

Completed acquisition by Rentokil Initial plc of Cannon Hygiene Limited

Decision on relevant merger situation and substantial lessening of competition

ME/6734/18

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SUMMARY

1. On 1 January 2018, Rentokil Initial plc (**Rentokil**) acquired Cannon Hygiene Limited (**Cannon**) (the **Merger**). Rentokil and Cannon are together referred to as the **Parties**.

2. The Competition and Markets Authority (**CMA**) believes that it is or may be the case that Rentokil and Cannon were two separate enterprises which have ceased to be distinct as a result of the Merger and that the share of supply test is met. The four-month period for a decision, as extended, has not yet expired. The CMA therefore believes that it is or may be the case that a relevant merger situation has been created.
3. The Parties overlap in the supply of a wide range of washroom products and services, healthcare waste collection services and mats services in the UK.

Washroom services

4. Washroom¹ services comprise the supply of services and consumables related to washrooms in public, office and industrial buildings. These services often include the installation, cleaning and maintenance of washroom equipment (such as feminine hygiene and nappy bins), odour remediation systems, hand washing and toilet cubicle sanitation. The consumables often supplied as part of these services are items used in washrooms such as paper towels, soap and toilet paper.
5. The CMA found that customers tend to procure multiple washroom products or services from a single supplier. For suppliers, it also may not be economically viable to only offer one product or service. Therefore, the CMA considered a frame of reference comprising a bundle of washroom products and services.
6. The Parties and their competitors have many types of customer. These include public and private sector organisations in all industries, and customers which vary by size, location, scope of required services and particular needs. The CMA found that the logistical requirements for 'national customers' result in different conditions of competition for these customers compared with for 'regional and local' customers. Many 'national customers' told the CMA that they prefer to use a single supplier for all (or most) of their sites and there are only a few suppliers that offer washroom services on a national basis.
7. There are many types of supplier from whom customers can procure all or some of these services and consumables. However, suppliers differ on: (i) the range of services or consumables they offer; and (ii) their resources to serve customers at a local, regional or national level. The CMA found that the Parties, PHS and some smaller providers are the only suppliers with the ability to supply a full range of washroom services, including odour

¹ This is defined as a room or space with washing and toilet facilities (also known as a bathroom, restroom or toilet).

remediation and waste disposal, on a national or multi-regional basis. The CMA identified more companies either offering a narrower set of washroom services (eg those specialising in consumables or those for whom washroom services are a part of their wider offering (eg facilities management (**FM**) companies)) or offering a full range of washroom services but in a limited geographic area. However, the CMA found that these non-specialists and/or 'regional/local' suppliers impose a limited constraint on the Parties.

8. Therefore, the CMA assessed the impact of the Merger in the supply of washroom services by 'national washroom specialists' to a) national customers and b) regional and local customers in the UK, while taking account of constraints from other types of supplier.
9. The CMA found that the estimated shares of supply, tender data, internal documents and views of third parties consistently pointed to the Parties, together with their main rival PHS, being the three main suppliers of washroom services to national customers. The main competitive constraint on each of the Parties comes from the other Party and PHS. The CMA found that Cathedral, Mayflower and Berendsen all provide some constraint on the Parties for these customers but, taking account of the realistic prospect threshold, there was insufficient evidence to demonstrate that these players would sufficiently constrain the merged entity (and PHS) post-Merger. For this reason, based on the evidence available, the CMA believes that the Merger will lead to a reduction from three to two major national suppliers of washroom services.
10. The CMA found that the competitive situation may be similar for 'regional and local' customers across the UK. There are more competitors for 'regional and local' customers than for national customers as, at least in some regions, there are alternative 'regional and local' suppliers. However, the estimated shares of supply, tender data, internal documents and some of the views of third parties again indicated the strong presence of the Parties and PHS, and the lack of many strong regional competitors.
11. For these reasons, the CMA believes that the Merger gives rise to a realistic prospect of a substantial lessening of competition (**SLC**) as a result of horizontal unilateral effects in the supply of washroom services by 'national washroom specialists' to a) 'national' customers in the UK; and b) 'regional and local' customers in the UK.

Healthcare waste collection services

12. Consistent with case precedents, third parties told the CMA that the volume, collection and transportation requirements of large quantity generators

(**LQGs**) and small quantity generators (**SQGs**) differ substantially. Therefore, the CMA assessed separately the impact of the Merger in the supply of healthcare waste collection services to a) LQGs in the UK; and b) SQGs in the UK.

13. The CMA found that the Parties have very low shares of supply to LQGs, and therefore focussed its assessment on SQGs. Based on the shares of supply, internal documents and third party views, the CMA found that SRCL and PHS, together with some smaller competitors such as Healthcare Environmental Services and Tradebe, will continue to constrain the Parties sufficiently post-Merger. For this reason, the CMA believes that the Merger does not give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in the supply of healthcare waste collection services to either LQGs or SQGs in the UK.

Mats services

14. The CMA assessed the impact of the Merger on the narrowest plausible frame of reference on which the Parties overlap, which is the outsourced supply of mats services in the UK. However, the CMA did not need to conclude on the appropriate frame of reference for these services as it found no competition concerns in the supply of mats services on any basis.
15. Even on the narrowest frame of reference, the relatively low shares of supply, internal documents and third party views all indicated that Berendsen, PHS and Johnsons Apparelmaster, in particular, will continue to impose a sufficiently strong constraint on the Parties post-Merger.

Summary

16. The CMA therefore believes that the Merger gives rise to a realistic prospect of an SLC with respect to the supply of washroom services by 'national washroom specialists' to a) 'national' customers in the UK and b) 'regional and local' customers in the UK.
17. The CMA is therefore considering whether to accept undertakings under section 73 of the Enterprise Act (the **Act**). Rentokil has until 25 June 2018 to offer an undertaking to the CMA that might be accepted by the CMA. If no such undertaking is offered, then the CMA will refer the Merger pursuant to section 22(1) and 34ZA(2) of the Act.

ASSESSMENT

Parties

18. Rentokil is a global hygiene service and commercial pest control provider. In the UK, it provides washroom services, healthcare waste collection services, mats services and pest control services. The turnover of Rentokil in 2017 was approximately £2.4 billion worldwide, of which £[redacted] million was generated in the UK.
19. Cannon, formerly a multinational subsidiary of OCS Group Limited, also provides washroom services, healthcare waste collection services and mats services in the UK. Its UK turnover in the year ended 31 March 2017 was £[redacted] million.

Transaction

20. The Parties entered into a Sale and Purchase Agreement on 21 December 2017, which included various hygiene services in the UK, Ireland, Portugal, Spain, South Africa, Austria, New Zealand, India and Thailand. In the UK, the transaction completed on 1 January 2018. However, Rentokil did not make a formal public announcement or issue a press release in relation to the Merger.
21. Rentokil informed the CMA that the Merger had not been notified in any jurisdiction.

Procedure

22. The CMA's mergers intelligence function decided this Merger warranted an investigation and sent an Enquiry Letter to Rentokil on 31 January 2018.²
23. The Merger was considered at a Case Review Meeting.³

Jurisdiction

24. As a result of the Merger, the enterprises of Rentokil and Cannon have ceased to be distinct.

² See paragraph 28 below. Also, [Guidance on the CMA's mergers intelligence function](#) (CMA56), 17 June 2016; and [Mergers: Guidance on the CMA's jurisdiction and procedure](#) (CMA2), January 2014, paragraphs 6.9-6.19 and 6.59-60.

³ See [Mergers: Guidance on the CMA's jurisdiction and procedure](#) (CMA2), January 2014, paragraphs 7.34 ff.

25. The Parties' activities overlap in the supply of washroom services, mats services and healthcare waste collection services.
26. Rentokil submitted that '[b]ased on the best data available to [it], it does not believe that the CMA has jurisdiction' over the Merger.⁴ It submitted that it calculated an estimate based on the washroom solutions market definition used by the European Commission.⁵ It estimated the Parties' combined share of supply in washroom services by all types of supplier as [5-10]%.
27. In contrast, the CMA estimated the Parties' combined share in the supply of washroom services by national washroom specialists in the UK as [25-35%], with an increment of [10-15]% arising from the Merger. The CMA estimates were based on the estimates submitted by Rentokil⁶ but adjusted to actual revenues where this data was provided by competitors.⁷ On the basis of this more reliable information, the CMA therefore believes that the share of supply test in section 23 of the Act is met.
28. The Merger completed on 1 January 2018 but was not made public. The CMA was first informed about the Merger on 29 January 2018.⁸ The four-month deadline for a decision under section 24 of the Act is 18 June 2018, following extensions under section 25(2) of the Act.
29. The CMA therefore believes that it is or may be the case that a relevant merger situation has been created.
30. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 20 April 2018 and the statutory 40 working day deadline for a decision, as extended, is 18 June 2018.

Counterfactual

31. The CMA assesses a merger's impact relative to the situation that would prevail absent the merger (ie the counterfactual). For completed mergers the CMA generally adopts the pre-merger conditions of competition as the

⁴ Rentokil response to the Issues Letter dated 27 May 2018, paragraph 2.

⁵ Case COMP/M.8399 CWS-BOCO / *Rentokil Initial Target Business*.

⁶ Rentokil response to Enquiry Letter, Appendix 10.1.1, sheet Feb 18 summary – wash no mats.

⁷ Actual revenue figures were provided by [REDACTED], [REDACTED] and [REDACTED]. Cannon's revenue has been adjusted based on Cannon's response to RFI 3, which was sent after the CMA noticed discrepancies in previous submissions.

