

Re Notice of Supplementary Provisional Findings – Acquisition by Ausurus Group, through its subsidiary European Metal Recycling Ltd of CuFe Investments Ltd

A market participant made a confidential submission to the CMA on 26 July 2018. Below is a non-confidential summary of this submission.

[REDACTED].

[REDACTED].

1.12 We [REDACTED] have very serious reservations that in the area of ferrous metal, with the possible exception of S Norton, there are any competitor in the London Region who are 'at least as effective a competitor as MWR'. We do not understand how you have assessed or tested the claim by the parties that competitors have, capabilities and additional spare capacity as it appears that several potential competitors failed to provide you with details.

We note that there is reference to a log of telephone calls and wonder how the Parties satisfied the CMA as to the nature of the conversations conducted by their commercial staff.

1.13 We do not know what if any evidence the parties were able to provide to substantiate this revision of market share. In any event we would argue that material not captured by Environment Agency data would be likely to relate to small merchants who would not have available routes to market and therefore be ultimately included in the Environment Agency data in any event and probably form part of the volumes declared to the Environment Agency by the parties themselves.

1.14 We are not in possession of the data concerning spare capacity and note that several of the potential competitors failed to provide this data to you. Are you relying on information supplied by the Parties where no response was received and if not how was this calculated? We note for instance such information as is available suggests that several 'possible competitors have additional processing capacity. We would be seriously concerned if the type of equipment currently being operated by smaller merchants in London is determined to represent a serious alternative means of processing to that offered by EMR and MWR. By way of illustration each large fixed shears employed by EMR and the large shear at MWR's Edmonton site are each capable of processing massively more material (greater than 6 times the volume) of the smaller machines. It is our understanding that the majority of shears employed in the London Region other than that by EMR and MWR are either mobile units or old machines not capable of achieving the advertised throughput when new.

1.15 We totally disagree with this argument. Transport costs represent the largest barrier to us when trying to source material, particularly in the London area. The parties do gain a significant advantage due to the number of sites they have in the London Region and there is a significant difference in cost between collecting

material and transporting processed material using larger vehicles. Note 13 at the bottom of page 9 is refuted by us so far as it relates to smaller operators.

1.16 It is generally accepted within the industry that EMR set prices for the whole of the UK metal recycling sector because of their dominance and the markets which they are able to service due to the volumes they can offer end users. If EMR adjust their price the whole of the industry tends to follow. It is normal practice for smaller operators to have conversations with the Parties on a very regular and in some case daily basis. Depending on the level of detail supplied this might reflect in the telephone log referred to in 1.12 above.

1.17 We wonder if the statement 'the level of concern among suppliers regarding the merger is low' is in fact a reflection on the dominance in the market place of the Parties and EMR in particular and an unwillingness among suppliers to fall out with them.

1.18 This assertion would seem to be contrary to the conversations we have with other operators and suppliers and wonder how this assertion has been tested. So far as the shear at Edmonton is concerned it is our understanding that, as is the case with all such plant, there was a need to undertake some major maintenance / relining work (usually done by MWR every year over the Christmas and New year period for 3 to 4 weeks) and EMR directed MWR to carry out this work and additional work in the knowledge that significant quantities of material could be stored on that site and /or be redirected to other EMR sites (some of which will not be London sites) whilst the work was being carried out. It is also believed that significant volumes of material were redirected from MWR sites to EMR sites from the date of acquisition which might reflect in there being no noticeable impact on volumes at EMR sites.

Material that MWR received from west of the M25 and down the M4 corridor which has traditionally been delivered to MWR Edmonton and material from Hertfordshire, Bedfordshire and Essex can all be more easily delivered to an EMR site closer to source but not within the London region.

1.19 It is noted that EMR 'pointed to four additional competitors. We believe that Ampthill should be disregarded as they operate a fragmentiser and their site is almost entirely devoted to that activity. We would suggest that the majority of Nationwide's activity was not within the London area and had a heavy dependency on shredder feed due to the nature of many of their contracts with local and county authorities. We are unable to comment on Southwark metals or Scrapco although we are aware that the latter did deliver a considerable percentage of their material to MWR at Edmonton.

1.21 We would argue that any data supplied for 2017 is of limited value in this case. There were, we understand, specific reasons why MWR started to sell increased volumes to EMR and to a lesser extent S Norton in 2017. We imagine the Parties were discussing the possibility of an acquisition much earlier in the year. We suggest that to have a proper understanding of this area the CMA should consider the sales by MWR for a 2-year period prior to April 2017.

1.23 Given our own experiences we suggest that a stated intention to open new sites on the part of Southwark Metals cannot be relied upon as part of the decision making process in this case.

Generally, we would like to make the following further comments.

- We believe that there has been a significant underestimate by many of the smaller merchants in the London region of the impact of the acquisition on their long-term business. This combined with greater regulation and the likely ceasing of Exemptions (T9 and S2) may result in a significant reduction in the number of operators nationwide, but in London particularly over the next few years.
- We are concerned that the MWR First Avenue Montague Industrial Estate site could be reopened at short notice and would afford the Parties with further capacity.
- That the MWR Neasden site which has been seriously underutilised by MWR in recent years and therefore has significant spare capacity might allow the Parties to change the landscape in West London.