

AUSURUS GROUP/METAL & WASTE RECYCLING

Summary of responses to the Supplementary Provisional Findings Report relating to the London Region

1. This document sets out a summary of 33 responses received since the finalisation of our [provisional findings report](#). The majority were received after the publication of our [supplementary provisional findings report](#). In that report interested parties were invited to provide the Inquiry Group with their reasons in writing as to:
 - a) why the provisional findings¹, 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); and
 - b) the impact of our revised provisional findings on the appropriateness of the remedies proposed in the Remedies Notice published on the case page on 1 June 2018.
2. Some respondents also commented on those markets not covered by our supplementary provisional findings in which we had provisionally found SLCs as set out in our earlier provisional findings: purchases of shredder feed in the South East, purchases under tendered contracts in the North East and in the West Midlands, and sales of new production steel (NPS) to UK customers. Some also commented on remedies for these SLCs.

¹ 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 on-ferrous metals (other than shredder feed) in the London region. 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. [Provisional Findings report](#), 4 June 2018.

3. This document does not summarise the contents of two further responses which have been published separately on our [case page](#), in non-confidential form.

Responses relating to the purchase of scrap metal in the London region

4. Six metal recyclers² from the London region contacted us to say that they agree that no SLC arises in London as a result of the merger. This includes two that we had not previously heard from, one that had previously expressed that they were not concerned, and three that had previously raised concerns, although we note that these previously-expressed concerns related mainly to competition between shredder operators (see below). Four of this group are also suppliers to the Parties.³
5. Four further recyclers⁴ (including two whose responses are published separately and not summarised further here) expressed concerns that the merger would significantly weaken competition in the London region, consistent with their previous submissions to us.
6. Three London-based suppliers⁵ that we had not previously heard from expressed the view that the merger would not weaken competition in the London region.
7. A small number of respondents made specific points about market shares, competitors' processing equipment and spare capacity. In addition to covering these points, one of the respondents whose response has been separately published also made comments on the strength of MWR's routes to market.

Market shares

8. [REDACTED] took the view that our estimate of the Parties' combined market share was not consistent with its own experience of the London region, arguing that:
 - (a) The fact that scrap metal tended to pass through a number of different recyclers before being exported or sold to UK final customers meant that double-counting was likely and that this would lead to an over-estimate of the market size and an under-estimate of the Parties' market shares;

² [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED].

³ [REDACTED], [REDACTED], [REDACTED], [REDACTED]

⁴ [REDACTED], [REDACTED], [REDACTED], [REDACTED]

⁵ [REDACTED], [REDACTED], [REDACTED]

- (b) A number of the competitors listed as competing with the Parties in shearing material operated much smaller, lower capacity shears than the Parties and so the capacity of these competitors may have been overstated; and
 - (c) A number of the competitors identified were 'not really direct competitors with EMR', they sold most of their scrap to the Parties ([REDACTED]), concentrated on stainless steel and non-ferrous ([REDACTED]) or operated civic amenity sites and supplied most of its scrap to MWR ([REDACTED]).
9. Both of the respondents whose submission have been separately published also made criticisms of our assessment of market shares and competition in London.

Processing equipment

10. [REDACTED] pointed out that only EMR, MWR and S Norton operated high-capacity, static shears in the London region, with many competitors in the region operating much smaller mobile units which, in its view, may only have one fifth to one tenth the output of a static shear. This point was also raised by one of the respondents whose submission has been published separately.

Spare capacity

11. Two metal recyclers argued that the spare capacity estimates submitted by the Parties were likely to be overstated, in particular due to many recyclers (other than the Parties and S Norton) operating shears that have relatively low capacities, due to their size, age or the fact that they were mobile rather than static shears.⁶

Responses relating to the purchase of shredder feed in the South East

12. Five metal recyclers who are also suppliers of shredder feed in the South East contacted us to say that do not think that an SLC arises in relation to shredder feed in the South East as a result of the merger. This includes two that had already previously expressed that they were not concerned, and three that had previously raised concerns.

⁶ [REDACTED]

13. Three suppliers who are not metal recyclers (and we had not previously heard from) also said that they do not think that an SLC arises in relation to shredder feed in the South East.
14. Prior to provisional findings a metal recycler which supplies shredder feed said that it believed the purchase of the MWR shredder will give EMR a monopoly over shredder feed in the South of England. It said that Van Dalen is the only other outlet for it in the area, which it noted has only a small shredder. It said that if it wanted to supply baled shredder feed then the nearest outlet would be Ward Recycling which is approximately 200 miles away in Derbyshire. However, following the publication of our revised Provisional Findings on London, this supplier said it had never sold material to MWR Hitchin so it would not be affected by the merger.⁷
15. A second metal recycler and supplier of shredder feed initially commented that it was concerned about the merger as it felt that EMR is becoming too powerful within the industry and said that it is well known, because of its selling power, they are able to obtain prices that are more than 20% greater than others within the industry. However, in response to our Provisional Findings it said that it has never had a problem selling shredder feed and can sell to Sims, Charles Muddle, MWR, EMR, S Norton and Ward Recycling.⁸
16. A third metal recycler and shredder-feed supplier⁹ prior to provisional findings said it was concerned that the merger limits the number of options of fragmentisers (ie shredders) to which it could send shredder feed. Subsequently it said that it is generally unconcerned about the merger and offers material to various other shredder operators including EMR, MWR, Ward Recycling and Sims Avonmouth, with the majority going to [redacted] but this is variable depending on price.
17. Prior to the publication of our Provisional Findings, two further suppliers of shredder feed, both metal recyclers, stated that they had no concerns. One initially said this was because it does not sell in the same markets and it later added that it gets prices from Van Dalen, Muddle, Ripley, Sackers, Sims, Riddle and Norton as well as EMR and Metal and Waste and does not see a lessening of competition from the merger.¹⁰ The other initially did not provide a reason for its view but it later told us that it has several other options for selling shredder feed, including Sims (Avonmouth and Nottingham), S Norton

