

# Completed acquisition by Rentokil Initial plc of Cannon Hygiene Limited

Provisional findings report

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The Competition and Markets Authority has excluded from this published version of the provisional findings 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 [Some numbers have been replaced by a range.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.]

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# Summary

## The reference

1. On 28 June 2018, the Competition and Markets Authority (CMA), in exercise of its duty under section 22(1) of the Enterprise Act 2002 (the Act), referred the completed acquisition by Rentokil Initial plc (Rentokil) of Cannon Hygiene Limited (Cannon) (the Merger) for further investigation and report by a group of CMA panel members (the Group).
2. In exercise of its duty under section 35(1) of the Act, the CMA must decide:
  - (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 United Kingdom (UK) for goods or services.
3. The statutory deadline for preparing and publishing our report is 12 December 2018.
4. We refer to Rentokil and Cannon collectively as ‘the Parties’.

## Industry background

5. The Parties overlap in:
  - (a) the supply of washroom services;
  - (b) the supply of healthcare waste collection services; and
  - (c) the supply of mats services.

## Washroom services

6. Washroom services comprise the supply of services and consumables related to washrooms in public, office and industrial buildings. These services include the supply and fitting of various dispensers (eg for odour remediation), the replenishment of commodity products (such as toilet paper, hand towels and soap) and waste collection (from feminine hygiene units and nappy bins).
7. The supply of washroom services typically involves regularly scheduled service visits to a customer, during which the supplier services equipment,

replenishes consumables and collects waste from feminine hygiene units and nappy bins for disposal.

8. For some consumable products, such as soap, paper towels or toilet rolls, suppliers may provide refills in bulk for the customer to replenish these consumables themselves rather than the supplier replenishing the consumables. Items such as toilet paper dispensers and paper towel dispensers can be sourced from product manufacturers and distributors as well as from washroom service suppliers.
9. Washroom service suppliers typically operate fleets of vans that use a central depot, storage facility or warehouse from which to restock. Washroom service staff travel along a route visiting multiple customer sites each day, replenishing and servicing customer washrooms from the consumables and products stored in their vans.

### **Healthcare waste collection services and mats services**

10. The Parties also overlap in the supply of healthcare waste collection services. Healthcare waste collection services include the collection and disposal of infectious clinical waste, non-infectious clinical waste, pharmaceutical waste services, dental waste services and sharps disposal services.
11. Mats services include indoor and outdoor mats which help prevent trips and slips.

### **The Parties and other key suppliers of washroom services**

#### **Rentokil**

12. Rentokil is a global hygiene service and commercial pest control provider. In the UK, Rentokil provides washroom services, healthcare waste collection services, mats services and pest control services. Rentokil is listed on the London Stock Exchange and is a constituent of the FTSE 100 Index. The turnover of Rentokil for the year ended 31 December 2017 was approximately £2.4 billion worldwide of which £245.6 million was generated in the UK and Ireland.
13. Rentokil is the parent company of Rentokil Initial UK Limited, which is the UK entity that comprises all of Rentokil's UK washroom service business, including mats. This business also provides some pest control activities, but does not provide healthcare waste services. The healthcare waste business of Rentokil is in a separate company, Initial Medical Services Limited.

14. In the UK, Rentokil has [X] branches, of which [X] are used for washroom and mats services, and [X] are used for healthcare waste collection services.

## **Cannon**

15. Cannon was formerly a multinational subsidiary of the global facilities management (FM) firm OCS Group Limited (OCS Group), which sold its hygiene services business through an auction in 2017.
16. Cannon provides washroom services, healthcare waste collection services and mats services in the UK. Its UK turnover for the year ended 31 March 2017 was £[X] million. Cannon has [X] branches in the UK, all of which are used for washroom services.

## **Other suppliers**

17. PHS Group Limited (PHS) is the leading supplier of hygiene services in the UK, Ireland and Spain. In the UK, PHS is the leading supplier of washroom services. PHS's washroom revenue was £[X] million in the financial year ended 31 March 2017. PHS operates a network of 3,000 personnel, providing washroom services to 90,000 customers at more than 300,000 locations. PHS supplies washroom services from [X] locations in the UK.
18. Cathedral Leasing Limited (Cathedral) is a washroom hygiene specialist based in Tamworth, employing over 200 staff. Cathedral started as a regional supplier but has gradually grown to deliver services across most of the UK. In 2017, Cathedral's turnover was £13 million. Cathedral does not operate a traditional depot network, but a combination of storage units and direct supply to drivers.
19. Mayflower Washroom Solutions (Mayflower) is headquartered in Woolwich, London. Mayflower supplies across the UK from five distribution centres in the UK and one in Ireland. In the most recent financial year, Mayflower's revenue from providing washroom services was £[X] million, which represents roughly [X]% of its total turnover.
20. Hygienic Concepts provides a range of washroom services across the UK. Zenith Hygiene Group is a manufacturer of cleaning and hygiene products active across the UK, but outsources most of its waste disposal services to [X]. The Independent Washroom Services Association is a group of independent washroom service providers which work in partnership to provide washroom services across the UK. There are a large number of other washroom suppliers active at the regional and local level. FM companies and cleaning companies can supply washroom services, although some elements

of these services are typically outsourced to washroom service suppliers. A limited number of waste collection companies transfer and dispose of waste from washrooms.

21. In the supply of washroom services other than waste disposal, a range of other suppliers are active, including distributors and product manufacturers.

## **The transaction and the relevant merger situation**

### **The transaction**

22. On 21 December 2017, the Parties entered into a Sale and Purchase Agreement, which included the acquisition of various hygiene services in Austria, India, Ireland, Portugal, South Africa, Spain, Thailand, the UK and New Zealand. In the UK the Transaction completed on 1 January 2018.
23. In the UK, Rentokil Initial UK Limited, a subsidiary of Rentokil, acquired 100% of the shares of Cannon Hygiene Limited UK from OCS Group. The sale also included Cannon Hygiene International Limited, which is responsible for development, marketing and procurement of dispensers and certain key consumables. [REDACTED]

### **The rationale for the transaction**

24. OCS Group told us that it decided to sell Cannon because it was not delivering the financial returns expected. [REDACTED]
25. Rentokil told us that the acquisition of Cannon was [REDACTED]. Rentokil also told us that the acquisition [REDACTED].
26. Rentokil said that significant synergies were forecast [REDACTED].

### **Relevant merger situation**

27. We found that as a result of the Merger, the Parties ceased to be distinct and that the share of supply test was met. We therefore provisionally concluded that a relevant merger situation had been created based on the share of supply test.



## Counterfactual

28. We considered what would have been the competitive situation in the absence of the Merger (the counterfactual). We provisionally concluded that the counterfactual was the continuation of pre-Merger competitive conditions.

## Theories of harm

29. Theories of harm describe the possible ways in which an SLC could arise as a result of a merger and provide the framework for the analysis of the competitive effects of a merger.
30. Horizontal unilateral effects may arise where one firm merges with a competitor that previously provided a competitive constraint, allowing the merged firm profitably to raise prices, degrade quality and/or reduce the range of services on its own and without needing to coordinate with rivals and/or to prevent/reduce the introduction of additional services.
31. We examined in detail whether the Merger has resulted, or may be expected to result, in an SLC from horizontal unilateral effects in relation to the supply of washroom services, looking separately at national and multi-regional customers and local and regional customers.
32. We considered two other theories of harm:
  - (a) Horizontal unilateral effects in relation to the supply of healthcare waste collection services.
  - (b) Horizontal unilateral effects in relation to the supply of mats services.
33. The phase 1 investigation did not find competition concerns in relation to either of these two other theories of harm. In our statement of issues, we said that we were not minded to investigate either of these theories of harm further, subject to any further evidence submitted.
34. We invited reasoned submissions in relation to the effect of the Merger on the supply of healthcare waste collection services and mats services. We did not receive any further evidence in relation to these theories of harm.
35. We therefore provisionally concluded that the Merger has not resulted, and may not be expected to result, in an SLC in relation to the supply of healthcare waste collection services or mats services. Our inquiry therefore focused on the supply of washroom services.

## Market definition

36. The purpose of market definition in a merger inquiry is to provide a framework for the analysis of the competitive effects of the merger. The boundaries of the market do not determine the outcome of the analysis of the competitive effects of the merger.
37. We provisionally concluded that the relevant product markets are:
  - (a) The supply of washroom services to national and multi-regional customers.
  - (b) The supply of washroom services to regional and local customers.
38. We found that as the number of regions in which a customer is served increases, the complexity of serving that customer is likely to increase and that the choice of supplier reduces for customers preferring a single supplier for their estate. This indicated that the conditions of competition were different for national and multi-regional customers. We did not use the number of regions in which a customer is served to draw a 'bright line' to distinguish national and multi-regional customers from local and regional customers for the purpose of market definition. Instead, we focused on customers located in eight or more regions for the purpose of assessing the competitive effects of the Merger in relation to national and multi-regional customers.
39. We also considered other possible customer segmentation within the relevant product market. We provisionally concluded that separate markets should not be defined for different customer types other than the distinction between national and multi-regional customers from regional and local customers. However, we took the view that the competitive effects of the Merger should be examined in relation to different customer segments (namely end customers purchasing directly from a washroom services supplier, FM customers and public and private frameworks).
40. We considered the supply of waste disposal services to represent a distinct segment of the market and that the competitive effects of the Merger should be considered separately for the supply of waste disposal services.
41. In relation to the geographic market, we provisionally found that:
  - (a) Regional and local competition is distinct from national and multi-regional competition.

- (b) There is some overlap between regional and local competition, because the size of the areas served by the Parties' branches, as well as by their regional competitors, are reasonably wide.
42. We therefore provisionally concluded that the competitive effects of the Merger should be considered at both:
- (a) The national and multi-regional level (in the supply to national and multi-regional customers).
- (b) The regional and local level (in the supply to regional and local customers).

## **Competitive assessment in relation to national and multi-regional customers**

43. We assessed the competitive effects of the Merger in relation to national and multi-regional customers, examining: (a) the supply of waste disposal services; and (b) the supply of washroom services other than waste disposal.

### **The supply of waste disposal services**

44. We assessed the competitive effects of the Merger in relation to national and multi-regional customers of waste disposal services. For the purpose of the competitive assessment, we focused on customers which are served in eight or more UK regions.

### ***The closeness of competition between the Parties***

45. We examined the closeness of competition between the Parties pre-Merger. We found that the Parties are the next closest competitors of each other after the largest supplier, PHS. We also found that Rentokil is a stronger constraint on Cannon than Cannon is on Rentokil.

### ***Competition from other suppliers***

46. We considered competition from other suppliers of washroom services. We found that PHS is the closest competitor to the Parties.
47. We provisionally found that PHS is likely to continue to act as a constraint on the Parties post-Merger. However, we provisionally found that the Merger may enhance the ability of PHS to increase prices and/or reduce the incentives for PHS to compete against the merged entity relative to the pre-Merger situation.

48. We considered competition from the next two largest suppliers after PHS and the Parties, namely Cathedral and Mayflower.
49. We found that Cathedral is growing and is able to supply national and multi-regional customers. However, we found limited evidence that Cathedral competes with the Parties for national and multi-regional customers and note that Cathedral [§]. We considered that Cathedral currently provides a relatively limited constraint on the Parties and did not see sufficient evidence to provisionally conclude this will change post-Merger.
50. We found that Mayflower is also growing and is able to supply national and multi-regional customers. However, we found limited evidence of competitive interactions between the Parties and Mayflower in relation to national and multi-regional customers and that Mayflower [§]. We provisionally concluded that Mayflower is likely to remain a relatively limited constraint on the Parties post-Merger, although we noted that Mayflower is a stronger competitor in the supply to FM companies and a weaker competitor in relation to framework customers than in the direct supply to end customers.
51. We did not find that any other washroom services suppliers would act as a significant constraint on the Parties post-Merger.
52. We examined the constraint from other types of supplier, including FM companies, healthcare waste collectors and cleaning companies:
  - (a) We found that FM companies do not currently self-supply waste disposal, but outsource to washroom service suppliers. Post-Merger we consider that FMs would be unlikely to self-supply waste disposal services. We provisionally found that FM companies pose a weak constraint on the Parties in relation to the supply of waste disposal services.
  - (b) We found limited evidence that healthcare waste collectors or cleaning companies would compete with the Parties post-Merger for national and multi-regional customers.
53. We also considered the potential for national and multi-regional customers to procure their waste disposal services from multiple regional suppliers. Some customers told us that they would consider switching to using a combination of regional suppliers, but the majority of national and multi-regional customers we spoke to identified barriers to multi-sourcing. We found that there exists a significant group of customers whose current preference is to use a single supplier for waste disposal services and that these customers would be unlikely to have the incentive to use multiple regional suppliers post-Merger as this would involve making changes to their procurement approach.

### ***The competitive effects of the Merger***

54. We considered the effect of the Merger on national and multi-regional customers in relation to: (a) end customers procuring directly; (b) FM customers; and (c) public and private frameworks.

#### *National and multi-regional end customers procuring directly*

55. We found that the supply of waste disposal to national and multi-regional customers is concentrated, with the Parties and PHS accounting for a most of the supply to these customers.
56. We found that PHS is the closest competitor to the Parties in the supply to national and multi-regional customers. We also found that the Parties are each other's second closest competitor after PHS.
57. We provisionally found that the Merger would eliminate an effective competitor for the Parties' customers, as well as PHS's customers, and therefore would likely not only affect the Parties' but also PHS's incentive to compete.
58. As a result of the Merger, the options available to national and multi-regional customers will be reduced. We consider that the Merger is likely to enhance the Parties' ability to increase prices and/or reduce the incentives for PHS to compete against the merged entity relative to the pre-Merger situation.
59. As set out above, we provisionally found that Cathedral and Mayflower are likely to act as a relatively limited constraint on the Parties post-Merger. We found limited evidence that other washroom suppliers, or other types of supplier, would constrain the Parties post-Merger.
60. We considered whether national and multi-regional customers would be able and willing to use a combination of regional suppliers as an outside option. We found that there exists a significant group of national and multi-regional suppliers whose preference is to source from a single supplier.
61. We also examined alternative supply options such as healthcare waste companies and cleaning companies, but found limited evidence that these suppliers would constrain the Parties post-Merger.
62. We therefore provisionally found that the Merger has resulted, or may be expected to result, in an SLC in relation to the supply of waste disposal services to end customers purchasing directly, subject to any countervailing factors.

*The competitive effects of the Merger in relation to FM customers*

63. We considered the extent to which the effect of the Merger on FM customers may differ from those end customers procuring waste disposal services directly.
64. We noted that FM companies aggregate services from multiple suppliers to provide an integrated FM service to end customers. We considered that competition in the supply of waste disposal services to FM customers was likely to differ from the direct supply to end customers in two ways.
65. First, we provisionally found that FM customers would be more likely than end customers procuring directly to consider using multiple suppliers of waste disposal as an alternative to the Parties. This widens the choice of alternative suppliers to include smaller regional suppliers. In this context, we note, for example, that [X].
66. Second, we provisionally found that FM customers would be better placed than end customers to maintain their negotiating strength with the Parties post-Merger. FM customers have frequent and repeated interactions with multiple washroom services suppliers, compared to end customers which typically only tender or re-negotiate every few years due to the nature of their contracts. In addition, FM customers are an important channel for the Parties to reach end customers.
67. We therefore provisionally found that the Merger has not resulted, or may not be expected to result, in an SLC in relation to the supply of waste disposal services to FM customers.

*The competitive effects of the Merger in relation to frameworks*

68. We examined whether the Merger would be likely to affect public or private frameworks with a national or multi-regional coverage (that is those frameworks which are open to end customers in a majority of regions of the UK).
69. We provisionally found that the set of credible alternative suppliers available to frameworks is likely to be narrow for the following reasons:
  - (a) Cathedral and Mayflower were not listed on any public or private frameworks, and Mayflower [X].
  - (a) FM companies do not compete for stand-alone washroom services contracts and an FM company would therefore not be a credible option for

framework customers (since framework contracts are for specific washroom services, rather than for integrated FM services).

(b) Two national public frameworks list regional suppliers but told us that regional suppliers did not win material business from end users. Moreover, to achieve national coverage, we considered that a framework would need to list more regional suppliers than they currently do.

70. We noted that end users do not need to purchase under a framework but can instead procure directly from a regional supplier. However, we considered that the threat of users purchasing locally is unlikely to be a sufficient constraint in respect of competition between washroom services suppliers to be listed on a framework.
71. For both private and public frameworks, we provisionally found that users tend to get substantially lower prices, and a small price increase on a framework list price may not induce users to purchase around a framework. Moreover, in the case of public sector customers, we noted that formal tendering requirements would mean that it is easier for a user to procure with a framework.
72. We therefore provisionally found that the Merger has resulted, or may be expected to result, in an SLC in relation to the supply of waste disposal services to public and private framework customers with national or multi-regional coverage, subject to any countervailing factors.

### **The supply of washroom services other than waste disposal**

73. We found that in each of the service lines supplied by the Parties other than waste disposal, the Parties face effective competition from a number of product manufacturers and distributors, in addition to other washroom services providers. We also found that, in contrast to waste disposal services, a number of FM companies provide these washroom services in-house. In addition, we found that there are no licensing requirements for the supply of washroom services other than waste disposal.
74. We therefore provisionally concluded that the Merger has not resulted, or may not be expected to result in, an SLC in the supply of washroom services other than waste disposal.

## **Competitive assessment in relation to regional and local customers**

75. We assessed the competitive effects of the Merger in relation to the supply of washroom services, including waste disposal, to regional and local customers.
76. We examined the number of competing suppliers in the areas around each of Rentokil's and Cannon's branches. We considered the number of competitors offering waste disposal services as well as any number of other services in each catchment area. We found that the Merger would reduce the number of suppliers from 'four to three' or fewer only at the Inverness (Cannon branch) and Inverurie (Rentokil branch).
77. We considered competition in these specific areas in more detail and found that the Parties were not close competitors in either area and that each of the Parties will face competition from competitors that are closer geographically than from either Rentokil or Cannon.
78. We also examined the number of competitors in each of the UK's 12 regions. We found that the region with the lowest number of effective competitors is Northern Ireland. However, even in this region, we found that at least three competitors would remain in addition to the Parties post-Merger.
79. We provisionally concluded that the Merger has not resulted in, and may not be expected to result, in an SLC in the supply of washroom services to regional and local customers.

## **Countervailing factors**

80. We assessed whether there were any countervailing factors to prevent an SLC from arising.

## **Countervailing buyer power**

81. We provisionally found that whilst some national and multi-regional customers are sophisticated purchasers, these customers would have limited supply options for waste disposal post-Merger. We provisionally found that the Merger would remove an important supply option for national and multi-regional customers.
82. We therefore provisionally concluded that countervailing buyer power was not sufficient to prevent an SLC.



## **Barriers to entry and expansion**

83. We considered whether entry from an adjacent industry would be timely, likely and sufficient to prevent an SLC. We did not find that any company had firm plans to enter the UK washroom sector at a scale that would materially alter the competitive conditions for national and multi-regional customers.
84. We also considered barriers to expansion by existing suppliers of washroom services in the UK. We provisionally found that there is insufficient evidence to suggest that expansion by Cathedral, Mayflower or other suppliers was likely to be timely or sufficient to prevent an SLC.
85. We provisionally concluded that, whilst there are no major absolute or regulatory barriers to entry or expansion there is insufficient evidence from which to conclude that entry or expansion would be timely, likely or sufficient to prevent an SLC in the supply of waste disposal services to national and multi-regional customers.

## **Efficiencies**

86. We provisionally concluded that, to date, there has been insufficient evidence that the Merger is rivalry enhancing or that it is likely to produce relevant customer benefits.

## **Provisional conclusion**

87. As a result of our assessment, we provisionally concluded that:
- (a) the acquisition by Rentokil of Cannon has created a relevant merger situation; and
  - (b) the relevant merger situation has not resulted, or may not be expected to result, in an SLC in relation to the supply of:
    - (i) Healthcare waste services.
    - (ii) Mats services.
    - (iii) Washroom services to local and regional customers.
    - (iv) Washroom services other than waste disposal services.
    - (v) Waste disposal services to FM companies.

- (c) the relevant merger situation has resulted, or may be expected to result, in an SLC in relation to the supply of waste disposal services to the following national and multi-regional customers:
  - (i) Customers located in eight or more regions of the UK purchasing directly for their premises from a washroom services supplier.
  - (ii) Public and private framework customers with national or multi-regional coverage.

# Provisional findings

## 1. The reference

- 1.1 On 28 June 2018, the Competition and Markets Authority (CMA), in exercise of its duty under section 22(1) of the Enterprise Act 2002 (the Act), referred the completed acquisition by Rentokil Initial plc (Rentokil) of Cannon Hygiene Limited (Cannon) (the Merger) for further investigation and report by a group of CMA panel members (the Group).
- 1.2 In exercise of its duty under section 35(1) of the Act, the CMA must decide:
  - (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.
- 1.3 In answering these two questions we will apply a ‘balance of probabilities’ threshold to our analysis. That is, we will decide whether it is more likely than not that an SLC has resulted, or may be expected to result, from the Merger.<sup>1</sup>
- 1.4 Our terms of reference, along with information on the conduct of the inquiry, are set out in Appendix A.
- 1.5 This document, together with its appendices, constitutes our provisional findings. Further information, including a non-commercially-sensitive version of the Parties’ response to the phase 1 decision, can be found on our webpages.<sup>2</sup>
- 1.6 Throughout this document we refer to Rentokil and Cannon collectively as ‘the Parties’.

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<sup>1</sup> [Merger Assessment Guidelines](#) (CC2/OFT1254), paragraph 2.12. The *Merger Assessment Guidelines* have been adopted by the CMA board (see [Mergers: Guidance on the CMA’s jurisdiction and procedure](#) (CMA2), Annex D).

<sup>2</sup> Rentokil/Cannon merger inquiry [case page](#).

## 2. Industry background

2.1 The Parties overlap in:

- (a) the supply of washroom services;
- (b) the supply of healthcare waste collection services; and
- (c) the supply of mats services.

### Washroom services

#### *Service lines and business models*

2.2 Washroom services comprise the supply of services and consumables related to washrooms in public, office and industrial buildings.<sup>3</sup> These services include the supply and fitting of various dispensers (eg for odour remediation), the replenishment of commodity products (such as toilet paper, hand towels and soap) and waste collection (from feminine hygiene units and nappy bins).<sup>4</sup>

2.3 Rentokil agrees with a description of washroom services as comprising of seven essential services that are supplied to maintain a typical washroom.<sup>5</sup> The seven service lines are:

- (a) cubical hygiene;
- (b) toilet tissue;
- (c) hand drying;
- (d) vending & other;
- (e) handwashing;
- (f) odour remediation; and
- (g) waste disposal.<sup>6</sup>

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<sup>3</sup> A washroom is defined as a room or space with washing and toilet facilities (also known as a bathroom, restroom or toilet).

<sup>4</sup> [Parties' response to phase 1 decision](#), 30 July 2018, paragraph 3.1.

<sup>5</sup> Other washroom providers, such as PHS, do not define their services in the same way as Rentokil.

<sup>6</sup> There is some variation between suppliers as to how service lines are identified.

- 2.4 Rentokil and Cannon both also supply a number of washroom products, such as fragrance dispensing units. [§<]. In Rentokil's case, [§<].
- 2.5 In the UK it is a legal requirement for employers to provide washroom facilities to staff. The relevant legislation is the Workplace (Health, Safety and Welfare) Regulations 1992, Regulation 20, Sanitary conveniences.<sup>7</sup>
- 2.6 The supply of washroom services typically involves regularly scheduled service visits to a customer, during which the supplier services equipment, replenishes consumables and collects waste (from nappy or feminine hygiene units) for disposal.
- 2.7 For some consumable products, such as soap, paper towels or toilet rolls, a range of suppliers provide refills in bulk for the customer to resupply their equipment themselves, rather than the supplier replenishing the consumables. Items such as toilet paper dispensers or paper towel dispensers, can also be sourced from product manufacturers and distributors as well as washroom service suppliers.
- 2.8 Washroom service suppliers typically operate a branch network with fleets of vans that use a central depot or warehouse from which to restock (there are some notable exceptions to this model, described further below). Washroom service staff travel along a route visiting multiple customer sites each day, replenishing and servicing customer washrooms from the consumables and products stored in their vans (which are typically parked overnight at their home addresses).
- 2.9 In this supply model, supplier profitability is driven by maximising the number of sites visited on each route and the number of service lines provided at each site and minimising the time spent travelling between sites. This means that suppliers tend to earn higher margins if they:
- (a) sell a wide range of services to their customers;
  - (b) have a high density of customers in their areas of operation; and/or
  - (c) have branches in close proximity to their customers.
- 2.10 Rentokil told us that its service staff perform three categories of task at a client's site, with only the latter two being required on a regular basis. These categories are:<sup>8</sup>

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<sup>7</sup> [Workplace \(Health, Safety and Welfare\) Regulations 1992. Regulation 20, Sanitary conveniences](#), How many toilets should a workplace have?, Health and Safety Executive.

<sup>8</sup> [Parties' response to phase 1 decision](#), 30 July 2018, paragraph 3.1.

- (a) the supply and fitting of various dispensers (if required);
- (b) the replenishing of commodity products (products such as toilet paper, hand towels and soap are dropped off at the customer's premises and, with the exception of odour remediation, used by cleaning staff to refill dispensers); and
- (c) waste disposal (feminine hygiene and nappies).

2.11 The Parties' approaches to the disposal of feminine hygiene products differ. Since 2016, Rentokil has provided an on-site service (OSS) whereby the service staff remove the waste bag, clean the unit and then replace the bag on the site visit.<sup>9</sup> Some suppliers refer to this method as 'liner replacement'. In contrast, Cannon predominantly provides an off-site service whereby the service staff remove the entire feminine hygiene unit for washing at the depot and exchanges it with a clean one. The Parties currently offer both types of service, but Rentokil told us that it is moving away from bin exchange. As of May 2018, approximately 70-80% of Rentokil's feminine hygiene services were delivered by OSS. This is expected to reach at least 90-100% by the end of 2018.

### **Customer segmentation**

2.12 We understand that there are 2.67 million businesses in the UK that are registered for VAT/PAYE purposes and which are therefore obliged to provide washrooms for their employees.<sup>10</sup> The Parties told us that their total customer base occupies only a fraction of the total number of businesses in the UK (Rentokil served [redacted] customers in 2017).<sup>11</sup>

2.13 In relation to customer segmentation, the Parties said that they have a continuum of customers that vary by site size, number of sites and geographic spread, with no clear delineation between customer 'categories'.<sup>12</sup> Rentokil provides washroom services in all 12 regions of the UK. 50-60% of customers by value (90-100% by number) are serviced from only one branch, with the remainder served by two or more branches. 20-30% of customers by value (less than 0-5% by number) are served from branches in all 12 regions in the UK.<sup>13</sup> Rentokil classifies certain accounts as 'key accounts' but said that this

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<sup>9</sup> [redacted]

<sup>10</sup> UK business; activity, size and location 2017, Table 7, ONS, 3 October 2017.

<sup>11</sup> Parties' response to phase 1 decision, 30 July 2018, paragraph 4.8.

<sup>12</sup> Parties' response to phase 1 decision, 30 July 2018, paragraph 4.10. Rentokil said compare, for example, a large single site that has a contract value equivalent to a 'national' customer to a local authority contract with no regional or national dimension but with hundreds of sites, to a customer with a 'national' geographic spread but relatively fewer sites.

<sup>13</sup> Parties' response to phase 1 decision, 30 July 2018, paragraph 4.11.

classification is not dependent on the number of sites that a customer has, or the number of regions that it is served in.<sup>14</sup>

- 2.14 PHS, the leading provider of washroom services in the UK by sales value and volume, told us that it serves approximately 60,000 customers of washroom services across the UK. PHS segments its customers [redacted]. PHS also said that it segments its customers into industry segments [redacted]. The industry segments include: [redacted].<sup>15</sup>
- 2.15 Mayflower, which supplies washroom services nationally, told us that it targets certain industry segments.<sup>16</sup>

### **Licence Requirements**

- 2.16 A washroom services supplier needs to obtain permits and licences in relation to waste collection and disposal and healthcare waste services. In England and Wales, waste policy is enforced by the Environment Agency. Hygiene waste and sanitary protection is classed as non-hazardous municipal offensive waste.<sup>17</sup>
- 2.17 Registration for a waste carrier licence with the Environment Agency is required for businesses which carry out any of the following:<sup>18</sup>
- (a) Transport waste.
  - (b) Buy, sell or dispose of waste.
  - (c) Arrange for someone else to buy, sell or dispose of waste.
- 2.18 A waste carrier licence is categorised into two tiers, upper and lower, according to criteria set out by the Environment Agency. For washroom waste disposal, washroom services suppliers need to obtain an upper tier waste carrier licence to ensure that offensive waste is collected and transported safely.<sup>19,20</sup> This requires the payment of a £154 registration fee and a further £105 to renew the licence every three years.
- 2.19 Where a washroom services supplier takes the waste back to its own premises for storage until collection for disposal, the supplier is classified as

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<sup>14</sup> [Parties' response to phase 1 decision](#), 30 July 2018, paragraph 4.12.

<sup>15</sup> [redacted]

<sup>16</sup> [redacted]

<sup>17</sup> [Classify different types of waste](#), HM Government.

<sup>18</sup> [Register or renew as a waste carrier, broker or dealer \(England\)](#), HM Government.

<sup>19</sup> [Classify different types of waste](#), HM Government.

<sup>20</sup> Non-clinical waste that is non-infectious and does not contain pharmaceutical or chemical substances, but may be unpleasant to anyone who comes into contact with it.

operating a waste operation and requires an additional environmental permit.<sup>21</sup> This involves a one-off cost of £7,930<sup>22</sup> for the permit, an additional £672<sup>23</sup> for the first year of operation and further annual subsistence charges.<sup>24</sup> Subsistence charges cost a few thousand pounds per site depending on associated activity and are also site-dependent based on the Environment Agency's Compliance Classification Scheme score. For example, a waste operation site with a good compliance record (band A) will pay 95% of the subsistence charge.<sup>25</sup>

- 2.20 If, however, less than 7kg of municipal offensive waste is produced (and no more than one bag in a collection period), it can be placed in a refuse sack or wheeled bin with other municipal waste.<sup>26</sup>
- 2.21 The water from cleaning vehicles and feminine hygiene units must be discharged into a sewer subject to a consent issued by the local water company. We understand the permits in relation to this typically cost less than £1,000, but are limited to the activity at the relevant location.<sup>27</sup>
- 2.22 In respect of vehicles transporting offensive waste, no particular permits are required so long as the vehicle is below a certain weight; vehicles over 3.5 tonnes must be driven by a driver with a commercial transport operating licence.<sup>28</sup>
- 2.23 The transfer and storage of medical waste is subject to more stringent regulations than washroom waste. In addition to the above licence requirements, each branch that acts as a transfer station for medical waste must have a responsible person who has obtained a Certificate of Technical Competence (CoTC) to demonstrate ability to manage risks associated with handling medical waste. The CoTC has to be renewed every two years.
- 2.24 Commercial vehicles that carry dangerous goods, which include medical waste, must also comply with the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR). Drivers carrying dangerous goods must obtain ADR training and licence, which costs between £300-£500 and must be renewed every five years.<sup>29</sup>

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<sup>21</sup> A site where waste is recycled, stored, treated or disposed of.

<sup>22</sup> [§<]

<sup>23</sup> [Subsistence charges](#), Environmental permitting charges guidance, Environment Agency, 1 August 2018.

<sup>24</sup> The Environment Agency covers the cost of regulating an activity through annual subsistence charges

<sup>25</sup> [Subsistence charges](#), Environmental permitting charges guidance, Environment Agency, 1 August 2018.

<sup>26</sup> [Classify different types of waste](#), HM Government.

<sup>27</sup> [§<]

<sup>28</sup> [§<]

<sup>29</sup> ADR licence [website](#).



2.25 The licensing and permit requirements in Scotland, Wales and Northern Ireland are broadly equivalent to those outlined above.

## **Healthcare waste collection services and mats services**

2.26 The Parties also overlap in the supply of healthcare waste collection services. Healthcare waste collection services are route-based services which include the collection and disposal of infectious clinical waste, non-infectious clinical waste, pharmaceutical waste services, dental waste services and sharps disposal services.

2.27 Mats services include indoor and outdoor mats which help prevent trips and slips.

## **3. The Parties and other key suppliers of washroom services**

### **Rentokil**

3.1 Rentokil is a global hygiene service and commercial pest control provider. In the UK, Rentokil provides washroom services, healthcare waste collection services, mats services and pest control services. Rentokil is listed on the London Stock Exchange and is a constituent of the FTSE 100 Index.

3.2 Rentokil currently operates in 70 countries and approximately 90% of its revenues are derived outside of the UK.<sup>30</sup> Rentokil's business has three broad operating segments: pest control; hygiene;<sup>31</sup> and protect and enhance.<sup>32</sup>

3.3 Rentokil is the parent company of Rentokil Initial UK Limited, which is the UK entity that comprises all of Rentokil's UK washroom services business, including mats. This business also provides some pest control activities, but does not provide healthcare waste services. The healthcare waste business of Rentokil sits in a separate company, Initial Medical Services Limited.

3.4 The turnover of Rentokil for the year ended 31 December 2017 was approximately £2.4 billion worldwide (£2.2 billion in 2016), of which £245.6

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<sup>30</sup> [About us](#), Rentokil.

<sup>31</sup> This category includes provision and maintenance of products such as air fresheners, sanitisers, feminine hygiene units, hand dryers, paper and linen towel dispensers, soap dispensers and floor protection mats.

<sup>32</sup> This category includes businesses in Workwear (France), Ambius (global), Property Care (UK) and sub-scale Dental Services (Germany and Sweden).

million was generated in the UK and Ireland (£235.8 million in 2016).<sup>33</sup> Rentokil's total operating profit for 2017 was £292 million (£232 million in 2016).

- 3.5 Rentokil's global washroom business, which is branded 'Initial Hygiene', which includes mats grew by 7.6% in 2017, of which 2.1% was organic growth and the remainder through acquisition. In the same year, Rentokil's UK and Ireland hygiene division reported sales of £[X] million. The UK and Ireland constitute approximately 10-20% of Rentokil's global hygiene business.
- 3.6 In the UK, Rentokil has [X] branches, of which [X] are used for washroom and mats services, and [X] are used for healthcare waste collection services.
- 3.7 Table 1 below sets out the overall performance of Rentokil's UK washroom business for the 2017 financial year.

**Table 1: Rentokil financial results for UK washrooms (FY2017)**

	£'000
<b>Turnover</b>	[X]
Total processing, service and distribution costs	[X]
<b>Gross profit</b>	[X]
<b>%</b>	<b>30-40%</b>
Total sales and marketing costs	[X]
Total administration and overhead costs	[X]
Other	[X]
<b>Profit before interest</b>	[X]

Source: Rentokil

- 3.8 Rentokil's largest service line by revenue is waste disposal, the majority of which is feminine hygiene. It also contributes approximately £[X] of the total gross margin for Rentokil's UK washroom services business. The second highest gross margin contribution is odour remediation, at £[X].<sup>34</sup>

## Cannon

- 3.9 Cannon was formerly a multinational subsidiary of the global facilities management (FM) firm OCS Group Limited (OCS Group), which sold its hygiene services business through an auction in 2017. Cannon includes the washroom services business as well as the mats and healthcare waste business.

<sup>33</sup> This includes revenue from discontinued operations. Continuing operational revenue was £2.1 billion.

<sup>34</sup> [X]

- 3.10 The business of Cannon UK was incorporated in October 2017 after being created by OCS Group specifically for the purpose of its sale. Cannon is yet to file any financial accounts of its own. Cannon Hygiene UK includes the Cannon washroom services business as well as its mats and healthcare waste business'
- 3.11 Cannon generated £[<] million of revenue in the year ended 31 March 2017. Its UK turnover for that year was approximately £[<] million, of which £[<]million was in hygiene services. In the UK, Cannon's washrooms business is therefore approximately half the size of Rentokil's hygiene business.
- 3.12 In the year ended 31 March 2017, Cannon Hygiene UK generated an EBITDA profit of approximately £[<]million but taking depreciation and amortisation into account made an estimated net loss of £[<].<sup>35</sup>
- 3.13 Medical waste disposal and mats services make up £[<]million of the above EBITDA (medical waste £[<] million and mat services £[<]million). The remaining £[<] million of EBITDA relates to Cannon's UK washrooms business.
- 3.14 Cannon is not able to provide an accurate analysis of service line profitability but we have been provided with an estimate of the profit and loss for Cannon's UK washrooms business, which is set out in Table 2.

