

Ausurus Group Ltd and Metal & Waste Recycling

Supplementary provisional findings report
relating to the London region

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 Some numbers have been replaced by a range.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

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1. Purchase of waste scrap metal in the London region

- 1.1 This document sets out our revised provisional findings on competition in the purchase of waste scrap metal in the London region. In our Provisional Findings report, published on 4 June 2018, we provisionally concluded that the Transaction had resulted, or may be expected to result, in an SLC in the purchase of ferrous and non-ferrous metals (other than shredder feed) in the London region.¹ Since then we have received additional evidence from the Parties and from third parties which has caused us to reconsider our estimates of the Parties' market shares, our view of the strength of the competitive constraint provided by other recyclers and our view of the impact of the merger on the route to market for smaller recyclers. In the light of this new assessment, we have now provisionally concluded that the Transaction has not resulted, and may not be expected to result, in an SLC in the purchase of ferrous and non-ferrous metals (other than shredder feed) in the London region.
- 1.2 Any interested person is invited to provide the Inquiry Group with their reasons in writing as to why the provisional findings, which have been reversed, relating to the purchase of ferrous and non-ferrous metals (other than shredder feed) in the London region, should not become final (or, as the case may be, should be varied).
- 1.3 In addition, any interested person is invited to provide the Inquiry Group with their views in writing as to the impact of these revised provisional findings on the appropriateness of the remedies proposed in the [Remedies Notice published on the case page on 1 June 2018](#).

Introduction

- 1.4 This document assesses the likely effect of the merger on competition in the purchase of waste scrap metal in the London region. MWR has two sites in the London region (in Neasden and Edmonton) and EMR has 10 sites that are within 50km of these MWR sites, including a number of EMR sites in surrounding areas of Kent and Essex, and EMR's shredder sites in Tilbury and Willesden, which purchase non-shredder feed as well as shredder feed.
- 1.5 As set out in chapter 6 of our Provisional Findings report (Market Definition):

¹ [Provisional Findings report](#), 4 June 2018.

- (a) the product market is the purchase of ferrous and non-ferrous metal other than shredder feed; and
 - (a) the geographic market is based on the 50km catchment areas around the Parties' London sites ('the London region'). We have considered competition across the whole region, calculating market shares by summing across all of the site-level catchment areas, but where relevant, we have also looked separately at the competitors around individual sites belonging to the Parties.
- 1.6 The theory of harm that we consider in this document is that the loss of competition between EMR and MWR could lead to less choice for suppliers of waste scrap metal in the London region. This loss of competition in purchasing could lead to a worsening in terms offered to suppliers in London including in the form of lower prices or other worsening in the Parties' quality of service offer.
- 1.7 In our provisional findings report, we provisionally concluded that the Transaction had resulted, or may be expected to result, in an SLC in the purchase of ferrous and non-ferrous metals (other than shredder feed) in the London region. We said that our provisional SLC finding was based on:
- (a) The Parties' high combined market shares ([40-50%]) and the material increment to this provided by the acquisition of MWR ([5-10%]) – the merger brings together the two largest purchasers in the region (with EMR by far the largest) in a region where other metal recyclers handle much smaller volumes;
 - (b) Evidence that both Parties were important in providing an onward route to market for smaller recyclers who themselves lack necessary processing equipment or export capabilities – we considered that this indicated both that the Parties are close competitors and that smaller recyclers are a weaker constraint;
 - (c) Weak constraints from other recyclers - our detailed assessment of the other competitors in the region pointed towards some level of constraint from competitors, but all purchased lower volumes than the parties, and many were distant from the areas where the Parties' catchments overlap, or relied on EMR and MWR as an important route to market rather than having their own direct routes. The remaining competition therefore appeared to us unlikely to be sufficient to constrain the Parties post-merger, especially given the Parties' significant role as a route to market for smaller recyclers; and

(d) High barriers to entry in London for a site or sites which would provide an equivalent constraint to the independent processing and exporting capabilities and capacity that would be lost by the acquisition of MWR's London sites and assets.²

1.8 We also said in our provisional findings report that not all of the evidence on the closeness of competition between the Parties pre-merger pointed towards a strong constraint from MWR on EMR. In particular, the supplier survey results suggested limited diversion between the Parties and that the level of concern among (non-shredder feed) suppliers was quite low, with the latter also reflected in responses that we received directly from large suppliers. However, we were of the view that the evidence that EMR is the strongest metal recycler in the region by far is clear, so the loss of even a limited constraint from MWR, the second largest recycler in the region, caused concern.³

1.9 Since the publication of the provisional findings report, additional evidence from the Parties and from third parties has caused us to reconsider our findings, in particular in the following three areas:

(a) First, purchase volume data in relation to two additional metal recyclers (London City Metals and Southwark Metals) and in relation to an additional competitor site in the region (Sims' Sheerness site) has resulted in our estimate of the Parties' combined share falling to [30-40%], with an increment of [5-10%].

(b) Second, on our assessment of individual competitors, EMR has argued that we had not given sufficient weight to the competitive strength of some metal recyclers, including those whose processing capabilities and site locations made them as strong competitors as MWR had been. With the addition of new information in relation to London City Metals, we identified six metal recyclers in the region with annual total purchase volumes between [X] and [X] tonnes, of which five had annual non-shredder feed purchases in excess of [X] tonnes - compared to MWR's pre-merger purchases in the region of [X] tonnes per year.

(c) EMR drew particular attention to our analysis of routes to market for other metal recyclers, pointing out that MWR had sold the majority of its volumes to EMR ([50-60%]) and a further [20-30%] to other metal recyclers, and, as such, did not have a significant advantage over smaller metal recyclers in the constraint that it provided to EMR, as many of these

² [Provisional Findings Report](#), paragraph 9.106.

³ [Provisional Findings Report](#), paragraph 9.107.

sold a smaller share of their volumes to EMR. In addition, EMR argued that MWR had not provided a route to export or final UK customers for a significant number of other metal recyclers pre-merger, and that these recyclers had other routes to market available to them. This led us to reassess our provisional findings in relation to the constraints imposed by MWR and by those metal recyclers that supplied some of their volumes to the Parties.

- 1.10 This chapter first sets out the Parties views on competition in the London region. It then sets out our assessment. This considers the market shares of the Parties and other metal recyclers in the London region, the closeness of competition between the Parties, and the competitive constraint provided by other metal recyclers in the London region. Finally, it sets out our revised provisional conclusion on the effect of the merger on competition in the London region.

Parties' views on the purchase of waste scrap metal in the London region

- 1.11 The Parties – in submissions made before and after the publication of our provisional findings - put forward five main arguments in relation to the competition that they face in the London region, as set out below.
- 1.12 First, they argued that they face a large number of competitors in London – 18 in total in the Greater London area and nine significant competitors even on a narrower basis, including BFA, S Norton and Van Dalen.⁴ The Parties also listed those competitors that they considered to be 'at least as effective a competitor as MWR in terms of capabilities and who have additional spare capacity', as being Sims, S Norton, BFA, ASM, Benfleet and H Ripley.⁵ In support of their argument that they face a high degree of competition, the Parties submitted evidence from a log of telephone calls made by commercial staff that deal with buying from suppliers which they said indicated that suppliers used competitors to negotiate better prices.⁶
- 1.13 Second, they argued that the market shares that we had calculated were overstated, with a number of competitor sites excluded.⁷ In particular, the Parties pointed out that our market share calculations did not reflect volumes purchased at sites where the relevant volumes were not captured in the

⁴ [REDACTED]

⁵ [REDACTED]

⁶ [REDACTED]

⁷ [REDACTED]

Environment Agency data set.⁸ As a result, in their view, our estimate was likely to understate the size of the market by around [40-50%].⁹

- 1.14 Third, the Parties' submitted analysis of spare capacity at competitor sites in the London region, which they argued was significant and was sufficient to constrain them from decreasing prices paid for waste scrap metal post-merger.¹⁰
- 1.15 Fourth, while they acknowledge that large sites suitable for processing waste scrap metal may not be readily available in central London, they argued that opening a feeder site and transporting waste scrap metal to a processing site outside central London was a viable mode of entry. They submitted that EMR's modelling of its own transport costs pointed to the 'very low cost' of transporting waste scrap metal over significant distances.¹¹ They argued that the ease of entry is supported by Environment Agency data showing that 381 new site permits or exemptions were granted in the last three years,¹² and pointed to recent examples of rapid expansion by a number of competitors.¹³
- 1.16 Fifth, the Parties argued that, even if they were to decrease prices to suppliers below a competitive level, this would have a pro-competitive impact, as effective competition downstream in sales of scrap metal would lead to the lower prices being passed on to customers.¹⁴ They argued that, if our theory of harm is that input prices may be reduced, then it must weigh the loss of rivalry in the purchasing market against the expected increase in competition on the downstream (sales) side. The Parties also argued that it was unclear the extent to which reduced scrap prices and the consequent loss of revenue for suppliers of waste scrap metal would result in increased costs for the supplier and submitted that this 'cannot feasibly be the subject of this merger assessment'.¹⁵
- 1.17 In response to our Provisional Findings report, EMR provided further arguments on the points it had raised regarding the strength of the competitive constraint from MWR and other recyclers and on the market shares that we had calculated, and it responded to our provisional conclusion

⁸ As set out in Appendix D, the Environment Agency collect data on volumes at licensed metal recycling sites, but not all sites require a licence, with some smaller sites operating under a T9 exemption

⁹ [REDACTED]

¹⁰ [REDACTED]

¹¹ [REDACTED]

¹² [REDACTED]

¹³ The examples cited included Sims's entry into London using a new dock site at Sheerness and S Norton's expansion at its Barking dock site. They also cited examples of smaller operators (such as Scrap Co, London City Metals, Bryan Hirst, Total Waste Management and London Metal Recycling) expanding in London in recent years, including through acquisitions of existing sites. [REDACTED]

¹⁴ [REDACTED]

¹⁵ [REDACTED]

that competitors are reliant on MWR for a route to market. EMR also, argued that we had failed to take account of evidence that indicates that the level of concern among suppliers regarding the merger is low, did not give due weight to the efficiencies that it considers can be expected to arise from the merger, and provided new evidence in relation to barriers to entry.

- 1.18 First, EMR argued that we had overstated the competitive constraint that MWR provided and understated the competitive constraint provided by other metal recyclers. It argued that based on site locations, processing capabilities, dock facilities and routes to market, MWR did not represent a 'strong competitive force relative to other competitors'.¹⁶ It also noted that the shear at Edmonton suffered a technical disruption and has not been operational since 30 April 2018 and argued that this had not resulted in a noticeable impact on volumes at EMR's sites in the way that would be expected if EMR were providing a strong constraint on MWR Edmonton.¹⁷
- 1.19 In relation to other competitors, it argued that we had dismissed competitors either without providing a clear and compelling rationale for doing so or when suppliers had indicated that they were strong or viable.¹⁸ EMR's response set out detailed comments on the characteristics that we had described as being required to compete with EMR and on individual competitors¹⁹ and these are discussed in the relevant sections below. EMR also pointed to four additional competitors (Southwark Metals, Nationwide, Scrap Co, and Ampthill) which should be considered, based on site locations, processing equipment, survey evidence and some evidence of their purchase volumes.²⁰ EMR further submitted that we had not sufficiently taken the significant amount of spare capacity at competitor sites into account when assessing the strength of competitors.²¹
- 1.20 Second, EMR reiterated that it considered that the market shares that we had calculated in our provisional findings were overstated. In particular, it argued that, given our focus on the purchase of ferrous and non-ferrous grades other than shredder feed, the market shares should exclude shredder feed, which (based on shares presented in our provisional findings report) results in the Parties' combined share falling from [40-50%] to [40-50%].²² It also highlighted the arguments it had previously made regarding sites for which we

¹⁶ EMR response to provisional findings report, paragraph 2.12.

¹⁷ EMR response to provisional findings report, paragraphs 2.8 to 2.10 and Appendix 2.

¹⁸ EMR response to provisional findings report, paragraph 2.3.

¹⁹ EMR response to provisional findings report, paragraphs 2.17 to 2.42.

²⁰ EMR response to provisional findings report, paragraph 2.42 and Annex 2.

²¹ EMR response to provisional findings report, paragraphs 2.50 to 2.53.

²² EMR response to provisional findings report, paragraph 2.5.

did not have volume data.²³ It said that taking account of these factors gave a combined market share of [40-50%] and an increment of [5-10%], and argued that these shares would not give rise to prima facie competition concerns.²⁴

- 1.21 Third, EMR disagreed with our provisional conclusion that competitors are reliant on MWR for onward sales or a route to market. It pointed out that MWR did not have ‘a unique route to market in the London region’ with over three quarters of its volumes being sold to EMR and other metal recyclers.²⁵ EMR argued that MWR was not in a stronger position than other metal recyclers in this regard and that MWR was ‘simply an intermediary’ rather than a route to market, with [X] % of its sales going through routes that other metal recyclers could also readily access.²⁶
- 1.22 Fourth, EMR also argued that the survey evidence on supplier views had not been given appropriate weight. In particular, EMR argued that the reasons for exercising caution in interpreting the survey that we had set out in relation to tendered contracts in the West Midlands were far less valid, if at all, in relation to the Parties’ suppliers in London²⁷ and we had not explained or shown how EMR could feasibly identify and discriminate between small suppliers (which the survey showed were unaffected by the merger) and large suppliers (which we believed had fewer alternatives).²⁸ EMR highlighted that the ‘vast majority of the respondents to the survey [were] either pro-merger or neutral’ about it and that respondents had pointed to a ‘wide range of competing alternatives many of which are explicitly identified by suppliers as equally close or closer competitors to EMR than MWR.’²⁹
- 1.23 Finally, EMR highlighted that Southwark Metals has recently opened a new site in London and indicates on its website that its aim is to have three sites strategically placed around south London within the next 18 months, which, EMR argued, indicated that sites can be accessed in the London area.³⁰

Our assessment

- 1.24 This section considers the evidence in relation to:

²³ EMR response to provisional findings report, paragraph 2.6 – subsequently amended in [X].

²⁴ EMR response to provisional findings report, paragraph 2.7 – subsequently amended in [X].

²⁵ EMR response to provisional findings report, paragraph 2.12.4.

²⁶ EMR response to provisional findings report, paragraphs 2.13 to 2.14.

²⁷ EMR response to provisional findings report, paragraphs 2.57.

²⁸ EMR response to provisional findings report, paragraphs 2.56

²⁹ EMR response to provisional findings report, paragraphs 2.54 and 2.55.

