e) Third-party views on competition between the Parties, the likely effect of the merger and strength of the competitive constraint from other metal recyclers, based on:

(i) The views of the Parties' suppliers and other metal recyclers; and

(ii) Supplier survey responses.

Parties' views

9.7 The main arguments put forward by the Parties in relation to competition for purchases in London are set out in brief in this section. We address specific points and evidence raised by the Parties where relevant in subsequent sections. The Parties put forward five main arguments in relation to the competition that they face in London.

9.8 First, they argued that they face a large number of competitors in London – 18 in total in the Greater London area and nine significant competitors even on a narrower basis, including BFA, S Norton and Van Dalen.[222] The Parties also listed those competitors that they considered to be 'at least as effective a competitors as MWR in terms of capabilities and who have additional spare capacity', as being Sims, S Norton, BFA, ASM, Benfleet and H Ripley.[223]

9.9 In support of their argument that they face a high degree of competition, the Parties have also submitted evidence from a log of telephone calls made by commercial staff that deal with buying from suppliers at a number of EMR sites in February to April 2018. They argue that these 1,200 telephone calls captures evidence of the high degree of competitive pressures that EMR faces, with many competitors identified ([✂]) and competitive pressure being a common reason for price increases (on the purchasing side) and for business lost.[224] The Parties found that in [✂]% of calls, suppliers use competitors to apply competitive pressure (named competitors in [✂]% of cases), with EMR losing the supply in about half of these cases. Although it won the supply in [✂]% of cases, it was forced to raise prices in [✂]% of cases.

9.10 Second, they argued that the market shares that the CMA had calculated were overstated, with a number of competitor sites excluded.[225] In particular, the Parties pointed out that our market share calculations did not reflect volumes purchased at some sites – those where the relevant volumes were not captured in the Environment Agency data set.[226] As a result, in their view, our estimate was likely to understate the size of the market by [40-50%].[227]

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[222] [✂]
[223] [✂]
[224] [✂]
[225] [✂]
[226] As set out in Appendix D, the Environment Agency collect data on volumes at licensed metal recycling sites, but not all sites require a licence, with some smaller sites operating under a T9 exemption
[227] [✂] [✂].

9.11 Third, the Parties have submitted analysis of spare capacity at competitor sites in the London region, which they argued was significant and was sufficient to constrain them from decreasing prices paid for waste scrap metal post-merger.[228]

9.12 Fourth, while the Parties acknowledge that large sites suitable for processing waste scrap metal may not be readily available in central London, they argued that opening a feeder site and transporting waste scrap metal to a processing site outside central London was a viable mode of entry. They submitted that EMR's modelling of its own transport costs pointed to the 'very low cost' of transporting waste scrap metal over significant distances.[229] They argued that the ease of entry is supported by Environment Agency data showing that 381 new site permits or exemptions were granted in the last three years,[230] and pointed to recent examples of rapidly expansion by a number of competitors, including [✂] entry into [✂] and [✂] dock site. There have, in addition, been examples of smaller operators such as [✂], expanding in London in recent years, including through acquisitions of existing sites.[231]

9.13 Fifth, the Parties argued that, even if they were to decrease prices to suppliers below a competitive level, this would have a pro-competitive impact, as effective competition downstream in sales of scrap metal would lead to the lower prices being passed on to customers.[232] They argued that, if the CMA's theory of harm is that input prices may be reduced, then it must weigh the loss of rivalry in the purchasing market against the expected increase in competition on the downstream (sales) side. The Parties also argued that it was unclear the extent to which reduced scrap prices and the consequent loss of revenue for suppliers of waste scrap metal would result in increased costs for the supplier and submitted that this 'cannot feasibly be the subject of this merger assessment'.[233]

Market shares

9.14 As set out below, EMR is by far the largest metal recycler purchasing waste scrap metal in the London region, MWR is clearly the second largest, and the Parties have a high combined market share.

9.15 Our estimates of market shares based on purchasing volumes are set out in Table 9.1, below. These reflect the data that are currently available. While

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[228] [✂] [✂].
[229] [✂] [✂].
[230] [✂]
[231] [✂] [✂].
[232] [✂] [✂].
[233] [✂] [✂].

there are some issues with some of the underlying data and the Parties have calculated slightly different market shares in some of their submissions, it is clear that EMR is by far the largest metal recycler purchasing waste scrap metal in the London region, while MWR is clearly the second largest. Based on our best estimates of the Parties' shares of purchases, EMR has a [40-50%]% share and MWR has [5-10%]%, giving a combined share of purchases of [40-50%]%, whilst the next largest recycling have much smaller shares.

Table 9.1: Volume shares of waste scrap metal purchases in the London region, 2017

	Number of sites in the London region	*Total Volume Purchased (MTs)*	*Share of Purchases (%)*
EMR	10	[✂]	[40-50%]
MWR	3	[✂]	5-10%]
Parties Combined	***13***	[✂]	***[40-50%]***
S Norton	[✂]	[✂]	[0-5]%
Benfleet	[✂]	[✂]	[0-5]%
ASM	[✂]	[✂]	[0-5]%
Total Waste Management	[✂]	[✂]	[0-5]%
LKM Metals	[✂]	[✂]	[0-5]%
The Remet Company	[✂]	[✂]	[0-5]%
BFA Recycling	[✂]	[✂]	[0-5]%
[✂]	[✂]	[✂]	[0-5]%
Scrap Co	[✂]	[✂]	[0-5]%
Van Dalen	[✂]	[✂]	[0-5]%
H Ripley & Co	[✂]	[✂]	[0-5]%
ELG Haniel Metals Ltd	[✂]	[✂]	[0-5]%
Nationwide	[✂]	[✂]	[0-5]%
Other processing sites	47	439,685	18%
Total	**84**	**2,438,410**	**100%**

Source: [✂][✂].
Notes:
1. Total volumes purchased exclude inter-depot purchases for the Parties.
2. [✂][✂].
3. Number of sites in the London region includes competitors that are within 50km of one of the Parties' London sites – based on straight-line distances.

The robustness of our market shares

9.16 As set out in more detail in Appendix D on our market shares data and calculations, the data sources that we have used in these calculations are a combination of:

(a) Data submitted by the Parties and the relevant third parties on their own purchases; and

(b) Environment Agency data on volumes handled at licensed sites, where responses from the metal recyclers in question were not available.

9.17 While we consider these volume shares to represent a reasonable approximation of the relative strength of the Parties and the main competitors in the London region, we note that:

(a) Given the prevalence of inter-merchant trade between metal recyclers, there is a degree of 'double-counting' in these volume figures, eg, a small or mid-sized recycler may purchase ELV waste in its local area and bale this, but because it does not have a shredder, it would then sell it to a larger recycler (like one of the Parties) for shredding, so these purchase volumes are, in a sense, counted twice;

(b) Larger metal recyclers, including the Parties, purchase a substantial share of their volumes from other metal recyclers, so this issue is likely to particularly affect the larger players; and

(c) As the Parties have noted, there is a substantial tail of smaller sites which do not appear in the Environment Agency data set and whose volumes are only captured in our volume shares calculations to the extent that their waste scrap metal is sold on to larger recyclers.

9.18 While we have not defined separate product markets in relation to the different activities or stages of the supply chain that the metal recyclers' purchases relate to, it is useful to consider the three levels and how they relate to the reasons for inter-merchant trade:

(a) As the Parties have pointed out, there are many metal recyclers of all sizes that purchase scrap through feeder sites with little or no processing equipment;

(b) There are a small number of larger metal recyclers that operate a number of large sites with processing equipment (such as shears, balers and shredders) and that purchase substantial volumes of scrap from other recyclers in order to further process it for export or onward sale;

(c) Processed scrap may also be sold on to larger metal recyclers with direct routes to market, due to access to export markets (eg, using their own docks) or because they are well positioned to serve UK final customers, or both;

9.19 Metal recyclers with advantages in terms of processing capabilities and/or routes to market tend to be in a strong position to buy from those that only operate feeder sites.

9.20 We took the view that the volumes captured in our purchasing figures reflect a metal recycler's overall position in the market: where a large metal recycler has high volumes that include scrap purchased from smaller recyclers, this is likely to reflect the fact that it has the processing facilities or more direct routes to market or both. These put it in a strong position to purchase this material and makes this an attractive option for the recycler that purchased it from the original source. The 'double-counting' reflects this strong position and the fact that any loss in competition between those recyclers with processing facilities or more direct routes to market, or both, also affects competition for purchases from the original supplier of the scrap. The overall purchase volumes combine metal recyclers' positions at different levels of the supply chain, but we consider this provides a useful indication of their relative strengths in the market as a whole.

9.21 Any loss of competition that might result from this merger is between the two of the largest metal recyclers in the London region, both operating sites with a range of processing equipment, both exporting substantial volumes and both purchasing substantial volumes from other metal recyclers. As such, our focus is on competition at this level of the supply chain, as any loss of competition here feeds through to weaker competition between recyclers operating feeder sites to the extent that these smaller recyclers' route to market is to sell on to the larger recyclers in order to access export markets or UK final customers.

9.22 In assessing the robustness of these market share estimates, we have considered whether we may be conflating the Parties' strength in relation to shredding with their position in relation to purchasing more generally and whether our shares underestimate their strength by including volume from many small metal recyclers that are not comparable and not in competition with the Parties. These sensitivities did not indicate that our market share estimates were likely to be materially overstate the Parties' positions:

(a) Excluding shredder feed grades from the purchasing volume data,[234] EMR's share fell from [40-50%] to [30-40%], while MWR's increased from [5-10%] to [5-10%], with the Parties' combined share falling from [40-50%] to [40-50%].

(b) Calculating shares among the Parties and top 13 competitors (as listed above), ie, those that account for at least 1% or more of total purchased volumes, which excludes small recyclers accounting for about [10-20%] of volumes, increased the volume shares of EMR (from [40-50%] to [40-

[234] This reduced EMR's volumes by a [✂]. [234] This reduced EMR's volumes by a [✂], [✂].

50%]), MWR ([5-10%] to [10-20%]) and the Parties' combined share ([40-50%] to [50-60%]).

(c) Combining (a) and (b), above, when we remove shredder feed purchases and also look at the top 13 metal recyclers, the shares calculated for the Parties are [40-50%] and [10-20%], with a combined share of [50-60%].

The Parties' views on market shares

9.23 The Parties argued that our market share estimates overstate their position in the London region. However, we note that the Parties' own estimates of their combined shares in London have been between [40-50%] and [40-50%].[235] The main arguments that they put forward were:

(a) First, they argued that there are many competitors in London – 18 in the Greater London area and 9 significant competitors even on the narrowest basis – including three with larger site acreage than the Parties (BFA, S Norton and Van Dalen), two which have access to dock facilities (S Norton and Van Dalen), and two with at least equivalent equipment to MWR (S Norton and BFA).[236]

(b) Second, they argued that our volume shares appeared to exclude a number of competitor sites (Benfleet, Scrap Co and LKM, as well as Sims' Sheerness site).[237]

(c) Third, the Parties argued that these shares are also overstated by the fact that there are many sites identified by us for which we do not have volume data. They argued that sites that fall outside the EA data submission requirements (T9 exempt sites) do not necessarily handle small volumes and their exclusion is likely to overstate the Parties' position.[238]

9.24 In response to these points:

(a) As set out in detail below, our competitive assessment covers a large number of competitors, including those that the Parties have referred to above as being similar to MWR, and looks at the issues they have raised – availability of shears, dock facilities and so on – rather than focussing solely on purchase volumes or market shares.

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[235] [✂].
[236] [✂].
[237] [✂].
[238] [✂].

(b) As set out in Table 9.1, our volume shares include the competitors that the Parties pointed to,[239] including a number with sites located significant distances from the MWR Edmonton site (which is the competitive constraint that is being removed by the merger), including competitor sites that are located on the Medway, in Essex, in Buckinghamshire and in Hampshire.

(c) We accept that there is likely to be a long tail of small metal recyclers and merchants that will account, in aggregate, for non-trivial purchase volumes, but the scale, lack of processing capabilities and the less attractive routes to market open to these firms mean that they are unlikely to impose a material constraint on EMR post-merger.

(d) Finally, we note that the Parties' own estimates of their share of volumes in the London region (at [40-50%]) are not substantially lower than our estimates, and we have taken account of the named competitors that they have put forward, above, where we had purchase volumes for these metal recyclers.

Provisional conclusions on market shares

9.25 We have provisionally found that the Parties have a high combined market share ([40-50%]), with the merger resulting in a significant increment ([5-10%]) to EMR's market share. Although these market share figures need to be interpreted with a degree caution, it is clear that the Parties are the two largest purchasers of scrap metal in the London region, with EMR being by far the largest, while the next largest players have far lower volumes than the Parties.

Closeness of competition between the Parties pre-merger

9.26 As set out below, the evidence indicates that EMR and MWR were close competitors pre-merger, based on their being the two largest purchasers in the London region, the proximity of their site locations in north London, their processing capabilities and the fact that both exported a significant share of their volumes and provided a route to market for smaller recyclers. Based on these characteristics, the Parties had more in common with each other than many of the other smaller competitors in the region, which is particularly important given EMR's strong relative market strength.

[239] Although we note that we have not received responses to our questionnaires from all competitors and are missing volume data for some sites.

9.27 In assessing the closeness of competition between the Parties, we first note that they are the two largest purchasers in the London region, with few other competitors of any size operating the region (Table 9.2). We then compare the characteristics of their site networks in the London region. These are set out in Table 9.2, below, which includes data on site-level purchase volumes and values, processing and dock facilities, site surface areas, and the distance of EMR's sites from those of MWR.

Table 9.2: Parties' sites in the London region

Parties' sites	*Export facilities*	*Processing equipment*	*Purchases at site*		*Surface area of site (acres)*	*Distance from MWR sites (km)*	
			Total Volume (MTs)	*Total value (£)*		*Edmonton*	*Neasden*
EMR sites							
Boreham			[✂]	[✂]	[✂]	44	60
Brentford	Container (Non-Fe Only)	Shear	[✂]	[✂]	[✂]	23	9
Canning Town	Container	Shear, baler	[✂]	[✂]	[✂]	11	18
East Tilbury		Shredder (Fe Only)	[✂]	[✂]	[✂]	35	47
Erith		Shear	[✂]	[✂]	[✂]	23	32
Mitcham		Shear	[✂]	[✂]	[✂]	26	19
Rochester			[✂]	[✂]	[✂]	46	56
Tilbury Dock	Deep-sea dock (Fe Only)		[✂]	[✂]	[✂]	32	43
Wandsworth		Shears	[✂]	[✂]	[✂]	17	12
Willesden	Container	Shredder	[✂]	[✂]	[✂]	16	3
MWR sites							
Edmonton	Container	Shear, Granulator	[✂]	[✂]	[✂]	0	15
Neasden			[✂]	[✂]	[✂]	15	0
Pinns Wharf	Short-sea dock		[✂]	[✂]	[✂]	14	24
Parties combined			[✂]	[✂]	[✂]	-	-

Sources: [✂].
Notes:
(1) [✂].
(2) [✂].

9.28 Based on the site-level information set out in Table 9.2, above, we found that:

(a) First, while EMR clearly has higher purchase volumes and an extensive site network (with eight of its ten sites produce substantial purchase volumes - above [✂] tonnes), MWR's Edmonton also attracts a high volume of purchases;

(b) Second, there was a high degree of overlap between the Parties' sites, as a number of EMR sites are located close to MWR sites in north London;

(c) Third, as set out in Chapters 6 and 7, processing capabilities are an important determinant of a metal recyclers' ability to compete for purchase volumes and we note that MWR's Edmonton site has a shear, as do five of EMR's sites in the region;

(d) Fourth, we note the large surface area of MWR's Edmonton site (6 acres), as well as that of a number of EMR sites, which is relevant to current capacity and scope for expansion, given the barriers to entry for a large processing site in London; and

(e) Finally, given that having direct routes to market, especially for exports, is also an important determinant of a metal recyclers' ability to compete, we note that the Parties both operate docks in the region, although EMR's deep-sea dock puts it in a much stronger position than MWR and other operators of short-sea docks.

9.29 In assessing, where we expect the merger to be most likely to have an impact, we found that:

(a) Although we use 50km-volume catchment areas to derive market share estimates, we also recognise the challenges of transport in London. We also note that significant numbers of suppliers are located close to the sites in question;

(b) Survey results indicated that location is the most important factor for suppliers in choosing a site, while the second most common reason for a supplier ruling out a particular site is distance;

(c) Some third-party views on the distances over which competition took place in London indicated that waste scrap metal arising within the M25 tended not to travel to sites outside the M25, due to traffic congestion and a lack of processing facilities and a lack of final customers within a reasonable distance of London;[240] and

(d) The fact that larger suppliers in this sector negotiate their prices with the metal recycler in question means that the 50km catchment areas only give a broad indication of the scope of the geographic market. Within that area, given transport costs and London congestion, even where some suppliers at the edges of these catchment areas may have additional

[240] [✂].

competing sites to choose from, this would not constrain the Parties in any price negotiations with suppliers that are located closer to the Parties' sites and so may have fewer options and would incur higher transport costs in switching to alternative sites.

9.30 Based on these factors – and taking into account the volumes, equipment and the locations of the Parties' site - we would expect the loss of competition to have the greatest impact on suppliers to the Parties' sites in north and east London, in particular the MWR site at Edmonton and the EMR sites located closest to this.

Provisional conclusions on closeness of competition

9.31 Based on the Parties' common characteristics in terms of site locations, processing capabilities, ability to provide a route to market for smaller recyclers, and the close proximity of their sites in London (Table 9.3), we have provisionally found that the Parties were close competitors pre-merger. Although, EMR is considerably larger than MWR in terms of purchase volumes and site network, MWR is one of the very few competing metal recyclers in London that has the characteristics required to compete directly with EMR.

Third-party views

9.32 We have summarised below the comments received from third parties relevant to an assessment of the impact of the merger on competition in the purchasing of scrap metal in the London region. These include comments from both suppliers of scrap metal and other metal recyclers, as well as respondents to the supplier survey. As set out below, third parties comments are mixed, with some suppliers and competitors expressing concerns, whilst others were unconcerned.

Suppliers' views

9.33 The responses we received from suppliers fell into two categories:

(a) those that were unconcerned, due to the lack of perceived constraint from MWR pre-merger or the availability of alternative recyclers; and

(b) those that were concerned about the effect of the merger in reducing competition, including explicit mention of purchase prices falling.

9.34 Among those suppliers that were unconcerned, two main reasons were given:

(a) The availability of a number of alternative suppliers: For example, FCC were unconcerned, as EMR accounted for a small proportion of its scrap sales and it used a number of other metal recyclers already: [✂], [✂], [✂], [✂], [✂] and [✂]. [✂], a [✂], listed a number of alternatives – S Norton, Sims, Total Waste Management, Southwark Metals, BFA, Benfleet – but noted that these were not used at present as to do so would incur higher haulage costs. Similarly, [✂], another [✂], was unconcerned as it had ASM and Capital Metals as options.

(b) The view that MWR could not provide the national coverage that they needed and so had not constrained EMR in competing for their supplies pre-merger: A number of large national suppliers – [✂] and [✂]- were unconcerned, as a result.

9.35 A number of suppliers that were concerned pointed to EMR's strong position in the market and explicitly referred to the risk that the merger would lead to lower prices for suppliers, including a number of respondents to the supplier survey,[241] although we note that only a minority of respondents expressed concern about the merger.[242]

Other metal recyclers' views

9.36 Other metal recyclers' views, as the Parties have argued, must be interpreted in the context that many metal recyclers are both competitors and supplier to the Parties. Comments from other metal recyclers on competition between the Parties and the likely effect of the merger fell into three groups:

9.37 First, a number of metal recyclers expressed concern at the lack of choice that they would have for selling on their scrap metal, with suppliers of shredder feed being particularly concerned,[243] although these are less relevant to our assessment of competition for the purchase of non-shredder feed.[244] [✂], and [✂] took the view that the merger would reduce competition, while, in their survey responses, [✂] and [✂] explicitly expressed the concern that prices would be forced down, as did [✂], noting that MWR used to compete against EMR, but since the acquisition the price had been affected.

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[241] [✂].
[242] Among respondents at EMR sites, 4% expected a negative impact of their business, while 19% thought it would be positive (with 63% neutral and 15% 'Don't know'), while for MWR sites 10% were negative about the merger compared to 25% positive (53% neutral and 13% 'Don't know'). DJS Survey Report, Figure 29.
[243] [✂]
[244] [✂] .

9.38 Second, a number of other metal recyclers raised the concern that the increase in the size of EMR would result in smaller metal recyclers finding it increasingly difficult to compete, as EMR would be able to offer higher prices, eg:

(a) [✂] made this point [✂];[245]

(b) LKM was concerned that, even though it did not think it had been in direct competition with MWR, due to its location, the growth of EMR would make it an even more aggressive competitor - targeting the smaller recyclers that supplied it and paying above-market prices to attract those volumes and limit the size of LKM.[246]

(c) [✂].[247]

(d) [✂].[248]

9.39 Third, concerns were expressed that EMR and MWR enjoyed particular advantages in London – site network, large, efficient processing facilities and the lack of competition from other large metal recyclers – which gave them a strong position. [✂] expressed concern that the Parties' strong position in shredding in the broader region, as well as EMR's deep-sea docks, meant that they faced little effective competition in London. [✂] was concerned that the merger puts EMR in a 'dominant' market position and sees another independent supplier being taken over by EMR.[249]

9.40 The Parties have argued that where the views of suppliers that are also metal recyclers are sought, the CMA should exercise caution in interpreting these, as many of these firms are also the Parties' competitors.[250] We have borne this is mind and note that a number of the metal recyclers' concerns related to an expectation that the merged firm could pay more (rather than less) for waste scrap purchases post-merger. Where the concern relates to the difficulty competitors would have in matching prices that the Parties would be able to pay for waste scrap metal, rather than a concern that a loss of competition would result in lower prices being paid to suppliers, there is less immediate concern about detriment arising from the merger.[251]

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[245] [✂] [✂]];
[246] [✂] [✂]].
[247] [✂] [✂].
[248] [✂]
[249] [✂] [✂].
[250] [✂]
[251] However, we note that concerns could arise in the long term if competition were sufficiently weakened such that the Parties no longer had an incentive to pay higher prices in order attract purchases of waste scrap metal.