⁸ Rentokil response to the CMA's initial request for information, dated 26 January 2018. See [Mergers: Guidance on the CMA's jurisdiction and procedure](#) (CMA2), January 2014, paragraph 4.44 on how the CMA interprets 'material facts' relevant for the commencement of the four-month statutory period as set out in section 24 of the Act.

counterfactual against which to assess the impact of the merger. However, the CMA will assess the merger against an alternative counterfactual where, based on the evidence available to it, it believes that, in the absence of the merger, the prospect of these conditions continuing is not realistic, or there is a realistic prospect of a counterfactual that is more competitive than these conditions.⁹

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

Background

33. The Parties overlap in the supply of washroom services, mats services and healthcare waste collection services across the UK. They both operate branch networks, with fleets of vans and service staff visiting multiple customer sites on a regular basis. With this supply model, supplier profitability is driven by maximising the number of sites visited on each route and the number of services provided at each site, and minimising the time spent travelling between sites.¹⁰
34. Rentokil has [X] branches, of which [X] are used for washroom and mats services, and [X] are used for healthcare waste collection services. Cannon has [X] branches, also known as service centres, which are all used for all three services. Both Parties' serve customers across the whole of the UK from their branch network.
35. Both Parties serve both single-site customers and customers with multiple sites in multiple regions across the UK, and both public and private sector customers. The Parties' customers procure services in a variety of ways, including through formal tenders, informal bilateral negotiations, and, particularly in the public sector, framework agreements.

⁹ [Merger Assessment Guidelines](#) (OFT1254/CC2), September 2010, from paragraph 4.3.5. The [Merger Assessment Guidelines](#) have been adopted by the CMA (see [Mergers: Guidance on the CMA's jurisdiction and procedure](#) (CMA2), January 2014, Annex D).

¹⁰ This is supported by Rentokil's response to Enquiry Letter, Appendix 22.1, slide 31, showing a correlation between distance to customer sites and gross margins generated in Cannon's investment memorandum.

36. Previously, the OFT investigated the supply of washroom services in the following cases: PHS/Direct Hygiene¹¹, PHS/Albany and Capital¹².

Frame of reference

37. Market definition provides a framework for assessing the competitive effects of a merger and involves an element of judgement. The boundaries of the market do not determine the outcome of the analysis of the competitive effects of the merger, as it is recognised that there can be constraints on merging parties from outside the relevant market, segmentation within the relevant market, or other ways in which some constraints are more important than others. The CMA will take these factors into account in its competitive assessment.¹³

Washroom services

Product frame of reference

38. Washroom services includes the installation of washroom equipment (eg feminine hygiene and nappy bins, air fresheners and air sanitisers, and hand towel dispensers), the servicing of equipment, and the supply of consumables (eg paper towel, soap and toilet paper refills). The Parties provide these products and services to customers who need to maintain washrooms for employees, customers or the general public. The Parties generally install washroom equipment on their first visit to a customer's washroom and provide services and refills related to this equipment on subsequent visits.
39. Rentokil submitted that the relevant market should be the supply of washroom solutions, comprising the distribution of a selection of products and the provision of a variety of services, including those relating to hand washing, hand drying, toilet cubicle requirements, sanitisers, waste disposal and odour remediation, provided to end customers by a variety of different suppliers, including washroom solutions specialists, washroom equipment and consumables manufacturers and distributors (especially paper manufacturers), FM and cleaning companies, wholesalers, and office and food supply companies.

¹¹ OFT decision *Completed acquisition by PHS of Direct Hygiene Limited*, 7 February 2012.

¹² OFT decision *Completed acquisition by PHS of Albany Facilities Limited and Capital Hygiene Service Limited*, 12 January 2012.

¹³ [Merger Assessment Guidelines](#), paragraph 5.2.2.

40. The Parties submitted revenues in 2017 from each category of washroom services: 'hand washing', 'hand drying', 'hand sanitisers', 'odour remediation', 'toilet tissue', 'waste disposal', 'vending and other', and 'other toilet cubicle services'.¹⁴ This revenue data showed that waste disposal and odour remediation together account for about [60-70]% of each of the Parties' total washroom services sales. Products and services related to hand washing and toilet tissue each account for less than 5% of the Parties' revenues from washroom services.

Types of washroom products and services

41. The CMA has considered whether the different products and services within the range of washroom services represent distinct frames of reference.
42. The OFT considered in PHS/Albany and Capital¹⁵ and PHS/Direct Hygiene¹⁶ that washroom products, such as toilet paper and soap, were likely to constitute a separate frame of reference to washroom services. The OFT said that it may be appropriate to aggregate individual washroom services into a frame of reference for all washroom services based on demand-side complementarity and supply-side factors. However, it did not conclude on the precise scope of the product frame of reference.
43. In the present case, the CMA found some evidence to suggest that certain product or service lines, in particular waste disposal, could be considered as a separate frame of reference. In particular:
- (a) a Rentokil internal strategy document¹⁷ discusses the separation between the market for 'general washroom services' and the market for 'feminine hygiene and nappy disposal' (waste disposal);
 - (b) only washroom specialists tend to supply washroom waste disposal services, whereas other types of supplier (eg FM and cleaning companies, wholesalers and manufacturers) sometimes offer the other washroom product and services; and
 - (c) customers do not typically purchase a full range of washroom services from the same supplier – the average customer purchases [1-3] product

¹⁴ Cannon provided slightly different product categories. 'Vending', 'Any Other Wall Mounted', 'Sundries' and 'Textiles – Other' have been included in 'Vending & Other' and 'Consumables' has been included in 'Toilet Tissue' (but also includes sales of paper towels).

¹⁵ OFT decision *Completed acquisition by PHS of Albany Facilities Limited and Capital Hygiene Service Limited*, 12 January 2012.

¹⁶ OFT decision *Completed acquisition by PHS of Direct Hygiene Limited*, 7 February 2012.

¹⁷ Rentokil response to Enquiry Letter, Appendix 23.1, slides 3 to 7.

or service lines from Rentokil, and [1-3] product or services lines from Cannon.

44. However, Rentokil submitted that the relevant frame of reference should include all types of washroom products and services. Rentokil submitted that, on the demand side, while the average number of services purchased by a customer is low, customers very rarely purchase only a single product or service. When customers purchase feminine hygiene services from Rentokil, [80-100]% by value purchase at least one additional product or service.
45. This was confirmed by the CMA's third party investigation. Almost all customers who responded said that they used the same washroom services supplier for at least two product or service lines, and most customers told the CMA that it was important to be able to source all of their washroom service needs at a given site from the same provider.
46. Rentokil also submitted that there are no material differences between washroom services from a supply-side perspective, as:
 - (a) feminine hygiene services are provided at the same time and in the same way as other washroom services, during a single visit to the customer's premises using the same staff, vehicle and storage depot; and
 - (b) it is not viable for a washroom services provider to provide a single service, due to the route-based nature of the washroom services business – a provider offering only one service would be unable to offer competitive prices because of the cost of delivery.
47. Rentokil submitted that it is not aware of any washroom services provider with a sole focus on waste disposal services in terms of either operations or marketing, and the CMA has not identified any such provider, or for any other individual washroom product or service.
48. For these reasons, the CMA has assessed the effects of the Merger in a product frame of reference which includes all washroom products and services.

Types of supplier

49. Rentokil submitted that customers can procure washroom services from many types of supplier (see paragraph 39).
50. The CMA has considered whether different types of supplier, such as FM and cleaning companies, office materials suppliers and wholesalers, or manufacturers of specific items used in the washroom environment (such as

paper towels or soap dispensers), should be included in the frame of reference with full-range, full-service 'washroom specialists' like the Parties.

51. The CMA notes that other types of supplier do not provide the same set of services as washroom specialists:
- (a) FM companies may offer a full range of washroom services to customers, but they often outsource at least some of these services to washroom specialists. The Parties and third parties told the CMA that, in particular, waste disposal and odour remediation are outsourced to washroom specialists by FM companies.
 - (b) Cleaning companies may offer some washroom services, such as the supply of consumables, eg soap and toilet tissue. However, similarly to FM companies, cleaning companies often outsource other washroom services to washroom specialists.
 - (c) Office materials suppliers, wholesalers, and manufacturers of washroom items provide some washroom products (such as soaps, paper towels and toilet paper), but they do not provide the service of installing these products.
52. The CMA has nevertheless considered the extent to which these different suppliers represent a viable alternative to washroom specialists.
53. In PHS/Albany and Capital¹⁸ and PHS/Direct Hygiene,¹⁹ the OFT identified both separate markets and a combined market for washroom products and services. The OFT considered that suppliers active in the combined market are specialist washroom service providers, including, besides the merging firms, Rentokil, Cannon, Sunlight (Berendsen) and Cathedral. The OFT did not identify other competitors within this frame of reference.
- *Internal documents*
54. Rentokil's strategy update 2017²⁰ shows the market structure of washroom services. It specifies [0-5] 'major' suppliers ([X]) and [0-5] 'national' [X], and mentions '[80-100] regional' washroom services companies. It does not mention any other type of supplier (eg FM companies).

¹⁸ OFT decision *Completed acquisition by PHS of Albany Facilities Limited and Capital Hygiene Service Limited*, 12 January 2012.

¹⁹ OFT decision *Completed acquisition by PHS of Direct Hygiene Limited*, 7 February 2012.

²⁰ Rentokil response to RFI 1, Appendix 24.1, slide 7.

55. Rentokil's strategy update 2016²¹ also shows an overview of the washroom services market structure, and identifies several washroom specialists. It highlights [0-5] 'major', [0-5] 'national' and '[70-80] regional' washroom services companies. In addition, there is a reference to 'FM/contract cleaners' but it is unclear whether these suppliers are considered a significant part of the supply chain given that this comment is surrounded by question marks. The document does not mention any other type of supplier.
56. These strategy updates suggest that Rentokil has consistently considered itself to face national competition in washroom services from only [0-5] 'major suppliers' ([X]) and [0-5] 'national [X]. They suggest that FM and contract cleaners are not perceived by Rentokil to be close competitors.
57. The 2016 strategy update also discusses whether Rentokil should segment its washroom services between general washroom services and feminine hygiene and nappy disposal.²² It states that general washroom services are 'delivered through a multitude of channels', [X], while the waste disposal segment is supplied by [X]. This suggests that the full range of washroom services (including waste disposal) can only be supplied by washroom specialists.
- *Third party views*
58. As mentioned above (in paragraph 45), almost all customers who responded to the CMA said that they sourced at least two product or service lines from their washroom services supplier, and most customers told the CMA that it was important to be able to source all of their washroom service needs at a given site from the same provider. Consistent with the Parties' data, customers indicated that the most common washroom services sourced from the Parties were odour remediation and waste disposal. Third parties suggested that, in particular for these services, FM and cleaning companies are not alternatives to the Parties. None of the Parties' customers which responded to the CMA's questions said that they used FM companies as an alternative to the Parties for any of their washroom services needs.
59. Several FM companies told the CMA that they were customers of the Parties rather than competitors. They said that they do not offer washroom services

²¹ Rentokil response to Enquiry Letter, Appendix 23.1, slide 13.