³⁰ EMR response to provisional findings report, paragraphs 2.61 and 2.62.

- (a) The market shares of the Parties and other metal recyclers in the London region;
- (b) Closeness of competition between the Parties pre-merger; and
- (c) Competition from other metal recyclers in the London region.

Market shares

1.25 In our provisional findings report we presented market share figures for metal recyclers based on their overall purchase volumes across all grades of ferrous and non-ferrous metals. These indicated that EMR's market share was [40-50%], MWR had [5-10%] and the Parties' combined share was [40-50%]. As a sensitivity, we also calculated market shares based on volumes that excluded shredder feed purchases at shredder sites for those metal recyclers that operated shredder sites in the London region, as this purchasing activity is part of the separate market for the purchase of shredder feed. Based on this approach, we estimated that EMR had a [30-40%] share of these purchases, while MWR's share was [5-10%], giving the Parties a combined share of [40-50%]. As the Parties have argued, market shares based on volume data that excludes shredder feed would more closely reflect the product market that we have defined, so the market share data presented in this consultation document reflects non-shredder purchases only, to the extent that third-party responses have allowed us to calculate these for all competitors. We also note, however, that there are likely to be economies of scope that arise from purchasing a range of different grades of waste scrap metal, so our analysis below also takes account of metal recyclers' overall volumes.

1.26 In this consultation document, our provisional market shares for the London region have changed for three reasons:

- (a) First, as noted above, we have calculated market shares that exclude shredder feed purchased by metal recyclers that operate shredders in the region (ie all shredder feed purchases by these recyclers rather than just those purchases made at shredder sites);³¹
- (b) Second, we have also excluded shredder feed purchases from the market shares presented for other metal recyclers, even those that do not

³¹ These adjustments affect: EMR, as it operates two shredder sites in the region and purchases shredder feed at its other sites too; MWR, as it purchases some shredder feed at its London sites; Van Dalen, as it operates a shredder site at Dagenham, and Charles Muddle, as it operates a shredder site in West Sussex.

operate a shredder, as our focus here is on competition between the Parties and other metal recyclers for non-shredder-feed purchases;³² and

- (c) Third, we have received volume data in relation to two additional metal recyclers (London City Metals and Southwark Metals), accounting for additional competitor volumes of approximately [X] tonnes per year in the London region, as well as data on purchase volumes at an additional site for an existing metal recycler (Sims' dock site at Sheerness), which accounts for just under [X] tonnes. In all, these additional purchase volumes add approximately [0-5%] to competitors' market shares in the London region.

1.27 Our estimates of market shares based on purchasing volumes for non-shredder feed grades are set out in Table 1, below. EMR has a [30-40%] share and MWR has [5-10%], giving a combined share of purchases of [30-40%].

³² For some metal recyclers, this has been possible based on their responses, eg [X] and [X] do not operate shredder in the region and purchase minimal or no shredder feed in the London region. For others, this has been based on their sales of shredder feed to the Parties, eg [X], [X].

Table 1: Volume shares of waste scrap metal purchases in the London region, 2017

	<i>Number of sites in the London region</i>	<i>Total Volume Purchased (MTs)</i>	<i>Share of Purchases (%)</i>	<i>Volumes excluding shredder feed (MTs)</i>	<i>Share of non-shredder feed purchases (%)</i>
EMR	10	[REDACTED]	[40-50%]	[REDACTED]	[30-40%]
MWR	3	[REDACTED]	[5-10%]	[REDACTED]	[5-10%]
Parties Combined	13	[REDACTED]	[40-50%]	[REDACTED]	[30-40%]
Sims	[REDACTED]	[REDACTED]	[0-5]%	[REDACTED]	[5-10%]
S Norton	[REDACTED]	[REDACTED]	[0-5]%	[REDACTED]	[5-10%]
Benfleet	[REDACTED]	[REDACTED]	[0-5]%	[REDACTED]	[0-5]%
London City Metals	[REDACTED]	[REDACTED]	[0-5]%	[REDACTED]	[0-5]%
ASM	[REDACTED]	[REDACTED]	[0-5]%	[REDACTED]	[0-5]%
Total Waste Management	[REDACTED]	[REDACTED]	[0-5]%	[REDACTED]	[0-5]%
LKM Metals	[REDACTED]	[REDACTED]	[0-5]%	[REDACTED]	[0-5]%
The Remet Company	[REDACTED]	[REDACTED]	[0-5]%	[REDACTED]	[0-5]%
BFA Recycling	[REDACTED]	[REDACTED]	[0-5]%	[REDACTED]	[0-5]%
Scrap Co	[REDACTED]	[REDACTED]	[0-5]%	[REDACTED]	[0-5]%
H Ripley & Co	[REDACTED]	[REDACTED]	[0-5]%	[REDACTED]	[0-5]%
Southwark Metals	[REDACTED]	[REDACTED]	[0-5]%	[REDACTED]	[0-5]%
ELG Haniel Metals	[REDACTED]	[REDACTED]	[0-5]%	[REDACTED]	[0-5]%
Nationwide	[REDACTED]	[REDACTED]	[0-5]%	[REDACTED]	[0-5]%
Other processing sites	46	496,397	19%	358,263	17%
Total	83	2,682,244	100%	2,078,597	100%

Source: Parties, competitors, and Environment Agency data [REDACTED].

Notes:

1. Total volumes purchased exclude inter-depot purchases for the Parties.
2. Number of sites for MWR includes MWR Edmonton, MWR Neasden and MWR Pinns Wharf. [REDACTED].
3. "Volumes excluding shredder feed" exclude shredder feed for the Parties and all competitors.
4. Number of sites in the London region includes competitor sites that are within 50km of one of the Parties' London region sites based on straight-line distances.

1.28 Any loss of competition that results from this merger is between the two largest metal recyclers in the London region. They both operate sites with a range of processing equipment, both purchase substantial volumes from other metal recyclers and both export directly from the London region, although we note that MWR directly exports a far lower share of its purchases ([REDACTED]) than EMR does ([REDACTED]). As such, our focus is on competition between recyclers with substantial processing capabilities and a range of routes to market, as any loss of competition at this level of the supply chain also feeds through to weaker competition between recyclers operating feeder sites. This is because many of these smaller recyclers sell on to the larger recyclers for further processing and in order to access export markets or UK final customers.

1.29 The Parties submitted that their estimated shares are overstated because there are many sites identified by us for which we do not have volume data. They argued that sites that fall outside the EA data submission requirements (T9 exempt sites) do not necessarily handle small volumes and their exclusion

is likely to overstate the Parties' position.³³ As set out in detail below, our competitive assessment covers a large number of competitors, including those that the Parties have referred to as being similar to MWR. As we noted in our provisional findings report, we accept that there is likely to be a long tail of small metal recyclers and merchants that will account, in aggregate, for non-trivial purchase volumes, but the scale, lack of processing capabilities and the less attractive routes to market open to these firms mean that they are unlikely to impose a material constraint on EMR post-merger.³⁴

Provisional conclusions on market shares

1.30 We have provisionally found that the Parties have a combined market share of [30-40%], with the merger resulting in an increment of [5-10%] to EMR's market share. Our estimate of the Parties' combined market share has decreased by [5-10] percentage points compared to the figures presented in our provisional findings report. This was driven by the exclusion of additional shredder feed purchases from our calculations as well as the inclusion of two additional competitors (London City Metals and Southwark Metals) and an additional site for another competitor (Sims). While these figures need to be interpreted with a degree of caution,³⁵ it remains the case that the Parties are the two largest purchasers of scrap metal in the London region, with EMR being by far the largest, while the next largest players have somewhat lower volumes than MWR.

Closeness of competition between the Parties pre-merger

Characteristics of the Parties' site networks in the London region

1.31 As set out below, the evidence indicates that EMR and MWR were close competitors pre-merger, based on them being the two largest purchasers in the London region, the proximity of their site locations in north London and their processing capabilities. In relation to their routes to market, as set out below, while both exported directly from the London region (or had the capacity to do so)³⁶ and provided a route to market for smaller recyclers, MWR was in a much weaker position than EMR in this regard and made the majority of its sales to other metal recyclers for sale or export.

1.32 In assessing the closeness of competition between the Parties, we first note that there is no other competitor of comparable size to EMR operating the

³³ [REDACTED]

³⁴ [Provisional Findings report](#), paragraph 9.24.

³⁵ [Provisional Findings report](#), paragraphs 9.16 to 9.21.

³⁶ [REDACTED]. EMR response to provisional findings report, paragraph 2.12.3, footnote 13.

region (Table 1, above). While still somewhat smaller than MWR, there are six metal recyclers with annual total purchase volumes in the regions of 85,000 to 140,000 tonnes present in the London region – five of which have non-shredder feed purchases in excess of 70,000 tonnes per year. Table 2, below, compares the characteristics of the Parties’ site networks in the London region – setting out site-level purchase volumes and values, processing and dock facilities, site surface areas, and the distances between EMR and MWR sites.

Table 2: Parties’ sites in the London region

Parties’ sites	Export facilities	Processing equipment	Purchases at site		Total value (£)	Surface area of site (acres)	Distance from MWR sites (km)	
			Total Volume (MTs) (Shredder Feed)	Total Volume (MTs) (Non-Shredder Feed)			Edmonton	Neasden
EMR sites								
Boreham			[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	44	60
	Container (Non-Fe Only)		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]		
Brentford Canning Town		Shear	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	23	9
	Container	Shear, baler	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	11	18
East Tilbury		Shredder (Fe Only)	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	35	47
Erith		Shear	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	23	32
Mitcham		Shear	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	26	19
Rochester			[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	46	56
	Deep-sea dock (Fe Only)		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]		
Tilbury Dock			[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	32	43
Wandsworth		Shears	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	17	12
Willesden	Container	Shredder	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	16	3
MWR sites								
Edmonton	Container	Shear, Granulator	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	0	15
Neasden			[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	15	0
Pinns Wharf	Short-sea dock		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	14	24
Parties combined			[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	-	-

Sources: [REDACTED].

Notes:

1. Volumes and values exclude inter-depot trade.
2. Distances are straight-line, rather than road distances.
3. Total Value includes purchases of shredder and non-shredder metals.

1.33 Based on the site-level information set out in Table 2, above, we have provisionally found that:

- (a) First, while EMR clearly has very large overall purchase volumes and an extensive site network (with six of its ten sites accounting for substantial

purchase volumes of non-shredder feed - above [X] tonnes per year), MWR's Edmonton site also attracts a high volume of purchases;

- (b) Second, there was a high degree of overlap between the Parties' sites, with all of EMR's sites within 50km of MWR's Edmonton site, while three EMR sites are located within 20km of the Edmonton site;
- (c) Third, as set out in Chapters 6 and 7, processing capabilities are an important determinant of a metal recyclers' ability to compete for purchase volumes and we note that MWR's Edmonton site has a shear, as do five of EMR's sites in the region;
- (d) Fourth, we note the large surface area of MWR's Edmonton site (6 acres), as well as that of a number of EMR sites, which is relevant to current capacity and scope for expansion, given the barriers to entry for a large processing site in the London region; and
- (e) Finally, given that having direct routes to market, especially for exports, is also an important determinant of a metal recyclers' ability to compete, we note that the Parties both operate docks in the region, although EMR's deep-sea dock puts it in a much stronger position than MWR and other operators of short-sea docks.

1.34 As set out in our assessment of the competing metal recyclers in the London region, below, for a number of these characteristics, MWR is not uniquely similar to EMR, with, eg, a number of other competitors operating sites close to EMR's sites, several competitor sites with comparable processing capabilities, and a number of other recyclers operating short-sea docks in the region.

1.35 In assessing where we expect the merger to be most likely to have an impact, we provisionally found that:

- (a) Although we use 50km volume catchment areas to derive market share estimates, we also recognise the challenges of transport in London, which means that competitive constraints may not be uniform across the whole catchment area. Where some suppliers within these catchment areas have high numbers of competitors to choose from, any bargaining power these suppliers have as a result does not constrain the Parties in relation to individual price negotiations with other suppliers, eg those that are located in a part of the catchment area with fewer competing recyclers, or that would incur higher transport costs in switching to alternative sites;

- (b) Survey results indicated that location is the most important factor for suppliers in choosing a site in London,³⁷ while the second most common reason for a supplier ruling out a particular competitor site is distance;³⁸ and
- (c) Some third-party views on the distances over which competition took place in the London region indicated that waste scrap metal arising within the M25 tended not to travel to sites outside the M25, due to traffic congestion and a lack of processing facilities and final customers within a reasonable distance of London.³⁹

1.36 Based on these factors – and taking into account the volumes, equipment and locations of the Parties’ sites - we would expect the loss of competition to have the greatest impact on suppliers to the Parties’ sites in north and east London, in particular the MWR site at Edmonton and the EMR sites located closest to this.

1.37 The Parties argued that our assessment should focus on the loss of constraint from MWR and, from that point of view, there are a number of other metal recyclers in the London region that provide a constraint on EMR that is an equivalent or stronger constraint than that provided by MWR pre-merger.⁴⁰ The Parties’ views on particular competitors are set out below, as are their arguments in relation to routes to market, but in relation to the characteristics discussed in this section, EMR argued that:⁴¹

- (a) On site locations, there are six metal recyclers in London with an equivalent or greater number of sites than MWR, all of which are within 17km of an EMR site, with three located closer to EMR sites than the MWR sites are;
- (b) On processing capabilities, EMR argued that there are seven competitors in the London region with processing capabilities equivalent to or greater than MWR’s one shear and one baler; and
- (c) On dock facilities, EMR pointed out that MWR’s Pinns Wharf short-sea dock was only used on [✂] occasions in 2017, which accounted for

³⁷ CMA Survey Report, Figure 14. Question 11a.

³⁸ CMA Survey Report, Table 9.

³⁹ [✂]

⁴⁰ EMR response to provisional findings report, paragraphs 2.11 to 2.16.

