JLA and Washstation

A report on the completed acquisition by JLA New Equityco Limited of Washstation Limited

11 October 2018

Website: www.gov.uk/cma

Members of the Competition and Markets Authority who conducted this investigation

Stuart McIntosh *(Chair of the Group)*

Anne Fletcher

Ulrike Hotopp

Sheila McClelland

Chief Executive of the Competition and Markets Authority

Andrea Coscelli

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 [✄]. Some numbers have been replaced by a range. These are shown in square brackets. Non-sensitive wording is also indicated in square brackets.

Contents *Page*

Appendices

SUMMARY

1. On 16 April 2018, the Competition and Markets Authority (CMA) referred the completed acquisition by JLA New Equityco Limited (JLA), through its subsidiary Vanilla Group Limited, of Washstation Limited (Washstation) (the Merger) for an in-depth (phase 2) investigation by a group of CMA panel members (the Group).

2. The CMA published its provisional findings report and notice of possible remedies on 10 August 2018.

Background: the Parties and the industry in which they operate

3. JLA and Washstation (together, the Parties) overlap primarily in the supply of managed laundry services to higher education customers, such as universities, colleges and student accommodation providers, through so-called vend share agreements in the UK.

4. Vend share agreements are one of three types of commercial laundry services agreements. Under a vend share agreement, the provider supplies and installs the machines and carries out repair and maintenance works. The customer does not pay rent to the provider, but instead receives an agreed percentage of the revenues generated from end-users of the machines in the form of commission from the provider.

5. The other two types of commercial laundry services agreements are (i) fixed rental agreements; and (ii) maintenance and repair services agreements. Together, fixed rental agreements and vend share agreements are commonly referred to as managed laundry services.

6. JLA, through its various subsidiaries, offers commercial laundry services (including managed laundry services), catering, heating and fire safety services to a variety of customers, such as care homes, schools, hotels, universities and hospitals. JLA offers managed laundry services to higher education customers through its subsidiary Circuit Launderette Services Limited.

7. Washstation is active in the provision of managed laundry services under vend share agreements, which it supplies to two types of commercial customers: higher education customers and hospitality and leisure customers.

8. Other than the Parties, the next two largest providers of managed laundry services under vend share agreements to higher education customers in the UK are James Armstrong and Company Ltd (Armstrong), which was acquired

by Hughes Electrical Ltd (Hughes) in January 2018, and Goodman Sparks Ltd (Goodman Sparks).

The investigation

9. As part of our investigation, we received several submissions and responses to information requests from the Parties, held in depth-hearings with both higher education customers and providers of managed laundry services and commercial laundry services, and carried out an extensive review of internal documents held by the Parties. We also considered the results of customer research commissioned by the CMA.

Relevant merger situation

10. On 18 May 2017, JLA acquired all of the issued share capital of Washstation. We are satisfied that the Merger has resulted in the creation of a relevant merger situation because this transaction has resulted in the Parties ceasing to be distinct, and the statutory share of supply test is satisfied. In the present case, as a result of the Merger, the Parties have a combined share of supply of more than 90% in the provision of managed laundry services to higher education customers under vend share agreements in the UK.

Counterfactual

11. To assess the effects of the Merger on competition we considered what the competitive situation would have been absent the Merger (the counterfactual). In order to determine the counterfactual, we have considered, based on the evidence, what the most likely scenario would have been had Washstation not been acquired by JLA.

12. We considered two possible counterfactual scenarios: (i) whether Washstation would continue to operate in the market as it did prior to the Merger (ie pre-Merger conditions), or (ii) whether it would continue to operate in the market but impose a lesser competitive constraint on JLA, as submitted by JLA.

13. We have found that Washstation would have continued to compete in the supply of managed laundry services to higher education customers as it had done prior to the Merger. This finding is based on the following evidence and analysis:

    (a) due diligence commissioned by JLA on Washstation's business shows that the business was forecast to grow (revenues, profitability and cash flow) and our analysis of contract data shows that Washstation had been on a growth path since 2010;

(b) while some additional finance may have been required to continue to develop the business and support its continued expansion, Mr A. Copley, the former owner of Washstation (Mr Copley), told us that, prior to the Merger, he was considering raising additional finance to develop the business;

(c) Washstation's commission rates (ie the percentage of vend revenues paid to higher education customers) were not significantly different from those of JLA and while Washstation appears to have some uneconomic contracts, these are limited in number and do not cast material doubts on the ability of the Washstation business to continue to compete as it did pre-Merger; and

(d) while there have been some instances of customer dissatisfaction with other aspects of Washstation's performance, this has resulted in the loss of a limited number of Washstation contracts and has not significantly weakened Washstation's ability to compete as it did pre-Merger.

14. We also assessed whether Hughes' acquisition of Armstrong was sufficiently likely at the time of the Merger to be incorporated in the counterfactual. We found that Hughes' expansion plans for the Armstrong business were, to some extent, linked to the Merger. Accordingly, the most likely counterfactual is the counterfactual in which Armstrong would continue to operate under the pre-Merger conditions of competition.

15. Therefore, we have found that the most likely counterfactual is the pre-Merger conditions of competition.

Market definition

16. The purpose of market definition in a merger investigation is to provide a framework for the analysis of the competitive effects of the merger.

17. The primary overlap between the Parties is in the provision of managed laundry services to higher education customers under vend share agreements in the UK.

18. In establishing whether the relevant product market should be broader than the activities in which the Parties overlap, we assessed:

(a) the extent to which other means of procuring laundry services are demand-side substitutes for vend share agreements, and so represent credible outside options to customers; and *(b)* the extent to which providers of managed laundry services to other sectors and through other contractual models are the same as the providers of managed laundry services to higher education customers and have the ability and incentive to quickly supply higher education customers.

19. Our investigation revealed that the majority of customers do not consider that alternative types of procurement, such as fixed rental agreements or outright purchase, are alternatives to vend share agreements. In particular, almost all higher education customers used (and continue to use) vend share agreements for the supply of managed laundry services and very few customers have previously switched from vend share to fixed rental agreements. Some higher education customers expressed their preference for vend share agreements, mainly because they: avoid the need for capital outlays by the customer (and the associated financial risks), do not require customers to assume operational responsibility for the laundry service, and provide a source of income (with the vend revenues generated by students being shared between service providers and the higher education customers).

20. We also found that higher education customers have some different requirements from customers in other sectors, due to their end-user profile, which may be expected to limit the ability of providers active in other sectors to quickly supply them (eg in terms of laundry room refurbishment, more stringent service requirements, the risk associated with the requirement of vend share agreements, and experience in supply to higher education customers). The evidence also indicated that overall, the set of firms active in serving the higher education sector is broadly different from the set of firms serving customers in other segments.

21. With regard to the geographic scope of the market, the competitive constraint on firms bidding for higher education contracts will stem from the willingness of customers to award contracts to rival firms. We therefore find it appropriate to adopt a national geographic market to assess the aggregate constraint that each managed laundry service provider within the higher education sector may impose on each other.

22. In summary, we have concluded that the relevant market should be defined as managed laundry services to higher education customers under vend share agreements in the UK (the higher education market).

Competitive assessment

23. We assessed the competitive effects of the Merger, including evidence on the strength of the constraints the Parties imposed on each other and the

constraint imposed by other providers. To do this, we considered: (i) market shares over time and in respect of new contracts; (ii) contract sizes and commission rates; (iii) who JLA lost contracts to ('switching ratio analysis'); and (iv) evidence from internal documents, third party hearings and customer research on providers' strengths and weaknesses and the closeness of competition between them when contracts were awarded.

24. Taken together, our analysis of data on market shares, new contracts wins and commission rates show that, prior to the Merger: (i) the Parties accounted for more than 90% of that market (with an increment as a result of the Merger of [5-10%]); (ii) Washstation was the strongest competitor to JLA and that it was growing; (iii) Armstrong represented a much weaker constraint, with a market share of [0-5]%, declining in the last three years.

25. Evidence from past tenders and contract negotiations shows that JLA and Washstation were each other's closest competitor, with Washstation accounting for the large majority of contracts lost by JLA. While Armstrong was the other most credible competitor, the evidence shows that Armstrong represented a weak constraint on JLA. Other competitors and self-supply represented very weak constraints.

26. Overall, during third party hearings, all third parties identified JLA and Washstation as close competitors. Customers only identified JLA, Washstation, Armstrong and Goodman Sparks as competitors in the supply of managed laundry services under vend share agreements (while some customers had, in some cases, received expressions of interest from other providers, none of these providers had ultimately been awarded a contract).

27. We concluded from the submissions from competitors and other providers of laundry services that, with the exception of Armstrong, other providers exert a very weak constraint on JLA. This is because alternative providers of laundry services: (i) currently only serve a very small number of higher education customers and/or are relatively small companies, with limited financial resources and/or a limited geographic presence, or (ii) are not actively competing for these customers and, in some cases, do not offer vend share agreements.

28. Internal documents also show that JLA perceived Washstation as its closest competitor and took into account the risk of losing higher education customers to Washstation when formulating its offer. These documents also show that higher education customers used Washstation's presence as a bargaining tool when negotiating with JLA. JLA also considered Armstrong to be a competitor for some customers, however, there was little evidence of JLA monitoring other providers.

29. The results of the CMA’s customer research indicate that: (i) JLA holds an influential position in the higher education market and that JLA and Washstation have the technology to offer a range of payment methods and online services, which respondents said other providers appeared not to have at the time of the customer research; (ii) JLA and Washstation are the two main providers of managed laundry services, with the other most credible alternative being Armstrong.

30. Taken together, the evidence shows that prior to the Merger, Washstation competed strongly against JLA, with Armstrong representing a much weaker constraint.

31. We found that the Merger may be expected to have a negative effect in JLA’s offering in new contracts. As the remaining competitors post-Merger will not sufficiently constrain JLA, JLA may be expected to have the ability and incentive, when it negotiates new contracts, to degrade its competitive offer, including in relation to price and/or service levels.

32. In addition, we cannot exclude that the Merger may be expected to negatively affect existing contracts, as the remaining competitors post-Merger will not sufficiently constrain JLA and JLA could degrade some of the parameters of its service offering which are not constrained by contractual commitments.

33. On the basis of the evidence, we conclude that, unless there are countervailing factors, the Merger has resulted or may be expected to result in an SLC in the higher education market and that the SLC may be expected to result in adverse effects in the form of the degradation of the competitive offer, including price and service levels.

Countervailing factors

34. We considered whether entry and/or expansion or buyer power might prevent an SLC from arising in this case.

35. As regards entry and/or expansion, there have been no recent instances of meaningful entry or expansion, apart from Washstation itself, which entered the higher education market in 2010 and benefited from Mr Copley’s experience and knowledge of the higher education market. If barriers to entry or expansion were low, we would expect to see more instances of recent entry and/or expansion.

36. We found that the financial cost of entry and expansion is not significant in absolute terms. However, third party evidence indicates that these costs are likely to deter some potential providers, when considered together with the

time required to recoup the initial capital outlay compared with other opportunities in the commercial laundry sector. We also found that there were some risks associated with the offer of vend share agreements (eg the risk of not recouping the initial investment in the relevant machines), which may be expected to further deter some potential entrants. In addition, we noted that JLA, being a distributor of an original equipment manufacturer (OEM), has a cost advantage when acquiring machines, compared with providers who are not authorised dealers, which allows JLA to offer more attractive prices that those providers are likely to find difficult to match.

37. Furthermore, we found that the following non-financial barriers to entry and expansion are likely to make entry or expansion in the higher education market difficult for some providers:

(a) experience and reputation in the higher education market is an important factor for customers when they choose their suppliers of managed laundry services;

(b) the merged entity has a number of advantages resulting from its relationship with existing customers, including knowledge of the termination date of the large majority of the contracts in the higher education market. This means, for example, that potential providers who do not have such knowledge face a competitive disadvantage and are likely to compete for a more limited number of contracts; and

(c) in any given year there is a limited number of contracts open for competition and a lack of transparency on when some of these contracts are available to competitors looking to enter into or expand in the higher education market.

38. Given our findings above, we would require sufficient countervailing evidence of future entry and expansion to conclude that post-Merger entry is likely, timely and sufficient to constrain the merged entity. Having considered various potential providers that could enter or expand into the higher education market, our view is that Hughes Armstrong was the only credible candidate with the potential to expand in this market in a timely and sufficient manner to constrain the merged entity.

39. Hughes Armstrong has the intention and incentive to expand into the higher education market. However, the evidence on Hughes Armstrong's proposed changes to its offering and its performance in recent tenders, shows that Hughes Armstrong's expansion is not likely to be timely and sufficient to constrain the merged entity in the foreseeable future.

40. More specifically, although Hughes Armstrong expressed the intention to improve its offer, the associated changes in Armstrong's strategy and capabilities have not yet been implemented, it is uncertain when its offer will become a compelling proposition, and Hughes told us that the financial commitment to expansion in the higher education market is dependent on whether Armstrong would be successful in winning business.

41. Evidence on Hughes Armstrong's performance in recent tenders and customer feedback also shows that it remains, and is likely to remain, a weak constraint on the merged entity in the foreseeable future. In this regard, we note that Hughes Armstrong did not submit offers in respect of many opportunities that have arisen in recent months (in particular private accommodation providers), it has lost its largest customer, all the contracts it has won were small contracts, and it scored significantly lower than JLA in some large tenders.

42. Taking the evidence in the round, we found that even if Hughes Armstrong may expand in the future, it is not likely that Hughes Armstrong would achieve a sufficient scale in a timely manner such as to prevent an SLC arising.

43. In addition, we found that entry or expansion by other potential providers did not meet one or more of the requirements that entry or expansion should be likely, timely and sufficient to prevent an SLC arising.

44. We received no evidence that buyer power would offset our competition concerns such as to prevent an SLC arising.

45. Moreover, we have not been provided with relevant and specific evidence that the Merger would create rivalry enhancing efficiencies such as to prevent an SLC arising.

Conclusion

46. In view of the foregoing, having assessed the evidence in the round, we have concluded that the Merger has resulted, or may be expected to result, in an SLC in the market for the supply of managed laundry services to higher education customers under vend share agreements in the UK.

Remedies

47. Having concluded that the Merger has resulted, or may be expected to result, in an SLC, we considered what action should be taken to remedy, mitigate or prevent the SLC or any of the resulting adverse effects we have found.

48. We concluded that a structural remedy in the form of a divestiture of the Washstation business would be the only effective remedy and would be a proportionate remedy.

49. Subject to the requirements of the purchaser and negotiations between JLA and the purchaser, we consider that the divestiture package should include, but is not limited to, the following:

(a) Washstation contracts with higher education customers held by the Washstation business at the time of the divestiture.

(b) Washstation machines installed at customer sites.

(c) Washstation machines that have been removed from customer sites (following contract losses) and are currently held in storage by JLA or are due to be returned to JLA to be held in storage.

(d) Where the purchaser requires additional machines to fulfil the obligations of Washstation under agreed contracts at the time of divestiture or where the purchaser requires machines to be installed during any transitional period following divestiture, JLA must sell these machines to the purchaser on a basis which is consistent with that upon which machines were previously supplied to Washstation. This should be included in any transitional services agreement and should only apply in respect of obligations that are due to be fulfilled before the end of the any transitional services agreement.

(e) All remaining assets associated with the Washstation business (subject to confirmation by the monitoring trustee and hold separate manager currently overseeing and operating Washstation on a hold separate basis).

(f) Technology and supporting contracts to facilitate machine availability monitoring and payment solutions as provided by Washstation prior to the Merger.

(g) Washstation bank accounts.

(h) Washstation brand, trademark and domain name.

(i) Washstation dedicated telephone helpline number.

(j) All available data relating to the Washstation business, including customer records, installations plans (including details of all sub-contractors used in the installation process), sales pipeline data, and financial records. This

includes all data held on the Washstation IT server and JLA systems and any data held in physical form by JLA.

50. In addition, subject to the needs of the purchaser, JLA must provide key support and back office functions (eg engineering support, sales support, account managers, customer support, IT and Finance) to the purchaser under a transitional services agreement. The precise terms of the arrangement for the provision of these services to be provided on a transitional basis (as well as any potential complements to the agreement) are to be determined through negotiations between JLA and the purchaser and will be reviewed by the CMA as part of the approval of the terms of the divestiture.

51. Once any potential purchaser has been identified, we will consider in more detail the divestiture package as well as the viability of any purchaser. We will consider the suitability of each potential purchaser on its own merits and on a case-by-case basis.

FINDINGS

1. The reference

1.1 On 16 April 2018, the Competition and Markets Authority (CMA) referred the completed acquisition by JLA New Equityco Limited (JLA), via its subsidiary Vanilla Group Limited (Vanilla), of Washstation Limited (Washstation) (the Merger) for an in-depth (phase 2) investigation. In exercise of its duty under section 22(1) of the Enterprise Act 2002 (the Act), the CMA made a reference to its chair for the constitution of a group of CMA panel members (the Group) in order to investigate and report on the following questions in accordance with section 35(1) of the Act:

(a) whether a relevant merger situation has been created; and

(b) if so, whether the creation of that situation has resulted, or may be expected to result, in a substantial lessening of competition (SLC) within any market or markets in the UK for goods or services.

1.2 Our terms of reference are in Appendix A. We are required to publish our final report by 14 October 2018.

1.3 This document, together with its appendices, constitutes our findings, published and notified to JLA in line with the CMA's rules of procedure.[1] Further information relevant to this investigation, including non-confidential versions of the submissions received from JLA, can be found on the investigation case page.

1.4 Throughout this document, where relevant, we refer to JLA and Washstation collectively as 'the Parties'. Where we refer to Parties' views, we recognise that although the submissions were provided to us by JLA (as the Merger has been completed), they contained data from both JLA and Washstation. Where we have received information relating to Washstation from the former Washstation owner, Mr Copley, we refer to that as having been provided to us by Mr Copley.

[1] CMA rules of procedure for merger, market and special reference groups (CMA 17), Rule 11.

The investigation

1.5 Information about the conduct of the investigation is in Appendix A.

1.6 On 13 December 2017, the CMA issued an Initial Enforcement Order (IEO) in accordance with section 72(2) of the Act in respect of the Merger requiring (among other matters) JLA to hold the Washstation business separate and not to impair the ability of that business or the JLA business to compete independently.

1.7 On 8 May 2018, we directed JLA to appoint:

(a) a monitoring trustee (MT) whose functions are to support any action, or as the case may be any remedial action, which may be required to maintain the Washstation business as a viable business and monitor compliance by JLA with the IEO.[2]

(b) a hold separate manager (HSM) whose functions are to exercise the day-to-day management of Washstation, so that its independence is preserved, it is maintained as a going concern with access to sufficient resources for its continued operation and development, and it is operated separately from and competes actively with JLA.[3]

1.8 We published our provisional findings report (Provisional Findings) and notice of possible remedies on 10 August 2018. JLA, as well as some third parties, provided submissions on those documents and their submissions have been taken into account in preparing this final report.

1.9 In its Response to the Provisional Findings of 31 of August 2018 (Response to the Provisional Findings), JLA stated that there had been 'an insufficient level of separation between Phase 1 and Phase 2 personnel' and that this had resulted in 'an apparent bias by the Phase 2 decision-maker in favour of confirming the Phase 1 reference decision.'[4] JLA further submitted that the institutional safeguards that confirmation bias is avoided or minimised require 'a separation of personnel between the two Phases [Phase 1 and Phase 2] so as to ensure a 'fresh pair of eyes''.[5] In JLA's

[2] See paragraph 2 of CMA Directions.
[3] See paragraph 30 of CMA Directions.
[4] Response to the Provisional Findings, paragraph 1.6.
[5] Response to the Provisional Findings, paragraph 4.3.

view, this did not occur in this case, as 'three core members of the case team transferred from Phase 1 to Phase 2'.[6]

1.10 JLA noted that the CMA described its merger procedures as 'allowing for a degree of transfer from Phase 1 to Phase 2'[7] and submitted that 'transferring the three core Phase 1 staff to Phase 2 far exceeds normal practice and in any case resulted in an unacceptable risk of confirmation bias in the present case'.[8] JLA concluded that whether or not there was actual confirmation bias was irrelevant. The fact that there was the risk of such bias was itself sufficient to raise concerns over the procedure.[9]

1.11 In our view, it is a requirement of fairness that there should be no actual bias or pre-determination of the issues to be decided by the inquiry group, and that there should also be no objective appearance of bias or pre-determination. As regards a claim of apparent bias, the test is whether, taking into account all the circumstances which have a bearing on the matter, 'the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the [decision-maker] was biased.'[10]

1.12 In order to create independence between the decision taken by the CMA at the initial Phase 1 assessment, and the final determination of the merger reference, the Act requires that the functions of the CMA on a merger reference are carried out by an independent inquiry group of CMA panel members, and that the final determination is made by this independent inquiry group.[11]

1.13 In the present case, none of the members of the inquiry group, which has taken the Phase 2 merger decisions required by section 35(1) of the Act, participated in the Phase 1 investigation. The case team in Phase 2 comprised various members of staff, including senior staff, who had not participated in the Phase 1 investigation. Moreover, the Phase 2

---

[6] Ibid.
[7] *CMA response on BIS options to refine the UK competition regime: The CMA's response to the government's consultation:* https://www.gov.uk/government/publications/cma-response-on-bis-options-to-refine-the-uk-competition-regime para 2.11
[8] Response to the Provisional Findings, paragraph 4.4.
[9] Response to the Provisional Findings, paragraph 4.5.
[10] *Porter v. Magill* [2002] 2 AC 357, at paragraphs 102-103 per Lord Hope.
[11] See sections 22(1) and 34C(1)(a) of the Enterprise Act 2002, read with paragraph 49(1) of Schedule 4 to the Enterprise and Regulatory Reform Act 2013.

investigation included several hearings with the main parties and third parties, and took into account and analysed significantly more evidence from those parties than was available to CMA staff at Phase 1.

1.14 More generally we note that the courts have expressed the view that in principle 'the composition of the staff team and Group should be a matter for the CMA to determine. This would provide the CMA with the necessary flexibility to manage its resources in an efficient manner, considering […] the overall workload of the CMA and the specific availability of members and staff.'[12]

1.15 In view of the foregoing, JLA's submission that there has been apparent bias in the present case is without foundation.

2. The Parties

Background: managed laundry services and commercial laundry services

2.1 The Parties are both active in the supply of commercial laundry services. As explained in more detail below, the Parties overlap primarily in the supply of managed laundry services to higher education customers, such as universities, colleges and student accommodation providers, under vend share agreements in the UK.[13]

2.2 In broad terms, commercial laundry services can be supplied under three different types of agreements:

(a) Fixed rental agreements: the provider rents the non-domestic washing machines and tumble dryers (machines) to a customer and carries out repairs and maintenance works. The customer pays a fixed monthly fee and retains any payments made by end-users for use of the machines.

(b) Vend share agreements: the provider supplies and installs the machines and carries out repairs and maintenance works. The customer does not pay rent to the provider, but instead receives an

---

[12] *HCA International Ltd v The Competition and Markets Authority* [2015] EWCA Civ 492 at paragraph 56 *per* Vos LJ.

[13] In this report, 'higher education customers' refers to customers who are purchasing managed laundry services for the use of students in higher education. This includes universities, colleges, private student accommodation providers, and managed student accommodation providers. References to the 'higher education sector' are to be construed accordingly.

agreed percentage of the revenues generated from end-users of the machines in the form of commission from the provider.

(c) Maintenance and repair services agreements: the customer owns the machines and the provider carries out repairs and maintenance works (these agreements are often signed alongside a sales agreement in respect of machines).

2.3 Fixed rental agreements and vend share agreements can be referred to as managed laundry services. Customers for managed laundry services offer a laundry facility to their own end-users and provide a space for a managed services provider to install the required machinery. The provider usually retains ownership of the machinery and manages the laundry operation on behalf of the customer, including breakdown services and responding to end-user queries.

JLA

2.4 JLA, through its various subsidiaries, offers commercial laundry services (including managed laundry services), catering, heating and fire safety services to a variety of customers, such as care homes, schools, hotels, universities, private providers of student accommodations and hospitals. JLA offers managed laundry services through Circuit Launderette Services Limited (Circuit). JLA also supplies the equipment relating to the above services, ie various white good items such as washing machines, tumble dryers, ovens, refrigerators to its customers and to other providers.

2.5 Hg Capital[14] became the majority shareholder of JLA in early 2010. On 14 May 2018, Hg Capital announced that it had agreed a sale of JLA to Cinven. On 15 August 2018, Wharfedale Bidco Limited, a company controlled by funds managed by Cinven, completed the acquisition of Hg Capital majority interest in the JLA business, including all of its subsidiaries (such as Vanilla and Washstation).

2.6 JLA was set up in 1973 and was initially active in the commercial laundry sector, principally through the sale of machines. JLA then expanded into the supply of commercial laundry machines under fixed rental and vend share agreements,[15] together with the supply of parts and consumables (eg

[14] Hg Capital is a private equity firm focussed on investments in the technology, services and industrial technology sectors.
[15] Also known as variable rental agreements.

detergents), as well as the servicing of third party-owned machines. JLA subsequently expanded into the commercial catering sector in 2011, the commercial heating sector in 2017 and the fire safety equipment sector in March 2018.

2.7 JLA had around 760 employees in 2017. JLA operates 9 offices across Great Britain (mostly located in the North West of England) and 2 storage depots located in the South West of England.

2.8 JLA recorded turnover and gross profit of approximately £[✂] million and £[✂] million respectively in the financial year ending 31 October 2017. It is forecast to generate turnover and gross profit of £[✂] million and £[✂] million respectively in the current financial year (see Figure 1).[16]

Figure 1: JLA's revenue and gross profit between 2015-2017/18

				£m			*% change*
	2015A	*2016A*	*2017A*	*2018F*	*2015/16A*	*2016/17A*	*2017/18F*
Turnover	98	107	118	[✂]	9%	10%	[✂]%
Gross Profit	50	56	63	[✂]	12%	12%	[✂]%

Source: Baird Information Memorandum, page 15, Annex 8.3, s. 109 response dated 16 April 2018.

Note: Figures before 2018 are actual figures. Figures for 2018 are full year forecasts based on internal management information.

Products and services

2.9 JLA generates much of its revenue from the provision of commercial laundry services (see Figure 2).[17]

Figure 2: JLA revenue by activity

[✂]

Source: Due Diligence Report

Note: Data covers the financial years ended October 2018 and represents a breakdown of the turnover figures in Figure 1.

2.10 JLA's customers are largely institutions with on-site laundry facilities and/or catering equipment, who do not have an in-house service capability.

[16] Growth from 2017 to 2018 is expected to be driven by continued organic expansion as well as by strategic acquisitions.

[17] Commercial laundry services comprise: Laundry fixed rental, laundry vend share, laundry COMs and laundry product sales. 'COMs' refers to Customer-Owned Machines which JLA services.

2.11 JLA's customers are located across the UK. As of December 2017, JLA had approximately [✂] customers in the higher education sector.

2.12 In addition to the commercial laundry services described above in paragraph 2.2 and 2.4, JLA also provides the following auxiliary services to its higher education customers as part of its vend share package:

(a) Various payment solutions, such as coin, card and cashless systems (eg Nayax);

(b) an app that can be used by students to pay for their laundry and that tracks students' washing, such as the stage reached in either the washing or drying cycle;

(c) An online viewing system (Circuitview communication system) that shows live online machine availability for students, automatic fault reporting and weekly statistics on historic usage for higher education customers; and

(d) Bespoke refurbishment of laundry rooms, eg with colour schemes, vinyl flooring, TV and coffee tables.

Commercial laundry customers

2.13 The majority of JLA's commercial laundry revenue – fixed rental and vend share combined - is generated by customers in the higher education and healthcare sectors.

2.14 In the commercial laundry sector, JLA's revenue from fixed rental agreements is generated from customers in a range of sectors, including healthcare ([40-50]% - £[✂] million), housing ([10-20]% - £[✂]million) and hospitality and leisure ([10-20]% - £[✂] million).[18] Higher education customers generate roughly £[✂] million (0-5%) of JLA's revenue from fixed rental agreements.

2.15 In contrast, [80-90]% (£[✂]million) of JLA's revenue from vend share agreements in the commercial laundry sector is generated from higher

[18] Figures for JLA relate to the financial year ending 31 October 2017.

education customers.[19] The remaining [10-20]% (£[✂]million) of revenue is generated from hospitality and leisure customers.[20]

2.16 JLA told us that its average gross margin[21] was [✂] higher on fixed rental agreements than on vend share agreements. JLA told us that the average net margin[22] on vend share agreements was [✂]%.

Strategy

2.17 As well as targeting new customers, JLA aims to generate organic growth and increase its revenue through the following methods:

(a) [✂].

(b) [✂].[23]

(c) [✂].

2.18 In recent years, JLA has also sought to generate growth in its customer base through a series of acquisitions (having made five acquisitions in the commercial laundry sector since 2013, which are set out in Appendix C).

Washstation

2.19 Washstation is a managed laundry service provider, established in 2008, predominantly serving higher education customers and, to a limited extent, customers in the hospitality and leisure sector.

2.20 Prior to the Merger, Washstation employed ten staff members, including six engineers, and had one office in Guildford and one warehouse in Alton.

2.21 Washstation has grown its business significantly since 2010 (see Figure 3).

Figure 3: CMA analysis of Washstation revenues: 2010 – 2017

[✂]

---

[19] JLA's total revenue from laundry vend share agreements in FY17 is around £[✂] million. There is a minor discrepancy between the FY17 revenue figure of £[✂] million provided by JLA in Phase 1 (see Annex 11 of the response to the s109 information request of 8 January 2018) and the revenue figure of £[✂]million reported in the due diligence report referenced in Figure 2.
[20] Figures for JLA relate to the financial year ending 31 October 2017.
[21] Gross margin represents gross profit as a percentage of revenue. Gross profit is revenue minus the direct cost of sales (eg labour, materials and direct overheads). JLA's gross margin takes into account the depreciation of fixed assets, given that managed laundry is an asset intensive business.
[22] Net margin represents net profit as a percentage of revenue. Net profit is gross profit minus the indirect costs of running the business.
[23] [✂]

Source: CMA analysis of Washstation revenues on active contracts

2.22 Figure 4 below shows the data relating to Washstation's most recent financial performance. It indicates that Washstation experienced significant growth between 2015 and 2016, due to an increase in new contracts, generating turnover of £[✂] million in 2016. Its growth was forecast to continue in 2017.

Figure 4: Washstation trading summary

[✂]

Source: JLA

Note: The figures for 2015 and 2016 represent Washstation's trading performance for the financial year ending 31 December 2015 and 2016 respectively. The figures for 2017 represent Washstation's trading performance for the twelve month period ending 31 March 2017. Therefore, there is a degree of overlap between the 2016 and 2017 figures.

2.23 Mr Copley, the former owner and founder of Washstation, previously ran Circuit before it was acquired by JLA in 2002.[24]

2.24 Mr Copley told us that when he started the Washstation business he was able to leverage previous relationships with equipment manufacturers, as well as the knowledge of the higher education market and links to higher education customers he established since, or before, 2002. Mr Copley explained that, after an initial period of establishing its presence in the market, Washstation was able to begin securing contracts from its second year of operation.[25]

Products and services

2.25 Washstation provides managed laundry services under vend share agreements only.

2.26 As part of its managed laundry services, Washstation offers auxiliary services to its higher education customers, such as:

(a) Various payment solutions for students, including contactless card systems and cashless payment solutions (Nayax);

[24] Summary of hearing with Mr Copley, paragraph 1.
[25] Summary of hearing with Mr Copley, paragraphs 1, 5 and 18.

(b) Connect 360 Online machine viewing which enables students to view machine availability online;

(c) Bespoke refurbishment of laundry rooms, eg with specific themes suggested by the customer.

Customers

2.27 Washstation supplies two types of commercial customers: higher education customers (which accounts for [90-100]% of Washstation revenues, approximately £[✄]million) and hospitality and leisure customers ([5-10]% of revenues, approximately £[✄]million).[26]

2.28 Figure 5 below summarises the number of contracts, customers and machines that Washstation had in the higher education sector, at the date of the Merger:

Figure 5: Washstation's number of contracts, customers and machines

Number of contracts – May 2017	*Number of customers – May 2017*	*Number of machines – May 2017*
[✄]	[✄]	[✄]

Source: JLA

2.29 The majority of Washstation's customers are based in London and the Midlands although Washstation also serves customers in the North of England and Scotland.

Strategy

2.30 Mr Copley told us that Washstation's sales strategy was based on service and not on commission levels (eg Washstation's engineers used to visit the laundry rooms regularly to repair machines and prevent issues and Washstation also used to engage in promotional activities for the students). Mr Copley also told us that, absent the Merger, Washstation would have continued to operate with the same strategy as pre-Merger.[27] This is further discussed below in more detail in the Counterfactual section.

[26] Figures refer to revenues in the year ended 31 December 2016.
[27] Summary of hearing with Mr Copley, paragraph 22.

3. The industry in which the Parties operate

Market size and main providers

3.1 As we explain below, the Parties' activities predominantly overlap in the supply of managed laundry services to higher education customers under vend share agreements in the UK.

3.2 Based on the share of supply data submitted to us by JLA, we estimate that the total value of these services in the UK, based on gross revenues, amounted to approximately £[25-30] million in 2017.[28] Using net revenue figures (ie excluding the commission[29] paid by providers to their higher education customers under the vend share agreements), the size of the market is approximately £[15-20] million.

3.3 The main providers of managed laundry services under vend share agreements to higher education customers in the UK other than the Parties are James Armstrong and Company Ltd (Armstrong), which was acquired by Hughes Electrical Ltd (Hughes) in January 2018 and Goodman Sparks Ltd (Goodman Sparks). Appendix B provides a high-level description of the businesses of those two competitors. That Appendix also describes other actual or potential competitors in the provision of commercial laundry services mentioned by JLA, which either have a very small presence in the supply of managed laundry services (eg Photo-Me International plc (Photo-Me)), or according to JLA, could start supplying managed laundry services.

Inputs to the supply of managed laundry services

3.4 Managed laundry service providers acquire the required machines (ie washing machines and tumble dryers) either directly from an Original Equipment Manufacturer (OEM), such as Alliance or Maytag,[30] or from a local distributor. Both JLA and Mr Copley told us that, when purchasing

[28] Data in paragraph 10 refers to the calendar year rather than the financial year. For statutory reporting purposes, JLA's financial year is from November to October.
[29] We assumed an average commission rate of around [✂]%.
[30] Maytag is a subsidiary of the Whirlpool Corporation.

directly from an OEM, a stackable washer and dryer unit can be purchased for approximately £[✂].[31]

3.5 JLA is currently a local distributor in the UK for Alliance Laundry Systems LLC (Alliance) and Washstation used to be a distributor of Maytag in the UK. When acting as a distributor to third parties (eg smaller traders in the UK), JLA told us that machines were priced such that JLA aimed to achieve a gross margin of [✂]% on the purchase price from an OEM.[32]

3.6 Generally, providers must commit to an agreed volume of purchases to obtain the supply of machines directly from an OEM. For example, Mr Copley, told us that Washstation's agreement with [✂].

3.7 Almost all higher education customers require an end-user payment system which may be coin-operated, token-operated or cashless (eg contactless payment, card payment, top up cards) with higher education customers typically offering a range of payment systems to students.[33]

3.8 The payment mechanism can be integrated into the machines by the OEMs or can be retrofitted by third parties. We understand that the various payment mechanisms are compatible with all machines. Some of the cashless payment solutions offered by providers such as JLA are available on an end-user's phone and can be topped up via an app.

3.9 The offer of managed laundry providers can also include remote monitoring systems which allow the user to check machine availability and progress of a load remotely.

3.10 A provider of managed laundry services must also have the appropriate infrastructure to provide service support to customers, ensuring the maintenance and repair of machines. Some providers outsource the installation and/or maintenance of the machines.

---

[31] See Summary of hearing with Mr Copley, paragraph 20. Machine purchases are generally imported from the USA. Exchange rate movements therefore result in changes to the sterling purchase price.
[32] JLA confirmed that its gross margin on machine sales in 2018 was c. [✂]%.
[33] In the CMA's customer research, 39 out of 59 respondents selected pre-paid cards as a payment method available to their end-users, 22 selected online payments, 21 selected cash, 20 mobile payments, 8 selected debit or credit cards, 4 tokens and 3 stated that the machines were free to use, which means that some higher education customers offered more than one payment method to their students.

Customers

3.11 Higher education customers include:

(a) universities and colleges;

(b) private organisations that provide student housing and related services either directly to students or on behalf of a university/college via an outsourcing arrangement (eg University Partnerships Programme[34] and Campus Living Villages)[35]; and

(c) management companies who manage student accommodation, but do not own the buildings.

3.12 Universities and private organisations are the largest customers within this sector, representing approximately £[✄] million and £[✄] million of JLA's pre-commission revenue respectively. Management companies represent approximately £[✄] million of JLA's pre-commission revenue.[36] We understand that there are more than [✄] private organisations and more than [✄] universities currently using managed laundry services in the UK.[37]

3.13 With some exceptions, higher education customers[38] tend to appoint one managed laundry services provider across all of their sites.[39]

3.14 As explained in more detail below in the market definition section, there are several significant differences between higher education customers and other customers.[40]

Key drivers of customer decision-making

3.15 The CMA commissioned DJS Research Ltd (DJS) to conduct a piece of customer research to inform its investigation. The research was based on

---

[34] University Partnerships Programme (UPP) is a private provider of on-campus student accommodation and support services in the UK.
[35] Campus Living Villages is a global student accommodation provider. It is one of the largest higher education student housing providers in the world.
[36] Figures refer to the annualised (pre-commission) lifetime value of contracts currently active in April 2018. Total pre-commission revenue is c.£ [✄] million.
[37] Based on JLA's list of customers in 2017.
[38] For example, Unite and UPP.
[39] Summary of hearing with Goodman Sparks, paragraph 17.
[40] Other customers include care homes, schools, hotels, hospitals and holiday parks.

sampling: (i) all JLA higher education customers with a contract starting in January 2016 or later; and (ii) all Washstation, Armstrong, Goodman Sparks and Photo-Me higher education customers.[41]

3.16 DJS completed a total of 59 interviews[42] with: 41 JLA customers, 10 Washstation customers, 7 Armstrong customers and 1 Goodman Sparks customer.[43] These customers were primarily universities or colleges (36) or private student accommodation providers (19).[44]

3.17 The main objectives of the CMA's customer research were:

(a) To understand which laundry providers are used, the extent to which the same customer uses more than one provider and number of sites of each higher education customer;

(b) To ascertain the types of contract used and services provided to higher education customers;

(c) To understand the procurement process, what triggers the process and what the selection criteria are;

(d) To gauge views on providers in the market and satisfaction with existing providers;

(e) To identify potential barriers to market entry; and

(f) To understand views on the merger and its likely impact on the sector.

3.18 The full DJS Report was published on 2 July 2018 on the CMA case page. The evidence from the CMA's customer research has been taken into account where appropriate in this report.

3.19 The CMA's customer research focused on the most recent contracting episode and asked a number of questions about what was important to the

---

41 The CMA removed those customers from the sample that it held hearings with to ensure no duplication.
42 The customers referred to in paragraph 3.15 were approached for interview. 59 interviews were completed from a total sample of 314 customers.
43 No customer of Photo-Me took part in the CMA's customer research.
44 Respondents also included: a small number of companies who manage student accommodation on behalf of others (3) and others (1).

customer when they chose their current provider. The research shows that[45]:

(a) The quality and speed of the maintenance and repair service offered by the laundry provider was the most important criterion.[46]

(b) The rate of commission paid to the university and the vend price charged to the student were important factors.[47]

(c) Previous good experience with the supplier and the provider's experience of providing laundry services were important factors;[48]

(d) Providing a good student experience was important, which could include the environment of the laundry room, payment options and online services.[49]

3.20 We note that the sample sizes achieved in this research are small and do not allow for robust statistical conclusions to be drawn in relation to the overall universe of higher education customers. For this reason, we adopted a qualitative rather than quantitative approach to analysing the research results, looking at broad patterns of responses without placing particular weight on individual figures (and therefore we only report any large differences between sub-groups of respondents).