**Table 2: Cannon financial results for UK washrooms (FY2017)**

	£'000
<b>Turnover</b>	[<]
Variable costs	[<]
<b>Gross margin</b>	[<]
%	30-40%
Fixed operating costs	[<]
<b>Gross profit</b>	[<]
%	20-30%
Total overheads	[<]
<b>EBITDA</b>	[<]

Source: Cannon

Note: Cannon's financial results in Table 2 are presented on a different basis to Rentokil's financial results in Table 1. The two tables are therefore not comparable.

- 3.15 As for Rentokil, feminine hygiene is Cannon's largest service line. Information provided to us by Cannon shows that feminine hygiene constitutes 40-50% (£[<]million out of £[<]million) of Cannon's total UK washroom services

<sup>35</sup> [<].

revenue in 2017. By revenue, feminine hygiene is more than three times larger than the next largest service line, air fresheners, which account for 10-20% of revenue (£[redacted]million).<sup>36</sup>

- 3.16 Cannon has [redacted] branches in the UK, all of which are used for washroom services.

## Other key suppliers of washroom services

### **PHS**

- 3.17 PHS Group is the leading hygiene services provider in the UK, Ireland and Spain. PHS has global turnover of over £269 million<sup>37</sup> with UK turnover, not limited to washroom services being approximately [redacted].<sup>38</sup> PHS has no turnover outside of Europe. In relation to washroom services, PHS's revenue was [redacted] in the financial year ended 31 March 2017 (of which [redacted] was in relation to waste disposal).
- 3.18 In recent years PHS has focused its strategy on its washrooms business, selling off non-core operations such as its storage business, Data Solutions, which was sold to Restore for £83 million in 2016.<sup>39</sup>
- 3.19 In the financial year ended 31 March 2017 PHS made EBITDA<sup>40</sup> of £63 million from continuing operations (2016 £56 million). Hygiene-related activities accounted for over 90% of EBITDA.<sup>41</sup> Once depreciation, amortisation and interest are taken into account, PHS is loss making. PHS made a net loss for the financial year ending 2017 of £52 million<sup>42</sup> (2016 £56 million loss).
- 3.20 PHS told us that it had seen a reduction in revenue.<sup>43</sup> [redacted].
- 3.21 In terms of washroom services, PHS operates a network of 3,000 personnel, providing services to 90,000 customers at more than 300,000 locations.<sup>44</sup> In the UK, it operates from [redacted] locations for washroom services.

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<sup>36</sup> [redacted]

<sup>37</sup> [PHS Group Annual Report 2017](#).

<sup>38</sup> [redacted]

<sup>39</sup> [PHS Group Annual Report 2017](#).

<sup>40</sup> Before exceptional items.

<sup>41</sup> [PHS Group Annual Report 2017](#).

<sup>42</sup> Loss from continuing operations.

<sup>43</sup> [redacted]

<sup>44</sup> [PHS washroom hygiene website](#).

## **Cathedral Leasing Limited**

- 3.22 Cathedral Leasing Limited (Cathedral) is a washroom hygiene specialist based in Tamworth, employing over 200 staff. Cathedral started as a regional supplier but has gradually grown to deliver services across most of the UK.<sup>45</sup>
- 3.23 In 2017, Cathedral had a turnover of £13 million.<sup>46,47</sup> Cathedral told us that its unaudited turnover for 2018 is [REDACTED].<sup>48</sup> Cathedral's accounts show that turnover has increased 5% in both the last two financial years. It made a profit for the financial year ended 2017 of £1.2 million (£0.9 million in 2016).
- 3.24 Cathedral operates a number of regional branches,<sup>49</sup> for example [REDACTED].
- 3.25 Cathedral operates a different supply model from that of the Parties and PHS, using fewer depots and supply many service staff directly. [REDACTED].<sup>50</sup>
- 3.26 Cathedral has customers in all 12 UK regions. Save for one UK region and a very limited number of post codes elsewhere, it services customers directly. In areas that it does not serve directly, it subcontracts its washroom services to other washroom service providers.<sup>51,52</sup> The majority of Cathedral's subcontracting [REDACTED].<sup>53</sup>

## **Mayflower Washroom Solutions**

- 3.27 Mayflower Washroom Solutions (Mayflower) is headquartered in Woolwich, London, and has five regional distribution centres across the UK (Woolwich, Swindon, Corby, Manchester, Motherwell) and one in Ireland. Mayflower offers services to various sectors via a fleet of over 65 liveried vehicles.<sup>54</sup>
- 3.28 In addition to the full range of washroom services, Mayflower also provides laundry services and hires out specialist cleaning equipment. In the most recent financial year, Mayflower's revenue from providing washroom services was [REDACTED], which represents roughly [REDACTED]% of its total turnover.<sup>55</sup>
- 3.29 Mayflower told us that it supplies across the UK. Mayflower's expansion into other regions in the UK has been achieved through a mix of acquisition of

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<sup>45</sup> Cathedral Leasing Holdings Limited is the parent company.

<sup>46</sup> Cathedral Leasing Limited Annual Accounts 2017.

<sup>47</sup> Includes mats and laundry services. Cathedral are unable to separate out these revenues further.

<sup>48</sup> [REDACTED]

<sup>49</sup> [REDACTED]

<sup>50</sup> [REDACTED]

<sup>51</sup> [REDACTED]

<sup>52</sup> [REDACTED]

<sup>53</sup> [REDACTED]

<sup>54</sup> [Mayflower website](#).

<sup>55</sup> [REDACTED]

regional competitors and the opening new regional sites. Mayflower told us that its growth had been driven by customer demand. Mayflower is currently in the process of opening a brand new site in the Birmingham area.

### ***Other main providers of washroom services***

- 3.30 Hygienic Concepts provides a range of washroom services across the UK. Zenith Hygiene Group is an independent manufacturer of cleaning and hygiene products active across the UK, but outsources most of its waste disposal services to [REDACTED]. There are a large number of other washroom suppliers active at the regional and local level and some. FM companies and cleaning companies can supply washroom services, although some elements of these services are typically outsourced to washroom service providers.
- 3.31 In relation to waste disposal from washrooms, it is possible for waste collection companies to transfer and dispose of waste. In the supply of washroom services other than waste disposal, a range of other suppliers are active, including distributors and product manufacturers.
- 3.32 We consider the range of suppliers of washroom services further in Chapters 8 and 9.

## **4. The transaction and relevant merger situation**

### **The transaction**

- 4.1 On 21 December 2017, the Parties entered into a Sale and Purchase Agreement, which included the acquisition of various hygiene services in Austria, India, Ireland, Portugal, South Africa, Spain, Thailand, the UK and New Zealand. In the UK the transaction completed on 1 January 2018.
- 4.2 Internal documents state that Rentokil valued the entire business at £[REDACTED] million but [REDACTED].
- 4.3 Rentokil paid a consideration of £[REDACTED] [REDACTED].<sup>56</sup>
- 4.4 In the UK, Rentokil Initial UK Limited, a subsidiary of Rentokil Initial, acquired 100% of the shares of Cannon Hygiene Limited UK from OCS Group.<sup>57</sup> The sale also included Cannon Hygiene International Limited, which is responsible

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<sup>56</sup> [REDACTED]

<sup>57</sup> [REDACTED]

for development, marketing and procurement of the dispensers and certain key consumables.<sup>58</sup> [REDACTED]

4.5 Rentokil did not make a formal public announcement or issue a press release in relation to the Merger as it was not required to under listing rules. Rentokil told us that the Merger had not been notified in any jurisdiction.

4.6 [REDACTED].<sup>59</sup> Approximately 5-10% of Rentokil's UK revenue is tied to OCS Group.

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<sup>58</sup> [REDACTED]  
<sup>59</sup> [REDACTED]

**Figure 1: Post completion company structure [REDACTED]**

[REDACTED]

Source: Rentokil

## **The rationale for the transaction**

### ***OCS Group's rationale for selling Cannon***

- 4.7 OCS Group told us that Cannon was sold principally for the following reasons:<sup>60</sup>
- (a) Cannon was not delivering financial returns in line with what OCS Group understood its competitors were delivering.
  - (b) Cannon's lack of scale in many markets where customer density is crucial to having a competitive cost base.
  - (c) OCS Group [REDACTED].
  - (d) OCS Group had concluded that Cannon could best be developed as a standalone business under new ownership [REDACTED].
  - (e) The sale of Cannon [REDACTED].

### ***Rentokil's rationale for purchasing Cannon***

- 4.8 [REDACTED]:
- (a) [REDACTED].
  - (b) [REDACTED].
  - (c) [REDACTED].
  - (d) [REDACTED]<sup>61</sup>
- 4.9 Rentokil estimated that the acquisition of Cannon will add around £[REDACTED] of global hygiene revenues<sup>62</sup> and, in the UK, will allow for the combination of two

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<sup>60</sup> [REDACTED]

<sup>61</sup> [REDACTED]

<sup>62</sup> [Rentokil Annual Report 2017](#).



national players.<sup>63</sup> Total synergies are expected to be around £[X]million<sup>64</sup> over three years, of which £[X]million are within the UK.<sup>65</sup>

4.10 [X], Rentokil expects to be able to achieve synergies by [X].<sup>66</sup> Rentokil also told us that significant synergies were forecast [X].<sup>67</sup>

## Relevant merger situation

4.11 Under section 35 of the Act and pursuant to our terms of reference (see Appendix A), we are required to investigate and report on two statutory questions: whether a relevant merger situation has been created and if so, whether the creation of that situation has resulted or may be expected to result in an SLC within any market or markets in the UK for goods or services.

4.12 Section 23 of the Act provides that a relevant merger situation has been created if:

(a) two or more enterprises have ceased to be distinct within the statutory period for reference;<sup>68</sup> and

(b) the turnover test or the share of supply test (as specified in that section of the Act) is satisfied, or both are satisfied.

4.13 We address the first of the statutory questions in this section.

### ***Enterprises ceasing to be distinct***

4.14 The Act defines an ‘enterprise’ as ‘the activities or part of the activities of a business’ and a ‘business’ as a professional practice or any other undertaking which is carried on for gain or reward or an undertaking which supplies goods or services ‘otherwise than free of charge’.<sup>69</sup>

4.15 Both Rentokil and Cannon provide washroom services on a commercial basis and are accordingly, businesses whose activities are enterprises for the purposes of the Act.

4.16 Enterprises cease to be distinct once they are brought under common ownership or common control.<sup>70</sup> The Merger concerns the acquisition by

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<sup>63</sup> [X]

<sup>64</sup> [X]

<sup>65</sup> [X]

<sup>66</sup> [Rentokil Annual Report 2017](#).

<sup>67</sup> [Parties’ response to phase 1 decision](#), 30 July 2018, paragraph 2.3.

<sup>68</sup> See also sections 24 and 26 of the Act.

<sup>69</sup> [Section 129\(1\)](#) and [\(3\)](#) of the Act.

<sup>70</sup> [Section 26](#) of the Act.

Rentokil of the entire share capital of Cannon. As a consequence, the enterprises which were previously separate, are now under common ownership and control and have ceased to be distinct.<sup>71</sup>

- 4.17 The enterprises must have ceased to be distinct either not more than four months before the date 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 are made public or the time the CMA is told of material facts.<sup>72</sup> The four-month period may be extended under section 25 of the Act.<sup>73</sup>
- 4.18 The Merger completed on 1 January 2018. The CMA was first informed about the Merger on 29 January 2018.<sup>74</sup> The four-month deadline for a decision under section 24 of the Act was extended under section 25(2) of the Act to 18 June 2018. Further extensions were granted to 9 July 2018 to allow Rentokil to offer undertakings in lieu of a reference.
- 4.19 On 25 June 2018, Rentokil informed the CMA that it would not offer such undertakings to the CMA. The reference was made on 28 June 2018 and within the statutory time limit.

### ***Jurisdiction***

- 4.20 The second element of the relevant merger situation test seeks to establish sufficient connection with the UK on a turnover or share of supply basis to give the CMA jurisdiction to investigate.
- 4.21 The turnover test, which requires the value of the turnover in the UK of the enterprise acquired to exceed £70 million. The value of the turnover in the UK of Cannon did not exceed £70 million for the year ended 31 March 2017 so the turnover test is not satisfied.
- 4.22 The share of supply test is satisfied where, as a result of two or more enterprises ceasing to be distinct, a share of supply of goods or services in the UK, or a substantial part of the UK, of at least 25% is created or enhanced.<sup>75</sup>

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<sup>71</sup> [Section 26](#) of the Act.

<sup>72</sup> [Section 24](#) of the Act.

<sup>73</sup> [Section 25](#) of the Act.

<sup>74</sup> [3<]. See [Mergers: Guidance on the CMA's jurisdiction and procedure](#) (CMA2), January 2014, paragraph 4.44 on how the CMA interprets 'material facts' relevant for the commencement of the four-month statutory period as set out in section 24 of the Act.

<sup>75</sup> [Section 23](#) of the Act.

- 4.23 The Parties overlap in the supply of washroom services to customers in the UK. The Parties submitted estimates based on the type of supplier. For the purposes of the share of supply test, we estimated the Parties' share of supply of washroom specialists in the UK that we understand to be national based on estimates provided by the Parties of actual revenue.<sup>76</sup> Using those estimates, we have calculated the Parties account for a share of supply of 20-30%, with the Merger accounting for an increment of 10-20%.
- 4.24 In view of the foregoing, we provisionally conclude that a relevant merger situation has been created.

## 5. The counterfactual

- 5.1 Before we turn to the effects of the Merger we need to determine what we would expect the competitive situation to be absent the Merger. This is called the 'counterfactual'.<sup>77</sup> The counterfactual is a benchmark against which the expected effects of the merger can be assessed. The counterfactual takes events or circumstances and their consequences into account to the extent that they are foreseeable.<sup>78</sup>
- 5.2 The CMA may examine several possible scenarios against which to assess the competitive effects of a merger. One of those may be the continuation of the pre-merger situation; but ultimately only the most likely scenario will be selected as the counterfactual.<sup>79</sup>

### The views of the Parties and third parties

- 5.3 The CMA's phase 1 decision to refer the Merger for further investigation (the Reference Decision) considered the pre-Merger conditions of competition to be the relevant counterfactual.<sup>80</sup> The Reference Decision noted that neither Rentokil nor third parties put forward arguments relating to the counterfactual. The Parties have not made any representations in relation to the counterfactual during our inquiry, nor have we received any representations from third parties in this regard.

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<sup>76</sup> For the purpose of the share of supply test, washroom specialists are defined as suppliers offering the full range of washroom services (including, in particular, waste disposal and odour remediation). Facilities management companies, cleaning companies and office material suppliers are excluded.

<sup>77</sup> [Merger Assessment Guidelines](#), paragraph 4.3.1.

<sup>78</sup> [Merger Assessment Guidelines](#), paragraph 4.3.2.

<sup>79</sup> [Merger Assessment Guidelines](#), paragraph 4.3.6.

<sup>80</sup> See paragraph 32 of the full text of the Reference Decision on the [case page](#).

## CMA assessment

- 5.4 OCS Group ran an auction to sell the Cannon washroom, mats and healthcare waste businesses in nine countries. Absent the sale of OCS's Cannon business to Rentokil, we therefore consider that OCS Group would have likely sold Cannon to another purchaser.
- 5.5 There were [§].<sup>81</sup> When considering the prospects for alternative purchasers, we take into account the prospects of alternative offers for the business above liquidation value.<sup>82</sup> We do not consider any of the alternative bids to be below liquidation value.
- 5.6 Of the [§] alternative purchasers, none have a presence in the UK washrooms sector and consequently we do not consider that any of the alternative purchasers would have given rise to competition concerns.
- 5.7 We reviewed the rationales of the alternative purchasers to consider if Cannon's business plans would have diverged materially from pre-merger conditions of competition under alternative ownership. We did not find that Cannon's strategic direction or operations would have been materially different from the pre-Merger scenario under any of the alternative purchasers.
- 5.8 Given that none of the alternative purchasers raised competition concerns and would not, in our view, have altered Cannon's strategic direction in the short to medium term, we do not need to specify which of the alternative bidders would have been most likely to acquire Cannon absent its sale to Rentokil.
- 5.9 In summary, we did not find any evidence to indicate that the pre-Merger competitive conditions would not prevail absent the Merger. We therefore analyse the competitive effects of the Merger against the pre-Merger conditions of competition.

## 6. Theories of harm

- 6.1 Theories of harm describe the possible ways in which an SLC could arise as a result of a merger and provide the framework for the analysis of the competitive effects of a merger. In this section, we set out the theories of harm that we consider in the inquiry.

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<sup>81</sup> [§]

<sup>82</sup> [Merger Assessment Guidelines](#), paragraph 4.3.17.

6.2 As described in section 2, the Parties overlap in:

- (a) the supply of washroom services;
- (b) the supply of healthcare waste collection services; and
- (c) the supply of mats services.

6.3 Horizontal unilateral effects may arise where one firm merges with a competitor that previously provided a competitive constraint, allowing the merged firm profitably to raise prices, degrade quality and/or reduce the range of services on its own and without needing to coordinate with rivals and/or to prevent/reduce the introduction of additional services.<sup>83</sup> Horizontal unilateral effects are more likely where the merger parties are close competitors.

### **Horizontal unilateral effects in the supply of washroom services**

6.4 We consider whether the Merger has resulted, or may be expected to result, in an SLC from horizontal unilateral effects in relation to the supply of washroom services.

6.5 In our statement of issues, we set out two theories of harm relating to the supply of washroom services – one in relation to supply to national customers and the second in relation to supply to regional and local customers.

6.6 These two theories of harm have been the focus of our inquiry and are assessed in the following chapters of this provisional findings report.

6.7 In the remainder of this section, we consider the other theories of harm that we said in our statement of issues that we were not minded to investigate further.

### **Horizontal unilateral effects in the supply of healthcare waste collection services**

6.8 We consider whether the Merger could result in an SLC from unilateral horizontal effects in relation to the supply of healthcare waste collection services.

6.9 The Reference Decision examined whether the Merger would result in an SLC in the supply of healthcare waste collection services to: (a) large quantity

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<sup>83</sup> [Merger Assessment Guidelines](#), paragraph 5.4.1.

waste generators in the UK; and (b) small quantity waste generators in the UK.<sup>84</sup>

- 6.10 In relation to waste collection services to large quantity waste generators, the Parties estimated at phase 1 that they have a combined share of [3<]%. No third party concerns were raised and this overlap was not investigated further at phase 1.
- 6.11 In relation to waste collection services to small quantity waste generators, the Reference Decision found that the Parties' combined market share was [20-30%] and similar to the shares of supply of both SRCL and PHS. Evidence from Rentokil's internal documents indicated that SRCL, PHS, Cannon and HES were competitors. A number of smaller national suppliers, including Tradebe, together accounted for approximately 20% of the market. The Reference Decision therefore concluded that there are sufficient competitors, in particular SRCL and PHS, which will continue to impose sufficiently strong constraints on the Parties post-Merger.
- 6.12 The Reference Decision therefore concluded that there was no realistic prospect that the Merger would result in an SLC in the supply of healthcare waste collection services to either large quantity waste generators or small quantity waste generators in the UK.
- 6.13 We therefore indicated in our statement of issues that we were not minded to investigate this theory of harm further, subject to any further evidence submitted. We invited reasoned submissions in relation to the effect of the Merger on the supply of healthcare waste collection services. We did not receive any further evidence. We therefore provisionally conclude that under this theory of harm the Merger has not resulted, and may not be expected to result, in an SLC in relation to the supply of healthcare waste collection.

### **Horizontal unilateral effects in the supply of mats services**

- 6.14 We examine whether the Merger has resulted, or may be expected to result, in an SLC from unilateral horizontal effects in relation to the supply of mats services.
- 6.15 The Reference Decision noted that the increment to Rentokil's share of supply resulting from the Merger is low [0-5%] as Cannon is a relatively small provider of outsourced mats services.

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<sup>84</sup> See the full text of the Reference Decision on the [case page](#).

- 6.16 The Reference Decision also found that the Parties face three large national competitors in the supply of mats services, namely Berendsen, PHS and Johnsons Apparelmaster. All three firms are larger than either of the Parties, with Berendsen and PHS having a larger share of supply than the merged entity. All three firms confirmed that they are active in the outsourced supply of mats services on a national basis.
- 6.17 The Reference Decision therefore concluded that there are sufficient competitors which will continue to impose sufficiently strong constraints on the parties post-Merger even on the narrowest plausible frame of reference. For this reason, the Reference Decision concluded that there is no realistic prospect that the Merger will result in an SLC in the outsourced supply of mats services in the UK.
- 6.18 We therefore indicated in our statement of issues that we were not minded to investigate this theory of harm further, subject to any further evidence submitted. We invited reasoned submissions in relation to the effect of the Merger on the supply of mats services. We did not receive any further evidence. We therefore provisionally conclude that under this theory of harm the Merger has not resulted, and may not be expected to result, in an SLC in relation to the supply of mats services.

## **7. Market definition**

- 7.1 The purpose of market definition in a merger inquiry is to provide a framework for the analysis of the competitive effects of the merger.<sup>85</sup> Market definition is a useful analytical tool, but not an end in itself, and identifying the relevant market involves an element of judgement.
- 7.2 The boundaries of the market do not determine the outcome of the CMA's analysis of the competitive effects of the merger in a mechanistic way. In assessing whether a merger may give rise to an SLC the CMA may take into account constraints outside the relevant market, segmentation within the relevant market, or other ways in which some constraints are more important than others.
- 7.3 In practice, the analysis of market definition and competitive effects will overlap, with many of the factors affecting market definition being relevant to the assessment of competitive effects and vice versa. Therefore, market

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<sup>85</sup> [Merger Assessment Guidelines](#), paragraph 5.2.1-5.2.5.

definition and the assessment of competitive effects should not be viewed as two distinct analyses.<sup>86</sup>

- 7.4 In this section, we set out the relevant markets in which we have assessed the effects of the Merger in relation to the supply of washroom services. We first define the product market and then define the geographic market.

## Product market definition

### *Approach to assessing product market definition*

- 7.5 The relevant product market is identified primarily by considering the response of customers to an increase in the price of one of the products of the merger firms (demand-side substitution). The CMA pays particular regard to demand-side factors (the behaviour of customers and its effects).<sup>87</sup>
- 7.6 However, there are circumstances where the CMA may aggregate several narrow relevant markets into one broader market on the basis of considerations about the response of suppliers to changes in prices (supply-side factors).<sup>88</sup>
- 7.7 The hypothetical monopolist test provides a conceptual framework for defining relevant markets. This test delineates a market as a set of substitute products over which a hypothetical monopolist would find it profitable to impose a small but significant non-transitory increase in prices (SSNIP).<sup>89</sup>
- 7.8 In the present Merger, as described in Chapter 2, the Parties are providers of a range of washroom products and services,<sup>90</sup> which the Parties categorised into seven services: waste disposal, odour remediation, cubical hygiene, toilet tissue, hand drying, vending and hand washing.
- 7.9 In our assessment of the relevant product market, we consider:
- (a) Whether the relevant product market includes all washroom services, or if certain services should be segmented. In this regard, we also consider the extent of competition from different types of supplier.
  - (b) Whether the relevant product market should be segmented by type of customer – in particular, whether supply to customers which require

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<sup>86</sup> [Merger Assessment Guidelines](#), paragraph 5.1.1.

<sup>87</sup> [Merger Assessment Guidelines](#), paragraph 5.2.6-5.2.7.

<sup>88</sup> [Merger Assessment Guidelines](#), paragraph 5.2.17.

<sup>89</sup> The test is described in detail in paragraphs 5.2.10–5.2.20 of the [Merger Assessment Guidelines](#).

<sup>90</sup> In this report, we use the term ‘washroom service’ to include washroom products and services.



washroom services across a number of regions should be considered separately to the supply to customers which require washroom services on a local or regional basis.

7.10 We consider the evidence submitted by the Parties, the views of third parties and other evidence gathered during our inquiry.

### ***Types of washroom products and services***

7.11 In this section, we consider whether the product market should be segmented by types of washroom service. In doing so, we also consider the extent of competition between different types of supplier for each service where appropriate.

### ***The views of the Parties***

7.12 The Parties told us that the correct market definition is that applied by the European Commission in *CWS-boco/Rentokil Initial Target Business* (2017), which comprised the supply of ‘a wide variety of washroom equipment and consumables, together with their subsequent servicing and restocking’.<sup>91,92</sup>

7.13 The Parties said that it is not appropriate to define separate markets by type of washroom services, because in their view:<sup>93</sup>

- (a) customers demand a service from washroom solutions suppliers, and this service is ‘identical’ for all types of washroom products;
- (b) some ‘larger customers’ may obtain a ‘cost-effective solution from a single supplier’, and may want a single point of contact, a single invoice to pay, and standardisation of services across multiple sites. However, most customers obtain services from multiple providers;
- (c) discounts are not an important incentive for customers to bundle services; and
- (d) there remains ample effective competition between different suppliers within the overall framework of washroom solutions.

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<sup>91</sup> Parties’ response to phase 1 decision, 30 July 2018, paragraphs 1.4 and 3.3.

<sup>92</sup> M.8399, *CWS-boco/Rentokil Initial Target Business*, European Commission, 7 June 2017.

<sup>93</sup> [§<]

## *CMA assessment*

7.14 In this section, we first assess demand-side factors and consider the purchasing behaviour of customers. We then assess supply-side factors and consider the competitive conditions across different types of washroom services.

### *Demand-side substitution*

7.15 We note at the outset that different washroom services are not demand substitutes (eg a hand dryer cannot be substituted for soap). It follows that suppliers of different washroom services do not necessarily compete against one another.

7.16 We assess the following evidence on the demand-side:

- (a) The type of washroom services purchased by the Parties' customers.
- (b) The number of washroom services purchased by the Parties' customers.
- (c) How customers procure washroom services.

- *The type of washroom services purchased by the Parties' customers*

7.17 We consider the purchasing patterns of the Parties' customers. We find that waste disposal is the leading service that customers purchase from the Parties, and that waste disposal tends to be purchased together with a number of other washroom services.

(a) 90-100% of Rentokil's customers and 90-100% of Cannon's customers purchased waste disposal from each of the Parties in 2017. The second most commonly bought service is odour remediation, which was purchased by 60-70% of Rentokil customers and 50-60% of Cannon customers (proportions weighted by annual washroom services portfolio value).<sup>94</sup>

(b) Waste disposal is the top service for both Rentokil and Cannon by revenue, accounting for 40-50% and 60-70%, respectively, of their UK washroom service revenue in 2017.<sup>95</sup>

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<sup>94</sup> [redacted] The proportion is similar across customer sizes and sectors, including facilities management, public and private frameworks and customers who procure directly.

<sup>95</sup> [redacted]

- (c) Few customers purchase waste disposal from the Parties alone without other services.<sup>96</sup>
- (d) Similarly, nearly all FM customers and frameworks (both public and private frameworks) purchase waste disposal.<sup>97</sup>
- *The number of washroom services purchased by the Parties' customers*

7.18 We consider the number of washroom services purchased by customers. If customers buy a range of services from a supplier, it may be appropriate to consider competition between suppliers of a range of washroom services together. In contrast, if customers buy each service individually, then it may be appropriate to assess competition within each service as a distinct market.

7.19 We find that most of the Parties' customers purchase a number of washroom services from each Party.<sup>98</sup>

- (a) Across all customers, the unweighted average number of services purchased in 2017 was [redacted] for Rentokil and [redacted] for Cannon.<sup>99</sup> This average appears to be driven by smaller customers, who tend to purchase fewer services.
- (b) Customers active in a wider geography tend to purchase more services.<sup>100</sup> For example, customers in 11 or 12 regions buy around three to four services on average from the Parties, whereas local and regional customers (in a single region) buy around two services on average.<sup>101, 102</sup>
- (c) Many customers purchase a range of services. Specifically, across all customer types, 30-40% of Rentokil customers and 10-20% of Cannon customers purchase seven services,<sup>103</sup> and 50-60% and 30-40%,

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<sup>96</sup> In 2017, only 10-20% of Rentokil's customers and 5-10% of Cannon's customers purchased waste disposal alone without other services from the same party.

<sup>97</sup> We describe these types of customer in further detail in the customer segmentation section further below.

<sup>98</sup> [redacted] Customers were identified by 'group account' name, except for framework organisations (whose end customers are typically independent local or regional users).

<sup>99</sup> These are simple averages; similarly below.

<sup>100</sup> The Parties estimated that large national or multi-regional multi-site (LNMM) customers were delivered on average [redacted] services per site from Rentokil and [redacted] per site from Cannon, but we note that (i) these estimates are based on delivery per site, rather than per customer, and (ii) the Parties' definition of LNMM customers include frameworks, buying groups or symbol stores, which are made up of a large number of small users that typically require fewer services. The Parties define 'LNMM' customers as customers identified by 'group account' with over 100 sites and served by either Party's branches in more than one region. [Parties' response to phase 1 decision](#), 30 July 2018, paragraph 3.13.

<sup>101</sup> There are 12 regions in the UK: North East; North West; Yorkshire and The Humber; East Midlands; West Midlands; East of England; London; South East; South West; Scotland; Wales and Northern Ireland. Considering Great Britain (GB) alone, there are 11 regions (ie 12 UK regions minus Northern Ireland). Throughout this report, we use the term 'region' to refer to these UK regions.

<sup>102</sup> Customer identified at a 'group account' level.

<sup>103</sup> Percentage by value.

respectively, purchased at least five services. In this regard, we note that some services – for example, vending – are not essential in a washroom.

(d) Only 10-20% of Rentokil customers and 10-20% of Cannon customers purchase one service only.

7.20 Competitors' views are broadly consistent with the finding above. PHS estimates that its 'key account' customers tend to buy [redacted] services.<sup>104</sup> [redacted] said that while it is common for customers to use multiple suppliers for different services, it is more efficient to supply more than one service at a customer's site.<sup>105</sup>

- *How customers procure different washroom services*

7.21 In this section, we consider how customers procure and pay for different washroom services.

- *How washroom services are priced*

7.22 We find that washroom services are typically priced per service and per unit and according to the service frequency. For equipment (eg hand dryers), there is a cost for installation and for rental or purchase. Both Rentokil and Cannon said they offer 'package' prices for certain customers,<sup>106</sup> but these sales are negligible.<sup>107</sup>

7.23 We consider that this pricing structure gives customers the flexibility to purchase washroom services from multiple suppliers, or a range of services from a single supplier, if they wish to benefit from any economies of scope.

7.24 The fact that most washroom services are priced per service is confirmed by third party submissions,<sup>108</sup> and our review of the Parties' price lists and sample contracts with their top customers.<sup>109</sup> However, the GfK survey suggests that 57% of the Parties' customers consider price for a package of washroom services and 37% consider price for each service individually when looking for a provider.<sup>110</sup> This seems to suggest that whilst washroom services

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<sup>104</sup> [redacted]. We note that PHS's definition of services is not necessarily directly comparable to the Parties'. [redacted]

<sup>105</sup> [redacted]

<sup>106</sup> [redacted], [redacted].

<sup>107</sup> Rentokil estimates that only 0-5% of customer sites purchased based on a package price in 2017. Cannon estimates this figure to be 0-5%. [redacted]

<sup>108</sup> Except customers of FM companies, which procure washroom services as part of an integrated offer.

<sup>109</sup> [redacted]

<sup>110</sup> Of customers which buy more than one service from the Party, 57% look for one provider that offers all washroom services they need and think about the price for the package of services and 37% either look for a provider for each service individually or look for one provider that offers all services but think about the price for each service individually. GfK report, Chart 6. Similar proportions are shown for each of Rentokil, Cannon, single- and multi-site customers although the sample sizes for Cannon, single- and multi-site customers are small

are priced individually, some customers consider total spend across different washroom services when they choose a provider.

- *Customer preference*

7.25 Some customers told us that they purchase a range of washroom services from a single supplier as it is easier to manage their supply under a single contract and/or to receive volume discounts.<sup>111</sup> Other customers – in particular, FM companies – told us that they use multiple suppliers for different washroom services. These customers told us that they tend to purchase consumables and equipment from product distributors, usually as part of a wider contract for other non-washroom products (such as kitchen and cleaning materials).<sup>112</sup> Customers also told us that they use washroom specialists for waste disposal.<sup>113</sup>

- *Our provisional view on demand side substitution*

7.26 On the demand-side, we find that waste disposal is the Parties' lead service line, and most of the Parties' customers purchase waste disposal. However, we also find that many of them purchase waste disposal as part of other washroom services. Customers may therefore demand waste disposal from the Parties either on a standalone basis, or as part of other washroom services.

7.27 In our view, if a hypothetical monopolist of all waste disposal services were to increase price by 5%, customers would be unlikely to switch to other services, because other services are not a demand-side substitute of waste disposal. Similarly, customers would be unlikely to switch to another supplier that does not offer waste disposal services, because it would not be able to satisfy the customers' demand for waste disposal either on a standalone basis or as part of a wider washroom services.

7.28 We further assess competition from different supplier types in the competitive assessment.

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so these results should be treated with caution The GfK survey primarily covers regional and local customers (see GfK report, chart 1) The sample sizes for customers buying in two regions and more than two regions are very small (In total, there were 56 customers requiring washroom services in more than one region in the survey sample. Of those, 29 required washroom services in two regions, 16 in 3-7 regions, one in 8-10 regions and 10 in 11-12 regions. Only six customers in the survey sample had more than 100 sites requiring washroom services.

<sup>111</sup> [X]

<sup>112</sup> [X]

<sup>113</sup> See Appendix E for a summary of the views of customers and competitors.

### *Supply-side substitution*

- 7.29 The Merger Assessment Guidelines state that several narrow relevant markets may be aggregated into one broader one when:
- (a) production assets can be used by firms to supply a range of different products that are not demand-side substitutes, and the firms have the ability and incentive quickly to shift capacity between these different products; and
  - (b) the same firms compete to supply these different products and the conditions of competition between the firms are the same for each product; in this case analysing them as one market does not affect the CMA's decision on the competitive effect of the merger.<sup>114</sup>
- 7.30 In this section, we consider the extent of supply-side substitution between different washroom services and their competitive conditions.
- 7.31 We consider the following evidence:
- (a) Conditions of competition between washroom specialists.
  - (b) Current or potential suppliers of waste disposal services.
  - (c) The Parties' internal documents.
- *Conditions of competition between washroom specialists*
- 7.32 Both Rentokil and Cannon are washroom specialists providing a full range of washroom services using their in-house capability. Other washroom specialists also told us that they supply a full range of services.<sup>115</sup>
- 7.33 We note that where washroom specialists supply multiple services to a customer, they do so during a single visit using the same resources.<sup>116</sup> Therefore, we consider that washroom specialists may be able to quickly shift capacity between different washroom services, and this may support a potential market definition of washroom services for these suppliers.

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<sup>114</sup> [Merger Assessment Guidelines](#), paragraph 5.2.17.

<sup>115</sup> Submissions from PHS, Cathedral, Mayflower and eight other washroom suppliers.

<sup>116</sup> Resources including staff, vehicles and depots.

- *Suppliers of waste disposal services*

- 7.34 We consider the extent to which different types of suppliers currently supply, or would be able to quickly start supplying, waste disposal services.
- 7.35 As described in Chapter 2, to undertake washroom waste disposal, suppliers need to obtain an upper tier waste carrier licence to ensure that offensive waste is collected and transported safely. A full audit trail of documentation is also required.
- 7.36 The Parties told us that this licence is ‘quick and straightforward to obtain’.<sup>117</sup> However, we have not identified any examples of suppliers, other than washroom specialists and a limited number of healthcare waste companies,<sup>118</sup> offering waste disposal services using their own licences.
- 7.37 We consider the extent to which suppliers other than washroom service suppliers would have the ability and incentive quickly to shift capacity and start supplying waste disposal services if, hypothetically, all washroom service suppliers were to increase prices of waste disposal services by a small amount. We find that:
- (a) Product manufacturers or distributors do not currently supply waste disposal. We consider that they would not be likely to have the ability to start supplying waste disposal, because they generally deliver products rather than provide a service.
  - (b) FM companies currently outsource waste disposal to washroom services suppliers.<sup>119</sup> Based on submissions from FM companies detailed in the competitive assessment,<sup>120</sup> we consider that FM companies are not likely to have the ability to quickly start supplying waste disposal services, since they do not currently have the necessary licence and capability to transfer and dispose of waste. Moreover, we consider that FM companies are not likely to have the incentive to invest in building such a capability, since waste disposal (and washroom services more generally) make up only a small part (1-3%) of their business.
  - (c) Two healthcare waste collection companies (HEG, SRCL) currently supply waste disposal in-house.<sup>121</sup> Two other general or healthcare waste

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<sup>117</sup> [Parties' response to phase 1 decision](#), 30 July 2018, paragraph 5.51.

<sup>118</sup> [redacted].

<sup>119</sup> We note that AM Services, an FM company, owns a washroom service provider (Pristine Hygiene) which supplies waste disposal in the North West. Other than AM Services, we are not aware of any FM companies which self-deliver waste disposal (whether using on-site servicing or bin exchange).

<sup>120</sup> Chapter 8, section on competition from FM companies.