⁴¹ EMR response to provisional findings report, paragraph 2.12.

export volumes of [REDACTED].⁴² The Parties submitted that at least seven competitors in London have access to dock facilities.⁴³

Direct evidence on the closeness of competition between the Parties

- 1.38 The Parties submitted two pieces of evidence that, they argued, pointed towards the lack of constraint from MWR on EMR, and the importance of competition from other metal recyclers.
- 1.39 First, in support of their argument that they face a high degree of competition, the Parties submitted evidence from a log of telephone calls made by commercial staff that deal with buying from suppliers at a number of EMR sites, including in London, in February to April 2018.⁴⁴ They argued that these approximately 1,200 telephone calls captured evidence of the high degree of competitive pressure that EMR faces. The call logs showed that EMR competed against 92 competitors for waste scrap metal across the country and that “competitive pressure” was identified as a common reason for EMR increasing its price offer to suppliers, and for business lost. The Parties found that in [REDACTED]% of calls, suppliers use competitors to apply competitive pressure (named competitors in [REDACTED]% of cases), with EMR losing the supply in about half of these cases. The logs also showed that although EMR won the supply in [REDACTED]% of cases, it was forced to raise prices in [REDACTED]% of cases.
- 1.40 Second, in response to our provisional findings report, EMR submitted data on daily purchase volumes at a number of its sites in the London region.⁴⁵ EMR explained that the shear at MWR’s Edmonton site had suffered a technical disruption from late April 2018 onwards and that, if EMR’s sites provided a strong constraint on MWR Edmonton, then we would expect to observe an increase in EMR’s purchase volumes at its nearby sites that also operated shears.⁴⁶ Based on data on EMR purchase volumes at its sites at Canning Town, Wandsworth and Erith (the three closest EMR sites excluding its shredder site at Willesden), EMR concluded that there had been no noticeable impact on its volumes at these sites in the six weeks following the start of the disruption.
- 1.41 In relation to the call logs, we note that:
- (a) The calls took place post-merger, so we may expect that they would underestimate (to an extent) the constraint from MWR, if suppliers

⁴² EMR response to provisional findings report, paragraph 2.12.4, footnote 13.

⁴³ EMR Response to provisional findings, Annex 1, Table 1, [REDACTED].

⁴⁴ [REDACTED]

⁴⁵ EMR response to provisional findings report, paragraphs 2.8 to 2.10, and Appendix 2.

⁴⁶ EMR response to provisional findings report, paragraph 2.9.

perceived little benefit in comparing prices from sites under the same ownership;

- (b) These calls related to purchases at nine EMR sites in the London region, but that for five of these sites the number of calls was less than 5;
- (c) The competitors identified more than once are Crow Metals, H Ripley & Co, Sims, Remet, Benfleet, S Norton and LKM, which are included in our market share calculations; and
- (d) These calls also confirm the extent to which prices and terms are set on the basis of bilateral negotiation, allowing EMR to adapt its offer in response to different levels of competition relating to different suppliers.

1.42 In relation to the Edmonton shear outage:

- (a) MWR initially told us that the shear was down from the 26th of April onwards and was expected to be back in use on the 7th or 8th of July, implying six weeks of disruption.⁴⁷ However, this was delayed and the shear is expected to be back in use from the 23rd of July onwards.⁴⁸
- (b) MWR initially told us that it was still buying material for shearing from suppliers that it had previously purchased from in order to keep their business, but then selling it on (without a margin) to other metal recyclers, including S Norton and EMR.⁴⁹
- (c) In a follow-up response, MWR stated that, in addition, to the shear outage, the entire site was being concreted (which is now complete) and it was anticipated that the site would not be fully functional again until the middle of July. MWR stated that suppliers 'will have sold their materials to one or more of MWR's competitors, and this volume of purchases has been lost to MWR ... MWR has no knowledge of who it is being sent to.'⁵⁰
- (d) Our own analysis of EMR's transaction data sought to isolate EMR purchases of grades that needed to be sheared and did not detect a discernible change in purchase volumes for these grades at EMR's sites at Canning Town, Erith or Wandsworth, though there was some evidence of an increase at Brentford.⁵¹

47 [REDACTED]
48 [REDACTED]
49 [REDACTED]
50 [REDACTED]
51 [REDACTED].

- 1.43 While we have not conducted a detailed assessment of shearing volumes at the Parties' sites, this evidence appeared to support EMR's view that there is limited competition between the Parties in the purchase of material for shearing.

Third-party views

- 1.44 We have summarised below the comments received from third parties relevant to an assessment of the impact of the merger on competition in the purchasing of scrap metal in the London region. These include comments from both suppliers of scrap metal and other metal recyclers, as well as respondents to the supplier survey.⁵² As set out below, third parties comments are mixed, with some suppliers and competitors expressing concerns, whilst others were unconcerned.

Suppliers' views

- 1.45 The responses we received from suppliers fell into two categories:
- (a) those that were unconcerned, due to the lack of perceived constraint from MWR pre-merger or the availability of alternative recyclers; and
 - (b) those that were concerned about the effect of the merger in reducing competition, including explicit mention of purchase prices falling.
- 1.46 Among those suppliers that were unconcerned, two main reasons were given:
- (a) The availability of a number of alternative suppliers: For example, FCC Environment, a large waste management firm, were unconcerned, as EMR accounted for a small proportion of its scrap sales and it used a number of other metal recyclers already: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED]. [REDACTED] listed a number of alternatives – S Norton, Sims, Total Waste Management, Southwark Metals, BFA Recycling, Benfleet – but noted that these were not used at present as to do so would incur higher haulage costs. Similarly, [REDACTED], another [REDACTED], was unconcerned as it had ASM and Capital Metals as options.
 - (b) The view that MWR could not provide the national coverage that they needed and so had not constrained EMR in competing for their supplies

⁵² Summaries of third party representations and the supplier survey can be found on [the case page](#) of our website.

pre-merger. A number of large national suppliers – [REDACTED] and [REDACTED]- were unconcerned, as a result.

- 1.47 A number of suppliers that were concerned pointed to EMR’s strong position in the market and explicitly referred to the risk that the merger would lead to lower prices for suppliers,⁵³ including a number of respondents to the supplier survey,⁵⁴ although we note that only a small minority of respondents expressed concern about the merger.⁵⁵

Other metal recyclers’ views

- 1.48 Other metal recyclers’ views, as the Parties have argued, must be interpreted in the context that many metal recyclers are both competitors and suppliers to the Parties. Comments from other metal recyclers on competition between the Parties and the likely effect of the merger fell into three groups.
- 1.49 First, a number of metal recyclers expressed concern at the lack of choice that they would have for selling on their scrap metal, with suppliers of shredder feed being particularly concerned,⁵⁶ although these are less relevant to our assessment of competition for the purchase of non-shredder feed.⁵⁷ [REDACTED] and [REDACTED] took the view that the merger would reduce competition, while, in their survey responses, [REDACTED] and [REDACTED] explicitly expressed the concern that prices would be forced down, as did [REDACTED], noting that MWR used to compete against EMR, but since the acquisition the price had been affected.⁵⁸
- 1.50 Second, a number of other metal recyclers raised the concern that the increase in the size of EMR would result in smaller metal recyclers finding it increasingly difficult to compete, as EMR would be able to offer higher prices, eg:
- (a) [REDACTED] made this point [REDACTED];⁵⁹
- (b) LKM was concerned that, even though it did not think it had been in direct competition with MWR (due to its location), the growth of EMR would

⁵³ [REDACTED]

⁵⁴ [REDACTED]

⁵⁵ Among respondents at EMR sites, 4% expected a negative impact of their business, while 19% thought it would be positive (with 63% neutral and 15% ‘Don’t know’), while for MWR sites 10% were negative about the merger compared to 25% positive (53% neutral and 13% ‘Don’t know’). CMA Survey Report, Figure 29.

⁵⁶ [REDACTED]

⁵⁷ [REDACTED]

⁵⁸ We note that evidence of an actual merger effect generally represents strong evidence of a loss of competition from the merger. As set out throughout our assessment of competition in the London region, the evidence base is mixed with much of the survey evidence and supplier views pointing towards little impact from the merger, while other evidence, eg., market shares, points towards an SLC. We have assessed this evidence in this context.

⁵⁹ [REDACTED]

make EMR an even more aggressive competitor - targeting the smaller recyclers that supplied LKM and paying above-market prices to attract those volumes and limit the size of LKM;⁶⁰

(c) [REDACTED];⁶¹ and

(d) [REDACTED].⁶²

- 1.51 Third, concerns were expressed that EMR and MWR enjoyed particular advantages in the London region – site network, large, efficient processing facilities and the lack of competition from other large metal recyclers – which gave them a strong position. [REDACTED] expressed concern that the Parties’ strong position in shredding in the broader region, as well as EMR’s deep-sea docks, meant that they faced little effective competition in the London region. [REDACTED] was concerned that the merger puts EMR in a ‘dominant’ market position and sees another independent supplier being taken over by EMR.⁶³
- 1.52 The Parties have argued that where the views of suppliers that are also metal recyclers are sought we should exercise caution in interpreting these, as many of these firms are also the Parties’ competitors.⁶⁴ We have borne this in mind and note that a number of the metal recyclers’ concerns related to an expectation that the merged firm could pay more (rather than less) for waste scrap purchases post-merger. Where the concern relates to the difficulty competitors would have in matching prices that the Parties would be able to pay for waste scrap metal (or from their inability to do so prior to the merger), rather than a concern that a loss of competition would result in lower prices being paid to suppliers, there is less immediate concern about detriment arising from the merger.⁶⁵
- 1.53 We note that not all of the views expressed by metal recyclers were necessarily specific to purchasing in the London region, with a number of national players (eg [REDACTED]) expressing views about EMR’s position nationally and across different levels of the supply chain.
- 1.54 We also note that a minority of the metal recyclers that replied to our supplier survey in the London region (and Hitchin) were concerned about the merger, with nine out of 33 expressing concern.

⁶⁰ [REDACTED]

⁶¹ [REDACTED]

⁶² [REDACTED]

⁶³ [REDACTED]

⁶⁴ [REDACTED]

⁶⁵ However, we note that concerns could arise in the long term if competition were sufficiently weakened such that the Parties no longer had an incentive to pay higher prices in order attract purchases of waste scrap metal.

1.55 Various metal recyclers named specific competitors to the Parties, but with differing views as to the effectiveness of these competitors as a constraint on the Parties:

- (a) [REDACTED] stated that EMR's nationwide coverage put it in 'an extremely strong position' in purchasing across all grades, with 'probably only Sims' having comparable coverage. However, it added that national coverage was not necessarily required to be competitive, with 'many strong independent companies still operat[ing] on a regional basis who would be able to handle the volumes of scrap that the Parties currently handle';⁶⁶
- (b) [REDACTED] listed Van Dalen and S Norton as viable competitors [REDACTED];⁶⁷
- (c) [REDACTED] did not consider itself to be a 'realistic competitor' to the Parties in the London region,⁶⁸ and argued that the Parties' combination of deep-sea docks, shredders and their network of feeder sites meant that they 'dominate' the area within the M25, as the cost of transporting scrap out of London makes other recyclers uncompetitive;⁶⁹
- (d) [REDACTED],⁷⁰ [REDACTED]⁷¹

Supplier survey

1.56 Based on our commissioned survey, responses from suppliers to EMR sites in the London region did not point towards a strong constraint from MWR. When asked about which alternative site suppliers would divert to if the EMR site they had used were to close⁷² two respondents that named an alternative gave an MWR site as that next best alternative, while 79 mentioned another known third party.⁷³ When asked explicitly whether an MWR site was a viable alternative,⁷⁴ 28 of the 173 EMR suppliers (ie 16%) that were asked this question responded that an MWR site was a viable alternative.

1.57 As set out below, many of the other metal recyclers received a similarly weak response in our survey. S Norton, which, based on purchase volumes appears to be a very relevant competitor, was also not mentioned as an alternative when suppliers were asked where they would divert to if the EMR site in question were to close. Prompted responses for S Norton were also not

⁶⁶ [REDACTED]

⁶⁷ [REDACTED]

⁶⁸ [REDACTED]

⁶⁹ [REDACTED]

⁷⁰ [REDACTED]

⁷¹ [REDACTED]

⁷² [CMA Survey Report](#), Questions 20b and 22b.

⁷³ [CMA Survey Report](#), Table 6.

⁷⁴ [CMA Survey Report](#), Question 23b.

very substantial, with only 24 out of 165 respondents at EMR sites considering it a viable option. Other recyclers that appeared, based on other evidence, to be likely to be viable alternatives to EMR also received relatively weak survey responses: when prompted, Benfleet was seen as a viable option by 14 out of 87 respondents, LKM by 12 out of 81 and Sims' Aldershot site by six out of 47. We note the high level of responses where suppliers indicated that they did not know what their next best option was or had not heard of what appear (based on volume data and the Parties' views) to be key competitors in the London region.

- 1.58 Looking at the constraint from EMR on MWR – also relevant to our merger assessment – we note that there were only 28 survey respondents who supplied waste metal to the MWR sites in Edmonton and Neasden.⁷⁵ When asked about which alternative site suppliers would divert to if their MWR site were to close, 3 of these chose an EMR site without prompting, while once prompted 14 responded that an EMR site was a viable option.
- 1.59 As set out in more detail in Chapter 7 of our provisional findings report, we have exercised caution in interpreting the results of the survey for a number of reasons including the small sample sizes at many sites, and concerns about the sample not being representative of the population of interest. In relation to the London region responses, we note that:
- (a) Many (although not all) of the respondents to the survey were very small suppliers, that were infrequent users of metal recycling sites, and were primarily interested in convenience;
 - (b) To the extent that there are many small feeder sites that could serve such small, infrequent suppliers, it is not surprising that these suppliers tended not to be concerned about the merger;
 - (c) The small sample of respondents achieved at many sites makes it difficult to draw robust inferences from the results;
 - (d) While the responses from EMR suppliers on the viability of MWR sites as an option indicated a weak constraint from MWR on EMR, the constraint from other competing metal recyclers that was detected in the survey was also weak. This may suggest that these suppliers' responses are not informative of the competitive constraints in the sector in general;

⁷⁵ CMA Survey Report, Table 1.

- (e) The survey suggests EMR provides a relatively stronger competitive constraint on MWR than MWR does on EMR; and
- (f) The generally low level of awareness of competitor sites is consistent both with many respondents being small and infrequent users of these sites, and also with a low level of 'brand' awareness among these suppliers.

1.60 On the other hand, the survey did include some larger suppliers, including other metal recyclers, so the fact that none of these considered MWR as the closest alternative to EMR, is informative and has to be weighed against other evidence on competition between the Parties.