9.41 We note that not all of the views expressed by metal recyclers were necessarily specific to purchasing in the London region, with a number of national players (eg [✂]) expressing views about EMR's position nationally and across different levels of the supply chain.

9.42 We also note that a minority of the metal recyclers that replied to our supplier survey in London (and Hitchin) were concerned about the merger, with nine out of 33 expressing concern.

9.43 Various metal recyclers named specific competitors to the Parties, but with differing views as to the effectiveness of these competitors as a constraint on the Parties:

(a) [✂] stated that EMR's nationwide coverage put it in 'an extremely strong position' in purchasing across all grades, with 'probably only Sims' having comparable coverage. However, it added that national coverage was not necessarily required to be competitive, with 'many strong independent companies still operat[ing] on a regional basis who would be able to handle the volumes of scrap that the Parties currently handle';[252]

(b) [✂] listed Van Dalen and S Norton as viable competitors [✂];[253]

(c) [✂] did not consider itself to be a 'realistic competitor' to the Parties in London,[254] and argued that the Parties' combination of deep-sea docks, shredders and their network of feeder sites meant that they 'dominate' the area within the M25, as the cost of transporting scrap out of London makes other recyclers uncompetitive;[255]

(d) [✂].[256]

Supplier survey

9.44 The survey responses of suppliers to EMR sites in the London region did not point towards a strong constraint from MWR. When asked about which alternative site suppliers would divert to if the EMR site they had used were to close, none of the 76 that named an alternative gave an MWR site as that next best alternative. When asked explicitly whether an MWR site was a viable alternative, 28 of the 173 EMR suppliers that were asked this question responded that an MWR site was a viable alternative.

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[252] [✂].
[253] [✂].
[254] [✂].
[255] [✂].
[256] [✂].

9.45 As set out below, many of the other metal recyclers received a similarly weak response in our survey. S Norton, which, based on purchase volumes appears to be a very relevant competitor, was also not mentioned as an alternative when suppliers were asked where they would divert to if the EMR site in question were to close. Prompted responses for S Norton were also not very substantial, with only 24 out of 165 respondents at EMR sites considering it a viable option. Other recyclers that appeared, based on other evidence, to be likely to be viable alternatives to EMR also received relatively weak survey responses: Benfleet was seen as a viable option by 14 out of 87 respondents, LKM by 12 out of 81, and Sims' Aldershot site by 6 out of 47, and Van Dalen by 5 out of 23. We note the high level of responses that indicated that many suppliers did not know what their next best option was or had not heard of key competitors.

9.46 Looking at the constraint from EMR on MWR – also relevant to our merger assessment – we note that there were only 28 survey respondents who supplied waste metal to the MWR sites in Edmonton and Neasden. When asked about which alternative site suppliers would divert to if their MWR site were to close, 3 of these chose an EMR site, while 14 considered an EMR site to be a viable option to the MWR site in question.

9.47 As set out in more detail in Chapter 7, above, we have exercised caution in interpreting the results of the survey, for a number of reasons, including the small sample sizes at many sites, and concerns about the sample not being representative of the population of interest. In relation to London responses, we note that:

(a) Many (although not all) of the respondents to the survey were very small suppliers, that were infrequent users of metal recycling sites, and were primarily interested in convenience;

(b) To the extent that there are many small feeder sites that could serve such small, infrequent suppliers, it is not surprising that these suppliers tended not to be concerned about the merger;

(c) The small sample of respondents achieved at many sites makes it difficult to draw robust inferences from the results;

(d) While the responses from EMR suppliers on the viability of MWR sites as an option indicated a weak constraint from MWR on EMR, the constraint from other competing metal recyclers that was detected in the survey was also weak. This suggests that these suppliers' responses may not be informative of the competitive constraints in the sector in general;

(e) The survey suggests EMR provides a relatively strong competitive constraint on MWR; and

(f) The generally low level of awareness of competitor sites is consistent both with many respondents being small and infrequent users of these sites, and also with a low level of 'brand' awareness among these suppliers.

9.48 On the other hand, the survey did include some larger suppliers, including other metal recyclers, so the fact that none of these considered MWR as the closest alternative to EMR, is informative and has to be weighed against other evidence on competition between the Parties.

Provisional conclusions on third-party comments

9.49 As set out above, third party views on the impact of the merger were mixed, though a number of competing metal recycler have emphasised the Parties' strong position in the London region. Whilst a number of third parties expressed concerns about the merger, many of these related to shredding rather than the purchase of other grades, while other suppliers were not concerned. The survey results did not suggest that MWR imposes a strong constraint on EMR currently, although EMR is a constraint on MWR. Only a minority of respondents to the survey expressed concern. However, as set out above, we had concerns about the robustness of the survey evidence in this context and about how informative it was likely to be about competition between the Parties (as major processors and exporters) as opposed to being informative of the views of the small suppliers surveyed, who were more likely to be infrequent users of the Parties' sites and to have many smaller feeder sites as options.

Constraint from other metal recyclers

9.50 This section sets out the criteria against which we have assessed the Parties' main competitors in the London region, before focussing in detail on seven metal recyclers. As set out below, while the evidence demonstrates that the Parties face competition from a number of other metal recyclers, overall we have provisionally concluded that the constraint from these competitors is unlikely to be sufficient to replace the loss of the constraint from MWR, the second largest purchaser after EMR in this region, post-merger.

Criteria for assessing competitive constraint from other metal recyclers

9.51 In order to assess the constraint from the Parties' main competitors in the London region, we have used the following criteria:

(a) Purchase volumes, including noting where these are mainly shredder feed, as we have assessed the competitive constraints on the Parties in the purchase of those grades separately above;

(b) Site locations, in particular the extent to which these are likely to be attractive options for those suppliers most affected by the loss of competition between EMR and MWR in the London region – focussed on the loss of the constraint on EMR from MWR's Edmonton site;

(c) Processing capabilities at competitor sites, with a focus on those competitors operating shears, as this is the equipment operated at the MWR site in Edmonton and also at five of EMR's London sites, including those closest to MWR's Edmonton site (Brentford and Canning Town);

(d) Spare capacity at competitor sites, which - as with our analysis of shredder capacity, above - seeks to gain a broad understanding of whether, and where, there is a material amount of spare capacity among competitors in the region;

(e) Routes to market, in particular whether each metal recycler has access to its own docks, whether it has other means of exporting itself or whether it sells a significant proportion of the waste scrap metal that it purchases to other recyclers, including the Parties;

(f) Whether the metal recycler should be considered a strong constraint based on its own views, those of other recyclers or those of other suppliers;

(g) The Parties' views on the strength of the current constraint on them from each competitor; and

(h) Survey evidence on whether these competitors were considered by respondents to the survey to be close substitutes or viable options for the Parties' sites.

Location of, and equipment available at, metal recyclers' sites in the London region and purchase volumes at those sites

9.52 Our assessment of volumes purchased by other metal recyclers in the London region is set out in Table 9.1 above. After MWR the next biggest recycler accounts for just [5-10%] of purchases in comparison with the Parties' combined share of [40-50%].

9.53 The locations of the main sites of competing metal recyclers in the London region are set out in Table 9.3, below. Starting from the list of competitors set

out in Table 9.1, above, our comparison of site locations focusses on those sites with processing capabilities that are comparable to MWR's Edmonton site, ie those with at least one shear, while we also include dock facilities, as these are also likely to be an important factor in determining the level of competitive constraint from these competitors.

Table 9.3: Volume of waste scrap metal purchases at competitors' sites in the London region

Metal recycler	*Site location*	*Dock facilities**	*Processing equipment*	*Purchase volumes at site (MTs)*	*Distance from nearest Party site (km)***	*Nearest Party Site (name)*	*Distance from MWR Edmonton (km)*
Competitor sites north of the Thames							
S Norton	Barking	Short-sea	[✂]	[✂]	7	EMR Canning Town	15
Benfleet	Basildon	None	[✂]	[✂]	14	EMR East Tilbury	39
Benfleet	Benfleet	None	[✂]	[✂]	16	EMR East Tilbury	43
Benfleet	Thurrock	None	[✂]	[✂]	2	EMR Tilbury Dock	31
ASM	Aylesbury	None	[✂]	[✂]	42	EMR Bedford	59
Total Waste Management	Basildon	None	[✂]	[✂]	15	EMR East Tilbury	39
Remet Company	Poplar	None	[✂]	[✂]	0	EMR Canning Town	11
BFA Recycling	Uxbridge	None	[✂]	[✂]	14	EMR Brentford	28
Van Dalen	Dagenham	Short-sea	[✂]	[✂]	5	EMR Erith	17
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
Nationwide	Brightlingsea	Short-sea	[✂]	[✂]	34	EMR Boreham	78
Competitor sites south of the Thames							
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
LKM Metals	Sittingbourne	-	[✂]	[✂]	17	EMR Rochester	63
LKM Metals	Chatham	Short-sea	[✂]	[✂]	3	EMR Rochester	48
Scrap Co	Kent	None	[✂]	[✂]	26	EMR Rochester	59
Scrap Co	Erith	None	[✂]	[✂]	1	EMR Erith	23
H Ripley	Ashford	(Short-sea at Newhaven)	[✂]	[✂]	39	EMR Rochester	83

Sources: [✂].
Notes:
* Where dock facilities are referred to as 'Deep-sea' or 'Short-sea', this indicates the facilities at the site in question, although some of these recyclers (eg, [✂]) operate dock facilities in other regions too. In the case of H Ripley, the Ashford site listed is not a dock facility, but it does operate one relatively nearby (Newhaven, Sussex), though this is outside our London catchment region. Those recyclers where 'None' is indicated refers to those with no dock facilities in the UK.
** Distances calculated by the CMA using postcode information provided by competitors and the Parties, and are based on straight-line, rather than road, distances.

9.54 Based on Table 9.3, the other metal recyclers in the London region can be grouped into three for our assessment:

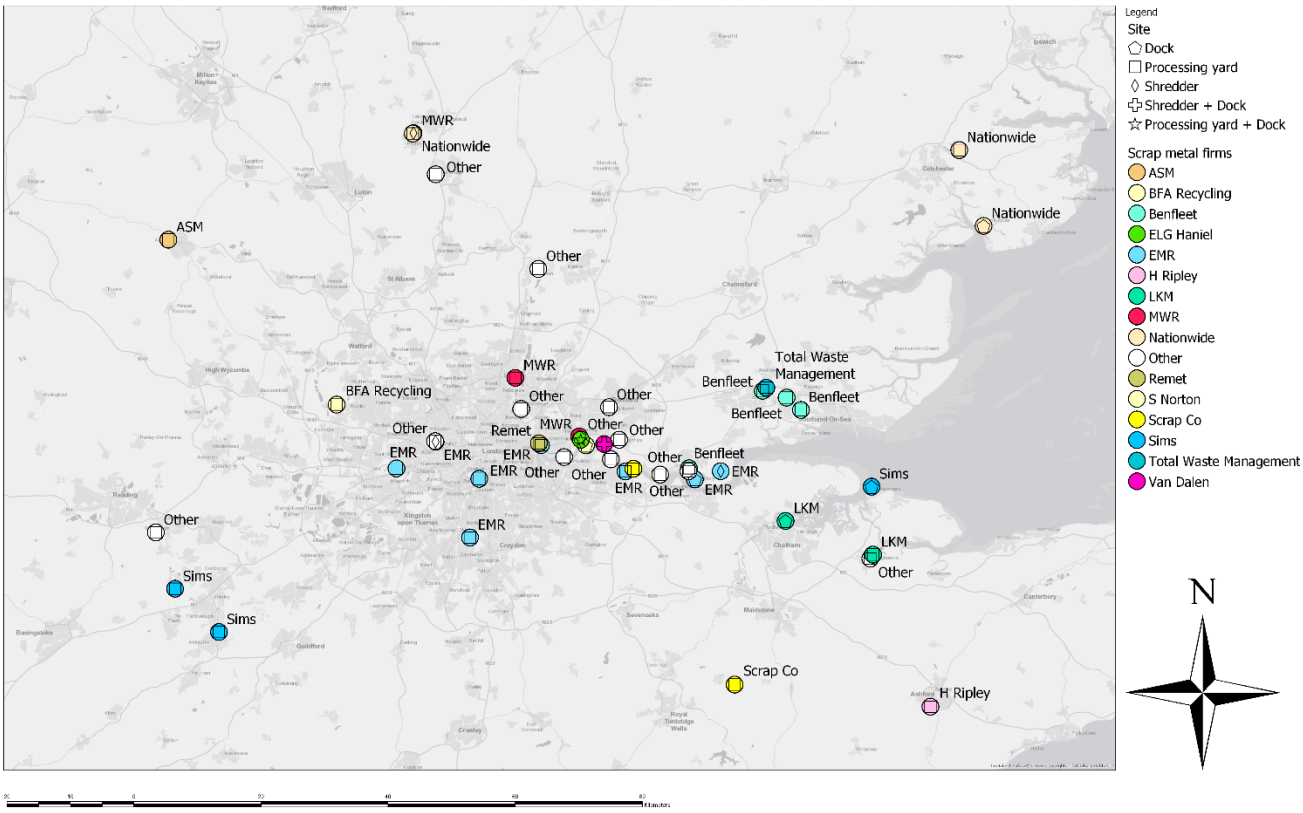
(a) A number that are likely to be credible competitors on the basis of their non-trivial volumes and their ability to shears material: S Norton, Benfleet, Total Waste Management, BFA Recycling, ASM and [✂];

(b) A number that may also impose some constraint but are likely to be too far from the Parties' sites to materially constrain them: [✂] and LKM sites in Kent; and

(c) Some that compete for purchases across only a narrow range of grades: [✂] (dealt with in the previous chapter), while the [✂], which are relevant to our assessment, but limit the constraint that it can impose on the Parties' purchasing more generally.

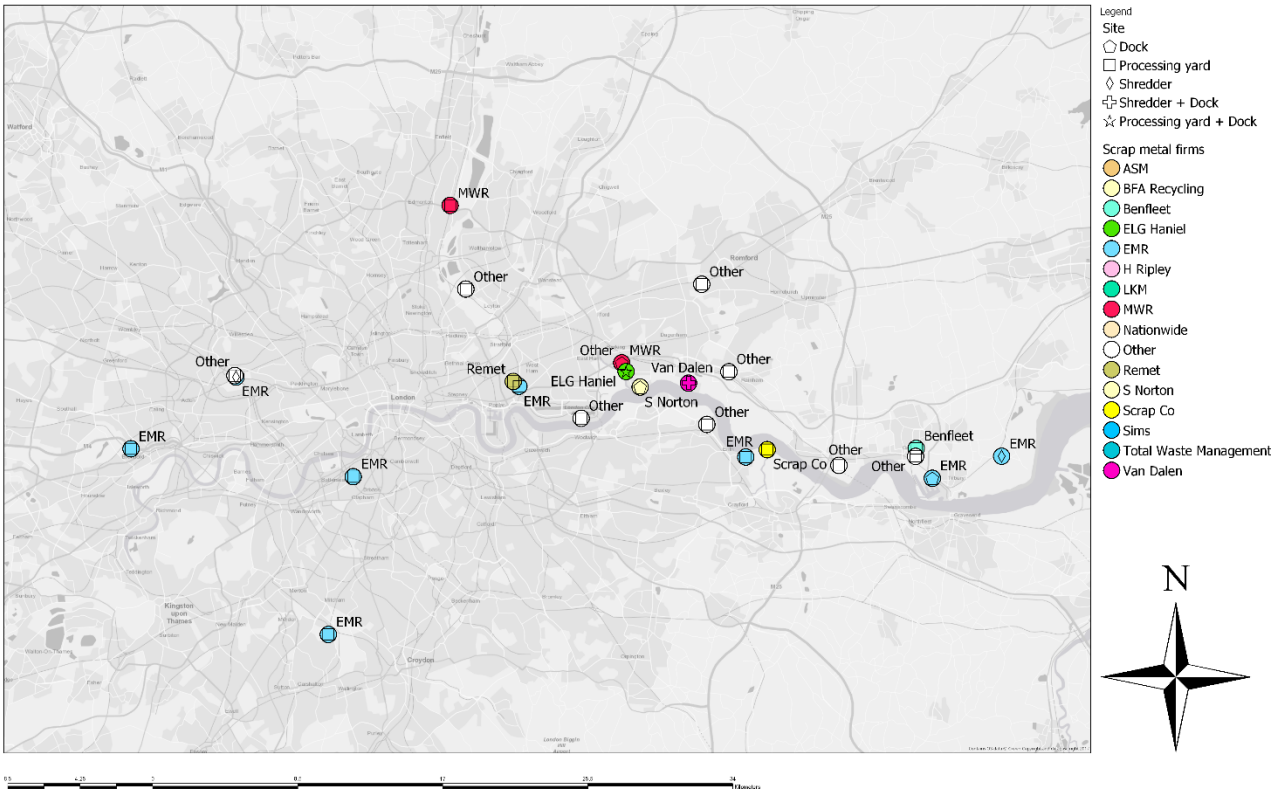
9.55 Figures 1 and 2, below present the locations of the processing sites and docks of the Parties and of the main competitors set out in the market shares Table 9.1, above.

Figure 6.1: Main Parties and competitor processing sites and docks in the London region



9.56 Figure 1 indicates that the Parties have a high proportion of the large processing sites in Greater London, but that a number of other competitors, including those with docks, operate in the broader region. It also shows the concentration of sites – processing and docks on the Thames, as made clearer in Figure 6.2, below.

Figure 6.2: Main Parties and competitor processing sites and docks in Greater London and on the Thames estuary



9.57 As is clear from Figure 2, while the Parties have a high proportion of the processing sites in Greater London[257] and neighbouring areas of Essex and Kent along the Thames estuary, there are a small number of competitors with processing sites and docks (S Norton, ELG Haniel, Van Dalen), as well as other multi-site (Benfleet) or specialist competitors Remet in non-ferrous) located within a reasonable distance of the Parties' sites in the region. However, these competitors handle much smaller volumes than the Parties in the region.

Size of, and spare capacity at, metal recyclers' sites in the London region

9.58 The evidence set out below suggests that there is some spare capacity in the London region.

9.59 We have two sources of spare capacity estimates. First, the Parties submitted estimates of spare capacity at competitor sites based on data on site surface areas and volumes purchased. Second, we asked other metal recyclers to estimate the level of spare capacity at their sites. Where available, we have

[257] Here, we refer to the county of Greater London, whereas our broader market definition of 'the London region' includes the 50km-catchment areas surrounding the Parties' sites and takes in competitor sites in parts of all surrounding counties: Kent, Essex, Surrey, Hampshire, Berkshire, Buckinghamshire and Hertfordshire.

reflected the latter in our assessments below, while noting that the Parties' have submitted detailed calculations of their estimates of competitor sites' spare capacity.

(a) S Norton estimated that its Barking site had capacity for [✂] tonnes per month, implying annual volumes of [✂] tonnes,[258] [✂].[259] It [✂] and expects to significantly increase the volume of HMS processed at the site – up to [✂] per year over the next two years, compared to current purchases of [✂] tonnes. Overall, S Norton considered that it had spare capacity of [✂] tonnes, but had the potential to [✂] with EA approval.

(b) [✂] stated that it did not face any capacity constraints, although it did not provide an estimate of the level of its spare capacity.[260]

(c) [✂] estimated the maximum annual capacity at its [✂] site as [✂] tonnes for ferrous and [✂] tonnes for non-ferrous, compared to annual purchases of just over [✂] tonnes in total, while at [✂] its estimate for non-ferrous was [✂] tonnes, compared to total purchases of [✂] tonnes. These figures suggest that [✂] is likely to have spare capacity in the region of [✂] tonnes per year at its [✂]. While we have no information on the spare capacity at its [✂], we note that this site is [✂]),[261] so is likely to [✂] capacity in the region.

(d) LKM stated that it could double the amount of waste scrap metal that it purchased.[262]

(e) [✂], [✂] and [✂] did not provide an estimate of spare capacity at their sites.

9.60 These estimates are summarised, alongside the Parties' estimates based on site surface areas, in Table 9.4, below.

[258] [✂].
[259] [✂].
[260] [✂].
[261] [✂].
[262] [✂].