<sup>121</sup> Healthcare Environmental Group told us that it supplies washroom services in Scotland. SRCL said it offers waste disposal to some [redacted]

collection companies outsource the service to a washroom specialist, and have told us that they have no plans to provide washroom waste disposal services.<sup>122</sup> We consider that some waste collection companies do not have the incentive to service washrooms on client premises.

- (d) We are not aware of cleaning companies self-delivering waste disposal using their own licenses. Instead, Rentokil told us that there is ‘relatively opaque outsourcing’ but it ‘would not necessarily know of a cleaning company deciding to self-supply’.<sup>123</sup> Similarly, Cannon told us that it is ‘picking up waste on behalf of over [redacted] cleaning companies’ and cleaning companies have ‘at the moment chosen to subcontract the disposal’.<sup>124</sup>
- (e) We did not find any evidence that end customers supplied directly by washroom service providers would have the ability to quickly start supplying waste disposal services in-house, unless they had very limited volumes (in which case, as explained in Chapter 2, the waste can be disposed of in general refuse). Nearly all the Parties’ customers active in multiple regions which responded to the CMA said they would not self-supply waste disposal services. However, the GfK customer survey commissioned by the CMA indicates that some local customers would consider self-supplying.<sup>125</sup>

7.38 In our view, the above suggests that the set of suppliers of waste disposal service, ie suppliers providing waste disposal using their own in-house capability rather than out-sourcing, is likely to be limited to washroom specialists and the few healthcare waste collection companies that currently perform this service. While the fees required to obtain a licence to supply waste disposal may not be prohibitive, we consider that other suppliers are not likely to have both the ability and the incentive to quickly start providing this service, based on submissions of other suppliers as we further discuss in the competitive assessment.<sup>126</sup>

- *The Parties’ internal documents*

7.39 Several internal documents indicate that the Parties consider waste disposal as a core category distinct from other washroom services, and that the Parties

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<sup>122</sup> A healthcare waste company, [redacted], told us that waste disposal from washrooms is a small part of the business that it outsources to a washroom services supplier. [redacted] said that the waste collected by washroom specialists is disposed of by [redacted], if required. [redacted], a waste collection company, said that it is a disposal outlet to the companies that supply washroom services rather than a supply of washroom services to customers.

<sup>123</sup> [redacted]

<sup>124</sup> [redacted] Cannon did not provide examples of ‘big customers’ that cleaning companies have managed to secure.

<sup>125</sup> We discuss customer segmentation in the next section.

<sup>126</sup> See Chapter 9.



appear to monitor competition for waste disposal services more closely than for ‘general washroom services’.

(a) [REDACTED].<sup>127</sup>

(b) [REDACTED].<sup>128</sup> [REDACTED]<sup>129</sup>

(c) [REDACTED].<sup>130</sup>

(d) [REDACTED].<sup>131</sup>

7.40 In our view, the documents above suggest that the Parties perceive competitive conditions for waste disposal to be different from those for other washroom services.

- *Our provisional view on supply-side substitution*

7.41 On the basis of the Parties’ internal documents, and our assessment of suppliers’ submissions on their ability and incentive to offer waste disposal service in-house, we consider that the set of suppliers of waste disposal is likely to be limited to washroom specialists and a few healthcare waste collection companies. In contrast, regarding washroom services other than waste disposal, we note that several other types of suppliers in addition to washroom specialists are active, as we further explain in Chapter 8.

7.42 We consider that, if, hypothetically, all suppliers of waste disposal were to increase price by 5%, suppliers without current waste disposal capability would be unlikely to quickly shift capacity to start supplying waste disposal for reasons set out in paragraph 7.37 and further developed in Chapter 8.<sup>132</sup>

7.43 Therefore, we provisionally find that the conditions of competition in waste disposal are likely to be different to those in the other washroom services.

*Provisional conclusion in relation to types of washroom products and services*

7.44 In summary, on the demand-side, we find that most of the Parties’ customers purchase waste disposal, often together with other washroom services. On the supply-side, we find that washroom specialists supply a range of

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<sup>127</sup> According to the Rentokil document, [REDACTED]

<sup>128</sup> [REDACTED]

<sup>129</sup> [REDACTED]

<sup>130</sup> [REDACTED]

<sup>131</sup> [REDACTED]

<sup>132</sup> This is further explained in the competitive assessment in Chapter 8.

washroom services, but the conditions of competition in waste disposal are likely to be different from that in other services.

- 7.45 We therefore provisionally conclude that the supply of waste disposal services is a standalone segment within a washroom services market.
- 7.46 We consider the degree of competition faced by the Parties from different supplier types, including other washroom specialists, FM companies, waste collection companies, cleaning companies, as well as self-supply, in the competitive assessment in Chapter 8.

### ***Types of customer***

- 7.47 The CMA's Merger Assessment Guidelines provide that relevant markets can be defined for separate groups of customers 'if the effects of the merger on competition to supply a targeted group of customers may differ from its effects on other groups of customers, and require separate analysis'.<sup>133</sup>
- 7.48 In this section, we consider whether the relevant product market should be segmented by type of customer. We consider the following possible segmentations:
- (a) Customers with an estate across multiple regions in the UK, which may be distinguished from customers located within a single or limited number of regions.
  - (b) FM companies, which aggregate washroom services with other facilities services to supply an integrated FM service at third party premises.
  - (c) Public frameworks and private frameworks (ie buying groups), which negotiate agreements on behalf of their members or users.
- 7.49 We note that these customer categories are not mutually exclusive. For example, an FM company can have a geographic footprint across multiple regions.

### ***The views of the Parties***

- 7.50 In relation to the frame of reference for 'national customer' defined in the Reference Decision, the Parties said it is an arbitrary and undefined concept and they do not consider this customer category can be isolated.<sup>134</sup> They said there is 'a whole continuum of customers that vary by site size, number of

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<sup>133</sup> [Merger Assessment Guidelines](#), paragraph 5.2.28.

<sup>134</sup> [Parties' response to phase 1 decision](#), 30 July 2018, paragraph 4.8-4.14.

sites and geographic spread, with no clear delineation’ and ‘the majority of customers in terms of both revenue and number are serviced from branches in only one region’.

7.51 [redacted]<sup>135</sup> [redacted]<sup>136</sup>

7.52 In the absence of a clear definition of ‘national’ customers, the Parties considered large, national or multi-regional, multi-site (LNMM) customers as a proxy for the Reference Decision’s focus on customers with 100 or more sites.<sup>137</sup>

## *CMA assessment*

### *Customer geography*

7.53 In this section, we consider the extent to which customers located in multiple regions have different demand characteristics, and/or have access to different sets of suppliers, compared to customers located in a single or limited number of regions. On this basis, we assess whether or not these customer categories are likely to be subject to different competitive conditions.

- *Demand characteristics*

7.54 We find that many customers requiring service nationally (ie in the 12 regions of the UK or 11 regions of Great Britain) or across multiple regions prefer a supplier with national coverage (or at least coverage for all their entire estate), and typically require suppliers to have the capability to manage complex service requirements. These factors are typically not considered by local or smaller regional customers as important. This is supported by the following evidence:

(a) Many national customers of the Parties and those served across multiple regions cited ‘national coverage’ or ‘nationwide capability’ as a reason they chose their current supplier and/or an important criterion when choosing a supplier.<sup>138</sup> These customers told us that using a single supplier for the estate confers advantages including simplicity to manage, single pricing, consistency and cost saving. We note that the customers which told us that national coverage is important together represented

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<sup>135</sup> [Parties’ response to phase 1 decision](#), 30 July 2018, paragraph 1.9 and 4.12.

<sup>136</sup> [redacted]

<sup>137</sup> [Parties’ response to phase 1 decision](#), 30 July 2018, paragraph 1.9.

<sup>138</sup> These customers together represented over [redacted] million in revenue. They are (with annual spend in washroom services and number of sites in parenthesis): [redacted] In addition, three national customers of [redacted], which considered both Parties in a previous tender, currently use and said they preferred a single supplier with national coverage.

over £7.8 million of annual spend. In contrast, we consider that customers in a single or limited number of regions do not require service coverage beyond the regions in which they are located.

- (b) Some national customers and those served across multiple regions also considered account management capability important (for example, a dedicated account manager or helpdesk, the ability to resolve issues, project delivery and cost optimisation).<sup>139</sup> In contrast, customers in a single or limited number of regions do not typically consider dedicated account management as an important requirement.<sup>140</sup>
- (c) In line with the above, the specifications of the Parties' top private sector tender opportunities indicate that national customers and those located across multiple regions typically require service for the entire estate; set detailed service KPIs (including complaint resolution, reliability of scheduled delivery, timeliness of service, response to enquiries, emergency callouts, etc.); and demand a dedicated account manager as a point of contact on commercial and technical issues.
- (d) As an example of the account management requirements of national customers, Cannon told us that [redacted].<sup>141</sup>

7.55 Based on the evidence above, our view is that the complexity of service requirements will typically increase with the size and geographic coverage of an estate.

- *Choice of suppliers*

7.56 On the supply-side, we find that national customers and those located across multiple regions have a more limited choice of suppliers compared to local and regional customers, based on the following evidence.

- (a) The majority of washroom services suppliers supply from one region ([redacted]based on a list of competitors provided by Rentokil).<sup>142</sup> In contrast, there are only a few washroom services suppliers with an infrastructure nationally or across multiple regions to serve customers across the UK or GB.<sup>143</sup>

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<sup>139</sup> Submissions from five customers of the Parties [redacted] and two customers of [redacted]

<sup>140</sup> Only 2% of single-site customers consider good account management as a reason for choosing the Parties. See GfK Report, Chart 12.

<sup>141</sup> [redacted]

<sup>142</sup> [redacted]

<sup>143</sup> PHS, Rentokil, Cannon, Mayflower directly serve customers across the UK, and Cathedral and a small number of other suppliers directly serve customers across GB. See Chapter 8.

- (i) Suppliers with a national infrastructure or in multiple regions can readily serve both national and local customers. Suppliers in a single region can readily serve customers in that region but not customers across multiple regions.<sup>144</sup>
  - (ii) It follows that a customer located in a single region can choose from both national suppliers and regional suppliers serving that region. On the other hand, a customer located in all 12 regions, to the extent it prefers a single supplier,<sup>145</sup> could only choose from national suppliers.
- (b) [redacted].<sup>146</sup> Accordingly, the options available to local and regional customers are likely to be wider than the options available to national and those located in multiple regions.

7.57 We therefore are of the view that the choice of supplier available to customers becomes more limited as the geographic coverage of a customer's estate increases.

- *Identification of local and regional customers*

7.58 For the purpose of market definition, we consider customers in a single or limited number of regions to be a distinct customer category. This is because the majority of washroom services suppliers are located in one region. Therefore, the choice of suppliers available to local and regional customers is likely to be wider than, and the competitive conditions are likely to be different from, those for customers in multiple regions.

- *Identification of national and multi-regional customers*

7.59 The Parties told us that it would be consistent with the CMA's focus to define 'national and multi-regional' customers as those direct customers sourcing from 11 or 12 regions and generating an annual washroom services revenue in excess of £30,000.<sup>147</sup>

7.60 We note that the Parties' cut-off of £30,000 [redacted].<sup>148</sup> We consider that the definition of 'national account' by reference to spend or for marketing purposes is not well-suited for market definition, as recognised by the

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<sup>144</sup> For example, Rentokil estimated that 'GB wide coverage can be achieved with six branches', in the centre of London, Birmingham, Leeds, Haydock, Glasgow and Bristol. See RBB Analysis of local competition in washroom services.

<sup>145</sup> We discuss customer preference for a single supplier in Chapter 8.

<sup>146</sup> [redacted] See Chapter 8 for further details.

<sup>147</sup> [redacted] We note that this definition differs from the 'LNMM' customer definition suggested in the Parties' response to the Reference decision (see paragraph 7.52).

<sup>148</sup> [redacted]

Parties.<sup>149</sup> We consider that national and multi-regional customers are likely to face different competitive conditions to local and regional customers, and the differences do not depend on the customer spend level but, rather, on customer requirements and the choice of suppliers. We therefore do not find the £30,000 threshold, or other specific threshold on customer spend, to be appropriate for market definition.

- 7.61 We consider what might be the geographic extent of a customer's requirements such that it would be classed as 'national or multi-regional'.
- (a) For example, to serve customers in all 12 regions would require the ability to respond to issues and to ensure consistency of service across sites spread around the country, because customers typically set key service requirements relating to complaint resolution, emergency callouts and timeliness.<sup>150</sup> Suppliers with a depot network in multiple regions can meet these service requirements more readily than a regional supplier. All else equal, it is easier to meet these service requirements for a customer in two regions because the sites are located closer to each other.
- (b) We also find that customers with a wide geographic footprint, which usually have a greater number of sites, tend to have more complex account management requirements. For example, Cannon told us that it [redacted].
- 7.62 Based on the above, we note that it is more complex for a supplier to service a national customer in all 12 regions in the UK than to service a customer in, say, two regions. However, it is difficult to use the number of regions to draw a 'bright line' to categorise 'national and multi-regional' customers.
- 7.63 The Parties' reference to 11 or 12 regions appears to refer to the number of regions in GB (11) or the UK (12).<sup>151</sup> However, we note that customers in, say 8 or 9 regions are similar to those in 10 or 11 regions, and that the complexity of service requirements will typically increase as the number of regions in which a customer is served increases, reducing the choice of suppliers available to the customer.
- 7.64 In light of these considerations, we do not attempt to draw a bright line to distinguish national and multi-regional customers for the purpose of market definition. As discussed in the competitive assessment, we recognise that any Merger effects would likely not to be uniform within this customer category. We focus on customers located in eight or more regions (which we

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<sup>149</sup> See paragraph 7.51 above.

<sup>150</sup> See customer specifications in tendering documents described in paragraph 7.54(c) above.

<sup>151</sup> We consider a local customer as one that is located in only one region.

consider to have similar service complexity and a similar choice of suppliers to customers in 11 or 12 regions) for the purpose of assessing the competitive effects of the Merger in relation to national and multi-regional customers. We set out our reasoning for this approach in Chapter 8.

- *The views of third parties*

- 7.65 Competitors also provided evidence that the requirements of national and multi-regional customers differ from those of local and regional customers in some respects.
- 7.66 PHS told us that Rentokil, Cannon and PHS are differentiated from other suppliers in the supply to national customers, because of their national depot and vehicle infrastructure to provide consistent scheduled and ad-hoc services, the ability to handle national account management, to provide national customer service organisation (eg a call centre), to provide large national technical installation of washroom products and to handle complex procurement processes and IT capability.<sup>152</sup>
- 7.67 Cathedral told us that there is no real difference between the requirements for single or multi-site customers, but noted that larger national companies (or local companies who operate many sites) often make more demands (eg to insist on bespoke invoicing methods, regular meetings with an account manager, enrolment to online portals or extended payment terms).<sup>153</sup>

#### *FM companies*

- 7.68 FM companies are major customers of the Parties. They outsource washroom services and then aggregate them with other facilities services to provide an integrated offer to end customers. FM companies told us that washroom services typically account for a small proportion (1-3%) of an integrated FM contract.
- 7.69 Most FM companies source from more than one washroom supplier, and some also source different types of washroom services from different suppliers (eg waste disposal from one or more washroom specialists and consumables from product distributors). Some FM companies told us that they need at least two suppliers because they need to provide 'best fit' for clients and because washroom suppliers may be constrained by capacity.<sup>154</sup>

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<sup>152</sup> [redacted]

<sup>153</sup> [redacted]

<sup>154</sup> [redacted]

7.70 All major FM customers of the Parties are national and multi-regional in scope. We are of the view that FM customers are likely to have similar requirements to national and multi-regional customers procuring washroom services directly, because the services required and the way in which these services are provided are similar, whether a customer procures directly or via an FM company. We therefore do not consider that FM companies should be a separate market. However, compared to customers which procure directly, we note that FM companies may have different negotiating strength and set of outside options available. We therefore consider the competitive effects of the Merger on FM companies separately in our competitive assessment.

#### *Framework organisations*

- 7.71 Framework organisations enable their members to procure washroom services from providers listed on the framework. Frameworks can be public or private (ie buying groups).
- 7.72 Public sector users typically procure washroom services under a public framework.<sup>155</sup> Public frameworks told us that there are two forms of competition on a framework. First, washroom services suppliers compete to be listed on the framework through a formal tendering process.<sup>156</sup> This takes place at least every four years for each framework. Second, suppliers compete to win contracts from users procuring under the framework. Depending on the size of a contract, we were told that a user may either contract with a supplier on the framework directly, or issue another tender between some/all of the suppliers on the framework. Most users of public frameworks appear to be regional or local, including local councils, schools, NHS Trusts, and universities.
- 7.73 Public frameworks told us that national coverage is not a pre-requisite for a supplier to be listed. However, we note that some frameworks, such as ESPO, YPO and NWUPC, are used by customers across the UK. Some other frameworks are available to users in a specific region (eg Scotland Excel is available to local authorities in Scotland).
- 7.74 We were also told by national public frameworks that regional suppliers tend to be less successful in winning contracts compared to national suppliers.<sup>157</sup>

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<sup>155</sup> [redacted] Mayflower told us that it is not obligatory to use a framework.

<sup>156</sup> See submissions from [redacted]

<sup>157</sup> Submissions from [redacted]



- 7.75 Other than the formal procurement process, we are not aware of any differences in the requirements between end users of frameworks and those that procure directly.
- 7.76 For private frameworks, the selection of suppliers is less formal than public frameworks. These groups negotiate rates with washroom services suppliers on behalf of their members, which are typically independent businesses such as pubs and retailers.
- 7.77 Whilst users of private frameworks tend to be small local businesses, these frameworks are available to users nationally. Some private frameworks told us that they require suppliers with national coverage to serve their members effectively.<sup>158</sup>
- 7.78 We therefore do not consider that public or private frameworks should be a separate market. We consider the competitive effects of the Merger on framework organisations in the competitive assessment.

***Provisional conclusion on product market definition***

- 7.79 For the reasons set out above, we provisionally conclude that the impact of the Merger should be examined in relation to the following product markets:
- (a) The supply of washroom services to national and multi-regional customers.
  - (b) The supply of washroom services to regional and local customers.
- 7.80 We consider the supply of waste disposal services to represent a distinct segment of the market and therefore consider the competitive effects of the Merger separately in relation to the supply of waste disposal services.
- 7.81 In our competitive assessment, we consider the segment of 'national and multi-regional' customers which are located in eight or more regions of the UK. We also consider the competitive constraints from various types of direct and indirect suppliers of waste disposal (eg washroom services suppliers, healthcare waste companies, FM companies and cleaning companies), as well as possible customer segmentation (including framework organisations and FM customers).

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<sup>158</sup> Submissions by [redacted]

## Geographic market definition

7.82 In this section, we consider the relevant geographic market for: (a) national and multi-regional customers; and (b) regional and local customers.

### *The views of the Parties on geographic market definition*

7.83 The Parties told us that the relevant geographic market is national, ie the UK.<sup>159</sup> The Parties said that customers predominantly source, and suppliers can distribute, on a national level. The Parties told us the following (which we note is not specific to any customer type):

- (a) Washroom requirements are homogeneous and customers tend to procure them on a national level. For customers, it is not important whether a provider is regional or national as long as it is able to deliver washroom requirements regularly.
- (b) Washroom services suppliers require local market knowledge and a service network, but they can operate on a national basis and with a national network that is capable of providing the frequency and promptness of service required by their customers.

7.84 The Parties also told us that ‘the dynamics in this industry [are that] national competition is the sum of local competition’. The Parties said local and regional competition covers the vast majority (90-100%) of washroom services customers.<sup>160</sup>

### *National and multi-regional competition*

7.85 As set out in our consideration of customer types in the assessment of the relevant product market at paragraphs above, we find that the vast majority of washroom services suppliers are located in a single region, and the Parties’ internal documents suggest that they monitor national and regional competition separately.<sup>161</sup>

7.86 We therefore consider that the set of competitors available to customers operating nationally or across multiple regions is likely to be more limited than those available to regional and local customers. We have seen limited evidence that regional suppliers (eg those supplying from one or two regions), either individually or collectively, serve national and multi-regional customers

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<sup>159</sup> [X]

<sup>160</sup> [Parties’ response to the issues statement](#), 31 August 2018, paragraphs 2.1 and 3.1.

<sup>161</sup> See paragraph 7.56(b).

that procure washroom services centrally across their estates. As such, we consider that the price and service quality for national and multi-regional customers is not likely to be determined by local conditions.

- 7.87 We therefore consider the relevant geographic markets for these customers to be national or multi-regional. We examine this further in the competitive assessment.

### ***Regional and local competition***

- 7.88 We assess the geographic market for local and regional customers by reviewing the Parties' approach to sales and marketing, delivery, and competitive monitoring documents. We also consider the views of regional suppliers.

### ***Sales organisation***

- 7.89 The Parties deal with regional or local customers with regional sales teams.<sup>162</sup> Specifically, [X] regional sales teams respectively responsible for [X]. Rentokil has a sales manager or a sales team leader at each of their [X] branches. Rentokil told us that these local sales colleagues can also sell into a large number of key account customers.
- 7.90 The Parties assign 'patches' to each branch, with each patch being an aggregation of post code districts.<sup>163</sup> A branch then provides washroom services to all customer premises that are located within the patches it has been allocated. This suggests that, for the Parties, the delivery of washroom services is limited to the local areas around each branch.
- 7.91 The Parties provided estimates of the catchment area measured by the drive time to customer sites from each branch.<sup>164</sup> The size of the catchment area within which 80% of customers are located is typically around 40-50 minutes in London,<sup>165</sup> approximately 60-80 minutes in most other regions, and beyond 100 minutes in a few cases such as in north of Scotland (where Rentokil has a branch in Inverurie and Cannon a branch in Inverness).
- 7.92 The Parties often operate one branch in each region and not more than three branches in any region. Specifically, Rentokil operates [X]. Cannon operates [X].

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<sup>162</sup> [X].

<sup>163</sup> [X] A post code district is the first portion of a post code (eg WC1B).

<sup>164</sup> [X]

<sup>165</sup> Measured by the drive time within which 80% of sales are located.

### *The Parties' internal documents*

7.93 We reviewed the Parties' competitive monitoring documents. These documents indicate that the Parties tend to identify regional suppliers separately from national suppliers and provide insight into the Parties' perception of the geographic scope of their rivals. For example:

(a) A Cannon document [redacted].<sup>166</sup>

(b) Similarly, a Rentokil document [redacted].<sup>167</sup> [redacted]

7.94 We consider these documents in further detail when we assess evidence on the closeness of competition between the Parties and other national and regional suppliers in the competitive assessment.

### *Submissions by regional suppliers*

7.95 Regional washroom specialists told us that they supply washroom services broadly at the regional level, as summarised below:

(a) Co-an (Scotland and North of England).

(b) Chiltern Hygiene Services (home counties and London).

(c) Crest Hygiene (North East and Yorkshire).

(d) ECS Ltd (Southern home counties).

(e) Northern Counties Cleaning Limited (North of England).

(f) Trust Hygiene Services (the Midlands).

(g) Wilson Washroom Services (Central Belt of Scotland).

(h) Zenith Hygiene (South East of England; but it is also a supplier of cleaning and hygiene chemicals nationally).

### ***Provisional conclusion on the geographic market***

7.96 Taking the evidence above in the round, we consider that:

(a) Regional and local competition is distinct from national and multi-regional competition.

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<sup>166</sup> [redacted].

<sup>167</sup> [redacted].

(b) There is some overlap between regional and local competition, because the size of the areas served by the Parties' branches, as well as by their regional competitors, are reasonably wide.

7.97 We therefore provisionally conclude that the competitive effects of the Merger should be considered at both:

(a) The national and multi-regional level (in the supply to national and multi-regional customers).

(b) The regional and local level (in the supply to regional and local customers).

## **8. Competitive effects in relation to national and multi-regional customers**

8.1 In this chapter, we examine the competitive effects of the Merger on national and multi-regional customers.

8.2 In our assessment of market definition in Chapter 7, we did not attempt to draw a bright line to distinguish national and multi-regional customers from local and regional customers for the purpose of market definition, but we noted that we would focus on customers located in eight or more regions for the purpose of assessing the competitive effects of the Merger on national and multi-regional customers. We examine this distinction in more detail at paragraphs 8.30 *et seq* below. We consider the competitive effects of the Merger in relation to regional and local customers in Chapter 9.

8.3 In this chapter, we first consider the nature and parameters of competition in washroom services generally and examine the share of supply estimates available.

8.4 For the reasons given in Chapter 7, we examine the competitive effects in the supply of waste disposal services as a separate segment from the supply of other washroom services. Where appropriate, we assess the competitive effects of the Merger in relation to three customer segments: end customers;<sup>168</sup> FM companies; and frameworks (both public and private).

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<sup>168</sup> 'End customers' refer to organisations that procure washroom services directly from a washroom services supplier, as opposed to those procuring via an FM company or a framework.

- 8.5 We examine the competitive effects of the Merger in relation to national and multi-regional customers of waste disposal, assessing the following:
- (a) The closeness of competition between the Parties pre-Merger.
  - (b) The competitive constraints on the Parties from washroom service suppliers and other types of supplier (including FM companies and waste companies).
  - (c) The views of third parties on the Merger.
  - (d) The effect of the Merger on national and multi-regional customers.
- 8.6 We then examine the competitive effects of the Merger in relation to national and multi-regional customers of washroom services other than waste disposal (such as consumables, washroom equipment and odour remediation).
- 8.7 In our assessment, we consider a range of evidence including the Parties' internal documents, analysis of information and data provided by the Parties and third parties and the views of the Parties and third parties.
- 8.8 We commissioned a customer survey from GfK, which is published alongside this provisional findings report.<sup>169</sup> Telephone interviews were conducted with 369 of the Parties' customers in August 2018. The majority of the customers in the survey sample were regional and local customers (this includes the sample of 'multi-site' customers). We therefore place more weight on the survey results in our assessment of the competitive effects of the Merger in relation to local and regional customers than in relation to national and multi-regional customers.<sup>170,171</sup>
- 8.9 We consider countervailing buyer power, barriers to entry and expansion, and efficiencies arising from the Merger, in Chapter 10.

## Nature of competition

- 8.10 In order to provide context for the competitive assessment, we summarise the main parameters of competition in the supply of washroom services in this

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<sup>169</sup> GfK survey on the [case page](#).

<sup>170</sup> Specifically, of the 369 customers (180 multi-site and 189 single-site customers) in the sample, only 56 have sites requiring washroom in more than one region, and 11 have sites requiring washroom in 8 or more regions. These 56 customers are broken down as follows: 29 customers in 2 regions; 15 customers in 3-6 regions; 2 customers in 7-10 regions; 10 customers in 11-12 regions.

<sup>171</sup> GfK report, chart 1.

section.<sup>172</sup> We also consider how the Parties set prices and negotiate contracts and how customers procure washroom services.

### **Parameters of competition**

8.11 ~~§~~,<sup>173</sup> ~~§~~. Similarly, ~~§~~.<sup>174</sup>

8.12 Rentokil told us that ‘IT/call traffic and account management reviews’ and ‘expectations for national customers’ are limited and that reporting levels are typically standard for all customers. Rentokil said that, in practice, servicing national or multi-regional customers does not require special infrastructure as all washroom specialists have to deliver services to local sites, the reality is that all providers have to manage this local service delivery dynamic.<sup>175</sup>

8.13 Rentokil told us ~~§~~. Similarly, ~~§~~.

8.14 The Parties told us that the most of the costs involved in servicing local customers are common to those in the servicing of national customers.<sup>176</sup>

8.15 Cannon told us customers considered commercial terms and price to be the main parameters. Cannon said the following factors are particularly important for larger customers: ~~§~~.<sup>177</sup>

8.16 We reviewed the tendering specifications of the top opportunities available to the Parties.<sup>178</sup> These indicate that national and multi-regional customers typically require service for the entire estate; set detailed service KPIs;<sup>179</sup> demand a dedicated account manager as a point of contact on commercial and technical issues; and all these tenders specified waste disposal as a required service.

8.17 The Parties’ national and multi-regional customers told us that a range of factors are important including price, cost, service quality and reliability, account management, national coverage and product quality and choice.<sup>180</sup>

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<sup>172</sup> The discussion in this section about washroom services is also relevant to the supply of waste disposal, because the vast majority of the Parties’ national and multi-regional customers purchase waste disposal together with other washroom services.

<sup>173</sup> Service completed compared to contractual commitments.

<sup>174</sup> For example, Cannon submitted a client review it undertook for a national customer (~~§~~), which shows detailed reporting of ~~§~~

<sup>175</sup> [~~§~~]

<sup>176</sup> ~~§~~

<sup>177</sup> ~~§~~

<sup>178</sup> Sample of tender documents of top FM companies and key account opportunities submitted by the Parties, with number or regions in parenthesis: Rentokil: ~~§~~); Cannon: ~~§~~). ~~§~~

<sup>179</sup> Examples of service KPIs include: reliability of scheduled delivery, timeliness of service, response to enquiries, emergency callouts, complaint resolution, etc.

<sup>180</sup> See Appendix E which summarises the views of customers.

8.18 Public framework organisations, which use formal criteria in scoring providers,<sup>181</sup> told us that compliance with consortia requirements,<sup>182</sup> and experience of operating in the public sector, are important.<sup>183</sup>

8.19 Competitors identified service as the most important customer requirement, followed by price.

### **Price setting mechanisms**

8.20 The Parties told us that the contract negotiation and price setting mechanisms vary depending on the size of a customer. Both Rentokil and Cannon  $\times$ . This is confirmed by the evidence received from large customers.<sup>184</sup> Rentokil told us that  $\times$ .<sup>185</sup>

### **How customers procure washroom services**

8.21 In this section, we consider how customers procure washroom services (eg through tenders and/or bilateral negotiations) and how procurement varies between different types of customer.

8.22 The Parties estimated that tenders account for  $\times\%$  of Rentokil's and  $\times\%$  of Cannon's new business.<sup>186</sup> However, we note that these estimates for all customers combined, including small customers that typically pay list prices, are likely to understate the use of tendering by private sector national and multi-regional customers.

8.23 Rentokil told us that  $\times$ .<sup>187</sup>

8.24 Submissions from all 14 national and multi-regional customers which responded to our questions indicated that they use tenders to procure washroom services.<sup>188</sup> The tendering process typically also involves bilateral negotiations.

8.25 Further support for the prevalence of tendering by private sector national and multi-regional customers is provided by our review of the tendering

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<sup>181</sup> For example, ESPO attaches  $[\times]\%$  weight to price and  $[\times]\%$  to quality. NWUPC attaches  $[\times]\%$  weight on price and  $[\times]\%$  on customer requirements (which include service, delivery, sustainability).

<sup>182</sup>  $[\times]$ ; [ESPO User Guide](#) states that suppliers are assessed for their financial stability, track record, experience and technical and professional ability.

<sup>183</sup>  $[\times]$ .

<sup>184</sup> See Appendix E.

<sup>185</sup>  $\times$

<sup>186</sup>  $\times$

<sup>187</sup>  $\times$

<sup>188</sup> Submissions to the CMA by 11 of the Parties' customers:  $[\times]$  as well as three national and multi-regional customers which considered both Parties in previous tenders:  $[\times]$



documents<sup>189</sup> and the tendering data submitted by the Parties.<sup>190</sup> Rentokil's tendering data identified 3 private sector opportunities with an expected total annual contract value of £3; Cannon data identified 3 opportunities totalling £3.<sup>191</sup> The expected contract value of these tender opportunities is significant compared to the total value of Parties' private sector national and multi-regional customers (in the order of over £3 for Rentokil and £3 for Cannon).<sup>192</sup>

8.26 Some other customers, including [3], [3], [3] and [3] told us that they use rolling contracts with their existing provider with negotiated prices or an annual review.<sup>193</sup> However, we find that smaller customers tend to pay at list prices, some with negotiated discounts.<sup>194</sup>

### *FM customers*

8.27 FM customers procure washroom services in different ways. They can procure by quotations and pre-agreed price lists, nomination of end-customers, tenders, or a combination of all methods.<sup>195</sup> Cannon told us that FM customers 3.<sup>196</sup>

### *Frameworks*

8.28 As described in Chapter 7, public sector frameworks are required by regulation to use formal tenders to appoint suppliers.<sup>197</sup> Users with small requirements can place an order directly with a single supplier listed on the framework ('call-off'). Users with larger or more complex requirements will often require a 'further competition' in a formal process to obtain quotations from suppliers listed.<sup>198</sup> Public sector users typically procure using a public framework.<sup>199</sup>

8.29 Private sector frameworks (which are sometimes described as 'buying groups') are not subject to the same formal tendering requirement as public frameworks. Private sector frameworks told us that they negotiate with

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<sup>189</sup> A sample of tender documents of top opportunities submitted by the Parties, with number of regions of the customer in parenthesis: Rentokil: 3 for Cannon 3

<sup>190</sup> 3

<sup>191</sup> National or multi-regional customers accounted for over 80% of the value of the tenders lost by the Parties which we analyse in Appendix C.

<sup>192</sup> Including FM and private sector customers procuring directly in eight or more regions.

<sup>193</sup> [3]

<sup>194</sup> 3

<sup>195</sup> [3][3][3][3]

<sup>196</sup> 3

<sup>197</sup> [3]

<sup>198</sup> See [ESPO Washroom Services User Guide, Framework 239\\_16 Issue 6a](#).

<sup>199</sup> See Chapter 7.

washroom service providers to obtain better pricing for their members. Users of private frameworks are typically small businesses or retailers.<sup>200</sup>

### **Identification of national and multi-regional customers for the assessment of the Merger**

- 8.30 As discussed in Chapter 7, the conditions of competition for national and multi-regional customers, which require washroom services for an estate covering multiple regions, are different from those for regional and local customers which require services for sites in a single region. This is for two main reasons.
- 8.31 First, the complexity of a customer's requirement increases with the geography of the estate. The more regions covered by a customer's estate, the more complex it is for a supplier to ensure timely response to issues and to offer consistent and reliable service across all sites.
- 8.32 Second, the supplier choice reduces for customers preferring a single supplier to serve an entire estate, as the geographic scope of an estate widens.<sup>201</sup> This is because few suppliers other than the Parties, PHS, and to a lesser extent Cathedral and Mayflower are able to serve customers with sites in multiple regions.<sup>202</sup> A supplier with a network of branches and already serving customers in multiple regions is likely to be able to compete more strongly for national and multi-regional customers than a supplier in a single region. For example, Mayflower told us that it expanded its depot network [redacted] to meet customer request in additional regions.<sup>203</sup>
- 8.33 For the reasons above, our view is that there is a difference between customers in a single region from customers in all 12 regions of the UK. However, it is hard to use the number of regions to draw a bright line between them. We recognise that any effects of this Merger would not be uniform within the category of national and multi-regional customers. In terms of revenue, there appears to be a cluster of customers served in 11 or 12 regions (ie with a GB or UK coverage) which account for over [redacted] of the revenue of each of the Parties,<sup>204</sup> but the incremental revenue seems small if

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<sup>200</sup> Submissions by [redacted]

<sup>201</sup> We discuss customer preference for single supplier for an estate in our assessments of competitive constraints below.

<sup>202</sup> We note that suppliers do not need a branch in every region in order to service national and multi-regional customers, as illustrated by Cathedral and Mayflower which can serve customers across the GB or UK with a smaller network than the Parties and PHS. Cathedral operates [redacted] warehouses, and Mayflower operates six depots, as discussed further in our assessment of competitive constraints.

<sup>203</sup> [redacted]

<sup>204</sup> Excluding frameworks.

we consider customer categories between three and 10 regions.<sup>205</sup> We find that a customer procuring washroom services for an estate in, say, eight regions can have broadly similar requirements as a customer with an estate in all 12 regions, as further discussed in paragraph 8.214 below.

8.34 Taking account of all these factors and for practical purposes, where possible, we identify national and multi-regional customers as customers in eight or more regions in the UK for end customers and FM customers. We focus on these customers in the competitive assessment.

8.35 In relation to framework customers, we note that framework organisations do not operate an estate, but that many frameworks are open to users in a majority of regions across the UK. We consider frameworks with a national and multi-regional coverage further below in the competitive assessment.

### ***Share of supply***

8.36 Market shares of firms in the market can give an indication of the potential extent of a firm's market power. The combined market shares of the merger firms can provide an indication of the change in market power resulting from a merger.<sup>206</sup> However, when interpreting information on market shares, the CMA has regard to the extent to which products are differentiated and other factors.<sup>207</sup>

### ***Rentokil's estimates***

8.37 Rentokil estimated that the Parties have a  $\times$ % combined share of all suppliers of washroom services in the UK.<sup>208</sup> This is based on Rentokil's estimates of  $\times$ .<sup>209, 210</sup>

8.38 We consider Rentokil's market share estimates. First, as discussed in Chapter 7, we consider that the competitive conditions for national and multi-regional customers are likely to be different from those for regional or local customers. Therefore, we do not accept Rentokil's estimate, which is based on all customers, to be an accurate reflection of the relative strengths of the Parties and their competitors in the supply to national and multi-regional customers.