Parties' view on closeness of competition

1.61 The Parties argued that EMR faces a large number of competitors in the London region,^{76,77} many of which are 'at least as effective a competitor' as MWR in terms of capabilities.⁷⁸ In arguing that MWR was not a uniquely close competitor to EMR, EMR pointed out that:

- (a) Based on site locations, processing capabilities, dock facilities and routes to market, MWR did not represent a 'strong competitive force relative to other competitors',⁷⁹ with a number of competitors in the London regions being 'at least as effective as MWR', including Sims, S Norton, BFA, ASM, Benfleet and H Ripley;⁸⁰
- (b) EMR pointed out that MWR did not have 'a unique route to market in the London region' with over three quarters of its volumes being sold to EMR and other metal recyclers,⁸¹ arguing that it was not in a stronger position than other metal recyclers in this regard and that MWR was 'simply an intermediary' rather than a route to market, with [redacted]% of MWR's sales going through routes that other metal recyclers could also readily access;⁸²
- (c) In responding to the assessment of individual competitors that had been set out in the provisional findings report, EMR argued that we had dismissed as ineffective a number of competitors that were as strong or stronger competitors to EMR as MWR was, and pointed to a number of

⁷⁶ [redacted]

⁷⁷ EMR response to provisional findings report, paragraph 2.12.

⁷⁸ [redacted]

⁷⁹ EMR response to provisional findings report, paragraph 2.12.

⁸⁰ [redacted]

⁸¹ EMR response to provisional findings report, paragraph 2.12.4.

⁸² EMR response to provisional findings report, paragraphs 2.13 to 2.14.

reasons why it disagreed with this assessment, as set out in more detail in the relevant section of this consultation document, below.⁸³

Provisional conclusion on closeness of competition

- 1.62 Based on the Parties' common characteristics in terms of site locations, processing capabilities, and the close proximity of their sites in the London region (Table 2), we have provisionally found that they were close competitors pre-merger, but that the constraint that MWR imposed is not especially strong or substantially more effective than that imposed by a number of other metal recyclers. Although, EMR is considerably larger than MWR in terms of purchase volumes and site network, MWR is one of a number of competing metal recyclers in the London region that has the characteristics required to compete directly with EMR, although we note that its importance as an independent route to market for smaller recyclers was limited by its reliance on other recyclers (including EMR) for deep-sea exports.
- 1.63 As set out above, third-party views on the impact of the merger were mixed, although a number of competing metal recycler have emphasised the Parties' strong position in the London region. While a number of third parties in the London region expressed concerns about the merger, many of these related to the Parties' purchase of material for shredding rather than the purchase of other grades, while other suppliers were not concerned. The survey results did not suggest that MWR imposes a strong constraint on EMR currently, although EMR is a constraint on MWR. Only a minority of respondents to the survey expressed concern in relation to the merger.
- 1.64 Overall, we provisionally conclude that much of the evidence pointed towards the Parties being close competitors, but some the evidence – from the survey, supplier views, and MWR's reliance on others for deep-sea exports – indicated that the constraint from MWR was not as strong as we had initially provisionally concluded.

Competition from other metal recyclers

- 1.65 This section sets out the criteria against which we have assessed the Parties' main competitors in the London region, before focussing in detail on nine metal recyclers. As set out below, the evidence demonstrates that the Parties face competition from a number of other metal recyclers, which is likely to be

⁸³ EMR response to provisional findings report, paragraphs 2.17 to 2.25.

sufficient, in aggregate, to replace the competitive constraint lost by EMR's acquisition of MWR.

Criteria for assessing competitive constraint from other metal recyclers

1.66 Based on the evidence that we have on the factors that are important to the competitive dynamics in this industry (as set out in section 7 of our Provisional Findings report),⁸⁴ in order to assess the constraint from the Parties' main competitors in the London region, we firstly present information on competitors in relation to the following criteria:

- (a) Purchase volumes;
- (b) Site locations and their proximity to the Parties' sites, and processing capabilities at those sites;
- (c) Spare capacity; and
- (d) Routes to market, in particular whether each metal recycler has access to its own docks, and whether it has other means of exporting itself or whether it sells a significant proportion of the waste scrap metal that it purchases to other recyclers, including the Parties;

1.67 We then present a summary conclusion in relation to each of the largest individual competitors in London, based on the above criteria as well as information from the survey and from qualitative comments received from metal recyclers, suppliers, and the Parties.

Volumes

1.68 As discussed above, we estimate that the Parties account for [30-40%] of purchases of ferrous and non-ferrous waste scrap in the London region, with EMR being by far the largest metal recycler in the region. While all other metal recyclers are significantly smaller than EMR, we note that there are a number that, while also having lower purchase volumes than MWR's [X] tonnes, do account for substantial purchases. As set out in Table 1, above, six other metal recyclers in the London region have total purchase volumes of between [X] and [X] tonnes: Sims, S Norton, Benfleet, London City Metals, and Total Waste Management, with five of these also making non-shredder feed purchases in excess of 70,000 tonnes per year.

⁸⁴ [Provisional Findings report](#)

Site locations and processing equipment

- 1.69 EMR has argued that a number of competing metal recyclers operate sites that are close to EMR sites.⁸⁵ Given our assessment is focused on whether the loss of the constraint from MWR would lead to an SLC, we are more focussed on those competitors than can impose a constraint on EMR sites in the north and east of London, the locations in which we believe MWR to have most strongly constrained EMR pre-merger. This assessment also takes account of the extent to which these competitors would be likely to constrain MWR's Edmonton site post-merger.
- 1.70 In Table 3 we present overall purchase volumes, site locations relative to the Parties and processing equipment of each of the main metal recyclers. This table focusses on those sites with processing capabilities that are comparable to MWR's Edmonton site, ie those with at least one shear. We also include dock facilities of the main metal recyclers, as these are an important factor in determining their options in getting their scrap metal to market. The table can be compared against the earlier Table 1 which has equivalent data on the Parties' sites.

⁸⁵ EMR response to Provisional Findings report, paragraphs 2.12, 2.25, 2.31, 2.33, 2.38, 2.40.

Table 3: Volume of waste scrap metal purchases at competitors' sites in the London region

<i>Metal recycler</i>	<i>Site location</i>	<i>Dock facilities*</i>	<i>Processing equipment</i>	<i>Purchase volumes of non-shredder feed at site (MTs)</i>	<i>Distance from nearest Party site (km)**</i>	<i>Nearest Party Site (name)</i>	<i>Distance from MWR Edmonton (km)</i>
<i>Competitor sites north of the Thames</i>							
Remet Company	Poplar	None	[X]	[X]	0	EMR Canning Town	11
ELG Haniel	Barking	[X]	[X]	[X]	6	EMR Canning Town	14
S Norton	Barking	Short-sea	[X]	[X]	7	EMR Canning Town	15
London City Metals	Silvertown	Container	[X]	[X]	4	EMR Canning Town	15
BFA Recycling	Uxbridge	None	[X]	[X]	14	EMR Brentford	28
Benfleet	Thurrock	None	[X]	[X]	2	EMR Tilbury Dock	31
Benfleet	Basildon	None	[X]	[X]	14	EMR East Tilbury	39
Benfleet	Benfleet	None	[X]	[X]	16	EMR East Tilbury	43
Total Waste Management ASM	Basildon	None	[X]	[X]	15	EMR East Tilbury	39
Nationwide	Aylesbury	None	[X]	[X]	42	EMR Bedford	59
	Brightlingsea	Short-sea	[X]	[X]	34	EMR Boreham	78
<i>Competitor sites south of the Thames</i>							
Southwark Metals Scrap Co	Peckham	None	[X]	[X]	6	EMR Wandsworth	15
LKM Metals	Erith	None	[X]	[X]	1	EMR Erith	23
Sims	Chatham	Short-sea	[X]	[X]	3	EMR Rochester	48
Scrap Co	Sheerness	[X]	[X]	[X]	17	EMR Rochester	59
Sims	Kent	None	[X]	[X]	26	EMR Rochester	59
Sims	Aldershot	-	[X]	[X]	38	EMR Brentford	61
Sims	Yateley	-	[X]	[X]	40	EMR Brentford	63
LKM Metals	Sittingbourne	-	[X]	[X]	17	EMR Rochester	63
H Ripley	Ashford	(Short-sea at Newhaven)	[X]	[X]	39	EMR Rochester	83

Sources: Volumes provided by the Parties are for the Calendar Year 2017. Competitor questionnaire responses refer to the last financial year. EA Volume Data is for the 2016 calendar year. Removed shredder feed by using questionnaire responses where available; otherwise by removing the volumes of shredder feed sold to the Parties.

Notes:

* Where dock facilities are referred to as 'Deep-sea' or 'Short-sea', this indicates the facilities at the site in question, although some of these recyclers (eg [X] and [X]) operate dock facilities in other regions too. In the case of H Ripley, the Ashford site listed is not a dock facility, but it does operate one relatively nearby (Newhaven, Sussex), though this is outside our London catchment region. Those recyclers where 'None' is indicated refers to those with no dock facilities in the UK.

** Distances calculated by the CMA using postcode information provided by competitors and the Parties, and are based on straight-line, rather than road, distances.

1.71 Based on the information presented in Table 3, we took the view that:

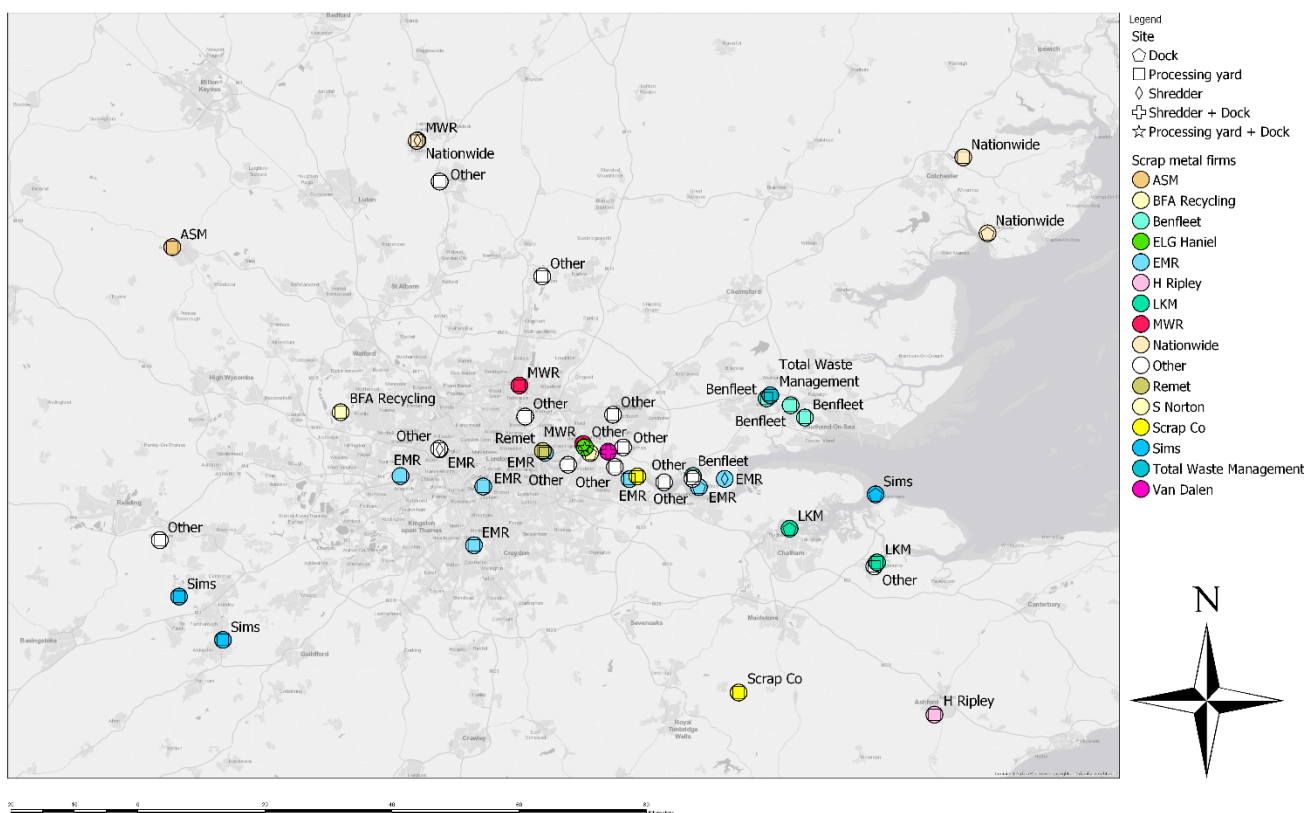
- (a) As the Parties have argued, there are a significant number of competitors in the region with equivalent or greater processing capabilities than MWR,

with almost all of the sites listed above operating a shear, and a number of competitors operating multiple shears;

- (b) A number of competitor sites are located significant distances from the MWR Edmonton, which is where the loss of competition as a result of the merger is likely to be most strongly felt, as set out in more detail below;
- (c) Having said this, we note that a number of these competitors are located close to EMR sites (sometimes closer than MWR Edmonton is), which is likely to affect the strength of the constraint that they impose; and
- (d) We note that some metal recyclers compete for purchases across only a narrow range of grades: [X] (dealt with in chapter 8 of the provisional findings report); and [X], which limits the constraint that it can impose on the Parties' purchasing more generally. However, as EMR has noted, [X] making it an important constraint in this segment of the market.⁸⁶

1.72 Figures 1 and 2, below, present the locations of the processing sites and docks of the Parties and of the main metal recyclers in the region.