²² Slide 3 of this document defines 'general washroom services' as the provision and servicing of air fresheners, toilet tissue, hand washing and drying, washroom vending, and feminine hygiene and nappy disposal (ie supply of units, regular servicing, and disposal of offensive waste).

but sub-contract their washroom services to washroom specialists such as PHS, Rentokil and Cannon.

60. Most customers who replied to the CMA's questions told the CMA that they would not use FM companies or cleaning companies for washroom services, either because this would introduce another level of management and cost, due to subsequent outsourcing by FM companies to washroom services providers, or because they themselves were FM companies.
61. Some customers who replied to the CMA's questions said that they would consider using FM companies and/or cleaning companies for their washroom services needs, but only if the company could provide the required products and services. However, the CMA notes that, to the extent the FM or cleaning company then outsources some of its provision of washroom services to a washroom specialist, the constraint exerted on washroom specialists is limited.
62. Most third parties (customers and competitors) told the CMA that office materials suppliers and wholesalers or manufacturers of specific items used in the washroom environment (eg paper towels or soap dispensers) represent an effective alternative to washroom specialists in relation to the supply of a limited range of products (eg the replacement of paper towels and some other cleaning products), but they do not provide the wider, more comprehensive, range of washroom products and services provided by the Parties.
63. Comments from competitors were mixed:
 - (a) Some competitors told the CMA that they compete with FM companies, cleaning companies and office supplies companies (with one also saying it also competed with wholesalers).
 - (b) Other competitors told the CMA that alternative types of supplier, including FM companies, were primarily customers rather than competitors of washroom specialists, because although they competed on some smaller service lines, they did not self-supply core services such as waste disposal.
 - (c) One competitor said that FM companies could be either competitors or customers.
 - *Parties' submissions*
64. Rentokil submitted that it is not necessary for suppliers to provide a full range of services to be effective competitors to washroom specialists. Rentokil

submitted that its own customers only purchase an average of [1-3] services per site.²³

65. However, the CMA notes that, even if other types of supplier are able to compete effectively for some of the services offered by the Parties (eg paper towels or toilet tissue), for the Parties' [redacted] business lines of waste disposal and odour remediation (see paragraph 40), and for the full range of services which the Parties offer, FM and cleaning companies are not considered alternatives to the Parties.

- *Conclusion on types of supplier*

66. On the basis of this evidence, the CMA believes that washroom specialists who offer the full range of washroom services, and in particular waste disposal and odour remediation, face limited constraints from firms which offer some washroom services alongside their other services (eg FM providers and cleaning companies). For these reasons, the CMA has assessed the effects of the Merger in the supply of washroom services by washroom specialists.

Customer segmentation

67. The CMA has considered whether the requirements and conditions for competition differ for large, national (or multi-regional) customers with many sites (eg hundreds or thousands), and regional or local customers with a limited number of sites in one or only a few adjacent areas.
68. Each of the Parties operates [redacted].²⁴
69. Rentokil submitted that national customers can be supplied by either national or regional washroom services suppliers, and therefore it competes with regional suppliers for these customers.²⁵ It submitted that:
- (a) the only difference in the Parties' service offering to national customers compared with its service offering to regional customers is the use of account managers and a separate sales team;

²³ Rentokil also submitted that its large national multi-site customers (discussed further below) purchase an average of [1-3] services per site from Rentokil.

²⁴ [redacted].

²⁵ Rentokil presented a slide pack on 18 April 2018 listing 72 providers of washroom services. In addition, Rentokil provided details on 18 competitors that would offer washroom services on a national basis and 25 regional washroom providers who would advertise that they serve customers with a national presence or high-profile customers.

- (b) some national customers procure on a local basis rather than centrally and appear willing to aggregate local suppliers to meet their needs; and
- (c) the Parties' relationships with national customers are non-exclusive so, even if a customer has a contract with a national supplier, the customer might also procure some services from local or regional suppliers.

- *Internal documents*

70. The overviews of the washroom services market in Rentokil's strategy updates for 2016 and 2017²⁶ make distinctions between 'major', 'national' and 'regional' suppliers. Rentokil specified and discussed [0-5] 'major' suppliers ([REDACTED]) and [0-5] 'national' [REDACTED], while no specific regional suppliers were identified.
71. Rentokil's strategy updates also discuss the strength and activity of competitors in relation to 'key accounts', distinct from local sales activity.
72. Cannon's investment memorandum²⁷ indicates that Cannon approaches national customers differently from regional or local customers, as: [REDACTED]

- *Third party views*

73. Almost all national customers of the Parties who responded to the CMA's questionnaire told the CMA that they use a single supplier across all or most of their sites. The main benefits customers cited for this approach were:
 - (a) easier management of the service from having a single point of contact and unified reporting and invoicing;
 - (b) maintaining consistency of service across the business and a similar look across all sites; and
 - (c) commercial benefits from consolidating volumes with one supplier, enabling a better overall price.
74. Most national customers did not rule out switching to regional suppliers in the event of a 5% price increase by national suppliers. Most said that they could switch, but they also highlighted many conditions which would have to be met to make this switch, including competitive prices, equally high service levels, and the ability to achieve national coverage using only a limited number of

²⁶ Rentokil response to Enquiry Letter, Appendix 23.1, slide 13, and Rentokil response to RFI 1, Appendix 24.1, slide 7.

²⁷ Rentokil's response to Enquiry Letter, Appendix 22.1, slide 50.

regional suppliers. Currently, most of these customers did not use any regional washroom services suppliers.

75. One national customer told the CMA that regional suppliers can provide a similar service and range to national washroom specialist suppliers but lack geographic coverage. It added that some regional suppliers have partnerships with other regional suppliers and are therefore able to provide multi-regional services, but using these suppliers would still result in higher management time.
76. Some purchasing organisations, which manage washroom service framework contracts, told the CMA that, while they have included regional suppliers in their frameworks, these suppliers have failed to win volumes, indicating that regional suppliers have not been able to compete effectively with national suppliers.
77. One regional supplier told the CMA that it is unable to compete UK-wide and that this made it difficult for it to compete for larger companies who prefer national pricing or to become a preferred supplier for FM companies.
78. One national supplier told the CMA that national customers have a strong preference for contracting with a single national supplier, and that contracts cannot be effectively serviced by multiple regional or local suppliers.

- *Parties' submissions*

79. Rentokil submitted that the Parties' national customers do not require most of the service features identified in paragraph 73 above, since:
 - (a) having a single point of contact, unified reporting and invoicing, consistency of service and a similar look across sites are not relevant to FM companies and buying groups, since their business model involves managing multiple suppliers and contracts; and
 - (b) direct customers already multi-source, which implies that they do not require these features and, to the extent they are required, they can be achieved through common contract terms and KPIs across multiple suppliers.
80. However, the CMA found that all types of national customer identified at least some of the benefits identified in paragraph 73 above, including some FM customers. These customers indicated that they also benefit from the reduced administration of dealing with only one supplier.

81. Rentokil also submitted that its own national customers²⁸ do not single-source from Rentokil across their estates. It said that only [20-30]% of these customers are serviced by Rentokil at more than [80-100]% of their sites.
82. However, the CMA found that:
- (a) Rentokil was only able to estimate the total number of sites for some of its national customers. Considering only these customers, the data showed that [30-40]% of Rentokil's national customers used Rentokil at more than [80-100]% of their sites.
 - (b) The data also showed that [40-50]% of Rentokil's national customers used Rentokil for over [70-80]% of these sites; and [60-70]% used Rentokil for a majority of their sites.
83. Moreover, the CMA notes that the fact that Rentokil is not used by its national customers for all of their sites does not imply that Rentokil is constrained by local or regional competitors. Rentokil did not submit evidence to indicate which suppliers these customers were using for the remainder of their sites. While in some cases these customers may have used local or regional suppliers, some might be dual sourcing from two national suppliers, and some might not require washroom services at some of their sites.
84. Furthermore, the CMA notes that, even in cases where a national customer uses a regional supplier for a minority of sites, the constraint from the regional supplier is likely to be limited. Rentokil submitted that, in many cases, a national customer will make a central management decision to use a supplier across all of its sites, but local managers will then act contrary to this and use a local supplier of their choice. In such cases, national suppliers do not face any constraint from local competitors when competing for the central contract.
- *Conclusion on customer segmentation*
85. Based on the Parties' internal documents and third party submissions, the CMA has found that, although some national customers might procure on a local basis, many prefer to use a single national supplier, at least to provide washroom services to a high proportion of their sites.

²⁸ Rentokil submitted analysis based on its interpretation of national customers as customers with over 100 sites, served by multiple Rentokil branches. The CMA notes that customers with fewer than 100 sites could still be national customers, but Rentokil submitted that including such customers in its analysis would not make it more likely for the results to show more customers single-sourcing from Rentokil.

86. For these reasons, the CMA has assessed the effects of the Merger in distinct product frames of reference for ‘national customers’ and ‘regional/local customers.’

Conclusion on product scope for washroom services

87. For the reasons set out above, the CMA has considered the impact of the Merger in the following product frames of reference:
- (a) The supply of washroom services by washroom specialists to national customers; and
 - (b) The supply of washroom services by washroom specialists to regional and local customers.
88. In its competitive assessment, the CMA has considered where relevant the competitive constraint from suppliers outside of these frames of reference.

Geographic frame of reference

National customers

89. Rentokil submitted that the appropriate frame of reference includes all types of customer and operates UK-wide. It said that:
- (a) washroom requirements are homogenous and customers tend to procure them on a national level; and
 - (b) several suppliers are able to provide their services nationally with a national network.
90. Neither the Parties nor any third party provided evidence to suggest an alternative geographic frame of reference for national customers.
91. Therefore, the CMA believes that the appropriate geographic frame of reference for national customers is UK-wide.