Table 9.4: Spare capacity and current purchases at competitor sites in the London region

Metal recycler	*Number of sites in the London region*	*Purchase volumes in the London region (MT)*	*Spare capacity - own estimate (MT)*	*Spare capacity – Parties' estimate (MT)*	*Total Surface Area (Acres)*
[✂]EMR	10	[✂]	-	-	[✂]
MWR	3	[✂]	-	-	[✂]
Parties Combined	***13***	[✂]	***-***	***-***	[✂]
S Norton	1	[✂]	[✂]	[✂]	[✂]
Benfleet	3	[✂]	-	[✂]	[✂]
ASM	4	[✂]	-	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]	-	[✂]
Total Waste Management	2	[✂]	-	[✂]	-
LKM Metals	2	[✂]	[✂]	[✂]	-
The Remet Company	1	[✂]	-	-	-
BFA Recycling	1	[✂]	-	[✂]	-
Van Dalen	1	[✂]	[✂]	-	-
Scrap Co	2	[✂]	-	[✂]	[✂]
Other sites	50	[✂]			72

Source: [✂].
Note: *Number of sites in the London region only* include sites within 50km of one of the Parties' London sites.

9.61 Based on this analysis, there may be spare capacity in excess of 170,000 tonnes across the sites of S Norton, Sims and LKM (excluding Van Dalen [✂]), while the Parties' estimates for Benfleet, Total Waste Management, BFA and Scrap Co would mean an additional 107,000 tonnes of spare capacity. While it is instructive to compare these to the [✂] tonnes that MWR purchased at its Edmonton and Neasden sites, it is not possible to come to a definitive conclusion on how much spare capacity is enough to constrain EMR post-merger. However, the object of this assessment is not to estimate the exact level of spare capacity, but rather to determine whether relevant competitors do in fact have a material level of spare capacity. If they did not, then these could not be considered credible constraints on the Parties post-merger. Our assessment of each competitor in detail, below, seeks to assess this evidence on spare capacity in combination with other evidence, eg, significant spare capacity in the wrong place (ie at relatively distant locations from the Parties' sites) or among competitors that are focussed on shredder feed only may be of limited value in imposing a constraint in this market.

Routes to market

9.62 We have assessed the extent to which competing metal recyclers in the region have sufficient routes to market. This informs two questions: whether the loss of MWR removes an important route to market for smaller recyclers; and whether other recyclers have sufficient routes to market to ensure that they can impose a material constraint on the Parties post-merger. As such, we focussed on:

(a) Which metal recyclers have direct routes to market:

(i) Access to their own docks;

(ii) Export directly using other means, eg, containers or through traders;

(b) Which metal recyclers provide direct routes to market for other metal recyclers, focussing on the extent to which:

(i) Other metal recyclers sell on their purchases to the Parties;

(ii) MWR provided a route to market for other recyclers pre-merger;

(iii) Other larger metal recyclers, eg, [✂] and S Norton, purchase from other metal recyclers and so provide a route to market for other metal recyclers; and

(iv) Where known, the reasons for metal recyclers trading with each other, on the basis that this is informative of the specific facilities that are needed to compete for these purchases, eg, access to dock facilities or specific processing capabilities.

9.63 As set out below, what this analysis demonstrates is that, for a number of smaller recyclers who lack the necessary processing equipment or export capabilities, the Parties are an important route to market given their processing capabilities and access to dock facilities.

Access to own docks

9.64 A number of the main competitors in the London region export directly using their own dock facilities, as set out below.

(b) S Norton, which exports virtually all of its UK purchases of scrap metal, operates a short-sea dock at Barking, where it purchases significant volumes and has recently expanded its processing capacity;

(c) [✂];

(d) [✂];

(e) [✂];

(f) LKM Metals operates a short-sea dock on the Medway, at Chatham. LKM noted the advantage of having its own dock facility in getting better prices

and being able to pass these on to its suppliers, in contrast to its position when it supplied to Sims and EMR for export.[263]

(g) [✂];

(h) While further from London than the metal recycling sites set out above, we note that [✂],[264] while S Norton exports from its deep-sea dock at Southampton and [✂] operates a short-sea dock at Ipswich.[265]

Export using other means

9.65 While far from comprehensive, we did get some indication of the extent to which some of the smaller metal recyclers were able to access export markets:

(a) [✂];[266]

(b) S Norton pointed out that some of the metal recyclers that supplied it also exported some grades themselves;[267]

Sales to the Parties

9.66 The Parties' purchases from other metal recyclers in the region are instructive for two reasons:

(a) They inform the extent to which MWR, pre-merger, provided a route to market for these smaller recyclers; and

(b) They indicate the likely dependence of other metal recyclers on the Parties post-merger, such that some other metal recyclers may represent a weaker constraint on the merged entity than their volumes or other indicators would suggest.

Routes to market provided by MWR pre-merger

9.67 Before the merger, MWR purchased significant volumes from other metal recyclers – [60-70%] of its total purchases nationally, equivalent to almost [✂] tonnes in 2017.[268] Its sales, again based on 2017 pre-merger data, were split between EMR ([20-30%]), other metal recyclers ([10-20%]), UK customers

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[263] [✂].
[264] [✂].
[265] [✂]
[266] [✂].
[267] [✂]
[268] [✂]

([0-5%]), export ([30-40%]) and UK traders that export ([20-30%]). As such, based on the national figures, it represented an important route to market for other metal recyclers, as an alternative to selling directly to EMR.

9.68 In London, its purchases from other metal recyclers accounted for [80-90%]% of its purchases – equivalent to annual purchases of over [✂] tonnes in 2017. Based on transactions at London sites, the breakdown is somewhat different from elsewhere, with [50-60%]% of sales going to EMR and [5-10%]% to UK customers, while [10-20%]% is exported, [5-10%]% is sold to UK traders that export, and [20-30%]% is sold to metal recyclers other than EMR. As set out below, these sales included those to metal recyclers that exported all or almost all of these volumes, eg, S Norton. As such, even in London where MWR sales to EMR were particularly high pre-merger, MWR represented an important alternative route to market for smaller recyclers' purchase volumes.

Metal recyclers selling to the Parties

9.69 As the Parties both purchase substantial volumes from other metal recyclers, many of their competitors in the region are, in a sense, reliant on the Parties as a route to market for arisings in the London region. As set out in Table 9.5, below, a number of the Parties' competitors in London currently sell a substantial share of their purchases to the Parties.

Table 9.5: Extent of competitor sales to the Parties in the London region, 2017

Metal recycler	*Purchase volumes in the London region*	*Sales to MWR*	*Sales to EMR*	*Sales to Parties*	*Proportion of purchase volumes sold to the Parties*
S Norton	[✂]	[✂]	[✂]	[✂]	[0-5]%
Benfleet	[✂]	[✂]	[✂]	[✂]	[40-50]%
ASM	[✂]	[✂]	[✂]	[✂]	[60-70]%
[✂]	[✂]	[✂]	[✂]	[✂]	[0-5]%
Total Waste Management	[✂]	[✂]	[✂]	[✂]	[20-30]%
LKM Metals	[✂]	[✂]	[✂]	[✂]	[5-20]%
The Remet Company	[✂]	[✂]	[✂]	[✂]	[0-5]%
BFA Recycling	[✂]	[✂]	[✂]	[✂]	[0-5]%
Van Dalen	[✂]	[✂]	[✂]	[✂]	[0-5]%
Scrap Co	[✂]	[✂]	[✂]	[✂]	[0-5]%
Nationwide	[✂]	[✂]	[✂]	[✂]	[70-80]%

Source: Sales to MWR, sales to EMR and Sales to Parties are from Party transaction data. Purchase volumes in the London region sourced from mixture of questionnaire responses and EA data.
Notes:
1. Purchase volumes are for all grades of metal at sites which are listed by the parties as a competitor and are within 50km of one of the Parties' sites.
2. Sales to MWR and EMR are for based on a combination of third-party data on their sales and the Parties' data on their purchases.

9.70 As set out below, [✂], [✂], and [✂] are particularly dependent on the Parties as a route to market, although a significant proportion of the sales from [✂] and [✂] are shredder feed.

Routes to market provided by other metal recyclers

9.71 A number of other metal recyclers active in the London region provide a route to market for smaller recyclers:

(a) Nationally, both [✂] and S Norton buy substantial amounts of waste scrap metal – both processed and unprocessed – from other metal recyclers. The majority of [✂] purchases are from other metal recyclers, which account for [60-70]% of its purchases by volume and [70-80]% by value. Both [✂] and [✂] export the vast majority of their UK purchases, so provide a route to export markets for smaller recyclers in direct competition with EMR and MWR.

(a) In the London region, pre-merger, [✂] bought substantial volumes from MWR for export [✂]. [✂] before the merger in 2017[269] – which accounted for [✂] of MWR's sales to other metal recyclers.

(b) LKM Metals (with a short-sea dock at Chatham) also buys from other metal recyclers – accounting for about [✂] of its purchases.[270]

(c) [✂] of its purchases from scrap merchants, and exports [✂]of its scrap volumes.[271]

(d) [✂] of its volume from other metal recyclers, exporting [✂] and remaining [✂] being sold to other recycler, including [✂].[272]

Assessment of individual competitors

9.72 In order to assess whether the Parties will face a sufficiently strong competitive constraint post-merger to prevent an SLC, we have carried out a detailed assessment below of the likely strength of the competitive constraint from each of the other main metal recyclers in the London region, based on the factors set out in paragraph 9.51, above.

9.73 The seven main competitors with sites located within 50km of the Parties' sites in the London region are [✂]: S Norton, Benfleet Scrap, ASM, [✂], Total Waste Management, BFA, and LKM.

[269] [✂].
[270] [✂]
[271] [✂].
[272] [✂]

S Norton

9.74 S Norton is one of the three large national players (along with Sims and EMR). It has four dock sites around the UK - two deep-sea and two short-sea docks – and operates two shredders and two shears. In the London region, it has a short-sea dock and two shears at its site in Barking. It purchases in excess of [✂] tonnes, giving it a [0-5]% share of purchases (Table 9.1), and making it the third largest purchaser in the London region. As set out above, [✂]. It added its second shear in 2017, which it estimated would increase the annual volume of HMS (a common grade of ferrous metal that it typically sheared) handled from [✂] tonnes over the next two years.[273] We note that is current purchases of HMS at its Barking site are [✂] tonnes per year.

9.75 In terms of routes to market, S Norton exports [✂]% of the waste scrap metal that it purchases in the UK, purchasing significant volumes from other metal recyclers ([✂]% of its purchases nationally),[274] including from MWR per-merger.[275] It does not sell scrap to MWR or to EMR.

9.76 In relation to S Norton's own view of the competitive constraint it imposes in London, it stated that:

(a) Its Barking site accepted all grades [✂],[276] and that it was competitive in purchasing ferrous metal within about [✂] of its Barking site, with transport costs making it 'impossible to compete with most other recyclers for ferrous grades above that distance'. It also does not compete on [✂] from its Barking site.[277]

(b) [✂].[278]

9.77 S Norton was noted as a strong competitor by several other recyclers and a number of suppliers.[279] In the supplier survey, no respondents at EMR's London sites considering it their next best option if the EMR site were to close down, although 25 (out of 165) respondents considering it a viable option when prompted - a similar proportion to those EMR suppliers that considered MWR a viable option when prompted (27 out of 209).

9.78 Overall, given its current size, export and processing facilities, we conclude that S Norton was likely to be an effective competitor to the Parties.

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[273] [✂].
[274] [✂].
[275] [✂].
[276] [✂].
[277] [✂].
[278] [✂].
[279] [✂], [✂], [✂], and [✂], and as viable alternative by one customer and 3 suppliers.

Benfleet Scrap

9.79 Benfleet Scrap operates three sites in Essex – in Thurrock, Basildon and Benfleet in Essex - each with [✂]. Its annual purchase volumes of [✂] tonnes give it a [0-5]% share within the region (Table 9.1). In terms of routes to market, it sources [✂] of its purchases from other metal recyclers, exports [✂] and sells the remainder to [✂] ([✂]), with EMR buying [✂] of Benfleet's purchase volumes. A [✂] are shredder feed, in relation to which it expressed [✂].[280] It was considered a strong competitor by [✂], and a viable alternative for one supplier. In the survey, it was considered the next best option to the relevant EMR site by 2 respondents, while a further 13 (out of 97) considered it a viable option to the relevant EMR**.**

9.80 Although its sites are relatively well located to replace the competition lost from MWR's Edmonton site, Benfleet is not likely to be a strong competitor, given its small current size [✂].

ASM Metal Recycling

9.81 ASM Metal Recycling operates four sites in the region – its main site, with a shear and baler at Aylesbury (Buckinghamshire), as well as a non-ferrous site nearby, and two feeder sites at Kings Langley (Hertfordshire) and Totternhoe (Bedfordshire). It has annual purchase volumes of [✂] tonnes, giving it a [0-5]% share of purchases (Table 9.1).

9.82 It sells [✂] of its purchase volumes to the Parties, the [✂] of which is shredder feed. It was considered a viable alternative to the Parties by one supplier. On its own ability to compete with the Parties, ASM listed its closest competitors to be [✂], [✂], [✂] and [✂], but it stated that it found it [✂]. [281]

9.83 Given [✂], it appears unlikely to represent an important constraint on the Parties.

[✂]

9.84 [✂] is a large national player with [✂] other sites nationally, with at least [✂], and [✂] dock facilities. In the London region, it operates [✂] sites – [✂] Its purchase volumes of [✂] tonnes give it a [✂] [0-5]% market share (Table 9.1). In relation to routes to market, nationally, [✂] exports [✂] of its volumes and purchases a substantial share of its volumes from other metal recyclers.

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[280] [✂].
[281] [✂].

Its sites in the London region also purchased a high proportion from other metal recyclers – just under [✂]% by volume at its [✂] – and it purchases significant volumes from metal recyclers in the London region, [✂], [✂] and [✂].[282] It does not sell scrap metal to MWR or to EMR.

9.85 [✂] own view of the competitive constraint it imposed in London was that it was:

> not active in the London area in terms of the purchase of waste scrap metal or shredding. Its only presence in the South East is [✂]. As such, it is not a realistic competitor for any supplier in the London area. Indeed, a very low proportion of waste scrap metal travels outside of the London area due to factors such as traffic congestion and the lack of sites immediately outside of the area.[283]

9.86 [✂] was considered a strong competitor by a number of recyclers,[284] as well as by seven suppliers. [✂] was one of the stronger results from the survey, though based on small numbers, with some diversion from both EMR and MWR sites. Its sites at [✂] (6 out of 47) and [✂] (8 out of 25) were considered viable alternative by a reasonable proportion of respondents at specific sites.

9.87 Overall, [✂] does not appear to be a strong constraint on the Parties in the London region at the moment, given its small volumes and its site locations (relative to MWR's Edmonton site). However, its [✂], so this constraint may well strengthen in the near future, especially given [✂] role as a route to market for smaller recyclers.

Total Waste Management

9.88 Total Waste Management operates two sites in the region, at Basildon (where it operates a shear) and Epping, both in Essex. It had purchase volumes of [✂] tonnes, giving it a share of [0-5]% (Table 9.1).[285]

9.89 It sells over [✂] of its purchase volumes to the Parties, including significant volumes to MWR Hitchin. Shredder feed accounts for [✂] of its sales and almost a [✂] of its volumes are exported. It was listed by one supplier as a viable alternative to the parties. It got a relatively strong response from the survey, with two respondents at EMR sites considering it their next best

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[282] [✂].
[283] [✂].
[284] [✂], [✂], [✂], [✂], [✂], [✂].
[285] [✂].

alternative and 12 out of 42 respondents considering it a viable alternative when prompted, though based on small sample numbers.

9.90 Total Waste Management is likely to be a moderate constraint, with its processing capabilities and site locations, balanced against its current size and extent of its existing sales to the Parties.

BFA Recycling

9.91 BFA Recycling operates a site at Uxbridge, with a shear, and purchases volumes of [✂] tonnes, giving it a [0-5]% share of purchases (Table 9.1). We have not had a response to our information requests from BFA Recycling, so are assessing it based on very limited evidence. We note that the supplier survey identified it as one of the more prominent competitors to EMR sites with 11 out of 39 respondents considering it a viable option. One metal recycler ([✂]) identified it as a competitor, as did the Parties, while one supplier also listed it as an alternative to the Parties.

9.92 Based on limited evidence, but taking account of its location, processing capacity and lack of dependence on the Parties, it may impose some level of constraint on EMR post-merger.

LKM Metals

9.93 LKM Metals operates two sites in Kent – a short-sea dock and a shear at Chatham and its main sites with an aluminium shredder and a shear in Sittingbourne. Its purchase volumes of [✂] tonnes[286] represent [0-5]% of volumes purchased in the London region (Table 9.1).

9.94 It considered it closest competitors to be [✂]. It provided a number of examples of its competition with EMR for specific suppliers, but did not consider itself a strong competitor, as EMR was willing to outbid it in purchasing from other metal recyclers. It was considered a strong competitor by [✂] (a metal recycler with sites in Kent and Sussex). The survey found that 12 (out of 81) suppliers at EMR sites considered LKM a viable alternative when prompted.[287]

9.95 It seems reasonable to conclude that despite its export facilities and processing capabilities, its small current size and its distance from the MWR Edmonton site, mean that it is unlikely to constrain EMR post-merger.

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[286] [✂].
[287] Based on responses from suppliers to EMR sites at Erith, Rochester and Tilbury Dock.

Conclusion on competitor assessments

9.96 Based on the assessments above, and bearing in mind the Parties' combined purchase volumes and facilities, we have provisionally concluded that the Parties will continue to face some constraint post-merger. However, with the exception of S Norton, the constraint from the Parties' main competitors in the London region is not strong and, in aggregate, we do not consider that these competitors will exert a sufficiently strong competitive constraint to prevent an SLC. Specifically:

(a) S Norton ([0-5]% market share) is likely to be quite a strong constraint on the Parties, given its location, the fact that it has a dock and two shears, is an important route to market for smaller recyclers, and its purchase volumes in London are likely to increase in the near future;

(b) Although its sites are relatively well-located to replace the competition lost from MWR's Edmonton site, Benfleet ([0-5]% market share) is not likely to be a strong competitor, given its small current size and the extent to which it already supplies to the Parties;

(c) ASM ([0-5]% market share) is likely to be a weak constraint on the Parties for the purchase of grades other than shredder feed in the region, as it is focussed on shredder feed, substantial volumes of which it sells to the Parties, and its processing site is a significant distance from the Parties' London sites;

(d) [✂] ([0-5]% market share) does not appear to be a strong constraint on the Parties in the London region at the moment, given its small volumes and its site locations ([✂]) relative to the Parties' most relevant sites in north and east London. [✂];

(e) Total Waste Management ([0-5]% market share) is likely to be a moderate constraint, with its current size, processing capabilities, and site locations, balanced against its current size and the extent of its existing sales to the Parties;

(f) BFA Recycling ([0-5]% market share), based on limited evidence, but taking account of its location, processing capacity and lack of dependence on the Parties, may impose some level of constraint on EMR post-merger; and

(g) LKM Metals ([0-5]% market share) is not likely to be strong constraint, despite its processing and dock facilities, due to its site locations and the extent to which it currently constrains EMR.

Entry and expansion in purchasing of scrap metal in the London region

9.97 We have considered whether entry by new rivals, or expansion in activities by existing rivals would prevent an SLC from arising in the purchase of scrap metal in the London region. In assessing whether entry or expansion might prevent an SLC we consider whether such entry or expansion would be timely, likely and sufficient.[288] Detailed evidence is included in Appendix D.

Parties' submissions

9.98 The Parties submitted a list of entry and expansion at site level across the UK over the last 5 years by region. The list included details of any processing equipment[289] installed on site as part of the entry or expansion. In addition, we gathered data from the Environment Agency (EA) showing the number of permits or T9 exemptions issued over the last three years.

9.99 The Parties' list showed that within London there were 8 new sites acquired comprising 6 feeder sites and 2 with a shear or a baler. Similarly, with expansion, only 2 sites in London expanded their processing capability, but with a shear.

EA data

9.100 The EA data showed that within London, only 13 new permits had been issued over the period 2015 to 2017 (although we cannot be sure how many of these represented a change in ownership). There were 368 T9 exemptions issued.

Third party submissions

9.101 One third party has opened a deep-sea facility [✂] in 2017. This facility has no processing capability on site.

9.102 We asked metal recyclers about their future plans for entry and expansion in London. None of the potential new entrants suggested by the Parties told us that they were looking to enter in London or the surrounding area. Two large operators told us that they had been looking extensively for large sites in London that would allow them to process scrap metal. However, neither had found suitable sites and that they had not been able to make firm plans to open in the near future. One of these operators told us that [✂]). In addition,

[288] Merger Assessment Guidelines, paragraph 5.8.3.
[289] Balers, shears or shredders.

two other recyclers told us that they were looking to open or acquire a small site in London or the South East.

Our assessment of entry and expansion

9.103 With respect to the timeliness of entry, and as with our analysis for shredding (in Chapter 8), we have provisionally found that licensing and approvals do not constitute a barrier to entry for the purchase of scrap metal. There will be planning approvals required for metal recycling sites which will differ according to what processing functions are intended for those sites. We have provisionally found, based on discussions with the Parties and third parties, that entry for feeder sites or for small to medium-sized processing sites could be effected within a year. For larger sites, this stretched to 18 months to 2 years. We have also found that no operator was currently in the process of seeking planning approval for a large processing site in London.

9.104 With respect to the likelihood of entry, we are aware of a number of metal recyclers are looking to enter the London region (paragraph 9.102, above). However, we were not told by any of these parties that they were likely to enter in the near future. These and other third parties told us that they were severely constrained in relation to opening new processing sites in London by the lack of suitable land available. Specifically, both [✂] and [✂] have had difficulty identifying larger sites suitable for processing activities in the London area, despite looking over a long period of time.[290]

9.105 With respect to whether any entry would be sufficient to prevent an SLC from arising, evidence from larger third party metal recyclers shows that they are looking to enter with large processing sites in London. There are, however, no definitive entry plans based on specific sites and equipment, with planning permission, which would allow us to conclude that, if entry were to occur, it would be of sufficient scale to prevent an SLC from arising as a result of the merger.