3.21 During the course of our investigation, and simultaneously[50] with DJS conducting its customer research, we also conducted a number of hearings with a selection of third parties. These allowed us to explore recent contracting behaviour in more detail than in the customer research and to

---

[45] Response to Question 21 a*: 'What were the most important factors when choosing <PROVIDER> in preference to other providers?'* and Question 21 b: '*I am now going to read out a list of features. For each one I'd like you to tell me how important it was when choosing which provider to appoint. Please use one of the phrases on the following scale to describe your answer: 'Essential', 'very important', 'fairly important' or 'not important':*
[46] See Table 11 and 12 of DJS final report.
[47] See Table 11 and 12 of DJS final report.
[48] See Table 11 and 12 of DJS final report.
[49] See Table 11 and 12 of DJS final report.
[50] In the Response to the Provisional Findings, JLA submitted that our approach to the customer research was inconsistent and used quantitative results when it supported our views, but ignored broad patterns when it did not. Throughout this report, as in the Provisional Findings, we have consistently adopted a qualitative approach and we have not extrapolated from the responses to the customer research to make findings in respect of higher education customers as a whole. Where we refer to results of the customer research that do not show an evident pattern, we do so only to illustrate that a particular point is consistent with other evidence, but we do not place weight on it beyond that purpose.

probe how different parameters were weighted when evaluating bids. Our hearings revealed that the following factors were important:

- *(a)* commission rate;[51]
- *(b)* vend price – this was a parameter of competition in some contracts but not others, as in some instances it was set by the laundry provider and in other instances by the higher education customers;
- *(c)* speed of repairs and servicing;
- *(d)* quality of machines – although in practice there may be little difference between different providers as long as the machines are of a similar age;
- *(e)* refurbishment of laundry rooms;
- *(f)* payment methods including online support; and
- *(g)* promotional activities with students.

Managed laundry contracts

3.22 The managed laundry sector, including the higher education sector, is generally characterised by long-term contracts, with a typical contract length of five to eight years. JLA told us that this period corresponds to the average lifespan of a semi-commercial machine, and is therefore intended to enable a provider to recoup the investment made in the machines installed.

Negotiations for new contracts and existing contracts

3.23 JLA told us that public sector higher education customers would generally seek to put in place new contracts through a formal or informal tender process, with some customers using tendering platforms, such as In-Tend.

---

[51] While the results of the CMA's customer research indicate that commission rate and vend price ranked second as criteria of selection (after quality of service) and were considered essential by a lower number of respondents than quality of service, hearings evidence indicates that, for some customers, commissions and vend prices are important factors in their choice of provider.

3.24 Higher education customers in the public sector must follow a formal tender process for contracts for the supply of managed laundry services[52] if the value of these contracts is above certain thresholds.[53]

3.25 Many higher education customers (including most private student accommodation providers) negotiate directly with managed laundry services providers.[54]

3.26 Information provided by JLA shows that most of its new contracts (including with existing customers) are secured through direct negotiation rather than public tendering (see Figure 6 below).

3.27 Customers generally evaluate submitted bids against certain criteria. These criteria typically relate to:

(a) the level of commission to be received by the customer under a vend share agreement;

(b) the quality of the machines (including considerations on size and energy consumption);

(c) the quality and speed of the repair and maintenance services;

(d) whether the cost of the installation of the machines and of the refurbishment of laundry rooms is included in the contract; and

(e) the end-user payment systems provided.

---

[52] As mentioned in paragraph 7.8, the large majority of contracts do not follow a formal tender process.
[53] The Public Sector Procurement Directive (Directive 2014/24/EU) which provides rules for the procurement of goods, services and works above certain thresholds by public authorities, is implemented in England, Wales and Northern Ireland by the Public Contracts Regulations 2015 (the 2015 Regulations) and in Scotland by the Public Contracts (Scotland) Regulations 2015 and the Procurement (Scotland) Regulations 2016.
Part 1 of the 2015 Regulations applies to 'public supply contracts and public service contracts awarded by sub-central contracting authorities' (ie contracting authorities which are not central government authorities) where the procurement has a value, net of VAT, estimated to be equal to or greater than the sum specified in Article 4(c) of the Public Contracts Directive. This sum is expressed in euro in the Directive, and so for the purposes of the Regulations is determined by the European Commission in pounds sterling, and published from time to time in the Official Journal in accordance with Article 6 of the Directive. The relevant thresholds in pounds sterling are £181,302 for the period from 1 January 2018, and £164,176 for the previous period, from 1 January 2016 to 31 December 2017.
[54] As set out in 7.8 and 7.9, direct negotiations account for the large percentage of the Parties business and include both new business and the roll-over of existing agreements. In particular, private student accommodation providers (see paragraph 3.11) tend use direct negotiations.

3.28 Each customer will value different elements of the overall solution differently, with the relative importance and weighting for the scoring of each criterion being normally set out differently in each tender proposal.[55] The criteria that tend to be weighted more heavily are service quality, price or competitiveness and student experience (eg refurbishment and end-user payment systems), in line with the evidence from the hearings and CMA's customer survey set out above.

3.29 We understand that the speed and quality of the repair and maintenance services is particularly important for managed laundry service customers in general, including in the higher education sector.

3.30 JLA told us that, for existing customers, [✂].[56]

3.31 Figure 6 below shows the new contracts[57] that JLA and Washstation secured through direct negotiations with higher education customers in 2016 and 2017, and the proportion of total revenue acquired through direct negotiations in each year.

Figure 6: Directly negotiated contract revenue (JLA and Washstation)

Directly negotiated contract revenue	*2016 Pre-commission revenue (£)*	*Share of revenue*	*2017 Pre-commission revenue (£)*	*Share of revenue*
JLA	[✂]	[60-70]%	[✂]	[80-90]%
Washstation	[✂]	[60-70]%	[✂]	[80-90]%

3.32 Figure 7 below shows the new contracts that JLA secured through direct negotiation with higher education customers, split by existing sites that were already serviced by JLA and new sites that were secured by JLA under the terms of the new contract. Comparable information is not available for Washstation.

[55] For example, proposals by Oxford Brookes University, the University of Greenwich and University of Nottingham weighted different factors as follows: (i) [✂]: Service Delivery ([✂]%), Student Experience Customer Care ([✂]%), Price/Income ([✂]%), Organisation and Staffing ([✂]%) and Account Management ([✂]%); (ii) [✂]: Cost Effectiveness/Competitiveness ([✂]%), Quality ([✂]%), Delivery Conditions and Support ([✂]%) and Sustainability ([✂]%); (iii) [✂]: Costings/Commissions ([✂]%); Laundrette Solution ([✂]%); Implementation ([✂]%); Contract Management including Servicing & Maintenance ([✂]%); Sustainability ([✂]%); Continuous Improvement /Added Value ([✂]%).
[56] [✂].
[57] New contracts includes new contracts agreed with existing customers and contracts agreed with new customers.

Figure 7: Directly negotiated contract revenue by existing and new sites

	2016		*2017*	
New or existing	*Pre-commission revenue (£)*	*Percent*	*Pre-commission revenue (£)*	*Percent*
Existing site	[✂]	[40-50]%	[✂]	[40-50]%
New site	[✂]	[50-60]%	[✂]	[50-60]%
TOTAL	[✂]	**100%**	**[✂]**	**100%**

Source: JLA

3.33 Figure 8 below shows the new contracts that JLA and Washstation secured through tender process with higher education customers in 2016 and 2017, and the proportion of total revenue acquired through tender process in each year. Rolled over contracts (ie those that have expired but remain active) are not included in the figures below and make up the balance of total new contract revenue earned in 2016 and 2017.

Figure 8: Tendered contract revenue (JLA and Washstation)

	2016		*2017*	
Tendered contracts revenue	*Pre-commission revenue (£)*	*Share of revenue*	*Pre-commission revenue (£)*	*Share of revenue*
JLA	[✂]	[30-40]%	[✂]	10-20]%
Washstation	[✂]	[30-40]%	[✂]	[0-10]%

3.34 Figure 6 and Figure 7 show that the large majority of contracts are awarded through direct negotiation.

Commission rates

3.35 JLA told us that private entities and management companies receive average commissions of [✂]% and [✂]% respectively, while university halls of residence receive [✂]% commission on average. JLA also noted that there is a wide range of commission rates across each different customer type.[58]

[th] As part of our investigation, we have looked at the actual commission levels, which are discussed in the Competitive Effects section.

Future evolution of the sector

3.36 JLA told us that the number of higher education and other shared accommodation sites in the UK was increasing.

3.37 JLA also submitted an independent market study by Knight Frank, indicating that the market for managed laundry services to higher education customers was growing, with 14,000 new student bedrooms to be built in 2018 and 2019.

3.38 A report into the UK student housing market, conducted by Cushman and Wakefield, states that there were 602,000 purpose-built bed spaces available to students in the UK for the 2017/18 academic year and that more students than ever (1.04 million) were studying away from home, meaning the demand pool for accommodation was continuing to grow.

3.39 The report notes that 30,000 new beds were added in the 2017/18 academic year with new supply being mostly from the private sector development (87% of new beds in 2017/18 were delivered by private accommodation providers).

3.40 Taken together, these third-party reports indicate that the number of student beds is continuing to grow, but that the rate of growth may be slowing.

4. The Merger and relevant merger situation

The transaction

4.1 On 18 May 2017, JLA, via its subsidiary Vanilla Group Ltd (Vanilla) acquired all of the issued share capital of Washstation for £[✄] million.

4.2 We provide further background of the negotiations leading to the transaction in Appendix D.

The rationale for the transaction

4.3 JLA told us that it did not prepare extensive internal documentation prior to its decision to purchase Washstation, because:

(a) the commercial laundry business was uncomplicated and JLA, its Board and its major sponsor/shareholder at the time (Hg Capital)[59] had an in-depth knowledge of the industry;

(b) Mr Copley was known personally to members of JLA's management, including the CEO, Mr Baxter; and

(c) Washstation was a small business and its annual turnover (net of commission) of approximately £[✂] million represented less than [✂]% of JLA's pre-Merger total turnover of its whole business.

4.4 JLA told us that the Washstation acquisition was attractive to JLA because it would allow JLA to acquire a book of contracted revenues. In addition, JLA anticipated being able to benefit from cost synergies of round £[✂] million per annum.

4.5 Following the appointment of BDO, an accountancy and business advisory firm, to conduct financial due diligence, a report was prepared by JLA management for the JLA Board, which recommended the acquisition of Washstation for the following reasons:

(a) The acquisition was expected to return roughly [✂] times the value of the initial investment and create net value of £[✂]million (based on the sale of the business and an exit value of £[✂] million – see Figure 9 below).[60]

Figure 9: Net value of Washstation acquisition

[✂]

Source: JLA, Annex 21 JLA Board Paper, page 2.

(b) The total Full Forward Value (FFV)[61] of all contracts awarded to Washstation as at 9 May 2017 was £[✂] million (see Figure 10**).** If all

[59] On 14 May 2018, Hg Capital announced that it had agreed a sale of JLA (including Vanilla and Washstation) to Cinven, an international private equity firm. We understand that the completion of this transaction is conditional on approval by the Financial Conduct Authority.
[60] JLA told us that the assumed exit multiple of [✂] is the multiple that applied in October 2015 when [✂]. The multiple was not therefore directly related to the transaction. JLA further considered that the expected return was based on very prudent assumptions for working capital investment, capex and taxation
[61] JLA uses the term 'Full Forward Value' (FFV) which refers to the sum of the annualised revenue of each contract, multiplied by the remaining contract period. Annualised revenue reflects annual revenue projections for each contract plus any vend price increases where appropriate. Amounts are not discounted to present value.

contracts were successfully renewed during the forecast period then the total FFV to October 2026 would be £[✂] million.

Figure 10: Washstation Full Forward Value[62]

[✂]

Source: JLA, Annex 21 JLA Board Paper, page 5.
Note 1: FY17 results are for the period May-17 to Oct-17 only

4.6 JLA told us that it expected to generate cost savings of circa £[✂] million per annum through combining the engineering teams (£[✂] million); sales and marketing savings (£[✂] million); and administration/ finance savings (£[✂] million).

4.7 Figure 11 below summarises the sales, marketing, finance and administrative synergies expected from the Merger by JLA, showing that the expected reduction in costs was mainly due to the duplication in staff and other administrative costs, such as office space and IT.

Figure 11: Breakdown of synergies

Cost item:	*£* *Synergy saving*
£Rent, rates and warehouse costs	[✂]
External and virtual office costs	[✂]
Administrative staff salaries	[✂]
Recruitment, consultancy and temporary staff costs	[✂]
Insurance	[✂]
Telephone	[✂]
Sales staff costs	[✂]

Source: JLA.

4.8 Under the [✂].[63]

4.9 Mr Copley [✂].[64]

62 [✂].
63 [✂].
64 [✂]

Relevant merger situation

4.10 Pursuant to section 35 of the Act and our terms of reference (see Appendix A) the first statutory question we must decide is whether a relevant merger situation has been created.

4.11 A relevant merger situation has been created if two or more enterprises have ceased to be distinct within the statutory period for reference[65] and the turnover test or the share of supply test is satisfied, or both are satisfied.[66]

Enterprises ceasing to be distinct

4.12 Both JLA (and its subsidiary Circuit) and Washstation are 'enterprises' for the purposes of the Act, as they carry on the activities of a business, namely the supply of managed laundry services for gain to higher education customers.[67]

4.13 JLA and Washstation have ceased to be distinct enterprises, since they have been brought under common ownership or common control:[68] as a result of the Merger, JLA (indirectly through its subsidiary Vanilla) held all of the issued share capital of Washstation;[69] had the right, directly or indirectly, to appoint or remove a majority of the board of directors of the company; and held, directly or indirectly, all of the voting rights in Washstation.

4.14 The enterprises have ceased to be distinct within the statutory timeframe applicable in this case.[70] JLA, through its subsidiary Vanilla, acquired

---

[65] Sections 23, 24 and 26 of the Act.
[66] Under section 23 of the Act, the turnover test is met if the value of the turnover in the UK of the enterprise being taken over exceeds £70 million; and the share of supply test is met if, as a result of two or more enterprises ceasing to be distinct, a share of supply of at least 25% is created or enhanced in relation to goods or services which are supplied or acquired in the UK, or in a substantial part of the UK.
[67] Section 129(1) and (3) of the Act provides that an 'enterprise' means 'the activities or part of the activities of a business'; and a 'business' includes a professional practice and any other undertaking which is carried on for gain or reward or which is an undertaking which supplies goods or services 'otherwise than free of charge'.
[68] Section 26 of the Act.
[69] A 'controlling interest' generally means a shareholding conferring more than 50% of the voting rights in a company (Mergers; Guidance on the CMA's Jurisdiction and Procedure (CMA2), paragraph 4.30).
[70] Section 24 of the Act provides, in summary, that there is a relevant merger situation where enterprises have ceased to be distinct not more than four months before the day on which the reference is made, or where the merger took place without having been made public and without the CMA being informed of it, four months from the earlier of the time that material facts of the merger were made public or the time the CMA was told of those

Washstation, so that the enterprises ceased to be distinct, on 18 May 2017. However, in the absence of any press release or other public statement about the Merger, it was not until 30 October 2017 that the CMA was given material facts about the Merger (by a third party). Accordingly, the four-month period – ie the statutory deadline within which the CMA has the ability to refer a merger[71] – started on 30 October 2017. It was subsequently extended on two occasions: first, on the basis that JLA had failed to comply fully with a notice under section 109 of the Act (for the production of certain documents);[72] and secondly, on the basis of the potential consideration of undertakings in lieu of a reference.[73] The CMA made the reference on 16 April 2018, and therefore within the four-month period, as extended.[74]

Turnover test / share of supply test

4.15 The relevant merger situation test also requires there to be a sufficient connection with the UK on a turnover or share of supply basis to give us jurisdiction to investigate.

4.16 In the present case, the turnover test is not met, since the value of the turnover in the UK of the enterprise acquired (ie Washstation) does not exceed £70 million.

4.17 However, the share of supply test is met, since the Merger has resulted in an increase to a share of supply of at least 25% in relation to services which are supplied or acquired in the UK, or in a substantial part of the UK. As explained in more detail in paragraphs 7.17 to 7.20 below, the CMA estimates that the Parties have a combined share of supply in the UK of [90-100]% in managed laundry services to higher education customers under vend share agreements, with an increment of around [5-10]% as a result of the Merger.

material facts. The four-month period may be extended in certain circumstances (for example, pursuant to section 25 of the Act).
[71] Section 24 of the Act. The four-month period starts from the earlier of the time the merger was made public or the time the CMA was told about it.
[72] Under section 25(2) of the Act.
[73] Sections 25(4) and 73A of the Act.
[74] On 10 April 2018, JLA informed the CMA that it did not intend to give undertakings in lieu of reference. Accordingly, pursuant to section 25(5) of the Act, the extension of the four-month period would have ended on 24 April 2018.

Conclusion on the relevant merger situation

4.18 In the light of the above assessment, we conclude that the Merger has resulted in the creation of a relevant merger situation.

5. The counterfactual

5.1 To assess the effects of the Merger on competition we need to consider what would have been the competitive situation without the Merger. This is called the 'counterfactual'.

5.2 The counterfactual is an analytical tool used to help answer the question of whether the Merger has resulted, or may be expected to result, in an SLC. It does this by providing the basis for a comparison of the competitive situation in the market with the Merger against the likely future competitive situation in the market absent the Merger. The CMA's approach to the counterfactual is set out in our Merger Assessment Guidelines (MAGs).[75]

5.3 The CMA may examine several possible counterfactual scenarios, including the continuation of the pre-Merger situation, and will select only the most likely scenario.[76] The CMA will typically incorporate into the counterfactual only those aspects of scenarios that appear likely on the basis of the facts available and the extent we are able to foresee future developments.[77] Given that the counterfactual incorporates only those elements of scenarios that are foreseeable, it will not in general be necessary to make finely balanced judgements about what is and what is not the counterfactual.[78]

5.4 In order to determine the counterfactual, we have considered, based on the evidence, what would have been the most likely scenario had Washstation not been acquired by JLA.

---

[75] MAGs, section 4.3.
[76] MAGs, paragraph 4.3.6.
[77] MAGs, paragraph 4.3.2.
[78] MAGs, paragraph 4.3.6.

Views of the Parties

JLA

5.5 JLA told us that the appropriate counterfactual should reflect 'Washstation being a materially weakened competitive force', because immediately prior to the Merger:

(a) Washstation was beginning to flatline rather than continuing to grow within the context of a market that itself was still growing;

(b) Washstation was winning fewer contracts and those contracts were of a smaller value than the contracts it had previously won, and it had been investing less capital in the business since 2015;[79]

(c) Washstation had a funding deficit of £1.3 million[80] and this gap was resulting in sub-optimal customer service;

(d) Washstation was receiving many customer complaints and many of these customers would not have renewed contracts with Washstation; and

(e) leading up to the Merger, Washstation was delaying the payment of commission due to cash flow and liquidity issues.[81]

Washstation

5.6 Mr Copley told us that he sold the Washstation business after he was approached by JLA in June/July 2016, and that at the time of the approach from JLA, he was not actively looking to sell the business.[82]

5.7 Mr Copley also told us that:

---

[79] Washstation's capital investment in 2016 was down [✂]% compared to the 2015 equivalent. In 2017 that figure had reduced by a further [✂]% on the 2016 figure.
[80] The 'funding deficit' refers to Washstation's unpaid commitments (e.g. the outstanding commission debts owed to customers) in excess of its trading expenses.
[81] Washstation's figures show that at the time of the Merger, it had accrued almost £[✂] million in overdue commission to customers, which was subsequently reflected as one of the downward price adjustments in the final price paid for the business.
[82] Summary of hearing with Mr Copley, paragraph 22.

(a) Washstation was securing new contracts in the weeks leading up to the sale and that the business [✂];

(b) Washstation had good customer relationships and customer retention rates were strong;[83] and

(c) the business was in a strong financial position and prior to the Merger, he had approached a number of parties for additional investment to continue the expansion of the business.[84]

5.8 Further background to the sale of Washstation is provided in Appendix D.

Views of third parties on the counterfactual

5.9 Armstrong told us that it believed the commission rates offered by Washstation were unsustainable.[85]

5.10 Armstrong told us that JLA and Washstation offered commission rates of 60% to 70% to some customers and that offering this level of commission to customers would not be profitable for Armstrong.[86]

5.11 Armstrong told us that, assuming Mr Copley had the requisite finance to continue to operate Washstation as he had done prior to the Merger, it would have expected Washstation to continue to compete against JLA and offer relatively high commission rates to win contracts.[87]

5.12 Goodman Sparks, a regional provider of managed laundry services, predominantly active in the North of England and the Midlands, told us that it suspected that the strategy of Washstation was to grow its presence before exiting the market by selling the business.[88] However, Goodman Sparks also told us that in the absence of the Merger, Washstation would have continued to impose a competitive constraint on JLA.[89]

[83] Summary of hearing with Mr Copley, paragraphs 18 and 26.
[84] Summary of hearing with Mr Copley, paragraph 25.
[85] Summary of hearing with Armstrong, paragraph 29.
[86] Summary of hearing with Armstrong, paragraph 11.
[87] Summary of hearing with Armstrong, paragraph 29.
[88] Summary of hearing with Goodman Sparks, paragraph 10.
[89] Summary of hearing with Goodman Sparks, paragraph 19.

Our assessment

5.13 In light of JLA's submissions and third parties' views, we consider below two possible counterfactual scenarios in relation to the constraint from Washstation absent the Merger. We considered whether Washstation would continue to operate in the market as it did prior to the Merger (ie pre-Merger conditions), or whether it would continue to operate in the market, but impose a lesser competitive constraint on JLA.

5.14 We also assessed whether Hughes' acquisition of Armstrong was sufficiently likely, absent the Merger to be incorporated in the counterfactual.

Would Washstation have continued to operate as it did prior to the Merger or become a weaker competitor absent the Merger?

5.15 In assessing whether pre-Merger conditions or Washstation imposing a lesser competitive constraint on JLA is the most likely counterfactual, we considered:

(a) the financial performance and position of Washstation in the absence of the Merger; and

(b) whether underperformance against service standards was likely to lead to significant contract losses in the future.

Washstation's financial performance and position

5.16 Prior to JLA's acquisition of Washstation, JLA appointed BDO to perform financial due diligence on the Washstation business.

5.17 BDO's due diligence indicates that Washstation was a marginally profitable and growing business (see Figure 12 below). Washstation recorded revenue of £[✂] million and net profit of £[✂] in 2016, and Washstation forecast revenue of £[✂] million in 2017 and £[✂] million in 2018. Washstation also forecast net profits of £[✂] in 2017 and £[✂] in 2018.[90]

[90] Due diligence was prepared from information supplied by and from discussions with the directors, management and employees of Washstation. Information provided by Washstation was unaudited.

Figure 12: Washstation trading summary

					£'000
	2015A	*2016A*	*2017F*	*2018F*	*2019F*
Revenue	1,785	2,587	3,390	3,896	4,168
EBITDA	292	334	[✂]	[✂]	[✂]
Net Profit	82	15	[✂]	[✂]	[✂]

Source: BDO financial due diligence report, slide 19.

5.18 BDO's report also advised JLA that:

(a) Washstation's revenue forecasts represented known contracts which Washstation had attained. As such, subject to the achievement of planned price increases and the retention of existing sites, forecasts appeared to be achievable.

(b) The average remaining duration of Washstation customer contracts, weighted by revenue, was [✂] years at the time of the Merger.

5.19 As BDO only considered Washstation's financial position from 2015 onwards, we conducted our own analysis of Washstation's contract data (provided to us by JLA) to understand the financial performance of the business from 2010 (see Figure 3 above which shows a significant growth in Washstation's revenues since 2010).

5.20 Based on the start dates of active Washstation contracts and using the 2017 revenue generated by each of those contracts,[91] we estimate that Washstation has grown each year since 2010 and achieved its most significant growth during 2015. Any comparison of Washstation's performance only against its 2015 growth rate would therefore be misleading and would not reflect the performance of the business over time. Our analysis shows that Washstation's 2016 performance was broadly in line with its wider growth trend. We do not consider 2017 to be an accurate measure of growth absent the Merger as it represents a part year only and may have been impacted by negotiations for the sale of the business.

[91] For example, where contracts started in 2015, we allocated the 2017 revenue figures for those contracts to the year 2015 and subsequent years. In calculating revenues for each year from 2010 onwards, we then summed the revenues each year to obtain yearly figures. As we would not expect material variation in individual contract revenue from year to year (ie student numbers, student usage, vend prices etc remain broadly similar), we consider this to be a reasonable indicator of Washstation's growth over time although actual figures would likely be different.

5.21 Further, we note that JLA ultimately paid £[✂] million for Washstation and that JLA’s expectation was that significant value could be generated from the acquisition.

5.22 With regard to Washstation’s financial position, due diligence indicates that Washstation had [✂], as well as delaying the payment of commission to customers.

5.23 Mr Copley told us that:

(a) at the time of the sale of Washstation, [✂]; and

(b) this was [✂].

5.24 In terms of asset financing, we note that, according to the due diligence report, Washstation entered into a sale and leaseback arrangement[92] in September 2016 which resulted in an increase in cash of £[✂]. Financial due diligence indicated that at the end of 2015, a low proportion[93] of Washstation’s fixed asset base was held under finance leases or hire purchase contracts and that Washstation’s management was considering refinancing certain unleveraged machine assets to release cash.[94]

5.25 Mr Copley also told us that:

(a) he had access to other forms of financing including [✂];[95] and

(b) he had [✂]. [96]

5.26 Further, BDO’s due diligence forecasted that Washstation’s cash flow position would strengthen over time, with operating cash flow forecast to increase from £[✂] in 2016 to circa £[✂] million in 2018 and £[✂] million in 2019.

---

[92] A sale and leaseback is a financial transaction whereby the seller of an asset immediately leases back that same asset. By doing so, the seller obtains cash from the sale but is able to continue using the asset in return for a periodic payment.
[93] Around [✂]%. BDO financial due diligence report, slide 35.
[94] A refinancing arrangement allows a company to raise cash against its assets. This can take the form of a sale and leaseback or a secured loan. ‘Unleveraged machine assets’ means those items of machinery not yet subject to such an agreement.
[95] Summary of hearing with Mr Copley, paragraph 25.
[96] Summary of hearing with Mr Copley, paragraph 25.

Conclusion on Washstation's financial performance and position

5.27 We found that at the time of the Merger, Washstation was forecast to grow (in terms of revenue, profitability and cash flow).

5.28 Washstation appeared to be exhibiting some of the challenges common to small, growing companies in ensuring that adequate funding was in place to sustain its growth. However, Mr Copley told us that Washstation had several possible options available to it should additional financing be required.

5.29 Overall, we consider that Washstation was on a clear growth path before the Merger, largely due to its success in securing long term contracts, and it was forecast to improve its financial performance and position over time.

Washstation's performance against its contractual obligations and service standards

5.30 JLA told us that the late payment of commission due to customers by Washstation would have resulted in customer dissatisfaction and the potential loss of existing contracts, as well as the failure to secure new contracts.

5.31 JLA also told us that, due to the importance of contracted revenue for the sale of the business, Washstation may have been entering into economically non-viable contracts (by offering commission rates to customers that were too high), in order to secure new contracts and to make the company attractive to a potential purchaser.

5.32 However, JLA also told us that, in general, Washstation's average commission levels were [✂] percentage points higher than the average level offered by JLA.[97] While JLA identified a limited number of examples of Washstation offering much higher commissions (eg [✂]), it noted that this was not normally the case.

[97] JLA told us that Washstation commissions were around [✂] percentage points higher than those of JLA on average.

5.33 The MT has informed us that, [✄], based on unaudited data provided by JLA.[98] This indicates that most of Washstation's contracts are profitable.

5.34 The HSM has told us that there has been some evidence of customer dissatisfaction caused by the late payment of commission and service under-performance[99], and that this has led to [✄] losses, accounting for around £[✄] of pre-commission revenues annually.[100] This compares to projected revenues of circa £[✄] million in 2018 and £[✄] million in 2019.

5.35 We note that at least a part of the contract losses occurring during the mandate of the HSM have been influenced by issues which would not have existed in the absence of the Merger (eg uncertainty and confusion regarding the future of Washstation due to the CMA investigation).

Conclusion on Washstation's performance against its contractual obligations and service standards

5.36 We have found that prior to the Merger, Washstation was, on the whole, performing well against its contractual obligations and service standards. Any uneconomic contracts are limited in number and do not cast material doubt on the viability of the Washstation business. There were some incidents of customer dissatisfaction, but these have not led to the widespread loss of customers which would have materially weakened or undermined Washstation's ability to continue to grow and compete as it did prior to the Merger.

Conclusion on whether Washstation would have continued to operate as it did prior to the Merger or become a weaker competitor absent the Merger

5.37 We have found that Washstation would have continued to compete in the supply of managed laundry services to higher education customers as it had done prior to the Merger. This finding is based on the following evidence and analysis:

---

[98] [✄].
[99] For example, where contractual commitments regarding response times had not been adhered to or where Washstation had over-promised on the technical capabilities of its machine availability monitoring and payment systems.
[100] [✄].

(a) due diligence commissioned by JLA on Washstation's business shows that the business was forecast to grow (revenues, profitability and cash flow);

(b) our analysis of contract data shows that Washstation had been on a growth path since 2010 (any apparent slowing in 2016 relates to performance in one year only and is not necessarily indicative of a wider trend of slow growth);

(c) while some additional finance may have been required to continue to develop the business and its continued expansion, we understand that prior to the Merger, Mr Copley was considering raising additional finance to develop the business;

(d) Washstation's commission rates (ie the percentage of vend revenues paid to higher education customers) were not significantly different from those of JLA and while there were some uneconomic contracts, these are limited in number and do not cast material doubt on the ability of the Washstation business to continue to compete as it did pre-Merger; and

(e) while there have been some instances of customer dissatisfaction, this has resulted in the loss of a limited number of Washstation contracts and has not significantly weakened Washstation's ability to compete as it did pre-Merger.

Hughes's acquisition of Armstrong

5.38 Armstrong was acquired by Hughes in January 2018. We assessed whether, in the absence of the Merger (hypothetically), this acquisition would have occurred or occurred on different terms, because this could affect the conditions of competition.

5.39 JLA submitted that it was unclear whether Hughes' acquisition of Armstrong would have taken place absent the Merger. JLA noted that, after the Merger, Armstrong approached JLA about acquiring the Armstrong business and that, absent the Merger, JLA might have been more aggressive in trying to acquire Armstrong.

5.40 Although the Merger was not public at that time, Hughes told us that it was aware of the Merger in September 2017 (ie when it decided to acquire Armstrong), but that it would have decided to acquire Armstrong regardless of the Merger.

5.41 However, a note of a meeting of Hughes's senior management held on 17 September 2017 to discuss the possible acquisition of Armstrong described the competitive set as including JLA and Washstation as two separate competitors. Furthermore, Armstrong stated that it saw the acquisition of Washstation by JLA as an opportunity.[101]

5.42 The above raises some doubts on Hughes' contention that its decision to acquire Armstrong was not affected by the Merger.

5.43 In view of the foregoing, our view is that, even if Hughes' acquisition of Armstrong might have occurred absent the Merger, the Merger was likely to have prompted or at the very least positively affected Hughes' intentions to expand in the higher education market, although we are not in a position to determine exactly to what extent.

5.44 We have found that Hughes Armstrong's subsequent expansion plans were, to some extent affected by the Merger. Accordingly, the most likely counterfactual is the counterfactual in which Armstrong would continue to operate under the pre-Merger conditions of competition. We have used that counterfactual as regards Armstrong's competitive strength in our assessment in the Competition Effects section. We have assessed the impact of Hughes' acquisition of Armstrong in the Countervailing Factors section.

Conclusion on the counterfactual

5.45 We have concluded that the most likely counterfactual is the pre-Merger conditions of competition, in which the competitive constraint imposed on JLA was from Washstation and Armstrong.

6. Market definition

6.1 The purpose of market definition is to provide a framework for the CMA's analysis of the competitive effects of a Merger. The relevant market (or markets) is the market in which a merger may give rise to an SLC and contains the products and/or services that are the most significant competitive alternatives available to the customers of the merged

[101] Summary of hearing with Armstrong, page 2.

companies. Market definition is a useful analytical tool but is not an end in itself and identifying the relevant market involves an element of judgement. The boundaries of the market do not determine the outcome of the CMA's analysis of the competitive effects of a merger in a mechanistic way. The CMA may, for example, also take into account constraints outside the relevant market (or markets).[102]

Product market definition

6.2 As mentioned above, the primary overlap between the Parties is in the provision of managed laundry services to higher education customers under vend share agreements.[103]

6.3 No higher education customer indicated that the provision of an onsite laundry was discretionary, and as such the choice faced by customers was how to source washing machines, driers and any associated services. The ability of students to take their laundry home or to a high-street launderette, as submitted by JLA, does not change this.

6.4 JLA submitted that the appropriate frame of reference is for the supply of commercial laundry products and services in the UK, and that it is inappropriate to define the market by reference to any end-user group. JLA also submitted that it is inappropriate to make reference to the agreement type which is used to purchase laundry equipment or services.

6.5 In establishing whether the relevant product market should be defined in this way or more broadly, there are two main considerations:

(a) the extent to which other means of procuring laundry services are demand-side substitutes for vend share agreements, and so represent credible outside options to customers; and

(b) the extent to which providers of managed laundry services to other sectors and through other contractual models are the same as the

---

[102] MAGs, paragraphs 5.2.1 and 5.2.2.

[103] The Parties also overlap to a limited extent on the supply of managed laundry services to hospitality and leisure customers. Given that the revenue of Washstation generated from the supply of managed laundry services to sectors other than higher education was less than £[✂], and our investigation indicates that there is a significant higher number of competitors supplying managed laundry services to other sectors, we have not investigated the effects of the Merger in other sectors further.

providers of managed laundry services to higher education customers and have the ability and incentive to quickly supply higher education customers.[104]

Demand-side substitution

JLA submissions

6.6 JLA submitted that customers are unconcerned with the manner in which they contract to obtain laundry services.

6.7 JLA stated that some customers simultaneously procure machines under vend share and fixed rental agreements, which indicates that these customers see these purchasing models as substitutes. JLA identified[105] [a limited number] of all its vend share customers, who switched from a vend share agreement to a fixed rental agreement. Of these one is a higher education customer, who switched contract type in 2016 and pays monthly rent of £[✂].[106]

6.8 JLA submitted that the CMA's market research suggests that 1 in 5 customers do not consider vend share agreements to be important and that third parties (UPP, Regent's Park College and the University of Leeds) interviewed in hearings considered fixed rental solutions and/or self-supply. JLA also noted that several of the reasons stated by customers to the CMA in relation to why they prefer vend share agreements also apply to fixed rental agreements – in particular the lack of initial capital outlay and the ability to outsource management and maintenance.

[104] Despite the individualised nature of the service provided to each customer and the several types of customer, we are of the view that it would not be appropriate to segment the market further by different higher education customers. This is for two reasons. Firstly, the assets and services needed to supply higher education customers are relatively uniform in terms of the equipment which must be provided and the maintenance and service requirements. Secondly, the nature of competition – tenders and negotiations – are uniform across the higher education sector and the same providers (JLA, Washstation, and Armstrong) are active across all types of higher education customer.
[105] This data only covers customers who switched from vend share to fixed rental contracts while staying with JLA (a customer could have had a vend share agreement with another provider, and then switched to a fixed rental agreement with JLA, or vice versa).
[106] The higher education customer is [✂]The other contracts relate to [a limited number of] school, leisure and housing association customers.

Third parties

6.9 Managed laundry providers generate their revenue by retaining a proportion of the vend price (which is set contractually) paid on each washing, or drying, cycle. Vend share agreements involve no payments by the customer to the managed laundry provider.

6.10 Customers told us that vend share agreements are their preferred option because such agreements allow them to avoid capital outlay and minimise ongoing costs.[107] We spoke to one higher education customer who asked for submissions in its tender for fixed rental options, but said that it was unlikely to choose the fully fixed model. It preferred vend share agreements which avoided the need to pass the costs of the fixed model on to students via rent increases.[108] A higher education customer also told us that it preferred vend share agreements as the financial risk is assumed by the provider.[109]

6.11 Managed laundry providers (Armstrong, Goodman Sparks and Mr Copley) confirmed that higher education customers have a strong preference for vend share agreements over fixed rental agreements.[110] They said that this is because higher education customers do not want to get involved in the management issues associated with the provision of laundry services, which only account for a small proportion of the overall costs of providing accommodation. One managed laundry provider to non-higher education customers stated that it was approached by two universities that could be interested in renting laundry machines on a fixed rental basis.[111] This provider was not successful in winning the contracts with these two universities.

6.12 Evidence submitted by JLA and third parties indicates that the large majority of customers in the higher education sector use the vend share

[107] The University of Nottingham and [✂].
[108] Summary of hearing with the University of Sheffield, paragraph 11.
[109] [✂].
[110] During a hearing with the CMA on 5 September 2018, Goodman Sparks stated that it believed that in the future more higher education customers will be inclined to use self-supply as an alternative to vend share agreements. When asked to give examples of higher education customers switching to self-supply, Goodman Sparks explained that its view was not based on any specific example, with the exception of a conversation with [UPP] who said that it considered this possibility. We note that evidence from third parties indicate that 'self-supply' was not their preferred choice.
[111] Summary of hearing with Maxwell Adam, paragraphs 10-12.

model. Data provided by JLA shows that [90-100]% of JLA's and 100% of Washstation's rental agreements in the higher education sector are vend share agreements (with the remainder being fixed rental agreements), whereas only [40-50]% of JLA' revenues in the leisure sector are from vend share agreements.

6.13 One possible alternative to both vend share and fixed rental agreements would be for higher education accommodation providers to purchase equipment and operate their own laundry services (self-supply). We understand that this was the primary means of provision for laundry services until the initial entry of Circuit in the 1990s.[112] However, no customers identified this as an alternative to renting machines either under the fixed or vend share model.[113] We note that [✂], in October 2018, informed Washstation that it would not renew the contract it had with Washstation in relation to 6 sites, because this university's procuring strategy had changed and was moving in the direction of bringing laundry services in-house. However, we consider that the evidence overall indicates that self-supply is not an option available to, or the preferred option for, the large majority of customers in the foreseeable future.

CMA's customer research

6.14 The CMA's customer research contained a number of questions on the types of contract currently in place and the willingness of customers to use different types of contracts. We have restricted the sample in the following paragraphs, as 9 respondents failed to correctly identify the type of contract they are currently on.[114]

---

[112] Though it should be noted that Goodman Sparks have provided managed laundry services on a vend share basis to a small number of universities since the 1970s. See Goodman Sparks hearing summary.
[113] We note, however, that University of Leeds told us that some of their new accommodation had domestic machines in each flat, rather than laundry rooms. These are rented on a fixed rental basis by the university and are free for students to use (with costs paid from the students' rent). No other customer indicated that they were using or considering using a similar model, either during hearings or as part of CMA's research and the University of Nottingham and University of Sheffield stated that using domestic machines was not currently an option for them.
[114] When we compared customer responses to the question about the type of agreement they had with the information provided by the Parties, we found that: seven out of nine customers who thought they were on a 'fixed rental agreement' and the one customer who said they were on a 'sales agreement' were all in fact on a 'variable rental agreement' according to the Parties' dataset. In addition, there was one customer who did not know what kind of agreement they had.

6.15 When respondents were asked to name the most important factors when choosing their laundry provider, none identified vend share agreements,[115/116] and respondents considered vend share agreements as the seventh most important factor in choosing between managed laundry service providers (behind factors such as quality of maintenance service). Nevertheless, half of the 50 respondents said they were unlikely to, or would not, consider a provider that does not offer a vend share agreement,[117] and only 10 out of the 50 respondents said that they were likely to consider a provider which does not offer vend share agreements.[118]

6.16 When asked why vend share agreements were important to them, the responses given by each respondent varied, but, overall, the reasons why they valued the vend share model were mainly: (i) avoidance of capital expenditure on machines and related facilities; (ii) the reduction in financial risk if machines are not used frequently; (iii) the greater degree of flexibility offered to vary the agreement according to need; (iv) the reduction in management and maintenance compared to self-owned machines; and (v) the income generation opportunity.[119]

6.17 Taken together, and, in particular having regard to the high percentage of JLA's and Washstation's higher education customers using vend share agreements - and the low incidence of switching by JLA customers from vend share to fixed rental agreements - we consider that these results imply that vend share agreements are important to a large proportion of respondents. This implies that higher education customers do not generally consider a provider who does not offer vend share agreements as an attractive option.