Regional and local customers

92. In previous cases, which all involved regional suppliers, the OFT did not conclude on the appropriate geographic frame of reference. The assessment

in PHS/Direct Hygiene²⁹ and PHS/Albany and Capital³⁰ affected respectively the South East and the North West of England, and the South East of England.

93. In the present case, the CMA recognised that the conditions of competition for regional and local customers would vary by region, given the different providers of washroom suppliers operating in different regions. However, it was not feasible for the CMA, within the statutory constraints of the phase 1 timetable, to gather detailed evidence on all of the local/regional suppliers competing in each region of the UK. For this reason, the CMA has not assessed the effect of the Merger on competition on a region by region basis. However, the CMA notes that both Parties compete at UK-level and, on the basis of the evidence the CMA has gathered, it has seen no evidence to suggest that the Parties compete more closely or less closely in any particular region of the UK.
94. Therefore, and given that the Parties operate across the UK, the CMA has assessed the impact of the Merger in the supply of washroom services by washroom specialists to regional and local customers in the UK.

Conclusion on geographic scope for washroom services

95. For the reasons set out above, the CMA has assessed the effects of the Merger in the supply of washroom services by washroom specialists to a) national customers in the UK and b) regional and local customers in the UK.

Healthcare waste collection services

Product frame of reference

96. The Parties submitted that the relevant product frame of reference is the supply of healthcare waste management solutions by waste collection service providers.

Small and large quantity generators

97. Previous cases have considered separate markets for the provision of healthcare waste collection services to LQGs, such as acute hospital trusts,

²⁹ OFT decision *Completed acquisition by PHS of Direct Hygiene Limited*, 7 February 2012.

³⁰ OFT decision *Completed acquisition by PHS of Albany Facilities Limited and Capital Hygiene Service Limited*, 12 January 2012.

and to SQGs, such as dentists, pharmacies, care homes etc.³¹ The Parties are primarily active in the provision of services to SQGs, with only a small overlap in services to LQGs.

98. Rentokil submitted that providing services to these two customer types requires different methods of collection, with services to LQGs requiring dedicated large vehicles with 1.5-2 tonne capacity, and services to SQGs requiring smaller vans of 0.5 tonnes capacity making multiple stops.
99. Competitors confirmed that LQGs and SQGs constitute separate markets, primarily based on volumes and the different vehicle sizes used in collection.
100. The CMA considers that Rentokil's submissions and third party responses support the segmentation of healthcare waste collection services between SQGs and LQGs, in particular as the requirements for supplying these types of customer differ significantly.

Customer segmentation

101. As in the supply of washroom services, the CMA is considering whether the requirements and conditions of competition in the supply of healthcare waste collection services differ for large, national (or multi-regional) customers, with many sites throughout the UK, and regional or local customers, with a more limited number of sites in one or only a few (adjacent) areas.
102. Rentokil submitted that it is irrelevant to customers whether their providers are national, regional or local. However, third parties provided a different view. Some customers expressed concerns in relation to a reduction in the number of national suppliers of healthcare waste collection services, and one national competitor told the CMA that national customers have a strong preference for using a single national supplier for their healthcare waste collection needs. Other competitors also mentioned national competition when discussing the impact of the Merger. One competitor said that local and regional suppliers do not tend to compete in tenders for large SQG customers because 'legislative and regulatory requirements become more onerous with the scale of waste being transported'.
103. For these reasons, on a cautious basis, the CMA has considered the impact of the Merger on both national and regional/local customers. However, it has not been necessary for the CMA to conclude on whether it is appropriate to

³¹ For example, CMA decision *Completed acquisition by Healthcare Environmental Services Limited of G.W. Butler Limited*, 18 March 2015, CC Final report *Tradebe Environmental Services Limited and Sita UK Limited*, 28 March 2014, and CC Final report *Stericycle, Inc and Ecowaste Southwest Limited*, 21 March 2012.

identify distinct frames of reference according to customer segmentation in the supply of healthcare waste collection services as the CMA has identified no competition concerns arising from the Merger in relation to this service on any basis.

Geographic frame of reference

104. As for washroom services, the geographic frame of reference for national customers of healthcare waste collection services is UK-wide. Neither the Parties nor any third party provided evidence to suggest an alternative geographic frame of reference.
105. Therefore, the CMA assessed the effects of the Merger in the supply of healthcare waste collection services to a) LQGs in the UK; and b) SQGs in the UK.

Mats services

Product frame of reference

106. Rentokil submitted that the appropriate product frame of reference for mats services is the outsourced supply of mats by mats solutions specialists, FM companies and providers of specialist washroom or textiles solutions. This frame of reference includes both the rental and maintenance of mats.
107. Rentokil submitted that customers may purchase mats and have them cleaned either by cleaning firms or the customer's employees, and that this represents a significant constraint on suppliers of mats services.
108. In PHS/Albany and Capital,³² the OFT considered a narrow market for the serviced rental of dust control mats. It also considered, but did not conclude on, whether the market should include purchased mats, and whether there was a broader market covering other types of mats, such as industrial area mats.
109. For these reasons, on a cautious basis, the CMA has considered the impact of the Merger on the narrowest plausible frame of reference, which is the outsourced supply of mats. However, it has not been necessary for the CMA to conclude on the precise scope of the product frame of reference for mats

³² OFT decision *Completed acquisition by PHS of Albany Facilities Limited and Capital Hygiene Service Limited*, 12 January 2012.

services, since, as set out below, the Merger does not give rise to competition concerns on any plausible basis.

Geographic frame of reference

110. Rentokil submitted that the relevant geographic frame of reference for the supply of mats services is national. No third party provided evidence to suggest an alternative geographic frame of reference.
111. Therefore, the CMA assessed the effects of the Merger in the outsourced supply of mats services in the UK.

Conclusion on frame of reference

112. For the reasons set out above, the CMA has assessed the impact of the Merger in the following frames of reference:
- The supply of washroom services by washroom specialists to national customers in the UK;
 - The supply of washroom services by washroom specialists to regional and local customers in the UK;
 - The supply of healthcare waste collection services to LQGs in the UK;
 - The supply of healthcare waste collection services to SQGs in the UK; and
 - The outsourced supply of mats services in the UK.

Competitive assessment

Horizontal unilateral effects

113. Horizontal unilateral effects may arise when one firm merges with a competitor that previously provided a competitive constraint, allowing the merged firm profitably to raise prices or to degrade quality on its own and without needing to coordinate with its rivals.³³ Horizontal unilateral effects are more likely when the merging parties are close competitors. The CMA assessed whether it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC in relation to horizontal unilateral effects in the frames of reference set out above.

³³ [Merger Assessment Guidelines](#), paragraphs 5.4.1. ff

Washroom services

Shares of supply

114. Rentokil submitted share of supply estimates for the supply of washroom services in the UK. These estimates included regional suppliers and alternative suppliers (such as FM companies and washroom product suppliers), with 72 companies in total. It estimated the Parties to have a combined share of [5-10]% when including all firms, and [20-30]% when including washroom specialists (national and regional) only.
115. For the reasons set out above (paragraphs 49 to 65), the CMA narrowed the list of suppliers which it believed to compete with the Parties by excluding other types of suppliers than washroom specialists (eg FM companies, cleaning companies, and manufacturers). Moreover, the CMA was able to obtain revenue data from many of the Parties' competitors, which differed significantly from the estimates submitted by the Parties.
116. Table 1 presents the CMA's estimates for the shares of supply of all washroom specialists in the UK (including regional suppliers).

Table 1: Shares of supply for washroom specialists (including regional suppliers)

Supplier	Revenue £	Share %
Rentokil	[REDACTED]	[10-20]
Cannon	[REDACTED]	[5-10]
Parties Combined	[REDACTED]	[20-30]
PHS	[REDACTED]	[30-40]
Cathedral	[REDACTED]	[5-10]
B Hygienic	[REDACTED]	[0-5]
Berendsen	[REDACTED]	[0-5]
Others	[REDACTED]	[20-30]
Total	[REDACTED]	100

Source: revenue estimates provided by the Parties adjusted to competitors' actual revenues where provided.

117. The CMA found that the Parties' shares of supply of all washroom services supplied in the UK are [20-30%] when all washroom specialists (national, regional and local) are included. This share of supply estimate demonstrates that the Parties are the second and third-largest suppliers, with PHS the leading supplier. Together, the Parties and PHS account for [60-70%] of the supply of washroom services by washroom specialists in the UK. The shares of supply of the Parties and PHS are significantly higher than the next tier of competitors: Cathedral, B Hygienic and Berendsen. In addition to the 'national washroom specialists' identified by Rentokil, there is a long tail of over 50

small, mostly regional suppliers under ‘Others’ with individual shares below [0-5%].

118. As also discussed above, the CMA believes that many national customers choose between a more limited set of ‘national washroom specialists’. To estimate shares of supply to these customers, the CMA has used the washroom revenues of ‘national washroom specialists’ only. Table 2 presents the results.³⁴

Table 2: Shares of supply for national washroom specialists

Supplier	Revenue £	Share %
Rentokil	[✂]	[20-30]
Cannon	[✂]	[10-20]
Parties Combined	[✂]	[30-40]
PHS	[✂]	[50-60]
Cathedral	[✂]	[5-10]
Berendsen	[✂]	[0-5]
Mayflower	[✂]	[0-5]
Healthcare Washroom	[✂]	[0-5]
Total	[✂]	100

Source: revenue estimates provided by the Parties adjusted to competitors’ actual revenues where provided.

119. When only ‘national washroom specialist’ suppliers are included, the Parties’ shares (which serve as a proxy for their shares in the frame of reference for national customers) are higher [30-40%]. On the basis of share of supply estimates alone, this frame of reference appears very concentrated, with the Parties and PHS together accounting for [80-90%] of all sales.

Closeness of competition

120. The CMA has examined the closeness of competition between the Parties by evaluating the following evidence and data:

- (a) tender data from the Parties and PHS;
- (b) Rentokil’s internal surveys;
- (c) the Parties’ internal documents; and

³⁴ The CMA notes that it has not been possible for it to obtain accurate revenues in relation to each customer group (ie national, regional, local). However, based on third party evidence, it is likely that the shares for the Parties and PHS to national customers are underestimated by using their overall sales as a proxy for their sales to this group as these three providers have a higher-than-average proportion of national customers compared with smaller competitors. This is explained further below.