Provisional conclusion on competition for purchasing in the London region

9.106 Our provisional conclusion on the purchase of ferrous and non-ferrous metals (other than shredder feed) in the London region is that the Transaction has resulted, or may be expected to result, in an SLC. This is based on:

[290] Although this theory of harm concerns the purchase of scrap metal in the London region, many scrap metal recyclers, and certainly the larger ones like the Parties, will want processing equipment on site or at least accessible to feeder sites.

(a) The Parties' high combined market shares ([40-50%]) and the material increment to this provided by the acquisition of MWR ([5-10%]) – the merger brings together the two largest purchasers in the region (with EMR by far the largest) in a region where other recyclers handle much smaller volumes;

(b) Evidence that both Parties are important in providing an onward route to market for smaller recyclers who themselves lack necessary processing equipment or export capabilities – indicating both that the Parties are close competitors and that smaller recyclers are a weaker constraint;

(c) Weak constraints from other recyclers. Our detailed assessment of the other competitors in the region points towards some level of constraint but these competitors all purchase much lower volumes than the parties, and many are distant from the areas where the Parties' catchments overlap, or they rely on EMR and MWR as an important route to market rather than having their own direct routes. The remaining competition therefore appears unlikely to be sufficient to constrain the Parties post-merger, especially given the Parties' significant role as a route to market for smaller recyclers; and

(d) High barriers to entry in London for a site or sites which would provide an equivalent constraint to the independent processing and exporting capabilities and capacity that would be lost by the acquisition of MWR's London sites and assets.

9.107 We note that not all of the evidence on the closeness of competition between the Parties pre-merger pointed towards a strong constraint from MWR on EMR, in particular the supplier survey results, and, more generally, the level of concern among (non-shredder feed) suppliers was quite low. However, the evidence that EMR is the strongest metal recyclers in the region by far is clear, so the loss of even a limited constraint from MWR causes concern.

10. Purchasing from tendered contracts

Introduction

10.1 This section assesses the likely effect of the merger on competition in purchasing via tendered contracts, which typically are let by industrial suppliers and involve large volumes of materials. NPS makes up the bulk of scrap metal purchased in this category. Approximately three-quarters (by value) of tendered contracts that the parties held in 2017 involved NPS.[291] NPS makes up the bulk of material from tendered contracts,[292] and approximately half of all purchases of NPS are from industrial suppliers and other large contracts. For that reason, the assessment that follows is informed by tendering data, but also by data on competitors' volumes of NPS.

10.2 Tendered contracts tend to be large contracts. It appears that a limited set of competitors hold the largest contracts that are tendered, and it is in competing for these contracts where the Parties appear more likely to overlap. Third party comments also suggested that large tendered contracts tend to be more challenging to serve. Indeed, a number of the larger suppliers, and the Parties' competitors and customers, raised concerns regarding competition in this segment.[293] Our survey confirmed that small industrial suppliers are not concerned about the merger.[294] For that reason, the focus of our assessment is on competition for these large tenders.

10.3 The theory of harm that we have investigated is that the merger would enable the Parties to submit bids for these contracts at prices below the pre-merger level and/or worsen the quality of service provided to suppliers that use tendered contracts.

10.4 We have considered the Parties' position in the market and the competitive constraint that EMR and MWR currently exercise on each other pre-merger. We have done this by examining estimated market shares and analysing bidding data. Third party comments confirm that EMR is by far the largest purchaser from tendered contracts in the UK, and that MWR is one of the strongest competitors in regions where it is active, in particular in the West Midlands and the North East of England.[295] The evidence below shows that

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[291] [✂].
[292] Around [✂]% of the volumes that come from tendered contracts are made up of contracts where [✂] of the material involved is NPS
[293] [✂], [✂], [✂], [✂], [✂], [✂], [✂], [✂], [✂], [✂], [✂].
[294] Respondents to the survey of suppliers to the Parties' sites in London and the West Midlands generally sold only small volumes to the Parties, although some industrial suppliers that sell NPS to the Parties were included. In London, 5 small suppliers of NPS that are not metal recyclers responded, and none raised concerns about the merger. In the West Midlands, 23 small suppliers responded and one was concerned
[295] [✂], [✂], [✂], [✂], [✂], [✂], [✂], [✂], [✂], [✂], [✂], [✂].

MWR is a significant constraint on EMR in the West Midlands and North East. Bidding data shows that the parties are close competitors.

10.5 We have also considered the competitive constraint provided by other firms in relation to these purchasers. We have considered the constraint from alternative routes to market including self-supply and direct supply from suppliers to customers (thereby we have examined the constraint from firms other than rival metal recyclers).

10.6 We have considered these dynamics in each of the regions in which EMR and MWR overlap in bidding for tendered contracts, namely the West Midlands, the North East and Wales.

The CMA's assessment of purchasing from tendered contracts

10.7 We have not been able to construct estimates of shares of purchases from tendered contracts because of a lack of available data on this. Our assessment of the overall evidence on competition for tendered contracts has taken into account:

(a) data relating to volumes of NPS (since it represents the bulk of materials purchased in such contracts);

(b) bidding data which relates to large, primarily industrial, tendered contracts. This is not data that the Parties routinely collect and as such is incomplete; and

(c) what the Parties and third parties told us about the industrial contracts that they currently hold.

Shares of UK purchases of NPS

10.8 We have estimated the Parties' and competitors shares of purchases using data on recyclers' known sales (including sales to UK customers, other metal recyclers or export customers). This is because metal recyclers' purchases and sales of scrap metal should be approximately equal over time, particularly in the case of NPS which is a 'clean' grade with little non-metal content to discard before selling it on. We present these estimated shares of purchases below.

10.9 Nationally, we found that the Parties' combined UK shares of known purchases of NPS are around [60-70%], with a [10-20%] increment (Table 10.1). Although we have not defined a national market for the purchase of scrap metal through tendered contracts or for NPS, we nonetheless present these figures as an indication of the Parties' strength in this area.

10.10 We acknowledge that Table 10.1 is likely to be an overestimate of the Parties' true shares of purchases *from original sources* because we do not know all recyclers' purchase volumes, and because some of the Parties' volumes are purchased from other metal recyclers. However, we note that our estimates of the Parties' shares are consistent with submissions from several competitors and customers. It is clear from those submissions, and our own estimates, that EMR is by far the strongest competitor in relation to purchases from industrial suppliers, and that MWR is also a strong competitor in this segment.

10.11 As a sensitivity check aimed at understanding shares of purchases from original suppliers, we recalculated the shares, excluding from consideration the volumes that were purchased from other recyclers. We were only able to do this for the Parties and two other competitors. This gives an estimate of the Parties' combined share of [40-50%] with a [5-10%] increment.

10.12 Table 10.1 also shows the same volume figures expressed as a percentage of the total available volume (of 1.8 million tonnes) which the Parties submitted as their estimate of the available NPS in the UK.[296] The Parties told us that their estimate includes volumes that are currently self-supplied within steel mills but they believe to be contestable. We think that the resulting combined share estimate of [30-40%] is a lower bound which is likely to underestimate the Parties' importance in this segment, given that the potential constraint on the Parties comes from materials that are currently sold to metal recyclers rather than from materials already used in-house.

10.13 Both our estimates and those of the Parties show that although there are a number of competitors with some known volumes of NPS, most are purchasing far smaller volumes than the Parties, and the Parties are the two largest purchasers of NPS by some distance.

[296] The Parties submitted that this is a conservative estimate, including because it does not include non-factory sources of low residual scrap which can be used by customers in similar ways to new production steel. Other third parties including competitors submitted that the figure of 1.8m is a substantial overestimate.

Table 10.1: Estimated shares of purchases of New Production Steel, 2017

	Total volume of NPS (known volume)	*% of total known volume of NPS*	*Total volume of NPS (Parties' estimates)*	*Expressed as a % of 1.8m tonnes (Parties' estimate of total volumes)*
[✂]	[✂]	[40-50%]	-	[20-30%]
[✂]	[✂]	[10-20%]	-	[10-20%]
[✂]	[✂]	**[60-70%]**	**-**	**[30-40%]**
[✂]	[✂]	[5-10%]	-	[5-10%]
[✂]	[✂]	[5-10%]	-	[5-10%]
[✂]	[✂]	[5-10%]	-	[0-5%]
KA Anderson	-	-	[✂]	[0-5%]
SSUK	-	-	[✂]	[0-5%]
O Brien	[✂]	[0-5%]	-	[0-5%]
Enablelink	[✂]	[0-5%]	-	[0-5%]
Adams	-	-	[✂]	[0-5%]
Green Earth Recycling	-	-	[✂]	[0-5%]
Ward Bros Steel Ltd	[✂]	[0-5%	-	[0-5%]
One Stop Recycling	-	-	[✂]	[0-5%]
B Shakespeare	[✂]	[0-5%]	-	[0-5%]
Other recyclers' known volumes (20 competitors)	79,287	6%	-	4%
Total (Known volumes)	1,134,342	100%	-	-
Other volumes including self-supply and estimates supplied by the Parties (including 7 other competitors)	-	-	665,658	37%
Total (Parties' estimate)	-	-	1,800,000	100%

Source: The Parties' submissions, and third-party questionnaire responses.

Size of contracts held

10.14 The Parties submitted that insofar as the scale of industrial contracts may make them more difficult to serve, MWR is capable, but not uniquely capable, of doing so.[297] The Parties submitted that MWR currently has [✂]industrial suppliers of NPS from whom it purchases more than [✂] annually,[298] and a further [✂] where it purchases greater than [✂] annually,[299] and that several other competitors have contracts of a similar size.

10.15 In addition, the Parties submitted a list of industrial contracts they believe to be held by competing metal recyclers. We have been able to verify this data with five recyclers and two suppliers; in [✂] cases the Parties had incorrectly suggested that a competitor held a large contract, and in several cases the

[297] [[✂]]
[298] In 2017. Sourcing from [✂].
[299] In 2017. Sourcing from [✂].

Parties had overestimated the size of the contracts involved.[300] However, in the main the data presented in Table 10.2 is based on the Parties' submissions. The data indicates that there are several other competitors that hold or have in the past held large contracts of a similar size to the largest held by MWR, although only [✂] holds any of the size of EMR's largest contracts. A larger number of recyclers hold smaller contracts over 1,000 tonnes in size.

Table10.2: Example large industrial contracts held by competitors

Parties and competitors	*Example Contracts (volumes pa)*
EMR	[✂]
MWR	[✂]
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]
Others with contracts of over 1,000 tonnes	[✂]

Source: [✂].
Note: [✂].
*Not current
**[✂].

10.16 This suggests that several metal recyclers may be capable of securing large contracts. However, the examples in Table 10.2 have not necessarily been restricted to the areas of overlap between the Parties. Below, we consider evidence on the success that the Parties and their rivals have had in bidding for these contracts, focussing on the tenders in which the Parties have overlapped.

Tender data

10.17 The Parties overlap in the West Midlands, North East, and Wales, where most UK volumes of new production steel arise. They submitted data on [✂]

[300] The Parties correctly stated which contracts [✂], [✂] and [✂] hold with a number of suppliers, but incorrectly identified contracts with [✂] as held by [✂] and [✂], and a [✂] contract as held by [✂]; Where the Parties identified contracts that [✂], [✂] and [✂] actually hold, the volumes cited slightly overstated the actual tonnes that the metal recyclers purchased (on average by 50%) with the exception of [✂], [✂] and [✂], where the Parties underestimated the contracts by a quarter and three quarters. The Parties also correctly stated that [✂] holds a contract with [✂], and [✂] confirmed that it sells to [✂], but less than predicted by the Parties.

tenders covering the overlap regions, that one or the other of the Parties bid for in [✂]. Although this is a relatively short period over which to assess competition, we note that [✂] contracts are under two years. We have used this period for our analysis of the bidding data throughout this chapter.

10.18 The Parties submitted that these tenders represent a small proportion of the market; however large suppliers that are more likely to tender are the focus of our potential concern, and we therefore consider this data to be informative.

10.19 Table 10.3 presents data for all contracts the Parties bid for within the overlap regions since 2015 up until the merger was completed in August 2017. In later sections we look separately at bidding in each of the overlap regions.[301] On average the Parties believe that they faced [✂] bidders in competition for these contracts. However, MWR is the [✂] most frequent bidder in all contracts in the overlapping regions after [✂] and [✂], and other bidders were seen with much less frequency and won far fewer contracts. Indeed, of the tenders in which EMR or MWR submitted a bid in overlapping regions, [✂] and the Parties won [✂] (Table 10.2).

Table 10.3: Contracts for which either EMR or MWR bid, in overlapping regions, 2015 to August 2017

Metal recycler	*Bidder*	*Won*	*Win rate*
[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	
[✂]	[✂]	[✂]	

Source: [✂].
[1] Parties combined refers to all contracts for which either party bid

10.20 Within the overlap regions the Parties are known to have faced one another [✂] times. This is only around [✂] of the [✂] tender exercises in which one of them bid in the overlapping regions, but covers [✂] of the value of these contracts.[302] Together the Parties won [✂] of the contracts that they both bid for - [✂] in total. EMR won around [✂] in [✂] and MWR won around [✂] in

[301] Note that the sum of the regional Tables is greater than the figures shown in the overall Table for all overlapping regions, because some contracts span multiple regions.
[302] Note that for 3 contracts the annual contract value (£) is not known.

[✂] of the contracts both Parties bid for. The other [✂] contracts were won by [✂].

10.21 Even though the Parties have been very successful in winning bids in recent years (Table 10.3), in principle it could have been the case that these were low value contracts for which greater levels of competition might exist. Therefore, we have looked at contract values. Table 10.4 shows the aggregated average annual value of contracts that each metal recycler won in the time period either individually or jointly with other metal recyclers. EMR's contracts covered by far the highest annual purchase value, followed by [✂], [✂], and MWR. It therefore presents a similar view of the marketplace to Table 10.2. All other metal recyclers held contracts of much smaller annual value.

Table 10.4: Aggregated annual values of contracts that metal recyclers won in overlapping regions, 2015 to August 2017

	Annual contract value (£):		
	of single contracts	*of jointly supplied contracts**	*Total*
EMR**	[✂]		[✂]
MWR	[✂]		[✂]
Parties Combined	[✂]		[✂]
[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]
[✂]	[✂]		[✂]
[✂]			[✂]
Total known value			[✂]

Source: [✂].
*Where a contract is served by more than one supplier it is assumed that each supplier purchases an equal value of the contract.
**Annual contract value for one contract not available
***Annual contract value for two contracts not available

10.22 Table 10.5 shows, for the contracts of suppliers located in overlapping regions, data on which recyclers were incumbent, the number of times that incumbents won, and who they lost to (and how many contracts) where relevant.

Table 10.5: Contracts for which either EMR or MWR bid as incumbents, in overlapping regions, 2015 to August 2017

Metal recycler	*Incumbent*	*Of which won*	*Win Rate*	*Rivals lost to*
EMR	[✂]	[✂]	[✂]	[✂]*, [✂]*[✂]
MWR	[✂]	[✂]	[✂]	[✂], [✂][✂]
Parties Combined[1]	[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]	[✂][✂], [✂], [✂], [✂], [✂], [✂]
[✂]	[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]	
[✂]	[✂]	[✂]	[✂]	
[✂]	[✂]	[✂]	[✂]	
[✂]	[✂]	[✂]	[✂]	
[✂]	[✂]	[✂]	[✂]	
[✂]	[✂]	[✂]	[✂]	
[✂]	[✂]	[✂]	[✂]	
[✂]	[✂]	[✂]	[✂]	
[✂]	[✂]	[✂]	[✂]	
[✂]	[✂]	[✂]	[✂]	
[✂]	[✂]	[✂]	[✂]	

Source: [✂].
Note: [✂].
*[✂].

10.23 Among [✂] contracts in overlap areas where EMR was the incumbent, MWR [✂], compared to [✂] contracts won by other bidders ([✂]). Among [✂] contracts where MWR was the incumbent, EMR won [✂], and another bidder won [✂].

10.24 Overall, we consider that the tender data shows that as frequent competitors against one another, and as incumbents for large contracts where incumbents appear to have a strong incumbent advantage, the Parties have competed and EMR in particular has proved to be a strong competitor against MWR when MWR has been the incumbent.

The constraint from self-supply, supplying directly to customers, and encouraging entry

10.25 The Parties made arguments about specific large suppliers self-supplying (where they are also customers), supplying directly to final customers, or encouraging entry from other regions.

10.26 The Parties submitted that there is a strong constraint from the possibility of NPS suppliers who are also NPS customers, that both sell NPS to and buy NPS from metal recyclers, instead choosing to self-supply. The Parties submitted that this is relatively easy to do because NPS usually requires little processing. [303] The Parties argued that where such self-supply already occurs

[303] The Parties argue that around 700,000 tonnes of NPS arise at UK steel works annually and suppliers regularly assess whether to re-utilise this scrap metal within their own production processes by re-loading it back into their

it should be taken into account in market shares estimates and that on this basis EMR believes the Parties' combined share of purchases of NPS to be around [30-40%].[304]

10.27 The Parties submitted that there is also a strong constraint from direct supply to final customers. This can be done through 'closed loop' arrangements, in which industrial suppliers retain ownership of the scrap and sub-contract the metal recycling service element, or through the supplier/customer carrying out the recycling activity itself. They gave examples of:

(a) Past occasions of direct relationships between supplier and customer ([✂], [✂] and BMW previously supplying Tata);

(b) Current occasions including JLR supplying Novelis some materials; [✂]; and 'closed loop' arrangements between manufacturers and raw material suppliers in the aerospace industry.

(c) A supplier that they considered likely to carry out direct supply in future ([✂])

(d) A customer that is competing for existing supply contracts and hoping to expand ([✂]).

10.28 The Parties also submitted that for the larger contracts they bid for, they are competing against not only UK metal recyclers and waste companies but also European operators who bid for such contracts and either set up local sites or use sub-contractors.[305]

10.29 In addition to the evidence from MWR that [✂], responses from third parties to an extent supported the view that the options of self-supplying, supplying directly to final customers, or encouraging entry from other regions are available to manufacturers.

10.30 In relation to self-supply:

(a) Toyota is using its own metal recycling company, Green Metals, to do some processing, although it also uses external metal recyclers. Green Metals has no current plans to bid for suppliers other than Toyota.

(b) [✂] confirmed that it would consider using [✂].

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own furnaces (ie a closed loop within their own organisation) or whether to sell this waste scrap metal to metal recyclers or final customers.

[304] This is based on an EMR estimate (based on its market knowledge) that the total arisings of NPS in the UK are around 1.8m tonnes including self-supply.

[305] [✂].

(c) [✂] is using its own subsidiary, [✂], as it does in other parts of Europe.

10.31 In relation to supplying direct to final customers:

(a) Tata confirmed that it is possible (though difficult) to buy directly from suppliers (ie manufacturers) for example where they are Tata's customers such as BMW. Tata is also a supplier of new production steel itself and told us that it can sell new production steel directly to end-users, but it told us that this is difficult [✂].

(b) [✂] confirmed that it has been bidding for contracts to buy directly from suppliers, but that (in line with Tata's submission) it has found these difficult to win without first having acquired the necessary infrastructure and experience. It told us that nearly all scrap metal requires some form of processing (eg shredding or baling), and that NPS is not particularly different from other scrap in this regard.

(c) We note there are other examples of customers buying directly from suppliers. For example, [✂] purchases NPS for its own use. Although it has not frequently bid against the Parties, it has won part of a large contract with [✂]. In the non-ferrous segment [✂] has also bid for contracts with suppliers.

10.32 In relation to encouraging entry from other regions, [✂].

10.33 We consider that the nature and extent of these constraints varies by supplier. Because prices are set individually for each supplier, this means that any supplier-specific competitive constraints do not protect other suppliers. We therefore take these constraints into account within our local assessment, looking in the round at the options available to each of the Parties' large suppliers in each region. However, we note that these arrangements often involve using existing metal recyclers for handling the materials, meaning that existing competition in the regional area is important.

Local assessments

10.34 Given that we have found that purchasing markets are regional, below we assess the strength of competition for purchases of scrap from tendered contracts, including self-supply and direct supply, separately for the regions in the which the parties have sizeable volumes of NPS volumes and tendered contracts:

(a) the West Midlands;

(b) the North East; and

(c) Wales.

10.35 We have been told that some suppliers might want a metal recycler with multiple sites, which might imply that our analysis ought to stretch across regions. For example, a customer submitted that the Parties' nationwide coverage allows both EMR and MWR to obtain supply contracts with large nationwide businesses that generate scrap across the UK but do not want to deal with multiple buyers of the scrap, and gave the examples of BT, Network Rail and other nationwide civil engineering, building or demolition companies.[306]

10.36 The Parties submitted that only a very small number of multi-region suppliers supply the Parties on the basis of longer term contracts and that all multi-region contracts are capable of being served by both regional competitors and larger national scrap metal merchants such as [✂] or [✂]. They highlighted that EMR's [✂] was previously serviced by a regional competitor, Universal,[307] that has two sites in South Yorkshire and Merseyside.[308] The Parties also said that suppliers have the option to sub-divide a multi-region contract and tender on the basis of having different recyclers in different regions (as [✂], Tata, [✂] and [✂] have done in the past). One competitor told us that it was not necessary to have a national coverage in order to compete for large volumes of scrap metal.