---

[115] In the customer research vend share agreements were referred to as variable rental agreements.
[116] This may be because all the providers considered did offer or were assumed to offer a vend share agreement.
[117] 9 respondents stated that offering 'variable rental agreements' (which are vend share agreements) is an essential selection criterion for a managed laundry provider, 20 said it is 'very important', and 11 said it is 'fairly important' Q21b, Customer research.
[118] No respondent stated that it was 'very likely' to consider a supplier which did not offer a variable rental agreement, 10 respondents stated they were 'fairly likely', 9 that they were 'neither likely not unlikely', 9 'fairly unlikely', 8 'very unlikely', 10 'would not consider' such a supplier, and 4 did not know. Q48, Customer research
[119] See response to Q21d, Customer research.

Conclusion on demand side substitutability

6.18 Our investigation revealed that the majority of higher education customers do not consider alternative types of procurement, such as fixed rental agreements or outright purchase, to be alternatives to vend share agreements. In particular, almost all higher education customers used (and continue to use) vend share agreements for the supply of managed laundry services and very few customers have previously switched from vend share to fixed rental agreements. Furthermore, some higher education customers expressed their preference for vend share agreements for various reasons.

Supply-side substitution

6.19 While the boundaries of the relevant product market are generally determined by reference to demand-side substitution alone,[120] in some circumstances it may be appropriate for the CMA to aggregate several narrow relevant markets into one broader one. There are two conditions which must be satisfied:

(a) production assets must be usable by firms to supply multiple products, and they must be willing and able to do so quickly depending on the level of demand for these products; and

(b) the same firms are seen to be competing in the supply of these products, and the conditions of competition between the firms are the same for each product.

6.20 In order to assess the scope for supply-side substitution we have considered:

(a) whether higher education customers have any unique requirements

(b) whether the same firms are active in the higher education sector as in other sectors

Unique requirements of higher education customers

6.21 As higher education customers have different requirements to customers in other sectors, we assessed whether firms who are currently supplying

[120] MAGs, paragraph 5.2.17.

laundry services to other types of customers can use the same production assets to supply higher education customers.

6.22 JLA submitted that the business model for managed laundry services is simple, requiring only laundry equipment and engineers to service and maintain the installed machines. From a technical point of view, there are no differences between a higher education customer and, for instance, a leisure customer, care home customer, hotel customer or a key-worker site.[121] JLA also said that apps, online monitoring systems and laundry room refurbishments are 'nice to haves' and are not as important to customers as service level and vend prices.

6.23 Nonetheless, as explained in more detail below, JLA's internal documents, including JLA's internal emails, emails between JLA and customers and high-level strategy documents, generally seem to indicate that JLA views higher education customers differently from customers in other sectors in the course of its day-to-day business.

6.24 As explained in the Entry and Expansion section, there is evidence from third parties and tender documents that the supply of managed laundry services under vend share agreements has distinct characteristics which differ from those in other commercial laundry sectors[122] and that these requirements represent collectively a barrier for some providers when switching capacity to supply higher education customers. For instance:

(a) third party evidence indicates that there is a longer recoupment period (to recover the initial capital outlay) in higher education compared with other commercial laundry sectors and/or fixed rental agreements (see below paragraph 8.56);

(b) some third parties also mentioned that the financial risk associated with the need to offer vend share agreements is a barrier to offering

---

[121] JLA told us that it is agnostic as to the type of customer it serves: it deploys laundry equipment to a range of different customer types; its service centre takes calls from all customer types; and its engineers do not specialise in any particular customer type.

[122] For instance, Laundry 365 told us that in the higher education sector the provider needs to ensure constant engineer support, which may be a disproportionate requirement if the provider has, for example, only one higher education customer. Forbes Rentals submitted that requirements in the higher education sector are more prescriptive than other commercial laundry sectors, in which no refurbishment is required and a greater variety of machines can be sourced to meet the specifications required (see summary of hearing of 13 June, paragraph 10). Goodman Sparks, in the hearing of 21 May 2018, submitted that the supply of managed laundry services to higher education customers is a different market, given the importance of student experience, prices and vending machines (see summary paragraph 12). In the response hearing of 5 September, Goodman Sparks told us that, despite being a simple industry, any purchaser would likely need to have experience in the higher education market in order to compete effectively with JLA (paragraph 10 of the response hearing summary).

managed laundry services to higher education customers (see below paragraphs 8.57 to 8.62); and

(c) most higher education customers also require their suppliers to submit references from other higher education customers they supply and the CMA's customer research indicated that experience was an important factor (see below paragraphs 8.66 to 8.76) for some customers.

Payment systems

6.25 Laundry facilities typically fall into two categories, either free to use or paid for by the user. Free to use machines are common in sectors where the machine is used by a company (or institution) in carrying out its activities such as a care home. Vending machines are used when the machine is provided for the use of a third party, such as in the higher education sector, leisure sector, laundrettes, and in some private shared accommodation. Third parties said that, while the higher education sector has moved towards cashless-operated machines (eg with campus cards), the majority of leisure customers still tend to prefer coin-operated-machines as other payment options are expensive to purchase and install.

Online services

6.26 Linked to payment systems, some higher education customers require online monitoring services. The CMA's customer research showed that 36 out of 59 research respondents currently have the ability for students to check the availability of the machines online. A few respondents also mentioned the lack of modern technology being a weakness of providers such as Armstrong or Goodman Sparks compared to JLA or Washstation.

6.27 Tender documents submitted by some customers also indicate that the supply of online services (such as on-line payment, reservation and management) was required by these customers and that they placed significant weight on this requirement when assessing the offers.[123]

---

[123] See University of Nottingham ('*The Supplier must provide on-line live monitoring technology to reduce waiting times and improve the student experience.')* and [✂] *(The University requires web applications including the use of apps, as this has greatly improved machine availability and awareness for students, and these must be part of the service package offered within the contract).*

6.28 Taken together, these findings indicate that online services are required by some respondents.

Installation and refurbishments

6.29 Due to the term structure at higher education institutions, accommodation will only be unoccupied during holiday periods (primarily the summer holidays). Because of this, any installation or refurbishment work must be undertaken during the holidays. Providers[124] told us that due to the timescales of customers' tender processes, it is necessary for installation work across multiple contracts to be completed during limited periods of time, a circumstance that does not arise or is less common in other sectors.

6.30 As well as installing machines, providers are often expected to refurbish the laundry room. A number of customers[125] stated that it is essential that their managed laundry provider refurbishes the laundry room in which it installs equipment and the majority of respondents found this important or fairly important.[126] Providers agreed that refurbishment is expected by higher education customers, as evidenced by the tender specifications outlined above.[127] Refurbishment work is not required by healthcare and school customers and is only rarely required by hospitality customers.[128]

Equipment

6.31 JLA submitted that it deploys the same models of machines across multiple sectors.

6.32 Higher education customers indicated that machines need to have a capacity of approximately 9.5kg. Laundry providers[129] explained that machines which are suitable for higher education customers are 'semi-

---

[124] Summaries of hearings with Goodman Sparks and Armstrong.
[125] Summary of hearing with the University of Nottingham, paragraph 8, and nine respondents to the CMA's customer research.
[126] Out of the total of 59 respondents, nine found it essential, 18 found it very important, 20 found it fairly important, and only nine said that it was not important.
[127] See paragraph 3.25 above.
[128] For example, Mr Copley stated that the higher education sector differs from other sectors because it has specific requirements related to number of end-users, refurbishment and the overall student experience. The refurbishment of student laundry rooms covers the whole room and can include a TV, seating, etc. Washstation would do minor refurbishments each year to keep the room up to standard, while camp site laundry rooms usually look tired and require significantly less investment. Summary of hearing with Mr Copley, paragraph 10.
[129] Summaries of hearings with Goodman Sparks, Hughes, Maxwell Adam and Whirlpool.

commercial' in nature, designed to be used several times each day. This compares to 'fully-commercial' machines, designed to withstand much more frequent use, which are used in sectors such as care homes and hospitals. Machines manufactured by firms such as Miele and Electrolux are fully commercial in nature, and are considerably more expensive[130] than semi-commercial machines, which are primarily manufactured by Alliance and Whirlpool.[131]

6.33 Third party evidence indicates that care homes and healthcare customers (differently from higher education and leisure customers) tend to use bigger machines (with a capacity of up to 20kg), which are suitable for more intense use (ie higher number of washes a day).

Conclusion on higher education customer requirements

6.34 In view of the foregoing, we have found that, although the type of machines used in the higher education sector may also be used in other sectors (eg the leisure sector), higher education customers have some specific requirements that are not shared by customers in other managed laundry services sectors. Such requirements (e.g. refurbishment requirements, more stringent services requirements, the risk associated with the requirement of vend share agreements, and experience in supply to higher education customers)[132] represent collectively a barrier[133] for providers when switching capacity to supply higher education customers. Therefore, this may be expected to limit the ability of commercial laundry providers in other sectors to start supplying higher education customers sufficiently quickly for substitution to be realistic.

Different competitor set

6.35 The set of firms active in serving higher education customers is different from the set of firms active in supplying commercial laundry services to customers in other sectors. Figure 13 shows the proportion of customers of

---

[130] Goodman Sparks stated that fully-commercial machines are approximately twice as expensive as semi-commercial machines.
[131] Summary of hearing with Mr Copley, paragraph 19; summary of hearing with Forbes Rental, paragraph 9; summary of hearing with Goodman Sparks, paragraph 11.
[132] See the third party remarks in footnote 122 above.
[133] These factors and their relative costs are explained in detail in the Countervailing factors section of this Report.

some commercial laundry providers[134] by sector and by contract types. The only providers with substantial managed laundry operations in the higher education sector that offer vend share agreements are JLA, Washstation, and to a lesser extent Armstrong and Goodman Sparks. In contrast, other providers, who, in some instances may also offer vend share agreements, do not supply managed laundry services to higher education customers or have only very limited activity in this sector.

Figure 13: Proportion (where known) of each providers' customers, by sector (2016 - 2017)

Providers who are active in higher education sector	***Higher education***	***Hospitality and leisure***	***Other sectors***
JLA†	[20-30]%	[10-20]%	Care homes ([✂]%), housing ([✂] [%), public sector ([✂]%), other schools ([✂]%), others ([✂]%)
Washstation†	[90-100]%	[5-10]%	-
Armstrong	[5-10]%	[10-20]%	Trade sales ([✂]%), public sector ([✂] [%), care homes ([✂] [%), hospitals ([✂]%), other schools ([✂]%)
Goodman Sparks	[10-20]%	[5-10]%	Care homes ([✂]%), hospitals ([✂]%), public sector ([✂]%) vets ([✂]%)
Other providers with limited or no presence in higher education who offer vend share agreements	***Higher education***	***Hospitality and leisure***	***Other sectors***
Brewer & Bunney	[0-5]%	[20-30]%	Care homes ([✂]%), public sector ([✂]%), other schools ([✂]%)
Maxwell Adam	[0-5]%	Hotels and restaurants	Care homes, hospital, housing association, other schools and vet sectors
Wolf Laundry	[0-5]%	[0-5]%	Hospitals ([✂]%), care homes ([✂]%), high street laundrettes ([✂]%), other schools [✂]%), public sector ([✂]%), other ([✂]%)
Providers with limited or no presence in higher education who do not offer vend share	***Higher education***	***Hospitality and leisure***	***Other sectors***
Girbau	[5-10]%	[20-30]% (hotels)	Care homes ([✂]%), public sector ([✂]%), hospitals ([✂]%), other schools ([✂]%), commercial businesses ([✂]%)
Fowler (Photo-Me)	[10-20]%	[30-40]% (hotels)	Care homes ([✂]%), other schools ([✂]%), vets ([✂]%), public sector ([✂]%) high street laundrettes ([✂]%)
Electrolux (including distributors)	[0-5]%	[10-20]% (hotels)	Hospitals ([✂]%),Care homes ([✂]%), prisons ([✂]%), high street laundrettes ([✂]%), other (8%)
Miele	[0-5]%	[10-20]% (hotels)	Care homes ([✂]%) hospitals ([✂]%)

Source: JLA and other providers
†For JLA and Washstation, we have reported the proportion of revenues generated in each sector

[134] Figure 11 illustrates data from commercial laundry providers which were collected during the phase 1 investigation. The list presented is not exhaustive and whilst we do not have data on all laundry companies, we haven't found any evidence to suggest that there are any other players with significant activity in the higher education sector.

6.36 During their hearings with the CMA, providers other than JLA stated that they considered higher education customers to be separate from the business areas that they were active in, and generally spoke of the provision of laundry equipment and managed laundry services as being segmented by customer type.

6.37 Additionally, we note that the non-compete covenant agreed between Mr Copley and JLA [✂] (see paragraph 4.8 above).

Evidence from internal documents

6.38 From our internal document review, we found documents which indicated that JLA treated managed laundry services in the higher education sector as being distinct from the provision of laundry services in other sectors. Such documents included internal JLA emails and high-level strategy documents as for example:

(a) One strategy document prepared by JLA (2016) where JLA refers to the vend share sector[135] as distinct from other laundry sectors and contractual agreements such as fixed rental agreements.[136]

(b) One email where JLA discussed marketing material which was specific to target higher education customers;[137]

(c) One internal strategy document (2016) in which JLA discusses vend share agreements as being distinct from other agreement types in the commercial laundry sector. [138/139]

6.39 Therefore, some of JLA's internal documents and [✂], together with the evidence considered above, indicate higher education customers are a separate customer segment.

---

[135] During the site visit JLA indicated that around [✂]% of vend share revenues are from the higher education sector.
[136] See strategy document for JLA board discussing laundry services by sector: 'This market consists of universities and university accommodation… Accommodation tends to be in purpose built halls of residence… University sites on Pivotal: 2,600… How does this market buy? Direct procurement with University Accommodation provider. Some localised budgets held within University departments'.
[137] See email from a procurement directory for universities asking Circuit whether they would like to advertise Circuit business to universities through them: 'We already work with the likes of Washstation and Armstrong Commercial Laundry Systems and are keen to have Circuit on board as we receive your details regularly from universities on their preferred supplier lists'.
[138] On Premise Total Care (fixed rental agreements)
[139] See internal document JLA profits and activities across its all portfolio: '[t]he Vend Share Total Care has performed broadly in line with the FY16 projections in the original IM and Budget, with revenue showing growth of 8.9% FY15 (of which c6.9% is organic) and projecting organic growth of 9.5% in FY17 FY16.[…] the market landscape hasn't significantly changed in 2016 and we continue to have one major competitor Washstation.'

Conclusion on supply side substitution

6.40 The evidence set out above indicates that:

(a) higher education customers have some different requirements compared to customers in other sectors which may be expected to limit the ability of providers active in other sectors to quickly supply them; and

(b) overall, the set of firms active in serving the higher education sector is broadly different from the set of firms serving customers in other segments.

Conclusion on product market definition

6.41 Given the above evidence, we have defined the product market as managed laundry services to higher education customers under vend share agreements. While we have used this definition to inform our analysis we also consider any constraint from providers outside of this market when we examine both the competitive effects of the Merger and entry and expansion.

Geographic market definition

6.42 JLA submitted that the relevant geographic market is local in the majority of cases, with only some customers requiring a firm with national coverage. JLA submits that this means that regional providers are able to serve customers which are based at a single location, which includes most universities.[140] However, JLA also submitted that it is easy for a small provider to achieve national coverage, pointing to Washstation's ability to offer nationwide coverage with only six engineers, and claimed that any regional provider could, in practice, serve a customer in a region where it is not currently active.[141]

---

[140] Parties' response to Phase 1 Decision, 4 May 2018, section 4.

[141] Parties' response to Issues Letter, 14 March 2018, section E. JLA points out that Washstation's ability to serve customers nationwide is evidenced by the fact that it has customers in the North of England and in Scotland despite its headquarters being in the South of England. Washstation's tender for the [✂] in Scotland shows that it was willing to commit to same-day repairs with penalties in case of delays[141] This indicates that Washstation's engineers were capable of providing same-day engineering service to customers nationwide, supplemented where necessary by contracted engineers. See [✂] tender proposal.

6.43 From a demand-side perspective we consider that there are multiple local markets in the UK, corresponding to where universities (and thus contracts) are located and there may be a single national market for private accommodation providers. We note that many providers we have spoken to have indicated that they are regional in scope, with the primary constraint being their engineering network (comprising both engineers they directly employ and freelance engineers they are able to contract on a temporary basis where necessary).[142]

6.44 Nevertheless, as set out in our MAGs, we may aggregate products which are not demand-side substitutes, such as in markets characterised by bidding and tendering processes, where firms bid on the basis of the service they can offer to supply customers with bespoke products. The competitive constraint on firms in this case comes from a customer's willingness to award the contract to a rival rather than to switch to a different bespoke product. Aggregating a range of contracts where the same set of firms would have been credible bidders can provide more useful information about the competitive constraints on each firm than is available from focusing on just one bespoke product.[143]

6.45 As explained in the Competitive Effects section, the market for laundry services to higher education customers under vend share agreements, is characterised by individual tenders and bilateral negotiations. These tenders and negotiations range from covering the entirety of a private accommodation provider's estate, with multiple locations, to covering a single laundry room within a university campus. We consider that the competitive constraint on firms bidding for these contracts will stem from the willingness of customers to award the contract to a rival firm (see paragraph 7.12 to 7.14 in the Competition Effects section).

6.46 In this context we have not found it appropriate to restrict the competitor set in any way based on the location of either customers or laundry service companies. Rather we have aggregated all contracts together and analysed the aggregate constraint that each managed laundry service provider within the higher education sector may impose on each other. Therefore, we have adopted a national geographic market and not found it necessary to define a market narrower than the UK.

---

[142] See, for instance, Laundry 365 and Maxwell Adam These providers see their current geographical scope as being binding, and are unwilling to take on contracts outside of the areas they are currently active in.
[143] MAGs, paragraph 5.2.18.

Conclusion on market definition

6.47 For the reasons set out above, our conclusion is that the relevant market for our competitive assessment is the supply of managed laundry services to higher education customers under vend share agreements in the UK (hereafter the higher education market).

7. Assessment of the competitive effects of the Merger

7.1 In this section we cover the competitive effects of the Merger, including how competition works, and evidence on the strength of the constraints imposed on each other by the Parties and by other providers.

7.2 We first describe the nature of pre-Merger competition (paragraphs 7.4 to7.9) before turning to the assessment of the effects of the Merger. This involves an assessment of market shares (paragraphs 7.17 to 7.29), competitive interactions between the Parties and other providers (paragraphs 7.37 to 7.51) and customers' views on the competitiveness of providers and effects of the merger (paragraphs 7.52 to 7.65).

7.3 Finally, we assess whether any changes in competitive dynamics have occurred following the completion of the Merger in May 2017 (paragraphs 7.91 to 7.146).

Nature of competition

Introduction

7.4 In this section we set out how providers of managed laundry services under vend share agreements to the higher education market compete with each other, drawing, in particular, on evidence from internal documents provided by the Parties, third party hearings, and our own customer research.

7.5 We begin by outlining how competition in the market for managed laundry services to the higher education sector works. We then explain the framework we used for our analysis of the competitive effects of the Merger.

How contracting occurs

7.6 As explained above in paragraphs 3.23-3.27, higher education customers can select their providers of managed laundry services by: (i) approaching them directly and asking for a quote; or (ii) issuing a formal tender where providers are selected based on specific requirements.

7.7 JLA submitted that the large majority of customers follow a formal or informal tender process. JLA stated that higher education customers running a formal tender process (which tend to be used for larger contracts) will typically post details of potential contract awards on the In-Tend portal.[144] JLA submitted that another way in which prospective providers can have access to potential customers is via the ESPO framework, which assists public bodies across a range of sectors with their procurement needs.[145] However, ESPO stated that, in practice, no universities have used ESPO either for the purchase or rental of laundry equipment, or the supply of managed laundry services.[146]

7.8 Data submitted by JLA shows that in 2016 around [80-90]% of JLA's revenue and around [60-70]% of Washstation's revenue was from contracts negotiated directly while only around [30-40]% of the revenue from both companies was from contracts awarded through tenders. In 2017, [80-90]% and [90-100]% of JLA's and Washstation's revenue, respectively, was from contracts negotiated directly.

7.9 Direct negotiations include both new business and the roll-over of existing agreements. The degree to which there is competition for this business will depend on the extent to which higher education customers proactively seek out bidders and invite them to make an offer, or potential providers proactively contact higher education customers. A significant number of the contracts of the respondents to the CMA's customer research were not subject to competition. Twenty out of 59 customers extended, rolled over or re-contracted with their existing provider without considering alternatives.[147]

Our theory of harm

7.10 Theories of harm describe the possible ways in which an SLC could arise as a result of the merger and provide the framework for our analysis of the competitive effects of the merger. In this case, we focused on one theory of harm: unilateral effects arising from the loss of a provider of managed laundry services to higher education in the UK.

7.11 Under this theory of harm, the removal of a competitor to JLA through the Merger would provide JLA with the ability and the incentive to degrade

---

[144] In-tend is a website described as 'e-tendering for higher education customers'. Any provider can register on the In-Tend portal to receive alerts for such potential contract awards.
[145] See JLA's response to Phase 1 decision of 9 May 2018.
[146] Summary of hearing with ESPO, paragraph 7.
[147] See Q16, Table 13 of DJS customer research. Seventeen of the twenty customers were JLA's customers.

elements of its competitive offering, as compared with each of the Parties' pre-Merger offerings. In general, for this theory of harm to hold, two conditions need to be met:

(a) the Parties are close competitors (ie they are considered to be good alternatives by customers); and

(b) other providers cannot replicate the competitive constraint that the Parties exert on one another.

Framework for analysing the competitive effects of the Merger

7.12 In both tendering and bilateral negotiations, we are concerned about the strength of the Parties, relative to each other and the rest of the market, and the number of credible providers available to each customer. As such, we carried out a single competitive effects analysis which covered both forms of contracting and assessed the number and strength of other providers (i.e. outside options) available to customers.

7.13 JLA submitted that the CMA's assessment should also consider (i) what would have happened absent the Merger (e.g. in JLA's view, Washstation moving along a trajectory of winning fewer contracts each year from 2015); and (ii) what has happened post-Merger taking into account the potential new competitive force coming from Hughes/Armstrong. We address point (i) and (ii) in paragraphs 5.13 to 5.38 and in paragraphs 7.91 to 7.112, respectively.

7.14 In the rest of this section we assess:

(a) The competitive interactions between JLA, Washstation and Armstrong[148] and how closely they were competing in the period prior to the Merger (before May 2017). This assessment includes analyses of:

(i) Market shares over time and of new contracts;

(ii) Contract sizes and commission rates to assess whether Washstation and Armstrong were able to compete for the same customer types as JLA;

[148] Armstrong supplies machines to Goodman Sparks and, as Goodman Sparks is a smaller player with regional presence, Armstrong cooperates and competes through Goodman Sparks in the regions in which Goodman Sparks is present.

(iii) Who JLA lost contracts to ('switching ratio analysis);

(iv) Internal documents, third party hearings and customer research on providers' strengths and weaknesses and the closeness of competition between them when contracts were awarded.

(b) Evidence that changes in competitive dynamics have occurred as result of the Merger (after May 2017). This assessment includes:

(i) Analysis of how JLA's commission rates have changed since the Merger;

(ii) Review of third party comments;

(iii) Review of evidence submitted by JLA on pre- and post-Merger service level key performance indicators (KPIs).

Assessment of pre-Merger competition

Introduction

7.15 Our analysis of pre-Merger competition draws on a number of different sources of evidence, including:

(a) contract data provided by the JLA and third parties;

(b) tendering data provided by JLA;

(c) the CMA's customer research;

(d) hearings with a number of third parties; and

(e) Washstation and JLA internal documents.

JLA's submission

7.16 JLA submitted that Washstation was a small competitor, equivalent to less than [✂]% of JLA's pre-Merger turnover, which focused on a narrow segment of commercial laundry. Within the supply of managed laundry services under vend share agreements solely to higher education customers, JLA estimates that Washstation only won [✂]% of the contracts by value that JLA retained, won or lost in the period January 2016 to May 2017, which, according to JLA, illustrates the limited (and declining) constraint Washstation imposed pre-Merger and the small magnitude of any business lost by JLA to Washstation. JLA also told us that Washstation was much smaller than other competitors in commercial laundry which cater to a broader range of customer and contract types.

Market shares

7.17 Market shares, both in absolute terms and relative to each other, can give an indication of each of the Parties' competitive strength and how they compare to other players in the market.[149]

7.18 Based on the data available, we calculated market shares by revenues (pre-commission) between 2010 and 2017 for the supply of managed laundry services to higher education customers under vend share agreements only. These shares are based solely on revenues earned on vend share agreements:

(a) For JLA and Armstrong, the annual stock of existing contracts (including rolled over contracts), as well as any business won or lost during each year.

(b) For Washstation, all revenue from contracts active in 2017. Data provided by Armstrong shows that Armstrong [✂] from Washstation during the period considered). JLA data shows JLA's only won [✂] contracts previously held by Washstation.[150] Given the very small number of contracts lost by Washstation, we have assumed that the stock size of Washstation active contracts in 2017 is similar to the stock size of active contracts in each year between 2010-18.

(c) For Goodman Sparks, all revenues from relevant contracts in 2015, 2016 and 2017.

7.19 The market share data shows that in 2017, the merged entity had a combined market share of around [90-100]%, with a [5-10]% increment. Based on reported revenues, the sector has been expanding at a rate of approximately [10-15]% each year (see Figure 14).

7.20 Since market shares represent the stock of contracts, and competition for contracts is sporadic,[151] market shares may be a weak indicator of the

---

[149] MAGs, paragraph 5.3.4.
[150] JLA told us that Mr Copley submitted incorrect information, as pre-Merger, JLA and Armstrong won contracts from Washstation. We note that these losses are very limited.
[151] We interpret market shares with a degree of caution, as the fact that this is a bidding market means that shares of current market revenue may not reflect the ability to win or compete strongly for business going forward.

competitive conditions in the market (eg in terms of showing the competitive strength of a competitor that is growing). However, even with this limitation, we note that, since its entry in 2009, Washstation was able to gain around [5-10]% of the total market, increasing its revenue from less than £[0-2] million in its first years (2009 to 2010 with 5 contracts) to almost £[3-5] million (with [✂] contracts in 2017). In contrast, Armstrong's and Goodman Sparks' activity in the sector has been relatively limited and stable over time.

Figure 14: Market shares of JLA, Washstation, Armstrong and Goodman Sparks on vend-share agreements in the higher education sectors based on pre-commission revenues in 2011-2017

	Revenues pre-commission (£m)				*Revenue Shares (%)*			
Year	*JLA†*	*Washstation ††*	*Armstrong ‡*	*Goodman Sparks**	*JLA*	*Washstation*	*Armstrong*	*Goodman Sparks**
2011	[✂]	[✂]	[✂]	-	[90-100]%	[0-5]%	[0-5]%	-
2012	[✂]	[✂]	[✂]	-	[90-100]%	[0-5]%	[0-5]%	-
2013	[✂]	[✂]	[✂]	-	[90-100]%	[0-5]%	[0-5]%	-
2014	[✂]	[✂]	[✂]	-	[90-100]%	[5-10]%	[0-5]%	-
2015	[✂]	[✂]	[✂]	[✂]	[80-90]%	[5-10]%	[0-5]%	[0-5]%
2016	[✂]	[✂]	[✂]	[✂]	[80-90]%	[5-10]%	[0-5]%	[0-5]%
2017	[✂]	[✂]	[✂]	[✂]	[80-90]%	[5-10]%	[0-5]%	[0-5]%

Source: CMA analysis of JLA revenues data pre- and post-commission (2007 – 2017), Washstation revenues on active contracts, Armstrong revenues data on contracts (2011-2018) and Goodman Sparks data

† JLA data include all JLA contracts (existing, new business, retained) for vend share agreements in the higher education sector as well as contracts for vend share agreements in other sectors (i.e. keyworkers, leisure, local authority, [✂]). Annex 10.1 sent as response to question 10 of Section 109

†† Washstation's revenues (pre- and post-commission) on active vend share agreements in 2017, including contracts for higher education sector and other sectors (i.e. leisure)

¥ Armstrong's revenues (pre-commission) on vend share agreements active between 2011 and 2018, for the higher education sector only

* Goodman Sparks data only available for years 2015, 2016, 2017

Annual share of new contracts

7.21 Given the limitations of the above analysis, we calculated the number of new contracts[152] won in the higher education sector (i.e. this excludes

[152] Our analysis has focused on contracts won rather than customers won. Contracts are not grouped by customer in the dataset making aggregation difficult. Furthermore, we have evidence from the CMA's customer research showing that some customers procure from multiple sources, as such different contracts from the same customer can represent independent procurement events. We do not have information on which contracts in our dataset were let or awarded together and as such cannot aggregate them.

rolled over contracts) by each party between 2010 and 2017 and their respective annual shares of revenues.[153]

7.22 Figure 15 shows revenues on new contracts.[154] We note that the number of contracts awarded by higher education customers peaked in 2015.[155] The data shows that from 2013 onwards Washstation was able to win around [10%-30%] of contracts (by value) available in the market. On the other hand, competition from Armstrong was relatively weak, with Armstrong generally winning less than [0-10]% of contracts by value.

Figure 15: Revenues on new contracts (excl. rolled over and retained contracts) won each year by JLA, Washstation and Armstrong on higher education customers and revenues shares: 2011 -2017

Year	*Revenues on new contracts won (£m)*			*Revenue Shares on new contracts (%)*		
	JLA	*Washstation †*	*Armstrong*	*JLA*	*Washstation*	*Armstrong*
2011	[✂]	[✂]	[✂]	[70-80]%	[20-30]%	[0-5]%
2012	[✂]	[✂]	[✂]	[90-100]%	[0-5]%	[0-5]%
2013	[✂]	[✂]	[✂]	[80-90]%	[10-20]%	[0-5]%
2014	[✂]	[✂]	[✂]	[80-90]%	[10-20]%	[0-5]%
2015	[✂]	[✂]	[✂]	[70-80]%	[20-30]%	[0-5]%
2016	[✂]	[✂]	[✂]	[70-80]%	[20-30]%	[0-5]%
2017	[✂]	[✂]	[✂]	[70-80]%	[10-20]%	[0-5]%

Source: CMA analysis of JLA revenues data pre- and post-commission (2007 – 2018), Washstation revenues on active contracts, Armstrong revenues on active contracts (2018)

† We note that the 2017 figures need to be interpreted with caution because Washstation was acquired by JLA in May 2017

7.23 JLA submitted that by considering only revenues on new contracts won each year, the CMA has not only excluded rolled-over contracts, but has also excluded contracts which were renegotiated but eventually retained by JLA. Adjusting the analysis to include retained contracts would increase JLA share of contracts and decrease others' shares.

7.24 In data submitted for the purposes of analysing whether prices had changed post-Merger, JLA assigned an indicator to each rolled-over contract to separate them into those where a new contract was signed and those where the same contract was rolled over.[156] In order to estimate the

[153] Annual shares of revenues within a certain year includes revenues earned on contracts on an annual basis. Therefore, revenues earned on new contracts signed throughout the year (e.g. October) were annualised. For example, if a contract was won in May 2015, the dataset only reported revenues for May onwards. Hence, we reported the revenues that this contract earned the year after (e.g. 2016) as a proxy of the annual value of the contract.
[154] For example, in 2014 JLA won [✂] new contracts with a value of £[✂] million
[155] We do not know the reason(s) for this peak.
[156] JLA explained that these contracts labelled as 'same contracts' refer to contracts that were extended over which means that the original agreement continues to be in force: 'the original terms continue to apply but as the

potential effect on annual contract revenue of including contracts that may have been renegotiated, we calculated the share of annual contracts by reference to contracts which were labelled new contract (ie excluding rolled over contracts).[157] On this basis, Washstation's share decreases by [✂] and [✂] percentage points (around 33%) in 2016 and 2017, respectively.[158]

Figure 16: Revenues on new contracts and retained contracts (excluding rolled-over contracts) won each year by JLA, Washstation and Armstrong

	Revenues on new contracts (£m)			*Revenues shares on new contracts (%) Difference from Figure 13 in brackets*		
Year	*JLA*	*Washstation*	*Armstrong*	*JLA*	*Washstation*	*Armstrong*
2013	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]%
2014	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]%
2015	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]%
2016	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]%
2017	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]%

Source: CMA analysis of JLA revenues data pre- and post-commission (2007 – 2018) and JLA data on resigned contracts including vend price (RBB), Washstation revenues on active contracts, Armstrong revenues on active contracts (2018)

7.25 A new contract could be signed for a number of different reasons, and does not necessarily indicate that there has been competition for that customer (for instance a customer may want a change in their terms). We have looked at the CMA's customer research to see if there is any indication of whether customers seek alternative providers when rolling over a contract. The customer research shows that from the respondents that were JLA's customers (41 out of the 59 respondents), 17 respondents rolled over their contracts with JLA without considering any other providers. These JLA customers were mostly private accommodation providers (11 respondents) and universities (7 respondents).[159]

7.26 Therefore, in the absence of evidence that competition occurred for contracts marked as new by JLA we consider that Figure 15 provides a better representation of the competitive conditions in the market. In any event, we note that based on the data in Figure 16, the Parties are each other's closest competitors.

initial end date has passed, the customer can terminate the contract any time with reasonable notice and/or seek alternative options at any time'. These contracts account for [✂]% of all contracts renewed in the dataset.

[157] By doing this we are assuming that all contracts marked as new were open to competition.

[158] It should be noted that the dataset does not classify contracts that rolled over in 2013, 2014 or 2015 into new or same, as a result there is little change in the earlier years.

[159] See Table 13 of the CMA's research to inform JLA/Washstation acquisition.

7.27 In the Response to the Provisional Findings, JLA submitted that the Provisional Findings assert that competition is essentially only for new contracts. JLA said that those new contracts account for less than [✂]% of JLA's total vend share revenues and that this undermines the conclusion in the Provisional Findings that any loss of competition is likely to be substantial.[160]

7.28 If we were to accept JLA's submission that only a small part of the market is contestable, then it would follow that this would be the part of the market in which competition occurs and hence it would be the relevant frame of reference in which to assess whether the Merger has resulted, or may be expected to result, in an SLC. In any case, we do not exclude that there can be competition for some rolled over contracts and we note that the higher education market is growing. When conducting a forward-looking competitive assessment of the Merger and its effects on rivalry over time,[161] our assessment is not restricted to a one-year period, as this would risk misrepresenting the possible effects of the Merger.

7.29 With regard to JLA's submission that any loss of competition is not likely to be substantial, it is established case-law that for the purposes of section 35(1)(b) of the Act, the term 'substantial' has a meaning which is relative, not absolute,[162] and that the CMA is allowed to exercise its judgment when assessing whether the lessening of competition is substantial having regard to the relevant competitive environment.[163] Therefore, an SLC can result in the present case even if only a modest percentage of contracts is contestable per year.

Analysis of size of customers in 2017

7.30 In order to assess closeness of competition amongst the three main providers of managed laundry services to higher education customers, we have also analysed the contracts held by JLA, Washstation and Armstrong in 2017 to determine whether any of the providers were systematically

---

[160] See paragraph 2.18 of the Reply to the Provisional Findings.
[161] See MAGs, paragraph 4.1.3.
[162] *Global Radio Holdings Limited v Competition Commission* [2013] CAT 26 at [24]
[163] In *Global Radio Holdings Limited v Competition Commission* [2013] CAT 26 at [21] – [22] the Competition Appeal Tribunal stated that it is clear that 'substantial' is 'an inherently imprecise word' 'capable of meaning 'not trifling' at one extreme and 'nearly complete' at the other', so that the word has 'a meaning broad enough to call for the exercise of judgment rather than an exact quantitative measurement'.

better or worse at winning bigger or smaller customers compared with the other providers.[164]

7.31 By grouping JLA, Washstation and Armstrong customers by spend in 2017, we noted that the large majority of JLA's ([✂] out of [✂]), and Armstrong's customers ([✂] out of [✂]), as well as over half of Washstation's customers ([✂] out of [✂]) had contracts generating less than £50,000 per year. The remainder of customers[165] who spent £50,000 or more, accounted for [✂]%, [✂]% and [✂]% respectively of JLA's, Washstation's and Armstrong's total number of customers. This shows that Armstrong has a significantly lower proportion of larger customers than JLA or Washstation, which implies that Armstrong is less able to win larger contracts than JLA or Washstation.

7.32 This implies that JLA and Washstation compete more closely across customers of all sizes, whereas any competitive constraint imposed by Armstrong on the Parties was mainly for smaller customers.

Analysis of Commission rates

7.33 In principle, firms that compete closely would be expected to charge or set similar prices (ie in this case commission levels) over time, all other things being equal. We therefore compared JLA's, Washstation's and Armstrong's revenue weighted average commission rates[166] over the period 2012 to 2017.[167]

7.34 We found that both JLA's and Washstation's commission rates increased over time (ie the effective price paid by higher education customers fell, on average), which could be due to competition between them. In contrast, Armstrong's commission rates have decreased over time.[168]

7.35 We also looked at the maximum and minimum commission rates for JLA, Washstation and Armstrong in each year. Overall, Washstation and JLA offered the highest commission rates (with a maximum of [✂]% and [✂]%

164 Since data was only available from Armstrong at the customer level, we have focused our analysis on size of customers (all contracts won with a customer) rather than size of individual contracts.
165 For JLA [✂] out of [✂] customers, for Washstation [✂] out of [✂] customers and for Armstrong [✂] out of [✂] customers. Customers spending £50,000 and above, are typically large universities and private student accommodations.
166 Weighting commission levels by revenue allows us to control for the size of each contracts or customer meaning that small contracts do not disproportionately influence the reported mean.
167 $weighted\ commission_t = \sum_i \{ (\frac{Revenue_{i,t}}{\sum_i \{Revenue_{i,t}\}}) * commission_{i,t} \}$
168 This is based on Armstrong's set of customers which is much smaller and includes fewer customers with high value contracts than that served by JLA or Washstation.

respectively) and their maximum commission rate increased over time. On the other hand, Armstrong's maximum commission rate was [✂]%, which was for a large contract with [✂]. If the [✂] contract were excluded from the analysis, Armstrong's maximum commission rate would be [✂]%. If JLA's and Washstation's top customers were excluded, their maximum commission rate would still be around [✂]%.

Conclusion on market share and commission analysis

7.36 Taken together, our analysis of data on market shares, new contracts wins and commission rates show that: (i) the Parties accounted for more than 90% of that market (with an increment as a result of the Merger of [5-10%]); (ii) Washstation was the strongest competitor to JLA and that it was growing; (iii) Armstrong represented a much weaker constraint, with a market share of [0-5]%, declining in the last three years.

Competitive interactions

7.37 Historical data on formal tenders and informal negotiations can be informative of:

(a) the alternative providers that customers consider over time;

(b) the relative strength of each of these providers in respect to specific customer requirements; and

(c) the closeness of competition between providers that were competing for the same contracts (eg where customer final rankings or scores assigned to each provider based on the various criteria considered are available).

7.38 In this case, there are limitations to the tender data which reduce the scope of the analysis we are able to undertake. In particular, the dataset[169] only includes: new contracts won by JLA and contracts held by JLA that it either

[169] JLA assembled a data set on new, retained and lost contracts which JLA tendered, or negotiated, for between 2015 and 2018 in the higher education sector for the purposes of the merger investigation. Where possible, for contracts won and retained, JLA commented on the procurement process used to award the contract such as tender, negotiation, or rolling contracts. However, most of the time (around [✂]% of the time) the process was not specified, or marked as unknown. For Washstation, JLA submitted data on contracts which JLA is aware Washstation won between 2015 and 2017.

bid for and won or bid for and lost between 2015 and 2018 in the higher education sector. Therefore, we have only been in a position to analyse switching rates, as we do not have information on contracts not previously held by JLA, which JLA bid for and did not win, nor on who participated in each bid.[170]/[171]

7.39 A short description of the data is provided below:

(a) New contracts won refers to new business won by JLA which was not previously part of the JLA contracts portfolio. The CMA understands that these contracts were awarded to JLA through both tenders and negotiations. These contracts represented around [40-50]% of JLA's total contracts in 2016.

(b) Contracts retained refers to JLA contracts which expired and JLA was able to retain. These contracts refer to rolled over contracts (contracts for which customers did not re-tender or re-negotiated the terms but re-signed the same contract) and retained contracts (contracts which expired, went out for tenders or negotiations and JLA was able to retain by signing a new contract). These contracts represented around [50-60]% of all JLA contracts in 2016.