(d) third party views.

121. The assessment of closeness of competition between the Parties in the supply of washroom services for both national customers and regional and local customers is discussed together since much of the evidence is relevant for both customer segments.

- *Tender data*

122. Rentokil submitted that customers procure washroom services in a variety of ways, including through formal tenders, informal bilateral negotiations, and framework agreements (particularly relevant to the public sector).

123. The Parties submitted bidding data for tenders in which they participated during the period 2015-2017. This data covered tenders for both national customers and regional and local customers.³⁵ However, Rentokil said that the tender data was not representative of the conditions of competition for the following reasons:

(a) tenders account for a small proportion of new business, as the vast majority of contracts are awarded using other methods;

(b) there is no clear distinction between customers who put their contracts out to tender and those who do not;

(c) the activities of competitors within tender processes are not transparent and not generally known to the Parties;

(d) there are prominent competitors such as Cathedral and Mayflower who do not appear in Rentokil's tender data; and

(e) the sample size is small.³⁶

124. The CMA notes the limitations of the tender data but believes that helpful inferences can be drawn from it because:

(a) among national washroom customers, the CMA is not aware of any consistent differences between those customers who tender and those customers who do not tender; and

³⁵ [80-100]% of Rentokil's tenders by value were for 'Key Account' customers, which includes [X]. [30-40]% of Cannon's tenders by value were for 'National Accounts', which only includes [X], and an additional [20-30]% of its tenders by value were for large national framework agreements or public sector contracts.

³⁶ Cannon submitted that it does not consider its database to be exhaustive. The CMA notes that, when the Parties revised their data, there were some cases where one of the Parties had counted a sales opportunity as a formal tender (and included it) whereas the other had not (and so had not included it).

(b) the data includes over 100 bidding instances for each of Rentokil and Cannon, which, while accounting for a relatively small proportion of their overall washroom sales, provides an indication of their competitive interaction.

125. Tables 3 and 4 show the frequency with which the Parties bid against each other for all tenders included in the tender data involving washroom services, and for tenders which only involved washroom services.

Table 3: Cannon's participation in Rentokil's tenders

Type of tender	No. Rentokil tenders	Value of Rentokil tenders	Tenders Cannon bid for	% Cannon bid for	% by value Cannon bid for
All tenders with washroom	[REDACTED]	[REDACTED]	[REDACTED]	[25-50]	[25-50]
Washroom-only tenders	[REDACTED]	[REDACTED]	[REDACTED]	[25-50]	[25-50]

Source: CMA analysis of the Parties' tender data

Table 4: Rentokil's participation in Cannon's tenders

Type of tender	No. Cannon tenders	Value of Cannon tenders	Tenders Rentokil bid for	% Rentokil bid for	% by value Rentokil bid for
All tenders with washroom	[REDACTED]	[REDACTED]	[REDACTED]	[0-25]	[25-50]
Washroom-only tenders	[REDACTED]	[REDACTED]	[REDACTED]	[0-25]	[50-75]

Source: CMA analysis of the Parties' tender data

126. These results suggest that the Parties participate frequently in the same tenders. Rentokil appears to bid for the higher-value tenders in which Cannon participates.³⁷

127. Tables 5 and 6 show how often each of the Parties lost a tender in which the other Party also bid.

³⁷ The tenders Rentokil bid for account for a higher proportion of the total value of Cannon's tenders than of the number of tenders.

Table 5: Tenders lost by Rentokil

Type of tender	No. tenders lost by Rentokil	Value of tenders lost by Rentokil	% won by Cannon	% value won by Cannon
All tenders with washroom	[REDACTED]	[REDACTED]	[0-25]	[0-25]
Washroom-only tenders	[REDACTED]	[REDACTED]	[0-25]	[0-25]

Source: CMA analysis of the Parties' tender data

Table 6: Tenders lost by Cannon

Type of tender	No. tenders lost by Cannon	Value of tenders lost by Cannon	% won by Rentokil	% value won by Rentokil
All tenders with washroom	[REDACTED]	[REDACTED]	[0-25]	[0-25]
Washroom-only tenders	[REDACTED]	[REDACTED]	[0-25]	[0-25]

Source: CMA analysis of the Parties' tender data

128. These results suggest that each of the Parties won a limited proportion of the washroom services tenders lost by the other Party, although Rentokil appears to exert a stronger constraint on Cannon in terms of value than vice versa. This is consistent with Rentokil's higher share of supply.

129. The CMA also examined how often other competitors won tenders lost by each of the Parties in cases where the winner was known to the Parties. Tables 7 and 8 show the results.³⁸

Table 7: Winners of tenders lost by Rentokil

Winner	Number of tenders	%	Value of tenders	%
PHS	[REDACTED]	[25-50]	[REDACTED]	[75-100]
Cannon	[REDACTED]	[0-25]	[REDACTED]	[0-25]
Zenith	[REDACTED]	[0-25]	[REDACTED]	[0-25]
Chiltern Hygiene	[REDACTED]	[0-25]	[REDACTED]	[0-25]
Unknown	[REDACTED]	[25-50]	[REDACTED]	[0-25]
Total	[REDACTED]	100	[REDACTED]	100

Source: CMA analysis of the Parties' tender data

³⁸ These tables include all tenders including washroom services, not just washroom-only tenders.

Table 8: Winners of tenders lost by Cannon

Winner	Number of tenders	%	Value of tenders	%
PHS	[REDACTED]	[0-25]	[REDACTED]	[25-50]
Rentokil	[REDACTED]	[0-25]	[REDACTED]	[0-25]
Multiple suppliers across estate	[REDACTED]	[0-25]	[REDACTED]	[0-25]
SRCL continued to self-deliver	[REDACTED]	[0-25]	[REDACTED]	[0-25]
Hygienic concepts	[REDACTED]	[0-25]	[REDACTED]	[0-25]
Mayflower	[REDACTED]	[0-25]	[REDACTED]	[0-25]
Robinson Services	[REDACTED]	[0-25]	[REDACTED]	[0-25]
Unknown	[REDACTED]	[50-75]	[REDACTED]	[25-50]
Total	[REDACTED]	100	[REDACTED]	100

Source: CMA analysis of the Parties' tender data

130. The CMA notes that, due to the lack of transparency in tender results, the identification of the winner was often the Parties' 'best guess' and may not always be accurate,³⁹ which limits the weight that can be placed on this evidence. However, the results suggest that:
- (a) PHS is each Party's closest competitor, followed by the other Party;
 - (b) other competitors are significantly less likely than either PHS or the other Party to win tenders for which one of the Parties bids; and
 - (c) PHS and Rentokil win large value tenders, indicating that they are particularly close competitors for national contracts, followed by Cannon.
131. Rentokil submitted that 'unknown' winners should be viewed as representing a constraint by suppliers other than the other Party and PHS, because:
- (a) each of the Parties verified that they had not bid, or had not won, the tender when the winner was identified as 'unknown'; and
 - (b) the Parties are often able to identify PHS products in washrooms due to its branding, and so it is less likely for 'unknown' winners to be PHS.
132. However, the CMA considers that while 'unknown' winners could represent losses to third parties other than PHS, they could also represent:

³⁹ For example, Cannon identified Rentokil as the winner of [REDACTED] tenders that Rentokil had not in fact won, but failed to identify Rentokil as the winner of [REDACTED] tenders that Rentokil had won. Similarly, Rentokil failed to identify Cannon as the winner of [REDACTED] tenders that Cannon had won.

- (a) further losses to PHS (as it is unclear the reliability of data based on the Parties apparently visiting each washroom to verify the winner for every customer they lose); and
- (b) tenders in which the customer did not award a contract to a new supplier, but continued to use its incumbent supplier. The Parties verified that in three example cases about which the CMA raised questions, Rentokil customers had run tenders in which Cannon had competed and lost, Rentokil had not competed, but the customer had then continued to use Rentokil.
133. It is therefore not possible for the CMA to place significant weight on the proportions of tenders won by 'unknown' suppliers within the constraints and legal framework of its phase 1 merger assessment.
134. Rentokil also submitted that the low proportion of tenders lost by one Party and won by the other ([0-25]% from Rentokil to Cannon and [0-25]% from Cannon to Rentokil) implies that diversion ratios between the Parties are low, and therefore indicate a lack of competition between the Parties.
135. The CMA does not consider that these proportions can be interpreted as accurate proxies for diversion ratios. While the results from the tender data provide some information on the approximate relative strength of different competitors, given the various limitations of the tender data discussed above it does not provide a reliable base for the calculation of diversion ratios for each supplier.
136. While the CMA puts limited weight on the tender data, the CMA believes that it is indicative of the Parties' closest competitors being PHS and the other Party, with the Parties facing little constraint from other washroom suppliers.
- *PHS tender data*
137. PHS also provided the CMA with an analysis of its bidding data, which included [10-100] principally regional and local public sector washroom tenders between 2014 and 2017.
138. Rentokil submitted that the winners of tenders lost by PHS was irrelevant to competition between the Parties. However, while this analysis is not directly informative to the constraint the Parties impose on each other, it does indicate the strength of competition between the three largest 'national washroom specialist' suppliers, and the constraint on these suppliers from other competitors.

139. This analysis, based on PHS’s estimates, showed that Rentokil and Cannon each bid in approximately [50-75%] of the tenders in which PHS bid, and that these tenders accounted for [75-100%] of PHS’s tenders by value. All other suppliers bid on [0-25%] of these tenders, both by volume and value, apart from one other competitor.⁴⁰

140. Table 9 shows which suppliers won the tenders lost by PHS.

Table 9: Winners of tenders lost by PHS

Winner	Number of tenders	%	Value of tenders (£)	%
Rentokil	[X]	[25-50]	[X]	[25-50]
Cannon	[X]	[0-25]	[X]	[25-50]
[X]	[X]	[0-25]	[X]	[0-25]
[X]	[X]	[0-25]	[X]	[0-25]
[X]	[X]	[0-25]	[X]	[0-25]
[X]	[X]	[0-25]	[X]	[0-25]
[X]	[X]	[0-25]	[X]	[0-25]
Not Indicated	[X]	[0-25]	[X]	[0-25]
Total	[X]	100	[X]	100

Source: CMA analysis of PHS tender data

141. These results indicate that the Parties won the vast majority of tenders that PHS participated in and lost, and that other suppliers rarely won. The CMA notes that the gap between the Parties in the number of tenders they won from PHS and any other competitor is substantial, indicating that the Parties impose the only significant competitive constraint on PHS, and competition from smaller washroom providers on PHS (and the Parties) is very limited.