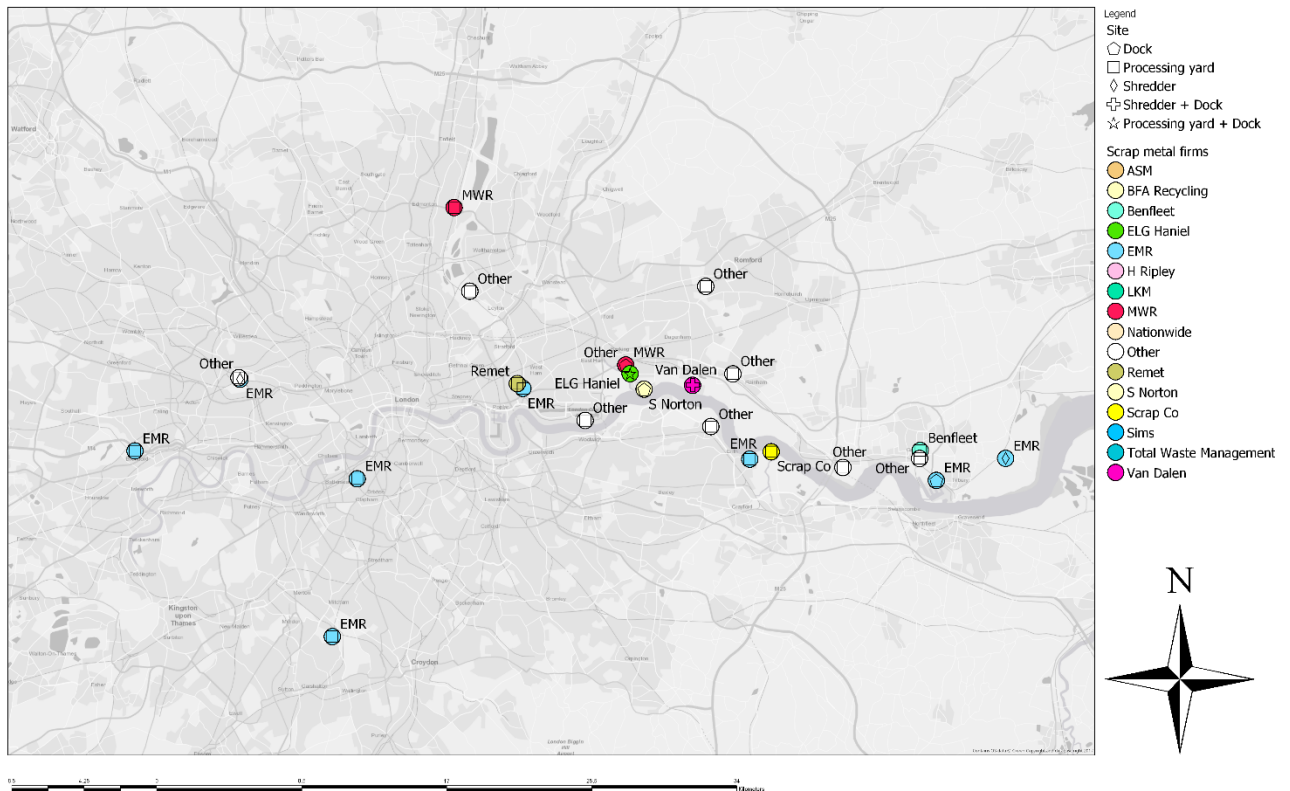
Figure 1: Main Parties and competitor processing sites and docks in the London region



⁸⁶ EMR argued that the Remet Company's non-ferrous purchases were [X] times those of MWR, but our analysis indicates that these are around [X] times the size, with the Remet Company purchasing almost [X] tonnes compared to MWR's 2017 purchases of [X] tonnes at its London sites.

1.73 Figure 1 indicates that the Parties operate a high proportion of the large processing sites in the London region, but that a number of competitors, including those with docks, operate in the broader region. It also shows the concentration of sites – processing and docks on the Thames, as made clearer in Figure 2, below.

Figure 2: Main Parties and competitor processing sites and docks in Greater London and on the Thames estuary



1.74 As is clear from Figure 2, while the Parties have a high proportion of the processing sites in Greater London and neighbouring areas of Essex and Kent along the Thames estuary, there are a small number of competitors with processing sites and docks (S Norton and ELG Haniel), as well as other multi-site (Benfleet) or specialist competitors (Remet in non-ferrous) located within 15km of a site belonging to the Parties. These are quite concentrated in the east and along the Thames estuary, with fewer sites in other parts of the London region.

1.75 As set out in Annex A, we have also looked in more detail at the set of competitor sites⁸⁷ that are located close to each of the Parties' sites in the

⁸⁷ In Annex A, we have included only those sites belonging to competitors with a market share in excess of 2% - equivalent to purchase volumes of non-shredder feed in excess of [X] tonnes.

London region.⁸⁸ As set out in Table A.1, six of EMR's sites are located within 30km of MWR's Edmonton site, as are five main competitor sites – one for each of the Remet Company, London City Metals, S Norton, Total Waste Management and BFA Recycling. A similar pattern is true of MWR's Neasden site, with five EMR sites falling within 30km, while four sites belonging to competitors are located within 30km – these are Remet, London City Metals, S Norton, and BFA Recycling. This indicates the strong constraints that EMR exerts on MWR in London pre-merger, but that multiple other competitors are also located nearby.

1.76 Table A.2 in Annex A presents a similar analysis for EMR's sites in the region. Two main points emerge:

- (a) For a number of these sites, MWR's London sites were not located within 30km and a number of competitor sites were located closer, eg, EMR Rochester, as well as East Tilbury and Tilbury Dock. We also note that the Tilbury sites are a shredder site and a deep-sea dock, so are less relevant to our assessment of competition between MWR and EMR in the purchase of non-shredder feed;
- (b) Focussing on those sites where the loss of the constraint from MWR's Edmonton site is most relevant – those with shears and located within 30km of Edmonton – a number of these also have several competitor sites located within 30km:⁸⁹
 - (i) EMR Brentford has three main competitor sites within 30km, as well as five additional competitor sites (operated by four metal recyclers) within 50km;
 - (ii) EMR Canning Town has five main competitor sites within 30km, as well as five additional competitor sites (operated by four metal recyclers) within 50km;
 - (iii) EMR Erith has nine main competitor sites (operated by six recyclers) within 30km, as well as three additional competitor sites within 50km;
 - (iv) EMR Mitcham has four main competitor sites within 30km, as well as five additional competitor sites (operated by four recyclers) within 50km; and

⁸⁸ This is in line with survey results that location is the most important factor for suppliers in choosing a site in London (paragraph 1.35).

⁸⁹ EMR's Willesden site has not been included here, as it is shredder site with [X], as set out in Table 2, above.

- (v) EMR Wandsworth has four main competitor sites within 30km, as well as six additional competitor sites (operated by four recyclers) within 50km.

1.77 In our detailed assessment of individual competing metal recyclers, below, we take account of the extent to which particular recyclers constrain EMR at different sites across the region.

Spare capacity

1.78 The evidence set out below suggests that there is spare capacity available to many of the metal recyclers operating in the London region. We have two sources of spare capacity estimates: first, the Parties submitted estimates of spare capacity at competitor sites based on data on site surface areas and volumes purchased; and, second, we asked other metal recyclers to estimate the level of spare capacity at their own sites. [REDACTED], [REDACTED], London City Metal, and [REDACTED] did not provide an estimate of spare capacity at their sites. These estimates are summarised, alongside the Parties' estimates based on site surface areas, in Table 4, below.

Table 4: Spare capacity and current total purchases at competitor sites in the London region

<i>Metal recycler</i>	<i>Number of sites in the London region</i>	<i>Purchase volumes in the London region (MT) including shredder fed and other volumes</i>	<i>Spare capacity - own estimate (MT)</i>	<i>Spare capacity – Parties' estimate (MT)</i>	<i>Total Surface Area (Acres)</i>
EMR	10	[REDACTED]	-	-	[REDACTED]
MWR	3	[REDACTED]	-	-	[REDACTED]
Parties Combined	13	[REDACTED]	-	-	[REDACTED]
Sims	3	[REDACTED]	[REDACTED]	-	[REDACTED]
S Norton	1	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Benfleet	3	[REDACTED]	-	[REDACTED]	[REDACTED]
London City Metals	1	[REDACTED]	-	-	[REDACTED]
ASM	4	[REDACTED]	-	[REDACTED]	[REDACTED]
Total Waste Management	2	[REDACTED]	-	[REDACTED]	-
LKM Metals	2	[REDACTED]	[REDACTED]	[REDACTED]	-
The Remet Company	1	[REDACTED]	-	-	-
BFA Recycling	1	[REDACTED]	-	[REDACTED]	-
Scrap Co	2	[REDACTED]	-	[REDACTED]	[REDACTED]
Van Dalen	1	[REDACTED]	[REDACTED]	-	-
Southwark Metals	1	[REDACTED]	[REDACTED]	-	[REDACTED]
Other sites	48	[REDACTED]			-

Source: Spare capacity – Parties' estimate [REDACTED] and current total volume from a mixture of questionnaire responses and EA data.

Note: "Number of sites in the London region" only include sites within 50km of one of the Parties' London sites.

- 1.79 Based on this analysis, there may be spare capacity in excess of [X] tonnes across the sites of S Norton, Sims and LKM, while the Parties' estimates for Benfleet, ASM, Total Waste Management, BFA and Scrap Co would mean an additional [X] tonnes of spare capacity.
- 1.80 EMR argued that there is substantial spare capacity in the region and that this had not been taken into account in our provisional findings report.⁹⁰ EMR argued that we should not discount spare capacity at sites on the basis of their location and that all of the spare capacity identified as being within the London region is relevant to the assessment of the merger.⁹¹ EMR also argued that we had not made a proper assessment of how much spare capacity would be necessary to constrain EMR post-merger and that this should be based on the constraint that is lost by MWR's spare capacity no longer constraining EMR.⁹² It argued that, under any scenario, the spare capacity available at competitor sites is 'significant and sufficient' to achieve this.⁹³
- 1.81 While we agree that, in simple terms, the total identified spare capacity across other metal recyclers' sites is significant and likely to be in excess of MWR's spare capacity at its Edmonton and Neasden sites, it is not possible to come to a definitive conclusion on the constraint imposed on EMR by this spare capacity based on the total numbers alone. Spare capacity is a necessary, but not sufficient, condition and its relevance still depends on whether the metal recyclers that possess spare capacity can effectively replace the constraint from the loss of MWR. In our assessment of spare capacity, we have attempted to determine:
- (a) Whether competitors do in fact have a material level of spare capacity. If they do not, then these competitors could not be considered credible constraints on the Parties post-merger. The evidence suggests that a number of credible competitors possess spare capacity based on their own views (eg S Norton and Sims), but we note that the Parties' estimates have changed over time and appear somewhat high.
 - (b) Whether those competitors with spare capacity also have other characteristics that allow them to constrain EMR, eg site locations and range of grades purchased. This is taken into account in our assessment of individual metal recyclers, below.

⁹⁰ EMR response to provisional findings report, paragraphs 1.5.4, 1.7.4, 2.3.2, 2.46 to 2.49.

⁹¹ EMR response to provisional findings report, paragraph 2.50.

⁹² EMR response to provisional findings report, paragraphs 2.51 to 2.52.

⁹³ EMR response to provisional findings report, paragraph 2.52.

Routes to market

- 1.82 We have assessed the extent to which competing metal recyclers in the region have sufficient routes to market. This informs two questions: whether the loss of MWR removes an important route to market for smaller recyclers; and whether other recyclers have sufficient routes to market to ensure that they can impose a material constraint on the Parties post-merger.
- 1.83 The Parties argued that our assessment of routes to market should take account of the following points:
- (a) First, EMR argued that MWR did not have a unique route to market in the London region, with a high proportion of its volumes being sold to EMR ([REDACTED]%) and other metal recyclers ([REDACTED]%) pre-merger, with [REDACTED]% being sold to traders that export and [REDACTED]% directly to UK customers. It argued that [REDACTED]% of MWR's routes to market were available to competing metal recyclers.⁹⁴
 - (b) Second, EMR argued that MWR is not an important alternative route to market for smaller recyclers, as it sells a high proportion of its volumes to EMR and S Norton for export. EMR argued that MWR was 'simply an intermediary' purchasing [REDACTED]% of its volumes from other recyclers and selling [REDACTED]% of its sales to other UK metal recyclers or traders.⁹⁵ EMR noted that smaller recyclers had many other routes to market, either through their own dock facilities or through larger recyclers other than MWR or EMR.⁹⁶
 - (c) Third, in assessing the constraint from other metal recyclers, EMR argued that we were incorrect to characterise some as being reliant on MWR as a route to market, as none were;⁹⁷ and
 - (d) Finally, EMR argued that each of the metal recyclers assessed in the provisional findings report sold less to EMR than MWR had pre-merger.⁹⁸
- 1.84 We first set out which metal recyclers have their own direct routes to market, eg by operating dock facilities in the region, and then we present evidence on the extent of other metal recyclers' sales to the Parties. The latter informs our view of both the extent which MWR provided a route to market pre-merger,

⁹⁴ EMR response to provisional findings report, paragraph 2.12.

⁹⁵ EMR response to provisional findings report, paragraphs 2.13 and 2.14.

⁹⁶ EMR response to provisional findings report, paragraph 2.13.

⁹⁷ EMR response to provisional findings report, paragraphs 2.3.4 and 2.20.

⁹⁸ EMR response to provisional findings report, paragraphs 2.3.4 and 2.21.

and on the extent to which other metal recyclers are likely to be dependent on the Parties post-merger.

Direct routes to export markets

- 1.85 A number of the main competitors in the London region export directly using their own dock facilities:
- (a) S Norton (which exports most of its UK purchases of scrap metal) operates a short-sea dock at Barking, where it recently expanded its processing capacity, while Sims, also a major exporter, opened a deep-sea dock at Sheerness on the Medway in Kent in 2017;
 - (b) [REDACTED], while Nationwide exports from its short-sea dock facility at Brightlingsea in Essex; and
 - (c) Further from London, we note that H Ripley exports through its own short-sea dock in the Brighton area,⁹⁹ while S Norton exports from its deep-sea dock at Southampton and Sims operates a short-sea dock at Ipswich.¹⁰⁰
- 1.86 While far from comprehensive, we did get some indication of the extent to which some of the smaller metal recyclers are able to access export markets, [REDACTED], and S Norton pointing out that some of the metal recyclers that supply it also export some grades themselves.¹⁰¹

Routes to market provided by MWR pre-merger

- 1.87 Before the merger, MWR purchased significant volumes from other metal recyclers – [60-70%] of its total purchases nationally, equivalent to almost [REDACTED] tonnes in 2017.¹⁰² Its sales, again based on 2017 pre-merger data, were split between EMR ([20-30%]), other metal recyclers ([10-20%]), UK customers ([0-5%]), export ([30-40%]) and UK traders that export ([20-30%]). As such, based on the national figures, it represented an additional route to market for other metal recyclers, as an alternative to selling directly to EMR.
- 1.88 In the London region, its purchases from other metal recyclers accounted for [70-80%] of its purchases – equivalent to annual purchases of over [REDACTED]

⁹⁹ [REDACTED]

¹⁰⁰ [REDACTED]

¹⁰¹ [REDACTED]

¹⁰² CMA analysis of MWR transaction data. The [60-70%] share is based on the 8-month pre-merger period of January to August 2017, with the total purchases for that period increased pro-rata to give an annual equivalent figure.

tonnes in 2017.¹⁰³ Based on transactions at its London sites, the breakdown is somewhat different from elsewhere, with [50-60%] of sales going to EMR and [5-10%] to UK customers, while [10-20%] is exported, [5-10%] is sold to UK traders that export, and [20-30%] is sold to metal recyclers other than EMR. As set out below, these sales included those to metal recyclers that exported all or almost all of these volumes, eg S Norton.