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<sup>205</sup> See [Parties' response to phase 1 decision](#), 30 July 2018, Table 2. Rentokil categorised customers by number of regions from which it is served. Rentokil estimated that the increment in revenue, for customers served in three to 10 regions, is  $\times$ percentage points per additional region. For Cannon, we estimate that the equivalent proportions are  $\times$ percentage points.

<sup>206</sup> [Merger Assessment Guidelines](#), 5.3.4.

<sup>207</sup> [Merger Assessment Guidelines](#), 5.3.2.

<sup>208</sup> [Parties' response to phase 1 decision](#), 30 July 2018, paragraphs 1.12(a) and 5.3.

<sup>209</sup>  $\times$

<sup>210</sup> [ $\times$ ]

Specifically, we consider that the Parties' estimated share is likely to overstate the strength of other washroom services suppliers (except PHS), because many of these suppliers have few or no national and multi-regional customers.<sup>211</sup>

- 8.39 Second, we noted in Chapter 7 that the majority of the Parties' customers require waste disposal services. Suppliers without waste disposal capability should therefore be distinguished from those which supply waste disposal services. Rentokil's methodology, however, puts equal weight on all types of suppliers irrespective of whether or not they offer waste disposal services. In our view, Rentokil's estimate therefore overstates the strength of product manufacturers as these do not supply waste disposal services. The estimate also overstates the strength of FM companies as they outsource waste disposal to another washroom service supplier, as discussed further below.
- 8.40 For these reasons we are unable to accept the Parties' share of supply estimates as indicative of the market.

*Other data on national and multi-regional customers*

- 8.41 We do not have complete and precise data on each supplier's revenue of washroom services or waste disposal supplied to national and multi-regional customers. We examined the Parties' customer data and submissions by competitors. The information we have been able to extract is summarised in Table 3 below (and described further in Appendix B).

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<sup>211</sup> We consider competition from other suppliers later in this chapter.

**Table 3: Number and value of national and multi-regional customers served by the Parties and their competitors, and total revenue**

Supplier	End customers procuring directly, with sites in eight or more regions (or based on the suppliers' definition)	FM customers with sites in eight or more regions (or based on the suppliers' definition)	Framework customers (with national or multi-regional coverage)	2017 total washroom revenue (all customers)
PHS	[X]	[X]	[X]	[X]
Rentokil	X	X	X	X
Cannon	X	X	X	X
Cathedral	[X]	[X]	[X]	[X]
Mayflower	[X]		[X]	[X]
Berendsen	[X]	[X]	[X]	[X]
Hygienic Concepts	[X]		[X]	[X]
IWSA	[X]	[X]	[X]	[X]
Chiltern Hygiene	[X]	[X]	[X]	[X]

Notes:

All value refers to annual revenue of washrooms services in 2017 or the most recent financial year.

Different suppliers may have a different interpretation of 'national and multi-regional customer'. Where possible, we have sought to identify them as customers operating in eight or more regions in the UK. PHS defines [X]

Source: Parties' customer data X

8.42 Table 33 above indicates the following in respect of the supply of washroom services to national and multi-regional customers (identified as customers in eight or more regions where possible):

- (a) PHS is the supplier with the highest revenue, [X]. PHS is also likely to have the highest number of national and multi-regional customers because in addition to the aforementioned, X
- (b) Rentokil is the second largest supplier with [X] end customers [X] and [X] FM customers [X]
- (c) Cannon is the third largest supplier with [X] end customers [X] and [X] FM customers [X]
- (d) Cathedral and Mayflower estimated that each of them has up to [X] national and multi-regional customers, representing revenue of

approximately £[redacted] for each supplier. Mayflower has some FM customers, but Cathedral did not identify examples of FM customers.

- (e) Berendsen has some national and multi-regional customers, but it outsources washroom services to other suppliers as explained later in this chapter.
- (f) Hygienic Concepts estimated that it has around £[redacted] million revenue from national and multi-regional customers, including end customers and FM companies.

8.43 On this basis, our view is that the supply of washroom services to national and multi-regional customers is concentrated, with the Parties and PHS earning most revenues and serving the highest number of those customers.

#### *PHS estimates of 'key account' shares*

8.44 PHS provided estimates of the share of supply across its current and potential key account customers in the private sector; PHS said most of these customers are active nationally.<sup>212</sup> PHS estimated that its share was [redacted]%, Rentokil's share was [redacted]% and Cannon's was [redacted]%. (See Appendix B.)

8.45 We note that PHS's estimates are based on its definition of [redacted], identified as customers [redacted]. PHS told us that their most of their key account customers are national in geographic scope. However, we consider that its share estimates are not necessarily reflective of the competitive landscape with regard to national and multi-regional customers in eight or more regions, since it does not capture customers with an annual spend below £[redacted] but which are otherwise national or multi-regional in scope. Therefore, we place limited weight on PHS's estimates.

#### *Provisional conclusion on shares of supply*

8.46 We do not accept Rentokil's market share estimate for the reasons stated above.

8.47 Although we do not have accurate estimates of shares of supply in relation to national and multi-regional customers, our analysis of the customer and revenue data provided by the Parties and their major competitors indicates that the supply of washroom services and waste disposal to national and

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<sup>212</sup> [redacted]

multi-regional customers is concentrated, with PHS and the Parties earning most revenues and serving the highest number of those customers.

## **The supply of waste disposal services**

- 8.48 In our assessment of the relevant market in Chapter 7, we provisionally concluded that the supply of waste disposal services represents a distinct segment of the washrooms services market and that we would therefore consider the competitive effects of the Merger separately in relation to the supply of waste disposal services.
- 8.49 As described in Chapter 6, theories of harm describe the possible ways in which a merger could give rise to an SLC, and provide the framework for our analysis of the competitive effects of a merger. A loss of competition in the supply of waste disposal services to national and multi-regional customers in the UK, due to elimination of a credible competitor, could lead to consumer harm through higher prices for washroom services and/or reduced service quality.
- 8.50 In this section, we consider the evidence regarding the competitive effects of the Merger in the supply of waste disposal services to national and multi-regional customers. We consider the competitive effects of the Merger in relation to the supply of washroom services other than waste at the end of the chapter.

### ***Analytical framework***

- 8.51 In assessing whether the Merger would be likely to result in an SLC in the supply of waste disposal services to national and multi-regional customers, we adopted the following analytical framework:
- (a) Determining the closeness of competition between the Parties pre-Merger – whether the loss of competition as a result of the Merger would create an incentive for the Parties to increase price, or to reduce service quality, given the degree of competition between the Parties pre-Merger.<sup>213</sup>
  - (b) Determining competition from washroom service suppliers and other types of supplier – whether the strength of constraints from other competitors would be sufficient to offset any elimination of a credible

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<sup>213</sup> See [Merger Assessment Guidelines](#), para. 5.4.9: 'If the products of the merger firms are close substitutes, unilateral effects are more likely because the merged firm will recapture a significant share of the sales lost in response to the price increase, making the price rise less costly'.

supplier to customers, and prevent the Parties from increasing prices or reducing service quality post-Merger.<sup>214</sup>

- (c) Assessing the effect of the Merger on national and multi-regional customers, including:
  - (i) End customers procuring directly from a washroom service supplier.
  - (ii) FM customers.
  - (iii) Framework customers (public and private).

### ***The closeness of competition between the Parties***

8.52 In this section, we examine the following evidence regarding the degree of competition between Rentokil and Cannon pre-Merger:

- (a) The views of the Parties.
- (b) The Parties' internal documents.
- (c) Analysis of tendering data.
- (d) Analysis of Rentokil customer loss data.
- (e) The degree to which the Parties competed to supply FM customers and framework customers.
- (f) The views of customers and competitors.
- (g) The GfK customer survey.

### ***The views of the Parties***

8.53 The Parties submitted that Rentokil and Cannon are not each other's closest competitors and that diversion between the Parties is low to moderate.<sup>215</sup>

8.54 The Parties submitted an analysis of data gathered by Rentokil identifying the competitors to whom Rentokil lost entire contracts or suffered reductions on existing contracts during January 2017 to June 2018.<sup>216</sup> The Parties said that this database shows that 'PHS rather than the other merger party is by far the

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<sup>214</sup> See [Merger Assessment Guidelines](#), para. 5.4.12: 'unilateral effects resulting from the merger are more likely where the merger eliminates a significant competitive force in the market or where customers have little choice of alternative suppliers'.

<sup>215</sup> [redacted]

<sup>216</sup> [Parties' response to the issues statement](#), 31 August 2018, paragraph 5.2.



most important competitor to each of Rentokil and Cannon'.<sup>217</sup> The Parties also said that Rentokil is not likely to be a major constraint on Cannon.

- 8.55 The Parties submitted that an assessment of Rentokil loss data, the CMA's assessment of public and private tenders and the GfK customer survey indicate that Cannon is only a weak constraint on Rentokil and that Rentokil is, at most, a moderate constraint on Cannon.<sup>218</sup>

#### *The Parties' internal documents*

- 8.56 Rentokil's internal documents indicate that Rentokil considered PHS to be its closest competitor and Cannon to be its next closest competitor.

(a) In Rentokil's [REDACTED].<sup>219</sup>

(b) In a Rentokil [REDACTED].<sup>220</sup>

- 8.57 Cannon's internal documents indicate that Cannon perceived PHS and Rentokil to be [REDACTED]. The documents also indicate that Cannon saw [REDACTED]:

(a) The '[REDACTED]

(b) OCS (the former owner of Cannon) submitted a presentation which described the five-year strategy for Cannon (2016-2020).<sup>221</sup> [REDACTED].

- 8.58 In summary, these documents illustrate that both Parties perceive the other merger party to be one of its two close competitors on a national level (the other close competitor being PHS).<sup>222</sup>

#### *Analysis of tendering data*

- 8.59 We reviewed data on the tenders lost by each of the Parties between 2015 and 2017, and assessed the diversion ratio between the Parties for private

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<sup>217</sup> [Parties' response to the issues statement](#), 31 August 2018, paragraph 5.3.

<sup>218</sup> [REDACTED]

<sup>219</sup> [REDACTED]

<sup>220</sup> [REDACTED]

<sup>221</sup> OCS submission, Annex 1.5, Cannon Hygiene UK, Regional Strategy Submission Plan Period FY16 (Dec 15/Mar 16 to FY20 (Dec 20), p.12-14.

<sup>222</sup> We note that the documents above relate to washroom services in general and are not specific to waste disposal. However, waste disposal is the lead service required by the vast majority of customers, and which accounts for nearly [REDACTED] of the Parties' revenue [REDACTED]. Given the leading nature of waste disposal, together with the fact that washroom services suppliers including the Parties and PHS supply waste disposal, we consider that the general competitive monitoring documents on washroom services are also informative about the closeness of competition between these suppliers in waste disposal.

sector and public sector tenders separately.<sup>223,224</sup> We summarise the results below and set out further detail in Appendix C.<sup>225,226</sup>

### Assessment of private tender data

8.60 We review the private sector tenders lost by each of the Parties,<sup>227</sup> and assess the extent to which the other Party and other competitors have won these tenders. We have taken account of the Parties' submissions in response to the annotated issues statement.<sup>228</sup> We note that national and multi-regional customers (in eight or more regions) accounted for 90-100% by value of tenders lost by Rentokil and 80-90% of tenders lost by Cannon included in the analysis.

8.61 The tables below set out the diversion ratios measured by number and by value of private tenders lost by Rentokil (Table 4) and Cannon (Table 5) respectively.

**Table 4: Winners of private tenders lost by Rentokil**

Winner of tender	Number of tenders won	% of tenders won	Value of tender won (£)	% value of tenders won
[REDACTED]	[REDACTED]	40-50%	[REDACTED]	70-80%
[REDACTED]	[REDACTED]	10-20%	[REDACTED]	5-10%
[REDACTED]	[REDACTED]	0-5%	[REDACTED]	0-5%
[REDACTED]	[REDACTED]	0-5%	[REDACTED]	0-5%
[REDACTED]	[REDACTED]	0-5%	[REDACTED]	0-5%
[REDACTED]	[REDACTED]	20-30%	[REDACTED]	0-5%
Total	[REDACTED]	100%	[REDACTED]	100%

Source: CMA analysis of Rentokil tendering data; see Appendix C, Table 3

<sup>223</sup> As discussed in Chapter 7, we consider that the competitive conditions for these two customer segments may differ.

<sup>224</sup> A diversion ratio between supplier A and supplier B represents the proportion of sales that would divert to supplier B (as opposed to suppliers C, D, E etc) as customers' second choice in the event of a price increase for Product A. The diversion ratio from the product of one of the merger firms to the other is a useful indicator of the ability of the second product to constrain the prices of the first product. See Merger Assessment Guidelines, paragraph 5.4.9(a) and footnote 52.

<sup>225</sup> We further consider the inference from the tendering analysis on alternative options available to customers when we assess competitive constraints from other suppliers below.

<sup>226</sup> We note that the data does not separate waste disposal from other washroom services. However, we consider the data to be informative to the assessment of waste disposal, since most of the Parties' customers include waste disposal in their purchase. See Chapter 7 for further detail.

<sup>227</sup> We find that national and multi-regional customers (in eight or more regions) accounted for 90-100% by value of tenders lost by Rentokil and 80-90% of tenders lost by Cannon considered in the analysis. See Appendix C.

<sup>228</sup> The Parties have verified [REDACTED]. [REDACTED]

**Table 5: Winners of private tenders lost by Cannon**

Winner of tender	Number of tenders won	% of tenders won	Value of tender won (£)	% value of tenders won
[REDACTED]	[REDACTED]	20-30%	[REDACTED]	40-50%
[REDACTED]	[REDACTED]	10-20%	[REDACTED]	20-30%
[REDACTED]	[REDACTED]	0-5%	[REDACTED]	10-20%
[REDACTED]	[REDACTED]	0-5%	[REDACTED]	0-5%
[REDACTED]	[REDACTED]	0-5%	[REDACTED]	0-5%
[REDACTED]	[REDACTED]	40-50%	[REDACTED]	6-10%
Total	[REDACTED]	100%	[REDACTED]	100%

Source: CMA analysis of Cannon tendering data; see Appendix C, Table 4

8.62 In summary, our analysis of the value of tenders lost by each of the Parties indicates the following:

- (a) The diversion from Rentokil to Cannon was low at 0-10%, or 10-20% including diversion to Zenith [REDACTED]<sup>229</sup> (Table 4).
- (b) The diversion from Cannon to Rentokil was moderate, at 20-30% (Table 5).
- (c) Diversion to PHS was the highest, at 70-80% from Rentokil (Table 4) and 40-50% from Cannon (Table 5).

8.63 The Parties submitted that the ‘small sample size’<sup>230</sup> and the ‘low share of new business generated by private tenders’ should be noted.<sup>231</sup>

8.64 In our view the private sector tendering data reflects the competitive conditions for national and multi-regional customers, for the following reasons.

- (a) The proportion of tenders with an ‘unknown’ winner considered in the analysis was small (0-5% for Rentokil’s lost tenders and 5-10% for Cannon’s lost tenders by value). We note the Parties’ verification that these ‘unknowns’ were not likely to have been attributable to the other merger Party, and therefore the diversion ratios would be unlikely to overstate the degree of competition between the Parties.
- (b) Although there appears to be a small number of tenders, both Parties’ datasets capture tender opportunities with significant value. The total annual contract value of the tenders in the analysis was £[REDACTED] ([REDACTED] tenders lost by Rentokil) and £[REDACTED] ([REDACTED] tenders lost by Cannon).<sup>232</sup>

<sup>229</sup> We consider that Zenith is not an independent competitor [REDACTED] in the supply of waste disposal, since Zenith [REDACTED] as explained when we assess competition from Zenith below.

<sup>230</sup> [REDACTED] tenders lost by Rentokil; [REDACTED] tenders lost by Cannon.

<sup>231</sup> [REDACTED]

<sup>232</sup> See the nature of competition section above regarding the use of tendering to procure.

8.65 In our view, the analysis of private sector tenders indicates that PHS is the closest competitor to each of Rentokil and Cannon for national and multi-regional customers. For both Rentokil and Cannon, the other merger party is the next closest competitor after PHS. In both cases, the Parties lost more tenders to PHS than to each other indicating PHS imposes a strong constraint on both Parties. As between them, Rentokil won a higher proportion of tenders lost by Cannon than Cannon has won from Rentokil, which suggests that Rentokil imposes a stronger constraint on Cannon than Cannon imposes on Rentokil.

#### *Assessment of public tender data*

8.66 We examine public sector tenders lost by each of the Parties during the period 2015-2017, and assess the extent to which the other merger party and other competitors have won these tenders. We have taken account of the Parties' submissions in response to the annotated issues statement.<sup>233</sup>

8.67 The tables below set out the diversion ratios measured by number and by value of public tenders lost by Rentokil (Table 6) and Cannon (Table 7) respectively. Further detail is described in Appendix C.

**Table 6: Winners of public tenders lost by Rentokil**

Winner of tender	Number of tenders won	% of tenders won	Value of tender won (£)	% value of tenders won
[REDACTED]	[REDACTED]	40-50%	[REDACTED]	60-70%
[REDACTED]	[REDACTED]	10-20%	[REDACTED]	10-20%
[REDACTED]	[REDACTED]	0-5%	[REDACTED]	0-5%
[REDACTED]	[REDACTED]	30-40%	[REDACTED]	10-20%
Total	[REDACTED]	100%	[REDACTED]	100%

Source: CMA analysis of Rentokil tendering data; See Appendix C.

**Table 7: Winners of public tenders lost by Cannon**

Winner of tender	Number of tenders won	% of tenders won	Value of tender won (£)	% value of tenders won
[REDACTED]	[REDACTED]	10-20%	[REDACTED]	40-50%
[REDACTED]	[REDACTED]	5-10%	[REDACTED]	0-5%
[REDACTED]	[REDACTED]	0-5%	[REDACTED]	0-5%
[REDACTED]	[REDACTED]	70-80%	[REDACTED]	50-60%
Total	[REDACTED]	100%	[REDACTED]	100%

Source: CMA analysis of Cannon tendering data; See Appendix C.

<sup>233</sup> The Parties [REDACTED]

- 8.68 On the basis of the analysis of public tenders lost by each of the Parties, we find that:
- (a) Diversion from Rentokil to Cannon was moderate (10-20%). (Table 66.)
  - (b) Diversion from Cannon to Rentokil was low (0-5%, or 5-10% excluding unknowns), but we caution that the winner identity was unknown for 50-60% of tenders by value for tenders lost by Cannon. (Table 77.)
  - (c) Diversion from each Party to PHS was higher than diversion to the other Party; at 60-70% from Rentokil (Table 6) and 40-50% from Cannon (Table 77).
- 8.69 The Parties said the CMA's analysis of public sector tenders is not likely to be representative of national or multi-regional customers because most public sector customers appear to be local or regional users, and it can be presumed that there is no competition concern.<sup>234</sup>
- 8.70 We note that several public frameworks for waste disposal provide national or multi-regional coverage.<sup>235</sup> They are available to and used by public sector customers across multiple regions across the UK, even though each of the users typically have sites within a single region. As noted in Chapter 7, public sector customers typically procure washroom services using a public framework. Whilst it is not an obligation for users to procure under a framework, framework organisations have told us that prices are typically cheaper on the framework than procuring directly.<sup>236</sup> Therefore, we consider the analysis of public sector tenders to reflect competition in respect of public framework users.
- 8.71 Overall, in our view, the analysis of public tenders above indicates that PHS is the closest competitor to each of Rentokil and Cannon in the supply of washroom services to public sector customers. The analysis also indicates that Rentokil is the second closest competitor to Cannon after PHS and that Cannon is the second closest competitor to Rentokil after PHS.

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<sup>234</sup> [redacted]

<sup>235</sup> See paragraph 8.90. Including Eastern Shires Purchasing Organisation (ESPO), North Western Universities Purchasing Consortium (NWUPC) and Yorkshire Purchasing Organisation (YPO). ESPO and YPO have national coverage, but may be used locally or regionally and indeed YPO uses some regional stratification. NWUPC told us that it is used by its originating members in North West universities as well as by customers in the education and NHS sector in all UK regions. Public frameworks can be regional, for example, in the case of Scotland Excel which is focused on local authority procurement in Scotland.

<sup>236</sup> For example, [redacted] told us that 'Initial/PHS are around 160% cheaper than the most expensive regional providers not on the framework, and 30% cheaper than the mid-range providers on the framework'. [redacted] told us that smaller regional providers may not bid to be part of the tender, as 'private sector customers are charged around £5 per sanitary bin collection, compared to around £1.30 within a public-sector framework'.

### *Analysis of Rentokil customer loss data*

8.72 The frequency at which customers have switched between the merging parties provides useful information of their closeness of competition. We analysed the business lost by Rentokil based on datasets submitted by Rentokil.<sup>237</sup> We also considered an analysis submitted by the Parties. We summarise the results below and set out further details in Appendix D.<sup>238</sup>

### *Analysis submitted by the Parties*

8.73 Rentokil submitted an analysis of 'large customers' lost by Rentokil. It identified 'large customers' as those with an annual spend of £30,000 or more.<sup>239</sup> The analysis found that [REDACTED]

### *Our assessment of the Rentokil loss data*

8.74 For reasons explained in Chapter 7, we consider that customer spend is not an appropriate criterion to identify national and multi-regional customers. In the data used in the Parties' analysis, we found that the majority of customer losses were incurred in a single region. In our view, therefore, the Parties' analysis does not reflect competition between Rentokil and other suppliers for national and multi-regional customers.<sup>240</sup>

8.75 We analysed Rentokil's losses of customers incurred in eight or more regions irrespective of customer spend, to understand to which competitors have Rentokil's national and multi-regional customers switched. We found that the diversion to PHS was 80-90% in washroom services (80-90% in waste disposal), and the diversion to Cannon was 10-20% in washroom services (10-20% in waste disposal). A small percentage of losses to FMs / cleaning companies was also identified (0-5%) but these were losses for FM customers rather than end customers. No losses to suppliers other than the above were identified.<sup>241 242</sup>

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<sup>237</sup> Rentokil submitted two datasets that identify the competitors to which it has lost customers, respectively in response to the Market Questionnaire, and in an analysis of local and regional competitive effects by RBB Economics ('RBB dataset'). We focus on the RBB dataset in our analysis as there are far fewer unknown competitors identified in this dataset. See Appendix D. [REDACTED]

<sup>238</sup> We further consider the inference from the Rentokil loss analysis on alternative options available to customers when we assess competitive constraints below.

<sup>239</sup> [REDACTED] We note that this cut-off appears to be based on [REDACTED]' and was adopted in the Parties' response to the Market Questionnaire. [REDACTED]

<sup>240</sup> See Appendix D for further detail.

<sup>241</sup> The majority of losses to FM companies in two or more regions relate to a customer [REDACTED]

<sup>242</sup> See Table 1 of Appendix D

### *Reliability of the analysis*

- 8.76 The Parties submitted that the CMA's analysis above is conservative in that it 'may fail to identify national customers that multi-source geographically'.<sup>243</sup> The Parties said [X] is a more appropriate variable to identify a customer, and on this basis, the Parties estimate that the diversion from Rentokil to PHS was 50-60% and to Cannon was 10-20%.<sup>244</sup>
- 8.77 We found that the '[X] variable used in the Parties' analysis does not necessarily reflect the level at which procurement decisions are made. For example, the [X] can identify a framework (eg ESPO) as a customer but the dataset reports losses relating to individual users of frameworks, rather than Rentokil losing the framework customer itself.<sup>245</sup>
- 8.78 In any event, in relation to the closeness of competition between the Parties, we note that both the CMA's and the Parties' approaches result in a broadly similar level of diversion from Rentokil to Cannon (at around 10-20%-10-20%), and that after PHS, Cannon is the second closest competitor to Rentokil. We consider inferences from the Rentokil loss analysis on constraints from other suppliers later in the competitive assessment.
- 8.79 The Parties said that the CMA's interpretation of the win-loss data, including in its recent review of RBB's analysis of the Rentokil customer loss data, has 'consistently failed to engage with the implications of the large number of unknown winners of customer business'.<sup>246</sup>
- 8.80 We note, however, that Rentokil has told us that the dataset on which our analysis is based 'provides a reliable source of loss data as it covers 70-80-80-90% of the value of losses and, moreover, 'a high share of the lost value has been allocated to a competitor, 50-60%'; and that it is 'far more complete' than a dataset Rentokil submitted in response to the market questionnaire.<sup>247</sup> We note that the data identifies a winner [X] of all Rentokil's lost business and, moreover, the 'unknown' competitor in relation to customers lost in eight or more regions which we focused on in our analysis is very small (less than 1%). We therefore consider the analysis to be informative.
- 8.81 The Parties further submitted that 'the market on a whole is much broader than just those tenders lost by Rentokil'.<sup>248</sup> The Parties stated that a broader set of 'win-loss' data from competitors including PHS, Cathedral and

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<sup>243</sup> [X]

<sup>244</sup> See Appendix D for further discussion of the identification of customers in the Rentokil loss dataset.

<sup>245</sup> See Appendix D for further detail.

<sup>246</sup> [X]

<sup>247</sup> [X]

<sup>248</sup> We note that the Rentokil loss data refers to existing business (rather than tenders) lost by Rentokil.

Mayflower is more reflective of the market as a whole.<sup>249</sup> The Parties also said the Rentokil loss analysis is not informative of ‘what is happening in the market (eg the extent to which Cathedral and Mayflower have won national contracts from PHS)’.<sup>250</sup>

8.82 In our view, the business lost by the Rentokil reflects the competitive constraints faced by Rentokil from Cannon and from other suppliers.<sup>251</sup> We therefore consider this data to be relevant to the assessment of the competitive effects of the Merger.

8.83 In addition, we have gathered information regarding the customers of PHS, Cathedral and Mayflower, and their competitive interactions with the Parties, as detailed in our assessment of competitive constraints below.

*Provisional conclusion on Rentokil loss analysis*

8.84 In summary, we have found that the analysis of Rentokil loss data to be relevant to the assessment of the Merger. The finding from the loss analysis is also consistent with our analysis of tendering data and the Parties’ internal documents. The analysis indicates that PHS, and to a lesser extent Cannon, were the main constraints on Rentokil in supplying washroom services or waste disposal to national or multi-regional customers pre-Merger.

*The degree to which the Parties competed to supply FM and framework customers*

*FM customers*

8.85 We analysed the degree to which the Parties competed to serve FM customers.

8.86 The Parties submitted that ‘the larger, so-called Tier 1, FMs frequently do not consider Cannon as a potential supplier, but instead chose only between PHS and potentially Rentokil’.<sup>252</sup>

8.87 We assessed the Parties’ customer data.<sup>253</sup> We found that Rentokil and Cannon overlapped in the supply to [redacted] major ‘Tier 1’ FM customers.<sup>254</sup> Based

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<sup>249</sup> [redacted]

<sup>250</sup> [redacted]

<sup>251</sup> Similarly, we consider business lost by Cannon would be relevant, but Cannon was not able to provide such data.

<sup>252</sup> Parties’ response to phase 1 decision, 30 July 2018, paragraphs 5.34.

<sup>253</sup> [redacted]

<sup>254</sup> [redacted]The Parties’ customer data indicates that they overlap [redacted]



on this, our view is that Rentokil and Cannon are competing for FM customers.

### *Framework customers*

- 8.88 We also analysed the degree to which the Parties competed to supply framework customers.
- 8.89 Both Rentokil and Cannon generate substantial revenues from framework customers. In 2017, Rentokil's total washroom services revenue was [redacted] from public frameworks and [redacted] from private frameworks. Cannon was also active in the supply to public framework customers (with a total revenue of [redacted]) and, to a lesser extent, private framework customers (with a total revenue of £[redacted]).<sup>255</sup>
- 8.90 In relation to public frameworks, both Parties are listed on [redacted],<sup>256</sup> [redacted]. The geographic coverage of a public framework can be national (ESPO,<sup>257</sup> NWUPC,<sup>258</sup> YPO<sup>259</sup>), multi-regional (CBC<sup>260</sup>) or regional (Scotland Excel).<sup>261</sup>
- 8.91 In relation to private frameworks, both Parties are listed on Purchase Direct,<sup>262</sup> while Rentokil is the sole supplier to several other private frameworks.<sup>263</sup> The Parties' private framework customers are used by businesses in most or all regions of the UK.

### *The views of customers and competitors*

- 8.92 We asked the Parties' largest national and multi-regional customers to list all of the suppliers that they considered to be a viable alternative supplier of waste disposal and the suppliers that they considered when they last obtained quotes to tender:

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<sup>255</sup> [redacted]

<sup>256</sup> [redacted] told us it has a total spend of £[redacted] in washroom services, split between [redacted]

<sup>257</sup> ESPO submitted that it provides national coverage including England, Scotland, Wales and Northern Ireland.

<sup>258</sup> The NWUPC framework is established on behalf of seven regional university purchasing consortia: North Western Universities Purchasing Consortium (NWUPC), North Eastern Universities Purchasing Consortium (NEUPC), Southern Universities Purchasing Consortium (SUPC), London Universities Purchasing Consortium (LUPC), Crescent Purchasing Consortium (CPC), Advanced Procurement for Universities and Colleges (APUC), Higher Education Purchasing Consortium Wales (HEPCW). It is also used by other public bodies across the UK. See [Tenders Electronic Daily notice](#).

<sup>259</sup> YPO is available to the public sector, including social housing organisations and voluntary and community sector bodies as well as educational establishments across the UK. See [YPO framework details](#).

<sup>260</sup> Central Buying Consortium is a federation of 21 local authorities based broadly across the southern half of England. See [Central Buying Consortium, Hampshire Borough Council](#).

<sup>261</sup> Scotland Excel is used by the local government sector in Scotland.

<sup>262</sup> Purchase direct told us that its total spend in washroom services in 2017 was [redacted]

<sup>263</sup> Including [redacted], [redacted], [redacted], [redacted], [redacted], the [redacted]o, [redacted]

- (a) Of 9 end customers, 5 identified the other merger party as an alternative and/or considered them in their last tender. 7 identified PHS and four identified other suppliers.<sup>264</sup>
- (b) Of eight FM companies, four identified the other merger party as an alternative and/or considered them in their last tender. Three identified PHS and two identified other suppliers.
- (c) Of seven public and private frameworks, five identified the other merger party as an alternative and/or considered them in their last tender. Five identified PHS and two identified other suppliers.

8.93 We also received three responses from customers which considered the Parties in previous tenders but eventually chose another supplier. A national customer identified only PHS and both Parties as qualified tenderers in a previous tender.<sup>265</sup> Another national customer said only PHS and the Parties were able to service its estate (but identified Berendsen and Admiral in addition to the Parties and PHS as bidders).<sup>266</sup> Another national customer considered PHS, Rentokil and Zenith in a current tender (we note that Zenith [redacted]).<sup>267</sup>

8.94 As discussed further in Appendix E on third party views, one customer indicated that Cannon was highly competitive on price, whilst another did not find Cannon's prices competitive. Another customer valued Cannon's service.

8.95 The evidence from customers indicates that PHS and then the other merger party are generally considered as alternatives.

8.96 Competitors expressed different views on which suppliers are effective providers for national customers. PHS said that, in its view, only Rentokil and Cannon compete with it for national accounts. Cathedral said that many national accounts are supplied by companies other than PHS, Rentokil or Cannon. Mayflower said that it almost always encounters PHS in tenders, encounters Rentokil in around 20% of tenders and Cannon in around 10% of tenders.

### *GfK customer survey*

8.97 We conducted a survey (the GfK customer survey) but we have placed limited weight on the findings of the customer survey in our assessment of the

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<sup>264</sup> Customers can identify multiple options; therefore, the numbers do not add up to the total.

<sup>265</sup> [redacted]

<sup>266</sup> [redacted]

<sup>267</sup> [redacted]

competitive effects of the Merger on national and multi-regional customers because the majority of customers in the survey sample were regional or local customers. The results from the survey (in the sample for ‘multi-site’ customers) therefore are more reflective of local and regional customers than national and multi-regional customers.

- 8.98 Of 369 customers in the sample, only 11 required washroom services in eight or more regions. The spend of these customers is very small compared with the Parties’ other national and multi-regional customers and those of PHS. As such, care is required when assessing the views of these customers. We set out the findings in relation to these customers in Appendix E.
- 8.99 The Parties noted that the customer survey was not designed to target national and multi-regional customers, and we agree. The Parties also said the survey is ‘over-representative of multi-site customers, some of whom may be multi-regional customers.’ The Parties said the results indicate ‘low diversion to Cannon; high diversion to PHS; and high diversion to rivals other than Cannon and PHS’.<sup>268</sup> For reasons explained in paragraph 8.8, we place limited weight on the customer survey results in our assessment of national and multi-regional customers.

*Our provisional finding on closeness of competition between the Parties*

- 8.100 We find that Rentokil and Cannon are the second and third largest supplier of waste disposal services to national and multi-regional customers. Our analysis indicate the following:
- (a) The Rentokil customer loss data and the Parties’ tendering data indicate that the Parties are each other’s second closest competitor, and PHS is the closest competitor to each of them. PHS captured the highest diversion from both Parties under all measures considered.
  - (b) Rentokil appears to be a stronger constraint on Cannon (with diversion of approximately 20-30%) than Cannon is on Rentokil (diversion approximately 10-20- 10-20%), especially in relation to private sector national and multi-regional customers. However, in relation to public tenders, Cannon captures a higher degree of diversion from Rentokil (10-20%) than vice versa (0-10%). PHS captures the highest proportion of diversion from each of the Parties (60-70% from Rentokil and 40-50% from Cannon).<sup>269</sup>

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<sup>268</sup> [redacted]

<sup>269</sup> Not including tenders with an unknown winner, which could have been captured by PHS or other suppliers.

- (c) Both Parties' internal documents depict PHS, Rentokil and Cannon in a cluster distinct from other suppliers, and Rentokil considered PHS to be a closer competitor before Cannon.
- (d) The Parties and PHS compete for FM customers and framework customers.

8.101 In summary, the findings above point towards PHS being the strongest constraint, but also indicate that the Parties are each other's next closest competitors – albeit less closely than each of them competed with PHS. This finding is consistent with the Parties' internal documents.

8.102 Our provisional view therefore is that PHS is the closest competitor with both Rentokil and Cannon, and that, after PHS, the Parties are each other's next closest competitor pre-Merger.

### ***Competition from other suppliers***

8.103 We assess the extent of competitive constraints faced by the Parties from alternative options available to customers pre-Merger.

8.104 We examine the evidence regarding:

- (a) Competition from PHS.
- (b) Competition from Cathedral.
- (c) Competition from Mayflower.
- (d) Competition from other washroom services suppliers.
- (e) Competition from a combination of regional washroom services suppliers.
- (f) Competition from FM companies.
- (g) Competition from specialist waste collection companies, cleaning companies, and self-supply.

### ***Competition from PHS***

#### ***The views of the Parties***

8.105 The Parties told us that PHS is a competitor of significant strength and that, post-Merger, the Parties will face a formidable competitor in the form of PHS,

which has a 30-40% market share when including regional suppliers and a 50-60% share for national washroom specialists.<sup>270</sup>

8.106 The Parties said PHS has the most customers in the UK, which enables it to achieve the highest operational density of any washroom services supplier. The Parties also said that PHS operates as a 'serious constraint', and is each Party's closest competitor responsible for the highest share of wins from tenders.<sup>271</sup> Further, the Parties said PHS is an 'especially important competitive constraint when it comes to contracts with FMs' and is the preferred alternative for almost all of the Parties' competitors.<sup>272</sup>

#### *Internal documents*

8.107 Both Rentokil's and Cannon's internal documents consider PHS the main competitor, or one of the main competitors alongside the other merger party.

(a) Rentokil's Strategy Update 2017 [REDACTED]<sup>273</sup>

(b) Rentokil maintained a list of [REDACTED].<sup>274</sup>

(c) The 'Competitor UK map' of Cannon showed that [REDACTED]<sup>275</sup>

(d) OCS's five-year strategy for Cannon [REDACTED].<sup>276</sup>

#### *CMA assessment*

8.108 The evidence we have received indicates that PHS is the largest washroom services supplier in the UK. PHS operates [REDACTED] sites for supplying washroom services across all regions in the UK, with washroom services revenue of [REDACTED] (waste disposal [REDACTED]) in the financial year ended 31 March 2017.

- *PHS's current national and multi-regional customers*

8.109 In relation to the supply to national and multi-regional customers, PHS told us that it has [REDACTED] customers most of which are national in geographic scope.<sup>277</sup> It also has another [REDACTED], some of which are also national.<sup>278</sup>

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<sup>270</sup> Parties' response to phase 1 decision, 30 July 2018, paragraph 5.31.

<sup>271</sup> [REDACTED]

<sup>272</sup> Parties' response to phase 1 decision, 30 July 2018, paragraph 5.34.