(c) Contracts lost refers to business that was part of JLA's contract portfolio but were lost to a competitor during tenders or negotiations. Only a small number of contracts were lost to competitors in 2016 (around [✂]%).[172]

7.40 In its Response to the Provisional Findings, although accepting that Washstation was JLA's closest rival, JLA submitted that our analysis has failed to capture the absolute loss of competition as a result of the Merger. JLA noted that, while it may be correct that when JLA lost a contract, the majority of lost value went to Washstation, lost contracts in absolute terms accounted for only a very small share of contracts that JLA retained, lost or won ([✂]%, see paragraph 7.41 (c)). JLA submitted that this highlights the

---

170 For instance: (a) The dataset does not include the names of all competitors for each tender, so we are not able to analyse participation rates; (b) the data does not include information on the rankings of competitors within each tender, so we cannot analyse their relative strengths and weaknesses in a systematic way. To complement the tender data submitted by JLA, we assessed information collected in the CMA's customer research, which captures ranking in competitive negotiations and tenders (see for example DJS customer research, question 25: 'who came second in the bids evaluation? Who came third? These findings are presented in paragraphs 7.55-7.56.

171 The dataset does not include information to allow us to calculate how often bidders bid for the same contracts, how successful these bidders were and how customers ranked them relative to each other.

172 We understand that this figure underestimates the total number of contracts that JLA lost as it does not take into account contracts, which were not previously part of JLA portfolio, for which JLA bid and lost.

difference between relative competition and absolute competition, which, in JLA's view, the CMA fails to make. According to JLA, the CMA has not shown that the loss in absolute terms was substantial and this undermines any finding that the loss of competition is likely to be substantial.

7.41 As set out in paragraph 7.12, in bidding and tendering markets the closeness of competition between two parties is determined by how good an outside option they represent to each other (and the rest of the market) when bidding or negotiating with customers. Therefore, the strength of the competitive constraint two firms place on each other is determined by their participation and performance in all bidding and tendering events, rather than just those that are lost by one party to another.

7.42 As such, tender analysis commonly focuses on how parties perform relative to each other on all contracts which have been bid for. However, as set out in paragraph 7.38, we did not have sufficient data in this case to enable us to undertake this analysis, as we do not know the identity and ranking of all participants in tenders or negotiations. Therefore, our analysis of the contracts won and lost data has been restricted to a switching analysis, which is only capable of demonstrating relative competition.

7.43 Our analysis of market share information in Figure 14 and Figure 15 shows to some extent, the absolute degree of competition in the market. Figure 15 shows that Washstation won 20-30% of new contracts in 2015 and 2016 and 10-20% in 2017. However, Washstation will also have bid for and lost an unknown number of contracts over that period and as such its competitive force in the market exceeds the numbers quoted in Figure 15.

7.44 We considered evidence relevant both for the assessment of the loss of competition in absolute and relative terms. It supports our finding that the loss of competition resulting from the Merger is substantial for the purposes of the SLC test (as is reflected in market shares, customer switching data, internal documents and third party hearings).

Switching analysis

7.45 In order to better understand the competitive constraints faced by JLA over time when competing for managed laundry services contracts in the higher education market, we conducted a switching analysis exploring:

(a) Customers' switching patterns over time from JLA to competitors: the proportion of JLA contracts lost[173] to Washstation, Armstrong or others;

(b) Customers switching patterns over time from JLA to self-supply: JLA customers who switched to the purchasing of machines instead of renting them through JLA vend share agreements.

7.46 Between 2015 and 2017, JLA only lost [✂] contracts for vend share agreements with higher education customers, of which [✂] were lost to competitors or self-supply[174] (representing less than [✂]% of total contracts). However, contracts lost to competitors and self-supply were more valuable than those that left the market[175], accounting for around [70-80]% of lost contracts by value.[176] We therefore only have a limited number of contracts to analyse.[177] In order to account for differences in the sizes of contracts which would make some losses more important than others, we report both the number of lost contracts and their value.

7.47 JLA noted that only [✂]% of JLA contracts that were won, retained or lost in 2016, were lost to Washstation. We consider that the relative competitive constraint imposed by Washstation is better measured by looking at the percentage of contracts that JLA lost to Washstation as a proportion of those contracts lost to other providers ([✂]% in 2016 as per Figure 17), rather than with reference to the number of all contracts held by JLA ([✂]%) (see also paragraphs 7.28 and 7.29 about whether the loss of competition arising from the Merger is substantial in absolute and relative terms).

7.48 In fact, most of the contracts lost by JLA (excluding market leavers) were lost to Washstation and Armstrong (around [90-100]% of contracts by value) while only a small proportion were lost to self-supply or other

---

[173] This refers to the loss of JLA's pre-existing customers.
[174] [✂] contracts refer to the total number of contracts lost by JLA to all sources; including competitors, self-supply and market leavers between 2015 and May 2017.
[175] Contracts that left the market or 'market leavers' refer to contracts that JLA labelled in the dataset as 'closed down'.
[176] The total value of JLA contracts lost to competitors and self-supply account is £[✂]over 2015 to May 2017. The total value of all JLA's contracts lost which also include market leaver is £[✂] for the same period.
[177] This may affect the way in which results are interpreted when looking at proportions by year and by competitor (for example, if in 2016 two contracts out of four would have been lost to Armstrong this would result in a 50% switching ratio).

competitors (around [✂]% by value).[178] In particular, the switching data shows that Washstation was the closest competitor to JLA by a significant margin before the Merger, and that Armstrong, other competitors and self-supply were weak constraints on JLA:

(a) During the years that Washstation was active in the market (up until May 2017), it consistently won the majority of contracts ([✂]% in 2017) that JLA lost (when excluding market leavers).[179] These contracts were large in terms of value (between April 2015 and May 2017, Washstation won contracts with an annual value of around £[✂]) when compared to the contracts won by Armstrong (around £[✂] over the same period) and other competitors in the same period, which implies that Washstation was the main constraint faced by JLA in the market.

(b) Armstrong only won [a very limited number of contracts] from JLA ([✂]% of the contracts lost by JLA to other competitors in 2017), with a value of around £[✂] between 2015 and 2016 and [a very limited number of contacts] of [✂] in the first half of 2017. Armstrong's performance post-Merger is analysed in paragraphs 7.95 to 7.114.

(c) Other providers represented a very small constraint on JLA. Overall, only [✂] lost to another competitor between 2015 and 2017 accounting for a value of around £[✂].

(d) Similarly, [✂] customers chose to start self-supplying. Self-supply only accounted for a very small part of JLA total lost contracts, having a value of between £[✂] to £[✂], and most of those contracts relate to a single customer that JLA lost in 2016. This is consistent with what we heard from customers who told us that they would choose to buy machines directly for small sites only.

(e) Overall market leavers accounted for a substantial proportion of JLA lost customers with contracts having a value of between £[✂] to £[✂] depending on the year considered. However, we do not know the reason why these customers left the market, and what laundry solution,

---

[178] We note that in October 2018, Washstation lost contracts it had with [✂] in relation to 6 sites, because this customer decided to change its procuring strategy and bring the supply of laundry services in-house (see paragraph 6.13).
[179] We excluded from our calculations the contracts that JLA lost as they left the market (i.e. contracts that were not renewed at all nor with JLA, nor with a competitor nor with self-supply).

if any, they put in place, or whether a laundry facility at those sites was still required.

7.49 The number of contracts won by each competitor can be divided by the total number of contracts lost by JLA in the same year to calculate the proportion of revenue lost to each competitor ('switching ratio'). We have excluded those customers who did not renew the contract at all, such as closed sites from this analysis (Figure 17).[180]

Figure 17: Switching ratios by value of contracts lost: 2015 - 2017

	2015		*2016*		*Jan-May 2017*	
	%	*Value (£'000)*	*%*	*Value (£'000)*	*%*	*Value (£'000)*
Washstation	[✂]%	[✂]	[✂]%	[✂]	[✂]%	[✂]
Armstrong	[✂]%	[✂]	[✂]%	[✂]	[✂]%	[✂]
Other	[✂]%	[✂]	[✂]%	[✂]	[✂]%	[✂]
Self-supply	[✂]%	[✂]	[✂]%	[✂]	[✂]%	[✂]

Source: CMA analysis of JLA data on contracts lost.

7.50 The switching data shows that the large majority of revenue lost by JLA was lost to Washstation, with Armstrong, self-supply and others accounting for a very small proportion of revenue lost by JLA.

Conclusion on analysis of data on past competitive interactions

7.51 From our analysis of the evidence from past tenders and contract negotiation, recognising the limitations of the data we received, we conclude that JLA and Washstation were each other's closest competitors, with Washstation accounting for the large majority of revenue lost by JLA. Armstrong was the only other credible competitor during this period, although the data indicates that Armstrong (and self-supply) represented only a very limited constraint on JLA.

[180] The weighted switching ratios have been calculated by considering on the numerator the total number of lost contracts to a certain competitor (eg Washstation) times their total value within a certain year (eg 2016) and on the denominator the total number of contracts lost (excluding contracts who left the market) times their total value for the same year. For example, we would calculate the switching ratio to Washstation in year 2016 as follow:

$$\frac{(\sum lost\ contract\ to\ Washstation_{2016} \times \sum Value\ of\ contracts\ lost\ to\ Washstation_{2016})}{\big((Tot\ contracts_{2016} \times Tot\ value\ contracts_{2016}) - (Tot\ Leavers_{\ 2016} \times Tot\ value\ leavers_{2016}\big)}$$

CMA's customer research

7.52 The full results from the CMA's customer research are contained in the DJS customer research report.[181] Below we summarise the evidence from this report in relation to the competitive interactions between JLA and Washstation and between the Parties and other providers.

JLA's submission

7.53 JLA submitted that the results of the CMA's customer research need to be considered in the context that there were only 59 respondents. JLA also notes that other sources of evidence point to providers other than those mentioned by the respondents to the CMA's customer research also competing for managed laundry contracts.[182]

7.54 As explained above in paragraph 3.20, we adopted a qualitative rather than quantitative approach to analysing the research results, looking at broad patterns of responses and without extrapolating from the responses to the customer research to make findings in respect of higher education customers as a whole.

Competition between JLA and Washstation

7.55 The CMA's customer research shows that both JLA and Washstation offered similar type of services to their higher education customers for managed laundry services including:

(a) a variety of payment methods including top-up cards, online payments, cash, mobile payments and debit or credit card methods.[183]

(b) online services, mostly to check the availability of machines and make online payments.[184]

[181] See published report on the CMA case page: DJS customer research to inform JLA/Washstation acquisition
[182] See, for example, Goodman Sparks' involvement in the last tender of the [✂], Thain won a contract in the higher education sector (as mentioned in the CMA's phase 1 decision) and Laundry 365 was ranked as second provider by Regent's Park College (see Summary of hearing with Regent's Park College, paragraph 4).
[183] For both Parties pre-paid / top-up cards were the most used payment system, followed by online and mobile payment and then cash. See response to Q8.
[184] In addition to those services, some respondents also used SMS or email services from JLA (no Washstation respondent used these services). Only eight out of 41 JLA's customers, and one out of 10 of Washstation's, told us that they do not use any online service. Response to Q09

7.56 Overall, respondents considered[185] that JLA had a strong reputation and offered advanced systems (such as online payment and online laundry monitoring), but could be more expensive and reactive in terms of service. Washstation's reputation was not as good as JLA's. However, it was considered to pay higher commissions and perform well in terms of the speed of service response. Washstation was also perceived to have less national coverage than JLA.

7.57 When asked about the providers who they considered in tenders and negotiations, respondents indicated that JLA and Washstation were closely competing with each other. In particular:

(a) with regard to formal tenders, the customer research results show that JLA won 10 out of 17 formal tenders, with Washstation being ranked as second four times and it was mostly considered as very close or close to JLA. There was no other provider bidding in 3 of the 6 instances JLA won.[186] Washstation won in five instances out of eleven. Of these JLA was second once. There were no instances where JLA won the tender and Washstation came third or fourth or vice versa.[187]

(b) when it comes to getting quotes directly, JLA was approached for quotes for all contracts Washstation won (two times) and it was the second choice in both instances. In four out of nine instances where JLA won, Washstation was ranked as second. There were no instances where JLA won the contract and Washstation was third or fourth choice or vice versa.[188]

---

[185] The CMA's customer research probed on the strengths and weaknesses of individual providers.[185] It is important to note that these questions were only asked of those who rejected Washstation or JLA at some point during the tender process or while getting quotes directly and only nine respondents provided comments on JLA and 11 on Washstation. See response to Q16, Q24, Q32 and Q34

[186] In the other three instances where JLA won: (i) in 2 instances Armstrong was second, and (ii) in 1 instance another unnamed provider (the respondent couldn't remember the name) was second.

[187] DJS customer research report, Table 19. Based on Q22, Q23.

[188] See Q31, Q33, Q35, and Q39. In the instances where JLA won the contract, there was a maximum of two providers who provided a quote. There was only one instance where Washstation won the contract and more than two providers provided a quote. In this instance JLA came second and Wilson Electrics came third.

Competition from other providers

7.58 The customer research included Armstrong's and Goodman Sparks' customers, with seven Armstrong customers responding and one Goodman Sparks customer.[189]

7.59 In contrast to JLA and Washstation's customers - who used a variety of payment methods and online services – Armstrong's and Goodman Sparks' customers reported to only having cash- or token- operated machines, with no online services being offered to them by their provider.[190/191]

7.60 When asked about the providers considered in recent tenders or negotiations, respondents indicated that Armstrong participated in a smaller number of bids (four bids in total)[192] and negotiations than JLA and Washstation.[193]

7.61 Respondents were then probed on the strengths and weaknesses of individual providers. These questions were asked of those who rejected Armstrong or Goodman Sparks at some point during the tender process or while getting quotes directly and only four respondents provided comments on Armstrong and one on Goodman Sparks. Their responses indicated that:[194]

---

[189] These customers appeared slightly smaller than JLA or Washstation's, with only one of them having more than 19 machines under the contract discussed in the interview. In contrast four of Washstation's ten customers and 25 of JLA's 41 customers had more than 19 machines. See response to Q7

[190] Response to Q08. Cash and tokens were the only payment methods used by Armstrong and Goodman Sparks customers, with 7 out of 8 customers reporting to have cash-operated machines. One customer also reported that no payment was required on their machines.

[191] JLA submitted that, since the Merger, Armstrong has won two contracts with cashless payment solutions. Moreover, JLA added that Goodman Sparks said that it has an online monitoring solution in place. However, we also note that when talking about its online solution, Goodman Sparks added that it is not as robust or reliable as the one developed by Circuit (LaundryView system) (see Summary of hearing with Goodman Sparks, paragraph 16).

[192] JLA noted that Armstrong's bids met the bidding requirements in all four cases.

[193] In respondents' recent tenders, Armstrong submitted a lower number of bids (four bids) than JLA (17 bids) and Washstation (11 bids). Armstrong won two of these four bids. In these two bids, JLA was ranked second and in the remaining two bids that Armstrong lost, it was ranked as second after Washstation. Moreover, Washstation did not bid in the tender in which Armstrong was ranked second after JLA. See Q22, Q23, Q25 and Q29. In direct negotiations Armstrong was approached in five instances, submitted five bids and won three contracts. See responses to Q31, Q33, Q35, Q39.

[194] Response to Q16, Q24, Q32, and Q34.

(a) Armstrong have a positive service attitude and they are seen as an approachable company. However, its lack of modern technology, national coverage and experience are key drawbacks.

(b) Goodman Sparks strengths are in communication and speed of response, but its lack of modern technology is a key weakness against other providers.[195]

7.62 Respondents rarely got bids from other providers in tenders or negotiations. The only providers mentioned were PHS Laundryserv (now part of JLA), Clean Machine (part of JLA), Wilson Electrics (part of JLA). Four respondents could not name the provider that submitted one of the offers.[196] All the other providers named by the respondents are currently owned by JLA.

7.63 When asked about their most recent procurement exercise, respondents did not mention any of the providers that JLA identified as being active in the supply of managed laundry services: Goodman Sparks, Brewer & Bunney, Girbau, Photo-Me, Laundry 365, Wolf Laundry, LPD, Thain Commercial, Hughes, Electrolux distributor or Miele distributor.

7.64 Moreover, most respondents[197] said that they have not become aware of any new providers since they last procured laundry services. The providers mentioned by the 12 respondents that had heard of new providers were Washstation (4 mentions), JLA/Circuit (1 mention), a Miele distributor (1 mention), Hughes (2 mentions) and Armstrong (1 mention). Four providers were unable to remember specific names.[198]

---

[195] JLA submitted that it is incorrect to state that Armstrong and Goodman Sparks lack modern technology as they are now offering online monitoring services. However, evidence from hearings and from the CMA's customer research indicates that customers perceive Armstrong and Goodman Sparks to lack in modern technology (app) and to not be able to offer adequate payment systems.
[196] They submitted a total of six tenders and they met requirements in four of them. In no instances were any of these providers ranked as first. In two tenders, they were ranked as third. For the 14 customers who requested a quote, other providers were approached in three instances, submitted three bids and won zero contracts.
[197] 49 out of 59 respondents.
[198] Questions 44 and 45.

Conclusion on customer research evidence

7.65 Although sample sizes are too small to allow us to put significant weight on individual figures, the following broad findings can be drawn from the results of the CMA's customer research:

(a) JLA holds an influential position in this market;

(b) JLA and Washstation have the technology to offer a range of payment methods and online services, which respondents said other providers appeared not to have at the time of the customer research;[199]

(c) JLA and Washstation are the two main providers of managed laundry services to higher education customers with the only other credible alternative being Armstrong; and

(d) there is little evidence to indicate that other providers of commercial laundry services are widely known in the higher education sector.

Third party submissions

Evidence on competition from other providers

- *Customers*

7.66 During the course of our phase 2 investigation we held hearings with five customers and one customer submitted its views on the Provisional Findings. Three of these customers were supplied by Washstation at the time of the Merger and three were supplied by JLA.

7.67 Three of the customers had considered both JLA and Washstation when awarding their last contract for managed laundry services. They told us that, overall, Washstation's and JLA's offerings were similar in terms of service levels and commission. Some customers had a preference for Washstation (UPP and Regent's Park College), whilst others ([✄]) had a preference for JLA:

[199] This reflects the response of customers to the CMA's customers research. Some suppliers like Armstrong and Goodman Sparks currently offer a number of different payment methods.

(a) UPP told us that although Washstation's and JLA's offerings were similar overall, they preferred Washstation's offering because Washstation sent a dedicated engineer to inspect the machines weekly.

(b) [✂] told us that in 2016, [✂] approached them informally and provided assurances that it could deliver the same offer as JLA. However, in the tender process, JLA scored better than [✂] so JLA won the contract. The split of scoring in the tenders was [✂]% for quality (service delivery, tender specification, customer management, environmental sustainability and any other add-on value) and [✂]% for costs. In general, JLA had a better proposition, whereas [✂] seemed to have [✂]. [✂] also added that they conducted financial checks on the two potential providers, and JLA seemed to be more financially reliable and sustainable. [✂] provided us with tender documents that showed that [✂].

(c) Regent's Park College (RPC) told us that their laundrette was managed by JLA until January 2017. However, in January 2017 they moved to Washstation. RPC also told us that when it wanted to renew the contract, JLA was proposing to increase the vend price quite significantly,[200] beyond £2 a wash/dry, and JLA would not negotiate on this point (previous vend prices with JLA were £1.40 for a wash and £1.40 for a dry). RPC went for Washstation who offered £1.60 for a wash and £1 for a dry.

(d) A former customer of Washstation ([✂]) - which is currently a JLA customer - told us that Washstation (pre-Merger) provided [✂] an inferior service than the service provided by JLA post-Merger (eg Washstation did not offer a mobile app for payment). That customer would not be willing to be supplied by Washstation if its contracts were to be transferred from JLA to Washstation as part of a possible remedy implementation.

7.68 In phase 1 of the CMA's investigation, questionnaires were sent to a number of customers of the Parties and responses from 83 customers were received. Some of these customers were subsequently contacted by either the CMA or DJS as part of our phase 2 investigation. As such, this evidence may not be independent of other evidence we have already

[200] JLA commented that although they proposed an increase in the vend price this was still below the average.

discussed, so we have only looked to see if it is consistent with the CMA's customer research and the phase 2 hearings.

7.69 Responses to the phase 1 questionnaire imply that customers considered that JLA and Washstation were competing closely for the same customers and they were winning customers from each other, although JLA was overall more active in the tendering/negotiation process than Washstation. In particular:[201]

(a) Among those who tendered (21 respondents), Washstation and JLA both competed against each other in ten tenders[202] with a value between £[✂] and £[✂]. Of those: (i) seven tenders were won by JLA and Washstation was ranked as second; and (ii) three tenders were won by Washstation and JLA was ranked as second.

(b) Among those who negotiated directly with providers (11 respondents), JLA participated in all of them and Washstation competed against JLA in five of these contracts. Of those four contracts were won by JLA and Washstation was ranked as second provider three times and as third provider one time.[203/204]

7.70 We consider that the evidence received during phase 1 is consistent with the results of the CMA's customer research and the CMA's hearings with Washstation being the main competitor to JLA.

- *Competitors*

7.71 During the course of our phase 2 investigation we held in-depth hearings with two competitors and the former owner of Washstation, and shorter phone calls with another eight providers of commercial laundry services.

7.72 Half of the third parties (five out of 10) the CMA talked to considered that JLA and Washstation were competing closely for higher education customers, focussing their offer on commission and service levels:

---

[201] We asked customers who tendered less than three years ago and customers who negotiated directly with providers, to submit the names of the providers who participated to their tendering/negotiation process together with their ranking.
[202] In the remaining 11 tenders, JLA was the only competitor in 8 instances while it faced competition from Armstrong in 2 instances and from another unnamed provider in 1 instance.
[203] The provider ranked second in this tender was Armstrong.
[204] JLA noted that the results of the CMA's customer research show that, when competing against JLA, Washstation only won one contract from JLA and that customers identified a minimum of four competitors other than JLA and Washstation. We note that some of the competitors identified by the respondents to the CMA's customer research as having participated in previous tenders were, since those tenders, acquired by JLA.

(a) Mr Copley told us that Washstation offered good commission levels in the beginning to convince customers to change provider. The level could vary between [✄]% to [✄]% (with an average commission of [✄]%). Mr Copley said that Washstation might have lost some tenders to JLA because it had not offered a rate of commission as high as JLA. Mr Copley also added that Washstation's strategy was on services offered rather than commission, with weekly engineer's visits, promotional activities for students and online services (i.e. top-up cards online). Although Washstation offered online monitoring and cashless payment systems[205], it did not offer an app. Mr Copley told us that Washstation had been developing a similar payment app to JLA.[206] Mr Copley also added that when competing against JLA, Washstation usually won around [✄]%-[✄]% of the tenders and that Washstation was 'hurting Circuit'.[207]

(b) Armstrong told us that Washstation competed vigorously for higher education customers and that it won a lot of customers from JLA.

(c) Maxwell Adam told us that when JLA and Washstation started competing against each other the commission level paid to the higher education customers increased and the percentage of the revenue was then in favour of the higher education customer, eg universities would get 60-70% of the revenue. Maxwell Adam said that this made it even more difficult for it to enter the market.[208]

(d) Goodman Sparks told us that it was very difficult to compete in the supply of managed laundry services to higher education customers against the Parties before the Merger.[209] Goodman Sparks also

---

[205] Greenwald confirmed that it supplied to Washstation online cashless payment systems and 'Ready to Wash', which is a system supplied by Greenwald) to check the availability of machines online (different from the LaundryView.app used by JLA, whose code was partially developed by Greenwald).
[206] Mr Copley confirmed by email of 6 September the he had meetings with Greenwald in which he asked for access to Greenwald's cashless payment app. In its Response to the Provisional Findings, JLA identified this reference to evidence provided by Washstation as an example of undue weight being placed on statements from Mr Copley without further corroboration. However, this evidence is not determinative of the finding that Washstation and JLA were close competitors, in the context of all the other evidence assessed in this Report that support this finding.
[207] JLA found that this is an opinion hard to substantiate. If Washstation was winning [✄]% of contracts that JLA won/lost/retained and JLA was growing circa 12% per annum for 7 years.
[208] Summary of hearing with Maxwell Adam, paragraph 7.
[209] Summary of hearing with Goodman Sparks, paragraph 3.

suggested, however, that the merger could represent an opportunity for them to grow in the market.[210]

(e) Brewer and Bunny told us that JLA and Washstation were the main providers of managed laundry services to higher education customers before the Merger.[211]

Evidence on competition between JLA and other providers

- *Customers*

7.73 Four of the customers we talked to ([✂]) commented on alternative providers who they considered during tenders or the negotiation process. While [✂] issued formal tenders, [✂] told us that it contacted the providers directly after searching on the internet or asking for recommendation from other colleges. Armstrong ([✂]), Goodman Sparks ([✂]), Laundry 365 and Warwick Lpd ([✂]) were mentioned.

7.74 The University of Sheffield commented on JLA's and [✂] offerings. It told us that when compared to JLA, [✂].

7.75 The evidence provided by customers at the CMA's hearings on their tendering processes is reported below:

(a) UPP told us that although Armstrong was able to meet some of its requirements in terms [✂]. UPP also added that although it noted an improvement in Armstrong's offering [✂]. UPP indicated that Goodman Sparks may be able to provide some sort of offering, but noted [✂].

(b) The University of Nottingham told us in its last tender, issued in 2011, only Washstation and Goodman Sparks submitted their bids - JLA did not express any interest. The University of Nottingham told us that it has now issued a new tender for which it received [✂] expressions of interest but only [✂] attended a site visit. The University of Nottingham noted that it struggled to find laundry service providers active in the higher education sector and it was very difficult to get more than two

[210] Although identifying the Merger as an opportunity, we note that Goodman Sparks told us in the response hearing after the publication of the Provisional Findings that it [✂] and that 'anybody entering the market will find JLA to be a tough competitor. JLA is dominant in the market and has good connections to its clients and a good sales team.' (paragraph 5 of the Hearing Summary).
[211] Summary of hearing with Brewer and Bunny, paragraph 5.

bids. The University of Nottingham received bids from [✂]. [✂] scored [✂] than [✂] across the different tender criteria.

(c) The University of Sheffield told us that in the tender issued in 2011, [✂] companies submitted a bid: [✂] and that [✂] had a significantly better bid than [✂]. In particular, [✂] offered better [✂]. In 2018, the University of Sheffield issued another tender and [✂] submitted bids. The University of Sheffield explained that the tender award criteria did not change significantly as regards services. The University of Sheffield said that [✂] performed much better compared to the 2011 tender and has improved the [✂].

(d) RPC said that it did not issue a formal tender when it last chose its managed laundry services provider (2017). RPC contacted some providers directly,[212] invited proposals, and Washstation seemed to be the best option. Other notable providers were Armstrong (who found RPC to be too small), Goodman Sparks (who also found RPC to be too small), Laundry365 and Warwick LPD (who did not offer a vend share agreement). RPC found the potential providers via internet searches and from people in other colleges (who mostly used only JLA) and other universities. The second provider RPC would have contracted with was Laundry365, which was also offering a vend share model. RPC said that there were a fairly limited number of providers offering a vend share model.[213]

7.76 During hearings, we also asked whether customers considered providing managed laundry services in-house by purchasing the machines directly (ie self-supply). The University of Leeds was the only customer that expressed a preference for in-house provision, as it is refurbishing its student accommodations and will provide a domestic machine that students can use on each floor.[214]

7.77 On in-house provision, UPP told us that it would only consider buying the machines if [✂]. In contrast, the University of Nottingham told us that it

---

[212] JLA submitted that the fact that RPC contacted providers directly is proving that even commercial negotiations are competitive. Yet, RPC told us that although it contacted other laundry services providers which were not active in the higher education sector, they showed no interest in supplying managed laundry services.
[213] Summary of hearing with Regent's Park College, paragraph 4.
[214] As mentioned above, the [✂] decided to change its procuring strategy and bring the supply of laundry services in-house in relation to 6 sites (see paragraph 6.13).

would not consider installing private domestic machines to replace its laundry rooms.[215]

- *Competitors*

7.78 Of the firms we held hearings with, only Armstrong, Goodman Sparks and Photo-Me told us that they are currently active in serving higher education customers. We have first focused on their comments, before turning to other laundry service companies who are not currently active in serving higher education customers.

7.79 Armstrong told us that it would not find it worthwhile to compete with commissions of 60-70% of turnover to the universities, which were offered by JLA and Washstation, as this would not have been profitable for Armstrong.[216] Armstrong said that the higher education customer segment is not the most lucrative segment, as the margins are small and it is not always certain whether the upfront costs (i.e. refurbishment and machines) and ongoing costs (i.e. servicing and maintenance) will be recouped.[217] Armstrong also gave as an example of sunk cost the requirement in a recent tender for a full refurbishment of all laundry rooms (including vinyl floors, which it is noted as being very expensive).[218] This led to Armstrong focussing on other areas of its business.[219]

7.80 Armstrong currently mainly covers the South East of England (headquarters in Newbury) and Scotland. Armstrong noted its recent merger with Hughes will allow it to supply customers in areas in which it did not operate in previously and provide access to more financing. For example, Armstrong submitted a bid in [✄] because Hughes was present there.[220]

7.81 Goodman Sparks told us that it is a small and regional player, with relatively limited resources, [✄]. It mainly uses cash machines which require weekly collection, but has recently been using card readers which might enable it to offer services over a wider geographic area. Goodman

---

215 Summary of hearing with the University of Nottingham, paragraph 8.
216 Summary of hearing with Armstrong, paragraph 10.
217 Summary of hearing with Armstrong, paragraph 24.
218 Summary of hearing with Armstrong, paragraph 26.
219 Summary of hearing with Armstrong, paragraph 12.
220 Summary of hearing with Armstrong, paragraph 16.

Sparks aims to grow its managed laundry service business to higher education customers by [a limited number of contracts a year][✂].[221]

7.82 Goodman Sparks said it was very difficult to compete in the supply of managed laundry services to higher education customers against JLA and Washstation active.[222] Goodman Sparks said it had not come across Armstrong competing for a higher education contract in the North of England. Goodman Sparks explained that this is because Armstrong only covers the South, the Midlands, and Scotland.[223]

7.83 Photo-Me also told us that it has recently launched a new product, Revolution laundrette, in the market for the provision of laundry services but so far, it has only one higher education customer ([✂]). Photo-Me is not actively tendering for higher education customers as its offering does not lend itself to tenders which have prescriptive requirements. Photo-Me believe that its offering can be complementary to the services provided by managed laundry providers. The commission offered by Photo-Me ([✂]%) is at the lower end of the commission rates normally offered in the higher education sector. Photo-Me's laundry service proposition also differs substantially from the managed laundry services provided by JLA and Washstation.

7.84 Of the other competitors we talked to (Laundry 365, MAG, Thain Commercial, Wolf Laundry, Forbes, Maxwell Adam and Brewer and Bunney), none of them told us that they are currently active, in any meaningful way, in the supply of managed laundry under vend share agreement to higher education customers. Five competitors provided further details on their past activities in the higher education sector:

(a) Brewer and Bunney told us that it was active in the higher education sector until 2014 providing laundry services to two universities ([✂]) but that the commission level offered by JLA was and remains too high for them to compete for the provision of managed laundry services to higher education customers. Brewer and Bunney is not currently active and no longer monitors the higher education segment.

(b) Wolf Laundry noted that it submitted only one bid for the [✂] in the last three years but was unable to respond to all requirements of the tender which it considered to be highly prescriptive and tailored to the offerings

[221] Summary of hearing with Goodman Sparks, paragraphs 1 and 2.
[222] Summary of hearing with Goodman Sparks, paragraph 3.
[223] Summary of hearing with Goodman Sparks, paragraph 4.

of existing providers. In particular, Wolf Laundry indicated that the payment systems software specifications were such that only JLA could have satisfied this requirement. Recently, Wolf won a contract with a small private accommodation provider: [✂]. This contract was for the management of 2 dryers and 2 washing machines and did not include the installation of new machines.

(c) Forbes told us that although it participated in a few tenders it did not succeed in winning because of the difficulties encountered in meeting customers' requirements during tenders. Forbes also told us that it had identified the higher education sector as a key area where it wants to grow and had set aside capital to enter the market for the provision of managed laundry services to higher education customers, aiming to secure [a limited number] customers in the next 12 months. Forbes stated that, while Forbes Rentals would be willing to offer a vend share agreement, and commission levels might potentially be achievable, it prefers the fixed rental model. [224]

(d) Thain Commercial and MAG also told us that in the past they sold machines to universities, but that they are not currently active in this market and do not offer vend share agreements.

Conclusion on third party submissions

7.85 Overall, all third parties identified JLA and Washstation as close competitors. The submissions from competitors and other providers of laundry services demonstrate, that, with the exception of Armstrong, they exert a very weak constraint on JLA, because:

(a) they currently only serve a very small number of higher education customers and/or are relatively small companies, with limited financial resources and/or limited geographic coverage (eg Goodman Sparks, Wolf);

(b) they are not actively competing for these customers and some of them do not offer vend share agreements at all (eg MAG, Thain, Brewer and Bunny);

[224] Summary of hearing with Forbes. paragraphs 1 and 6.

(c) they only recently started competing for higher education customers, offer a different model and it is unclear whether they would succeed in winning these customers (eg Photo-Me, Forbes).

7.86 Customers only identify JLA, Washstation, Armstrong and Goodman Sparks as competitors in the supply of managed laundry services to higher education customers. Although some customers received expressions of interest from other providers, some providers did not pursue the opportunity further or did not meet the customers' requirements.

Evidence from internal documents

7.87 From our review of internal documents, we found around 40 of JLA's documents (out of 1,400 documents reviewed) and around 25 of Washstation's documents (out of 660 documents reviewed) which were relevant to competitive interactions between the Parties.[225]

7.88 Internal documents show that JLA considered Washstation as its principal competitor. These include emails and responses to tender proposals where JLA competed directly with Washstation,[226] and a JLA strategy report (2016) where JLA mentioned Washstation as being their main competitor in the higher education managed laundry sector.[227] The documents also show that higher education customers used Washstation's presence as a bargaining tool when negotiating with JLA.[228] Similarly, Washstation's

---

[225] These numbers need to be interpreted with caution, as they also include documents which were not relevant such as documents duplicates and email chains.
[226] See tender document 'On behalf of the University [✂], I am informing you that your tender for the above, further to evaluation in accordance with the criteria stated in the tender documentation was not successful. The first ranked tender was that of Washstation with a score of 90 marks. Your score was 86 marks.' See also (internal email): 'We are up against Washstation in a test the market situation, so need to provide the wow factor in the proposal'.
[227] See the following mail: 'The market landscape hasn't significantly changed in 2016 and we continue to have one major competitor, Washstation'.
[228] See the following mail in which [✂] University is asking JLA to match Washstation on end-user price: 'We are currently in discussion with the university of [✂] who will take this accommodation. The University have said the prices from the current operator are £[✂] per wash and £[✂] per dry.' and '[…] they need us to match [Washstation] prices for the wash and dry.' See also an email in which [✂] is threatening to switch to Washstation: 'if we can't agree then I will ask you to pull the equipment at [✂] because our agreement wasn't honoured. I am sure I can get Washstation to sign the current master agreement and they will [get] all the business moving forward'

documents show that it closely monitored JLA's activity[229] and that Washstation was competing with JLA for higher education customers.[230]

7.89 We found around 20 documents which referred to competitive interactions between JLA and other competitors. Armstrong was the competitor more frequently referenced in the Parties' internal documents after Washstation. For example, we found documents showing that some customers considered Armstrong as an alternative to JLA and JLA conducted some monitoring of Armstrong. [231] [✄].[232]

Conclusion on competitive interactions pre-Merger

7.90 In our view, the evidence on the competitive interactions between the Parties and between the Parties and other competitors considered above (tender data, switching ratios, third parties' views, the CMA's customer research and internal documents) shows that JLA and Washstation were each other's closest competitor. While Armstrong was the other most credible competitor, the evidence on competitive interactions pre-Merger indicates that Armstrong represented a weak constraint on JLA. Other competitors and self-supply represented very weak constraints.

Assessment of changes in competition dynamics after the Merger

7.91 As explained in the Counterfactual section, we have assessed the Merger against the pre-Merger conditions of competition.

7.92 However, as more than one year has passed since the completion of the Merger, we considered changes in the competitive dynamics that have occurred after the Merger. During this period, Armstrong was acquired by Hughes – an electrical products retailer with operations in the Midlands and East of England – in January 2018. We have taken into account the impact

[229] See internal correspondence in connection with the [✄] (student accommodation providers) contacted Washstation to ascertain whether they would be interested in buying out their existing circuit contracts (five contracts). See also an internal Washstation document titled 'Current Projects': '[✄]… - We have been given the nod that they are now ready to cut Circuit off altogether'.

[230] See correspondence between Washstation and a potential customer ([✄]): 'Thank you for your tender in response to our invitation to tender for the above contract. The tenders have now been evaluated and I regret to inform you that on this occasion your bid was not successful. Primarily the bid was unsuccessful because your total score was lower than the winning bid. Your final position was 2nd and you scored 80% in total. The contract has been awarded to Circuit Laundry Services Ltd which scored 90% in total. '

[231] See internal JLA email dated Nov 2017: '[in relation to [✄]], they would like to rent new machines off us. Armstrong have quoted the below and they have asked if we can match it'.

[232] We found one document where JLA identified Goodman Sparks' customers as potential customers. We found one email in which JLA referred to Electrolux, Peterborough Laundry and a local dealer as providers of three universities. Finally, we found two emails in which JLA referred to a bid lost to Thain Commercial in 2016.

that this acquisition has had on competitive conditions, in particular the evidence on Hughes Armstrong's performance in recent contract opportunities, including the analysis of recent tender data. This evidence was relevant for our assessment of Hughes Armstrong as a countervailing factor to the SLC resulting from the Merger, alongside other evidence on Hughes Armstrong's ability and incentive to expand into the higher education market in a sufficient and timely manner.

JLA's submissions

7.93 JLA submitted that the CMA should consider the value of contracts in the higher education segment lost by JLA to Hughes Armstrong in the six months since Armstrong merged with Hughes (i.e. since January 2018) which amount to around £[✂].[233] JLA noted that this exceeded the value of contracts (£[✂]) that Washstation won from JLA in the six month period just prior the Merger in 2017 (January 2017 to May 2017) and that although in 2015 and 2016, Washstation won larger amounts from JLA in terms of value, Washstation's activity seems to have peaked in 2015, after which its shares of new contracts diminished.

7.94 JLA also submitted that Hughes Armstrong has recently won two new customers – in both cases offering cashless payment solutions - and that Hughes Armstrong is now a stronger competitor than Washstation was, with many more engineers and strong financial backing.

Armstrong's submissions

7.95 Hughes is a family owned and run business and generates an annual turnover of circa £110 million. Hughes told us that it had only one customer in the higher education market before the acquisition of Armstrong.

7.96 Armstrong told us that it saw the acquisition of Washstation by JLA as an opportunity to expand in the higher education sector. In its view, service levels have dropped at JLA after the Merger, and this meant that price, which is typically an important parameter in tenders, has reduced in relative importance for customers.

7.97 Armstrong submitted that since the Merger it is bidding for as much higher education work as possible. [✂].

---

[233] [✂].

Hughes Armstrong's performance in recent contract opportunities post-Merger

Number of bids submitted

7.98 Figure 18 shows how many tenders and negotiations Hughes Armstrong and JLA participated in between 31st January 2018[234] and July 2018. This data indicates that Hughes Armstrong submitted bids to [✂] customers during this period, which only represents [✂]. JLA participated in a significantly higher number of tenders and negotiations, losing 4 contracts and winning or retaining most of the contracts for which it bid.

Figure 18: JLA and Hughes Armstrong participation in tenders/negotiations, 2018

	JLA customers)	*Hughes/Armstrong (customers)*
Total	[✂]	[✂]
New business won	[✂]	[✂]
Contracts retained	[✂]*	[✂]
Contracts lost	[✂]	[✂]
Waiting for decision	[✂]	[✂]

Source: JLA data JLA activity 2018, Hughes/Armstrong CMA letter 12 July 2018.

*Retained contracts include rolled-over (4 customers) and renegotiated contracts (48 customers).