- 1.89 MWR is likely to provide an important route to market for some metal recyclers, as we note that [X] and, [X] supplied a significant proportion of their volumes to MWR, as set out in Table 5, below. EMR has argued that, given MWR sold the large majority of its volumes to other metal recyclers and traders, for many smaller recyclers it is not likely to have provided a unique route to market that they could not access by selling directly to, eg EMR or S Norton in the London region. However, we note that those metal recyclers that do sell to MWR must do so to gain some advantage in accessing customers, eg through MWR greater bargaining power or efficiency when selling the aggregated volumes of many smaller recyclers.

Metal recyclers selling to the Parties

- 1.90 As the Parties both purchase substantial volumes from other metal recyclers, a number of their competitors in the region are, in a sense, reliant on the Parties as a route to market for arisings in the London region.¹⁰⁴ However, we note that most competitors either make no or negligible sales to the Parties (eg Sims, S Norton, BFA) or sell most of their volumes to customers other than the Parties (eg Total Waste Management, LKM). As EMR has argued, our assessment of competitors' reliance on the Parties post-merger should be conducted in the context of MWR's reliance on EMR pre-merger. As set out above, MWR supplied [X] of its volumes to EMR pre-merger, so competing metal recyclers that supply lower volumes to EMR should not be considered to be weaker competitors relative to MWR for this reason.
- 1.91 As set out in Table 5, below, a number of the Parties' competitors in London currently sell a substantial share of their purchases to the Parties. While most competitors use other routes to market for most or all of their volumes, in three cases this is on a scale that suggests the metal recycler would be expected to provide a weaker constraint than MWR:

¹⁰³ CMA analysis of MWR transaction data for MWR Edmonton and MWR Neasden. The [70-80%] share is based on the 8-month pre-merger period of January to August 2017, with the purchases from other metal recyclers for that period increased pro-rata to give an annual equivalent figure

¹⁰⁴ This is the case in relation to [X], [X], [X] and [X], as set out in Table 5, below.

- (a) [X] appears [X] on the Parties, with [70-80%] of its volumes being sold to EMR;
- (b) [X] supplied [X] of its volumes to the Parties; and
- (c) [X] supplied a high proportion of its volumes to the Parties pre-merger, but these were almost exclusively shredder feed, so this is unlikely to be relevant to its non-shredder feed purchasing activity.

Table 5: Extent of competitor sales to the Parties in the London region, 2017

Metal recycler	Purchase volumes in the London region including shredder feed	Sales to MWR			Sales to EMR		
		Shredder Feed	Non-Shredder Feed	% of Purchases	Shredder Feed	Non-Shredder Feed	% of Purchases
Sims	[X]	[X]	[X]	[0-5]%	[X]	[X]	[0-5]%
S Norton	[X]	[X]	[X]	[0-5]%	[X]	[X]	[0-5]%
Benfleet	[X]	[X]	[X]	[0-5]%	[X]	[X]	[50-60]%
London City Metals	[X]	[X]	[X]	[50-60]%	[X]	[X]	[20-30]%
ASM	[X]	[X]	[X]	[40-50]%	[X]	[X]	[10-20]%
Total Waste Management	[X]	[X]	[X]	[10-20]%	[X]	[X]	[0-5]%
LKM Metals	[X]	[X]	[X]	[0-5]%	[X]	[X]	[6-10]%
The Remet Company	[X]	[X]	[X]	[0-5]%	[X]	[X]	[0-5]%
BFA Recycling	[X]	[X]	[X]	[0-5]%	[X]	[X]	[0-5]%
Scrap Co	[X]	[X]	[X]	[0-5]%	[X]	[X]	[0-5]%
Southwark Metals	[X]	[X]	[X]	[0-5]%	[X]	[X]	[70-80]%

Source: Sales to MWR, sales to EMR and Sales to Parties are from Party transaction data. Purchase volumes in the London region sourced from mixture of questionnaire responses and EA data.

† For London City Metals, the sales to Parties include all sales by London City Metals, C&C Metal Trading, and London Scrap Metal Recycling.

Notes:

1. Purchase volumes are for all grades of metal at sites which are listed by the parties as a competitor and are within 50km of one of the Parties' sites.
2. Sales to MWR and EMR are for based on a combination of third-party data on their sales and the Parties' data on their purchases.
3. Sales to MWR are for the pre-merger period, and are then annualised.

1.92 As discussed below in our assessment of the main competitors, this issue is also of relevance to our reassessment of [X], where we have changed our view of its reliance on the Parties, as it sells a lower share of its volumes to EMR than MWR did pre-merger, and a significant proportion of its sales to EMR are shredder feed.

Assessment of competitors in the London region

1.93 In assessing the likely constraint from individual competitors in the region, we have focussed on the following metal recyclers: Sims, S Norton, Benfleet Scrap, London City Metals, ASM Metal Recycling, Total Waste Management, LKM Metals, the Remet Company, and BFA Recycling. This is based on the fact that, after the Parties, these are largest metal recyclers in the London

region as measured by waste scrap metal purchases in the area (Table 1), with all of these having a market share of [0-5%] or more.

Sims

- 1.94 Sims is a large national player with 37 sites nationally, with at least [X] shears, and [X] short-sea and [X] deep-sea dock facilities. In the London region, it operates three sites – a deep-sea dock at Sheerness in Kent (with no processing equipment) and two sites in Hampshire, with processing equipment ([X]) at each. Its purchase volumes of [X] tonnes give it a [5-10%] market share in the region (Table 1).

Site locations

- 1.95 All three of its sites in the region are located approximately 60 km from MWR's Edmonton site. Its two Hampshire sites are located 40 km from EMR's Brentford site, while its Sheerness dock site is 17 km from EMR's Rochester site (Table 3).

Spare capacity

- 1.96 Based on Sims' estimates of the maximum annual capacity at its Aldershot and Yateley sites (both in Hampshire), is likely to have spare capacity in the region of [X] tonnes per year, in addition to its annual purchases of just over [X] tonnes at these sites. While we have no information on the spare capacity at its Sheerness dock, we note that this site is relatively new (opened in April 2017),¹⁰⁵ so is likely to provide Sims with additional spare capacity in the region, although we note that this site does not have any processing equipment.
- 1.97 The Parties did not make an estimate of how much spare capacity Sims might have.

Routes to market

- 1.98 In relation to routes to market, nationally, Sims exports the majority of its volumes and purchases a substantial share of its volumes from other metal recyclers. Its sites in the London region also purchased a high proportion from other metal recyclers – just under [X]% by volume at its Aldershot and Yateley sites in Hampshire – and it purchases significant volumes from metal

¹⁰⁵ [X]

recyclers in the London region, including [REDACTED], [REDACTED] and [REDACTED].¹⁰⁶ Sims' deep-sea dock at Sheerness accounted for purchases in the region of [REDACTED] tonnes, providing a potential route to market for other recyclers in the London region.¹⁰⁷ Sims does not sell scrap metal to MWR or to EMR.

Views of the Parties and third parties

1.99 Sims' own view of the competitive constraint it imposed in the London region was that it was:

not active in the London region in terms of the purchase of waste scrap metal or shredding. Its only presence in the South East is a dock facility in Sheerness in Kent for export and small facilities in Aldershot and Yateley in Hampshire. As such, it is not a realistic competitor for any supplier in the London region. Indeed, a very low proportion of waste scrap metal travels outside of the London region due to factors such as traffic congestion and the lack of sites immediately outside of the area.¹⁰⁸

1.100 However, Sims was considered a strong competitor by a number of recyclers,¹⁰⁹ as well as by seven suppliers. EMR argued that Sims was a strong competitor based on: its estimates of significant purchases by Sims in London, its role in providing a route to market for smaller recyclers, its overall size and strength as a major metal recycler, as well as suppliers' views and survey results.¹¹⁰

1.101 In response to our provisional findings we received a comment from a large London competitor highlighting that the competition provided by Sims had recently increased through expansion at Sheerness, and that it is now an effective competitor in the London region.¹¹¹ However, this competition only related to processed grades of ferrous metal, as [REDACTED].¹¹²

Survey evidence

1.102 Sims was one of the stronger results from the survey, though based on small numbers, with some diversion from both EMR and MWR sites. Its sites at

¹⁰⁶ [REDACTED]

¹⁰⁷ [REDACTED]

¹⁰⁸ [REDACTED]

¹⁰⁹ [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED].

¹¹⁰ EMR response to provisional findings report, paragraphs 2.27 to 2.30.

¹¹¹ [REDACTED]

¹¹² [REDACTED]

Aldershot (6 out of 47) and Sheerness ([redacted]) (8 out of 25) were considered viable alternative by a reasonable proportion of respondents at specific sites.

Provisional conclusion on Sims

1.103 We note that Sims' site locations (relative to MWR's Edmonton site) are not ideally located to replace the constraint on EMR lost by the acquisition of MWR – as shown in Figure 1 and Table 3, all three are outside Greater London, between 59 and 63km from Edmonton. However, its sites are within 50km of several EMR sites. Its [redacted] purchase volumes (around [redacted]% of the size of MWR's purchase volumes) and the role that its Sheerness site (a deep-sea dock which was relatively recently opened in April 2017) is likely to play as a route to market for smaller recyclers mean that it is likely to impose a material constraint on EMR post-merger.

S Norton

Purchase volumes

1.104 S Norton is one of the three large national players (along with Sims and EMR). In the London region it purchases in excess of [redacted] tonnes, giving it a [5-10]% share of purchases (Table 1), and making it the fourth largest purchaser in the London region. Based on its purchases last year, S Norton was around [redacted]% of the size of MWR in the London region.

Site locations

1.105 S Norton has a site in Barking, London which is only seven kilometres from the nearest site of the Parties' and 15km from MWR Edmonton (Table 3).

Processing capabilities

1.106 S Norton has [redacted] processing capability [redacted], with two shears in the London region.

Spare capacity

1.107 S Norton recently installed a second shear at this site¹¹³ and expected to significantly increase the volume of HMS processed at the site – up to [redacted] per year over the next two years, compared to current purchases of [redacted] tonnes.

¹¹³ News story on S Norton website: <http://www.s-norton.com/s-norton-co-shear-investment-doubles-capacity-at-london-site/>

Overall, S Norton considered that it had spare capacity of [REDACTED] tonnes at present purchase volumes,¹¹⁴ but had the potential to [REDACTED] with EA approval.¹¹⁵

Routes to market

- 1.108 S Norton operates three dock sites around the UK - two deep-sea and one short-sea dock – and operates two shredders and five shears. In the London region, it has a short-sea dock and two shears at its site in Barking. It exports most of its UK purchases of scrap metal. It purchases significant volumes from other metal recyclers ([REDACTED]% of its purchases nationally),¹¹⁶ including from MWR pre-merger.¹¹⁷ It does not sell scrap to MWR or to EMR.
- 1.109 In the London region, pre-merger, S Norton bought substantial volumes from MWR for export from its deep-sea dock at Southampton and Barking. [REDACTED] before the merger in 2017¹¹⁸ – which accounted for a [REDACTED] of MWR’s sales to other metal recyclers.

Views of the Parties and third parties

- 1.110 In relation to S Norton’s own view of the competitive constraint it imposes in the London region, it stated that:
- (a) Its Barking site accepts all grades [REDACTED],¹¹⁹ and that it is competitive in purchasing ferrous metal within about [REDACTED] of its Barking site, with transport costs making it ‘impossible to compete with most other recyclers for ferrous grades above that distance’. It also does not compete on [REDACTED] from its Barking site.¹²⁰
- (b) [REDACTED].¹²¹ [REDACTED].¹²²
- 1.111 S Norton was noted as a strong competitor by several other recyclers and a number of suppliers.¹²³

¹¹⁴ [REDACTED]

¹¹⁵ [REDACTED]

¹¹⁶ [REDACTED]

¹¹⁷ [REDACTED]

¹¹⁸ [REDACTED]

¹¹⁹ [REDACTED]

¹²⁰ [REDACTED]

¹²¹ [REDACTED]

¹²² [REDACTED]

¹²³ [REDACTED], [REDACTED], [REDACTED], and [REDACTED], and as viable alternative by one customer and 3 suppliers.

Survey evidence

1.112 In the supplier survey, no respondents at EMR's London region sites considered S Norton their next best option if the EMR site were to close down, although 25 (out of 165) respondents considering it a viable option when prompted - a similar proportion to those EMR suppliers that considered MWR a viable option when prompted (28 out of 173).

Provisional conclusion on S Norton

1.113 Overall, given its current size and spare capacity, and its export and processing facilities, we provisionally conclude that S Norton is likely to be a strong competitor to the Parties.

Benfleet Scrap

Purchase volumes

1.114 Benfleet Scrap has annual (non-shredder feed) purchase volumes of [REDACTED] tonnes,¹²⁴ which give it a [0-5]% share within the region (Table 1).

Site locations

1.115 Benfleet Scrap operates from three sites in Essex – Thurrock, Basildon and Benfleet. Its Thurrock site is only two kilometres from the EMR site at Tilbury Docks. Its sites range from 31 to 43km away from MWR Edmonton.

Processing capabilities

1.116 Each Benfleet Scrap site has [REDACTED] and therefore has processing capability comparable to that of MWR in the London region.

Spare capacity

1.117 Benfleet Scrap did not submit an estimate of its spare capacity. The Parties, however, submitted that they thought Benfleet Scrap had spare capacity of around [REDACTED] tonnes per year,¹²⁵ later increasing this to [REDACTED] tonnes.¹²⁶

¹²⁴ [REDACTED]

¹²⁵ [REDACTED]

¹²⁶ EMR response to provisional findings report, Annex 1, Table 1.

Routes to market

1.118 Benfleet sources [REDACTED]% of its purchases from other metal recyclers, exports [REDACTED]% and sells the remainder to [REDACTED] ([REDACTED], [REDACTED] and [REDACTED]), with EMR buying [REDACTED]% of Benfleet's purchase volumes.¹²⁷

Views of the Parties and third parties

1.119 Benfleet Scrap was considered a strong competitor by [REDACTED], and a viable alternative for one supplier that we had spoken with directly. EMR argued that it was a strong competitor based on: its relatively large size, the fact that it exported more than MWR did and was less reliant on sales to EMR as route to market, its greater site numbers and processing capabilities compared to MWR; the views of a supplier and a competitor; and survey results.¹²⁸

Survey evidence

1.120 In the survey, Benfleet was considered the next best option to the relevant EMR site by 2 respondents, while a further 14 (out of 87) considered it a viable option to the relevant EMR site when prompted, while, among suppliers to MWR sites, 6 out of 22.¹²⁹

Provisional conclusion on Benfleet Scrap

1.121 Benfleet Scrap's sites are relatively well located to replace the competition lost from MWR's Edmonton site. We note that, while [REDACTED]. Also, its export volumes from the London region are [REDACTED] MWR pre-merger. We note the Parties' estimates of its spare capacity. Overall, we considered that it was likely to impose a material constraint on the Parties.