<sup>273</sup> [REDACTED]

<sup>274</sup> [REDACTED]

<sup>275</sup> [REDACTED]

<sup>276</sup> [REDACTED]

<sup>277</sup> PHS defined [REDACTED]

<sup>278</sup> PHS defined [REDACTED]

8.110 PHS has provided data on a list of its [redacted] customers and revenue per customer.<sup>279</sup> The total spend in washroom services of these customers was £[redacted] (£[redacted] for end customers and £[redacted] for FM customers).

8.111 On the basis of PHS's submission that most of its [redacted] customers and some of its [redacted] customers are national, we find that the total value of national and multi-regional customers supplied by PHS will remain larger than that of the Parties combined (£[redacted] for end customers, £[redacted] for FM customers.<sup>280</sup> (See Table 33).

- *The views of PHS*

8.112 PHS told us that it considers itself together with the Parties as the only providers with 'the ability to effectively serve national customers across the UK'. PHS said that it is because of their 'national depot infrastructure'; 'ability to handle national account management needs'; 'ability to provide a national customer service organisation'; 'ability to handle complex procurement process', and 'national IT systems'.<sup>281</sup>

- *Analyses of the Parties' tendering data and Rentokil customer loss data*

8.113 Similarly, the CMA's analyses of the Parties' tendering data and Rentokil customer loss data show that PHS is the closest competitor to each Party. We find that PHS captured the highest proportion of diversion from each of the Parties under all measures (as described in detailed in Appendix C and Appendix D).

- (a) Private sector tender analysis: diversion from Rentokil to PHS was 70-80%; and from Cannon to PHS was 40-50%.
- (b) Public sector tender analysis: diversion from Rentokil to PHS was 60-70%; and from Cannon to PHS was 40-50%.
- (c) Rentokil customer loss analysis: diversion from Rentokil to PHS was 80-90% for customers lost in more than eight regions.<sup>282</sup> Using the Parties' approach to identify 'large customers' ([redacted]) operating in eight regions, diversion to PHS was estimated to be 50-60%.

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<sup>279</sup> PHS has [redacted] accounts relating to these [redacted] customers; some customers have multiple accounts.

<sup>280</sup> In addition to approximately [redacted] for framework customers of the Parties. PHS did not provide data for framework customers.

<sup>281</sup> [redacted]

<sup>282</sup> Looking at all customer losses (See Table 1 in Appendix D), this figure does not change when looking at 'large customers' only (See Table 5 in Appendix D).

8.114 In relation to public sector framework tenders, PHS submitted an analysis of [redacted]. The analysis suggests that PHS is a close competitor of both Rentokil and Cannon in the supply of washroom services to public sector customers. PHS said that, in its view, the analysis also shows that the Parties are close competitors to one another. PHS analysis also identified other suppliers, [redacted] but [redacted] was the only winner other than the Parties. (See Appendix C for further detail.)

- *Supply to FM customers*

8.115 In relation to supply to FM customers, we find that PHS generated the highest revenue (£[redacted]) compared to Rentokil ([redacted]) and Cannon [redacted].<sup>283</sup>

- *Third-party views*

8.116 All third party views are consistent with PHS being an effective competitor. Nearly all of the Parties' customers which responded to the CMA's questionnaire considered PHS as an alternative viable supplier and/or in their last tender. Similarly, most other washroom suppliers identified PHS as a leading competitor.

- *The competitive constraint that PHS may be expected to exercise post-Merger*

8.117 As discussed above, our analysis of the Parties' tendering data, Rentokil customer loss data, customer submissions and the Parties' internal documents indicate that:

- (a) Both Rentokil and Cannon competed against PHS closely for national and multi-regional customers, but Rentokil more strongly than Cannon.
- (b) The share of supply for waste disposal services is concentrated, with PHS and the Parties accounting for most of the national and multi-regional customers by revenue.
- (c) Currently, each of PHS, Cannon and Rentokil are winning customers at the expense of the other two companies.

8.118 As a result of the Merger, the options available to national and multi-regional customers will be reduced when these customers appoint a new supplier or re-negotiate with their current suppliers upon expiry of their existing contracts, either by tendering, price benchmarking, and/or bilateral negotiations. Given

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<sup>283</sup> [redacted][redacted]

the foregoing, subject to the constraints from other competitors (which we discuss below), we consider that the Merger may enhance the ability of PHS to increase prices and/or reduce the incentives for PHS to compete against the merged entity relative to the pre-Merger situation.

*Provisional finding on competition from PHS*

8.119 The evidence set out above shows that PHS is the closest competitor to the Parties in the supply to national and multi-regional customers. We provisionally find that PHS is likely to continue to act as a constraint on the Parties post-Merger. However, we provisionally find that the Merger may enhance the ability of PHS to increase prices and/or reduce the incentives for PHS to compete against the merged entity relative to the pre-Merger situation.

*Competition from Cathedral*

*The views of the Parties*

8.120 The Parties said Cathedral markets itself as a ‘national player’ and has already ‘demonstrated its ability successfully to provide washroom services on a national basis’.<sup>284</sup> To support the contention that Cathedral could win business if the merged entity raised prices or reduced service levels post-Merger, the Parties stated the following.

- (a) In the Parties’ view, Cathedral serves national customers, has branches in several regions, and employs targeted marketing in all regions where it has no branch presence.<sup>285</sup>
- (b) The Parties understand that Cathedral has a national accounts team and they identified five national customers that they understood to be supplied by Cathedral.<sup>286</sup>
- (c) The Parties estimate that Cathedral generates about £13 million in washroom services, and has grown at 5% per annum in the past three years, and serves at least 35,000 sites across the UK.
- (d) The Parties considered Cathedral’s ‘fast rate of growth is probably partly due to its novel supply model’.<sup>287</sup>

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<sup>284</sup> [redacted]

<sup>285</sup> Parties’ response to phase 1 decision, 30 July 2018, paragraph 5.14(b).

<sup>286</sup> [redacted]

<sup>287</sup> The Parties said Cathedral sub-contracts to other specialists active in areas in which it does not have sufficient customer density, it has some of its own waste handling capacity as well as contracting with waste specialists. The Parties said it is a rational and effective growth strategy.



(e) The Parties said the GfK customer survey indicates that new multi-site customers asked Cathedral to tender/quote as often as Rentokil (10%) and five times more often than Cannon (2%).

(f) The Parties said Cathedral is [REDACTED].<sup>288</sup>

8.121 Further, the Parties submitted an analysis by RBB, which shows that Cathedral accounted for 0-5% of 'large customers' (defined as those with an annual spend over £30,000) lost by Rentokil.<sup>289</sup> Neither Rentokil nor Cannon were able to identify examples of national or multi-regional customers lost to Cathedral.<sup>290</sup> However, the Parties said that 'whether or not the Parties have previously lost national business to [Cathedral] is irrelevant. The Parties said that it does not undermine the logical conclusion that customers dissatisfied for whatever reason with the merged entity post-Transaction have available an ample number of alternatives'.<sup>291</sup>

#### *The views of Cathedral*

8.122 We held extensive discussions with Cathedral as well as a hearing. Cathedral provided a range of evidence including its views on competition in the washrooms sector, its current operations, and examples of its existing national and multi-regional customers and contracts for which it attempted to compete.

8.123 In relation to its current operations, Cathedral told us that:<sup>292</sup>

(a) Its revenues have grown from [REDACTED]million in 2012 to [REDACTED] million in 2017 [REDACTED].<sup>293</sup> [REDACTED]

(b) It operates [REDACTED]

(c) It services [REDACTED]sites and 'regularly' tenders or quotes for 'national accounts'.<sup>294</sup>

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<sup>288</sup> Parties' response to phase 1 decision, 30 July 2018, paragraph 5.17.

<sup>289</sup> [REDACTED] See Appendix D for a detailed description of RBB's analysis.

<sup>290</sup> [REDACTED]

<sup>291</sup> [REDACTED]

<sup>292</sup> [REDACTED]

<sup>293</sup> Cathedral was not able to provide a breakdown for revenue of washroom services only. Financial years ended June 2012 to June 2017 based on published annual reports and accounts.

<sup>294</sup> Cathedral subsequently clarified that 'national account' was not defined by reference to customers located in multiple regions. [REDACTED]

(d) It supplies customers across the UK. It supplies customers directly in all but one UK region, and it sub-contracts in a very limited number of post codes elsewhere ([REDACTED]).<sup>295</sup> [REDACTED].<sup>296</sup>

(e) It employs [REDACTED]

8.124 Cathedral told us that it does not hold records of tenders for which it has competed, or business it has won or lost from competitors, in the past. It provided the CMA with some examples of customers it has attempted to quote to, as we discuss below.

8.125 We set out evidence regarding Cathedral's strength as a competitor in the supply of waste disposal service to national and multi-regional customers in our assessment below.

#### *CMA assessment of competition from Cathedral*

8.126 In order to form a provisional view on the competitive constraint provided by Cathedral we assessed:

- (a) Cathedral's current national and multi-regional customers.
- (b) Cathedral's attempts to acquire national and multi-regional customers.
- (c) The degree of competition between Cathedral and the Parties pre-Merger.
- (d) The Parties' internal documents.
- (e) The views of customers and competitors.
- (f) The competitive constraint that Cathedral may be expected to exercise post-Merger.

- *Cathedral's current national and multi-regional customers*

8.127 We considered the extent to which Cathedral currently supplies to national and multi-regional customers. Cathedral emphasised that it does not hold precise revenue data or an exhaustive customer list, but it estimated that:

- (a) It has between [REDACTED] national and multi-regional customers (served in more than eight regions), which represented less than [REDACTED]% of its business (ie less than £[REDACTED] including washroom services, mats and laundry).

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<sup>295</sup> [REDACTED]

<sup>296</sup> [REDACTED]

(b) Its recent growth has been achieved in line with the proportion of sales accounted for by its national and multi-regional and other customers (ie national and multi-regional customers represent less than [REDACTED]% of its 5% growth). Cathedral provided ten examples of its national and multi-regional customers (served in more than eight regions), which represent a total annual spend of £[REDACTED]. It told us that it cannot be sure which customers represent its top ten national customers. These customers are set out in Appendix B.

8.128 Cathedral also confirmed that [REDACTED] was a national customer and that it has previously supplied [REDACTED], [REDACTED] and [REDACTED].<sup>297</sup> However, Cathedral did not provide examples of any FM companies or frameworks they currently service.

8.129 We note that Cathedral's revenue to national and multi-regional customers is [REDACTED] than that of Rentokil (£[REDACTED], or £[REDACTED] including FM companies and frameworks), Cannon (£[REDACTED], or £[REDACTED] including FM companies and frameworks) and PHS (over £[REDACTED], or [REDACTED] including FM companies). (See Table 33 above.)

8.130 Further, we find that the size of Cathedral's national and multi-regional contracts appears to be smaller than that of the Parties' and PHS's. For example, the largest end customer of Rentokil [REDACTED] has an annual spend of £[REDACTED], which [REDACTED]. The largest end customer of Cannon [REDACTED] has an annual spend of £[REDACTED], which is [REDACTED]% of Cathedral's national and multi-regional customer turnover.

8.131 On the basis of the evidence from Cathedral above, we find that Cathedral is able to supply national and multi-regional customers, but its current scale is small compared to that of the Parties and PHS.

- *Cathedral's attempts to acquire national and multi-regional customers*

8.132 In addition to the above information on existing customers, Cathedral submitted ten examples of national customers it has attempted to quoted to in the last 12 months.<sup>298</sup> [REDACTED]:

(a) [REDACTED].<sup>299</sup>

(b) [REDACTED].<sup>300</sup>

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<sup>297</sup> [REDACTED]

<sup>298</sup> [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] We note that these opportunities were not identified in the Parties' tendering data.

<sup>299</sup> [REDACTED]

<sup>300</sup> [REDACTED]

(c) [REDACTED].<sup>301</sup>

8.133 Cathedral [REDACTED] in the last 12 months. It supplied [REDACTED], with annual receipts of £[REDACTED], having won the contract from Cannon, [REDACTED]

8.134 On the basis of the evidence submitted by Cathedral, we find that Cathedral has generally not been successful when seeking to attract new national and multi-regional customers.

- *The degree of competition between Cathedral and the Parties pre-Merger*

8.135 Previous competitive interactions are an important indicator of the strength of competitive constraint post-Merger. We examine the evidence on the extent to which Cathedral has won business from or lost business to the Parties pre-Merger, focusing on the supply of washroom services to national and multi-regional customers.

8.136 We consider the evidence of competitive interactions between the Parties and Cathedral:

(a) RBB analysis shows that Cathedral accounted for 0-5% of 'large customers' (defined as customers with an annual spend over £30,000) lost by Rentokil. (See Appendix D.)

(b) Using the RBB data, but considering all customers rather than large customers only, we find that Rentokil has lost business to Cathedral in [REDACTED] regions, but all such losses were in a single region (see Appendix D).

(c) The Parties have not identified any national and multi-regional customers that they have lost to Cathedral.<sup>302</sup>

(d) Cathedral identified a customer won from Cannon,<sup>303</sup> and another customer it has lost to Cannon.<sup>304</sup>

(e) Cathedral was not reported as a winner in the Parties' private and public tendering data. Neither was Cathedral identified as a bidder, although we note that it is not possible to identify bidders exhaustively due to lack of transparency in the market.

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<sup>301</sup> [REDACTED]

<sup>302</sup> [REDACTED]

<sup>303</sup> The customer in question is [REDACTED]

<sup>304</sup> The customer in question is [REDACTED]

(f) No FM customers or frameworks identified Cathedral as a current supplier.

8.137 Based on the evidence above, in our provisional view, there is very limited competitive interaction between Cathedral and the Parties to supply national and multi-regional customers pre-Merger.

- *The Parties' internal documents*

8.138 We have reviewed the following Rentokil documents regarding competition from Cathedral. The documents indicated:

(a) [REDACTED].

(b) [REDACTED]).

(c) In Rentokil's 'Internal Regional Competitor Survey' of [REDACTED].<sup>305, 306</sup>

8.139 We also consider Cannon's internal documents regarding competition from Cathedral. The documents indicated:

(a) [REDACTED].<sup>307</sup> [REDACTED]<sup>308</sup>

(b) [REDACTED].<sup>309</sup>

(c) [REDACTED].<sup>310</sup>

8.140 Based on the evidence from the Parties internal documents, our provisional view is that although the Parties monitor competition from Cathedral, they consider Cathedral different from the three main competitors (ie PHS and the Parties) and, in most cases, they see competition from Cathedral as more regional/local than national.

*The views of customers and competitors*

8.141 A national customer of Rentokil told us that it invited Cathedral to bid for a washroom services tender, but Cathedral did not take part.<sup>311</sup> No other

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<sup>305</sup> Rentokil asked its regional branch managers the following question: 'Q1 - Name your top 5 regional competitors? Q2 - Have you come across Cathedral Hygiene in your area?'. See Rentokil's response to the Market Questionnaire, Question 36, Annex 182, and [REDACTED]

<sup>306</sup> [REDACTED]

<sup>307</sup> [[REDACTED]

<sup>308</sup> [REDACTED] [[REDACTED]

<sup>309</sup> [REDACTED]

<sup>310</sup> [REDACTED] We note that Cannon did not define the meaning of 'true national' in this document.

<sup>311</sup> [REDACTED]

national and multi-regional customers which responded to our questionnaires mentioned Cathedral as a viable alternative or a bidder in past tenders.

8.142 PHS told us that its key account customers and FM customers that PHS interacts with rarely mention Cathedral as a national competitor.<sup>312</sup>

8.143 Mayflower told us that it rarely competes with Cathedral for national customers.<sup>313</sup>

8.144 While the Parties pointed out that the GfK customer survey suggests that 10% of new multi-site customers asked Cathedral to tender/quote, as explained in paragraphs 8.120(e) above, we consider that the survey sample is unlikely to be representative of national and multi-regional customers.<sup>314</sup> (See Appendix E for further detail.)

8.145 In conclusion, customer and competitor views appear to indicate limited competitive interactions between Cathedral and the Parties.

*The competitive constraint that Cathedral may be expected to exercise post-Merger*

8.146 The evidence indicates that Cathedral is the fourth washroom services supplier (by total revenue) that supplies across Great Britain. Its customer base includes a number of national and multi-regional customers, and it is capable of supplying washroom services to some national and multi-regional customers.

8.147 However, the evidence suggests that Cathedral is a weak competitor for national and multi-regional customers. We find that its revenue from these customers was less than £[redacted], substantially less than that of Rentokil, Cannon, and PHS.

8.148 Cathedral's customer win data, the tendering data and the Rentokil customer loss data indicate there are very limited competitive interactions between the Parties and Cathedral to supply national and multi-regional customers. The Parties' perception of Cathedral in their internal documents is consistent with Cathedral being a weak constraint, and that it is 'more local than the big three'.

8.149 We have also found that:

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<sup>312</sup> [redacted]

<sup>313</sup> Mayflower subsequently told us it identifies 'national customers' as those served over 25 sites.

<sup>314</sup> We note that the results have been updated in the final GfK report which shows the following percentage of multi-site customers who ask each supplier to quote: Cathedral (11%), Rentokil (16%) and Cannon (5%).

- (a) Cathedral is growing by around 5% per annum, but this growth appears to be driven by regional customers.<sup>315</sup>
- (b) Although Cathedral has some capacity to win new contracts, it has often not been successful in winning contracts because [REDACTED].
- (c) Cathedral did not provide us with specific expansion plans or strategy by Cathedral to target national and multi-regional customers, but we consider the potential for Cathedral to expand in Chapter 10.

*Provisional conclusion*

8.150 The evidence indicates that Cathedral is able to supply waste disposal services to national and multi-regional customers but it is a smaller competitor than PHS, Rentokil and Cannon. We consider that Cathedral currently provides a relatively limited constraint on the Parties, as demonstrated by the limited value of its current national and multi-regional customers and that it has [REDACTED]. We have not seen sufficient evidence to provisionally conclude this will change post-Merger.

*Competition from Mayflower*

*The views of the Parties*

8.151 The Parties told us that ‘there are at least five national players’, and Mayflower is one of them (alongside PHS, the Parties and Cathedral). The Parties made the following submissions regarding Mayflower.<sup>316</sup>

- (a) Mayflower serves ‘at least one national customer that the Parties are aware of’ ([REDACTED]) which the Parties said ‘should suffice to qualify it as an effective national player, and a genuine outside option’.<sup>317</sup>
- (b) Mayflower has grown in recent years. The Parties understood that [REDACTED] has ‘sponsored growth by Mayflower to offer national coverage’.<sup>318</sup>
- (c) Mayflower has six branches (which matches Rentokil’s estimate of how many would be needed to achieve national coverage using a branch-

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<sup>315</sup> Growth rate based on customer annual accounts. Cathedral estimated that its growth is in proportion to its customer mix, whereby national and multi-regional customers accounted for [REDACTED]% of Cathedral’s business.

<sup>316</sup> [REDACTED]

<sup>317</sup> [REDACTED]

<sup>318</sup> [REDACTED]

based supply model) and, in the Parties' view, it is 'in a position to continue to strengthen its existing national coverage capabilities'.<sup>319</sup>

- (d) Mayflower has won 10-20% by value of the private sector tenders lost by Cannon in the CMA's analysis; has won 'at least one large contract' from Cannon;<sup>320</sup> and has won 0-5% of Rentokil's lost value for 'large customers' in the analysis of Rentokil customer losses.<sup>321</sup>

### *The views of Mayflower*

8.152 We held a number of discussions with Mayflower as well as a hearing. Mayflower provided a range of evidence to our inquiry, including in relation to its current customers, recent growth and strategy and its views on competition in the washrooms sector.

8.153 In relation to its current operations, Mayflower told us that:<sup>322</sup>

- (a) It started in the South East, and now has five depots.<sup>323</sup> It is setting up a sixth depot in the East Midlands.
- (b) Its washroom services turnover is around [REDACTED].<sup>324</sup> Its washroom services grew by [REDACTED]% last year.
- (c) Mayflower has supplied [REDACTED]
- (d) It does not have a centralised sales force.
- (e) It targets customers in some particular sectors, including retail, contract cleaning, FM companies, education; but not strong in healthcare.
- (f) It does not 'simply chase turnover but sought to ensure that it had clients which were able to pay its bills', and it occasionally turns down customers that 'do not fit in well with its portfolio' if that imposes additional costs.
- (g) It only competes [REDACTED]

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<sup>319</sup> [REDACTED]

<sup>320</sup> [REDACTED]

<sup>321</sup> [REDACTED]

<sup>322</sup> [REDACTED]

<sup>323</sup> Woolwich, Swindon, Corby, Manchester, Motherwell in the UK; it also has a depot in the Republic of Ireland (Dublin).

<sup>324</sup> [REDACTED]services [REDACTED]. [REDACTED] Mayflower's website states that in addition to washroom services, it has three other divisions: consumables, laundry and cleaning machinery.



- (h) It competes in tenders for 'national customers' around four to six times per month. We note that Mayflower did not identify or provide examples of these 'national customer' tenders.
- (i) It understands that there to be no significant differences between the prices it offers and those offered by Rentokil, Cannon and PHS.
- (j) Five years ago, Rentokil, Cannon and PHS would have been the main suppliers to the largest customers. However, Mayflower considers this an outdated view of the market.

8.154 We set out evidence regarding Mayflower's strength as a competitor in the supply of waste disposal service to national and multi-regional customers in our assessment below.

*CMA assessment*

8.155 In order to form a provisional view on the competitive constraint provided by Mayflower we assessed:

- (a) Mayflower's current national and multi-regional customers.
- (b) The degree of competition between Mayflower and the Parties pre-Merger.
- (c) The Parties' internal documents.
- (d) The views of customers and competitors.
- (e) The competitive constraint that Mayflower may be expected to exercise post-Merger.

- *Mayflower's current national and multi-regional customers*

8.156 To understand the competitive constraint Mayflower currently exerts, we looked at the extent to which Mayflower currently supplies washroom services to national and multi-regional customers.

8.157 Mayflower told us:

- (a) It currently supplies between [redacted] 'national customers'.<sup>325</sup>

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<sup>325</sup> Mayflower identifies national customers as customers which are served from all its depots and which have 25 or more delivery points.

- (b) As a rough approximation, [redacted] of its business was with national and multi-regional customers (supplied in eight or more regions),<sup>326</sup> which amounts to around [redacted] million in washroom services revenue. We note that this is similar in order of magnitude as Cathedral, but smaller than the Parties and PHS.
- (c) Whilst Mayflower was not able to provide an exhaustive customer list, it confirmed that [redacted] is one of its top six customers and is served at more than [redacted] sites across the UK. Mayflower's other five top customers are FM companies or cleaning companies.<sup>327</sup>
- (d) Mayflower told us that it had recently won [redacted]

8.158 The evidence from Mayflower on its top national and multi-regional customers, such as [redacted], indicates that Mayflower has the ability to supply some national and multi-regional customers. We also have evidence that Mayflower supplies a number of FM companies.

- *The degree of competition between Mayflower and the Parties pre-Merger*

8.159 We examine the competitive interactions between the Parties and Mayflower pre-Merger and find that:

- (a) The Parties had not lost national and multi-regional customers to Mayflower.<sup>328</sup>
- (b) Mayflower told us that it competes in tenders for national customers around four to six times per month, although we found limited evidence of its interaction with the Parties. Mayflower said it won the [redacted] contract ([redacted]) and, more recently, won [redacted] from Rentokil.<sup>329</sup>
- (c) The Cannon tendering data indicated that, Mayflower has won 10-20% by value of Cannon's lost private sector tenders;<sup>330</sup> the majority of this value is attributable to [redacted].<sup>331</sup> Mayflower was identified as a bidder and winner for one national customer ([redacted]) and one local customer [redacted].<sup>332</sup> Mayflower was identified as a bidder in another national contract [redacted] which it did not

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<sup>326</sup> [redacted]

<sup>327</sup> Mayflower told us that its top six customers are: [redacted] Mayflower also identified a number of other FM customers ([redacted]) that it supplies. [redacted]

<sup>328</sup> [redacted] Cannon said Mayflower has won one [redacted] which is a local/regional customer.

<sup>329</sup> [redacted]. Mayflower also said it won several [redacted]

<sup>330</sup> Prior to customer sector information provided by the Parties, we estimated the diversion ratio from Cannon to Mayflower to be 10-20%.

<sup>331</sup> [redacted]

<sup>332</sup> [redacted]

win.<sup>333</sup> Rentokil tendering data does not identify Mayflower as a bidder or winner of any tenders. (See Appendix C.)

(d) RBB's analysis indicates that Mayflower has won 0-5% of Rentokil's lost value for 'large customers'.<sup>334</sup> However, our analysis showed that all Rentokil customers lost to Mayflower were [REDACTED].<sup>335</sup> (See Appendix D.)

(e) In relation to frameworks, Mayflower said Rentokil and Cannon have historically competed for big framework contracts and that [REDACTED].<sup>336</sup>

8.160 Based on this evidence our provisional view is that there is limited evidence that Mayflower has competed against the Parties to supply national and multi-regional customers other than for the [REDACTED] tender and an FM customer [REDACTED]

- *The Parties' internal documents*

8.161 We consider how the Parties perceived competition from Mayflower, based on their internal documents produced in the normal course of business:

(a) Rentokil Strategy Update 2017 listed Mayflower [REDACTED].<sup>337</sup>

(b) In Rentokil's 'Internal Regional Competitors Survey', Mayflower [REDACTED].<sup>338</sup> [REDACTED]

(c) [REDACTED].<sup>339</sup> [REDACTED].<sup>340</sup>

(d) Mayflower was included as [REDACTED]'.<sup>341</sup>

8.162 In summary, evidence from the Parties' internal documents indicates that Mayflower is not monitored closely by Rentokil, and it is primarily considered a regional competitor rather than a national competitor by Cannon.

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<sup>333</sup> [REDACTED]

<sup>334</sup> Defined as customers with annual spend over £30,000.

<sup>335</sup> In Rentokil's data, the [REDACTED]servicing [REDACTED]. [REDACTED] We discuss the degree of multi-sourcing by FM companies in the assessment of competition from a combination of regional suppliers below.

<sup>336</sup> For example, the [REDACTED]

<sup>337</sup> [REDACTED]

<sup>338</sup> Rentokil asked its regional branch managers the following question: '[REDACTED]'. [REDACTED]

<sup>339</sup> [REDACTED]

<sup>340</sup> [REDACTED]

<sup>341</sup> [REDACTED]

*The views of customers and competitors*

- 8.163 The customers that responded to our questionnaires did not mention Mayflower as a viable alternative or a bidder in past tenders. An FM customer [redacted] uses Mayflower for [redacted] of its spend in washroom services.
- 8.164 PHS told us that Mayflower is ‘rarely mentioned as a national competitor by the larger customers which PHS interacts with’.<sup>342</sup> PHS’s ‘top target list’ identified [redacted] Mayflower customers: [redacted]). PHS estimated that Mayflower has a share of [redacted] across PHS’s current and potential key account customers.

*The competitive constraint that Mayflower may be expected to exercise post-Merger*

- 8.165 The evidence indicates that Mayflower is the fifth washroom services supplier by total revenue and it operates across the UK. Mayflower has approximately [redacted] national and multi-regional customers representing [redacted] of its business (ie around [redacted]) and several FM company customers. This evidence in our view indicates that Mayflower is capable of serving some national and multi-regional customers and, in particular, FM companies but there was limited evidence of competitive interactions between the Parties and Mayflower.
- 8.166 Despite the evidence of Mayflower’s growth by [redacted]% last year in washrooms, we did not receive any evidence that Mayflower has any specific expansion plans or any strategic priority to target national and multi-regional customers. Mayflower [redacted]. We examine the potential for Mayflower to expand in Chapter 10.

*Provisional conclusion*

- 8.167 Based on the evidence above, our provisional view is that Mayflower is able to supply waste disposal services to national and multi-regional customers. However, we find that Mayflower currently acts as a limited constraint on the Parties, because its current scale of national and multi-regional customers is smaller than that of the Parties and PHS, there has been limited competitive interactions between the Parties and Mayflower, and the Parties’ internal documents did not consider Mayflower as a close competitor. In our view, Mayflower is likely to remain a relatively limited constraint on the Parties post-Merger given the lack of strategic priority to target national and multi-regional customers, as further discussed further in Chapter 10.

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<sup>342</sup> [redacted]

8.168 We are, however, of the provisional view that Mayflower is likely to be a stronger competitor for FM customers than end customers. In contrast, Mayflower appears to be a weaker competitor in relation to frameworks in relation to which it [§<].

#### *Competition from other washroom services suppliers*

8.169 In this section, we consider competition from other washroom services suppliers.

#### *The views of the Parties*

8.170 The Parties stated in their response to the Reference Decision that there are effective competitors for each washroom service and service bundle. In addition to PHS, Cathedral and Mayflower, the Parties have identified Elis (Berendsen), Greenworks, Zenith, B Hygienic as 'national providers', and four players (Inspire Healthcare, City Hygiene Services, Dirty Harry's Washrooms, Shorrocks Trichem) which 'have the capacity to expand their networks to become national'.<sup>343</sup>

#### *CMA assessment*

8.171 This section assesses the evidence regarding the extent of competition between these suppliers and the Parties.

8.172 As a general observation applicable to all suppliers, we note that our analysis of Rentokil loss data indicates that Rentokil has not lost any customer contracts that covered eight or more regions to suppliers other than to PHS, Cannon and FM/cleaning companies.<sup>344</sup> The losses identified in the Rentokil loss data to other suppliers were incurred within a single region, most of which relate to independent users of frameworks (see Appendix D).

- *Berendsen (Elis)*

8.173 We note that in September 2017, Berendsen was acquired by Elis, an international group offering textile, hygiene and facility services.<sup>345</sup> Berendsen said its core business in the UK is workwear and linen rental, washroom

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<sup>343</sup> [Parties' response to phase 1 decision](#), 30 July 2018, paragraph 5.16.

<sup>344</sup> In the case of losses to FM company, the majority of customers are FM customers, rather than loss of end customers to an FM company.

<sup>345</sup> [§<]

services are an add-on, and it is not aware of any contracts where it provides washroom services without an associated workwear service.

- 8.174 The Parties submitted that with the acquisition of Berendsen, it ‘would seem very unlikely that Elis would not contemplate bringing in-house’ washroom services, which is Elis’ key specialist area.<sup>346</sup>
- 8.175 Berendsen told us it generated washroom services revenues of [redacted] in 2017. [redacted] customers are in eight or more regions.<sup>347</sup> However, all washroom services are [redacted].<sup>348</sup> Berendsen said it does not compete in washroom tenders, public sector contracts or framework agreements, because end-users would want to deal directly with the service provider.<sup>349</sup>
- 8.176 Berendsen was identified as a viable alternative by one Rentokil national customer ([redacted]) and by a Cannon national customer ([redacted]).<sup>350</sup> A [redacted] national customer of ([redacted]) told us it has ‘spoken to Berendsen’, but considered that Berendsen was not able to service an estate of its size.
- 8.177 We asked about future UK entry plans. Elis told us that [redacted]<sup>351</sup> [redacted]. It identified a number of barriers to entering the sector (discussed further in Chapter 10).<sup>352</sup> [redacted].<sup>353</sup>
- 8.178 Based on the evidence we have we find that Elis/Berendsen is currently not an independent competitive constraint in waste disposal or washroom services. It currently outsources all its washroom services and although Elis is a successful washroom supplier in Europe and has considered entering the washroom sector in the UK, [redacted]. We consider Elis/Berendsen’s potential entry further in Chapter 10.
- *Zenith Hygiene Group*
- 8.179 Zenith is a supplier of cleaning and hygiene chemicals. Zenith told us that it operates Zenith Washroom with a branch in the South East (Welham Green). This branch provides washroom services, including waste disposal, with a revenue of £[redacted] in 2017.

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<sup>346</sup> [redacted]

<sup>347</sup> See Appendix B.

<sup>348</sup> Berendsen said [redacted]

<sup>349</sup> [redacted]

<sup>350</sup> [redacted]

<sup>351</sup> [redacted]

<sup>352</sup> [redacted]

<sup>353</sup> [redacted]

8.180 The Parties identified Zenith as a national washroom provider ‘with a network of distribution centres strategically located across the UK’.<sup>354</sup>

8.181 Outside the South East, [X] acts as a sub-contractor for Zenith. The fact that Zenith outsources waste disposal and other washroom services [X] is confirmed by the contract between Zenith and [X],<sup>355</sup> Zenith’s submission, and [X].<sup>356</sup>

8.182 Rentokil’s tendering data identified [X].<sup>357</sup> [X] has confirmed to us that it outsources waste disposal to [X] for this contract.

8.183 A [X] national customer [X] told us that it has considered the Zenith as a qualified supplier in a previous tender, but the customer appointed another provider.

8.184 In summary, Zenith outsources waste disposal and other washroom services to [X], save for a small amount of services which it self-delivers in the South East [X]). Zenith is not therefore, in our provisional view, an independent source of constraint to the Parties in the supply of waste disposal services to national and multi-regional customers.

- *Independent Washroom Services Association (IWSA)*

8.185 The IWSA is ‘a group of independent washroom service providers who work in partnership’ to provide washroom services ‘across the whole of UK’.<sup>358</sup>

8.186 IWSA told us that it has over 35 members. It said three of its members have contracts with customers located in multiple regions. It identified [X] as examples of national contract under IWSA. South West Hygiene also told us that it has just been awarded a ‘very large contract’ under IWSA.

8.187 However, IWSA said its ‘biggest problem’ is getting over 35 members to agree a price for large contracts. It said its members ‘may be more expensive than national suppliers’.

8.188 We note that IWSA was not identified as a winner or bidder in [X], nor was it identified as [X]. Similarly, [X].<sup>359</sup> IWSA was described as [X]<sup>360</sup> but not

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<sup>354</sup> Parties’ response to phase 1 decision, 30 July 2018, paragraph 5.16.

<sup>355</sup> The contract between Zenith and [X] states that ‘[X][X]’

<sup>356</sup> [X]

<sup>357</sup> [X]

<sup>358</sup> [X]

<sup>359</sup> IWSA website.

<sup>360</sup> [X] The Cannon document does not define the meaning of [X].

mentioned as a competitor in OCS's five-year strategy for Cannon (2016-2020).<sup>361</sup>

8.189 PHS told us that IWSA is a 'trade body' and is not mentioned as a national competitor. PHS said that it believes that it is 'difficult to coordinate service requirements across a large group of regional or local service providers'.<sup>362</sup> On the other hand, a regional washroom service provider ([redacted]) said it can 'easily offer services elsewhere in the UK using its other members'.<sup>363</sup> Another provider ([redacted], which is not an IWSA member) said 'there is more national competition recently through collaborations between regional providers using the IWSA'.<sup>364</sup>

8.190 No national or multi-regional customers which responded to the CMA have identified IWSA as a viable alternative or a supplier considered in previous tenders.

8.191 In summary, we have identified three contracts for national and multi-regional customers agreed under IWSA. However, given the limited evidence on competitive interactions between the Parties and IWSA, and the fact that the Parties' did not monitor IWSA in their competitive strategy documents, we find that the constraint from IWSA on the Parties is likely to be limited.

- *Hygienic Concepts*

8.192 Hygienic Concepts told us that it provides washroom services in locations around Great Britain. Its head office is in Cannock (in the West Midlands), and it operates a depot in High Wycombe in the South East for re-stocking. Its total washroom services revenue was £[redacted] in the most recent year, of which it estimated that approximately £[redacted] was from national and multi-regional customers (in eight or more regions).<sup>365</sup>

8.193 Hygienic Concepts has confirmed to the CMA that it has won the tenders of [redacted] ([redacted]) and [redacted] ([redacted]), and estimated that the contract value is [redacted] ([redacted]). Hygienic Concepts also told us that it is the preferred supplier with four FM companies.<sup>366</sup>

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<sup>361</sup> OCS submission, Annex 1.5, Cannon Hygiene UK, Regional Strategy Submission Plan Period FY16 (Dec 15/Mar 16 to FY20 (Dec 20), p.12-14.

<sup>362</sup> [redacted]

<sup>363</sup> The supplier in question was not able to provide information of its current contracts under IWSA to the CMA.

<sup>364</sup> [redacted]

<sup>365</sup> [redacted]

<sup>366</sup> [redacted]



8.194 Hygienic Concepts submitted that it competes by offering a high service quality, and understood that its price is typically higher than that of Cannon and PHS, by approximately [X].

8.195 We find limited evidence on competitive interactions between the Parties and Hygienic Concepts (other than the [X]tender). [X]. In our view, Hygienic Concepts is able to serve some national and multi-regional customers, but its constraints on the Parties is likely to be limited.

- *Other washroom services suppliers*

8.196 We have been told that other suppliers currently serve national and multi-regional customers:

(a) A national customer of Cannon ([X]) considered B Hygienic as a viable 'local supplier' (that could supply only within a local area and not regionally), ranked it fourth in the last tender.