10.37 To the extent that having a large network of sites is important, we would expect that to be borne out in the bidding data, discussed above.

10.38 Given this, we concentrate our analysis on the overlap areas - West Midlands, North East and Wales - which are discussed below.

West Midlands

10.39 In our examination of the merger's effect on competition for tendered contracts in the West Midlands, we have considered competitor characteristics in the West Midlands, bidding activity, and the Parties' and third party comments.

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[306] [✂]
[307] This recycler is not present in the Environment Agency data; from its website it appears to have one site in South Yorkshire, although it advertises a nationwide collection service.
[308] [✂]

Competitor characteristics

10.40 The Tables below summarise the key pieces of evidence in relation to each competitor in the West Midlands.

10.41 Where known, we present data on the competitor's overall UK volumes of NPS, as an indicator of their current strength in relation to industrial and large tendered contracts.[309] Due to a lack of data we have not been able to construct regional shares of tendered contract or NPS purchases.

10.42 We also present data, where known, on competitors' overall volumes of all waste scrap metal in the West Midlands, and – given our view that recyclers are stronger in purchasing markets when they have good access to relevant processing, and to export markets – their baling equipment and UK sites and docks.

10.43 Table 10.6 shows that among competitors with moderate known volumes of NPS, only [✂] and GES Recycling are present in the West Midlands. Other recyclers have small volumes of NPS (where known), or small overall volumes implying that even if their NPS volumes were known, they are not substantial. [✂] and Enablelink, both of whom purchase large overall volumes in the area, purchase only small volumes of NPS. For One Stop Recycling, which the Parties believe to hold contracts equivalent to around 2% of national volumes of NPS (using the Parties' estimated UK total), we have not been able to verify its total or NPS volumes.

[309] Of the [✂] contracts of suppliers located in the overlap regions and that both Parties bid for [✂] covered scrap metal of which [✂] of the volume was new production steel, which accounted of [✂] of the annual contract value of all [✂] contracts. This is likely an underestimate, because contract value data is missing for [✂] contracts – one large mixed metal contract and one large and one very large new production steel only contract. The mixed metal contract contains a mix of new production steel and aluminium covering [✂] tonnes of mixed metal. The two new production steel only contracts are large industrial contracts covering [✂] tonnes of new production steel together. Hence, the value of new production steel that is missing compared to the value of other metals that is missing in the above estimate is likely to be higher.

Table 10.6: Data on competitors' sites and equipment, overall ferrous and non-ferrous volumes in the West Midlands (including tendered and non-tendered volumes), and UK-wide volumes of NPS

	Sites in the WM	*Balers in the WM*	*UK sites*	*UK docks*	*WM total volumes*	*% share WM volumes*	*UK NPS volumes*	*% share of known UK NPS volumes*
EMR	5	2	65	11	[✂]	[20-30%]	[✂]	[40-50%]
MWR	3	3	8	2	[✂]	[5-10%]	[✂]	[10-20%]
Parties Combined	*8*	*5*	*73*	*12*	[✂]	*[30-40%]*	[✂]	*[60-70%]*
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[10-20%]	[✂]	[10-20%]
S Norton	0	[✂]	4	3	[✂]	[0-5%]	[✂]	[5-10%]
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[0-5%]	[✂]	[5-10%]
Enablelink	1	[✂]	1	0	[✂]	[5-10%]	[✂]	[0-5%]
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[10-20%]	[✂]	[0-5%]
B Shakespeare	1	[✂]	1	0	[✂]	[0-5%]	[✂]	[0-5%]
A Goodman & Sons	0	[✂]	1	0	[✂]	[0-5%]	[✂]	[0-5%]
Alutrade**	1	[✂]	1	0	[✂]	[0-5%]	[✂]	[0-5%]
Richards & Jerom	1	[✂]	1	0	[✂]	[0-5%]	*	*
Wades of Wednesbury	1	[✂]	1	0	[✂]	[0-5%]	*	*
Whites of Coventry	1	[✂]	1	0	[✂]	[0-5%]	*	*
Beaver Metals (Flexdart)	1	[✂]	1	0	[✂]	[0-5%]	[✂]	[0-5%]
Moores Metals	1	[✂]	1	0	[✂]	[0-5%]	*	*
KLM Steels	1	[✂]	1	0	[✂]	[0-5%]	*	*
Brown Recycling	1	[✂]	1	0	[✂]	[0-5%]	*	*
OneStop Recycling	1	[✂]	1	0	[✂]	[0-5%]	*	*
Other recyclers in WM	141	*	-	-	335,008	17%	-	-
Other 19 recyclers UK wide	-	-	-	-	-	-	112,241	10%
Total	201	12	526	58	2,124,799	100%	1,134,342	100%

Source: [✂]
*unknown
**Non-ferrous only

10.44 As shown in Table 10.7 below, in total there were [✂] contracts put out for tender by suppliers located in the West Midlands from 2015 until the merger was completed in August 2017, of which EMR bid for [✂] and MWR for [✂].

10.45 The Parties faced each other in [✂] of the [✂] contracts. Of these [✂] contracts, EMR won [✂] and MWR won [✂] (ie [✂] between them). The other [✂] contracts were won by [✂] and [✂]. In [✂] cases the incumbent (whether EMR, MWR or another party) won the contract.[310]

[310] [✂].

10.46 Regarding who else has been successful in bids for tendered contracts, Table 10.7 shows that only [✂] (successful on [✂] occasions) and [✂] (successful on [✂] occasion) have bid against the Parties and won contracts in the West Midlands. They were also mentioned by at least one supplier or customer.

10.47 Other metal recyclers have not been successful at winning tendered contracts in the West Midlands. For example, although the Parties believe [✂] to have bid frequently overall and it was mentioned by customers, it has not won any West Midlands tendered contracts.

Table 10.7: Data on West Midlands competitors' bidding activity, contracts held and awareness among suppliers and customers

Metal Recycler	*In the UK*			*In the West Midlands*					
	# con-tracts bid in		*Win Rate*	*# contracts bid in*	*# won*	*Win Rate*	*Named by supplier*	*Named by customer*	*Largest known example contracts (current and past)*
EMR	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂][✂], [✂], [✂],[✂],[✂],[✂]**,[✂]	[✂][✂], [✂], [✂], [✂],[✂]	[✂]
MWR	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂][✂], [✂], [✂],[✂], [✂]r, [✂]*, [✂]	[✂][✂], [✂], [✂], [✂]	[✂]
Parties Combined [1]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]			
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂][✂], [✂], [✂]**, [✂], [✂], 1 survey respondent*	[✂][✂], [✂], [✂]s	[✂]
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂][✂]**, [✂]	[✂][✂] [✂], [✂], [✂], [✂]	
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂][✂], [✂]r	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂][✂]**,[✂]	[✂][✂], [✂], [✂]	[✂]
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂], [✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]			
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]		
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	1 survey respondent*	[✂], [✂]	[✂]
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂], 1 survey respondent*	[✂][✂], [✂], [✂]	
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]			
Other recyclers	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]), [✂]		

**Located in the East Midlands.
Source: CMA analysis of [✂].
[1] Parties combined refers to all contracts one and/or the other Party bid for.

The Parties' views on competition in the West Midlands

10.48 The Parties submitted that in the West Midlands they face competition from many credible competitors, with similar equipment to MWR including three that have higher overall volumes in the region than MWR, and some that have additional sites a little way outside the catchment area. They also submitted that they face competition from outside the region.

10.49 The Parties also submitted that barriers to entry and expansion are low in the West Midlands. They gave One Stop Recycling as an example of a relatively recent new entrant which has risen to be one of the top competitors in the region and which, according to its website, handles over 300,000 tonnes of waste scrap metal annually, supplying processed scrap metal to domestic foundries, as well as exporting worldwide.[311] They also submitted that Enablelink has recently doubled its capacity by installing a new shear.[312]

Third parties' views on competition in the West Midlands

Suppliers

10.50 Our survey received responses from 23 industrial suppliers in the West Midlands, of which only one thought that the merger would have an adverse effect. The volumes that these respondents supply is small and as noted earlier, the focus of our concerns is on competition for large tendered suppliers.

10.51 We spoke with thirteen suppliers that tender contracts or sell large volumes of NPS to the Parties in the West Midlands, including three that are also consumers of NPS (of which two also sometimes compete directly with the parties for the purchase of NPS from other suppliers).[313] Among these respondents, seven, including the three that are also customers, were concerned about the effects of the merger, while others were unconcerned.

10.52 The earlier Table (10.7) highlights that among the large West Midlands suppliers that responded to us, Sims was commonly mentioned as an alternative. Ward Recycling, GES Recycling and S Norton were also mentioned more than once.

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[311] http://www.onestoprecycling.co.uk/
[312] http://www.recyclingtoday.com/article/enablelink-adds-denieli-henschel-shear/
[313] [✂].

10.53 Several respondents highlighted their relatively demanding service needs in terms of frequency of collection and in some cases the number of sites for which they need coverage, which implies that the recycler needs many skips, many vehicles, and multiple sites. Suppliers also highlighted that it is extremely costly to them if anything goes wrong with their collection service.

10.54 Those that were unconcerned about the merger, told us that they know or believe there to be multiple other options to choose from in the local area. Those respondents that were concerned said that:

(a) There are few viable competitors for factory contracts.

(b) Large recyclers have the advantage of experience and track record (and financial background) for the required level of service, and of good access to export markets.

(c) Self-supply, or supplying direct from supplier to customer, is difficult and costly, and a weak constraint on the larger metal recyclers that have better logistics and processing capabilities in place.

Competitors

10.55 We spoke to six metal recyclers that compete with the Parties in the West Midlands, three of whom also sell NPS to the Parties in the region:

(a) [✂] told us in relation to NPS that for many years EMR has been the biggest player in that market, and MWR was number two. [✂] argued that it faces strong barriers to expansion in relation to industrial contracts including price: it argued that EMR has a powerful position on the sales side and as a result can pay a premium on the purchases side. [✂] also submitted that industrial contracts is 'not something you can dip in and dip out of' because so many contracts (in the region of a thousand) are involved, and that it would be an expensive gamble to try to expand, and not one it is prepared to take. We note that [✂].

(b) [✂] confirmed that it competes for industrial contracts, and hopes to expand. It told us that:

> EMR is competitive in everything. MWR is not as competitive as it does not have the same geographical presence, however MWR has a strong presence on very good contracts. Both EMR and MWR are close in terms of price, financial stability (although MWR less so than EMR), and service. Some of the contracts won by us was because suppliers wanted alternatives (which is also why MWR got contracts).

We note that [✂] has bid infrequently in the West Midlands and has yet to win a tender.

(c) [✂] said that MWR is very big in factory contracts, and has a low residual (ie NPS) speciality, specifically in the West Midlands, although it is weakened by its lack of access to a deep-sea dock.[314] In relation to its own competition in NPS, [✂]. We note that [✂] has bid infrequently in the West Midlands and has yet to win a tender.

(d) [✂].

(e) In relation to industrial contracts, [✂] argued that EMR tend to bid above the market value to win contracts, and 'The market is controlled by them in this way.' It expressed concern about the merger, saying that 'EMR will now control the vast majority of the UK scrap market'. It has not bid for contracts.

(f) [✂] did not raise any concerns about the merger, noting that it did not think it would affect its business. It has not bid for contracts.

Provisional conclusion on constraints faced by the Parties in the West Midlands

10.56 Overall, we found that for tendered contracts in the West Midlands, the Parties face strong competition from [✂], a large metal recycler with multiple sites. Although [✂], in the data we saw it bid for [✂], and won [✂], including [✂] where EMR had been the incumbent. Its estimated share of known NPS volumes in the UK is [✂]% and its NPS suppliers include two that supply over [✂]tonnes a year. [✂] was named as a viable alternative to the Parties by several large West Midlands suppliers that responded to the CMA.

10.57 Of the [✂] West Midlands tenders that we are aware of, EMR, MWR and [✂] won [✂] (Table 10.7). We have provisionally found that while there are some other constraints, they are weak in the West Midlands:

(a) [✂]. We therefore conclude that the constraint provided by [✂] in the West Midlands is not strong.

(b) The Parties believe that [✂] won [✂] contract in the area, and it was mentioned by two suppliers, but we do not consider this sufficient evidence to consider it a strong constraint.

[314] MWR Seaham is a deep-sea dock in the North East.

(c) [✂], another metal recycler named by some suppliers, bid for [✂]. It told us that [✂].

10.58 EMR is by far the largest competitor in this segment, and MWR and [✂] provide the bulk of competition against it for tendered contracts. This is borne out in the bidding data, discussed above, and in comments from suppliers and competitors. Some metal recyclers told us that they are unable to compete against MWR or EMR for tendered contracts. Finally, we note that our estimated shares for in the West Midlands (Table 10.6) also indicate that the EMR is the largest provider of scrap metal generally, followed by [✂], and MWR is of a size comparable to [✂] and [✂]. However, both [✂] and [✂] are not large providers of NPS which indicates that they are likely to be weaker constraints in tendered contracts. That is borne out in the bidding data that we have seen.

10.59 We note (as set out before this local assessment) that there is some potential constraint from the possibility of suppliers encouraging entry from outside the region, self-supply, or customers of new production steel seeking to purchase directly from suppliers (paragraph reference). However, there is little evidence that these are currently strong constraints for large suppliers in the West Midlands. There is some limited evidence of [✂] bidding from outside the region, which has been taken into account. [✂]. [✂] has been bidding to purchase directly from customers but told us that this is very difficult without the necessary infrastructure in place and it remains reliant on existing recyclers in the region. Tata told us that this is a difficult option for it, and others did not raise it.

10.60 We provisionally consider that the loss of MWR would amount to the loss of an important competitive constraint on EMR.

North East

10.61 In our examination of the merger's effect on competition for tendered contracts in the North East, we have considered competitor characteristics in the North East, bidding activity, and Parties' and third party comments.

Competitor characteristics

10.62 Tables 10.8 and 10.9 below summarise the key pieces of evidence in relation to each competitor in the North East. As for the West Midlands, we present data on known UK volumes of NPS, and on overall volumes of ferrous and non-ferrous metals in the North East, as well as site and equipment information.

10.63 For scrap metal generally, the Parties estimated that in the North East their combined share of all ferrous and non-ferrous purchases was [50-60%] with an increment of [5-10%] (Table 10.8). They submitted that in the North East they are not close competitors, that the increment is small, and that they face competition from many competitors.

10.64 For NPS, however, which is a closer approximation for tendered contracts than is the case for data on overall volumes, we estimate that the Parties account for over [60-70%] of UK volumes with a [10-20%] increment (Table 10.8). Table 10.8 shows that among competitors with moderate known volumes of NPS, only [✂] and [✂]are present in the North East.

10.65 Other recyclers have small volumes of NPS (where known), or small overall volumes implying that even if their NPS volumes were known, they are not substantial. [✂] and [✂], which purchase large overall volumes in the area, purchase only small volumes of NPS, and have bid infrequently against the Parties (although as set out in the subsequent section, [✂] told us it is growing in the industrial segment).

Table 10.8: Data on competitors' sites and equipment, overall ferrous and non-ferrous volumes in the North East, and UK-wide volumes of NPS

	No. sites in North East	*Balers in the NE*	*UK Sites*	*Docks in the UK*	*Total Volumes NE*	*% of total volumes NE*	*Total UK volume of NPS*	*% of total UK volume of NPS*
EMR	8	0	65	10	[✂]	[50-60%]	[✂]	[40-50%]
MWR	1	1	8	2	[✂]	[5-10%]	[✂]	[10-20%]
Parties Combined	*9*	*1*	*73*	*12*	[✂]	*[50-60%]*	[✂]	*[60-70%]*
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[5-10%]	[✂]	[10-20%]
S Norton	0	0	4	3	[✂]	[0-5%]	[✂]	[5-10%]
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[0-5%]	[✂]	[5-10%]
Ward Bros Steel Ltd	3	3	4	2	[✂]	[10-20%]	[✂]	[0-5%]
O Brien	4	0	4	0	[✂]	[5-10%]	[✂]	[0-5%]
Jebb Metals	1	1	1	0	[✂]	[0-5%]	*	*
J Denham	2	1	3	1	[✂]	[0-5%]	*	*
Pout & Foster	1	1	2	0	[✂]	[0-5%]	*	*
Total Recycling Services	1	*	1	0	[✂]	[✂]	*	*
Other recyclers in NE	6	2	-	-	8,849	2%	-	-
Other 20 recyclers UK wide	-	-	-	-	-	-	190,802	17%
Total	31	10	526	58	861,570	100%	1,134,342	100%

Source: **[✂]**.
* Represent unknown values.

10.66 With respect to tendered contracts, Table 10.9 shows that in total there were [✂] contracts put out for tender by suppliers located in the North East from

[✂]. Of these, EMR bid for [✂] (winning [✂]) and MWR for [✂] (winning [✂]). [✂] won [✂] contracts, [✂] won [✂], and [✂] won [✂].

10.67 The Parties faced each other in [✂] contracts. Of these [✂] contracts, EMR won [✂] and MWR won [✂]. The other [✂] contracts were won by [✂] who won [✂] and [✂] who won [✂]. In [✂] cases the incumbent won the contract. [✂] won [✂] contract from EMR and EMR won [✂] contract from another metal recycler.

10.68 This data suggests that the Parties often compete against one another, and that they face strong competition from [✂], and some additional constraint from [✂] and, to a lesser extent, [✂].

Table 10.9: Data on North East competitors' bidding activity, contracts held and awareness among suppliers and customers

	In the UK		*In the North East*				
Metal Recycler	*# contracts bid in*	*# won*	*# contracts bid in*	*# won*	*Named by supplier*	*Named by customer*	*Example Contracts*
EMR	[✂]	[✂]	[✂]	[✂]	[✂][✂], [✂], [✂], [✂], [✂], [✂]	[✂][✂], [✂],[✂], [✂], [✂]	[✂]
MWR	[✂]	[✂]	[✂]	[✂]	[✂][✂], [✂], [✂], [✂], [✂],[✂]	[✂][✂], [✂], [✂], [✂]	[✂]
Parties Combined[1]	[✂]	[✂]	[✂]	[✂]			[✂]
[✂]	[✂]	[✂]	[✂]	[✂]	[✂][✂], [✂], [✂], [✂][✂]	[✂][✂],[✂], [✂], [✂]	[✂]
[✂]	[✂]	[✂]	[✂]	[✂]			[✂]
[✂]	[✂]	[✂]	[✂]	[✂]		[✂][✂], [✂], [✂]	[✂]
[✂]	[✂]	[✂]	[✂]	[✂]	[✂], [✂]	[✂][✂],[✂]	
[✂]	[✂]	[✂]	[✂]	[✂]			
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]		
[✂]	[✂]	[✂]	[✂]	[✂]			
[✂]	[✂]	[✂]	[✂]	[✂]			
[✂]	[✂]	[✂]	[✂]	[✂]			
[✂]	[✂]	[✂]	[✂]	[✂]			

*Located in the West Midlands.
Source: [✂].
[1] Parties combined refers to all contracts one and/or the other Party bid for.

The Parties' views on competition in the North East

10.69 In the North East, MWR has only one site (at a dock facility in Seaham) which was acquired to serve one supplier ([✂]), a contract which MWR won through tender, which makes up over 80% of MWR's site's volumes. MWR does not accept drop-off deliveries at Seaham, and the Parties submit that MWR does not have a particularly good geographic coverage or network in the North East.

10.70 In relation to [✂] (an automotive parts manufacturer), the Parties submitted that:

(a) it puts its requirements for the collection of production scrap out to tender every 2 to 3 years with multiple bidders. The Parties believe that they competed against multiple suppliers for the last tender ([✂]);[315] and

(b) EMR [✂][316] and so there is currently no significant competition between the Parties.

[315] [✂].
[316] [✂].

(c) [✂] is also a sophisticated supplier which has significant negotiating power. [✂] invites MWR to re-quote on every renewal of the contract.

10.71 In respect of local competition, the Parties submitted that their combined share of sites in the region (including all EA licensed recyclers) is [0-5%], and that there are at least ten competitors within 50km of their sites who have collection services, processing capabilities, export capability, large scale of activity and pricing competitiveness. They submitted that this includes two merchants (Ward Bros and J Denham) that have equivalent equipment to MWR and a larger scale – Ward Bros processes more metal than MWR. In support of the view that these are strong competitors, the Parties drew attention to:

(a) J Denham, which has 2 sites in the region and whose website states it is the largest metal recycler in the North East;

(b) Ward Bros, whose website statement also states that it is the largest independent scrap metal processing company in the North East, and is "currently servicing over 4000 customers in the North East;

(c) Sims' presence in the North East; and

(d) that there are at least seven scrap metal merchants not present in the North East that regularly buy in the region.[317]

10.72 The Parties also submitted that scrap metal merchants in the North East have successfully expanded their businesses and that the prospect of additional potential competition will act as a constraint.

Third parties' views on competition in the North East

10.73 We spoke with six suppliers that sell large volumes to the Parties in the North East, and are among their top suppliers of NPS. Among these respondents, two raised concerns about the effects of the merger.

10.74 The earlier table (10.9) shows that several suppliers mentioned Sims and Ward Bros, and that [✂], which is not based in the region (but has a relationship with [✂]).