London City Metals

Purchase volumes

1.122 London City Metals has annual purchases of almost [REDACTED] tonnes (excluding shredder feed), giving it a [0-5]% share of purchases (Table 1).

¹²⁷ [REDACTED]

¹²⁸ EMR response to provisional findings report, paragraph 2.31.3.

¹²⁹ CMA analysis of survey results.

Site locations

1.123 London City Metals operates from two sites – one at Silvertown in East London and one at Colindale in Northwest London – and [REDACTED] North [REDACTED].

Processing capabilities

1.124 London City Metals operates a shear at both sites.

Spare capacity

1.125 We have not received any information from London City Metals on its spare capacity. The Parties have estimated that London City Metals has [REDACTED]% spare capacity, implying that it could increase its purchases by over [REDACTED] tonnes.

Routes to market

1.126 London City Metals sells the majority of its purchases to the Parties, with EMR purchasing [REDACTED] tonnes and MWR purchasing over [REDACTED] tonnes.

Views of the Parties and third parties

1.127 London City Metals was considered a strong competitor by [REDACTED], and one supplier¹³⁰ considers it a competitor to the Parties. EMR listed London City Metals as one of the top 6 competitors to EMR's Canning Town site, and pointed to its installation of a new shear within the last 5 years as an example of expansion in London.

Survey evidence

1.128 In the survey, 3 suppliers stated that they would divert to London City Metals. When prompted, 7 suppliers to EMR stated they could use London City Metals (out of 17), and 8 suppliers to MWR stated they could use them (out of 22).

Provisional conclusion on London City Metals

1.129 Based on its site locations and purchase volumes, London City Metals could be a credible competitor, but the fact that it is [REDACTED] suggests that the strength of the constraint could be limited.

¹³⁰ [REDACTED]

ASM Metal Recycling

Purchase volumes

- 1.130 ASM Metal Recycling has annual purchase volumes of [REDACTED] tonnes of non-shredder feed, giving it a [0-5]% share of purchases (Table 1), while we note that its overall purchases were significantly higher at [REDACTED] tonnes per year.

Site locations

- 1.131 ASM Metal Recycling operates four sites near London: at Aylesbury (where it operates two yards, split between handling ferrous and non-ferrous scrap), Kings Langley and Totternhoe. Its closest site to one of the Parties' site is 42km away (and 59km from MWR Edmonton).

Processing capabilities

- 1.132 ASM Metal Recycling has a shear and baler at Aylesbury (Buckinghamshire). Its sites at Kings Langley (Hertfordshire) and Totternhoe (Bedfordshire) are feeder sites.

Spare capacity

- 1.133 ASM Metal Recycling stated that it did not face any capacity constraints, although it did not provide an estimate of the level of its spare capacity.¹³¹ The Parties estimated that ASM Metal Recycling might have spare capacity of [REDACTED] tonnes per year (around [5-10%] of its annual purchase volumes).

Routes to market

- 1.134 ASM Metal Recycling sells [REDACTED]% of its purchase volumes to the Parties, the [REDACTED] of which is shredder feed (which was discussed in the previous chapter).

Views of the Parties and third parties

- 1.135 ASM Metal Recycling was considered a viable alternative to the Parties by one supplier. On its own ability to compete with the Parties, ASM listed its closest competitors to be [REDACTED], but it stated that it found it [REDACTED].¹³²

¹³¹ [REDACTED]

¹³² [REDACTED]

Survey evidence

1.136 In the survey, no suppliers to EMR stated, unprompted, that they would switch to ASM if an EMR site were not available. When prompted, four (out of 37) suppliers to EMR sites said that ASM was a viable alternative.

Provisional conclusion on ASM Metal Recycling

1.137 Given [REDACTED], ASM appears likely to represent only a weak constraint on the Parties.

Total Waste Management

Purchase volumes

1.138 Total Waste Management has purchase volumes of [REDACTED] tonnes, giving it a share of [0-5]% (Table 1).¹³³

Site locations

1.139 Total Waste Management operates two sites in the region, at Basildon and Epping, both in Essex. Its nearest site to one of the Parties is 15km away.

Processing capabilities

1.140 Total Waste Management operates [REDACTED] at its Basildon site.

Spare capacity

1.141 Total Waste Management did not provide an estimate of its spare capacity. The Parties submitted that Total Waste Management's spare capacity is around [REDACTED] tonnes a year (or around [REDACTED]% of its annual purchases in the London region).

Routes to market

1.142 Total Waste Management sells over [REDACTED]% of its purchase volumes to the Parties, including significant volumes to MWR Hitchin. Almost a [REDACTED] of its volumes are exported ([REDACTED] tonnes out of total purchase volumes of [REDACTED]).¹³⁴

¹³³ [REDACTED]

¹³⁴ [REDACTED]

Views of the Parties and third Parties

1.143 Total Waste Management was listed by one supplier as a viable alternative to the Parties. EMR pointed to: Total Waste Management's size and purchase volumes, its lack of reliance on the Parties for routes to market (as it exports almost a quarter of its purchases), its proximity to EMR East Tilbury; its considerable spare capacity; and views of a suppliers, as well as the survey results, as evidence that it imposes a strong constraint on EMR.¹³⁵

Survey evidence

1.144 Total Waste Management got a relatively strong response from the survey, with two respondents at EMR sites considering it their next best alternative and 12 out of 42 respondents considering it a viable alternative when prompted, though based on small sample numbers.

Provisional conclusion on Total Waste Management

1.145 Total Waste Management is likely to be a material constraint on the Parties, given its processing capabilities, site locations, and its relatively low level of current sales to the Parties, although we note its current size, with less than half the purchase volumes of MWR in the London region.

LKM Metals

Purchase volumes

1.146 LKM Metals purchased over [REDACTED] tonne last year,¹³⁶ representing [0-5]% of (non-shredder feed) volumes purchased in the London region (Table 1).

Site locations

1.147 LKM Metals operates two sites in Kent – in Chatham (where is operates a short-sea dock) and at Sittingbourne (Table 3 and Figure 1). Chatham is only three kilometres from the nearest EMR site and Sittingbourne is 17kms away from EMR's nearest site – Rochester in both cases – while they are 50-60km from MWR's Edmonton site.

¹³⁵ EMR response to provisional findings, paragraphs 2.36 and 2.38.

¹³⁶ [REDACTED]

Processing capabilities

1.148 LKM Metals has a [REDACTED] at Chatham and [REDACTED] in Sittingbourne.

Spare capacity

1.149 LKM stated that it had the capacity [REDACTED] of waste scrap metal that it purchased.¹³⁷

Routes to market

1.150 LKM Metals operates a short-sea dock on the Medway, at Chatham. LKM Metals noted the advantage of having its own dock facility in getting better prices and being able to pass these on to its suppliers, in contrast to its position when it supplied to Sims and EMR for export.¹³⁸

1.151 LKM Metals also buys from other metal recyclers. LKM Metals told us that these purchases account for about [REDACTED]% of its purchase volumes.¹³⁹

Views of the Parties and third parties

1.152 LKM Metals itself submitted that it considers its closest competitors to be [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED], while it was itself considered a strong competitor in the purchase of scrap metal by [REDACTED]. LKM provided a number of examples of its competition with EMR for specific suppliers, but did not consider itself a strong competitor, as EMR was willing to outbid it in purchasing from other metal recyclers. EMR argued that LKM was a strong competitor based on: its purchase of significant volumes in London; its greater processing capability compared to MWR; its location close to EMR Rochester; its spare capacity; the fact that it has its own dock and makes minimal sales to the Parties; it having stated that it competes with EMR; and the survey results pointing towards it imposing a similar level of constraint on EMR as MWR does.¹⁴⁰

Survey evidence

1.153 The survey found that 12 out of 81 suppliers at EMR sites considered LKM a viable alternative when prompted.¹⁴¹

¹³⁷ [REDACTED]

¹³⁸ [REDACTED]

¹³⁹ [REDACTED]

¹⁴⁰ [REDACTED]

¹⁴¹ Based on responses from suppliers to EMR sites at Erith, Rochester and Tilbury Dock.

Provisional conclusion on LKM Metals

- 1.154 We provisionally conclude that, despite its export facilities and processing capabilities, LKM Metals' current small size and its distance from the MWR Edmonton site mean that it is likely to represent only a weak constraint on the Parties.

The Remet Company

Purchase volumes

- 1.155 The Remet Company purchased around [REDACTED] tonnes in 2017, giving it a [0-5%] share of purchases of non-shredder feed waste scrap metal in the London region. All of its volumes are in non-ferrous scrap metal. EMR submitted that, in this segment of scrap metal, Remet Company was [REDACTED] MWR.¹⁴² Its purchase volumes were [REDACTED] those of MWR's non-ferrous purchase volumes in 2017.

Site locations

- 1.156 The Remet Company is located in Poplar, London, very close to EMR's site at Canning Town (less than one kilometre away) and 11km from MWR Edmonton.

Processing capabilities

- 1.157 The Remet Company operates a [REDACTED] at its site in Poplar.

Spare capacity

- 1.158 The Remet Company did not submit to us how much spare capacity it has. Further, the Parties did not make any estimates on what Remet Company's spare capacity might be.

Routes to market

- 1.159 EMR submitted that last year Remet Company [REDACTED].

¹⁴² Parties' response to the CMA's provisional findings report, 25 June 2018.

Views of the Parties and third parties

1.160 EMR submitted that the Remet Company is a stronger competitor to EMR in the purchase of non-ferrous scrap metal in the London region than is MWR, as it purchases [X] the volume of non-ferrous metal that MWR purchases. It also pointed to Remet's location very close to EMR's Canning Town site and 11km from MWR's Edmonton site as evidence that it was a strong competitor.¹⁴³

Survey evidence

1.161 Remet received a reasonably strong response from respondents to our supplier survey. When asked if Remet was a viable alternative, 17 out of 99 suppliers to EMR sites responded that it was, while for suppliers to MWR sites the share was 7 out of 22.¹⁴⁴

Provisional conclusion on the Remet Company

1.162 The Remet Company does not purchase ferrous scrap, so we do not consider that it currently constrains the Parties in the purchase of ferrous scrap metal. We do, however, consider that it is likely to provide effective competition in purchases of non-ferrous metals and we note that its purchase volumes are likely to significantly understate its true size in the market, as non-ferrous prices are, on average, significantly higher than ferrous prices on a per-tonne basis.

BFA Recycling

Purchase volumes

1.163 BFA Recycling purchased [X] tonnes of scrap metal last year,¹⁴⁵ giving it a [0-5]% share of purchases (Table 1).

Site locations

1.164 BFA Recycling operates a site at Uxbridge - 14km from the nearest EMR site (at Brentford) and 28km from MWR's Edmonton site (Table 3).

¹⁴³ EMR response to provisional findings report, paragraphs 2.39 to 2.41.

¹⁴⁴ CMA analysis of survey results.

¹⁴⁵ This is based on Environment Agency data for 2016, as BFA Recycling did not respond to the CMA's information requests.

Processing capabilities

- 1.165 According to the Parties, BFA Recycling operates [REDACTED] on this site, but we have not been able to confirm this, as we have not had a response to our information requests from BFA.¹⁴⁶

Spare capacity

- 1.166 BFA Recycling did not submit to us its level of spare capacity. The Parties submitted that they thought BFA Recycling was around [REDACTED] tonnes of spare capacity (or around [REDACTED]% of its total purchases in the London region).

Routes to market

- 1.167 EMR submitted that BFA Recycling sold [REDACTED] to MWR in 2017 (accounting for around [REDACTED]% of BFA Recycling's purchases in the London region) and [REDACTED] to EMR. It would therefore appear that the Parties are not an important route to market for BFA Recycling.

View of the Parties and third parties

- 1.168 BFA submitted that it was unconcerned about the merger, considered the London market to be competitive and did not think that the merger would change that, and took the view that it had a number of options for exporting its materials, including EMR, S Norton in Southampton and Sims in Sheerness.¹⁴⁷ One metal recycler ([REDACTED]) identified BFA as a competitor, as did the Parties, while one supplier also listed it as an alternative to the Parties. EMR argued that BFA was at least as effective a competitor as MWR, pointing to its processing capabilities, [REDACTED] to the Parties, and its significant spare capacity.¹⁴⁸

Survey evidence

- 1.169 We note that the supplier survey identified BFA Recycling as one of the more prominent competitors to EMR sites with 11 out of 39 respondents considering it a viable option when prompted, while among suppliers to MWR sites, one out of six respondents considered it a viable option when prompted.¹⁴⁹

¹⁴⁶ EMR response to Provisional Findings report, Annex 1, Table 1.

¹⁴⁷ [REDACTED]

¹⁴⁸ EMR response to provisional findings, paragraphs 1.7.3, 2.20 and 2.24, and Annex 1, Table 1.

¹⁴⁹ CMA analysis of survey results

Provisional conclusion on BFA Recycling

1.170 Based on limited evidence, but taking account of its location, processing capacity and [redacted] on the Parties, we provisionally conclude that BFA Recycling is likely to impose a material constraint on EMR post-merger.

Other metal recyclers in the London region

1.171 As set out in Table 1, above, there are a number of other metal recyclers in the region, with market shares below 5%, but which may still impose some level of competitive constraint on EMR post-merger. These include:

- (a) Scrap Co, with has a market share of [0-5%] and a relatively strong response in our survey;
- (b) H Ripley, with a market share of [0-5%] in the London region and a shredder and short-sea dock site in Sussex;
- (c) Southwark Metals, with a market share of [0-5%], a relatively centrally-located site, as well as a relatively strong response in our survey, but we note its [redacted]; and
- (d) ELG Haniel, with a market share of [0-5%], a short-sea dock in the London region and a number of other sites in the UK.

1.172 The remaining metal recyclers in the London region account for purchases of almost 360,000 tonnes and a combined market share of 17%. While individually these metal recyclers have small purchase volumes of non-shredder feed in the London region, we note that this may still include some competitors that could, in combination with other recyclers, contribute to the constraint on EMR post-merger.

