

METAL & WASTE RECYCLING LIMITED

RESPONSE TO THE

CMA'S SUPPLEMENTARY PROVISIONAL FINDINGS REPORT

DATED 19 JULY 2018

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AUSURUS GROUP/METAL & WASTE RECYCLING MERGER

INQUIRY

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1. INTRODUCTION

- 1.1 The CMA published its Supplementary Provisional Findings Report on 19 July 2018. This document sets out MWR's submissions in response to the new report.

2. RESPONSE TO THE SUPPLEMENTARY PROVISIONAL FINDINGS REPORT

- 2.1 MWR supports the CMA's decision that there is no Substantial Lessening of Competition ("SLC") in London. MWR believes that the new description of the level of competition in the London market is now more accurate, and similar to MWR's actual experience.
- 2.2 As mentioned previously, MWR considers London to be very competitive. In the last few months, 2 new scrap metal sites have opened up in London (NSMR in Edmonton, within a mile from the MWR Edmonton site and Smeeth in Gravesend). In addition there are 2 planned openings for the London area where a T9 planning exemption application has been made (London City Metals for a site in Edmonton and Abbey Metal Reclaim Ltd for a site in Waltham Abbey). MWR believes this shows that new entrants can obtain a site and start their business very quickly, and London remains a very competitive market.
- 2.3 MWR does not entirely agree with the CMA's conclusion regarding the level of competition for tendered contracts in the North East and West Midlands. MWR takes part in very few formal tenders, and faces significant competition and countervailing buyer power on other more informal tenders. Tendered contracts are not guaranteed.

3. REMEDIES

London and Hitchin

- 3.1 Given that the CMA has now found that there is no SLC in London, MWR concludes that it would be appropriate for Edmonton and Neasden to be kept by EMR. Those two sites do not need to be sold as part of a remedy.
- 3.2 If Edmonton and Neasden remains with EMR, and the CMA still requires Hitchin to be sold, MWR does not think that would be a problem. MWR consider that, in this context, Hitchin is a sufficiently stand-alone site, that could be sold separately and independently, for the following reasons:
- (a) It is not factory based;
 - (b) Hitchin is accounted for separately and has its own distinct staff, equipment and assets, which can be easily identified and separated;
 - (c) Hitchin would require back office support, but an appropriate purchaser would have that; and
 - (d) Hitchin only buys material for the frag, which is unrelated to the shear material for Edmonton and Neasden.

- 3.3 While Hitchin does receive some material supplied from Edmonton and Neasden, the amounts are a small proportion of the material brought into Hitchin, and Hitchin does not rely on that material.
- 3.4 Also, the CMA does not identify a SLC over tendered contracts in the London region. Edmonton and Neasden are entirely separate, operationally and structurally, to the tendered contracts businesses in the North East and West Midlands.

NPS and tendered contracts in the North East and West Midlands

- 3.5 The tendered business is a small part of MWR, and a remedy that requires EMR to sell sites to solve that SLC seems particularly harsh. MWR considers that a remedy requiring divestments of sites in the North East and West Midlands would be disproportionate.
- 3.6 In any event, the NPS SLC is not related to the Edmonton and Neasden sites - so it would be possible for both the Edmonton and Neasden sites to stay with EMR, without impacting the NPS sector in the North East and West Midlands. Edmonton and Neasden purchase negligible volumes under tendered contracts and these are from suppliers based outside of the West Midlands and North East. In addition, sales of NPS from Edmonton and Neasden are also negligible.
- 3.7 While MWR thinks the sale of sites is too harsh a remedy - a site could be found in one or each of the North East and West Midlands regions and allocated the necessary staff, equipment and assets. Anything more would be disproportionate, especially as the CMA has now provisionally concluded that no SLC can be expected to arise in respect of a significant part of MWR's business. The CMA previously assessed proportionality in the context of the only effective remedy being the divestment of the whole of MWR to one purchaser. The CMA must assess proportionality again, but against the new factual backdrop.

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