7.99 In addition to the statistics shown in Figure 18, information on these contract opportunities shows that:

(a) JLA was involved in tenders and negotiations with [✂] customers for which Hughes Armstrong did not bid.[235]

(b) JLA competed with Hughes Armstrong in [✂] tenders for universities and it lost [✂] customers ([✂]) to Hughes Armstrong.

(c) Hughes Armstrong bid in [✂] tenders/negotiations and it lost 5 bids of which 4 were lost to [✂] ([✂]) and 1 was lost to [✂].[236]

(d) Hughes Armstrong did not bid for any contracts with private providers of student accommodation in 2018 while the majority of customers ([✂] out of [✂]) for which JLA bid for were private providers/customers.

[234] The date when Armstrong was taken over by Hughes,
[235] JLA bid for a total of [✂] customers. In [✂] instances, it bid against Armstrong only. In [✂] instances it bid against Washstation (under the HSM) only. In [✂], it bid against both Armstrong and Washstation (under the HSM).
[236] Of the remaining [✂] tenders/negotiations which Armstrong placed in 2018, [✂] were won ([✂]) and 2 are still waiting for a decision.

7.100 Overall, Hughes Armstrong only bid for [✂] out of [✂] business opportunities for which JLA participated. Hughes Armstrong also did not submit an offer for several opportunities it was aware of. Hughes Armstrong told us that this was because of limitations in its geographic coverage and ability to install machines sufficiently quickly.

Hughes Armstrong wins in 2018

7.101 From the beginning of 2018 until July 2018, Hughes Armstrong has won a total of [✂] customers, accounting for a total of £[✂]. Hughes Armstrong won [✂] of these customers from JLA and the value of these contracts is around £[✂]. In September 2018, we were informed that the [✂] - formerly a Washstation customer -awarded a contract of [✂] pockets, with the value of around £[✂], to Hughes Armstrong. This contract was awarded to Hughes Armstrong in the context of [✂]. As a result [✂], this customer did not want to award the contract to JLA or Washstation. Figure 19 below shows details of the level of commission and of the payment methods offered by Hughes Armstrong in each of these contracts, comparing it with the level of commission previously offered by JLA to these customers (where known).

Figure 19: Contracts won by Hughes Armstrong since January 2018†

				Commission rate		*Payment method*	
Customer name	*Date*	*Won from*	*Revenues (£)*	*Hughes Armstrong*	*JLA*	*Hughes Armstrong*	*JLA*
[✂]	2018	[✂]	[✂]	[✂]%	[✂]%	Card	Coins
[✂]	2018	[✂]	[✂]	[✂]%	[✂]%	Coins	Coins
[✂]	2018	[✂]	[✂]	[✂]%	[✂]%	n/a	Card
[✂]	2018	[✂]	[✂]	[✂]%	n/a	Coins/Card	n/a
[✂]	2018	[✂]	[✂]	[✂]%	n/a	Coins	n/a
[✂]	2018	[✂]	[✂]	[✂]%	n/a	Coins	n/a

Source: Hughes Armstrong data on active contracts in the higher education sector and JLA data on contracts in the higher education sector (2007-2018)
† Between 2015-18, JLA lost the following customers to Hughes Armstrong: [✂]

7.102 In order to assess whether this amounts to a similar constraint to that which Washstation imposed on JLA, we have compared this to the average value of Washstation's contract wins over six 6-month periods prior to the Merger in the years between 2013 to 2017. This allowed us to compare Hughes Armstrong's recent wins against Washstation's performance prior to the Merger.

Figure 20: Value of new contracts won by Hughes/Hughes Armstrong (Jan-July 2018) and year average† of new contracts won by Washstation (2013-2017)

Total new contracts	*Hughes/Armstrong (Value £)*	*Washstation* (Value £)
Jan-July 2018	[✂]	
Jan-May *2017*		[✂]

6 month Average 2016		[✂]
Total won in 2016		[✂]
6 month Average 2015		[✂]
Total won in 2015		[✂]
6 month Average 2014		[✂]
Total won in 2014		[✂]
6 month Average 2013		[✂]
Total won in 2013		[✂]
Only contracts won from JLA	*Hughes/Armstrong*	*Washstation*
Jan-July 2018	[✂]	
Jan - May *2017*		[✂]
6 month Average 2016		[✂]
Total won in 2016		[✂]
6 month Average 2015		[✂]
Total won in 2015		[✂]

Source: CMA analysis of Hughes Armstrong's contracts won in 2018 and Washstation's active contracts in 2017 (Annex 10.1 of S109)

†the year average is a 6 months average calculated by dividing the total value of new contracts won by Washstation by 2.

7.103 The data in Figure 20 shows that, although Hughes Armstrong has won a slightly higher aggregate value of contracts from JLA than Washstation did in 2017[237], it won a significantly lower value of contracts than Washstation achieved in the 6-month period in the two preceding years. As mentioned above in paragraph 5.20, the performance of Washstation in 2017 may have been affected by the negotiation of the Merger.

7.104 Similarly, the total value of contracts won by Hughes Armstrong is lower than the 6-month average for Washstation in all years other than 2013. We consider that the data indicates that Hughes Armstrong was winning significantly less higher education business than Washstation did pre-Merger.

7.105 The evidence above also shows that Hughes Armstrong only bid for a small number of opportunities in which JLA participated in 2018, which indicates that it imposes a limited competitive constraint on JLA and a weaker

[237] We note in this regard that, for 2017, as the Merger completed in May 2017, we are comparing a period of 4 months for Washstation (January – May 2017) with a period of 6 months for Armstrong. We also note that Washstation's incentives to submit competitive bids in this period could have been affected by imminence of the completion of the Merger. The heads of terms (including the price subject to due diligence and certain conditions) of the sale of the Washstation business were agreed in March 2017.

constraint compared to the constraint exerted by Washstation on JLA pre-Merger (2015-2016).

Hughes Armstrong losses in 2018

7.106 Hughes Armstrong lost 5 bids in 2018, of which 4 were lost to [✂] and 1 was lost to [✂], including its largest customer which accounted for around £[✂] ([✂]% of Hughes Armstrong's total revenues from higher education customers in 2017) .[238] We received tender evaluation documents for three of these lost tenders. These allow us to analyse Hughes Armstrong's relative performance on these contracts. The tender evaluations show:

(a) For its largest customer [✂], Hughes Armstrong's performance was weaker than JLA's. Hughes Armstrong offered a slightly higher rate of commission than JLA ([✂]), but received poorer ratings on quality criteria. In particular, [✂].[239] Hughes said that Hughes Armstrong's reputation probably did not suffer from losing this customer, as long as customers see that Hughes Armstrong is trying to improve its offering in order to score better at student experience. However, as noted by Hughes, procurement teams of the different customers regularly share views on recent tenders. Furthermore, as explained in more detail in paragraph 3.19(c), experience in the supply of managed laundry services in the higher education market is considered an important factor by customers. Therefore, in our view, the loss of [✂], as Hughes Armstrong's largest customer and one of its [✂] customers with contract values above £50,000 is likely to have a negative impact on Hughes Armstrong's reputation in the higher education market.

(b) For the University of [✂], Hughes Armstrong achieved a significantly lower score than JLA [✂]. JLA offered a [✂]% commission on [✂], whereas Hughes Armstrong was only willing to offer [✂]%. For revenue [✂], JLA offered [✂]% and Hughes Armstrong did not offer any additional commission. The tender documents indicated that [✂]:

(i) JLA provided [✂]

(ii) JLA provided [✂]

---

[238] Armstrong reported revenues of £[✂] from [✂] in 2017. Armstrong's total revenues from higher education customers in 2017 were £[✂].
[239] [✂]

(iii) With regard to refurbishment plans, [✂].

(c) For the University of [✂], Goodman Sparks submitted a bid. Hughes Armstrong said that it would supply the equipment to Goodman Sparks if Goodman Sparks were to win this tender (Hughes Armstrong did not bid). Out of 165 marks, JLA scored [✂] and Goodman Sparks [✂]. In particular, JLA offered a better commission level. The [✂] considered that the quality of Goodman Sparks' offer had improved since it bid in 2011, but still trailed JLA in some areas.

7.107 In addition, Hughes Armstrong also bid for a contract with [✂], a former Washstation customer, which it lost. [✂] told us that it received only two bids, one from [✂] and one from [✂], and that JLA did not submit a bid. [✂] and [✂] bids were similar in terms of commission (around [✂]%), service level (same day repairs) and number of machines; however, the contract was finally awarded to [✂] as [✂] was not able to [✂] as requested by [✂].

7.108 Therefore, although Hughes Armstrong appears to have been competitive on commission rates, it appears in several bids to have been uncompetitive on quality and service parameters.

Contracts Hughes Armstrong decided not to bid for

7.109 Hughes Armstrong considered putting bids in for [✂] and [✂] Universities but declined to bid. As mentioned above Armstrong has not bid for any contracts with private sector providers of student accommodation during 2018.

7.110 Armstrong explained that it did not bid in the tender for contracts with [✂]and [✂] Universities due to three factors:

(a) Lack of current service coverage, particularly in the South West.

(b) Installation timescales which it considered it was unable to meet: machines need to be ordered with a 10-week lead time and the tender did not take account of this.

(c) Highly restrictive tender requirements. For example, [✂] wanted 3 similar higher education reference sites in South West England although this was subsequently amended.

Conclusion on post-Merger evidence on the impact of Hughes's acquisition of Armstrong

7.111 The evidence shows that Hughes Armstrong is submitting bids in a higher number of cases than Armstrong in the past and has won some contracts from JLA. However, the value of the contracts won by Hughes Armstrong is significantly lower than the value of contracts won by Washstation in competition with JLA pre-Merger. Furthermore, since the beginning of 2018, Armstrong lost its largest customer ([✂]), Although Hughes Armstrong won six customers they only accounted for around £[✂], so Hughes Armstrong's net revenue decreased by around £[✂], allowing for both wins and losses.

7.112 Hughes Armstrong did not bid for a significant number of opportunities, particularly in respect of private providers, which shows that it imposes a weak competitive constraint on JLA. Where Hughes Armstrong was unsuccessful in bids, the feedback from customers indicates that Hughes Armstrong remains a weak constraint on the merged entity.

7.113 Additionally, in our view, the loss of [✂], as Hughes Armstrong's largest customer, is likely to have a negative impact on Hughes Armstrong's reputation in the higher education market.

7.114 Therefore, we conclude from the evidence above that the competitive constraint currently imposed by Hughes Armstrong is weak and weaker than that exercised by Washstation pre-Merger.

Assessment of evidence on changes on the Parties' offer post-Merger

7.115 In this section we assessed the following evidence on whether there were any changes on the Parties' offer post-Merger to understand whether the Merger has resulted the Parties' worsening their offer in the year after the Merger. We

(a) analysed how JLA's commission rates and service levels have changed since the Merger; and

(b) reviewed the responses to the CMA's customer research;

Analysis of changes in commission rates and service levels since the Merger

7.116 JLA submitted two pieces of analysis seeking to demonstrate that commission levels in the market, and performance levels at Washstation, have not changed as a result of the Merger. These were:

(a) Graphs comparing the average response time and first-time fixes of Washstation and JLA. JLA submitted four graphs comparing (i) the average responses times of Washstation and JLA between December 2017 and May 2018; (ii) the average response times of Washstation from December 2017 until May 2018, and JLA from May 2016 until May 2018; (iii) the proportion of 'first time fix' of Washstation and JLA between December 2017 and May 2018; and (iv) the proportion of first time fix calls for Washstation between December 2017 and May 2018, and for JLA between May 2016 and May 2018.

(b) An econometric analysis of commission rates for contracts renewed with JLA since January 2016 to December 2017. JLA's analysis found that the Merger did not lead to an increase in prices. A detailed description of this analysis can be found in Appendix E.

7.117 Both pieces of analysis purport to show that the Merger has not resulted in a change in outcomes in the market, and as such the Merger cannot have led to an SLC. However, we have not placed much weight on commission and KPI data from the period after 2017, because there is a material risk that this data is affected both by the prospect of a CMA investigation and the CMA investigation once started. In other words, JLA would not likely have degraded the quality of its offer in those circumstances.[240][241]

7.118 In light of these considerations, our view is that JLA would not have had an incentive to increase prices (ie reduce commission rates) or degrade service levels in the period following the Merger. Therefore, the behaviour of JLA during the immediate post-Merger period is unlikely to be

[240] The Merger was called in for investigation by the CMA in December 2017, with an IEO imposed on JLA on 13 December 2017 requiring (among other matters) JLA to hold the Washstation business separate and not to impair the ability of that business or the JLA business to compete independently. Washstation was 're-established' under the HSM in May 2018 and has been bidding for new contracts (as a result, the market structure since May 2018 is similar to that before the Merger).

[241] JLA submitted in its response to the provisional findings that the dataset covers a relatively long period from January 2016 to December 2017. The analysis performed compares performance before the Merger (i.e. before May 2017) with that after the Merger (i.e. between May 2017 and December 2017). However, in our view, the analysis still compares pre- and post-Merger performance, with post-Merger performance covering a period beginning in May 2017.

informative of its ability and incentives to depart from pre-Merger price or service levels in future.

7.119 Additionally, we note that:

(a) JLA's analysis of service levels is based on Washstation's performance post-Merger based on its own KPI system, when its customers have been served by JLA (ie not a comparison with the service level these customers received from Washstation before the Merger). As such, it is not possible to discern from this evidence whether there has been an effect due to the Merger.

(b) JLA's econometric model focuses on commission levels and does not account for a number of other parameters of the competitive offer which could have changed such as service quality. JLA submits that it has no incentive to degrade service quality since this will have the effect of decreasing its revenues, and that its internal statistics on service quality show that there has not been a degradation in service quality since the Merger. We note that the KPIs are related to JLA, which are not necessarily the same as those used by Washstation. We understand from the HSM that JLA was looking to honour the contractual obligations (eg repair times) under the Washstation contracts.[242]

7.120 For these reasons, while we acknowledge that this analysis shows that the commission rates for the group of customers analysed do not appear to have been affected by the Merger, it does not follow from this that the Merger has had no effect on competition in the market or that it may not be expected to do so.

CMA's customer research and CMA's hearings

7.121 Research respondents were asked whether the quality of service provided by their laundry provider has changed in the last year.[243] The majority (40 out of 51 Washstation's and JLA's customers) said that the service has not

---

[242] Moreover, under the IEO, JLA was under an obligation to procure that (among other matters) the quality of the services provided by the Washstation business was maintained and preserved, as well as to avoid taking any action that would impair the ability of the Washstation business to compete independently of the JLA business.
[243] Response to Q52 and Q53.

changed, with a small number saying that the service has got worse (six respondents) or that it has improved (two respondents).[244]

7.122 Two respondents (JLA customers) who thought that the service has improved mentioned better engagement from the account manager and newer machines requiring less maintenance as the key improvements.

7.123 Six respondents (1 Washstation customer and 5 JLA customers) said that the service had degraded after the Merger.[245] These respondents identified the following issues:

(a) increased number of breakdowns and call-outs;

(b) lengthy repair times;

(c) reactive, rather than proactive, provision of services;

(d) delays in the replacement of old machines;

(e) inflexibility of payment methods; and

(f) confusion in terms of responsibilities.

7.124 The evidence obtained from the CMA's hearings on whether the quality of service provided by their laundry provider has changed in the last year is mixed. UPP (a former Washstation customer) told us that the level of service offered by JLA has declined post-Merger.[246] The University of Leeds and the University of Sheffield (both JLA customers) told us that they did not notice any change in the quality of service. [247] The University of Nottingham said that there was a slight improvement in the service level.[248] As mentioned above, a former customer of Washstation ([✂]) also told us that the service it receives improved as a result of becoming a customer of JLA after the Merger.

---

[244] The remaining three respondents answered 'don't know'.
[245] Six respondents responded to the open question Q53 'In what ways has the service improved/got worse?' with negative comments.
[246] UPP indicated that it believed that this was due to the acquisition by JLA rather than any commercial disruption caused by the transition. UPP said that it has had to push back on the level of service provided by JLA and has reiterated JLA's contractual obligations in respect of the ongoing maintenance of the machines under its Washstation contracts. See summary of hearing with UPP, paragraph 19.
[247] Summary of hearing with University of Leeds, paragraph 15; and summary of hearing with University of Sheffield, paragraph 22.
[248] Summary of hearing with University of Nottingham, paragraph 13.

Conclusions on assessment of post-Merger effects

7.125 We have found that the above evidence on the effects of the Merger on competition between May 2017 and July 2018 does not demonstrate whether or not, within this period, there was a degradation of the Parties' offer.

7.126 However, that does not answer the different question of whether the Merger may be expected to result in an SLC.

Effects that may be expected to result from the Merger on the Parties' offer in the higher education market

7.127 We have assessed whether the Merger would give JLA the incentive to degrade any element of its competitive offer.

JLA's submission

7.128 JLA submitted that vend share agreements create strong incentives for providers to offer rapid and effective service because their income depends on it. As a result, it would not have the incentive to degrade quality or service aspects of its offer.[249]

CMA hearings

7.129 Goodman Sparks said that the Merger between JLA and Washstation has lessened competition in the market. It was very difficult to compete in the supply of managed laundry services to higher education with Goodman Sparks said that there is likely to be only JLA and Goodman Sparks competing for contracts in the North on which basis Goodman Sparks considered that it would have a better chance of winning a further higher education contract.[250]

---

[249] In that context JLA submitted that the number of machines at a given site is determined by a combination of space and number of students, so that there are no "excess" machines and therefore if machines are not working students will complain and revenues (for suppliers and customers) will be reduced.
[250] Summary of hearing with Goodman Sparks, paragraph 3.

7.130 Goodman Sparks explained that, after the Merger, it would continue to offer what it always has and it is difficult to answer whether the Merger made any difference because it is still early days.

7.131 Armstrong submitted that, after the Merger, service levels have dropped at JLA, and this meant that price, which is a very relevant parameter, has reduced in relative importance for customers.[251]

CMA's customer research

7.132 When asked directly what impact they expect the Merger to have on them as a customer, around half of respondents (24 out of 59) said 'neutral', around a quarter (13) said 'bad' and around 1 in 10 (5) said 'good'. Those who thought the impact was positive mentioned easier management of multiple contracts and better service levels as reasons for their response.

7.133 The main reasons for expecting a negative impact were lower service levels and a lessening of competition, both resulting from an increase in JLA's size. For example, a private student accommodation provider said that there would be less competition in the market to keep costs down.

7.134 Further, a respondent said that it was unhappy with JLA's service levels and that JLA had no incentive to improve because 'there is now little or no competition'.

7.135 Respondents who stated that the impact of the Merger was neutral did not indicate why they thought that this would be the case.

7.136 Respondents who thought the impact would be positive mentioned easier management of multiple contracts and better service levels as reasons. For example, a private student accommodation provider said that the merged firm would have more resources and more experience.

7.137 Further, a respondent said that it has contracts with multiple providers, and would benefit from 'discuss[ing] all issues with a single provider'.

7.138 In summary, around half of respondents stated that they expected the Merger to have a 'neutral' impact on them as a customer, but around a

---

[251] Summary of hearing with Armstrong, paragraph 12.

quarter stated it would be ‘bad’, whereas only around 1 in 10 stated it would be ‘good’.

7.139 We have assessed this evidence alongside evidence of the hearings we had with customers[252] and evidence on market concentration, competitive interactions and the competitiveness of suppliers assessed in the section on Pre-Merger Competition.

Our assessment

7.140 The evidence on the effects of the Merger on competition, shows that Washstation competed strongly against JLA, with Armstrong representing a much weaker constraint. Other providers of managed laundry services and self-supply represented only a very weak constraint.

7.141 The Merger eliminated the main competitive constraint on JLA in the higher education market. Given the weak constraint imposed by Armstrong and the very weak constraint imposed by the other competitors, the removal of Washstation as an alternative provider may be expected to give JLA the incentive to degrade its offer in terms of price or quality, because the Merger reduces customers’ bargaining strength in negotiations and tenders. Customers are likely to have to accept a worse offer post-Merger because they do not have Washstation as an alternative. Therefore, there is substantially less risk for JLA than pre-Merger that it will lose customers if it offers them a worse deal. Even if the degradation of its offer were to reflect negatively on JLA’s reputation, customers do not have credible alternatives to turn to in the foreseeable future.

7.142 With regard to new contracts, in the higher education market, when contracts come up for renewal, or are first put to the market, providers have the ability to flex their competitive offer, subject to their bid being compliant with any tender specification. For the reasons explained above, the Merger may be expected to provide the incentive to degrade one or more elements of the competitive offer, including price and service levels. As the remaining competitors post-Merger will not sufficiently constrain JLA, JLA may be expected to have the incentive to degrade the competitive parameters of its offer when it negotiates new contracts. Therefore, as a result of the Merger, JLA may be expected to have the ability and incentive to degrade the

[252] See summary of the hearings with UPP and RPC in which these customers expressed concerns with the Merger and also comments in the hearings from the University of Nottingham about the number of laundry service providers in the market.

different competitive parameters of its offer by: (i) lowering commissions; or (ii) worsening other non-price parameters, including important factors that are relevant for customers, such as the quality and speed of the maintenance and repair service.

7.143 With regard to existing contracts, for the reasons explained above, JLA may be expected to have the incentive to degrade some of the parameters of its service offering. We acknowledge that during the course of an ongoing contract JLA has limited ability to change a number of competitive parameters as they are constrained by contractual commitments. However, these contracts do not fully capture all the aspects of the service offering, including important competitive parameters, such as average response times or promotional student activities.[253] Where these are not constrained by contractual commitments, JLA could flex these service parameters within the scope of its obligations under existing contracts. Therefore, we cannot exclude that the Merger may be expected to negatively affect existing contracts.

7.144 In its Response to the Provisional Findings, JLA notes that its econometric analysis of commission rates demonstrates that there has been no decrease in commission rates. JLA submits that the 'CMA's own econometric analysis confirms' the results of JLA's analysis and that, as the CMA finds 'no fault' with this analysis, this analysis cannot be disregarded as evidence that the Merger does not have an effect on customers.

7.145 We have considered above evidence about the effects of the Merger on customers after completion of the Merger in May 2017, specifically: (i) JLA's econometric analysis of commission rates; (ii) JLA and Washstation's service KPIs pre- and post-Merger; and (iii) responses to the CMA's customers research.

7.146 However, JLA's analysis, for the reasons explained in paragraphs 7.117 to 7.119 above, does not answer the question of whether the Merger may be expected to result in an SLC. Furthermore, as explained above, evidence on the level of commissions and service level KPIs (see above in paragraph 7.117 and following) since the completion of the Merger cannot be given significant weight: the merged entity may have avoided decreasing commission rates or worsening its service offer in anticipation of a potential CMA investigation and after the commencement of the CMA's investigation. Furthermore, JLA did not have the ability or incentive to

[253] As illustrated by the service KPIs provided by JLA, see paragraph 7.116.

worsen price or quality of Washstation's offer because of the IEO in place and Washstation's independent operation under the HSM.

Conclusion on the competitive assessment

7.147 We assessed the competitive effects of the Merger, including evidence on the strength of the constraints the Parties imposed on each other and the constraint imposed by other providers.

7.148 Evidence from past tenders and contract negotiations shows that JLA and Washstation were each other's closest competitor, with Washstation accounting for the large majority of contracts lost by JLA. While Armstrong was the other most credible competitor, the evidence shows that Armstrong represented a weak constraint on JLA. Other competitors and self-supply represented very weak constraints.

7.149 Overall, during third party hearings, all third parties identified JLA and Washstation as close competitors. Customers only identified JLA, Washstation, Armstrong and Goodman Sparks as competitors in the higher education market (while some customers had, in some cases, received expressions of interest from other providers, none of these providers had ultimately been awarded a contract).

7.150 We concluded from the submissions from competitors and other providers of laundry services that, with the exception of Armstrong, other providers exert a very weak constraint on JLA. This is because alternative providers of laundry services: (i) currently only serve a very small number of higher education customers and/or are relatively small companies, with limited financial resources and/or a limited geographic presence, or (ii) are not actively competing for these customers and, in some cases, do not offer vend share agreements.

7.151 Internal documents also show that JLA perceived Washstation as its closest competitor and took into account the risk of losing higher education customers to Washstation when formulating its offer. These documents also show that higher education customers used Washstation's presence as a bargaining tool when negotiating with JLA. JLA also considered Armstrong to be a competitor for some customers, however, there was little evidence of JLA monitoring other providers.

7.152 The results of the CMA's customer research indicate that: (i) JLA holds an influential position in the higher education market and that JLA and Washstation have the technology to offer a range of payment methods and online services, which respondents said other providers appeared not to have at the time of the customer research; and (ii) JLA and Washstation are the two main providers of managed laundry services, with the other most credible alternative being Armstrong.

7.153 Taken together, the evidence shows that prior to the Merger, Washstation competed strongly against JLA, with Armstrong representing a much weaker constraint.

7.154 We found that the Merger may be expected to have a negative effect in JLA's offering in new contracts. As the remaining competitors post-Merger will not sufficiently constrain JLA, JLA may be expected to have the ability and incentive, when it negotiates new contracts, to degrade its competitive offer, including in relation to price and service levels.

7.155 In addition, we cannot exclude that the Merger may be expected to negatively affect existing contracts, as the remaining competitors post-Merger will not sufficiently constrain JLA and JLA could degrade some of the parameters of its service offering which are not constrained by contractual commitments.

7.156 On the basis of the evidence, we conclude that, unless there are countervailing factors, the Merger has resulted or may be expected to result in an SLC in the higher education market and that the SLC may be expected to result in adverse effects in the form of the degradation of the competitive offer, including price and service levels.

8. Countervailing factors

Introduction

8.1 In this section we assess whether there are countervailing factors which might prevent the SLC from arising. We have considered two countervailing factors: entry and/or expansion and buyer power.

Entry and/or expansion

Framework for assessment

8.2 The analysis of a possible SLC includes consideration of the responses of others to the merger. In the longer term, competition in the market may be affected as new firms enter or the merged firm's rivals take actions enhancing their ability to compete against the merged firm.[254] In assessing whether entry and/or expansion might prevent an SLC, we consider whether such expansion would be likely, timely and sufficient.[255] In summary:

8.3 As regards the likelihood of expansion, we have considered whether firms have the ability and incentive to expand.[256] For example, in a market characterised by low barriers to entry and/or expansion, entrants may nevertheless be discouraged from entry by features of the market[257] that make entry or expansion unlikely. In assessing the likelihood of post-merger entry or expansion, the CMA will consider whether entry or expansion is likely to take place if the entrant expects post-entry prices to be at pre-merger levels. This is because, if prices were to rise post-merger, only an entrant who would find it profitable to operate (or add capacity) in the market at pre-merger prices is likely to enter or expand and return prices to pre-merger levels.

8.4 As regards timeliness, expansion must be sufficiently timely and sustained to[258] constrain the merged firm.[259] We normally consider entry and expansion that has a significant impact on competition within two years to be timely although, in some cases, we may extend this period.[260] In the context of a completed merger, we consider the horizon for timely entry or expansion to start from the time the merger is completed.

8.5 As regards sufficiency, expansion should be of sufficient scope to deter or defeat any attempt by the merged firm to exploit any lessening of competition resulting from the merger.[261]

JLA's submission

8.6 JLA said that every commercial laundry distributor can supply commercial laundry services to higher education customers. JLA cited Thain Commercial (a regional Miele distributor) Laundry Equipment Direct (part of

---

[254] MAGs, paragraph 5.8.1.
[255] MAGs, paragraph 5.8.3.
[256] MAGs, paragraph 5.8.8.
[257] For example, the small size of the market or the credible threat of retaliation by incumbents (MAGs, paragraph 5.8.8).
[258] MAGs, paragraph 5.8.9.
[259] MAGs, paragraph 5.8.11.
[260] For example, if long term contracts were common in a market, it may be the case that no significant competition would be expected to occur in the next two years, as may be the case in some government some government procurement exercises.
261 MAGs, paragraph 5.8.10.

Dishwashers Direct, a Miele approved partner), Forbes, Maxwell Adam, Wolf, and Goodman Sparks as examples of commercial laundry providers that it considers appear to have recently expanded and are targeting the higher education and leisure sectors (offering cashless payment options and laundry monitoring systems). JLA also stated that it may not have identified all suppliers that are currently expanding, as providers can set up quickly and can start off at relatively small scale.

8.7 JLA also submitted that: (i) the market is growing; (ii) contracts equivalent to Washstation's revenue are coming up for renewal in the next 12 months; and (iii) customers are reacting to the Merger by looking for new providers.

8.8 JLA noted evidence from the hearings with Forbes Professional, Maxwell Adam, Goodman Sparks and UPP, which JLA considers shows that customers are seeking new providers or that potential competitors are intending to expand. JLA also noted that the CMA's customer research shows that most customers (and 90% of Washstation's customers) would be 'fairly likely' or 'very likely' to consider a provider that is new to the higher education sector.

8.9 JLA also noted the likely expansion of Armstrong after its acquisition by Hughes and that other providers expressed their intention to expand (such as Forbes, which has set capital aside) or have set a growth target in the higher education segment (such as Goodman Sparks). JLA also noted that Whirlpool stated to the CMA that it is looking to appoint an additional distributor specifically to supply machines to higher education customers in the UK.

8.10 JLA submitted that our provisional findings on entry and expansion were based on the observation that there has been limited entry/expansion in recent years. JLA stated that our provisional findings were not supported by the evidence, including third party views, on the likelihood of other suppliers entering or expanding following the Merger. In particular, JLA claimed that our provisional findings: (i) overstated the significance of barriers to entry and expansion; (ii) did not give the appropriate weight to the stated intentions of competitors to expand into the supply of managed laundry services to higher education customers under vend sharing agreements; and (iii) failed to assess whether the threat of entry and expansion could in fact prevent a price increase arising from any SLC.

History of entry and expansion and threat of potential entry and expansion

8.11 As explained above, the CMA has identified a limited number of providers of managed laundry services to higher education customers under vend share agreements, other than the Parties. JLA is the largest player in the market with an [80-90]% market share in 2016, Washstation was the second biggest with a market share of [5-10]%, whilst Armstrong had a market share of [0-5]% and Goodman Sparks [0-5]% (see Figure 14).

8.12 Washstation began supplying managed laundry services to higher education customers in 2012 and grew to achieve a market share of around [5-10]% by 2017. By contrast, Armstrong started supplying these services in 1993, did not substantially increase its market share between 2012 and 2017, and held a market share of less than 5% by 2017. We also note that Goodman Sparks share has remained stable below 5% in the last three years.

8.13 We also identified 3 other companies who used to operate in the higher education sector, 2 of whom offered vend share agreements. These companies were acquired by JLA (PHS Laundryserv in 2015, Wilson Electrics in 2016 and Acer in 2017). We note, in addition, that these companies' activities within the higher education market were relatively limited (eg in 2016 higher education customers accounted for less than 10% of each of these companies' revenues[262] and a very small share of the higher education market). For these reasons, we placed little weight on these companies as examples of meaningful entry or expansion.

8.14 Therefore, Washstation is the only relevant example of recent, meaningful entry and expansion into the market of which we are aware. As explained above in paragraphs 2.23 and 2.24, Mr Copley benefited from the knowledge of the higher education market and links to higher education customers he established since, or before, 2002, including while working at JLA and, before that, when he established Circuit.

8.15 If entry occurs frequently in an industry, this is indicative that barriers to entry are low or low relative to available profits. However, in the present case, as entry into the supply of managed laundry services to higher education customers under vend share agreements has rarely occurred (as explained above), particularly probative evidence of future entry and

[262] See Appendix C.

expansion would be required in order to conclude that post-Merger entry is likely, timely and sufficient.

JLA's perception of threat of entry - Internal documents

8.16 The threat of entry may be a constraint on the merged firm 'if entry would be so quick and costless that an entrant could profitably come into the market to exploit an opportunity afforded by high prices even if the merged firm quickly responded to the entry by lowering its prices'.[263]

8.17 Of the large number of JLA internal documents that we reviewed, we found that only a very small number of documents related to entry or expansion by other providers.[264] Most of the documents reviewed either referred to competitive interactions between firms - as opposed to entry and expansion - or they referred to marketing emails.

8.18 We only found two internal documents where entry or expansion were mentioned by JLA:

(a) One document, in which [✂] contacted JLA to enquire about a possible partnership in the [✂];

(b) One document (from 2016) in which JLA discussed [✂].[265]

8.19 None of the JLA internal documents we reviewed refer to, or otherwise reflect, any threat to JLA's commercial activities in the higher education market from laundry providers supplying customers in other sectors.

Conclusion on history of entry and expansion and threat of entry and expansion

8.20 Our review of the recent history of entry and expansion into the higher education market shows that there have been no recent instances of meaningful entry or expansion, apart from Washstation itself. This indicates that entry in this market is either difficult, or that there are other more profitable opportunities elsewhere. If barriers to entry or expansion were

---

263 MAGs, paragraph 5.8.14.
264 The review only considered documents related to the threat of entry and expansion as distinct from competitive interactions between JLA and its competitors. Documents discussing a competitor expanding their market share by acquiring a single contract or a small group of contracts were therefore tagged as competitive interactions.
265 See JLA budget review discussing the performance of other suppliers of washing machines and managed laundry services: [✂].

low, we would expect to see more instances of recent entry and/or expansion.

8.21 As explained below, the lack of a history of entry and expansion over time (other than Washstation) and the lack of evidence that JLA has considered the threat of entry or expansion by other providers, shows that potential entry and expansion post-Merger is unlikely.

8.22 Our assessment is further supplemented below covering barriers to entry, the possible expansion of Hughes Armstrong under the ownership of Hughes and other potential new entrants identified by JLA.

Barriers to entry and expansion

JLA's submission

8.23 JLA submitted that entry into the supply of managed laundry services in the higher education market is easy and simple. It submitted that entry requires only laundry equipment, payment systems and engineers (both of which it submitted were readily available), that there is little financial risk and that demand is predictable. In its response to the CMA's Phase 1 decision, JLA stated that there are low barriers to entry and expansion and that the threat of this entry or expansion 'is itself sufficient to constrain JLA'.[266] JLA also submitted that 'other providers of commercial laundry services who do not currently supply higher education customers could easily expand into the higher education market, at little cost'.[267]

8.24 JLA submitted that there is no difference (in terms of the types of machines, the contracts, the service, etc.) between the provision of laundry services in the higher education market and the provision of laundry services in (for example) the leisure sector, the care home sector, or the hospitality sector. JLA also told us that commercial laundry machines are readily available from different sources and that servicing can be subcontracted. JLA considered that every commercial laundry distributor can supply commercial laundry services to higher education customers.

8.25 JLA submitted that any provider of commercial laundry can offer vend share agreements. JLA submitted that the risks arising from uncertainty in income from end-users associated with vend share agreements are low as

[266] Response to Phase 1 Decision, 4 May 2018, paragraph 6.2.
[267] Response to Phase 1 Decision, 4 May 2018, paragraph 6.3.

it is straightforward to estimate income accurately. JLA also stated that it could not identify other providers of vend share agreements to higher education customers because providers do not publicise the type of contracts that they offer and some providers start off small such that JLA would not notice them at first.

8.26 In Response to the Provisional Findings, JLA submitted that barriers to entry could be overcome by a dedicated, proactive new entrant and that the reasons given for the barriers identified in the provisional findings (ie the specific services required by higher education customers, experience and reputation, the lack of opportunity to win customers and the capacity constraints of some potential providers) are speculative and do not amount to a barrier to entry or expansion.

8.27 In this section we assess the extent to which both cost and non-cost factors constitute barriers to entry or expansion.

Our assessment

8.28 As noted above, the history of entry into the market shows that there have been no recent instances of meaningful entry or expansion, apart from Washstation itself (which benefited from Mr Copley's knowledge of the higher education market and links to higher education customers he established since, or before, 2002). If barriers to entry were low, we would expect to see more instances of recent entry and expansion.

8.29 We considered both financial and non-financial barriers and found, for the reasons set out in more detail below, that:

(a) although the financial cost of entry and expansion is not significant in absolute terms, it is likely to deter some potential providers, when considered together with the time required to recoup the initial capital outlay compared with other opportunities in the commercial laundry services sector. We also found that there were some risks associated with the offer of vend share agreements (eg the risk of not recouping the initial investment in the relevant machines), which may be expected to further deter some potential entrants. In addition, we noted that JLA, being a distributor of an original equipment manufacturer (OEM), has a cost advantage when acquiring machines compared with providers who are not authorised dealers, which allows JLA to offer more attractive prices that those providers are likely to find difficult to match.

(b) non-financial barriers to entry and expansion are also likely to make entry or expansion in the higher education market difficult for some potential providers. The evidence on non-financial barriers shows that:

   (i) experience and reputation in the higher education market is an important factor for customers when they choose their suppliers of managed laundry services;

   (ii) the merged entity has a number of advantages resulting from its relationship with existing customers, including knowledge of the terms and termination dates of the large majority of the contracts in the higher education market. This means, for example, that potential providers who do not have such knowledge are at a competitive disadvantage when seeking to identify and compete for opportunities or contracts;

   (iii) in any given year there is a limited number of contracts open for competition and a lack of transparency on when some of these contracts are available for competition by competitors looking to enter into or expand in the higher education market.

8.30 We found that the evidence in relation to the above (which is assessed below), taken in the round, means that these barriers collectively are likely to deter entry and expansion by some potential providers, which is consistent with the lack of recent entry and expansion we observed.

Assessment of financial costs

- *Costs associated with entry by providers in commercial laundry*

8.31 During the course of our investigation we identified a number of costs which providers of managed laundry services would face in entering or expanding in the supply of managed laundry services to higher education customers.

8.32 These include: (a) cost of acquisition and installation of machines; (b) cost of cashless payment systems and online monitoring services; (c) cost of refurbishment laundry rooms; and (d) ongoing servicing costs (eg engineering costs).

   - *Cost of acquisition and installation of machines*

8.33 JLA told us that:

(a) the cost of purchasing commercial laundry machines would be incurred as sites are acquired;

(b) these costs are only incurred once contracts are in place; and

(c) the cost of machinery is typically offset by entering into hire purchase or similar financing arrangements on the basis of the revenue stream associated with the contracts.

8.34 Some third parties told us that the cost of machinery acted as a barrier to entry for them. For example:

(a) Maxwell Adam told us that, for a higher education customer with 30 washers and dryers, there would be an upfront cost of £100,000 plus the installation costs and that this makes it impossible for Maxwell Adam to enter the market.[268]

(b) Forbes Rentals told us that, for a university tender with ten rooms and 100 machines, it would have to pay an upfront cost of £[✂] per stacked machine.[269]

(c) Laundry 365 said that a managed laundry service provider needs to purchase equipment which would require hundreds of thousands of pounds for the hardware alone.[270]

8.35 Only Armstrong mentioned the possibility of entering into hire purchase or similar financing arrangements for the acquisition of the machines.[271]

- *Cost of cashless payment systems and online monitoring services*

8.36 JLA stated that over [90-100]% of machines installed in the last two years are cashless.

8.37 JLA told us that:

---

[268] See summary of hearing with Maxwell Adam, paragraph 6.
[269] See summary of hearing with Forbes, paragraph 7.
[270] See summary of hearing with Laundry 365.
[271] See summary of hearing with Armstrong, paragraph 19. Armstrong told us that ‘the cost of the equipment, the installation and the upfront capex, could be refinanced on a lease basis with a finance house, otherwise it will take a considerable period to get that money back.’

(a) there are a number of providers of cashless payment solutions, which are available at minimal cost;

(b) JLA spends c.£ [✂] per pocket to install a cashless payment solution;[272]

(c) cashless payment solutions are available on an end-user's phone and can be topped up via an app. JLA told us such apps are readily available at minimal cost, although JLA spent c.£[✂] for Greenwald to develop its app.[273]

8.38 Third parties' submissions indicate that the costs of cashless systems were not prohibitive. Goodman Sparks told us that cashless services do not require a big outlay, as used to be the case ten years ago, and limited infrastructure is needed - card readers are attached to the machines and Goodman Sparks uses one reader per stack (i.e. a washing machine and a tumble dryer) or per machine. A card reader costs £[✂] and no further infrastructure is required.[274] Maxwell Adam also told us that payment systems were not expensive and explained that it would need to purchase card readers and that the provider would charge a monthly fee as well as a small percentage fee on each transaction using the system. [275/276]

8.39 Discussions with Greenwald also showed that the cost of such systems is not prohibitively high[277] and that Greenwald does not use exclusivity clauses and is not prevented from offering its services to other UK customers.[278]

8.40 As concerns the cost of online monitoring services that allow the user to check machine availability and to monitor the progress of a load remotely, JLA told us that:

---

[272] JLA submitted that, on average, a contract will comprise 8 pockets and, therefore, a cashless payment solution costs less than £[✂] for a laundry room.
[273] The cost of developing a bespoke payment app was confirmed to us by Greenwald.
[274] Summary of hearing with Goodman Sparks, paragraph 15.
[275] Summary of hearing with Maxwell Adam, paragraph 13.
[276] Alliance does not sell card systems yet, however, it is about to launch its own app designed to accept payments via mobile phone (see Summary of hearing with Alliance, paragraph 11). Whirlpool said that customers go to third parties to develop and install suitable payment infrastructure (see Summary of hearing with Whirlpool, paragraph 6).
[277] Greenwald told us that its PinMate card payment system [✂] and costs [✂]. Greenwald also charges an [✂]. Greenwald charges [✂]. See summary of hearing with Greenwald, paragraph 8.
[278] Summary of hearing with Greenwald, paragraph 4.