Provisional conclusion on the competition from other metal recyclers

1.173 While not all competing metal recyclers discussed above are likely to represent strong competitive constraints, we provisionally conclude that, in aggregate, these competitors are likely to exert a sufficiently strong competitive constraint to prevent an SLC. Specifically, we have provisionally found that:

- (a) A strong constraint is likely to come from S Norton ([5-10]% market share), given its nearby location, short-sea dock, [redacted], its importance as a route to market for smaller recyclers, and its likely increase in volumes given its recent expansion and its spare capacity;

- (b) A material constraint is likely to come from:
- (i) Sims ([5-10]% market share), despite its site locations (on the Medway and in Hampshire), given its increasing volumes, its deep-sea dock site at Sheerness, and its importance as a route to market for smaller recyclers;
 - (ii) Total Waste Management ([0-5]% market share) given its processing capabilities, and site locations;
 - (iii) BFA Recycling ([0-5]% market share), based on limited evidence, but taking account of its location, processing capacity and lack of dependence on the Parties as a route to market;
 - (iv) Benfleet Scrap ([0-5]% market share), given its sites are relatively well-located to replace the competition lost from MWR's Edmonton site; and
 - (v) Remet ([0-5%] market share), given its strength in non-ferrous purchases in the region.
- (c) Some level of constraint is also likely from London City Metals ([0-5]% market share) based on its site locations and current volumes, but we note that [REDACTED]; and
- (d) A weak constraint is likely to come from:
- (i) ASM ([0-5]% market share), given its focus on purchasing shredder feed and its processing site location (in Buckinghamshire); and
 - (ii) LKM Metals ([0-5]% market share), given its site locations (in the Kent) and its own view on the limited extent to which it currently constrains EMR in London.

Entry and expansion

1.174 On the basis of the above analysis, we have provisionally concluded that an SLC in the purchase of waste scrap metal in the London region is not likely to arise. Accordingly, an assessment of the barriers to entry and expansion by competing metal recyclers is not necessary. However, as this was an important part of our original provisional finding, we have included our view on this issue in these supplementary provisional findings.

1.175 We have considered whether there would, post-merger, be any significant additional constraint on the Parties provided by the prospect of entry by new rivals or expansion in activities by existing rivals in the London region. In

assessing whether entry or expansion might do so, we consider whether such entry or expansion would be timely, likely and sufficient.¹⁵⁰ Detailed evidence is set out in Appendix E to our Provisional Findings report.¹⁵¹

Parties' submissions

- 1.176 The Parties submitted to us a list of entry and expansion at site level across the UK over the last five years by region. The list included details of any processing equipment¹⁵² installed on site as part of the entry or expansion.
- 1.177 The Parties in their submissions acknowledged that large sites suitable for processing waste scrap metal may not be readily available in central London, but argued that opening a feeder site and transporting waste scrap metal to a processing site outside central London was a viable mode of entry. They submitted that EMR's modelling of its own transport costs pointed to the 'very low cost' of transporting waste scrap metal over significant distances.¹⁵³ They argued that the ease of entry is supported by Environment Agency data showing that 381 new site permits or exemptions were granted in London in the last three years,¹⁵⁴ and pointed to recent examples of rapid expansion by a number of competitors, including [redacted] entry into [redacted] and [redacted] dock site. There have, in addition, been examples of smaller operators such as [redacted], [redacted], [redacted] and [redacted], expanding in the London region in recent years, including through acquisitions of existing sites.¹⁵⁵

Third party submissions

- 1.178 We asked metal recyclers about their future plans for entry and expansion in London:
- (a) None of the potential new entrants suggested by the Parties told us that they were looking to enter in London or the surrounding area.
 - (b) Two other recyclers ([redacted] and [redacted]) told us that they were looking to open or acquire a small site in London or the South East. They told us that they had been looking extensively for large sites in London that would allow them to process scrap metal. However, they told us that they had not

¹⁵⁰ [Merger Assessment Guidelines](#), paragraph 5.8.3.

¹⁵¹ [Provisional Findings report, Appendix E](#).

¹⁵² Balers, shears or shredders.

¹⁵³ [redacted]

¹⁵⁴ [redacted]

¹⁵⁵ [redacted]

found suitable sites and that they had not been able to make firm plans to open in the near future. One of these operators told us that [redacted]).

1.179 We understand that Southwark Metals plans to open a new site in Camberwell within the next three months and that it aims to have ‘three sites strategically placed around South London within the next 18 months’.¹⁵⁶

Environment Agency data

1.180 In addition to receiving submissions from the Parties and third parties, we gathered data from the Environment Agency showing the number of permits or T9 exemptions issued over the last three years.

Our assessment of entry and expansion

Timeliness

1.181 In determining whether entry or expansion into the purchasing of scrap metal in the London region would be timely, we have considered licensing, planning permission and the time required to set up a new site.

1.182 As with our analysis of the timeliness of entry and expansion into the purchase of scrap metal for shredding in the South East of England (see Chapter 8 of our provisional findings report), we have provisionally found that licensing could be obtained in a timely manner, but that obtaining planning permission may prove more difficult. We are not aware of any large processing site in London awaiting planning approval.

1.183 We understand that it could take up to a year (from the point at which an available plot of land is identified) to set up a feeder site or a small to medium-sized processing site, and up to two years to set up a larger site. Given the difficulties in finding available and appropriate sites (see paragraph 1.189 below), the lead time could in fact be longer.

1.184 We think that the difficulties of obtaining planning permission, the time required to set up a new site and the absence of any large processing sites currently awaiting planning approval suggests that entry or expansion into the market is unlikely to occur in a timely manner.

¹⁵⁶ See <http://www.southwarkmetals.co.uk/news>.

Likelihood

- 1.185 In determining whether entry or expansion into the purchasing of scrap metal in the London region would be likely, we have considered recent and potential entry or expansion.
- 1.186 We have found limited evidence of recent entry or expansion into the market. The list of entry and expansion in the UK over the last five years provided to us by the Parties indicates that within London:
- (a) eight new sites were acquired (comprising 6 feeder sites and two sites with a shear or a baler);
 - (b) two sites expanded their processing capability (with a shear).
- 1.187 The Parties have also pointed to recent examples of smaller operators, such as [REDACTED], [REDACTED], [REDACTED] and [REDACTED], expanding in the London region in recent years,¹⁵⁷ as well as the very recent entry of a new metal recycler with a site in Gravesend, operating a shear and a container inverter.¹⁵⁸
- 1.188 The data provided by the Environment Agency data showed that in London between 2015 and 2017, only 13 permits were issued, compared to 146 across the rest of England over the same period.
- 1.189 We consider that much of the evidence provided by the Parties reflects expansion at a small scale. Further, we have also not seen significant evidence to suggest that entry into the London region by opening a feeder site and transporting waste scrap metal to a processing site outside central London is a viable mode of entry. The evidence from third parties indicates that entry into the London region is most likely through the acquisition of sites in the area.
- 1.190 In respect of prospective entry and expansion, although some third parties have told us of their plans to enter or expand in the London region, a number of third parties told us that they were severely constrained by the availability of land and the required planning permission for larger processing sites in London. Both [REDACTED] and [REDACTED] have had difficulty identifying larger sites suitable for processing activities in the London area, despite looking over a long period of time.¹⁵⁹

¹⁵⁷ [REDACTED]

¹⁵⁸ [REDACTED]

¹⁵⁹ Although this theory of harm concerns the purchase of scrap metal in the London region, many scrap metal recyclers, and certainly the larger ones like the Parties, will want processing equipment on site or at least accessible to feeder sites.

1.191 We think that the limited evidence of recent or potential entry and expansion into the market over the last five years suggests that material new entry or expansion is not likely.

Sufficiency

1.192 Given we have provisionally found that material new entry or expansion is neither timely or likely, we do not consider that it is necessary for us to assess whether any such entry or expansion would be sufficient to provide any significant additional constraint on the Parties in the London region.

Provisional conclusion on competition for purchasing in the London region

1.193 Our provisional conclusion on the purchase of ferrous and non-ferrous metals (other than shredder feed) in the London region is that the Transaction has not resulted, nor is it expected to result, in an SLC. Our provisional decision on this market has changed since we published our provisional findings report, where we provisionally concluded that the Transaction had resulted, or may be expected to result, in an SLC.

1.194 That earlier provisional finding was based on our estimate that the Parties' had high combined market shares, and our view that both Parties were important in providing an onward route to market for smaller recyclers and that the constraint from other recyclers was weak because of these recyclers' locations and volumes, and the extent of these recyclers' reliance on the Parties for routes to market. We also found high barriers to entry for sites which would provide an equivalent constraint to MWR.¹⁶⁰

1.195 We also said in our provisional findings report that not all of the evidence on the closeness of competition between the Parties pointed towards a strong constraint from MWR on EMR, eg much of the survey evidence and MWR's lack of a deep-sea dock in the region. In particular, the supplier survey results suggested limited diversion between the Parties and that the level of concern among (non-shredder feed) suppliers was quite low, with the latter also reflected in responses received from suppliers. However, we also drew attention to the fact that EMR is the strongest metal recycler in the region by far, so the loss of even a limited constraint from MWR caused us concern.¹⁶¹

¹⁶⁰ [Provisional Findings Report](#), paragraph 9.106.

¹⁶¹ [Provisional Findings Report](#), paragraph 9.107.

1.196 As set out in this document, since the publication of our provisional findings report, additional evidence from the Parties and from third parties has caused us to reconsider our findings in relation the Parties' estimated shares, and the competitive strength of rivals, including the extent of their reliance on the Parties for routes to market.

1.197 Based on this additional evidence and having reassessed our findings in response to arguments put forward by EMR, our updated provisional conclusion on the purchase of ferrous and non-ferrous metals (other than shredder feed) in the London region is that, on balance, the Transaction has not resulted, nor is it expected to result, in an SLC. As we found in our provisional findings report, not all of the evidence on the likely effect of the merger on competition in the London region pointed in the same direction,¹⁶² and this remains the case, particularly with regard to EMR's strong position relative to other metal recyclers in the region, and in relation to the high barriers to entry in London for a site which would provide an equivalent constraint to that lost by the acquisition of MWR.

1.198 Our revised provisional finding that there has not been, nor is there likely to be, an SLC as a result of the merger, is based on:

- (a) Taking account of volume data for two additional competitors and for an additional competitor site, and adjusting to exclude shredder feed purchases, our estimate of the Parties' combined market share has fallen from [40-50%] to [30-40%], although we note that the increment to this provided by the acquisition of MWR is still material ([5-10%]) and that the merger brings together the two largest purchasers in the region, with EMR by far the largest;
- (b) Evidence that MWR's role in providing an onward route to market for smaller recyclers (that lack necessary processing equipment or export capabilities) is not as important as our previous provisional conclusion found, which has led us to change our view of the competitive constraints that some other metal recyclers are likely to impose, relative to the constraint lost from the acquisition of MWR; and
- (c) Our detailed assessment of the other competitors in the region – taking account of the route to market point, above, the addition of significant competitor volumes, and a number of arguments that EMR has made in relation to specific competitors - now points towards a higher level of

¹⁶² [Provisional findings report](#), paragraph 9.107.

constraint (in aggregate) than we had found in our provisional findings report.

Annex A

Table A.1: Main competitor sites located within 50km of MWR sites

<i>Site</i>	<i><30KM</i>	<i>30KM - 50KM</i>
MWR Edmonton	The Remet Company (1) London City Metals (1) S Norton (1) Total Waste Management (1) BFA Recycling (1) EMR Canning Town EMR Willesden EMR Wandsworth EMR Erith EMR Brentford EMR Mitcham	Benfleet (3) Total Waste Management (1) LKM Metals (1) EMR Tilbury Dock EMR East Tilbury EMR Boreham EMR Rochester
MWR Neasden	BFA Recycling (1) The Remet Company (1) London City Metals (1) S Norton (1) EMR Willesden EMR Brentford EMR Wandsworth EMR Canning Town EMR Mitcham	Total Waste Management (1) Benfleet (1) Sims (2) EMR Erith EMR Tilbury Dock EMR East Tilbury

Notes:

1. This includes competitors with total purchase volumes of non-shredder feed of [X] or greater (above 2% of the share of the non-shredder feed London market), as well as the Parties' sites.
2. Distances are straight-line distances.

Table A.2: Main competitor sites located within 50km of EMR sites

Site	<30KM	30KM - 50KM
EMR Boreham	Total Waste Management (2) Benfleet (2)	Benfleet (1) Sims (1) LKM Metals (2) S Nortons (1) London City Metals (1) The Remet Company (1) MWR Edmonton
EMR Brentford	BFA Recycling (1) The Remet Company (1) London City Metals (1) MWR Neasden MWR Edmonton	S Nortons (1) Sims (2) Total Waste Management (1) Benfleet (1)
EMR Canning Town	The Remet Company (1) London City Metals (1) S Norton (1) Benfleet (1) Total Waste Management (1) MWR Edmonton MWR Neasden	BFA Recycling (1) Benfleet (2) Total Waste Management (1) LKM Metals (1)
EMR East Tilbury	Benfleet (3) LKM Metals (1) Total Waste Management (1) S Norton (1) Sims (1) London City Metals (2) The Remet Company (1)	Total Waste Management (1) MWR Edmonton MWR Neasden
EMR Erith	S Nortons (1) London City Metals (1) The Remet Company (1) Benfleet (3) Total Waste Management (2) LKM Metals (1) MWR Edmonton	Sims (1) LKM Metals (1) BFA Recycling (1) MWR Neasden
EMR Mitcham	The Remet Company (1) London City Metals (1) S Nortons (1) BFA Recycling (1) MWR Edmonton MWR Neasden	Benfleet (1) Total Waste Management (1) Sims (2) LKM Metals (1)
EMR Rochester	LKM Metals (2) Benfleet (3) Sims (1) Total Waste Management (1)	S Nortons (1) London City Metals (1) The Remet Company (1) Total Waste Management (1) MWR Edmonton
EMR Tilbury Dock	Benfleet (3) LKM Metals (1) S Nortons (1) Total Waste Management (1) London City Metals (1) The Remet Company (1) Sims (1)	LKM Metals (1) Total Waste Management (1) MWR Edmonton MWR Neasden
EMR Wandsworth	The Remet Company (1) London City Metals (1) S Nortons (1) BFA Recycling (1) MWR Edmonton MWR Neasden	Benfleet (2) Total Waste Management (2) Sims (1) LKM Metals (1)
EMR Willesden	The Remet Company (1) BFA Recycling (1) London City Metals (1) S Nortons (1) MWR Edmonton MWR Neasden	Total Waste Management (1) Benfleet (1) Sims (2)

Notes:

1. This includes competitors with total purchase volumes of non-shredder feed of [£] or greater (above 2% of the share of the non-shredder feed London market), as well as the Parties' sites.
2. Distances are straight-line distances.