(b) Another national customer of Cannon ([X]) identified Mustang Washrooms as a viable alternative.

(c) Rentokil tender data identified Pink Hygiene as sharing a contract for [X]

(d) [X]told us that it serves [X] national or multi-regional customers, with a combined revenue of [X].<sup>367</sup>

8.197 We have seen limited examples of other suppliers, including Zenith, B Hygienic and Pink Hygiene competing against the Parties in the supply of waste disposal services to national and multi-regional customers. Nor have we identified any evidence that these suppliers have established plans for expansion. We find that these suppliers generally compete at a regional level (which is discussed further in Chapter 9). We set out the evidence available on competition from other potential national suppliers identified by the Parties in Appendix B.

*Provisional finding on competition from other washroom services suppliers*

8.198 We provisionally find that some other washroom services suppliers (other than PHS, Cathedral and Mayflower which we have already assessed above) have a small number of contracts to supply national and multi-regional customers. However, we provisionally find that these suppliers exert a very limited constraint on the Parties. This is based on the limited examples of

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<sup>367</sup> [X]

national and multi-regional customers they currently serve, the lack of evidence on competitive interactions between them and the Parties, and the fact that the Parties did not appear to monitor these competitors in any meaningful way in relation to national and multi-regional customers in their strategy documents. Moreover, we have not identified any evidence that these other suppliers have established plans for expansion.

### *Competition from a combination of regional suppliers*

8.199 As described in Chapter 7 and further examined in Chapter 9, there are a large number of suppliers of washroom services active at the regional level. We consider whether national and multi-regional customers prefer a single supplier of washroom services, or if they would be able and willing to switch to multiple regional suppliers across their estates in the event of a post-Merger price increase by the Parties.

### *The views of the Parties*

8.200 The Parties told us that it is easy to multi-source across regions to achieve national coverage and that national customers already multi-source at the site level, with the average site taking fewer than [redacted] out of the seven washroom service lines from either Rentokil or Cannon.<sup>368</sup>

8.201 The Parties also said customers can ‘buy-around’ the Parties by using ‘a combination of regional washroom services providers rather than a single national provider’.<sup>369</sup> The Parties said that national customers, and notably FM companies, can be expected to be large sophisticated organisations that deal with numerous suppliers already. They told us that end customers and FM companies would be willing to ‘engage in regional buy arounds’, citing results of the GfK survey, and third-party responses to the CMA.<sup>370</sup> The Parties also said frameworks give customers the capability to ‘regionalise spend’.<sup>371</sup>

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<sup>368</sup> [Parties’ response to the issues statement](#), 31 August 2018, paragraph 3.3.

<sup>369</sup> [redacted]

<sup>370</sup> [redacted]The Parties submitted that ‘According to [the CMA’s] survey, 34% of multisite customers would be very / fairly likely to use regional players to achieve national coverage for their sanitary waste disposal needs if their current provider was unavailable; ‘the CMA cites two large customers (with a significant total washroom spend of [redacted]and [redacted]respectively) that would consider a combination of regional washroom services suppliers in the event of a 5% price increase’; ‘three out of five of the Parties’ FM customers who responded to the CMA stated that they would consider a combination of regional washroom specialists if current waste disposal prices were to rise by 5%’; ‘And a competitor has told the CMA that regional collaborations coordinated by the IWSA have been increasing’.

<sup>371</sup> [redacted]The Parties said the ‘ability of frameworks to draw from a wide pool of suppliers is illustrated by ESPO (a public sector owned buying organisation in the UK), which is currently supplied by PHS and the Parties, but also by Hygiene Solutions’.

8.202 Further, the Parties submitted that customers ‘routinely multi-source across sites’ and estimated that the incremental costs of dealing with an additional supplier is less than 0.2% of the value of a contract.<sup>372</sup>

#### *CMA Assessment*

- *Forms of ‘multi-sourcing’ of waste disposal for an estate*

8.203 We consider different forms of ‘multi-sourcing’ geographically for a customer’s estate.

8.204 First, we note that ‘multi-sourcing’ is not necessarily equivalent to procuring from a combination of regional suppliers. Customers could, for example, multi-source from the Parties and/or PHS (eg by reducing their spend with the Parties by sourcing part of their requirements from another supplier with national coverage) as many FM customers currently do, rather than procuring from multiple regional suppliers for an estate.

8.205 Second, we consider that ‘multi-sourcing’ should be assessed in the context of the organisational and procurement structure of a customer. Specifically, ‘multi-sourcing’ geographically for an estate can take several forms:

- (a) A customer which procures centrally for an estate across multiple regions can use multiple regional suppliers to service different sites of the estate.
- (b) A customer which has separate regional procurement teams, with each team making its own procurement decision for certain regions (but not the entire estate), can appoint different suppliers.
- (c) A national brand or group consisting of independent businesses or users making local decisions (eg symbol groups, franchisees and frameworks), which can result in the appointment of different suppliers for different sites under the same national brand name, or for different individual users of a framework.

8.206 For the assessment of a combination of regional suppliers as an outside option for national and regional customers, we consider (a) to be particularly relevant. For example, Rentokil told us that ‘most large multi-site organisations’ have centralised procurement teams with a professional buyer. National and multi-regional customers have also told us that they typically procure centrally for an entire estate. Therefore, a key question is whether or not a customer, which currently uses a single supplier of waste disposal for

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<sup>372</sup> [3<]and the [Parties’ response to the issues statement](#), 31 August 2018, paragraph 3.3.

the entire estate, would be able and willing to change its behaviour and switch to multiple regional suppliers to service different parts of their estate.<sup>373</sup>

8.207 We consider that customers would be very unlikely to change the organisation structure in response to a price increase in waste disposal services. For example, an organisation with central procurement would be unlikely to set up regional procurement functions, or to change to a franchise or symbol group model, in response to a price increase in waste disposal. This is because washroom services are typically a small part of the expenditure of a business.

8.208 Therefore, even if customers with an organisational structure described in (b) and (c) above may appear to ‘multi-source’, it does not follow that customers without such a structure, and which use a central procurement for an estate, would be able and willing to multi-source on a regional basis for the same service.

- *Purchase patterns of national and multi-regional customers*

8.209 We assess how the Parties’ national and multi-regional customers currently purchase washroom services for their estates. We consider that the current purchase patterns of customers provide a useful indication of their preferences.

- *Rentokil customers*

8.210 Rentokil estimated that around [X] of its large national multi-regional multi-site (LNMM) customers use a single supplier of waste [X] across their estates.<sup>374</sup> On this basis, Rentokil concluded that ‘[X]’<sup>375</sup>

8.211 We analysed these 44 LNMM customers. We find that:

- (a) At least [X] customers use Rentokil for their entire estates,<sup>376</sup> ([X] of them were served by Rentokil in eight or more regions).<sup>377</sup> These include [X] customers identified as single-sourcing based on Rentokil’s estimates, and [X] additional customers for which we have verified either from the customer’s submission or other evidence reviewed.<sup>378</sup>

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<sup>373</sup> [X]

<sup>374</sup> Rentokil defined LNMM as customers with over 100 sites served by more than one region.

<sup>375</sup> [X] [X]

<sup>376</sup> These customers account for £[X] of washroom services spend, with over [X] sites each on average.

<sup>377</sup> The other customer was a regional consumer co-operative ([X]) served in five regions.

<sup>378</sup> [X] [X] [X] [X] [X] (both based on the customers’ submissions to the CMA), and [X] (Rentokil supplies to 99% of [X] stores including franchises).

(b) In relation to [REDACTED] customers which purchased from Rentokil for less than 90% of their estates (according to Rentokil's estimates), we find that these are private frameworks,<sup>379</sup> franchises,<sup>380</sup> and symbol groups.<sup>381</sup> In our view, these are not examples of customers choosing to dual- or multi-source, but instead are examples of independent local members of organisations making procurement decisions locally.<sup>382,383</sup> (See paragraph 8.205 above.)

(c) For [REDACTED] remaining customers which purchased from Rentokil for less than 90% of their estates, we do not have further information on which other suppliers (if any) they use – these customers may be single sourcing or multi-sourcing. Rentokil provided possible explanations for two of these customers: 'centrally-driven genuine multi-sourcing' (management decision to use different suppliers in different regions),<sup>384</sup> and 'locally-driven geographic multi-sourcing' (arising from the decisions of individual managers).<sup>385</sup>

8.212 We note that Rentokil's definition of 'LNMM' only considers customers with over 100 sites, and that Rentokil was not able to provide estimates of the degree of single/multi-sourcing for all its 'LNMM' or other national and multi-regional customers. Therefore, the [REDACTED] single sourcing customers identified above is not an exhaustive list of Rentokil's national and multi-regional customers which choose to use a single supplier for an estate.

- o *Cannon customers*

8.213 Cannon did not provide any estimate of the degree to which its LNMM customers use Cannon for their entire estates. Based on customer submissions and tender documents reviewed, we identified at least nine customers who purchase from Cannon across their entire estates.<sup>386</sup> These customers together accounted for [REDACTED] of revenue in 2017, each of whom were serviced in eight or more regions.

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<sup>379</sup> [REDACTED] Members of buying groups are independent businesses or retailers, as explained in Chapter 7.

<sup>380</sup> [REDACTED]

<sup>381</sup> [REDACTED] Symbol groups are collections of stores which are affiliated with a wholesale symbol group provider, usually operating under a common brand. The retailer is independent from the wholesaler.

<sup>382</sup> Rentokil confirmed that [REDACTED] franchisees procure washroom services locally; [REDACTED] franchisees set up separate contracts; and agreements with [REDACTED] were approved with the retailer directly.

<sup>383</sup> [REDACTED] 'Based on Rentokil's understanding, [REDACTED] (only 7% of its sites are estimated to be serviced by Rentokil) uses local washroom providers in combination with self-supply for the remainder of its sites. [REDACTED] uses the opposite model, as 78% of its sites are estimated to be serviced by Rentokil, while the remaining sites are serviced by local washroom providers in combination with self-supply.'

<sup>384</sup> [REDACTED]. [REDACTED][REDACTED]

<sup>385</sup> [REDACTED]. [REDACTED]

<sup>386</sup> [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

8.214 We consider that the requirements of a customer in, say, eight regions are likely to be similar to those of a customer in 11 or 12 regions. For example, [redacted] is a customer of Cannon, served in eight regions, that we have identified as a single-sourcing customer above. The tender for [redacted].<sup>387</sup> As explained in Chapter 7 and paragraphs 8.30 to 8.48 above, the complexity of serving a multi-regional customer in eight or more regions is likely to be similar to that of a national customer in 11 or 12 regions.

- *FM customers*

8.215 We note that the majority of FM customers currently source from multiple suppliers of waste disposal services. Of the eight FM customers which responded to the CMA, all currently use and have considered multiple suppliers, primarily PHS and the Parties. Some FM customers said they source from other suppliers (eg Mayflower) or regional suppliers that do not have a national footprint. Five FMs said they use or have considered using other suppliers,<sup>388</sup> although one FM said ‘small suppliers’ were not considered because of their limited geographic coverage.<sup>389</sup>

- *Frameworks*

8.216 As described in paragraphs 8.88 above regarding the degree of competition between the Parties for framework customers, public frameworks typically appoint several suppliers for their users to choose from. These suppliers include PHS, Rentokil and Cannon, and in some cases, one or more regional suppliers.<sup>390</sup>

8.217 For private frameworks, we find that some appoint more than one supplier, while some other appoint a single supplier. Specifically, one private framework uses both Cannon and Rentokil,<sup>391</sup> and two private frameworks use Rentokil only.<sup>392</sup> We are not aware of private frameworks using regional suppliers.

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<sup>387</sup> [redacted]. In the tendering specification, Cannon [redacted]

<sup>388</sup> [redacted] [redacted] [redacted]; [redacted], [redacted]

<sup>389</sup> [redacted]

<sup>390</sup> For example [redacted] [redacted] [redacted] [redacted]

<sup>391</sup> [redacted]

<sup>392</sup> [redacted] [redacted]

- *Provisional finding on customer purchase patterns*

8.218 In relation to customers who procure washroom services directly, we have identified at least 29 national and multi-regional customers of the Parties in eight or more regions which currently use either Rentokil or Cannon to supply waste disposal to their entire estate.<sup>393</sup> However, we do not have an exhaustive list of single-sourcing customers. We consider that the current purchase patterns suggest that some customers prefer a single supplier rather than multiple suppliers.

- *Customer submissions on whether they would use a combination of regional providers*

8.219 We consider customer submissions on whether they would ‘buy around’ the Parties and use a combination of regional providers, if the Parties were to raise price or deteriorate quality post-Merger. We consider the evidence in relation to direct customers, FM companies and frameworks in the following paragraphs.

- *End customers purchasing for their premises*

8.220 We asked the Parties’ national and multi-regional customers which suppliers they would consider using, if current prices of waste disposal were to increase by 5%.<sup>394</sup> Of the nine customers (in eight or more regions) who responded to this question,<sup>395</sup> one said it would not switch,<sup>396</sup> eight customers said they would switch to another washroom specialist with a national footprint (and four identified PHS<sup>397</sup> two also identified the other Merger Party,<sup>398</sup> four did not specify). In addition, three customers (including two with large revenues) said they would also consider a combination of regional washroom services suppliers;<sup>399</sup> whilst six said they would not consider using a combination of regional suppliers.<sup>400</sup>

8.221 We have also asked three national companies who are not current customers of the Parties, but who have considered the Parties in previous tenders, about

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<sup>393</sup> Representing total revenue of £4.9 million. [REDACTED] for Rentokil and [REDACTED] for Cannon.

<sup>394</sup> We received other customer responses in Phase 1, during which we asked whether customers would switch some or all of its services to local or regional providers if all national providers of washroom services increased their prices by 5%. One customer said ‘this would still require much effort with regards to central management’. Another customer said ‘It would be preferable to stay with a national supplier but this is not essential if they are no longer pricing competitively’.

<sup>395</sup> All these customers were identified as single-sourcing from either merger party.

<sup>396</sup> [REDACTED]

<sup>397</sup> [REDACTED], [REDACTED], [REDACTED], [REDACTED]

<sup>398</sup> [REDACTED], [REDACTED]

<sup>399</sup> [REDACTED]; [REDACTED]: [REDACTED].

<sup>400</sup> [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED].

their preferred approach in procuring waste disposal for their estates.<sup>401</sup> One customer said it would not consider using a combination of regional suppliers upon a 5% price increase,<sup>402</sup> but two other customers said they would.<sup>403</sup>

8.222 Table 88 below summarises the reasons cited by customers who would not consider a combination of regional providers. Generally, customers noted the ‘hassle’ of dealing with issues, ‘time and resource’ required to manage multiple contracts, as well as ‘economies of scale’, ‘cost savings’ and ‘consistency’ of using a single supplier as reasons for not considering multiple regional suppliers. Some customers also considered same pricing for all sites to be important.

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<sup>401</sup> [redacted] ([redacted] [redacted])

<sup>402</sup> [redacted]

<sup>403</sup> [redacted]; [redacted]



**Table 8: Customers who said they would not consider using a combination of regional suppliers and reasons**

Customer	Barriers to source from multiple regional suppliers	The extent to which it is economical to use multiple regional suppliers
[X]	The cost and time to tender.  The disruption and hassle to change (communicating to 2000 stores; dealing with issues; need different messages to different groups of shops)	Hidden operational cost of complexity; managing multiple suppliers for escalation of issues
[X]	Generate multiple contracts to manage, additional workload for the operations team.	It is unlikely that we will receive an overall cost in line with our budget.  It would be more beneficial for a retailer with a much larger estate.
[X]	Done a lot of work to reduce the number of suppliers; by going to regional this would increase our supply base	It would not be an option to introduce more suppliers
[X]	Supplier management is done on low overhead; unlikely to strain that model.  Not currently resourced to add suppliers (more invoices, meetings, reporting, need to co-ordinate multiple inputs to measure service level)	Overall costing more indirectly in time / resource.  Would look at alternative if 'one supplier' solution not working, but prefer a 'nationwide' solution – one point of contact, one contract, consistent service, relatively resource efficient.
[X]	Complexity/time and cost involved in managing multiple suppliers to deliver the same service.	National coverage for convenience and to benefit from economies of scale
[X]	[Not responded]	Through the tender process we found a national contract provided a better rate
[X]	Localised or regionalised contractors could not deliver brand and quality consistency and account management structure that supports on a nationwide scale	Cost-savings through economies of scale of a single supplier

Customers who told us they would not consider using a combination of regional washroom specialists, if current supplier increased the price of feminine hygiene waste disposal by 5%.

Source: Customer submissions to the CMA.

8.223 In relation to customers who would consider a combination of regional providers, they generally told us that using multiple regional suppliers would increase cost, but it is manageable. However, we note that these customers have not considered this option in the past and tend not to be able to identify regional suppliers. Table 9 below summarises their responses.

**Table 9: Customers who said they would consider using a combination of regional suppliers, and the reasons**

Customer	Steps to source from multiple suppliers and any costs involved	The extent to which it is economical to use multiple regional suppliers	Which suppliers considered
[X]	Identify different suppliers in each region  Tender with those suppliers to determine cost and service levels.  No direct cost of sourcing, just the time and resource.	Not the most economical to manage multiple suppliers  Some sites may be discouraged that other sites have a better rate in a particular region	Market research would need to be done
[X]	This increases management cost to deal with more suppliers, but manageable	If they turn out to be cheaper after accounting for the additional management costs	No detailed analysis done
[X]	Not responded	Not responded	Unsure
[X]	Not responded	Possibly; but cannot imagine there is too much benefit  Reasons for using single supplier: Ease, one contact and escalation, one contract and same pricing for all outlets.	Only PHS, Initial/Cannon were able to service an estate of its size, but previously also spoken to Berendsen and Admiral
[X]	Not responded	Reasons for using single supplier: Consistency across the estate, leverage volume to improve pricing, consolidation of supply base.	Initial, Zenith

Customers who told us they would consider using a combination of regional washroom specialists, if current supplier increased the price of feminine hygiene waste disposal by 5%.  
Source: Customer submissions.

- o *FM customers*

8.224 We asked the Parties' FM customers which suppliers they would consider using if current prices of waste disposal were to increase by 5%. Of the five FMs which responded to this question, four said they would consider another national washroom supplier, three said they would also consider a combination of regional washroom suppliers. One customer said it would consider self-supply 'Binny Bins' depending on the client site.<sup>404</sup>

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<sup>404</sup> [Binny Sanitary Bins](#) supplies disposal sanitary bins under the brand name 'Binny'.

- 8.225 One FM customer told us that it does not have large nationwide contracts that need a one supplier UK solution.<sup>405</sup> Another FM customer told us that it would not rule out using a mixture of regional providers, but said national customers prefer to use a national provider, and it would go with the solution that best fit the customer.<sup>406</sup> Another FM customer said some of its customers have a nominated supplier of washroom services for continuity.<sup>407</sup>
- 8.226 We therefore consider that FM customers are better able than end customers to procure from multiple suppliers. This is consistent with the fact many of FM customers currently already multi-source, and the nature of the FM business which is to handle multiple sub-contractors. However, we note that some customers of FM companies may nominate their preferred washroom services supplier.
- *Framework customers*
- 8.227 We asked the Parties' framework customers which suppliers they would consider using if current prices of waste disposal were to increase by 5%.
- 8.228 A large public framework organisation with users in all 12 UK regions said 'smaller regional may want to tender for the framework'.<sup>408</sup>
- 8.229 A private framework said it would not switch.<sup>409</sup> Another private framework said it may consider PHS and choose another two suppliers, or stay with the existing supplier.<sup>410</sup> Another private framework said it would consider another national supplier, or potentially consider a combination of regional washroom specialists. However, it said its members are based all over the UK and suppliers must be able to service all these areas and not sub-contract to a third party.<sup>411</sup>
- 8.230 We note that a regional supplier typically serves customers in or around the region in which they are active. Therefore, for a framework with national or multi-regional coverage to consider a combination of regional suppliers as a credible outside option, it would have to list a significant number of regional suppliers to replicate the national coverage in all 12 regions.<sup>412</sup> Moreover, framework customers told us that regional suppliers tend to be more

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<sup>405</sup> [redacted] It said it often uses brokers that manage an array of local/regional suppliers.

<sup>406</sup> [redacted]

<sup>407</sup> [redacted]

<sup>408</sup> [redacted]

<sup>409</sup> [redacted]

<sup>410</sup> [redacted]

<sup>411</sup> [redacted]

<sup>412</sup> As set out above, Mayflower said it does not [redacted].

expensive than national suppliers.<sup>413</sup> In our view, therefore, a combination of regional suppliers is likely to act as a limited constraint on the Parties in the supply to framework customers.

- *The ability of customers to source regionally*

8.231 The Parties estimated that the incremental costs of dealing with an additional supplier is less than 0.2% of the value of a contract.<sup>414</sup> This estimate is based on procurement costs measured by the resource required to negotiate and manage a contract, which the Parties estimated to be two to five man-days.

8.232 We consider that procurement is one of the costs of multi-sourcing, but there are other costs. As set out above, customers told us that they require time and resource to manage ongoing operational issues arising from multiple suppliers, in addition to the cost of procurement. Some customers told us their supply management run on a 'low overhead' and they prefer to reduce the number of suppliers.<sup>415</sup> Some other customers told us that the additional time to manage several contracts is 'manageable'.<sup>416</sup> In light of the foregoing, we consider that the Parties' estimate, based on procurement cost only, is likely to understate the overall cost to multi-source.

8.233 We note some customers said multi-sourcing is possible because they can manage additional suppliers. However, we are not aware of any end customers, procuring centrally for an estate across multiple regions, have used a combination of regional suppliers. Consistent with this, the Parties did not identify any examples of a national and multi-regional customers that they have lost to a combination of regional suppliers.<sup>417</sup>

- *The incentive for customers to source regionally*

8.234 We assess the extent to which customers would have the incentive to switch to a combination of regional suppliers, if the Parties were to increase price.

8.235 Based on the way in which prices are set,<sup>418</sup> and the evidence that we received from customers, we consider that there are two reasons that would limit the incentive of customers to switch from a single national supplier to multiple regional providers.

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<sup>413</sup> See footnote 236.

<sup>414</sup> [Parties' response to phase 1 decision](#), 30 July 2018, paragraph 5.13.

<sup>415</sup> Table 88.

<sup>416</sup> Table 9.

<sup>417</sup> [redacted]

<sup>418</sup> See discussions in nature of competition section earlier in this chapter.

8.236 First, customers could well have to forgo lower prices, discounts or rebates they would receive from a single supplier, if they break up a large contract into multiple smaller contracts. We note that this is supported by Rentokil's submission that larger customers receive lower prices,<sup>419</sup> and submissions from some customers that they use a single supplier to achieve economies of scale, 'leverage volume to improve pricing', and to benefit from cost savings, as set out in Table 88 above.

8.237 Second, there is some evidence from customer<sup>420</sup> and competitor submissions suggesting that smaller suppliers are more expensive than larger national suppliers.<sup>421</sup>

8.238 We therefore consider that the constraints from a combination of regional suppliers would be limited by the two factors above.

### *Competitor submissions*

8.239 Competitors expressed mixed views about the prevalence of multi-sourcing by customers. PHS said customers with a national presence prefer to deal with a single provider because of the benefits of having product, account management and operational consistency.<sup>422</sup> Mayflower told us that single-sourcing may be more common than multi-sourcing overall and struggled to provide examples of customers multi-sourcing.<sup>423</sup> In contrast, Cathedral told us that 'equally as many or more' national customers purchase services from multiple suppliers than those who use a single supplier.<sup>424</sup> It said customers without central procurement departments, or franchisees, tend to procure washroom services locally.

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<sup>419</sup> [redacted] Rentokil said that 'customers receive lower prices per unit as the number of units sourced increases. Hence, larger customers receive lower prices based on the number of sites required to be serviced, service intervals and the number of products ordered/ serviced per site'.

<sup>419</sup> [redacted].

<sup>420</sup> [redacted] said 'In general, on feminine hygiene bin collection [...] Initial/PHS are around 160% cheaper than the most expensive regional providers and 30% cheaper than the mid-range providers'. [redacted] said 'Smaller operators tend not to want to offer prices as low as the prices ESPO gets from the national suppliers; [redacted] told us that local suppliers have good local delivery of service levels and relationship with the site but price tends to be higher.

<sup>421</sup> [redacted] (an FM) said regional or small local suppliers may not always be price-competitive with washroom suppliers with a nationwide presence, but may offer better service quality and flexibility. [redacted] (a regional supplier) said it is 'very difficult to win' because of 'low pricing policy of national companies such as Initial and Cannon'. Cathedral told us that [redacted]

<sup>422</sup> [redacted]

<sup>423</sup> [redacted]

<sup>424</sup> Cathedral did not specify the meaning of 'national customer' in its original response.

*Provisional finding on competition from multiple regional suppliers*

- 8.240 For a combination of regional suppliers to exert an effective constraint on the Parties post-Merger, customers would need to have both the ability and the incentive to switch from the Parties to multiple regional suppliers.
- 8.241 We find that while some customers may have the ability to manage additional suppliers, some other customers, in particular those who have a central procurement function, prefer to and currently use a single supplier for the entire estate. Moreover, in our view, the incentive to switch to regional suppliers is limited by the fact that customers could well have to forgo lower pricing, and incur extra procurement and ongoing account management costs, by breaking up a large national contract into smaller ones regionally.
- 8.242 In relation to frameworks that are available to users across the UK or in multiple regions, they would need to list a large number of regional suppliers to replicate the national coverage, thus limiting the constraints regional suppliers impose on national suppliers such as the Parties and PHS.
- 8.243 On balance, we consider that there is a significant group of national and multi-regional customers which would not likely be willing to 'buy around' the Parties by using a combination of regional suppliers as this would involve making changes to their procurement approach. This group of end customers procure centrally for an estate covering a higher number of regions (say eight or more), and frameworks with a national or multi-regional coverage.
- 8.244 However, we note that multi-sourcing is more prevalent for FM customers than for customers purchasing directly.

*Competition from facilities management companies (FM companies)*

- 8.245 We consider the extent to which FM companies compete against the Parties in the supply of waste disposal services to national and multi-regional customers.

*The views of the Parties*

- 8.246 The Parties submitted that FM companies 'compete aggressively' for total FM contracts. They said FM companies win customers from washroom services suppliers by bundling washroom services with other facilities management services.
- 8.247 In relation to waste disposal, the Parties said FM companies have several options available including self-delivery by using OSS; sub-contract to

national washroom services companies, or multi-sourcing from regional suppliers across their estates.

8.248 Rentokil cited the following evidence in support of their views:

- (a) Some national customers [REDACTED],<sup>425</sup> [REDACTED].
- (a) Two local customer examples illustrate [REDACTED];<sup>426</sup> and [REDACTED].<sup>427</sup>
- (b) In the GfK survey, 66% of multi-site customers considered one of an FM, cleaning company, waste collection company or self-supply when appointing a party to provide sanitary waste disposal / washroom services.<sup>428</sup>
- (c) The European Commission merger decision in *CWS-Boco/Rentokil Initial Target Businesses* stated that ‘a certain degree of demand side substitutability for the washroom services provided by the FM companies’.

#### *CMA assessment*

8.249 We consider the following evidence regarding competition from FM companies:

- (a) FM submissions on the degree of outsourcing and competition with washroom services suppliers.
- (b) Analysis of Rentokil loss data and Parties’ tendering data.
- (c) The Parties’ internal documents.
- (d) Whether customers would switch to an FM company if prices were to increase post-Merger.
- (e) Whether FM companies would start to self-supply waste disposal if prices were to increase post-Merger.

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<sup>425</sup> For example, [REDACTED], [REDACTED], and one division of [REDACTED].

<sup>426</sup> [REDACTED], [REDACTED]

<sup>427</sup> [REDACTED]

<sup>428</sup> GfK report, chart 11.

- *FM submissions on the degree of outsourcing and their competition with washroom services suppliers*

8.250 We consider the degree to which FM companies compete against the Parties in the supply of waste disposal, and in washroom services more generally, pre-Merger.

8.251 Table 10 below provides a summary of FM company submissions on how they provide washroom services. All FM companies which responded told us that they outsource waste disposal. Many FM companies also outsource other washroom services to a washroom service provider. They primarily use one or more of PHS and the Parties as their preferred suppliers, although some FM companies also use other suppliers.<sup>429</sup> However, two FM companies told us that it is possible to self-deliver waste disposal in hospitals where they also remove clinical waste.<sup>430</sup> A customer told us that AM Services (an FM company active in the North West) supplies washroom services via a washroom specialist it owns (Pristine Hygiene).<sup>431</sup>

**Table 10: Summary of how FM companies provide washroom services**

<b>FM responded</b>	<b>Waste disposal</b>	<b>Odour remediation</b>	<b>Other washroom services</b>	<b>Preferred washroom service supplier</b>
[X]	Outsourced	Outsourced	Outsourced	PHS
[X]	Outsourced	N/A	Outsourced	PHS, Rentokil
[X]	Outsourced	Outsourced	Outsourced	Cannon
[X]	Outsourced	Supplied internally	Supplied internally	Mainly PHS
[X]	Outsourced	Outsourced	Outsourced	Mainly PHS; also use Complete Washroom
[X]	Outsourced	Outsourced	Consumables procured directly; hand dryer outsourced	Rentokil, Cannon
[X]	Outsourced	Outsourced	Outsourced	Mainly PHS

Source: Submissions by FM companies to the CMA.

<sup>429</sup> See paragraph 8.216 above.

<sup>430</sup> [X], [X].

<sup>431</sup> [X]



8.252 In addition, five of the seven FM companies which responded to the question told us that they rarely or do not compete for stand-alone washroom services contracts;<sup>432</sup> rather they compete for a package of services (one of which is washroom). They said customers of FM companies rarely or do not start using an FM company for washroom services only.

8.253 We note that customers can procure washroom services via FM companies under an integrated facilities management contract. However, we consider that because all major FM companies that we spoke to outsource waste disposal to washroom services suppliers (and primarily to PHS, Rentokil and Cannon), FM companies are more an indirect than direct competitive constraint to washroom services suppliers in the supply of waste disposal. We consider the extent to which customers would be able and willing to switch from the Parties to an FM company below.

- *Analysis of Rentokil loss data and Parties' tendering data*

8.254 We consider the degree of competitive interactions between the Parties and FM companies. The data appears to indicate that Rentokil has lost some customers to FM companies, but also appears to indicate that FM companies do not participate in washroom services tenders.

8.255 Rentokil submitted an analysis of Rentokil lost 'large customers'.<sup>433</sup> [REDACTED].<sup>434</sup> However, we have not identified any end customers which procured directly from Rentokil have switched to an FM in this data.<sup>435</sup> The losses identified here relate to customers which are either FMs themselves or are cleaning companies/frameworks. Therefore, the analysis does not reflect whether or not customers procuring directly from Rentokil would consider an FM company as an outside option (see Appendix D).

8.256 We also find that neither merger party's tendering data identified an FM company as a winner or bidder of any washroom services tenders. This is consistent with submissions from FM companies, which identified they do not compete in standalone washroom services tenders.

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<sup>432</sup> [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED].

<sup>433</sup> In this analysis, RBB defined 'large customers' as those customers with an annual spend over £30,000.

<sup>434</sup> [REDACTED]

<sup>435</sup> With the exception of [REDACTED] for which the dataset reports a total loss of £125 to an FM company, relating to other cubicle hygiene. Given the small value compared with the total spend of [REDACTED] (over £1 million), this loss appears to be a data anomaly. In any event, the lost sales were unrelated to waste disposal.

- *The Parties' internal documents*

8.257 We consider how the Parties perceived competition from FM companies from their internal documents.

8.258 A recent Rentokil document states that [REDACTED].<sup>436</sup>

8.259 Rentokil's strategy update 2016<sup>437</sup> shows a reference [REDACTED]. In a similar strategy update 2017 [REDACTED]

8.260 A Cannon [REDACTED].<sup>438</sup>

8.261 An OCS strategy document on Cannon for 2016-2020 states that: '[REDACTED]'.<sup>439</sup>

8.262 We consider that the Rentokil documents suggest it did not appear to see FM companies as direct competitors. Both Parties appear to consider FM companies as part of the supply chain. Moreover, a Cannon document noted that [REDACTED].

- *Would customers switch to an FM if prices were to increase by 5%?*

- *Customer and FM submissions*

8.263 We asked the Parties' national and multi-regional customers whether they would consider using an FM company if their current supplier increased price for waste disposal by 5%.<sup>440</sup>

8.264 One customer identified Interserve (an FM company) as an option.<sup>441</sup> Seven of the nine customers (representing £2 million of revenue) who responded said they would not consider using an FM company, with reasons cited below:

(a) 'paying margin on margin, prefer to deal direct';<sup>442</sup>

(b) 'has own FM department';<sup>443</sup>

(c) 'not within supplier relationship management strategy'.<sup>444</sup>

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<sup>436</sup> [REDACTED]. Rentokil estimated that these two services account for 47% of the value of a washroom.

<sup>437</sup> [REDACTED]

<sup>438</sup> [REDACTED]

<sup>439</sup> [REDACTED]

<sup>440</sup> [REDACTED] In Phase 1, we asked whether a customer would consider using them for your washroom services and why/why not.

<sup>441</sup> [REDACTED]

<sup>442</sup> [REDACTED]

<sup>443</sup> [REDACTED]

<sup>444</sup> [REDACTED]

8.265 Furthermore, FM companies told us that washroom services represent a small proportion (1-3%) of the value of a typical FM contract, and a small part of their businesses.<sup>445</sup> As such, we consider that a price increase in washroom service alone would be unlikely to induce a customer to start using an FM company if it does not already use an FM company.

- *Customer switching example provided by Rentokil*

8.266 Rentokil referred to [REDACTED].

8.267 [REDACTED] told us that it tendered 11 facilities-related services (one of which was washroom services) in 2017. It decided to choose [REDACTED], an FM company, and combine 11 services into an integrated contract in order to save cost. [REDACTED] proposed [REDACTED] to [REDACTED] as its outsourced washroom services supplier.<sup>446</sup> On this basis, we consider that the decision of [REDACTED] to choose [REDACTED] is likely to be driven by its intention to integrate 11 facilities services, rather than driven by washroom service alone (which is a small component as discussed above).

8.268 We note that the [REDACTED] example illustrates that customers can procure washroom services via an FM company instead of procuring directly. However, in our view, the example does not imply customers would be willing to switch to an FM company if the Parties were to raise prices by a small amount post-Merger, because washroom services represent a small amount of the cost of an integrated FM contract.

- *Potential for FM companies to obtain lower prices and pass them on to end customers*

8.269 Rentokil [REDACTED].

8.270 We consider the negotiating strength of FM companies. In principle, an FM company can obtain lower prices than customers procuring directly from a washroom services supplier, since FM companies tend to be larger customers and have more frequent interactions with washroom services suppliers. As a result, we consider that it is plausible that FM companies can obtain lower pricing than end customers.

8.271 We note, however, that [REDACTED] are customers located in a single region, rather than national or multi-regional customers. We have not seen evidence suggesting that national and multi-regional customers could obtain better

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<sup>445</sup> [REDACTED], [REDACTED], [REDACTED] and [REDACTED].

<sup>446</sup> We note that Rentokil's loss data submitted in response to question 16 of the Market Questionnaire identified [REDACTED] as a lost customer to PHS.

pricing in washroom services from FM companies than by procuring directly from the Parties.

- *Would FM companies start to self-supply waste disposal using OSS?*

8.272 We consider if FM companies would have the ability and the incentive to start self-supplying waste disposal, if the Parties were to raise price post-Merger. We asked in particular whether FM companies would consider using OSS to self-deliver waste disposal.

8.273 FM companies generally told us that they do not have the ability to self-supply waste disposal services, except for hospital sites in which the FM company also removes clinical waste. They told us the following:

- (a) [X] said it would never consider self-delivering waste disposal, but would consider the contract cleaning companies self-delivering.
- (b) Interserve said that it would depend on the quantity of washrooms and volume of changes, cost effectiveness, skill set of the team and licensing requirements.
- (c) [X] told us that it would not be economically viable to self-deliver waste disposal in a regulated and auditable manner, regardless of exchange or liner service. [X] explained that it is a site-based FM company putting employees into buildings, whereas managing waste disposal would require an infrastructure with a route-based mechanism to deliver this service, which is not its specialism.
- (d) [X] said outsourcing waste disposal helps avoid documentation and audit trail associated with waste. It can collect waste but would still need to get someone to dispose waste at a dedicated time and place.
- (e) Sodexo said it outsources waste disposal in hospitals.
- (f) [X] said it is easier to provide waste disposal in hospitals where it also removes clinical waste, but would involve additional costs on non-hospital sites.

8.274 We also asked FM companies if they would consider self-supplying waste disposal (using either bin exchange or OSS), if their current supplier were to raise price by 5%:

- (a) Interserve said it would 'most probably' use a site cleaning operative and specialist collector to collect the waste, and 'probably not' dispose of the waste itself.