10.75 As in the West Midlands, several suppliers emphasised their service needs. Those that were unconcerned about the merger were satisfied that (in most cases a small number of) other suppliers could meet their needs. Those that

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[317] (Christie (Glasgow); S Dalton (Edinburgh); Lord & Midgley (Hull); S Norton (Liverpool); CF Booth (Rotherham); KAS Metals (Manchester) and Ashvin (Blackpool))

raised concerns argued that the merger would strengthen EMR's position as the leader in the UK scrap market, that some local recyclers do not have sufficient collection facilities or credit ratings, and that the merger will make it difficult to get sufficient competitive bids.

10.76 We also spoke to seven metal recyclers that are present or are believed to have bid for large contracts in the North East:

(a) One metal recycler[318] submitted that it finds industrial contracts difficult to win and that they are not a priority for it. This is in contrast with its actual record of bidding for these contracts, and the fact that it does hold some large industrial contracts.

(b) [✂] confirmed that it competes for industrial contracts, and hopes to expand, although it is finding this difficult and [✂] the North East among those included in the data submitted by the Parties.

(c) [✂].

(d) Ward Bros described itself as [✂]. It told us that [✂] of its business is from factories. Ward Bros considers that it can win additional business from the Parties (particularly in light of the merger), [✂]. According to the bidding data that we have, Ward Bros has [✂] in the North East.

(e) [✂] told us that it buys very little from other metal recyclers, and only buys from factories and manufacturers and construction sites, but sells most materials to other merchants, including around [✂] to EMR; last year it exported about [✂]. [✂] volumes of NPS (which were around [✂] tonnes last year) have been recently [✂] (to around [✂] tonnes) by the [✂].[319] [✂] has concerns about the merger, arguing that 'EMR is willing to lose some money to gain more contracts, reducing the number of contracts that other firms have and forcing them to exit the market', and that the 'merger would enable them to manipulate the transportation in the area, making it extremely difficult for firms to hire the necessary transport'. According to the bidding data that we have, [✂] has entered into [✂].

(f) [✂] (which has sites in NE and [✂], and 3% of all North East volumes) told us that 100% of its purchases are bilateral negotiations rather than tendered (suggesting that it does not compete hard for large industrial contracts). It told us that its strongest competitors are EMR, [✂], [✂], [✂], and [✂]. It said that the merger would have no effect on its ability to

[318] [✂]
[319] [✂].

source enough materials, and it has no concerns about the effect of the Merger on competition. It did not compete in tenders.

(g) Green Metals UK (among the 'other recyclers' in the above table, and not mentioned by any suppliers) is a Total Waste Management company specialising in the automotive sector. [✂]. However, it told us that at present it is not tendering for any contracts and that its future strategy regarding large automotive manufacturers is to be decided. It does not plan to open any metal recycling sites.

10.77 We also spoke to some metal recyclers that sell to the Parties in the area. One recycler that deals [✂] in NPS and last year sold [✂] to EMR told us that it also sells to GEScrap, S Norton, and Ward Bros, and considers that Sims is also a good option. [✂] currently but includes it in the tendering process and uses its prices for benchmarking. It commented on the merger that it 'will have fewer companies in any tendering process – less competition.'

Provisional conclusion on constraints faced by the Parties in the North East

10.78 Whilst the Parties argue that MWR only holds one major contract in the North East ([✂]) and specifically opened its site in Seaham to better serve this contract, it bid for [✂] other contracts[320] and won [✂] between [✂]. EMR bid in [✂].

10.79 As in the West Midlands, we consider that [✂] provides a strong constraint.

10.80 As in the West Midlands, [✂] appears to exert some constraint from outside the region (although [✂]).

10.81 [✂] has only [✂] in the relevant period and although it was mentioned by suppliers, to the extent it provides any constraint on the Parties we provisionally consider it to be weak. Likewise, [✂] and [✂] are active to some extent in tendered contracts in the North East but the evidence available to us indicates that they too provide, at best, weak constraints.

10.82 No supplier in the North East told us that self-supply was an option, and we note the comments set out earlier that customers say that purchasing direct is very difficult without the necessary infrastructure. However, we note that for [✂] there may be some constraint provided by [✂] out-of-region recycler [✂].

10.83 We provisionally consider that the loss of MWR would amount to the loss of an important competitive constraint on EMR

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[320] That is, [✂].

Wales

10.84 In our examination of the merger's effect on competition for tendered contracts in Wales, we have considered competitor characteristics in Wales, bidding activity, and Parties' and third party comments.

Competitor characteristics

10.85 Table 10.10 shows that [✂], [✂], [✂], and Bayliss Metals all have higher much overall volumes of ferrous and non-ferrous purchases than MWR in Wales, and that [✂] (which has significant UK volumes of NPS) is by far the largest recycler in the area. Two other competitors in the region (Bayliss and [✂]) have some volumes of NPS.

Table 10.10: Data on competitors' sites and equipment, overall ferrous and non-ferrous volumes in Wales, and UK-wide volumes of NPS

Competitor	*No. sites in Wales*	*Balers in Wales*	*UK Sites*	*Docks in the UK*	*Total Volumes Wales*	*% of total volumes Wales*	*Total UK volume of NPS*	*% of total UK volume of NPS*
EMR	2	0	65	10	[✂]	[20-30%]	[✂]	[40-50%]
MWR	1	0	8	2	[✂]	[0-5%]	[✂]	[10-20%]
Parties Combined	***3***	***0***	***73***	***12***	[✂]	***[20 – 30%]***	[✂]	***[60 – 70%]***
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[50-60%]	[✂]	[5-10%]
[✂]	0	[✂]	4	3	[✂]	[0-5%]	[✂]	[5-10%]
[✂]	2	[✂]	2	0	[✂]	[0-5%]	[✂]	[0-5%]
[✂]	1	[✂]	1	0	[✂]	[0-5%]	[✂]	[0-5%]
[✂]	3	[✂]	3	0	[✂]	[0-5%]	[✂]	[0-5%]
[✂]	1	[✂]	7	0	[✂]	[0-5%]	[✂]	[0-5%]
[✂]	3	[✂]	4	1	*	*	*	*
[✂]	1	[✂]	1	0	*	*	*	*
[✂]	1	[✂]	1	0	*	*	*	*
Other recyclers in Wales	11	4	-	-	23,301	3%	-	-
Other 24 recyclers UK wide	-	-	-	-	-	-	322,449	29%
Total	***31***	***10***	***526***	***57***	***779,622***	***100%***	***1,134,342***	***100%***

Source: EMR **[✂]**. MWR **[✂]**. Competitor questionnaire responses.
* Unknown

Table 10.11: Data on Welsh competitors' bidding activity, contracts held and awareness among suppliers and customers

	In the UK		*In Wales*				
Metal recycler	*# contracts bid in*	*# won*	*# contracts bid in*	*# won*	*Named by supplier*	*Named by customer*	*Example Contracts*
EMR	[✂]	[✂]	[✂]	[✂]	[✂][✂], [✂], [✂]	[✂][✂],[✂], [✂],[✂],[✂]	[✂]
MWR	[✂]	[✂]	[✂]	[✂]	[✂][✂], [✂],[✂]	[✂][✂],[✂],[✂], [✂]	[✂]
Parties Combined	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]	[✂]	[✂][✂], [✂], [✂]	[✂][✂],[✂], [✂],[✂]	[✂]
[✂]	[✂]	[✂]	[✂]	[✂]			
[✂]	[✂]	[✂]	[✂]	[✂]		[✂]	[✂]
[✂]	[✂]	[✂]	[✂]	[✂]		[✂]	-
[✂]	[✂]	[✂]	[✂]	[✂]			-
Other recyclers	[✂]	[✂]	[✂]	[✂]			

Source: CMA analysis of EMR response [✂]. Supplier and Customer responses to the CMA's investigation.
[1] Parties combined refers to all contracts for which either party bid.

10.86 Table 10.11 confirms that [✂], [✂] and [✂] bid against the Parties a number of times, winning contracts. Moreover, [✂] and [✂] were mentioned by at least one supplier as an alternative bidder. As noted earlier, [✂]. We also note that other recyclers that individually bid very few times, overall bid in [✂] contracts, winning [✂], which is [✂]. Between them, the Parties bid for [✂] contracts put out for tender by suppliers located in Wales [✂]. EMR bid for [✂]of these, winning [✂]. MWR bid for [✂] of these but [✂].

Third parties' views on competition in Wales

10.87 In Wales, we spoke with several of the Parties' largest suppliers. We note that these suppliers tend to supply substantially smaller volumes than suppliers in the other regions that we have examined. This included one supplier that tenders contracts which do not involve NPS,[321] who was concerned about the impact of the merger, and two suppliers that sell some volumes of NPS to the Parties in Wales, of which one is also a customer of NPS (who also competes directly for the purchase of NPS from other suppliers).[322] We also spoke to four metal recyclers that compete with the Parties in Wales, two of whom also sell NPS to the Parties in the region.[323]

[321] [✂]
[322] [✂].
[323] [✂].

10.88 Within our assessment below we incorporate third party comments that relate to the competitive constraint provided by each individual competitor (for each large supplier).

Summary of competition for each supplier

10.89 The Parties only serve very few suppliers that go out for tender or enter into formal contracts in Wales and none of these suppliers are selling particularly large volumes of scrap.

10.90 We had some evidence in relation to five of the [✂] industrial suppliers that are among EMR and MWR's top 10 Wales suppliers of NPS. The smallest of these supply around less than [✂] tonnes of NPS each year in Wales:

(a) The Royal Mint sells 82% of its ferrous scrap to MWR and 2% to EMR. It sells none of its non-ferrous scrap to MWR and 2% to EMR. The Parties believe that when they (both) bid for a Royal Mint contract in October 2017 they faced competition from: Bayliss, Sims, GD Environmental, TDJ Williams, GLJ Recycling. The Royal Mint told us that the merger 'could impact the competitiveness of prices when it tenders business from MWR and/or EMR. Historically EMR and MWR have participated in tenders as separate entities – this has helped to ensure a competitive landscape in terms of prices'. However, as alternatives to the parties, Royal Mint listed six other metal recyclers it currently sells scrap metal to and considers two other additional metal recyclers to also be viable alternatives (ie [✂], [✂], [✂], [✂], [✂], and [✂]. Other viable alternatives were [✂]and [✂]).

(b) FC Brown, a Steel office equipment manufacturer in Newport, sells all its ferrous material to MWR and chose MWR because it had a commercial advantage, very close location, and weighbridge installation included in the agreement. It only listed Sims as an alternative but told us that it does not see this acquisition impacting on competition.

(c) SAS International, a manufacturer of metal ceiling tiles in Bridgend, sells all its waste steel to EMR. It considers EMR's location to be good and the service they provide is very good due to the resources EMR has. SAS only listed Bayliss as an alternative but told us that it is not concerned about the merger, as EMR is very competitive.

(d) FCC Environment is a waste recycling and disposal company located in many regions, with sites in Neath Port Talbot for example. EMR only accounts for 8% of its scrap sales nationally and there are a number of other recyclers it uses, which does not include MWR. EMR account for

one third of its supplies from its Neath Port Talbot sites, [✂]. Overall, it is not concerned.

(e) [✂], which is [✂] in Wales, sells very little volumes of NPS to EMR in Wales (under [✂] tonnes in 2017) compared to its sales to the Parties in other regions. It did not raise specific concerns in relation to Wales.

Provisional conclusion on constraints faced by the Parties in Wales

10.91 In Wales we found that that industrial and tendered contracts are small, and as such have needs more similar to the general population of suppliers than is the case in other regions. This makes overall waste scrap metal shares (as opposed to NPS shares) more relevant to the assessment of competition for industrial suppliers in this region than is the case in other regions. In the Wales region the Parties' overall shares are relatively small (and MWR is very small). In tendered contracts [✂] in the period that we looked at. The Parties face strong competition from [✂] which also has a strong position in industrial contracts overall. Besides [✂], other competitors for tendered contracts include Bayliss.

Barriers to entry and expansion

10.92 We have considered whether entry by new rivals, or expansion by existing rivals would prevent an SLC from arising in the purchase of scrap metal from industrial suppliers and from large tendered contracts. In assessing whether entry or expansion might prevent an SLC we consider whether such entry or expansion would be timely, likely and sufficient.[324] Detailed evidence is included in Appendix E.

10.93 Our assessment above of each region, and competition for each supplier within it, took account of existing possibilities available to suppliers for encouraging entry into their region. Here we consider in more detail the barriers that recyclers may face when seeking to enter into purchasing from industrial and large tendered suppliers. We consider the possible barriers created by the need for sites, equipment, and the ability to win industrial contracts.

[324] Merger Assessment Guidelines, paragraph 5.8.3.

The Parties' submissions

10.94 The Parties submitted that barriers into serving industrial contracts are low, as NPS requires little processing. They submitted that this means that many metal recyclers (even those with limited current purchases from tendered contracts) will be able to exert a competitive constraint when industrial contracts come up for tender.

10.95 Further, the Parties submitted that suppliers of NPS have the ability to switch between self-supply, tolling and selling to metal recyclers. This they argued can occur relatively regularly, for example Tata has in the past switched between outsourcing and self-supply in response to changes in metal prices. Likewise, the Parties said that [✂], who currently use metal recyclers is a potential entrant supplier of NPS direct to end customers.

10.96 The Parties submitted that large contracts can facilitate entry. They submitted that [✂].

10.97 In relation to facilitating entry from outside the region, the Parties submitted that the contracts are of a sufficient size to facilitate entry, thereby expanding the competitor set to those that are not currently active in the area. This, the Parties stated, was not uncommon. For example [✂]. [325] The Parties told us that Tom Martin (in Preston) serviced a large industrial supplier GKN in Bristol; the Parties submitted that suppliers could also lengthen their contracts to encourage entry[326].

10.98 Finally, the Parties submitted that customers of NPS and large factory contracts can themselves bid for these materials as a part of the direct supply to end customers. In particular, the Parties believe that EMR has competed against Liberty Steel for contracts.

Third party submissions

10.99 Although some third Parties argued that there are substantial barriers to establishing new scrap yards, [327] there has (as set out in Appendix E) in the last few years been several instances of new sites being opened in the West Midlands; there also exist multiple existing recyclers in the area that do not currently have high volume industrial contracts. This indicates that the ability and cost of setting up an individual site in the area is not the most important barrier.

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[325] [✂]
[326] [✂]
[327] [✂]

10.100 We heard from third Parties that it may be important to have multiple sites:

(a) One third party commented that: smaller scrap merchants have a limited network of yards located in areas in which such scrap arises; collecting and processing NPS from a factory usually requires a scrap yard in close proximity to the factory as unprocessed scrap is difficult and costly to transport; Smaller scrap merchants have, at most, one site in the Midlands, where most NPS arises; and these merchants would, therefore, face significantly higher costs in transporting scrap compared to the merging parties which have an established network of yards in this area.[328]

(b) A large supplier told us that infrastructure and site network are important to them when selecting a provider for its contracts. The company must have [✂].[329]

(c) A metal recycler echoed other third parties by saying that to break into the market one would need strategically located sites near the industrial contracts.[330]

10.101 Some third parties also argued that equipment and vehicle needs are a barrier. Although the most commonly used processing equipment for NPS is a baler, which is cheaper than, for example, a shredder, we heard that:

(a) NPS needed to be processed with either a baler or a shear (apart from turnings and punchings that are sufficiently small to be transported easily), unless it is shipped to the US.

(b) smaller scrap merchants often have a limited infrastructure network for collecting and delivering scrap, eg, a network of collection vehicles, skips and round the clock service for transporting unprocessed scrap.

10.102 We heard that service requirements also present difficulties:

(a) One third party told us small recyclers face barriers to entry because of a lack of track record in servicing such contracts and a resulting lack of credibility in the eyes of tenderers meaning that smaller scrap merchants are not invited to bid. This third party also said that smaller scrap

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[328] [✂]
[329] [✂]
[330] [✂]

merchants are less likely to be willing or able to compensate a factory if supplier failure causes a disruption to production.

(b) We heard that for large industrial suppliers, other important factors are security procedures, use of new technologies to process material and financing arrangements, as well as reliability. [✂] said that:

(i) access to a nearby shredder is an essential requirement so sensitive material (such as prototypes) can be destroyed securely. Its absence would be a deal breaker. Smaller companies are unlikely to have the facilities to conform to all these requirements.

(ii) EMR obtained a contract despite not having the lowest price because it offered softer benefits, such as account managers and finance resourcing, which means that it costs [✂] less to administer and run the contract. [✂] considered its options when contracts come up for renewal are EMR, MWR, S Norton and [✂] because of the factors listed above.[331]

(c) [✂] told us that NPS producers look for a combination of price, service and financial security. The service includes, for example, being able to operate 24/7 and being able to collect from the factory site. [✂] told us that they have difficulty winning some contracts as the factories expect to see infrastructure already in place ([✂]).[332]

(d) A metal recycler[333] told us:

(i) that for them to break into the NPS market would require a large investment in people, plant, machinery, sites, account managers and relationships. It said that MWR and EMR managed to grow their low residual business over the last 10 years by acquiring businesses that were already specialised in that market. Eg EMR purchased Easco (via Sita). It considered this growth option was no longer available for other recyclers.

(ii) it believed it had failed to win some industrial contracts because the factories are not focused on the selling of the scrap – 95% of their business is the production; The factories want the scrap off site in a timely way, so they rarely take a risk in switching unless the price is much better. The metal recycler found that even when it matches incumbent recyclers on price, the factories are reluctant to switch to a

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[331] [✂].
[332] [✂].
[333] [✂]

new recycler. It told us that a metal recycler cannot 'dip in and out' of large contracts and be successful.

10.103 In terms of expansion we noted above that the Parties face some constraint from [✂], which has been growing. In addition, Ward Bros also told us that it is looking to expand into West Midlands to compete for factory contracts – it sees an opportunity in that segment now that MWR has been acquired by EMR. Ward Bros said that out of 15 factory contracts previously held by MWR in the North East, Ward Bros has now taken 7 ([✂]). It is also planning to open a site in the Wolverhampton area in 2019.[334]

Our assessment of barriers to entry and expansion

10.104 Our analysis of the bidding data suggests that there is a very significant incumbency advantage in purchases from tendered contracts and other large suppliers. We have heard from third party suppliers (and rival metal recyclers) that in addition to a track record of reliability, this is due to the services, infrastructure and reputational requirements that they expect from the bidders. These range from having a network of sites in the area in close proximity to the factory, access to a large number of vehicles and skips, previous track record in fulfilling factory contracts, ability to temporarily scale up operations quickly if needed, as well as other criteria, such as a financial security and confidentiality policy.

10.105 Based on our market testing with third parties we currently think that strategic barriers to entry into the NPS purchasing market are high. A new entrant is likely to require a significant investment to set up a network of sites and required infrastructure in a market where there is a limited number of large factories from which NPS can be obtained and evidence of factories being reluctant to switch suppliers.

10.106 Larger scrap metal merchants with a nationwide network, existing infrastructure and established reputation are more likely to win industrial NPS contracts (which is borne out in our examination of contracts held. As such, they are also more likely to be able to secure sufficient NPS volumes at an attractive price. This has been highlighted by the metal recycler discussed at paragraph 10.103, which has a variable record in winning large factory contracts.

[334] [✂].

10.107 Customers also emphasised the need for reliable providers of large volumes of NPS, so while small scale entry is possible, it would not be sufficient to substitute for large existing suppliers of NPS in the market.

10.108 In regard to end customers bidding for contracts from suppliers, both Tata and [✂] confirmed that it is difficult but possible. The evidence from these bidders, as well as from our own analysis of the bidding data, is that they do not often win contracts which suggests their competitive constraint is weak.

10.109 We have seen a few examples of recyclers using large contracts to facilitate their entry into a particular area, the majority of these examples being from MWR.

10.110 Given the factors described above, we provisionally conclude that entry in the purchase of scrap metal from industrial suppliers and from large tendered contracts would not be timely. Although expansion of existing metal recyclers in the relevant areas is possible, the bidding data indicates that relatively few metal recyclers win tenders in competition against incumbents (which is the mechanism for them to expand).

10.111 Moreover, we are not aware of any firm plans of entry in the West Midlands, the North East, or Wales for the purchase of NPS in relation to large factory contracts and tenders. One third party told us that it was looking to enter into the West Midlands to compete for contracts but at the time of speaking to the third party it had not secured a site. Therefore, we cannot be confident that entry by this third party is likely or would be sufficient to prevent an SLC arising as a result of the merger.

10.112 We therefore provisionally consider that entry and expansion will not prevent an SLC from arising as a result of the merger for the purchase of NPS in relation to large factory contracts and tenders.

Provisional conclusions on purchases from tendered contracts

West Midlands

10.113 In addition to being the two metal recyclers with the largest volumes of NPS in the UK, in the West Midlands the Parties have been successful in winning tendered industrial contracts, and only [✂] bids for contracts in the West Midlands [✂].

10.114 Other constraints in the area appear to be weak – rivals have bid very infrequently, and have won only one or no contracts against the Parties.

10.115 Five out of nine suppliers who we spoke to were concerned about the merger, and we have not been able to identify any countervailing measures, such as entry or expansion by rivals or buyer power by suppliers, which would prevent an SLC from arising. One third party metal recycler told us that it was looking to enter into the West Midlands and compete for tendered contracts but it has not yet secured a site[335] and therefore we cannot be sufficiently sure that it would enter and provide a sufficient constraint to prevent an SLC.

10.116 We therefore provisionally conclude that the Transaction has resulted, or may be expected to result, in an SLC in purchasing of scrap metal through tendered contracts in the West Midlands.

North East

10.117 In the North East, only [✂] appears to compete strongly against the Parties for tendered contracts. Two large suppliers of NPS raised concerns about the merger.