(a) there are a number of options available ‘off-the-shelf’ for a hosting fee of c. £[✂] per year;

(b) such systems require hardware to be installed on each machine, costing £[✂] per site;

(c) any third party can develop its own-brand online services. As an example, JLA paid Lutrons c. £[✂] to create a JLA/Circuit branded system; and

(d) an app/monitoring system can also be developed in-house.

8.41 Some of the third parties that we consulted, told us that the cost of providing online monitoring systems was not unaffordable.[279] In addition, Greenwald told us that its online monitoring system was available to UK customers and that its cost was not material.[280]

8.42 Overall, evidence submitted by JLA and third parties[281] shows that cashless payment systems and online monitoring systems are readily available (eg these systems are not proprietary and no exclusivity arrangements prevent Greenwald from supplying these systems to providers other than JLA). We note that the effectiveness of both a new online or cashless payment systems are important for customers ([✂]) and the implementation of these systems by a new provider would need to be tested to ensure that it satisfies customer requirements.

- *Refurbishment costs*

8.43 JLA submitted that the costs of refurbishing laundry rooms are very low and cannot be considered a barrier to entry. JLA told us that the average cost of refurbishment is less than £[✂] per site and provided costings for the

---

[279] For example, Goodman Sparks told us that its own app would be available next year and it had budgeted £[✂] per laundry room (see summary of hearing with Goodman Sparks, paragraph 16). This estimate appears high in relation to JLA’s own development costs. Maxwell Adam told us that that it did not consider remote reviewing apps to be an essential requirement but, if customers wished, it would look into the costs and flex its offer accordingly (eg through inclusion in the vend price or including such costs in the price paid by the customer) (see summary of hearing with Maxwell Adam, paragraph 16).
[280] See [✂].
[281] See summary of call with Greenwald.

refurbishment of three laundry rooms at the [✂], amounting to a total cost for all three sites of c. £[✂].

8.44 Third parties said that refurbishment is a standard part of higher education tenders. Armstrong stated that refurbishment has become ‘mainstream’ for higher education customers and that it is not burdensome for a newly built room, although it can come at a considerable cost.[282] Forbes Rental told us that the cost of refurbishing laundry rooms could act as a constraint for potential entrants and estimated that room refurbishment would cost £7,000 to £10,000 for a university tender with ten laundry rooms and 100 machines.[283]

8.45 We consider that the evidence from JLA and third parties shows the cost of refurbishment to be low. While some third parties view refurbishment as a sunk cost and consider that it makes entry into the higher education market less appealing, such costs do not appear to be burdensome, particularly when viewed against the life of the average contract.

8.46 In addition to the financial cost of refurbishment, we note that the supplier’s ability/experience to meet specific customer standards is important. Such additional services can be given substantial weight in tender specifications and the evaluation scores given to providers vary significantly, indicating that it is difficult for some providers to meet customers’ refurbishment requirements/expectations.[284]

- *Ongoing servicing costs*

8.47 JLA estimates that the full cost of employing an engineer is c.£ [✂]although a new entrant could subcontract the service of their machines for c. £[✂]/hour.[285]

8.48 Evidence from third parties is consistent with JLA’s costs estimates. One third party submitted that engineer salaries make it difficult to offer commission levels as competitive as JLA.[286] Another third party submitted

---

[282] Summary of hearing with Armstrong, paragraph 27.
[283] Summary of hearing with Forbes Rentals, paragraph 7.
[284] For example, the University of Nottingham weights the ‘implementation’ portion of its tender at [✂]%, and it relates mostly to refurbishment (as well as the proposed installation timetable).
[285] Para 45.10 of JLA’s response to the MFQ).
[286] Armstrong hearing summary, paragraph 23.

that the cost of providing the constant engineer support required by higher education customers may be disproportionate if the provider has, for example, only one higher education customer.[287]

- *Costs of entry by providers outside the commercial laundry sector*

8.49 New entrants to the commercial laundry sector, as opposed to expansion into that market by providers already active in other laundry sectors, will face additional costs in establishing a business initially. JLA estimated that a new entrant to the managed laundry services sector would face initial setup costs of £[✂] in its first year, and ongoing overheads of £[✂]per year.

8.50 These costs are set out in Figure 21:

Figure 21: Initial setup and ongoing overheads for a new contract

Item	Year 1	Year 2 onwards	Description
Business establishment	[✂]	[✂]	Setting up the business, IT equipment, office furniture/fittings etc.
Website	[✂]	[✂]	Website with card payment system.
Head office	[✂]	[✂]	Office manager and a part-time bookkeeper.
Other operating costs	[✂]	[✂]	Warehouse storage, office rent and related costs, telephone/IT, insurance, out of hours phone service and tender preparation costs.
Total	[✂]	[✂]	

Source: JLA

- *Profitability model*

8.51 Based on the costs set out above in paragraphs 8.31 to 8.48, and in order to assess whether the costs are significant in light of the revenue stream generated by vend share agreements, JLA provided a worked example of the profits and costs directly associated with a single laundry room (with 8 machines – washers and dryers) operated on a vend share basis. In this example, the installation and refurbishment costs lead to the site producing a loss of £[✂] in the first year and a profit of £[✂] in following years.

Figure 22: Example of profitability of a laundry room

Item	Year 1	Year 2 onwards	Explanation

[287] Summary of call with Laundry 365.

Revenue before commission	£[✂]	£[✂]	[✂]
Revenue after commission	£[✂]	£[✂]	[✂]
Machine	£[✂]	£[✂]	[✂].
Installation and décor	£[✂]	£[✂]	[✂]
Servicing	£[✂]	£[✂]	[✂]
Parts	£[✂]	£[✂]	[✂]
Cards	£[✂]	£[✂]	[✂]
Payment services	[✂]	£[✂]	[✂]
Total cost	[✂]	£[✂]	
Total profit	**£**[✂]	**£**[✂]	

Source: JLA

8.52 A comparison to the relevant costs in the Washstation financial model from 2012 and with the evidence provided by other third parties indicates that JLA's estimates are reasonable.

8.53 Based on these overhead costs, an entrant would need to operate 23 sites of this size to be profitable over the 8-year lifespan of a typical contract.[288]

8.54 The costs identified in Figure 22 do not include costs associated with marketing and prospecting for new opportunities, which may be significant, particularly for a new entrant. A potential provider looking to enter or expand into the higher education market is also likely to factor these marketing and prospecting costs, as well as the potential win rates, which can be low in the first years.

8.55 This raises the question of how long it would take a new entrant to win 23 sites, each with a single laundry room with eight machines, and how this compares with other opportunities available to potential providers. We note that, between January 2016 and August 2018, Armstrong won [✂] contracts with a combined value of around £[✂][289] (equivalent to around

[288] This is based on the total amounts of fixed costs and profits from sites over, summed across the 8-year period.
[289] This has been calculated using data on Armstrong's revenues for contracts in 2016 and data on revenue the customer previously spent with JLA those where Armstrong has not served the customer for a complete year.

[✂] laundry rooms each containing [✂] machines, ie significantly less than 23 sites).

- *Recoupment, financial disadvantages and risks*

8.56 Although the financial costs mentioned above are not high in absolute terms, third-party evidence indicates that the costs are significant for some potential providers. The third-party evidence also indicates that there is a longer recoupment period (to recover the initial capital outlay) in higher education compared with other commercial laundry sectors and/or fixed variable agreements:

(a) Maxwell Adam said that the two reasons why it is not interested in supplying higher education customers are that the provider will not receive any income until one month after the contract has started and the return on the investment takes a long time (around two years if not more).

(b) Forbes Rentals said that the capital required to purchase machines and refurbish laundrettes could act as a constraint for potential entrants, particularly when combined with high commission levels in vend share agreements and that it would take at least [✂] months before that capital amount is recovered.

(c) Laundry 365 stated that a managed laundry service provider needs to purchase equipment which would require hundreds of thousands of pounds for the hardware alone and that Laundry 365 is not large enough to win this kind of contract because of the financial investment required, given the number of machines and the scope and the volume of the services required.

(d) Wolf said that the capital outlay required to develop an app-based system similar to LaundryView, refurbish laundrettes and install contactless payment infrastructure on machines was a constraint on potential entrants.

8.57 Some third parties also mentioned the need to offer vend share agreements as a barrier to offering managed laundry services agreements to higher education customers:

(a) While Wolf offers both fixed rental schemes and vend share schemes to its customers, Wolf said that it suspects that the commission level offered in vend share agreements to higher education customers would mean that margins would be small relative to the capital investment

required to provide managed laundry services to this customer segment.

(b) Armstrong told us that there is an element of speculation in providing vend share agreements, as it is uncertain whether revenues will be in line with projections from the customer.[290] Armstrong told us that profit margins are low in the higher education customer segment and, due to inaccuracies in revenue forecasting, it can be uncertain whether contracts will be profitable.[291] Armstrong told us that this risk is amplified where large commissions are agreed with customers.[292]

(c) Forbes Rentals would be willing to offer a vend share agreement, and while commission levels might be achievable, it prefers the fixed rental model.[293]

(d) Maxwell Adam has never been involved in a tender with a university and would not consider offering managed laundry services in their current form.[294]

(e) Evidence from customers also indicates that providers of commercial laundry services are not interested in student accommodation laundry services.[295]

8.58 Our investigation, including the CMA's customer research, also found that under vend share agreements, much of the operational and financial risk is borne by the managed laundry provider, not the customer (see paragraphs 6.15 and 6.16). Providers are reliant on the machines being used to generate revenue, whereas fixed rental agreements give providers an income irrespective of whether the machines are used. Therefore, operators are reliant upon customers providing accurate projections of usage to be able to properly cost their proposals. Third parties were mixed in their opinions on the reliability of estimates of revenue levels, but this appears to be a risk, in particular for less experienced providers in the higher education market, and in light of the significance of the upfront costs

[290] Summary of hearing with Armstrong, paragraph 19.
[291] Ibid., paragraph 24.
[292] Ibid., paragraph 25.
[293] Summary of hearing with Forbes, paragraph 8.
[294] Summary of hearing with Maxwell Adam, paragraph 5.
[295] Summary of hearing with the University of Nottingham and summary of hearing with RPC. In particular, the University of Nottingham stated that different players operate in the hospitality sector and would not be interested in supply managed laundry services to higher education customers, even when asked to quote.

for some of these providers and the expected time required to recover the initial investment.

8.59 Finally, providers that have a distribution relationship with Alliance and/or Whirlpool have a cost advantage in comparison to other providers without such a relationship. In paragraph 6.32, we examined the characteristics of machines used in the higher education sector. In particular, we note that they are mostly semi-commercial machines with a capacity of around 9.5kg, which are primarily available from Alliance and Whirlpool. Whirlpool was in the process of appointing an additional machines distributor to higher education customers in the UK.[296]

8.60 The evidence obtained in our investigation also indicates that distributors of Alliance and Maytag machines in the UK (such as JLA and Armstrong) have a competitive cost advantage in relation to other potential providers of managed laundry services:

(a) Wolf said that the cost of the machines is also a constraint and that it is not possible to source machines suitable for higher education customers directly from the manufacturer, due to the agreements that these manufacturers (Alliance and Whirlpool) have with their respective distributors in the UK;[297]

(b) Mr Copley also said that a smaller provider, if it is not a distributor, may not be willing to face the risk and difficulties of importing containers of around 80 machines, finding storage for the machines and dealing with customs.[298]

8.61 There is mixed evidence on whether being a distributor of Alliance and Whirlpool gives these distributors an advantage with regard to installation times. Goodman Sparks explained that it was unable to meet the deadlines for installation set out in a tender because all manufacturers of the machines required 6 to 7 weeks lead time for delivery of machines from the date of order, because the machines had to be imported and there are no UK-based manufacturers. Goodman Sparks said that a company would

[296] Whirlpool indicated that it has had discussions with [✂], and is likely to appoint [✂] and then [✂] (Summary of hearing with Whirlpool, paragraph 8). [✂] told us that it was recently appointed as a distributor of Whirlpool in the UK. See [✂].
[297] See summary of hearing with Wolf.
[298] See Summary of the hearing with Mr Copley.

have to buy a large number of machines (eg around the number of machines equivalent to serve ten large contracts) to have a direct relationship with an OEM.[299] On the other hand, JLA submitted evidence showing that the average time between contract signing and installation for JLA's installations in 2018 was [✄] days (almost [✄] weeks) and that over half of JLA's contracts in 2018 were installed more than [✄] days after the contract was signed ([✄] weeks),[300] which is more than the lead time required to import machines from manufacturers.

- *Conclusion on financial costs*

8.62 Our assessment indicates that the financial cost of entry and expansion is not significant in absolute terms, with the principal costs being the acquisition and installation of machines, any renovation work required, servicing and payment and online service provision. However, the nature of higher education vend share contracts means that providers need to make an upfront capital investment that is significant for some potential providers. We found that these upfront costs are likely to deter some entrants, when considered together with the length of time required for recoupment of the capital outlay, particularly compared with opportunities in the other commercial laundry sectors.

8.63 We also found that the revenue stream generated by vend share agreements is not guaranteed and that there is an element of risk that a provider will not receive as much revenue as forecast. These factors, coupled with the cost advantage JLA has (as an OEM distributor) compared with other potential providers in the acquisition of machines, are likely to deter some players from entering or expanding, which allows JLA to offer more attractive prices that those providers are likely to find difficult to match.

Assessment of non-financial barriers

8.64 As explained in the CMA's guidelines, in determining whether barriers to entry and expansion in certain industries are significant, the CMA will normally not only assess the financial costs of entry, but also strategic

[299] Summary of hearing with Goodman Sparks, paragraph 14.
[300] See paragraph 3.36 of JLA's response to the Provisional Findings.

barriers. Those include non-financial costs related, for instance, to the ‘experience and reputation which incumbents have built up, or from the loyalty which they have attracted from customers and suppliers.’[301]

8.65 We assess below the following non-financial costs:

(a) experience and reputation in the higher education market;

(b) advantages resulting from the merged entity’s relationship with its existing customers

(c) the limited number, and lack of transparency, of opportunities.

- *Experience and reputation in the higher education market*

8.66 Previous experience in the higher education market can be an asset in demonstrating that a provider is able to meet some of the requirements of higher education customers, such as short installation windows, and the provision of multiple laundry rooms and online solutions. This was evidenced by tender documents, comments at third part hearings and the responses to the CMA’s customer research.

8.67 In some of the tender documents, the ratings for certain criteria depend on the provider’s experience and knowledge in the higher education market. For instance, the tender documents for the supply of managed laundry services to the [✂] required evidence of experience in the sector. The tender documents for the supply of managed laundry services to the [✂] required the bidder to show evidence of relevant experience in similar higher education sites.[302]

8.68 At its hearing, UPP said that reputation and track record is a feature that it factors into its consideration when procuring managed laundry services. If UPP appointed a new entrant to provide managed laundry services, it would undertake a due diligence process and take steps to mitigate the

[301] MAGs, 5.8.5.

[302] See also, for example: the invitation to tender issued by [✂] lists one of the criteria on which bidders will be assessed as ‘Organisation and staffing’, requesting ‘Please provide details of your knowledge and experience of providing this type of service in the Higher Education sector’. This criterion alone is weighted 16% in the tender. [✂] and [✂] list as one of the award criteria ‘Laundrette solution’, asking the bidders to show ‘What experience do you have of providing laundrette services (in particularly to Universities or similar organisations)?’, considering this criterion in the evaluation process as ‘Very important’ (3 out of possible 3).

possible failure of the business, as well as failure to provide the services contracted for to a satisfactory standard.[303]

8.69 Moreover, Mr Copley also told us that one of the advantages that Washstation had when it entered the higher education market was its knowledge of the market and of customer requirements because of Mr Copley's prior involvement in the JLA business.[304] This indicates how experience and knowledge of the market is important if a potential provider is to succeed in the higher education market.

8.70 The CMA's customer research also found that experience of providing laundry services was considered by many respondents to be an important factor in choosing their laundry provider:

(a) When prompted to score the importance of different features, experience of providing laundry services was considered 'essential' by 19 out 59 respondents, 'very important' by 28 respondents and 'important' by 9 respondents.

(b) Some respondents indicated that it was not important to them that their provider had experience in supplying higher education customers specifically (8 out of 59 rated this as 'not important').

(c) There was broad willingness among respondents to consider a provider who was new to the sector (only 7 out of 59 stated they were fairly or very unlikely to, or would not, consider such a provider).

8.71 We note that when asked to name important choice factors, only 3 out of 59 respondents spontaneously mentioned experience of providing laundry services. This implies that experience of providing laundry services is unlikely to have been a discriminating factor when respondents were choosing one provider over another.[305] However, the responses to the prompted question about the importance of choice factors (see paragraph 8.70 above) indicate that many research respondents found experience of providing laundry services important.

[303] Summary of the hearing with UPP, paragraph 7.
[304] Summary of hearing with Mr Copley, paragraph 1.
[305] One of the reasons why respondents may not have referred to experience as a discriminating factor is the fact that most participants in tenders or negotiations had experience of providing laundry services (the only participants in tenders or negotiations mentioned by research respondents were: JLA, Washstation, Armstrong, Wilson Electrics, PHS, Clean Machine as well as a few unnamed providers).

8.72 Furthermore, the second most common response to the unprompted question about choice factors (mentioned by 17 out of 59 survey respondents) was 'previous good experience of the provider', indicating that some customers are more likely to select a provider who has provided laundry services to them before.

8.73 While some respondents did not identify experience in the supply of managed laundry services in the higher education market as an important choice factor, the behaviour of respondents in the three years preceding the Merger shows that no contracts for the supply of managed laundry services to higher education customers on vend share agreements were awarded to players not already active in the supply of these specific services. While not conclusive, this evidence implies that providers who do not have previous experience of the higher education market are likely to be at a disadvantage when competing with other providers who do.

8.74 Moreover, from the respondents who did not go out to formal tender, only one respondent named an alternative provider outside the higher education market that it had considered, indicating that while respondents may be prepared to consider providers without higher education experience, most have not done so in the past.[306]

8.75 Overall, the customer research indicates that a provider needs experience of providing commercial laundry services, but that this does not have to be in the higher education market. However, we do not observe providers who do not have experience in tendering or bidding for new contracts in the higher education market or, where they do, being scored highly. This indicates that an established reputation as a provider of laundry services is an important factor, while experience in the supply of managed laundry services to higher education customers appears to be a secondary factor, but still relevant to some customers.

8.76 Considering this evidence in the round, it shows that experience and reputation in the supply of managed laundry services in the higher

[306] Apart from JLA, Washstation, Armstrong and Goodman Sparks, other providers considered were: PHS, Wilson Electrics, Coin and Laundry Serve. (See Q16c, Q30, Q31 Customer research). JLA acquired Laundry Serve from PHS, as well as separately acquiring Wilson Electrics. Both providers served HE customers. Coin was the only provider outside the higher education sector; it was mentioned by one respondent who got quotes directly. For respondents who got quotes directly these are providers they had either considered getting quotes from or they approached and for respondents who took an alternative procurement route these are providers they said they had considered.

education market are considered important factors by customers and are difficult for some potential providers to demonstrate.

- *Advantages resulting from the merged entity's relationships with its existing customers*

8.77 The merged entity, given its significant presence in the market, knows the status of the large majority of the contracts in the higher education market and has established relationships with customers who make up most of the market.

8.78 In particular, the merged entity knows the terms of most existing contracts, including when they come up for renewal, and can, as JLA does, [✂].[307] This increases the likelihood that some of those contracts are, or will be, awarded to the merged entity and/or not put out for competing offers by other providers. As a result, potential providers that do not have established, relationships with higher education customers, or knowledge of the higher education market, are likely to compete for a more limited number of contracts. This in turn is likely to limit the speed of their growth and the time required to establish their reputation in the higher education market.

8.79 Furthermore, third party evidence indicates that the requirements of some customers are closely aligned with aspects of the incumbent's overall offer, which is reflected in some tender documents and in customers' expectations. Some potential providers find it difficult to meet some of these requirements. Third parties (Wolf Laundry, Photo-Me and Forbes) told us that they found it difficult to bid and succeed in higher education tenders as customers' requirements are highly prescriptive and tailored to the offering of existing providers.

8.80 For these reasons, providers that do not have established relationships with higher education customers, including knowledge of the terms and termination date of the large majority of the contracts in the higher education market, are likely to find it difficult to overcome the merged

---

[307] As mentioned above paragraph 3.30, JLA told us that, [✂].

entity's advantage when seeking to enter and expand in a sufficient and timely manner.

- *Limited number, and lack of transparency, of opportunities*

8.81 JLA submitted that there are sufficient contracts coming up for renewal on a regular basis (at least £[✂] million in the next two years[308]) to support a potential provider, and that there is a high rate of growth in student accommodation in general with the market expected to grow by about £[✂] million per year.[309]

8.82 We note that significant growth in the higher education market is expected, mainly from private student accommodation customers. However, our assessment of the evidence below is that there is a limited number of opportunities in any given period and that it is difficult for potential providers to become aware of contract opportunities.

8.83 The long-term nature of many of the agreements is likely to be a barrier to entry and expansion since customers cannot easily switch provider,[310] and at any given time only a proportion of customers will be contestable (based on the average 8-year length of JLA's customers' contracts, roughly a quarter of customers will be able to tender during the 2-year period following the Merger). The long-term nature of the contracts makes the market less contestable, as it limits the speed of growth of a potential provider.

8.84 In addition to the merged entity's advantages, which reduce the number of contracts that some potential providers can compete for (see paragraph 8.77 and following above), we also assessed the extent to which there is transparency as regards the opportunities for a new entrant or a provider with a small presence in the market to win new business (including both contracts for new student accommodation and contracts for existing accommodation that come up for renewal).

8.85 JLA submitted that these opportunities are easily visible and accessible to existing and potential providers as the higher education segment is very transparent. JLA also stated that the use of public tendering platforms by

---

[308] JLA estimates that in the next two years contracts currently belonging to JLA and Washstation amounting to £[✂] million in annual revenue will come up for renewal.
[309] Based on a Knight Frank report on the student accommodation sector, Phase 1 decision, paragraph 146. We note that growth in the sector is consistent with figures reported in Figure 1 of the Competitive Effects section.
[310] JLA's contracts typically do not include break clauses.

customers allowed any provider to identify opportunities within the sector. In particular, JLA submitted evidence showing that private accommodation providers are readily identifiable, whether through third party reports, such as Knight Frank and Cushman and Wakefield, or by tracking planning applications, which can easily be done online.

8.86 Information about public tenders for the supply of managed laundry services to higher education customers is publicly available and reports from real estate consultants and building planning applications are a public source for information of opportunities in relation to new buildings. However, the contracts that are awarded through public tenders represent a small percentage of the market (see Figure 6 above). Moreover, reports from real estate consultants and building planning applications do not provide information about when existing contracts for higher education customers come up for renewal.

8.87 The limited transparency in the market, mainly in respect of private accommodation providers, is corroborated by the fact that competitors appear not to have competed for private-sector customers, and these customers tend to contact suppliers, including their existing supplier, directly.[311] For instance, Armstrong has not bid for contracts with private student accommodation customers (see paragraph 7.112 in the section on competition assessment).[312]

8.88 The limited transparency in the market is also evidenced by two third party submissions. Photo-Me described the industry as being opaque, with opportunities being difficult to identify; the same third party described the supply of managed laundry services to higher education customers as a 'closed shop'.[313] Goodman Sparks also stated that it is not straightforward

---

[311] JLA stated during main party hearing: 'If you think of the market split down, broadly, between the universities themselves, on the public side, and the private operators, then, not an exclusive rule but, typically, the public sector, the universities will go through a tender route and an open tender, whereas the private operators and private landlords sometimes go through an open tender but, more likely, go through a commercial negotiation and they will choose suppliers on that basis. They will contact suppliers directly. There might be an existing relationship'

[312] JLA bid for [✄] private accommodation providers and private accommodation management customers in 2018, whereas Armstrong bid for [✄].

[313] Summary hearing with Photo-Me, paragraph 18. Photo-Me also told us that it appointed [✄], a business management consultant, to explore whether higher education customers were interested in its laundry services offering. However, Photo-Me indicated that [✄] did not have much success because they felt the industry to be a 'closed shop (see Summary of hearing with Photo-Me, paragraph 16). We also note that ESPO stated that no university had ever used their framework to make a tender for laundry services or equipment (see Summary of hearing with ESPO, paragraph 7).

to identify opportunities with private accommodation providers and characterised JLA as having a 'stronghold' in the market.

8.89 In the light of the evidence described above, our view is that, while the market is expected to grow, the long-term nature of the contracts makes the market less contestable and therefore limits the speed of growth of a potential provider. In addition, the factors described in paragraphs 8.87 to 8.88 detract from the transparency of opportunities available to competitors looking to enter into or expand in the higher education market (particularly relative to the understanding of the market and forthcoming opportunities enjoyed by JLA). This reduces the likelihood of new and existing suppliers successfully winning contracts, particularly for existing private accommodation.

Conclusion on non-financial barriers

8.90 We found that there are significant non-financial barriers to entry and expansion. The evidence examined above shows, overall, that experience and reputation in the higher education market are important factors for customers when they choose their suppliers of managed laundry services, with some customers requiring proof of experience in providing managed laundry services to higher education customers. It is difficult for potential providers that lack either experience or a reputation in providing these services to meet the tender criteria or to be successful in winning contracts.

8.91 We also found that the merged entity has a number of advantages resulting from its relationship with existing customers, including knowledge of the terms and termination date of the large majority of the contracts in the higher education market. This means, for example, that potential providers who do not have such knowledge face a competitive disadvantage and are likely to compete for a more limited number of contracts.

8.92 Moreover, in any given year there is a limited number of contracts open for competition and a lack of transparency of opportunities to compete for such contracts. Even potential providers who are well-established in providing laundry services in other sectors are likely to be impeded by the difficulty in identifying opportunities that are not publicly tendered or relate to contracts for new accommodation. Combined with the long-term nature of managed laundry contracts and the fact that some contracts are not open for competing offers by providers other than JLA, the lack of transparency of some opportunities is likely to make entry and expansion more difficult and limit the speed of growth of potential providers.

8.93 For the reasons set out above, we found that the non-financial barriers are likely to make entry or expansion in the higher education market difficult for some potential providers.

8.94 Having concluded that financial and non-financial barriers collectively are likely to deter entry and expansion by some potential providers, we nonetheless assessed, more specifically, whether entry or expansion by potential providers is likely, timely and sufficient to constrain the merged entity, such as to prevent an SLC resulting from the Merger.

Potential candidates for entry or expansion

8.95 In this section we examine the potential for entry or expansion in the higher education market in a time horizon of approximately two years from the date of completion of the Merger. We consider, in particular, the likelihood, timeliness and sufficiency of entry or expansion starting with the most credible candidate, Hughes Armstrong, and then consider other potential providers operating in the commercial laundry sector.

JLA's submissions

8.96 As regards commercial laundry providers expanding into the higher education market, JLA notes, in particular, the likely expansion of Armstrong after its acquisition by Hughes. JLA also identifies a number of potential entrants that appear to have recently started targeting the higher education and leisure sectors and notes that the evidence collected by the CMA shows that other providers are actively pursuing entry plans (including Forbes and Goodman Sparks). JLA also notes that Whirlpool confirmed to the CMA that it is looking to appoint an additional distributor to specifically supply machines to higher education customers in the UK. See also the examples in paragraph 7.84.[314] JLA submits that the future expansion plans of these potential providers should not be dismissed.

Likelihood, timeliness and sufficiency of Armstrong's expansion after its acquisition by Hughes

8.97 We assessed the evidence on the competitive constraint imposed by Hughes Armstrong post-Merger in the Competition Assessment section. We concluded that the competitive constraint currently imposed by Hughes

[314] In our investigation, we talked with these companies about their business plans, with the exception of Dishwasher Direct, which we were unable to contact despite numerous attempts.

Armstrong is weak and weaker than that exercised by Washstation pre-Merger.

8.98 In this section, we have assessed the likelihood, timeliness and sufficiency of Hughes Armstrong's future expansion. In order to do so, we have considered:

(a) JLA's submissions;

(b) Hughes' and Armstrong's submissions;

(c) evidence on Hughes Armstrong's incentive to expand into the higher education market;

(d) evidence on expected changes of Hughes Armstrong's offer; and

(e) contracts which Hughes Armstrong has bid for recently and the feedback from higher education customers.

8.99 The MAGs provide that, in assessing the likelihood of entry or expansion the CMA will consider the ability and incentive (or intention) of a potential provider to enter or expand.[315] The CMA has, therefore, considered not only the incentive (or intention) of Hughes Armstrong to expand into the higher education market, but also its ability to expand.

JLA's submission

8.100 JLA submitted that the acquisition of Armstrong by Hughes will allow Armstrong to replace the competitive constraint that Washstation imposed by providing Armstrong with greater financial resources and a wider geographic scope and by improving the 'commercial nous' of the business. In particular, JLA submitted that: (i) Armstrong is now a considerably better-equipped competitor than Washstation was either before or at the time of the Merger, with its far larger and nationwide network of engineers, stronger financial backing, and a more resilient, diversified business model covering all segments of commercial laundry; (ii) Armstrong has won [✂] contracts from JLA in the higher education market, that JLA is aware of, since its acquisition by Hughes in January 2018; (iii) based on the summary of its hearing with the CMA, Armstrong plans 'to compete for every higher

[315] MAGs, paragraph 5.8.8.

education opportunity that it is able to handle geographically', which JLA considers to be the vast majority of the UK.

8.101 JLA submitted that Hughes Armstrong's expansion 'plans' should not be dismissed and that, in light of the low barriers to entry and growth, there is no basis to require a detailed investment plan to corroborate Hughes Armstrong's stated intention.

8.102 JLA also submitted evidence about Hughes recently opening new branches in Glasgow and in Huntingdon, as well as a recent statement in Hughes' website about the benefits of 'uniting' Hughes and Armstrong's business and commercial team and Hughes' intention to 'over the months and years' develop its 'commercial offering […] with more stock and better systems benefiting all our customers'. JLA claimed that this evidence shows that Hughes is serious and focused on its expansion and growth.

Armstrong's and Hughes's submissions

8.103 Armstrong provides commercial laundry services to a number of customers other than higher education customers. The supply of managed laundry services to higher education customers represents around [✄]% of its overall revenue in 2017. As explained below in paragraph 8.109 the higher education sector was just one of the other areas of business that Hughes identified as potential key areas to growth when it was considering acquiring Armstrong.

8.104 In response to our question on a possible expansion plan, Hughes told us it has a 5-year 'plan' to expand in the higher education market (although no detailed business and financial plan had been prepared to that effect). Hughes also told us that it is planning on bidding for every higher education opportunity it is able to handle geographically, including private higher education customers and large universities, but noted that these are harder to win. Hughes explained that the reason for having a 5-year plan is because contracts only come up for tender every 7 years and therefore there is no point in [✄]. Despite its intention to expand, Hughes stated that if Hughes Armstrong were unsuccessful in winning a tender with a university, it would reconsider.

8.105 Hughes explained that, over the next 5 years, it aims to change Hughes Armstrong's infrastructure and some elements of Hughes Armstrong's offer (as described further below). Hughes said that it has not allocated funds in its budget (specific to opportunities in the higher education market) and that it does not have a detailed investment plan to pursue the expansion and improvement described below. Instead, it will make investments as required, depending on the business won by Armstrong.

8.106 Armstrong said that it saw the acquisition of Washstation by JLA as an opportunity to grow in the higher education market, as well as in other areas identified below in paragraph 8.109. However, the evidence provided by Hughes and Armstrong was mixed on how straightforward and achievable this might be. In our hearing with Armstrong, it identified several difficulties it might encounter expanding into higher education. By contrast, Hughes was more optimistic about the prospects of expansion (as explained in the paragraphs above).[316]

8.107 We placed weight on both Armstrong's and Hughes's comments as, while Hughes controls Armstrong and determines its strategy, Armstrong's long involvement in the higher education market means that it understands the market context and competitive environment, including the challenges associated with winning contracts, particularly where the Parties are the main competitors.

8.108 The evidence provided by Hughes and Armstrong was considered together with other evidence on Hughes' ability and incentive to expand (eg contracts recently won and lost by Hughes Armstrong and comments from customers about Armstrong).

8.109 On 9 July 2018, Hughes produced a non-contemporaneous note, prepared specifically for submission to the CMA, in which it summarised the discussion that had taken place between Hughes' management at a meeting on 15 September 2017 in relation to the rationale for the acquisition of Armstrong and Hughes' business plan for Armstrong. This note identifies higher education (universities/colleges) as one of the key areas for growth in the Armstrong business[317] and identified areas of improvement that would be required to compete for this business.[318] The note states that Hughes was prepared to invest in the higher education

[316] In its response to the provisional findings, Hughes stated its 'ambition which is to invest heavily in the fixed and vended rental markets' (see e-mail from Hughes to the CMA, dated 15 August 2018 in response to the Remedies Notice). This statement confirms Hughes' intention to expand into the higher education market. We placed limited weight on this statement because this statement was made after our Provisional Findings and in the context of Hughes expressing its interest in acquiring the Washstation business. Furthermore, it is a general statement of intention that needs to be considered alongside evidence on barriers to entry and expansion and Hughes Armstrong's ability to expand in a sufficient and timely manner.
[317] The other areas of growth identified in this document were: [✂].
[318] The areas of improvement identified by Hughes were: (i) investment into mobile payment system and mobile app to offer the student better student experience; (ii) better [✂] service engineering allowing Hughes Armstrong to competitively compete nationwide [✂] (iii) glean knowledge from any lost tenders so that it can understand it has been unsuccessful and improve for the next opportunity.

market if it was successful in winning new business. As this note was produced nine months after the meeting (and specifically for the purposes of submission to the CMA), we have placed less weight on it than we would have placed on a contemporaneous minute of this meeting.

Assessment of Hughes Armstrong's incentive to expand into the higher education market

8.110 As noted above in paragraph 8.105, while Hughes indicated that it proposes to expand Armstrong's higher education business, we understand that Hughes does not have an investment plan for expansion and that it has not allocated funds for such expansion in its budget. Hughes mentioned its intention to expand at hearings with the CMA. When asked to provide internal documents to support this, setting out the expected actions that Hughes Armstrong would take to that effect, Hughes did not provide any supporting documents other than the non-contemporaneous note of the meeting in which Hughes' senior management discussed the rationale for Armstrong's acquisition.

8.111 As mentioned above, Hughes stated that it has a 5-year timeframe for Hughes Armstrong's expansion, because contracts only come up for tender every 7 years and therefore there is no point in having [✂]. We also note that Armstrong stated in an earlier separate hearing with the CMA that it would take Armstrong 5-10 years to fill the gap left by Washstation.[319]

8.112 JLA submitted that this statement by Hughes about the reason for the 5-year timeframe for Hughes Armstrong's expansion explains the lack of a detailed plan at this stage. However, in our view, the significance of Hughes' statement is not so much about having a detailed plan for expansion, but about the timeframe in question. In the context of this Merger assessment, Hughes's 5-year timeframe does not point to its potential expansion being 'timely' to constrain the merged entity. In particular, since contracts will come up for tender over the next two years, a provider seeking to enter or expand would be expected to be taking the relevant preparatory steps for the short term as well as the medium term. Although an investment plan and the commitment of funds to support expansion are not essential requirements in an assessment of whether

[319] See hearing summary of Armstrong, paragraph 22.

entry or expansion is likely to act as an effective competitive constraint on the merged entity, evidence of concrete measures to effect planned entry or expansion (ie beyond a general aspiration to enter or expand) is one of a range of relevant factors that we typically examine.[320]

8.113 While Hughes has not made a financial commitment to expansion, it has indicated that it will make investments as required, depending on how successful Armstrong is in winning business. If Hughes Armstrong were likely to expand in a sufficient and timely manner, given the issues identified in the feedback received in recent tenders, we would expect Hughes to have already taken significant further steps (for example, as regards investments, a budget for planned expansion) to improve its servicing offer in line with that feedback.

8.114 The meeting note mentioned above in paragraph 8.109 states that [✂]. This was reiterated by Hughes at a hearing with CMA staff on 17 July 2018 when it stated that Hughes would reconsider its investment, if Hughes Armstrong was not successful. Accordingly, and particularly given Hughes Armstrong's performance in obtaining new business (particularly high value contracts), there remains significant uncertainty regarding whether Hughes will ultimately be willing to invest resources in the higher education market.

8.115 Although Hughes told us that the financial investment does not need to be made until the tender is won:

(a) for the reasons explained below regarding higher education customers' perceptions of Armstrong's technical capability, our view is that without making the necessary investments to improve its offer, Hughes Armstrong is less likely to win additional business in the higher education market; and

(b) Hughes' financial investment to improve its offer is dependent on Hughes Armstrong winning business in the higher education market; this raises doubts about the strength of Hughes' commitment, particularly as we have not seen evidence that Hughes Armstrong budgeted the investment required if it were to be successful in winning additional business.

[320] MAGs, paragraph 5.8.12.

Expected changes to Hughes Armstrong's offer

8.116 In the context of Hughes Armstrong's intention to expand in the higher education market, we assessed evidence on the expected changes to Hughes Armstrong's price and services offering to understand whether these changes, and their implementation, are likely to improve Hughes Armstrong's ability to expand into this market in a timely and sufficient manner. We consider those expected changes in the context of customers' perception of Armstrong offering (see paragraph 8.129 to 8.131) and Hughes Armstrong's commitment to these changes (paragraph 8.112 and 8.115).

8.117 Armstrong stated that it would not be profitable for it to commit to commission rates of 60-70% of turnover.[321] It explained that it would therefore not be worthwhile competing for higher education customers against JLA and Washstation at these levels of commission.[322]

8.118 We note that nearly [20-30]% of Washstation contracts had a relatively high commission level of above [✂]%. As such, Armstrong would be unlikely to compete for these contracts, which may in turn limit its expansion into the higher education market.

8.119 Armstrong also explained that: (i) despite a planned increase in its geographical scope, Hughes Armstrong may continue to have weak coverage in parts of the South West and West Wales; and (ii) other than the intended geographic expansion, Armstrong's offering in terms of service level and commission levels was expected to remain unchanged.

8.120 Hughes told the CMA that Hughes Armstrong intends: (i) to improve Armstrong's payment systems and it is already working with cashless payment provider to that effect; and (ii) to improve Armstrong's apps, and implement an on-call phone service support system for students.

8.121 Evidence provided by [✂] confirms that Armstrong approached [✂] in [✂] for a [✂]. Hughes told us that it approached [✂] of cashless payments to

---

[321] We note that Hughes Armstrong offered a commission of [✂]% in its tender for the contract of its largest customer [✂], which it lost.
[322] Summary of hearing with Armstrong, paragraph 11.

upgrade its current payment system and it is about to implement this technology.

8.122 Notwithstanding Armstrong's statement in paragraph 8.119, Hughes also indicated that it intends to fill in gaps in coverage using its network of local service partners.[323] The intention to fill in gaps in coverage using local service partners has not yet been tested by Hughes Armstrong.

8.123 Hughes also informed us that the 'new' branches in Glasgow and in Huntingdon brought to our attention by JLA are both relocations from smaller premises that are not related to the expansion of Hughes Armstrong into the higher education market. Hughes explained however, that there are two potential sites already occupied by Hughes (in [✂] and [✂]) which it intends to use as it builds its offering to the higher education sector by increasing engineering capacity in the areas where there are gaps in its geographic coverage (eg [✂]).