- (b) [X] told us that it would not sacrifice hygiene and quality and hence would not move to a liner exchange. It said instead it would make economic sense for a partner to manage the process.
- (c) [X] said it would negotiate the position, consider different delivery options, or pass through the cost increase to its clients.
- (d) [X] said it does not have the 'critical mass' to self-service waste disposal efficiently and effectively.
- (e) [X] said a 5% price increase would not induce it to self-supply waste disposal.
- (f) [X] said it would consider 'Binny Bins' (disposable sanitary bins) dependent on client sites (eg number of bins, size of building, permanent on site employees etc).

8.275 Based on the submissions above, we find that the majority of FM companies would not have the incentive and the ability to self-deliver waste disposal service. In our view, therefore, the potential constraints of FM companies self-delivering waste disposal would not be likely, timely and sufficient.

*The views of competitors*

8.276 Cathedral told us that FM and cleaning companies are regularly winning contracts for washroom services.

8.277 A regional supplier ([X]) estimated that it lost around 10% of business to FM and cleaning companies. Another regional supplier ([X]) has lost customers to FM companies, and said nationwide FM companies have sub-contract deals with Cannon, Rentokil and PHS.

8.278 Other washroom services suppliers told us that they do not compete with FM and cleaning companies.

- (a) PHS submitted that FM companies and cleaning companies are customers of washroom service providers rather than competitors, some of whom use PHS while others use Rentokil or Cannon.<sup>447</sup> It said 'customers becoming more sophisticated and demanding to jointly buy [FM] services since it offers more convenience (single point of contact) and better price'.<sup>448</sup>

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<sup>447</sup> [X].

<sup>448</sup> [X].

(b) Mayflower said FM companies are super-contractors which pull services together in a total FM package, and FM companies typically outsource cleaning, consumables and washroom services. It is not aware of FM companies providing waste disposal.

*Provisional finding on competition from FM companies*

8.279 While customers can and some do procure waste disposal under an integrated contract with an FM company, we find that FM companies currently outsource waste disposal to washroom services suppliers. As such, we consider that FM companies are an indirect constraint in the supply of waste disposal.

8.280 We note the example provided by Rentokil that it has lost a national and multi-regional customer ([§<]) to an FM company in the past. It is plausible that customers sourcing washroom services together with other facilities services via an FM company may obtain overall cost savings.

8.281 However, several customers told us a 5% price increase would not induce them to consider using FM companies.<sup>449</sup> Moreover, we note that washroom services are typically only a very small part of an overall FM contract and we provisionally find that FM companies would be unlikely to start self-delivering waste disposal.

8.282 On the basis of the evidence considered above, we therefore provisionally conclude that FM companies impose a weak constraint on the Parties in relation to the supply of waste disposal services to national and multi-regional customers.

*Competition from specialist waste collection companies, cleaning companies and self-supply*

8.283 We consider the extent to which specialist waste collection companies, cleaning companies and self-supply are credible outside options for customers requiring waste disposal for their washrooms.

*The views of the Parties*

8.284 In relation to waste disposal, the Parties said the competitive set should include the following:<sup>450</sup>

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<sup>449</sup> See paragraphs 8.263 *et seq.*

<sup>450</sup> Parties' response to phase 1 decision, 30 July 2018, paragraph 5.29.

- (a) Waste collection companies, many of which also provide feminine hygiene services, and it is straightforward for general or medical waste companies to expand into washroom waste disposal.
- (b) Cleaning companies, which already clean the washrooms and provide other washroom services, particularly the case given the key role played by FM companies and the ‘transformation to an OSS service model’.
- (c) Self-supply, which is becoming an increasingly attractive option for many customers even in relation to waste disposal. The Parties said that this is because of the trend towards OSS: where the waste does not exceed 7kg (per collection) customers can simply dispose of it alongside their other general waste or, for volumes above 7kg, in dedicated waste storage at their site.<sup>451</sup>

### *CMA assessment*

- *Healthcare Environmental Group (HEG)*

8.285 HEG, which is based in Lanarkshire, Scotland, told us that it supplies washroom services in Scotland to the public sector, from a branch in Shotts. It generated a revenue in washroom services of [redacted] in 2017. It was included in the public framework Scotland Excel (the body that procures on behalf of Scotland’s local authorities) for the provision of washroom solutions. Other than public sector customers in Scotland, however, HEG does not currently provide washroom services to customers in other parts of the UK.<sup>452</sup>

8.286 PHS confirmed that HEG mainly competes with it for healthcare waste customers, but is aware that it also has non-healthcare waste customers. However, PHS told us that HEG’s preference is ‘to service much larger bins stored outside buildings rather than having to deal with the complexities associated with entering building to services washrooms which could be located in many different locations at larger customer sites’.<sup>453</sup> PHS added that HEG has not been successful in winning contracts and that it does not consider it a serious competitor to PHS, Rentokil or Cannon.

- *Other waste collection companies*

8.287 SRCL (a healthcare waste company) told us that its core business is clinical waste management not washroom services. It offers sanitary waste disposal

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<sup>451</sup> Parties’ response to phase 1 decision, 30 July 2018, paragraph 3.20.

<sup>452</sup> [redacted] We note that a number of NHS Trusts in England have recently terminated contracts with HEG.

<sup>453</sup> [redacted]

to some 'large quantity' clinical waste customers, and provides occasional services to approximately [REDACTED] 'small quantity' customers. It estimated that its washroom revenue in respect of sanitary waste disposal was only approximately £[REDACTED] in 2017. It said it does not compete for washroom contracts.<sup>454</sup>

8.288 Medisort (a healthcare waste company) told us that waste disposal from washrooms was a small part of its business that it outsources to a washroom specialist. It said it has not offered, and does not have any plan to offer, washroom services.

8.289 Tradebe (a waste collection company) said it is a disposal outlet to the companies that supply washroom services, rather than a supplier of washroom services to customers. It told us that it has no plans to enter washroom services.

- *Cleaning companies*

8.290 We consider whether cleaning companies would be an effective competitive constraint on the Parties in the supply of waste disposal services to national and multi-regional customers post-Merger.

8.291 We note that cleaning companies offering washroom services typically outsource waste disposal to washroom service providers. Cannon told us that it has [REDACTED] cleaning companies amongst its customers. We note that Rentokil, PHS and Mayflower also supply cleaning companies.

8.292 We have not seen evidence of competitive interactions between the Parties and cleaning companies in relation to national and multi-regional customers.

8.293 As we note above in relation to FM companies, there are a number of barriers to supplying waste disposal services in-house at scale. We do not consider that cleaning companies would be able to start supplying waste disposal services in-house and compete independently in the supply of waste disposal services to national and multi-regional customers.

- *Self-supply*

8.294 We have not found any evidence of national or multi-regional customers considering self-supply of waste disposal to be a viable alternative to using

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<sup>454</sup> [REDACTED]



the services of the Parties, other than one FM company which considered using 'Binny Bins' as a possibility depending on number of bins and site.<sup>455</sup>

*Our provisional assessment of competition from other suppliers*

- 8.295 In relation to PHS, the evidence set out above shows that PHS is the closest competitor to the Parties in the supply to national and multi-regional customers. We provisionally find that PHS is likely to continue to act as a constraint on the Parties post-Merger. However, we provisionally find that the Merger may enhance the ability of PHS to increase prices and/or reduce the incentives for PHS to compete against the merged entity relative to the pre-Merger situation.
- 8.296 In relation to Cathedral, the evidence indicates that Cathedral is able to supply waste disposal services to national and multi-regional customers but it is a smaller competitor than PHS, Rentokil and Cannon. We consider that Cathedral currently provides a relatively limited constraint on the Parties. We have not seen sufficient evidence to provisionally conclude this will change post-Merger.
- 8.297 In relation to Mayflower, our provisional view is that Mayflower is able to supply waste disposal services to national and multi-regional customers. However, we find that Mayflower currently acts as a limited constraint on the Parties. In our view, Mayflower is likely to remain a relatively limited constraint on the Parties post-Merger given the lack of strategic priority to target national and multi-regional customers, as further discussed further in Chapter 10. We are, however, of the provisional view that Mayflower is likely to be a stronger competitor for FM customers than end customers purchasing washroom services directly. In contrast, Mayflower appears to be a weaker competitor in relation to frameworks in relation to which it [redacted].
- 8.298 We do not find any evidence that other washroom services suppliers would exert a material competitive constraint on the Parties.
- 8.299 We consider the potential for customers to 'buy around' the Parties using a combination of regional suppliers. Other than customers where some procurement decisions are made locally (eg franchisees or users of frameworks) and for FM customers, we have not seen evidence that national and multi-regional customers currently procure from a combination of regional suppliers.

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<sup>455</sup> [redacted]

- 8.300 The evidence on customers' propensity to procure regionally is mixed. We note that there exists a significant group of customers with a clear preference to use a single supplier for an estate, and they would be unlikely to have the incentive to 'buy around' the Parties using multiple regional suppliers post-Merger as this would involve making changes to their procurement approach.<sup>456</sup>
- 8.301 We consider the potential constraint from other types of supplier, including FM companies and cleaning companies, as well as the potential for customers to self-supply. FMs currently do not self-deliver waste disposal, instead they outsource waste disposal to washroom specialists. Post-Merger, we consider that FMs would be unlikely to self-deliver waste disposal in a timely and sufficient way. This evidence indicates that FM companies are likely to impose only a weak constraint on the Parties post-Merger in relation to national and multi-regional customers.
- 8.302 We also consider that healthcare waste companies and cleaning companies would be unlikely to quickly start self-delivering waste disposal to compete for national and multi-regional customers. We did not find any evidence that self-supply is a credible option for national and multi-regional customers.

### ***Third party views***

- 8.303 We have set out the views of customers and competitors in relation to market definition, the nature of competition in the sector, the closeness of competition between the Parties and the competition between the Parties and other suppliers. Before assessing the effects of the Merger, we summarise the views of third parties on the effects of the Merger more generally, including:
- (a) National and multi-regional customers purchasing for their premises from a washroom services supplier.
  - (b) FM companies.
  - (c) Public and private frameworks.
  - (d) The views of competitors.
- 8.304 We set out the views of third parties across all the areas considered in this report in more detail in Appendix E.
- 8.305 In relation to third party views, the Parties told us that the universe of customers potentially most exposed to a theory of harm focused on the supply

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<sup>456</sup> See paragraphs 8.218 *et seq.*

of waste disposal to national customers is very small (and most customers do not appear to be concerned).<sup>457</sup>

### *Direct customers*

- 8.306 Two direct customers expressed some concerns about the Merger. [X] told us that prices could be affected with less competition and [X] said that there could be less choice at the next tender (but that whilst negative this was not significant as they may cast the net more widely).
- 8.307 Other direct customers did not express concerns. [X] said that losing Cannon was not a big issue. [X] said that it had never considered Cannon and was not impressed with Rentokil. [X] [X], [X], [X] [X] and [X] also expressed no concerns about the Merger. However, as noted above in Table 88, a number of national and multi-regional customers expressed their clear preference for a single supplier across their estate.

### *FM customers*

- 8.308 Four FM customers did not express concerns about the Merger. [X] said that Cannon is not a viable partner but it has a global relationship with Rentokil. It also considered PHS to be strong. [X] said that it does not use Cannon much. [X] said that washroom services are not a massive area of spend. Interserve was also unconcerned.
- 8.309 Five FM customers did express concerns. [X] said that the Merger could restrict competition, lead to a reduction in quality or increase in pricing. [X] said that only PHS and the merged entity will be viable and that the Merger will reduce competition for hygiene services to only two companies (adding that large national contracts make up a substantial portion of market value). [X] said there would be less choice, but that washroom services are a small part of its business, adding that it prefers to engage with at least two providers to ensure competition and capacity to serve all customers. [X] Services said that it prefers to deal with at least two national suppliers. G4S told us that it was very worrying that a market with three true national suppliers being reduced to potentially two as two suppliers would not have delivered competitive costs as it makes it easier for suppliers to price higher.

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<sup>457</sup> [X]

### *Public and private frameworks*

8.310 Two public framework customers expressed views on the Merger. [X] told us that the Merger would reduce national providers from three to two, creating the potential for a price increase, but it said that that framework is most favourable and that customers would receive the best price. It also said that smaller/regional suppliers may want to tender due to a reduction in national suppliers. [X] said Cannon is one of only two suppliers other than PHS and Rentokil, but it said that PHS is a viable alternative.

8.311 Three private frameworks commented on the Merger. [X] did not raise a concern. [X] told us that it currently has two suppliers for each product area and that the Merger could affect prices as competition is being limited. [X] said that the Merger will clearly reduce competition, but said that it was not unduly concerned if merged entity does not drive up prices.

### *Competitor views*

8.312 PHS told us that the Merger would reduce choice from 'three to two' for national customers and some regional customers who tend to single-source. Cathedral and Mayflower were not concerned about the Merger.

8.313 Some regional suppliers expressed no concerns about the Merger or did not comment ([X], [X], [X] and [X]). Other regional suppliers expressed concerns about the Merger:

- (a) [X] said the Merger would be bad for consumers as pricing will be affected and that the Parties will be the largest and most powerful in the UK.
- (b) [X] said the merger 'will reduce competition' and 'business choice', although 'Cannon are not major competitors'. It said Rentokil and PHS participated in public sector purchasing arrangements as a 'tag team', by 'interchange between them the [X] contract'.
- (d) [X] and [X] were concerned that the Merger would potentially undermine smaller providers.
- (e) [X] said the merged entity will be 'a force against PHS' and 'leave generally two nationwide companies' which 'can force regional independents out of business'.

8.314 We take account of these views in our assessment of the effect of the Merger on national and multi-regional customers.

## ***Assessment of the effect of the Merger on national and multi-regional customers***

8.315 In this section, we set out our provisional view on the effects of the Merger on national and multi-regional customers, taking account of the evidence presented in this chapter. We assess the effects of the Merger separately in relation to:

- (a) End customers procuring waste disposal services directly for their premises from a washroom services supplier.
- (b) FM customers.
- (c) Public and private frameworks.

*The effect of the Merger on end customers procuring waste disposal services directly*

### *The effect of the Merger on competition*

8.316 For reasons set out earlier in this chapter,<sup>458</sup> we provisionally find that the supply of waste disposal to national and multi-regional customers is concentrated, with the Parties and PHS accounting for most of the supply to these customers by number and value.

8.317 We find that PHS is currently a strong constraint on the Parties and is likely to continue to act as a constraint on the Parties post-Merger. This is based on consistent evidence from the Rentokil customer loss analysis, tendering analysis, internal documents and all third-party submissions.<sup>459</sup>

8.318 We also find that the Parties are each other's second closest competitor after PHS, based on our analysis of the diversion from the Rentokil customer loss data, and the Parties' tendering data for private sector customers. The results of these analyses are consistent with both Parties' internal documents, which [X].<sup>460</sup>

8.319 We provisionally find that the Merger would eliminate an effective competitor for the Parties' customers, as well as PHS's customers, and therefore would likely not only affect the Parties' but also PHS's incentive to compete.<sup>461</sup>

8.320 As a result of the Merger, the options available to national and multi-regional customers will be reduced. We consider that the Merger is likely to enhance

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<sup>458</sup> See paragraphs 8.36-8.47.

<sup>459</sup> Paragraphs 8.105-8.119.

<sup>460</sup> Paragraphs 8.52-8.102

<sup>461</sup> See paragraphs 8.117 to 8.118.

the Parties' ability to increase prices and/or reduce the incentives for PHS to compete against the merged entity relative to the pre-Merger situation.

- 8.321 We find that Cathedral and Mayflower both supply a number of national and multi-regional customers. However, we note that the current scale of national and multi-regional customers of Cathedral and Mayflower, in number and in value, is less significant compared to those of the Parties and PHS. The evidence that we have reviewed, including our analysis of the Parties' private sector customer tenders, Rentokil customer loss analysis, the lack of identified examples of national and multi-regional customers switching from the Parties to Cathedral and Mayflower, customer information, internal documents, and the views of competitors and customers indicates that Cathedral and Mayflower have had limited competitive interactions with the Parties and are likely to act only as a relatively limited constraint on the Parties post-Merger.<sup>462</sup>
- 8.322 We consider the ability of other suppliers, such as IWSA and Hygienic Concepts, to win national and multi-regional customers. We find limited evidence that these companies have had material competitive interactions with the Parties, nor have they been considered in any meaningful way in the Parties' internal documents.<sup>463</sup>
- 8.323 In addition, we consider whether national and multi-regional customers would be able and willing to use a combination of regional suppliers as an outside option. We find that there exists a group of national and multi-regional customers whose preference is to source from a single supplier. We have identified at least 29 of the Parties' customers active in over eight regions who currently single source.<sup>464</sup>
- 8.324 The majority of customers which submitted evidence identified barriers to multi-sourcing from regional suppliers. In particular, we note that a 5% price increase would appear unlikely to induce customers which procure for an estate centrally to switch from a national to multiple regional suppliers because of the economies of dealing with a single supplier. We are not aware of any examples of national and multi-regional customers which had switched from the Parties to multiple regional suppliers previously.
- 8.325 We also consider the constraint from FM companies. We find that FM companies are a weak constraint because, although they do supply waste disposal as part of an integrated FM contract, they outsource waste disposal

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<sup>462</sup> See Paragraphs 8.120-8.168.

<sup>463</sup> See paragraphs 8.185-8.197.

<sup>464</sup> See paragraphs 8.199-8.244.

to washroom specialists (mainly to PHS, Rentokil and, to a lesser extent, Cannon). It is plausible that FM companies negotiate better terms than an end customer, but some customers told us they prefer to deal with a washroom service supplier directly and would not switch to an FM company just because of a small price increase in waste disposal. Moreover, we consider that FM companies would be unlikely to self-deliver waste disposal using OSS.<sup>465</sup>

8.326 We also examined alternative supply options such as healthcare waste companies and cleaning companies and self-supply, but find limited evidence that these suppliers would constrain the Parties post-Merger in supplying to national and multi-regional customers.<sup>466</sup>

8.327 As set out in the section above on the views of third parties, we note that most customers did not express concerns about the Merger.<sup>467</sup> However, customers were only able to identify limited examples of alternative suppliers and also highlighted a number of barriers to switching to supply options other than washroom specialists with national coverage (eg switching to a number of regional competitors). We note that the spend of individual customers on washrooms is likely to be limited relative to other support services, which may also reduce customer concern about the Merger.

8.328 Overall, therefore, our provisional conclusions are:

- (a) The Merger would eliminate an effective competitor in the supply of waste disposal to national and multi-regional customers in an already concentrated market.
- (b) Post-Merger, the only strong competitor to merged entity would be PHS, with other competitors exercising a limited constraint.

8.329 We consider that the scope for these suppliers to expand and to act as a potential constraint on the Parties in the supply to national and multi-regional customers in Chapter 10.

#### *Magnitude of the competitive effects of the Merger*

8.330 We consider the Parties' views on the possible magnitude of the competitive effects of the Merger.

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<sup>465</sup> See paragraphs 8.245-8.282.

<sup>466</sup> See paragraphs 8.283-8.294.

<sup>467</sup> See paragraphs 8.303-8.314.

- *Whether the merger would be akin to a '5 to 4' or better*

- 8.331 The Parties said the constraint is 'consistent with there being at least two further national competitors in addition to PHS and the Parties, and the market concentration therefore being equivalent to a '5 to 4' merger or better'.<sup>468</sup> The Parties said that an expected diversion ratio from Cannon to Rentokil of 25% (estimated in the CMA's private sector tendering analysis) would be 'akin to a '5 to 4' merger'.<sup>469</sup>
- 8.332 We do not agree with the Parties' contention that there are two further national competitors.
- 8.333 First, we consider that, other than PHS, the constraints from Cathedral, Mayflower and other suppliers to be limited and their scale is smaller than that of the Parties and PHS for the reasons explained above, and that these competitors are not equivalent to 'at least two further national competitors'.
- 8.334 Second, the Parties' approach appears to assume that competitors would not respond to any price increase by the merged entity. As noted above, however, the supply of waste disposal services is concentrated and competitors (including PHS) may respond to a price increase by the Parties. This is because the bargaining strength of a customer in a negotiation is likely to depend, amongst other factors, on the number of outside options available. Therefore, the elimination of a credible competitor as a result of the Merger, in a market that is already concentrated, is likely to reduce customers' bargaining strength with both the Parties and PHS.
- 8.335 By contrast, the Parties are not dependent on individual customers, since each of the top ten customers account for a small proportion (around [redacted]%) of each of the Parties' revenue (see further discussion in Chapter 10). This weakens the negotiating power of individual customers.
- 8.336 Accordingly, the Merger is likely to enhance the Parties' ability to increase prices and/or reduce the incentives for PHS to compete against the merged entity relative to the pre-Merger situation.
- 8.337 Accounting for competitor response means that, despite the apparent low to moderate diversion between the Parties, in our provisional view, the Merger may lead to a higher overall impact than that implied by a '5 to 4' situation. Moreover, as noted above, we do not consider this to be a '5 to 4' merger.

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<sup>468</sup> [redacted]

<sup>469</sup> [redacted]



- *The Parties' GUPPI estimates*

8.338 The Parties also submitted an estimate of the GUPPI following the Merger,<sup>470</sup> using estimated diversion ratio and average margins for 'large customers'.<sup>471</sup> The Parties estimated a GUPPI of [§<] % for Cannon and [§<] % for Rentokil.<sup>472</sup>

8.339 We do not consider the Parties' GUPPI estimate to provide an accurate indicator of pricing pressure as a result of the Merger for the following reasons.<sup>473</sup>

- (a) GUPPI uses measures of diversion between the merging firms and does not take into account the level of market concentration or the responses of competitors. It may therefore understate the overall price impact.
- (b) GUPPI is typically used in markets where firms use posted prices for all customers.<sup>474</sup> The supply of waste disposal to national and multi-regional customers is characterised by bilateral negotiations and/or tendering, and prices are customised. The upward pricing pressure can be greater for certain customer groups or certain tenders for which margins are greater than the average.<sup>475</sup>

8.340 In light of the above, we do not attach significant weight to the Parties' GUPPI analysis. In our view, given that the Merger would remove a credible supply option for national and multi-regional customers in a market that is already concentrated, we consider that the likely magnitude of the overall effects would be higher than those suggested by the Parties' GUPPI estimates.

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<sup>470</sup> GUPPI stands for 'Generalised Upwards Pricing Pressure Index'.

<sup>471</sup> The Parties identified 'large customers' as customers with an annual spend over £30,000. For Rentokil, the set of customers is further limited to those in 11 or 12 regions. As discussed above, we do not identify national and multi-regional customer by reference to customer spend, nor is the definition limited to those customers in 11 or 12 regions.

<sup>472</sup> [§<]

<sup>473</sup> See, for example, [CMA Final Report on the completed acquisition of Wincor Nixdorf AG by Diebold, Incorporated](#), 16 March 2017, paragraphs 6.85-6.88, for a discussion of use of GUPPI in markets characterised by high concentration and where prices are set via individual tenders and negotiations rather than by posted price.

<sup>474</sup> GUPPI is underpinned by a theoretical model which assumes Bertrand competition where firms set prices simultaneously without negotiation.

<sup>475</sup> The Parties' margin estimates indicate that they earn substantially different margins across customers. For example, considering Rentokil's 'large' customers (over £30,000 spend) in eight regions or above, Rentokil's estimates of its gross margin was [§<] Cannon's estimate suggests that it earned over [§<] This estimated variation indicates that the competitive conditions can vary by customer. [§<]. Given that the margin estimates will involve some uncertainty, for example, due to the allocation of costs, there will be associated uncertainty with any GUPPI estimates.

*Provisional conclusion*

8.341 We therefore consider that the Merger has resulted, or may be expected to result, in an SLC in relation to the supply of waste disposal services to customers purchasing directly for their premises from a washroom services supplier, subject to any countervailing factors.

*The competitive effects of the Merger in relation to FM customers*

8.342 We consider the extent to which the effect of the Merger on FM customers may differ from those end customers procuring waste disposal services directly.

8.343 We note that FM companies aggregate services from multiple suppliers to provide an integrated FM service to end customers. In turn, we consider that competition in the supply of waste disposal services to FM customers is likely to differ from the direct supply to end customers in two ways.

8.344 First, we consider that FM customers would be more likely than end customers to consider using multiple suppliers of waste disposal as an alternative to the Parties. This widens the choice of alternative suppliers to include using smaller regional suppliers. In this context, we note that, for example, [X].

8.345 We note that nearly all FM customers multi-source and that some use a combination of regional and national providers of waste disposal. This suggests that, unlike end customers, FM customers do not seem to require – or prefer using – a single supplier for an estate.<sup>476</sup>

8.346 Second, we consider that FM customers would be better placed than end customers to maintain their negotiating strength against washroom services suppliers post-Merger. We consider that FM customers can more readily play off suppliers against each other,<sup>477</sup> because:

- (a) FM customers have frequent and repeated interactions with multiple washroom services suppliers, compared to end customers who typically only tender or re-negotiate every few years due to the nature of their contracts.

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<sup>476</sup> See paragraphs 8.215 *et seq.*

<sup>477</sup> In line with this, we note that Rentokil provided an example in which [X] (a large FM customer) threatened to terminate accounts and products in order to obtain rebates from Rentokil. [X]

- (b) FM customers are an important channel for the Parties to reach end customers, and can generate substantial revenues for the Parties.

*Provisional conclusion*

8.347 We therefore consider that the Merger has not resulted in, or may not be expected to result in an SLC in relation to the supply of waste disposal services to FM customers.

*The competitive effects of the Merger in relation to public and private frameworks*

8.348 We consider that the Merger would be likely to affect frameworks with a national or multi-regional coverage (that is those frameworks which are open to end customers in a majority of regions of the UK).<sup>478</sup> In particular, we consider that the set of credible alternative suppliers available to these frameworks is likely to be narrower than those available to customers procuring directly, for the following reasons:

- (c) Cathedral and Mayflower were not listed on any public or private frameworks, and Mayflower told us it did not [redacted].<sup>479</sup>
- (d) FM companies do not compete for stand-alone washroom services contracts and hence an FM would not be a credible option for framework customers (since framework contracts are for specific washroom services, rather than for integrated FM services).<sup>480</sup>
- (e) Two national public frameworks list regional suppliers (ESPO lists one and NWUPC lists three), but they told us that regional suppliers did not win material business from end-users.<sup>481</sup> Moreover, to achieve national coverage, a public or private framework would need to list more regional suppliers than they currently do, but they told us that regional suppliers tend to be more expensive.

8.349 We note that end-users are not obliged to purchase under a framework but can instead procure directly from a regional supplier. However, we consider that the threat of users purchasing locally is unlikely to be a sufficient constraint in respect of competition between washroom service suppliers to be listed on a framework.<sup>482</sup> For both private and public frameworks, we note

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<sup>478</sup> See paragraph 8.90.

<sup>479</sup> See paragraphs 8.128, 8.1321(g).

<sup>480</sup> See paragraphs 8.249. AM Services in the North West is an FM company listed on NWUPC, but the service was provided by Pristine Hygiene, which is a washroom services supplier owned by AM Services.

<sup>481</sup> See paragraph 8.90.

<sup>482</sup> See paragraphs 8.227-8.230.

that users tend to get substantially lower prices, and a small price increase on a framework list price may not induce users to purchase around a framework. Moreover, in the case of public sector customers, formal tendering requirements would mean that it is easier for a user to procure with a framework.

8.350 In respect of frameworks with a regional coverage, we consider that credible outside options other than the Parties and PHS would be available post-Merger. For example, we note that Scotland Excel has listed Co-an and HEG,<sup>483</sup> which secured substantial value of business within that framework. Our provisional view is that the Merger would be unlikely to affect regional frameworks.

*Provisional conclusion*

8.351 We therefore consider that the Merger has resulted, or may be expected to result, in an SLC in relation to the supply of waste disposal services to public and private framework customers with national or multi-regional coverage, subject to any countervailing factors.

## **The supply of washroom services other than waste disposal**

*The views of the Parties*

8.352 The Parties told us that they compete not just against other full service providers, but also against suppliers of individual product lines.

8.353 The Parties said that only approximately [X] of their 'national' customers take all seven service lines from Rentokil across their entire estate and [X] take all seven service lines from Cannon across their entire estate; the 'vast majority' use different suppliers both across their national estates and within the same washroom. The Parties said that many of these customers take certain service lines from Rentokil at only a very small proportion of their sites:

(a) For Rentokil's LNMM customers, approximately 90-100% of all customer premises are supplied with waste disposal services and approximately 20-30% are supplied with odour remediation services.

(b) Of their sites to which Rentokil is providing services, these 'national' customers use Rentokil for less than 20-30% on average per site for each

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<sup>483</sup> Scotland Excel is a public framework for the local government sector in Scotland.

of the five remaining services (being hand drying, hand washing, toilet tissue, other toilet cubicle hygiene and vending & other).

8.354 The Parties said that odour remediation involves supplying a canister and replacing the consumable within it every eight or so weeks. If a customer wants to change provider, the Parties said that the incoming provider would take care of removing any installed products and making good.<sup>484</sup>

8.355 The Parties said that cubicle hygiene incorporates 'traditional' service products to keep toilets and urinals clean and free flowing, together with the supply of toilet seat sanitisers to disinfect toilet seats before use and water management solutions.<sup>485</sup>

8.356 In relation to these service lines, the Parties said that, in addition to the usual range of specialists, the Parties face competition from:

- (a) self-supply – as customers can easily procure the necessary products from distributors, cash and carries and even supermarkets; and
- (b) contract cleaners – which can replenish the units.

8.357 In relation to water management solutions, the Parties told us that they compete against specialist water management companies such as Cistermiser and Enviro-save, as well as other washroom service providers.<sup>486</sup>

#### *CMA assessment*

8.358 As described in Chapter 2, in addition to waste disposal, the Parties overlap in the supply of:

- (a) Consumables (paper towels, soap and toilet tissues).
- (b) Equipment (hand drying, soap and paper towel dispensers).
- (c) Vending.
- (d) Odour Remediation.
- (e) Toilet Cubicle Hygiene.

8.359 As noted in Chapter 7, customers tend to purchase waste disposal from the Parties together with some other products and services listed above.

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<sup>484</sup> [X]

<sup>485</sup> [X]

<sup>486</sup> [X]

However, customers may also purchase these from other suppliers separately, and some of these services (eg vending) are not essential in a washroom.

8.360 We consider the competitive effects of the Merger in relation to the supply of washroom services other than waste disposal in relation to national and multi-regional customers. In our assessment, we first consider evidence from the Parties' internal documents and from third parties in relation to competition in the supply of washroom services other than waste disposal. We then consider evidence on competition in each of the service lines other than waste disposal (described at (a) to (e) above).

8.361 We reviewed evidence from the Parties' internal documents. Rentokil's Strategy Update 2016 describes the market structure of waste disposal services and general washroom products in different ways. In relation to waste disposal services, Rentokil discussed washroom services providers, clinical waste service providers and waste brokers in the value chain. In contrast, in relation to general washroom products, it stated that the market structure for general washroom services is very fragmented and services and products are delivered through a multitude of channels: dedicated washroom service companies; contract cleaners and FM companies; consumables distribution companies; wholesalers; and retailers. The document states that the number of market participants and the size of the overall spend in these products is so high that it is irrelevant to talk about market shares for any specific organisation in this market place.

8.362 A number of FM companies told us that they whilst they outsource waste disposal services, they do not outsource some other washroom services. [X] told us that it supplies air fresheners and other washroom services.<sup>487</sup> [X] told us that it outsources and internally supplies some other washroom services.<sup>488</sup> [X] told us that it supplies consumables, eg paper towels, soap and toilet tissues.<sup>489</sup> [X] told us that contract cleaning companies self-delivered some washroom services.<sup>490</sup>

8.363 Competitors also told us that there are a wider range of suppliers active in non-waste service lines, which was also confirmed by a number of customers. For example, PHS said that sanitary disposal and nappy disposal is carried out by washroom services providers, but that other products may be supplied by a wider range of suppliers, eg air fresheners can be self-supplied and soap

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<sup>487</sup> [X]

<sup>488</sup> [X]

<sup>489</sup> [X]

<sup>490</sup> [X]

can be provided by cleaning companies.<sup>491</sup> PHS said that it therefore has a higher share of the market for sanitary and nappy disposal than it does for other service lines. Mayflower told us that FM companies often outsource washroom consumables to Bunzl.<sup>492</sup>

8.364 Competitors also confirmed that, in contrast to waste disposal services, there are no licensing requirements for the supply of non-waste washroom services.

### *Consumables*

8.365 We identified a number of product manufacturers and distributors that compete with the Parties in relation to consumables.

8.366 Other washroom services providers such as PHS, Cathedral and Mayflower all supply consumables.

8.367 SCA Tork, Kimberly Clark, Hygiene Supplies Direct, Bunzl, Brakes and Ecolab provide consumables across the UK. We also identified FM companies active in the supply of consumables for washrooms procured from product manufacturers and distributors.

8.368 The Parties' internal documents identify a range of channels through which consumables for washrooms can be purchased:

(a) Rentokil's Strategy Update 2016 identified [REDACTED].

(b) Rentokil's [REDACTED]

8.369 Competitors also told us that cleaning companies could supply consumables, such as soap.

### *Equipment*

8.370 In relation to washroom equipment, we also identified a number of product manufacturers and distributors supplying national and multi-regional customers, in addition to washroom service providers. SCA Tork and Vectair supply washroom equipment supply products such as soap dispensers and toilet tissue dispensers, and as do the distributors Bunzl, Brakes and Hygiene Supplies Direct.

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<sup>491</sup> [Summary of hearing with PHS](#), 22 August 2018.

<sup>492</sup> [REDACTED]

8.371 In relation to hand drying, product manufacturers supplying across the UK include Air Fury, Biodrier, Dyson, Stream Hygiene and Vent-Axia. Bunzl also provides its own 'Warm Air' range of hand dryers.

8.372 We also find that FM companies supply washroom equipment across the UK.

#### *Vending*

8.373 In addition to washroom service providers, there are a number of suppliers of washroom vending including Direct365, Hygiene Supplies Direct, Intelligent Vending and VP Solutions. Other suppliers, such as Reckitt Benckiser, are also active.

8.374 Rentokil estimated in its 2017 Strategy Update that the size of the washroom vending sector is [redacted] of which Rentokil has a share of 20-30%, Cannon 10-20%, PHS 40-50% and others 20-30%. In relation to condom vending, the size of the total market is estimated at £[redacted], of which Rentokil's share is 30-40% and Reckitt Benckiser's 40-50%.

#### *Odour remediation*

8.375 In relation to odour remediation, we also find that, in addition to washroom services providers, there are a number of manufacturers and distributors supplying across the UK, including Bunzl, Hygiene Supplies Direct, Direct365, Nisbets, SCA Tork and Viking Direct (a subsidiary of Office Depot).

8.376 We also note that competitors have told us that it is possible to self-supply odour remediation.

#### *Toilet cubicle hygiene*

8.377 In relation to toilet cubicle hygiene, we find that a range of products are supplied by companies other than washroom service providers. For example, Tork supplies toilet seat covers, Bunzl and Brakes supply toilet and urinal blocks and cubes. Direct 365 supplies a range of cubicle hygiene products including seat sanitisers, toilet seat wipes and water flow management devices.

#### *Provisional conclusion*

8.378 Evidence from the Parties' internal documents and competitors consistently indicates that customers purchasing washroom services other than waste disposal have a wider choice of supply options available to them than they do for waste disposal services. In each of the service lines supplied by the Parties other than waste disposal, we find that a number of product



manufacturers and distributors are active in addition to washroom services suppliers (which may be due to the fact that the licensing requirements for waste disposal do not apply to these service lines). We also note that FM companies are active in the supply of a number of washroom services other than waste and do not outsource these services to washroom services suppliers.

8.379 In relation to the supply of washroom services other than waste disposal, we therefore provisionally conclude that the Merger has not resulted in, and may not be expected to result, in an SLC.

## **9. Competitive effects in relation to regional and local customers**

9.1 In this section, we consider the competitive effects of the Merger in relation to the supply of washroom services, including waste disposal, to regional and local customers. Appendix F sets out our analysis in more detail.

### **The views of the Parties**

9.2 The Parties told us that a large number of suppliers are able to compete with them in any given location. The Parties said that suppliers have incentives to service customers of all sizes as, in so doing, the business generates operational efficiencies by increasing route density. Given this, the Parties said that regional and local customers have an abundance of choice from a multitude of other washroom service suppliers, including those that operate local routes, as well as alternative suppliers such as FM companies, cleaners and waste companies.<sup>493</sup>

9.3 The Parties told us that there are over 100 national and regional providers of washroom services. The Parties said that, even on a conservative basis (ie focusing only on a subset of washroom specialist competitors and those competitors where branch location information is publicly available), there are at least six other large competing washroom specialists with a branch in every region where Rentokil operates a branch (and usually over ten providers).<sup>494</sup>

9.4 The Parties submitted:

(a) An analysis of local competition in washroom services.