10.118 There are other constraints in the area, but each is weak, and we provisionally consider that they are not sufficient to prevent an SLC: [✂]; Ward Bros, although large overall in the region, has [✂].[336] Likewise, [✂] and [✂] are active to some extent in tendered contracts but the evidence indicates that they too provide a weak constraint. Only [✂] appears to have a prospect for encouraging entry from outside the region.

10.119 We have not been able to identify any countervailing measures, such as entry or expansion by rivals or buyer power by suppliers, which would prevent an SLC from arising in the North East.

10.120 We provisionally conclude that the Transaction has resulted, or may be expected to result, in an SLC in purchasing of scrap metal from tendered contracts in the North East.

Wales

10.121 In Wales, there are no large contracts of the scale that we have seen in the other regions that we have examined. This indicates that a broader range of competitors are likely to compete for each contract than in other areas. In line with this, very little NPS is purchased by the Parties in the Wales

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[335] [✂]
[336] [✂]

region, and the merger also creates a very small increment in overall purchases in the area.

10.122 The bidding data available to us show that MWR [✂] whereas [✂] and [✂] both won [✂] each and Bayliss Metal won [✂] contracts. Therefore, we provisionally consider that the Parties will continue to face competitive constraints in tender rounds in Wales after the merger.

10.123 We did not receive any concerns about the merger from suppliers.

10.124 We provisionally conclude that the Transaction may not be expected to result in an SLC in the purchasing of scrap metal from tendered contracts in Wales.

11. Sales of New Production Steel

Introduction

11.1 As set out earlier, new production steel (a type of low residual steel) is a grade of metal that derives primarily from industrial sources. It is a particularly important input into the production of high grade steel, but is also used in the production of lower grades of steel.

11.2 EMR exports about [✂]% of the NPS that it purchases, and for MWR [✂]% of the NPS that it purchases is exported or sold to traders for export. However, the Parties also each sell to around 20-30 UK steelworks and foundries. Within these customers, the largest 10 or so account for the large majority of NPS volumes the Parties sell in the UK.

11.3 Below we set out our assessment of how the merger will affect competition in sales of NPS to UK customers. We present:

(a) Our estimates of the Parties' and competitors shares of sales;

(b) The Parties' and third parties' views

(c) Our assessment of the constraints on the Parties from:

(i) competitors' existing volumes of NPS;

(ii) competition in purchasing of NPS; and

(iii) self-supply or direct purchase from suppliers.

Shares of sales to UK customers

11.4 Table 11.1 summarises what we know about UK metal recyclers' handling of NPS volumes. In most cases these estimates are based on data provided directly by metal recyclers; we augmented this with customers' NPS purchase data relating to their top five suppliers of NPS,[337] and with the Parties' estimates of NPS contracts held by those competitors for which we did not have data directly from the recycler.

11.5 The first column of the table shows estimated shares of supply to UK customers (ie mills and foundries). We found that the Parties' combined share of known supply of NPS to UK customers is around [50-60%] with MWR

[337] We used the purchase volumes to estimate the lower bound for UK sales for 16 competitors, which totalled 54,704 Tonnes of NPS.

providing an increment of [5-10%]. These are likely to overestimate the Parties' shares as we do not have full data on all competitors or all customers' purchases, but we do not think that the table is missing any major competitors.

11.6 The subsequent columns show the absolute volumes that we know are sold to UK customers, to other metal recyclers or for export (including via traders).

11.7 The two columns to the right of the table show what we know or estimate about the share of total volumes of NPS that each recycler handles. This is the same data that was presented earlier in relation to NPS purchases and includes material that is sold to other recyclers or exported, but could in theory be diverted to UK sales in response to a UK price rise.

11.8 As discussed in relation to purchasing, we present one estimate of shares of total volumes, based on known volumes data that we have received from the Parties and third Parties, and one based on the Parties' estimate of overall total volumes. The Parties' estimate of total volumes is larger than ours, firstly because it includes additional estimated volumes for a small number of recyclers for whom we do not have known volumes, and secondly because it also includes a large volume of NPS that the Parties believe to be self-supplied by UK customers.

11.9 We think that the Parties' resulting estimated combined share of [30-40%] is an extreme lower bound that underestimates the Parties' importance in this segment. This is because it is driven by a large quantity of material that is already self-supplied by UK customers. This material would only impose a constraint on the Parties if, in response to an increase in sales prices to UK customers, those customers chose to move from self-supply to selling to other UK customers. Given that they themselves would be suffering a price increase and require the material for their own manufacturing processes, they would have little incentive to do so.[338]

11.10 The potential constraints on the Parties come from materials that some customers currently sell to the Parties, and the threat that these volumes could be switched to self-supply in response to a price rise. The constraint from this self-supply option is considered later in this chapter, although we note that even where customers choose to retain ownership of the metal they may rely on metal recyclers for the necessary processing and logistics.

[338] This is particularly the case given that an increase in sales prices driven by a merger effect could not be expected to necessarily pass through into an increase in purchase prices for suppliers (which in this case would be a steel mill or foundry)

11.11 Overall, the Table shows:

(a) That EMR is by far the largest seller of NPS to UK customers, with MWR the second largest;

(b) While other recyclers have some additional volumes that they currently export or sell to other recyclers, the Parties' share of total available volumes is also high, and others have relatively small volumes available.

11.12 We note that about [10-20%] of EMR's NPS purchases and around [30-40%] of MWR's NPS purchases come from other metal recyclers, meaning that they both provide a route to market for recyclers with NPS materials. It may also be the case that there are volumes of NPS which pass through small recyclers, whose volumes are not shown in the table but are reflected in the purchases (and sales) of larger recyclers such as EMR, Sims and S Norton.

Table 11.1: Metal recyclers' sales of NPS, (MT)

	Shares of NPS sales to UK customers	*Volume sold to UK customers*	*Volume sold to Metal recyclers*	*Volume exported*	*Unknown (In most cases the Parties' estimate)*	*Total estimated volume of NPS*	*Share of all **known** NPS sales*	*Share of total volumes including self-supply, Parties' estimate*
EMR	[40-50%]	[✂]	[✂]	[✂]		[✂]	[40-50%]	[40-50%]
MWR	[5-10%]	[✂]	[✂]	[✂]		[✂]	[10-15%]	[10-15%]
Parties Combined	[50-60%]	[✂]	[✂]	[✂]		[✂]	[60-70%]	[30-40%]
[✂]	[0-5%]	[✂]	[✂]	[✂]		[✂]	[5-10%]	[5-10%]
[✂]	[5-10%]	[✂]	[✂]	[✂]		[✂]	[5-10%]	[5-10%]
S Norton	[0-5%]			[✂]		[✂]	[5-10%]	[0-5%]
KA Anderson*					[✂]	[✂]	-	[0-5%]
SSUK*		-	-	-	[✂]	[✂]	-	[0-5%]
O Brien	[0-5%]	[✂]	[✂]	[✂]	[✂]	[✂]	[0-5%]	[0-5%]
Enablelink	[5-10%]	[✂]	[✂]	[✂]	[✂]	[✂]	[0-5%]	[0-5%]
Adams*		-	-	-	[✂]	[✂]	-	[0-5%]
Green Earth Recycling*		-	-	-	[✂]	[✂]	-	[0-5%]
Ward Bros Steel Ltd	[5-10%]	[✂]	[✂]	[✂]	[✂]	[✂]	[0-5%]	[0-5%]
One Stop Recycling*		-	-	-	[✂]	[✂]	-	[0-5%]
B Shakespeare	[0-5%]	[✂]	[✂]	[✂]	[✂]	[✂]	[0-5%]	[0-5%]
[✂]		-	-	-	[✂]	[✂]	[0-5%]	[0-5%]
Other known volumes (from 27 other competitors)	22%	70,087	0	6,200	0	31,474	3%	2%
Total known volumes	100%	312,442	104,315	715,876	193,809	1,131,342	100%	63%
Parties' estimated total including self-supply						1,800,000	-	100%

Source: Individual sales figures reported from the Parties' customer transaction data (2017), metal recyclers' responses to [✂] competitor questionnaire (based on their LFY) and sales total for other metal recyclers derived from response to [✂] customer questionnaire from customers (based on LFY).
*For these recyclers we do not know their true volumes; the figures shown are the Parties' estimates.
Note:
1. "0" values are actual 0's; "-" represent unknown values.
2. For the parties we classified all sales to UK metal traders as the volume exported.
3. "Share of all known NPS sales" measures the share of sales volumes as a proportion of all sales provided by the involved parties to the CMA. It does not include Parties' estimates of NPS sales volumes.

The Parties' views on competition in sales of NPS to UK customers

11.13 The Parties submitted that there is no prospect of concern in relation to sales of NPS, because:

(a) MWR is not a significant supplier of NPS to UK customers, and accounts for a low proportion of sales to UK customers;

(b) there are numerous metal recyclers purchasing substantial volumes of NPS which is therefore available for sale to customers;

(c) supply of NPS exceeds demand, meaning that there are large volumes exported which could be diverted to the UK in response to a price rise, in turn meaning that UK prices are constrained by the price achieved on the global market;

(d) UK customers protect their interests by multi-sourcing;

(e) Customers can and do deal directly with suppliers of NPS; and

(f) NPS is substitutable with iron ore and iron ore derivatives and the mix for steel making can also be adjusted to rely more heavily on less clean grades of scrap metal.

11.14 The Parties refuted the third-party submissions that EMR has pricing power, arguing that they are unsubstantiated and contradicted by submissions by some customers that they expect to continue to receive competitive prices post-merger (see the section below).

Third parties' views on competition in sales of NPS to UK customers

11.15 We received evidence from the Parties' largest customers of NPS who, once other recyclers, traders, and export customers are excluded, purchase [a large proportion of the Parties' sales of NPS] [✂]. [Over half] of these customers were concerned about the merger. We note that a small number of these customers also buy large volumes of other types of metal, and that this may affect their comments. [✂], and we have taken this into account in our interpretation of the comments it made.

11.16 A customer [✂] as well as the Parties [✂], and that other [✂], which it doesn't currently use as 'no agreement on price and supply could be achieved'. This customer considers that 'the merger will potentially create an increased domination of EMR steel supply' to its foundry group and that 'the

loss of a competitor to EMR on pricing stability will be apparent.' It thought that the merger would reduce the number of recyclers bidding for suppliers' materials and that 'pricing may be more dictated than negotiated'. It also said that it is 'keen to maintain smaller independent sources of steel scrap' and that 'albeit MWR could not be considered 'small and independent' their usefulness in balancing supply and cost was evident'.[339]

11.17 One customer told us that it is [✂] concerned because the Parties both have very strong positions [✂] in relation to NPS, which it says it cannot substitute for other grades.[340]

11.18 Another customer thinks that 'the merger is likely to significantly strengthen EMR's position in the UK market where it is already seen as the major player. It understands the acquisition of MWR strengthens EMR particularly in the area of factory contracts and their ability to acquire new production steel.[341]

11.19 A customer that purchases a large proportion of its volumes from EMR is worried [✂]. [342]

11.20 Another customer submitted that 'The merger of MWR by EMR will further increase the dominance of EMR's buying/selling power within the UK & global supply chain. This dominant position within the UK scrap market may not be in the best interests of UK steelworks / foundries / independent merchants & end users'.[343]

11.21 Another customer that buys [✂] from EMR raised concerns about the merger, saying that 'with EMR's geographical presence, their market share, and their access to all global markets, they already have an unrivalled influence on the purchase price of UK Scrap arisings' and that 'EMR's further consolidation of the UK Scrap market increasingly exposes us to price speculation and the withholding of tonnage as a negotiation tool. Even if [MWR] were not a supplier the increased consolidation leaves us exposed to the increases our alternative suppliers would have to pay for incoming material as their consolidation reduces the number of possible sellers into the export market. These increases would be passed on to us.' In relation to EMR, the customer stated that EMR's 'huge network of yards and logistics and differentiated processing equipment' allows it to access all UK scrap arisings, and that 'sourcing scrap is local because of the impact of haulage costs, so being

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[339] [✂]
[340] [✂]
[341] [✂]
[342] [✂]
[343] [✂]

close to the arisings gives purchasing power'. This customer noted that EMR is strong on all grades and MWR is strong in NPS, and that NPS is among the more difficult grades to buy. [✂].[344]

11.22 Some of the large customers were not concerned about the merger:

(a) One large customer that currently buys only from EMR told us that the Parties' main advantage is volume of material available. This customer told us that it is not concerned about the merger because it will continue to purchase through multiple suppliers. It listed three alternatives to the Parties ([✂], [✂], and [✂]), but noted that none had enough volume available to be able to replace EMR.[345]

(b) One customer told the CMA that the Parties are 'just two of approx. 15 suppliers […] we will continue to get good quality material at competitive market rates, which is driven from foreign markets.' [346]

(c) NPS is a small percentage of another customer's needs, and although it told the CMA that the bulk of NPS [✂] to be purchased from EMR because of its capacity [✂], the customer is able to benchmark against the prices received in Europe by other parts of its group, and it also feels able to negotiate with EMR by using the prices it receives from [✂], [✂], and [✂].[347]

11.23 We also heard evidence from competitors. Their comments on the extent to which they currently compete in selling NPS to UK customers are set out in our assessment of each competitor below. In relation to competition overall:

(a) Several competitors submitted that EMR already has pricing power vis-à-vis UK mills and foundries, because of the large volumes that it can supply and the customers' resulting dependence on EMR to provide security of supply, even where the same customer also purchases from multiple other smaller recyclers.[348]

(b) Several recyclers told us that they cannot achieve the same sales prices as EMR, because they do not have sufficiently large volumes to sell, and are in any event reluctant to sell large volumes to UK customers because

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[344] [✂]
[345] [✂]
[346] [✂]
[347] [✂]
[348] [✂], [✂], [✂]

of the risks caused by UK customers' late payment terms (and for some, high default risk).[349]

(c) Some competitors told us that it can sometimes be difficult for recyclers to meet the quality standards that UK customers require.[350]

(d) As set out in the previous chapter, we heard from several competitors that the largest sources of NPS (large industrial contracts) are difficult to compete for. Later in the chapter we further discuss the relationship between competition in purchasing and competition in sales.

11.24 The responses from customers and competitors together indicate that the key parameters of competition include:

(a) The volumes that recyclers can provide, with reliable supply of large volumes being particularly valuable;

(b) Quality (to an extent): Related to this several respondents told us that the quality standards required for export are lower than those of UK customers, making export an easier option;[351] and

(c) Willingness to accept delayed payment terms (particularly for large volumes).

The CMA's assessment of competition in sales of new production steel to UK customers

11.25 Below we assess the Parties and competitors in respect of their ability to provide reliably high volumes, provide high quality metal, and accept late payment terms, before also considering:

(a) the effect on competition in sales, from competition in purchasing; and

(b) the constraint from new entry, self-supply, or direct supply from suppliers to customers.

Quality and payment terms

11.26 We note the submissions from some third parties that quality requirements can present a difficulty when selling to UK customers, and that several respondents highlighted the advantages that EMR and MWR have in their

[349] [✂], [✂]
[350] [✂], [✂]
[351] [✂]

access to large quantities of high quality scrap. However, many recyclers do sell NPS to UK customers, albeit in small volumes – we received data on over 25 such recyclers from customers. This suggests that quality is not in itself a high barrier, separate from the issue of volumes.

11.27 On extended payment terms (ie accepting payment a long time after delivery), one customer highlighted that the main advantages of EMR and MWR are that they provide access to large volumes via a single transaction, and accept the customer's payment terms.[352] Both the Parties and competitors told us that small recyclers sell on to larger recyclers in part because they do not want to accept the payment terms of large UK customers,[353] and that recyclers try to avoid selling large volumes to UK customers because of the risk that these payment terms entail once large volumes are involved (ie the risk that the customer does not pay the large amounts owed).[354]

11.28 We consider that larger companies, dealing with multiple customers and routes to market, are more likely to be willing to take on the financial risk associated with selling large volumes to an individual UK customer. This will tend to reduce the effectiveness of smaller competitors, relative to EMR and MWR.

Volumes and reliability

11.29 We asked customers about their purchases and were told that they deal with between ten and 40 suppliers of NPS, but each buys a high proportion from EMR. Customers told us that they deliberately try to multi-source, and try to reduce their dependence on EMR to reduce risk, but several emphasised that it would not be possible to replace EMR entirely.[355]

11.30 One customer told us that:

> [✂].[356]

11.31 Multiple customers mentioned that although it is possible to buy from smaller recyclers, this source of supply is not reliable, with these recyclers' supply to UK customers varying significantly depending on their outside options.[357]

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[352] [✂]
[353] [✂].
[354] [✂].
[355] [✂]
[356] [✂]
[357] [✂]

11.32 One customer told us that [✂].[358] [✂], and that:

> ‘MWR is the only other metal recycler (besides EMR) that can reliably supply over [✂] tonnes of new production steel a month. Other suppliers (with the possible exception of Sims) are typically unable to supply more than [✂] tonnes per month’.
>
> MWR is the only scrap merchant that is well placed to increase its share of the purchase and supply of new production steel [because] MWR has not operated its processing facilities at full capacity and it is one of the few scrap merchants that is a credible bidder for (and is actually invited to bid for) the output of larger factory contracts for new production steel.

11.33 We note that [✂].

11.34 Based on existing sales to UK, the Parties appear to face limited competition from any other supplier providing large volumes – only three others ([✂], [✂], and [✂]) supply more than 10,000 tonnes to UK customers.

11.35 The Parties submitted, however, that they face additional constraints from the threat that, in response to a price rise to UK customers, other recyclers would divert additional volumes towards sales to UK customers, away from export (or from sales to other recyclers such as EMR). We assess this argument in the context of each recycler’s known NPS volumes, below.

The constraint from other recyclers including from materials currently exported

11.36 Materials that are currently exported could in principle exert a constraint on the price of materials sold to UK, if in response to a price rise in the UK volumes would be diverted from export to UK sales in sufficient quantity to defeat the price rise. Given that the focus of customers’ concerns relates to the reliable availability of large volumes from individual recyclers, we consider that this will only be the case if there are sufficient individual competitors likely to divert large enough volumes to impose an equivalent constraint to that provided by MWR pre-merger.

11.37 In considering the likelihood that individual rivals will divert large quantities of metal to the UK, we note that rivals currently have differing balances of UK vs export sale, and that this may be informative about the relative costs and benefits that they face in serving the two markets – driven, for example, by the balance of volumes across the geographies in which their source metal arises

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[358] [✂]

and the relative costs of transporting to exporting vs UK customers from those locations.

11.38 Below we consider each of the recyclers where we have been able to verify that they handle over 20,000 tonnes of NPS (including materials currently exported), and assess the current constraint they provide along with what we heard about their willingness and ability to serve UK customers (and where necessary to divert materials away from export to do so).

11.39 Overall, we provisionally find that the constraint from other recyclers is not sufficient to prevent an SLC, in part because we do not find that, in response to a price rise, sufficient volumes would be diverted from export to UK sales to replace the competition now provided by MWR – because there are few competitors with sizeable volumes of NPS and substantial diversion would be needed to form an effective constraint.

11.40 [✂] was noted by several customers as an alternative supplier of large volumes. Although it currently supplies relatively small volumes to the UK ([0-5%] of known sales to UK customers), it currently exports [✂], and handles a [5-10%] share of known UK volumes of NPS. Set against this, one customer told us that it tries not to deal with [✂]. Nonetheless, [✂] has a large overall size (with [✂] sites across the UK). For this reason, and the fact that it already sells some volumes to the UK, we consider that in response to a price rise in the UK, [✂] could divert volumes to UK customers, and as such is a likely constraint on the Parties.

11.41 [✂] currently supplies small volumes to the UK ([5-10%]) of known sales to UK customers), it also sells additional volumes to other metal recyclers, and for export and handles [5-10%] share of known UK volumes. [✂] told us that it sells to other recyclers in part because it finds it difficult to sell to UK customers, because of technical specifications and because it believes that foundries – who require large volumes which are available from only few suppliers - are nervous of moving any volumes away from their largest recyclers, whose other supply they may lose in response. However, given its relatively large volumes overall. and the fact that it already sells some volumes to the UK, we consider that it exerts some constraint.

11.42 [✂] currently provides [5-10%] of supply of NPS to UK customers, and [✂] supplies [5-10%]. However, neither has any additional volumes available in order to provide larger volumes in response to any price rise. One of these competitors also told us that it avoids selling very high volumes to UK customers because of the risks attached to the late payment terms they apply.

11.43 [✂] handles around a [5-10%] share of known UK volumes of NPS, [✂]. It told us that in principle it would shift volumes from export to UK sales in response to a price rise, it also said that it does not consider any UK customer attractive to sell to because of the price and payment terms they offer and the transport costs of reaching those customers from the recycler's sites and dock facilities. [✂].

11.44 In light of the above, we consider that the constraint from [✂] may provide some additional constraint through volumes it currently exports, the constraint provided by [✂] and [✂] is already represented in their existing shares of sales to UK customers; and [✂] and [✂] constraint may be slightly enhanced by the other volumes they have available, but their responses suggest that they face some barriers to switching large volumes to supplying UK mills and foundries.

11.45 Taken together, and given customers' requirement for large volume suppliers (and the Parties' position as the two recyclers with the largest available volumes of NPS), we consider that the Parties face some constraint from other recyclers, but that it is not sufficient to prevent an SLC.