⁷ [redacted]
⁸ [redacted]
⁹ [redacted]
¹⁰ [redacted]

(Liverpool and Southampton), Sackers, B W Riddle, Ampthill and Ripleys and is confident that it achieves highly competitive pricing from all these companies.¹¹

18. Three other suppliers of shredder feed wrote to us following the publication of our revised Provisional Findings on London saying that they did not understand why we had found an SLC in relation to shredding Hitchin, adding that they are regularly quoted prices by a number of other shredder operators.¹²

Responses relating to tendered contracts and sales of new production steel (NPS)

19. We received four responses from suppliers that go out for tender and eight responses from suppliers that appear to sell NPS on a spot basis. Whilst some of these suppliers told us that they are large producers of scrap material only one of these suppliers sold substantial volumes (more than 1,000 tonnes on average per month) to the Parties in 2017 pre-merger and only one supplier was among the Parties' top ten suppliers.
20. Among the suppliers that responded, two raised concerns about the merger and the other suppliers were unconcerned.
21. The two concerned suppliers (based in the West Midlands, one of which tenders its material) submitted that:
- (a) if the proposed takeover of MWR by EMR takes place the supplier will be in a significantly weaker position with regards to getting a good market price for its scrap, as EMR will dominate the market.¹³
 - (b) the parties will have a dominant position to control the prices in the market for purchase of NPS. Although there will still be other buyers for scrap steel, because of their size they will not be able to provide a competitive rate.¹⁴
22. The unconcerned suppliers (of which eight are present in the West Midlands, one in each of the North East and Wales, and three in other regions) submitted that:

¹¹ [REDACTED]

¹² [REDACTED], [REDACTED], [REDACTED]

¹³ [REDACTED]

¹⁴ [REDACTED]

- (a) They have enough choice of other recyclers, with four¹⁵ suppliers mentioning specific recyclers. The recyclers mentioned were: Sims, Ward Recycling, Griffin Stringer, Enablelink, Shakespeare, Ron Hull, Andrew Mark Smith Metals, Maxi Lead, CF Booth, and S Norton.
 - (b) The market for scrap is global or that the CMA should ensure that it remains possible for the purchaser of MWR to sell scrap internationally (mentioned by five suppliers)¹⁶
 - (c) They use pricing indices to assess the prices they receive (mentioned by six suppliers),¹⁷ and also receive regular contacts or quotes from other recyclers (mentioned by two suppliers).¹⁸
 - (d) Prices have not declined since the merger took place (mentioned by three¹⁹ suppliers).
23. On supplier told us that for many years it arranged its own logistics using an independent haulier which enabled it to choose where to sell its material anywhere in the UK to achieve the best price from month to month.
24. One tendering supplier also said that uses its own global sourcing teams to assist with commodity pricing reviews and benchmarking.²⁰ Another tendering supplier also mentioned that it uses the possibility of selling directly to steel producers to promote competition.²¹ A third tendering supply said that the introduction of continental buyers into the tender process can ensure competitiveness.²²
25. Some suppliers also commented on the criteria they use to choose between recyclers:
- (a) One supplier believes that processors producing NPS are reluctant to change merchants except due to poor service, low price or dishonesty. This is because existing drivers know when to arrive, how frequently to arrive, who to contact, safe operation, location of equipment, etc. Considerations in deciding whether to switch include the integrity of the existing merchant (ie no 'short tonnage' recorded or suspected); proximity

¹⁵ [REDACTED], [REDACTED], [REDACTED], [REDACTED]

¹⁶ [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]

¹⁷ [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]

¹⁸ [REDACTED], [REDACTED]

¹⁹ [REDACTED], [REDACTED], [REDACTED]

²⁰ [REDACTED]

²¹ [REDACTED]

²² [REDACTED]

of the yard; and ease of access to accounts for resolving queries and creditworthiness.²³

- (b) Another explained that it chooses its metal recycler on the basis of price and the level of service the recycler can provide including [redacted] skips on site, emptied at various intervals throughout the day.²⁴

Responses relating to remedies

26. A number of third parties ([redacted], [redacted], [redacted], [redacted], [redacted] and [redacted]) told us that the potential purchaser should have the ability to sell scrap metal in the UK and export abroad (as noted in the responses relating to tendered contracts and NPS summarised above).
27. [redacted] told us that that it was important that the Monitoring Trustee took active steps to ensure that the Parties continued to operate as separate entities, maintain existing relationships with suppliers and that equipment was not allowed to degrade.²⁵

²³ [redacted]

²⁴ [redacted]

²⁵ [redacted]