142. Rentokil also submitted that, as national public sector contracts tend to be served by FM companies, the PHS tenders are likely to be for regional customers, and therefore not representative of national competition. As noted above, most of the tenders in the PHS bidding data were for regional customers. However, given that there are more suppliers who can compete for regional customers than for national customers, the CMA believes that these results will therefore understate rather than overstate the extent to which the Parties compete with PHS for national washroom customers.

⁴⁰ This competitor bid on a small number of the tenders on which PHS bid but these tenders represented around [75-100%] of the tenders by value. However, this competitor did not win any of these tenders suggesting it imposed a limited constraint on PHS.

- *Rentokil's internal surveys*

143. In 2017, Rentokil conducted internal surveys amongst its sales teams, asking sales staff to list their top 5 regional competitors.⁴¹ The survey received 53 responses, in which 78 individual competitors were named (although the vast majority of these were listed only once).
144. Figure 1 summarises the results for those competitors which were listed by more than 10% of respondents, showing how often each competitor was listed and in which position (ie first, second, etc.).

Figure 1: Closest competitors at local branch level



Source: CMA analysis of Rentokil internal survey results

145. While recognising that these results generalise across all regions, the survey suggests:
- (a) the only suppliers considered to be close competitors to Rentokil for washroom services across many areas were PHS, Cannon and Cathedral;
 - (b) PHS is identified consistently as Rentokil's primary competitor, listed by almost 90% of respondents, and in first place by over 70% of respondents; and
 - (c) Cannon is identified by the majority of respondents as one of Rentokil's top three competitors, and as Rentokil's second main competitor (after PHS) by around half of respondents.
146. Rentokil submitted that the survey did not ask respondents to rank competitors, only to name them. However, Rentokil also submitted that these results show that Cannon is never identified as its closest competitor (which would rely on a ranking), in contrast to Cathedral, Shorrocks Trichem and Greenleaf which are sometimes identified as its closest competitor.
147. The CMA considers that, given the phrasing of the question ('name your top 5 competitors'), a ranking was implied but was not explicit, and some respondents may have listed competitors in a different order. Importantly, Cannon is listed far more frequently overall than any competitor besides PHS.

⁴¹ Rentokil response to RFI 1, Appendix 24.1, slide 49. Rentokil carried out the same survey in 2016, with similar results.

- *Internal documents*

148. Rentokil's 2017 strategy update on the washroom market included details on how Rentokil views its competitors.⁴² In an overview of the market, it states that there are [0-5] 'major' suppliers: [REDACTED]; [0-5] additional 'national' [REDACTED]; and '[80-100]' (unspecified) regional suppliers.
149. The document refers to PHS as '[REDACTED]', and sets out in significant detail recent developments at PHS in terms of its new products and initiatives, its marketing, its senior staff and other employees, its recruitment, its employee satisfaction and its operations structure. It also indicates that PHS [REDACTED].
150. Cannon is described as '[REDACTED]', and is discussed less extensively but still in some detail. It is described as being [REDACTED].
151. A similar level of detail is provided on Cathedral. However, Cathedral is described as [REDACTED]. This suggests that, although Cathedral is a national washroom specialist supplier, it is not a strong competitor for national customers.
152. Cannon did not provide any internal documents showing its views on competition in washroom services. However, it did provide a document in which the financials of the 'top 8' competitors (including itself) were benchmarked.⁴³ Besides Rentokil, PHS and Cannon, this list included Mayflower, Shorrock Trichem, Healthcare Environmental Services (**HES**, or Healthcare Environmental Group, **HEG**), Nationwide Hygiene Supplies, and NIC Services. Cathedral, the fourth largest national supplier of washroom services, was not mentioned.

- *Third party views*

153. Responses to the CMA's questionnaire showed that PHS is the preferred alternative for almost all of the Parties' customers, with the other Party being the second-best alternative for most customers. A few other alternatives were mentioned by customers as their second or third-best alternatives (ie Berendsen, Nationwide, Zenith and Shorrock Trichem), but not more than once each. In general, local or regional suppliers were named as a third-best alternative.
154. The majority of customers who replied to the CMA questionnaire did not raise concerns about the Merger, although several of these customers said that it

⁴² Rentokil response to RFI 1, Appendix 24.1, slide 7.

⁴³ Cannon response to Enquiry Letter, Appendix C23.1.

would result in a reduction of 3 to 2 national washroom services suppliers. Around a quarter of the customers who replied to the CMA questionnaire raised concerns about the Merger. These customers were generally the larger, national customers of the Parties, which may use the Parties' services in hundreds, if not thousands, of locations across the UK. These customers said that the Merger:

- (a) 'would reduce the number of national providers from 3 to 2', which would reduce choice and competition in the sector;
- (b) 'has the potential to increase prices to customers', since currently 'the 3 large washroom service providers compete on market share / volume of business', but with two providers they may focus instead on the amount of profit that can be made from a site; and
- (c) will mean that customers have less choice the next time they tender since only two national suppliers will remain.

155. Other large national customers were not concerned. These customers said that:

- (a) 'there are a number of alternative providers';
- (b) 'the main competition in [our] last tender was between Initial and PHS – this acquisition would not change that competition'; and
- (c) 'these services only represent a small proportion of our overall FM services'.

156. All the competitors which responded to the CMA's investigation said that Rentokil and Cannon compete closely. Some competitors were concerned about the Merger, and told the CMA that:

- (a) only PHS and the Parties compete for national customers and therefore the Merger would reduce the number of national washroom suppliers from 3 to 2; and
- (b) the Parties would 'close the marketplace up and compete with PHS on the nationwide scale' – with PHS and the merged entity controlling all of the national contracts, 'smaller independent companies [would be] unable to have contact with these companies'. Competitive constraints

157. The CMA has considered the extent to which other suppliers compete with the Parties based on the evidence set out above, ie from estimated shares of supply, tender data, the Rentokil internal survey, internal documents and third party views.

158. PHS is the largest washroom specialist supplying national and regional customers throughout the UK. The CMA notes that PHS:
- (a) has a 50-60% share of supply of washroom services by national washroom specialists, and a 30-40% share of supply of washroom services including all (national and regional) washroom specialists;
 - (b) wins most of the tenders lost by the Parties;
 - (c) was identified as Rentokil's closest local competitor by approximately [50-75]% of Rentokil's internal survey respondents and was in the top 5 for approximately [75-100]%;
 - (d) is described as '[REDACTED]' in a Rentokil internal document; and
 - (e) was the main alternative supplier for most of the Parties' customers who responded to the CMA's questionnaire.
159. Cathedral started as a regional supplier but has gradually become more of a national washroom specialist operator, now covering most of the UK. The CMA notes that Cathedral:
- (a) has a 5-10% share of supply of washroom services by national washroom specialists, and a 0-5% share of supply of washroom services including all (national and regional) washroom specialists;
 - (b) told the CMA that it supplies national customers and tenders for public sector framework agreements but does not appear in the Parties' tender data;
 - (c) was identified as one of Rentokil's 5 closest local competitors by around [25-50]% of Rentokil internal survey respondents;
 - (d) is described in a Rentokil internal document as being 'more local than the big 3', with 'no desire to compete in public sector or for large customers';
 - (e) was not viewed as one of the top 3 alternative suppliers by any of the Parties' customers who responded to the CMA's questionnaire; and
 - (f) was described by some competitors as a regional competitor, or as not having full national coverage.
160. Berendsen is primarily a laundry company, but told the CMA that it also provides washroom services on a national basis. The CMA notes that Berendsen:

- (a) has a 0-5% share of supply of washroom services by national washroom specialists, and a 0-5% share of supply of washroom services including all (national and regional) washroom specialists;
 - (b) told the CMA that it covers the whole of the UK and supplies national customers but does not appear in the Parties' tender data;
 - (c) was identified as one of Rentokil's 5 closest local competitors by only [0-25]% of Rentokil internal survey respondents;
 - (d) is not identified as a close competitor to the Parties in Rentokil's internal documents; and
 - (e) was listed as the third-best alternative supplier by only one of the Parties' customers who responded to the CMA's questionnaire and was not mentioned by any other customers.
161. Mayflower started as a regional supplier in London but has grown to become a national washroom specialist supplier, covering the whole of the UK. The CMA notes that Mayflower:
- (a) has a 0-5% share of supply of washroom services by national washroom specialists, and a 0-5% share of supply of washroom services including all (national and regional) washroom specialists;
 - (b) won one tender in which the Parties participated (for a local customer), and bid on (but lost) one other tender in which the Parties participated (for a national customer);
 - (c) was not listed as one of Rentokil's 5 closest local competitors in the Rentokil 2017 internal survey by any respondent;
 - (d) is not identified as a close competitor to the Parties in Rentokil's internal documents;
 - (e) was not viewed as one of the top 3 alternative suppliers by any of the Parties' customers who responded to the CMA's questionnaire; and
 - (f) was described by a competitor as only a regional competitor.
162. Healthcare Washroom is the washroom services business of HEG, which is primarily a healthcare waste disposal business. Healthcare Washroom advertises a national washroom service. The CMA notes that Healthcare Washroom:

- (a) has a 0-5% share of supply of washroom services by national washroom specialists, and a 0-5% share of supply of washroom services including all (national and regional) washroom specialists;
 - (b) appears in the Parties' tender data (as HES) as one of the winners of a washroom services framework agreement, alongside PHS, the Parties, Pristine and 1st Class Hygiene;
 - (c) was identified as one of Rentokil's 5 closest local competitors by [0-25]% of Rentokil internal survey respondents;
 - (d) is not identified as a close competitor to the Parties in Rentokil's internal documents; and
 - (e) was not viewed as one of the top 3 alternative suppliers by any of the Parties' customers who responded to the CMA's questionnaire.
163. B Hygienic, although listed as a national competitor in the Parties' submission on shares of supply, appears to be only a regional competitor. The CMA notes that B Hygienic:
- (a) does not advertise a national service;⁴⁴
 - (b) has a 0-5% share of supply of washroom services including all (national and regional) washroom specialists;
 - (c) does not appear in the Parties' tender data;
 - (d) was identified as one of Rentokil's 5 closest local competitors by only [0-25]% of Rentokil internal survey respondents;
 - (e) is not identified as a close competitor to the Parties in Rentokil's internal documents;
 - (f) was not viewed as one of the top 3 alternative suppliers by any of the Parties' customers who responded to the CMA's questionnaire; and
 - (g) was described as a large regional supplier by some large national customers, in particular in the Pennines, but with a limited scope to expand, and it was not mentioned by any other customer.