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<sup>493</sup> Parties' response to phase 1 decision, 30 July 2018, paragraph 4.3.

<sup>494</sup> Parties' response to phase 1 decision, 30 July 2018, paragraph 4.4.

(b) An analysis of Rentokil customer losses on a branch-by-branch basis.

We describe this analysis in Appendix F.

9.5 The Parties said that this analysis showed that there can be no reasonable basis on which the Merger will result in an SLC in the supply of washroom services at the local/regional level.<sup>495</sup>

## **CMA assessment**

9.6 The evidence we examined on regional and local competition in the supply of washroom services, included:

(a) An assessment of the number of competitors operating in the catchment areas of Rentokil's and Cannon's branches.

(b) Evidence from competitors.

(c) The Parties' internal documents.

(d) The GfK customer survey.

We summarise our assessment of this evidence below. Further detail is set out in Appendix F.

9.7 We examine the number of competing suppliers in the areas around each of Rentokil's and Cannon's branches (defined as catchment areas within which 80% of Rentokil's and Cannon's customers are located, based on postcode data). We consider the number of competitors offering waste disposal services as well as any number of other services in each catchment area and find that the Merger would reduce the number of suppliers in the area from '4 to 3' or fewer only at Inverness (Cannon branch) and Inverurie (Rentokil branch).<sup>496</sup>

9.8 We therefore consider competition in these specific areas in more detail. We find that Rentokil Inverurie is close to the outer edge of the 80% catchment area of Cannon Inverness, and that each of the Parties will face competition from competitors that are closer geographically than from either Rentokil or

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<sup>495</sup> [Parties' response to the issues statement](#), 31 August 2018, paragraph 3.5. The Parties said that, in turn, the lack of competitive harm at the local level is a significant consideration to be taken into account when assessing competition at the 'national' level (if the CMA continued to seek to artificially bifurcate the market in this way).

<sup>496</sup> A '4 to 3' fascia count threshold has been used for mergers in the grocery sector while in other sectors, the CMA has often used a '5 to 4' fascia count threshold.<sup>496</sup> Here we opted for a '4 to 3' fascia threshold for local and regional customers to take account of the constraint from self-supply. Both Rentokil's customer loss data and the GfK customer survey indicate that between 10 and 13% of customers losses were to self-supply. See Appendix F, paragraphs 37-40.

Cannon. Our view is that the Parties are not close competitors in these two areas.

- 9.9 We also examine the number of competitors in each of the UK's 12 regions. We find that there are a number of competitors in each region offering all seven washroom service lines (and a greater number offering at least six service lines, including waste disposal). The four to three threshold is exceeded in all regions. The region with the lowest number of effective competitors in the fascia analysis is Northern Ireland, although three competitors remain in addition to the Parties. We also note that Rentokil's branch manager [redacted].<sup>497</sup> In addition, we also note that Mayflower, which has a site in Dublin, also serves Northern Ireland.<sup>498</sup>
- 9.10 Competitors told us that there are many regional and local suppliers of washroom services. Several regional suppliers said that they compete with larger suppliers by offering better services to local customers.<sup>499</sup>
- 9.11 The Parties' internal documents indicate that the Parties consider there to be a large number of regional suppliers of washroom services. A Rentokil document stated that there are over 80 regional suppliers and a Cannon document listed around 60 competitors in addition to PHS and Rentokil.

## Provisional conclusion

- 9.12 We provisionally conclude that the Merger has not resulted in, and may not be expected to result, in an SLC in the supply of washroom services to regional and local customers.

## 10. Countervailing factors

- 10.1 In this Chapter we assess whether there are countervailing factors to prevent an SLC from arising in relation to the supply of waste disposal services to national and multi-regional customers purchasing directly from the Parties and framework customers (including buying groups).
- 10.2 We consider three countervailing factors:
- (a) Countervailing buyer power.
  - (b) Entry and expansion.

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<sup>497</sup> [redacted]

<sup>498</sup> [redacted]

<sup>499</sup> See Appendix F, paragraph 55.

(c) Efficiencies.

10.3 For each countervailing factor, we set out the conditions under which it may prevent an SLC and our analytical framework. We then analyse whether these conditions are met such as to prevent an SLC.

## Countervailing buyer power

### *The views of the Parties*

10.4 The Parties told us that Rentokil's typical customer contract provides little by way of barriers to customer switching. The Parties said that the typical term of a contract is [redacted].<sup>500</sup>

10.5 The Parties said that competition takes place not only at the point of retendering or renegotiation, but also on a regular basis throughout the term of a contract. The Parties told us that providers frequently try to increase their range with their existing customers, eg during catch-up and review meetings or simply by cold calling. The Parties said that this is because providers that do not supply the entire needs of a site have a low incremental cost of providing an additional service line at that same site. Since few providers offer all seven service lines, the Parties told us that they are strongly incentivised to extend their current range with their existing customers.<sup>501</sup>

10.6 In relation to the largest customers, the Parties said that, in line with their buying strength, this group generally obtains highly competitive terms from the Parties as evidenced by the low margins that the Parties earn when serving these customers.<sup>502</sup>

10.7 As noted above in paragraph 10.6, the Parties said that they face significant countervailing buyer power from FM companies, which are some of their largest customers on those occasions where they are looking to outsource the provision of washroom service to washroom specialists. The Parties said that FM companies procure large volumes and are:

- (a) Sophisticated professional procurers that are adept at handling a number of suppliers.
- (b) Able to command very competitive prices which allow them to present a competitive offering to their clients.

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<sup>500</sup> [redacted]

<sup>501</sup> [Parties' response to phase 1 decision](#), 30 July 2018, paragraphs 5.40-5.41.

<sup>502</sup> [Parties' response to phase 1 decision](#), 30 July 2018, paragraph 5.42.

(c) Are incentivised to negotiate hard and usually contract on a non-exclusive basis on their own standard terms which offer them considerable flexibility including as regards changing suppliers.<sup>503</sup>

10.8 The Parties said that they face significant countervailing buyer power from ‘so-called national’ customers and that these ‘national’ customers are some of the biggest companies in the UK, eg [X]. The Parties said that these customers are sophisticated buyers, with large and experienced procurement teams and that they exert significant buyer power. The Parties told us that these customers, similar to FMs, can be expected to negotiate hard, using their volumes to command competitive prices. The Parties told us that, in some cases, these ‘national’ customers may have sufficient volume to either sponsor entry or otherwise expansion of local/regional players to a national level. The Parties said that [X] is understood to have sponsored growth by Mayflower to offer national coverage.<sup>504</sup>

10.9 In relation to private frameworks, the Parties said that these were another source of material buyer power and exist for the purpose of handling multiple suppliers and so do not need to use a single national provider. The Parties said that they frequently mandate both larger and smaller suppliers in their guidelines (citing the examples of the ESPO framework partnership). The Parties said that these groups aggregate demand from a number of members for the most part are not themselves ‘national’ customers.<sup>505</sup>

10.10 In response to the annotated issues statement, the Parties told us that customers enjoy significant countervailing buyer power, including those customers identified as ‘national’. The Parties said that customers can exercise their buyer power in a number of ways and may include the threat of penalisation. In this regard, the Parties said that they are constantly aware of the ability of customers to either reduce their estate with the Parties and pass more attractive sites to an alternate third party, or, reduce the range of services provided on any one premise / ranges of premises thus leaving the Parties with the same cost too serve but less margin.<sup>506</sup>

10.11 The Parties said that, for example, if a large customer served in nine or more regions switched away just two regions in response to a price rise, then this could be equivalent to the loss of one (or more) smaller key account customers. The Parties said that this would be a straightforward threat to

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<sup>503</sup> Parties’ response to phase 1 decision, 30 July 2018, paragraph 5.43.

<sup>504</sup> Parties’ response to phase 1 decision, 30 July 2018, paragraph 5.44.

<sup>505</sup> Parties’ response to phase 1 decision, 30 July 2018, paragraph 5.45.

<sup>506</sup> [X]

implement given that at least 15 competitors operate in two or more regions.<sup>507</sup>

10.12 The Parties also said that actions taken by a number of Rentokil's customers serve to illustrate the point. For example, in commercial negotiations with [REDACTED].<sup>508</sup>

### **CMA assessment**

10.13 In some circumstances, an individual customer may be able to use its negotiating strength to limit the ability of a merged firm to raise prices.

10.14 We consider the countervailing buyer power of national and multi-regional customers. As we provisionally conclude that no competition concerns arise in the supply of waste disposal services to FM companies (see paragraph 8.347 above), we focus on the countervailing buyer power of national and multi-regional end customers and framework customers.

10.15 We examine the following factors that affect the bargaining strength of a buyer:

- (a) The ability to switch away from a supplier.
- (b) The number of alternative suppliers available.
- (c) The mutual dependency between a supplier and each of its customers.
- (d) The impact of the Merger.<sup>509</sup>

### *The ability for a customer to switch supplier*

10.16 We consider the ability of a customer to switch supplier. The Parties told us that barriers to switching suppliers are low. We note that customers are able to switch supplier at contract expiry and [REDACTED] during the life of a contract after [REDACTED].

10.17 We note that a Cannon strategy document assessing buyer power stated that there [REDACTED].<sup>510</sup> PHS told us that although it is possible for customers to switch between suppliers, it is a time consuming process which increases in complexity as the number and location of customer sites increases and that for larger/national customers it can take over a year. PHS also said that it is

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<sup>507</sup> [REDACTED]

<sup>508</sup> [REDACTED]

<sup>509</sup> [Merger Assessment Guidelines](#), Section 5.9.

<sup>510</sup> [REDACTED]

costly for both for it and the customer to organise site logistics to change washroom supplier.

- 10.18 We considered the ease of switching supplier in the assessment of customer views (Appendix E). Five national and multi-regional end customers told us that it would be difficult to change supplier, although one said that the cost would be limited (a further customer was unsure).<sup>511</sup> Three buying groups told us that switching would be difficult, citing financial implications and the nature of contracts.<sup>512</sup> One framework said that it was very easy to switch if the end user gave notice<sup>513</sup>, whilst another said that switching would be difficult for end users because there are hundreds of feminine hygiene bins to replace.<sup>514</sup> (See Appendix E.)
- 10.19 There is mixed evidence regarding the ease with which customers can switch supplier. We note that a number of the barriers identified by customers and competitors relate to switching to multiple suppliers (eg a combination of regional suppliers) as opposed to another single washroom services supplier with national coverage (see paragraphs 8.220 *et seq* and Table 88 and Table 9 above.)

#### *The number of alternative suppliers available*

- 10.20 As discussed above in paragraphs 8.315 *et seq.*, we note that the Parties' national and multi-regional end customers and framework customers appear to have a limited choice of suppliers from which they could single source. As set out above in paragraphs 8.240 *et seq.*, we note that there are a number of barriers to multi-sourcing from regional suppliers.

#### *The mutual dependency between a supplier and each of its customers*

- 10.21 The supply of washroom services to national and multi-regional customers is typically characterised by tendering and/or bilateral negotiations. Whether they tender or negotiate contracts bilaterally, national and multi-regional customers said that they often seek bids or quotes from Rentokil, Cannon and PHS.
- 10.22 We note that Rentokil's top 10 customers each accounted for around 0-5% of its total washroom service revenues and that Cannon's top 10 customers also each account for around 0-5% of its total washroom service revenues. In this

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<sup>511</sup> [X], [X], [X], [X] and [X] & [X] told us it would be difficult to change supplier. [X] said the cost would be limited and [X] was unsure.

<sup>512</sup> [X], [X], [X]

<sup>513</sup> ESPO.

<sup>514</sup> [X].

regard, the Parties said that there is, in fact, a range within the top 10 customers for both Rentokil and Cannon. A Cannon strategy document stated that there are a [redacted]with [redacted].<sup>515</sup> The Parties are therefore not likely to be dependent on individual customers which, in turn, weakens the negotiating power of individual customers.

10.23 We note that there is some evidence that national and multi-regional customers are able to negotiate prices for washroom services:

- (a) Cathedral said many large customers have large buying power and look to exploit that at every opportunity,<sup>516</sup> for example by ‘consolidating volumes’ or ‘multi source across regions to increase competition between suppliers in each area’.<sup>517</sup> Cathedral said that the largest suppliers serviced national washroom customers at low prices and that, for these contracts, the price charged to the customer may be below the cost of providing the service and that [redacted].<sup>518</sup>
- (b) PHS said that bilateral negotiations with large national customers (who often have a sophisticated procurement function) can take a lot of time, sometimes up to a year. PHS said that these customers generally have some buyer power, and usually request alternative quotes from competitors before asking the incumbent supplier for their best price to see whether the current supplier is willing to match it.<sup>519</sup>
- (c) Competitors, including PHS, confirmed that the incremental cost of selling additional service lines to customers is low. However, we note that the majority of the Parties’ customers are already purchasing waste disposal.
- (d) A number of customers, including [redacted], [redacted], [redacted], [redacted], Mitchells & Butlers, [redacted] and [redacted], told us that they negotiate price based on volumes.<sup>520</sup>
- (e) Three national and multi-regional customers ([redacted]) told us that they receive rebates.<sup>521</sup> [redacted] said that it receives a discount for acting as a private framework, although it does not receive any rebates.<sup>522</sup>
- (f) A Cannon strategy document assessing buyer power stated that [redacted].<sup>523</sup>

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<sup>515</sup> [redacted]

<sup>516</sup> [redacted]

<sup>517</sup> [redacted]

<sup>518</sup> [redacted]

<sup>519</sup> [redacted]

<sup>520</sup> [redacted]

<sup>521</sup> [redacted]

<sup>522</sup> [redacted]

<sup>523</sup> [redacted]



- 10.24 We consider whether customers could threaten to switch away certain service lines from the Parties, other than waste given the wider range of supply options available for these service lines. We did not find any examples of end customers or framework customers adopting this strategy either from the Parties or from third parties. We also note that many national and multi-regional customers already use other suppliers for a number of non-waste washroom services.
- 10.25 We also consider whether national and multi-regional end customers and framework customers would switch away part of their estates to competitors, or credibly threaten to do so in negotiations. We note, however, that many of the Parties' customers would not consider using a combination of regional suppliers (see paragraph 8.222 above).
- 10.26 We did not find any evidence that customers have sponsored entry or have threatened to do so. Mayflower said that winning [redacted] contract was not the reason that it had grown.<sup>524</sup>

#### *The impact of the Merger*

- 10.27 There is some evidence from customers and competitors that national and multi-regional customers are able to negotiate deals – for example, by securing discounts or rebates, particularly where large volumes are purchased.<sup>525</sup>
- 10.28 However, the Merger would reduce the supply options available to these customers both in tenders and in bilateral negotiations.
- 10.29 As discussed above at paragraphs 8.42(c), Cannon is one of the three largest suppliers of washroom services in the UK. The Merger would remove this supply option. In turn, this may be expected to weaken the negotiating position of customers.
- 10.30 We set out in Chapter 8 that, in our provisional view, other washroom suppliers are likely to provide only a limited constraint on the Parties post-Merger and that FM companies are likely to provide only a weak constraint. We also noted that healthcare waste collectors, cleaning companies and self-supply are unlikely to act as a constraint. For some customers, PHS is therefore likely to be the only credible alternative to the Parties post-Merger for certain customers (see paragraphs 8.295 *et seq.*). Given that many customers tender or negotiate by playing off three suppliers, we consider that

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<sup>524</sup> [redacted]

<sup>525</sup> See paragraph 8.20.

having only one alternative option restricts the countervailing buyer power of these customers.

### *Provisional conclusion*

- 10.31 We note that national and multi-regional customers are sophisticated purchasers and appear to be able to negotiate deals with the Parties. However, these customers also have limited supply options for waste disposal and the Merger would remove a key supply option.
- 10.32 Our provisional view is that the countervailing buyer power of national and multi-regional end customers and framework customers may be limited post-Merger in relation to waste disposal and is not sufficient to prevent an SLC.

## **Barriers to entry and expansion**

- 10.33 In assessing whether market entry or expansion in the supply of waste disposal to national and multi-regional customers might prevent an SLC, we consider whether such entry or expansion would be timely, likely and sufficient:<sup>526</sup>
- (a) **Timely:** whether entry or expansion can be ‘sufficiently timely and sustained to constrain the merged firm.’<sup>527</sup> The Merger Assessment Guidelines note that: ‘The Authorities may consider entry or expansion within less than two years as timely, but this is assessed on a case-by-case basis, depending on the characteristics and dynamics of the market, as well as on the specific capabilities of potential entrants.’<sup>528</sup>
  - (b) **Likely:** whether firms have the ability and incentive to enter the market.<sup>529</sup>
  - (c) **Sufficient:** whether the scope or scale of entry or expansion would be sufficient to act as a competitive constraint to deter or defeat any attempt by the merged firm to exploit any lessening of competition resulting from the merger.<sup>530</sup>

10.34 For an SLC to be prevented, all three of these criteria would have to be met.

10.35 A full outline of the views of third parties and evidence provided to us is included at Appendix G.

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<sup>526</sup> Merger Assessment Guidelines, paragraph 5.8.3.

<sup>527</sup> Merger Assessment Guidelines, paragraph 5.8.11.

<sup>528</sup> Merger Assessment Guidelines, paragraph 5.8.11.

<sup>529</sup> Merger Assessment Guidelines, paragraph 5.8.8.

<sup>530</sup> Merger Assessment Guidelines, paragraph 5.8.10.

### ***The views of the Parties***

10.36 The Parties told us that the barriers to entry in the washrooms sector are low and, in light of recent market developments, are decreasing.<sup>531</sup> The Parties told us that OSS is a major development in the industry and has not only reduced the capital requirements but also increased the number of potential providers that can provide washroom services by:

- (a) Lowering the capital requirements to start up, for example no industrial washer is required.
- (b) Lowering the cost of providing washroom services.
- (c) OSS has increased the ability for consumables to be stored in vans, thereby reducing the frequency of depot visits it is much easier for smaller competitors to serve more dispersed customers by increasing the range that a single depot might service.

10.37 The Parties estimate that the total investment per branch would be in the region of £600,000–£700,000.<sup>532</sup>

10.38 In relation to barriers to expansion, the Parties told us that expansion to a national footprint does not require significant capital, technology or capability over and above local entry. The Parties estimate that six branches would be sufficient to form a national network of depots to serve national customers in Great Britain and noted that not all competitors, eg Cathedral, used a branch network model.

10.39 The Parties also told us that it would be easy for specialist non-washroom waste providers to enter the provision of washroom waste disposal. From there it would be easy to expand to provide a full washroom service.

### ***The views of third parties***

10.40 Most competitors told us that the barriers to entry into the UK washrooms sector are low at the local level. This is supported by the substantial number of local and regional suppliers in the sector.

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<sup>531</sup> [Parties' response to phase 1 decision](#), 30 July 2018, paragraphs 6.47 to 5.52.

<sup>532</sup> The Parties said that this estimate is based on the work of 10 employees per branch and noted that new entrants may not have enough work to occupy 10 employees, in which case a lesser investment would be required.

- 10.41 We also note that a presentation given to the board of OCS in relation to the potential sale of Cannon called '[REDACTED]'.<sup>533</sup> However, a 2016 Cannon Hygiene UK strategy document states that '[REDACTED]'.<sup>534</sup>
- 10.42 In relation to the barriers to expansion, evidence from third parties was more mixed. We were told that Mayflower and Cathedral are examples of suppliers which have expanded to serve national customers. Mayflower told us that the barriers to expansion are not insurmountable and that the decision to enter depends on risk appetite. Mayflower has expanded both through acquisition and by setting up new sites.<sup>535</sup> The evidence and examples provided to us by these suppliers suggests that expansion is typically done one site at a time.
- 10.43 Conversely, PHS told us that there is an inherent challenge as to what comes first in expansion – namely acquiring the customer or the operational site (which is necessary to enable the supplier to service that customer). PHS told us that there would be a significant financial risk in expanding without customers and that, in its view, a competitor is highly unlikely to get sufficient customers without having the operational sites required to service those customers. PHS said that a key barrier to expansion in the washrooms sector is the national infrastructure that it, Rentokil and Cannon have but which others do not have.<sup>536</sup>
- 10.44 Mayflower told us that it turns down customers who do not fit in well with its existing portfolio, since adding the customer imposes additional costs such as adding more vans to the fleet.<sup>537</sup> This seems to corroborate PHS's statement about the importance of its network.
- 10.45 PHS said, however, that entry could be a little easier for companies in adjacent industries. PHS told us that it would be easier for healthcare waste providers to supply sanitary waste disposal and cited the example of HES, which is active in both sanitary and medical waste disposal.<sup>538</sup> However, PHS said that HES is the only entity of its kind which has attempted to enter and that it has not been successful in winning contracts; PHS does not consider HES to be a serious competitor to it, Rentokil or Cannon. PHS also noted that the larger healthcare waste providers have a preference to service (much) larger bins stored outside buildings rather than having to deal with the

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<sup>533</sup> [REDACTED]

<sup>534</sup> [REDACTED]

<sup>535</sup> [REDACTED]

<sup>536</sup> [REDACTED]

<sup>537</sup> [REDACTED]

<sup>538</sup> [REDACTED]

complexities associated with entering buildings to service washrooms (which could be located in many different locations at large customer sites).

10.46 Similarly, Cathedral told us that, at various times, Rentokil has operated FM companies, and Cannon was owned by OCS (which is a FM company), and there is no reason why a FM company could not develop their own specialist washroom service business.<sup>539</sup> However, as described in Chapter 8, this view was not shared by FM companies themselves.

### ***CMA assessment of barriers to entry and expansion***

10.47 We assess barriers to entry and expansion in relation to the supply of waste disposal services to national and multi-regional customers, including:

- (a) The likelihood of firms in adjacent industries to enter the sector.
- (b) The level of market demand.
- (c) Barriers to expansion.

### ***Entry from adjacent industries***

10.48 We note that there is no evidence of recent entry at a national level and consider that greenfield entry at the scale required to prevent an SLC is unlikely. We have therefore considered whether entry from adjacent industries would be timely, likely and sufficient.

10.49 In relation to FM companies, we note that, despite the relatively low fees of acquiring licences, FM companies typically outsource waste disposal along with the other washroom services.

10.50 Although waste collection companies have the licences to transfer waste, we find that few of them provide waste disposal services to customers, but instead they collect waste from washroom services providers. We received responses from two waste collection companies, Medisort and Tradebe. Both companies told us that they do not visit end-client buildings to service washrooms. Both Medisort<sup>540</sup> and Tradebe<sup>541</sup> told us they had no plans to enter the UK washrooms market.

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<sup>539</sup> [redacted]

<sup>540</sup> [redacted]

<sup>541</sup> [redacted]

10.51 Rentokil told us that they disagree with this assessment, quoting HEG as an example to demonstrate that it is likely for small volume waste collectors to go to end-client buildings to service washrooms.<sup>542</sup>

10.52 The Parties also told us that Zenith and Calabash had entered the UK washrooms market from adjacent industries, however this entry is at the local level, in relation to which we agree that barriers to entry are low. We also note that Zenith [redacted]. We therefore consider that this form entry is insufficient to affect competition for national and multi-regional customers.

10.53 The Parties informed us of some potential new entrants to the market:

(a) Liberty Hygiene, a washroom service supplier is partnering with cleaning and hygiene supplier Bunzl Cleaning & Hygiene Supplies (BCHS).<sup>543</sup>

(b) In 2017, a French company Elis (the largest washroom service provider in France and market 'leader in most of the 28 countries in which [it] operate[s]'<sup>544</sup>), which provides washroom services outside of the UK, acquired the UK based workwear rental and laundry firm, Berendsen.

10.54 The Parties told us that Elis has a very successful model across the markets they operate in and that model involves the in-house delivery of washroom services. The Parties said that the stated purpose of the acquisition was for Elis to extend its model and reach into the UK; the Parties told us that it is therefore logical to conclude that the previous outsourcing arrangements of Berendsen will be internalised within the Elis model.

10.55 We spoke to [redacted] and [redacted] to understand their intentions regarding entry. [redacted]

10.56 We have not encountered or been informed of any other planned entry to the UK washrooms sector that would materially alter the competitive conditions for national and multi-regional customers.

#### *Level of market demand*

10.57 The attractiveness of a market may be a helpful indicator as to the likelihood of entry or expansion.

10.58 We have been told by the Parties and a number of third parties that the market in the UK grows in line with GDP. PHS said the reason it grows in line

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<sup>542</sup> [redacted]

<sup>543</sup> [Liberty works with Bunzl Cleaning & Hygiene Supplies](#), 9 August 2017.

<sup>544</sup> [Elis - about us](#).

with GDP is that firms tend to outsource services in proportion to a growing economy.<sup>545</sup>

- 10.59 Both Rentokil and Cannon are growing their washroom revenues, with the organic growth being in line with GDP. The next largest competitors, Cathedral and Mayflower, told us that they have a faster rate of revenue growth than the three largest competitors. Mayflower told us that its washrooms revenues were the fastest growing part of its business, currently growing at 15-20%.<sup>546</sup> Cathedral told us that its revenues were growing by 5% per annum, with growth coming from [redacted].<sup>547</sup> Conversely, PHS told us that between 2014 and 2016, its revenues fell by 0-5%, whilst smaller regional players were estimated to be achieving revenue growth of 5-10%.
- 10.60 Mayflower also said that the changing market condition (like the falling exchange rate), bigger FMs, and European companies are investing in washroom services providers in the UK
- 10.61 Mayflower told us that the market appetite for acquisitions has considerably lessened and this has made the market more competitive. This reduction in buying spree will help smaller players like Mayflower to expand. <sup>548</sup>
- 10.62 Rentokil's annual report and accounts states that the market offers good growth opportunities due to factors that include:<sup>549</sup>
- (a) Changing demographics – growing and aging population creating more health issues and hygiene product requirements.
  - (b) Rising customer expectations – increasing awareness of hygiene in workplaces.
  - (c) Tighter regulations – greater compliance with workplace hygiene and environmental standards.

### *Barriers to expansion*

- 10.63 The history of expansion by smaller players whether through opening a new site or acquiring a competitor is typically achieved one site at a time. There are examples of firms expanding, such as Mayflower and Cathedral, but it has taken many years for them to reach their current scale.

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<sup>545</sup> [redacted]

<sup>546</sup> [redacted]

<sup>547</sup> [redacted]

<sup>548</sup> [redacted]

<sup>549</sup> [Rentokil Annual Report 2017](#).

- 10.64 We note that Mayflower and Cathedral are growing faster than both Rentokil and Cannon overall. Cathedral said it has grown in proportion to its customer mix (where national and multi-regional customers account for [REDACTED]% of its turnover). [REDACTED].<sup>550</sup>
- 10.65 Nevertheless, given the history of expansion by Mayflower, Cathedral and smaller suppliers – much of which has been driven by acquiring local and regional customers and FM customers – and a lack of any evidence, such as expansion plans which might suggest this will change going forward, we consider that there is insufficient evidence to suggest that future expansion is likely to be timely or sufficient to outweigh competition concerns in relation to the supply of waste disposal to national and multi-regional customers.
- 10.66 Two firms, [REDACTED] and [REDACTED] highlighted the challenge of acquiring customers as a potential barrier to expansion.<sup>551</sup> [REDACTED] the challenge of accessing public sector purchasing arrangements and [REDACTED] told us that the bigger named companies generally charge too cheaply to keep the independents out.
- 10.67 We consider Cathedral and Mayflower to be examples of how UK washrooms suppliers can expand their UK or GB coverage. However, they have taken many years to reach their current scale, expanding one site at a time. This form of expansion is unlikely to be timely in relation to the supply to national and multi-regional customers.
- 10.68 We have not found evidence of washroom providers with significant expansion plans and we have not seen any evidence to suggest that the future of competitor expansion in the UK washrooms will change going forward.

***Provisional conclusions in relation to entry and expansion to supply national and multi-regional customers***

- 10.69 We do not consider OSS to be a recent market development, but instead it was a recent commercial decision by Rentokil to change its supply model. It has therefore not lowered the barriers to entry as the Parties claim. Whilst the capital cost of entry is lower for a washroom provider that only provides OSS, here are other barriers to enter nationally.

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<sup>550</sup> [REDACTED]

<sup>551</sup> [REDACTED]



- 10.70 Most of the evidence received suggests that the barriers to entry at the local and regional level are not high. The relatively high number of regional suppliers in the UK is evidence of this.
- 10.71 However, we consider that local or regional entry is not sufficient to act as a potential competitive constraint on the Parties in the supply to national and multi-regional customers. The most credible methods through which sufficient scale may be achieved to provide a competitive constraint against the Parties for national and multi-regional customers, would be, in our view:
- (d) expansion by an existing market participant; or
  - (e) scaled entry, most likely by a company in an adjacent market.
- 10.72 There is insufficient evidence to suggest that expansion from the next two largest competitors, Cathedral and Mayflower, is likely to be timely or sufficient. Both Cathedral and Mayflower are expanding and appear to have an appetite to grow and win new customers. However, neither has any major expansion plans and their expansion to date would suggest that future expansion is not likely to be timely for our purposes.
- 10.73 The Parties provided us the names of two large companies that they considered might be considering entering the UK washrooms sector. Having examined these options, we do not consider there is sufficient evidence to suggest that timely, likely or sufficient entry will occur.
- 10.74 We agree with the Parties that there are examples of firms entering the UK washrooms sector from adjacent industries, for example HEG, Calabash Hygiene Services and Zenith Hygiene. However, these examples of adjacent market entry are entry on a small scale, and in the case of Zenith outsources to [X], which does not impact competition for national contracts.
- 10.75 We consider the barriers to entry to be low regionally, however there is little evidence to suggest that there will be timely entry, of sufficient scale, to provide a competitive constraint in relation to the supply of waste disposal to national and multi-regional washroom customers.
- 10.76 We provisionally conclude that there is insufficient evidence from which to conclude that either expansion or entry is timely, likely or sufficient to prevent an SLC.

## Efficiencies

### *The views of the Parties*

10.77 [REDACTED], Rentokil expects to be able to achieve synergies by [REDACTED].<sup>552</sup> Rentokil also told us that significant synergies were forecast [REDACTED].<sup>553</sup>

10.78 Rentokil estimates that the total synergies of the Merger are £[REDACTED] in the UK for three years, although we note that this estimate is not specific to washroom services. The estimated synergies broken down by year are as follows: £[REDACTED] in year one; £[REDACTED] in year two and £[REDACTED] in year three.<sup>554</sup> We note that most of the synergies relate to [REDACTED] (£[REDACTED] in year one and £[REDACTED] in year two). Rentokil said that [REDACTED] would amount to £[REDACTED] in year one and £[REDACTED] in year two.

10.79 In response to the annotated issues statement, the Parties told us that the Transaction will enable Rentokil [REDACTED].

10.80 Rentokil said that, consequently, the Merger will see [REDACTED]:

(a) [REDACTED]:

(i) [REDACTED] and

(ii) [REDACTED];

(b) [REDACTED]:

(i) [REDACTED];

(ii) [REDACTED]; and

(iii) [REDACTED]; and

(c) [REDACTED].

### *CMA assessment*

10.81 The Merger Assessment Guidelines state that that, whilst mergers can harm competition, they can also give rise to efficiencies.<sup>555</sup> Efficiencies arising from the merger may enhance rivalry, with the result that the merger does not give rise to an SLC.

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<sup>552</sup> [Rentokil Annual Report 2017](#).

<sup>553</sup> [Parties' response to phase 1 decision](#), 30 July 2018, paragraph 2.3.

<sup>554</sup> [REDACTED]

<sup>555</sup> [Merger Assessment Guidelines](#), Section 5.7.

10.82 The Act also enables efficiencies to be considered in the form of relevant customer benefits.<sup>556</sup> These benefits are not limited to efficiencies affecting rivalry. In addition, the statutory definition enables us to consider benefits to customers arising in markets other than where the SLC is found, and benefits to future customers.

10.83 The following criteria, as outlined in our Merger Assessment Guidance, must be satisfied in order to reach a view on efficiencies:

- (a) efficiencies must be timely, likely and sufficient to prevent an SLC from arising (having regard to the effect on rivalry that would otherwise result from the merger); and
- (b) the efficiencies must be merger specific, ie a direct consequence of the merger, judged relative to what would happen without it.<sup>557</sup>

10.84 The Merger Assessment Guidelines state that efficiency claims can be difficult to verify because most of the information concerning efficiencies is held by the merger firms. We therefore encourage the merger firms to provide evidence to support any efficiency claims whether as part of the SLC analysis or the consideration of relevant customer benefits.<sup>558</sup>

10.85 The Merger Assessment Guidelines also state that:

- (a) The Authorities are more likely to take cost savings into account where efficiencies reduce marginal (or short-run variable) costs as these tend to stimulate competition and are more likely to be passed on to customers in the form of lower prices.
- (b) The Authorities will not in general give as much weight to savings in fixed costs because they may often represent private gains to firms and are less important in short-run price formation, although reductions in fixed costs may play an important role in longer-term price formation.<sup>559</sup>

10.86 We note that the synergies for three years identified by Rentokil primarily relate to fixed cost savings:

- (a) The administration and overhead synergies (£[X]) are anticipated to arise as a consequence of, inter alia, [X]. Rentokil anticipates that these will primarily amount to savings in fixed costs.

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<sup>556</sup> Relevant customer benefits are defined in Section 30(1) of the Act.

<sup>557</sup> *Merger Assessment Guidelines*, paragraph 5.7.4.

<sup>558</sup> *Merger Assessment Guidelines*, paragraph 5.7.5.

<sup>559</sup> *Merger Assessment Guidelines*, paragraph 5.7.9.

- (b) The other synergies (£[X]) are anticipated to arise as a consequence of, inter alia, [X], which would be fixed cost savings.
- (c) the sales organisation synergies (£[X]) are anticipated to arise as a consequence of, inter alia, [X]. Rentokil anticipates that these will primarily amount to savings in fixed costs.
- (d) The service improvement synergies (£[X]) are anticipated to arise as a consequence of, inter alia, [X]. For instance, this would include [X]. Rentokil anticipates that this category will include savings in both variable costs and fixed costs.

10.87 We note that the efficiencies estimated by the Parties are not specific to washroom services. The majority relate to fixed costs rather than variable costs. Moreover, we have seen no evidence that these cost savings would be passed onto customers.

10.88 We did not receive any evidence that the Merger would enhance rivalry. For example, we have not received any analysis or documents from Rentokil that would support its submission that the claimed efficiencies will enable the merged entity to 'compete more aggressively on price'.

10.89 We consider whether the Merger would result in relevant customer benefits. For relevant customer benefits to be taken into account, we note that:

- (a) the benefit may be expected to accrue within a reasonable period as a result of the creation of the relevant merger situation concerned; and
- (b) the benefit is unlikely to accrue without the creation of that situation or a similar lessening of competition.<sup>560</sup>

10.90 We do not consider that the benefits described by the Parties, including the move to OSS, environmental benefits or the introduction of rigorous service tracking are specific to the Merger and therefore unlikely to accrue without the Merger.

#### *Provisional conclusion*

10.91 To date, there has been insufficient evidence that the Merger is rivalry enhancing or that it produces relevant customer benefits.

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<sup>560</sup> Section 30 of the Act.

## **Provisional conclusion in relation to countervailing factors**

10.92 We review three countervailing factors. We consider each in turn.

10.93 In relation to countervailing buyer power, we note that national and multi-regional customers are sophisticated purchasers and appear to be able to negotiate deals with the Parties. However, these customers also have limited supply options for waste disposal and the Merger would remove a key supply option. Our provisional view is that the countervailing buyer power of national and multi-regional end customers and framework customers may be limited post-Merger in relation to waste disposal and is not sufficient to prevent an SLC.

10.94 In relation to barriers to entry and expansion, our provisional view is that whilst there are no major cost or regulatory barriers to entering the UK washrooms market, there is insufficient evidence from which to conclude that either expansion or entry is timely, likely or sufficient to prevent an SLC.

10.95 In relation to efficiencies, we find that there has been insufficient evidence to date that the Merger is rivalry enhancing or that it produces relevant customer benefits.

## **11. Provisional findings – overall conclusion**

11.1 As a result of our assessment, we provisionally conclude that:

- (d) the acquisition by Rentokil of Cannon has created a relevant merger situation; and
- (e) the relevant merger situation has not resulted, or may not be expected to result, in an SLC in relation to the supply of:
  - (i) Healthcare waste services.
  - (ii) Mats services.
  - (iii) Washroom services to local and regional customers.
  - (iv) Washroom services other than waste disposal services.
  - (v) Waste disposal services to FM companies.
- (f) the relevant merger situation has resulted, or may be expected to result, in an SLC in relation to the supply of waste disposal services to the following national and multi-regional customers:

- (i) Customers located in eight or more regions of the UK purchasing directly for their premises from a washroom services supplier.
- (ii) Public and private framework customers with national or multi-regional coverage.