8.124 Hughes Armstrong employs around 40 engineers and these engineers cover commercial laundry in general. As in the service model used by JLA, these engineers will not exclusively be used for higher education customers. The number of engineers required for national coverage would depend on many factors, including the service model adopted. Hughes said that it will make the investment in additional engineers when necessary.

8.125 Finally, as evidenced by the customer feedback considered below, Hughes Armstrong's lower scores in some of its recent tenders show that the improvements in Armstrong Hughes's offering are important if it is to expand successfully.

8.126 We consider that the feedback from higher education customers on Hughes Armstrong also indicates that Armstrong Hughes's efforts and intentions to develop these aspects of its service have not yet provided sufficient assurance to customers.

Contracts which Hughes Armstrong has bid for recently and customer feedback

8.127 As explained above in the section containing our Assessment of post-Merger competition dynamics (see paragraphs 7.101 to 7.114), although

[323] We note, however, the different submission from Armstrong (see paragraph 8.119), who stated that despite a planned increase in its geographical scope, Hughes Armstrong may continue to have weak coverage in parts of the South West and West Wales.

Hughes Armstrong is bidding for more contracts, recent tender evidence shows it has had limited recent success, particularly with regard to winning and retaining high value contracts and private accommodation providers. For example:

(a) Hughes Armstrong submitted a significantly lower number of bids than JLA[324] To put Hughes Armstrong's performance in context, we note that between January and July 2018: (i) JLA submitted an offer for [✄] contracts overall and won [✄] contracts from higher education institutions and [✄] from private providers (including both tender and direct negotiations and new contracts and retained contracts); (ii) Hughes Armstrong submitted an offer for [✄] contracts with higher education institutions and won [✄] contracts with these customers (including [✄] new contracts and [✄] retained contracts).[325] Hughes Armstrong does not currently supply any private accommodation customers and has not bid for any such customers during this period (see Figure 18). During the above period, although winning 3 new contracts, Hughes Armstrong lost its biggest customers and none of the contracts it won was larger than £25,000; Furthermore, for those contracts that Hughes Armstrong bid for and lost, it received weaker scores on [✄] than the other competitors (see paragraph 7.106 and 7.107).

(b) the feedback received from customers in recent tenders does not show an improvement of its offer, as demonstrated by: (i) the lower scores it received compared with JLA in recent tenders; and (ii) the fact that Hughes Armstrong scored significantly lower than JLA in relation to some specific parameters, such as those related to [✄].

8.128 Hughes told us that Armstrong becomes aware of opportunities regarding existing contracts that are not subject to a public tender through regular calls with customers and when customers make a direct approach to them. However, the analysis above in paragraphs 7.91 to 7.114 shows that there are many business opportunities for which Hughes Armstrong has not

---

[324] Hughes told us that limitations in its geographic reach and ability to install machines sufficiently quickly prevented Hughes Armstrong from submitting bids for two contracts that it was aware of (the [✄] and the [✄]).
[325] Hughes Armstrong competed against JLA in [✄] of the tenders for the contracts it won.

submitted offers. In particular, Hughes Armstrong has not submitted any offers for contracts with private accommodation providers.

8.129 Furthermore, our customer research and evidence from third party hearings indicate that there is a perception that Armstrong is less technically proficient than JLA and Washstation.[326]

8.130 Given the evidence of Hughes Armstrong's limited recent success, this leads us to conclude that it is likely that Hughes Armstrong will need time to reverse perceived shortcomings in its offering (compared to its main competitor, JLA) and to become successful in winning a sufficient number of contracts to be an effective competitive constraint on JLA, even after the implementation of the expected changes to its offer.

8.131 In our view, given the importance to customers of experience and reputation when providing managed laundry services in the higher education market, it would be necessary for a firm to win a sufficient number of contracts, not simply to bid for them, for it to exert an effective competitive constraint on the merged entity. This is because without some level of success in winning contracts, a firm is unlikely to be viewed by customers or competitors as a credible alternative supplier, and as such will not effectively constrain competitors' offerings. Although Hughes Armstrong recently won some small contracts, its success has been limited, particularly with regard to high value contracts and private accommodation contracts. We consider that winning a sufficient number of contracts would be important to improve Hughes Armstrong's experience and reputation, and also in terms of Hughes' continued investment in the higher education market.

8.132 Furthermore, Hughes Armstrong currently faces and will continue to face in JLA a very strong, established competitor which is the largest and most successful provider in the higher education market by a significant margin.[327] In order to impose a sufficient constraint on JLA, Hughes Armstrong will not only have to improve its overall service proposition, but also succeed in establishing itself as an effective alternative to JLA in competitive negotiations and tenders against JLA.

---

[326] See, for instance, summary of Hearing with UPP.
[327] In this regard we note that Goodman Sparks told us in the response hearing after the publication of the Provisional Findings that 'anybody entering the market will find JLA to be a tough competitor. JLA is dominant in the market and has good connections to its clients and a good sales team' (paragraph 5 of the Hearing Summary).

Conclusion on Hughes Armstrong expansion

8.133 Hughes Armstrong has the intention and incentive to expand into the higher education market. However, in our view, the evidence on Hughes Armstrong's proposed changes to its managed laundry services offering and the performance of Hughes Armstrong in recent tenders, shows that Hughes Armstrong's expansion is not likely to be timely and sufficient to constrain the merged entity in the foreseeable future.

8.134 More specifically, although Hughes Armstrong expressed the intention to improve its offer, the associated changes in Armstrong's strategy and capabilities have not yet been implemented, it is uncertain when its offer will become a compelling proposition, and Hughes told us that the financial commitment to expansion in the higher education market is dependent on whether Armstrong is successful in winning business.

8.135 Evidence on Hughes Armstrong's performance in recent tenders and customer feedback also shows that it remains, and is likely to remain, a weak constraint on the merged entity in the foreseeable future. In this regard, we note that Hughes Armstrong did not submit offers in respect of many opportunities that have arisen in recent months (in particular private accommodation providers), it has lost its largest customer, all the contracts it has won were small contracts, and it scored significantly lower than JLA in some large tenders.

8.136 Taking the evidence in the round, we have concluded that even if Hughes Armstrong may expand in the future, it is not likely that Hughes Armstrong would achieve a sufficient scale in a timely manner such as to prevent an SLC resulting from the Merger.

Entry or expansion by other potential providers in the commercial laundry sector

8.137 JLA identified several other providers as currently providing managed laundry services to higher education customers or as possible entrants to the supply of managed laundry services to higher education customers under variable agreements.

8.138 In our assessment, we have considered whether entry and expansion by each of these providers is likely, timely and sufficient, in particular bearing in mind the history of entry and expansion within the sector and the barriers to entry and expansion described above (some of which were highlighted by certain potential providers in the evidence that they submitted to us).

Goodman Sparks

8.139 Goodman Sparks is a small regional player with limited resources. Goodman Sparks aims to grow its managed laundry service business to higher education customers by [✂].[328] Goodman Sparks explained that the reason [✂] is that it is a small family business which has [✂]. Goodman Sparks said that, after the Merger, it has a better chance of winning contracts in the North of England, as there is likely to be only JLA and Goodman Sparks competing for these contracts.[329] We note that one customer in the CMA's customer research provided comments on Goodman Sparks. It stated that Goodman Sparks had responsive service due to their small size, but had been overtaken by other providers on modern technology. Although Goodman Sparks intends to grow, its expectation of growth is very limited in terms of number of customers and geographic coverage. We also note that Goodman Sparks recently lost to JLA the tender for a contract with the [✂]. In the context of the barriers to entry and expansion identified above, the results of the customer research and recent tender outcomes and direct evidence from this provider about its expansion expectations, we found that Goodman Sparks is not likely to expand materially into the higher education market such as to exercise an effective constraint on the merged entity.

Forbes

8.140 Forbes Rentals is an independent national rental services company. Forbes entered the commercial laundry services market four years ago. Forbes provides commercial laundry equipment and service to the healthcare sector, care homes and the hospitality sector.[330] While stating that the capital required to purchase machines and refurbish laundrettes could act as a constraint for potential entrants, particularly when combined with high commission levels in vend share agreements, Forbes Rentals told us that it has set aside capital to enter the market for the provision of managed laundry services to higher education customers. It is aiming to secure [✂] higher education customers in the next 12 months.[331] However, Forbes Rentals indicated that certain innovations (payment systems and

---

[328] Summary of hearing with Goodman Sparks, paragraph 1.
[329] Summary of hearing with Goodman Sparks, paragraph 3.
[330] Summary of hearing with Forbes Rentals, paragraph 1.
[331] Summary of hearing with Forbes Rentals, paragraph 6.

online services) have made it difficult to respond to tenders in the higher education market. Forbes Rentals said that it recently responded to a tender for a customer in the higher education market and that the tender was highly prescriptive and seemingly based on the services provided by the incumbent provider. Forbes Rentals said that it participated in a few tenders which it did not succeed in winning.[332] Forbes recently [✂]l. Although Forbes has stated its intention to grow into the higher education market and has 'set aside' capital for that purpose, its expectation of growth is limited in terms of number of customers. It was not successful in recent tenders and it has a preference for fixed rental agreements. In the context of the barriers to entry and expansion identified above, the outcome of recent tenders in which Forbes participated and direct evidence from this provider, we found that Forbes is not likely to enter into the higher education market in a sufficient and timely manner.

Maxwell Adam

8.141 Maxwell Adam is an Electrolux distributor and a provider of laundry equipment, mainly to care homes and boarding schools. Maxwell Adam does not offer vend share agreements. Maxwell Adam said that the two reasons why it is not interested in supplying higher education customers is that the provider will not get any money until one month after the contract has started and the return on the investment takes a long time, around two years if not more. Maxwell Adam was in discussions with two possible higher education customers that approached Maxwell Adam[333] and proposed to those a fixed rental agreement).[334] The contracts with these two customers were not awarded to Maxwell Adam. This evidence shows that Maxwell Adam is not actively looking to enter into the higher education market and offering a vend share solution. In the context of the barriers to entry and expansion identified above and taking into account the above evidence, in particular direct evidence from this provider, we found that Maxwell Adam is not likely to enter into the higher education market.

[332] Summary of hearing with Forbes Rentals, paragraph 3.
[333] Summary of hearing with Maxwell Adam, paragraph 10.
[334] Summary of hearing with Maxwell Adam, paragraph 12. Maxwell Adam's offer to these potential customers was to lease them the equipment (including a contactless system). These customers would pay Maxwell Adam a fee for the supply of maintenance services, while retaining the revenue from the operation of the machines.

Laundry 365

8.142 Laundry 365 is a regional provider of managed laundry services, mostly to care homes. It has tendered for higher education customers in the past and RPC identified Laundry 365 as the second-placed provider when RPC chose a managed laundry provider in 2017.[335] However, Laundry 365 considers that [✂]. It has received expressions of interest from universities directly but has not submitted bids because the scale of the contracts was too large. In the context of the barriers to entry and expansion identified above and taking into account the above evidence which shows that Laundry 365 is not actively looking to enter into the higher education market, we found that Laundry 365 is not likely to enter into the higher education market.

The OPL Group

8.143 The OPL Group is a provider of commercial laundry equipment (of the Electrolux brand as well as other brands) and related services. It is based in London and also offers vend share agreements to its customers, although, on the basis of its website, its higher education customer base appears to be limited.[336] OPL recently won a small contract with the [✂]. However, that higher education customer told us that it awarded this contracts to OPL because JLA said that it could not sign a contract with a Washstation customer during the CMA investigation. Therefore, the fact the OPL won this contract is not indicative of OPL's ability to win more and bigger contracts against JLA in order to successfully expand. In the context of the barriers to entry and expansion identified above and taking into account the above evidence, including OPL's own statement that it offers mainly a fixed rental model, we found that OPL is not likely to materially expand into the higher education market.

The MAG Group

8.144 The MAG Group is a regional distributor of Primer laundry machines which does not supply managed laundry services. It believes that it is not financially able to supply managed laundry services to higher education customers because of the large initial capital outlay necessary and that, given its cost base, it would not be competitive with JLA. It currently has no

---

[335] Summary of hearing with Regent's Park College, paragraph 4.
[336] See https://opl-ltd.co.uk/testimonials

plans to offer vend share agreements. In the context of the barriers to entry and expansion identified above and taking into account the above evidence, including the statement of the MAG Group that it is not actively looking to enter into the higher education market and believes that it does not have the ability to compete in this market, we found that the MAG Group is not likely to enter into the higher education market.

Brewer and Bunney

8.145 Brewer and Bunney is a commercial and industrial laundry equipment distributor in the South West. It noted that it had lost its managed laundry services contracts with the [✂] and [✂] to JLA in 2014. It said that the commission level offered by JLA was and remains too high for it to compete for the provision of managed laundry services to higher education customers. Brewer and Bunney indicated that it is no longer monitoring the market for opportunities and confirmed that it has no plans to re-enter the market as it cannot compete at the price point that JLA is able to charge. In the context of the barriers to entry and expansion identified above and taking into account the above evidence, including Brewer and Bunney's own statement that it is not actively looking to enter into the higher education market and believes that it does not have the ability to compete in this market, we found that Brewer and Bunney is not likely to enter into the higher education market.

Thain

8.146 Thain Commercial stated that it is only involved in sales and fixed rentals of Miele laundry equipment and does not offer a full managed laundry service. It stated that it had never tendered for managed laundry services and has no plans to begin offering them as this is outside their core business. JLA stated that it had recently lost a contract to Thain Commercial (a Miele distributor) in the higher education market in Scotland. However, this tender appears to be for a fixed rental agreement for non-vending machines at an FE college which does not have on-site student accommodation. Thain Commercial offered a better price in this tender. In the context of the barriers to entry and expansion identified above and taking into account the above evidence, including Thain's own statement that itis not actively looking to enter into the higher education market and only offers a fixed rental solution, we found that Thain is not likely to enter into the higher education market.

Wolf Laundry

8.147 Wolf Laundry is a UK-wide laundry services provider. It does not have any direct relationships with higher education customers, but does provide laundry services to a small number of private accommodation providers. Wolf had only submitted a bid for one tender in the higher education market in the last three years ([✄]). However, it indicated that the tender was highly prescriptive and seemingly tailored to the tenderer's incumbent provider. Wolf indicated that the payment system software specifications were such that only JLA could have satisfied this requirement. Wolf stated that it did not have any plans to enter into the higher education market at this time. As mentioned above, Wolf recently won a small contract with [✄]. Wolf told us that JLA was not interested in such small contract. Therefore, we consider that the fact the Wolf won this contract is not indicative of Wolf's ability to win more and bigger contracts against JLA in order to successfully expand. In the context of the barriers to entry and expansion identified above and taking into account the above evidence, including evidence from this provider on its ability to compete with JLA, which shows that Wolf is not actively looking to enter into the higher education market and the difficulties Wolf itself identified in competing with JLA, we found that Wolf is not likely to materially expand into higher education market.

Photo-Me

8.148 Photo-Me said that it recently launched a new product, Revolution laundrette. Revolution is a 24/7 outdoor self-service launderette that is designed to sit in car parks, convenience stores, supermarkets and petrol station forecourts. Revolution launderettes are equipped with 8kg and 18kg washing machines, a built-in hypoallergenic washing liquid pump and a vented dryer.

8.149 Photo-Me currently has one customer in the higher education sector ([✄]). This customer approached Photo-Me directly, as it was dissatisfied with the level of service provided by its current provider of managed laundry services.[337] [✄] Photo-Me said that it operates a revenue-share model in supermarkets and on petrol station forecourts. This option was not offered

[337] Summary of hearing with Photo-Me, paragraph 7.

to [✂] as it wanted to set the vend-price of the laundry service and Photo-Me needed to achieve a certain amount of revenue to make a revenue-share model viable. However, Photo-Me indicated that it would be willing to offer managed laundry services based on a revenue-share model, provided that this was commercially feasible.[338]

8.150 Photo-Me said that it does not currently tender for the provision of managed laundry services to higher education customers, as its alternative offering does not lend itself to tenders which have prescriptive requirements,[339] and the preference of these customers for a revenue sharing model.[340] Photo-Me noted that [✂], the length of contracts with the incumbent provider has prevented higher education entities from contracting with Photo-Me.[341] As noted above in paragraph 8.88 Photo-Me stated that it considers the higher education sector to be a 'closed shop'.

8.151 Photo-Me is planning to expand its laundry services business (in general) in the UK and has an installation target of [✂] machines per year.[342] However, Photo-Me is focusing on the provision of its laundry services to [other customers than higher education customers] [✂]. Photo-Me is targeting the installation of [✂] machines within the higher education sector within the period 2018/2019.[343] This compares to the [✂] machines provided to higher education customers by JLA and the [✂] machines provided by Washstation. Photo-Me said that it currently operates a [✂]% revenue-share in other markets.[344] Photo-Me did not indicate that its entry into laundry services, or into the higher education sector, was triggered by the Merger.

8.152 In the context of the barriers to entry and expansion identified above and taking into account the above evidence which shows that: (i) Photo-Me's offer is different from the vend share managed laundry model; (ii) it has not been successful in winning higher education customers with this model; and (iii) it is focusing its expansion in the UK on other customers, we found that Photo-Me is not likely to enter into higher education market.

8.153 Overall, we also note that, as referred above in paragraph 7.64, in the CMA's customer research, when asked which new providers they had

338 Summary of hearing with Photo-Me, paragraph 10.
339 Summary of hearing with Photo-Me, paragraph 6.
340 Summary of hearing with Photo-Me, paragraph 13.
341 Summary of hearing with Photo-Me, paragraph 15.
342 Summary of hearing with Photo-Me, paragraph 12.
343 Summary of hearing with Photo-Me, paragraph 13.
344 Summary of hearing with Photo-Me, paragraph 10.

become aware of since the last time they procured laundry services, none of the respondents identified (by name) the potential providers identified by JLA as candidates for entry and expansion.

8.154 Therefore, we found that entry or expansion by other potential providers did not meet one or more of the requirements that entry or expansion should be likely, timely and sufficient to prevent an SLC arising.

Conclusion on entry and expansion

8.155 We considered whether entry and/or expansion might prevent an SLC from arising in this case.

8.156 As regards entry and/or expansion, there have been no recent instances of meaningful entry or expansion, apart from Washstation itself (which benefitted from Mr Copley's knowledge and experience from JLA). If barriers to entry and/or expansion were low, we would expect to see more instances of recent entry and/or expansion.

8.157 We found that the financial cost of entry and expansion is not significant in absolute terms. However, third party evidence indicates that these costs are likely to deter some potential providers, when considered together with the time required to recoup the initial capital outlay compared with other opportunities in the commercial laundry sector. We also found that there were some risks associated with the offer of vend share agreements (eg the risk of not recouping the initial investment in the relevant machines), which may be expected to further deter some potential entrants. In addition, we noted that JLA, being a distributor of an OEM, has a cost advantage when acquiring machines, compared with providers who are not authorised dealers, which allows JLA to offer more attractive prices that new entrants are likely to find difficult to match.

8.158 Furthermore, we found that the following non-financial barriers to entry and expansion are likely to make entry or expansion in the higher education market difficult for some providers:

(a) experience and reputation in the higher education market is an important factor for customers when they choose their suppliers of managed laundry services;

(b) the merged entity has a number of advantages resulting from its relationship with existing customers, including knowledge of the termination date of the large majority of the contracts in the higher education market. This means, for example, that potential providers

who do not have such knowledge face a competitive disadvantage and are likely to compete for a more limited number of contracts;

(c) in any given year there are a limited number of contracts open for competition and a lack of transparency on when some these contracts are available to competitors looking to enter into or expand in the higher education market.

8.159 Given our findings above, we would require sufficient countervailing evidence of future entry and expansion to conclude that post-Merger entry is likely, timely and sufficient to constrain the merged entity. Having considered various potential providers that could enter or expand into the higher education market, our view is that Hughes Armstrong was the only credible candidate with the potential to expand in this market in a timely and sufficient manner to constrain the merged entity.

8.160 Hughes Armstrong has the intention and incentive to expand into the higher education market. However, the evidence on Hughes Armstrong's proposed changes to its offering and its performance in recent tenders, shows that Hughes Armstrong's expansion is not likely to be timely and sufficient to constrain the merged entity in the foreseeable future.

8.161 Taking the evidence in the round, we found that even if Hughes Armstrong may expand in the future, it is not likely that Hughes Armstrong would achieve a sufficient scale in a timely manner such as to prevent an SLC arising.

8.162 In addition, we found that entry or expansion by other potential providers did not meet one or more of the requirements that entry or expansion should be likely, timely and sufficient to prevent an SLC arising.

Buyer power

8.163 Buyer power can be generated by different factors. An individual customer's negotiating position will be stronger if it can easily switch its demand away from the supplier, or where it can otherwise constrain the behaviour of the supplier.[345] Where individual negotiations are prevalent,

[345] MAGs, paragraphs 5.9.2 and 5.9.4.

the buyer power possessed by any one customer will not typically protect other customers from any adverse effect that might arise from the merger.

8.164 For countervailing buyer power to prevent an SLC, it is not sufficient that it merely existed before the merger. It must also remain effective after the merger.[346] Mergers may reduce a customer's ability to switch or sponsor entry and, if the reduction has a significant adverse effect on the negotiating position of a customer, that customer's buyer power will not be sufficient to be countervailing.[347]

JLA's submission

8.165 JLA submitted that higher education customers are frequent purchasers of goods and services with experienced procurement teams who know how and when to use competitive processes to get the best value for money from providers. JLA submitted that the size of these providers could allow them to sponsor entry from a provider already active in an adjacent sector by promising a single contract.

8.166 JLA submitted that the extent to which there is buyer power is 'reflected by the fact that the average commission paid to [higher education] customers is c. [✂]%, yet of the [✂]% retained by JLA, it earns c. [✂]% after costs.'

Existence of a credible alternative provider

8.167 In the Competitive Effects section, we analysed the competitive constraints that currently exist in the market. In that section, we described the evidence we have on the number of credible alternative providers in the market. In particular, the evidence shows that pre-Merger Washstation was the closest competitor to JLA, with Armstrong's offering being weaker. We have not seen evidence that Armstrong or other players are likely to enter or expand to replace the competitive constraint previously exerted by Washstation. This implies that although there exists at least one outside option in the market post-Merger, switching to this option may make customers worse off.

---

[346] MAGs, paragraph 5.9.8.
[347] MAGs, paragraph 5.9.4.

Sponsored entry

8.168 Where there currently exist few alternative options within a market, a customer could sponsor the entry of a new player. Such sponsored entry could allow a potential entrant to overcome entry barriers and build scale in a timely manner. In order for such a threat to be credible, the new player must be able to expand to compete with the incumbents within a relatively short period of time (around two years), so the customer is not persistently worse off by choosing this option.

8.169 We have conducted a detailed analysis of barriers to entry and expansion in the countervailing factors section, which concludes that although barriers to entry are not likely to be insurmountable, there is not a history of entry in the market (other than from companies associated with Mr Copley, who is subject to a non-compete obligation) and we were unable to identify entrants likely to prevent an SLC arising.

8.170 Additionally, it is unclear how sponsored entry would occur, as vend share agreements do not involve any payments from higher education customers to managed laundry providers.[348] It is possible that universities would accept lower commission rates to encourage a new player into the market. However, there is no guarantee that a new player would subsequently lower its prices (i.e. increase commission rates), to the level which they were before the Merger (see the Competitive Effects section and in particular our analysis of Goodman Sparks and Armstrong).

8.171 Given that the supply of managed laundry services is unlikely to be amongst the main priorities of higher education customers and to be the main focus of their businesses, we consider that these customers would not be likely to sponsor entry.

8.172 We considered higher education customers' ability to self-supply in paragraph 6.13 of the Market Definition section.

---

[348] Sponsored entry could occur through a greater willingness to use fixed rental agreements. However, as set out in market definition and competitive effects the vast majority of higher education customers don't use these agreements at the moment, as they have a preference for a model that does not consume their capital. It is unclear how sponsored entry could remedy this.

Large customer buyer power

8.173 A customer's size alone is insufficient to give it buyer power unless it provides outside options which do not exist to smaller customers.[349] Larger customers could gain buyer power if they have more resources at their disposal to procure machines and operate their own laundry rooms. However, we have found no evidence that they either currently do this (except in limited circumstances) or would do this in response to a price change.

Conclusion on buyer power

8.174 As set out above, the evidence shows that higher education customers are unlikely to be able to credibly threaten to switch to credible alternative providers. We have not seen evidence that higher education customers have buyer power sufficient to mitigate or prevent an SLC arising in the UK in the supply of managed laundry services to higher education customers under vend share agreements.

Efficiencies

8.175 As explained in our guidance, efficiencies may enhance rivalry, with the result that the merger does not give rise to an SLC.[350]

8.176 JLA submitted that the Merger was an opportunity to achieve a more timely and efficient service proposition for customers without any increase in overheads or head count. It further said that customers have benefited from the Merger due to an improved service level and the end of Washstation's practice of paying some customers' commission late. JLA stated that the Merger means that Washstation's customers have access to JLA's broader engineering network leading to faster responses and repairs, benefiting both customers and end users. Washstation's engineering network used a 'milk round' model, where engineers would make regular visits to customers' sites to perform basic maintenance and solicit customer comments. JLA uses a 'callout' model where customers report problems to JLA centrally and an engineer is dispatched to the site when needed; customers also have a dedicated client relationship manager to look after

[349] Larger customers may have more sophisticated procurement departments that given the same outside options as a smaller customer can extract a better deal. However, any reduction in the outside options in the market will affect both customers unless there is something special about larger customers. This will result in them getting a worse deal than currently even if it remains superior to that received by a small customer.
[350] MAGs, paragraph 5.7.2.

customer engagement. JLA has stated that its model does not represent a decline in service quality compared to Washstation.

8.177 JLA further stated that the Merger has led to cost synergies and to improved service for Washstation's customers. The cost synergies estimated by the Parties total to approximately £[✄], consisting of savings of £[✄] on engineering, £[✄] on sales and marketing, and £[✄] on admin and finance overheads. These synergies represent overhead costs which are necessary for managing individual businesses but which do not need to be duplicated within a single business.

8.178 With regard to the cost savings claimed by JLA, these savings will only affect the customers acquired with the Merger and not impact JLA's cost base. It is unclear whether the cost savings act to increase rivalry within the market. JLA has not provided any evidence that this would be the effect of the identified cost savings.

8.179 We have seen that customers considered both JLA and Washstation to be credible competitors in their own right before the Merger.

8.180 JLA has not produced any evidence showing efficiencies that would be 'rivalry enhancing' for example by improving the merged entity's ability to compete in the supply of managed laundry services in the UK.

8.181 We have therefore placed limited weight on JLA's claims of efficiencies in our assessment of the Merger.

8.182 In its Response to the Provisional Findings, JLA submitted that we did not place sufficient weight on the evidence on relevant customer benefits (RCBs) 'when considering the likelihood of an SLC'[351].

8.183 As explained in the CMA guidance, the CMA 'will normally take relevant customer benefits into account, as permitted by the Act, once it has decided on the existence of an SLC by considering the extent to which alternative remedies may preserve such benefits.'[352] Accordingly, JLA's submissions regarding RCBs are addressed in paragraph 1(d) as part of the Remedies section.

---

[351] Relevant customer benefits are defined by section 30(1) of the Enterprise Act 2002 (the Act) to be benefits to relevant customers in the form of: (a) 'lower prices, higher quality or greater choice of goods or services in any market in the United Kingdom … or (b) greater innovation in relation to such goods or services.' These are benefits that result from a merger, but are not rivalry enhancing.
[352] Merger Remedies: Competition Commission Guidelines (CC8), paragraph 1.15.

9. Conclusions

9.1 As a result of our assessment we have found:

(a) that the Merger has resulted in the creation of a relevant merger situation; and

(b) that the Merger has resulted, or may be expected to result, in an SLC in the market for the supply of managed laundry services to higher education customers under vend share agreements in the UK.

10. Remedies

10.1 Having concluded that the Merger has resulted, or may be expected to result, in an SLC in the market for the supply of managed laundry services to higher education customers under vend share agreements in the UK, we are required to decide whether action should be taken to remedy, mitigate or prevent the SLC or any adverse effect which has resulted from, or may be expected to result from, the SLC.[353]

10.2 In this chapter, we set out our decision on whether, and what, action should be taken for the purpose of remedying, mitigating or preventing the SLC or any of the resulting adverse effects we have found. In reaching our decision, we have consulted with JLA and a number of other third parties, including other suppliers of managed laundry services.[354]

10.3 This chapter is set out as follows:

(a) The CMA's remedies assessment framework.

(b) Remedy options.

(c) JLA's and third parties' views on remedies.

(d) Assessment of the effectiveness of the potential remedies.

(e) Assessment of the proportionality of the effective remedies identified.

[353] Section 35(3) of the Act. See also Merger Remedies: Competition Commission Guidelines (CC8), paragraph 1.6.
[354] The CMA had phone calls with Hughes/Armstrong, Goodman Sparks, Forbes, Mr Copley (former owner of Washstation) and the HSM of the Washstation business.

(f) Remedy implementation.

(g) Decision on remedies.

CMA remedies assessment framework

10.4 The Act requires that the CMA, when considering possible remedial actions shall, in particular, have regard to the need to achieve as comprehensive a solution as is reasonable and practicable to the SLC and any adverse effects resulting from it.[355] To fulfil this requirement, the CMA will seek remedies that are effective in addressing the SLC and its resulting adverse effects and will then select the least costly and intrusive remedy that it considers to be effective.[356] The CMA will seek to ensure that no remedy is disproportionate in relation to the SLC and its adverse effects.[357]

10.5 The CMA may also have regard, in accordance with Section 36(4) of the Act, to the effect of any remedial action on any RCBs arising from the merger.[358]

Remedy options

10.6 In our notice of possible remedies (Remedies Notice),[359] we set out our provisional view that the divestiture of the Washstation business would represent a comprehensive solution to the provisional SLC finding and any resulting adverse effects and that it had few risks in terms of practicability or effectiveness.

10.7 We also invited views on the composition of any divestment package and whether any elements should be provided on a transitional basis to the purchaser.[360]

10.8 In the Remedies Notice, we also stated our provisional view that a behavioural remedy was unlikely to be an effective remedy to the provisional SLC finding and any resulting adverse effects, but noted that we would consider any behavioural remedies put forward as part of our

[355] Section 35(4) of the Act.
[356] Merger Remedies: Competition Commission Guidelines (CC8), paragraph 1.7.
[357] Merger Remedies: Competition Commission Guidelines (CC8), paragraph 1.7 to 1.13.
[358]Section 35(5) of the Act. See also Merger Remedies: Competition Commission Guidelines (CC8), paragraph 1.14 to 1.20.
[359] The Remedies Notice sets out the actions which the CMA considers it might take for the purpose of remedying the SLC and any resulting adverse effects identified in the Provisional Findings. The Remedies Notice was published on 1 June 2018 and can be found on the CMA's website.
[360] Remedies Notice, paragraph 21.

consultation on remedies. Behavioural remedies were not proposed by JLA or any third parties in response to the Remedies Notice.

JLA's and third parties' views on remedies

10.9 In this section, we summarise the views of JLA and third parties on the remedy options that we proposed in our Remedies Notice, as well as their views on the potential purchasers of the proposed divestiture.

Divestiture of the Washstation business

JLA

10.10 JLA told us that, if the CMA concluded that action was necessary and proportionate to remedy the SLC identified in the Provisional Findings, it agreed that a structural remedy would be most appropriate.[361]

10.11 JLA told us that the components of such a remedy must be proportionate and told us that those elements of the divestiture package set out in paragraph 20 of the Remedies Notice would be disproportionate.[362]

10.12 JLA's view on each element of the divestiture package, as specified in the Remedies Notice, is set out below.

Contracts

10.13 JLA told us that the transfer of Washstation's existing higher education contracts (together with necessary support provided by JLA on a transitional basis) would be sufficient to create a viable business, because the current Washstation business had almost the same number of customers and sites as it did prior to the Merger, and post-commission revenue was marginally higher than prior to the Merger.[363]

10.14 JLA told us that the divestment package should include only the contracts that Washstation held with higher education customers because there was

---

[361] JLA response to Remedies Notice, page 9, paragraph 6.1.
[362] Ibid., page 1, paragraph 1.4.
[363] Ibid., page 2, paragraphs 2.2 to 2.7. We understand that the Washstation business currently has [✂] higher education customers and [✂] fewer sites than at the date of the Merger, and that the post-commission revenue earned by those contracts is £[✂] million compared to £[✂] million at the date of the Merger.

no SLC finding in respect of non-higher education customers, and excluding contracts with non-higher education customers would not undermine the effectiveness of the divestment remedy.[364]

10.15 Where Washstation contracts contain 'change of control' clauses or where Washstation contracts have expired and are being operated on a rolling basis, JLA told us that it would be unnecessary and wholly disproportionate to require additional, non-Washstation contracts to be included in any remedy package. JLA told us that this was because these contracts were limited in number and in value, and excluding them from the divestiture package would not affect the ongoing viability of the acquired business nor the effectiveness of the remedy.[365]

Machines

10.16 JLA told us that:

(a) all Washstation machines installed at customer premises should be included in the divestiture package; and

(b) any machines removed from Washstation sites in relation to contracts that Washstation had lost since the Merger and which were currently being stored by JLA could be included in the divestiture package, if requested by the purchaser.[366]

Engineers

10.17 JLA told us that, while it was clear that engineering support was required to provide managed laundry services to customers, a viable divestment package did not need to include any engineers currently employed by JLA,[367] because:

---

[364] Ibid, page 3, paragraphs 2.11 to 2.12. Non-higher education contracts account for [✂] of Washstation's customers, and [✂] out of its [✂] contracts, generating less than £[✂] of revenue.
[365] Ibid., page 3, paragraphs 2.8 and 2.9. See also transcript of response hearing held with JLA on 3rd September 2018, page 19, line 12. As far as JLA is aware, post-commission revenue derived from contracts with 'change of control' clauses amounts to c.£ [✂]. Data provided by JLA shows that rolled over contracts account for c.£ [✂] of Washstation pre-commission revenue.
[366] JLA response to Remedies Notice, page 4 paragraph 2.19.
[367] JLA noted that staff would need to consent to a transfer under TUPE and that [✂]. See transcript of response hearing held with JLA on 3rd September 2018, page 13, lines 20-23.

(a) of the six engineers that transferred to JLA with the Washstation business, only three were still employed in the wider JLA business;[368]

(b) all of JLA's engineers worked across its customer base and JLA did not have any engineers who were dedicated to servicing Washstation customers;[369]

(c) the purchaser was very likely to have its own engineers, unless it was not active at all in providing wider commercial laundry services; and

(d) the purchaser would be able to readily access a pool of skilled engineers to service customer contracts.[370]

10.18 JLA told us that, if required by the purchaser, it would be reasonable and proportionate for JLA to provide engineering services to the purchaser for a short period under a transitional services agreement.[371]

Other elements of the divestiture package

10.19 JLA told us that the following elements should be included in the divestiture package:

(a) Washstation brand.

(b) Washstation customer records.

(c) Washstation domain name and trademark.

(d) Remaining stock of Washstation branded student top-up cards.

(e) Washstation's dedicated telephone helpline number.

(f) Washstation's machine availability monitoring system and online payment solution functionality.[372]

---

[368] JLA response to Remedies Notice, page 5, paragraph 2.23,
[369] Ibid., page 5, paragraph 2.27.
[370] Ibid., page 5, paragraphs 2.24 to 2.27. JLA highlighted sections of the CMA's Provisional Findings that support this: paragraphs 3.10, 6.40, 8.48 and footnote 247 of the Provisional Findings.
[371] Ibid., page 6, paragraph 2.28.
[372] Ibid., page 6, paragraphs 2.29 to 2.30 and page 7, paragraph 2.34.

10.20 JLA told us that the following elements should not be included in the divestiture package, as they were not present in the Washstation business prior to the Merger, and therefore, their inclusion in the divestiture package would be disproportionate:

(a) Call centre: JLA told us that Washstation was materially smaller than JLA and never had a dedicated call centre to handle customer queries.[373]

(b) Sales personnel: JLA told us that Washstation had no sales personnel other than its former owner, Mr Copley.[374]

(c) Back office functions: JLA told us that the back-office functions of the Washstation business prior to the Merger were limited to billing and administrative tasks and were carried out by one individual. JLA told us that no industry-specific skills were required to perform such functions and that the purchaser was likely to already have available personnel who could perform these roles.[375]

10.21 JLA told us that it would, if required by the purchaser, provide assistance dealing with customer queries, back-office functions and sales support for a limited period of time (up to [✂] months) under a transitional services agreement,[376] terminable by the purchaser (not JLA) by providing one month's notice.[377]

10.22 In addition to the services provided under a transitional services agreement, JLA told us that it would also offer the following support if requested by a purchaser, during the transitional period:[378]

(a) Encourage the HSM to remain with the Washstation business and, to the extent JLA was able to do so, facilitate the HSM's transfer with the Washstation business.[379]

---

[373] Ibid., page 6, paragraph 2.30. JLA told us that Washstation did not have a call centre but outsourced this service to a third party, as any purchaser could do.
[374] Ibid., page 6, paragraph 2.31.
[375] Ibid.
[376] Ibid., page 6, paragraph 2.33 and page 7, paragraph 2.36.
[377] Ibid., page 7, paragraph 2.36.
[378] Ibid., page 7, paragraph 3.2.
[379] Ibid., page 7, 3.2.1.

(b) To the extent possible (including through the HSM's contract with JLA), require the HSM to assist the prospective purchaser in connection with the divestiture.[380]

(c) Sell any additional machines required by the purchaser for installations during any transitional period on a basis which was consistent with that upon which machines were previously supplied to Washstation, taking into account landed costs and associated administrative costs.[381]

(d) Provide warehousing services to store Washstation inventory for a small charge to cover additional administration costs.[382]

Third Parties

Hughes

10.23 Hughes told us that it considered that the divestiture of the Washstation business was the most suitable and proportionate response to the provisional SLC finding and that there were no other effective remedies.[383]

10.24 Hughes told us that the divestiture package should include:

(a) all Washstation rental contracts. Hughes told us it was important that the portfolio had not been 'cherry-picked' to leave behind either old agreements with aged stock or those where unsustainable levels of commission were being paid to customers. Hughes also told us that, if many Washstation contracts had transferred to JLA following the Merger, these contracts should be included in the divestiture package, as there needed to be sufficient density of contracts to justify establishing a service operation in any geographical area. Hughes stated that the original Washstation customer base provided sufficient density.[384]

(b) all Washstation machines associated with those contracts;

(c) the Washstation brand and website;

[380] Ibid., page 8, paragraph 3.2.2.
[381] Ibid., page 8, paragraph 3.2.3.
[382] Ibid., page 8, paragraph 3.2.4.
[383] See summary of call with Hughes on 23 August 2018, paragraph 2.
[384] Ibid., paragraph 5.

(d) the technology to inform students of machine availability;

(e) service staff and infrastructure, including a network of engineers, to ensure service continuity;

(f) contact details of all sub-contractors used in the installation process;

(g) customer records and any CRM or prospecting database;

(h) sales staff; and

(i) a short-term arrangement (up to three months) for use of back office staff and systems so as not to erode customer confidence through poor service.[385]

Goodman Sparks

10.25 Goodman Sparks told us that divestiture of the Washstation business would be an effective remedy and that it considered that there were no other effective remedies.[386]

10.26 Goodman Sparks told us that the divestiture package should include:

(a) contracts already won by Washstation;

(b) the associated equipment (ie washers and dryers); and

(c) support staff including personnel with knowledge of the higher education market and contacts in the industry, as well as engineering staff.[387]

10.27 Goodman Sparks told us that the composition and length of any transitional arrangement would depend on the needs of the purchaser, although some support was likely to be needed.[388]

Forbes

10.28 Forbes told us that the divestiture of the Washstation business would be an effective remedy and that any divestiture package should include:

---

[385] Ibid., paragraphs 5 to 8.
[386] See summary of call with Goodman Sparks on 5 September 2018, paragraph 2.
[387] Ibid., paragraph 3.
[388] Ibid., paragraph 4.