⁴⁴ Rentokil submitted that the testimonials on B Hygienic's website show that it serves customers in Manchester, Newcastle and Buxton. However, the three testimonials on B Hygienic's website appear to all be from customers located within 50 miles of B Hygienic's Stoke-on-Trent head office.

164. Rentokil submitted that, as well as the competitors considered above, the Parties face competition from the following ‘national washroom specialists’:
- (a) Zenith Hygiene;
 - (b) The Independent Washroom Services Association (IWSA), an association of regional washroom specialists which offers services to national customers; and
 - (c) Seven further ‘Tier 2’ national competitors.⁴⁵
165. However, the CMA found that:
- (a) Zenith Hygiene is a manufacturer of cleaning and hygiene chemicals, and it distributes these products on a national basis. It also has a washroom services business, Zenith Washrooms, but it told the CMA that this business operates in [redacted] only and not nationally.
 - (b) The IWSA was not mentioned as an alternative by any of the Parties’ customers and only by one competitor. It [redacted] in the Parties’ tender data, and a national competitor told the CMA that it does not view the IWSA as a viable national competitor.
 - (c) The CMA found that most of the ‘Tier 2’ suppliers identified by the Parties were either not washroom specialists or were not national suppliers, and the others did not appear in customer comments, the Parties’ tender data or Rentokil’s internal survey (apart from one mentioned by one respondent in the internal survey).
166. Overall, with regard to national customers, the CMA believes that this evidence suggests that all competitors other than PHS are weak alternatives to the Parties. Post-Merger, the merged entity would face only one effective competitor, PHS, and several significantly smaller, less effective competitors.
167. With regard to local and regional customers, the CMA currently believes that there are many smaller, local and regional suppliers of washroom services with which the Parties compete (in addition to PHS). However, the Parties remain the second and third largest washroom specialists in the supply of washroom services at the local and regional level. The CMA has found that the Parties are often close competitors to each other at a local and regional

⁴⁵ AM Support Services, Andron Facilities Management, Chatha Hygiene, Complete Washroom Solutions, Greenworks Solutions Limited, Principal Hygiene, and Specialist Hygiene Services.

level too, in particular as shown in Rentokil's internal survey which was focused specifically on regional competition.

Conclusion

168. The CMA believes that the shares of supply, tender data, internal documents and third party views all indicate that the Parties, together with PHS, are each other's strongest competitors in the supply of washroom services by washroom specialists, in particular for national customers but also for regional/local customers. The Parties themselves identify each other and PHS as the 'major' suppliers of washroom services, and this has been confirmed to the CMA consistently by third parties. Other competitors appear to provide a limited constraint on these three suppliers. Based on the evidence available, and taking account of the realistic prospect threshold applicable to a phase 1 review, the CMA believes that the Merger will lead to a reduction from three to two major national suppliers of washroom services.
169. For these reasons, the CMA believes that the Merger will give rise to a realistic prospect of an SLC in the supply of washroom services by washroom specialists to a) national customers in the UK, and b) regional customers in the UK, unless prevented by entry, expansion or countervailing buyer power, which is discussed below.

Healthcare waste collection services

Shares of supply

170. The Parties estimated that they have a combined share of [20-30]% in the supply of healthcare waste collection services to SQGs in the UK, and a combined share of [0-5]% in the supply of healthcare waste collection services to LQGs in the UK.
171. No third party raised concerns as a result of the Merger in the supply of healthcare waste collection services to LQGs in the UK. Given the Parties low combined share of supply in this frame of reference and no third party concerns, the CMA did not investigate this overlap further.
172. For the reasons set out in the discussion of customer segmentation in the frame of reference section above, the CMA narrowed the list of suppliers which it believed to compete with the Parties for national SQG customers. Moreover, the CMA was able to obtain revenue data from many of the Parties' competitors, which differed significantly from the estimates submitted by the Parties.

173. Table 10 presents the CMA’s share of supply estimates.⁴⁶

Table 10: Shares of supply for national suppliers of healthcare waste collection services to SQGs in the UK

Supplier	Revenue £	Share %
Rentokil (Initial)	15,882,306	14 [10-20]
Cannon	13,996,432	13 [10-20]
Parties combined	29,878,738	27 [20-30]
SRCL	[REDACTED]	[30-40]
PHS	[REDACTED]	[20-30]
Sharpsmart	10,850,250	[5-10]
Healthcare Environmental Services	[REDACTED]	[0-5]
Tradebe	[REDACTED]	[0-5]
Harrison Benn	2,377,450	[0-5]
Others	[REDACTED]	[0-5]
Total	111,310,438	100

Source: revenue estimates provided by the Parties adjusted to competitors’ actual revenues, where provided

174. The Parties’ combined share is moderate [20-30%], and similar to the shares of supply of both SRCL and PHS. There are also a number of smaller national suppliers who together account for approximately 20% of the market.

Closeness of competition and competitive constraints

175. The CMA examined the closeness of competition between the Parties and considered whether there are alternative suppliers which would provide a competitive constraint on the merged entity. The CMA considered within its assessment:

- (a) internal documents; and
- (b) third party views.

- *Internal documents*

176. Rentokil provided an internal strategy document on the healthcare waste market from 2017 entitled “Key Competitor Analysis”.⁴⁷ This document lists

⁴⁶ Some of the suppliers the Parties listed as national are excluded because they either told the CMA that they supply on a regional basis ([REDACTED]) or appear from their website to be regional suppliers ([REDACTED]). All suppliers with less than 2% share have been aggregated as ‘others’.

⁴⁷ Rentokil response to Enquiry Letter, Appendix 23.2, slides 23 and 24. This document does not explicitly differentiate between LQG and SQG customers, but the CMA has understood the document to relate primarily to

Rentokil's '[REDACTED]' competitors as [REDACTED]. It summarises recent developments for each of these suppliers, and also discusses products and innovations with the conclusion [REDACTED].

177. This document also included the results of an internal survey, which sought to identify the competitors a) to which Rentokil was losing business; and b) from which Rentokil was winning business. Figures 2 and Figure 3 show the results.

Figure 2: Rentokil losing business to Healthcare waste competitors

[REDACTED]

Figure 3: Rentokil winning business from Healthcare waste competitors

[REDACTED]

Source: Rentokil document 'Key Competitor Analysis'

178. These results indicate that Rentokil's primary competitors in healthcare waste collection are SRCL, PHS and Cannon. Rentokil loses business to [REDACTED] most often, followed equally by [REDACTED] and [REDACTED]; and wins business most often from [REDACTED], followed equally by [REDACTED] and [REDACTED]. Rentokil also loses business to a range of other competitors but less frequently.

- *Third party views*

179. Customers generally told the CMA that there are several healthcare waste management suppliers which are viable alternatives to the Parties, including PHS, SRCL, Tradebe and HES. However, in several cases, only PHS and SRCL were mentioned as alternatives. No customers mentioned either Sharpsmart or Harrison Benn as viable alternatives (which were identified by the Parties' as significant competitors in their share of supply estimates).
180. A few customers raised concerns about the Merger, indicating that it would reduce the number of national suppliers for SQGs, reduce competition and customer choice, and result in increased prices or reduced quality of service. These customers submitted, for example:

competition in the SQG frame of reference as this makes up over 80% of Rentokil's healthcare waste management sales, and the figures on market size and competitor sales included in the document are consistent with Rentokil's submissions on shares of supply for the SQG market.

- (a) 'This is not in the public interest as our main choice for clinical waste is Cannon or Initial and if they merged this will reduce competition, resulting in increased costs and a reduction in quality of service.'
 - (b) 'I believe the clinical, washroom etc needs to be more competitive. The less national providers we have the less choice consumers will have.'
 - (c) 'We feel that there are only really 4 large clinical healthcare collectors – PHS, Cannon, Initial and SRCL. By Initial buying Cannon it massively diminishes competition.'
181. However, most customers did not raise concerns about the Merger, submitting for example:
- (a) "My view is there are enough alternative suppliers in the marketplace for me to undertake competitive tendering exercises."
 - (b) "As I understand Initial and Cannon only provide a collection service and distribute to other companies to dispose of the waste. Therefore, they are not a complete waste disposal unit of which there are fewer in the market."
 - (c) "As we do not currently use these suppliers there will be no impact on our business. There would still be the companies listed above [Tradebe and PHS as well as Parties] to enable us to obtain competitive costings."
 - (d) "Initial Medical Services provide services of high quality [...] At this moment in time we have no intention of moving to another provider."
 - (e) "I think that it may give them a market edge and they may be a more powerful company if they merge. Do I think it's a good idea, I am not sure to be honest".
182. Competitors had mixed views on the impact of the Merger. Some competitors said that the Merger would reduce the number of (major) national competitors for SQGs from 3 to 2. However, some other competitors did not consider that the Merger would have any significant impact on the market.
183. One competitor submitted that integrated collection and disposal companies could not compete effectively with collection-only companies for SQGs because the integrated companies use fleets of large vehicles which are not suitable for efficiently collecting waste from SQGs. However, other competitors submitted that integrated and collection-only firms compete with one another, with the integrated firms having a possible competitive advantage.

- *Conclusion*

184. On the basis of the evidence set out above, the CMA believes that there are sufficient competitors, in particular SRCL and PHS, who will continue to impose sufficiently strong constraints on the Parties post-Merger. For this reason, the CMA believes that there is no realistic prospect that the Merger will result in an SLC in the supply of healthcare waste collection services to SQGs in the UK.