11.46 We now consider whether an SLC may be prevented by the effect of additional constraints from competition in purchasing of NPS or from negotiating power, self-supply or direct purchases from suppliers

Constraint from competition in purchasing NPS

11.47 Competitors and customers told us that reliable supply of large volumes is driven by the number and scale of factory contracts that a recycler has, and - related to this - the location and scale of its site network which affects the volumes of NPS for which it can compete (including that sold via multi-region contracts). Sites in the West Midlands were highlighted as particularly important for this.

11.48 Table 11.2 summarises information on the site networks, in the West Midlands and nationwide, of those recyclers that handle the largest volumes of NPS. It shows that EMR has by far the largest site network in the UK, and that although MWR's site network is much smaller than EMR's, only [✂] has a larger network than MWR among those recyclers known to handle NPS volumes. This is likely to act as a constraint on rivals' ability to expand their purchases of NPS in order to in turn expand sales to UK customers and offer reliable high volumes.

11.49 We understand that part of EMR's strength in the supply of NPS (and other metals) relates to its good access to export facilities including UK docks – its

good access to multiple UK and foreign markets makes it an attractive route to market for other recyclers. We note that MWR [✂]. However, EMR's strength in NPS sales, reinforced by its good access to markets and resulting strength in purchasing, makes the maintenance of other constraints such as MWR more important. We note that, as shown in the Table 11.2, among those with existing moderate volumes of NPS only [✂], [✂] and [✂] have good access to docks (albeit less so than EMR), meaning that EMR faces limited constraints from other metal recyclers with access to their own docks.

11.50 As set out in Chapter 10, we have provisionally concluded that the merger is expected to lead to an SLC in purchasing from tendered contracts in the West Midlands and the North East. The weak competition that the Parties face in competition for large contracts for the supply of NPS means that we do not expect competitors to be able to quickly win additional purchases of NPS volumes in response to a price increase for the UK sale of NPS volumes. Therefore, we currently do not consider that such competition provides a constraint additional to that represented by recyclers' current shares of UK sales (and other volumes) as discussed in the section above.

Table 11.2: NPS Metal recyclers' site networks

	No. sites competing in West Midlands	*Sites in the UK*	*Docks in the UK*	*Shares of known NPS sales to UK customers*	*% of total known volumes of NPS*	*% of Parties' estimate including self-supply*
EMR	5	65	10	[40-50%]	[40-50%]	[20-30%]
MWR	3	8	2	[5-10%]	[10-20%]	[10-20%]
Parties Combined	*8*	*73*	*12*	[50-60%]	[60-70%]	[30-40%]
[✂]	[✂]	[✂]	[✂]	[0-5%]	[5%--10%]	[5%--10%]
[✂]	[✂]	[✂]	[✂]	[0-5%]	[5%--10%]	[5%-10%]
S Norton	0	4	3	[0-5%]	[5%--10%]	[0-5%]
KA Anderson*	0	2	*		-	[0-5%]
SSUK*	*	*	*		-	[0-5%]
O Brien	0	4	*	[0-5%]	[0-5%	[0-5%]
Enablelink	1	1	0	[5%--10%]	[0-5%%]	[0-5%]
Adams*	*	*	*		-	[0-5%]
Green Earth Recycling*	1	1	*		-	[0-5%]
Ward Bros Steel Ltd	0	4	0	[5%--10%]	[0-5%%]	[0-5%]
One Stop Recycling*	1	1	0		-	[0-5%]
B Shakespeare	1	1	0	[0-5%%]	[0-5%%]	[0-5%]
[✂]	[✂]	[✂]	[✂]		[0-5%%]	[0-5%]
[✂]	[✂]	[✂]	[✂]	[0-5%%]	[0-5%%]	[0-5%]
Other known volumes	-	-		23%	8%	6%
Total known volumes				100%	100%	73%
Parties' estimated total including self-supply						100%

Source: Individual sales figures reported from the Parties' customer transaction data (2017), metal recyclers' responses to [✂] of competitor questionnaire (based on their LFY) and sales total for other metal recyclers derived from response to [✂]the customer questionnaire [✂]). Publicly available information used to locate the sites for KA Anderson and Green Earth Recycling. No reliable publicly available information for the location of SSUK or Adams' sites.
*For these recyclers we do not know their true volumes; the figures shown are the Parties' estimates.
Note: 1. "0" values are actual 0's; "-" represent unknown values.
2. For the parties we classified all sales to UK metal traders as the volume exported.
3. "No. sites competing in West Midlands" includes the number of sites which are within 50km of one of the Parties West Midlands sites.

Countervailing constraints

11.51 We also considered whether an SLC may be prevented through the negotiating power of customers, potentially enhanced by the possibility of self-supply or direct purchase from suppliers.

11.52 Most customers negotiate contracts on a monthly basis,[359] and choose recyclers on the basis of quality, price and availability of scrap metal as well as reliability of the supplier, attitude to health and safety, and financial stability and payment terms.[360] Customers make use of the published data on the

[359] [✂].
[360] [✂].

Metal Bulletin and Steel Business Briefing (SBB) to help with negotiations, although we were told that [✂]. [361]

11.53 Customers told us that they do not feel that they have negotiating power, with one saying that [✂].[362]

11.54 We also asked customers if they had considered purchasing directly from suppliers.

11.55 [✂] is a large customer of NPS. It bid for a continuing proportion of an automotive manufacturer's[363] NPS in July 2017 following W.H Marren Limited who had been supplying [✂] since 2012, entering administration in 2017. Whilst this contract was jointly served by EMR, [✂], [✂] and [✂] in 2017, it is now split into several parts following a tender process, with [✂] taking around a third directly from the automotive manufacturer in 2018/2019.

11.56 Another large customer told us that:

(a) [✂]

(b) [✂].[364]

11.57 One large customer said that it had considered doing so, but that limited cash flow and the necessary capital expenditure is a barrier when buying unprocessed material in the quantities it would require. The customer also highlighted the difficulties of obtaining licences and planning permissions, and that 'acquiring existing suppliers is not economic as companies often over value themselves, particularly due to the overestimated value of good will'.[365]

11.58 In light of customers' comments, and the fact that they appear to largely rely on existing metal recyclers, even in situations where they buy direct from suppliers (or from their own downstream sites), we do not consider that customers are provided with substantial additional protection by their negotiating power or the (threat of) the possibility of self- or direct supply.

Provisional conclusion on competition in sales of NPS to UK customers

11.59 The Parties' estimated [50-60%] combined share of current sales of NPS to UK customers raises a strong preliminary reason for concern. This is

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[361] [✂].
[362] [✂].
[363] [[✂]
[364] [✂].
[365] [✂]

reinforced by the concerns from several customers who argued that EMR has existing power in this market and that MWR is an important constraint.

11.60 Customers also told us that they value reliable supply of high volumes and pay higher prices per tonne to those recyclers that can provide this. MWR's position as the provider of the second-highest volumes of NPS to UK customers, in a market where very few recyclers sell similar quantities, makes it a close competitor to EMR.

11.61 Moreover, the elimination of competition from MWR is particularly important in the context of EMR's existing high share and weak constraints from elsewhere. We assessed the constraint provided by other recyclers, taking into account both volumes that they supply to UK customers, and other volumes they currently export or sell to other recyclers. However, we provisionally found that although the Parties face some constraint from [✂], [✂], [✂] and [✂], including to an extent from volumes that these recyclers currently export, this is not likely to be sufficient to prevent an SLC in the context of such a high market share and existing evidence that high-volume recyclers get paid more.

11.62 In particular, we do not have strong enough evidence that large enough volumes of exports would be diverted to UK sales sufficiently quickly for us to conclude that these represent a significant competitive constraint upon the Parties post-merger.

11.63 While we note that there is a potential constraint from customers seeking to purchase directly from suppliers, and that [✂] has an intention to do so, this is happening only to a limited extent at the moment and customers told us it is difficult. We provisionally consider that it is unlikely to represent a sufficiently significant competitive constraint

11.64 For the above reasons, we provisionally conclude that the Transaction may be expected to result in a SLC in the sale of NPS to UK customers.

12. Sales of other ferrous and non-ferrous scrap metal to UK customers

12.1 This chapter sets out our assessment of competition in sales to UK customers of all grades of metal other than new production steel,[366] including a separate assessment of ferrous metal and non-ferrous metals.

Sales of ferrous metals other than new production steel

The Parties' views

12.2 The Parties believe that UK customers for scrap metal will not be adversely affected by the transaction, for the reasons set out below. The Parties' observations apply to scrap metals in general; they did not draw a distinction between ferrous and non-ferrous metals.[367]

(a) EMR sales to UK final customers are not high ([20-30%] of its sales of processed ferrous and non-ferrous scrap), and the increment to EMR's share of supply as a result of this Merger is small: [0-5%] of sales of processed ferrous and [0-5%] of processed non-ferrous scrap in the UK.[368]

(b) Many recyclers sell directly to UK foundries.[369] [370] Many other metal recyclers sell more scrap metal to UK customers than MWR does.[371]

(c) There is no barrier to metal recyclers accessing domestic customers for the sale of scrap metal, and the Parties submitted that to do so it is not necessary to have sites nearby to a customer.

(d) EMR's view is that this is a global (and not a UK-wide) market. Processed ferrous and non-ferrous scrap metal is an internationally traded commodity and UK prices are constrained by export prices. This is because around 80% of processed UK ferrous and non-ferrous scrap metal is exported[372], and export sales are predominantly concluded on a spot basis. The Parties are of the view that if, post-merger, the Parties were to attempt to raise prices or diminish service levels to customers, the processed scrap metal which is estimated to be exported would be quickly diverted and sold

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[366] This includes shredder feed, which as set out in Chapter 6 (Market Definition) is from the perspective of customers broadly substitutable with other ferrous grades.
[367] [✂]
[368] [✂]
[369] [✂]
[370] [✂]
[371] [✂]
[372] [✂].

profitably to UK customers. In support of this they presented graphs showing that movements in UK and export prices are broadly aligned.

12.3 In relation to buyer power, the Parties told us that UK final customers are sophisticated purchasers - often with a centralised procurement function - who maintain relationships with multiple suppliers and exercise buyer power against metal recyclers.[373] EMR provided supporting evidence of customers playing recyclers off against each other in order to obtain the best price.[374] The Parties submitted that this is particularly the case as customers can compete to purchase the scrap metal directly from suppliers who are very often their own customers. The Parties consider that UK customers have a significant advantage over overseas buyers as the administrative and logistical burden on the scrap metal merchant is lower and there is no foreign exchange risk, and that UK final customers also have the option of acquiring processed scrap metal from traders.[375]

Third Party views

12.4 As discussed earlier in relation to new production steel, from competitors and customers we heard that the potential barriers to serving UK customers can include:

(a) Having reliable access to the necessary volumes. This in turn will depend on the recycler's UK wide facilities for processing, and access to suppliers;[376]

(b) Technical specifications. Customers highlighted that some suppliers cannot meet their technical specifications, while some competitors argued that customers can be risk averse about using new suppliers because of concerns over technical specifications;[377] and

(c) Payment terms. Several competitors indicated that the 60-day payment terms used by UK customers make them unattractive customers, and for that reason some competitors opt to sell via other recyclers.[378]

12.5 From competitors, we heard that some switch materials between export and UK sales in response to price changes, although this depends on whether they have the necessary infrastructure and relationships in place, on UK

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[373] [✂].
[374] [✂].
[375] [✂].
[376] [✂].
[377] [✂].
[378] [✂].

customers' prices and payment terms, and on whether the relevant scrap arises in a location from which it is easier to export than to reach a UK customer.[379]

12.6 Most customers told us that they purchase from multiple recyclers. However, we also heard from some competitors and some customers that it can be difficult for customers to find large volumes when necessary, and that as a result the larger recyclers have some pricing power. [380]

12.7 Most other customers did not raise concerns that are specific to non-NPS ferrous metals.

The CMA's assessment of competition in sales of non-NPS ferrous metals

12.8 Table 12.1 shows our estimates of the Parties' and competitors' shares of sales to UK customers. While the Parties' combined share of non-NPS ferrous sales is [20-30%], MWR's share, once NPS is excluded, is [0-5%]. At least seven other recyclers sell greater volumes to UK mills and foundries. As such, the increment arising from the Transaction is small.

12.9 Some recyclers also export substantial volumes and they have the capacity to divert export volumes to supply UK customers. Given MWR's small share of UK sales, in the event that the Parties were to raise price or to withdraw supply to UK customers post-Transaction, if competitors were to divert only a small proportion of their export volumes back to the UK in response, this may exert some constraint in addition to the competition reflected in recyclers' existing sales to UK customers.[381]

[379] [✂]
[380] [✂], [✂]
[381] This contrasts with new production steel where MWR's share is higher, and other recyclers' overall volumes lower, meaning that a much greater diversion would be needed to amount to a meaningful constraint.

Table 12.1: Competitors for ferrous sales to UK customers

	Total volume of ferrous sales	*Volume of ferrous sales to UK customers*	*Share of known ferrous sales to UK customers (%)*	*Volume of NPS sales to UK customers*	*Volume of non-nps ferrous sales to UK customers*	*Share of known ferrous non-NPS sales to UK customers (%)*
EMR	[✂]	[✂]	[30-40%]	[✂]	[✂]	[20-30%]
MWR	[✂]	[✂]	[0-5%]	[✂]	[✂]	[0-5%]
Parties Combined	[✂]	[✂]	[30-40%]	[✂]	[✂]	[20-30%]
Enablelink	[✂]	[✂]	[5-10%]	[✂]	[✂]	[5-10%]
[✂]	[✂]	[✂]	[5-10%]	[✂]	[✂]	[5-10%]
Ward Bros Steel Ltd	[✂]	[✂]	[5-10%]	[✂]	[✂]	[0-5%]
Benfleet	[✂]	[✂]	[0-5%]	[✂]	[✂]	[0-5%]
[✂]	[✂]	[✂]	[0-5%]	[✂]	[✂]	[0-5%]
Sims	[✂]	[✂]	[0-5%]	[✂]	[✂]	[0-5%]
Van Dalen	[✂]	[✂]	[0-5%]	[✂]	[✂]	[0-5%]
B Shakespeare	[✂]	[✂]	[0-5%]	[✂]	[✂]	[0-5%]
[✂]	[✂]	[✂]	[0-5%]	[✂]	[✂]	[0-5%]
Ampthill	[✂]	[✂]	[0-5%]	[✂]	[✂]	[0-5%]
A Goodman	[✂]	[✂]	[0-5%]	[✂]	[✂]	[0-5%]
[✂]	[✂]	[✂]	[0-5%]	[✂]	[✂]	[0-5%]
[✂]	[✂]	[✂]	[0-5%]	[✂]	[✂]	[0-5%]
Nationwide	[✂]	[✂]	[0-5%]	[✂]	[✂]	[0-5%]
Sackers	[✂]	[✂]	[0-5%]	[✂]	[✂]	[0-5%]
S Norton	[✂]	[✂]	[0-5%]	[✂]	[✂]	[0-5%]
Other sites	65,000	688,793	34%	-	688,793	39%
Total	7,778,788	2,000,000	100%	250,238	1,749,762	100%

Source: Parties' and competitors' submissions, [✂].
Notes:
1. Includes some sites for EMR and Sims which are outside of overlap areas
2. Assumes a total size of UK ferrous sales to be [✂] MT and UK non-ferrous sales to be [✂].
3. "Volume of ferrous sales to UK customers" excludes sales to traders by [✂])

12.10 We also note that:

(a) Customer concerns were few, with most telling us that they have multiple other recyclers from whom they can purchases non-NPS grades and that competition is stronger than in NPS; and

(b) Competition for purchases in non-NPS ferrous materials takes place across the country. As well as London (where we have found a problem in purchasing), it includes the West Midlands and North East where MWR's focus is on industrial NPS contracts, and several regions where the Parties do not overlap.

Provisional conclusion on non-NPS ferrous metals

12.11 Assessing this evidence in the round, we have provisionally found that an SLC is overall not likely to arise in the sale to UK customers of non-NPS ferrous metals.

Sales of non-ferrous metal to UK customers

The Parties' views

12.12 The Parties' views on competitive landscape of scrap metal, as summarised earlier in the context of ferrous metals, apply also to non-ferrous metals. They did not make specific submissions in relation to the competitive assessment of non-ferrous metals.

Third Party views

12.13 One large customer of aluminium and copper raised concerns about the effect of the merger on sales in non-ferrous metals. This customer currently sources from both Parties, as well as from at least 8 other suppliers. It expressed a concern that the Transaction will give the Parties a strong position in sales of non-ferrous metals for the following reasons:[382]

(a) The Parties have site networks in the West Midlands and London where scrap arises, giving them a strong position in purchasing non-ferrous scrap, which in turn puts them in a strong position for sales (especially in the West Midlands);

(b) The Parties' size and national presence gives them access to contracts with large nationwide businesses with significant volumes of high-quality, homogeneous scrap metal (eg BT, Network Rail);

(c) The customer considers that the Transaction reduces from 3 to 2 (including the Parties and Sims) the number of competitors able to provide non-ferrous metals. The customer estimates that EMR has around a 60% share of non-ferrous.

(d) Sims is focussed on ferrous grades and export, and is weaker in the supply of non-ferrous grades.

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[382] [✂]

(e) Smaller recyclers often cannot provide the right quality, occasionally renege on supply contracts, and only offer limited competition from single sites.

(f) The majority of non-ferrous scrap only travels about 50km, so competition is limited geographically.

12.14 This customer also submitted that it believes that EMR aggressively targets competitors by outbidding them on scrap purchases, paying above-market prices and absorbing the losses elsewhere, until the relevant competitor is driven out of business.

12.15 Several customers told us that the Parties are the two biggest suppliers of various non-ferrous metals.

(a) A non-ferrous metal manufacturer submitted that the larger EMR becomes the stronger its negotiating position and makes it more likely to have the upper hand in price negotiations, although the acquisition of MWR alone would not make a large difference.[383]

(b) A non-ferrous metal manufacturer contended that the Transaction would enhance EMR's dominance, and that competition might suffer through the closure of some of the Parties' sites.[384]

(c) A non-ferrous foundry told us that the Parties are two among the few suppliers that can supply large volumes, and as such EMR can significantly influence prices due to the volumes they control. This customer further submitted that other than [✂], who can compete in securing manufacturer sourced scrap through their own scale and infrastructure, other suppliers are geographically focused and primarily owner-managed businesses.

12.16 On the other hand, many other customers, including purchasers of copper, did not express any concern in the supply of non-ferrous metals, either because they do not depend on the Parties and/or typically have multiple other existing suppliers.[385] For example, one specialist metal recycler, told us that 'metal markets in the UK are liquid, open and highly competitive'. A user of copper submitted that the Parties are just two of approximately [✂] suppliers in its portfolio, and competitive market rates are driven from foreign markets.

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[383] [✂]
[384] [✂]
[385] [✂]

Our assessment

12.17 Table 12.2 shows our estimates of the Parties' and competitors shares of non-ferrous sales to UK customers. It shows a low overall share for the Parties ([20-30%] combined) and a small increment of [0-5%]. At least four other competitors have a comparable scale to MWR. Further, the market appears to be fragmented, with numerous other sites accounting for over half of the share of supply.

Table 12.2: Competitors in non-ferrous sales to UK customers

	Volume of non-ferrous sales to UK customers	*Share of known non-ferrous sales (%)*
EMR	[✂]	[20-30%]
MWR	[✂]	[0-5%]
Parties Combined	[✂]	[20-30%]
[✂]	[✂]	[10-20%]
Benfleet	[✂]	[0-5%]
Ward Bros Steel Ltd	[✂]	[0-5%]
H Ripley & Co	[✂]	[0-5%]
Ampthill	[✂]	[0-5%]
[✂]	[✂]	[0-5%]
S Norton	[✂]	[0-5%]
Enablelink	[✂]	[0-5%]
[✂]	[✂]	[0-5%]
B Shakespeare	[✂]	[0-5%]
Other sites	[✂]	[50-60%]
Total	[✂]	100%

Source: Parties' and competitors' submissions, [✂].
Notes:
1. Includes some sites for EMR and [✂] which are outside of overlap areas
2. [✂]
3. "Volume of ferrous sales to UK customers" excludes sales to traders and metal recyclers
4. [✂] have estimated total purchase volumes of 64k and 28k respectively, and are non-ferrous specialists. They have not been included in this Table due to the lack of accurate information regarding the proportion sold to UK customers and the proportion exported.

12.18 We also note that most non-ferrous customers were not concerned about the merger. In particular, we disagree with a customer's submission that the Transaction would reduce the number of copper suppliers from three to two. That customer's purchase data revealed that it had two additional sizeable copper suppliers. Moreover, despite the customer's view that [✂], we consider [✂] to be a credible supplier as it purchased £[✂] worth of copper across the UK, of which only £[✂] was sold to that customer. Therefore, the suggestion that there is a lack of suppliers in the copper market appears to be unfounded.

Provisional conclusion on non-ferrous metals

12.19 Our provisional conclusion on the sale of non-ferrous metals to UK customers is that the Transaction is not likely to result in an SLC.

13. Provisional conclusions

13.1 As a result of our assessment, we have provisionally found:

(a) that the Transaction has resulted in the creation of a relevant merger situation;

(b) that the Transaction has resulted, or may be expected to result, in an SLC in the following markets:

(c) Purchasing of shredder feed in the South East

(i) Purchasing of ferrous and non-ferrous scrap metals in the London region

(ii) Purchasing of ferrous and non-ferrous scrap metals from tenders in the West Midlands

(iii) Purchasing of ferrous and non-ferrous scrap metals from tenders in the North East

(iv) Sales of new production steel to UK customers