(a) Washstation contracts;

(b) Washstation machines and other assets associated with the laundry rooms;

(c) Washstation payment systems and associated software;

(d) the Washstation website and brand name; and

(e) the Washstation bank account.[389]

10.29 Forbes told us that it was important to maintain Washstation's service and support to customers during the divestiture process and therefore, a transitional services agreement would be required to mitigate the risk of service degradation whilst the purchaser familiarised themselves with the Washstation business. Forbes told us that a transitional period of 5 to 6 months would be necessary.[390]

10.30 Forbes did not identify any other remedies that would be effective.[391]

Mr. Copley

10.31 Mr Copley, the former owner of Washstation, told us that the divestiture of the Washstation business was an effective remedy and did not identify any other appropriate remedies.[392]

10.32 Mr Copley told us that the following elements should be included in the divestiture package:

(a) Washstation IT system, including the card payment system and app, as [✂] used the system.

(b) Depending on the needs of the purchaser, service engineer support.

10.33 Mr Copley told us that sales staff and a call centre were not essential, as the purchaser could procure the necessary resource separately.[393]

---

389 Summary of call with Forbes on 22 August 2018, paragraph 3.
390 Ibid., paragraph 5.
391 Ibid.
392 Summary of call with Mr Copley on 22 August 2018, paragraph 2.
393 Ibid., paragraph 3.

10.34 Mr Copley told us that the length of the transitional period following the divestiture depended on the needs of the purchaser. Mr Copley told us that [✄].[394]

HSM

10.35 The HSM told us that the divestiture of the Washstation business would be an effective remedy to address the provisional SLC finding and that there were no other effective remedies.[395]

10.36 The HSM told us that, subject to the requirements of the purchaser, the following elements should be included in the divestiture package:

(a) Washstation customer contracts.

(b) Installed machines and all other stock associated with the Washstation business, including decommissioned machines.

(c) A team of in-house engineers and access to a network of engineering subcontractors.

(d) Washstation brand and website.

(e) Washstation IT server.

(f) All Washstation data accumulated on JLA systems (eg [✄] and [✄]) and all Washstation data not formally held on JLA systems (eg spreadsheets supporting management information).

(g) Financial accounts for the previous three financial years to facilitate credit checking.

(h) An integrated management information system capable of providing site-level performance data to customers.

(i) A helpline telephone number and customer service staff.

(j) A product supply agreement with an Original Equipment Manufacturer (OEM) (eg Maytag or Alliance) to ensure guaranteed supply of machines and spare parts.

---

[394] Ibid., paragraph 4.
[395] Summary of call with Mr Knollys on 20 August 2018, paragraph 2.

(k) A customer relationship management programme.

(l) An office and warehouse facility.

(m) Washstation bank accounts.

(n) Support staff, including a sales manager, an operations manager, a site illustrator and finance support. The HSM told us that as many former Washstation employees as possible should be included in the divestiture package.[396]

10.37 The HSM told us that the maintenance of key support functions immediately following divestiture was critical to the success of the remedy, as a failure of service provision during this time would damage the divested business and threaten its ability to compete effectively with JLA.[397] The HSM told us that a transitional service agreement may be required to mitigate this risk and that an appropriate transitional period could be between 2 and 3 months.[398] The HSM added that any transitional arrangement would be dependent on the needs and experience of the purchaser.[399]

Potential purchasers of the Washstation business

JLA

10.38 JLA told us that it considered any entity active in or with knowledge and experience of wider commercial laundry services would be a suitable purchaser of the Washstation business,[400] and that specific experience in the higher education market was not a necessary requirement for the purchaser to operate the divested business effectively.[401]

---

[396] Ibid., paragraph 3.
[397] Ibid, paragraph 5
[398] Ibid., paragraph 4.
[399] Ibid.
[400] JLA response to Remedies Notice, page 8, paragraph 4.1. JLA told us this would include either a current or former supplier of commercial laundry services or a purchaser such as an investor which proposed to put in place a management team with experience of the sector. That is because such purchasers will already have relationships with or knowledge of suppliers, will be familiar with installation and engineering requirements, and vend share is simply a commercial choice relating to payment and therefore no prior experience would be necessary.
[401] Transcript of response hearing held with JLA on 3rd September 2018, page 14, lines 16-24.

10.39 JLA told us that it did not consider that there were any existing competitors (eg Hughes and Goodman Sparks) that should be prohibited from acquiring the Washstation business due to competition concerns or for any other reason.

Third Parties

[✂]

10.40 [✂] told us that [✂] would be interested in acquiring the Washstation business, with the intention of [✂].[402]

10.41 [✂] told us that [✂] had the [✂].[403]

10.42 [✂] told us that other parties, [✂], would likely be interested in acquiring Washstation.[404]

10.43 [✂] also raised [✂].[405]

10.44 [✂] told us that [✂].[406]

[✂]

10.45 [✂] told us that [✂].[407]

10.46 [✂] told us that other parties, such as [✂], may be interested in purchasing the Washstation business[408] [✂].[409]

[✂]

10.47 [✂] told us that [✂] would be interested in purchasing the Washstation business and that [✂] was already active in the commercial laundry sector, and [✂].

---

402 [✂].
403 [✂].
404 [✂].
405 [✂].
406 [✂].
407 [✂].
408 [✂].
409 [✂].

10.48 [✂] told us that [✂] and had [✂] a contract to supply managed laundry services to [✂]. [✂] also supplies [✂].

10.49 [✂]told us that other parties would be interested in acquiring the Washstation business, [✂].[410]

[✂]

10.50 [✂]t us that [✂] would be interested in purchasing the Washstation business. [✂].

10.51 [✂] told [✂] that other managed laundry providers would also be interested in acquiring Washstation, [✂].

10.52 [✂]said that there may be suitable purchasers [✂].[411]

[✂]

10.53 [✂] told us that [✂] would be interested in purchasing Washstation and that other parties would likely be interested in acquiring the business.[412]

10.54 [✂]submitted that [✂].[413]

Assessment of the effectiveness of potential remedies

10.55 In this section, we set out our assessment of the effectiveness of the divestiture of the Washstation business in addressing the SLC and the resulting adverse effects we have found.

10.56 In assessing the effectiveness of the potential remedies, we have considered the following factors:

(a) Impact on the SLC and its resulting adverse effects: normally, the CMA seeks to restore competitive rivalry through remedies that re-establish the structure of the market expected in the absence of the merger.

---

[410] [✂].
[411] [✂].
[412] [✂].
[413] [✂].

(b) Appropriate duration and timing: the CMA prefers remedies that quickly address competitive concerns, with the effect of the remedy sustained for the likely duration of the SLC.

(c) Practicality: remedies should be capable of effective implementation, monitoring and enforcement.

(d) Acceptable risk profile: the CMA will seek remedies that have a high degree of certainty of achieving their intended effect.[414]

10.57 We note that divestitures may be subject to a variety of risks that may limit their effectiveness:

(a) Composition risk arises if the scope of a divestiture package is too constrained or not properly configured to attract a suitable purchaser or does not allow the purchaser to operate as an effective competitor.

(b) Asset risk arises if the competitive capability of the asset to be divested degrades before the completion of the divestiture.

(c) Purchaser risk arises if a suitable purchaser is not available or if the merger parties dispose to a weak or otherwise inappropriate purchaser.[415]

Divestiture of the Washstation business

10.58 We consider that the divestiture of the Washstation business, to a suitably qualified purchaser, would effectively re-establish the structure of the market expected in the absence of the Merger.

10.59 We consider that a structural remedy in the form of a divestiture is capable of quick implementation and would not require ongoing monitoring or enforcement action.

10.60 We assess the risks associated with the remedy below.

---

[414] Merger Remedies: Competition Commission Guidelines (CC8), paragraph 1.8.
[415] Merger Remedies: Competition Commission Guidelines (CC8), paragraph 3.3.

Composition risk

10.61 In identifying an appropriate divestiture package, the CMA will normally take, as its starting point, all or part of the acquired business. This is because restoration of the pre-merger situation in the markets subject to an SLC will generally represent a straightforward remedy.[416]

10.62 In the Remedies Notice, we set out our provisional view that a divestiture package comprising all of the Washstation business would represent an effective package that would be likely to enable a suitable purchaser to compete effectively.

10.63 Further, it was our provisional view that the divestiture would likely take the form of a transfer to a suitable purchaser of the Washstation business, and in particular, of those elements of the business that made it an important competitive presence prior to the Merger. This could include the following:

(a) The Washstation contracts acquired by JLA (other than those Washstation contracts that were retendered following the Merger and awarded to another provider), as well as any other contracts that were required to make the divestiture package viable.

(b) The Washstation machines installed at customer sites, as well as any other Washstation machines included in the acquisition of Washstation by JLA (or equivalent machines if the purchaser preferred a different supplier).

(c) The team of engineers that transferred to JLA with the Washstation business (or an equivalent team of engineers).

(d) Any other elements required to support the purchaser of the Washstation business, such as the Washstation brand, customer records, call centre and back office functions and sales staff.

[416] Merger Remedies: Competition Commission Guidelines (CC8), paragraph 3.6.

Contracts

10.64 The main issue in relation to the composition of the divestiture package is the contracts to be included in the package. We understand that, at the time of the Merger, Washstation held between [✄] and [✄] contracts.[417]

10.65 Our view is that the divestiture package should only include higher education contracts, as our SLC finding is in relation to the supply of managed laundry services to higher education customers in the UK. To mitigate composition risk and to address the SLC that we have identified, we consider that the divestiture package should comprise all Washstation contracts held with higher education customers, rather than a sub-set of contracts chosen by the purchaser. Any prospective purchaser will need to demonstrate its ability to service all contracts included in the divestiture package.

10.66 We understand that the higher education contracts currently held by Washstation under the existing hold separate arrangements (Current Contracts) do not fully reflect the higher education contracts transferred to JLA at the time of the Merger (Acquisition Contracts) for the following reasons:

(a) Following the Merger, the following contracts were transferred from Washstation to Circuit and entered into as Circuit contracts:

(i) Two contracts with [✄] were entered into as Circuit contracts in [✄].[418] In its response to our Provisional findings, [✄] told us that it has an extremely good relationship with Circuit and does not wish to contract with another party. [✄] told us that Washstation offered an inferior service to that of Circuit (eg Washstation does not have a mobile phone app for students). In the event that [✄] contracts were included in the divestment package, [✄] told us that it would

---

[417] Our analysis of contract data provided by JLA in response to our 16 April 2018 section 109 request indicated that JLA acquired 201 contracts with the Washstation business. However, we understand from the MT that there were issues with some of the contracts included in the acquisition and the latest contract data provided by JLA (in response to our Remedies Notice) indicates that 210 contracts were acquired in the Merger.
[418] 6th Monitoring Trustee report, 30 July 2018, page 16.

terminate its agreements with Washstation and seek to contract with Circuit.[419]

(ii) A contract [✂].[420]

(b) Prior to the Merger, Washstation had a rolling contract for two sites with [✂]. We understand that following the Merger and [✂], the customer appointed a new supplier in July 2018.[421]

(c) Following the Merger, JLA submitted a successful bid for a contract with the [✂] (a Washstation customer) as part of a competitive tender process. The contract was signed with Circuit, effective from 1 August 2018.[422]

(d) We understand that [✂].[423]

(e) Following the Merger, [✂].[424]

(f) We understand that, [✂].[425]

10.67 Our view is that the contracts identified in paragraph 10.66 ([✂]) should not be included in the divestiture package as they have been awarded to other providers.

10.68 We understand that there are [a limited number of] Washstation contracts where the customer has the option to exercise a 'change of control' clause to terminate the contract.

10.69 JLA told us that if these customers were to exercise their right to terminate the contract, it was not necessary to require JLA to replace those contracts with JLA contracts of equivalent value, because:

(a) the [✂] contracts generated post-commission revenue of £[✂], which was a small proportion of Washstation's total net revenue;

---

[419] See email from [✂] to the CMA.
[420] 6th Monitoring Trustee report, 30 July 2018, page 16.
[421] Ibid., page 18. See also note of call with New York University held on 25 July 2018, paragraph 2.
[422] Ibid.
[423] Ibid., page 17.
[424] Ibid., page 14.
[425] 10th Monitoring Trustee report, 24 September 2018, page 18. Also see Hold Separate Manager report, 10 September 2018, page 3.

(b) even if these customers did not transfer as part of the divestiture package, the Washstation business would be almost identical in size to the business prior to the Merger; and

(c) requiring JLA to transfer these contracts if the change of control provisions were exercised would be disproportionate in terms of respecting the rights of those customers.

10.70 Our view is that the contracts identified in paragraph 10.68 should be included in the divestiture package. If the customers subsequently choose to activate the 'change of control' clause, we will not require JLA to replace these contracts with JLA contracts of equivalent value, as the contracts are of relatively small value and their loss will not undermine the effectiveness of the remedy.

10.71 We understand that, since the HSM was appointed, Washstation has been awarded the following contracts:

[✂]

10.72 Provided that they are retained at the time of divestiture, our view is that the contracts identified in paragraph 10.71 should be included in the divestiture package as they are Washstation contracts.

10.73 We understand that there are a number of other issues with the Current Contracts:

(a) A number of Acquisition Contracts are due for future installation (from 2018 to 2020) and are not yet included in Current Contracts.[426]

(b) [✂] and [✂]: we understand that there is currently no contract in place in either the name of Washstation or Circuit and the Circuit platform has been installed on these sites due to issues with the technical solution proposed by Washstation.[427] JLA told us that in the absence of the Merger, the customers may not have signed contracts with Washstation or may have terminated any contracts they had signed. JLA told us that the arrangements currently in place were superior to the service commitments set out in the relevant Washstation tenders (which JLA considered to be unachievable) and therefore, it would be disproportionate to include these contracts in the divestiture package,

[426] 6th Monitoring Trustee report, 30 July 2018, page 16.
[427] Ibid.

which would result in detriment to these customers and their students. JLA told us that if the CMA were to require these contracts to be included in the divestiture package, this would require the explicit consent of these customers to transfer their contracts to the purchaser.

(c) [✂]: two sites are currently being operated by Circuit but are due to be transferred to Washstation following expiry of the Circuit contracts in 2019, as these contracts were awarded to Washstation prior to the acquisition.[428]

(d) [✂]: the HSM has agreed to submit proposals to enhance payment systems and extend contracts that have expired or are due to expire in 2018 and 2019 (and to synchronise end dates of all contracts).[429]

(e) [✂]: the customer is considering the termination of the contract due to issues with service quality, but has agreed with the HSM to maintain the status quo for a trial period. The HSM has discussed the issue with JLA who have agreed to address the relevant service issues. We understand that, with there being no recent service issues, the customer has agreed to award Washstation an additional site.[430]

(f) A number of Acquisition Contracts have not been located by JLA on either Washstation or Circuit contract records and are not included in the Current Contracts.

(g) A number of Acquisition Contracts have expired but are still active and operating on a rolling basis. We understand that such contracts account for circa £[✂] of Washstation pre-commission revenue. JLA told us that it would be it would be unfair and disproportionate to require these contracts to be replaced with JLA contracts of equivalent value, as it was not comparing like with like to suggest that contracts operating on a rolling basis were broadly equivalent to longer term contracts.

10.74 Our view is that, subject to [✂], the contracts listed in paragraph 10.73 should be included in the divestiture package.

10.75 Where contracts were included in Acquisition Contracts but can no longer be located, and those customers continue to be serviced by JLA or the

---

[428] Ibid.
[429] 7th Monitoring Trustee report, 13 August 2018, page 12.
[430] Ibid., page 13.

HSM, our view is that these customers should be transferred as part of the divestiture package to a suitable purchaser, as they represent Washstation customers.

10.76 With respect to the [✂] and [✂]arrangements, given the particular circumstances of these customers, our view is that these customers should only be transferred to a suitable purchaser if those customers expressly consent to the transfer.

10.77 For those contracts that are operating on a rolling basis, our view is that they should not be replaced with JLA contracts of equivalent value, as those contracts operating on a rolling basis are of relatively small value and their subsequent loss will not undermine the effectiveness of the remedy.

10.78 In summary, our view is that the divestiture package should include, at a minimum, those higher education contracts held by Washstation at the time of the divestiture of the Washstation business to a suitable purchaser, including those contracts identified in paragraphs 10.68, 10.71 and 10.73 and excluding those contracts identified in paragraph 10.66. We understand that, after taking account of the issues outlined above, Washstation continues to hold [✂] contracts.[431]

Machines

10.79 We understand that, based on a physical site audit conducted in June 2018, there are currently [✂] Washstation machines installed on customer sites.[432] In addition, there are [✂] machines installed at the [✂] and [✂] sites. Our view is that all of these machines should be included in the divestiture package. In line with paragraph 10.76, arrangements regarding the [✂] and [✂] will be subject to customer agreement.

10.80 Where Washstation has lost contracts that it previously held, our understanding is that machines installed at such sites are to be returned to

[431] Based on Annex 1 to JLA's response to the Remedies Notice and contract losses notified to the CMA by the MT and HSM.
[432] We understand that there have been no material changes to such assets, other than where repair or replacement has been necessary due to an asset reaching the end of its economic life. See 7th Monitoring Trustee report, 13 August 2018, page 11.

JLA and held in storage.[433] Our view is that all such machines should be included in the divestiture package.

10.81 Where the purchaser requires additional machines to fulfil the obligations of Washstation under agreed contracts at the time of divestment or where the purchaser requires machines to be installed during any transitional period following divestiture, we consider that JLA's proposal to 'sell any additional machines required by the purchaser for future installations on a basis which is consistent with that upon which machines were previously supplied to Washstation'[434] to be an important complement to the machines included in the divestiture package. This would enable the purchaser to procure machines at JLA's landed cost, plus associated administrative costs, during the transitional period and while the purchaser negotiates its own product supply agreement with an OEM. Our view is that, subject to the requirements of the purchaser and negotiations between JLA and the purchaser, this proposal should be included in any transitional services agreement and should only apply in respect of obligations that are due to be fulfilled before the end of any transitional services agreement.

Engineers

10.82 We consider that it is neither appropriate nor practical to require JLA engineers (who would need to consent under TUPE[435]) to transfer to the Washstation business as part of the divestiture process. It appears from our investigation that there is a large population of engineers who frequently switch between businesses and, while some third parties have indicated that they would require more engineers to serve some regions,[436] a transitional service agreement should allow sufficient time for the purchaser to establish its own network of engineers to serve Washstation customers.

10.83 Therefore, our view is that, if required by the purchaser, engineering support should be provided by JLA to the purchaser under a transitional services agreement. We consider that the precise terms of the agreement should be determined by negotiations between JLA and the purchaser.

---

433 For example, machines installed at [✂] sites. See 7th Monitoring Trustee report, 13 August 2018, page 13.
434 See paragraph 10.22(c) above.
435 JLA told us that [✂]. See transcript of response hearing held with JLA on 3rd September 2018, page 13, lines 20-23.
436 For example, Armstrong would require additional engineers to service customers in the South West of England. See paragraph 8.48 of the PFs.

Other elements

10.84 Our view is that, subject to the needs of the purchaser, the divestiture package should include the following additional elements:

(a) Washstation brand, trademark and domain name.

(b) Washstation dedicated telephone helpline number.

(c) Washstation bank accounts.

(d) All remaining assets associated with the Washstation business (eg laundry room furnishings and payment top-up cards). Remaining assets will be subject to confirmation from the Monitoring Trustee and the HSM).

(e) All available data relating to the Washstation business, including customer records, installations plans (including details of all sub-contractors used in the installation process), sales pipeline data and financial records. This includes all data held on the Washstation IT server and JLA systems and any data held in physical form by JLA. For the avoidance of doubt this includes data held by the HSM relating to the Washstation business, but not currently accessible to JLA under the provisions of the IEO.

(f) Technology and supporting contracts to facilitate machine availability monitoring and payment solutions as provided by Washstation prior to the Merger.

10.85 Our view is that, subject to the needs of the purchaser, the key support and back office functions (eg engineering support, sales support, account managers, customer support, IT and Finance) should be provided by JLA to the purchaser under a transitional service agreement, rather than requiring the divestment package to include the transfer of personnel carrying out these functions (who would need to consent to a transfer under TUPE[437]). Prior to the Merger, Washstation had limited back-office and support functions and we do not consider it proportionate to include JLA staff in the divestiture package. A transitional services agreement will enable the purchaser to service the Washstation contracts immediately following the divestiture and ensure the effectiveness of the remedy. We

[437] JLA told us that it believed that [✂]. See transcript of response hearing held with JLA on 3rd September 2018, page 13, lines 20-23.

consider that the precise terms of the arrangement should be determined by negotiations between JLA and the purchaser and should be available to the purchaser for a short transitional period of no more than six months.

Asset risk

10.86 We consider that there is some risk of the Washstation business deteriorating before the completion of the divestiture due to the substantial integration that occurred following the Merger and prior to the establishment of hold separate arrangements by the CMA.[438]

10.87 Washstation is currently dependent on JLA's supporting infrastructure, although the Washstation business is being held separate and operated independently of JLA by the HSM (eg the HSM has maintained a separate Washstation brand and website).

10.88 We understand that the uncertainty caused by the hold separate arrangements [✂].

10.89 We consider that asset risk is mitigated by the following considerations:

(a) JLA is required under the existing hold separate arrangements to maintain Washstation as a viable business.

(b) [✂] Washstation continues to operate as a going concern. [✂][439]

(c) Washstation's current post-commission contract revenue is [✂];[440]

(d) Washstation's [✂].[441]

---

[438] On 13 December 2017, the CMA issued an IEO for the purpose of preventing pre-emptive action which might prejudice the reference or impede the CMA's ability to remedy any SLC. The IEO requires (among other matters) that the Washstation business is maintained as a going concern and that sufficient resources are made available for the development of the Washstation business. On 9 May 2018, the CMA also issued directions to appoint a Monitoring Trustee (Monitoring Trustee) and HSM. The HSM was appointed to operate Washstation as a viable and competitive business, separately and independently from JLA. The Monitoring Trustee is responsible for (among other matters) supporting any action required to maintain Washstation as a viable business and monitoring JLA's compliance with the IEO.
[439] See email from the Monitoring Trustee to the CMA on 2nd August 2018.
[440] JLA response to Remedies Notice, page 2, paragraph 2.7.
[441] After appointment in May 2018, the Monitoring Trustee requested operational key performance indicators (eg engineer visits and call centre statistics) split by JLA and Washstation contracts. The Monitoring Trustee has since reported on such data as part of the reports provided to the CMA every two weeks following appointment. We understand that, prior to the Monitoring Trustee's request, such data was not in the ordinary course split between JLA and Washstation. See 1st Monitoring Trustee report, 21 May 2018, page 10.

Purchaser risk

10.90 JLA told us that it considered that purchaser risk was low and that a suitable purchaser for the Washstation business would likely be found.[442] A number of third parties have also expressed their interest to us in acquiring the business and told us that other managed laundry services providers would also likely be interested in acquiring the business.

10.91 Given the views of JLA and our consultation with third parties, we do not consider that there is a high degree of purchaser risk in relation to the divestiture of the Washstation business.

Conclusion on divestiture of the Washstation business

10.92 Based on the above, we conclude that the divestiture of the Washstation business to a suitable purchaser would represent an effective remedy to address the SLC and the resulting adverse effects we have found. In particular, it would re-establish the structure of the market expected in the absence of the Merger and will not require ongoing monitoring and enforcement.

Conclusion on effective remedies

10.93 We have assessed the effectiveness of the divestment of the Washstation business. No other effective remedy options have been identified for our consideration by the Parties or third parties. Therefore, our view is that the divestiture of the Washstation business is an effective remedy.

Assessment of the proportionality of effective remedies

10.94 We have concluded that the divestiture of the Washstation business would be effective in addressing the SLC and the resulting adverse effects we have found.

10.95 Having identified the remedy options that would be effective in addressing the SLC and the resulting adverse effects we have found, we must consider the costs of these remedies.[443] In order to be reasonable and

[442] Transcript of response hearing held with JLA on 3rd September 2018, page 15, line 25.
[443] Merger Remedies: Competition Commission Guidelines (CC8), paragraph 1.9.

proportionate, the CMA will seek to select the least costly remedy, or package of remedies, that it considers will be effective. If the CMA is choosing between two remedies which it considers will be equally effective, it will select the remedy that imposes the least cost or that is least restrictive.[444] The CMA will seek to ensure that no remedy is disproportionate in relation to the SLC and its adverse effects.[445]

10.96 When considering the costs associated with a remedy, the CMA's considerations may include (but are not limited to):

(a) Distortions in market outcomes, compliance costs, and monitoring costs. These types of cost might be incurred by the merger parties, third parties, or the CMA.[446]

(b) The loss of any RCBs that may arise from the Merger which are foregone as a result of the remedy.[447]

(c) In the absence of exceptional circumstances, the CMA will not take account of costs or losses that will be incurred by the merger parties as a result of a divestiture remedy.[448]

10.97 In addition, as the cost of divestiture is, in essence, avoidable (as it is open to merger parties to make merger proposals conditional on competition authorities' approval), the CMA will generally attribute less significance to the costs of a remedy that will be incurred by the merger parties than costs that will be imposed on other relevant entities.[449]

JLA's and third parties' views

JLA

10.98 JLA told us that the CMA should consider whether any remedy was proportionate in this case, as:

---

[444] Merger Remedies: Competition Commission Guidelines (CC8), paragraph 1.9.
[445] Merger Remedies: Competition Commission Guidelines (CC8), paragraph 1.9.
[446] Merger Remedies: Competition Commission Guidelines (CC8), paragraphs 1.10 and 1.11.
[447] Merger Remedies: Competition Commission Guidelines (CC8), paragraphs 1.11 and 1.14–1.20.
[448] Merger Remedies: Competition Commission Guidelines (CC8), paragraph 1.10.
[449] Merger Remedies: Competition Commission Guidelines (CC8), paragraph 1.10.

(a) the nature of any SLC was at the lower end of the scale, in particular given that the Merger involved the acquisition of a business with annual turnover of less than £[✂] million; and

(b) with third parties having stated their intention to grow, the market would 'self-correct'. JLA told us that, in fact, the market was already 'self-correcting' as demonstrated by the planned expansion of a number of competitors[450] and its understanding that Hughes Armstrong has recently won [✂] contract (a former Washstation customer).

10.99 JLA also told us that the Merger had resulted in timely and merger specific RCBs as follows:

(a) Pre-Merger, Washstation had been delaying payment of commission due to certain customers and the total amount of unpaid commission at the date of the Merger was significant.[451] JLA told us that, since acquiring Washstation, it had paid overdue commission due to Washstation customers and those customers were now receiving their commission payments on a timely basis.[452]

(b) JLA told us that it was able to provide a superior service to its customers than other providers in the market.[453]

Third parties

10.100 All third parties[454] told us that they considered that the divestiture of the Washstation business was the most suitable and proportionate response to the SLC.[455]

10.101 The third parties did not identify any RCBs.

Our view

10.102 We consider that the level of intervention arising from a divestiture of the Washstation business is justified, given the nature and extent of the

[450] JLA response to Remedies Notice, page 1, paragraph 1.5.
[451] JLA response to Provisional Findings, page 14, paragraph 3.41
[452] Ibid., page 1, paragraph 1.5.
[453] Transcript of response hearing held with JLA on 3rd September 2018, page 46, lines 19-20 and page 47, lines 10-15.
[454] Hughes, Goodman Sparks, Forbes, Mr Copley and the HSM.
[455] See Hughes email to the CMA on 15 August 2018. See also summaries of calls held with third parties.

SLC and the resulting adverse effects we have found. We took this view for the following reasons:

(a) Prior to the Merger, JLA and Washstation were the largest and second largest providers of managed laundry services to higher education customers under vend share agreements in the UK. The merged entity is, by some margin, the largest provider of such services in the UK.

(b) Divestiture is the usual approach to remedying SLC findings arising from anti-competitive mergers and would re-establish the structure of the market expected in the absence of the Merger.

(c) JLA told us that the costs that were likely to arise in divesting the Washstation business were likely to be insignificant.[456]

(d) RCBs are limited by the Act to benefits to relevant customers[457] in the form of: (a) 'lower prices, higher quality or greater choice of goods or services in any market in the United Kingdom … or (b) greater innovation in relation to such goods or services.'[458] In respect of completed mergers, the Act provides that a benefit is only an RCB if the CMA believes that:

  (i) it has accrued to relevant customers, or may be expected to accrue to them within a reasonable period, as a result of the merger; and

  (ii) it was, or is, unlikely to accrue without the merger or a similar lessening of competition.[459]

Our view is that the timely payment of commission to customers does not represent an RCB as defined by the Act, as this benefit could be effected in the absence of the Merger or a similar lessening of competition. Although at the time of the Merger, Washstation was facing some challenges in ensuring that adequate funding was in place to sustain its growth, Mr Copley told us that he was considering raising additional

---

[456] Transcript of response hearing held with JLA on 3rd September 2018, page 27, line 25.
[457] Relevant customers are customers at any point in the chain of production and distribution and are not limited to final consumers (section 30(4) of the Act and Merger Remedies: Competition Commission Guidelines (CC8), paragraph 1.16).
[458] Section 30(1)(a) of the Act. See also Merger Remedies: Competition Commission Guidelines (CC8), paragraph 1.14.
[459] Section 30(2) of the Act. See also Merger Remedies: Competition Commission Guidelines (CC8), paragraph 1.16.

finance to support the business. Moreover, if we were to deem that the timely payment of commission to customers was an RCB as defined by the Act, our view is that this benefit would be preserved by the divestiture of the Washstation business to a suitable purchaser.

Our view is that the provision of a superior service to Washstation customers by JLA does not represent an RCB as defined by the Act, as we have found that, prior to the Merger, Washstation had experienced a limited number of incidents of customer dissatisfaction, but that this had not led to the widespread loss of customers.

10.103 Our view is that the divestiture of the Washstation business to a suitable purchaser is an effective and proportionate remedy to the SLC and the resulting adverse effects we have found.

Remedy implementation

10.104 Having identified that the divestiture of the Washstation business is an effective and proportionate remedy, in this section, we set out the key considerations in relation to the implementation of the remedy.

10.105 An effective divestiture process will protect the competitive potential of the divestiture package and enable a suitable purchaser to be secured in an acceptable timescale. The process should also allow prospective purchasers to make an appropriately informed acquisition decision.[460] Our views on the key risks to achieving an effective divestiture (ie composition risk, asset risk and purchaser risk) are set out in paragraphs 10.61 to 10.91.

Preparation for divestiture

10.106 We consider that the following issues need to be addressed prior to divestiture:

(a) Separation of the JLA and Washstation businesses. We note that some of the post-Merger integration has already been reversed, in order to enable JLA to comply with the hold separate arrangements.

[460] Merger Remedies: Competition Commission Guidelines (CC8), paragraph 3.20.

(b) Identification of the full list of contracts to be included in the divestiture package.

(c) Identification of the machines to be included in the divestiture package.

10.107 In addition, Washstation is currently dependent on JLA's back office functions and engineering services. We will expect any purchaser to be able to demonstrate to us that is it able to provide these functions, although a transitional services agreement between JLA and the purchaser may be required.

Divestiture timetable

10.108 The Merger Remedies Guidance states that the CMA will state in its final report the period in which the parties should achieve effective disposal of a divestiture package to a suitable purchaser (ie the 'initial divestiture period'). However, this period may be excised from the report if it is considered that disclosure to third parties may undermine the divestiture process. The length of this period will depend on the circumstances of the merger but will normally have a maximum duration of 6 months. The CMA, when determining the initial divestiture period, will seek to balance factors which favour a shorter duration, such as minimising asset risk and giving rapid effect to the remedy, with factors that favour a longer duration, such as canvassing a sufficient selection of potential suitable purchasers and facilitating adequate due diligence. The initial divestiture period may be extended by the CMA where this is necessary to achieve an effective disposal.[461]

10.109 JLA told us that, as Washstation was a small business which had been held separate for some time, it would be appropriate for there to be a streamlined divestment process, overseen by the existing Monitoring Trustee.[462] JLA told us that [✂] following the acceptance of Final Undertakings was a sufficient period of time to affect the divestment.

[461] Merger Remedies: Competition Commission Guidelines (CC8), paragraph 3.24.
[462] JLA response to Remedies Notice, page 9, paragraph 5.1.

10.110 [✂] told us that [✂] considered an appropriate divestiture period would be between 3 and 6 months.[463]

10.111 Goodman Sparks told us that the divestiture period should be restricted to the minimum necessary and that the process should be completed before Summer 2019, when providers complete the majority of installations.[464]

10.112 [✂] told us that [✂] considered that 3 months could be an appropriate timescale for achieving a divestiture.[465]

10.113 The HSM told us that the divestiture period should be restricted to the minimum necessary as customers required certainty regarding the future of Washstation.[466]

10.114 Our view is that a period of [✂] following the acceptance of Final Undertakings[467] is a sufficient period of time in which to complete a divestment. [✂].

10.115 We consider that it is appropriate that JLA is allowed to implement the remedy in the first instance. However, if there appears to be any chance of substantial delays or risks to the remedies process we reserve the right to appoint a Divestiture Trustee within the divestiture period to ensure that the remedy is implemented correctly and on a timely basis to ensure that the remedy is effective.[468] The disposal of the package by a Divestiture Trustee would be subject to prior approval by the CMA of the purchaser and the divestiture arrangements.[469]

---

[463] See [✂].
[464] See summary of call with Goodman Sparks on 5 September 2018, paragraph 11.
[465] [✂].
[466] Summary of call with Mr Knollys on 20 August 2018, paragraphs 4 and 5.
[467] Following publication of the final report, the CMA has the choice of implementing remedies by obtaining undertakings from the relevant merger parties or making an Order, subject to the limitations set out in Schedule 8 of the Act. The CMA will consult the merger parties and other parties affected by the remedies in determining the required undertakings or Order. As its first preference, the CMA will normally seek to obtain undertakings in appropriate form from the merger parties (Merger Remedies: Competition Commission Guidelines (CC8), paragraphs 1.26 and 1.27).
[468] Merger Remedies: Competition Commission Guidelines (CC8), paragraph 3.26.
[469] Merger Remedies: Competition Commission Guidelines (CC8), paragraph 3.26.

Protecting the divestiture package

10.116 The parties to a merger may have significant incentives to run down or neglect the business or assets of a divestment package in order to reduce future competitive impact.[470]

10.117 To protect against asset risk, the CMA will generally seek undertakings from the relevant parties which impose a general duty to maintain the divestiture package in good order and not to undermine the competitive position of the package. The CMA will also generally require 'hold-separate' undertakings to mitigate asset risk. These will require the divestiture package to be held and managed separately from the retained business. The appointment of a 'hold-separate' manager or management team may also be required to manage the assets/business to be divested so as to maintain their competitiveness and separation from the retained assets.[471]

10.118 Since December 2017, the Parties have been subject to an IEO intended (among other matters) to keep the Washstation and JLA businesses separate and prevent asset degradation. Since May 2018, a HSM has been operating the Washstation business independently and separately from JLA and JLA's compliance with the IEO has been overseen by a Monitoring Trustee, acting on behalf of the CMA.

10.119 JLA told us that the risk of the Washstation business or assets being run down or neglected was low due to:

(a) the existence of contractual service level agreements;

(b) JLA's commitment to meeting its obligations under the IEO; and

(c) evidence that Washstation's operational performance had been maintained in line with Circuit's operational performance throughout the CMA's investigation.[472]

---

[470] Merger Remedies: Competition Commission Guidelines (CC8), paragraph 3.21.
[471] Merger Remedies: Competition Commission Guidelines (CC8), paragraph 3.22.
[472] Transcript of response hearing held with JLA on 3rd September 2018, page 15, lines 5-14. See also paragraph 10.89(d) above.

10.120 JLA told us that that the divestiture process should be overseen by the existing Monitoring Trustee.[473]

10.121 All third parties[474] told us that that it was important that the Monitoring Trustee and HSM protected the Washstation business during the divestiture process and ensured that the portfolio of Washstation contracts was not degraded.[475]

10.122 Given the substantial integration of the JLA and Washstation businesses that took place following the Merger and the risk of asset deterioration, our view is that the current hold separate arrangements (ie the IEO, the Monitoring Trustee and the HSM) should be retained throughout the divestiture process. The Monitoring Trustee will also report to the CMA on JLA's progress in organising and effecting the remedy.

Assessment of purchaser suitability

10.123 The CMA requires the divestment to a suitable purchaser based on the following criteria:

(a) Independence: the purchaser should have no significant connection to the Parties that may compromise the purchaser's incentives to compete with JLA after divestiture;

(b) Capability: the purchaser must have access to appropriate financial resources, expertise and assets to enable the divested business to be an effective competitor in the market. This access should be sufficient to enable the divestiture package to continue to develop as an effective competitor.

(c) Commitment to relevant market: the CMA will wish to satisfy itself that the purchaser has an appropriate business plan and objectives for competing in the relevant market(s).

(d) Absence of competitive or regulatory concerns: divestiture to the purchaser should not create a realistic prospect of further competition or regulatory concerns.[476]

[473] JLA response to Remedies Notice, page 9, paragraph 5.1.
[474] Hughes, Goodman Sparks, Forbes, Mr Copley and the HSM.
[475] See summaries of calls held with third parties and [✂].
[476] Merger Remedies: Competition Commission Guidelines (CC8), paragraph 3.15.

10.124 JLA told us that it was not necessary for the purchaser to have an existing presence or expertise in the market for the supply of managed laundry services to higher education customers on vend sharing agreements in the UK, as experience in the wider commercial laundry sector would be sufficient. However, JLA told us that it would be inappropriate for the CMA to reject potential purchasers who did not have such experience, as private equity investors often very successfully invested in sectors in which they may not have any direct experience and the commercial laundry sector was not a complex sector requiring specialist knowledge.

10.125 Given the views of JLA and third parties, our view is that an existing presence or expertise in the market would be desirable.

10.126 JLA is responsible for securing a prospective purchaser and demonstrating that the prospective purchaser satisfies the CMA's criteria for a suitable purchaser.[477] The CMA will consider the suitability of each prospective purchaser on its own merits and on a case-by-case basis during the divestiture process.

Additional requirements

10.127 We also require the following to ensure an effective divestiture process:

(a) JLA shall use its best endeavours to ensure the transfer of Washstation contracts with higher education customers held by the Washstation business at the time of divestiture to a suitable purchaser.

(b) Any conditions precedent to completion of the purchase agreement to be limited and not dependent on the discretionary action of any person (including JLA).

(c) The CMA to confirm that the final divestiture proposed by JLA, including the identity of the purchaser, is effective in addressing the SLC and its resulting adverse effects.

[477] Merger Remedies: Competition Commission Guidelines (CC8), paragraph 3.16.

Decision on remedies

10.128 We have decided that the divestiture of the Washstation business is an effective and proportionate remedy to address the SLC and the resulting adverse effects we have found.

10.129 Subject to the requirements of the purchaser and negotiations between JLA and the purchaser, the divestiture package should include, but is not limited to, the following:

(a) Washstation contracts with higher education customers held by the Washstation business at the time of the divestiture to a suitable purchaser and in line with paragraphs 10.65 to 10.78.

(b) Washstation machines installed at customer sites.

(c) Washstation machines that have been removed from customer sites (following contract losses) and are currently held in storage by JLA or are due to be returned to JLA to be held in storage.

(d) Where the purchaser requires additional machines to fulfil the obligations of Washstation under agreed contracts at the time of divestment or where the purchaser requires machines to be installed during any transitional period following divestiture, JLA must sell these machines to the purchaser on a basis which was consistent with that upon which machines were previously supplied to Washstation. This should be included in any transitional services agreement and should only apply in respect of obligations that are due to be fulfilled before the end of the any transitional services agreement.

(e) All remaining assets associated with the Washstation business (subject to confirmation by the Monitoring Trustee and HSM).

(f) Technology and supporting contracts to facilitate machine availability monitoring and payment solutions as provided by Washstation prior to the Merger.

(g) Washstation bank accounts.

(h) Washstation brand, trademark and domain name.

(i) Washstation dedicated telephone helpline number.

(j) All available data relating to the Washstation business, including customer records, installations plans (including details of all sub-contractors used in the installation process), sales pipeline data; and

financial records. This includes all data held on the Washstation IT server and JLA systems and any data held in physical form by JLA.

10.130 In addition, subject to the needs of the purchaser, JLA must provide key support and back office functions (eg engineering support, sales support, account managers, customer support, IT and Finance) to the purchaser under a transitional services agreement. The precise terms of the agreement for the provision of these services to be provided on a transitional basis (as well as potential complements to the agreement, proposed by JLA, see paragraph 10.22 above) are to be determined through negotiations between JLA and the purchaser and the CMA will review it as part of the approval of the terms of the divestiture.

10.131 We expect to implement the structural remedy by seeking suitable undertakings from the Parties. We will consider issuing an Order if we are unable to obtain satisfactory undertakings from the Parties.