Mats services

Shares of supply

185. Rentokil estimated that the Parties have a combined share of [10-20]% in the outsourced supply of mats services in the UK.

186. To calculate a conservative estimate of the Parties combined share of supply which would apply across all regions, the CMA only included in its estimate national suppliers. Moreover, the CMA was able to obtain revenue data from many of the Parties' competitors, which differed significantly from the estimates submitted by the Parties.⁴⁸

187. Table 11 presents the CMA's share of supply estimates.⁴⁹

Table 11: Shares of supply for national outsourced suppliers of mats services in the UK

Supplier	Revenue £	Share %
Rentokil	[REDACTED]	[10-20]
Cannon	[REDACTED]	[0-5]
Parties Combined	[REDACTED]	[10-20]
Berendsen	[REDACTED]	[30-40]
PHS	[REDACTED]	[20-30]
Johnsons Apparelmaster	[REDACTED]	[10-20]
UK Mats	[REDACTED]	[0-5]
Total	[REDACTED]	100

Source: revenue estimates provided by the Parties adjusted to competitors' actual revenues, where provided

⁴⁸ Actual revenue figures were provided by PHS, Johnsons Apparelmaster and UK Mats.

⁴⁹ One of the suppliers the Parties listed ([REDACTED]) is excluded as it told the CMA that it subcontracts its mats services business to [REDACTED].

Closeness of competition and competitive constraints

188. As indicated by the shares of supply, the Parties face three large national competitors in the supply of mats services: Berendsen, PHS and Johnsons Apparelmaster. All three of these firms are larger than either of the Parties, and Berendsen and PHS are larger than the merged entity. Each of these competitors confirmed to the CMA that they are active in the outsourced supply of mats services on a national basis.
189. In addition, the CMA notes that the increment to Rentokil's share of supply resulting from the Merger is small, as Cannon is a relatively small provider of outsourced mats services.
190. Rentokil's 2016 strategy update includes details on how Rentokil views its competitors for mats services.⁵⁰ In an overview of the market, it states that there are [0-5] 'majors' suppliers: [X]; [0-5] 'national' suppliers: [X]; and [20-30] (unspecified) 'regional' suppliers and [40-50] 'regional laundries'. This would suggest that Cannon provides a limited competitive constraint on Rentokil for outsourced mats services.
191. Several washroom customers of the Parties indicated that they also procured outsourced mats services from the Parties. Most customers did not provide details on alternative suppliers, but none raised concerns in relation to the supply of mats services.
192. One competitor submitted that only the Parties and itself were able to provide a viable mats service to large national customers. However, other competitor responses indicated that there are a number of national suppliers, including PHS, Johnson Apparelmaster, Berendsen and Mayflower.

Conclusion

193. On the basis of the evidence set out above, the CMA believes that, even on the narrowest plausible frame of reference, there are sufficient competitors, in particular Berendsen, PHS and Johnsons Apparelmaster, who will continue to impose sufficiently strong constraints on the Parties post-Merger. For this reason, the CMA believes that there is no realistic prospect that the Merger will result in an SLC in the outsourced supply of mats services in the UK.

⁵⁰ Rentokil response to RFI 1, Appendix 24.1, slide 29.

Barriers to entry and expansion

194. Entry, or the expansion of existing firms, can mitigate the initial effect of a merger on competition, and in some cases, may mean that there is no SLC. In assessing whether entry or expansion might prevent an SLC, the CMA considers whether such entry or expansion would be timely, likely and sufficient.⁵¹ In terms of timeliness, the CMA's guidelines indicate that the CMA will look for entry to occur within two years.⁵²
195. Rentokil submitted that barriers to entry and expansion in the supply of washroom services are low, with entry requiring only:
- (a) access to washroom equipment, which can be manufactured by the entrant or purchased from third parties;
 - (b) access to washroom consumables, which can be manufactured by the entrant or purchased from third parties;
 - (c) access to delivery and collection services, which requires owned/leased vehicles, drivers and an upper-tier waste carrier licence (which is not burdensome or expensive to acquire), or use of third party delivery and collection services; and
 - (d) access to customers, through marketing and business development and/or entry into framework agreements.
196. Rentokil also submitted that entry has become easier and cheaper over the last five years as online marketing has diminished the need for sales staff and physical facilities.
197. The CMA notes that washroom specialists operate branch networks, with fleets of vans and service staff visiting multiple customer sites on a regular basis. Supplier profitability is driven by maximising the number of sites visited on each route and the number of services provided at each site, and minimising the time spent travelling between sites. A lack of customer density therefore results in low margins, meaning that a new entrant has to achieve scale quickly within the local area in which it operates.
198. While the entry requirements submitted by Rentokil may not be insurmountable, the CMA notes that, in order to create customer density, a new entrants would be likely to focus on building up its business in a specific region rather than competing on a national scale. Building national scale

⁵¹ [Merger Assessment Guidelines](#), from paragraph 5.8.1.

⁵² [Merger Assessment Guidelines](#), paragraph 5.8.11.

would be costly and take considerable time, due to the need for local customer densities in each area, and also due to there being low customer switching. Expansion by existing regional suppliers into supplying national customers would also be difficult for these reasons. Rentokil provided three examples of expansion from regional to national supply: Cathedral, HES and Mayflower. However, the CMA found that while they have become slightly more prominent at national level, each of these competitors still has a very small national share of supply and each of them was rarely considered as an alternative to the Parties based on customer responses and tender data.

199. Rentokil also submitted that it expects Berendsen [X]. However, the CMA has not seen any evidence which would support the timeliness, likelihood or sufficiency of Berendsen's [X] to constrain the Parties post-Merger.
200. The CMA notes that the national shares of supply in washroom services have not changed materially since the OFT's decisions in 2012, which also suggests that smaller suppliers have not been able to expand significantly.⁵³
201. For the reasons set out above, the CMA believes that it cannot rely on entry or expansion to be timely, likely and sufficient to prevent a realistic prospect of an SLC as a result of the Merger.

Countervailing buyer power

202. In some circumstances, the ability of customers to use their negotiating strength to prevent a merged firm from increasing prices may make an SLC less likely to occur. If all customers have such countervailing buyer power, an SLC is unlikely to occur. If only some customers have countervailing buyer power, the CMA considers the extent to which the buyer power of these customers may be relied upon to protect all customers.⁵⁴
203. Rentokil submitted that:
 - (a) FM companies are sophisticated buyers with tremendous buyer power resulting from the volumes they procure, and they will continue to enjoy this buyer power post-Merger; and
 - (b) large national customers also have significant buyer power, as they are substantial businesses and effective negotiators, and could sponsor

⁵³ OFT decision *Completed acquisition by PHS of Direct Hygiene Limited*, 7 February 2012; OFT decision *Completed acquisition by PHS of Albany Facilities Limited and Capital Hygiene Service Limited*, 12 January 2012.

⁵⁴ [Merger Assessment Guidelines](#), from paragraph 5.9.1.

expansion by the Parties' rivals if the Parties raised prices or degraded the quality of their services.

204. However, although many of the Parties' national customers are large businesses, the CMA does not believe that they will have sufficient buyer power to prevent an SLC post-Merger. This is because:
- (a) they will only have two effective national suppliers to choose between (the merged entity and PHS), which will significantly reduce their negotiating strength;
 - (b) no individual customer has a significant share of the Parties' total sales;
 - (c) direct national customers are unlikely to sponsor expansion, as washroom services is a relatively small cost to an individual customer – so spending time and resources sponsoring expansion is unlikely to be worthwhile; and
 - (d) even if some customers did have countervailing buyer power, this would not protect other customers from price increases since prices are negotiated individually for large customers.
205. The CMA notes that local and regional customers are even less able to exercise countervailing buyer power, since they will typically be significantly smaller in scale than national customers.

Third party views

206. The CMA contacted many customers and competitors of the Parties.
207. Third party comments have been taken into account where appropriate in the competitive assessment above.

Conclusion on substantial lessening of competition

208. Based on the evidence set out above, the CMA believes that it is or may be the case that the Merger gives rise to the realistic prospect of an SLC as a result of horizontal unilateral effects in the supply of washroom services by 'washroom specialists' to national customers in the UK, and to regional and local customers in the UK. The CMA has not found significant competition concerns in relation to the supply of Healthcare Waste Services and Outsourced supply of mats services in the UK.

Decision

209. Consequently, the CMA believes that it is or may be the case that (i) a relevant merger situation has been created; and (ii) the creation of that situation has resulted, or may be expected to result, in an SLC within a market or markets in the UK.
210. The CMA therefore believes that it is under a duty to refer under section 22(1) of the Act. However, the duty to refer is not exercised⁵⁵ whilst the CMA is considering whether to accept undertakings⁵⁶ instead of making such a reference. Rentokil has until 25 June 2018⁵⁷ to offer an undertaking to the CMA.⁵⁸ The CMA will refer the Merger for a phase 2 investigation⁵⁹ if Rentokil does not offer an undertaking by this date; if Rentokil indicates before this date that it does not wish to offer an undertaking; or if the CMA decides⁶⁰ by 2 July that there are no reasonable grounds for believing that it might accept the undertaking offered by Rentokil, or a modified version of it.
211. The statutory four-month period mentioned in section 24 of the Act in which the CMA must reach a decision on reference in this case expires on 18 June 2018. For the avoidance of doubt, the CMA hereby gives Rentokil notice pursuant to section 25(4) of the Act that it is extending the four-month period mentioned in section 24 of the Act. This extension comes into force on the date of receipt of this notice by Rentokil and will end with the earliest of the following events: the giving of the undertakings concerned; the expiry of the period of 10 working days beginning with the first day after the receipt by the CMA of a notice from Rentokil stating that it does not intend to give the undertakings; or the cancellation by the CMA of the extension.

Sheldon Mills

Decision maker, Senior Director, State Aid

Competition and Markets Authority

18 June 2018

⁵⁵ Section 22(3)(b) of the Act.

⁵⁶ Section 73 of the Act.

⁵⁷ Section 73A(1) of the Act.

⁵⁸ Section 73(2) of the Act.

⁵⁹ Sections 22(1) and 34ZA(2) of the Act.

⁶⁰ Section 73A(2) of the Act.